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COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF  
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47 Ill. Adm. Code 110.....14261

**SECOND NOTICES RECEIVED**

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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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.

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### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2018

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2017	January 5, 2018
2	January 2, 2018	January 12, 2018
3	January 8, 2018	January 19, 2018
4	January 16, 2018	January 26, 2018
5	January 22, 2018	February 2, 2018
6	January 29, 2018	February 9, 2018
7	February 5, 2018	February 16, 2018
8	February 13, 2018	February 23, 2018
9	February 20, 2018	March 2, 2018
10	February 26, 2018	March 9, 2018
11	March 5, 2018	March 16, 2018
12	March 12, 2018	March 23, 2018
13	March 19, 2018	March 30, 2018
14	March 26, 2018	April 6, 2018
15	April 2, 2018	April 13, 2018
16	April 9, 2018	April 20, 2018
17	April 16, 2018	April 27, 2018
18	April 23, 2018	May 4, 2018
19	April 30, 2018	May 11, 2018
20	May 7, 2018	May 18, 2018
21	May 14, 2018	May 25, 2018
22	May 21, 2018	June 1, 2018
23	May 29, 2018	June 8, 2018
24	June 4, 2018	June 15, 2018
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26	June 18, 2018	June 29, 2018
27	June 25, 2018	July 6, 2018
28	July 2, 2018	July 13, 2018
29	July 9, 2018	July 20, 2018
30	July 16, 2018	July 27, 2018
31	July 23, 2018	August 3, 2018
32	July 30, 2018	August 10, 2018
33	August 6, 2018	August 17, 2018
34	August 13, 2018	August 24, 2018
35	August 20, 2018	August 31, 2018
36	August 27, 2018	September 7, 2018
37	September 4, 2018	September 14, 2018
38	September 10, 2018	September 21, 2018
39	September 17, 2018	September 28, 2018
40	September 24, 2018	October 5, 2018
41	October 1, 2018	October 12, 2018
42	October 9, 2018	October 19, 2018
43	October 15, 2018	October 26, 2018
44	October 22, 2018	November 2, 2018
45	October 29, 2018	November 9, 2018
46	November 5, 2018	November 16, 2018
47	November 13, 2018	November 26, 2018
48	November 19, 2018	November 30, 2018
49	November 26, 2018	December 7, 2018
50	December 3, 2018	December 14, 2018
51	December 10, 2018	December 21, 2018
52	December 17, 2018	December 28, 2018

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: State Administration of the Federal Community Development Block Grant Program for Small Cities
- 2) Code Citation: 47 Ill. Adm. Code 110
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
110.10	Amendment
110.20	Amendment
110.30	Amendment
110.40	Amendment
110.50	Amendment
110.60	Amendment
110.80	Amendment
110.90	Amendment
110.91	Amendment
110.92	Amendment
110.93	Amendment
110.94	Repealed
110.95	Repealed
110.101	Repealed
110.102	Repealed
110.103	Amendment
110.104	Amendment
110.106	Amendment
110.110	Amendment
- 4) Statutory Authority: Implementing Sections 605-940 and 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.).
- 5) A Complete Description of the Subjects and Issues Involved: The HUD Office of Inspector General Audit Report 2015-CH-1009 Recommendation 1D required the State of Illinois to accomplish the following: "Implement adequate controls to ensure that the Department administers the program in accordance with Federal requirements". To close the Recommendation the JCAR CDBG National Objective and Procurement Standards are proposed to be updated to reflect current federal standards. Additional changes were made to the CDBG economic development grant program. These changes align with federal standards and allow the State to raise the amount of grant funding given per job

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created and lower the amount granted per job retained. The proposed changes would also allow for private development cost to be paid for with CDBG grant funds rather than limiting those funds to cover only the public infrastructure costs in support of job creation or retention.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes, there are several references to the Code of Federal Regulations, specifically section 24 CFR 570, 24 CFR 91, 49 CFR 24, 24 CFR 58, 24 CFR 85, and 2 CFR 200.
- 10) Are there any other rulemakings pending on this part? No
- 11) Statement of Statewide Policy Objective: The rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:

Please respond in writing to:

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

217/557-1820  
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- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses and small municipalities affected: The rule changes will apply to all CDBG non-entitlement units of local governments throughout the State.
  - B) Reporting, bookkeeping or other procedures required for compliance: The rule changes will not alter the reporting, bookkeeping or other procedures for compliance.
  - C) Types of professional skills necessary for compliance: The rule changes will not alter types of professional skills for compliance.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the two most recent agendas because the Department did not anticipate the changes.

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



## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF PROPOSED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## PART 110

STATE ADMINISTRATION OF THE FEDERAL COMMUNITY DEVELOPMENT  
BLOCK GRANT PROGRAM FOR SMALL CITIES

## SUBPART A: COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

## Section

110.10	Legislative Base
110.20	Purpose and Scope
110.30	Definitions
110.35	Incorporation by Reference
110.40	Federal/State Program Objectives
110.50	Eligible Applicants
110.60	Eligible/Ineligible Projects and Activities for <del>CDBG</del> <del>CDAP</del> Components
110.70	Grant Application Process
110.80	Funding
110.90	Emergency Set-Aside for <del>Disaster Response</del> <del>Public Facilities</del> Component
110.91	General Economic Development Component
110.92	Competitive Public <del>Infrastructure</del> <del>Facilities Construction and Design Engineering</del> <del>Component</del>
110.93	Competitive Housing Rehabilitation Component
110.94	Competitive Planning Assistance Component ( <del>Repealed</del> )
110.95	Non-Competitive Mobility and Accessibility Rehabilitation Services Component ( <del>Repealed</del> )
110.100	Application Evaluation for Competitive Public Facilities and Competitive Housing Rehabilitation Components ( <del>Repealed</del> )
110.101	Application Evaluation for Competitive Planning Assistance Component ( <del>Repealed</del> )
110.102	Pre-Application Determination and Application Evaluation for Non-Competitive Mobility and Accessibility Rehabilitation Services ( <del>Repealed</del> )
110.103	Application Evaluation for Competitive Public <del>Infrastructure</del> <del>Facilities</del> <del>Construction and Design Engineering</del> Component
110.104	Application Evaluation for Competitive Housing Rehabilitation Component
110.105	Small Business Financing Component ( <del>Repealed</del> )
110.106	Demonstration Program: <del>Set Aside for</del> Emergency Lead-Based Paint Abatement
110.110	Administrative Requirements

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- 110.120 Nondiscrimination
- 110.130 Complaint Process

## SUBPART B: REVOLVING FUNDS

- | Section | Purpose                                      |
|---------|--|
| 110.210 | Purpose                                      |
| 110.220 | Definitions                                  |
| 110.230 | Recapture Strategy Requirements              |
| 110.240 | Revolving Fund Administration                |
| 110.250 | Use of Revolving Funds                       |
| 110.260 | Requirements for Revolving Fund Projects     |
| 110.270 | Administrative Costs                         |
| 110.280 | Revolving Fund Fundability Analysis          |
| 110.290 | Revolving Fund Financial Assistance Closings |
| 110.300 | Security                                     |
| 110.310 | Disbursement of Revolving Funds              |
| 110.320 | Revolving Fund Monitoring                    |
| 110.330 | Recordkeeping and Reporting                  |
| 110.340 | Department Monitoring                        |
| 110.350 | Evaluation of Performance                    |
| 110.360 | Program Income Subject to the Act            |

**AUTHORITY:** Implementing Sections 605-940 and 605-945, and authorized by Section 605-95, of the Civil Administrative Code of Illinois [20 ILCS 605/605-940, 605-945 and 605-95]. Authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301 et seq.).

**SOURCE:** Adopted and codified at 7 Ill. Reg. 2972, effective March 9, 1983; amended at 7 Ill. Reg. 7898, effective June 21, 1983; amended at 8 Ill. Reg. 16250, effective August 29, 1984; amended at 9 Ill. Reg. 7117, effective May 9, 1985; amended at 9 Ill. Reg. 10702, effective June 28, 1985; amended at 10 Ill. Reg. 10093, effective May 28, 1986; amended at 12 Ill. Reg. 2254, effective January 19, 1988; amended at 15 Ill. Reg. 4410, effective March 11, 1991; amended at 16 Ill. Reg. 20106, effective December 14, 1992; amended at 20 Ill. Reg. 7799, effective May 29, 1996; amended at 22 Ill. Reg. 1910, effective January 1, 1998; amended at 23 Ill. Reg. 8362, effective July 12, 1999; amended at 26 Ill. Reg. 11805, effective July 18, 2002; amended at 28 Ill. Reg. 13468, effective September 23, 2004; emergency amendment at 29 Ill. Reg. 4088, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10017,

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effective June 28, 2005; amended at 38 Ill. Reg. 21323, effective October 30, 2014; amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

**Section 110.10 Legislative Base**

- a) Federal
- 1) On July 31, 1981, Congress passed the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35). This Act established seven block grant programs, including the State Community Development Block Grant (CDBG) Program. These block grants replace a large number of programs previously administered by the ~~federal government~~Federal Government. Although the Housing and Community Development Act of 1974 provided since its inception for discretionary block grants to smaller communities, the Omnibus Budget Reconciliation Act of 1981 made a fundamental change to transfer to the ~~states~~States the power and decision making in awarding block grants to small communities.
  - 2) The State Community Development Block Grant Program funds are allocated to the ~~state~~State pursuant to ~~section~~Section 106(d) of Title I of the federal Housing and Community Development Act of 1974, as amended. The Act authorizes state administration of the program to units of general local governments in nonentitlement areas. Throughout this Part references are made to the provisions of 24 CFR 570. These HUD regulations were published November 9, 1992.
  - 3) While the ~~states~~States must follow the statutory requirements concerning the use of block grant funds, the Secretary of HUD will give maximum feasible deference to a ~~state's~~State's interpretation of ~~thesesueh~~ requirements consistent with the Secretary's obligation to enforce compliance with the intent of Congress.
  - 4) Pursuant to 24 CFR 91, the ~~state~~State must submit annually to HUD a Consolidated Plan that serves as the planning document of the ~~state~~State and an application under any of the Community Planning and Development formula grants, including CDBG. The Consolidated Plan will include the application deadlines for the competitive funding

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components for the upcoming program year. A final statement and certifications are required to be submitted before March 31 during each year in which a ~~state~~State elects to administer the ~~CDBG~~Community Development Block Grant funds for its nonentitlement areas.

b) IllinoisState

- 1) On August 10, 1981, the Governor designated the Illinois Department of Commerce and Community Affairs, now known as the Illinois Department of Commerce and Economic Opportunity, as the State administrative agency for the Small Cities Community Development Block Grant Program. On March 23, 1982, the Governor officially notified the U.S. Department of Housing and Urban Development of the State's election to administer the Small Cities Program for nonentitlement communities within the State.
- 2) As a part of its application, with respect to the ~~CDBG~~Community Development Assistance Program, the State must submit an annual State of Illinois Consolidated Plan Action Plan to HUD outlining the one year use of funds and certifying that it:
  - A) Engages or will engage in planning for community development activities;
  - B) Provides or will provide technical assistance to units of general local government in connection with community development programs; and
  - C) Through the public hearing requirement, has consulted with local elected officials and interested parties/citizens from among units of general local government located in nonentitlement areas of the State determining the method of distribution of CDBG funds.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.20 Purpose and Scope**

The purpose of this Part is to develop State administrative rules for the administration of the Community Development ~~Block Grant (CDBG)~~Assistance Program (~~CDAP~~) within the State of

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Illinois. The promulgation of clear-cut program State administrative rules for the ~~CDBG~~Community Development Assistance Program will ensure the maximum and efficient use of funds for community and economic development programs in the State's nonentitlement areas.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.30 Definitions**

"Act" shall mean ~~section~~Section 106(d) ~~(42 USC 5306(d))~~ of the Housing and Community Development Act of 1974 (42 USC 5301), as amended by ~~section~~section ~~of~~ Section 304 of Title III of the Omnibus Budget Reconciliation Act of 1981 ~~(PL~~Public Law ~~97-35)~~~~(42 USC 5301)~~.

"Application" shall mean a request for program funds, including the required forms and attachments.

"Application on Behalf Of" shall mean any application submitted by one eligible applicant requesting funds for one or more other eligible applicants.

"Community" shall mean any eligible applicant.

"Community Development ~~Block Grant~~Assistance Program" or "CDBG Program~~CDAP~~" shall mean the State Community Development Block Grant program administered by the Department, authorized by Title I of the Housing and Community Development Act of 1974, as amended (42 USC 5301).

"Department" ~~or~~ "DCEO" shall mean Illinois Department of Commerce and Economic Opportunity.

"Director" shall mean the Director of the Illinois Department of Commerce and Economic Opportunity.

"Economic Development" shall mean job creation/retention and the alleviation of economic distress through the stimulation of private investment and community revitalization.

"Eligible Applicant" shall mean any incorporated municipality, township, or county within the State of Illinois, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development.

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~~"Eligible Lines of Credit" shall mean committed revolving line of credit facilities that are subject to loan agreements with financial institutions and are structured for the purpose of funding the project. Such agreements shall be satisfactory to the Department and shall be for terms of at least 2 years from the time funds are awarded and in amounts equal to or greater than the resource leveraging amount.~~

"Entitlement City" shall mean a city designated by the Department of Housing and Urban Development to receive an amount of funds ~~which~~ the city is entitled to receive under the CDBG entitlement program-Entitlement Grant Program, as determined by the formula set forth in section 106 of the Housing and Community Development Act of 1974.

"Entitlement CountyGovernment" shall mean a county designated by the Department of Housing and Urban Development to receive an amount of funds which the county is entitled to receive under the CDBG entitlement program, as determined by formula set forth in section 106 of the Housing and Community Development Act of 1974 (see Public Law 93-383, as amended)-a unit of government that is any incorporated community with a population over 50,000 or any county with a population over 500,000.

"HUD" shall mean the U.S. Department of Housing and Urban Development.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.40 Federal/State Program Objectives**

- a) In order to ensure that the State administered program complies with the Housing and Community Development Act of 1974, as amended, a CDBG-CDAP assisted activity must meet one or more of the following national objectives ~~as required by section 104(b)(3) of the Act~~:
- 1) Benefiting low and moderate-income persons;
  - 2) Aiding in the prevention or elimination of slums and/or blight; or
  - 3) Meeting other community development needs that pose a serious and immediate threat to the health and welfare of the community that are of recent origin or recently became urgent, generally within the previous 18

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months.

b) National Objectives

1) To complement these federally mandated national objectives, the State has established the following specific objectives for the CDBG~~Community Development Assistance~~ Program:

A1) Strengthening community economic development through the creation of jobs, stimulation of private investment, and strengthening of the tax base;

B2) Alleviation of economic distress and realizing community economic development opportunities of benefit for low- and moderate-income individuals;

C3) Improvement of public~~Public~~ infrastructure and elimination of conditions that~~which~~ are detrimental to health, safety, and public welfare;

D4) Conservation and expansion of the State's housing stock in order to provide a decent home and a suitable living environment for persons of low- and moderate-income and persons with disabilities.

2) There are several criteria by which an activity can meet a national objective. Units of general local government should consult the Illinois Community Development Block Grant (CDBG) Grants Management Handbook that explains the three national objectives in detail, including the criteria for meeting each one, and the documentation that must be provided to comply with the HUD requirements.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 110.50 Eligible Applicants

a) Only units of local government may apply for funding. Eligible municipalities shall not receive funding from ~~Municipalities must HUD as an entitlement city be less than 50,000 in population.~~ Counties and townships that are not participating

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in the HUD Urban County Entitlement Program ~~of the U.S. Department of Housing and Urban Development~~ are also eligible to apply for block grant funds.

- b) Because of eligibility requirements and administrative capacity, certain unincorporated areas and special districts may not qualify for participation by themselves. In ~~thesesuch~~ instances, general purpose units of local government will be allowed to submit applications on behalf of otherwise ineligible special districts and unincorporated areas provided the unit of general local government determines that the activity is meeting its needs in accordance with sectionSection 106(d)(2)(D) of the Housing and Community Development Act of 1974, as amended.
- c) ~~WhenIn situations where~~ 2 or more eligible local governments face a common problem, a joint application may be submitted under the following conditions:
- 1) The solution of the problem requires mutual action and is not intended for administrative convenience; and
  - 2) The eligible local governments involved have contacted the Department for prior approval of submission of the joint applications~~such an arrangement~~ before actual application submission.
- d) An Application on Behalf Of or a joint application may not be filed for an entitlement city or a city located in an entitlement county.
- e) ~~IfIn the event that either~~ an Application on Behalf Of or a joint application will be filed, the local governments involved must submit an executed cooperation agreement with ~~the its~~ application for funds. The agreement shall that define grantee responsibilities under a, should the application be successful application.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.60 Eligible/Ineligible Projects and Activities for CDBGCDAP Components**

- a) Eligible Projects and Activities  
Eligible activities are detailed in 24 CFR 570.482 (2004). Listed in this subsection (a) below are program components that describe eligible projects and activities that may be funded through CDBGCDAP:



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- 1) General Economic Development Component. Provision of financial assistance to private for-profit or not-for-profit businesses for such activities as land acquisition; public facilities and improvements in support of economic development (such as, water, sewer and utility lines); acquisition, construction and; rehabilitation of commercial and industrial buildings/facilities; machinery and equipment; furnishings and fixtures; and working capital expenses.
- 2) Competitive Public Infrastructure Program ~~Facilities Construction and Design Engineering~~ Component. Provision of financial assistance for acquisition, construction, reconstruction, rehabilitation or installation of public facilities, and improvements (e.g., water and sewer facilities, including storm sewers, flood retention and drainage facilities).
- 3) Competitive Housing Rehabilitation Program Component. Provision of financial assistance in support of low- to moderate-income housing, including rehabilitation, clearance, demolition, and/or removal of privately-owned buildings and provision of site improvements such as connection of residential structures to water or sewer lines; certain types of housing modernization; temporary relocation assistance; code enforcement; and lead-based paint abatement.
- 4) ~~Non-Competitive Mobility and Accessibility Rehabilitation Services Component. Provision of financial assistance includes structural improvements to privately-owned buildings to remove physical barriers that restrict the mobility and accessibility of elderly and disabled persons in order to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400), e.g., modifications to entrances and exits, parking improvements, modification of bathroom and kitchen facilities.~~
- 5) ~~Competitive Planning Assistance Component. Provision of financial assistance includes planning activities that focus on the needs of low- and moderate income persons in the community, including feasibility studies, data gathering, analyses, preparation of plans, and identification of implementing actions.~~
- 46) Disaster Response ~~Emergency Set-Aside for Public Facilities~~ Component. Provision of financial assistance includes acquisition, demolition, construction, reconstruction, rehabilitation or installation of public

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facilities, and improvements (e.g., water and sewer facilities, including storm sewers, flood retention and drainage facilities), and housing rehabilitation in areas affected by a Governor-declared disaster.

- b) Activity Delivery~~Eligible Program Planning and Administration Costs~~  
With respect to subsection (a), activity delivery~~program planning and administration~~ costs are allowable costs for designated programs and eligible projects and activities under the CDBG Program~~CDAP~~. Eligible costs are necessary to complete the local management process of a CDBG grant. This includes such costs as, but is not limited to, salaries, travel costs, services performed under third party contracts, including legal and audit services, environmental review, additional fidelity bonding costs, or other services required for the delivery of grant activities. ~~for general program planning and administration include local government operational costs of implementing a local program. It includes costs involved in preparing the environmental review; preliminary engineering, planning, and design fees for the project; the cost of the local program audit; and other contractual costs for professional services that are associated with the administration of the program. Eligible costs exclude~~ ~~It excludes~~ all pre-program costs, such as payment or reimbursement of application preparation fees, costs associated with conducting a local survey, etc. ~~There is a 10% ceiling placed on general program planning and administration costs for any local program.~~
- c) Ineligible Projects and Activities
- 1) Generally, any type of activity not described or referred to in subsection~~Section 110.60~~(a) is considered ineligible.
  - 2) The following is a selective list of examples of projects and activities that are generally ineligible: buildings used predominantly for the general conduct of government (e.g., city halls, courthouses, jails, police stations, etc.). However, if the Department of Natural Resources~~Illinois Historic Preservation Agency~~ requires historic preservation renovations to a project, those renovations will be deemed eligible expenses. The following are generally ineligible: general~~General~~ government expenses; political activities; purchase of construction equipment; and purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture ~~is generally ineligible~~. However, CDBG~~CDAP~~ funds may be used to purchase or to pay depreciation or use

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allowances for ~~otherwise ineligible~~ items when necessary, if the administration of activities was assisted with ~~CDBG~~~~CDAP~~ funds. The costs associated with operating and maintaining public facilities and services are generally ineligible. New housing construction is ineligible, except as provided under the last resort housing provision set forth in 49 CFR 24 (2004); or, when that construction is carried out by a subgrantee pursuant to 24 CFR 570.204(a)(2) (2004); also ineligible are income payments for housing or any other purpose (e.g., income maintenance, housing allowances, down payments, mortgage subsidies, etc.). All activities as listed in 24 CFR 570.482 (2004) and section 105(a) of the Act are eligible.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.80 Funding**

a) ~~Distribution of Funds:~~  
Grant awards will be made according to the application evaluation processes described in Sections 110.91, 110.92, 110.93, 110.94, 110.95, 110.101, 110.102, 110.103; and 110.106 ~~of this Part.~~

b) ~~Funding Considerations~~

1) ~~Grant Ceilings:~~ Grant ceilings for the various components listed in Section 110.60 ~~of this Part~~ establish the maximum grant award limits that an eligible applicant may request. Needs expressed by interested citizens and local elected officials (see Section 110.10(b)(2)(C)), the amount of annual allocation, and a review of past program component usage shall be factors in the Department's determination of the grant ceiling on an annual basis. ~~The Department shall utilize the factors listed in subsection (b)(1)(D) of this Section in authorizing a higher grant ceiling for a particular project. Grants will only be funded in amounts commensurate with the requirements of the proposed projects. The Department will set the following grant ceilings for eligible applicants:~~

<del>A)</del>	<del>Components</del>	<del>Grant Ceiling</del>
i)	<del>General Economic Development Component</del>	<del>\$750,000</del>

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ii)	<del>Competitive Public Facilities Construction and Design Component</del>	
	Construction	\$400,000
	Design Engineering	\$200,000
iii)	<del>Competitive Housing Rehabilitation Program Component</del>	\$400,000
iv)	<del>Non-Competitive Mobility and Accessibility Rehabilitation Services Component</del>	\$100,000
v)	<del>Competitive Planning Assistance Component</del>	\$25,000
vi)	<del>Emergency Set-Aside for Public Facilities Component</del>	\$100,000
vii)	<del>Set-Aside for Lead-based Paint</del>	\$50,000

AB) Eligible applicants may only submit one application and may only receive one grant in any one program year under ~~competitive~~the following program components: Competitive Public Infrastructure and Facilities Construction; Design Engineering; Competitive Housing Rehabilitation; and Competitive Planning Assistance in any one program year. ~~Under the Non-Competitive Mobility and Accessibility Rehabilitation Services Component and subject to available funding, an eligible applicant may submit more than one application and may receive more than one grant, which will be awarded on a first come first served basis.~~

BC) On occasion, the Department will review the technical feasibility of a project. If the review requires non-Departmental expertise (e.g., water and sewer permits), the Department will coordinate with other agencies (e.g., Environmental Protection Agency (EPA), Department of Public Health (DPH), USDA Rural Development) to review the technical feasibility of the project.

CD) In determining the appropriate grant award amount, the Department shall consider the following:

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- i) Project Need: Project need shall be determined using standards found in Sections 110.90(b)(3); 110.91(b)(3)(A), (C), (D), and (E); 110.92(b)(3); 110.93(b)(3); 110.94(b)(3); 110.95; 110.101(b); 110.102; and 110.103(b), as applicable.
- ii) Ability to Carry Out the Project: Determination of the ability to successfully complete the proposed project shall be based upon elements such as previous program performance, experience, and scope of the proposed program.
- iii) Proposed Activities: A review of the proposed activities shall be based on a determination of whether the program objectives will be met through the proposed activities as set out in Sections 110.90, 110.91, 110.92, 110.93, 110.94, and 110.95.

DE) The Department may withdraw, suspend or terminate grant funding based on the following:

- i) If the Department approves an application, but, prior to the execution of a Grant Agreement, it learns or has a reasonable belief that the project will not progress or is unlikely to be completed as originally anticipated, due to unforeseen facts and circumstances not previously known during or subsequent to the application process, it may withdraw its commitment of funds. If the Department withdraws its commitment of funds, it shall provide written notification to the applicant advising it of the withdrawalsame and setting forth the reasons for the withdrawal.
- ii) If the Department approves an application and a Grant Agreement has been executed, the Department may only suspend or terminate the Grant Agreement in accordance with the terms and conditions set forth in the Grant Agreement or the conditions described in 47 Ill. Adm. Code 1.110.

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- 2) Standards for Program Category Allocation:  
The Department shall determine the amount of funds annually allocated to carry out activities in accordance with each of the community development assistance program components. Needs expressed by interested citizens and local elected officials pursuant to Section 110.10(b)(2)(C) ~~of this Part~~, the amount of annual allocation, and a review of past program component usage shall be factors in determining the amount of funds annually allocated to carry out activities. The allocation of funds between program components shall be determined from the following allocation ranges:
- A) ~~Disaster Response~~ Emergency Set-Aside for Public Facilities: 1% ~~through~~ -20%
  - B) Competitive Housing Rehabilitation Program Component: 15% ~~through~~ -70%
  - C) Competitive Public Infrastructure ~~Facilities Construction and Design Engineering~~ Component: 40% ~~through~~ -60%
  - D) General Economic Development Component: 10% ~~through~~ -40%
  - ~~E) Competitive Planning Assistance: up to 1%~~
  - ~~EF) Set-Aside for Lead-Based Paint Abatement: up to 5%~~
  - ~~G) Non-Competitive Mobility and Accessibility Rehabilitation Services Component: 1%—10%~~
- 3) Environmental Reviews ~~Clearances~~:  
Upon actual grant award, for non-economic development projects, and during or after application review of economic development projects if required, a technical environmental record review of project ~~non-exempt~~ activities must be completed by the awarded community under 24 CFR 58 (1996). HUD has published Environmental Review Procedures for the Community Development Block Grant (24 CFR 58).
- 4) On-Site Visits:

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The Department's program staff may, contingent upon program resources or the need for on-site inspection, verify eligibility, conduct field visits of potential grantees under the Competitive Public Infrastructure Program~~Facilities Construction and Design Engineering, and Competitive Housing Rehabilitation Program Components, and Non-Competitive Mobility and Accessibility Rehabilitation Services components~~ prior to final grant decisions.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.90 Set-Aside for Disaster Response~~Emergency Public Facilities~~ Component**

Certain types of conditions, such as natural disasters or other unique circumstances, e.g., loss of infrastructure due to construction, environmental incidents such as oil spills, ruptured public utility lines, etc., do not lend themselves well to a designated (yearly or quarterly) application cycle. In response to CPD Notice 17-06, this as-needed program is designed for communities affected by an unforeseen event resulting in a State Disaster Declaration by the Governor of the State of Illinois. In order to better respond to severe public works problems funds will be made available on an "as needed" basis. There is no application deadline for this set-aside.~~Awards could be made to communities that are faced with an immediate threat to health and safety.~~ If no situations arise ~~that~~which warrant this type of assistance, the set-aside funds will be reallocated at the end of the program year ~~to the competitive public facilities component.~~

- a) Project Eligibility Criteria – For a project to be eligible for funding under this component, applicants must document the following:
  - 1) A national objective~~At minimum, 51% of those benefiting from the project will be low to moderate income persons~~ (as defined in Section 110.4030 of this Part) must be met by the project.
  - 2) At minimum, 25% of project costs will be paid from other non-~~Department~~department funds. Examples of other funding sources may include USDA Rural Development, EPA or local funds. The ~~After the project is completed, the~~ grantee may request, in writing, that the 25% minimum leverage requirement be waived. This request must include a reasonable justification, ~~which would include, but not be limited to, instances where the actual total project cost was less than originally estimated, resulting in the return of a relatively small amount of CDAP grant funds in order to meet the 25% minimum.~~ The Department shall

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review each request on a case-by-case basis.

- 3) A serious and urgent threat to the health and safety of community residents exists, i.e., a serious deficiency exists ~~in a community public facility (or that the community lacks the facility entirely)~~, and problems clearly attributable to the deficiency have occurred from an unforeseen event resulting in a State Disaster Declaration by the Governor of the State of Illinois such as serious illness, disease outbreak, or serious environmental pollution. The community must substantiate that the situation was unforeseen.
  - 4) ~~The project is ready to proceed and expend funds and the project addresses the identified problem.~~
  - 45) A financial need for grant assistance in order to address the identified problem.
- b) Application Review and Approval
- 1) Funds will be made available on an as needed basis through a noncompetitive process until all funds are obligated.
  - 2) Applications shall be prepared and submitted to the Department as specified in Section 110.70 ~~of this Part.~~
  - 3) Applications shall be reviewed in accordance with Section 110.103 ~~of this Part.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.91 General Economic Development Component**

The general economic development component is available to assist communities to attract or expand private businesses. The program provides financial assistance in the form of a grant at or below prevailing rates for comparable private market instruments to private businesses projects that create or retain jobs primarily for low- to moderate-income workers. ~~The financial assistance terms shall be flexible and consistent with the terms of comparable private market instruments.~~ Public infrastructure grants may also be made to support a private business that creates or retains jobs primarily for low- to moderate-income workers. This assistance can



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benefit both private "for-profit" and "not-for-profit" organizations. ~~Grantees may administer and service financial assistance through various Financial Intermediary Agreements for either recipients or subgrantees.~~ Funds will be made available on an as needed basis on a noncompetitive process until all funds are obligated.

- a) Project Eligibility Criteria – For a project to be eligible for funding under this component, applicants must document the following:
  - 1) At minimum, 51% of those benefiting from the project will be low- to moderate-income persons (as defined in Section 110.30 ~~of this Part~~).
  - A) The benefit of job creation shall be documented in either one of two ways:
    - i) Obtaining and keeping on file for verification the Family Income Verification Form ~~that~~ which includes an employee's social security number, signature and family income; or
    - ii) Accepting employment referrals from the Illinois Employment and Training Center.
  - B) The benefit of the job retention of existing employees shall be documented by completing a Family Income Verification Form for each employee. These forms must be submitted at the time of application.
- 2) The financial feasibility of the project and how program objectives will be met through proposed activities. Participating businesses must submit supporting financial data.
- 3) If a start-up project is proposed, a 20% commitment of equity included in the leveraging, unless waived by the Director for good cause shown. Good cause may include, but is not limited to, cases ~~in which CDBG~~ ~~where CDAP~~ funds are used for the construction or rehabilitation of public infrastructure, ~~when~~ where the equity requirement would work an unreasonable hardship upon the applicant, ~~when~~ where the loan is sought by a minority enterprise, ~~when~~ where other conditions of the financial assistance are so firmly supported that the equity requirement is not

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necessary, or ~~when~~where the need for job creation in the geographical area far exceeds the relative security offered by the 20% equity requirement.

- 4) For public infrastructure projects in support of economic development, when the improvements are to take place in an area that is residential in character, that the area is comprised of at least 51% low- to moderate-income persons.
- b) Application Review and Approval
- 1) Funds will be made available on an as needed basis throughout the year.
  - 2) Applications shall be prepared and submitted to the Department as specified in Section 110.70 ~~of this Part~~. Complete applications shall be reviewed and evaluated by Department staff. Applicants shall be notified of deficiencies and given the opportunity to correct ~~thesuch~~ deficiencies through submission of additional documentation.
  - 3) The evaluation of projects shall be conducted to assure compliance with 24 CFR 570.203 (2004) and shall also address the following criteria:
    - A) Project Need – Need for and use of program funds should be detailed. ~~This evaluation shall include a review of all sources and uses of funds and an analysis of the recipient's or subgrantee's ability to comply with the terms of the Financial Assistance Agreement and the need for and extent of public funding.~~
    - B) Project Readiness – The applicant must demonstrate project readiness through a description of all activities. This shall include commitment from all lenders and investors, signed and dated.
    - C) Financial Evaluation – The company's financial statements for the past three years and two projected statements of financial condition shall be reviewed to determine: liquidity/debt coverage; ability of the company to manage debt; business trends; and projected earnings. This data shall be compared to similar data for companies in the same industry using the "RMA Annual Statement Studies" published by Risk Management Association, One Liberty Plaza, 1650 Market, Suite 2300, Philadelphia PA 19103 (1999-

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2000), or a comparable source if ~~that such~~ industry is not evaluated by this source. Financial statements are not required for public facilities in support of economic development.

- D) Commitment for Job Creation/Retention – Firm written assurances from the company must identify the number of jobs created/retained in a specified period of time and the specific number that shall be low- to moderate-income and the methodology to be used to document low- to moderate-income benefit. This review shall also include a determination of the numbers of jobs created/retained in relation to the amount of program funds. The investment per job shall not exceed ~~\$10,000~~15,000 per job ~~for any job that is retained and \$25,000 per job for any job that is created.~~
- E) Resource Leveraging – The ratio of other (non-Department) funds to total ~~CDBG~~CDAP funds being invested in the project will be considered. The evaluation threshold is a 2:1 ratio. The ~~CDBG~~CDAP investment shall not exceed a 1:1 ratio.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.92 Competitive Public ~~Infrastructure Facilities Construction and Design Engineering Component~~**

The competitive public ~~infrastructure facilities~~ component is designed to fund public ~~infrastructure facilities~~ projects that propose to alleviate a serious threat to public health and safety. Applicants must demonstrate that a serious deficiency exists with an emphasis upon helping persons of low- to moderate-income. Applications are due on an annual basis.

- a) Project Eligibility Criteria – For a project to be eligible for funding under this component, applicants must document the following:
- 1) At minimum, 51% of those benefiting from the project will be low to moderate-income persons (as defined in Section 110.30)
  - 2) ~~At minimum, 25% of project costs will be paid from other non-department funds. Examples of other funding sources may include USDA Rural Development, EPA, or local funds. After the project is completed, the~~

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~~grantee may request, in writing, that the 25% minimum leverage requirement be waived. This request must include a reasonable justification, which would include, but not be limited to, instances where the actual total project cost was less than originally estimated, resulting in the return of a relatively small amount of CDAP grant funds in order to meet the 25% minimum. The Department shall review each request on a case-by-case basis.~~

- ~~23)~~ A serious and urgent threat to the health and safety of community residents exists, i.e., a serious deficiency exists in a community public facility (or that the community lacks the facility entirely), and problems clearly attributable to the deficiency have occurred, such as serious illness, disease outbreak, or serious environmental pollution.
- ~~34)~~ The project is ready to proceed and expend funds and the project addresses the identified problem.

## b) Application Review and Approval

- 1) Applications will be accepted once a year on a due date established at the beginning of the program year pursuant to Section 110.10(a)(4) ~~of this Part.~~
- 2) Applications will be prepared and submitted to the Department as specified in Section 110.70 ~~of this Part.~~
- 3) Applications will be reviewed in accordance with Section 110.103 ~~of this Part.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.93 Competitive Housing Rehabilitation Component**

The competitive housing rehabilitation component targets projects proposing to rehabilitate existing housing stock. The purpose is to provide decent, safe, and sanitary housing in conformity with local housing codes for low- to moderate-income persons. ~~Applicants may apply for up to \$400,000 in Competitive Housing Rehabilitation funds.~~

- a) Project Eligibility Criteria: For a project to be eligible for funding under this

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component, applicants must document the following:

- 1) Program funds used in the rehabilitation of a residence will benefit 100% low- to moderate-income persons.
  - 2) ~~At minimum, 20% of project costs will be paid from other non-Department funds. Examples of other funding sources may include USDA Rural Development, Illinois Housing Development Authority (IHDA), local (in kind), or property owners, except for accessibility projects that will not be required to provide leverage.~~
  - 23) That a project plan is presented ~~that~~which documents selection of the area targeted for assistance.
  - 34) The project is ready to proceed and expend funds and the project addresses the identified problem.
- b) Application Review and Approval
- 1) Applications will be accepted once a year on a due date established at the beginning of the program year, pursuant to Section 110.10(a)(4) ~~of this Part.~~
  - 2) Applications will be prepared and submitted to the Department as specified in Section 110.70 ~~of this Part.~~
  - 3) Applications will be reviewed in accordance with Section 110.104 ~~of this Part.~~

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.94 Competitive Planning Assistance Component (Repealed)**

~~The competitive planning assistance component is designed to fund planning-type projects which are construction-oriented. Projects must assist primarily persons of low to moderate income. Applications are due on an annual basis.~~

- a) ~~Project Eligibility Criteria—For a project to be eligible for funding under this component, applicants must document the following:~~

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- 1) ~~The project will benefit a minimum of 51% of low to moderate income persons (as defined in Section 110.30) or will benefit an eligible group of the population under a limited clientele activity (as defined in Section 110.30).~~
  - 2) ~~The planning activity will address an existing construction oriented water or sanitary or storm sewer problem within the community.~~
  - 3) ~~In general, planning activities include studies, data gathering, identification of implementing actions, analyses, and preparation of specific plans.~~
  - 4) ~~The proposed project can be accomplished in a reasonable timeframe and consideration has been given to what resources are necessary to complete the project.~~
- b) ~~Application Review and Approval~~
- 1) ~~Applications will be accepted once a year on a due date established at the beginning of the program year pursuant to Section 110.101 of this Part.~~
  - 2) ~~Applications will be prepared and submitted to the Department as specified in Section 110.70 of this Part.~~
  - 3) ~~Applications will be reviewed in accordance with Section 110.101 of this Part.~~

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.95 Non-Competitive and Accessibility Rehabilitation Services Component**  
**(Repealed)**

~~The Non-Competitive Mobility and Accessibility Rehabilitation Services (MARS) component targets projects to provide structural improvements to remove physical barriers that restrict mobility and accessibility of elderly and disabled persons. Eligible applicants may apply for up to \$100,000 in funds to provide structural improvements to remove physical barriers that restrict mobility of elderly and disabled persons.~~

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- a) ~~Project Eligibility Criteria: For a project to be eligible for funding under this component, applicants must document the following:~~
- 1) ~~Program funds will be used in the rehabilitation of a residence that will benefit 100% low to moderate income persons; and~~
  - 2) ~~The project is ready to proceed and expend funds and the project addresses the identified problem.~~
- b) ~~Eligible Activities that include: Structural improvements to a privately owned building that are required to comply with the Illinois Accessibility Code (71 Ill. Adm. Code 400), which include, but are not limited to, modifications to entrances/exits, parking improvements, kitchen and bathroom modifications, etc.~~
- e) ~~Pre-Application and Eligibility~~
- 1) ~~Pre-applications will be accepted on a first come first served basis based upon the Department's receipt of the State's federal formula allocation for the Small Cities Community Development Block Grant funds as described in Section 110.10(a)(4) of this Part.~~
  - 2) ~~Pre-applications will undergo an initial review to determine eligibility in four areas:~~
    - A) ~~Compliance with the public hearing requirements;~~
    - B) ~~Certification of submission to the Illinois Historic Preservation Agency for clearance of identified housing units;~~
    - C) ~~Certification of eligibility for identified households; and~~
    - D) ~~Cost estimates for rehabilitation for each housing unit identified for assistance.~~
- d) ~~Application Review and Approval~~
- 1) ~~After the Department determines that an applicant is eligible, it will forward an application to the eligible applicant, which shall be completed and submitted to the Department as required in Section 100.70 of this Part.~~

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- 2) ~~Applications will be funded after the Department verifies that the documents submitted are complete and accurate. The following is the information and documentation that the applicant must submit.~~
- A) ~~Local council resolution of support;~~
  - B) ~~Submittal letter signed by the chief elected official stating that 100% of low to moderate income will benefit from the project;~~
  - C) ~~Illinois Historic Preservation Agency clearance letters on the identified housing units;~~
  - D) ~~A copy of all bids received for each housing unit with lowest responsive bid identified, including a statement of the lowest bidder's qualifications;~~
  - E) ~~Verification of eligibility of the identified household;~~
  - F) ~~Application project information form;~~
  - G) ~~Housing fact sheet;~~
  - H) ~~Local government certifications;~~
  - I) ~~Grantee/recipient disclosure certification;~~
  - J) ~~Minority benefit/affirmation housing statement; and~~
  - K) ~~Housing project design.~~

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.101 Application Evaluation for Competitive Planning Assistance Component**  
**(Repealed)**

- a) ~~Explanation of Application Ranking System~~  
~~Applicants will compete in a formalized ranking system. Applications will be ranked in 4 areas: Problem Statement, Project Strategy, Work Plan/Budget, and~~



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~~Benefit to Low and Moderate Income Persons. The Department will review applications for ranking and selection according to the criteria described in this Section. The Department will then select projects for funding out of the top-ranking projects as determined under subsection (b)(2) until all available funds are expended.~~

b) ~~Criteria for Selection of Projects~~

~~1) The analysis will evaluate project need, according to its impact on program benefit and benefit to low and moderate income persons utilizing the ranking system contained in subsection (c).~~

~~2) Comparative Assessment of Applications~~

~~A) The Department will initially screen and identify top ranking CDAP applications. Projects will be ranked in the categories of maximum, moderate, minimum, or no rating as described in subsection (c). Maximum ratings do not guarantee that a project will receive funding. The Department will then conduct intensive evaluations, leading to the CDAP grant award decisions. Department staff will analyze project characteristics including:~~

~~i) a comparative assessment of projects—e.g., low and moderate income benefits, local contribution, etc.;~~

~~ii) a verification of submitted application information;~~

~~iii) a thorough analysis of the project's readiness to proceed; and~~

~~iv) a determination of the applicant's previous efforts to address its problems.~~

~~B) Actual funding levels will relate closely to the competitiveness of the proposed projects. Applications will be comparatively ranked according to the criteria described in this subsection (b) to help determine the final funding levels. The Department reserves the right to negotiate the final funding figures.~~

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- e) ~~Ranking Criteria~~
  - 1) ~~Impact on Planning Needs~~
    - A) ~~An application shall receive a maximum rating if it has fully:~~
      - i) ~~Identified a specific problem and its cause or source, including information on persons affected, long term consequences if no action is taken, and local efforts that have taken place to solve it.~~
      - ii) ~~Proposed a strategy which will lead to completion of the planning activity, including discussion of why it is the most appropriate approach and how it will benefit primarily low-to moderate income persons.~~
      - iii) ~~Outlined specific activities, timeframes, costs, responsible parties, and outcomes, including an explanation of how they were determined and how the timeframe and budget are reasonable and appropriate.~~
    - B) ~~An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (c)(1)(A).~~
    - C) ~~An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (c)(1)(A).~~
    - D) ~~An application shall receive a "no rating" if it fails to fully meet the standards in subsection (c)(1)(A).~~
  - 2) ~~Benefit to Low and Moderate Income Persons~~
    - A) ~~A maximum rating shall be received if 71-100 percent of the persons benefiting are low to moderate income.~~
    - B) ~~A moderate rating shall be received if 61-70 percent of persons benefiting are low to moderate income.~~

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- ~~C) A minimum rating shall be received if 51-60 percent of persons benefiting are low to moderate income.~~
- ~~D) No benefit rating shall be received if fewer than 51 percent are low to moderate income persons.~~

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.102 Pre-Application Determination and Application Evaluation for Non-Competitive Mobility and Accessibility Rehabilitation Services (Repealed)**

- ~~a) Pre-application: Non-entitlement units of local government, after determining and identifying households needing MARS assistance, shall contact the Department's Housing Manager either by written correspondence or telephone to determine whether MARS funds are available. If sufficient funds are available for the potential projects, the Department shall forward a pre-application to the unit of local government. When the Department forwards the pre-application to the unit of local government, it will date stamp the pre-application and advise the unit of local government that it has 30 calendar days to complete the pre-application and return it to the Department, together with the required forms and documentation. In the event the unit of local government fails to return the pre-application and the required documents within 30 days after of the date stamp, the pre-application will be considered null and void and the unit of local government will have to reinitiate the pre-application process as outlined in this Section.~~
- ~~b) Submission of Pre-application: When an eligible applicant submits its pre-application to the Department, the Department will date stamp the pre-application and its attachments. Within 5 business days after receipt, the Department will review the pre-application for compliance. Upon verifying compliance, the Department will send an application to the unit of local government and the requested funds will be temporarily earmarked for the project. Thereafter, the unit of local government will have 30 calendar days to complete and submit its application to the Department. In the event that the unit of local government fails to submit a sufficient pre-application, the Department will return the pre-application and allow the unit of local government 15 calendar days from the date of the Department's deficiency determination letter to cure any deficiencies and resubmit the pre-application. In the event the unit of local government fails to timely cure any and all deficiencies in its pre-application, the Department will~~

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~~deem the pre-application null and void and return it to the unit of local government. If the unit of local government chooses to reinitiate the pre-application process, it must follow the pre-application process as outlined in subsection (a).~~

- e) ~~Submission of Application: Within 5 business days after receipt of the application, the Department shall review the application for completeness and accuracy. If the application is deemed complete, the Department's Housing Manager shall approve the application and initiate the Department's grant award process. The grant award process includes a Grant Agreement prepared by the Department and sent to the unit of local government for review and execution. In the event the application is deemed insufficient, the unit of local government will have 15 calendar days from the date of the Department's deficiency determination letter to cure any and all deficiencies and resubmit the application before it is deemed null and void. If the application is deemed null and void, the MARS funds earmarked for the project will be released and the unit of local government will have to reinitiate the pre-application process as outlined in subsection (a) to be reconsidered for funding for the project.~~

(Source: Repealed at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.103 Application Evaluation for Competitive Public Infrastructure Facilities Construction and Design Engineering Component**

- a) Explanation of Application Ranking System
- 1) Applicants will compete in a formalized ranking system. Applications will undergo ~~a multi-person~~an initial review to determine eligibility in 34 areas: Benefit to Low- and Moderate-Income Persons, Documentation of Threat to Health and Safety, and Evidence of Project Readiness ~~and Leverage Funds~~. Upon meeting the minimum eligibility thresholds, applications will compete in a formalized ranking system.
  - 2) Applications will be ranked according to the criteria established in the Department's annual Action Plan approved by HUD. The Action Plan is annually provided for public comment for a period of 30 days ~~in 4 areas: Community Need, Urgency of Need, Need for Financial Assistance and Benefit to Low- and Moderate Income Persons~~. The Department will review applications for ranking and project selection according to the

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criteria described in this Section. The Department will then select projects for funding out of the top-ranking projects, as determined under subsection (b)(2), until all available funds are expended.

## b) Criteria for Selection of Projects

- 1) The analysis will evaluate project need, according to its impact on program benefit and benefit to low- to moderate-income persons utilizing the ranking system contained in subsection (d).
- 2) Comparative Assessment of Applications
  - A) The Department will screen and identify top ranking ~~CDBG~~ ~~CDAP~~ applications. Projects will be ranked in categories of maximum, moderate, minimum, or no rating as described in subsection (d). Maximum ratings do not guarantee that a project will receive funding. The Department will then conduct intensive evaluations, leading to the ~~CDBG~~ ~~CDAP~~ grant award decision. Department staff may conduct field visits and will analyze project characteristics, including:
    - i) a comparative assessment of projects – e.g., low- to moderate-income benefits, local contribution, etc.;
    - ii) a verification of submitted application information;
    - iii) a thorough analysis of the project's readiness to proceed; and
    - iv) a determination of the applicant's previous efforts to address its problems.
  - B) Actual funding levels will relate closely to the competitiveness of the proposed projects. Applications will be comparatively ranked according to the criteria described in this subsection (b) to determine the final funding levels. The Department reserves the right to negotiate the final funding figures.

## c) Eligibility Thresholds

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- 1) Benefit to Low- and Moderate-Income Persons: Applications must document that the project will benefit at least 51% low- to moderate-income persons and that, as applicable, no special assessments will be levied against residential structures owned and occupied by low- and moderate-income persons and that provisions are made to hook up these residences to water and sewer systems. Applications ~~that~~ ~~which~~ do not document benefit to low- to moderate-income persons will not be considered further.
  - 2) Documentation of Threat to Health and Safety: Applications must include documentation verifying that the project addresses a threat to health and safety. Applications ~~that~~ ~~which~~ do not document threat to health and safety will not be considered further.
  - 3) Evidence of Project Readiness: Applications must demonstrate that the project is appropriate and achievable and that all actions have been completed to ensure timely implementation of the project. Applications ~~that~~ ~~which~~ do not document project readiness will not be considered further.
  - 4) ~~Leverage Funds: Applications must provide evidence that at least 25% of non-administrative project costs will be provided from non-CDAP sources. After the project is completed, the grantee may request, in writing, that the 25% minimum leverage requirement be waived. This request must include a reasonable justification, which would include, but not be limited to, instances where the actual total project cost was less than originally estimated, resulting in the return of a relatively small amount of CDAP grant funds in order to meet the 25% minimum. The Department shall review each request on a case-by-case basis.~~
- d) Ranking Criteria
- 1) Community Need: This criterion is an objective measure ~~of relative poverty and economic distress~~ designed to give some priority to applicants with the highest level of need. ~~Need may be evaluated based on one or more of the following criteria. The following 2 indicators will be equally weighted and given a numerical score:~~

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- A) Estimates of average unemployment in Illinois, by county or municipality, if available, based upon Illinois Department of Employment Security data.
  - B) Percentage of people in poverty according to United States Census Bureau data.
  - C) [Percentage of low/moderate income, residents according to the Department of Housing and Urban Development Low/Moderate Income Summary Data.](#)
  - D) [Community's water or sewer rates in comparison to the community's median household income, according to United States Census Bureau data.](#)
- 2) Urgency of Need
- A) An application shall receive a maximum rating if it has fully:
    - i) documented that a serious deficiency exists in a community's public facility or that the community lacks the facility entirely;
    - ii) identified problems clearly attributable to the deficiency have occurred, such as serious illness, disease outbreak, or serious environmental pollution; and
    - iii) identified that the problem is existing, continual and chronic as opposed to occasional, sporadic or probable.
  - B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(2)(A).
  - C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(2)(A).
  - D) An application shall receive a "no rating" if it fails to fully meet

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the standards in subsection (d)(2)(A).

3) ~~Need for Financial Assistance~~

~~A) An application shall receive a maximum rating if it has fully:~~

~~i) documented that all avenues of funding the project with local revenues have been exhausted;~~

~~ii) documented that the proposed project could not reasonably be accomplished without CDAP assistance;~~

~~iii) documented that the proposed level of local financial participation is the maximum that can be reasonably expected;~~

~~iv) documented substantial past efforts to deal with the public facility need with local financial resources, such as tax increases or user fee rate increases; and~~

~~v) demonstrated that reasonable efforts have been made to secure additional funds from other appropriate State and federal agencies.~~

~~B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(3)(A).~~

~~C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(3)(A).~~

~~D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(3)(A).~~

34) Benefit to Low- and Moderate-Income Persons

A) A maximum rating shall be received if 71-100% of the persons benefiting are low- to moderate-income.



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- B) A moderate rating shall be received if 61-70% of persons benefiting are low- to moderate-income.
- C) A minimum rating shall be received if 51-60% of persons benefiting are low- to moderate-income.

45) Project Readiness. This criterion is a measure of the project's readiness to proceed immediately upon notice of grant award. Ratings of ~~moderate~~Moderate, ~~minimum~~Minimum, and ~~no rating~~No Rating will be assigned accordingly to projects lacking any or all of the items listed in subsections (d)(5)(A) through (H). In order to receive a maximum rating, applicants must address a majority of the following issues, as applicable to their project:

- A) Site ~~Control~~control. If land is required for the proposed project (i.e., lagoon or tower site, etc.), the applicant must already own the site and provide evidence of ownership;
- B) Leverage ~~Financing~~financing. The applicant must demonstrate that all leverage funding for the project has not only been committed but will be available immediately upon grant award, including:
  - i) United States Department of Agriculture Rural Development Form 1940-1 has been issued to the applicant; and
  - ii) All issues have been resolved with the Illinois Environmental Protection Agency (i.e., facilities planning, dedicated revenue source, etc.) and the project is ready to bid;
- C) Final design engineering of the proposed project has been completed;
- D) Illinois Environmental Protection Agency has issued a construction permit;

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- E) Timely completion of previous ~~CDBG~~~~CDAP~~ grants. (Not applicable if the grantee has not previously received CDBG ~~CDAP~~ funding.);
- F) 100%~~75%~~ or more of necessary easements have been obtained;
- G) Executed agreement in place for purchase of water or treatment of wastewater; and
- H) Evidence of completion of all previous phases, if the proposed project is part of a multi-phase project.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.104 Application Evaluation for Competitive Housing Rehabilitation Component**

- a) Explanation of Application Ranking System
  - 1) Applicants will compete in a formalized ranking system. Applications will undergo an initial review to determine eligibility in 2 areas: Benefit to Low- and Moderate-Income Persons and Leverage Funds. Upon meeting the minimum eligibility thresholds, applications will compete in a formalized ranking system.
  - 2) Applications will be ranked in 4 areas: Project Need, Project Impact, Evidence of Coordination of Resources, and Project Readiness. The Department will then select projects for funding out of the top-ranking projects as determined under subsection (b)(2) until all available funds are expended.
- b) Criteria for Selection of Projects
  - 1) The analysis will evaluate project need, according to its impact on program benefit and benefit to low- to moderate-income persons utilizing the ranking system contained in subsection (d).
  - 2) Comparative Assessment of Applications

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- A) The Department will screen and identify top ranking ~~CDBG~~ ~~CDAP~~ applications. Projects will be ranked in categories of maximum, moderate, minimum or no rating as described in subsection (d). Maximum ratings do not guarantee that a project will receive funding. The Department will then conduct intensive evaluations, leading to the ~~CDBG~~ ~~CDAP~~ grant award decisions. Department staff may conduct field visits and will analyze project characteristics, including:
- i) A comparative assessment of projects – e.g., project impact, local contribution, community need, etc.;
  - ii) A verification of submitted application information;
  - iii) A thorough analysis of the project's readiness to proceed; and
  - iv) A determination of the applicant's previous efforts to address its problems.
- B) Actual funding levels will relate closely to the competitiveness of the proposed projects. Applications will be comparatively ranked according to the criteria described in this subsection (b) to determine the final funding levels. The Department reserves the right to negotiate the final funding figures.
- c) Eligibility Thresholds
- 1) Benefit to Low- and Moderate-Income Persons: Applications must document that the project will benefit 100% low- to moderate-income persons. Applications which do not document benefit to low- to moderate-income persons will not be considered further.
  - 2) Leverage Funds: Applications must provide evidence that at least 20% of non-administrative housing rehabilitation costs will be provided from non-~~CDBG~~ ~~CDAP~~ sources, except accessibility projects, which will not be required to provide leverage.
- d) Ranking Criteria

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- 1) Project Need
  - A) An application shall receive a maximum rating if it has fully:
    - i) Demonstrated that the extent of housing deficiencies is widespread and serious and the percentage of substandard units occupied by low- to moderate-income persons is high relative to the total number of households in the area;
    - ii) Identified specific local conditions that have contributed or are contributing to the deterioration or lack of affordable housing;
    - iii) Described previous efforts to address housing problems that have not resolved the housing deficiencies, including a description of why the efforts failed to solve the problem.
  - B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(1)(A).
  - C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(1)(A).
  - D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(1)(A).
- 2) Project Impact
  - A) An application shall receive a maximum rating if it has fully:
    - i) Demonstrated that a substantial number of the housing units in need of rehabilitation in the identified project area will be repaired;
    - ii) Demonstrated that the proposed housing rehabilitation project addresses the identified needs and deficiencies and

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moves to resolve the problems; and

- iii) Outlined how the targeted need or area is clearly distinguished from the overall housing needs in the community.
  - B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(2)(A).
  - C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(2)(A).
  - D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(2)(A).
- 3) Evidence of Coordination of Resources
- A) An application shall receive a maximum rating if it has fully:
    - i) Explained the use of all available resources including a description of local efforts to revitalize the area to achieve maximum impact upon the targeted need or area;
    - ii) Described the extent to which the proposed project represents the most effective option for achieving maximum impact; and
    - iii) Provided evidence that the applicant has coordinated activities with a local social service provider regarding the identification of eligible households and housing units in need of rehabilitation to meet accessibility standards.
  - B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(3)(A).
  - C) An application shall receive a minimum rating if the project only

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"minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(3)(A).

D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(3)(A).

4) Project Readiness

A) An application shall receive a maximum rating if it has fully:

- i) Developed a preliminary list of qualified general contractors which have expressed an interest in, and are available to perform, the proposed rehabilitation activities;
- ii) Demonstrated substantial homeowner interest in both loan and/or grant portions of the identified project;
- iii) Documented that operational procedures and administrative structure have been established at the local level;
- iv) Documented that qualifications of, and procedures for selection of, housing inspectors have been established;
- v) Identified the specific types of, and priorities given to, work to be performed, including cost estimates;
- vi) Established clear and measurable rehabilitation standards and proposed a reasonable implementation schedule;
- vii) Included a description of the local application process that identified how the targeted population will be notified and encouraged to apply; and
- viii) Developed preliminary financing plans, such as a commitment of leverage funds and a financing structure that considers residents' incomes.

B) An application shall receive a moderate rating if the project only "moderately" addresses the criteria or does not fully meet any one

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of the criteria in subsection (d)(4)(A).

- C) An application shall receive a minimum rating if the project only "minimally" addresses the criteria or does not fully meet any one of the criteria in subsection (d)(4)(A).
- D) An application shall receive a "no rating" if it fails to fully meet the standards in subsection (d)(4)(A).

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.106 Demonstration Program: ~~Set-Aside for~~ Emergency Lead-Based Paint Abatement**

In order to respond to lead-based paint poisoning problems, ~~for FY 2000 only, \$50,000 in~~ funds will be made available on an "as needed" basis. There is no application deadline ~~for this set-aside~~. Awards will be made to communities that are faced with an immediate threat to health and safety to children 6 and under exposed to lead-based paint. If no situations arise ~~that which~~ warrant this type of assistance, the set-aside funds will be reallocated at the end of the program year ~~to the competitive public facilities component~~.

- a) Project Eligibility Criteria – For a project to be eligible for funding under this component, applicants must document the following:
  - 1) 100 percent of those benefiting from the project will be low-to-moderate income persons (as defined in Section 110.30 ~~of the Part~~);
  - 2) 100 percent of project costs may be paid from ~~CDBG~~ ~~CDAP~~ funds unless the project involves rental property owned by a non-low-to-moderate income person. If the rental property is occupied by a low-to-moderate income family, but is owned by a non-low-to-moderate income person, then the rental property owner must contribute at least 50 percent of the costs of the actual lead-based paint abatement;
  - 3) One or more income eligible families living in the community have children 6 or under who have lead poisoning or are in imminent danger of lead poisoning;
  - 4) The project is ready to proceed and expend funds; and

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- 5) A community action agency determined by the Department to have the capacity to undertake lead-based paint abatement will be used to manage the project.
- b) Application Review and Approval
- 1) Applicants for this program must be referred to the Department by DPH based on a finding by DPH or the local health department, if applicable, that children age 6 or under who live within the jurisdiction of the applicant have been diagnosed as having lead poisoning or are in imminent of lead poisoning.
  - 2) Funds will be made available on an as needed basis through a non-competitive process until all funds are obligated.
  - 3) Applications shall be prepared and submitted to the Department as specified in Section 110.70 ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.110 Administrative Requirements**

The administrative requirements detailed in this Section, as well as those enumerated in 47 Ill. Adm. Code 1, are applicable to any grant awarded with respect to this Part.

- a) Compensation: The method of compensation shall be in accordance with the applicable State laws relative to that ~~such~~ compensation by which the Department is governed. Payments to the grantee are subject to the receipt of electronic requests for fund transfers or expenditure summaries. The first payment for program initiation may be an advance and should be the amount necessary to meet the first month's non-administrative cost needs. Thereafter, the payments are dual purpose in that they will be sufficient to cover the non-administrative expenditures to date, as well as the cash needs of the grantee for the next 30 days. Administrative costs may be drawn ~~in the same manner as described above~~, or the grantee may draw down administrative needs in equal, quarterly increments. Each request shall be certified to the effect that the grantee has performed in conformance with the Grant Agreement and that it is entitled to receive the amount requisitioned.



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- b) Reporting: An electronic reporting system or an Expenditure Summary and Payment Request form shall be submitted to the Department to request cash.
- c) Procurement: Units of General Local Government (UGLG) may use their own procurement procedures, which reflect applicable State and local laws and regulations, provided that the procurement conforms to federal procurement regulations (2 CFR 200). In addition, Illinois statutes must also be considered when establishing procurement procedures. Statutes that may apply can be found at:
- <http://www.ilga.gov/legislation/ilcs/ilcs.asp> in:  
Chapter 50 – Local Government  
Chapter 55 – Counties  
Chapter 60 – Townships  
Chapter 65 – Municipalities
- Units of General Local Government should follow the stricter regulation, whether federal, State or local government, and consult the Illinois Community Development Block Grant (CDBG) Grants Management Handbook for specific steps and requirements in the process.
- e) ~~Procurement: Procurement shall be conducted in accordance with 24 CFR 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments) (2004).~~
- d) Records: ~~CDBG~~~~CDA~~P records shall be maintained in accordance with 24 CFR 85, ~~of~~ the Illinois Local Records Act [50 ILCS 205], and 24 CFR 570.490 (2004) and are subject to the Freedom of Information Act [5 ILCS 140].
- e) Financial Management:
- 1) Grantees shall comply with financial management procedures provided in OMB Circular A-87, "Cost Principles for State and Local Governments", published May 4, 1995, and standards promulgated by the American Institute of Certified Public Accountants (AICPA), Harborside Financial Center, 201 Plaza 3, Jersey City NJ 07311, June 2003, no later editions are incorporated.

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- 2) Audits shall be conducted in accordance with the Comptroller General's Standards for Audits of Governmental Organizations, Programs, Activities, or Functions, and the General Accounting Office's Guidelines for Financial and Compliance Audits of Federally Assisted Programs available from U.S. Comptroller General Standards, U.S. General Accounting Office, 441 G Street NW, Washington, DC 20548.
- f) Bonding and Insurance:
- 1) Bonding:
    - A) Grantees: Grantees shall obtain a fidelity bond for each employee or official with access to project assets, accounting records, or checks. The bond (position or blanket) shall be in an amount at least to cover all ~~CDBG~~~~CDAP~~ funds contained in all bank accounts. The person with signature authority for the ~~CDBG~~~~CDAP~~ accounts must be bonded for this amount and his or her signature must appear on every check. The total bonding for each employee cannot be counted as a cumulative total. The cost of the fidelity bonds is a ~~CDBG~~~~CDAP~~ eligible administrative expense.
    - B) Grant Administrators: If the grant administrator processes payments on behalf of the grantee, the grant administrator shall obtain a fidelity bond for each employee with access to project assets, accounting records, or checks. The bond (position or blanket) shall be in the minimum amount of \$750,000. At least one of the persons with signature authority for the ~~CDBG~~~~CDAP~~ accounts must be bonded for this amount and his or her signature must appear on every check. The cost of the fidelity bonds is a ~~CDBG~~~~CDAP~~ eligible administrative expense.
  - 2) Flood Insurance: Grantees shall comply with the flood insurance purchase requirements of ~~section~~~~Section~~ 102(e) of the Flood Disaster Protection Act of 1973 (42 USC 4001).
- g) Expenditure of Project Funds: No project costs may be incurred prior to authorization, and release of funds will not occur without a fully executed grant agreement. Costs may be incurred as follows:

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- 1) ~~CDBG-CDAP~~ administrative costs may be incurred as of the date of the grant award letter;
  - 2) ~~Non-CDBG-Non-CDAP~~ project costs (leverage funds) and ~~CDBG-funded-CDAP-funded~~ design engineering costs may be incurred only after receiving a grant award letter and meeting environmental review requirements; and
  - 3) ~~CDBG-funded-CDAP-funded~~ projects costs may be incurred only after ~~meeting environmental review requirements all of the above conditions have been satisfied~~ and all specific grant conditions have been met.
- h) Grant Agreement: When a grant has been awarded, the ~~grantee~~Grantee and the Department shall enter into a ~~Grant Agreement~~grant agreement. The ~~Grant Agreement~~grant agreement shall be executed between the ~~grantee~~Grantee and the Director of the Department or the Director's designee on behalf of the Department. The ~~Grant Agreement~~grant agreement shall contain substantive provisions, including, but not limited to the following:
- 1) A recitation of legal authority pursuant to which the ~~Grant Agreement~~grant agreement is made;
  - 2) An identification of the scope of work that identified the work or services to be performed or conducted by the ~~grantee~~Grantee;
  - 3) An identification of the grant amount/funds;
  - 4) The conditions and manner in which the Department shall disburse the grant funds subject, at all times, to annual funding from the federal government;
  - 5) The ~~grantee's~~Grantee's irrevocable promise to satisfy the leverage requirement, if required;
  - 6) The ~~grantee~~Grantee agrees not to assign or transfer any of its rights, duties, or obligations without the written consent of the Department;
  - 7) The ~~grantee's~~Grantee's promise not to amend the scope of work or the

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budget without the Department's written consent. Failure to do so would result in a cost disallowance. The scope of work must be completed by the end date stated in the grant agreement unless a written request for an extension of time is submitted, at least, 30 days before the end date;

- 8) The ~~grantee~~Grantee agrees that it shall expend the grant funds and any accrued interest, if allowed to retain accrued interest, only for the purposes specified in the scope of work; and
- 9) The ~~grantee~~Grantee agrees that it shall refrain from entering into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds.

(Source: Amended at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Mandatory Cybersecurity Training
- 2) Code Citation: 80 Ill. Adm. Code 4000
- 3) 

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
4000.100	New Section
4000.105	New Section
4000.200	New Section
4000.205	New Section
- 4) Statutory Authority: Implementing and authorized by Section 25(c) of the Data Security on State Computers Act [20 ILCS 450/25(c)], implementing Section 25 of the Data Security on State Computers Act [20 ILCS 450/25] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being proposed to codify in the Administrative Code the cybersecurity training requirement as provided by the legislature in 20 ILCS 450/25(b).
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require the State to establish, expand or modify its activities in such a way as to necessitate additional expenditures from State revenues. Furthermore, these rules provide employees the necessary training in cybersecurity.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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Illinois Department of Innovation and Technology  
Attn: Josué Barba  
120 W. Jefferson St.  
Springfield IL 62702

217/524-1294  
fax: 217/524-0755  
email: josue.barba@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: Each agency, board and commission with an employee required to complete cybersecurity training shall designate an internal contact to monitor and track compliance with the cybersecurity training requirements. The agency, board or commission shall promptly notify DoIT of its selection, including contact information for that Designated Contact. This information shall be submitted at security.training@illinois.gov.
  - 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 2 most recent agendas because the Agency was in the process of finalizing the rule.

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

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## NOTICE OF PROPOSED RULES

## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE J: TECHNOLOGY

## CHAPTER I: DEPARTMENT OF INNOVATION AND TECHNOLOGY

## PART 4000

## MANDATORY CYBERSECURITY TRAINING

## SUBPART A: INTRODUCTION

## Section

4000.100	Purpose
4000.105	Definitions

## SUBPART B: TRAINING REQUIREMENTS AND RESPONSIBILITIES

## Section

4000.200	Training to be Provided by Department of Innovation and Technology
4000.205	Responsibility of Employees and Employer Agencies, Boards and Commissions

AUTHORITY: Implementing and authorized by Section 25 of the Data Security on State Computers Act [20 ILCS 450].

SOURCE: Adopted at 42 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INTRODUCTION

**Section 4000.100 Purpose**

This Part implements the annual State of Illinois' employee cybersecurity training requirements set forth in Section 25 of the Data Security on State Computers Act [20 ILCS 450].

**Section 4000.105 Definitions**

Terms not defined in this Section shall have the same meaning as in the State Officials and Employees Ethics Act [5 ILCS 430]. The following definitions are applicable for purposes of this Part:

"Act" means the Data Security on State Computers Act [20 ILCS 450].

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"Agency" or "DoIT" means the Department of Innovation and Technology.

"Designated Contact" means the State employee appointed by an agency, board or commission to monitor that entity's compliance with the cybersecurity training requirements of this Part.

*"Employee" means:*

*any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed;*

*any appointed or elected commissioner, trustee, director, or board member of a board of a State agency, including any retirement system or investment board subject to the Illinois Pension Code [40 ILCS 5]; or*

*any other appointee [5 ILCS 430/1-5];*

*but does not include an employee of the legislative branch, the judicial branch, a public university of the State, or a constitutional officer other than the Governor. (Section 25(a) of the Act).*

## SUBPART B: TRAINING REQUIREMENTS AND RESPONSIBILITIES

**Section 4000.200 Training to be Provided by Department of Innovation and Technology**

- a) *Every employee shall annually undergo training by the Department of Innovation and Technology concerning cybersecurity. (Section 25(b) of the Act).*
- b) *The training shall include, but not be limited to, detecting phishing scams, preventing spyware infections and identity theft, and preventing and responding to data breaches. (Section 25(b) of the Act).*
- c) DoIT shall provide access to electronic-based, in-person, or paper-based cybersecurity training, with reasonable efforts made to provide training in the format requested to accommodate the needs of the employee and his or her employing agency.



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- 1) All employees are encouraged to complete cybersecurity training through electronic means.
- 2) In-person training may include a web conference service component that, if an employee attended online, would satisfy the training requirement as though attended in person.
- d) DoIT shall establish a minimum of two training periods per year.
- e) DoIT shall provide notice of tentative training dates at least 60 calendar days prior to the training to each Designated Contact.

**Section 400.205 Responsibility of Employees and Employer Agencies, Boards and Commissions**

- a) Each agency, board and commission with an employee required to complete cybersecurity training shall designate an internal contact to monitor and track compliance with the cybersecurity training requirements.
- b) The agency, board or commission shall promptly notify DoIT of its selection, including contact information for that Designated Contact. This information shall be submitted at [security.training@illinois.gov](mailto:security.training@illinois.gov).
- c) To facilitate delivery of training materials, each agency, board and commission with employees required to complete annual cybersecurity training shall maintain a list identifying each employee who is required to complete annual cybersecurity training. The Designated Contact shall notify DoIT of the number of employees in its agency required to complete cybersecurity training.
- d) Upkeep of the employee list referenced in subsection (a) is the sole responsibility of the employer agency, board or commission.
  - 1) The Designated Contact shall provide to DoIT the employee list, as well as the email address of each employee, and any further information DoIT may request, no later than 30 calendar days prior to the training launch. DoIT's notice of the training will include what information the Designated Contact is required to provide.

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- 2) The Designated Contact shall be responsible for providing paper copies of the training materials to those employees within his or her agency who do not have State-issued computers.
  - 3) The Designated Contact shall annually provide to DoIT the list of those employees who have completed cybersecurity training.
- e) Each agency, board and commission is responsible for responding to audit requests for information regarding completion of cybersecurity training within that specific agency, board or commission.
  - f) Each employee is responsible for ensuring that he or she is able to timely complete the mandatory cybersecurity training in person, online, or in paper form. In the event that the training is not completed, disciplinary action may be enforced by the employee's supervising agency.

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Interpretation of Pollution Control Board Rules and Related Definitions Concerning Grain Handling and Grain Drying Operations
- 2) Code Citation: 35 Ill. Adm. Code 264
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
264.101	Repealed
264.102	Repealed
264.103	Repealed
264.104	Repealed
264.105	Repealed
264.APPENDIX A	Repealed
- 4) Statutory Authority: Implementing and authorized by Sections 4 and 39 of the Environmental Protection Act [415 ILCS 5/4 and 5/39].
- 5) Effective Date of Repealer: July 20, 2018
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL 62794-9276, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1981; January 26, 2018
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this repealer replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED REPEALER

- 15) Summary and Purpose of Rulemaking: In response to Executive Order 2016-13, the Illinois EPA is repealing 35 Ill. Adm. Code 264. This Part contains the Agency's interpretation of substantive regulations adopted by the Illinois Pollution Control Board for grain handling and grain drying operations. Part 264 has never been amended, while the pertinent Illinois Pollution Control Board regulations have been amended several times. Some of these amendments conflict with Part 264 or make Part 264 unnecessary or duplicative.
- 16) Information and questions regarding this repealer shall be directed to:

Antonette R. Palumbo  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Antonette.palumbo@illinois.gov

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: NOx Trading Program Procedures
- 2) Code Citation: 35 Ill. Adm. Code 273
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
273.100	Repealed
273.105	Repealed
273.110	Repealed
273.120	Repealed
273.130	Repealed
273.140	Repealed
273.150	Repealed
273.160	Repealed
273.170	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 9.9 of the Environmental Protection Act [415 ILCS 5/9.9].
- 5) Effective Date of Repealer: July 20, 2018
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL 62794-9276 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1041; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this repealer replace any emergency rule currently in effect? No

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED REPEALER

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In response to Executive Order 2016-13, the Illinois EPA is repealing 35 Ill. Adm. Code 273. This Part contains procedures for the sale of nitrogen oxide (NOx) allowances generated by Illinois' NOx Trading Program. This trading program has been sunsetted, eliminating the need for Part 273.
- 16) Information and questions regarding this repealer shall be directed to:

Antonette R. Palumbo  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Antonette.palumbo@illinois.gov

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Clean Air Set-Aside
- 2) Code Citation: 35 Ill. Adm. Code 274
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
274.100	Repealed
274.102	Repealed
274.104	Repealed
274.106	Repealed
274.200	Repealed
274.202	Repealed
274.204	Repealed
274.206	Repealed
274.208	Repealed
274.210	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Environmental Protection Act [415 ILCS 5/4]
- 5) Effective Date of Repealer: July 20, 2018
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the adopted repealer is on file in the Illinois Environmental Protection Agency's principal office located at 1021 North Grand Avenue East, P.O. Box 19276, Springfield IL 62794-9276, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1051; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this repealer replace any emergency rule currently in effect? No

## ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

## NOTICE OF ADOPTED REPEALER

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: In response to Executive Order 2016-13, the Illinois EPA is repealing 35 Ill. Adm. Code 274. This Part sets forth procedures for the determination and distribution of nitrogen oxide allowances generated pursuant to the Clean Air Interstate Rule (CAIR). The CAIR trading program has been replaced by the Cross-State Air Pollution Rule, eliminating the need for Part 274.
- 16) Information and questions regarding this repealer shall be directed to:

Antonette R. Palumbo  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield IL 62794-9276

217/782-5544  
Antonette.palumbo@illinois.gov



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Physical Therapy Act
- 2) Code Citation: 68 Ill. Adm. Code 1340
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1340.20	Amendment
1340.30	Amendment
1340.40	Amendment
1340.50	Amendment
1340.57	Amendment
1340.60	Amendment
1340.61	Amendment
1340.65	Amendment
1340.66	Amendment
1340.70	Amendment
1340.75	New Section
- 4) Statutory Authority: Implementing the Illinois Physical Therapy Act [225 ILCS 90] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) Effective Date of Rules: July 11, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes, the "Code of Ethics", July 2010, approved by the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria VA 22314, with no later amendments or editions.
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 3239; February 23, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Nonsubstantive, technical, punctuation changes were made.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of Rulemaking: PA 100-418 made a significant change to the Physical Therapy Act. This included allowing physical therapists to perform intramuscular manual therapy within their scope of practice. These adopted rules implement these statutory changes. In addition, the adopted rules also clean up some of the language throughout the current Part.
- 16) Information and questions regarding these adopted rules shall be directed to:

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

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

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1340

## ILLINOIS PHYSICAL THERAPY ACT

## Section

1340.15	Application for Licensure Under Section 8.1 of the Act (Grandfather) (Repealed)
1340.20	Approved Curriculum
1340.30	Application for Licensure on the Basis of Examination
1340.40	Examination
1340.50	Endorsement
1340.55	Renewals
1340.57	Fees
1340.60	Restoration
1340.61	Continuing Education
1340.65	Unprofessional Conduct
1340.66	Advertising
1340.70	Granting Variances
<u>1340.75</u>	<u><a href="#">Intramuscular Manual Therapy</a></u>

**AUTHORITY:** Implementing the Illinois Physical Therapy Act [225 ILCS 90] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

**SOURCE:** Adopted at 5 Ill. Reg. 6500, effective June 3, 1981; codified at 5 Ill. Reg. 11048; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 9 Ill. Reg. 1906, effective January 28, 1985; recodified from Chapter I, 68 Ill. Adm. Code 340 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1340 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2959; amended at 12 Ill. Reg. 8030, effective April 25, 1988; amended at 15 Ill. Reg. 5254, effective March 29, 1991; emergency amendment at 15 Ill. Reg. 11503, effective July 30, 1991, for a maximum of 150 days; emergency expired December 27, 1991; amended at 16 Ill. Reg. 3175, effective February 18, 1992; amended at 17 Ill. Reg. 14606, effective August 27, 1993; amended at 20 Ill. Reg. 10678, effective July 26, 1996; amended at 23 Ill. Reg. 11970, effective September 17, 1999; amended at 24 Ill. Reg. 567, effective December 31, 1999; amended at 26 Ill. Reg. 11953, effective July 18, 2002; amended at 28 Ill. Reg. 16252, effective December 2, 2004; amended at

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38 Ill. Reg. 19686, effective October 10, 2014; amended at 41 Ill. Reg. 2912, effective March 1, 2017; amended at 42 Ill. Reg. 14185, effective July 11, 2018.

**Section 1340.20 Approved Curriculum**

- a) In determining whether an applicant's curriculum should be approved, the Department of Financial and Professional Regulation-Division of Professional Regulation (Division) may consider accreditation of the applicant's school by the Commission on Accreditation in Physical Therapy Education (CAPTE).
- b) The Division shall, upon the recommendation of the Physical Therapy Licensing and Disciplinary Board (Board), approve an applicant's physical therapist curriculum if the school from which the applicant graduated meets the following minimum criteria:
  - 1) It is legally recognized and authorized by the jurisdiction in which it is located to confer a physical therapy degree;
  - 2) It has a faculty sufficient to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions; and
  - 3) It maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.
  - 4) For applicants graduating prior to January 1, 2002, the applicant's curriculum shall have a minimum of 120 semester hours that shall include a minimum of 50 semester hours credit in general education and at least the following subject areas in professional education (a minimum of 57 semester hours required):
    - A) Basic Health Sciences
      - i) Anatomy
      - ii) Physiology
      - iii) Pathology

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- iv) Kinesiology
  - v) Neurology
  - vi) Psychology
- B) Clinical Sciences to include, but not limited to the major areas of:
- i) Medicine
  - ii) Surgery
  - iii) Physical therapy theory and application, including therapeutic exercise, evaluation procedures, physical agents, mechanical modalities, electrotherapy, massage, orthotics and prosthetics, and professional issues
- C) Clinical Education – a minimum of 800 clock hours.
- 5) Applicants graduating after January 1, 2002 must have a minimum of a master's degree in physical therapy.
- 6) No course in which the applicant received a grade lower than a C will be accepted for coursework.
- c) The Division shall, upon the recommendation of the Board, approve an applicant's physical therapist assistant curriculum if it meets the following minimum criteria:
- 1) The school from which the applicant graduated:
    - A) Is legally recognized and authorized by the jurisdiction in which it is located to offer a physical therapist assistant curriculum that leads to an associate degree;
    - B) Has a faculty sufficient to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions;

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and

- C) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.
- 2) The applicant's curriculum includes at least the following subject areas in professional education (a minimum of 29 semester hours required):
- A) Basic Health Sciences, which shall include the following:
    - i) Anatomy and physiology
    - ii) Pathology
    - iii) Psychology
    - iv) Kinesiology
  - B) Clinical Sciences to include, but not be limited to, the major areas of:
    - i) Medicine and surgery
    - ii) Applied physical therapy science, including gross evaluation techniques, physical agents, mechanical modalities, therapeutic exercise, electrotherapy, massage, and professional issues; and
  - C) Clinical Education – a minimum of 600-clock hours.
- 3) No course in which the applicant received lower than a C will be accepted for coursework.
- d) Recommendation of Approval
- 1) The Division, upon the recommendation of the Board, has determined that the curricula of all physical therapist and physical therapist assistant programs accredited by CAPTE on or after January 1, 1996 meet the

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minimum criteria set forth in subsections (b) and (c) and are, therefore, approved.

- 2) In the event of a decision by CAPTE to deny or withdraw accreditation of any physical therapist or physical therapist assistant program, the Board shall proceed to evaluate the curriculum and either approve or disapprove it in accordance with subsections (b) and (c).
- e) Graduates from Outside the United States
- 1) A graduate of a physical therapist program outside the United States or its territories shall have his or her credentials evaluated, by a credentialing service acceptable to the Department, to determine equivalence of education to an approved curriculum in the United States. The credentialing service must have a physical therapist consultant on its staff. The Department and the Board recognize the Foreign Credentialing Commission of Physical Therapy, Inc. (FCCPT), P.O. Box 25827, Alexandria, Virginia 22313 as an acceptable service. A person who graduated from a physical therapist program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL).
  - 2) A graduate of a physical therapist assistant program outside the United States or its territories shall have his or her credentials evaluated, by a credentialing service acceptable to the Department, to determine equivalence of education to a physical therapist assistant degree conferred by a regionally accredited college or university in the United States. The Board recognizes FCCPT as an acceptable service. A person who graduated from a physical therapist assistant program outside the United States or its territories and whose first language is not English shall submit certification of passage of TOEFL.
  - 3) An individual who is deficient in course work may complete the required courses at a regionally accredited college or university within the United States or its territories. The individual will be required to submit an official transcript from the program indicating successful completion of the course and a course description to FCCPT or another credentialing service acceptable to the Department. ~~A passing CLEP (College Level~~

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~~Examination Program) test score is also acceptable in satisfying a deficiency requirement.~~

(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.30 Application for Licensure on the Basis of Examination**

- a) An applicant for a physical therapist license by examination shall submit:
  - 1) A completed and signed application on forms provided by the Division;
  - 2) Certification of graduation from a physical therapist program, signed by the Director of the Physical Therapy Program or other authorized university official and bearing the seal of the university, which meets the requirements set forth in Section 1340.20; and
  - 3) The required fee set forth in Section 1340.57.
- b) An applicant for a physical therapist assistant license by examination shall submit:
  - 1) A completed and signed application on forms provided by the Division;
  - 2) Certification of graduation from a physical therapist assistant program and attainment of a minimum of an associate's degree signed by the director of the Physical Therapist Program or other authorized school official and bearing the seal of a school that meets the requirements set forth in Section 1340.20; and
  - 3) The required fee set forth in Section 1340.57.
- c) If supporting documentation for the application is not in English, a certified translation must be included.
- d) An applicant shall have 60 days, or until the next date when the test is administered, after approval of the application to take the examination. If the examination is not taken on the authorized test date, the examination fee is forfeited and the applicant shall resubmit the required examination fee to the designated testing service. An applicant who fails to take the examination on the



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authorized test date shall forfeit the right to work as a physical therapist or physical therapist assistant until the examination is passed.

- e) If the applicant has ever been licensed/registered in another state or territory of the United States, the applicant shall also submit a certification, on forms provided by the Division, from the state or territory of the United States in which the applicant was originally licensed and the state in which the applicant predominantly practices and is currently licensed, stating:
- 1) The time during which the applicant was licensed/registered in that jurisdiction, including the date of the original issuance of the license;
  - 2) A description of the examination in that jurisdiction; and
  - 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.
- f) An applicant for a license, who has successfully completed the examination recognized by the Division in another jurisdiction but who has not been licensed in that jurisdiction, shall file an application in accordance with subsection (a) or (b) and have the examination scores submitted to the Division by the reporting entity.
- g) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide ~~the requested such~~ information as may be necessary; and/or
  - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- h) If the applicant has been determined eligible for licensure except for passing of the examination, the applicant shall be issued a letter of authorization that allows the applicant to practice under supervision in accordance with Section 2 of the Illinois Physical Therapy Act (the Act). Supervision shall constitute the presence

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of the licensed physical therapist on site to provide supervision. The applicant shall not begin practice as a physical therapist or physical therapist assistant, license pending, until the letter of authorization is received from the Division.

- i) Examination Prior to Graduation
  - 1) An applicant enrolled in an approved physical ~~therapist~~therapy program or physical ~~therapist~~therapy assistant program may apply to take the examination no more than 120 days prior to graduation if the applicant provides certification from the physical ~~therapist~~therapy program or physical ~~therapist~~therapy assistant program of the date upon which the applicant is expected to graduate. If certification of graduation is not received within 90 days after the scheduled graduation date, the results of the examination shall be void.
  - 2) The results of the examination shall be made available to the applicant, but no license shall be issued until the Division has received certification that the applicant graduated within 90 days after the scheduled graduation date specified in the certification received from the physical ~~therapist~~therapy program or physical ~~therapist~~therapy assistant program required by subsection (i)(1), and until the applicant has met all other requirements for licensure set forth in the Act and this Part.
  - 3) If the applicant fails the examination, the applicant must submit a certificate of graduation to the Division or its designated testing service prior to taking the next examination.

(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.40 Examination**

- a) The examination for a physical therapist license shall be the National Physical Therapy Examination (NPTE) of the Federation of State Boards of Physical Therapy for physical therapists.
- b) The examination for a physical therapist assistant license shall be the NPTE for physical therapist assistants.
- c) The passing score for the physical therapy and physical therapist assistant

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examination shall be the passing score established by the testing entity. The scores shall be submitted to the Division from the designated testing service.

- d) An applicant who fails the examination 3 times in any jurisdiction will be required to furnish proof of remedial training to the [Division or Board](#) ~~on forms provided by the Division~~. The proof shall include certification that the applicant successfully completed a structured clinical [or didactic](#) training program of not less than 3 months on a full-time basis. The training shall be under the direct, on site, personal supervision of a licensed physical therapist preapproved by the Department or Board.
- e) Any person licensed in Illinois as a physical therapist or physical therapist assistant shall not be admitted to the examination. However, in no way shall this provision limit the Division's ability to require reexaminations for restoration or enforcement purposes.

(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.50 Endorsement**

- a) An applicant who is currently licensed under the laws of another state or territory of the United States and who wishes to be licensed as a physical therapist or physical therapist assistant by endorsement shall submit:
  - 1) A completed and signed application, on forms provided by the Division;
  - 2) Certification, on forms provided by the Division, of successful completion of an approved physical therapist or physical therapist assistant program as set forth in Section 1340.20;
  - 3) Certification from the state or territory of original licensure and the state in which the applicant is currently licensed and practicing, if other than original, stating the time during which the applicant was licensed in that state, whether the file on the applicant contains record of any disciplinary actions taken or pending, and the applicant's license number;
  - 4) If the applicant's first language is not English, certification of passage of TOEFL. This provision does not apply to individuals who are licensed in a U.S. jurisdiction and have been actively practicing in another U.S.

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jurisdiction for 3 years prior to the date of application for licensure in Illinois;

- 5) A report of the applicant's examination record forwarded directly from the test reporting service; and
  - 6) The required fee set forth in Section 1340.57.
- b) The Division shall examine each endorsement application to determine whether the requirements in the jurisdiction at the date of licensing were substantially equivalent to the requirements then in force in this State and whether the applicant has otherwise complied with the Act.
  - c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.
  - d) ~~When an applicant for licensure by endorsement as a physical therapist or physical therapist assistant is notified in writing by the Division that the application is complete, the applicant may practice in Illinois for one year or until licensure has been granted or denied, whichever period of time is lesser, as set forth in Section 2(4) of the Act.~~

(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.57 Fees**

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

- a) Application Fees
  - 1) The fee for application for a license as a physical therapist or physical therapist assistant is \$100. In addition, applicants for an examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.

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- 2) The fee for application as a continuing education sponsor is \$500. Illinois State colleges and universities and Illinois State agencies are exempt from payment of this fee.
- b) Renewal Fees
- 1) The fee for the renewal of a license shall be calculated at the rate of \$30 per year.
  - 2) The fee for renewal of CE sponsor approval is \$250 for the renewal period.
- c) General Fees
- 1) The fee for the restoration of a license other than from inactive status is \$50 plus payment of all lapsed renewal fees, but not to exceed \$200.
  - 2) The fee for restoration of a license from inactive status is the current renewal fee.
  - ~~3) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address, other than during the renewal period, is \$20. No fee is required for name and address changes on Division records when no duplicate license is issued.~~
  - ~~3)4)~~ The fee for a certification of a licensee's record for any purpose is \$20.
  - ~~4)5)~~ The fee to have the scoring of an examination authorized by the Division reviewed and verified is \$20 plus any fees charged by the designated testing service.
  - ~~6) The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.~~
  - ~~5)7)~~ The fee for a roster of persons licensed as physical therapists or physical therapist assistants in this State shall be the actual cost of producing the roster.

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(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.60 Restoration**

- a) Any person seeking restoration of a license that has expired or been placed on inactive status for more than 5 years shall submit:
  - 1) A completed and signed application, on forms provided by the Division;
  - 2) The required fee set forth in Section 1340.57; and
  - 3) Proof of having met the CE requirements set forth in Section 1340.61. CE must be completed during the 24 months preceding application for restoration. In addition, the applicant shall submit one of the following:
    - A) Certification of current licensure from another state or territory completed by the appropriate state board and proof of current active practice;
    - B) An affidavit attesting to military service as set forth in Section 15 of the Act. If application is made within 2 years after discharge, and if all other provisions of Section 15 of the Act are satisfied, the applicant will not be required to pay a restoration fee or any lapsed renewal fees;
    - C) Proof of passage of the examination set forth in Section 1340.40; or
    - D) Evidence of recent attendance at educational programs in physical therapy, including attendance at college level courses, special seminars, or any other similar program, or evidence of recent related work experience to show that the applicant has maintained competence in the applicant's field. The Division will accept:
      - i) For an applicant whose license has lapsed 5 to 10 years, 160 contact hours of clinical training under the supervision of a licensed physical therapist preapproved by the Board.

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- ii) For an applicant whose license has lapsed for 10 years or more, 320 contact hours of clinical training under the supervision of a licensed physical therapist preapproved by the Board.
- b) A person applying for restoration of a license that has expired for 5 years or less shall submit:
    - 1) A completed and signed application, on forms provided by the Division;
    - 2) The required fees set forth in Section 1340.57. If application is made within 2 years after discharge from military service, and if all other provisions of Section 15 of the Act are satisfied, the applicant will be required to pay only the current renewal fee; and
    - 3) Proof of the required hours of CE set forth in Section 1340.61. These CE hours shall be earned within the 2 years immediately preceding the restoration of the license.
  - c) A licensee seeking restoration of a license that has been on inactive status for less than 5 years shall have the license restored upon payment of the current renewal. A licensee seeking restoration of a license shall be required to submit proof of the required hours of CE set forth in Section 1340.61. These CE hours shall be earned within the 2 years immediately preceding the restoration of the license.
  - d) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration ~~may~~ shall be requested to:
    - 1) Provide ~~the requested~~ such information as may be necessary; and/or
    - 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts of information. Upon the recommendation of the Board and approval by the Director, an applicant shall have the license restored or will be notified in writing of the reason for the denial of the application.

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(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.61 Continuing Education**

- a) CE Hour Requirements
  - 1) Every physical therapist shall complete 40 hours of CE relevant to the practice of physical therapy during each prerenewal period as a condition of renewal. Beginning with the September 2016 renewal, at least 3 hours of the 40 hours must include content related to the ethical practice of physical therapy.
  - 2) Every physical therapist assistant shall complete 20 hours of CE relevant to the practice of physical therapy during each prerenewal period as a condition of renewal. Beginning with the September 2017 renewal, at least 3 hours of the 20 hours must include content related to the ethical practice of physical therapy.
  - 3) A prerenewal period is the 24 months ~~preceding~~preceeding September 30 in the year of the renewal.
  - 4) A CE hour equals 50 minutes. After completion of the initial CE hour, credit may be given in one-half hour increments.
  - 5) Courses that are part of the curriculum of a university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of academic credit awarded.
  - 6) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
  - 7) Physical therapists and physical therapist assistants licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section. CE credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois if the CE requirements in the other state are equivalent to the CE requirements in this Section.



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- b) Approved CE
- 1) All CE activities shall be relevant to the advancement, extension and enhancement of providing patient/client management, including but not limited to physical therapy examination, evaluation, intervention, and prevention and providing physical therapy services or fulfilling the other professional roles of a physical therapist or physical therapist assistant. Courses not acceptable for the purpose of this definition include, but are not limited to, personal estate planning, personal financial planning, personal investments, and personal health.
  - 2) CE hours may be earned by verified attendance at or participation in a program that is offered by an approved CE sponsor who meets the requirements set forth in subsection (c). Credit shall not be given for courses taken in Illinois from unapproved sponsors.
  - 3) CE may also be earned from the following activities:
    - A) Teaching a course for an approved CE sponsor or a CAPTE accredited PT or PTA program. An applicant will receive 2 hours of credit for each CE hour awarded to course attendees the first time the course is taught and 1 hour of credit for each CE hour the second time the same course is taught; no credit will be given for teaching the same course 3 or more times. A maximum of 50% of the total CE requirements may be earned through CE instruction. The applicant must be able to provide verification of unique content for each CE course taught via course goals, objectives, and outline.
    - B) American Board of Physical Therapy Specialties (ABPTS) Clinical Specialist Certification. An applicant will receive 40 hours of CE credit for the prerenewal period in which the initial certification is awarded.
    - C) American Physical Therapy Association (APTA)-approved post-professional clinical residency or fellowship. An applicant will receive 1 hour of CE credit for every 2 hours spent in clinical residency, up to a maximum of 20 hours. Clinical residency hours

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may not be used for CE credit if the applicant is also seeking CE credit for hours earned for post-professional academic coursework in the same prerenewal period.

- D) Professional research/writing. An applicant may receive CE credit for publication of scientific papers, abstracts, or review articles in peer-reviewed and other professional journals; publication of textbook chapters; and poster or platform presentations at conferences sponsored by any entity that has preapproved status, up to a maximum of 50% of the total CE requirements:
- i) 15 hours for each refereed article.
  - ii) 3 hours for each non-refereed article, abstract of published literature or book review.
  - iii) 5 hours for each textbook chapter.
  - iv) 5 hours for each poster or platform presentation or review article.
- E) Self-study. A maximum of 50% of the total CE requirements may be earned through the following self-study activities:
- i) An applicant may obtain CE credit by taking correspondence or web-based courses, including pre-recorded professional presentations and pre-recorded webinars, from an approved CE sponsor. These courses shall include a test that must be passed in order to obtain credit.
  - ii) ~~An applicant can receive CE credit for utilizing moderated teleconferences, webinars, or prerecorded professional presentations offered by approved sponsors. The applicant will be responsible for verifying purchase/registration for teleconferences or audio presentations.~~
  - ii)iii) An applicant can receive CE credit for completion of published tests/quizzes based on APTA publications. The

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applicant will be responsible for verifying successful completion. (These publication-based tests/quizzes, typically offered for less than 1 hour of CE credit, are the only exception to the requirement that all approved CE activities must be at least 1 hour.)

- F) Journal clubs. Up to 5 hours of CE credit may be obtained for participation in a journal club. Credit will be earned based on actual hours of participation and must be verified with an attendance list and list of articles from peer-reviewed journals discussed at each meeting.
- G) Educational programs at Illinois Physical Therapy Association (IPTA) district meetings. Up to 5 hours of CE credit may be obtained for attendance at these programs. Credit will be earned based on actual hours of participation and must be verified with an attendance list and referenced presentation materials.
- H) Departmental inservices. Up to 5 hours of CE credit may be obtained for attendance at inservices at healthcare facilities or organizations. Credit will be earned based on actual hours of participation and must be verified with an attendance list and referenced presentation materials.
- I) Up to 5 CE hours may be earned for completion of skills certification courses. A maximum of 2 hours in cardiopulmonary resuscitation certified by the American Red Cross, American Heart Association, or other qualified organization may be accepted, while a maximum of 3 hours may be accepted for certification or recertification in Basic Life Support for Healthcare Providers (BLS), Advanced Cardiac Life Support (ACLS), or Pediatric Advanced Life Support (PALS) or their equivalent.
- J) Clinical instructor. Up to 5 hours of CE credit may be obtained by being a clinical instructor for ~~either PT or~~ PTA students and up to 10 hours of CE credit may be obtained by being a clinical instructor for PT students. Credit will be earned based on hours of cumulative student clinical instruction, with 1 hour of CE credit per 120 student hours. CE credit hours for clinical instruction will

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be awarded by the student's academic institution.

K) Virtual attendance at live professional presentations, provided the participant is able to communicate in real time with the speaker and other participants. This shall not be considered self-study under subsection (b)(3)(E).

- 4) CE will not be awarded for the following types of activities:
- A) Entry-level physical therapist or physical therapist assistant academic coursework.
  - B) Employee orientation programs.
  - C) Professional meetings or conventions, other than educational programming by approved sponsors.
  - D) Committee meetings.
  - E) Work experience.
  - F) Individual scholarship, mass media programs or self-study activities not identified in subsection (b)(2)(E).

c) CE Sponsors and Programs

- 1) Approved sponsor, as used in this Section, shall mean:
- A) APTA and its components, including programs, courses and activities approved by the IPTA;
  - B) Federation of State Boards of Physical Therapy, including programs, courses and activities approved through its ProCert program;
  - C) Colleges, universities, or community colleges or institutions with physical therapist or physical therapist assistant education programs accredited by the Commission on Accreditation in Physical Therapy Education; for post-professional academic

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coursework, all regionally accredited colleges and universities would be approved sponsors; and

- D) Any other person, firm, association, corporation, or group that has been approved and authorized by the Division pursuant to subsection (c)(2) upon the recommendation of the Board to coordinate and present CE courses or programs.
- 2) Entities seeking a license as a CE sponsor pursuant to subsection (c)(1)(D) shall file a sponsor application, along with the required fee set forth in Section 1340.57. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall certify to the following:
- A) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in subsection (b) and all other criteria in this Section. The applicant shall be required to submit a sample 3-hour CE program with course materials, presenter qualifications and course outline for review prior to being approved as a CE sponsor;
  - B) That the sponsor will be responsible for verifying attendance at each course or program, and provide a certification of attendance as set forth in subsection (c)(7)(A); and
  - C) That, upon request by the Division, the sponsor will submit evidence as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) Each licensed sponsor shall submit by September 30 of each even-numbered year a sponsor application along with the renewal fee set forth in Section 1340.57.
- 4) Each CE program by a licensed sponsor shall provide a mechanism for written evaluation of the program and instructor by the participants. The evaluation forms shall be kept for 5 years and shall be made available to the Division upon written request.

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- 5) All courses and programs shall:
  - A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of physical therapy;
  - B) Provide experiences that contain scientific integrity, relevant subject matter and course materials;
  - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
  - D) Provide for a mechanism for the evaluation of the program by the participants;
  - E) Be open to all licensed physical therapists and physical therapist assistants and not be limited to the members of a single organization or a group; and
  - F) Specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.
- 6) Certificate of Attendance by a Licensed Sponsor
  - A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:
    - i) The name of the sponsor;
    - ii) The name of the participant;
    - iii) A detailed statement of the subject matter;
    - iv) The number of hours actually attended in each topic;
    - v) The date of the program;

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- vi) Signature of the sponsor.
  - B) The sponsor shall maintain these records for not less than 5 years.
  - 7) The licensed sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive credit for time not actually spent attending the program.
  - 8) Upon the failure of a licensed sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board pursuant to the Administrative Hearing Rules (see 68 Ill. Adm. Code 1110) shall thereafter refuse to accept CE credit for attendance at or participation in any of that sponsor's CE programs until the Division receives reasonably satisfactory assurances of compliance with this Section.
- d) CE Earned in Other Jurisdictions
- 1) If a licensee has earned CE hours in another jurisdiction from a nonapproved sponsor for which he/she will be claiming credit toward full compliance in Illinois, that applicant shall submit an application along with a \$20 processing fee prior to taking the program or 90 days prior to the expiration date of the license. The [Division or the](#) Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
  - 2) If a licensee fails to submit an out of state CE approval form within the required time, late approval may be obtained by submitting the application with the \$20 processing fee plus a \$10 per CE hour late fee not to exceed \$150. The [Division or the](#) Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
- e) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a).
  - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal

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applicant to retain or otherwise produce evidence of compliance for a minimum of 5 years.

- 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- f) Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with these CE requirements shall file with the Division a renewal application, the renewal fee set forth in Section 1340.57, a statement setting forth the facts concerning the noncompliance, and a request for waiver of the CE requirements on the basis of those facts. If the Division, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted that good cause has been shown for granting a waiver, the Division shall waive enforcement of the CE requirements for the renewal period for which the applicant has applied.
  - 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
    - A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period; or
    - B) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:
      - i) A temporary incapacitating illness documented by a statement from a currently licensed physician. A CE waiver under this subsection (f) may only be granted for one renewal period and shall not be granted for any subsequent period;





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- 3) Revealing of personally identifiable facts, data or information about a patient or client obtained in a professional capacity without the prior consent of the patient or client, except as authorized or required by law.
- 4) Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform.
- 5) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that the person to whom the responsibilities were delegated is not qualified by training, experience, or licensure to perform them.
- 6) Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed physical therapist.
- 7) Overutilizing services by providing excessive evaluation or treatment procedures not warranted by the condition of the patient or by continuing treatment beyond the point of possible benefit.
- 8) Making gross or deliberate misrepresentations or misleading claims as to professional qualifications or of the efficacy or value of the treatments or remedies given or recommended, or those of another practitioner.
- 9) Gross and willful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.
- 10) Failing to maintain a record for each patient that accurately reflects the evaluation and treatment of the patient.
- 11) Advertising or soliciting for patronage in a manner that is fraudulent or misleading. Examples of advertising or soliciting which is considered fraudulent or misleading, for example advertising that contains false, fraudulent, deceptive or misleading materials, warranties or guarantees of success, statements that play upon vanities or fears of the public, or statements that promote or produce unfair competition. ~~shall include, but~~

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~~not be limited to:~~

- ~~A) Advertising by means of testimonials, anecdotal reports of physical therapy practice successes or claims of superior quality of care to entice the public; or~~
- ~~B) Advertising which contains false, fraudulent, deceptive or misleading materials, warranties or guarantees of success, statements which play upon vanities or fears of the public or statements which promote or produce unfair competition.~~

- b) The Division hereby incorporates by reference the "Code of Ethics", July 2010, approved by the American Physical Therapy Association, 1111 North Fairfax Street, Alexandria VA 22314, with no later amendments or editions.

(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.66 Advertising**

- a) Persons licensed to practice physical therapy in the State of Illinois may advertise in any medium or other form of public communications in a manner which presents information to the public in a truthful, direct, dignified and readily comprehensible manner.
- b) If an advertisement is communicated to the public over television or radio, it shall be prerecorded and approved for broadcast by the licensee and a recording of the actual transmission, including videotape, shall be retained by the licensee for 3 years.
- c) Information which may be contained in advertising shall include, but not be limited to:
  - 1) Licensee's name, address, office hours and telephone number;
  - 2) Schools attended;
  - 3) Announcement of additions to or deletions from professional staff;
  - 4) Announcement of the opening of, change of, or return to practice;

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- 5) Professional memberships;
  - 6) Credit arrangements and/or acceptance of Medicare/Medicaid patients and credit cards;
  - 7) Foreign language ability;
  - 8) Usual and customary fees for routine professional services which must include a statement that fees may be adjusted due to complications or unforeseen circumstances; and
  - 9) Description of offices in which licensee practices, e.g., accessibility to the disabled, convenience of parking.
- d) Information which may be untruthful, fraudulent, deceptive or misleading includes, but is not limited to, that which:
- 1) Contains an offer to treat patients independent of referrals or a current and relevant diagnosis from a physician, dentist or podiatrist;
  - 2) Contains a misrepresentation of fact or omits a material fact required to prevent deception;
  - 3) Guarantees favorable results or creates false or unjustified expectations of favorable results;
  - 4) Takes advantage of the potential client's fears, anxieties, vanities, or other emotions;
  - 5) Contains ~~testimonials and/or~~ exaggerations pertaining to the quality of physical therapy care;
  - 6) Describes as available products or services which are not permitted by the laws of this State or applicable Federal laws; and
  - 7) Advertises professional services which the licensee is not licensed to render.

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(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.70 Granting Variances**

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

- ~~a)1)~~ the provision from which the variance is granted is not statutorily mandated;
- ~~b)2)~~ no party will be injured by the granting of the variance; and
- ~~c)3)~~ the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- ~~b)~~ ~~The Director shall notify the Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.~~

(Source: Amended at 42 Ill. Reg. 14185, effective July 11, 2018)

**Section 1340.75 Intramuscular Manual Therapy**

- ~~a)~~ A physical therapist licensed to practice in the State of Illinois may only perform intramuscular manual therapy under the following conditions:
  - ~~1)~~ Prior to completion of the education under subsection (a)(2), successful completion of a total of 50 hours of instruction in the following areas:
    - ~~A)~~ the musculoskeletal and neuromuscular system;
    - ~~B)~~ the anatomical basis of pain mechanisms, chronic pain and referred pain;
    - ~~C)~~ myofascial trigger point theory; and
    - ~~D)~~ universal precautions.
  - ~~2)~~ Completion of at least 30 hours of didactic course work specific to intramuscular manual therapy. This requirement can be fulfilled by the didactic pre-study required for the intramuscular manual therapy practicum course.

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- 3) Successful completion of at least 54 practicum hours in intramuscular manual therapy course work approved by the Federation of State Boards of Physical Therapy or its successor (or substantial equivalent), as determined by the Department. Each instructional course shall specify what anatomical regions are included in the instruction and describe whether the course offers introductory or advanced instruction in intramuscular manual therapy. Each instruction course shall include the following areas:
  - A) intramuscular manual therapy technique;
  - B) intramuscular manual therapy indications and contraindications;
  - C) documentation of intramuscular manual therapy;
  - D) management of adverse effects;
  - E) practical psychomotor competency; and
  - F) the Occupational Safety and Health Administrations Bloodborne Pathogens standard.
- 4) Postgraduate classes qualifying for completion of the mandated 54 hours of intramuscular manual therapy shall be in one or more modules, with the initial module being no fewer than 27 hours. Therapists shall complete at least 54 hours in no more than 12 months. Physical therapists who completed the initial module prior to the adoption of this Section shall complete the remainder of the 54 hours by July 11, 2019.
- 5) Completion of at least 200 patient treatment sessions under general supervision recognized by the American Physical Therapy Association.
- 6) Successful completion of a competency examination approved by the Division. The Division will accept competency examinations administered as part of the intramuscular manual therapy practicum course work.

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- b) Each licensee is responsible for maintaining records of the completion of the requirements of this subsection (a) and shall be prepared to produce those records upon request by the Division.
- c) A newly-licensed physical therapist shall not practice intramuscular manual therapy for at least one year from the date of initial licensure unless the practitioner can demonstrate compliance with subsection (a) through his or her prelicensure educational coursework.
- d) Intramuscular manual therapy may only be performed by a licensed physical therapist and may not be delegated to a physical therapist assistant or support personnel.
- e) A physical therapist shall not advertise, describe to patients or the public, or otherwise represent that dry needling is acupuncture, nor shall he or she represent that he or she practices acupuncture unless separately licensed under the Acupuncture Practice Act [225 ILCS 2].

(Source: Added at 42 Ill. Reg. 14185, effective July 11, 2018)

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- 1) Heading of the Part: The Minimum Mortality Standard for Valuation of Annuity and Pure Endowment Contracts
- 2) Code Citation: 50 Ill. Adm. Code 935
- 3) Section Numbers:                      Adopted Actions:  
935.40    Amendment  
935.50    Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 223 and 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].
- 5) Effective Date of Rules: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1061; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments terminate Part 935's applicability to annuity and pure endowment contracts issued on or after January 1, 2017 to avoid a statutory conflict. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for actuarial valuation standards regarding such



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contracts. Mortality, interest and methodology standards are maintained in the Valuation Manual beginning January 1, 2017, but the Manual does not provide such standards for contracts issued before that date. Accordingly, Part 935 needed to be amended so that it does not apply to contracts issued on or after January 1, 2017 but continues to provide standards for contracts not covered by the Valuation Manual.

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

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/785-0903

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

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIESPART 935  
THE MINIMUM MORTALITY STANDARD  
FOR VALUATION OF ANNUITY AND PURE ENDOWMENT CONTRACTS

## Section

935.10	Authority
935.20	Purpose
935.30	Definitions
935.40	Individual Annuity or Pure Endowment Contracts
935.45	Application of the 2012 IAR Table
935.50	Group Annuity and Pure Endowment Contracts
935.55	Application of the 1994 GAR Table
935.60	Severability (Repealed)
935.70	Effective Date (Repealed)

935.ILLUSTRATION A	2012 IAM Period Table, Female, Age Nearest Birthday
935.ILLUSTRATION B	2012 IAM Period Table, Male, Age Nearest Birthday
935.ILLUSTRATION C	Projection Scale G2, Female, Age Nearest Birthday
935.ILLUSTRATION D	Projection Scale G2, Male, Age Nearest Birthday

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

SOURCE: Adopted at 9 Ill. Reg. 16857, effective December 31, 1985; amended at 22 Ill. Reg. 16473, effective January 1, 1999; amended at 38 Ill. Reg. 12862, effective January 1, 2015; amended at 42 Ill. Reg. 14216, effective July 12, 2018.

**Section 935.40 Individual Annuity or Pure Endowment Contracts**

- a) Except as provided in subsections (b), (c), (d) and (e), the 1983 Table "a" is recognized and approved as an individual annuity mortality table for valuation and, at the option of the company, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after September 8, 1977 [and before January 1, 2017](#).

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- b) Except as provided in subsections (c), (d) and (e), the 1983 Table "a" or the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after December 31, 1985 and before January 1, 2017.
- c) Except as provided in subsections (d) and (e), the Annuity 2000 Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1999 and before January 1, 2017.
- d) Except as provided in subsection (e), the 2012 IAR Mortality Table shall be used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015 and before January 1, 2017.
- e) The 1983 Table "a" without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after January 1, 1999 and before January 1, 2017, solely when the contract is based on life contingencies and is issued to fund periodic benefits arising from:
- 1) Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions;
  - 2) Settlements involving similar actions such as workers' compensation claims; or
  - 3) Settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments.

(Source: Amended at 42 Ill. Reg. 14216, effective July 12, 2018)

**Section 935.50 Group Annuity and Pure Endowment Contracts**

- a) Except as provided in subsections (b) ~~and~~ (c) ~~of this Section~~, the 1983 GAM Table, the 1983 Table "a" and the 1994 GAR Table are recognized and approved as group annuity mortality tables for determining the minimum standards of valuation and, at the option of the company, any one of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or

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after September 8, 1977 and before January 1, 2017 under a group annuity or pure endowment contract.

- b) Except as provided in subsection (c) ~~of this Section~~, either the 1983 GAM Table or the 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after December 31, 1985 and before January 1, 2017 under a group annuity or pure endowment contract.
- c) The 1994 GAR Table shall be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1999 and before January 1, 2017 under a group annuity or pure endowment contract.

(Source: Amended at 42 Ill. Reg. 14216, effective July 12, 2018)

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- 1) Heading of the Part: Accelerated Life Benefit/Terminal Illness/Qualified Conditions
- 2) Code Citation: 50 Ill. Adm. Code 1407
- 3) Section Number: 1407.20                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Insurance Code [215 ILCS 5/4].
- 5) Effective Date of Rule: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1066; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment removes an inconsistency caused by recent statutory changes. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for actuarial opinion and memorandum standards regarding legal reserve life insurance. Part 1408 has been repealed as of the operative date of the Valuation Manual because the Manual has been established as the source for the actuarial opinion and memorandum requirements rather than Part 1408.

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Part 1407 contained a citation to Part 1408 needed to be removed and replaced with the appropriate reference to 215 ILCS 5/223.

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

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/785-0903

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

## DEPARTMENT OF INSURANCE

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1407  
ACCELERATED LIFE BENEFIT/TERMINAL  
ILLNESS/QUALIFIED CONDITIONS

Section	
1407.10	Purpose and Applicability
1407.20	Definitions
1407.30	Form Requirements
1407.40	Standards for Claims Payment
1407.50	Required Disclosure Provisions
1407.60	Actuarial Standards
1407.70	Actuarial Disclosure and Reserves

AUTHORITY: Implementing and authorized by Section 4 of the Illinois Insurance Code [215 ILCS 5/4].

SOURCE: Adopted at 15 Ill. Reg. 8872, effective June 7, 1991; amended at 22 Ill. Reg. 16462, effective September 1, 1998; amended at 23 Ill. Reg. 14688, effective December 14, 1999; amended at 24 Ill. Reg. 15066, effective October 2, 2000; amended at 42 Ill. Reg. 14221, effective July 12, 2018.

**Section 1407.20 Definitions**

"Accelerated Benefits" means amounts payable in advance of the time life insurance benefits would otherwise be payable because of the occurrence of a terminal illness or a qualified covered condition.

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

"Qualified Actuary" has the meaning ascribed in Section 223(13) of the Code. ~~means a person that meets the requirements of 50 Ill. Adm. Code 1408.40(b).~~

"Qualified Covered Condition" means, but is not limited to, any one of the separate covered conditions as set forth in Section 4, Class 1(a) of the ~~Illinois Insurance Code [215 ILCS 5/4]~~ the occurrence of which may result in the

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payment of an accelerated benefit of up to 75% of the face amount of the policy.

"Terminal Illness" means a medical condition ~~that~~<sup>which</sup>, in the opinion of a physician who is licensed to practice medicine in all of its branches, would generally result in the insured's death within 24 months, or any condition ~~that~~<sup>which</sup> requires continuous confinement in an eligible institution as defined by the contract if the insured is expected to remain there until death.

(Source: Amended at 42 Ill. Reg. 14221, effective July 12, 2018)



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- 1) Heading of the Part: Valuation of Life Insurance Policies Including the Use of Select Mortality Factors
- 2) Code Citation: 50 Ill. Adm. Code 1409
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1409.20	Amendment
1409.30	Amendment
1409.40	Amendment
- 4) Statutory Authority: Implementing Section 223 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].
- 5) Effective Date of Rules: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 1070; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:

The Department opened Section 1409.30 to add "'Code' means the Illinois Insurance Code [215 ILCS 5]." following the definition of "Basic Reserves".

In all instances of the phrase "Illinois Insurance Code" occurring throughout the rule, other than the Authority note and the definition for "Code", "Illinois Insurance" was deleted, and any citation in brackets following "Code" was deleted.

Numerous nonsubstantive punctuation and format changes were made throughout Section 1409.30 at JCAR's request.

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- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments negate Part 1409's applicability to companies that are statutorily required to use a principle-based valuation. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for valuation standards for life insurance policies effective January 1, 2017. Section 223(8)(d)(ii) now provides that the Valuation Manual shall determine which policies are subject to the requirements of a principle-based valuation. Because Part 1409 provides standards that do not apply when a company uses a principle-based valuation, Part 1409 needed to be amended so as not to apply when Section 223 requires a principle-based valuation through the Valuation Manual. Part 1409 will continue to apply when a principle-based valuation is not required, lest there be no standards in place at all under those circumstances. Additionally, because we have repealed 50 Ill. Adm. Code 1408 for obsolescence based on the adoption of the Valuation Manual in 215 ILCS 5/223(1b), we needed to revise references to Part 1408 that are contained in Part 1409 so that they continue to perform a similar function as before.
- 16) Information and questions regarding these adopted rules shall be directed to:

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/785-0903

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

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCEPART 1409  
VALUATION OF LIFE INSURANCE POLICIES  
INCLUDING THE USE OF SELECT MORTALITY FACTORS

Section	
1409.10	Purpose
1409.20	Applicability
1409.30	Definitions
1409.40	General Calculation Requirements for Basic Reserves and Deficiency Reserves
1409.50	Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Premiums or Guaranteed Nonlevel Benefits (Other Than Universal Life Policies)
1409.60	Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period
1409.70	Use of 2001 CSO Mortality Table
1409.80	Use of 2001 CSO Preferred Class Structure Mortality Table
1409.APPENDIX A	1980 CSO Select Mortality Factors
1409.ILLUSTRATION A	Male Aggregate
1409.ILLUSTRATION B	Male Nonsmoker
1409.ILLUSTRATION C	Male Smoker
1409.ILLUSTRATION D	Female Aggregate
1409.ILLUSTRATION E	Female Nonsmoker
1409.ILLUSTRATION F	Female Smoker

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

SOURCE: Adopted at 20 Ill. Reg. 12359, effective September 3, 1996; amended at 23 Ill. Reg. 14306, effective January 1, 2000; amended at 28 Ill. Reg. 9262, effective July 1, 2004; amended at 31 Ill. Reg. 14700, effective October 16, 2007; amended at 32 Ill. Reg. 19713, effective January 1, 2009; amended at 34 Ill. Reg. 6865, effective April 29, 2010; amended at 42 Ill. Reg. 14225, effective July 12, 2018.

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**Section 1409.20 Applicability**

This Part shall apply to all life insurance policies, with or without nonforfeiture values issued on or after January 1, 2000, subject to the following exceptions and conditions:

- a) Exceptions:
  - 1) This Part ~~does~~ shall not apply to any individual life insurance policy issued on or after January 1, 2000 if the policy is issued in accordance with, and as a result of the exercise of, a reentry provision contained in the original life insurance policy or any individual life insurance policy of the same or greater face amount, issued before January 1, 2000 that guarantees the premium rates of the new policy. This Part also ~~does~~ shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision in the new policy.
  - 2) This Part ~~does~~ shall not apply to any universal life policy that meets all the following requirements with regard to all secondary guarantee periods:
    - A) Secondary guarantee period, if any, is 5 years or less;
    - B) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the 1980 CSO valuation tables as defined in Section 1409.30 ~~of this Part~~ and the applicable valuation interest rate; and
    - C) The initial surrender charge is not less than 100% of the first year annualized specified premium for the secondary guarantee period.
  - 3) This Part ~~does~~ shall not apply to any variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts.
  - 4) This Part ~~does~~ shall not apply to any variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or

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accounts.

- 5) This Part ~~does~~ shall not apply to group life insurance certificates unless the certificates provide for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.
- 6) This Part does not apply to any policy that is subject to the requirements of a principle-based valuation as determined by Section 223(8)(d)(ii) of the Code.

b) Conditions:

- 1) Calculation of the minimum valuation standard for policies with guaranteed nonlevel premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of Section 1409.50 ~~of this Part~~.
- 2) Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of Section 1409.60 ~~of this Part~~.
- 3) For preneed insurance contracts and similar policies and contracts, as defined by 50 Ill. Adm. Code 1414.30, to which the requirements of this Part apply, the minimum mortality standard for calculating the minimum valuation standard in accordance with this Part shall be the 1980 CSO Valuation Tables without select factors, or the 2001 CSO Mortality Table in accordance with the Transitional Rules prescribed in 50 Ill. Adm. Code 1414.50.

(Source: Amended at 42 Ill. Reg. 14225, effective July 12, 2018)

### Section 1409.30 Definitions

"1980 CSO Valuation Tables" means the Commissioner's 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten-year selection factors, incorporated into the 1980 amendments to the National Association of Insurance

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Commissioners (NAIC) Standard Valuation Law, and the smoker and nonsmoker variations of the 1980 CSO Table approved by the NAIC in December, 1983, as published in the 1984 Proceedings for the NAIC, Vol. 1, p. 31 and approved by the Director for use in determining the minimum standards of valuation pursuant to 50 Ill. Adm. Code 934. No later amendments or editions shall be included.

"2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives found in 50 Ill. Adm. Code 1412.Appendix A, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. Unless the context indicates otherwise, the 2001 CSO Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

"2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker approved by the NAIC in September 2006, as published in the 2006 Proceedings for the NAIC (3<sup>rd</sup> Quarter), Vol. III, p. 2219 and approved by the Director for use pursuant to 50 Ill. Adm. Code 1413. Unless the context indicates otherwise, the 2001 CSO Preferred Class Structure Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

"Basic Reserves" mean reserves calculated in accordance with Section 223(3)(b) of the ~~Illinois Insurance Code [215 ILCS 5/223(3)(b)]~~.

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

"Contract Segmentation Method" means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest

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policy year as determined in the procedure set forth below in this definition. All calculations are made using the 1980 CSO valuation tables, and if elected, the optional minimum mortality standard for deficiency reserves found in ~~subsection (b) of Section 1409.40(b) of this Part.~~

The length of a particular contract segment shall be set equal to the minimum of the value  $t$  for which  $G_t$  is greater than  $R_t$  (if  $G_t$  never exceeds  $R_t$  the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where  $G_t$  and  $R_t$  are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

$$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$$

However,  $R_t$  may be increased or decreased by one percent in any policy year, at the company's option, but  $R_t$  shall not be less than one

where:

$x$  = original issue age

$k$  = the number of years from the date of issue to the beginning of the segment

$t$  = 1, 2, ...;  $t$  is reset to 1 at the beginning of each segment

$GP_{x+k+t-1}$  = Guaranteed gross premium per thousand of face amount for year  $t$  of the segment, ignoring policy fees only if level for the premium paying period of the policy, for year  $t$  of the segment

$q_{x+k+t-1}$  = Valuation mortality rate for deficiency reserves in policy year  $k+t$  but using the select mortality factors found in Section 1409.40(b)(3) if Section 1409.40(b)(4) is elected for deficiency reserves

However, if  $GP_{x+k+t}$  is greater than 0 and  $GP_{x+k+t-1}$  is equal to 0,  $G_t$  shall be deemed to be 1000. If  $GP_{x+k+t}$  and  $GP_{x+k+t-1}$  are both equal to 0,  $G_t$  shall be deemed to be 0

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"Deficiency Reserves" mean the excess, if greater than zero, of:

Minimum reserves calculated in accordance with Section 223(3)(f) of the ~~Illinois Insurance Code [215 ILCS 5/223(3)(f)]~~, over

Basic reserves.

"Guaranteed Gross Premiums" mean the premiums under a policy of life insurance that are guaranteed and determined at issue.

"Maximum Valuation Interest Rates" mean the interest rates defined in Section 223(6)(b) of the ~~Illinois Insurance Code [215 ILCS 5/223(6)(b)]~~ that are to be used in determining the minimum standard for the valuation of life insurance policies.

"Scheduled Gross Premium" means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in ~~subsection (a)(3) of Section 1409.60(a)(3) of this Part~~, if any, or else the minimum premium described in ~~subsection (a)(4) of Section 1409.60(a)(4) of this Part~~.

"Segmented Reserves" mean reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

The present value of the death benefits within the segment, plus

The present value of any unusual guaranteed cash value (~~subsection (d) of Section 1409.50(d) of this Part~~) occurring at the end of the segment, less

Any unusual guaranteed cash value occurring at the start of the segment, plus

For the first segment only as measured from the actual issue date, the



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excess of the net level annual premium (which is equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due) over the net one year term premium for the benefits provided for in the first policy year. However, the net level annual premium shall not exceed the net level annual premium on the nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

The length of each segment is determined by the Contract Segmentation Method.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

For both basic reserves and deficiency reserves computed by the segmented method, present values must include future benefits and net premiums in the current segment and in all subsequent segments.

"Tabular Cost of Insurance" means the net single premium at the beginning of a policy year for one-year term insurance in the amount of the guaranteed death benefit in that policy year.

"Ten-year Select Factors" mean the select factors adopted in the 1980 amendments to the NAIC Standard Valuation Law.

"Unitary Reserves" mean the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all

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death benefits and pure endowments, plus the excess of the net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due, over the net one year term premium for the benefits provided for in the first policy year. However, the net level annual premium shall not exceed the net level annual premium on the ~~19~~nineteen-year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy; and

Any negative terminal reserves are set to zero.

The interest rates used in the present value calculations for any policy may not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

"Universal Life Insurance Policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

(Source: Amended at 42 Ill. Reg. 14225, effective July 12, 2018)

**Section 1409.40 General Calculation Requirements for Basic Reserves and Deficiency Reserves**

- a) Basic Reserves:
  - 1) At the election of the company for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors.
  - 2) If select mortality factors are elected, they may be:
    - A) The ~~10~~ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or

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- B) The select mortality factors found in Appendix A ~~of this Part~~.
- b) Deficiency Reserves-
- ~~1)~~ Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the election of the company for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors. If select mortality factors are elected, they may be:
- ~~12)~~ The ~~10~~<sup>ten</sup>-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; ~~or~~
- ~~23)~~ The select mortality factors found in Appendix A ~~of this Part~~; or
- ~~34)~~ For durations in the first segment, X percent of the select mortality factors in Appendix A ~~of this Part~~, subject to the following:
- A) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;
- B) X is such that, when using the valuation interest rate used for basic reserves, subsection (b)(~~34~~)(B)(i) ~~of this Section~~ is greater than or equal to subsection (b)(~~34~~)(B)(ii) ~~of this Section~~;
- i) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;
- ii) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

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- C) X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5 years after the valuation date;
- D) The appointed actuary shall increase X at any valuation date ~~when~~where it is necessary to continue to meet all the requirements of this subsection (b)(~~34~~);
- E) The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of this subsection (b)(~~34~~);
- F) The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums; and
- G) If X is less than 100% at any duration for any policy, the following requirements shall be met:
- i) The appointed actuary shall annually prepare an actuarial opinion and memorandum based on asset adequacy analysis for the company. The actuarial opinion shall be prepared in conformance with Section 223(1b)(B)(1) of the Code. The actuarial memorandum shall be prepared in conformance with Section 223(1b)(A)(8) of the ~~in~~ conformance with the applicable Sections of 50 Ill. Adm. Code~~1408~~.
  - ii) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; and
  - iii) The appointed actuary shall annually opine for all policies subject to this Part as to whether the mortality rates resulting from the application of X meet the requirements of this subsection (b)(~~34~~). This opinion shall be supported

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by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors shall reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

- c) This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than 10 years, the appropriate ~~10~~ten-year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.
- d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves.
- e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one year after the date of the change shall be the greatest of the following:
  - 1) Reserves calculated ignoring the guarantee;~~;~~
  - 2) Reserves assuming the guarantee was made at issue;~~;~~ and
  - 3) Reserves assuming that the policy was issued on the date of the guarantee.
- f) The Director may require that the company document the extent of the adequacy of reserves for specified blocks. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the ~~actuarial~~appointed-actuary opinion. In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the appointed actuary to be necessary to render the opinion required by Section 223(1b) of the

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~~Code pursuant to, and consistent with, the requirements of 50 Ill. Adm. Code 1408.90(a).~~

(Source: Amended at 42 Ill. Reg. 14225, effective July 12, 2018)

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- 1) Heading of the Part: General Account Modified Guaranteed Annuity (GAMGA) Contracts
- 2) Code Citation: 50 Ill. Adm. Code 1410
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1410.30	Amendment
1410.50	Amendment
1410.60	Amendment
- 4) Statutory Authority: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 401].
- 5) Effective Date of Rules: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1079; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments remove inconsistencies caused by recent statutory changes. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for actuarial opinion and memorandum standards. Part

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1410 contained a reference to Part 1408, which had been the source for actuarial opinion and memorandum requirements, but the Department repealed Part 1408 as of the operative date of the Valuation Manual. The changes to Part 1410 delete the obsolete reference to Part 1408.

Additionally, the amendments substitute the term "Modified Guaranteed Annuity" with "General Account Modified Guaranteed Annuity" to distinguish the insurance product regulated by Part 1410 from the "Modified Guaranteed Annuity" addressed in the Valuation Manual, which is a substantively different product. This includes a change to the titles of Part 1410 and Section 1410.60.

Finally, the Department discovered that references to 215 ILCS 5/229.4 in Part 1410 became obsolete when that statute was repealed and replaced with 215 ILCS 5/229.4a. The changes to Part 1410 replace references to 215 ILCS 5/229.4 with the appropriate references to the corresponding provisions of 215 ILCS 5/229.4a. They also incorporate the definitions of "appointed actuary" and "qualified actuary" from the recently amended statute at 215 ILCS 5/223(13).

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

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/785-0903

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



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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

## PART 1410

GENERAL ACCOUNT MODIFIED GUARANTEED ANNUITY (GAMGA) CONTRACTS

## Section

1410.10	Purpose
1410.20	Applicability
1410.30	Definitions
1410.40	Authority of Insurers
1410.50	Filing of Contracts
1410.60	<u>General Account</u> Modified Guaranteed Annuity ( <u>GAMGAMGA</u> ) Contract Requirements
1410.70	Reserve Liabilities
1410.80	Reports to Policyholders

AUTHORITY: Implementing Article XIV and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/Art. XIV and 401].

SOURCE: Adopted at 21 Ill. Reg. 933, effective January 3, 1997; amended at 25 Ill. Reg. 7466, effective June 4, 2001; amended at 42 Ill. Reg. 14239, effective July 12, 2018.

**Section 1410.30 Definitions**

"Adjusted Minimum Nonforfeiture Amount" means the minimum nonforfeiture amount as defined in Section 229.4~~a~~ of the ~~Illinois Insurance Code~~, [215 ILCS 5/229.4] adjusted by the Market Value Adjustment.

"Appointed Actuary" means ~~an appointed actuary as defined in any individual who is appointed or retained in accordance with the requirements set forth in 50 Ill. Adm. Code 1408.40(c) to provide the actuarial opinion and supporting memorandum as required by~~ Section 223(13~~1a~~) of the ~~Illinois Insurance Code~~, [215 ILCS 5/223(1a)].

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

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

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"Insurance Producer" means an individual licensed pursuant to Article XXXI of the Code [215 ILCS 5/Art. XXXI] who solicits, negotiates, effects, procures, renews, continues or binds modified guaranteed annuity contracts in this State.

"Insurer" means any insurance company ~~that which~~ has delivered or issued for delivery in this State a modified guaranteed annuity contract.

"Interest Credit" means all interest that is credited to the contract.

"Market Value Adjustment" ~~or "(MVA)"~~ means a formula specified in the contract ~~that which~~ adjusts the cash value of the contract. It reflects changes in prevailing interest rates and the time remaining until the date on which the cash surrender value is available without adjustment.

"Minimum Nonforfeiture Amount" means the minimum nonforfeiture amount as defined in Section 229.4a of the Code ~~[215 ILCS 5/229.4]~~.

"Modified Guaranteed Annuity" ~~or "(MGA)"~~ means a fixed annuity, or a fixed portion of a combination annuity, that is funded through the general account and provides for guaranteed values on specified dates or specified ages and with interim nonforfeiture values that are adjusted in accordance with an MVA. This term applies to contracts issued before January 1, 2017. The term "Modified Guaranteed Annuity" or "MGA" is to be substituted with "General Account Modified Guaranteed Annuity" or "GAMGA" throughout this Part for contracts issued on or after January 1, 2017. A GAMGA otherwise has the same definition as an MGA.

"Qualified Actuary" means a qualified actuary as defined in Section 223(13) of the Code.

(Source: Amended at 42 Ill. Reg. 14239, effective July 12, 2018)

**Section 1410.50 Filing of Contracts**

The filing requirements applicable to MGA contracts shall be made pursuant to Section 143 of the Code ~~[215 ILCS 5/143]~~ and 50 Ill. Adm. Code 916. Filings shall include a demonstration that the nonforfeiture provisions of the contract comply with Section 229.4a of the Code ~~[215 ILCS 5/229.4]~~ and Section 1410.60(b) of this Part.

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 42 Ill. Reg. 14239, effective July 12, 2018)

**Section 1410.60 General Account Modified Guaranteed Annuity (GAMGAMGA) Contract Requirements**

- a) Mandatory Contract Benefit and Design Requirements:
- 1) Any MGA contract delivered or issued for delivery in this State shall contain a statement of the procedures to be followed by the insurer in determining the dollar amount of nonforfeiture benefits.
  - 2) No MGA contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains the following provisions:
    - A) A provision that there shall be a grace period of 30 days or one month following the premium due date during which the contract shall remain in force and, within which any payment due to the insurer, other than the first, may be made. The contract may include a statement of the basis for determining the date as of which any ~~such~~ payment received during the grace period shall be applied to produce the values under the contract.
    - B) A provision that, at any time within one year from the date of default, the contract may be reinstated upon payment to the insurer of ~~any such~~ overdue payments ~~as~~ required by contract, and of all indebtedness to the insurer on the contract, including interest. Reinstatement may not occur if the cash value has been paid. The contract may include a statement of the basis for determining the date as of which the amount to cover ~~the such~~ overdue payments and indebtedness shall be applied to produce the values under the contract.
  - 3) The MVA formula, used in determining nonforfeiture benefits, must be stated in the contract and must be applicable for both upward and downward adjustments. When a contract is filed, it must be accompanied by an actuarial certification by a qualified actuary indicating the basis for the MVA formula and that the formula provides reasonable equity to both

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the contractholder and the insurer.

b) Nonforfeiture Benefits:

- 1) This subsection (b) ~~does shall~~ not apply to any of the contracts excluded in Section 229.4a(21+) of the Code ~~[215 ILCS 5/229.4(11)]~~.
- 2) Any paid-up annuity benefit available under an MGA contract shall be such that its present value on the annuity commencement date is at least equal to the Adjusted Minimum Nonforfeiture Amount on that date. ~~The such~~ present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.
- 3) For MGA contracts ~~that which~~ provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the Adjusted Minimum Nonforfeiture Amount next computed after the request for surrender is received by the insurer. The death benefit under ~~MGA such~~ contracts shall be at least equal to the cash surrender benefit. The contract may provide that the insurer may defer payment of ~~the such~~ cash surrender benefit for a period of 6 months after demand.
- 4) Any MGA contract ~~that which~~ does not provide cash surrender benefits or does not provide death benefits at least equal to the Adjusted Minimum Nonforfeiture Amount prior to the annuity commencement date shall include a statement in a prominent place in the contract that ~~the such~~ benefits are not provided.
- 5) For any MGA contract ~~that which~~ provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits (without regard to any surrender charges) or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the Adjusted Minimum Nonforfeiture Amount for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract.

c) The Application:

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The application for an MGA shall prominently ~~stateset forth language stating~~ that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the contract. The statement shall be placed immediately above the signature line on the application.

(Source: Amended at 42 Ill. Reg. 14239, effective July 12, 2018)

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits
- 2) Code Citation: 50 Ill. Adm. Code 1412
- 3) 

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
1412.30	Amendment
1412.40	Amendment
1412.60	Amendment
- 4) Statutory Authority: Implementing Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223(3)(a)(i); 229.2(4c)(h)(vi); and 401].
- 5) Effective Date of Rules: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1093; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments terminate Part 1412's applicability to life insurance policies issued on or after January 1, 2017 to avoid a

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statutory conflict. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for actuarial valuation standards regarding legal reserve life insurance. Mortality, interest and methodology standards are maintained in the Valuation Manual beginning January 1, 2017. 215 ILCS 5/229.2(4c)(h)(vi) was also amended to have the Valuation Manual provide the applicable mortality table to determine minimum nonforfeiture benefit standards for policies issued on or after January 1, 2017. Because Part 1412 prescribes the standards for the use of mortality tables, this Part has been amended to cease applicability to policies issued on or after January 1, 2017 while continuing to provide standards for policies not covered by the Valuation Manual.

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

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/785-0903

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

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE  
 CHAPTER I: DEPARTMENT OF INSURANCE  
 SUBCHAPTER s: LEGAL RESERVE LIFE

## PART 1412

RECOGNITION OF THE 2001 CSO MORTALITY TABLE  
 FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES  
 AND NONFORFEITURE BENEFITS

## Section

1412.10	Purpose
1412.20	Definitions
1412.30	Applicability
1412.40	Conditions
1412.50	Applicability of the 2001 CSO Mortality Table to 50 Ill. Adm. Code 1409
1412.60	Gender-Blended Tables
1412.70	Use of 2001 CSO Preferred Class Structure Mortality Table
1412.APPENDIX A 2001 CSO Mortality Tables	
1412.ILLUSTRATION A	Male Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION B	Male Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION C	Male Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION D	Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION E	Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION F	Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION G	Ultimate Age Nearest Birthday (Male/Female Composite/Nonsmoker/Smoker)
1412.ILLUSTRATION H	Male Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION I	Male Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION J	Male Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION K	Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION L	Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION M	Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION N	Ultimate Age Last Birthday (Male/Female Composite/Nonsmoker/Smoker)
1412.ILLUSTRATION O	Blended 80% Male, 20% Female Composite Select & Ultimate Age Nearest Birthday



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1412.ILLUSTRATION P	Blended 60% Male, 40% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION Q	Blended 50% Male, 50% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION R	Blended 40% Male, 60% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION S	Blended 20% Male, 80% Female Composite Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION T	Blended Composite Ultimate Age Nearest Birthday
1412.ILLUSTRATION U	Blended 80% Male, 20% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION V	Blended 60% Male, 40% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION W	Blended 50% Male, 50% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION X	Blended 40% Male, 60% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION Y	Blended 20% Male, 80% Female Nonsmoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION Z	Blended Nonsmoker Ultimate Age Nearest Birthday
1412.ILLUSTRATION AA	Blended 80% Male, 20% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION BB	Blended 60% Male, 40% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION CC	Blended 50% Male, 50% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION DD	Blended 40% Male, 60% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION EE	Blended 20% Male, 80% Female Smoker Select & Ultimate Age Nearest Birthday
1412.ILLUSTRATION FF	Blended Smoker Ultimate Age Nearest Birthday
1412.ILLUSTRATION GG	Blended 80% Male, 20% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION HH	Blended 60% Male, 40% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION II	Blended 50% Male, 50% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION JJ	Blended 40% Male, 60% Female Composite Select & Ultimate Age Last Birthday

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1412.ILLUSTRATION KK	Blended 20% Male, 80% Female Composite Select & Ultimate Age Last Birthday
1412.ILLUSTRATION LL	Blended Composite Ultimate Age Last Birthday
1412.ILLUSTRATION MM	Blended 80% Male, 20% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION NN	Blended 60% Male, 40% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION OO	Blended 50% Male, 50% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION PP	Blended 40% Male, 60% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION QQ	Blended 20% Male, 80% Female Nonsmoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION RR	Blended Nonsmoker Ultimate Age Last Birthday
1412.ILLUSTRATION SS	Blended 80% Male, 20% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION TT	Blended 60% Male, 40% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION UU	Blended 50% Male, 50% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION VV	Blended 40% Male, 60% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION WW	Blended 20% Male, 80% Female Smoker Select & Ultimate Age Last Birthday
1412.ILLUSTRATION XX	Blended Smoker Ultimate Age Last Birthday

**AUTHORITY:** Implementing Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223(3)(a)(i); 229.2(4c)(h)(vi); and 401].

**SOURCE:** Adopted at 28 Ill. Reg. 9281, effective July 1, 2004; amended at 31 Ill. Reg. 14708, effective October 16, 2007; amended at 32 Ill. Reg. 19718, effective January 1, 2009; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 8338; amended at 42 Ill. Reg. 14246, effective July 12, 2018.

**Section 1412.30 Applicability**

- a) 2001 CSO Mortality Table

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## NOTICE OF ADOPTED AMENDMENTS

- 1) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this Part, the 2001 CSO Mortality Table may be used as the minimum standard for policies issued on or after July 1, 2004 and before January 1, 2017~~the date specified in subsection (b) of this Section~~, to which Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) of the Code and 50 Ill. Adm. Code 1409.40(a) and (b) are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes.
  - 2) Subject to the conditions of this Part, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009 and before January 1, 2017, to which Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) of the Code and 50 Ill. Adm. Code 1409.40(a) and (b) are applicable.
- b) Exceptions. The 1980 CSO Valuation Tables without select factors shall be used in determining minimum standards for preneed insurance contracts and similar policies and contracts, as defined by 50 Ill. Adm. Code 1414.30, issued on or after January 1, 2009 and before January 1, 2017, to which the requirements of Sections 223(3)(a)(i) and 229.2(4c)(h)(vi) of the Code are applicable, except in accordance with the Transitional Rules prescribed in 50 Ill. Adm. Code 1414.50.

(Source: Amended at 42 Ill. Reg. 14246, effective July 12, 2018)

**Section 1412.40 Conditions**

- a) For each plan of insurance with separate rates for smokers and nonsmokers, an insurer may use:
  - 1) Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits;
  - 2) Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by Section 223(3)(f) of the Code and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

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- 3) Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.
- b) For plans of insurance without separate rates for smokers and nonsmokers, the composite mortality tables shall be used.
- c) For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 1412.50 of this Part and 50 Ill. Adm. Code 1409 relative to use of the select and ultimate form.
- d) When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the Director shall be based on an asset adequacy analysis in conformance with Section 223(1b) of the Code as specified in 50 Ill. Adm. Code 1408.40(a). The Director may exempt a company from this requirement if it only does business in this State and in no other state.

(Source: Amended at 42 Ill. Reg. 14246, effective July 12, 2018)

**Section 1412.60 Gender-Blended Tables**

- a) For any ordinary life insurance policy delivered or issued for delivery in this State on and after July 1, 2004 and before January 1, 2017 that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by this subsection.
- b) The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002.

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NOTICE OF ADOPTED AMENDMENTS

- c) It shall not, in and of itself, be a violation of Article XXVI of the Code for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis.

(Source: Amended at 42 Ill. Reg. 14246, effective July 12, 2018)

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## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Recognition of 2001 CSO Preferred Class Structure Mortality Tables for Use in Determining Minimum Reserve Liabilities
- 2) Code Citation: 50 Ill. Adm. Code 1413
- 3) Section Number: 1413.30                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing Section 223(3)(a)(i) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].
- 5) Effective Date of Rule: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 1101; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendment terminates Part 1413's applicability to life insurance policies issued on or after January 1, 2017 to avoid a statutory conflict. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for actuarial valuation standards regarding legal reserve life insurance. Mortality, interest and methodology standards will be maintained in the Valuation Manual beginning January 1, 2017. Because Part 1413 prescribes certain

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## NOTICE OF ADOPTED AMENDMENT

standards for the use of mortality tables, this Part was amended to cease applicability to policies issued on or after January 1, 2017 while continuing to provide standards for policies not covered by the Valuation Manual.

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

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield IL 62767-0001

217/785-0903

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

## DEPARTMENT OF INSURANCE

## NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

## PART 1413

RECOGNITION OF 2001 CSO PREFERRED CLASS STRUCTURE MORTALITY  
TABLES FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES

## Section

1413.10	Purpose
1413.20	Definitions
1413.30	2001 CSO Preferred Class Structure Table
1413.40	Conditions

AUTHORITY: Implementing Section 223(3)(a)(i) and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/223 and 401].

SOURCE: Adopted at 31 Ill. Reg. 14715, effective October 16, 2007; amended at 34 Ill. Reg. 6872, effective April 29, 2010; amended at 42 Ill. Reg. 14254, effective July 12, 2018.

**Section 1413.30 2001 CSO Preferred Class Structure Table**

At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this Part, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007 [and before January 1, 2017](#). For policies issued on or after July 1, 2004, and prior to January 1, 2007, these tables may be substituted with the consent of the Director and subject to the conditions of Section 1413.40. In determining whether to grant consent, the Director may rely on the consent of the insurance supervisory official of the company's state of domicile. No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes. A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this Part, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of 50 Ill. Adm. Code 1412, "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits".

(Source: Amended at 42 Ill. Reg. 14254, effective July 12, 2018)



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## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Preneed Life Insurance Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values
- 2) Code Citation: 50 Ill. Adm. Code 1414
- 3) Section Numbers:                      Adopted Actions:  
1414.10                                      Amendment  
1414.50                                      Amendment
- 4) Statutory Authority: Implementing and authorized by Section 223 of the Illinois Insurance Code [215 ILCS 5/223].
- 5) Effective Date of Rules: July 12, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 42 Ill. Reg. 1104; January 19, 2018
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final version: None
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments terminate Part 1414's applicability to preneed life insurance policies issued on or after January 1, 2017 to avoid a statutory conflict. 215 ILCS 5/223 was recently amended to establish the NAIC Valuation Manual as the source for actuarial valuation standards regarding legal reserve

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life insurance. Mortality, interest and methodology standards will be maintained in the Valuation Manual beginning January 1, 2017. Because Part 1414 prescribes minimum valuation mortality standards for preneed insurance contracts, this Part has been amended to cease applicability to contracts issued on or after January 1, 2017 while continuing to provide standards for contracts not covered by the Valuation Manual.

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

Bruce Sartain, Life Actuary  
Department of Insurance  
320 West Washington Street  
Springfield, IL 62767-0001

217/785-0903

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

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER s: LEGAL RESERVE LIFE INSURANCE

## PART 1414

PRENEED LIFE INSURANCE MINIMUM STANDARDS FOR DETERMINING  
RESERVE LIABILITIES AND NONFORFEITURE VALUES

## Section

1414.10	Scope
1414.20	Purpose
1414.30	Definitions
1414.40	Minimum Valuation Mortality Standards
1414.50	Transition Rules

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

SOURCE: Adopted at 32 Ill. Reg. 19725, effective January 1, 2009; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 5897; amended at 42 Ill. Reg. 14257, effective July 12, 2018.

**Section 1414.10 Scope**

This Part applies to preneed insurance contracts issued on or after January 1, 2009 and before January 1, 2017, as defined in Section 1414.30 ~~of this Part~~, and to similar policies and certificates. The determination shall be based, in part, on the use of various types of insurance policies to accomplish goals similar to preneed contracts, as well as policies with characteristics and benefits that resemble those found in preneed contracts. The Director shall have the authority to determine what constitutes similar policies and certificates.

(Source: Amended at 42 Ill. Reg. 14257, effective July 12, 2018)

**Section 1414.50 Transition Rules**

- a) For preneed insurance policies issued on or after January 1, 2009, and before January 1, 2012, the 2001 CSO may be used as the minimum standard for

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reserves and minimum standard for nonforfeiture benefits for both male and female insureds.

- b) If an insurer elects to use the 2001 CSO as a minimum standard for any policy issued on or after January 1, 2009, and before January 1, 2012, the insurer shall provide, as a part of the actuarial opinion memorandum submitted in support of the company's asset adequacy testing, an annual written notification to the insurance supervisory official of the state or jurisdiction in which the company is domiciled. The notification shall include:
- 1) A complete list of all preneed policy forms that use the 2001 CSO as a minimum standard;
  - 2) A certification signed by the appointed actuary stating that the reserve methodology employed by the company in determining reserves for the preneed policies issued after the effective date, and using the 2001 CSO as a minimum standard, develops adequate reserves (For the purposes of this certification, the preneed insurance policies using the 2001 CSO as a minimum standard cannot be aggregated with any other policies.); and
  - 3) Supporting information regarding the adequacy of reserves for preneed insurance policies issued after January 1, 2009~~the effective date of this Part~~ and using the 2001 CSO as a minimum standard for reserves.
- c) Preneed insurance policies issued on or after January 1, 2012 and before January 1, 2017 must use the 1980 CSO Valuation Tables in the calculation of minimum nonforfeiture values and minimum reserves.

(Source: Amended at 42 Ill. Reg. 14257, effective July 12, 2018)

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF RECODIFICATION

1) Heading of the Part: State Administration of the Federal Community Development Block Grant Program for Small Cities

2) Code Citation: 47 Ill. Adm. Code 110

3) Date of Administrative Code Division Review: July 6, 2018

4) Headings and Section Numbers of the Subpart Being Recodified:

<u>Numbers</u>	<u>Headings:</u>
Subpart A	Community Development Assistance Program
110.10	Legislative Base

5) Outline of the Section Numbers and Headings of the Subpart as Recodified:

<u>Numbers</u>	<u>Headings:</u>
Subpart A	Community Development Block Grant Program
110.10	Legislative Base

6) Conversion Table of Present and Recodified Subpart and Section:

<u>Present:</u>		<u>Recodified:</u>	
Subpart A:	Community Development Assistance Program	Subpart A:	Community Development Block Grant Program
110.10	Legislative Base	110.10	Legislative Base

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

The following second notices were received during the period of July 10, 2018 through July 16 2018. The rulemakings are scheduled for the August 14, 2018 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>
8/24/18	<u>Department of Revenue</u> , Income Tax (86 Ill. Adm. Code 100)	5/25/18 42 Ill. Reg. 8387	8/14/18
8/24/18	<u>Secretary of State</u> , Procedures and Standards (92 Ill. Adm. Code 1001)	3/30/18 42 Ill. Reg. 5785	8/14/18

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

Rules acted upon in Volume 42, Issue 30 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.

**PROPOSED RULES**

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**ADOPTED RULES**

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50 - 1409	7/12/2018 .....	14225
50 - 1410	7/12/2018 .....	14239
50 - 1412	7/12/2018 .....	14246
50 - 1413	7/12/2018 .....	14254
50 - 1414	7/12/2018 .....	14257

**NOTICE OF CODIFICATION CHANGES**

47 - 110	.....	14261
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