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September 27, 2013 Volume 37, Issue 39

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## INTRODUCTION

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

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

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

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

### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2013

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
13	March 18, 2013	March 29, 2013
14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
24	June 3, 2013	June 14, 2013
25	June 10, 2013	June 21, 2013
26	June 17, 2013	June 28, 2013
27	June 24, 2013	July 5, 2013
28	July 1, 2013	July 12, 2013
29	July 8, 2013	July 19, 2013
30	July 15, 2013	July 26, 2013
31	July 22, 2013	August 2, 2013
32	July 29, 2013	August 9, 2013
33	August 5, 2013	August 16, 2013
34	August 12, 2013	August 23, 2013
35	August 19, 2013	August 30, 2013
36	August 26, 2013	September 6, 2013
37	September 3, 2013	September 13, 2013
38	September 9, 2013	September 20, 2013
39	September 16, 2013	September 27, 2013
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46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
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50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
100.2110	Amend
100.2120	Amend
100.2160	Amend
100.2185	Amend
100.2190	Amend
100.2480	Amend
100.2655	Amend
- 4) Statutory Authority: 35 ILCS 5/201(f), (g), and (k), 5/203, 5/213 and 5/214
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends various sections of the Illinois income tax regulations to reflect legislative changes to the sunset dates and repeals of various credits and subtractions.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>IL Register Citation:</u>
100.2470	Amendment	37 Ill. Reg. 13887; August 3013
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

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

217/782-7055

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

The full text of the proposed rulemaking begins on the next page:

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

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

## SUBPART A: TAX IMPOSED

Section	
100.2000	Introduction
100.2050	Net Income (IITA Section 202)

## SUBPART B: CREDITS

Section	
100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA <a href="#">Section</a> 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone, <del>and</del> Foreign Trade Zone or Sub-Zone <a href="#">and River Edge Redevelopment Zone</a> (IITA <a href="#">Section</a> 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA <a href="#">Section</a> 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA <a href="#">Section</a> 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))
100.2198	Economic Development for a Growing Economy Credit (IITA 211)
100.2199	Illinois Earned Income Tax Credit (IITA Section 212)

## SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## OCCURRING PRIOR TO DECEMBER 31, 1986

## Section

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

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

## Section

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

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

## Section

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

## SUBPART F: BASE INCOME OF INDIVIDUALS

## Section

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

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## Section

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

## SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

## Section

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

## SUBPART J: COMPENSATION

## Section

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

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

## Section

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

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
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## DEPARTMENT OF REVENUE

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- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3371 Sales Factor for Telecommunications Services
- 100.3373 Sales Factor for Publishing
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
- 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

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- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

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- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
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- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

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100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income
100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
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100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
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DEPARTMENT OF REVENUE

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## DEPARTMENT OF REVENUE

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100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

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

## DEPARTMENT OF REVENUE

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SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a

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

## SUBPART B: CREDITS

**Section 100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment  
Zone (IITA [Section 201\(f\)](#))**

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- a) A taxpayer shall be allowed a credit against the tax imposed by IITA Section 201(a) and (b) for investment in qualified property placed in service in an enterprise zone created pursuant to the Illinois Enterprise Zone Act [20 ILCS 655] or for qualified property placed in service on or after July 1, 2006 in a river edge redevelopment zone established pursuant to the River Edge Redevelopment Zone Act [65 ILCS 115].
- b) For partners and shareholders of Subchapter S corporations, there shall be allowed an enterprise zone or river edge redevelopment zone investment credit to be determined in accordance with the determination of income and distributive share of income under sections 702 and 704 and ~~Subchapters~~subchapter S of the Internal Revenue Code.
- c) The credit shall be .5% of the basis for property in a zone.
- d) The credit shall be available only in the taxable year in which the property is placed in service in the enterprise zone or river edge redevelopment zone and shall not be allowed to the extent that it would reduce a taxpayer's liability for the tax imposed by IITA Section 201(a) and (b) below zero.
- 1) Qualifying property shall be considered placed in service in an Illinois enterprise zone or river edge redevelopment zone on the date on which the property is placed in a condition or state of readiness and availability for a specifically assigned function.
  - 2) Property that is disposed of, is moved out of the enterprise zone or river edge redevelopment zone, or ceases to qualify for any other reason during the same taxable year it was placed in service in an enterprise zone or river edge redevelopment zone will not be considered in computing the credit for the taxable year.
  - 3) The credit shall be allowed for the tax year in which the property is placed in service, or, if the amount of the credit exceeds the original liability or the liability as later amended, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year.
  - 4) The credit shall be applied to the earliest year for which there is a liability.

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- 5) If there is credit for more than one tax year that is available to offset a liability, the credit accruing first in time shall be applied first.
- e) The term "qualified property" means property that is:
- 1) tangible, whether new or used. The terms "new" and "used" shall have their commonly ascribed meanings. Buildings and structural components of buildings may be qualified property. The term tangible property generally includes:
    - A) objects or things that are physically capable of being touched and seen and over which a person may assert rights of ownership.
    - B) personalty or realty, which may consist of such items as buildings, component parts of buildings, machinery, equipment and vehicles.
    - C) items such as stock certificates, bonds, notes and the like are not tangible personal property. While the certificate or paper may be tangible, the item itself, the share of ownership of a corporation or the promise to pay, is an intangible that is memorialized by the paper.
  - 2) depreciable pursuant to IRC section 167, except that 3-year property as defined in IRC section 168(c)(2)(A) is not eligible for the credit.
    - A) Depreciable property is property used in the trade or business of a taxpayer, or held for production of income, that is subject to wear and tear, exhaustion, or obsolescence.
    - B) Property that is depreciated under the Modified Accelerated Cost Recovery System (MACRS), as provided by IRC section 168, is considered depreciable pursuant to IRC section 167 for purposes of the enterprise zone or river edge redevelopment zone Investment Credit.
    - C) Examples of tangible property that is not depreciable include land, inventories or stock-in-trade, natural resources, and coin or currency.

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- D) The provisions of ~~26 CFR~~[IRC section](#) 1.167(a)-4 will be utilized in making determinations as to whether particular leasehold improvements are depreciable.
- E) IRC section 179 allows taxpayers, under certain circumstances, to expense a designated dollar amount of equipment purchased in a single tax year. Based on this provision, if the total cost of the property was equal to or less than the amount specified under IRC section 179, the taxpayer has the option of expensing the cost all in one year as a depreciation expense. While the property does have a useful life of four or more years, since the election was made to completely expense the cost of the property in one year, the property has no federal depreciable basis and does not have a basis upon which to compute the Illinois investment tax credit. Property not fully expensed under section 179 would qualify for the credit based on the cost of the depreciable property reduced by the section 179 deduction.
- 3) acquired by purchase as defined in IRC section 179(d).
- A) A purchase is any acquisition of property except:
- i) an acquisition from a person whose relationship to the acquiring person is such that a resulting loss would be disallowed under IRC section 267 or 707(b);
  - ii) an acquisition by one component member of a controlled group from another component member of the group;
  - iii) an acquisition of property if the basis of the property in the hands of the person acquiring it is determined in whole or in part by its adjusted basis in the hands of the person from whom the property was acquired; or
  - iv) an acquisition of property, the basis of which is determined under IRC section 1014(a). IRC section 1014(a) covers property received from a decedent. Property acquired by bequest or demise is not acquired by purchase.

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- B) For purposes of determining whether property is acquired by purchase as defined by IRC section 179(d), the family of an individual includes only his or her spouse and ancestral and lineal descendants of the individual and his or her spouse.
  - C) For purposes of determining whether property is acquired by purchase only, a controlled group has the same meaning as in IRC section 1563(a), except stock ownership of only 50% or more is required (also see 26 CFR 1.179-4).
  - D) Property that the taxpayer constructs, reconstructs or erects is generally considered acquired by purchase.
- 4) used in the enterprise zone or river edge redevelopment zone by the taxpayer.
- A) The term "used in an Illinois enterprise zone or river edge redevelopment zone" means that the property for which the credit is being claimed is physically located within the boundaries of an Illinois enterprise zone certified by the Illinois Department of Commerce and Economic Opportunity or river edge redevelopment zone established pursuant to the River Edge Redevelopment Zone Act from the time it is placed in service and while it is being utilized by the taxpayer claiming the credit in that taxpayer's business operation.
    - i) Storage of property in an enterprise zone or river edge redevelopment zone will not constitute use. The taxpayer must make use of, convert to its service, avail itself of, or employ the property in the enterprise zone or river edge redevelopment zone in order to demonstrate use of the property in the enterprise zone or river edge redevelopment zone.
    - ii) A lessor may claim the credit for otherwise qualified property if the property is physically located in an Illinois enterprise zone or river edge redevelopment zone from the time it is placed in service and all other conditions of

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eligibility for the credit are met.

- iii) A lessee of tangible property may never claim the credit because a lessee has not acquired the property by purchase.
- B) Mobile property, such as vehicles, must be used predominantly in an Illinois enterprise zone or river edge redevelopment zone in order to qualify for the credit.
- i) Removal of such property from the enterprise zone or river edge redevelopment zone for a temporary or transitory purpose will not disqualify the property so long as it continues to be used predominantly in the enterprise zone or river edge redevelopment zone.
  - ii) Mobile property is considered to be predominantly used in an enterprise zone or river edge redevelopment zone if usage in the enterprise zone or river edge redevelopment zone exceeds usage outside of the enterprise zone or river edge redevelopment zone.
- 5) not property that has been previously used in Illinois in such a manner and by such a person as would qualify for the credit.
- A) Generally, used property will not qualify for the credit if it was previously used in Illinois in such a manner that it could have qualified for the credit.
  - B) However, property that would otherwise qualify for the credit will not be disqualified because it was previously used in Illinois in such a manner that it could have qualified for the credit, if that use pre-dated the effective date of the law that established the credit.

EXAMPLE 1: Corporation A purchases a used pickup truck for use in its manufacturing business in Illinois from an Illinois resident who used the truck for personal purposes in Illinois. If the truck meets all other requirements for the credit, it will not be disqualified because it has been previously used in Illinois for a non-qualifying purpose.

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EXAMPLE 2: Corporation A purchases a used pickup truck from Corporation B. Corporation B used the truck in its business in a qualifying manner and could have claimed the credit for the truck, but did not. Corporation A may not claim the credit for the truck because the truck has been previously used in Illinois in such a manner that it could have qualified for the credit.

- f) The basis of qualified property shall be the basis used to compute the depreciation deduction for federal income tax purposes, [including any bonus depreciation deduction allowed under IRC section 168\(k\)](#). If the basis of the property for federal income tax depreciation purposes is increased after it has been placed in service in the enterprise zone or river edge redevelopment zone by the taxpayer, the amount of the increase shall be deemed property placed in service on the date of the increase in basis.
- g) If, during any taxable year, any property ceases to be qualified property in the hands of the taxpayer within 48 months after being placed in service, or the situs of any qualified property is moved outside the enterprise zone or river edge redevelopment zone within 48 months after being placed in service, the tax imposed under IITA Section 201(a) and (b) for the taxable year shall be increased.
- 1) Any property disposed of by the taxpayer within 48 months after being placed in service ceases to qualify.
    - A) A taxpayer disposes of property when he or she sells the property, exchanges or trades-in worn-out property for new property, abandons the property or retires it from use.
    - B) Property destroyed by casualty, stolen, or transferred as a gift is disposed of property.
    - C) Property that is mortgaged or used as security for a loan is not disposed of property, provided that the taxpayer continues to use the property in its business within an Illinois enterprise zone or river edge redevelopment zone.
    - D) Property transferred to a trustee in bankruptcy is considered disposed of property.

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- E) A transfer of property by foreclosure is a disposition of property.
  - F) A reduction in the basis of qualified property resulting from a redetermination of the purchase price of the property is a disposition of property to the extent of the reduction in basis in the year in which the reduction takes place. For example, this would occur when property is purchased and placed in service in one year, and in a later year the taxpayer receives a refund of a portion of the original purchase price.
- 2) Any property converted to personal use ceases to qualify for the credit.
  - 3) The increase in tax shall be determined by:
    - A) recomputing the investment credit that would have been allowed for the year in which credit for the property was originally allowed by eliminating the property from the computation, and
    - B) subtracting the computed credit from the amount of credit previously allowed. The difference between the recomputed credit and the credit actually claimed is added to the income tax for the year in which the property ceased to qualify or was moved outside of the enterprise zone or river edge redevelopment zone.

EXAMPLE: In 2007, Corporation A places qualifying property with a basis of \$55,000 into service in an enterprise zone or river edge redevelopment zone located in Illinois and computes a Section 201(f) enterprise zone or river edge redevelopment zone Investment Tax Credit of \$275 ( $\$55,000 \times .5\%$ ). Corporation A's 2007 income tax liability is \$420. After the application of the credit, Corporation A has remaining income tax liability of \$145. In the following year, Corporation A moved a qualifying asset having a basis in 2007 of \$5,000 from the enterprise zone or river edge redevelopment zone to another location in Illinois. As a result, Corporation A is required to recapture a portion of the enterprise zone or river edge redevelopment zone Investment Credit that was applied against its 2007 income tax liability. In order to determine its additional income tax for 2008, Corporation A must recompute its 2007 enterprise zone Investment Tax Credit by eliminating the disqualified property ( $\$55,000 - \$5,000 \times .5\% = \$250$ ). This recomputed credit is subtracted

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from the enterprise zone Investment Tax Credit actually used in 1985 (\$260 - \$250 = \$10), and the difference is added to Corporation A's 2008 income tax after application of the Investment Tax Credit.

- h) Automatic Sunset of Credit for River Edge Redevelopment Zone Property. IITA Section 250(a) provides that, *if a reasonable and appropriate sunset date is not specified in the Public Act that creates a credit, a taxpayer shall not be entitled to take the credit for tax years beginning on or after 5 years after the effective date of the Public Act creating the credit.* IITA Section 250(b) provides that *any credit scheduled to expire in 2011, 2012, or 2013 by operation of this Section shall be extended by 5 years.* The credit for property placed in service in a river edge redevelopment zone was created by PA 94-1021, which had an effective date of July 12, 2006, and specified no sunset date for the credit. Accordingly, no credit is allowed under this Section for property placed in service in a river edge redevelopment zone for any taxable year beginning on or after July 12, 2016.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2120 Jobs Tax Credit; Enterprise Zone, ~~and~~ Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone** (IITA ~~Section~~ 201(g))

- a) A taxpayer conducting a trade or business in an enterprise zone, or a High Impact Business designated by the Department of Commerce and ~~Economic Opportunity~~ ~~Community Affairs~~ conducting a trade or business in a federally designated ~~foreign trade zone~~ ~~Foreign Trade Zone~~ or ~~sub-zone~~ ~~Sub-Zone~~, or in a river edge redevelopment zone established pursuant to the River Edge Redevelopment Zone Act [65 ILCS 115] shall be allowed a credit against the tax imposed by ~~Section~~ ~~Sections~~ 201(a) and (b) of the Illinois Income Tax Act in the amount of \$500 per eligible employee hired to work in the zone during the taxable year.
- 1) In general, the ~~The~~ credit is available for eligible employees hired on or after January 1, 1986, or for taxable years ending prior to July 25, 2013, the effective date of PA 98-109, which repealed (IITA Section 201(g)).
  - 2) The credit is not allowed for an eligible employee hired to work in an enterprise zone in a taxable year ending on or after August 7, 2012, the effective date of PA 97-905, which repealed the credit as it relates to enterprise zones.

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- b) To qualify for the credit:
- 1) The taxpayer must hire 5 or more eligible employees to work in an enterprise zone or federally designated ~~foreign trade zone~~Foreign Trade Zone or ~~sub-zone~~Sub-Zone or a river edge redevelopment zone during the taxable year.
  - 2) The taxpayer's total employment within the enterprise zone or federally designated foreign trade zone or sub-zone or a river edge redevelopment zone must increase by 5 or more full-time employees beyond the total employed in that zone at the end of the previous tax year for which a jobs tax credit under this Section was taken, or beyond the total employed by the taxpayer as of December 31, 1985, whichever is later.
    - A) If a taxpayer was in business in 1985 at a location, has never before taken the credit, and is located in an enterprise zone created before or during 1985, the taxpayer would use 1985 as the base year.
    - B) If a taxpayer was in business in 1985 at a location, has never before taken the credit, and is located in an enterprise zone created after 1985, the taxpayer's base year for calculating the increase in employment is the total employed at the end of the calendar year in which the enterprise zone was created. The law is clear that the credit is a reward for increasing employment in enterprise zones. To use 1985 as a base year, even if no enterprise zone was then in existence, is not consistent with this clear goal of the law. In such a situation, a taxpayer would not always be able to show that there was job creation in the enterprise zone. For example, while employment may have increased over 1985 levels, there may not have been an increase in employment from the end of the calendar year in which the zone was created. Therefore, to accept 1985 as the base year no matter whether there was an enterprise zone in existence at that time, could result in providing a credit for job creation that did not occur in an enterprise zone. Such a result would be contrary to law.
  - 3) The eligible employees must be employed 180 consecutive days in order

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to be deemed hired for purposes of this subsection (b)(3).

EXAMPLE: An otherwise eligible employee is hired to work in an enterprise zone on August 1, 1987. The employer's tax year ends on December 31, 1987. The employee would have worked 153 days during the 1987 tax year and, therefore, would not be considered to be "deemed hired" in 1987. Even if all other requirements were met, the employer would not be eligible for the jobs tax credit for 1987. Once the employee has been employed for 180 consecutive days, the employee is deemed hired. Therefore, in this instance the employee would be "deemed hired" in 1988. If all other requirements were met, the employer could claim the Jobs Tax Credit for this employee for the 1989 tax year.

- c) An "eligible employee" means an employee who is:
- 1) certified by the Department of Commerce and Economic Opportunity (DCEO)Community Affairs (DCCA) as "eligible for services" pursuant to regulations promulgated in accordance with Title II of the Job Training Partnership Act, Training Services for the Disadvantaged or Title III of the Job Training Partnership Act, Employment and Training Assistance for Dislocated Workers Program. Whenever an employee is certified, a voucher is completed by the applicant and approved by DCEODCCA. The vouchers are entitled "Illinois Department of Commerce and Community Affairs, Enterprise Zone Program, Jobs Tax Credit Certification Voucher." Taxpayers should request a copy of the voucher to verify that the employee is DCEODCCA certified. Taxpayers should maintain a copy of the voucher in their files to document eligibility status of employees in the event of an audit.;
  - 2) hired after the enterprise zone, ~~or~~ federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone was designated or the trade or business was located in that zone, whichever is later. The term "hired" means hired by the particular employer claiming the credit. Employees transferred from another facility of the employer to a facility located in an enterprise zone, ~~or~~ federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone are not deemed "hired" upon transfer to a facility located in the enterprise zone, ~~or~~ federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone.;

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- 3) employed in the enterprise zone, ~~or~~ foreign trade zone or sub-zone, or a river edge redevelopment zone. An employee is employed in an enterprise zone, ~~or~~ federally designated foreign trade zone or sub-zone, or a river edge redevelopment zone if his or her services are rendered there or it is the base of operations for the services performed; ~~and~~
- 4) a full-time employee working 30 or more hours per week.
- d) For tax years ending on or after December 31, 1985, and prior to December 31, 1988, the credit shall be allowed for the tax year in which the eligible employees are hired. For tax years ending on or after December 31, 1988, the credit shall be allowed for the tax year immediately following the tax year in which the eligible employees are hired. If the amount of the credit exceeds the tax liability for that year, whether it exceeds the original liability or the liability as later amended, such excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a liability. If there is credit from more than one tax year that is available to offset a liability, earlier credit shall be applied first.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2160 Research and Development Credit (IITA Section 201(k))**

- a) *For tax years ending after July 1, 1990 and prior to December 31, 2003, and ~~beginning again for~~ tax years ending on or after December 31, 2004 and prior to January 1, 2106, a taxpayer shall be allowed a credit against the tax imposed by IITA Section 201(a) and (b) for increasing research activities in this State (IITA 201(k)).*
- b) *The credit allowed shall be equal to 6½% of the qualifying expenditures for increasing research activities in this State (IITA Section 201(k)).*
- c) Not all "research" will qualify for the credit. Nor will every expenditure associated with research qualify for the credit. Qualified research is defined in IRC ~~section~~Section 41(d). Qualifying expenditures means the qualifying expenditures as defined for the federal credit for increasing research activities which would be allowable under IRC ~~section~~Section 41 and which are conducted in this State.

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- 1) IRC ~~section~~Section 41(b) defines "qualifying research expenses" as the sum of the in-house research expenses and the contract research expenses paid or incurred by the taxpayer during the taxable year in carrying on any trade or business of the taxpayer.
- 2) Qualifying expenditures also include basic research payments. Basic research payments are defined in IRC ~~section~~Section 41(e).
- d) Qualifying expenditures for increasing research activities in this State means the excess of qualifying expenditures for the taxable year in which incurred over qualifying expenditures for the base period. Qualifying expenditures for the base period means the average of the qualifying expenditures for each year in the base period.
- e) Base period means the 3 taxable years immediately preceding the taxable year for which the determination is being made. For purposes of computing the average qualifying expenditures for the base period:
  - 1) For taxable years after a taxpayer has succeeded to the tax items of a corporation under IITA Section 405(a), qualifying expenditures incurred by the corporation during the base period shall be deemed to be qualifying expenditures of the taxpayer.
  - 2) If the taxpayer incurred no qualifying expenditures during a base period year, the qualifying expenditures for that year are zero, even if the taxpayer was not in existence or conducting any business in Illinois during that year.
  - 3) If the taxpayer was doing business in this State for only part of a base period year, the qualifying expenditures for that year shall be equal to the qualifying expenditures actually incurred, multiplied by 365 and divided by the number of days in the portion of the taxable year during which the taxpayer was doing business in this State.
  - 4) Qualifying expenditures incurred in taxable years in which the taxpayer did not qualify for the credit, including taxable years ending on or after December 31, 2003 and prior to December 31, 2004 must be included in the computation of qualifying expenditures for the base period.

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- f) *Any credit in excess of the tax liability for the taxable year may be carried forward to offset the income tax liability of the taxpayer for the next 5 years or until it has been fully utilized, whichever occurs first* (IITA Section 201(k)), provided that no credit earned in a tax year ending prior to December 31, 2003 may be carried forward to any year ending on or after December 31, 2003. If an unused credit is carried forward to a given year from 2 or more earlier years, that credit arising in the earliest year is applied first. If a tax liability for the given year remains, the credit from the next earliest year is applied. Any remaining unused credit or credits can be carried forward to the next following year in which a tax liability exists. However, the credit can only be carried forward 5 years from the year in which the taxpayer incurred the expense for which the credit was given. Any unused credit is then forfeited.
- g) Combined ~~Returns~~returns. In the case of taxpayers filing combined returns, Section 100.5270(d) ~~of this Part~~ details the manner in which the credit is determined.
- h) Pass-through of ~~Credits~~credits to ~~Partners~~partners and Subchapter S ~~Corporation~~Shareholder~~seorporation~~shareholders.
- 1) For tax years beginning on and after January 1, 1999, partners and shareholders of Subchapter S corporations *shall be allowed a credit under this subsection (h) to be determined in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code (IITA Section 201(k)).* No inference shall be drawn from the enactment of ~~PA~~Public Act 91-644, which expressly allows this pass-through of credits, in construing IITA Section 201(k) for tax years beginning prior to January 1, 1999.
  - 2) Repeal and re-enactment of the credit. Due to the repeal of the credit for taxable years ending on or after December 31, 2003, and the re-enactment of the credit for taxable years ending on or after December 31, 2004:
    - A) A partner or shareholder may not claim a credit passed through from a partnership or Subchapter S corporation for any taxable year of the partner or shareholder ending on or after December 31, 2003 and prior to December 31, 2004, even if the credit was earned in a taxable year of the partnership or Subchapter S corporation ending prior to December 31, 2003.

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- B) No credit may be earned by a partnership or Subchapter S corporation for a taxable year ending on or after December 31, 2003 and prior to December 31, 2004, and passed through to a partner or shareholder, even if the partner or shareholder would have reported the credit for a taxable year ending on or after December 31, 2004.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2185 Film Production Services Credit (IITA [Section 213](#))**

- a) For taxable years beginning on or after January 1, 2004, a person awarded a credit under the Film Production Services Tax Act [35 ILCS 15] *is entitled to a credit against the taxes imposed under ~~subsections (a) and (b) of IITA Section 201(a) and (b)~~ in an amount determined by the Department of Commerce and Economic Opportunity (IITA Section 213). The amount of the credit shall be the amount shown on the Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.70 or the Certificate of Transfer issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.85. Under Section 42 of the Film Production Services Tax Act, as amended by PA 97-3, the credit may not be claimed in taxable years beginning on or after May 6, 2021, the 10<sup>th</sup> anniversary of the effective date of PA 97-3.*
- b) Year in which Credit is Taken. The credit allowed under this Section shall be taken in the taxable year that includes the date of the Tax Credit Certificate issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.70.
- c) In the case of a credit earned by a partnership or Subchapter S corporation, the credit passes through to the owners as provided in the partnership agreement under IRC ~~section~~[Section](#) 704(a) or in proportion to their ownership of the stock of the Subchapter S corporation under IRC ~~section~~[Section](#) 1366(a). The credit earned by a partnership or Subchapter S corporation will be treated as earned by its owners as of the last day of the taxable year of the partnership or Subchapter S corporation in which the Tax Credit Certificate is issued by the Department of Commerce and Economic Opportunity under 14 Ill. Adm. Code 528.70 and shall

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be allowed to each owner in the taxable year of the owner in which the taxable year of the partnership or Subchapter S corporation ends.

- d) For tax years ending prior to July 11, 2005 (the effective date of ~~PA~~Public Act 94-0171), *the credit may not be carried forward or back. For tax years ending on or after July 11, 2005, if the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In no event shall a credit under this Section reduce the taxpayer's liability to less than zero.* (IITA Section 213)
- e) Transfer of Credit. *A transfer of this credit may be made by the person earning the credit within one year after the credit is awarded in accordance with rules adopted by the Department of Commerce and Economic Opportunity.* (IITA Section 213, as amended by ~~PA~~Public Act 94-0171)
- 1) Transfers shall be made pursuant to 14 Ill. Adm. Code 528.85.
  - 2) A credit may be transferred to a partnership or Subchapter S corporation, in which case the partners or shareholders of the transferee shall be entitled to the transferred credit in the amounts determined under subsection (c) ~~of this Section.~~
  - 3) A credit may be transferred after the end of the taxable year of the transferee in which the credit is to be taken under subsection (b) ~~of this Section.~~ If the transferee has already filed its return for that taxable year, it will need to file a corrected or amended return, for that taxable year, claiming the credit.
- f) Documentation of the Credit. A person claiming the credit allowed under this Section shall attach to its Illinois income tax return a copy of the Tax Credit Certificate or the Certificate of Transfer issued by the Department of Commerce and Economic Opportunity and, in the case of a partner in a partnership or a shareholder of a Subchapter S corporation that earned the credit, a Schedule K-1-P or other written statement from the partnership or Subchapter S corporation stating the portion of the total credit shown on the Tax Credit Certificate or Certificate of Transfer that is allowed to that partner or shareholder and the

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taxable year of the partnership or Subchapter S corporation in which the Tax Credit Certificate was issued.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)**

- a) For tax years ending on or after December 31, 2001 and on or before December 31, ~~2016~~2006, a taxpayer who makes a donation under Section 7.28 of the Illinois Housing Development Act [20 ILCS 3805/7.28] is entitled to a credit under IITA Section 214.
- b) The credit shall be equal to 50% of the value of the donation, but in no event shall exceed the amount reserved by the administrative housing agency for that project pursuant to Section 7.28 of the Illinois Housing Development Act and 47 Ill. Adm. Code 355.209.
- c) Year in which credit is taken. At the election of the taxpayer, the credit shall be taken:
  - 1) in the tax year in which the donation is made; provided that such election may not be made for any tax year ending after December 31, ~~2016~~2006;
  - 2) in the tax year in which the reservation letter is issued by the administrative housing agency under 47 Ill. Adm. Code 355.209, provided that the credit may not be claimed until the donation is made and, if the donation is not made before the taxpayer files its Illinois income tax return for the tax year in which the effective date occurs, the credit may not be claimed on the original return, but rather must be claimed on an amended return or claim for refund after the donation is made; or
  - 3) in the tax year in which the credit is transferred to the taxpayer; provided that, if the taxpayer elects under this subsection (c)(3) to take the credit in any tax year after the tax year in which the donation was made, the 5-year carryforward period allowed to the taxpayer in subsection (d) shall be reduced by the number of tax years of the taxpayer that ended on or after the date of the donation and on or before the date of the transfer to the taxpayer. The election shall be made in the manner directed by the Department and, once made, shall be irrevocable.

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**EXAMPLE**~~Example~~: The administrative housing agency issues a reservation letter for a qualifying project in December 2003. A calendar-year donor makes a qualifying donation in January 2004. Under this subsection (c), the donor may elect to take the credit in 2003 or 2004. If, in 2008, the donor transfers any unused credit to a calendar-year taxpayer, the taxpayer may also elect to claim the transferred amount as a credit in 2003 or 2004. However, because the statute of limitations might prevent the taxpayer from deriving any benefit from claiming the credit in 2003 or 2004, subsection (c)(3) allows the taxpayer to claim the credit in 2008, the year of the transfer. If the taxpayer elects to claim the credit in 2008, it may carry forward any credit in excess of its liability only until 2009, 5 years after the year of the donation.

- d) *If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The tax credit shall be applied to the earliest year for which there is a tax liability. If there are credits for more than one year that are available to offset a liability, the earlier credit shall be applied first.* (IITA Section 214(b))
- e) Transfer of ~~Credit~~**credit**:
- 1) Under IITA Section 214(c), the credit allowed under this Section may be transferred:
    - A) *to the purchaser of land that has been designated solely for affordable housing projects in accordance with the Illinois Housing Development Act; or*
    - B) *to another donor who has also made a donation in accordance with Section 7.28 of the Illinois Housing Development Act.*
  - 2) *Persons or entities not subject to the tax imposed by IITA Section 201(a) and (b) and who make a donation under Section 7.28 of the Illinois Housing Development Act are entitled to a credit as described in this Section and may transfer that credit as provided in this subsection (e).* (IITA Section 214(a))

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- 3) Transfer of the credit shall be made pursuant to 47 Ill. Adm. Code 355.309.
  - 4) Transfer may be made of all or of any portion of the credit allowable to the transferor. However, any portion of a credit that has already been used to reduce the tax of a transferor may not be transferred.
- f) In the case of a credit earned by or transferred to a partnership or Subchapter S corporation, the credit passes through to the owners for use against their regular income tax liabilities in the same proportion as other items of the taxpayer are passed through to its owners for federal income tax purposes. (See IITA Section 214(a).) The partners and shareholders shall be treated for all purposes as if their shares of the credit had been earned by or transferred to them directly, except that the election under subsection (c) of the tax year in which to take the credit shall be made by the partnership or Subchapter S corporation. Any credit passed through to a partner or shareholder under this subsection (f) may be used in the taxable year of the partner or shareholder in which ends the taxable year of the pass-through entity in which the entity would be allowed to claim the credit under subsection (c). In the case where the pass-through entity is the donor, the credit may be carried forward to the five succeeding taxable years of the partner or shareholder in the manner provided in subsection (d) until used. In the case where the pass-through entity is a transferee, the partner or shareholder shall be entitled to use the credit in the same number of taxable years as the pass-through entity would have been allowed to use the credit under subsection (c)(3).
- g) Documentation of the credit. *A taxpayer claiming the credit provided by this Section must maintain and record any information that the Department may require by regulation regarding the affordable housing project for which the credit is claimed.* (IITA Section 214(d)) When claiming the credit provided by this Section, the taxpayer must provide the following information regarding the taxpayer's donation to the development of affordable housing under the Illinois Housing Development Act.
- 1) For the taxable year for which the credit is allowed under subsection (c), a donor (or a partner or Subchapter S corporation shareholder of the donor) claiming the credit shall attach to its Illinois income tax return a copy of the reservation letter issued by the administrative housing agency stating the amount of credit allocated to the affordable housing project under 47 Ill. Adm. Code 355.209.

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- 2) For the taxable year in which a credit is transferred, the transferee (or a partner or Subchapter S corporation shareholder of the transferee) shall attach to its Illinois income tax return a copy of the certificate showing the names of the original donor and of the transferee, as provided in 47 Ill. Adm. Code 355.309.
- h) For purposes of this credit, the terms "administrative housing agency", "affordable housing project" and "certificate" shall have the meanings given to those terms in Section 7.28 of the Illinois Housing Development Act and 47 Ill. Adm. Code 355.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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

**Section 100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))**

- a) Taxpayers are entitled to subtract from taxable income (adjusted gross income, in the case of an individual) an amount equal to dividends paid by a corporation which conducts business operations in an enterprise zone~~Enterprise Zone~~ or zones created under the Illinois Enterprise Zone Act or in a river edge redevelopment zone or zones created under the River Edge Redevelopment Zone Act, and conducts all or substantially all of its operations in the enterprise zone~~Enterprise Zone~~ or zones or the river edge redevelopment zone or zones (IITA ~~Section~~Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K)).
- 1) Dividends received from a corporation that conducts all or substantially all of its operations in a river edge redevelopment zone or zones are eligible for subtraction under this Section only if received after July 12, 2006, the effective date of PA 94-1021, which enacted this subtraction.
- 2) Dividends received from a corporation that conducts all or substantially all of its operations in an enterprise zone or zone are eligible for subtraction under this Section only if received prior to August 7, 2012, the effective date of PA 97-905, which repealed this subtraction.
- b) A corporation conducts substantially all of its business within an enterprise

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~~zoneEnterprise Zone or river edge redevelopment zone~~ when 95% or more of its total business activity during a taxable year is operated within an enterprise zoneEnterprise Zone or river edge redevelopment zone. For the purpose of this Section, business activity within an enterprise zoneEnterprise Zone or river edge redevelopment zone shall be measured by means of the factors ordinarily applicable to the corporation under ~~subsection (a), (b), (c), or (d) of IITA Section 304 (a),(b),(c) or (d)~~, except that, in the case of a corporation ordinarily required to apportion business income under ~~subsection (a) of IITA Section 304(a)~~, ~~thesuch~~ corporation shall not use the sales factor in the computation. Thus, for example, for taxable years ending on or after December 31, 2000, for purposes of determining whether dividends may be subtracted under this Section, a corporation that apportions its business income under ~~subsection (a) of IITA Section 304(a)~~ using only the sales factor in accordance with ~~subsection (h) of IITA Section (h) 304~~ must still compute its property and payroll factors. In measuring the business activity of a corporation within an enterprise zoneEnterprise Zone or river edge redevelopment zone, the apportionment factors of that corporation shall be determined without regard to the factors or business activity of any other corporation and, in the case of a corporation engaged in a unitary business with any other person, the apportionment factors of that corporation shall be determined as if it were not engaged in a unitary business with such other person.

- 1) Section 304(a) Corporations: A corporation using Section 304(a) to apportion business income to Illinois shall compare the corporation's property and payroll within an enterprise zoneEnterprise Zone or river edge redevelopment zone to the corporation's property and payroll everywhere. The result of the property and payroll factor computations shall be divided by 2 (by one if either the property or payroll factor has a denominator of zero). If the amount so computed is 95% or greater, the dividends paid by the corporation shall qualify for this subtraction. In the case where a corporation does not have any payroll or property within an enterprise zoneEnterprise Zone or river edge redevelopment zone, the corporation is not conducting any of its business operations within an enterprise zoneEnterprise Zone or river edge redevelopment zone for the purpose of this Section.
- 2) All Other Corporations: A corporation using a 1-factor apportionment formula under ~~subsection (b), (c) or (d) of IITA Section 304(b),(c) or (d)~~ shall determine business activity conducted within an enterprise

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~~zone~~~~Enterprise Zone~~ or ~~river edge redevelopment zone~~ by comparing business income from sources within the ~~enterprise zone~~~~Enterprise Zone~~ or ~~river edge redevelopment zone~~ and everywhere else pursuant to its ordinarily applicable factor under ~~subsection (b), (c) or (d) of IITA~~ Section 304~~(b), (c) or (d)~~. A corporation using an alternative method of apportionment under Section 304(f) shall petition the Department for approval of an appropriate method of determining its qualification under this Section, and only upon the Department's approval shall the corporation be allowed to use a method not provided in this Section.

- 3) ~~EXAMPLE~~~~Example~~: In the tax year ending December 31, 1995, Taxpayer received dividends from a bank holding company, whose sole asset was the stock in a bank with which it was conducting a unitary business. Both the bank holding company and the bank are headquartered in an Enterprise Zone created under the Illinois Enterprise Zone Act. During 1995, the operations of the bank consisted of accepting deposits, making loans and purchasing investments. The bank conducted business in its branches located throughout the State. However, the bank holding company's sole source of income on a separate-company basis was the dividends it received from the bank, and all of this income was received within the Enterprise Zone. In determining its business income apportionable to Illinois in 1995, the bank holding company and the bank used the apportionment formula under IITA Section 304(c) on a combined basis. In order to determine whether 95% or more of its income is from sources within the Enterprise Zone, the bank holding company is required to use the same apportionment formula under IITA Section 304(c) as if it were not engaged in a unitary business with the bank. Pursuant to the formula, dividends which are received within this State are apportionable to Illinois. As a result, the bank holding company in this case must compute the percentage of dividends which are received within the Enterprise Zone to determine income apportionable to the Enterprise Zone. Since it received all of its business income from sources within the Enterprise Zone, the bank holding company would meet the 95% test.

- c) Taxpayers are entitled to this subtraction in the taxable year in which qualifying dividends are paid by corporations.

- 1) Corporations paying dividends shall be deemed to have started business operations within an ~~enterprise zone~~~~Enterprise Zone~~ from the later of:

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- ~~A)1)~~ The date the ~~enterprise zone~~Enterprise Zone in which the corporation paying the dividends is located was officially designated by the Department of Commerce and ~~Community Affairs~~Economic Opportunity;
- ~~B)2)~~ The date the corporation paying dividends commenced operations in the ~~enterprise zone~~Enterprise Zone; or
- ~~C)3)~~ The effective date of the Public Act enacting this subtraction (December 7, 1982).
- 2) Corporations paying dividends shall be deemed to have started business operations within a ~~river edge redevelopment zone~~ from the later of:
- A) The date the ~~river edge redevelopment zone~~ in which the corporation paying the dividends is located was officially designated by the Department of Commerce and Economic Opportunity;
- B) The date the corporation paying dividends commenced operations in the ~~river edge redevelopment zone~~; or
- C) July 12, 2006, the effective date of PA 94-1021, which enacted this subtraction.
- d) Limitations:-
- 1) This Section allows taxpayers to subtract distributions from a corporation only to the extent:
- A) such distributions are characterized as dividends;
- B) such dividends are included in federal taxable income (in the case of an individual, adjusted gross income) of the taxpayer; and
- C) the taxpayer has not subtracted such dividends from federal taxable income (in the case of an individual, adjusted gross income) under any other provision of IITA Section 203 ~~of the IITA~~.

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- 2) ~~EXAMPLE~~~~Example~~: Taxpayer, ~~a Subchapter~~~~an~~ S corporation shareholder, receives a distribution from an S corporation which conducts substantially all of its business in an Enterprise Zone. Although the ~~Subchapter~~ S corporation satisfies the 95% test, Taxpayer is not entitled to this subtraction modification since a distribution by ~~a Subchapter~~~~an~~ S corporation is generally not characterized as a dividend. See ~~section~~~~Section~~ 1368 of the Internal Revenue Code.
- 3) ~~EXAMPLE~~~~Example~~: Taxpayer, a corporation, receives a dividend from another corporation ~~that~~~~which~~ qualifies for the 70% dividends received deduction under ~~section~~~~Section~~ 243(a)(1) of the Internal Revenue Code. Because only 30% of the dividend is included in Taxpayer's federal taxable income, this Section allows Taxpayer to subtract only 30% of the dividend from its federal taxable income.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

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

- a) A corporation that is a "financial organization" within the meaning of IITA Section 304(c) may subtract *an amount included in its taxable income as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the enterprise zone investment credit (IITA Section 203(b)(2)(M)) or the river edge redevelopment zone investment credit under IITA Section 201(f).* The subtraction for interest from loans secured by property eligible for the enterprise zone investment credit is allowed only for interest received or accrued prior to August 7, 2012, the effective date of PA 97-905, which repealed this subtraction.
- b) Eligible Property. For purposes of this Section, "Eligible Property" shall mean:
- 1) for tax years ending prior to June 8, 1984 (the effective date of ~~PAP.A.~~ 83-1114), property for which the borrower had successfully claimed the credit under IITA Section 201(h) (prior to recodification as IITA Section 201(f) by ~~PAP.A.~~ 85-731); and

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- 2) for tax years ending on or after June 8, 1984, property that is "qualified property" as defined under IITA Section 203(f)(2) and Section 100.2110(e) or that would have been qualified property under those provisions if placed in service in an enterprise zone at the time it was new by a taxpayer otherwise eligible to claim the credit under IITA Section 203(f).
- c) *Portion of Loan Secured by Eligible Property. To determine the portion of a loan that that is secured by Eligible Property, the entire principal amount of the loan between the taxpayer and the borrower should be divided into the basis of the Eligible Property which secures the loan, using for this purpose the original basis of such property on the date it was placed in service in the enterprise zone or the river edge redevelopment zone. The subtraction modification available to the taxpayer in any year under this Section shall be the portion of the total interest paid by the borrower with respect to such loan attributable to the Eligible Property as calculated under the previous sentence. (IITA Section 203(b)(2)(M))* There is no limitation to the length of time for which the subtraction may be taken with respect to a particular loan.
- d) **Basis.** For purposes of the computation in subsection (c), the basis of Eligible Property shall be its borrower's basis in the Eligible Property for federal income tax purposes, including the costs of any improvements or repairs included in that basis, but without adjustment for depreciation or IRC section 179 deductions claimed with respect to the property.
- e) **Examples.** This subsection provides examples of various fact situations and the Department's interpretation of how this subtraction would apply:
  - 1) **EXAMPLE**~~Example~~ 1. Bank lends \$1,000 to Borrower, secured by Eligible Property with a basis of \$900. The portion of the loan secured by Eligible Property is the \$900 basis of the borrower in Eligible Property divided by the \$1,000 principal amount of the loan, or 90%.
  - 2) **EXAMPLE**~~Example~~ 2. Bank lends \$1,000 to Borrower, secured by Eligible Property with a basis of \$1,000 and by other property with a basis of \$2000. The portion of the loan secured by Eligible Property is the \$1,000 basis of the borrower in Eligible Property divided by the \$1000

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principal amount of the loan, or 100%. The existence of other property securing the loan is irrelevant.

- 3) **EXAMPLE**~~Example~~ 3. In 1996, ABC Company built a new warehouse in an enterprise zone at the cost of \$1,000,000 and is able to claim the enterprise zone investment credit under IITA Section 201(f). ABC takes out a \$2,000,000 loan at Bank A, which then places a lien on the property. In 1999, when the warehouse had an adjusted basis (after depreciation) of \$900,000 and a fair market value of \$1,300,000, ABC refinanced the loan for the same principal amount, but at a lower interest rate. For both loans, the portion of the loan secured by Eligible Property is the \$1,000,000 original basis in the warehouse divided by the \$2,000,000 principal. Neither the adjusted basis after depreciation nor the fair market value are relevant to the computation for the refinanced amount.
- 4) **EXAMPLE**~~Example~~ 4. The facts are the same as in Example 3, except that, in 2001, ABC Company again refinanced the loan, this time at Bank B (unrelated to Bank A). There was no change in the principal amount. Bank B takes a lien on the warehouse to secure the new loan. The portion of the Bank B loan that qualifies for the subtraction modification is 50% because the principal amount of the loan and ABC Company's original basis in the property remain unchanged.
- 5) **EXAMPLE**~~Example~~ 5. Same facts as in Example 4, except that Bank B purchased the refinanced loan from Bank A. The loan is not refinanced. ABC continues to pay the same amount, but now pays Bank B rather than Bank A. Bank B does not qualify for the subtraction modification, which is allowed only with respect to a loan "made by such taxpayer to a borrower" and Bank B did not make the loan.
- 6) **EXAMPLE**~~Example~~ 6. X Corp., headquartered outside the river edge redevelopment zone, builds a \$100,000,000 warehouse in a river edge redevelopment zone in 2007 and claims the river edge redevelopment zone credit. X takes out a 20-year loan at Bank A in the principal amount of \$1,000,000. In 2017, X takes out a new \$1,750,000 loan at the same bank and uses \$1,000,000 of the proceeds to pay off the old loan and spends the remaining \$750,000 to renovate its corporate headquarters located outside the zone. Bank A takes a lien on the warehouse as security for each loan. Because X Corp.'s \$100,000,000 basis in the warehouse exceeds the

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principal amount of each loan, Bank A is entitled to subtract the entire amount of interest received from each loan. The portion of the loan whose interest may be subtracted need not be reduced by the \$750,000 portion not spent inside the river edge redevelopment zone because use of the borrowed funds is not relevant to the subtraction.

- 7) ~~EXAMPLE~~**Example** 7. The F Church, located in an enterprise zone, decides to borrow \$500,000 in 2003 from Bank A for roof repairs and a new addition. The church cannot claim the enterprise zone credit because it did not have unrelated business taxable income and was not required to file an IL-990-T for 2003. Bank A may claim the subtraction modification. The loan is secured by property that is either qualified property or could be qualified property, and the property has been placed in service within an enterprise zone.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Dealers, Wreckers, Transporters and Rebuilders
- 2) Code Citation: 92 Ill. Adm. Code 1020
- 3) Section Number: 1020.10                      Proposed Action:  
Amend
- 4) Statutory Authority: Implementing Chapter 5 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 5 and 2-104(b)], as amended by PA 97-838
- 5) Complete Description of the Subjects and Issues Involved: Defines procedures and penalties for licensees accused of violating the Illinois Vehicle Code and rules adopted under the authority of the Illinois Vehicle Code.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed rulemaking does not require expenditures by units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed rulemakings are posted on Secretary of State's website, [www.sos.state.il.us/departments/index/home](http://www.sos.state.il.us/departments/index/home) as part of the *Illinois Register*.

Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this notice to:

Carrie E. Leitner  
Office of the General Counsel  
298 Howlett Building

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Springfield, IL 62756

217/785-3094

The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act (IAPA)[5 ILCS 100/5-40].

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent regulatory agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

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TITLE 92: TRANSPORTATION  
CHAPTER II: SECRETARY OF STATEPART 1020  
DEALERS, WRECKERS, TRANSPORTERS AND REBUILDERS

## Section

1020.10	Dealers Established Place of Business
1020.20	Required Records for Automotive Parts Recyclers Rebuilders, New Vehicle Dealers, Used Vehicle Dealers, Repairers and Out-of-State Salvage Vehicle Buyers
1020.30	Records Required Upon Removal of Dash Assemblies with Vehicle Identification Number Plate Attached
1020.40	Inspection of Licensees' Records and Premises
1020.50	Consignment Sales by Dealers
1020.70	Rebuilders Not to Engage in Retail Selling of Salvage or Rebuilt Vehicles
1020.80	Inspection of Rebuilt Vehicles

**AUTHORITY:** Implementing Chapter 5 and authorized by Section 2-104(b) of the Illinois Vehicle Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 5 and 2-104(b)].

**SOURCE:** Filed March 5, 1975; amended at 2 Ill. Reg. 33, p. 144, effective August 8, 1978; amended at 5 Ill. Reg. 3835, effective March 27, 1981; codified at 6 Ill. Reg. 12674; amended at 7 Ill. Reg. 5260, effective April 4, 1983; amended at 8 Ill. Reg. 14657, effective August 1, 1984; amended at 8 Ill. Reg. 22884, effective November 16, 1984; amended at 12 Ill. Reg. 13612, effective August 15, 1988; amended at 12 Ill. Reg. 17962, effective November 1, 1988; amended at 14 Ill. Reg. 8704, effective June 1, 1990; amended at 19 Ill. Reg. 11640, effective August 1, 1995; amended at 20 Ill. Reg. 11356, effective August 1, 1996; amended at 22 Ill. Reg. 11527, effective July 1, 1998; amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1020.10 Dealers Established Place of Business**

- a) Each person seeking to be or already duly licensed as a new or used vehicle dealer under the Illinois Vehicle Code (~~IVC~~IVC) [625 ILCS 5] shall maintain an established place of business ~~that~~which shall, in addition to those requirements in ~~IVC~~IVC Section 5-100 ~~of the Illinois Vehicle Code (I.V.C)~~, meet the following requirements:

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- 1) Have office facilities in a building for maintaining and keeping books and records as are required. The office facilities shall be permanently mounted on a fixed foundation and may not include a trailer with axle attached and still moveable. It may include, however, a house trailer in a licensed mobile home park or dealership lot with tires removed and utilities attached.
- 2) Be properly and permanently equipped with the necessary office equipment and machines, and documents and papers adequate to properly conduct business as a dealer and must be within a permanent building or structure as required in subsection (a)(1) ~~above~~.
- 3) Be equipped with an operating telephone for inbound and outbound calls, ~~and~~ have the business telephone number published in the telephone directory generally available in the dealership area, and be adequately equipped with operating electric lights.
- 4) Have the name of the dealership posted on the front entrance door.
- 5) Have posted on the front entrance door a sign setting forth the days and regular and reasonable hours when open for business. A dealership shall not be deemed as being open for business unless at least one employee, who is able to conduct regular business, is on the premises and available to the public. ~~The and the~~ dealership must be operated consistent with general dealer practices. The dealership must be open for business at least ~~five (5)~~ days out of each ~~seven (7)~~ days in a week, and a minimum of ~~four (4)~~ hours consecutive hours per day. However, dealers who operate their dealerships less than 12 months shall state in the license application those months in which the dealership is closed and shall not be required to maintain regular business hours during the period of closure. The months of closure shall also be posted in a prominent place for the public to see in the dealership office.
- 6) Maintain a lot, ~~being~~ (the area not occupied by a building) ~~that, which~~ shall be surfaced with rock or better surface material, and ~~that which~~ shall be properly illuminated, if open after sundown, so that vehicles for sale can be properly inspected by any prospective customer.
  - A) The lot used for sale of vehicles shall be separate and apart from

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any other business. In addition, ~~if where~~ a dealer is selling both new and used cars, the new cars shall be parked separately and apart from used cars.

- B) The ~~above~~ lot requirement described in this subsection (a)(6) shall not be applicable ~~if where~~ the place of business has an indoor showroom, properly illuminated, for the display of vehicles held for sale.
- C) The separate lot requirement specified in subsection (a)(6)(A) ~~above~~ shall not prohibit the operation by the dealer of other businesses on the same premises, which shall include the lot, provided that the businesses are reasonably related to the sale or operation of new or used automobiles, ~~if provided further that~~ the sale of new or used automobiles ~~constitutes shall constitute~~ at least 50% of the gross revenues of the ~~licensee~~ holder, and the sale of automobiles shall be the primary business of the licensed dealer. No business defined as reasonably related to the sale of automobiles under this Section shall exceed 50% of the gross revenue of the business entities using the lot. Businesses reasonably related to the sale or operation of automobiles shall include only the sale of automobile parts and accessories, the sale of gasoline, diesel fuel, oil and lubricant, the sale of automobile tires, the leasing of automobiles, insuring automobiles, and financing of automobiles sold by the licensed dealers engaged in these businesses. Licensed dealers engaged in operating businesses other than those stated in this subsection (a)(6)(C) ~~herein~~ shall remove ~~unauthorized such~~ businesses or modify them to comply with this Section rule within 60 days ~~after of~~ notification by the Secretary of State, or be subject to the revocation or suspension of their ~~dealer's dealers~~ license.
- 7) Dealership in a Department Store – ~~When Where~~ a dealer maintains a place of business within a department store, the dealership shall be separated from other operations ~~of within~~ the department store.
- 8) Sign – Display a permanent sign bearing the name of the dealership, which shall be properly illuminated if open after sundown and which shall be visible from the highway leading to the established place of business.

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- 9) Display a federally required pricing document on all new motor vehicles held for sale.
  - 10) If the premises are leased, ~~the~~ lease must be for at least the duration of the current licensed period.
- b) Supplemental Lots
- An Illinois licensed dealer may operate as an additional place of business a permanent supplemental lot ~~that meets~~~~which will meet~~ all the requirements of ~~subsection (a) subsections (a)(1) through (a)(10) of this Section~~, except the records required to be kept shall be maintained at the principal place of business of the dealership, as defined by IVC Section 1-164 ~~of the I.V.C.~~, unless the supplemental lot is more than one mile from the main ~~dealership~~~~dealerships~~. The one mile shall be measured by the most direct road between the dealership and the supplemental lot.
- 1) A licensed dealer shall apply for the supplemental lot authorization when he/she files the application required by IVC ~~Section~~~~Sections~~ 5-101 or 5-102 ~~of the I.V.C.~~ or ~~he or she~~~~she~~ may file an application to add a supplemental lot during the license period.
  - 2) The fee for a license to operate a supplemental lot is \$25 or \$12.50 as provided in IVC Sections 5-101(b)(7) and 5-102(b)(5) ~~of the I.V.C.~~
  - 3) No vehicle sales at supplemental lots shall be allowed on Sundays except as provided for in IVC Section 5-106 ~~of the I.V.C.~~
- c) Trade Show Exhibition, Display Exhibition and Off Site Sale
- A licensed dealer may operate as an additional place of business an exhibition area in a trade show exhibition, display exhibition, or off site sale, provided:
- 1) The trade show exhibition, display exhibition or off site sale must be conducted ~~separately~~~~separate~~ and away from the licensed dealer's established and additional places of business.
  - 2) The licensed dealer has a currently valid new or used vehicle dealer's license issued by the Secretary of State of Illinois or another state where applicable.

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- 3) The applicant dealer meets the requirements of subsection (c)(7), (8) or (9) ~~of this Section.~~
- 4) No permit granted for an additional location in a trade show exhibition, display exhibition or off site sale may be transferred ~~or~~ removed to another location.
- 5) Regardless of the dates of the trade show exhibition, display exhibition or off site sale, no vehicle sales will be allowed on Sunday except as provided for in IVC Section 5-106 ~~of the I.V.C.~~
- 6) The licensed dealer has provided the Secretary of State with a copy of:
  - A) the written contract with the agency, ~~or~~ person or other entity sponsoring, creating or supervising the trade show exhibition, display exhibition or off site sale; and
  - B) an application for the trade show exhibition, display exhibition or off site sale permit:
    - i) containing the name of the dealership, its license number, the location and dates of the trade show exhibition, display exhibition or off site sale; and
    - ii) signed by the licensed dealer.
- 7) Trade Show Exhibitions
  - A) A permit for an additional location granted for a trade show exhibition shall in no event be valid for more than ~~thirty (30)~~ days from the date of the first day of the trade show exhibition for which it is granted.
  - B) The fee for a permit to operate in a trade show exhibition shall be \$10.00 per permit.
  - C) No vehicles may be offered for sale.

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- D) Each trade show exhibition must have a minimum of ~~three (3)~~ licensed participants, at least two of ~~whom~~~~which~~ must be licensed under IVC Section 5-101 or 5-102 ~~of the I.V.C.~~, who all meet the requirements in subsections (c)(1) through (6) ~~of this Section~~.
- E) A trade show exhibition of new vehicles shall only have participants licensed as new vehicle dealers, at least two of ~~whom~~~~which~~ must be licensed under IVC Section 5-101 ~~of the I.V.C.~~, and meet the requirements in subsections (c)(1) through (6) ~~of this Section~~.
- 8) Display Exhibitions
- A) Only a new or used vehicle dealer licensed under IVC Section 5-101 or 5-102 ~~of the I.V.C.~~, who also meets the requirements of subsections (c)(1) through (6) ~~of this Section~~, may participate in a display exhibition.
- B) A permit for an additional location granted for a display exhibition shall in no event be valid for more than ~~thirty (30)~~ days from the date of the first day of the display exhibition for which it is granted.
- C) The fee for a permit to operate in a display exhibition shall be \$10.00 per permit.
- D) No vehicles may be offered for sale.
- 9) Off Site Sales
- A) Only a dealer licensed under IVC Section 5-101 or 5-102 ~~of the I.V.C.~~, who also meets the requirements of subsections (c)(1) through (6) ~~of this Section~~, may conduct an off site sale.
- B) The off site sale must not be conducted out of the licensed dealer's relevant market area, as defined in IVC Section 5-100 ~~of the I.V.C.~~ This does not apply to off site sales of motor homes or recreational vehicles.

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- C) A permit for an additional location granted for an off site sale shall in no event be valid for more than ~~seven (7)~~ days from the date of the first day of the off site sale for which it is granted.
- D) The fee for a permit to operate an off site sale shall be \$25.~~00~~ per permit.
- d) Each person seeking to be or already duly licensed as a scrap processor, automotive parts recycler, rebuilder, repairer or out-of-state salvage buyer under the ~~IVC-V.C.~~ shall maintain an established place of business ~~that meets~~~~which shall meet~~ the requirements ~~of~~~~contained in~~ subsection (a)~~-above~~, except that no lot as set forth in subsection (a)(6)~~-above~~ is required. However, if open after sundown, the premises shall be adequately illuminated so that prospective purchasers may inspect the items held for sale.
- e) In lieu of a criminal complaint, the police may issue an administrative citation to a party licensed under IVC Chapter 5 for any violation of the IVC or any administrative rule adopted by the Secretary under the IVC. If an administrative citation is issued, then a minimum of 3 separate violations must be present at the time of the investigation or inspection and any violations shall result in a \$50 penalty per violation. Any party that receives an administrative citation that results in a monetary penalty may either pay the penalty or contest the administrative citation through the Secretary's administrative hearing process (see 92 Ill. Adm. Code 1000.Subpart A). If a licensee agrees to pay the administrative citation, the licensee waives his or her ability to contest the administrative citation through the administrative hearing process. If a licensee pays the penalty as a result of an administrative citation but receives subsequent administrative citations pursuant to a subsequent investigation or inspection, and the licensee disputes the subsequent administrative citations through the administrative hearing process, the Secretary may use any previous administrative citations as evidence to establish a pattern or habit of violations. A licensee shall have 90 calendar days after receiving the administrative citation to either pay the penalty or file a request for an administrative hearing. Failure to either pay the administrative citation or file a timely request for an administrative hearing may result in the denial of a license renewal until the penalty is paid in full or an administrative hearing is scheduled to adjudicate the contested administrative citations.
- fe) None of the requirements of this Section shall apply to the place of business of a

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| vehicle auctioneer licensed under IVC Chapter 5, Article VII ~~of the I.V.C.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Disadvantaged Business Revolving Loan Program
- 2) Code Citation: 92 Ill. Adm. Code 5
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
5.10	New
5.20	New
5.30	New
5.40	New
5.50	New
5.60	New
5.70	New
5.80	New
5.90	New
5.100	New
5.110	New
5.120	New
5.130	New
5.140	New
5.150	New
5.160	New
5.170	New
5.180	New
5.190	New
5.200	New
5.210	New
- 4) Statutory Authority: Implementing Section 2705-610, and authorized by Section 2705-610(c), of the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610]
- 5) A Complete Description of the Subjects and Issues Involved: The Disadvantaged Business Revolving Loan Program (program) will allow more certified disadvantaged business enterprises (DBEs) to feasibly participate in State construction projects, beginning with the major letting scheduled for November 2013, by obtaining low interest loans to assist with project financing costs. This Part provides procedures, conditions, and limitations applicable to loans made to DBEs.

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Section 2705-610 of the Civil Administrative Code of Illinois (Law) [20 ILCS 2705/2705-610] establishes a low-interest loan program for DBEs certified by the Illinois Department of Transportation (Department) for participation on Department-procured construction and construction-related contracts. (See Section 2705-610(c) of the Law.) The Department is authorized to provide for assistance with project financing costs to those DBE firms that are ready, willing and able to participate on Department construction contracts. The Department's disparity study recommends and supports a financing program to address this financial barrier faced by DBEs. (See Section 2705-610(a) of the Law.) The funds for this program will be appropriated annually by the Illinois General Assembly from the Road Fund into a Working Capital Revolving Loan Fund, established as a special fund under the State treasury. (See Section 2705-610(d) of the Law.)

The Department determined that this Part had to be filed expeditiously in the best interest and welfare of the State, in response to the General Assembly, and to reduce barriers to DBEs interested in participating on Department construction projects; therefore, emergency rules were filed and have been published in this same issue of the *Illinois Register*. This Part will replace the emergency rules at the expiration of the 150-day emergency period.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? Yes, upon adoption of this proposed rulemaking, this Part will replace the emergency rules (found elsewhere in this issue of the *Illinois Register*) after the expiration of the 150-day emergency period.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>IL Register Citation:</u>
5.10	New	37 Ill. Reg. 15531; September 27, 2013
5.20	New	37 Ill. Reg. 15531; September 27, 2013
5.30	New	37 Ill. Reg. 15531; September 27, 2013
5.40	New	37 Ill. Reg. 15531; September 27, 2013

## DEPARTMENT OF TRANSPORTATION

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5.50	New	37 Ill. Reg. 15531; September 27, 2013
5.60	New	37 Ill. Reg. 15531; September 27, 2013
5.70	New	37 Ill. Reg. 15531; September 27, 2013
5.80	New	37 Ill. Reg. 15531; September 27, 2013
5.90	New	37 Ill. Reg. 15531; September 27, 2013
5.100	New	37 Ill. Reg. 15531; September 27, 2013
5.110	New	37 Ill. Reg. 15531; September 27, 2013
5.120	New	37 Ill. Reg. 15531; September 27, 2013
5.130	New	37 Ill. Reg. 15531; September 27, 2013
5.140	New	37 Ill. Reg. 15531; September 27, 2013
5.150	New	37 Ill. Reg. 15531; September 27, 2013
5.160	New	37 Ill. Reg. 15531; September 27, 2013
5.170	New	37 Ill. Reg. 15531; September 27, 2013
5.180	New	37 Ill. Reg. 15531; September 27, 2013
5.190	New	37 Ill. Reg. 15531; September 27, 2013
5.200	New	37 Ill. Reg. 15531; September 27, 2013
5.210	New	37 Ill. Reg. 15531; September 27, 2013

- 11) Statement of Statewide Policy Objectives: This rulemaking will not affect units of local government or not-for-profit corporations.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested party may submit written comments or arguments concerning this proposed rulemaking. Written submissions shall be filed with:

Office of Chief Counsel  
 Illinois Department of Transportation  
 2300 S. Dirksen Parkway, Room 313  
 Springfield, Illinois 62764

217/782-3215

Comments received within 45 days after the date of publication of this *Illinois Register* will be considered. Comments received after that time will be considered, time permitting.

- 13) Initial Regulatory Flexibility Analysis:

## DEPARTMENT OF TRANSPORTATION

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- A) Types of small businesses affected: This Part could potentially increase participation of small DBEs in the construction industry that are ready, willing and able to participate on Department construction contracts.
- B) Reporting, bookkeeping or other procedures required for compliance: Members of the Loan Selection Committee (Committee) and the Fund Control Agent or Agents are required to participate in annual ethics training program. Upon completion of the ethics training program, members of the Committee and the Fund Control Agent or Agents must certify in writing that they have completed the training program. Members of the Committee and the Fund Control Agent or Agents are required to report to the Department's Ethics Officer any situation that might indicate a conflict of interest or create the appearance of a conflict of interest.

The Fund Control Agent or Agents are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of their participation in the disadvantaged business revolving loan program. Members of the Committee are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of their service on the Committee.

The Committee will provide 10 calendar days prior notice of each regularly scheduled meeting to the Fund Control Agent or Agents. No later than five calendar days prior to each meeting, the Fund Control Agent or Agents will provide a fiscal report to the Committee including, at a minimum, the number of outstanding loans, and the balance of outstanding loans.

- C) Types of professional skills necessary for compliance: The DBE must be certified by the Unified Certification Program, of which the Department is a member, for all purposes under this Part.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2013

The full text of the Proposed Rule is identical to that of the Emergency Rules, and begins in this issue of the *Illinois Register* on page 15531.

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1600.700	Amendment
1600.710	Amendment
1600.715	Amendment
1600.720	Amendment
1600.745	Amendment
1600.750	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) Effective Date of Rulemaking: September 12, 2013
- 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 materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notices of Proposed published in the *Illinois Register*: May 10, 2013; 37 Ill. Reg. 6170
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Various grammatical changes have been made since this rulemaking was published on first notice.
- 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 rulemakings pending on this Part? No

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: Sections 1600.700, 1600.710, 1600.715, 1600.720, 1600.745 and 1600.750 are intended to update the Board Trustee Election rules.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Michael B. Weinstein, General Counsel  
State Universities Retirement System  
1901 Fox Drive,  
Champaign, IL 61820

217/378-8825 or 217/378-8838

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

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600  
UNIVERSITIES RETIREMENT

## SUBPART A: GENERAL

## Section

- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement

## SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

## Section

- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Compensation Subject to Withholding
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.241 Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

## SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

## Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries

## STATE UNIVERSITIES RETIREMENT SYSTEM

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- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure

## SUBPART D: BENEFIT CALCULATION AND PAYMENT

## Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

## SUBPART E: ADMINISTRATIVE REVIEW

## Section

- 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

## SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1600.640 Alternate Payee's Address
- 1600.645 Electing Form of Payment
- 1600.650 Automatic Annual Increases
- 1600.655 Expiration of a QILDRO
- 1600.660 Reciprocal Systems QILDRO Policy Statement
- 1600.665 Providing Benefit Information for Divorce Purposes

## SUBPART G: BOARD TRUSTEE ELECTION

## STATE UNIVERSITIES RETIREMENT SYSTEM

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## Section

1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Marking of Ballots
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January

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15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013.

## SUBPART G: BOARD TRUSTEE ELECTION

**Section 1600.700 Nomination of Candidates**

- a) The Board Secretary shall determine the number and type of Board positions to be filled at an election. The Secretary shall announce the election by October 1 preceding the next election.
- b) Any candidate for an opena-vacant contributing membership position on the System's Board of Trustees:
  - 1) Shall be, on the date voter eligibility is determined pursuant to Section 1600.715, an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days;
  - 2) Shall be nominated by a written petition for a single candidate only, signed by no fewer than 400 individuals who, as of the date of signing, were participants.
- c)b) Any candidate for an opena-vacant annuitant position on the System's Board of Trustees:
  - 1) Must have been an annuitant for at least one full year prior to the Election Date as determined pursuant to Section 1600.705;
  - 2) Shall be nominated by a written petition for a single candidate only, signed by no fewer than 100 individuals who, as of the date of signing, were annuitants.
- d)e) For purposes of determining whether a SURS member is a contributing member, participant, or annuitant pursuant to this Subpart G:
  - 1) A SURS member who is a contributing member or participant in the Self-Managed Plan, described in Section 15-158.2 of the Pension Code, is eligible under the same terms as SURS members who are in the traditional

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF ADOPTED AMENDMENTS

or portable benefit package, described in Sections 15-103.1 and 15-103.2, respectively, of the Pension Code, and a benefit recipient pursuant to an annuity contract purchased under the self-managed plan is an annuitant;

- 2) A SURS member receiving a preliminary estimated payment pursuant to Section 1600.420 is an annuitant;
- 3) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant, but is considered a contributing member for purposes of Board elections.

~~e)Ⓓ) All candidates must complete an application in the form adopted by the System. Candidate application forms may be obtained from the Board Secretary, upon written or oral request by the candidate, on or after October 1 immediately preceding the Election Date. The completed candidate application form shall be submitted to the Board Secretary by the December 31 immediately preceding the Election Date. Petitions may be circulated for signatures by any individual or entity commencing the November 1 immediately preceding the applicable Election Date and ending on January 31.~~

~~f)e) The Board Secretary shall determine the eligibility of candidates pursuant to the Illinois Pension Code and this Part. If a candidate should become ineligible for the Board position after submission of the candidate application form, but before the election, the Board Secretary shall declare the candidate ineligible and remove that candidate from the ballot. If a candidate should become ineligible for the Board position after the printing of the ballots, the ineligible candidate's votes shall not be counted. An individual eligible to sign a petition nominating a candidate for a vacant contributing membership position on the Board may sign petitions for as many contributing membership position candidates as desired.~~

~~f) An individual eligible to sign a petition nominating a candidate for a vacant annuitant position on the Board may sign petitions for as many annuitant candidates as desired.~~

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

**Section 1600.710 Petitions**

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- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System ~~upon written or oral request of any individual or entity~~, on or after October 1 immediately preceding the Election Date. The petition forms may be photocopied for use by the candidates. ~~All candidates must complete an application in the form adopted by the System and submit it to the System by the December 31 immediately preceding the Election Date. The Board Secretary shall determine the number and type of Board positions to be filled for an election. The Board Secretary shall determine the eligibility of candidates pursuant to the Illinois Pension Code and this Part.~~
- b) A valid petition nominating a candidate for ~~an opena-vacant~~ contributing membership position or ~~an opena-vacant~~ annuitant position on the System's Board of Trustees shall meet the following requirements:
- 1) On page one of the petition the potential candidate must sign the petition as one of the nominating signatories. The signature shall constitute the potential candidate's confirmation that he or she is willing to be a candidate.
  - 2) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate, as established by Section 1600.700(~~ba~~) or (~~cb~~). A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures must be original signatures.
  - 3) Each signature of an eligible voter must be accompanied by the signing person's name (printed), home address (street ~~and~~, city, ~~and state~~), ~~and job title (if any)~~, SURS employer (or last SURS employer). ~~Other eligible voter information, including, and~~ the last four digits of ~~the signer's his or her~~ social security number may be included to assist the Board Secretary in verifying petition signing eligibility. Signatures that are not accompanied by at least a partial address will not be accepted. The partial social security number shall remain confidential.
  - 4) Petitions may be circulated for signatures commencing the October 1 immediately preceding the applicable Election Date and ending on January 31.

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- 5) An individual eligible to sign a petition nominating a candidate for an open contributing membership position on the Board may sign petitions for as many contributing membership position candidates as desired.
- 6) An individual eligible to sign a petition nominating a candidate for an open annuitant position on the Board may sign petitions for as many annuitant candidates as desired.
- 7)4) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures contained on the petition were signed in that individual's presence and are genuine, and that, to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so under Section 1600.700(ba) or (cb).
- 8)5) Original petitions shall be filed with and must be received by the Board Secretary by the January 31 immediately preceding the Election Day. Petitions received after the prescribed petition-filing period are invalid and will not be counted.
- c) The Board Secretary shall determine the validity of petitions pursuant to the Illinois Pension Code and this Part not less than 75 days prior to the Election Day and notify all candidates in accordance with the election calendar whether their petitions met all petition requirements. Candidates filing conforming petitions will be added to the slate of candidates on the respective ballot.
- d) Any individual may, upon reasonable notice to the System, examine the petitions that have been filed with the System with respect to the election to take place; provided, however, that in order to protect the signing participants' and annuitants' privacy and confidentiality, the examination shall be subject to the following limitations:
- 1) Petitions that are examined will be duplicate copies of the original petitions filed, with any confidential information redacted;
  - 2) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board Secretary as provided in subsection (c); and

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF ADOPTED AMENDMENTS

- 3) Petitions may not be removed from the System's offices, copied, or duplicated by any means.
- e) Challenge to the Petition Validation Process
- 1) The challenger shall submit a written statement identifying the specific aspects of the petition validation process that is being challenged.
  - 2) All challenges shall be submitted to the Board Secretary no later than 7 days after the petition validation notification required in subsection (c). Any challenge submitted more than 7 days after the date of the notification shall not be considered. The Board Secretary shall transmit any challenges to a 3 member committee of the Board, comprised of members of the Board not running in the contested election.
  - 3) The committee shall consider the written statement and proceed to make a final determination with respect to the challenge.
  - 4) A written notice of the final determination shall be sent to the challenger and all candidates within 7 days after making the determination.
  - 5) The determination of the committee shall constitute a final administrative decision for purposes of the Administrative Review Law [305 ILCS 5/Art. III].

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

**Section 1600.715 Eligible Voters**

- a) An individual is eligible to vote for a contributing membership position on the Board of Trustees of the System if he or she was a contributing member, defined as an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days, except as provided for in subsection (e) as of March 1 of the year in which the election is held.
- b) An individual is eligible to vote for ~~an opena-vacant~~ annuitant position on the Board of Trustees of the System if he or she was an annuitant as of March 1 of the year in which the election is held.

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- c) A person who is eligible to vote for a contributing membership position pursuant to subsection (a) is not eligible to vote for ~~an opena-vacant~~ annuitant position.
- d) A person who is eligible to vote for an annuitant position pursuant to subsection (b) is not eligible to vote for ~~an opena-vacant~~ contributing membership position.
- e) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant but is considered a contributing member for purposes of Board elections.

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

**Section 1600.720 Election Materials**

- a) At least ~~30~~40 business days prior to the Election Day, the System shall mail to the eligible voter's latest address known to the System the following election materials:
  - 1) A preprinted paper ballot listing, in order determined by random, blind lottery conducted by the Board Secretary, either the contributing membership candidates or the annuitant candidates, depending on the basis for the individual's eligible voter status as provided in Section 1600.715~~(a) or (b)~~, using the entire name of each candidate in the System records on the first day nomination petitions can be accepted;
  - 2) Candidate provided biographies in the format and length specified by the Board Secretary;
  - 3) Instructions for voting as specified by the Board Secretary;
  - 4) A preprinted, return envelope.
- b) If an eligible voter has not received any or all of the election materials specified in subsection (a) 5 business days prior to the Election Date, the eligible voter may request that the System send election materials to him or her. If an eligible voter incorrectly marks or spoils his or her paper ballot prior to returning it, the eligible voter may request a new set of election materials from the System at least 5

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business days prior to the Election Date. Paper ballots already mailed by the eligible voter shall not be replaced.

- c) If previously mailed election materials are returned to the System undelivered at least 5 business days prior to the Election Date and a forwarding address has been provided, the System shall mail election materials to the forwarding address via first class U.S. mail.

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

**Section 1600.745 Candidate Informational Communication**

- a) During any election period commencing the January 1 immediately preceding the Election Date and ending the day after the Election Date, the System will make available address files or e-mail lists of eligible voters for election candidates or other organizations to send additional informational material about the candidate. Organizations must ~~be~~-validly ~~exist~~existing pursuant to law and must provide a mailing address and contact information to the System at the same time that a request is made for address files or e-mail lists.
- b) The address files or e-mail lists will be sent by the System to a third-party service firm hired by the candidate, or other organization, for mailing. The third-party service firm must guarantee security and only use the member contact information for communication of candidate informational materials.
- c) The third-party service firm will limit the use of the address files or e-mail lists to ensure there is only one communication per candidate, per organization.
- d) The System will not incur any of the costs to produce, mail or send the additional candidate information.
- e) The contents of informational materials must be approved by the Board Secretary prior to the mailing.

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

**Section 1600.750 Filling a Vacancy in the Term of an Elected Trustee**

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- a) A vacancy occurring in the elected membership of the Board shall be filled by the elected trustees as prescribed in Section 15-159(e) of the Pension Code.
- b) The elected trustees shall fill an unexpired term with currently eligible candidates or replacements otherwise satisfying the conditions as provided for in Sections 1600.700**(b)(1) or (c)(1)** and 1600.730**(d)** as follows:
- 1) If an elected trustee position becomes vacant within the first 3 years of a term, the vacant position shall~~candidate receiving the next highest number of votes from the last respective election will temporarily be filled~~fill the open position until the July 15 following the next regularly scheduled Election~~election~~ Date. The remaining 3 years of the term shall be permanently filled at the next available election. However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election. The vacant position openings and term lengths shall be filled as follows:
- A) The vacant position shall be temporarily filled by the elected members using the eligibility rules provided in Section 1600.700**(b)(1)** and the process rules provided in subsection (b)(3) of this Section.~~The remaining 3 years of the term will be filled at the next available election.~~
- B) If the vacancy occurs prior to the January 1 immediately preceding the next election, the vacant positions shall be filled for the remainder of the term (years 4-6), through the election process, by adding the appropriate number of available positions to the ballot at the next available election.
- C) If a vacancy occurs prior to the January 1 immediately preceding the next election, and an election is required under Section 15-159(e) of the Pension Code, the term lengths shall be determined with the~~The candidates~~candidate receiving the greatest number of votes ~~at the election shall be awarded the 6 year term~~term. ~~However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election.~~

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D) If a vacancy occurs prior to the January 1 immediately preceding the next election and an election is not otherwise necessary under Section 15-159(e), term lengths shall be determined by blind random drawing.

2) If an elected trustee position becomes vacant within the last 3 years of a term, the vacant position shall be filled for the remainder of the term by the elected members using the eligibility rules provided in this subsection (b) and the process rules provided in subsection (b)(3). candidate receiving the next highest number of votes from the last respective election will be appointed to fill the remainder of the term. However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election.

3) Unexpired terms will be filled by the elected membership using the process outlined in this subsection (b)(3). The Board Secretary will announce the vacancy via a press release and request nominations be submitted by a certain date in the form adopted by the System. Once the nomination period has ended, the Board Secretary shall determine the eligibility of the candidates pursuant to Section 15-159 of the Pension Code and the eligibility qualifications provided in this subsection (b). The list of eligible nominees will be submitted to all elected members of the Board for consideration of which candidate would best represent the contributing members or annuitants, respectively. Departing elected members shall not be eligible to participate in the replacement process. Majority voting of all elected members will determine the appointee. If the elected members cannot decide on a replacement, the full Board may declare a special election to fill the vacancy.

(Source: Amended at 37 Ill. Reg. 15517, effective September 12, 2013)

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- 1) Heading of the Part: Disadvantaged Business Revolving Loan Program
- 2) Code Citation: 92 Ill. Adm. Code 5
- 3) 

<u>Section Numbers</u> :	<u>Emergency Action</u> :
5.10	New
5.20	New
5.30	New
5.40	New
5.50	New
5.60	New
5.70	New
5.80	New
5.90	New
5.100	New
5.110	New
5.120	New
5.130	New
5.140	New
5.150	New
5.160	New
5.170	New
5.180	New
5.190	New
5.200	New
5.210	New
- 4) Statutory Authority: Implementing Section 2705-610, and authorized by Section 2705-610(c), of the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610]
- 5) Effective Date of Rules: September 13, 2013
- 6) If the emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: The emergency rules will expire 150 days from the effective date.
- 7) Date Filed with the Index Department: September 13, 2013

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- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel and is available for public inspection.
- 9) Reason for Emergency: To provide for procedures, conditions, and limitations applicable to loans made to disadvantaged business enterprises (DBEs). Section 2705-610 of the Department of Transportation Law of the Civil Administrative Code of Illinois (Law) [20 ILCS 2705/2705-610] establishes a low-interest loan program for DBEs certified by the Illinois Department of Transportation for participation on Department-procured construction and construction-related contracts. (See Section 2705-610(c) of the Law.)

The Department is authorized to provide for assistance to DBEs with project financing costs to those firms that are ready, willing, and able to participate on Department construction contracts. The Department's disparity study recommends and supports a financing program to address this financial barrier faced by DBEs. (See Section 2705-610(a) of the Law.) Rules for the DBE loan application process must be promulgated expeditiously, before the major letting scheduled for November 2013, to allow more DBE firms to utilize the program and be competitive. DBE firms will be provided with low interest loans that will allow them to feasibly participate in State construction projects. The public interest and welfare are at stake when small DBE firms are unable to finance construction costs because the bidding pool is not maximized to the fullest extent possible.

It is imperative that this Part be promulgated by emergency action so that DBE firms can finance upcoming construction projects and so that they are not blocked from bidding on projects. Not implementing this Part by emergency action will result in fewer small businesses gaining access to competition for Department projects and the accordant benefits of growing their businesses and creating jobs. The Department has determined that this Part must be filed expeditiously in the best interest and welfare of the State in order to reduce barriers faced by small firms as soon as possible. If this Part is not implemented as an emergency priority, the State will lose the benefit of this increased competition during the upcoming construction seasons.

- 10) A Complete Description of the Subjects and Issues Involved: Consistent with 20 ILCS 2705/2705-610 and the Department's disparity study, the Illinois Department of Transportation (Department) has adopted this Part by emergency action to allow more certified disadvantaged business enterprises (DBEs) to feasibly participate in State construction projects, beginning with those projects scheduled for the November 2013 letting, by obtaining low interest loans to assist with project financing costs. This Part prescribes procedures, conditions and limitations applicable to the loans, which are

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funded from the Working Capital Revolving Loan Fund, a special fund under the State Treasury established by the Illinois General Assembly.

- 11) Are there any proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: The emergency rules will have no impact on units of local government.
- 13) Information and questions regarding these emergency rules shall be directed to:

Office of Chief Counsel  
Illinois Department of Transportation  
2300 S. Dirksen Parkway, Room 313  
Springfield, Illinois 62764

217/782-3215

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

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TITLE 92: TRANSPORTATION  
CHAPTER I: DEPARTMENT OF TRANSPORTATION  
SUBCHAPTER a: GENERAL

PART 5  
DISADVANTAGED BUSINESS REVOLVING LOAN PROGRAM

Section

- 5.10 Program Overview  
EMERGENCY
- 5.20 Effective Date  
EMERGENCY
- 5.30 Purpose  
EMERGENCY
- 5.40 Definitions  
EMERGENCY
- 5.50 Eligibility  
EMERGENCY
- 5.60 General Application Information  
EMERGENCY
- 5.70 Loan Application Contents  
EMERGENCY
- 5.80 Place of Filing  
EMERGENCY
- 5.90 Terms and Conditions of Loan  
EMERGENCY
- 5.100 Pre-Eligibility Process  
EMERGENCY
- 5.110 Loan Selection Committee  
EMERGENCY
- 5.120 Review of Loan Application  
EMERGENCY
- 5.130 Eligible Expenditures  
EMERGENCY
- 5.140 Ineligible Expenditures  
EMERGENCY
- 5.150 Funds Control Process  
EMERGENCY
- 5.160 Repayment Procedures

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## EMERGENCY

5.170 Failure to Complete the Work Authorized for Loan Assistance

## EMERGENCY

5.180 Failure to Repay the Loan

## EMERGENCY

5.190 Ethics Training for Loan Selection Committee and Fund Control Agent or Agents

## EMERGENCY

5.200 Conflicts of Interest

## EMERGENCY

5.210 Confidentiality

## EMERGENCY

**AUTHORITY:** Implementing Section 2705-610, and authorized by Section 2705-610(c), of the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610].

**SOURCE:** Adopted by emergency rulemaking at 37 Ill. Reg. 15531, effective September 13, 2013, for a maximum of 150 days.

**Section 5.10 Program Overview****EMERGENCY**

- a) Section 2705-610 of the Department of Transportation Law of the Civil Administrative Code of Illinois (Law) [20 ILCS 2705/2705-610] establishes a low-interest loan program (program) for *disadvantaged business enterprises (DBEs) certified by the Illinois Department of Transportation for participation on Department-procured construction and construction-related contracts.* (Section 2705-610(c) of the Law.) The Department is authorized to *provide for assistance to DBEs with project financing costs for those firms that are ready, willing, and able to participate on Department construction contracts. The Department's disparity study recommends and supports a financing program to address this barrier faced by DBEs.* (Section 2705-610(a) of the Law.)
- b) The funds for this program are appropriated annually by the Illinois General Assembly for the Working Capital Revolving Loan Fund established as a special fund in the State treasury. (Section 2705-610(d) of the Law.)

**Section 5.20 Effective Date****EMERGENCY**

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This Part applies to loans made for the fiscal year beginning July 1, 2013 and ends June 1, 2018.

**Section 5.30 Purpose**  
**EMERGENCY**

The purpose of this Part is to implement Section 2705-610 of the Law by providing procedures, conditions, and limitations applicable to low-interest loans made to DBE loan applicants.

**Section 5.40 Definitions**  
**EMERGENCY**

Each term in this Part has the meaning set forth as follows unless its use clearly requires a different meaning.

"Applicant" means any eligible DBE who is applying for a loan under the Law and this Part.

"Application" means those forms and documents required by the Department to be submitted by an applicant in support of its request for a loan granted under this Part.

"Certified by the Illinois Department of Transportation" means the DBE is certified by the Unified Certification Program, of which the Department is a member, for all purposes under this Part.

"Committee" means Loan Selection Committee.

*"Construction" means building, altering, repairing, improving, or demolishing any public structure or building, or making improvements of any kind to public real property. Construction does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. (Section 2705-610(b) of the Law.)*

*"Construction-related Services" means those services including construction design, layout, inspection, support, feasibility or location study, research, development, planning, or other investigative study undertaken by a construction agency concerning construction or potential construction. (Section 2705-610(b) of the Law.)*

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*"Contractor" means one who participates, through a contract or subcontract at any tier, in a United States Department of Transportation-assisted or Illinois Department of Transportation-assisted highway, rail, transit, or airport program. (Section 2705-610(b) of the Law.)*

"Department" means the Illinois Department of Transportation.

"Disadvantaged Business Enterprise" or "DBE" has the meaning ascribed to it under 49 CFR 26.

*"Eligible Expenditures" means expenditures that are current liabilities or working capital expenses associated with participation in the performance of contracts procured and awarded by the Department for transportation construction and construction-related purposes. (Section 2705-610(f) of the Law.)*

*"Escrow Account" means a fiduciary account established with:*

*a banking corporation which is both organized under the Illinois Banking Act and authorized to accept and administer trusts in this State; or*

*a national banking association which has its principal place of business in this State and which is authorized to accept and administer trusts in this State. (Section 2705-610(b) of the Law.)*

*"Fund Control Agent or Agents" means a person who provides managerial and technical assistance to DBEs and holds the authority to manage a loan under this Part. The Fund Control Agent or Agents will be procured by the Department under a request for proposal process governed by the Illinois Procurement Code [30 ILCS 500] and rules adopted under that Code (see 44 Ill. Adm. Code 6). (Section 2705-610(b) of the Law.)*

"Ineligible Expenditures" means the expenses listed in Section 5.130.

"Law" means the Department of Transportation Law of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-610].

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"Loan" or "Loan Assistance Funds" means a low-interest line of credit made available to a selected DBE under this Part for the purposes set forth in Section 5.30. (Section 2705-610(b) of the Law.)

"Partial Payment" means a payment made to the prime contractor, subcontractor, or lower tiered subcontractor based upon the engineer's written estimate of the quantity of work performed and material allowances that are advanced.

"Prime Contractor" means the individual, firm, partnership, joint venture, or corporation contracting with the Department for performance of prescribed work.

"Prime Rate" means the minimum interest rate charged by a commercial bank on short-term business loans to large, best-rated customers or corporations.

"Program" means the Disadvantaged Business Revolving Loan Program.

"Secretary" means the Secretary of the Illinois Department of Transportation.

"State" means the State of Illinois.

**Section 5.50 Eligibility  
EMERGENCY**

To be eligible to receive a loan under this Part, the applicant will meet all of the following criteria:

- a) The applicant must be a DBE *certified by the* Unified Certification Program, of which the *Department* is a member, *for participation on Department-procured construction and construction-related contracts.* (Section 2705-610(c) of the Law.)
- b) The applicant must demonstrate in the loan application not less than two years of experience participating in transportation construction or construction-related projects.
- c) The applicant must have been denied a loan for operating expenses or costs from two or more conventional lenders, such as a bank or credit union.
- d) The loan denials referenced in subsection (c) must have requested a loan amount of not more than 50% greater than the loan amount requested under this Part.

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- e) If the applicant is incorporated, the corporate entity must not have had a bankruptcy or foreclosure in the past five years. If the applicant is not incorporated, the owners and principals of the entity must not have had a bankruptcy or foreclosure in the past five years.
- f) The applicant must not currently be encumbered by tax liens, criminal liens or restitution orders, judgment liens, or offsets that could attach to or require payment from the loan or repayments to be made by the loan funds granted under this Part.
- g) The applicant must not be delinquent in payment of any debt to the State of Illinois, as defined by Section 50-11 of the Illinois Procurement Code (Code) [30 ILCS 500/50-11], that has not been satisfied or for which a repayment plan has not been entered into with the State.

**Section 5.60 General Application Information  
EMERGENCY**

- a) The loan application is available on the Department's website at [www.dot.il.gov/doingbusiness/dbe/revolvingloan.html](http://www.dot.il.gov/doingbusiness/dbe/revolvingloan.html).
- b) For assistance in filling out the loan application, an applicant should call the Department's Office of Business and Workforce Diversity at 217/782-5490.

**Section 5.70 Loan Application Contents  
EMERGENCY**

The following required loan application contents will be considered by the Loan Selection Committee (Committee) when awarding an applicant with a loan:

- a) A completed application signed by the socially and economically disadvantaged person having a minimum of 51% ownership and with management and daily business operational control of the DBE that will receive the loan.
- b) A description of the applicant's need for the loan, how the applicant will use the funds from the loan, and the anticipated term/length of the need for loan funds.
- c) Complete contact information, including, name, address, phone number and email

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address for at least two references who can speak on behalf of the applicant's experience participating in transportation construction or construction-related projects without defaults or non-completion.

- d) Letters of rejection from two or more conventional lenders indicating that the applicant has been denied a loan from each lender (see Section 5.50(c) and (d)). The letters of rejection must not be more than one year old at the time of submission of the loan application.
- e) Applicable financial information, including, but not limited to, three years of federal income tax returns, profit/loss statements, balance sheets, personal financial statements, and IRAs.
- f) Bank account balances for the past 90 days and an inventory of construction-related equipment currently owned by the DBE.
- g) Copy of an approved contract or other documentation indicating selection of the DBE as a contractor or subcontractor on a Department construction project if known at time of application. If not known at time of application, the applicant shall provide such information within five calendar days after its selection as a contractor or subcontractor.

**Section 5.80 Place of Filing  
EMERGENCY**

Applications shall be returned to:

DBE Loan Selection Committee  
Illinois Department of Transportation  
2300 South Dirksen Parkway, Room 300  
Springfield, Illinois 62764

**Section 5.90 Terms and Conditions of Loan  
EMERGENCY**

- a) Loan applications will be accepted at any time. For a loan to be considered for a particular letting, the loan application must be received a minimum of 30 calendar days prior to that letting.

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- b) Loan applications will be valid for a period of six months from the date the application is signed. Prior to final loan approval, applicants will be required to certify that there have been no changes to the information or documentation contained in the loan application.
- c) Applicants will be limited to three loans during the duration of the loan program. (see Section 5.20). Individuals with 20% or more ownership or stock in more than one DBE firm will be limited to a total of three loans, in aggregate, during the duration of the program. Multiple loans will not be concurrently awarded. *An applicant shall not be permitted to obtain a loan under this program for a different and additional project until payment in full of any outstanding loans previously awarded under this program have been received by the Department.* (Section 2705-610(g) of the Law.)
- d) The interest rate for loans awarded under this Part will be calculated as the Prime Rate + 0.5%. The interest rate will be calculated as of the Monday preceding execution of the loan agreement and the interest rate will remain fixed for the duration of the loan term.
- e) The loan amount awarded to any successful applicant will not exceed the lesser of 55% of the contract value supporting the loan or \$249,000.00.

**Section 5.100 Pre-Eligibility Process  
EMERGENCY**

- a) The Department will perform a preliminary eligibility determination based upon the submittal of the application and required documentation.
  - 1) Incomplete applications or applications that do not include the required documentation will be rejected.
  - 2) Applicants who meet all of the requirements, as outlined in Section 5.70, will be determined to be pre-eligible to qualify for a loan.
  - 3) A determination of pre-eligibility is not a guarantee that the applicant will receive a loan under this Part.

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- b) Notification of an incomplete application, pre-eligibility, eligibility, or ineligibility will be sent to the applicant within 10 calendar days after receipt of the application by the Department.
- c) A determination of pre-eligibility will be valid for six months after the date of the notification.
- d) Approvals for loans under this Part will be made by the Committee in accordance with Section 5.110.
- e) In the event of a loan denial that affects DBE participation, the process will be administered by the Department by adhering to federal regulations for the substitution of a DBE for reasons including, but not limited to, the DBE's voluntary withdrawal from the project, or because the DBE refuses to perform work on the subcontract because the loan impacts its ability to mobilize. Written approval from the Department for substitution of a DBE is required. (See 49 CFR 26.53(f).)
- f) Withdrawal from a contract or subcontract as a result of a loan rejection will not disqualify a DBE from consideration for future loans.

**Section 5.110 Loan Selection Committee  
EMERGENCY**

- a) The Committee will review the applications and select eligible DBEs for low-interest loans pursuant to this Part.
- b) *The Committee shall be comprised of at least three members appointed by the Secretary of the Department and shall include:*
  - 1) *At least one voting public member from the construction or financing industry.*
  - 2) *The voting or non-voting public member(s) may not be employed or associated with any vendor, consultant, contractor or DBE holding a contract or subcontract with the Department nor may the public member or his or her firm be considered for a contract or subcontract with the Department while he or she is serving as a public member of the Committee.*

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- 3) *Terms of service for voting public members shall be five years.*
  - 4) *No voting public member of the Committee shall hold full consecutive terms of service, nor shall any member receive any compensation other than for reasonable expenses for service related to this committee.*  
Reasonable expenses for travel reimbursement will be in compliance with current policies of the Governor's Travel Control Board (see 80 Ill. Adm. Code 2800).
  - 5) The Secretary may appoint additional non-voting members that have particular knowledge and expertise in the Department's overall function and operation, DBE utilization, and financing. Non-voting members will serve at the discretion of the Secretary and will not have a term of service limit.
- c) The Secretary will have authority to remove a voting or non-voting member at any time. Upon the death, incapacity, resignation, or removal of a voting member, the Secretary will fill the vacancy for the remainder of the unexpired term. An appointment of four or more years to an unexpired vacancy will be limited as a full term appointment as set forth in subsection (b)(4).
  - d) The Committee will meet and organize within 30 calendar days after the appointment of its members and, at that meeting, will elect a Recorder of the Committee.
  - e) The Committee will create a charter and by-laws governing its activities that must receive approval by the Secretary prior to ratification by the Committee.
  - f) Regular meetings of the Committee will occur within 10 calendar days after each letting, or as often as deemed necessary by the Department, at a date, time and place to be fixed by the Committee and at such additional times as the Committee deems necessary, for the consideration of loan applications, reviews, and the transaction of any other business as properly may come before it.
  - g) The Committee will provide 10 calendar days prior notice of each regularly scheduled meeting to the Fund Control Agent or Agents. No later than five calendar days prior to each meeting, the Fund Control Agent or Agents will provide a fiscal report to the Committee including, at a minimum, the number of

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outstanding loans, and the balance of outstanding loans. The Committee will perform due diligence to ensure that approved loans do not exceed appropriated funds.

**Section 5.120 Review of Loan Application****EMERGENCY**

- a) Applications will be evaluated by the Committee. The Committee will review and rank the applications based upon assessment of need, total budget of applicant, DBE participation, and information provided in the loan application.
- b) After the Committee's review and ranking of approved applications, loan dollar amounts will be assigned to the loan applications up to the maximum amount of funding available for loans under this Part.
- c) The Committee will perform due diligence to ensure that approved loans do not exceed appropriated funds.

**Section 5.130 Eligible Expenditures****EMERGENCY**

*Loan proceeds may be used for current liabilities or working capital expenses associated with participation in the performance of contracts procured and awarded by the Department for transportation construction and construction-related purposes including, but not limited to, labor costs, salaries, wages, materials, supplies, equipment rental, utility costs, permit and right-of-entry fees, taxes, insurance, and bonding. (Section 2705-610(f) of the Law.)*

**Section 5.140 Ineligible Expenditures****EMERGENCY**

*Loan funds shall not be used for:*

- a) *refinancing or payment of existing long-term debt exceeding 12 months;*
- b) *payment of non-current or delinquent taxes;*
- c) *payments, advances, loans, dividends or bonuses to stockholders, officers, directors, partners, or member owners of limited liability companies;*

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- d) *the purchase or lease of non-construction motor vehicles or equipment* (Section 2705-610(f) of the Law.);
- e) payment of expenses incurred on projects that are not within the scope of the loan or this Part; or
- f) security or collateral for another or different loan or debt.

**Section 5.150 Funds Control Process  
EMERGENCY**

- a) The Fund Control Agent or Agents shall direct the Escrow Agent to disburse escrow funds to the DBE for eligible expenses in accordance with written directive from the DBE and as supported by the contract.
- b) The DBE will have full authority to direct the Fund Control Agent or Agents to disburse funds on its behalf. The DBE will have full authority to make other business decisions as is required to maintain its commercially useful function as a DBE.
- c) A DBE subcontractor, at any tier, will be required to provide lien waivers, releases, material certifications and certified payrolls to the prime contractor as may be required by the subcontract agreement. A DBE subcontractor, at any tier, will also be required to provide lien waivers, releases, material certifications and certified payrolls to the Fund Control Agent or Agents, as may be required for disbursement of funds pursuant to this Part.

**Section 5.160 Repayment Procedures  
EMERGENCY**

- a) In accordance with this Part and as agreed to by the Fund Control Agent or Agents and the DBE, loan terms and amounts will be as set forth in the loan agreement.
- b) *The Loan Agreement shall provide for the terms and conditions of repayment which shall not extend repayment longer than final payment made by the Department following completion and acceptance of the work authorized for loan assistance under the program.* (Section 2705-610(f) of the Law.)

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## NOTICE OF EMERGENCY RULES

- c) Loan payment amounts will be based upon the completed work-in-place for which partial payment is made and will be calculated as a percentage by dividing the partial payment amount by the total contract value multiplied by the loan principal plus accrued interest.
- d) The initial loan payment and subsequent loan payments will be due 15 calendar days from the applicant's receipt of partial payment whether disbursement is from the Department, the prime contractor, or another subcontractor.
- e) Fees or costs charged by the Fund Control Agent or Agents and Escrow Agent will be borne by the Department.
- f) A loan recipient may prepay the balance due on the loan in its entirety at any time without penalty, provided that the loan recipient first contacts the Fund Control Agent or Agents to obtain the total amount of the final payment due at that time.

**Section 5.170 Failure to Complete the Work Authorized for Loan Assistance  
EMERGENCY**

- a) Failure to complete the work may cause the DBE to be ineligible for future loans.
- b) Failure to complete the work will cause the unpaid loan balance to immediately become due.

**Section 5.180 Failure to Repay the Loan  
EMERGENCY**

- a) Failure to make two or more consecutive loan payments will be considered a default and will cause the unpaid loan balance to immediately become due.
- b) Within five calendar days of a borrower's failure to make two or more consecutive payments, the Fund Control Agent or Agents will notify the Secretary of the amount of the delinquency and the unpaid loan balance including principal and accrued interest.
- c) The Secretary may certify the loan in default and refer the matter to the Department's Chief Counsel for further action.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY RULES

- d) The Department, through its Office of Chief Counsel, will take other action as may be required to enforce recovery of the debt, including, but not limited to, internal offset, Comptroller offset, and legal action.
- e) Default of a loan authorized under this Part will cause the DBE to be ineligible for consideration of further loans.
- f) Any unresolved debt delinquency, as defined in Section 50-11 of the Code and as governed by 44 Ill. Adm. Code 500.1217, will disqualify the DBE from obtaining a contract or subcontract with the Department or other agencies of the State.

**Section 5.190 Ethics Training for Loan Selection Committee and Fund Control Agent or Agents**  
**EMERGENCY**

- a) Members of the Committee and the Fund Control Agent or Agents are required to participate in annual ethics training.
- b) Upon completion of the ethics training program, members of the Committee and the Fund Control Agent or Agents must certify in writing that they have completed the training program.

**Section 5.200 Conflicts of Interest**  
**EMERGENCY**

- a) Members of the Committee cannot be related in any way to or involved with an entity submitting an application for a loan, may not be in a position of authority to participate personally and substantially in the decision to award a State contract or with oversight relative to the procurement process for the State, nor may a member have a material, personal, financial, or fiduciary interest that would affect his/her participation on the committee.
- b) The Fund Control Agent or Agents cannot be related in any way to or involved with an entity that has been approved for a loan, may not be in a position of authority to participate personally and substantially in the decision to award a State contract or with oversight relative to the procurement process for the State, nor may a member have a material, personal, financial, or fiduciary interest that would affect his/her participation in the program.

## DEPARTMENT OF TRANSPORTATION

## NOTICE OF EMERGENCY RULES

- c) Members of the Committee and the Fund Control Agent or Agents are required to report to the Department's ethics officer any situation that might indicate a conflict of interest or create the appearance of a conflict.

**Section 5.210 Confidentiality  
EMERGENCY**

- a) Members of the Committee are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of their service on the Committee.
- b) The Fund Control Agent or Agents are required to execute a confidentiality statement agreeing not to disclose any information gained during the course of his/her participation in the program.

## ILLINOIS GAMING BOARD

## NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Riverboat Gambling
- 2) Code Citation: 86 Ill. Adm. Code 3000
- 3) The Notice of Proposed Amendments appeared at: 37 Ill. Reg. 14378; September 13, 2013.
- 4) The information being corrected is as follows:

In Question 3, the amended Section numbers are 3000.241 and 3000.840 instead of 3000.100, 3000.600, and 3000.640.

In Question 4, additional statutory authority for the rulemaking is provided by Section 5 (c) (11) of the Riverboat Gambling Act [230 ILCS 10/5 (c) (11)].

In Question 5, the narrative description of the rulemaking is incorrect. The correct description is as follows:

*Renewal of supplier's license:* The proposed rulemaking amends Section 241 of the Riverboat Gambling Part (86 Ill. Adm. Code 3000.241 ("Renewal of Supplier's License")) to provide that materials by supplier's licensees and their key persons in connection with renewal of a license must be submitted to the Board at least 90 days, instead of 60 days, before the renewal date. The proposed new language does not change the required materials that must be submitted as a condition for renewal. As under the current rule, the licensees seeking renewal must submit the following:

- A written statement requesting license renewal;
- A written statement verifying past compliance with the annual disclosure affidavit required under Section 240 (86 Ill. Adm. Code 240);
- Measures taken by the licensee to assure compliance with the Riverboat Gambling Act and Part; and
- Responses to specific questions raised by the Board in connection with its re-licensure investigation and review.

## ILLINOIS GAMING BOARD

## NOTICE OF CORRECTION TO NOTICE ONLY

Also as under the current Part, key persons must submit information updating, and attesting to the veracity of all previously submitted materials and setting forth any required additional or different information from that which has been previously submitted.

Submission of the above information 90 days before a license is scheduled to expire will facilitate the renewal process by ensuring that the IGB staff can conduct a thorough re-licensing review in a timely fashion. The 90-day period also corresponds with that currently in effect for owner's license renewals (86 Ill. Adm. Code 3000.236).

*Privacy of surveillance recordings:* The proposed rulemaking adds a new subsection (c) to Section 840 of the Riverboat Gambling Part (86 Ill. Adm. Code 3000.840) designed to ensure the confidentiality of videotape and digital surveillance recordings. The new subsection provides that the viewing of any videotape or digital recording by any party other than Illinois Gaming Board staff or designated surveillance employees of an owner licensee is prohibited unless specifically approved by the Administrator or his or her designee, or pursuant to a lawful subpoena.

In Question 10, the list of proposed amendments pending on this Part is incorrect. Amendments are pending on this Part to the following Sections:

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
3000.100	Amended	37 Ill. Reg. 9855, July 12, 2013
3000.600	Amended	37 Ill. Reg. 9855, July 12, 2013
3000.640	Amended	37 Ill. Reg. 9855, July 12, 2013

Contrary to the original notice, amendments are not pending on this Part to the following Sections:

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
3000.140	Amended	37 Ill. Reg. 1837, February 15, 2013
3000.614	Amended	37 Ill. Reg. 1837, February 15, 2013

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of September 17, 2013 through September 23, 2013. The rulemakings are scheduled for review at the Committee's October 22, 2013 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
11/1/13	<u>Secretary of State</u> , Commercial Driver Training Schools (92 Ill. Adm. Code 1060)	7/26/13 37 Ill. Reg. 11985	10/22/13
11/2/13	<u>Department of Central Management Services</u> , State Employees' Group Insurance Program Retiree Premium Contributions (80 Ill. Adm. Code 2200)	7/26/13 37 Ill. Reg. 11832	10/22/13

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

The Illinois Environmental Protection Agency ("Illinois EPA") Bureau of Air is accepting public comment on a variance granted by the Illinois Pollution Control Board ("Board") to Midwest Generation, LLC ("Midwest Generation") for the purpose of submitting such variance to the United States Environmental Protection Agency ("USEPA") as a revision to Illinois' State Implementation Plan ("SIP") under the Clean Air Act ("CAA"), 42 USC § 7401 *et seq.* In order for a variance to be considered for approval as a revision to the SIP, the State must submit it in accordance with the requirements of 40 Code of Federal Regulations ("CFR") § 51.104.

On November 30, 2012, Midwest Generation, with power plants in Cook, Will, Tazewell, and Lake Counties, requested a variance from portions of the Illinois Combined Pollutant Standard ("CPS"). *Midwest Generation, LLC v. Illinois Environmental Protection Agency*, PCB 13-024. Specifically, Midwest Generation requested relief from the system-wide sulfur dioxide ("SO<sub>2</sub>") emission rates set forth in 35 Ill. Adm. Code 225.295(b) from January 1, 2015, to December 31, 2016. With respect to its Waukegan Generating Station, Midwest Generation also requested a variance from the requirement set forth in 35 Ill. Adm. Code 225.296(a)(2) regarding installation of certain SO<sub>2</sub> control equipment on Waukegan Unit 8 by December 31, 2014; Midwest Generation requested a five-month delay of such requirement, to May 31, 2015. On April 4, 2013, the Board granted the variance, subject to certain conditions.

The CPS is a multi-pollutant comprehensive approach to reduce emissions of nitrogen oxides, SO<sub>2</sub>, and mercury. On July 6, 2012, USEPA approved Sections 225.295(b) and 225.296(a)(2) as revisions to Illinois' SIP as part of Illinois' plan to address the visibility protection requirements of Section 169A of the CAA, 42 U.S.C. § 7491, and the Regional Haze Rule, as codified in 40 CFR § 51.308. *See, 77 Fed. Reg.* 39943 (July 6, 2012). As Midwest Generation's Petition for Variance sought relief from these provisions of the CPS and such relief was granted by the Board, the variance must be submitted to the USEPA for approval as a SIP revision addressing the visibility requirements under the CAA and the Regional Haze Rule.

The Illinois EPA will accept written comments from the public. The written comments must be received by Illinois EPA by October 28, 2013, unless a public hearing is requested. Comments and requests for hearing should be mailed to:

Dean Studer, Hearing Officer  
Illinois EPA  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
Telephone: 217/558-8280 or TDD: 217/782-9143

## ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF PUBLIC INFORMATION

If a timely request for a public hearing is received by Illinois EPA by October 28, 2013, a public hearing will be scheduled through a separate notice and held to receive comments regarding the proposed SIP revision. If a public hearing is conducted, the written public comment period will be extended as provided for in the separate notice.

If no request for a public hearing is received by the Illinois EPA by U.S. Mail, carrier mail, or hand delivered by October 28, 2013, no hearing will be scheduled. Verification as to whether a public hearing will or will not be held will be posted by November 8, 2013, on the Illinois EPA's website at <http://www.epa.state.il.us/public-notices/>. Interested persons may also contact Dean Studer, the Illinois EPA's Hearing Officer, at the phone number listed above to inquire as to the status of a public hearing.

Copies of the proposed SIP revision may be viewed by the public during regular business hours (Monday through Friday 8:30 a.m. to 4:30 p.m, except for State holidays) at the following Illinois EPA offices: 1021 North Grand Avenue East, Springfield, Illinois; 9511 W. Harrison St., Des Plaines, Illinois; and 5407 N. University St., Arbor 113, Peoria, Illinois. No walk-in requests for copies of this material will be accommodated, unless advance notice is provided. Requests and public inquiries should be directed to Dean Studer, the Illinois EPA's Hearing Officer, at the address and phone number listed above.

If a timely hearing request is received, the hearing will be held in accordance with the provisions of the Illinois EPA's "Procedures for Informational and Quasi-Legislative Public Hearings," set forth at 35 Ill. Adm. Code 164. This notice is intended to satisfy the requirements of Section 110(l) of the CAA (42 USC § 7410(l) (public notice for SIP revisions)).

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 SECOND QUARTER SALES &amp; MISCELLANEOUS 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

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2013. 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:

Cigarette Tax  
Claims for Credit  
Computer Software  
Construction Contractors  
Hotel Operators' Tax  
Leasing  
Liquor Tax  
Returns

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 SECOND QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

Sale for Resale  
Sale of Service  
Service Occupation Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at [www.tax.illinois.gov/](http://www.tax.illinois.gov/).

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

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

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

## 2013 SECOND QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

## CIGARETTE TAX

ST 13-0020-GIL 04/30/2013 Retailers must obtain cigarettes for sale at retail from licensed distributors. 35 ILCS 130/4d. (This is a GIL).

## CLAIMS FOR CREDIT

ST 13-0029-GIL 06/10/2013 If a taxpayer pays an amount of tax under the Retailers' Occupation Tax that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. No credit shall be given the taxpayer unless the taxpayer shows that he or she has borne the burden of the tax or has unconditionally repaid the amount of the tax to the purchaser from whom it was collected. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

## COMPUTER SOFTWARE

ST 13-0023-GIL 04/30/2013 If all the criteria listed in subsection (a)(1)(A)-(E) of Section 130.1935 are met, then neither a transaction involving the licensing of computer software nor the subsequent software updates will be considered a taxable retail sale subject to Retailers' Occupation and Use Tax. See 86 Ill. Adm. Code 130.1935. (This is a GIL).

ST 13-0027-GIL 05/28/2013 This letter concerns computer software maintenance agreements. See 86 Ill. Adm. Code 130.1935. (This is a GIL.)

ST 13-0032-GIL 06/19/2013 A license of canned software is subject to Retailers' Occupation Tax liability if all of the criteria set out in 86 Ill. Adm. Code 130.1935(a)(1) are not met. (This is a GIL.)

## CONSTRUCTION CONTRACTORS

ST 13-0022-GIL 04/30/2013 When a construction contractor permanently affixes tangible personal property to real property, the contractor is deemed the

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 SECOND QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

end user of that tangible personal property. As the end user, the contractor incurs Use Tax on the cost price of that tangible personal property. See 86 Ill. Adm. Code 130.2075. (This is a GIL).

## HOTEL OPERATORS' TAX

ST 13-0028-GIL 05/28/2013 This letter discusses the Hotel Operators' Tax Act. See 86 Ill. Adm. Code 480.101 (b)(3). (This is a GIL.)

## LEASING

ST 13-0026-GIL 05/28/2013 Information regarding the tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)

ST 13-0031-GIL 06/12/2013 Information regarding sales tax liabilities in lease situations may be found at 86 Ill. Adm. Code 130.220 and 86 Ill. Adm. Code 130.2010. (This is a GIL.)

## LIQUOR TAX

ST 13-0025-GIL 05/28/2013 Under the Liquor Control Act of 1934, out-of-state wineries who are going to sell wine directly to Illinois residents must complete an Application For State Of Illinois Winery Shipper's License ("Direct Shipping Permit"). (This is a GIL.)

## RETURNS

ST 13-0030-GIL 06/11/2013 A manufacturer or wholesaler whose products are sold by numerous distributors in Illinois may assume the responsibility of collecting and remitting Retailers' Occupation Tax on behalf of all sales made by those distributors under the provisions of 86 Ill. Adm. Code 130.550. See 86 Ill. Adm. Code 130.550. (This is a GIL.)

## DEPARTMENT OF REVENUE

## NOTICE OF PUBLIC INFORMATION

## 2013 SECOND QUARTER SALES &amp; MISCELLANEOUS TAX SUNSHINE INDEX

## SALE FOR RESALE

ST 13-0018-GIL      04/23/2013      This letter addresses sales for resale. See 86 Ill. Adm. Code 130.1405. (This is a GIL).

## SALE OF SERVICE

ST 13-0019-GIL      04/26/2013      This letter rescinds, in part, ST-13-0004, regarding the taxation of the Tire User Fee. (This is a GIL).

## SERVICE OCCUPATION TAX

ST 13-0021-GIL      04/30/2013      The Service Occupation Tax is a tax imposed upon servicemen engaged in the business of making sales of service in this State, based on the tangible personal property transferred incident to sales of service. See 86 Ill. Adm. Code Part 140. (This is a GIL).

ST 13-0024-GIL      05/28/2013      If no tangible personal property is transferred to the customer, then no Illinois Retailers' Occupation Tax or Service Occupation Tax would apply. See 86 Ill. Adm. Code Parts 130 and 140. (This is a GIL.)

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 37, Issue 39 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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