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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2021

Issue#	Rules Due Date	Date of Issue
1	December 21, 2020	January 4, 2021
2	December 28, 2020	January 8, 2021
3	January 4, 2021	January 15, 2021
4	January 11, 2021	January 22, 2021
5	January 19, 2021	January 29, 2021
6	January 25, 2021	February 5, 2021
7	February 1, 2021	February 16, 2021
8	February 8, 2021	February 19, 2021
9	February 16, 2021	February 26, 2021
10	February 22, 2021	March 5, 2021
11	March 1, 2021	March 12, 2021
12	March 8, 2021	March 19, 2021
13	March 15, 2021	March 26, 2021
14	March 22, 2021	April 2, 2021
15	March 29, 2021	April 9, 2021
16	April 5, 2021	April 16, 2021
17	April 12, 2021	April 23, 2021
18	April 19, 2021	April 30, 2021
19	April 26, 2021	May 7, 2021
20	May 3, 2021	May 14, 2021
21	May 10, 2021	May 21, 2021

22	May 17, 2021	May 28, 2021
23	May 24, 2021	June 4, 2021
24	June 1, 2021	June 11, 2021
25	June 7, 2021	June 18, 2021
26	June 14, 2021	June 25, 2021
27	June 21, 2021	July 2, 2021
28	June 28, 2021	July 9, 2021
29	July 6, 2021	July 16, 2021
30	July 12, 2021	July 23, 2021
31	July 19, 2021	July 30, 2021
32	July 26, 2021	August 6, 2021
33	August 2, 2021	August 13, 2021
34	August 9, 2021	August 20, 2021
35	August 16, 2021	August 27, 2021
36	August 23, 2021	September 3, 2021
37	August 30, 2021	September 10, 2021
38	September 7, 2021	September 17, 2021
39	September 13, 2021	September 24, 2021
40	September 20, 2021	October 1, 2021
41	September 27, 2021	October 8, 2021
42	October 4, 2021	October 15, 2021
43	October 12, 2021	October 22, 2021
44	October 18, 2021	October 29, 2021
45	October 25, 2021	November 5, 2021
46	November 1, 2021	November 12, 2021
47	November 8, 2021	November 19, 2021
48	November 15, 2021	November 29, 2021
49	November 22, 2021	December 3, 2021
50	November 29, 2021	December 10, 2021
51	December 6, 2021	December 17, 2021
52	December 13, 2021	December 27, 2021
53	December 20, 2021	December 31, 2021

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Electronic Commerce Security Act
- 2) Code Citation: 14 Ill. Adm. Code 105
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
105.10	Repealed
105.20	Repealed
105.30	Repealed
105.40	Repealed
105.50	Repealed
105.60	Repealed
105.200	Repealed
105.210	Repealed
105.220	Repealed
105.230	Repealed
105.240	Repealed
105.300	Repealed
- 4) Statutory Authority: Authorized by the Electronic Commerce Security Act [5 ILCS 175] which was repealed by Public Act 102-38.
- 5) A Complete Description of the Subjects and Issues Involved: The Electronic Commerce Security Act was repealed in its entirety by Public Act 102-38.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This repeal is necessary because the statute granting CMS the authority to promulgate the rule was repealed by Public Act 102-38.

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- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:
- Administrative Rules Coordinator
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706
- 217/524-7518
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no discernable impact on small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on the agency's regulatory agendas because it was not anticipated.

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

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NOTICE OF PROPOSED REPEALER

TITLE 14: COMMERCE

SUBTITLE A: REGULATION OF BUSINESS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 105

ELECTRONIC COMMERCE SECURITY ACT (REPEALED)

SUBPART A: GENERAL PROVISIONS

Section

- 105.10 Scope and Definitions
- 105.20 Roles of the Department, the State Policy Authority, the Local Registration Authority and Other State Agencies
- 105.30 Maintenance of the State Certificate Policy and Certification Practice Statement
- 105.40 Records Retention
- 105.50 Audit Requirements
- 105.60 Appeals

SUBPART B: CERTIFICATION OF SECURITY PROCEDURES

Section

- 105.200 Certification of a Qualified Security Procedure for Electronic Records and Signature
- 105.210 Qualified Security Procedures
- 105.220 State PKI Procedures
- 105.230 Revocation or Suspension of Certification of a Security Procedure
- 105.240 Foreign Public Sector Certificate Authorities

SUBPART C: AGENCY UTILIZATION

Section

- 105.300 Identified and Approved Electronic Signature Activity

AUTHORITY: Authorized by the Electronic Commerce Security Act [5 ILCS 175].

SOURCE: Adopted at 31 Ill. Reg. 7251, effective May 4, 2007; amended at 33 Ill. Reg. 5745, effective April 6, 2009; repealed at 45 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section 105.10 Scope and Definitions

- a) The purpose of this Part is to provide maximum flexibility to the implementation of digital signature technology, under the Electronic Commerce Security Act [5 ILCS 175], for State agencies and entities that do business with the State. The Department of Central Management Services serves as the single certification authority that may issue certificates to State agencies and as the primary certification authority that may issue certificates to persons, including non-State agencies, conducting business or other transactions with State agencies.
- b) For the purposes of this Part, and unless the context expressly indicates otherwise, definitions are as follows:

"Act" means the Electronic Commerce Security Act [5 ILCS 175].

"Applicant" means a person conducting business or other transactions with a State agency that seeks certification of a security procedure by CMS, the State Certification Authority.

"Asymmetric Cryptosystem" means a computer-based system capable of generating and using a key pair consisting of a private key for creating a digital signature and a public key to verify the digital signature.

"Certificate" means a record that, at a minimum:

identifies the certification authority issuing it;

names or otherwise identifies its subscriber or a signature device or electronic agent under the control of the subscriber;

contains a public key that corresponds to a private key under the control of the subscriber;

specifies its operational period; and

is digitally signed by the certification authority issuing it.

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"Certification" or "Certify" means validation of compliance with the requirements of Section 105.200 of this Part.

"Certification Authority" or "CA" means the person or entity that authorizes and causes the issuance of a certificate. For purposes of this Part, the Department of Central Management Services is the CA.

"Certification Practice Statement" or "CPS" is a statement created by CMS, with the advice of the Policy Authority, that specifies the policies or practices that CMS employs in issuing, managing, suspending, and revoking certificates and providing access to them.

"Certificate Policy" or "CP" is a statement published by CMS, with the advice of the Policy Authority, that specifies the policies utilized in operation of the Public Key Infrastructure.

"Department" or "CMS" means the Department of Central Management Services.

"Digital Signature" means a type of electronic signature created by transforming an electronic record using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic record, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic record has been altered since the transformation was made. A digital signature is a security procedure.

"Director" means the Director of the Department of Central Management Services.

"Electronic" includes electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies.

"Electronic Record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

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"Electronic Signature" means a signature in electronic form attached to or logically associated with an electronic record.

"Foreign Public Sector CA" means a certification authority that is a public sector entity of any government other than the government of the United States, any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, or any political subdivision thereof.

"Key Pair" means, in an asymmetric cryptosystem, 2 mathematically related keys, referred to as a private key and a public key, having the properties that:

one key (the private key) can encrypt a message that only the other key (the public key) can decrypt; and

even knowing one key (the public key), it is computationally unfeasible to discover the other key (the private key).

"Local Registration Authority" or "LRA" is the entity appointed by CMS to authenticate for a CA the identification of applicants desiring to become subscribers under this Part.

"Message Digest Function" means an algorithm that maps or translates the sequence of bits comprising an electronic record into another, generally smaller, set of bits (the message digest) without requiring the use of any secret information, such as a key, so that an electronic record yields the same message digest every time the algorithm is executed using the electronic record as input, and it is computationally unfeasible that any 2 electronic records can be found or deliberately generated that would produce the same message digest using the algorithm unless the 2 electronic records are precisely identical.

"Non-State Agency" means a person other than a State agency that is a public sector entity of any government, including, without limitation, a unit of local government, school district or board of elections created by or pursuant to the statutes of the State of Illinois, or any officer, commissioner, administrative unit or corporate outgrowth of the public sector entity. A non-State agency shall be deemed to be a person conducting business or other transactions with a State agency for purposes of the Act and this Part if it seeks certification of a security

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procedure by CMS or is a foreign public sector CA that seeks recognition under Section 105.240 of this Part.

"Operational Authority" (see State Operational Authority).

"Operational Period" means the period that begins on the date and time a certificate is issued by a certification authority (or on a later date and time certain if stated in the certificate) and ends on the date and time it expires as noted in the certificate or is earlier revoked, but does not include any period during which the certificate is suspended.

"Person" means an individual, corporation, business trust, estate, trust, partnership, limited partnership, limited liability partnership, limited liability company, association, joint venture, government, governmental subdivision, governmental instrumentality, State agency, non-State agency, or any other legal or commercial entity.

"Policy Authority" (see State Policy Authority).

"Private Key" means the key of a key pair used to create a digital signature.

"Public Key" means the key of a key pair used to verify a digital signature.

"Public Key Infrastructure" or "PKI" means a structure of hardware, software, people, processes and policies for creating a secure method for exchanging information based on public key cryptography.

"Qualified Security Procedure" means a security procedure that meets the criteria established under Section 105.210.

"Record" means information that is inscribed, stored, or otherwise fixed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Registration Authority" or "RA" means CMS in its role of authenticating the identity of subscribers prior to the issuance of certificates, but does not issue or sign the certificates.

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"Rekey" means the process of securely regenerating signing/verification and/or encryption/decryption keys.

"Revocation" or "Revoke" means a temporary, conditional, or permanent termination of a certification as provided under Section 105.230 of this Part.

"Security Procedure" means a methodology or procedure used for the purpose of verifying that an electronic record is that of a specific person or detecting error or alteration in the communication, content, or storage of an electronic record since a specific point in time. A security procedure may require the use of algorithms or codes, identifying words or numbers, encryption, answer back or acknowledgment procedures, or similar security devices.

"Signature Device" means unique information, such as codes, algorithms, letters, numbers, private keys, or personal identification numbers (PINs), or a uniquely configured physical device that is required, alone or in conjunction with other information or devices, in order to create an electronic signature attributable to a specific person.

"Signed" or "Signature" includes any symbol executed or adopted, or any security procedure employed or adopted, using electronic means or otherwise, by or on behalf of a person with intent to authenticate a record.

"State Agency" means and includes all officers, boards, commissions, courts, and agencies created by the Illinois Constitution, whether in the executive, legislative or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government that are created by or pursuant to statute, other than units of local government and their officers, school districts and boards of elections commissioners; all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor.

"State Certification Authority" or "State CA" means the Department of Central Management Services in its role as the single certification authority that may issue certificates to State agencies and as a certification authority that may issue certificates to persons, including non-State agencies, conducting business or other transactions with State agencies.

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"State Operational Authority" or "State OA" means the Department of Central Management Services in its role of interpreting certificate policies, with the advice of the Policy Authority, developing and managing the Certification Practice Statement, maintaining the PKI and providing for the issuance of digital certificates.

"State Policy Authority" or "Policy Authority" or "PA" is an internal intergovernmental committee of State employees representing various State agencies who are appointed by the Director. The PA is responsible for recommending policies relating to the operation of the PKI operated by CMS and for advising CMS about the maintenance and enforcement of those policies.

"Subscriber" means a person who is the subject named or otherwise identified in a certificate, who controls a private key that corresponds to the public key listed in that certificate, and who is the person to whom digitally signed messages verified by reference to the certificate are to be attributed.

"Suspension" or "Suspend" means to temporarily suspend the operational period of a certificate for a specified time period or from a specified time forward.

"Trustworthy Manner" means through the use of computer hardware, software, and procedures that, in the context in which they are used:

can be shown to be reasonably resistant to penetration, compromise, and misuse;

provide a reasonable level of reliability and correct operation;

are reasonably suited to performing their intended functions or serving their intended purposes;

comply with applicable agreements between the parties, if any; and

adhere to generally accepted security procedures.

"Valid Certificate" means a certificate that a certification authority has issued and that the subscriber listed in the certificate has accepted.

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"Verify a Digital Signature" means to use the public key listed in a valid certificate, along with the appropriate message digest function and asymmetric cryptosystem, to evaluate a digitally signed electronic record, so that the result of the process concludes that the digital signature was created using the private key corresponding to the public key listed in the certificate and the electronic record has not been altered since its digital signature was created.

Section 105.20 Roles of the Department, the State Policy Authority, the Local Registration Authority and Other State Agencies

- a) Department of Central Management Services
 - 1) State Certification Authority/Certification Authority
 - A) Under Section 25-105 of the Act, the Department has the exclusive authority to specify the policies and procedures for certifying the security of digital records and signatures used by State agencies and persons conducting business with State agencies. CMS performs two essential functions:
 - i) authenticating the identity of the person who will be named on a certificate (i.e., the subscriber) and verifying that the subscriber possesses the private key that corresponds to the public key to be listed on the certificate; and
 - ii) issuing and digitally signing the subscriber's certificate.
 - B) The Department issues a Certificate Policy (CP) and a Certification Practices Statement (CPS) that describe various policies and procedures relating to the issuance of certificates and the use of digital signatures.
 - 2) State Operational Authority
The Director of CMS, as chief administrative officer of the State OA, has delegated the responsibility of overseeing day-to-day operations to the State Operational Authority.
 - 3) Standards

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In determining the security of electronic record and signature procedures, the Department relies on the Federal Information Processing Standards (FIPS) established by the Information Technology Laboratory of the National Institute of Standards and Technology (NIST), U.S. Department of Commerce, 100 Bureau Drive, Stop 1070, Gaithersburg MD 20899-1070, <http://www.itl.nist.gov/fipspubs/> (2007, no later amendments or editions included).

- b) State Policy Authority
 - 1) The PA will advise the Department on developing and maintaining the CP and CPS. The PA will include representatives of such State entities as the Comptroller's Office, State universities and agencies under the Governor and representatives of local government.
 - 2) The PA may review technologies and submit them for CMS consideration as a qualified security procedure to be certified by CMS.
- c) Local Registration Authority
 - 1) CMS, as RA, is responsible for authenticating the identity of a subscriber before a certificate is issued. Under the CP and CPS, CMS may delegate RA functions and some CA functions to a Local Registration Authority (LRA). For purposes of the CP and CPS, an LRA is responsible for authenticating the identification of subscribers for a CA. For example, a State university may authenticate the identity of faculty, staff and students who have applied for a certificate.
 - 2) Qualification of LRAs
 - A) Initial Qualification. Each participating State agency, and other entities as determined by CMS, with the advice of the PA, may nominate one or more individuals to serve as LRAs for that entity. Prospective LRAs must return a completed LRA application form and a signed LRA agreement (wet signature or digitally signed) to CMS. Applicant individuals must submit to a Department of State Police criminal history background check. If the background check reveals that the applicant has been convicted of a criminal

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offense, the applicant is subject to disqualification at the discretion of CMS, with the advice of the PA.

- B) Ongoing Qualification. If a qualified LRA is formally accused of a criminal offense, the applicant must, within 3 days after being charged, notify CMS, which will notify the PA. CMS will periodically conduct random criminal history background checks of LRAs to assure compliance with the ongoing reporting requirements of this subsection (c)(2)(B).
- C) Disqualification. LRA privileges may be denied, suspended or revoked at the discretion of CMS, with the advice of the PA. Reasonable notice and opportunity for hearing under Section 105.60 shall be provided. Grounds for denial, suspension or revocation of LRA privileges include, but are not limited to:
 - i) Conviction of a criminal offense.
 - ii) Failure to cooperate fully in any investigation by CMS.
 - iii) Failure to comply with the Act, this Part, the CP and the CPS.
 - iv) Separation from, or reassignment within, the sponsoring entity.
 - v) Refusal or inability to diligently complete the obligations of an LRA.
- d) Other State Agencies
Under the Act, other State agencies may act as a CA provided that their certification program is conducted in accordance with all the rules, procedures and policies specified by CMS. A State agency that assumes the role of CA can do so only with respect to its own employees and persons conducting business with that agency.

Section 105.30 Maintenance of the State Certificate Policy and Certification Practice Statement

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- a) **Creation and Maintenance**

CMS, with the advice of the PA, develops and maintains a Certificate Policy and a Certification Practice Statement indicating how that policy is going to be implemented. The purpose of these documents is to outline, within the broad parameters established by this Part, the specific details of the PKI. How changes are made in either document depends on whether CMS, with advice of the PA, determines the proposed changes are minor or major. This Part will be amended as prescribed by the Illinois Administrative Procedure Act [5 ILCS 100] to reflect any changes in the CP or CPS that also require changes in this underlying rule.
- b) **Minor Changes**

Minor changes are those proposed changes to CP/CPS that, in the judgment of CMS, with the advice of the PA, will have no or minimal impact on subscribers or persons using certificates or lists of revoked certificates. Minor changes may be made without notice and with no change to CP or CPS version numbers.
- c) **Major Changes**

Major changes are those proposed changes to CP/CPS that, in the judgment of CMS, with the advice of the PA, may have significant impact on subscribers or persons using certificates or lists of revoked certificates. Major changes shall be subject to a review and comment period of 60 days.

 - 1) CMS and the PA shall review all comments and shall respond individually to the persons providing the comments.
 - 2) After the 60-day review period is completed, CMS and the PA shall consider all comments received. CMS, with the advice of the PA, shall determine the new policies to be adopted, if any. New policies shall be incorporated in the CP or the CPS as appropriate, which shall be given new version numbers as appropriate. The new versions of the CP or the CPS shall be published on the CMS website, <http://www.illinois.gov/pki/>, and shall be made available in hard copy upon request.
 - 3) In order to allow persons to modify their procedures as needed, all changes made under this subsection (c) shall become effective 30 days after the corresponding new versions of the CP and/or CPS are published on the CMS website. It shall be the responsibility of subscribers and other persons to periodically check the CMS website to determine if new versions of the CP and/or CPS have been published.

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- 4) Use of or reliance upon a certificate more than 30 days after a new version of the CP and/or CPS has been published, regardless of when the certificate was issued, shall be deemed acceptance of the new policies reflected in the new versions of the CP and/or CPS.

Section 105.40 Records Retention

State records as defined under the State Records Act [5 ILCS 160] shall be retained in accordance with Section 5-13 of the Act and the State Records Act, as applicable.

Section 105.50 Audit Requirements

- a) CMS shall submit to an annual PKI compliance audit to be performed by the Auditor General of Illinois or an independent auditor selected by the Department contracted specifically for the purpose of auditing the State's PKI operations.
- b) An independent auditor must demonstrate competence in the field of compliance audits and must regularly perform compliance audits as a primary responsibility, and shall attest that it has significant experience in the application of public key cryptographic technologies and computer security.
- c) The annual audit investigates the operations of CMS and RAs with respect to the State PKI to ensure their compliance with the CP and the CPS. Areas of focus for these audits include, but are not limited to:
 - 1) Identification & Authentication
 - A) Initial Registration
 - B) Routine Rekey
 - C) Rekey After Revocation
 - D) Revocation Request
 - 2) Operational Requirements
 - A) Certificate Application

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- B) Certificate Issuance
 - C) Certificate Acceptance
 - D) Key Recovery
 - E) Certificate Suspension/Revocation
 - F) Computer Security Audit Procedures
 - G) Records Archival
 - H) CA Key Changeover
 - I) Compromise and Disaster Recovery
 - J) CA Termination
- 3) Physical, Procedural & Personnel Security
- A) Physical Security Controls
 - B) Procedural Controls
 - C) Personnel Security Controls
- 4) Technical Security Controls
- A) Key Pair Generation & Installation
 - B) Private Key Protection
 - C) Other Aspects of Key Pair Management
 - D) Activation Data
 - E) Computer Security Controls

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- F) Lifecycle Security Controls
- G) Network Security Controls
- H) Cryptographic Module Engineering Controls
- 5) Certificate & CRL Profiles
 - A) Certificate Profile
 - B) CRL Profile
- 6) Specification Administration
 - A) Contact Information
 - B) Specification Change Procedures
 - C) Publication and Notification Procedures
 - D) Approval Procedures

Section 105.60 Appeals

Any person who is adversely affected by a decision of the Department in resolving a request for reconsideration under Section 105.20(c) or Section 105.200(d) may appeal that decision to the Director as provided under this Section.

- a) **Director's Designee**

The Director may designate any person qualified to be an administrative law judge for the Department to act in the Director's stead under this Section. Any person designated shall have all powers and duties of the Director under this Section, except for the power to designate a representative of the Department under subsection (c). Any person designated may be disqualified for bias or conflict of interest upon the motion of a party.
- b) **Filing an Appeal**

An appeal must be filed with the Director within 30 days from the date the CMS decision is received. A decision shall be deemed to be received on the date of

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actual receipt by the appellant or 2 days after the date of mailing, whichever is earlier.

- 1) An appeal does not need to be in any particular form, but:
 - A) must be in writing, dated and signed by the appellant or the authorized officer or agent of the appellant;
 - B) must set forth specific facts showing why the decision of the Department appealed from is erroneous; and
 - C) may include any documentation that is material and relevant to the appeal.
 - 2) An appeal may be filed by mail, in which case it shall be deemed to be filed on the date of the postmark stamped by the United States Postal Service on the envelope in which it was mailed.
 - 3) The appellant shall serve a copy of the appeal on all parties named in the appeal no later than the last date for filing the appeal.
 - 4) Upon motion of the appellant showing good cause, the Director may extend the time within which to file an appeal.
- c) Department Representative
CMS shall be the appellee to appeals under this Section, and shall be represented by the chief administrator of the State OA or a designee of that person or of the Director. The CMS representative for an appeal shall not be a person designated by the Director under subsection (a) with regard to the appeal.
- d) Preliminary Review
The Director shall review an appeal for timeliness and completeness as provided under subsection (b).
- 1) The Director shall dismiss the appeal if it is untimely and/or incomplete.
 - 2) The Director may allow the appellant to cure any defects and re-file the appeal within the time period established by the Director. A re-filed

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appeal shall be subject to preliminary review as provided under this subsection (d).

- e) **Review of Merits**
If an appeal is timely and complete, the Director may review the merits of the appeal on its face.
- 1) The Director shall review any documentation included with the appeal, and may conduct an investigation if warranted under the circumstances.
 - A) An investigation may include, without limitation, requests for information from the parties and an informal conference with the parties. An informal conference shall be conducted and controlled by the Director. The parties shall not have the right at an informal conference to present evidence or argument or to ask questions of the Director or any other person in attendance, but shall have the right to be represented by counsel.
 - B) Any information obtained by the Director from an investigation shall not be evidence at a hearing under this Section, and shall not be considered by the Director when reaching a decision under subsection (n), unless the information is entered into evidence in the record at the hearing.
 - 2) The Director may order any appropriate disposition provided under subsection (n) if the Director concludes after review under this subsection (e) that substantial justice was not done by the decision of CMS.
- f) **Notice of Hearing**
Unless the Director has ordered a disposition under subsection (e), the Director shall issue a notice of hearing to all parties no later than 30 days after the date the appeal was filed. The Director may extend the time for issuing the notice of hearing if warranted under the circumstances. The Director shall provide notice to all parties of any extension.
- 1) A notice of hearing shall be mailed to all parties no less than 10 days before the date of the hearing, but may be mailed less than 10 days before the date of the hearing if all parties agree on the record.

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- 2) The notice of hearing shall include the time and date of the hearing and shall identify the parties, the issues on appeal and the CMS decision appealed from.
 - 3) If the notice of hearing requires any parties to appear at the hearing in person, the notice of hearing shall include the place where the hearing shall be held.
 - 4) If the notice of hearing requires any parties to appear at the hearing by telephone, the notice of hearing shall include instructions about how the parties should:
 - A) advise the Director of the telephone number where they may be called at the time of the hearing;
 - B) submit documents to the Director for consideration at the hearing; and
 - C) arrange the appearance of witnesses by telephone at the hearing.
- g) **Continuances**
A request for a continuance must be in writing and must set forth facts showing why the continuance would be granted. A continuance requested by fewer than all the parties shall be granted only for good cause shown. A continuance requested by all the parties shall be considered and granted or denied by the Director. The Director may enter a continuance on his or her own motion.
- h) **Burden of Proof**
The burden is on the appellant to prove by a preponderance of the evidence that the CMS decision appealed from is erroneous.
- i) **Withdrawal of Appeal**
An appellant may voluntarily withdraw an appeal at any time without penalty by filing a signed written notice with the Director. The appellant shall serve a copy of the notice of voluntary withdrawal on all other parties.
- j) **Manner of Hearing**
Hearings shall be conducted by telephone unless the Director requires the parties to appear in person.

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- 1) Parties scheduled to appear at a hearing by telephone must designate a telephone number for the Director to call at the time of the hearing, and must answer the Director's call to that telephone number at the time of the hearing. A party who does not comply with either of these requirements shall be deemed to have not appeared at the hearing.
 - 2) Parties scheduled to appear at a hearing in person must appear at the place of the hearing on the date and time of the hearing as designated in the notice of hearing. A party who does not comply with this requirement shall be deemed to have not appeared at the hearing.
 - 3) Parties scheduled to appear at a hearing by telephone must provide the Director with all documents they want considered at the hearing at least 5 days before the hearing, and must provide copies of those documents to the other parties at least one day before the hearing.
 - 4) The Director may require some, but not all, parties to appear at a hearing in person. If the Director so requires, the other parties may, but are not required to, appear at the hearing in person.
 - 5) A party may request to appear in person at a hearing. If the Director grants the request, the other parties may appear at the hearing in person or by telephone as they choose, unless the Director requires them to appear in a particular manner.
 - 6) The Director may allow any witness to appear at any hearing in person or by telephone. The Director may require any witness to appear at any hearing in person, but in doing so the Director shall weigh the expense and inconvenience to the witness caused by testifying in person with the benefit to the Director of receiving the testimony in person.
 - 7) Hearings involving the in-person appearance of a person shall be conducted at the Department's offices in Springfield, Illinois, or at another location designated by the Director.
- k) Failure to Appear
Failure of the appellant to appear at a hearing as provided under subsection (j) shall result in dismissal of the appeal. Failure of any other party to appear at a

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hearing as provided under subsection (j) shall result in an appropriate sanction, including without limitation, imposition of a disposition under subsection (n) favorable to the appellant.

1) Conduct of Hearing

All hearings are subject to the requirements of this Section and the Illinois Administrative Procedure Act [5 ILCS 100]. The Director shall conduct and control the hearing, which shall be limited to the factual and legal issues presented on the appeal.

- 1) A record shall be kept of all proceedings before the Director.
- 2) The Director shall have all powers and duties of an administrative law judge under Illinois law not inconsistent with this Section.
- 3) All parties have the right to be represented by counsel, to present testimony and other evidence material relevant to the issues on appeal, and to ask questions of any person who testifies at the hearing.
- 4) The Director may allow the parties to make opening and/or closing statements.
- 5) The Director may ask questions of any person appearing at the hearing, may enter any material and/or relevant evidence into the record on his or her motion or the motion of a party, and shall ensure that all parties have a full and fair opportunity to be heard.
- 6) The technical rules of evidence do not apply to hearings under this Section. The Director may accept any material evidence that is relevant to the issues on appeal. The Director shall determine the credibility of the witnesses and the evidence. The Director may accept hearsay as evidence, but, if hearsay is accepted, the hearsay nature of the evidence shall be considered when the Director weighs the evidence. The Director is not required to rule on any objection to the introduction of evidence, but any objection shall be noted and made part of the record.
- 7) The Director may exclude any person from the hearing who becomes abusive or disruptive. The hearing shall continue without the participation

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of the excluded person, and the Director shall render a decision based on the evidence in the record.

- m) **Post-Hearing Memoranda**
The Director may allow or require the parties to submit post-hearing memoranda addressing any hearing issues identified by the Director.
- n) **Decision of the Director**
The Director shall issue a decision based on the preponderance of the credible evidence in the record, and may take the arguments of the parties into consideration.
 - 1) The Director's decision shall include a statement of the issues presented, findings of fact and conclusions of law, and the Director's conclusions.
 - 2) The Director shall enter a disposition of the appeal by remanding with instructions, revising, reversing or sustaining the CMS decision appealed from.
 - 3) The Director's decision shall be the final administrative decision of the Department on the matter of the appeal.

SUBPART B: CERTIFICATION OF SECURITY PROCEDURES

Section 105.200 Certification of a Qualified Security Procedure for Electronic Records and Signature

- a) In order to obtain certification of a qualified security procedure in conformance with the CPS and CP, an applicant must make a request in writing to the Department of Central Management Services, Illinois Digital Certificate Authority, 201 W. Adams St., Springfield IL 62704-1874.
- b) The applicant must document procedures, policies and practices that delineate full and complete identification of security procedures. The documentation shall be submitted for review to CMS.
- c) An applicant's security procedure certified by CMS shall:

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- 1) adopt secure policies and procedures as designated by FIPS (see Section 105.20(a)(3)); and
 - 2) meet the criteria for acceptance of electronic signatures and records and the criteria for recognition of qualified security procedures as delineated in Section 105.210.
- d) An applicant may request reconsideration of a decision to deny certification of a security procedure, but the request must be submitted no later than 30 days after the decision was issued. All requests for reconsideration must be submitted to CMS in writing. A person who is adversely affected by a CMS decision resolving a request for reconsideration may appeal that decision as provided under Section 105.60.

Section 105.210 Qualified Security Procedures

- a) A qualified security procedure is a security procedure for identifying a person that is capable of creating, in a trustworthy manner, an electronic signature that:
 - 1) is unique to the signer within the context in which it is used;
 - 2) can be used to objectively identify the person signing the electronic record;
 - 3) was reliably created by the identified person and that cannot be readily duplicated or compromised;
 - 4) is created and is linked to the electronic record to which it relates in a manner that, if the record or the signature is intentionally or unintentionally changed after being signed, the electronic signature is invalidated; and
 - 5) complies with this Part.
- b) The Department will accept as adequate a security procedure that meets the requirements of the Federal Information Processing Standards promulgated by NIST's Information Technology Laboratory, as incorporated by Section 105.20(a)(3).

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- c) Public Key Cryptography
- 1) The security structure known as public key cryptography is a qualified security procedure for purposes of this Section, provided that the digital signature is created consistently with this Part. Public key cryptography with a digital signature created consistent with this Part is a commercially reasonable standard and procedure that has been generally accepted in the security and scientific communities.
 - 2) The Act requires that a digital signature be unique to the signer within the context in which it is used. A public key-based digital signature may be considered unique to the signer using it if:
 - A) the digital signature is created using an asymmetric algorithm;
 - B) the private key used to create the signature on the document is known only to the signer;
 - C) the digital signature can be verified by reference to the public key listed in the certificate;
 - D) the digital signature is created during the operational period of a valid certificate;
 - E) it is computationally infeasible to derive the private key from knowledge of the public key; and
 - F) the digital signature is created within the scope of any other restrictions specified or incorporated by reference in the certificate.
 - 3) The Act requires that a digital signature can be used to objectively identify the person signing the electronic record. A public-key based digital signature is capable of objectively identifying the person signing the electronic record if:
 - A) the acceptor of the digitally signed document can verify the document was digitally signed by using the signer's public key and message digest function to decrypt the message; and

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- B) CMS, or a designated RA, through a process defined in the CP or CPS, authenticates the subscriber and the subscriber's public key and identifies the forms of identification required of the signer prior to issuing the certificate.
- 4) The Act requires that the digital signature be reliably created by an identified person and cannot be readily duplicated or compromised. The signer and all other persons that rightfully have access to signature devices assume a duty to exercise reasonable care to retain control and maintain secrecy of the signature device and to protect it from any unauthorized access, disclosure, or use during the period when reliance on a signature created by the signature device is reasonable.
- 5) The Act requires that the digital signature be created, and be linked to the electronic record to which it relates, in a manner that, if the record or the signature is intentionally or unintentionally changed after being signed, the electronic signature is invalidated.

Section 105.220 State PKI Procedures

CMS shall:

- a) inform each applicant or subscriber that the subscriber it is bound by the CPS and CP;
- b) require each subscriber to enter into a subscriber agreement that governs each subscriber's performance with respect to use of and reliance on certificates issued by CMS. The subscriber agreement may be viewed at http://www.illinois.gov/pki/pki_subscriber.cfm;
- c) provide each applicant or subscriber with a copy of the CPS and CP, or the website (<http://www.illinois.gov/pki/>) where the CPS and CP can be obtained;
- d) include warranty disclaimers, liability limitations and indemnification provisions in the CPS or CP;
- e) inform each applicant or subscriber as to changes made to the CPS or CP on a timely basis;

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- f) inform each subscriber as to his or her responsibility to maintain the confidentiality of his or her private key; and
- g) inform each applicant or subscriber as to his or her responsibility to maintain a private key in a trustworthy manner.

Section 105.230 Revocation or Suspension of Certification of a Security Procedure

- a) CMS may revoke or suspend the certification of a security procedure for failure to comply with any requirement of this Part or the CPS or CP, for failure to remain qualified for certification, or for failure to comply with a lawful order of CMS.
- b) A person may request reconsideration of a decision to revoke or suspend the certification of a security procedure, but the request must be submitted no later than 30 days after the decision was issued. All requests for reconsideration must be submitted to CMS in writing. Reconsideration of a decision to revoke or suspend the certification of a security procedure is made by CMS. A person who is adversely affected by a CMS decision resolving a request for reconsideration under this Section may appeal that decision as provided under Section 105.60.

Section 105.240 Foreign Public Sector Certificate Authorities

- a) CMS may recognize a foreign public sector CA, provided that the foreign public sector CA is certified and/or licensed by the United States government and agrees to be bound by the Illinois CP and CPS and Illinois law.
- b) A foreign public sector CA shall provide to CMS a certified copy of its United States certificate and/or license. A certificate or license shall be valid in Illinois only during the time it is valid in the issuing jurisdiction.
- c) A foreign public sector CA shall provide written notification to CMS if its United States certification and/or license is revoked, lapsed or otherwise terminated. CMS shall be notified within 10 days after the revocation, lapse or termination occurs.

SUBPART C: AGENCY UTILIZATION

Section 105.300 Identified and Approved Electronic Signature Activity

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The Department has identified and recognizes the following agency electronic signature utilization:

Agency Name	Application Type – Project Description – Objective
Agriculture	Desktop application
Aging	TruePass web application
Aging	TruePass internal application
Auditor General	Desktop software for encryption
CMS	Using TruePass to control access to Mobius report viewing server for tracking time usage of employees
CMS	TruePass system to authenticate into Enterprise Web Operations site
CMS	Encrypted Disaster Recovery information contained on flash drives. Uses desktop Entelligence suite
DHS	Secure email
DCEO	TruePass/Access Manager – Access mainframe applications through the internet
HFS	TruePass authentication to Health and Family Services MEDI portal
EPA	TruePass/GetAccess internet application for online eforms
Fire Marshal	Entrust Security Provider for desktop encryption and secure email
IGAC	Desktop encryption and signing
ISAC	Teacher Education Scholarship Program (CollegeZone)
IDOT	Digital signatures with electronic forms (leave slips and time cards)
IDOT	Entrust Desktop Solutions with Word and Excel
IEMA	Desktop encryption via Entelligence
Illinois State Police	State Police application to automatically encrypt attachments for background checks
Illinois State Police	STICS (State Terrorism Information Center System) access

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Illinois State Police	TruePass system developed for photo enforcement of traffic
Law Enforcement Training and Standards Board	Provide end users with access to training database
Office of Executive Inspector General for the Agencies of the Governor	Electronic timekeeping using digital signatures
Office of Executive Inspector General for the Agencies of the Governor	Desktop software
Pollution Control Board	Use of Entrust TruePass to provide authentication
Property Tax Appeal Board	Entrust Security Provider and Adobe forms
Revenue	Desktop software
State Employee Retirement System	TruePass/Access Manager – online State employee benefits
Veterans' Affairs	Encryption of documents using desktop suite

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- 1) Heading of the Part: Enterprise Zone and High Impact Business Programs
- 2) Code Citation: 14 Ill. Adm. Code 520
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
520.700	Amendment
520.1200	New Section
520.1210	New Section
520.1220	New Section
520.1230	New Section
520.1240	New Section
520.1250	New Section
520.1260	New Section
520.1270	New Section
520.1280	New Section
- 4) Statutory Authority: Implementing the Illinois Enterprise Zone Act [20 ILCS 655]; Section 201(f), (g) and (h) of the Illinois Income Tax Act [35 ILCS 5]; Sections 1d-1f, 1i-1j and 1o of the Retailers' Occupation Tax Act [35 ILCS 120]; and Sections 9-221, 9-222, and 9-222.1 of the Public Utilities Act [220 ILCS 5]; and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605].].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules implement provisions of the Blue Collar Jobs Act authorized by P.A. 101-0009, Article 20 (20 ILCS 655/5.5). The proposed rules provide the Department with the ability to administer construction job tax credits under the Enterprise Zone and High Impact Business Programs, as provided for by the Act.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments regarding these rules shall be presented in writing within 45 days after the date of this issue of the *Illinois Register* to:

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

jolene.clarke@illinos.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses and small municipalities affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: A tax-credit recipient is required to submit to the Department of Labor and the Department of Commerce and Economic Opportunity a certified payroll for each month of an active construction project. The taxpayer is required to maintain a copy of all submitted records for a period of five years.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent Regulatory Agendas because the Department did not anticipate the changes.

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

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TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 520

ENTERPRISE ZONE AND HIGH IMPACT BUSINESS PROGRAMS

SUBPART A: ENTERPRISE ZONES IN ILLINOIS

Section
520.100 Definitions

SUBPART B: ENTERPRISE ZONE:
APPLICATION FOR CERTIFICATION

Section
520.200 Eligible Applicants
520.210 Eligibility Criteria
520.220 Form of Application
520.230 Application Procedures
520.240 Joint Application
520.250 Application Evaluation and Ranking

SUBPART C: ENTERPRISE ZONE:
AMENDMENT AND DECERTIFICATION

Section
520.300 Application to Amend an Ordinance
520.310 Application to Change Boundaries
520.315 Application to Change Incentives, Alter Termination Date, and Make Technical Corrections
520.320 Decertification

SUBPART D: ENTERPRISE ZONE:
LOCAL RESPONSIBILITIES

Section
520.400 Zone Administration
520.410 Reporting and Monitoring by Zone Administrators

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520.420 Business Cessation Notification

SUBPART E: ENTERPRISE ZONE:
DESIGNATED ZONE ORGANIZATIONS

Section

520.500 General
520.510 Project Eligibility and Approval
520.520 Charitable Contributions

SUBPART F: HIGH IMPACT BUSINESSES IN ILLINOIS

Section

520.600 Definitions
520.610 Eligible Applicants
520.620 Eligibility Criteria
520.630 Form of Application
520.640 Application Approval Process
520.650 Revocation of High Impact Business Designation

SUBPART G: TAX INCENTIVES FOR ENTERPRISE ZONES
AND HIGH IMPACT BUSINESSES

Section

520.700 List of Available Tax Incentives
520.710 Eligible Applicants (Repealed)
520.720 Eligibility Criteria (Repealed)
520.730 Form of Application (Repealed)
520.740 Application Review and Approval (Repealed)
520.750 Revocation of the High Impact Business Designation (Repealed)

SUBPART H: INVESTMENT TAX CREDIT

Section

520.800 General
520.810 Eligibility Criteria (Repealed)
520.820 Form of Application (Repealed)
520.830 Application Review and Approval Process (Repealed)

SUBPART I: UTILITY TAX EXEMPTION

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Section	
520.900	Definitions
520.910	Eligibility Criteria
520.920	Form of Application
520.930	Application Approval Process

SUBPART J: MACHINERY AND EQUIPMENT/POLLUTION CONTROL
FACILITIES SALES TAX EXEMPTION

Section	
520.1000	Definitions
520.1010	Eligibility Criteria
520.1020	Form of Application
520.1030	Application Approval Process

SUBPART K: BUILDING MATERIAL SALES TAX EXEMPTION

Section	
520.1100	General
520.1110	Eligibility Criteria (Repealed)
520.1120	Form of Application (Repealed)
520.1130	Application and Approval Process (Repealed)
520.1140	Use Tax Exemption (Repealed)

SUBPART L: JOBS TAX CREDIT

Section	
520.1200	<u>Definitions</u> General (Repealed)
520.1210	<u>Available Tax Credits</u>
520.1220	<u>Eligibility</u>
520.1230	<u>Application Requirements</u>
520.1240	<u>Application Review and Approval Process</u>
520.1250	<u>Applicant Reporting Requirements</u>
520.1260	<u>Books and Records</u>
520.1270	<u>Non-Applicant Reporting Requirements</u>
520.1280	<u>Noncompliance</u>

SUBPART M: DIVIDEND INCOME DEDUCTION

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Section
520.1300 General

SUBPART N: INTEREST INCOME DEDUCTION FOR FINANCIAL INSTITUTIONS

Section
520.1400 General

SUBPART O: TELECOMMUNICATIONS EXCISE TAX EXEMPTION
ON ORIGINATING CALLS

Section
520.1500 General

SUBPART P: HIGH IMPACT SERVICE FACILITY MACHINERY AND
EQUIPMENT SALES TAX EXEMPTION

Section
520.1600 Definitions
520.1610 Eligibility Criteria
520.1620 Form of Application
520.1630 Application Approval Process
520.1640 Use Tax Exemption
520.1650 Revocation of the High Impact Service Facility Designation

SUBPART Q: AIRCRAFT SUPPORT CENTER SALES TAX EXEMPTION

Section
520.1700 Definitions
520.1710 Eligibility Criteria
520.1720 Form of Application
520.1730 Application and Approval Process
520.1740 Revocation of an Aircraft Support Center Designation

SUBPART R: AIRCRAFT MAINTENANCE FACILITY SALES TAX EXEMPTION

Section
520.1800 Definitions

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- 520.1810 Eligibility Criteria
- 520.1820 Form of Application
- 520.1830 Application and Approval Process
- 520.1840 Revocation of an Aircraft Maintenance Facility Designation

AUTHORITY: Implementing the Illinois Enterprise Zone Act [20 ILCS 655]; Section 201(f), (g) and (h) of the Illinois Income Tax Act [35 ILCS 5/201(f), (g) and (h)]; Sections 1d-1f, 1i-1j and 1o of the Retailers' Occupation Tax Act [35 ILCS 120/1d-1f, 1i-1j, and 1o]; and Sections 9-221, 9-222, and 9-222.1 of the Public Utilities Act [220 ILCS 5/9-221, 9-222 and 9-222.1]; and authorized by Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95].

SOURCE: Adopted at 9 Ill. Reg. 11790, effective July 24, 1985; emergency amendments at 10 Ill. Reg. 4936, effective March 11, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 7323, effective April 18, 1986; amended at 10 Ill. Reg. 12563, effective July 7, 1986; amended at 10 Ill. Reg. 12915, effective July 22, 1986; amended at 10 Ill. Reg. 15200, effective September 8, 1986; amended at 10 Ill. Reg. 16580, effective September 24, 1986; amended at 10 Ill. Reg. 19718, effective November 6, 1986; amended at 11 Ill. Reg. 11054, effective June 5, 1987; emergency amendments at 11 Ill. Reg. 11174, effective June 8, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 16091, effective September 29, 1987; amended at 12 Ill. Reg. 4115, effective February 8, 1988; amended at 12 Ill. Reg. 11201, effective June 17, 1988; amended at 12 Ill. Reg. 17823, effective October 21, 1988; emergency amendment at 13 Ill. Reg. 16117, effective October 2, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 19936, effective December 7, 1989; amended at 14 Ill. Reg. 3445, effective February 27, 1990; amended at 15 Ill. Reg. 8683, effective May 30, 1991; amended at 16 Ill. Reg. 89, effective December 20, 1991; amended at 17 Ill. Reg. 1837, effective February 1, 1993; amended at 18 Ill. Reg. 5172, effective March 21, 1994; amended at 27 Ill. Reg. 3282, effective February 14, 2002; amended at 27 Ill. Reg. 6165, effective March 28, 2003; amended at 35 Ill. Reg. 13125, effective August 1, 2011; amended at 36 Ill. Reg. 16067, effective October 26, 2012; emergency amendment at 37 Ill. Reg. 5006, effective March 28, 2013, for a maximum of 150 days; emergency amendment repealed at 37 Ill. Reg. 13457, effective August 2, 2013, for the remainder of the 150 days; emergency amendment at 37 Ill. Reg. 13502, effective August 2, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 457, effective December 20, 2013; amended at 40 Ill. Reg. 10858, effective July 29, 2016; amended at 45 Ill. Reg. _____, effective _____.

SUBPART G: TAX INCENTIVES FOR ENTERPRISE ZONES
AND HIGH IMPACT BUSINESSES

Section 520.700 List of Available Tax Incentives

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- a) Several tax incentives are available to businesses in Enterprise Zones and those designated as a High Impact Business. The following four are available to both Enterprise Zones and High Impact Businesses:
- 1) Investment Tax Credit found in the Illinois Income Tax Act [35 ILCS 5/201(f) and (h)];
 - 2) Utility Tax Exemption found in the Public Utilities Act [220 ILCS 5/9-222.1 and 9-222.1A];
 - 3) Machinery and Equipment/Pollution Control Facilities Sales Tax Exemption found in the Retailers' Occupation Tax Act [35 ILCS 120/1d - 1f]; and
 - 4) Building Material Sales Tax Exemption found in the Retailers' Occupation Tax Act [35 ILCS 120/5k and 5l].
- b) Two tax incentives available to High Impact Businesses that are located within a Foreign Trade Zone or Sub-Zone:
- 1) Dividend Income Deduction found in the Illinois Income Tax Act [35 ILCS 5/203(a)(2)(K), (b)(2)(L), (c)(2)(O) and (d)(2)(M)]; and
 - 2) Interest Income Deduction for Financial Institutions found in the Illinois Income Tax Act [35 ILCS 5/203(b)(2)(M) and (M-1)].
- c) A tax incentive available to businesses in Enterprise Zones as well as High Impact Businesses located within a Foreign Trade Zone or Sub-Zone is the Telecommunications Excise Tax Exemption on Originating Calls found in the Telecommunications Excise Tax Act [35 ILCS 630].
- d) A special tax incentive exists that is limited only to a High Impact Business Service Facility in an Enterprise Zone. This tax incentive is known as the High Impact Service Facility Machinery and Equipment Sales Tax Exemption and is found in the Retailers' Occupation Tax Act [35 ILCS 120/li and 1j].
- e) [A tax incentive is available to a certified High Impact Business labeled the High Impact Business construction jobs credit, which is only available to businesses that have been designated as High Impact Businesses by the Department \(see 35](#)

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ILCS 5/201(h-5)).

- f) A tax incentive available to businesses located within a certified Enterprise Zone is the Enterprise Zone construction jobs credit (see 35 ILCS 201(a) and (b)).

(Source: Amended at 45 Ill. Reg. _____, effective _____)

SUBPART L: JOBS TAX CREDIT

Section 520.1200 DefinitionsGeneral (Repealed)

The following definitions are applicable to this Subpart L.

"Blue Collar Jobs Act" or "Act" means the Act created by Article 20 of P.A. 101-9 that creates the Enterprise Zone construction jobs credit, the High Impact Business construction jobs credit, the River Edge construction jobs credit, and the New Construction EDGE credit (portions related to this Part codified at 20 ILCS 655/5.5 and 13).

"Enterprise Zone construction jobs credit" means an amount equal to 50% (or 75% if the project is located in an underserved area) of the incremental income tax attributable to Enterprise Zone construction jobs credit employees. [20 ILCS 655/13(e)]

"Enterprise Zone construction jobs credit employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of an Enterprise Zone construction jobs credit project. [20 ILCS 655/13(e)]

"Enterprise Zone construction jobs credit project" means building a structure or building or making improvements of any kind to real property commissioned and paid for by a business that has applied and been approved for an Enterprise Zone construction jobs credit pursuant to this Subpart. "Enterprise Zone construction jobs credit project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. [20 ILCS 655/13(e)]

"High Impact Business construction jobs credit" means an amount equal to 50% (or 75% if the High Impact Business construction project is located in an

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underserved area) of the incremental income tax attributable to High Impact Business construction job employees. [20 ILCS 655/5.5(i)]

"High Impact Business construction job employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a High Impact Business construction job project. [20 ILCS 655/5.5(i)]

"High Impact Business construction jobs project" means building a structure or building or making improvements of any kind to real property, undertaken and commissioned by a business that was designated as a High Impact Business by the Department. The term "High Impact Business construction jobs project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. [20 ILCS 655/5.5(i)]

"Incremental income tax" means the total amount withheld during the taxable year from the compensation of High Impact Business construction job employees or Enterprise Zone construction jobs credit employees. [20 ILCS 655/5.5(i) and 13(e)]

"Underserved area" means a geographic area that meets one or more of the following conditions:

the area has a poverty rate of at least 20% according to the latest federal decennial census;

75% or more of the children in the area participate in the federal free lunch program, according to reported statistics from the State Board of Education;

at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP); or

the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least 2 consecutive calendar years preceding the date of the application. [20 ILCS 655/5.5(i) and 13(e)]

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(Source: Former Section 520.1200 repealed at 38 Ill. Reg. 457, effective December 20, 2013, and new Section added at 45 Ill. Reg. _____, effective _____)

Section 520.1210 Available Tax Credits

The total aggregate amount of credits awarded under the Blue Collar Jobs Act shall not exceed \$20,000,000 in any State fiscal year.

a) Enterprise Zone

A business entity in a certified Enterprise Zone deemed an eligible applicant may qualify to receive a tax credit against the tax imposed under Section 201(a) and (b) of the Illinois Income Tax Act (IITA) in an amount equal to 50% of the amount of the incremental income tax attributable to Enterprise Zone construction jobs credit employees employed while completing an Enterprise Zone construction jobs project. However, the Enterprise Zone construction jobs credit may equal 75% of the amount of the incremental income tax attributable to Enterprise Zone construction jobs credit employees if the Enterprise Zone construction jobs credit project is in an underserved area. The Department will inform the Department of Revenue of eligible taxpayers and amount to be awarded. If the entity receives a credit, a certified payroll shall be maintained.

b) High Impact Business

A High Impact Business may receive a tax credit against the tax imposed under IITA Section 201(a) and (b) in an amount equal to 50% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees employed while completing a High Impact Business construction jobs project. However, the High Impact Business construction jobs credit may equal 75% of the amount of the incremental income tax attributable to High Impact Business construction jobs credit employees if the High Impact Business construction jobs credit project is in an underserved area. The Department will inform the Department of Revenue of eligible taxpayers and amount to be awarded. If the entity receives a credit, a certified payroll shall be maintained.

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1220 Eligibility

a) Enterprise Zones

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A business entity in a certified Enterprise Zone shall be eligible for a jobs tax credit providing the entity has made a minimum eligible capital investment of \$10,000,000 in an Enterprise Zone construction jobs project. The Enterprise Zone construction jobs credit project must be undertaken by the business entity in the course of completing a project that complies with the criteria contained in Section 4 of the Illinois Enterprise Zone Act and is undertaken in a certified Enterprise Zone.

b) High Impact Business

A business entity that has been certified as a High Impact Business and is engaged and executing a High Impact Business construction jobs project is eligible to receive a High Impact Business jobs credit for employees employed in the completion of that construction project.

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1230 Application Requirements

- a) To qualify for a High Impact Business construction jobs credit or an Enterprise Zone construction jobs credit under the Act, an applicant must adhere to the requirements established by the Department. The Department will provide interested applicants with information upon request. Submittal of a tax credit claimant application does not commit the Department to award a tax credit or to pay any costs incurred by the applicant in the preparation of an application. Applications are valid only for the calendar year quarter in which they are submitted to the Department.
- b) An application shall be submitted to the Department on a standard application form provided by the Department. An application shall, at a minimum, request the following:
- 1) The name, address, email, and telephone number of applicants; key contact and title; applicant Social Security Number or Federal Employer Identification Number (FEIN);
 - 2) The total amount of investment the claimant has made in the Enterprise Zone construction jobs project if the applicant is applying for an Enterprise Zone construction jobs credit;

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- 3) The nature and the benefit of the project to the certified Enterprise Zone and its potential contributors, if the applicant is applying for an Enterprise Zone construction jobs credit;
 - 4) A copy of approval from the designating municipality or county for the Enterprise Zone construction jobs credit project, if the applicant is applying for an Enterprise Zone construction jobs credit;
 - 5) Identification of whether the project is located in an underserved area; and
 - 6) Any other information the Department determines necessary to facilitate the Department's evaluation.
- c) The applicant is responsible for the accuracy of all data, information, and documentation submitted to the Department.
 - d) Except for information mandated to be reported to the General Assembly and information permitted to be accessed in accordance with the Freedom of Information Act [5 ILCS 140], any materials or data made available or received by any agent or employee of the Department shall be made confidential and shall not be deemed public records to the extent that the materials or data consist of trade secrets or commercial or financial information regarding the operation of the business conducted by the applicant for, or recipient of, any tax credit under the Act.

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1240 Application Review and Approval Process

- a) On January 1, 2021, the Department shall accept applications for High Impact Business construction jobs credits and Enterprise Zone construction jobs credits. Applications will be reviewed in the order received by the Department. Application tracking procedures shall be determined and established at the discretion of the Department.
- b) For businesses seeking an Enterprise Zone construction jobs credit, the Department, within 45 days after receiving an application, will give notice to the applicant as to whether the application has been approved. If the Department disapproves the application, it will specify the reasons for this decision and allow

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60 days for the applicant to amend and resubmit its application. The Department will provide assistance, upon request, to applicants. Resubmitted applications shall receive the Department's approval or disapproval within 30 days after the application is resubmitted. Those resubmitted applications satisfying initial Department objectives shall be approved unless reasonable circumstances warrant disapproval.

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1250 Applicant Reporting Requirements

- a) Each applicant who the Department determines is entitled to a High Impact Business Construction jobs credit or an Enterprise Zone construction jobs credit shall agree to require each contractor and subcontractor who is engaged in and executing either a High Impact Business construction jobs project or an Enterprise Zone construction jobs project, for a business that is entitled to a credit, to:
- 1) Make and keep, for a period of 5 years from the date of the last payment made on or after June 5, 2019, on a contract or subcontract for a High Impact Business construction jobs project or an Enterprise Zone construction jobs project, records for all laborers and other workers employed by the contractor or subcontractor on the project. The records shall include the worker's:
- A) Name;
 - B) Address;
 - C) Telephone number, if available;
 - D) Social Security Number;
 - E) Classification or classifications;
 - F) Gross and net wages paid in each pay period;
 - G) Number of hours worked each day;
 - H) Starting and ending times of work each day;

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- I) Hourly wage rate; and
- J) Hourly overtime wage rate; and
- 2) No later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the High Impact Business construction jobs project or the Enterprise Zone construction jobs project. The certified payroll shall be provided within 5 business days after receiving it. The taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity. A certified payroll shall be filed for only those calendar months during which construction on a High Impact Business construction jobs project or an Enterprise Zone construction jobs project has occurred. The certified payroll shall consist of a complete copy of the records identified in subsection (a)(1), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor, or an officer, employee, or agent of the contractor or subcontractor, averring that:
 - A) He or she has examined the certified payroll records required to be submitted by the Act and this Part and those records are true and accurate; and
 - B) The contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor.
- b) A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, if that general contractor does not knowingly rely upon a subcontractor's false certification. [20 ILCS 655/5.5(j) and 13(d)]
- c) The records submitted under Section 520.1250 shall be kept and maintained by the taxpayer in charge of the project for 5 years from the date of last payment for work on a contract or subcontract for the project.

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1260 Books and Records

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- a) The records submitted in accordance with Section 520.1250(a)(1), except an employee's address, telephone number, and Social Security Number, shall be considered public records and shall be made available in accordance with the Freedom of Information Act. The Department of Labor shall accept any reasonable submissions by the contractor that meet the requirements of this Section and Section 520.1250(a)(1) and shall share the information with the Department in order to comply with the awarding of a High Impact Business construction jobs credit. A contractor, subcontractor, or public body may retain, in paper or electronic format, records required under this Section.
- b) Upon written or electronic notice, each contractor or subcontractor, within seven business days, shall make all documents required by Section 520.1250(a)(1) available for inspection and copying at a location within the State, during its regular business hours, to the following entities:
- 1) The taxpayer in charge of the High Impact Business construction jobs project and its officers and agents;
 - 2) The Director of the Department of Labor and his or her deputies and agents; and
 - 3) Federal, State, or local law enforcement agencies and prosecutors. [20 ILCS 655/5.5(j) and 13(d)]

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1270 Non-Applicant Reporting Requirements

- a) For an Enterprise Zone construction jobs project, the designated zone organization shall annually submit to the Department a statement on the program and financial status of any approved project. The designated zone organization shall also submit to the Department an audited financial statement regarding the project.
- b) The Department shall annually report and certify to the Department of Revenue:
- 1) The identity of taxpayers that are eligible for a High Impact Business construction jobs credit or an Enterprise Zone construction jobs credit; and

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- 2) The amount of High Impact Business construction jobs credits and Enterprise Zone construction credits that are claimed pursuant to IITA Section 201.

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section 520.1280 Noncompliance

The following are in violation of the Act and guilty of a Class A misdemeanor:

- a) Any contractor or subcontractor subject to this Subpart, and any officer, employee, or agent of the contractor or subcontractor, whose duty is to file a certified payroll under Section 520.1250(a)(2) and who willfully fails to file that certified payroll on or before the 15th day of the calendar month; and
- b) Any person who willfully files a certified payroll that is false as to any material fact. [20 ILCS 655/5.5(j) and 13(d)]

(Source: Added at 45 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: River Edge Redevelopment Zone Program
- 2) Code Citation: 14 Ill. Adm. Code 524
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
524.20	Amendment
524.510	Amendment
524.530	New Section
- 4) Statutory Authority: Implementing Sections 10-3, 10-6, 10-10.3 and 10-10.4 of the River Edge Redevelopment Zone Act [65 ILCS 115].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules implement provisions of the Blue Collar Jobs Act authorized by P.A. 101-0009, Article 65 (65 ILCS 115). The proposed rules provide the Department with the ability to administer construction jobs tax credits under the River Edge Redevelopment Program, as provided for by the Act.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments regarding these rules shall be presented in writing within 45 days after the date of this issue of the *Illinois Register* to:

Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity

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500 E. Monroe
Springfield IL 62701

jolene.clarke@illinos.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses and small municipalities affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: A tax-credit recipient is required to submit to the Department of Labor and the Department of Commerce and Economic Opportunity a certified payroll for each month of an active construction project. The taxpayer is required to maintain a copy of all submitted records for a period of five years.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent Regulatory Agendas because the Department did not anticipate the changes.

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

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TITLE 14: COMMERCE

SUBTITLE B: CONSUMER PROTECTION

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 524

RIVER EDGE REDEVELOPMENT ZONE PROGRAM

SUBPART A: RIVER EDGE REDEVELOPMENT ZONES IN ILLINOIS

Section

- 524.10 Purpose
- 524.20 Definitions

SUBPART B: APPLICATION FOR CERTIFICATION

Section

- 524.110 Eligible Applicants
- 524.120 Eligibility Criteria
- 524.130 Form of Application
- 524.140 Application Procedures
- 524.150 Application Evaluation and Ranking
- 524.160 Certification

SUBPART C: AMENDMENT AND DECERTIFICATION

Section

- 524.210 Application to Amend an Ordinance
- 524.220 Application to Change Boundaries
- 524.230 Application to Change Incentives, Alter Termination Date, and Make Technical Corrections
- 524.240 Decertification
- 524.250 Adoption of Tax Increment Financing

SUBPART D: LOCAL RESPONSIBILITIES

Section

- 524.310 Zone Administration
- 524.320 Business Cessation Notification

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SUBPART E: DESIGNATED ZONE ORGANIZATIONS

Section

- 524.410 General
- 524.420 Project Eligibility and Approval
- 524.430 Charitable Contributions

SUBPART F: TAX INCENTIVES

Section

- 524.510 List of Available Tax Incentives
- 524.520 Investment Tax Credit
- 524.530 [River Edge Construction Jobs](#) Tax Credit ~~(Repealed)~~
- 524.540 Environmental Remediation Tax Credit
- 524.550 Dividend Income Deduction
- 524.560 Interest Income Deduction
- 524.570 Building Materials Sales Tax Exemption

SUBPART G: RIVER EDGE REDEVELOPMENT GRANT PROGRAM

Section

- 524.610 Purpose
- 524.620 Application Cycle
- 524.630 Eligible Program Costs
- 524.640 Grant Application
- 524.650 Review of Grant Applications

AUTHORITY: Implemented and authorized by Section 10-6 of the River Edge Redevelopment Zone Act [65 ILCS 115/10-6].

SOURCE: Adopted by emergency rule at 30 Ill. Reg. 17575, effective October 23, 2006, for a maximum of 150 days; emergency rules modified pursuant to Joint Committee on Administrative Rules Objection at 31 Ill. Reg. 2680, effective January 22, 2007, for the remainder of 150 days; adopted at 31 Ill. Reg. 5509, effective March 20, 2007; amended at 38 Ill. Reg. 3350, effective January 15, 2014; amended at 45 Ill. Reg. _____, effective _____.

SUBPART A: RIVER EDGE REDEVELOPMENT ZONES IN ILLINOIS

Section 524.20 Definitions

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Act – The River Edge Redevelopment Zone Act [65 ILCS 115/Art. 10] that creates the River Edge Redevelopment Program.

Agency – Each officer, board, commission, and agency created by the Constitution, in the executive branch of State government, other than the State Board of Elections; each officer, department, board, commission, agency, institution, authority, university, and body politic and corporate of the State; each administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts, and board of election commissioners; and each administrative unit or corporate outgrowth of ~~these entities~~the above and as may be created by executive order of the Governor. No entity is an "agency" for the purposes of the Act unless the entity is authorized by law to make rules or regulations.

Application – A request for program funds, including the required information and attachments.

"Blue Collar Jobs Act" means the Act created by Article 20 of P.A. 101-9 (portions related to this Part codified at 65 ILCS 115/10-3, 10-6, 10-10.3 and 10-10.4) that creates the Enterprise Zone construction jobs credit, the High Impact Business construction jobs credit, the River Edge construction jobs credit, and the New Construction EDGE credit.

Bondable Capital Improvements – As defined ~~in~~under 71 Ill. Adm. Code 50 and undertaken by a business organization, not-for-profit corporation or local government.

Business Organization – Any for-profit business entity, or association of business entities, duly authorized to conduct business in the State of Illinois~~sole proprietorship, limited partnership, co-partnership, joint venture, corporation, or cooperative.~~

Department – The Illinois Department of Commerce and Economic Opportunity.

Designated Zone Organization – An association or entity:

The members of which are substantially all residents of the River Edge Redevelopment Zone;

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The Board of Directors of which is elected by the members of the organization;

That satisfies the criteria set forth in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code (26 USC 501(c)(3) or (4)); and

That exists primarily for the purpose of performing within the area or Zone for the benefit of the residents and businesses in the area or Zone any of the functions set forth in Section 8 of the Act [65 ILCS 115/10-8].

Grant – Funds that require no repayment to be used by a qualified applicant.

[Incremental Income Tax – The total amount withheld during the taxable year from the compensation of River Edge Construction Jobs Employees.](#)

Local Government – Any unit of local government as defined in Article VII, Section 1 of the 1970 Illinois Constitution.

Minority Person, ~~Woman~~Female, and Person with a Disability – Have the meanings set forth under Section 2 of the Business Enterprise for Minorities, Women~~Females~~ and Persons with Disabilities Act [30 ILCS 575/2].

Not-for-Profit Corporation – A corporation incorporated pursuant to the General Not For Profit Corporation Act of 1986 [805 ILCS 105] and in good standing with the Illinois Secretary of State.

Program – River Edge Redevelopment Grant Program.

Qualified Applicants – Local governments, not-for-profit corporations, and business organizations.

Redevelopment Project – An endeavor undertaken, during a specified time period, to improve cleared or undeveloped land, including, but not limited to, erection of buildings and other facilities by public or private entities, and site improvements installed by a local government in order to prepare the land for disposition to developers.

Recipient – Any eligible applicant receiving funds under this program.

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River Edge Construction Jobs Credit – An amount equal to 50% of the incremental income tax attributable to River Edge construction employees employed on a River Edge construction jobs project. However, the amount may equal 75% of the incremental income tax attributable to River Edge construction employees employed on a River Edge construction jobs project located in an underserved area. The total aggregate amount of credits awarded under the Blue Collar Jobs Act (Article 20 of P.A. 101-9 (portions related to this Part codified at 65 ILCS 115/10-3, 10-10.3 and 10-10.4)) shall not exceed \$20,000,000 in any State fiscal year. [65 ILCS 115/10-3]

River Edge Construction Jobs Employee – A laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a River Edge construction jobs project. [65 ILCS 115/10-3]

River Edge Construction Jobs Project – Building a structure or building, or making improvements of any kind to real property, in a River Edge Redevelopment Zone that is built or improved in the course of completing a qualified rehabilitation plan. "River Edge construction jobs project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. [65 ILCS 115/10-3]

River Edge Redevelopment Zone or Zone – An area of the State certified by the Department as a River Edge Redevelopment Zone, pursuant to the Act.

Rule – Each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include statements concerning only the internal management of an agency and not affecting rights or procedures available to persons or entities outside the agency; intra-agency memoranda; or the prescription of standardized forms.

Veteran – An Illinois resident who is a veteran as defined in 10 USC 1491(h).

(Source: Amended at 45 Ill. Reg. _____, effective _____)

SUBPART F: TAX INCENTIVES

Section 524.510 List of Available Tax Incentives

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Several tax incentives are available to businesses in a River Edge Redevelopment Zone:

- a) Investment Tax Credit found in the Illinois Income Tax Act ([IITA](#)) [35 ILCS 5/201(e) and (f)];
- b) Environmental Remediation Tax Credit found in the Illinois Income Tax Act [35 ILCS 35/201(h)(1)(n)];
- c) Dividend Income Deduction found in the Illinois Income Tax Act [35 ILCS 5/203(a)(2)(J), (b)(2)(K), (c)(2)(M) and (d)(2)(K)];
- d) Interest Income Deduction found in the [IITA](#) ~~Illinois Income Tax Act~~ [35 ILCS 5/203(b)(2)(M)]; ~~and~~
- e) Building Material Sales Tax Exemption found in the Retailers' Occupation Tax Act [35 ILCS 120/2-54]; ~~and~~
- f) [River Edge construction jobs tax credit found in the Illinois Income Tax Act \[35 ILCS 5/221\(a-2\)\].](#)

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 524.530 [River Edge Construction Jobs Tax Credit](#) ~~(Repealed)~~

- a) [A business entity may receive a tax credit against the tax imposed under IITA Section 201\(a\) and \(b\) of in an amount equal to 50% \(or 75% if the project is located in an underserved area\) of the amount of the incremental income tax attributable to River Edge construction jobs employees employed in the course of completing a River Edge construction jobs project. The credit allowed under Section 10-10.3 of the Act shall apply only to taxpayers that make a capital investment of at least \\$1,000,000 in a qualified rehabilitation plan. \[65 ILCS 115/10-10.3\(a\)\] The Department will announce on its website funding availability and any relevant information regarding the application. The amount of funding available will not exceed the total aggregate amount of credits that can be possibly awarded under the Blue Collar Jobs Act, which shall not exceed \\$20,000,000 in any fiscal year. \[65 ILCS 115/10-10.3\(g\)\]](#)
- b) [To qualify for a tax credit certificate under this Section, an applicant must adhere to the requirements established by the Department. The Department will provide](#)

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interested applicants with information upon request. Submittal of a tax credit claimant application does not commit the Department to award a tax credit or to pay any costs incurred by the applicant in the preparation of an application. Applications are valid only for the calendar year quarter in which they are submitted to the Department. An application shall be submitted to the Department on a standard application form provided by the Department. An application shall, at a minimum, include:

- 1) The name, address, email, and telephone number of applicants; key contact and title; applicant Social Security Number or Federal Employer Identification Number (FEIN);
 - 2) The total amount of investment the claimant has made in the River Edge construction jobs project;
 - 3) The nature and the benefit of the River Edge construction jobs project to the qualified rehabilitation project and the certified River Edge Redevelopment Zone; and
 - 4) Any other information the Department determines necessary to facilitate the Department's evaluation.
- c) The applicant is responsible for the accuracy of all data, information and documentation submitted to the Department. The Department will accept applications for River Edge construction jobs credits. Applications will be reviewed in the order received by the Department. Application tracking procedures shall be determined and established at the discretion of the Department.
- d) The Department, within 45 days after receiving a River Edge construction jobs credit application, will give notice to the applicant as to whether the application has been approved. If the Department disapproves the application, it will specify the reasons for this decision and allow 60 days for the applicant to amend and resubmit its application. The Department will provide assistance, upon request, to applicants. Resubmitted applications will receive the Department's approval or disapproval within 30 days after the application is resubmitted. Those resubmitted applications satisfying initial Department objectives will be approved unless reasonable circumstances warrant disapproval. [65 ILCS 115/10-10.3(c)]

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- e) *For a River Edge construction jobs project, the designated zone organization shall annually submit to the Department a statement on the program and financial status of any approved project. The designated zone organization shall also submit to the Department an audited financial statement regarding the project. [65 ILCS 115/10-10.3(d)]*
- f) *The Department will annually report and certify to the Department of Revenue:*
- 1) *The identity of taxpayers that are eligible for a River Edge construction jobs credit; and*
 - 2) *The amount of River Edge construction jobs credits that is claimed pursuant to IITA Section 201. [65 ILCS 115/10-10.3(e)]*
- g) *The Department, in collaboration with the Department of Labor, will require certified payroll reporting be completed in order to verify the wages and any other necessary information the Department may deem necessary to ascertain and certify the total number of River Edge construction jobs employees and determine the amount of a River Edge construction jobs credit. [65 ILCS 115/10-10.3(f)]*
- h) *Each contractor and subcontractor engaged in, and that is executing, a River Edge construction jobs project for an applicant for a River Edge construction jobs tax credit shall complete the following:*
- 1) *Make and keep, for a period of 5 years from the date of the last payment made on or after June 5, 2019, on a contract or subcontract for a River Edge construction jobs project, records for all laborers and other workers employed by the contractor or subcontractor on the project. The records shall include the worker's:*
 - A) *Name;*
 - B) *Address;*
 - C) *Telephone number, if available;*
 - D) *Social Security Number;*
 - E) *Classification or classifications;*

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- F) Gross and net wages paid in each pay period;
 - G) Number of hours worked each day;
 - H) Starting and ending times of work each day;
 - I) Hourly wage rate; and
 - J) Hourly overtime wage rate [65 ILCS 115/10-10.4(a)(1)]; and
- 2) No later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the River Edge construction jobs project. The certified payroll shall be provided within 5 business days after receiving it. The taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity. A certified payroll shall be filed for only those calendar months during which construction on a River Edge construction jobs project has occurred. The certified payroll shall consist of a complete copy of the records identified in subsection (h)(1), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor, or an officer, employee, or agent of the contractor or subcontractor, averring that:
- A) He or she has examined the certified payroll records required to be submitted by the Act and this Part and those records are true and accurate; and
 - B) The contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor. A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, if the general contractor does not knowingly rely upon a subcontractor's false certification. [65 ILCS 115/10-10.4(a)(2)]
- i) The records submitted in accordance with subsection (h)(1), except an employee's address, telephone number, and Social Security Number, shall be considered public records and shall be made available in accordance with the Freedom of

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Information Act. The Department of Labor shall accept any reasonable submissions by the contractor that meet the requirements of this subsection (i) and shall share the information with the Department in order to comply with the awarding of a River Edge construction jobs credit. A contractor, subcontractor, or public body may retain, in paper or electronic format, records required under this Section. [65 ILCS 115/10-10.4] The records submitted under subsection (h)(1) shall be kept and maintained by the taxpayer in charge of the project for 5 years from the date of last payment for work on a contract or subcontract for the project.

j) Upon written or electronic notice, each contractor and subcontractor, within 7 business days, shall make all documents required by Section 524.530(h)(1) available for inspection and copying, at a location within this State, during its regular business hours, to the following entities:

- 1) The taxpayer in charge of the River Edge construction jobs project, its officers and agents;
- 2) The Director of the Department of Labor and his or her deputies and agents; and
- 3) Federal, State, or local law enforcement agencies and prosecutors. [65 ILCS 115/10-10.4]

(Source: Former Section 524.530 repealed at 38 Ill. Reg. 3350, effective January 15, 2014 and new Section added at 45 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Economic Development for a Growing Economy Program (EDGE)
- 2) Code Citation: 14 Ill. Adm. Code 527
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
527.20	Amendment
527.30	Amendment
527.50	Amendment
527.90	Renumbered/New Section
527.100	Renumbered
527.110	Renumbered
527.120	Renumbered
- 4) Statutory Authority: Implementing Sections 5-5, 5-15 and 5-51, and authorized by Section 5-80 of the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10] and the Business Location Efficiency Incentive Act [35 ILCS 11].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules implement provisions of the Blue Collar Jobs Act authorized by P.A. 101-9, Article 35 (35 ILCS 10). The proposed rules provide the Department with the ability to administer construction jobs tax credits utilizing the New Construction EDGE agreement, as provided for by the Act.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed

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rulemaking: Comments regarding these rules shall be presented in writing within 45 days after the date of this issue of the *Illinois Register* to:

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

jolene.clarke@illinos.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses and small municipalities affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: A tax-credit recipient is required to submit to the Department of Labor and the Department of Commerce and Economic Opportunity a certified payroll for each month of an active construction project. The taxpayer is required to maintain a copy of all submitted records for a period of five years.
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included in either of the two most recent Regulatory Agendas because the Department did not anticipate the changes.

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

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TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 527

ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY PROGRAM (EDGE)

Section

527.10	Purpose
527.20	Definitions
527.30	Eligibility Determination
527.40	Form of Application
527.50	Application Review
527.60	Application Denial/Approval
527.70	Determination of Amount and Term of the Credit
527.80	Tax Credit Agreement
<u>527.90</u>	<u>New Construction EDGE Credit</u>
<u>527.100</u> 527.90	Certificate of Verification
<u>527.110</u> 527.100	Noncompliance with the Agreement
<u>527.120</u> 527.110	Recapture and Reallocation of Recaptured Amounts

AUTHORITY: Implementing Sections 5-15, 5-15 and 5-51, and authorized by Section 5-80 of the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10] and the Business Location Efficiency Incentive Act [35 ILCS 11].

SOURCE: Emergency rules adopted at 23 Ill. Reg. 10862, effective August 16, 1999, for a maximum of 150 days; emergency expired on January 22, 2000; adopted at 24 Ill. Reg. 6884, effective April 19, 2000; amended at 29 Ill. Reg. 1186, effective January 5, 2005; amended at 31 Ill. Reg. 8085, effective May 23, 2007; amended at 32 Ill. Reg. 8916, effective June 3, 2008; emergency amendment at 41 Ill. Reg. 13104, effective October 3, 2017, for a maximum of 150 days; emergency expired March 1, 2018; amended at 42 Ill. Reg. 6320, effective March 20, 2018; amended at 45 Ill. Reg. _____, effective _____.

Section 527.20 Definitions

The following definitions are applicable to this Part.

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"Accessible and affordable mass transit" means access to transit stops with regular and frequent service within one mile from the project site and pedestrian access to transit stops.

"Act" means the Economic Development for a Growing Economy Tax Credit Act [35 ILCS 10].

"Affordable workforce housing" means owner-occupied or rental housing that costs, based on current census data for the municipality where the project is located or any municipality within 3 miles of the municipality where the project is located, no more than 35% of the median salary at the project site, exclusive of the highest 10% of the site's salaries. If the project is located in an unincorporated area, "affordable workforce housing" means no more than 35% of the median salary at the project site, excluding the highest 10% of the site's salaries, based on the median cost of rental or of owner-occupied housing in the county where the unincorporated area is located.

"Agreement" means the Agreement between a Taxpayer and the Department under the provisions of Section 5-50 of *the Act*. [35 ILCS 10/5-5]

"Applicant" means a Taxpayer that is operating a business located, or that the Taxpayer plans to locate, within the State of Illinois and that is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, assembling, warehousing, or distributing products, conducting research and development, providing tourism services, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, retail food, health, or professional services. "Applicant" does not include a Taxpayer who closes or substantially reduces an operation at one location in the State and relocates substantially the same operation to another location in the State. This does not prohibit a Taxpayer from expanding its operations at another location in the State, provided that existing operations of a similar nature located within the State are not closed or substantially reduced. This also does not prohibit a Taxpayer from moving its operations from one location in the State to another location in the State for the purposes of expanding the operation, provided that the Department determines that expansion cannot reasonably be accommodated within the municipality in which the business is located or, in the case of a business located in an incorporated area of the county, within the county in which the business is located, after conferring with the chief elected official of the municipality or county and taking into consideration any evidence

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offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county. [35 ILCS 10/5-5]

"Blue Collar Jobs Act" means the Act created by Article 20 of P.A. 101-9 (portions related to this Part codified at 35 ILCS 10/5-5, 5-51 and 5-56) that creates the Enterprise Zone construction jobs credit, the High Impact Business construction jobs credit, the River Edge construction jobs credit, and the New Construction EDGE credit.

"Business Location Efficiency Incentive" means the incentive created by the Business Location Efficiency Incentive Act [35 ILCS 11].

"Capital improvements" shall include the purchase, renovation, rehabilitation, or construction of permanent tangible land, buildings, structures, equipment and furnishings in an approved project sited in Illinois and in expenditures for goods or services that are normally capitalized, including organizational costs and research and development costs incurred in Illinois. For land, buildings, structures and equipment that are leased, the lease must equal or exceed the term of the Tax Credit Agreement and the cost of the property shall be determined from the present value, using the corporate interest rate prevailing at the time of the application, of the lease payments.

"Credit" means the amount agreed to between the Department and Applicant under the Act, but not to exceed the lesser of:

the sum of:

50% of the Incremental Income Tax attributable to New Employees at the Applicant's project; and

10% of the training costs of New Employees; or

100% of the Incremental Income Tax attributable to New Employees at the Applicant's project.

However, if the project is located in an underserved area, then the amount of the Credit may not exceed the lesser of:

the sum of:

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75% of the Incremental Income Tax attributable to New Employees at the Applicant's project and

10% of the training costs of New Employees; or

100% of the Incremental Income Tax attributable to New Employees at the Applicant's project.

If an Applicant agrees to hire the required number of New Employees, then the maximum amount of the Credit for that Applicant may be increased by an amount not to exceed 25% of the Incremental Income Tax attributable to Retained Employees at the Applicant's project; provided that, in order to receive the increase for Retained Employees, the Applicant must provide the additional evidence required under Section 5-25(b)(3). [35 ILCS 10/5-5]

"Department" means the Illinois Department of Commerce and Economic Opportunity. [35 ILCS 10/5-5]

"Director" means the Director of the Illinois Department of Commerce and Economic Opportunity. [35 ILCS 10/5-5]

"Employee housing or transportation remediation plan" means a plan to increase affordable housing or transportation options, or both, for employees earning up to the median annual salary of the workforce at the project. The plan may include, but is not limited to, an employer-financed assisted housing program that can be supplemented by State or federal grants or shuttle services between the place of employment and existing transit stops or other reasonably accessible places.

"Existence of infrastructure" means the existence, within 1,500 feet of the proposed site, of roads, sewers, sidewalks, and other utilities and a description of the investments or improvements, if any, that an applicant expects State or local government to make to that infrastructure.

"Full-time Employee" means an individual who is employed for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment. [35 ILCS 10/5-5] Annually scheduled periods for inventory or repairs, vacations, holidays and paid time for sick leave, vacation or other leave shall be included in

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this computation of full-time employment. *An individual for whom a W-2 is issued by a Professional Employer Organization (PEO) is a full-time employee if employed in the service of the Applicant for consideration for at least 35 hours each week or who renders any other standard of service generally accepted by industry custom or practice as full-time employment to the Applicant.* [35 ILCS 10/5-5] For example, an employee who works 25 hours per week is considered the industry standard for full-time in the package delivery industry and an employee who is employed for a least 35 hours per week during the historical seasonal production is considered the industry standard for full-time in the candy manufacturing industry.

"Incremental Income Tax" means the *total amount withheld during the taxable year from the compensation of New Employees and, if applicable, Retained Employees under Article 7 of the Illinois Income Tax Act [35 ILCS 5] arising from employment at a project that is the subject of an Agreement.* [35 ILCS 10/5-5]

"Labor Surplus Area" or "LSA" must have an average unemployment rate at least ~~20% percent~~ above the average rate for all states (plus the District of Columbia and Puerto Rico) during the previous two calendar years. However, the ~~20% percent~~ ratio is disregarded:

when this 2-year average for all states is ~~8.3% percent~~ or above, an average unemployment rate of ~~10% percent~~ or more will qualify an area; and

when the all-states' average is ~~5.0% percent~~ or less, an area will qualify with a ~~6.0% percent~~ average.

The U.S. Department of Labor issues the labor surplus area listing on a fiscal year basis. The listing becomes effective each October 1 and remains in effect through the following September 30, but may be updated at any time during the fiscal year based on exceptional circumstance petitions. LSAs are classified on the basis of civil jurisdictions (cities with a population of at least 25,000 and all counties). LSAs are authorized by Public Law 96-302 and 20 CFR 654.

"Local workforce investment area" means a single county or multiple counties designated by the Governor, which allows for the receipt of an allotment of funds under ~~section~~Sections 127(b) or 132(b) of the Workforce Innovation and

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Opportunity Act, (PL 113 through 128 (2014)) (WIOA), with considerations consisting of the extent to which the areas:

are consistent with labor market areas in the State;

are consistent with regional economic development areas in the State; and

have available the federal and non-federal resources necessary to effectively administer activities under subtitle B and other applicable provisions of WIOA,

including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

"Location efficient" means a project that maximizes the use of existing investments in infrastructure; avoids or minimizes additional government expenditures for new infrastructure; and has nearby housing affordable to the permanent workforce of the project, or has accessible and affordable mass transit or its equivalent, or some combination of both.

"Location efficiency report" means a report that is prepared by an applicant for increased State economic development assistance, under Section 10 of the Business Location Efficiency Incentive Act [35 ILCS 11/40] and follows that Act, and that describes the existence of affordable workforce housing or accessible and affordable mass transit or its equivalent. [35 ILCS 11/5]

"New Construction EDGE Agreement" means the Agreement between a Taxpayer and the Department under Section 5-51 of the Act. [35 ILCS 10/5-5]

"New Construction EDGE Credit" means an amount agreed to between the Department and the Applicant under the Act as part of a New Construction EDGE Agreement that does not exceed 50% of the Incremental Income Tax attributable to New Construction EDGE Employees at the Applicant's project; however, if the New Construction EDGE Project is located in an underserved area, then the amount of the New Construction EDGE Credit may not exceed 75% of the Incremental Income Tax attributable to New Construction EDGE Employees at the Applicant's New Construction EDGE Project. [35 ILCS 10/5-5]

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"New Construction EDGE Employee" means a laborer or worker who is employed by an Illinois contractor or subcontractor in the actual construction work on the site of a New Construction EDGE Project, pursuant to a New Construction EDGE Agreement. [35 ILCS 10/5-5]

"New Construction EDGE Incremental Income Tax" means the total amount withheld during the taxable year from the compensation of New Construction EDGE Employees. [35 ILCS 10/5-5]

"New Construction EDGE Project" means the building of a Taxpayer's structure or building, or making improvements of any kind to real property. "New Construction EDGE Project" does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property. [35 ILCS 10/5-5]

"New Employee" means a full-time employee first employed by a Taxpayer in the project that is the subject of an Agreement and who is hired after the Taxpayer enters into the tax credit Agreement and who continues to be employed by the Taxpayer on the last day of the taxable year for which the Taxpayer seeks a Credit under ~~the~~^{this} Act.

The term "New Employee" does not include:

an employee of the Taxpayer who performs a job that was previously performed by another employee, if that job existed for at least 6 months before hiring the employee;

an employee of the Taxpayer who was previously employed in Illinois by a Related Member of the Taxpayer and whose employment was shifted to the Taxpayer after the Taxpayer entered into the tax credit Agreement;

any individual who has a direct or an indirect ownership interest of at least 5% in the profits, equity, capital, or value of the Taxpayer or a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has a direct or an indirect ownership interest of at least 5% in the profits, equity, capital, or value of the Taxpayer; or

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an employee of the Taxpayer who was previously employed in Illinois by the Taxpayer and whose employment was shifted to the project after the Taxpayer entered into the tax credit Agreement.

Notwithstanding the first indented paragraph under the employees that are not included in the term "New Employees", an employee may be considered a New Employee under the Agreement if the employee performs a job that was previously performed by an employee who was:

treated under the Agreement as a New Employee; and

promoted by the Taxpayer to another job. [35 ILCS 10/5-5]

Notwithstanding the first paragraph of this definition, the Department may award a Credit to an Applicant with respect to an employee hired prior to the date of the Agreement if:

the Applicant is in receipt of a letter from the Department stating an intent to enter into a credit Agreement;

the letter described in the first indented paragraph under the employees that are not included in the term "New Employees" is issued by the Department not later than 15 days after the effective date of the Act; and

the employee was hired after the date the letter described in the first indented paragraph under the employees that are not included in the term "New Employees" was issued.

An employee shall be considered a new employee under the Agreement if the employee fills a job vacancy that had been continuously vacant for the 184 day period immediately preceding the date of the Agreement. A job vacancy whose incumbent is on approved leave, is locked out or is on strike is not a vacancy.

"Noncompliance Date" means, in the case of a Taxpayer that is not complying with the requirements of the Agreement or the provisions of the Act, the day following the last date upon which the Taxpayer was in compliance with the

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requirements of the Agreement and the provisions of the Act, as determined by the Director, pursuant to Section 5-65 of the Act. [35 ILCS 10/5-5]

"Pass Through Entity" means an entity that is exempt from the tax under Section 205(b) or (c) of the Illinois Income Tax Act. [35 ILCS 10/5-5]

"Placed in service" means the state or condition of readiness and availability for a specifically assigned function.

"Professional Employer Organization" or "PEO" means an employee leasing company that is an individual or entity contracting with a client to supply or assume responsibility for personnel management of one or more workers to perform services for the client on an on-going basis rather than under a temporary help arrangement, as defined in Section 206.1(A)(2) of the Illinois Unemployment Insurance Act [820 ILCS 405]. [35 ILCS 10/5-5]

"Professional services" means a taxpayer engaged in the practice of law or medicine.

"Project" means a for-profit economic development activity or activities at a single site, or of one or more taxpayers at multiple sites if the economic activities are vertically integrated.

"Project costs" includes cost of the project incurred or to be incurred by the taxpayer including: *capital investment, including, but not limited to, equipment, buildings, or land; infrastructure development; debt service, except refinancing of current debt; research and development; job training and education; lease costs or relocation costs*, but excludes the value of State incentives, including discretionary tax credits, discretionary job training grants, or the interest savings of below market rate loans. [35 ILCS 10/5-30]

"Related Member" means a person that, with respect to the Taxpayer during an portion of the taxable year, is any one of the following:

An individual stockholder, if the stockholder and the members of the stockholder's family (as defined in section 318 of the Internal Revenue Code (26 USC)) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the Taxpayer's outstanding stock.

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A partnership, estate, or trust of any partner or beneficiary, if the partnership, estate, or trust, and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, equity, capital, stock, or value of the Taxpayer.

A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code, if the Taxpayer owns directly, indirectly, beneficially, or constructively at least 50% of the value of the corporation's outstanding stock.

A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of section 318 of the Internal Revenue Code, if the corporation and all such related parties own in the aggregate at least 50% of the profits, equity, capital, stock, or value of the Taxpayer.

A person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code, except, for purposes of determining whether a person is a Related Member under this paragraph, 20% shall be substituted for 5% wherever 5% appears in section 1563(e) of the Internal Revenue Code. [30 ILCS 10/5-5]

"Retained Employee" means a Full-Time Employee employed by a Taxpayer during the term of the Agreement whose job duties are directly and substantially-related to the project. For purposes of this definition, "directly and substantially-related to the project" means at least two-thirds of the employee's job duties must be directly related to the project and the employee must devote at least two-thirds of his or her time to the project. The term "Retained Employee " does not include any individual who has a direct or an indirect ownership interest of at least 5% in the profits, equity, capital, or value of the Taxpayer or a child, grandchild, parent, or spouse, other than a spouse who is legally separated from the individual, of any individual who has direct or indirect ownership interest of at least 5% in the profits, equity, capital, or value of the taxpayer.

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"Taxpayer" means an individual, corporation, partnership, or other entity that has any Illinois Income Tax liability. [35 ILCS 10/5-5]

"Training costs" means costs incurred to upgrade the technological skills of Full-Time Employees in Illinois and includes: curriculum development; training materials (including scrap product costs); trainee domestic travel expenses; instructor costs (including wages, fringe benefits, tuition and domestic travel expenses); rent, purchase or lease of training equipment; and other usual and customary training costs. "Training costs" do not include costs associated with travel outside the United States (unless the Taxpayer receives prior written approval for the travel by the Director based on a showing of substantial need or other proof the training is not reasonably available within the United States), wages and fringe benefits of employees during periods of training, or administrative cost related to Full-Time Employees of the Taxpayer.

"Underserved area" means a geographic area that meets one or more of the following conditions:

the area has a poverty rate of at least 20% according to the latest federal decennial census, the most recent American Community Survey released by the U.S. Census Bureau, or other appropriate data source produced by the U.S. Census Bureau;

75% or more of the children in the area are eligible to participate in the federal free lunch or reduced-price meals program according to reported statistics from the State Board of Education;

at least 20% of the households in the area receive assistance under the Supplemental Nutrition Assistance Program (SNAP) according to data from the U.S. Census Bureau; or

the area has an average unemployment rate, as determined by the Illinois Department of Employment Security, that is more than 120% of the national unemployment average, as determined by the U.S. Department of Labor, for a period of at least two consecutive calendar years preceding the date of the application. [35 ILCS 10/5-5]

(Source: Amended at 45 Ill. Reg. _____, effective _____)

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Section 527.30 Eligibility Determination

- a) *Any Taxpayer that is engaged in interstate or intrastate commerce for the purpose of manufacturing, processing, assembling, warehousing, or distributing products, conducting research and development, providing tourism services, or providing services in interstate commerce, office industries, or agricultural processing, but excluding retail, retail food, health, or professional services is an eligible business. [35 ILCS 10/5-5]*

- b) A Taxpayer who is operating an eligible business that is located, or plans to be located, in the State of Illinois may be an "Applicant". *Applicant does not include a Taxpayer who closes or substantially reduces an operation at one location in the State and relocates substantially the same operation to another location in the State.*
 - 1) *This does not prohibit a Taxpayer from expanding its operations at another location in the State, provided that existing operations of a similar nature located within the State are not closed or substantially reduced within the last two years. For the purpose of this Section, "substantially reduced" means a reduction in employment of 33.33% or more. A Taxpayer may not enter into more than one Agreement with respect to a single address or location for the same period of time. This provision does not preclude the Applicant from entering into an additional Agreement after the expiration of an earlier Agreement to the extent the Taxpayer's application otherwise satisfies the terms and conditions of the Act and is approved by the Department.*

 - 2) *This also does not prohibit a Taxpayer from moving its operations from one location in the State to another location in the State for the purpose of expanding the operation, provided that the Department determines that the expansion cannot reasonably be accommodated within the municipality in which the business is located, or in the case of a business located in an incorporated area of the county, within the county in which the business is located. A determination under this subsection (b)(2) shall be made by the Department after conferring with the chief elected official of the municipality or county and taking into consideration any evidence offered by the municipality or county regarding the ability to accommodate expansion within the municipality or county. [35 ILCS 10/5-15]*

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- c) *In order to qualify for Credits under the Act, an Applicant's Project must:*
- 1) *if the Applicant has more than 100 employees, involve an investment of at least \$2,500,000 in capital improvements to be placed in service within the State as a direct result of the Project and the Applicant must employ a number of New Employees in the State equal to the lesser of 10% of the number of Full-Time employees employed by the Applicant world-wide on the date the application is filed with the Department or 50 New Employees; or*
 - 2) *if the Applicant has 100 or fewer employees, there is no capital improvement requirement but the Applicant must employ a number of New Employees in the State equal to the lesser of 5% of the number of Full-Time Employees employed by the Applicant world-wide on the date the application is filed with the Department or 50 New Employees.*
- d) *The Applicant must demonstrate that, if not for the Credit, the Project would not occur in Illinois, which may be demonstrated by evidence that receipt of the Credit is essential to the Applicant's decision to create new jobs in the State, such as the magnitude of the cost differential between Illinois and a competing state. In the event that the Applicant is seeking an increase in the amount of the Credit for Retained Employees, the Applicant must provide documentation:*
- 1) *evidencing that the Applicant has multi-state location options and could reasonably and efficiently locate outside of the State; or*
 - 2) *demonstrating that at least one other state is being considered for the Project. [35 ILCS 10/5-25]*
- e) *Identify a cost differential, using best available data, in the projected costs for the Applicant's Project compared to the costs in the competing state, including the impact of the competing state's incentive programs, for example, by demonstrating:*
- 1) *specific costs of labor, utilities, taxes and other costs of an out-of-state site or the industry's cost structure in the competing region; or*

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- 2) specific cost differential due to the impact of a competing state's incentive programs.
- f) In order to qualify for increased EDGE benefits under the Business Location Efficiency Incentive Act, the applicant must submit a location efficiency report that:
- 1) describes the existence of infrastructure at the Project site and satisfies Business Location Efficiency Incentive Act's standards for affordable workforce housing or affordable and accessible mass transit; or
 - 2) if the Department determines from the location efficiency report that the applicant is seeking assistance in an area that is not location efficient, the Department may award an increase in State economic development assistance if an applicant submits, and the Department accepts, an employee housing and transportation remediation plan or creates jobs in a labor surplus area as defined by the Department of Employment Security at the end of each calendar year.
- g) *To qualify for a New Construction EDGE Credit, an eligible applicant must meet the following criteria:*
- 1) *the Department has certified that the Applicant meets all requirements of Sections 5-15, 5-20, and 5-25; and*
 - 2) *the Department has certified that, pursuant to Section 5-20, the Applicant's Agreement includes a capital investment of at least \$10,000,000 in a New Construction EDGE Project to be placed in service within the State as a direct result of a New Construction EDGE Agreement. [35 ILCS 10/5-51(a)]*

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 527.50 Application Review

- a) Prior to substantive evaluation of an application, the Department shall screen all applications to determine that all requirements of the application package have been addressed. Applicants will be notified of deficiencies in applications and given an opportunity to correct those deficiencies through submission of

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additional documentation.

- b) The Department shall evaluate applications in accordance with the policies adopted by the Department or its Director. In evaluating applications, the Department shall determine that all of the following conditions exist:
- 1) *the Applicant's Project intends to make the required investment in the State and intends to hire the required number of New Employees and, when applicable, to maintain the required number of Retained Employees in Illinois as a result of that Project.*
 - 2) *the Applicant's Project is economically sound and will benefit the people of the State of Illinois by increasing opportunities for employment and strengthen the economy of Illinois.*
 - 3) *that, if not for the Credit, the Project would not occur in Illinois, which may be demonstrated by evidence that receipt of the Credit is essential to the Applicant's decision to create new jobs in the State, such as the magnitude of the cost differential between Illinois and a competing state. In the event that the Applicant is seeking an increase in the amount of the Credit for Retained Employees, the Applicant must provide documentation evidencing that the Applicant has multi-state location options and could reasonably and efficiently locate outside of the State, or demonstrating that at least one other state is being considered for the Project.*
 - 4) *a cost differential is identified, using best available data, in the projected costs for the Applicant's Project compared to the costs in the competing state, including the impact of the competing state's incentive programs. The competing state's incentive programs shall include state, local, private, and federal funds available.*
 - 5) *the political subdivisions affected by the Project have committed local incentives with respect to the Project, considering local ability to assist.*
 - 6) *awarding the Credit will result in an overall positive fiscal impact to the State, as certified by the Committee, using the best available data. [35 ILCS 10/5-25(b)]*
 - 7) if appropriate, an Applicant that has moved its operations from one

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political subdivision in the State to another political subdivision (and that has been determined by the Department to be an eligible Applicant) has demonstrated that it is not claiming a tax credit with respect to any jobs that the Taxpayer relocates from one site in Illinois to another site in Illinois.

- c) *The Department shall notify each Applicant during the application review process regarding whether its project is also eligible for a New Construction EDGE Credit. [35 ILCS 10/5-51(b)]*
- de) An Applicant may not enter into more than one Agreement with the Department with respect to the same location or address for the same period of time. This provision does not preclude the Applicant from entering into an additional Agreement after the expiration of an earlier Agreement to the extent the Taxpayer's application otherwise satisfies the terms and conditions of the Act and is approved by the Department.
- ed) The Department reserves the right to request the Committee *to convene, make inquiries, and conduct studies in the manner and by the methods it deems desirable, review information with respect to Applicants, and make recommendations on Projects to benefit the State. Recommendations that an Applicant's application for Credit should or should not be accepted shall occur within a reasonable time frame as determined by the nature of the application.* [35 ILCS 10/5-25(b)]

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 527.90 New Construction EDGE Credit

- a) *The Department shall provide an application for eligible applicants interested in applying for a New Construction EDGE credit. The Department will announce on its website funding availability and any relevant information regarding the application. The amount of funding available shall not exceed the total aggregate amount of credits that can be possibly awarded under the Blue Collar Jobs Act, which shall not exceed \$20,000,000 in any fiscal year. [35 ILCS 10/5-51(e)]* The application shall consist of the following:

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- 1) a detailed description of the New Construction EDGE Project that is subject to the New Construction EDGE Agreement, including the location and amount of the investment and jobs created or retained;
- 2) the duration of the New Construction EDGE Credit and the first taxable year for which the Credit may be claimed;
- 3) the New Construction EDGE Credit amount that will be allowed for each taxable year;
- 4) a requirement that the Director is authorized to verify with the appropriate State agencies the amount of the incremental income tax withheld by a Taxpayer, and after doing so, shall issue a certificate to the Taxpayer stating that the amounts have been verified;
- 5) the amount of the capital investment, which may, at no point, be less than \$10,000,000, the time period of placing the New Construction EDGE Project in service, and the designated location in Illinois for the investment;
- 6) a requirement that the Taxpayer shall provide written notification to the Director not more than 30 days after the Taxpayer determines that the capital investment of at least \$10,000,000 is not or will not be achieved or maintained as set forth in the terms and conditions of the Agreement;
- 7) a detailed provision that the Taxpayer shall be awarded a New Construction EDGE Credit upon the verified completion and occupancy of a New Construction EDGE Project;
- 8) any other performance conditions, including the ability to verify that a New Construction EDGE Project is built and completed, or that contract provisions, as the Department determines, are appropriate. [35 ILCS 10/5-51(b)]; and
- 9) any other information requested by the Department to assist in determining eligibility for the New Construction EDGE Credit.

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- b) The Department shall post on its website the terms of each New Construction EDGE Agreement entered under the Act. The terms shall be posted within 10 days after entering into the Agreement and must include the following:
- 1) The name of the recipient business;
 - 2) The location of the project;
 - 3) The estimated value of the Credit; and
 - 4) Whether the project is in an underserved area. [35 ILCS 10/5-51(c)]
- c) Each contractor and subcontractor engaged in, and that are executing, a New Construction EDGE Project for an applicant for a New Construction EDGE Tax Credit shall complete the following:
- 1) make and keep, for a period of 5 years from the date of the last payment made on or after June 5, 2019, on a contract or subcontract for a New Construction EDGE Project, records for all laborers and other workers employed by the contractor or subcontractor on the project. The records shall include the worker's:
 - A) Name;
 - B) Address;
 - C) Telephone number, if available;
 - D) Social Security Number;
 - E) Classification or classifications;
 - F) Gross and net wages paid in each pay period;
 - G) Number of hours worked each day;
 - H) Starting and ending times of work each day;
 - I) Hourly wage rate; and

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- J) Hourly overtime wage rate [35 ILCS 10/5-56(a)(1)]; and
- 2) no later than the 15th day of each calendar month, provide a certified payroll for the immediately preceding month to the taxpayer in charge of the New Construction EDGE Project. The certified payroll shall be provided within 5 business days after receiving it. The Taxpayer shall file the certified payroll with the Department of Labor and the Department of Commerce and Economic Opportunity. A certified payroll shall be filed for only those calendar months during which construction on a New Construction EDGE Project has occurred. The certified payroll shall consist of a complete copy of the records identified in subsection (c)(1) of this subsection (j), but may exclude the starting and ending times of work each day. The certified payroll shall be accompanied by a statement signed by the contractor or subcontractor, or an officer, employee, or agent of the contractor or subcontractor, averring that:
- A) he or she has examined the certified payroll records required to be submitted by the Act and this Part and those records are true and accurate; and
- B) the contractor or subcontractor is aware that filing a certified payroll that he or she knows to be false is a Class A misdemeanor. A general contractor is not prohibited from relying on a certified payroll of a lower-tier subcontractor, if the general contractor does not knowingly rely upon a subcontractor's false certification. [35 ILCS 10/5-56(a)]
- d) The Taxpayer in charge of the project shall maintain the records described in subsections (c) through (e) for a period of 5 years from the date of the last payment for work on a contract or subcontract for the project. The records submitted in accordance with the certified payroll, except an employee's address, telephone number, and Social Security Number, shall be considered public records, and shall be made available in accordance with the Freedom of Information Act [5 ILCS 140]. The Department will work in tandem with the Department of Labor to ascertain all reasonable submissions by the contractor that meet the requirements for a certified payroll in compliance with the statutory requirements for a New Construction EDGE Credit. A contractor, subcontractor,

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or public body may retain records in paper or electronic format. [35 ILCS 10/5-56(a)]

- e) Upon written or electronic notice, each contractor or subcontractor, within 7 business days, shall make all documents required by subsection (c)(1) available for inspection and copying, at a location within the State, during regular business hours, to the following entities:
- 1) The taxpayer in charge of the New Construction EDGE Project, its officers and agents;
 - 2) The Director of the Department of Labor and his or her deputies and agents; and
 - 3) Federal, State, or local law enforcement agencies and prosecutors. [35 ILCS 10/5-56(a)]

(Source: Added at 45 Ill. Reg. _____, effective _____)

Section ~~527.100~~527.90 Certificate of Verification

- a) The Taxpayer shall notify the Department on forms provided by the Department when the minimum eligible capital improvement investments have been placed in service and the minimum New Employee jobs have been created and that Retained Employees remain employed by the Taxpayer.
- b) The Taxpayer shall provide, for land and/or building acquisition, a copy of the purchase agreement; for building construction or renovation, a contractor's or architect's cost certification; for space rental, a rental/lease agreement.
- c) *For a Taxpayer to be eligible for a certificate of verification, the Taxpayer shall provide proof as required by the Department prior to the end of each calendar year, including, but not limited to, attestation by the Taxpayer that the Project:*
 - 1) *has achieved the level of Full-time New Employees and Retained Employees specified in the Agreement;*
 - 2) *has achieved the level of annual payroll in Illinois specified in the Agreement;*

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- 3) *has achieved the level of capital investment in Illinois specified in the Agreement;*
 - 4) has maintained the baseline employment specified in the Agreement; and
 - 5) the Taxpayer has materially complied with the terms of the Agreement and is not otherwise in violation of any provision of the Act.
- d) Upon receipt of valid proof from the Taxpayer, the Department shall provide the Taxpayer with a Certificate of Verification.
- e) *A Taxpayer claiming a Credit under the Act shall submit to the Department of Revenue a copy of the Director's certificate of verification under the Act for the taxable year. However, failure to submit a copy of the certificate with the Taxpayer's tax return shall not invalidate a claim for a Credit. [35 ILCS 10/5-55]*

(Source: Renumbered from Section 527.90 at 45 Ill. Reg. _____, effective _____)

Section ~~527.110~~527.100 Noncompliance with the Agreement

- a) *If the Department determines that a Taxpayer who has received a Credit under the Act is not complying with the requirements of the Agreement or all of the provisions of the Act, the Director shall provide notice to the Taxpayer of the alleged noncompliance, and allow the Taxpayer a hearing under the provisions of the Illinois Administrative Procedure Act [5 ILCS 100]. If, after notice and any hearing, the Director determines that a noncompliance exists, the Director shall issue to the Department of Revenue notice to that effect, stating the Noncompliance Date. [35 ILCS 10/5-65] Alleged noncompliance shall include:*
- 1) a demonstration that the Taxpayer would have placed in service the capital investment and created or retained the requisite number of New Employee jobs without the benefits of certification. Proof of this shall include, but is not limited to, correspondence, financial plans and prospectuses, internal memoranda and other written documentation demonstrating the Taxpayer would have taken the actions without the designation;

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- 2) a demonstration that the Taxpayer failed materially to comply with the terms and conditions of the Agreement;
 - 3) a determination upon investigation that the Taxpayer or any of its agents or representative provided false or misleading information to the Department;
 - 4) a failure to submit the annual report required by Section 5-57 of the Act;
or
 - 5) a failure to submit an annual progress report pursuant to an employee housing and transportation plan or a determination by the Department that adequate progress is not being made by the Taxpayer to implement the plan, which will result in the revocation of the increased tax credits, extension of the term of the Credit and/or other adjustments awarded pursuant to the Business Location Efficiency Incentive Act.
- b) The Department shall notify a Taxpayer in writing that it is subject to revocation. Such notice shall include the reason for revocation and the date and location of a hearing to be held pursuant to 56 Ill. Adm. Code 2605 (Administrative Hearing Rules).
- c) Following revocation the Department will contact the Director of the Illinois Department of Revenue who shall begin proceedings to recover wrongfully exempted State taxes.

(Source: Renumbered from Section 527.100 at 45 Ill. Reg. _____, effective _____)

Section ~~527.120~~527.110 Recapture and Reallocation of Recaptured Amounts

- a) *If, during the term of an Agreement, the Taxpayer ceases principal operations at a Project location that is the subject of that Agreement with the intent to terminate operations in the State, the Department and the Department of Revenue shall recapture from the Taxpayer the entire Credit amount awarded under the Agreement prior to the date the Taxpayer ceases principal operations.*
- 1) If the Department determines that a *Taxpayer ceases principal operations at a Project location that is the subject of that Agreement with the intent to*

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terminate operations in the State, the Director shall provide notice to the Taxpayer of that determination and allow the Taxpayer a hearing under the Illinois Administrative Procedure Act [5 ILCS 100]. Example of activities that evidence a cessation of operation at a Project location with an intent to terminate operations in the State include, but are not limited to, WARN notices reflecting layoffs in excess of 65% of the Full-time Employees located at the Project site, public announcements or other media reflecting an intent to relocate operations outside the State, or any other information the Department determines reflects an intent to discontinue operations at the Project site.

- 2) The Department shall notify a Taxpayer in writing that it is subject to recapture. The notice shall include the reason for revocation and the date and location of a hearing to be held pursuant to 56 Ill. Adm. Code 2605 (Administrative Hearing Rules).
 - 3) Following a determination that Credits received pursuant to an Agreement are subject to recapture, the Department will contact the Director of the Illinois Department of Revenue who shall begin proceedings to determine the amounts to be reallocated by the Department pursuant to Section 6-65 of the Act.
- b) *The Department shall, subject to appropriation, reallocate the recaptured amounts to the Local Workforce Investment Area, either by direct use of those or through grants as set forth in this subsection (b), in which the Project was located for the purposes of workforce development, expanded opportunities for unemployed persons, and expanded opportunities for women and minorities in the workforce. [35 ILCS 10/5-65]*
- 1) Any county, municipality, or other entity ("Grant Applicant") may apply for a grant from the Department under this Section *for the purposes of workforce development, expanded opportunities for unemployed persons, and expanded opportunities for women and minorities in the workforce* in the Local Workforce Investment Area (a "Grant").
 - i) An application should be submitted on the standard application form provided by the Department specifically setting forth how grant-related activities would directly support *workforce development, expanded opportunities for unemployed persons, and*

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expanded opportunities for women and minorities in the workforce
in the Local Workforce Investment Area.

- ii) The Department will evaluate applications based on the extent to which the Grant Applicant demonstrates that the proposed grant-related activities will directly support the purposes of this Section.
 - iii) Grant Applicants shall be notified in writing as to the Department's evaluation of all completed Grant Applications. If the Department denies a Grant Application, it will specify the reasons for the denial in writing and allow the Grant Applicant 30 days to amend and resubmit its application for evaluation.
 - iv) The Department shall determine the amount of funds awarded to any Grant Applicant under this Section.
 - v) Upon approval of a Grant Application, the Department shall enter into a Grant Agreement with the Grant Applicant in accordance with the Grant Accountability and Transparency Act (GATA) [30 ILCS 708], containing such terms and conditions as the Department deems necessary and proper to effect the purposes of the Act.
- 2) Grant funds shall be distributed in accordance with GATA, and any other applicable State laws.

(Source: Renumbered from Section 527.110 at 45 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Minimum Wage Law
- 2) Code Citation: 56 Ill. Adm. Code 210
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
210.110	Amendment
210.125	New Section
210.1010	Amendment
- 4) Statutory Authority: 820 ILCS 105
- 5) Complete Description of the Subjects and Issues Involved: This Part is being amended to define domestic worker, rest period, shared services, bona-fide meal break and sleep period. It will clarify the definition of "hours worked". Requires employers to keep time and pay records for domestic workers they employ. Clarifies the circumstances in which an employer may take a credit for meals and lodging provided to a domestic worker while employed.
- 6) Published studies and reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
210.115	New Section	45 Ill. Reg. 6894, June 11, 2021
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

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Jason Keller
Illinois Department of Labor
524 South 2nd St.
Springfield IL 62701

217/782-1706
Jason.keller@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Businesses impacted by this rule would be those that employ people that perform house cleaning, home management, nanny services, personal care giving, laundering, cooking, companion services, chauffeuring or other household services.
 - B) Reporting, bookkeeping or other procedures required for compliance: The new rule will require employers who employ domestic workers to maintain pay and time records.
 - C) Types of professional skills necessary for compliance: Maintaining pay and time records for employees.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:
 - 81 Other Services
 - B) Categories that the Agency reasonably believes the rulemaking will impact including:
 - i. hiring and additional staffing
 - viii. recordkeeping
 - ix. compensation and benefits
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2021

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

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

PART 210
MINIMUM WAGE LAW

SUBPART A: GENERAL PROVISIONS

Section	
210.100	Application of the Act
210.110	Definitions
210.120	The Use of Federal Definitions of Various Terms
210.125	Domestic Workers
210.130	Length of Coverage for an Employer
210.140	Uniforms
210.150	Forbidden Activity Covered by Other Laws
210.160	Communication with the Department and the Director

SUBPART B: ESTABLISHMENT OF MINIMUM
WAGE ALLOWANCE FOR GRATUITIES

Section	
210.200	Meals and Lodging

SUBPART C: SEX DISCRIMINATION

Section	
210.300	Sex Discrimination

SUBPART D: OVERTIME

Section	
210.400	Determining Workweek for Overtime
210.410	Exclusions from the Regular Rate
210.420	Regular Rate of Pay for Determination of Overtime
210.430	Methods of Computing Overtime
210.440	Overtime – General

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SUBPART E: EMPLOYMENT OF AN INDIVIDUAL WITH A DISABILITY
AT A WAGE LESS THAN THE MINIMUM WAGE RATE

- Section
- 210.500 Application for a License to Employ an Individual with a Disability at a Wage Less than the Minimum Wage Rate
- 210.510 Criteria Used to Establish the Necessity of a Sub-Minimum Wage

SUBPART F: EMPLOYMENT OF LEARNERS AT A WAGE
LESS THAN THE MINIMUM WAGE RATE

- Section
- 210.600 General Provisions
- 210.610 Application to Employ a Learner
- 210.620 Employing More Than One Learner
- 210.630 Basic Learner Training Requirements
- 210.640 Student Learners in Work Study Programs

SUBPART G: RECORDS, POSTING AND NOTICE REQUIREMENTS

- Section
- 210.700 Contents of Records
- 210.710 Identification of Learner or Individual with a Disability
- 210.720 Minimum Records of Gratuities
- 210.730 Records Kept Outside of the Business Premises
- 210.740 Notice to Employers – Copies of the Act and Rules and Regulations

SUBPART H: INSPECTION PROCEDURE

- Section
- 210.800 Investigations
- 210.810 Investigation Procedures
- 210.820 Enforcement Procedures

SUBPART I: INFORMAL INVESTIGATIVE CONFERENCE
ON INSPECTION RESULTS

- Section
- 210.900 Request for Review by Employer Subject to an Inspection

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210.910	Petition to Intervene by Employee or Former Employee Covered by an Inspection
210.920	Convening an Informal Investigative Conference
210.925	Continuances of Informal Investigative Conference
210.930	Application of the Rules of Evidence – Pleadings and Procedures in an Investigative Conference
210.940	Attorney and Witnesses in Investigative Conference
210.950	Contumacious Conduct in Investigative Conference
210.960	Telephone Conference
210.970	Request for Review

SUBPART J: ASSESSMENT OF PENALTIES AND PUNITIVE DAMAGES

Section	
210.1000	Assessment and Notice of Underpayment, Penalties, and Punitive Damages
210.1010	Employer Conduct Deemed Willful <u>Willful</u>
210.1020	Uncontested Payment of Underpayments, Penalties, and Punitive Damages
210.1030	Exception to Notice of Underpayments, Penalties, and Punitive Damages
210.1040	Informal Investigative Conference on the Assessment of Underpayments, Penalties, and Punitive Damages
210.1050	Final Determination of Penalties and Punitive Damages

AUTHORITY: Implementing and authorized by the Minimum Wage Law [820 ILCS 105].

SOURCE: Adopted at 19 Ill. Reg. 6576, effective May 2, 1995; amended at 20 Ill. Reg. 15312, effective November 15, 1996; amended at 25 Ill. Reg. 869, effective January 1, 2001; amended at 29 Ill. Reg. 4734, effective March 21, 2005; amended at 45 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 210.110 Definitions

"Act" means Minimum Wage Law [820 ILCS 105].

"Agriculture" means farming in all of its branches and among other things includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities (including commodities defined as agricultural commodities in Section 15(g) of the Agricultural Marketing Act, as amended (12 U.S.C. 1141 et

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seq.)), the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including forestry or lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with such farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market, but not the operation of processing such commodities and any activities subsequent to such operation. Agriculture shall not include the cultivation, growing, harvesting, or preparation for the storage or marketing of Christmas trees, as defined in the regulations promulgated under the Fair Labor Standards Act of 1938, at 29 C.F.R. 780.200 - 780.209 (1994, no subsequent dates or editions), as amended at 36 FR 12084. The phrase "incident to or in conjunction with" shall not include construction by a private contractor of farm buildings on a farm.

~~"Any individual permitted to work in domestic service in or about a private home", as used in Section 3(d)(3) of the Act, means a person whose primary duty is to perform non-commercial labor ordinarily carried out by a family member (in or about his/her immediate family's private home) without wages, including but not limited to: housekeeping, cooking, laundry, baby sitting, gardening, dog walking, running errands, chauffeuring of automobiles for family use, or butler, valet, maid, governess or night watch services. The phrase shall not include a person whose primary duty is to be a companion for individual(s) who are aged or infirm or a worker whose primary duty is to perform health care services in or about a private home.~~

"Aquaculture" means the controlled propagation, growth and harvest of aquatic organisms, including but not limited to fish, shell fish, mollusks, crustaceans, algae and other aquatic plants, as defined in the Aquaculture Development Act [20 ILCS 215].

"Bona fide meal break" means a period in which an employee is completely relieved from duty for the purposes of eating regular meals. Ordinarily 20 minutes or more is long enough for a bona fide meal break. An employee is not completely relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating.

"Compliance Officer" means an authorized representative of the Director who is charged with the duty to:

investigate and gather data regarding the wages, hours and other

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conditions and practices of employment in any industry subject to this Act; and

investigate such facts, conditions, practices or matters as ~~the officer he or she~~ may deem necessary or appropriate to determine whether any person has violated any provision of this Act, or which may aid in the enforcement of this Act.

"Department" means the Illinois Department of Labor.

"Director" means the Director of the Department or a duly authorized representative.

"Domestic worker" has the definition ascribed to it in the Domestic Workers' Bill of Rights Act [820 ILCS 182].

"Employee" means any individual permitted or suffered to work by an employer.

The Director will consider the following factors as significant when determining whether an individual is an employee -or an independent contractor:

the degree of control the alleged employer exercised over the individual;

the extent to which the services rendered by the individual are an integral part of the alleged employer's business;

the extent of the relative investments of the individual and alleged employer;

the degree to which the individual's opportunity for profit and loss is determined by the alleged employer;

the permanency of the relationship;

the skill required in the claimed independent operation.

The common law standards relating to master and servant, the parties'

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designations and terminology, and the individual's status for tax purposes, are not dispositive. Rather, it is the total activity or situation ~~that which~~ is controlling. In the case of an individual employed by a public agency, such term means any individual employed by the State of Illinois or any of its political subdivisions except for an individual who is a bona fide elective or appointed official.

"Governmental body" means the State and its agencies, municipalities and units of local government, and school districts.

"Hours worked" means all the time an employee is required to be on duty, or on the employer's premises, or at other prescribed places of work, and any additional time ~~the employee he or she~~ is required or permitted to work for the employer. In the context of domestic work, "hours worked" includes all time during which a domestic worker is required to be on the employer's premises and is not completely relieved of all work-related duties.

An employee's meal periods and time spent on-call away from ~~the his/her~~ employer's premise are compensable hours worked when such time is spent predominantly for the benefit of the employer, rather than for the employee.

An employee's travel, performed for the employer's benefit (for example, in response to an emergency call back to work outside ~~the employee's his/her~~ normal work hours, or at the employer's special request to perform a particular and unusual assignment, or as a part of the employee's primary duty, or in substitution of ~~the employee's his/her~~ ordinary duties during normal hours) is compensable work time as defined in 29 CFR 785.33 – 785.41 (1994, no subsequent dates or editions), as amended at 26 FR 190.

"Immediate family", as used in Section 3(d)(1) of the Act, means a person related to a subject employer either by blood, marriage or adoption and living as part of the same household. An employer who employs fewer than four employees exclusive of the employer's parent, spouse or child or ~~other member of his~~ immediate family member is not subject to the provisions of the Act or this Part.

"Including any radio or television announcer, news editor, or chief engineer, as defined by or covered by the Federal Fair Labor Standards Act of 1938", as used in Section 4a(2)(E) of the Act, means any employee employed as an announcer,

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news editor, or chief engineer by a radio or television station the major studio of which is located:

in a city or town of one hundred thousand population or less, according to the latest available decennial census figures as compiled by the Bureau of the Census, except where such city or town is part of a standard metropolitan statistical area, as defined and designated by the Bureau of the Budget, which has a total population in excess of 100,000; or

in a city or town of 25,000 population or less, which is part of such an area but is at least 40 airline miles from the principal city in such area, as defined in the Fair Labor Standards Act of 1938 (29 U.S.C. 213(b)(9)) and the regulations promulgated thereunder at 29 C.F.R. Part 793 (1995, no subsequent dates or editions), as amended at 26 FR 10275.

"Individuals whose capacity is impaired by age or physical or mental deficiency", as used in Section 5 of the Act and in Subpart E of this Part, means individuals whose earning or productive capacity are impaired by a physical or mental disability, including those relating to age or injury, for the work to be performed. Disabilities which may affect earning or productive capacity include blindness, mental illness, ~~intellectual disability~~~~mental retardation~~, cerebral palsy, alcoholism, and drug addiction. The following, taken by themselves, are not considered disabilities for the purposes of Section 5 of the Act and Subpart E of this Part: vocational, social, cultural, educational disabilities; chronic unemployment; receipt of welfare benefits; nonattendance at school; juvenile delinquency; and correctional parole or probation. Further, a disability which may affect earning or productive capacity for one type of work may not affect such capacity for another.

"Learners", as used in Section 6 of the Act and Subpart F of this Part, means individuals who are participating in a training program for an occupation in which they are employed. Such a training program must involve either formal instruction or on-the-job training during a period when the learners are entrusted with limited responsibility and are under supervision or guidance.

"Man-day" means any day during which an employee performs any agricultural labor for not less than one hour.

"A member of a religious corporation or organization" means an individual whose functions are spiritual or religious, such as a priest, rabbi, minister, nun, reverend

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or other such individuals who perform similar functions as their primary duties.

"Rest Period" means a period of time with complete freedom from all duties and during which an employee may either leave the employer's premises without an obligation to be on call or stay on the employer's premises for purely personal pursuits.

"Shared Services" means services provided by a domestic worker to more than one employer that are intentionally coordinated by the employers. For example, in the context of childcare services, shared services are commonly referred to as a "nanny share".

"Sleep Period" means a regularly scheduled sleeping time of not more than eight hours, during which the employer provides sleeping quarters that comply with Illinois law and an employee can sleep, uninterrupted by work related duties.

"Student learner", as used in Section 6 of the Act and Subpart F of this Part, means a student who receives course credit for participating in school-approved work study programs.

"Tipped employee" means an employee engaged in an occupation in which gratuities are customarily recognized as part of the remuneration of such employee as referred to in Section 4(c) of the Act; an employee cannot be deemed a tipped employee unless the employee ~~he or she~~ received \$20 or more per month in gratuities.

"Volunteer" means a person who works for an employer under no contract of hire, expressed or implied, and with no promise of compensation, other than reimbursement for expenses as part of the conditions for work. A volunteer is not an employee for the purposes of this Act.

"Wages" means compensation due to an employee by reason of ~~his/her~~ employment including allowances determined by the Director in accordance with the provisions of this Act. These allowances ~~shall~~will include gratuities and, when customarily furnished by a group of employers to their employees, meals, lodging and other facilities. When the reasonable cost of these allowances is not recorded by the employer, the Director will determine the fair value of such meals, lodging or other facilities for defined classes of employees based on the average cost to the employer or groups of employers, or other appropriate

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measures of fair value. Such evaluations, when applicable and pertinent, shall be used in lieu of the actual measure of cost in determining the wage paid to any employee.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 210.125 Domestic Workers

- a) Hours Worked. A domestic worker must be paid for all hours worked, excluding bona fide meal breaks, rest periods, and sleep periods.
- b) Recordkeeping. An employer shall maintain pay and time records for domestic workers, in accordance with 56 Ill. Adm. Code 210.700.
 - 1) Time records shall include records indicating each bona fide meal break, rest period, and sleep period taken in a workweek.
 - 2) In the absence of accurate employer time records, a domestic worker need only produce sufficient evidence to demonstrate the amount and extent of compensable time worked as a just and reasonable inference. Credible testimony by the employee is sufficient evidence. The employer must then produce evidence of the exact amount of work or time earned or produce evidence to negate the reasonable inferences drawn from the employee's evidence. The employer's failure to make and maintain records as required under subsection (b)(1) shall not preclude a finding based on the information available that compensable time is due, even though the award may be only approximate.
- c) Overtime. A domestic worker must be compensated at the overtime rate for all hours worked in excess of 40 in a workweek, regardless of the nature of the services provided. Where two or more employers share services, the hours worked by the domestic worker for each employer must be included in calculating total hours worked in the workweek for overtime purposes.
 - 1) Example: A worker is hired with the agreement to provide nanny services for two separate households. The worker works a combined 50 hours during the week. The worker is entitled to 10 hours of pay at overtime rates.

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- 2) Example: A worker is hired as a cashier at a family owned restaurant and the restaurant owner asks the worker to take care of her children a couple of days a week. The worker works a combined 60 hours during the week. The worker is entitled to 20 hours of pay at overtime rates.
- d) Lodging or meal credit.
- 1) An employer may take a credit from a domestic worker's wages for meals or lodging actually provided to the domestic worker, provided that:
- A) the domestic worker voluntarily and freely chooses the lodging or meals;
- B) the lodging is private, safe, and sanitary and otherwise complies with federal, State and local laws, ordinances or prohibitions;
- C) the employer maintains accurate records on a workweek basis of any lodging and meal credit taken for that work week, including records demonstrating:
- i) the costs incurred including itemized accounts of the nature and amounts of the expenditures; and
- ii) any deductions from wages, including overtime wages;
- D) the resulting credit for lodging does not exceed seven and one-half times the statutory minimum hourly wage for each week lodging is furnished (minimum wage X 7.5); and
- E) the employer takes a credit based on the reasonable cost of the meals and the resulting credit for meals does not exceed the actual cost.
- 2) An employer shall not take a lodging credit from the wages of a domestic worker if the employer requires that a domestic worker reside on the employer's premises or in a particular location or if the domestic worker maintains a separate place of residence and sleeps at the employers' premises for the benefit of the employer and for purposes of performing job duties.

ILLINOIS DEPARTMENT OF LABOR

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- 3) When an employer takes a lodging or meal credit, the base wage rate used to calculate overtime shall include the lodging or meal credit.

(Source: Added at 45 Ill. Reg. _____, effective _____)

SUBPART J: ASSESSMENT OF PENALTIES AND PUNITIVE DAMAGES

Section 210.1010 Employer Conduct Deemed ~~Willful~~Willful

An employer's conduct shall be deemed ~~willful~~willful when the employer knew its underpayment of wages was prohibited by the Act or showed reckless disregard of the wage payment requirements under the Act. All of the facts and circumstances surrounding the violations shall be taken into account in determining whether, by a preponderance of the evidence, an employer's conduct was ~~willful~~willful.

- a) An employer's conduct shall be deemed knowing, among other situations, if the employer received advice from a responsible, duly authorized representative of the Director to the effect that the conduct in question is not lawful; if the employer has previously received notice, through a responsible, duly authorized representative of the Director, that the employer allegedly was in violation of the Act; if a court or other tribunal has made a finding that the employer has previously violated the Act for underpaying its employees.
- b) An employer's conduct shall be deemed reckless, among other situations, if, as a result of previous advice of the Director, the employer was on notice that it should have inquired further into whether its conduct was in compliance with the Act and failed to make adequate further inquiries.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Minority Teachers of Illinois (MTI) Scholarship Program
- 2) Code Citation: 23 Ill. Adm. Code 2763
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2763.20	Amendment
2763.30	Amendment
2763.40	Amendment
- 4) Statutory Authority: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being revised to incorporate necessary program changes from P.A. 101-654, which was signed into law on March 8, 2021.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State Mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Jackie Eckley
Agency Rules Coordinator
Illinois Student Assistance Commission

ILLINOIS STUDENT ASSISTANCE COMMISSION

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500 West Monroe, 3rd Floor
Springfield IL 62704

217/782.5161
jackie.eckley@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: None
 - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2021

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2763

MINORITY TEACHERS OF ILLINOIS (MTI) SCHOLARSHIP PROGRAM

Section

2763.10	Summary and Purpose
2763.20	Applicant Eligibility
2763.30	Program Procedures
2763.40	Institutional Procedures

AUTHORITY: Implementing Section 50 and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/50 and 20(f)].

SOURCE: Emergency rules adopted at 15 Ill. Reg. 15621, effective October 11, 1991, for a maximum of 150 days; emergency expired on March 9, 1992; adopted at 16 Ill. Reg. 7048, effective April 21, 1992; emergency amendments adopted at 16 Ill. Reg. 16326, effective September 28, 1992, for a maximum of 150 days; emergency expired on February 25, 1993; emergency amendment at 17 Ill. Reg. 175, effective January 1, 1993, for a maximum of 150 days; emergency expired on May 30, 1993; amended at 17 Ill. Reg. 10585, effective July 1, 1993; amended at 18 Ill. Reg. 10325, effective July 1, 1994; amended at 19 Ill. Reg. 8361, effective July 1, 1995; amended at 20 Ill. Reg. 9221, effective July 1, 1996; amended at 20 Ill. Reg. 9221, effective July 1, 1996; old Part repealed, new Part adopted at 21 Ill. Reg. 11174, effective July 18, 1997; amended at 22 Ill. Reg. 11141, effective July 1, 1998; amended at 24 Ill. Reg. 9181, effective July 1, 2000; amended at 27 Ill. Reg. 10385, effective July 1, 2003; amended at 28 Ill. Reg. 9155, effective July 1, 2004; amended at 29 Ill. Reg. 9934, effective July 1, 2005; amended at 30 Ill. Reg. 11678, effective July 1, 2006; amended at 37 Ill. Reg. 9544, effective July 1, 2013; amended at 39 Ill. Reg. 8454, effective July 1, 2015; amended at 42 Ill. Reg. 13641, effective July 1, 2018; amended at 43 Ill. Reg. 15044, effective January 1, 2020; amended at 45 Ill. Reg. 8480, effective July 1, 2021; amended at 45 Ill. Reg. _____, effective _____.

Section 2763.20 Applicant Eligibility

- a) A qualified applicant shall:
 - 1) be a minority student or a qualified bilingual minority applicant;

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- 2) be a resident of Illinois;
 - 3) be a citizen or eligible noncitizen of the United States;
 - 4) be a high school graduate or a high school equivalency certificate recipient;
 - 5) be enrolled or accepted for enrollment on at least a half-time basis;
 - 6) ~~be a student~~ at an institution of higher learning;
 - 7) A) be enrolled or accepted for enrollment in a course of study which, upon completion, qualifies the student to be licensed as a preschool, elementary or secondary school teacher by the Illinois State Board of Education, including alternative teacher licensure; or
 - B) *if the applicant is already licensed to teach, be enrolled or accepted for enrollment in a course of study leading to an additional teaching endorsement or a master's degree in an academic field in which the applicant is teaching or plans to teach or has received one or more College and Career Pathway Endorsements (pursuant to Section 80 of the Postsecondary and Workforce Readiness Act) and commits to enrolling in a course of study leading to teacher licensure, including alternative teacher licensure. [110 ILCS 947/50]*
 - 78) if enrolled at the sophomore, junior, senior or graduate level, have earned a cumulative grade point average of 2.5 on a 4.0 scale; and
 - 89) be maintaining satisfactory academic progress as determined by the institution.
- b) In any academic year in which the qualified applicant accepts or receives financial assistance through the Paul Douglas Teacher Scholarship Program (23 Ill. Adm. Code 2762), Golden Apple Scholars of Illinois Program (23 Ill. Adm. Code 2764), the Special Education Teacher Tuition Waiver Program (23 Ill. Adm. Code

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2765), or the Teach Illinois Scholarship Program (23 Ill. Adm. Code 2768), the qualified applicant shall not be eligible for scholarship assistance under this Part.

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2763.30 Program Procedures

- a) An application for an MTI scholarship must be submitted annually and an applicant must also complete the Free Application for Federal Student Aid® (FAFSA). An A-completed ISAC application for the MTI Scholarship Program and a FAFSA must be postmarked on completed and received by a date determined by ISAC or before March 1 immediately preceding the regular school year for which the scholarship is being requested, in order to receive priority consideration for an award.
- 1) An application~~Applications~~ is~~are~~ available from qualified institutions of higher learning, on ISAC's website and ISAC's Springfield, Deerfield and Chicago offices.
 - 2) ~~ISAC will make renewal applications available to all qualified students who were awarded MTI Scholarships during the preceding regular school year.~~
 - 23) If the MTI application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will only be considered for processing as of the date when the application is complete and received by~~at~~ ISAC's Deerfield office.
- b) When an appropriation for the MTI Program for a given fiscal year is insufficient to provide scholarships to all qualified students, ISAC will allocate the available scholarship funds for that fiscal year to qualified students who submit a complete timely application, as specified in paragraph a) based on the following order of priority:
- 1) Funds will first be awarded to students who received the MTI scholarship in the prior academic year and who remain eligible for the MTI scholarship.

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- 2) To the extent allowed by the amount of funding that remains, at least 3530 percent of the funds appropriated for scholarships awarded under this Section in each fiscal year shall be reserved for male qualified applicants. If ISAC~~the Commission~~ does not receive enough applications from qualified male minorities on or before January 1 of each fiscal year to award 3530% of the funds appropriated for these scholarships to qualified male minority applicants, then ISAC~~the Commission~~ may award a portion of the reserved funds to qualified female minority applicants. [110 ILCS 947/50]
 - 3) When at least \$2,850,000, but less than \$4,200,000 is appropriated in a given fiscal year for MTI scholarships, then to the extent allowed by the amount of funding that remains, at least 10% of the funds appropriated shall be reserved for qualified bilingual minority applicants, with priority being given to qualified bilingual minority applicants who are enrolled in an educator preparation program with a concentration in bilingual, bicultural education.
 - 4) When at least \$4,200,000 is appropriated in a given fiscal year for MTI scholarships, then to the extent allowed by the amount of funding that remains, at least 30% of the funds appropriated shall be reserved for qualified bilingual minority applicants, with priority being given to qualified bilingual minority applicants who are enrolled in an educator preparation program with a concentration in bilingual, bicultural education. [110 ILCS 947/50]
 - 5) To the extent allowed by the amount of funding that remains after awarding to those applicants in the priority categories in subsections (1) through (4), ISAC may award the remaining funds to other qualified applicants.
- c) When an appropriation for the MTI scholarship in a given fiscal year is insufficient to provide scholarships to all qualified applicants within any of the categories in subsection (b), ISAC shall prioritize awards within that category in the following order:
- 1) first, on the basis of financial need;
 - 2) then, on the basis of the dates that the completed applications are received

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by ISAC; and

- 3) then, to qualified applicants enrolled at or above the junior level.
~~Notwithstanding the provisions of subsection (b), awards will be made first to renewing applicants.~~
- d) No recipient may receive more than 8 semesters/12 quarters of scholarship assistance under this program.
- e) Scholarship funds are applicable towards up to two semesters/three quarters of study within a regular school year.
- ~~f) The total number of scholarships awarded in a given fiscal year is contingent upon available funding. If appropriated funds are insufficient to provide all qualified applicants with a scholarship, available funds shall be allocated in accordance with subsections (b) and (c) and on the basis of the dates that the completed applications are received in ISAC's Deerfield office. However, preference may be given to qualified applicants enrolled at or above the junior level.~~
- fg) Qualified applicants may be required to furnish the postsecondary institution at which they are enrolled with a copy of their high school transcripts, any other documentation verifying high school graduation, or a copy of their high school equivalency certificates.
- gh) Prior to receiving scholarship assistance under this Part, the qualified applicant must sign a Teaching Agreement/Promissory Note that is submitted to ISAC. The Teaching Agreement/Promissory Note shall include the following stipulations:
- 1) the recipient pledges to teach, on a full-time equivalent basis, for one year for each year of scholarship aid received, or for any portion of a year for which aid was received, under this Part;
 - 2) the recipient shall begin teaching within one year following the completion of the program for which the recipient received assistance under this Part, and shall teach on a continuous basis for the required period of time;
 - 3) the teaching requirement will be fulfilled at a nonprofit Illinois public,

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private or parochial preschool, elementary school or secondary school at which no less than 30 percent of the enrolled students are minority students, as certified by the Illinois State Board of Education (ISBE). If a recipient received an MTI scholarship as a qualified bilingual minority applicant, the recipient may instead fulfill the teaching obligation in a transitional bilingual education program (as defined by Article 14 C of the School Code) or in a school in which at least 20 English learner students in the same language classification are enrolled;

- 4) if the teaching requirement is not fulfilled, the scholarship converts to a loan and the recipient must repay the entire amount of the scholarships prorated according to the fraction of the teaching obligation not completed, plus interest at a rate of interest equal to five percent and, if applicable, reasonable collection fees;
- 5) the recipient agrees to provide ISAC with evidence of compliance with program requirements (e.g., responses to annual follow-up questionnaires, etc.); and
- 6) the recipient promises to use the proceeds of the scholarship for educational expenses.

h) A recipient of a scholarship awarded under this Part shall not be in violation of the agreement entered into pursuant to subsection (h) during periods in which the recipient:

- 1) serves, for not more than three years, as a member of the United States Armed Forces;
- 2) is enrolled on a full-time basis as a graduate student in a course of study related to the field of teaching at an institution of higher learning;
- 3) is temporarily totally disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
- 4) is actively seeking but unable to find full-time employment as a teacher at a school that satisfies the criteria set forth in subsection (h)(3) for one continuous period not to exceed two years, and is able to provide evidence of that fact;

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- 5) is taking additional courses, on at least a half-time basis, needed to obtain licensure as a teacher in Illinois; or
 - 6) is fulfilling teaching requirements associated with other programs administered by ISAC if the recipient cannot concurrently fulfill them in a period of time equal to the length of the teaching obligation.
- ij) If a recipient is required to repay any portion of the scholarship, the repayment period shall be completed within 10 years after the scholarship converts to a loan. This 10 year period may be extended if the recipient:
- 1) serves, for not more than three years, as a member of the United States Armed Forces;
 - 2) is temporarily disabled, for not more than three years, as established by the sworn affidavit of a licensed physician;
 - 3) is seeking and unable to find full-time employment, for one continuous period not to exceed two years, and is able to provide evidence of that fact;
 - 4) withdraws from a course of study leading to licensure as a teacher but is enrolled full-time in another academic discipline; or
 - 5) is pursuing a graduate course of study and is enrolled on a full-time basis for one continuous period of time not to exceed three years.
- jk) During the time a recipient qualifies for any of the extensions listed in subsection (j), the recipient shall not be required to make payments and interest shall not accrue.
- kl) A recipient shall enter repayment status on the earliest of the following dates:
- 1) the first day of the first calendar month after the recipient has ceased to pursue a course of study leading to licensure as a teacher at the preschool, elementary or secondary level, but not before six months have elapsed after the cessation of at least half-time enrollment in such a course of study;

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- 2) the date the recipient informs ISAC that the recipient does not plan to fulfill the teaching obligation; or
 - 3) the day after the latest date upon which the recipient must have begun teaching after completing the postsecondary education for which the scholarship was awarded.
- lm) A recipient shall not be required to repay the amount of the scholarships received if the recipient becomes permanently totally disabled as established by the sworn affidavit of a qualified physician (see, e.g., 34 CFR 682.402(c)), or if the recipient's representative provides ISAC with a death certificate or other evidence that the recipient has died.
- m) *If the MTI Program does not expend at least 90% of the appropriated amount in a given fiscal year for three consecutive years and ISAC does not receive enough applications by January 1 each year from the groups identified for reserved funds, then up to 3% of appropriated funds for the next three fiscal years shall be allocated to increase awareness of the program and for the recruitment of Black males. ISAC will make a recommendation to the General Assembly by January 1 of the following fiscal year regarding whether the amount allocated to increasing awareness and recruitment should continue beyond the three-year period. [110 ILCS 947/50]*

(Source: Amended at 45 Ill. Reg. _____, effective _____)

Section 2763.40 Institutional Procedures

- a) The institution shall submit eligibility information for qualified applicants in sufficient time for ISAC to make award announcements.
- b) MTI awards are paid directly to the approved institution of record that certifies to ISAC that the applicant is an eligible recipient.
 - 1) ISAC will annually establish priority claim dates for the submission of payment requests and inform schools of the required priority dates.

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- 2) Late payment requests will result in delayed processing of payments. Payment requests are processed in the sequence of receipt by ISAC and as funds are available.
 - 3) Institutions may submit their payment requests beginning 10 days prior to the start of classes for the term for which payment is being requested.
- c) ISAC shall disburse scholarship funds in two or three installments, depending on the number of terms financed by the scholarship, except that multiple disbursements shall not be required in cases where the applicant's eligibility is not determined until the final term of the regular school year for which the scholarship is being awarded or when a student is attending only one term and the maximum award does not exceed the student's cost of attendance.
- d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.
- e) Upon receipt of scholarship funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the scholarship funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.
- f) Upon receipt of the scholarship funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the scholarship payment to ISAC.
- g) Scholarship Amount
- 1) MTI scholarships are applicable only toward tuition and fees and room and board charges or commuter allowances, if applicable.
 - 2) The annual scholarship amount shall be computed by the institution and must be the lesser of:
 - A) tuition and fees plus room and board expenses charged by the institution;
 - B) tuition and fees plus the standard commuter allowance for students living off-campus; or

ILLINOIS STUDENT ASSISTANCE COMMISSION

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- C) \$5000; unless at least \$2,850,000 is appropriated in a given fiscal year for the MTI Program, then, \$7,500 in that year and in each fiscal year thereafter.
- 3) The total amount of MTI scholarship assistance awarded to a qualified applicant in a given regular school year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.
- 4) A qualified applicant may receive grant assistance under the MTI Program only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the Monetary Award Program grant (23 Ill. Adm. Code 2735).
- h) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.
- i) *Each institution that participates in the MTI Program shall host an annual information session about the program for teacher candidates of color and require that each program recipient enrolled at the institution meet with an academic advisor at least once per academic year in an effort to facilitate on-time completion of the student's educator preparation program. [110 ILCS 947/50]*

(Source: Amended at 45 Ill. Reg. _____, effective _____)

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Hospital Financial Assistance under the Fair Patient Billing Act
- 2) Code Citation: 77 Ill. Adm. Code 4500
- 3) Section Number: 4500.APPENDIX A Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88/27].
- 5) Effective Date of Rule: July 29, 2021
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) Statement of Availability: A copy of the adopted rule is on file and is available for public inspection in the Attorney General's principal office in Chicago (12th Floor, James R. Thompson Center).
- 9) Notice of Proposal published in the *Illinois Register*: 45 Ill. Reg. 3732; March 26, 2021
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: There are no differences between the proposal and the final version.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 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 updates Appendix A to reflect the 2021 poverty guidelines published by the United States Department of Health and Human Services (DHHS) in the Federal Register on February 1, 2021.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

David Buysse
Deputy Chief, Public Interest Division
Office of the Attorney General
100 West Randolph Street, 12th Floor
Chicago IL 60601

312/814-7236

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

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER XVIII: OFFICE OF THE ATTORNEY GENERALPART 4500
HOSPITAL FINANCIAL ASSISTANCE
UNDER THE FAIR PATIENT BILLING ACT

Section

4500.10	Definitions
4500.20	Referenced Materials
4500.30	Hospital Financial Assistance Application Requirements
4500.40	Presumptive Eligibility Criteria
4500.50	Hospital Financial Assistance Electronic and Information Technology
4500.60	Hospital Financial Assistance Reporting Requirements

4500.APPENDIX A [2021~~2020~~](#) Poverty Income Guidelines

AUTHORITY: Implementing and authorized by Section 27 of the Fair Patient Billing Act [210 ILCS 88].

SOURCE: Adopted at 37 Ill. Reg. 12536, effective July 22, 2013; amended at 38 Ill. Reg. 20263, effective October 10, 2014; amended at 39 Ill. Reg. 10751, effective July 27, 2015; amended at 40 Ill. Reg. 7900, effective May 18, 2016; amended at 41 Ill. Reg. 10653, effective August 4, 2017; amended at 42 Ill. Reg. 13615, effective June 29, 2018; amended at 43 Ill. Reg. 7628, effective June 28, 2019; amended at 44 Ill. Reg. 10869, effective June 12, 2020; amended at 45 Ill. Reg. 10281, effective July 29, 2021.

OFFICE OF THE ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

Section 4500.APPENDIX A ~~2021~~2020 Poverty Income Guidelines2021~~2020~~ HEALTH AND HUMAN SERVICES POVERTY GUIDELINES

Persons in Family	Poverty Guideline
1	\$ 12,880 12,760
2	\$ 17,420 17,240
3	\$ 21,960 21,720
4	\$ 26,500 26,200
5	\$ 31,040 30,680
6	\$ 35,580 35,160
7	\$ 40,120 39,640
8	\$ 44,660 44,120
For additional persons, add	\$ 4,540 4,480

NOTE: See ~~8685~~ Fed. Reg. ~~77323060~~ through ~~77343061~~ (~~February 1, 2021~~January 17, 2020).

(Source: Amended at 45 Ill. Reg. 10281, effective July 29, 2021)

DEPARTMENT ON AGING

NOTICE OF RECODIFICATION

- 1) Heading of the Part: Older Americans Act Programs
- 2) Code Citation: 89 Ill. Adm. Code 230
- 3) Date of Administrative Code Division Review: July 29, 2021
- 4) Headings and Section Numbers of the Part Being Recodified:

Section Numbers

SUBPART E

230.410

Headings:

HEARINGS

Hearing Before the Department

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

Section Numbers

SUBPART E

230.410

Headings:

GRIEVANCES, APPEALS, AND HEARINGS

Hearing Before the Department

- 6) Conversion Table of Present and Recodified Parts:

Present Part:

<p>SUBPART E: HEARINGS 230.410 Hearing Before the Department</p>	<p>SUBPART E: GRIEVANCES, APPEALS, AND HEARINGS 230.410 Hearing Before the Department</p>
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Recodified Part:

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF RECODIFICATION

1) Heading of the Part: Medical Use of Radioactive Material

2) Code Citation: 32 Ill. Adm. Code 335

3) Date of Index Department Review: July 28, 2021

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

<u>Section Number:</u> SUBPART I	<u>Heading:</u> REMOTE AFTERLOADER UNITS, INTRAVASCULAR BRACHYTHERAPY UNITS, TELETHERAPY UNITS AND GAMMA STEREOTACTIC RADIOSURGERY UNITS
335.8010	Use of a Sealed Source in Remote Afterloader Units, Intravascular Brachytherapy Units, Teletherapy Units or Gamma Stereotactic Radiosurgery Units

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

<u>Section Number:</u> SUBPART I	<u>Heading:</u> REMOTE AFTERLOADER UNITS, TELETHERAPY UNITS AND GAMMA STEREOTACTIC RADIOSURGERY UNITS
335.8010	Use of a Sealed Source in Remote, Afterloader Units, Intravascular Brachytherapy Units, Teletherapy Units or Gamma Stereotactic Radiosurgery Units

6) Conversion Table of Present and Recodified Parts:

<u>Present Part:</u>	<u>Recodified Part:</u>
SUBPART I: REMOTE AFTERLOADER UNITS, INTRAVASCULAR BRACHYTHERAPY UNITS, TELETHERAPY UNITS AND GAMMA STEREOTACTIC RADIOSURGERY UNITS 335.8010 Use of a Sealed Source in Remote Afterloader Units, Intravascular Brachytherapy Units, Teletherapy Units or Gamma Stereotactic Radiosurgery Units	SUBPART I: REMOTE AFTERLOADER UNITS, TELETHERAPY UNITS AND GAMMA STEREOTACTIC RADIOSURGERY UNITS 335.8010 Use of a Sealed Source in Remote, Afterloader Units, Intravascular Brachytherapy Units, Teletherapy Units or Gamma Stereotactic Radiosurgery Units

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received during the period of July 27, 2021 through August 2, 2021. These rulemakings are scheduled for the August 18, 2021 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
9/9/21	<u>Illinois Gaming Board</u> , Sports Wagering (11 Ill. Adm. Code 1900)	5/21/21 45 Ill. Reg. 6548	8/18/21
9/9/21	<u>Illinois Gaming Board</u> , Riverboat and Casino Gambling (86 Ill. Adm. Code 3000)	5/21/21 45 Ill. Reg. 6565	8/18/21
9/9/21	<u>Department of Human Services</u> , Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)	4/9/21 45 Ill. Reg. 4389	8/18/21
9/13/21	<u>Illinois State Police</u> , Certification and Training of Electronic Criminal Surveillance Officers (20 Ill. Adm. Code 1295)	5/21/21 45 Ill. Reg. 6590	8/18/21

EXECUTIVE ORDERS

2021-16**EXECUTIVE ORDER ESTABLISHING THE OFFICE OF EQUITY**

WHEREAS, I, Governor JB Pritzker, am committed to creating equitable systems and policies to redress unjust and inequitable social conditions by advancing diversity, equity, and inclusion throughout State agencies and in public policy; and,

WHEREAS, the State of Illinois' strength derives from the diversity of its population and from its commitment to fair treatment and equitable services for all residents; and,

WHEREAS, inequality has a ripple effect on entire communities, particularly those that have been disproportionately impacted by structural, social, and institutional inequities and injustices; and,

WHEREAS, the State of Illinois seeks to promote fairness and equality and to combat unlawful discrimination and harassment in the workplace and for all residents; and,

WHEREAS, pursuant to Executive Order 2018-02, the position of Chief Diversity Officer was established within the Governor's Chief Compliance Office; and,

WHEREAS, it is vitally important that the State of Illinois ensure that the agencies of State government and its workforce serve all Illinois residents in public services, programs, and activities in an equitable, inclusive, and culturally competent manner;

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

Section 1. For purposes of this Executive Order, the following terms are defined as set forth below:

- a. "State agency" means any office, department, agency, board, commission, or authority of the Executive Branch of the State of Illinois under the jurisdiction of the Governor.
- b. "State employees" means all officers, employees (including without limitation full-time, part-time, and contractual employees), appointees (including without limitation paid and unpaid appointees), and persons holding similar positions in any State Agency.

Section 2. The Office of Equity is hereby created within the Office of the Governor. The Governor shall hire a Chief Equity Officer to lead the Office of Equity.

EXECUTIVE ORDERS

Section 3. The Chief Equity Officer shall lead the State's efforts to ensure that the State of Illinois is a leader in equity and inclusion with the goals of eliminating institutional and systemic barriers for the people of Illinois and creating opportunity and access for all of those it serves and employs. The Chief Equity Officer shall:

- a. Serve as the leader on diversity, equity, and inclusion initiatives, legislation, and policy for the State of Illinois.
- b. Identify and redress barriers to equity in the State.
- c. Support equity-oriented efforts throughout the State to ensure services and resources are available and accessible to all in Illinois.
- d. Create a sustainable infrastructure and equity-oriented systems, policies, and procedures that operationalize diversity, equity, inclusion within State agencies.
- e. Compile and make publicly available diversity, equity, and inclusion resources to State employees and residents.
- f. Coordinate diversity, equity, and inclusion trainings reflecting best practices.
- g. Develop Statewide diversity, equity, and inclusion benchmarks and measures of progress.
- h. Collaborate with the Chief Compliance Office to take steps to prevent harassment, discrimination, and retaliation throughout State government.
- i. Perform other duties as determined to be necessary to effectuate the goals set forth in this Executive Order.

Section 4. All State employees shall participate in annual trainings focused on diversity, equity, and inclusion as directed by the Chief Equity Officer.

Section 5. In light of the establishment of a standalone Office of Equity, Executive Order 2018-02, Section III's establishment of the position of Chief Diversity Officer within the Chief Compliance Office is rescinded.

Section 6. This Executive Order supersedes any contrary provision of any other prior Executive Order.

Section 7. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Section 8. This Executive Order shall take effect immediately upon its filing with the Secretary of State.

EXECUTIVE ORDERS

Issued by the Governor July 30, 2021
Filed by the Secretary of State July 30, 2021

2021-17
EXECUTIVE ORDER – THE WELCOMING ILLINOIS OFFICE

WHEREAS, the State of Illinois seeks to be a welcoming state to immigrants and refugees; and,

WHEREAS, immigrants are students, entrepreneurs, scientists, and workers who are important contributors to Illinois' workforce, communities, and social and cultural fabric; and,

WHEREAS, the State of Illinois is home to 1.8 million immigrants, the sixth largest immigrant population of any state in the nation; and,

WHEREAS, immigrants make up 13.5% of our state's population and 17.5% of our state's workforce; and,

WHEREAS, immigrants are integral to our state's economy, generating \$2.8 billion of business income and contributing over \$21.4 billion in federal, State, and local taxes, annually; and,

WHEREAS, immigrants and refugees have successfully rebuilt their lives and made positive social and economic contributions to Illinois by revitalizing neighborhoods and adding to the cultural vitality of our state and communities; and,

WHEREAS, while immigration policy is set at the federal level, the benefits of and barriers to immigration integration are experienced at the state and local levels; and,

WHEREAS, the State of Illinois recognizes the barriers existing in immigrant communities and has responded with increased investments in immigrant services; and,

WHEREAS, as the public health crisis caused by COVID-19 amplified existing systemic inequities, the State of Illinois provided rental and utility assistance and financial assistance for immigrants excluded from federal COVID-19 relief programs; and,

WHEREAS, now more than ever in our country, there is a need for programmatic and policy leadership from states to protect and advance the rights of immigrants and refugees; and,

WHEREAS, it is a moral and fiscal imperative to support immigrants' health, well-being, economic progress, and social progress; and

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WHEREAS, the 102nd General Assembly passed the Immigrant Impact Task Force Act to appoint immigrant and refugee leaders to work across agencies and with external stakeholders to develop strategies to ensure that Illinois is a more welcoming state; and,

WHEREAS, the State of Illinois is committed to developing and implementing a comprehensive approach and action plan to ensure better governmental practices, public policies, and programs across all government sectors;

THEREFORE, I, JB Pritzker, Governor of Illinois, by virtue of the executive authority vested in me by Article V of the Constitution of the State of Illinois, hereby order as follows:

1. Establishment of The Welcoming Illinois Office

The Welcoming Illinois Office shall be created, administered by and housed within the Illinois Department of Human Services, and reporting to the Office of the Governor and the Secretary of the Illinois Department of Human Services.

The Welcoming Illinois Office shall have the following duties, powers, and responsibilities:

- A. Convene and lead internal and external stakeholders to coordinate and develop a policies and practices blueprint to make Illinois a more welcoming and equitable state for immigrants and refugees, including but not limited to implementation of the Immigrant Impact Task Force Act and other relevant statutes.
- B. Identify, research, analyze, and address economic and demographic trends and issues related to immigrants and refugees to better serve immigrant and refugee communities.
- C. Make policy recommendations to the Governor on issues impacting immigrants and refugees, including strategies to eliminate employment barriers, improve health outcomes, and strengthen social services.
- D. Work with State agencies identified by the Governor's Office as part of an interagency effort to ensure that there is access to critical services and supports for resiliency and recovery for the immigrant and refugee communities in Illinois.
- E. Develop and implement outreach campaigns, community resources and record gathering processes to ensure that immigrant and refugee communities have access to services and programs for which they are eligible at state and federal levels.
- F. Promote and celebrate the success of Illinois' immigrant and refugee communities.

2. Establishment of the Senior Immigration Fellow

EXECUTIVE ORDERS

A Senior Immigration Fellow shall be appointed by the Governor, reporting to the Secretary for the Illinois Department of Human Services, and based in the Illinois Department of Human Services. The Senior Immigration Fellow will lead all aspects of the Welcoming Illinois Office, with support from the Illinois Department of Human Services and the Governor's Office.

3. Savings Clause

Nothing in this Executive Order shall be construed to contravene any federal or state law or regulation. Unless specifically referenced in this Order, nothing in this Order shall affect or alter the existing statutory powers of any State agency or be construed as a reassignment or reorganization of any State agency.

4. Prior Executive Orders

This Executive Order supersedes any contrary provision of any prior Executive Order.

5. Severability Clause

If any part of this Executive Order is found to be invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. The provisions of this Executive Order are severable.

6. Effective Date

This Executive Order shall take effect immediately upon its filing with the Secretary of State.

Issued by the Governor August 2, 2021

Filed by the Secretary of State August 2, 2021

ILLINOIS ADMINISTRATIVE CODE
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