AN ACT concerning the State budget.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

ARTICLE 1

Section 1-1. Short title. This Act may be cited as the FY2004 Budget Implementation (State Finance-Revenues) Act.

Section 1-5. Purpose. It is the purpose of this Act to make changes relating to State Finance-Revenues that are necessary to implement the State's FY2004 budget.

ARTICLE 50

Section 50-5. The State Finance Act is amended by changing Sections 6p-2 and 8g and adding Sections 5.595, 8.42, 8h, and 8j as follows:

(30 ILCS 105/5.595 new)

Sec. 5.595. The Emergency Public Health Fund.

(30 ILCS 105/6p-2) (from Ch. 127, par. 142p2)

Sec. 6p-2. The Communications Revolving Fund shall be initially financed by a transfer of funds from the General Revenue Fund. Thereafter, all fees and other monies received by the Department of Central Management Services in payment for communications services rendered pursuant to the Department of Central Management Services Law or sale of surplus State communications equipment shall be paid into the Communications Revolving Fund. Except as otherwise provided in this Section, the money in this fund shall be used by the Department of Central Management Services as reimbursement

for expenditures incurred in relation to communications services.

On the effective date of this amendatory Act of the 93rd General Assembly, or as soon as practicable thereafter, the State Comptroller shall order transferred and the State Treasurer shall transfer $3,000,000 from the Communications Revolving Fund to the Emergency Public Health Fund to be used for the purposes specified in Section 55.6a of the Environmental Protection Act.

(Source: P.A. 91-239, eff. 1-1-00; 92-316, eff. 8-9-01.)

(30 ILCS 105/8.42 new)

Sec. 8.42. Interfund transfers. In order to address the fiscal emergency resulting from shortfalls in revenue, the following transfers are authorized from the designated funds into the General Revenue Fund:

ROAD FUND.....	$50,000,000
MOTOR FUEL TAX FUND.....	$1,535,000
GRADE CROSSING PROTECTION FUND.....	$6,500,000
ILLINOIS AGRICUTURAL LOAN GUARANTEE FUND.....	$2,500,000
ILLINOIS FARMER AND AGRIBUSINESS LOAN GUARANTEE FUND.....	$1,500,000
TRANSPORTATION REGULATORY FUND.....	$2,000,000
PARK AND CONSERVATION FUND.....	$1,000,000
DCFS CHILDREN'S SERVICES FUND.....	$1,000,000
TOBACCO SETTLEMENT RECOVERY FUND.....	$50,000
AGGREGATE OPERATIONS REGULATORY FUND.....	$10,000
APPRAISAL ADMINISTRATION FUND.....	$10,000
AUCTION REGULATION ADMINISTRATION FUND.....	$50,000
BANK AND TRUST COMPANY FUND.....	$640,000
CHILD LABOR AND DAY AND TEMPORARY LABOR ENFORCEMENT FUND.....	$15,000
CHILD SUPPORT ADMINISTRATIVE FUND.....	$170,000
COAL MINING REGULATORY FUND.....	$80,000

COMMUNITY WATER SUPPLY LABORATORY FUND.....	$500,000
COMPTROLLER'S ADMINISTRATIVE FUND.....	$50,000
CREDIT UNION FUND.....	$500,000
CRIMINAL JUSTICE INFORMATION SYSTEMS TRUST FUND.....	$300,000
DESIGN PROFESSIONALS ADMINISTRATION AND INVESTIGATION FUND.....	$1,000,000
DIGITAL DIVIDE ELIMINATION INFRASTRUCTURE FUND.....	$4,000,000
DRAM SHOP FUND.....	$560,000
DRIVERS EDUCATION FUND.....	$2,500,000
EMERGENCY PLANNING AND TRAINING FUND.....	$50,000
ENERGY EFFICIENCY TRUST FUND.....	$1,000,000
EXPLOSIVES REGULATORY FUND.....	$4,000
FINANCIAL INSTITUTION FUND.....	$300,000
FIREARM OWNER'S NOTIFICATION FUND.....	$110,000
FOOD AND DRUG SAFETY FUND.....	$500,000
GENERAL PROFESSIONS DEDICATED FUND.....	$1,000,000
HAZARDOUS WASTE FUND.....	$500,000
HORSE RACING FUND.....	$630,000
ILLINOIS GAMING LAW ENFORCEMENT FUND.....	$200,000
ILLINOIS HISTORIC SITES FUND.....	$15,000
ILLINOIS SCHOOL ASBESTOS ABATEMENT FUND.....	$400,000
ILLINOIS STANDARDBRED BREEDERS FUND.....	$35,000
ILLINOIS STATE MEDICAL DISCIPLINARY FUND.....	$1,500,000
ILLINOIS STATE PHARMACY DISCIPLINARY FUND.....	$1,500,000
ILLINOIS TAX INCREMENT FUND.....	$20,000
INSURANCE FINANCIAL REGULATION FUND.....	$920,000
LANDFILL CLOSURE AND POST-CLOSURE FUND.....	$250,000
MANDATORY ARBITRATION FUND.....	$2,000,000
MEDICAID FRAUD AND ABUSE PREVENTION FUND.....	$80,000
MENTAL HEALTH FUND.....	$1,000,000
NEW TECHNOLOGY RECOVERY FUND.....	$1,000,000
NUCLEAR SAFETY EMERGENCY PREPAREDNESS FUND.....	$460,000

OPEN SPACE LANDS ACQUISITION
AND DEVELOPMENT FUND..... $1,510,000

PLUGGING AND RESTORATION FUND..... $120,000

PLUMBING LICENSURE AND PROGRAM FUND..... $400,000

PUBLIC HEALTH WATER PERMIT FUND..... $90,000

PUBLIC UTILITY FUND..... $2,000,000

RADIATION PROTECTION FUND..... $240,000

LOW-LEVEL RADIOACTIVE WASTE FACILITY
DEVELOPMENT AND OPERATION FUND..... $1,000,000

REAL ESTATE AUDIT FUND..... $50,000

REAL ESTATE LICENSE ADMINISTRATION FUND..... $750,000

REAL ESTATE RESEARCH AND EDUCATION FUND..... $30,000

REGISTERED CERTIFIED PUBLIC ACCOUNTANTS'
ADMINISTRATION AND DISCIPLINARY FUND..... $1,000,000

RENEWABLE ENERGY RESOURCES TRUST FUND..... $3,000,000

SAVINGS AND RESIDENTIAL FINANCE
REGULATORY FUND..... $850,000

SECURITIES AUDIT AND ENFORCEMENT FUND..... $2,000,000

STATE PARKS FUND..... $593,000

STATE POLICE VEHICLE FUND..... $15,000

TAX COMPLIANCE AND ADMINISTRATION FUND..... $150,000

TOURISM PROMOTION FUND..... $5,000,000

TRAFFIC AND CRIMINAL CONVICTION
SURCHARGE FUND..... $250,000

UNDERGROUND RESOURCES CONSERVATION
ENFORCEMENT FUND..... $100,000

UNDERGROUND STORAGE TANK FUND..... $12,100,000

ILLINOIS CAPITAL REVOLVING LOAN FUND..... $5,000,000

CONSERVATION 2000 FUND..... $15,000

DEATH CERTIFICATE SURCHARGE FUND..... $1,500,000

ENERGY ASSISTANCE CONTRIBUTION FUND..... $750,000

FAIR AND EXPOSITION FUND..... $500,000

HOME INSPECTOR ADMINISTRATION FUND..... $100,000

ILLINOIS AFFORDABLE HOUSING TRUST FUND..... $5,000,000

LARGE BUSINESS ATTRACTION FUND.....	$500,000
SCHOOL TECHNOLOGY REVOLVING LOAN FUND.....	$6,000,000
SOLID WASTE MANAGEMENT REVOLVING LOAN FUND.....	$2,000,000
WIRELESS CARRIER REIMBURSEMENT FUND.....	$2,000,000
EPA STATE PROJECTS TRUST FUND.....	$150,000
ILLINOIS THOROUGHBRED BREEDERS FUND.....	$160,000
FIRE PREVENTION FUND.....	$2,000,000
MOTOR VEHICLE THEFT PREVENTION TRUST FUND.....	$250,000
CAPITAL DEVELOPMENT BOARD REVOLVING FUND.....	$500,000
AUDIT EXPENSE FUND.....	$1,000,000
OFF-HIGHWAY VEHICLE TRAILS FUND.....	$100,000
CYCLE RIDER SAFETY TRAINING FUND.....	$1,000,000
GANG CRIME WITNESS PROTECTION FUND.....	$46,000
MISSING AND EXPLOITED CHILDREN TRUST FUND.....	$53,000
STATE POLICE VEHICLE FUND.....	$86,000
SEX OFFENDER REGISTRATION FUND.....	$21,000
STATE POLICE WIRELESS SERVICE EMERGENCY FUND.....	$1,200,000
MEDICAID FRAUD AND ABUSE PREVENTION FUND.....	$270,000
STATE CRIME LABORATORY FUND.....	$250,000
LEADS MAINTENANCE FUND.....	$180,000
STATE POLICE DUI FUND.....	$100,000
PETROLEUM VIOLATION FUND.....	$2,000,000

All such transfers shall be made on July 1, 2003, or as soon thereafter as practical. These transfers may be made notwithstanding any other provision of law to the contrary.

(30 ILCS 105/8g)

Sec. 8g. Transfers from General Revenue Fund.

(a) In addition to any other transfers that may be provided for by law, as soon as may be practical after the effective date of this amendatory Act of the 91st General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $10,000,000 from the General Revenue Fund to the Motor Vehicle License Plate Fund created by Senate Bill 1028 of the 91st General Assembly.

(b) In addition to any other transfers that may be provided for by law, as soon as may be practical after the effective date of this amendatory Act of the 91st General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $25,000,000 from the General Revenue Fund to the Fund for Illinois' Future created by Senate Bill 1066 of the 91st General Assembly.

(c) In addition to any other transfers that may be provided for by law, on August 30 of each fiscal year's license period, the Illinois Liquor Control Commission shall direct and the State Comptroller and State Treasurer shall transfer from the General Revenue Fund to the Youth Alcoholism and Substance Abuse Prevention Fund an amount equal to the number of retail liquor licenses issued for that fiscal year multiplied by $50.

(d) The payments to programs required under subsection (d) of Section 28.1 of the Horse Racing Act of 1975 shall be made, pursuant to appropriation, from the special funds referred to in the statutes cited in that subsection, rather than directly from the General Revenue Fund.

Beginning January 1, 2000, on the first day of each month, or as soon as may be practical thereafter, the State Comptroller shall direct and the State Treasurer shall transfer from the General Revenue Fund to each of the special funds from which payments are to be made under Section 28.1(d) of the Horse Racing Act of 1975 an amount equal to 1/12 of the annual amount required for those payments from

that special fund, which annual amount shall not exceed the annual amount for those payments from that special fund for the calendar year 1998. The special funds to which transfers shall be made under this subsection (d) include, but are not necessarily limited to, the Agricultural Premium Fund; the Metropolitan Exposition Auditorium and Office Building Fund; the Fair and Exposition Fund; the Standardbred Breeders Fund; the Thoroughbred Breeders Fund; and the Illinois Veterans' Rehabilitation Fund.

(e) In addition to any other transfers that may be provided for by law, as soon as may be practical after the effective date of this amendatory Act of the 91st General Assembly, but in no event later than June 30, 2000, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $15,000,000 from the General Revenue Fund to the Fund for Illinois' Future.

(f) In addition to any other transfers that may be provided for by law, as soon as may be practical after the effective date of this amendatory Act of the 91st General Assembly, but in no event later than June 30, 2000, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $70,000,000 from the General Revenue Fund to the Long-Term Care Provider Fund.

(f-1) In fiscal year 2002, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not exceeding a total of $160,000,000 from the General Revenue Fund to the Long-Term Care Provider Fund.

(g) In addition to any other transfers that may be provided for by law, on July 1, 2001, or as soon thereafter as may be practical, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $1,200,000 from the General Revenue Fund to the Violence Prevention Fund.

(h) In each of fiscal years 2002 through 2007, but not thereafter, in addition to any other transfers that may be provided for by law, the State Comptroller shall direct and the State Treasurer shall transfer $5,000,000 from the General Revenue Fund to the Tourism Promotion Fund.

(i) On or after July 1, 2001 and until May 1, 2002, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not exceeding a total of $80,000,000 from the General Revenue Fund to the Tobacco Settlement Recovery Fund. Any amounts so transferred shall be re-transferred by the State Comptroller and the State Treasurer from the Tobacco Settlement Recovery Fund to the General Revenue Fund at the direction of and upon notification from the Governor, but in any event on or before June 30, 2002.

(i-1) On or after July 1, 2002 and until May 1, 2003, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not exceeding a total of $80,000,000 from the General Revenue Fund to the Tobacco Settlement Recovery Fund. Any amounts so transferred shall be re-transferred by the State Comptroller and the State Treasurer from the Tobacco Settlement Recovery Fund to the General Revenue Fund at the direction of and upon notification from the Governor, but in any event on or before June 30, 2003.

(j) On or after July 1, 2001 and no later than June 30, 2002, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not to exceed the

following sums into the Statistical Services Revolving Fund:

From the General Revenue Fund.....	$8,450,000
From the Public Utility Fund.....	1,700,000
From the Transportation Regulatory Fund.....	2,650,000
From the Title III Social Security and Employment Fund.....	3,700,000
From the Professions Indirect Cost Fund.....	4,050,000
From the Underground Storage Tank Fund.....	550,000
From the Agricultural Premium Fund.....	750,000
From the State Pensions Fund.....	200,000
From the Road Fund.....	2,000,000
From the Health Facilities Planning Fund.....	1,000,000
From the Savings and Residential Finance Regulatory Fund.....	130,800
From the Appraisal Administration Fund.....	28,600
From the Pawnbroker Regulation Fund.....	3,600
From the Auction Regulation Administration Fund.....	35,800
From the Bank and Trust Company Fund.....	634,800
From the Real Estate License Administration Fund.....	313,600

(k) In addition to any other transfers that may be provided for by law, as soon as may be practical after the effective date of this amendatory Act of the 92nd General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $2,000,000 from the General Revenue Fund to the Teachers Health Insurance Security Fund.

(k-1) In addition to any other transfers that may be provided for by law, on July 1, 2002, or as soon as may be practical thereafter, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $2,000,000 from the General Revenue Fund to the Teachers Health Insurance

Security Fund.

(k-2) In addition to any other transfers that may be provided for by law, on July 1, 2003, or as soon as may be practical thereafter, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $2,000,000 from the General Revenue Fund to the Teachers Health Insurance Security Fund.

(k-3) On or after July 1, 2002 and no later than June 30, 2003, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not to exceed the following sums into the Statistical Services Revolving Fund:

Appraisal Administration Fund.....	$150,000
General Revenue Fund.....	10,440,000
Savings and Residential Finance Regulatory Fund.....	200,000
State Pensions Fund.....	100,000
Bank and Trust Company Fund.....	100,000
Professions Indirect Cost Fund.....	3,400,000
Public Utility Fund.....	2,081,200
Real Estate License Administration Fund.....	150,000
Title III Social Security and Employment Fund.....	1,000,000
Transportation Regulatory Fund.....	3,052,100
Underground Storage Tank Fund.....	50,000

(l) In addition to any other transfers that may be provided for by law, on July 1, 2002, or as soon as may be practical thereafter, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $3,000,000 from the General Revenue Fund to the Presidential Library and Museum Operating Fund.

(m) In addition to any other transfers that may be

provided for by law, on July 1, 2002, or as soon thereafter as may be practical, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $1,200,000 from the General Revenue Fund to the Violence Prevention Fund.

(n) In addition to any other transfers that may be provided for by law, on July 1, 2003, or as soon thereafter as may be practical, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $6,800,000 from the General Revenue Fund to the DHS Recoveries Trust Fund.

(o) On or after July 1, 2003, and no later than June 30, 2004, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not to exceed the following sums into the Vehicle Inspection Fund:

From the Underground Storage Tank Fund .....$35,000,000.

(p) On or after July 1, 2003 and until May 1, 2004, in addition to any other transfers that may be provided for by law, at the direction of and upon notification from the Governor, the State Comptroller shall direct and the State Treasurer shall transfer amounts not exceeding a total of $80,000,000 from the General Revenue Fund to the Tobacco Settlement Recovery Fund. Any amounts so transferred shall be re-transferred from the Tobacco Settlement Recovery Fund to the General Revenue Fund at the direction of and upon notification from the Governor, but in any event on or before June 30, 2004.

(q) In addition to any other transfers that may be provided for by law, on July 1, 2003, or as soon as may be practical thereafter, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $5,000,000 from the General Revenue Fund to the Illinois Military Family Relief Fund.

(r) In addition to any other transfers that may be

provided for by law, on July 1, 2003, or as soon as may be practical thereafter, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $1,922,000 from the General Revenue Fund to the Presidential Library and Museum Operating Fund.

(s) In addition to any other transfers that may be provided for by law, on or after July 1, 2003, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $4,800,000 from the Statewide Economic Development Fund to the General Revenue Fund.

(t) In addition to any other transfers that may be provided for by law, on or after July 1, 2003, the State Comptroller shall direct and the State Treasurer shall transfer the sum of $50,000,000 from the General Revenue Fund to the Budget Stabilization Fund.

(Source: P.A. 91-25, eff. 6-9-99; 91-704, eff. 5-17-00; 92-11, eff. 6-11-01; 92-505, eff. 12-20-01; 92-600, eff. 6-28-02.)

(30 ILCS 105/8h new)

Sec. 8h. Transfers to General Revenue Fund. Notwithstanding any other State law to the contrary, the Director of the Bureau of the Budget may from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of 8% of the revenues to be deposited into the fund during that year or 25% of the beginning balance in the fund. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total

appropriation from that fund for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use or to any funds in the Motor Fuel Tax Fund. Notwithstanding any other provision of this Section, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed 5% of the revenues to be deposited into the fund during that year.

In determining the available balance in a fund, the Director of the Bureau of the Budget may include receipts, transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Director of the Bureau of the Budget.

(30 ILCS 105/8j new)

Sec. 8j. Allocation and transfer of fee receipts to General Revenue Fund. Notwithstanding any other law to the contrary, additional amounts generated by the new and increased fees created or authorized by this amendatory Act of the 93rd General Assembly and by Senate Bill 774, Senate Bill 841, and Senate Bill 842 of the 93rd General Assembly, if those bills become law, shall be allocated between the fund otherwise entitled to receive the fee and the General Revenue Fund by the Bureau of the Budget. In determining the amount of the allocation to the General Revenue Fund, the Director of the Bureau of the Budget shall calculate whether the available resources in the fund are sufficient to satisfy the unexpended and unreserved appropriations from the fund for the fiscal year.

In calculating the available resources in a fund, the Director of the Bureau of the Budget may include receipts,

transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

Upon determining the amount of an allocation to the General Revenue Fund under this Section, the Director of the Bureau of the Budget may direct the State Treasurer and Comptroller to transfer the amount of that allocation from the fund in which the fee amounts have been deposited to the General Revenue Fund; provided, however, that the Director shall not direct the transfer of any amount that would have the effect of reducing the available resources in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund for that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Director of the Bureau of the Budget.

Section 50-10. The Illinois Income Tax Act is amended by changing Section 901 as follows:

(35 ILCS 5/901) (from Ch. 120, par. 9-901)

Sec. 901. Collection Authority.

(a) In general.

The Department shall collect the taxes imposed by this Act. The Department shall collect certified past due child support amounts under Section 2505-650 of the Department of Revenue Law (20 ILCS 2505/2505-650). Except as provided in subsections (c) and (e) of this Section, money collected pursuant to subsections (a) and (b) of Section 201 of this Act shall be paid into the General Revenue Fund in the State treasury; money collected pursuant to subsections (c) and (d) of Section 201 of this Act shall be paid into the Personal Property Tax Replacement Fund, a special fund in the State

Treasury; and money collected under Section 2505-650 of the Department of Revenue Law (20 ILCS 2505/2505-650) shall be paid into the Child Support Enforcement Trust Fund, a special fund outside the State Treasury, or to the State Disbursement Unit established under Section 10-26 of the Illinois Public Aid Code, as directed by the Department of Public Aid.

(b) Local Governmental Distributive Fund.

Beginning August 1, 1969, and continuing through June 30, 1994, the Treasurer shall transfer each month from the General Revenue Fund to a special fund in the State treasury, to be known as the "Local Government Distributive Fund", an amount equal to 1/12 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act during the preceding month. Beginning July 1, 1994, and continuing through June 30, 1995, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to 1/11 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of this Act during the preceding month. Beginning July 1, 1995, the Treasurer shall transfer each month from the General Revenue Fund to the Local Government Distributive Fund an amount equal to <u>the net of (i)</u> 1/10 of the net revenue realized from the tax imposed by subsections (a) and (b) of Section 201 of the Illinois Income Tax Act during the preceding month <u>(ii) minus, beginning July 1, 2003 and ending June 30, 2004, $6,666,666, and beginning July 1, 2004, zero</u>. Net revenue realized for a month shall be defined as the revenue from the tax imposed by subsections (a) and (b) of Section 201 of this Act which is deposited in the General Revenue Fund, the Educational Assistance Fund and the Income Tax Surcharge Local Government Distributive Fund during the month minus the amount paid out of the General Revenue Fund in State warrants during that same month as refunds to taxpayers for overpayment of liability under the

tax imposed by subsections (a) and (b) of Section 201 of this Act.

(c) Deposits Into Income Tax Refund Fund.

(1) Beginning on January 1, 1989 and thereafter, the Department shall deposit a percentage of the amounts collected pursuant to subsections (a) and (b)(1), (2), and (3), of Section 201 of this Act into a fund in the State treasury known as the Income Tax Refund Fund. The Department shall deposit 6% of such amounts during the period beginning January 1, 1989 and ending on June 30, 1989. Beginning with State fiscal year 1990 and for each fiscal year thereafter, the percentage deposited into the Income Tax Refund Fund during a fiscal year shall be the Annual Percentage. For fiscal years 1999 through 2001, the Annual Percentage shall be 7.1%. For fiscal year 2003, the Annual Percentage shall be 8%. <u>For fiscal year 2004, the Annual Percentage shall be 11.7%.</u> For all other fiscal years, the Annual Percentage shall be calculated as a fraction, the numerator of which shall be the amount of refunds approved for payment by the Department during the preceding fiscal year as a result of overpayment of tax liability under subsections (a) and (b)(1), (2), and (3) of Section 201 of this Act plus the amount of such refunds remaining approved but unpaid at the end of the preceding fiscal year, minus the amounts transferred into the Income Tax Refund Fund from the Tobacco Settlement Recovery Fund, and the denominator of which shall be the amounts which will be collected pursuant to subsections (a) and (b)(1), (2), and (3) of Section 201 of this Act during the preceding fiscal year; except that in State fiscal year 2002, the Annual Percentage shall in no event exceed 7.6%. The Director of Revenue shall certify the Annual Percentage to the Comptroller on the last business day of the fiscal year

immediately preceding the fiscal year for which it is to be effective.

(2) Beginning on January 1, 1989 and thereafter, the Department shall deposit a percentage of the amounts collected pursuant to subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act into a fund in the State treasury known as the Income Tax Refund Fund. The Department shall deposit 18% of such amounts during the period beginning January 1, 1989 and ending on June 30, 1989. Beginning with State fiscal year 1990 and for each fiscal year thereafter, the percentage deposited into the Income Tax Refund Fund during a fiscal year shall be the Annual Percentage. For fiscal years 1999, 2000, and 2001, the Annual Percentage shall be 19%. For fiscal year 2003, the Annual Percentage shall be 27%. <u>For fiscal year 2004, the Annual Percentage shall be 32%.</u> For all other fiscal years, the Annual Percentage shall be calculated as a fraction, the numerator of which shall be the amount of refunds approved for payment by the Department during the preceding fiscal year as a result of overpayment of tax liability under subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act plus the amount of such refunds remaining approved but unpaid at the end of the preceding fiscal year, and the denominator of which shall be the amounts which will be collected pursuant to subsections (a) and (b)(6), (7), and (8), (c) and (d) of Section 201 of this Act during the preceding fiscal year; except that in State fiscal year 2002, the Annual Percentage shall in no event exceed 23%. The Director of Revenue shall certify the Annual Percentage to the Comptroller on the last business day of the fiscal year immediately preceding the fiscal year for which it is to be effective.

(3) The Comptroller shall order transferred and the

Treasurer shall transfer from the Tobacco Settlement Recovery Fund to the Income Tax Refund Fund (i) $35,000,000 in January, 2001, (ii) $35,000,000 in January, 2002, and (iii) $35,000,000 in January, 2003.

(d) Expenditures from Income Tax Refund Fund.

(1) Beginning January 1, 1989, money in the Income Tax Refund Fund shall be expended exclusively for the purpose of paying refunds resulting from overpayment of tax liability under Section 201 of this Act, for paying rebates under Section 208.1 in the event that the amounts in the Homeowners' Tax Relief Fund are insufficient for that purpose, and for making transfers pursuant to this subsection (d).

(2) The Director shall order payment of refunds resulting from overpayment of tax liability under Section 201 of this Act from the Income Tax Refund Fund only to the extent that amounts collected pursuant to Section 201 of this Act and transfers pursuant to this subsection (d) and item (3) of subsection (c) have been deposited and retained in the Fund.

(3) As soon as possible after the end of each fiscal year, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Income Tax Refund Fund to the Personal Property Tax Replacement Fund an amount, certified by the Director to the Comptroller, equal to the excess of the amount collected pursuant to subsections (c) and (d) of Section 201 of this Act deposited into the Income Tax Refund Fund during the fiscal year over the amount of refunds resulting from overpayment of tax liability under subsections (c) and (d) of Section 201 of this Act paid from the Income Tax Refund Fund during the fiscal year.

(4) As soon as possible after the end of each fiscal year, the Director shall order transferred and the

State Treasurer and State Comptroller shall transfer from the Personal Property Tax Replacement Fund to the Income Tax Refund Fund an amount, certified by the Director to the Comptroller, equal to the excess of the amount of refunds resulting from overpayment of tax liability under subsections (c) and (d) of Section 201 of this Act paid from the Income Tax Refund Fund during the fiscal year over the amount collected pursuant to subsections (c) and (d) of Section 201 of this Act deposited into the Income Tax Refund Fund during the fiscal year.

(4.5) As soon as possible after the end of fiscal year 1999 and of each fiscal year thereafter, the Director shall order transferred and the State Treasurer and State Comptroller shall transfer from the Income Tax Refund Fund to the General Revenue Fund any surplus remaining in the Income Tax Refund Fund as of the end of such fiscal year; excluding for fiscal years 2000, 2001, and 2002 amounts attributable to transfers under item (3) of subsection (c) less refunds resulting from the earned income tax credit.

(5) This Act shall constitute an irrevocable and continuing appropriation from the Income Tax Refund Fund for the purpose of paying refunds upon the order of the Director in accordance with the provisions of this Section.

(e) Deposits into the Education Assistance Fund and the Income Tax Surcharge Local Government Distributive Fund.

On July 1, 1991, and thereafter, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of this Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 7.3% into the Education Assistance Fund in the State Treasury. Beginning July 1, 1991, and continuing through January 31, 1993, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of the

Illinois Income Tax Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 3.0% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. Beginning February 1, 1993 and continuing through June 30, 1993, of the amounts collected pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 4.4% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury. Beginning July 1, 1993, and continuing through June 30, 1994, of the amounts collected under subsections (a) and (b) of Section 201 of this Act, minus deposits into the Income Tax Refund Fund, the Department shall deposit 1.475% into the Income Tax Surcharge Local Government Distributive Fund in the State Treasury.
(Source: P.A. 91-212, eff. 7-20-99; 91-239, eff. 1-1-00; 91-700, eff. 5-11-00; 91-704, eff. 7-1-00; 91-712, eff. 7-1-00; 92-11, eff. 6-11-01; 92-16, eff. 6-28-01; 92-600, eff. 6-28-02.)

Section 50-15. The Retailers' Occupation Tax Act is amended by changing Section 2d as follows:

(35 ILCS 120/2d) (from Ch. 120, par. 441d)

Sec. 2d. Tax prepayment by motor fuel retailer. Any person engaged in the business of selling motor fuel at retail, as defined in the Motor Fuel Tax Law, and who is not a licensed distributor or supplier, as defined in the Motor Fuel Tax Law, shall prepay to his or her distributor, supplier, or other reseller of motor fuel a portion of the tax imposed by this Act if the distributor, supplier, or other reseller of motor fuel is registered under Section 2a or Section 2c of this Act. The prepayment requirement provided for in this Section does not apply to liquid propane

gas.

Beginning on July 1, 2000 and through December 31, 2000, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.01 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to $0.01 per gallon, purchased from the distributor, supplier, or other reseller.

Before July 1, 2000 and then beginning on January 1, 2001 and through June 30, 2003 ~~thereafter~~, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.04 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to $0.03 per gallon, purchased from the distributor, supplier, or other reseller.

Beginning July 1, 2003 and thereafter, the Retailers' Occupation Tax paid to the distributor, supplier, or other reseller shall be an amount equal to $0.06 per gallon of the motor fuel, except gasohol as defined in Section 2-10 of this Act which shall be an amount equal to $0.05 per gallon, purchased from the distributor, supplier, or other reseller.

Any person engaged in the business of selling motor fuel at retail shall be entitled to a credit against tax due under this Act in an amount equal to the tax paid to the distributor, supplier, or other reseller.

Every distributor, supplier, or other reseller registered as provided in Section 2a or Section 2c of this Act shall remit the prepaid tax on all motor fuel that is due from any person engaged in the business of selling at retail motor fuel with the returns filed under Section 2f or Section 3 of this Act, but the vendors discount provided in Section 3 shall not apply to the amount of prepaid tax that is remitted. Any distributor or supplier who fails to properly collect and remit the tax shall be liable for the tax. For

purposes of this Section, the prepaid tax is due on invoiced gallons sold during a month by the 20th day of the following month.

(Source: P.A. 91-872, eff. 7-1-00.)

Section 50-35. The Motor Fuel Tax Law is amended by changing Sections 2b, 6, 6a, and 8 as follows:

(35 ILCS 505/2b) (from Ch. 120, par. 418b)

Sec. 2b. In addition to the tax collection and reporting responsibilities imposed elsewhere in this Act, a person who is required to pay the tax imposed by Section 2a of this Act shall pay the tax to the Department by return showing all fuel purchased, acquired or received and sold, distributed or used during the preceding calendar month including losses of fuel as the result of evaporation or shrinkage due to temperature variations, and such other reasonable information as the Department may require. Losses of fuel as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2a of this Law. On and after July 1, 2001, for each 6-month period January through June, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of fuel (for each category of fuel that is

required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the tax imposed by Section 2a of this Law. For purposes of this Section, "net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6-month periods.

The return shall be prescribed by the Department and shall be filed between the 1st and 20th days of each calendar month. The Department may, in its discretion, combine the returns filed under this Section, Section 5, and Section 5a of this Act. The return must be accompanied by appropriate computer-generated magnetic media supporting schedule data in the format required by the Department, unless, as provided by rule, the Department grants an exception upon petition of a taxpayer. If the return is filed timely, the seller shall take a discount of <u>2% through June 30, 2003 and 1.75% thereafter</u> ~~2%~~ which is allowed to reimburse the seller for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request. The ~~2%~~ discount, however, shall be applicable only to the amount of payment which accompanies a return that is filed timely in accordance with this Section.

(Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

(35 ILCS 505/6) (from Ch. 120, par. 422)

Sec. 6. Collection of tax; distributors. A distributor who sells or distributes any motor fuel, which he is required

by Section 5 to report to the Department when filing a return, shall (except as hereinafter provided) collect at the time of such sale and distribution, the amount of tax imposed under this Act on all such motor fuel sold and distributed, and at the time of making a return, the distributor shall pay to the Department the amount so collected less a discount of 2% through June 30, 2003 and 1.75% thereafter ~~2%~~ which is allowed to reimburse the distributor for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request, and shall also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all such motor fuel used by said distributor during the period covered by the return. However, no payment shall be made based upon dyed diesel fuel used by the distributor for non-highway purposes. The ~~2%~~ discount shall only be applicable to the amount of tax payment which accompanies a return which is filed timely in accordance with Section 5 of this Act. In each subsequent sale of motor fuel on which the amount of tax imposed under this Act has been collected as provided in this Section, the amount so collected shall be added to the selling price, so that the amount of tax is paid ultimately by the user of the motor fuel. However, no collection or payment shall be made in the case of the sale or use of any motor fuel to the extent to which such sale or use of motor fuel may not, under the constitution and statutes of the United States, be made the subject of taxation by this State. A person whose license to act as a distributor of fuel has been revoked shall, at the time of making a return, also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all motor fuel, which he is required by the second paragraph of Section 5 to report to the Department in making a return, and

which he had on hand on the date on which the license was revoked, and with respect to which no tax had been previously paid under this Act.

A distributor may make tax free sales of motor fuel, with respect to which he is otherwise required to collect the tax, when the motor fuel is delivered from a dispensing facility that has withdrawal facilities capable of dispensing motor fuel into the fuel supply tanks of motor vehicles only as specified in the following items 3, 4, and 5. A distributor may make tax-free sales of motor fuel, with respect to which he is otherwise required to collect the tax, when the motor fuel is delivered from other facilities only as specified in the following items 1 through 7.

1. When the sale is made to a person holding a valid unrevoked license as a distributor, by making a specific notation thereof on invoices or sales slip covering each sale.

2. When the sale is made with delivery to a purchaser outside of this State.

3. When the sale is made to the Federal Government or its instrumentalities.

4. When the sale is made to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is obtained in lieu of the tax.

5. When the sale is made to a privately owned public utility owning and operating 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the

regulations of the Illinois Commerce Commission, when an official certificate of exemption is obtained in lieu of the tax.

6. When a sale of special fuel is made to a person holding a valid, unrevoked license as a supplier, by making a specific notation thereof on the invoice or sales slip covering each such sale.

7. When a sale of special fuel is made to someone other than a licensed distributor or a licensed supplier for a use other than in motor vehicles, by making a specific notation thereof on the invoice or sales slip covering such sale and obtaining such supporting documentation as may be required by the Department. The distributor shall obtain and keep the supporting documentation in such form as the Department may require by rule.

8. (Blank).

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

All suits or other proceedings brought for the purpose of recovering any taxes, interest or penalties due the State of Illinois under this Act may be maintained in the name of the Department.

(Source: P.A. 91-173, eff. 1-1-00.)

(35 ILCS 505/6a) (from Ch. 120, par. 422a)

Sec. 6a. Collection of tax; suppliers. A supplier, other than a licensed distributor, who sells or distributes any special fuel, which he is required by Section 5a to report to the Department when filing a return, shall (except as hereinafter provided) collect at the time of such sale and distribution, the amount of tax imposed under this Act on all such special fuel sold and distributed, and at the time of

making a return, the supplier shall pay to the Department the amount so collected less a discount of 2% through June 30, 2003 and 1.75% thereafter ~~2%~~ which is allowed to reimburse the supplier for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the tax and supplying data to the Department on request, and shall also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all such special fuel used by said supplier during the period covered by the return. However, no payment shall be made based upon dyed diesel fuel used by said supplier for non-highway purposes. The ~~2~~% discount shall only be applicable to the amount of tax payment which accompanies a return which is filed timely in accordance with Section 5(a) of this Act. In each subsequent sale of special fuel on which the amount of tax imposed under this Act has been collected as provided in this Section, the amount so collected shall be added to the selling price, so that the amount of tax is paid ultimately by the user of the special fuel. However, no collection or payment shall be made in the case of the sale or use of any special fuel to the extent to which such sale or use of motor fuel may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State.

A person whose license to act as supplier of special fuel has been revoked shall, at the time of making a return, also pay to the Department an amount equal to the amount that would be collectible as a tax in the event of a sale thereof on all special fuel, which he is required by the 1st paragraph of Section 5a to report to the Department in making a return.

A supplier may make tax-free sales of special fuel, with respect to which he is otherwise required to collect the tax, when the motor fuel is delivered from a dispensing facility

that has withdrawal facilities capable of dispensing special fuel into the fuel supply tanks of motor vehicles only as specified in the following items 1, 2, and 3. A supplier may make tax-free sales of special fuel, with respect to which he is otherwise required to collect the tax, when the special fuel is delivered from other facilities only as specified in the following items 1 through 7.

1. When the sale is made to the federal government or its instrumentalities.

2. When the sale is made to a municipal corporation owning and operating a local transportation system for public service in this State when an official certificate of exemption is obtained in lieu of the tax.

3. When the sale is made to a privately owned public utility owning and operating 2 axle vehicles designed and used for transporting more than 7 passengers, which vehicles are used as common carriers in general transportation of passengers, are not devoted to any specialized purpose and are operated entirely within the territorial limits of a single municipality or of any group of contiguous municipalities, or in a close radius thereof, and the operations of which are subject to the regulations of the Illinois Commerce Commission, when an official certificate of exemption is obtained in lieu of the tax.

4. When a sale of special fuel is made to a person holding a valid unrevoked license as a supplier or a distributor by making a specific notation thereof on invoice or sales slip covering each such sale.

5. When a sale of special fuel is made to someone other than a licensed distributor or licensed supplier for a use other than in motor vehicles, by making a specific notation thereof on the invoice or sales slip covering such sale and obtaining such supporting

documentation as may be required by the Department. The supplier shall obtain and keep the supporting documentation in such form as the Department may require by rule.

6. (Blank).

7. When a sale of special fuel is made to a person where delivery is made outside of this State.

All special fuel sold or used for non-highway purposes must have a dye added in accordance with Section 4d of this Law.

All suits or other proceedings brought for the purpose of recovering any taxes, interest or penalties due the State of Illinois under this Act may be maintained in the name of the Department.

(Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

(35 ILCS 505/8) (from Ch. 120, par. 424)

Sec. 8. Except as provided in Section 8a, subdivision (h)(1) of Section 12a, Section 13a.6, and items 13, 14, 15, and 16 of Section 15, all money received by the Department under this Act, including payments made to the Department by member jurisdictions participating in the International Fuel Tax Agreement, shall be deposited in a special fund in the State treasury, to be known as the "Motor Fuel Tax Fund", and shall be used as follows:

(a) 2 1/2 cents per gallon of the tax collected on special fuel under paragraph (b) of Section 2 and Section 13a of this Act shall be transferred to the State Construction Account Fund in the State Treasury;

(b) $420,000 shall be transferred each month to the State Boating Act Fund to be used by the Department of Natural Resources for the purposes specified in Article X of the Boat Registration and Safety Act;

(c) $2,250,000 shall be transferred each month to the

Grade Crossing Protection Fund to be used as follows: not less than $6,000,000 each fiscal year shall be used for the construction or reconstruction of rail highway grade separation structures; ~~beginning with fiscal year 1997 and ending in fiscal year 2000, $1,500,000, beginning with fiscal year 2001 and ending in fiscal year 2003,~~ $2,250,000, ~~and $750,000~~ in fiscal year 2004 and each fiscal year thereafter shall be transferred to the Transportation Regulatory Fund and shall be accounted for as part of the rail carrier portion of such funds and shall be used to pay the cost of administration of the Illinois Commerce Commission's railroad safety program in connection with its duties under subsection (3) of Section 18c-7401 of the Illinois Vehicle Code, with the remainder to be used by the Department of Transportation upon order of the Illinois Commerce Commission, to pay that part of the cost apportioned by such Commission to the State to cover the interest of the public in the use of highways, roads, streets, or pedestrian walkways in the county highway system, township and district road system, or municipal street system as defined in the Illinois Highway Code, as the same may from time to time be amended, for separation of grades, for installation, construction or reconstruction of crossing protection or reconstruction, alteration, relocation including construction or improvement of any existing highway necessary for access to property or improvement of any grade crossing including the necessary highway approaches thereto of any railroad across the highway or public road, or for the installation, construction, reconstruction, or maintenance of a pedestrian walkway over or under a railroad right-of-way, as provided for in and in accordance with Section 18c-7401 of the Illinois Vehicle Code. The Commission shall not order more than $2,000,000 per year in Grade Crossing Protection Fund moneys for pedestrian walkways. In entering orders for projects for which payments from the Grade Crossing

Protection Fund will be made, the Commission shall account for expenditures authorized by the orders on a cash rather than an accrual basis. For purposes of this requirement an "accrual basis" assumes that the total cost of the project is expended in the fiscal year in which the order is entered, while a "cash basis" allocates the cost of the project among fiscal years as expenditures are actually made. To meet the requirements of this subsection, the Illinois Commerce Commission shall develop annual and 5-year project plans of rail crossing capital improvements that will be paid for with moneys from the Grade Crossing Protection Fund. The annual project plan shall identify projects for the succeeding fiscal year and the 5-year project plan shall identify projects for the 5 directly succeeding fiscal years. The Commission shall submit the annual and 5-year project plans for this Fund to the Governor, the President of the Senate, the Senate Minority Leader, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the first Wednesday in April of each year;

(d) of the amount remaining after allocations provided for in subsections (a), (b) and (c), a sufficient amount shall be reserved to pay all of the following:

(1) the costs of the Department of Revenue in administering this Act;

(2) the costs of the Department of Transportation in performing its duties imposed by the Illinois Highway Code for supervising the use of motor fuel tax funds apportioned to municipalities, counties and road districts;

(3) refunds provided for in Section 13 of this Act and under the terms of the International Fuel Tax Agreement referenced in Section 14a;

(4) from October 1, 1985 until June 30, 1994, the administration of the Vehicle Emissions Inspection Law,

which amount shall be certified monthly by the Environmental Protection Agency to the State Comptroller and shall promptly be transferred by the State Comptroller and Treasurer from the Motor Fuel Tax Fund to the Vehicle Inspection Fund, and for the period July 1, 1994 through June 30, 2000, one-twelfth of $25,000,000 each month, ~~and~~ for the period July 1, 2000 through June 30, 2003 ~~2006~~, one-twelfth of $30,000,000 each month, and $15,000,000 on July 1, 2003, and $15,000,000 on January 1 and $15,000,000 on July 1 of each calendar year for the period January 1, 2004 through June 30, 2006, for the administration of the Vehicle Emissions Inspection Law of 1995, to be transferred by the State Comptroller and Treasurer from the Motor Fuel Tax Fund into the Vehicle Inspection Fund;

(5) amounts ordered paid by the Court of Claims; and

(6) payment of motor fuel use taxes due to member jurisdictions under the terms of the International Fuel Tax Agreement. The Department shall certify these amounts to the Comptroller by the 15th day of each month; the Comptroller shall cause orders to be drawn for such amounts, and the Treasurer shall administer those amounts on or before the last day of each month;

(e) after allocations for the purposes set forth in subsections (a), (b), (c) and (d), the remaining amount shall be apportioned as follows:

(1) Until January 1, 2000, 58.4%, and beginning January 1, 2000, 45.6% shall be deposited as follows:

(A) 37% into the State Construction Account Fund, and

(B) 63% into the Road Fund, $1,250,000 of which shall be reserved each month for the Department of Transportation to be used in

accordance with the provisions of Sections 6-901 through 6-906 of the Illinois Highway Code;

(2) Until January 1, 2000, 41.6%, and beginning January 1, 2000, 54.4% shall be transferred to the Department of Transportation to be distributed as follows:

(A) 49.10% to the municipalities of the State,

(B) 16.74% to the counties of the State having 1,000,000 or more inhabitants,

(C) 18.27% to the counties of the State having less than 1,000,000 inhabitants,

(D) 15.89% to the road districts of the State.

As soon as may be after the first day of each month the Department of Transportation shall allot to each municipality its share of the amount apportioned to the several municipalities which shall be in proportion to the population of such municipalities as determined by the last preceding municipal census if conducted by the Federal Government or Federal census. If territory is annexed to any municipality subsequent to the time of the last preceding census the corporate authorities of such municipality may cause a census to be taken of such annexed territory and the population so ascertained for such territory shall be added to the population of the municipality as determined by the last preceding census for the purpose of determining the allotment for that municipality. If the population of any municipality was not determined by the last Federal census preceding any apportionment, the apportionment to such municipality shall be in accordance with any census taken by such municipality. Any municipal census used in accordance with this Section shall be certified to the Department of Transportation by the clerk of such municipality, and the accuracy thereof shall be subject to approval of the Department which may make such corrections as it ascertains to be necessary.

As soon as may be after the first day of each month the Department of Transportation shall allot to each county its share of the amount apportioned to the several counties of the State as herein provided. Each allotment to the several counties having less than 1,000,000 inhabitants shall be in proportion to the amount of motor vehicle license fees received from the residents of such counties, respectively, during the preceding calendar year. The Secretary of State shall, on or before April 15 of each year, transmit to the Department of Transportation a full and complete report showing the amount of motor vehicle license fees received from the residents of each county, respectively, during the preceding calendar year. The Department of Transportation shall, each month, use for allotment purposes the last such report received from the Secretary of State.

As soon as may be after the first day of each month, the Department of Transportation shall allot to the several counties their share of the amount apportioned for the use of road districts. The allotment shall be apportioned among the several counties in the State in the proportion which the total mileage of township or district roads in the respective counties bears to the total mileage of all township and district roads in the State. Funds allotted to the respective counties for the use of road districts therein shall be allocated to the several road districts in the county in the proportion which the total mileage of such township or district roads in the respective road districts bears to the total mileage of all such township or district roads in the county. After July 1 of any year, no allocation shall be made for any road district unless it levied a tax for road and bridge purposes in an amount which will require the extension of such tax against the taxable property in any such road district at a rate of not less than either .08% of the value thereof, based upon the assessment for the year

immediately prior to the year in which such tax was levied and as equalized by the Department of Revenue or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less. If any road district has levied a special tax for road purposes pursuant to Sections 6-601, 6-602 and 6-603 of the Illinois Highway Code, and such tax was levied in an amount which would require extension at a rate of not less than .08% of the value of the taxable property thereof, as equalized or assessed by the Department of Revenue, or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, such levy shall, however, be deemed a proper compliance with this Section and shall qualify such road district for an allotment under this Section. If a township has transferred to the road and bridge fund money which, when added to the amount of any tax levy of the road district would be the equivalent of a tax levy requiring extension at a rate of at least .08%, or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less, such transfer, together with any such tax levy, shall be deemed a proper compliance with this Section and shall qualify the road district for an allotment under this Section.

In counties in which a property tax extension limitation is imposed under the Property Tax Extension Limitation Law, road districts may retain their entitlement to a motor fuel tax allotment if, at the time the property tax extension limitation was imposed, the road district was levying a road and bridge tax at a rate sufficient to entitle it to a motor fuel tax allotment and continues to levy the maximum allowable amount after the imposition of the property tax extension limitation. Any road district may in all

circumstances retain its entitlement to a motor fuel tax allotment if it levied a road and bridge tax in an amount that will require the extension of the tax against the taxable property in the road district at a rate of not less than 0.08% of the assessed value of the property, based upon the assessment for the year immediately preceding the year in which the tax was levied and as equalized by the Department of Revenue or, in DuPage County, an amount equal to or greater than $12,000 per mile of road under the jurisdiction of the road district, whichever is less.

As used in this Section the term "road district" means any road district, including a county unit road district, provided for by the Illinois Highway Code; and the term "township or district road" means any road in the township and district road system as defined in the Illinois Highway Code. For the purposes of this Section, "road district" also includes park districts, forest preserve districts and conservation districts organized under Illinois law and "township or district road" also includes such roads as are maintained by park districts, forest preserve districts and conservation districts. The Department of Transportation shall determine the mileage of all township and district roads for the purposes of making allotments and allocations of motor fuel tax funds for use in road districts.

Payment of motor fuel tax moneys to municipalities and counties shall be made as soon as possible after the allotment is made. The treasurer of the municipality or county may invest these funds until their use is required and the interest earned by these investments shall be limited to the same uses as the principal funds.

(Source: P.A. 91-37, eff. 7-1-99; 91-59, eff. 6-30-99; 91-173, eff. 1-1-00; 91-357, eff. 7-29-99; 91-704, eff. 7-1-00; 91-725, eff. 6-2-00; 91-794, eff. 6-9-00; 92-16, eff. 6-28-01; 92-30, eff. 7-1-01.)

Section 50-40. The Uniform Penalty and Interest Act is amended by changing Sections 3-2 and 3-3 and by adding Section 3-4.5 as follows:

(35 ILCS 735/3-2) (from Ch. 120, par. 2603-2)

Sec. 3-2. Interest.

(a) Interest paid by the Department to taxpayers and interest charged to taxpayers by the Department shall be paid at the annual rate determined by the Department. For periods prior to January 1, 2004, that rate shall be the underpayment rate established under Section 6621 of the Internal Revenue Code. For periods after December 31, 2003, that rate shall be:

(1) for the one-year period beginning with the date of underpayment or overpayment, the short-term federal rate established under Section 6621 of the Internal Revenue Code.

(2) for any period beginning the day after the one-year period described in paragraph (1) of this subsection (a), the underpayment rate established under Section 6621 of the Internal Revenue Code.

(b) The interest rate shall be adjusted on a semiannual basis, on January 1 and July 1, based upon the underpayment rate or short-term federal rate going into effect on that January 1 or July 1 under Section 6621 of the Internal Revenue Code.

(c) This subsection (c) is applicable to returns due on and before December 31, 2000. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax and penalty due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of such notice and demand, interest under this Section on the amount so paid shall not be imposed for the period after the date of the notice and

demand.

(c-5) This subsection (c-5) is applicable to returns due on and after January 1, 2001. Interest shall be simple interest calculated on a daily basis. Interest shall accrue upon tax due. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, interest under this Section on the amount so paid shall not be imposed for the period after the date of the notice and demand.

(d) No interest shall be paid upon any overpayment of tax if the overpayment is refunded or a credit approved within 90 days after the last date prescribed for filing the original return, or within 90 days of the receipt of the processable return, or within 90 days after the date of overpayment, whichever date is latest, as determined without regard to processing time by the Comptroller or without regard to the date on which the credit is applied to the taxpayer's account. In order for an original return to be processable for purposes of this Section, it must be in the form prescribed or approved by the Department, signed by the person authorized by law, and contain all information, schedules, and support documents necessary to determine the tax due and to make allocations of tax as prescribed by law. For the purposes of computing interest, a return shall be deemed to be processable unless the Department notifies the taxpayer that the return is not processable within 90 days after the receipt of the return; however, interest shall not accumulate for the period following this date of notice. Interest on amounts refunded or credited pursuant to the filing of an amended return or claim for refund shall be determined from the due date of the original return or the date of overpayment, whichever is later, to the date of payment by the Department without regard to processing time by the Comptroller or the date of credit by the Department or

without regard to the date on which the credit is applied to the taxpayer's account. If a claim for refund relates to an overpayment attributable to a net loss carryback as provided by Section 207 of the Illinois Income Tax Act, the date of overpayment shall be the last day of the taxable year in which the loss was incurred.

(e) Interest on erroneous refunds. Any portion of the tax imposed by an Act to which this Act is applicable or any interest or penalty which has been erroneously refunded and which is recoverable by the Department shall bear interest from the date of payment of the refund. However, no interest will be charged if the erroneous refund is for an amount less than $500 and is due to a mistake of the Department.
(Source: P.A. 91-803, eff. 1-1-01.)

(35 ILCS 735/3-3) (from Ch. 120, par. 2603-3)

Sec. 3-3. Penalty for failure to file or pay.

(a) This subsection (a) is applicable before January 1, 1996. A penalty of 5% of the tax required to be shown due on a return shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing (penalty for late filing or nonfiling). If any unprocessable return is corrected and filed within 21 days after notice by the Department, the late filing or nonfiling penalty shall not apply. If a penalty for late filing or nonfiling is imposed in addition to a penalty for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty. Beginning on the effective date of this amendatory Act of 1995, in the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and has not occurred

in the 2 years immediately preceding the failure to file on the prescribed due date, the penalty imposed by Section 3-3(a) shall be abated.

(a-5) This subsection (a-5) is applicable to returns due on and after January 1, 1996 and on or before December 31, 2000. A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of $250, determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. However, if any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of $250 or 2% of the tax shown on the return. However, the additional penalty amount may not exceed $5,000 and is determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed (penalty for late filing or nonfiling). If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply. If a penalty for late filing or nonfiling is imposed in addition to a penalty for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty. In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and has not occurred in the 2 years immediately preceding the failure to file on the prescribed due date, the penalty imposed by

Section 3-3(a-5) shall be abated.

(a-10) This subsection (a-10) is applicable to returns due on and after January 1, 2001. A penalty equal to 2% of the tax required to be shown due on a return, up to a maximum amount of $250, reduced by any tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed, shall be imposed for failure to file the tax return on or before the due date prescribed for filing determined with regard for any extension of time for filing. However, if any return is not filed within 30 days after notice of nonfiling mailed by the Department to the last known address of the taxpayer contained in Department records, an additional penalty amount shall be imposed equal to the greater of $250 or 2% of the tax shown on the return. However, the additional penalty amount may not exceed $5,000 and is determined without regard to any part of the tax that is paid on time or by any credit that was properly allowable on the date the return was required to be filed (penalty for late filing or nonfiling). If any unprocessable return is corrected and filed within 30 days after notice by the Department, the late filing or nonfiling penalty shall not apply. If a penalty for late filing or nonfiling is imposed in addition to a penalty for late payment, the total penalty due shall be the sum of the late filing penalty and the applicable late payment penalty. In the case of any type of tax return required to be filed more frequently than annually, when the failure to file the tax return on or before the date prescribed for filing (including any extensions) is shown to be nonfraudulent and has not occurred in the 2 years immediately preceding the failure to file on the prescribed due date, the penalty imposed by Section 3-3(a-10) shall be abated.

(b) This subsection is applicable before January 1, 1998. A penalty of 15% of the tax shown on the return or the

tax required to be shown due on the return shall be imposed for failure to pay:

(1) the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or

(2) the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this paragraph (2) shall be imposed at the expiration of the period provided for the filing of a protest.

(b-5) This subsection is applicable to returns due on and after January 1, 1998 and on or before December 31, 2000. A penalty of 20% of the tax shown on the return or the tax required to be shown due on the return shall be imposed for failure to pay:

(1) the tax shown due on the return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b)

of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability); or

(2) the full amount of any tax required to be shown due on a return and which is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this paragraph (2) shall be imposed at the expiration of the period provided for the filing of a protest.

(b-10) This subsection (b-10) is applicable to returns due on and after January 1, 2001 and on or before December 31, 2003. A penalty shall be imposed for failure to pay:

(1) the tax shown due on a return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability). The amount of penalty imposed under this subsection (b-10)(1) shall be 2% of any amount that is paid no later than 30 days after the due date, 5% of any amount that is paid later than 30 days after the due date and not later than 90 days after the due date, 10% of any amount that is paid later than 90 days after the due date and not later than 180 days after the due date, and 15% of any amount

that is paid later than 180 days after the due date. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of the notice and demand, then the penalty for late payment or nonpayment of admitted liability under this subsection (b-10)(1) on the amount so paid shall not accrue for the period after the date of the notice and demand.

(2) the full amount of any tax required to be shown due on a return and that is not shown (penalty for late payment or nonpayment of additional liability), within 30 days after a notice of arithmetic error, notice and demand, or a final assessment is issued by the Department. In the case of a final assessment arising following a protest and hearing, the 30-day period shall not begin until all proceedings in court for review of the final assessment have terminated or the period for obtaining a review has expired without proceedings for a review having been instituted. The amount of penalty imposed under this subsection (b-10)(2) shall be 20% of any amount that is not paid within the 30-day period. In the case of a notice of tax liability that becomes a final assessment without a protest and hearing, the penalty provided in this subsection (b-10)(2) shall be imposed at the expiration of the period provided for the filing of a protest.

(b-15) This subsection (b-15) is applicable to returns due on and after January 1, 2004.

(1) A penalty shall be imposed for failure to pay the tax shown due or required to be shown due on a return on or before the due date prescribed for payment of that tax, an amount of underpayment of estimated tax, or an amount that is reported in an amended return other than an amended return timely filed as required by subsection

(b) of Section 506 of the Illinois Income Tax Act (penalty for late payment or nonpayment of admitted liability). The amount of penalty imposed under this subsection (b-15)(1) shall be 2% of any amount that is paid no later than 30 days after the due date, 10% of any amount that is paid later than 30 days after the due date and not later than 90 days after the due date, 15% of any amount that is paid later than 90 days after the due date and not later than 180 days after the due date, and 20% of any amount that is paid later than 180 days after the due date. If notice and demand is made for the payment of any amount of tax due and if the amount due is paid within 30 days after the date of this notice and demand, then the penalty for late payment or nonpayment of admitted liability under this subsection (b-15)(1) on the amount so paid shall not accrue for the period after the date of the notice and demand.

(2) A penalty shall be imposed for failure to file a return or to show on a timely return the full amount of any tax required to be shown due. The amount of penalty imposed under this subsection (b-15)(2) shall be:

(A) 5% of any amount of tax (other than an amount properly reported on an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act) that is shown on a return or amended return filed prior to the date the Department has initiated an audit or investigation of the taxpayer;

(B) 10% of any amount of tax (other than an amount properly reported on an amended return timely filed as required by subsection (b) of Section 506 of the Illinois Income Tax Act) that is shown on a return or amended return filed on or after the date the Department has initiated an audit or

investigation of the taxpayer, but prior to the date any notice of deficiency, notice of tax liability, notice of assessment or notice of final assessment is issued by the Department with respect to any portion of such underreported amount; or

(C) 20% of any amount that is not reported on a return or amended return filed prior to the date any notice of deficiency, notice of tax liability, notice of assessment or notice of final assessment is issued by the Department with respect to any portion of such underreported amount.

(c) For purposes of the late payment penalties, the basis of the penalty shall be the tax shown or required to be shown on a return, whichever is applicable, reduced by any part of the tax which is paid on time and by any credit which was properly allowable on the date the return was required to be filed.

(d) A penalty shall be applied to the tax required to be shown even if that amount is less than the tax shown on the return.

(e) This subsection (e) is applicable to returns due before January 1, 2001. If both a subsection (b)(1) or (b-5)(1) penalty and a subsection (b)(2) or (b-5)(2) penalty are assessed against the same return, the subsection (b)(2) or (b-5)(2) penalty shall be assessed against only the additional tax found to be due.

(e-5) This subsection (e-5) is applicable to returns due on and after January 1, 2001. If both a subsection (b-10)(1) penalty and a subsection (b-10)(2) penalty are assessed against the same return, the subsection (b-10)(2) penalty shall be assessed against only the additional tax found to be due.

(f) If the taxpayer has failed to file the return, the Department shall determine the correct tax according to its

best judgment and information, which amount shall be prima facie evidence of the correctness of the tax due.

(g) The time within which to file a return or pay an amount of tax due without imposition of a penalty does not extend the time within which to file a protest to a notice of tax liability or a notice of deficiency.

(h) No return shall be determined to be unprocessable because of the omission of any information requested on the return pursuant to Section 2505-575 of the Department of Revenue Law (20 ILCS 2505/2505-575).

(Source: P.A. 91-239, eff. 1-1-00; 91-803, eff. 1-1-01; 92-742, eff. 7-25-02.)

(35 ILCS 735/3-4.5 new)

Sec. 3-4.5. Collection penalty.

(a) If any liability (including any liability for penalties or interest imposed under this Act) owed by a taxpayer with respect to any return due on or after July 1, 2003, is not paid in full prior to the date specified in subsection (b) of this Section, a collection penalty shall be imposed on the taxpayer. The penalty shall be deemed assessed as of the date specified in subsection (b) of this Section and shall be considered additional State tax of the taxpayer imposed under the law under which the tax being collected was imposed.

(b) The penalty under subsection (a) of this Section shall be imposed if full payment is not received prior to the 31st day after a notice and demand, a notice of additional tax due or a request for payment of a final liability is issued by the Department.

(c) The penalty imposed under this Section shall be:

(1) $30 in any case in which the amount of the liability shown on the notice and demand, notice of additional tax due, or other request for payment that

remains unpaid as of the date specified in subsection (b) of this Section is less than $1,000; or

(2) $100 in any case in which the amount of the liability shown on the notice and demand, notice of additional tax due, or other request for payment that remains unpaid as of the date specified in subsection (b) of this Section is $1,000 or more.

Section 50-50. The Illinois Insurance Code is amended by adding Section 416 as follows:

(215 ILCS 5/416 new)

Sec. 416. Industrial Commission Operations Fund Surcharge.

(a) As of the effective date of this amendatory Act of the 93rd General Assembly, every company licensed or authorized by the Illinois Department of Insurance and insuring employers' liabilities arising under the Workers' Compensation Act or the Workers' Occupational Diseases Act shall remit to the Director a surcharge based upon the annual direct written premium, as reported under Section 136 of this Act, of the company in the manner provided in this Section. Such proceeds shall be deposited into the Industrial Commission Operations Fund as established in the Workers' Compensation Act. If a company survives or was formed by a merger, consolidation, reorganization, or reincorporation, the direct written premiums of all companies party to the merger, consolidation, reorganization, or reincorporation shall, for purposes of determining the amount of the fee imposed by this Section, be regarded as those of the surviving or new company.

(b)(1) Except as provided in subsection (b)(2) of this Section, beginning on July 1, 2004 and each year thereafter, the Director shall charge an annual Industrial Commission

Operations Fund Surcharge from every company subject to subsection (a) of this Section equal to 1.5% of its direct written premium for insuring employers' liabilities arising under the Workers' Compensation Act or Workers' Occupational Diseases Act as reported in each company's annual statement filed for the previous year as required by Section 136. The Industrial Commission Operations Fund Surcharge shall be collected by companies subject to subsection (a) of this Section as a separately stated surcharge on insured employers at the rate of 1.5% of direct written premium. All sums collected by the Department of Insurance under the provisions of this Section shall be paid promptly after the receipt of the same, accompanied by a detailed statement thereof, into the Industrial Commission Operations Fund in the State treasury.

(b)(2) Prior to July 1, 2004, the Director shall charge and collect the surcharge set forth in subparagraph (b)(1) of this Section on or before September 1, 2003, December 1, 2003, March 1, 2004 and June 1, 2004. For purposes of this subsection (b)(2), the company shall remit the amounts to the Director based on estimated direct premium for each quarter beginning on July 1, 2003, together with a sworn statement attesting to the reasonableness of the estimate, and the estimated amount of direct premium written forming the bases of the remittance.

(c) In addition to the authority specifically granted under Article XXV of this Code, the Director shall have such authority to adopt rules or establish forms as may be reasonably necessary for purposes of enforcing this Section. The Director shall also have authority to defer, waive, or abate the surcharge or any penalties imposed by this Section if in the Director's opinion the company's solvency and ability to meet its insured obligations would be immediately threatened by payment of the surcharge due.

(d) When a company fails to pay the full amount of any annual Industrial Commission Operations Fund Surcharge of $100 or more due under this Section, there shall be added to the amount due as a penalty the greater of $1,000 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid.

(e) The Department of Insurance may enforce the collection of any delinquent payment, penalty, or portion thereof by legal action or in any other manner by which the collection of debts due the State of Illinois may be enforced under the laws of this State.

(f) Whenever it appears to the satisfaction of the Director that a company has paid pursuant to this Act an Industrial Commission Operations Fund Surcharge in an amount in excess of the amount legally collectable from the company, the Director shall issue a credit memorandum for an amount equal to the amount of such overpayment. A credit memorandum may be applied for the 2-year period from the date of issuance, against the payment of any amount due during that period under the surcharge imposed by this Section or, subject to reasonable rule of the Department of Insurance including requirement of notification, may be assigned to any other company subject to regulation under this Act. Any application of credit memoranda after the period provided for in this Section is void.

(g) Annually, the Governor may direct a transfer of up to 2% of all moneys collected under this Section to the Insurance Financial Regulation Fund.

Section 50-57. The Public Utilities Act is amended by changing Section 16-111.1 as follows:

(220 ILCS 5/16-111.1)

Sec. 16-111.1. Illinois Clean Energy Community Trust.

(a) An electric utility which has sold or transferred generating facilities in a transaction to which subsection (k) of Section 16-111 applies is authorized to establish an Illinois clean energy community trust or foundation for the purposes of providing financial support and assistance to entities, public or private, within the State of Illinois including, but not limited to, units of State and local government, educational institutions, corporations, and charitable, educational, environmental and community organizations, for programs and projects that benefit the public by improving energy efficiency, developing renewable energy resources, supporting other energy related projects that improve the State's environmental quality, and supporting projects and programs intended to preserve or enhance the natural habitats and wildlife areas of the State. Provided, however, that the trust or foundation funds shall not be used for the remediation of environmentally impaired property. The trust or foundation may also assist in identifying other energy and environmental grant opportunities.

(b) Such trust or foundation shall be governed by a declaration of trust or articles of incorporation and bylaws which shall, at a minimum, provide that:

(1) There shall be 6 voting trustees of the trust or foundation, one of whom shall be appointed by the Governor, one of whom shall be appointed by the President of the Illinois Senate, one of whom shall be appointed by the Minority Leader of the Illinois Senate, one of whom shall be appointed by the Speaker of the Illinois House of Representatives, one of whom shall be appointed by the Minority Leader of the Illinois House of Representatives, and one of whom shall be appointed by the electric utility establishing the trust or foundation, provided that the voting trustee appointed by the utility shall be

a representative of a recognized environmental action group selected by the utility. The Governor shall designate one of the 6 voting trustees to serve as chairman of the trust or foundation, who shall serve as chairman of the trust or foundation at the pleasure of the Governor. In addition, there shall be 4 non-voting trustees, one of whom shall be appointed by the Director of the Department of Commerce and Community Affairs, one of whom shall be appointed by the Director of the Illinois Environmental Protection Agency, one of whom shall be appointed by the Director of the Department of Natural Resources, and one of whom shall be appointed by the electric utility establishing the trust or foundation, provided that the non-voting trustee appointed by the utility shall bring financial expertise to the trust or foundation and shall have appropriate credentials therefor.

(2) All voting trustees and the non-voting trustee with financial expertise shall be entitled to compensation for their services as trustees, provided, however, that no member of the General Assembly and no employee of the electric utility establishing the trust or foundation serving as a voting trustee shall receive any compensation for his or her services as a trustee, and provided further that the compensation to the chairman of the trust shall not exceed $25,000 annually and the compensation to any other trustee shall not exceed $20,000 annually. All trustees shall be entitled to reimbursement for reasonable expenses incurred on behalf of the trust in the performance of their duties as trustees. All such compensation and reimbursements shall be paid out of the trust.

(3) Trustees shall be appointed within 30 days after the creation of the trust or foundation and shall

serve for a term of 5 years commencing upon the date of their respective appointments, until their respective successors are appointed and qualified.

(4) A vacancy in the office of trustee shall be filled by the person holding the office responsible for appointing the trustee whose death or resignation creates the vacancy, and a trustee appointed to fill a vacancy shall serve the remainder of the term of the trustee whose resignation or death created the vacancy.

(5) The trust or foundation shall have an indefinite term, and shall terminate at such time as no trust assets remain.

(6) The trust or foundation shall be funded in the minimum amount of $250,000,000, with the allocation and disbursement of funds for the various purposes for which the trust or foundation is established to be determined by the trustees in accordance with the declaration of trust or the articles of incorporation and bylaws; provided, however, that this amount may be reduced by up to $25,000,000 if, at the time the trust or foundation is funded, a corresponding amount is contributed by the electric utility establishing the trust or foundation to the Board of Trustees of Southern Illinois University for the purpose of funding programs or projects related to clean coal and provided further that $25,000,000 of the amount contributed to the trust or foundation shall be available to fund programs or projects related to clean coal.

(7) The trust or foundation shall be authorized to employ an executive director and other employees, to enter into leases, contracts and other obligations on behalf of the trust or foundation, and to incur expenses that the trustees deem necessary or appropriate for the fulfillment of the purposes for which the trust or

foundation is established, provided, however, that salaries and administrative expenses incurred on behalf of the trust or foundation shall not exceed $500,000 in the first fiscal year after the trust or foundation is established and shall not exceed $1,000,000 in each subsequent fiscal year.

(8) The trustees may create and appoint advisory boards or committees to assist them with the administration of the trust or foundation, and to advise and make recommendations to them regarding the contribution and disbursement of the trust or foundation funds.

(c)(1) In addition to the allocation and disbursement of funds for the purposes set forth in subsection (a) of this Section, the trustees of the trust or foundation shall annually contribute funds in amounts set forth in subparagraph (2) of this subsection to the Citizens Utility Board created by the Citizens Utility Board Act; provided, however, that any such funds shall be used solely for the representation of the interests of utility consumers before the Illinois Commerce Commission, the Federal Energy Regulatory Commission, and the Federal Communications Commission and for the provision of consumer education on utility service and prices and on benefits and methods of energy conservation. Provided, however, that no part of such funds shall be used to support (i) any lobbying activity, (ii) activities related to fundraising, (iii) advertising or other marketing efforts regarding a particular utility, or (iv) solicitation of support for, or advocacy of, a particular position regarding any specific utility or a utility's docketed proceeding.

(2) In the calendar year in which the trust or foundation is first funded, the trustees shall contribute

$1,000,000 to the Citizens Utility Board within 60 days after such trust or foundation is established; provided, however, that such contribution shall be made after December 31, 1999. In each of the 6 calendar years subsequent to the first contribution, if the trust or foundation is in existence, the trustees shall contribute to the Citizens Utility Board an amount equal to the total expenditures by such organization in the prior calendar year, as set forth in the report filed by the Citizens Utility Board with the chairman of such trust or foundation as required by subparagraph (3) of this subsection. Such subsequent contributions shall be made within 30 days of submission by the Citizens Utility Board of such report to the Chairman of the trust or foundation, but in no event shall any annual contribution by the trustees to the Citizens Utility Board exceed $1,000,000. Following such 7-year period, an Illinois statutory consumer protection agency may petition the trust or foundation for contributions to fund expenditures of the type identified in paragraph (1), but in no event shall annual contributions by the trust or foundation for such expenditures exceed $1,000,000.

(3) The Citizens Utility Board shall file a report with the chairman of such trust or foundation for each year in which it expends any funds received from the trust or foundation setting forth the amount of any expenditures (regardless of the source of funds for such expenditures) for: (i) the representation of the interests of utility consumers before the Illinois Commerce Commission, the Federal Energy Regulatory Commission, and the Federal Communications Commission, and (ii) the provision of consumer education on utility service and prices and on benefits and methods of energy conservation. Such report shall separately state the

total amount of expenditures for the purposes or activities identified by items (i) and (ii) of this paragraph, the name and address of the external recipient of any such expenditure, if applicable, and the specific purposes or activities (including internal purposes or activities) for which each expenditure was made. Any report required by this subsection shall be filed with the chairman of such trust or foundation no later than March 31 of the year immediately following the year for which the report is required.

(d) In addition to any other allocation and disbursement of funds in this Section, the trustees of the trust or foundation shall contribute an amount up to $125,000,000 (1) for deposit into the General Obligation Bond Retirement and Interest Fund held in the State treasury to assist in the repayment on general obligation bonds issued under subsection (d) of Section 7 of the General Obligation Bond Act, and (2) for deposit into funds administered by agencies with responsibility for environmental activities to assist in payment for environmental programs. The amount required to be contributed shall be provided to the trustees in a certification letter from the Director of the Bureau of the Budget that shall be provided no later than August 1, 2003. The payment from the trustees shall be paid to the State no later than December 31st following the receipt of the letter.

(Source: P.A. 91-50, eff. 6-30-99; 91-781, eff. 6-9-00.)

Section 50-61. The Liquor Control Act of 1934 is amended by changing Section 12-4 as follows:

(235 ILCS 5/12-4)

Sec. 12-4. Grape and Wine Resources Fund. Beginning July 1, 1999 and ending June 30, 2003 ~~2004~~, on the first day of each State fiscal year, or as soon thereafter as may be

practical, the State Comptroller shall transfer the sum of $500,000 from the General Revenue Fund to the Grape and Wine Resources Fund, which is hereby continued as a special fund in the State Treasury. By January 1, 2004, the Department of Commerce and Community Affairs shall review the activities of the Council and report to the General Assembly and the Governor its recommendation of whether or not the funding under this Section should be continued.

The Grape and Wine Resources Fund shall be administered by the Department of Commerce and Community Affairs, which shall serve as the lead administrative agency for allocation and auditing of funds as well as monitoring program implementation. The Department shall make an annual grant of moneys from the Fund to the Council, which shall be used to pay for the Council's operations and expenses. These moneys shall be used by the Council to achieve the Council's objectives and shall not be used for any political or legislative purpose. Money remaining in the Fund at the end of the fiscal year shall remain in the Fund for use during the following year and shall not be transferred to any other State fund.

(Source: P.A. 91-472, eff. 8-10-99.)

Section 50-62. The Environmental Protection Act is amended by changing Sections 55 and 55.8 and adding Section 55.6a as follows:

(415 ILCS 5/55) (from Ch. 111 1/2, par. 1055)

Sec. 55. Prohibited activities.

(a) No person shall:

(1) Cause or allow the open dumping of any used or waste tire.

(2) Cause or allow the open burning of any used or waste tire.

(3) Except at a tire storage site which contains more than 50 used tires, cause or allow the storage of any used tire unless the tire is altered, reprocessed, converted, covered, or otherwise prevented from accumulating water.

(4) Cause or allow the operation of a tire storage site except in compliance with Board regulations.

(5) Abandon, dump or dispose of any used or waste tire on private or public property, except in a sanitary landfill approved by the Agency pursuant to regulations adopted by the Board.

(6) Fail to submit required reports, tire removal agreements, or Board regulations.

(b) (Blank.)

(b-1) Beginning January 1, 1995, no person shall knowingly mix any used or waste tire, either whole or cut, with municipal waste, and no owner or operator of a sanitary landfill shall accept any used or waste tire for final disposal; except that used or waste tires, when separated from other waste, may be accepted if: (1) the sanitary landfill provides and maintains a means for shredding, slitting, or chopping whole tires and so treats whole tires and, if approved by the Agency in a permit issued under this Act, uses the used or waste tires for alternative uses, which may include on-site practices such as lining of roadways with tire scraps, alternative daily cover, or use in a leachate collection system or (2) the sanitary landfill, by its notification to the Illinois Industrial Materials Exchange Service, makes available the used or waste tire to an appropriate facility for reuse, reprocessing, or converting, including use as an alternate energy fuel. If, within 30 days after notification to the Illinois Industrial Materials Exchange Service of the availability of waste tires, no specific request for the used or waste tires is received by

the sanitary landfill, and the sanitary landfill determines it has no alternative use for those used or waste tires, the sanitary landfill may dispose of slit, chopped, or shredded used or waste tires in the sanitary landfill. In the event the physical condition of a used or waste tire makes shredding, slitting, chopping, reuse, reprocessing, or other alternative use of the used or waste tire impractical or infeasible, then the sanitary landfill, after authorization by the Agency, may accept the used or waste tire for disposal.

Sanitary landfills and facilities for reuse, reprocessing, or converting, including use as alternative fuel, shall (i) notify the Illinois Industrial Materials Exchange Service of the availability of and demand for used or waste tires and (ii) consult with the Department of Commerce and Community Affairs regarding the status of marketing of waste tires to facilities for reuse.

(c) ~~On or before January 1, 1990,~~ Any person who sells new or used tires at retail or operates a tire storage site or a tire disposal site which contains more than 50 used or waste tires shall give notice of such activity to the Agency. Any person engaging in such activity for the first time after January 1, 1990, shall give notice to the Agency within 30 days after the date of commencement of the activity. The form of such notice shall be specified by the Agency and shall be limited to information regarding the following:

(1) the name and address of the owner and operator;

(2) the name, address and location of the operation;

(3) the type of operations involving used and waste tires (storage, disposal, conversion or processing); and

(4) the number of used and waste tires present at the location.

(d) Beginning January 1, 1992, no person shall cause or

allow the operation of:

(1) a tire storage site which contains more than 50 used tires, unless the owner or operator, by January 1, 1992 (or the January 1 following commencement of operation, whichever is later) and January 1 of each year thereafter, (i) registers the site with the Agency, (ii) certifies to the Agency that the site complies with any applicable standards adopted by the Board pursuant to Section 55.2, (iii) reports to the Agency the number of tires accumulated, the status of vector controls, and the actions taken to handle and process the tires, and (iv) pays the fee required under subsection (b) of Section 55.6; or

(2) a tire disposal site, unless the owner or operator (i) has received approval from the Agency after filing a tire removal agreement pursuant to Section 55.4, or (ii) has entered into a written agreement to participate in a consensual removal action under Section 55.3.

The Agency shall provide written forms for the annual registration and certification required under this subsection (d).

(e) No person shall cause or allow the storage, disposal, treatment or processing of any used or waste tire in violation of any regulation or standard adopted by the Board.

(f) No person shall arrange for the transportation of used or waste tires away from the site of generation with a person known to openly dump such tires.

(g) No person shall engage in any operation as a used or waste tire transporter except in compliance with Board regulations.

(h) No person shall cause or allow the combustion of any used or waste tire in an enclosed device unless a permit has

been issued by the Agency authorizing such combustion pursuant to regulations adopted by the Board for the control of air pollution and consistent with the provisions of Section 9.4 of this Act.

(i) No person shall cause or allow the use of pesticides to treat tires except as prescribed by Board regulations.

(j) No person shall fail to comply with the terms of a tire removal agreement approved by the Agency pursuant to Section 55.4.

(Source: P.A. 92-574, eff. 6-26-02.)

(415 ILCS 5/55.6a new)

Sec. 55.6a. Emergency Public Health Fund.

(a) Beginning on July 1, 2003, moneys in the Emergency Public Health Fund, subject to appropriation, shall be allocated annually as follows: (i) $200,000 to the Department of Natural Resources for the purposes described in Section 55.6(c)(6) and (ii) subject to subsection (b) of this Section, all remaining amounts to the Department of Public Health to be used to make vector control grants and surveillance grants to the Cook County Department of Public Health (for areas of the County excluding the City of Chicago), to the City of Chicago health department, and to other certified local health departments. These grants shall be used for expenses related to West Nile Virus and other vector-borne diseases. The amount of each grant shall be based on population and need as supported by information submitted to the Department of Public Health. For the purposes of this Section, need shall be determined by the Department based primarily upon surveillance data and the number of positive human cases of West Nile Virus and other vector-borne diseases occurring during the preceding year and current year in the county or municipality seeking the grant.

(b) Beginning on July 31, 2003, on the last day of each

month, the State Comptroller shall order transferred and the State Treasurer shall transfer fees collected in the previous month pursuant to item (1.5) of subsection (a) of Section 55.8 from the Emergency Public Health Fund to the Communications Revolving Fund. These transfers shall continue until the cumulative total of the transfers is $3,000,000.

(415 ILCS 5/55.8) (from Ch. 111 1/2, par. 1055.8)

Sec. 55.8. Tire retailers.

(a) Beginning July 1, 1992, any person selling new or used tires at retail or offering new or used tires for retail sale in this State shall:

(1) collect from retail customers a fee of $2 ~~one dollar~~ per new and used tire sold and delivered in this State to be paid to the Department of Revenue and deposited into the Used Tire Management Fund, less a collection allowance of 10 cents per tire to be retained by the retail seller and a collection allowance of 10 cents per tire to be retained by the Department of Revenue and paid into the General Revenue Fund;

(1.5) beginning on July 1, 2003, collect from retail customers an additional 50 cents per new or used tire sold and delivered in this State. The money collected from this fee shall be deposited into the Emergency Public Health Fund. This fee shall no longer be collected beginning on January 1, 2008.

(2) accept for recycling used tires from customers, at the point of transfer, in a quantity equal to the number of new tires purchased; and

(3) post in a conspicuous place a written notice at least 8.5 by 11 inches in size that includes the universal recycling symbol and the following statements: "DO NOT put used tires in the trash."; "Recycle your used

tires."; and "State law requires us to accept used tires for recycling, in exchange for new tires purchased.".

(b) A person who accepts used tires for recycling under subsection (a) shall not allow the tires to accumulate for periods of more than 90 days.

(c) The requirements of subsection (a) of this Section do not apply to mail order sales nor shall the retail sale of a motor vehicle be considered to be the sale of tires at retail or offering of tires for retail sale. Instead of filing returns, retailers of tires may remit the tire user fee of $1.00 per tire to their suppliers of tires if the supplier of tires is a registered retailer of tires and agrees or otherwise arranges to collect and remit the tire fee to the Department of Revenue, notwithstanding the fact that the sale of the tire is a sale for resale and not a sale at retail. A tire supplier who enters into such an arrangement with a tire retailer shall be liable for the tax on all tires sold to the tire retailer and must (i) provide the tire retailer with a receipt that separately reflects the tire tax collected from the retailer on each transaction and (ii) accept used tires for recycling from the retailer's customers. The tire supplier shall be entitled to the collection allowance of 10 cents per tire.

The retailer of the tires must maintain in its books and records evidence that the appropriate fee was paid to the tire supplier and that the tire supplier has agreed to remit the fee to the Department of Revenue for each tire sold by the retailer. Otherwise, the tire retailer shall be directly liable for the fee on all tires sold at retail. Tire retailers paying the fee to their suppliers are not entitled to the collection allowance of 10 cents per tire.

(d) The requirements of subsection (a) of this Section shall apply exclusively to tires to be used for vehicles defined in Section 1-217 of the Illinois Vehicle Code,

aircraft tires, special mobile equipment, and implements of husbandry.

(e) The requirements of paragraph (1) of subsection (a) do not apply to the sale of reprocessed tires. For purposes of this Section, "reprocessed tire" means a used tire that has been recapped, retreaded, or regrooved and that has not been placed on a vehicle wheel rim.

(Source: P.A. 90-14, eff. 7-1-97.)

Section 50-63. The Environmental Impact Fee Law is amended by changing Section 315 as follows:

(415 ILCS 125/315)

(Section scheduled to be repealed on January 1, 2013)

Sec. 315. Fee on receivers of fuel for sale or use; collection and reporting. A person that is required to pay the fee imposed by this Law shall pay the fee to the Department by return showing all fuel purchased, acquired, or received and sold, distributed or used during the preceding calendar month, including losses of fuel as the result of evaporation or shrinkage due to temperature variations, and such other reasonable information as the Department may require. Losses of fuel as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of the month, plus the receipts of gallonage during the month, minus the gallonage remaining in storage at the end of the month. Any loss reported that is in excess of this amount shall be subject to the fee imposed by Section 310 of this Law. On and after July 1, 2001, for each 6-month period January through June, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the

beginning of each January, plus the receipts of gallonage each January through June, minus the gallonage remaining in storage at the end of each June. On and after July 1, 2001, for each 6-month period July through December, net losses of fuel (for each category of fuel that is required to be reported on a return) as the result of evaporation or shrinkage due to temperature variations may not exceed 1% of the total gallons in storage at the beginning of each July, plus the receipts of gallonage each July through December, minus the gallonage remaining in storage at the end of each December. Any net loss reported that is in excess of this amount shall be subject to the fee imposed by Section 310 of this Law. For purposes of this Section, "net loss" means the number of gallons gained through temperature variations minus the number of gallons lost through temperature variations or evaporation for each of the respective 6-month periods.

The return shall be prescribed by the Department and shall be filed between the 1st and 20th days of each calendar month. The Department may, in its discretion, combine the return filed under this Law with the return filed under Section 2b of the Motor Fuel Tax Law. If the return is timely filed, the receiver may take a discount of 2% through June 30, 2003 and 1.75% thereafter ~~2%~~ to reimburse himself for the expenses incurred in keeping records, preparing and filing returns, collecting and remitting the fee, and supplying data to the Department on request. However, the ~~2%~~ discount applies only to the amount of the fee payment that accompanies a return that is timely filed in accordance with this Section.

(Source: P.A. 91-173, eff. 1-1-00; 92-30, eff. 7-1-01.)

Section 50-75. The Unified Code of Corrections is amended by changing Section 5-9-1 as follows:

(730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

Sec. 5-9-1. Authorized fines.

(a) An offender may be sentenced to pay a fine which shall not exceed for each offense:

(1) for a felony, $25,000 or the amount specified in the offense, whichever is greater, or where the offender is a corporation, $50,000 or the amount specified in the offense, whichever is greater;

(2) for a Class A misdemeanor, $2,500 or the amount specified in the offense, whichever is greater;

(3) for a Class B or Class C misdemeanor, $1,500;

(4) for a petty offense, $1,000 or the amount specified in the offense, whichever is less;

(5) for a business offense, the amount specified in the statute defining that offense.

(b) A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment.

(c) There shall be added to every fine imposed in sentencing for a criminal or traffic offense, except an offense relating to parking or registration, or offense by a pedestrian, an additional penalty of $5 for each $40, or fraction thereof, of fine imposed. The additional penalty of $5 for each $40, or fraction thereof, of fine imposed, if not otherwise assessed, shall also be added to every fine imposed upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision in criminal, traffic, local ordinance, county ordinance, and conservation cases (except parking, registration, or pedestrian violations), or upon a sentence of probation without entry of judgment under Section 10 of the Cannabis Control Act or Section 410 of the Controlled Substances Act.

Such additional amounts shall be assessed by the court

imposing the fine and shall be collected by the Circuit Clerk in addition to the fine and costs in the case. Each such additional penalty shall be remitted by the Circuit Clerk within one month after receipt to the State Treasurer. The State Treasurer shall deposit $1 for each $40, or fraction thereof, of fine imposed into the LEADS Maintenance Fund. The remaining surcharge amount shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, unless the fine, costs or additional amounts are subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act. Such additional penalty shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c) during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in imposing a fine against an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be computed on the amount remaining after deducting from the gross amount levied all fees of the Circuit Clerk, the State's Attorney and the Sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the Circuit Clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act and the fee, if applicable, payable to the county in which the violation occurred pursuant to Section 5-1101 of the Counties Code.

(c-5) In addition to the fines imposed by subsection

(c), any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional $100 fee to the clerk. This additional fee, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of $100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c-5) during the preceding calendar year.

The Circuit Clerk may accept payment of fines and costs by credit card from an offender who has been convicted of a traffic offense, petty offense or misdemeanor and may charge the service fee permitted where fines and costs are paid by credit card provided for in Section 27.3b of the Clerks of Courts Act.

(c-7) In addition to the fines imposed by subsection (c), any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional $5 fee to the clerk. This additional fee, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of $5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c-7) during the preceding calendar year.

(c-9) There shall be added to every fine imposed in sentencing for a criminal or traffic offense, except an offense relating to parking or registration, or offense by a pedestrian, an additional penalty of $4 imposed. The additional penalty of $4 shall also be added to every fine imposed upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision in criminal, traffic, local ordinance, county ordinance, or conservation cases (except parking, registration, or pedestrian violations), or upon a sentence of probation without entry of judgment under Section 10 of the Cannabis Control Act or Section 410 of the Controlled Substances Act. Such additional penalty of $4 shall be assessed by the court imposing the fine and shall be collected by the circuit clerk in addition to any other fine, costs, fees, and penalties in the case. Each such additional penalty of $4 shall be remitted to the State Treasurer by the circuit clerk within one month after receipt. The State Treasurer shall deposit the additional penalty of $4 into the Traffic and Criminal Conviction Surcharge Fund. The additional penalty of $4 shall be in addition to any other fine, costs, fees, and penalties and shall not reduce or affect the distribution of any other fine, costs, fees, and penalties.

(d) In determining the amount and method of payment of a fine, except for those fines established for violations of Chapter 15 of the Illinois Vehicle Code, the court shall consider:

(1) the financial resources and future ability of the offender to pay the fine; and

(2) whether the fine will prevent the offender from making court ordered restitution or reparation to the victim of the offense; and

(3) in a case where the accused is a dissolved

corporation and the court has appointed counsel to represent the corporation, the costs incurred either by the county or the State for such representation.

(e) The court may order the fine to be paid forthwith or within a specified period of time or in installments.

(f) All fines, costs and additional amounts imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.
(Source: P.A. 92-431, eff. 1-1-02.)

Section 50-80. The Workers' Compensation Act is amended by adding Section 4d as follows:

(820 ILCS 305/4d new)

Sec. 4d. Industrial Commission Operations Fund Fee.

(a) As of the effective date of this amendatory Act of the 93rd General Assembly, each employer that self-insures its liabilities arising under this Act or Workers' Occupational Diseases Act shall pay a fee measured by the annual actual wages paid in this State of such an employer in the manner provided in this Section. Such proceeds shall be deposited in the Industrial Commission Operations Fund. If an employer survives or was formed by a merger, consolidation, reorganization, or reincorporation, the actual wages paid in this State of all employers party to the merger, consolidation, reorganization, or reincorporation shall, for purposes of determining the amount of the fee imposed by this Section, be regarded as those of the surviving or new employer.

(b) Beginning on the effective date of this amendatory

Act of the 93rd General Assembly and on July 1 of each year thereafter, the Chairman shall charge and collect an annual Industrial Commission Operations Fund Fee from every employer subject to subsection (a) of this Section equal to 0.045% of its annual actual wages paid in this State as reported in each employer's annual self-insurance renewal filed for the previous year as required by Section 4 of this Act and Section 4 of the Workers' Occupational Diseases Act. All sums collected by the Commission under the provisions of this Section shall be paid promptly after the receipt of the same, accompanied by a detailed statement thereof, into the Industrial Commission Operations Fund.

(c) In addition to the authority specifically granted under Section 16, the Chairman shall have such authority to adopt rules or establish forms as may be reasonably necessary for purposes of enforcing this Section. The Commission shall have authority to defer, waive, or abate the fee or any penalties imposed by this Section if in the Commission's opinion the employer's solvency and ability to meet its obligations to pay workers' compensation benefits would be immediately threatened by payment of the fee due.

(d) When an employer fails to pay the full amount of any annual Industrial Commission Operations Fund Fee of $100 or more due under this Section, there shall be added to the amount due as a penalty the greater of $1,000 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid.

(e) The Commission may enforce the collection of any delinquent payment, penalty or portion thereof by legal action or in any other manner by which the collection of debts due the State of Illinois may be enforced under the laws of this State.

(f) Whenever it appears to the satisfaction of the Chairman that an employer has paid pursuant to this Act an

Industrial Commission Operations Fund Fee in an amount in excess of the amount legally collectable from the employer, the Chairman shall issue a credit memorandum for an amount equal to the amount of such overpayment. A credit memorandum may be applied for the 2-year period from the date of issuance against the payment of any amount due during that period under the fee imposed by this Section or, subject to reasonable rule of the Commission including requirement of notification, may be assigned to any other employer subject to regulation under this Act. Any application of credit memoranda after the period provided for in this Section is void.

ARTICLE 75

Section 75-1. The Secretary of State Act is amended by changing Section 5.5 as follows:

(15 ILCS 305/5.5)

Sec. 5.5. Secretary of State fees. There shall be paid to the Secretary of State the following fees:

For certificate or apostille, with seal: $2.

For each certificate, without seal: $1.

For each commission to any officer or other person (except military commissions), with seal: $2.

For copies of exemplifications of records, or for a certified copy of any document, instrument, or paper when not otherwise provided by law, and it does not exceed legal size: $0.50 per page or any portion of a page; and $2 for the certificate, with seal affixed.

For copies of exemplifications of records or a certified copy of any document, instrument, or paper, when not otherwise provided for by law, that exceeds legal size: $1 per page or any portion of a page; and $2 for the

certificate, with seal affixed.

For copies of bills or other papers: $0.50 per page or any portion of a page; and $2 for the certificate, with seal affixed, except that there shall be no charge for making or certifying copies that are furnished to any governmental agency for official use.

For recording a duplicate of an affidavit showing the appointment of trustees of a religious corporation: $0.50; and $2 for the certificate of recording, with seal affixed.

For filing and recording an application under the Soil Conservation Districts Law and making and issuing a certificate for the application, under seal: $10.

For recording any other document, instrument, or paper required or permitted to be recorded with the Secretary of State, which recording shall be done by any approved photographic or photostatic process, if the page to be recorded does not exceed legal size and the fees and charges therefor are not otherwise fixed by law: $0.50 per page or any portion of a page; and $2 for the certificate of recording, with seal affixed.

For recording any other document, instrument, or paper required or permitted to be recorded with the Secretary of State, which recording shall be done by any approved photographic or photostatic process, if the page to be recorded exceeds legal size and the fees and charges therefor are not otherwise fixed by law: $1 per page or any portion of a page; and $2 for the certificate of recording attached to the original, with seal affixed.

For each duplicate certified copy of a school land patent: $3.

For each photostatic copy of a township plat: $2.

For each page of a photostatic copy of surveyors field notes: $2.

For each page of a photostatic copy of a state land

patent, including certification: $4.

For each page of a photostatic copy of a swamp land grant: $2.

For each page of photostatic copies of all other instruments or documents relating to land records: $2.

For each check, money order, or bank draft returned by the Secretary of State when it has not been honored: $25 ~~$2~~.

For any research request received after the effective date of the changes made to this Section by this amendatory Act of the 93rd General Assembly by an out-of-State or non-Illinois resident: $10, prepaid and nonrefundable, for which the requester will receive up to 2 unofficial noncertified copies of the records requested. The fees under this paragraph shall be deposited into the General Revenue Fund.

The Illinois State Archives is authorized to charge reasonable fees to reimburse the cost of production and distribution of copies of finding aids to the records that it holds or copies of published versions or editions of those records in printed, microfilm, or electronic formats. The fees under this paragraph shall be deposited into the General Revenue Fund.

As used in this Section, "legal size" means a sheet of paper that is 8.5 inches wide and 14 inches long, or written or printed matter on a sheet of paper that does not exceed that width and length, or either of them.
(Source: P.A. 89-233, eff. 1-1-96.)

Section 75-2. The Capital Development Board Act is amended by changing Section 9.02a as follows:

(20 ILCS 3105/9.02a) (from Ch. 127, par. 779.02a)

(This Section is scheduled to be repealed on June 30, 2004)

Sec. 9.02a. To charge contract administration fees used to administer and process the terms of contracts awarded by this State. Contract administration fees shall not exceed 3% ~~1.5%~~ of the contract amount. This Section is repealed June 30, 2004.

(Source: P.A. 91-795, eff. 6-9-00.)

Section 75-2.5. The Lobbyist Registration Act is amended by changing Section 5 as follows:

(25 ILCS 170/5) (from Ch. 63, par. 175)

Sec. 5. Lobbyist registration and disclosure. Every person required to register under Section 3 shall each and every year, or before any such service is performed which requires the person to register, file in the Office of the Secretary of State a written statement containing the following information:

(a) The name and address of the registrant.

(b) The name and address of the person or persons employing or retaining registrant to perform such services or on whose behalf the registrant appears.

(c) A brief description of the executive, legislative, or administrative action in reference to which such service is to be rendered.

(d) A picture of the registrant.

Persons required to register under this Act prior to July 1, 2003, shall remit a single, annual and nonrefundable $50 registration fee. All fees collected for registrations prior to July 1, 2003, shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act. Beginning July 1, 2003, all persons other than entities qualified under Section 501(c)(3) of the Internal Revenue Code required to register under this Act shall remit a single, annual, and nonrefundable $300

registration fee. Entities required to register under this Act which are qualified under Section 501(c)(3) of the Internal Revenue Code shall remit a single, annual, and nonrefundable $100 registration fee. The increases in the fees from $50 to $100 and from $50 to $300 by this amendatory Act of the 93rd General Assembly are in addition to any other fee increase enacted by the 93rd or any subsequent General Assembly. Of each registration fee collected for registrations on or after July 1, 2003, any additional amount collected as a result of any other fee increase enacted by the 93rd or any subsequent General Assembly shall be deposited into the Lobbyist Registration Administration Fund for the purposes provided by law for that fee increase, the next $100 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act, and any balance shall be deposited into the General Revenue Fund.

(Source: P.A. 88-187.)

Section 75-3. The State Finance Act is amended by adding Section 5.596 and changing Sections 6z-34 and 6z-48 as follows:

(30 ILCS 105/5.596 new)

Sec. 5.596. The Illinois Clean Water Fund.

(30 ILCS 105/6z-34)

Sec. 6z-34. Secretary of State Special Services Fund. There is created in the State Treasury a special fund to be known as the Secretary of State Special Services Fund. Moneys deposited into the Fund may, subject to appropriation, be used by the Secretary of State for any or all of the following purposes:

(1) For general automation efforts within operations of the Office of Secretary of State.

(2) For technology applications in any form that will enhance the operational capabilities of the Office of Secretary of State.

(3) To provide funds for any type of library grants authorized and administered by the Secretary of State as State Librarian.

These funds are in addition to any other funds otherwise authorized to the Office of Secretary of State for like or similar purposes.

On August 15, 1997, all fiscal year 1997 receipts that exceed the amount of $15,000,000 shall be transferred from this Fund to the Statistical Services Revolving Fund; on August 15, 1998 and each year thereafter through 2000, all receipts from the fiscal year ending on the previous June 30th that exceed the amount of $17,000,000 shall be transferred from this Fund to the Statistical Services Revolving Fund; ~~and~~ on August 15, 2001 and each year thereafter <u>through 2002</u>, all receipts from the fiscal year ending on the previous June 30th that exceed the amount of $19,000,000 shall be transferred from this Fund to the Statistical Services Revolving Fund<u>; and on August 15, 2003 and each year thereafter, all receipts from the fiscal year ending on the previous June 30th that exceed the amount of $33,000,000 shall be transferred from this Fund to the Statistical Services Revolving Fund</u>.

(Source: P.A. 92-32, eff. 7-1-01.)

(30 ILCS 105/6z-48)

Sec. 6z-48. Motor Vehicle License Plate Fund.

(a) The Motor Vehicle License Plate Fund is hereby created as a special fund in the State Treasury. The Fund shall consist of the deposits provided for in Section 2-119 of the Illinois Vehicle Code and any moneys appropriated to the Fund.

(b) The Motor Vehicle License Plate Fund shall be used, subject to appropriation, for the costs incident to providing new or replacement license plates for motor vehicles.

~~(c) Any balance remaining in the Motor Vehicle License Plate Fund at the close of business on December 31, 2004 shall be transferred into the Road Fund, and the Motor Vehicle License Plate Fund is abolished when that transfer has been made.~~

(Source: P.A. 91-37, eff. 7-1-99.)

Section 75-4. The Coin-Operated Amusement Device and Redemption Machine Tax Act is amended by changing Sections 1, 2, 3, 4b, and 6 as follows:

(35 ILCS 510/1) (from Ch. 120, par. 481b.1)

Sec. 1. There is imposed, on the privilege of operating every coin-in-the-slot-operated amusement device, including a device operated or operable by insertion of coins, tokens, chips or similar objects, in this State which returns to the player thereof no money or property or right to receive money or property, and on the privilege of operating in this State a redemption machine as defined in Section 28-2 of the Criminal Code of 1961, an annual a privilege tax of $30 ~~$15~~ for each device ~~for which a license was issued~~ for a period beginning on or after August 1 of any year and prior to August ~~February~~ 1 of the succeeding year. ~~A privilege tax of $8 is imposed on the privilege of operating such a device for which a license was issued for a period beginning on or after February 1 of any year and ending July 31 of that year.~~

(Source: P.A. 86-905; 86-957; 87-855.)

(35 ILCS 510/2) (from Ch. 120, par. 481b.2)

Sec. 2. (a) Any person, firm, limited liability company, or corporation which displays any device described in Section

1, to be played or operated by the public at any place owned or leased by any such person, firm, limited liability company, or corporation, shall before he displays such device, file in the Office of the Department of Revenue a form containing information regarding ~~an--application--for--a license--for~~ such device ~~properly-sworn-to~~, setting forth his name and address, with a brief description of the device to be displayed and the premises where such device will be located, together with such other relevant data as the Department of Revenue may require. Such form ~~application-for a-license~~ shall be accompanied by the required privilege ~~license~~ tax for each device. Such privilege ~~license~~ tax shall be paid to the Department of Revenue of the State of Illinois and all monies received by the Department of Revenue under this Act shall be paid into the General Revenue Fund in the State Treasury. The Department of Revenue shall supply and deliver to the person, firm, limited liability company, or corporation which displays any device described in Section 1, charges prepaid and without additional cost, one privilege tax decal ~~license-tag~~ for each such device on which the tax has been paid ~~an-application-is-made~~, stating the year for which issued. Such privilege tax decal ~~license--tag~~ shall thereupon be securely affixed to such device.

(b) If an amount of tax, penalty, or interest has been paid in error to the Department, the taxpayer may file a claim for credit or refund with the Department. If it is determined that the Department must issue a credit or refund under this Act, the Department may first apply the amount of the credit or refund due against any amount of tax, penalty, or interest due under this Act from the taxpayer entitled to the credit or refund. If proceedings are pending to determine if any tax, penalty, or interest is due under this Act from the taxpayer, the Department may withhold issuance of the credit or refund pending the final disposition of

those proceedings and may apply that credit or refund against any amount determined to be due to the Department as a result of those proceedings. The balance, if any, of the credit or refund shall be paid to the taxpayer.

If no tax, penalty, or interest is due and no proceedings are pending to determine whether the taxpayer is indebted to the Department for tax, penalty, or interest, the credit memorandum or refund shall be issued to the taxpayer; or, the credit memorandum may be assigned by the taxpayer, subject to reasonable rules of the Department, to any other person who is subject to this Act, and the amount of the credit memorandum by the Department against any tax, penalty, or interest due or to become due under this Act from the assignee.

For any claim for credit or refund filed with the Department on or after each July 1, no amount erroneously paid more than 3 years before that July 1, shall be credited or refunded.

A claim for credit or refund shall be filed on a form provided by the Department. As soon as practicable after any claim for credit or refund is filed, the Department shall determine the amount of credit or refund to which the claimant is entitled and shall notify the claimant of that determination.

A claim for credit or refund shall be filed with the Department on the date it is received by the Department. Upon receipt of any claim for credit or refund filed under this Section, an officer or employee of the Department, authorized by the Director of Revenue to acknowledge receipt of such claims on behalf of the Department, shall deliver or mail to the claimant or his duly authorized agent, a written receipt, acknowledging that the claim has been filed with the Department, describing the claim in sufficient detail to identify it, and stating the date on which the claim was

received by the Department. The written receipt shall be prima facie evidence that the Department received the claim described in the receipt and shall be prima facie evidence of the date when such claim was received by the Department. In the absence of a written receipt, the records of the Department as to whether a claim was received, or when the claim was received by the Department, shall be deemed to be prima facie correct in the event of any dispute between the claimant, or his legal representative, and the Department on these issues.

Any credit or refund that is allowed under this Article shall bear interest at the rate and in the manner specified in the Uniform Penalty and Interest Act.

If the Department determines that the claimant is entitled to a refund, the refund shall be made only from an appropriation to the Department for that purpose. If the amount appropriated is insufficient to pay claimants electing to receive a cash refund, the Department by rule or regulation shall first provide for the payment of refunds in hardship cases as defined by the Department.

(Source: P.A. 88-194; 88-480; 88-670, eff. 12-2-94.)

(35 ILCS 510/3) (from Ch. 120, par. 481b.3)

Sec. 3. (1) All privilege tax decals ~~licenses~~ herein provided for shall be transferable from one device to another device. Any such transfer from one device to another shall be reported to the Department of Revenue on forms prescribed by such Department. All privilege tax decals ~~licenses~~ issued hereunder shall expire on July 31 following issuance.

(2) (Blank).

(Source: P.A. 91-357, eff. 7-29-99.)

(35 ILCS 510/4b) (from Ch. 120, par. 481b.4b)

Sec. 4b. The Department of Revenue is hereby authorized

to implement a program whereby the privilege tax decals ~~licenses~~ required by and the taxes imposed by this Act may be distributed and collected on behalf of the Department by State or national banks and by State or federal savings and loan associations. The Department shall promulgate such rules and regulations as are reasonable and necessary to establish the system of collection of taxes and distribution of privilege tax decals ~~licenses~~ authorized by this Section. Such rules and regulations shall provide for the licensing of such financial institutions, specification of information to be disclosed in an application therefor and the imposition of a license fee not in excess of $100 annually.
(Source: P.A. 85-1423.)

(35 ILCS 510/6) (from Ch. 120, par. 481b.6)

Sec. 6. The Department of Revenue is hereby empowered and authorized in the name of the People of the State of Illinois in a suit or suits in any court of competent jurisdiction to enforce the collection of any unpaid ~~license~~ tax, fines or penalties provided for in this Act.
(Source: Laws 1953, p. 956.)

(35 ILCS 510/9 rep.)

Section 75-4.1. The Coin-Operated Amusement Device and Redemption Machine Tax Act is amended by repealing Section 9.

Section 75-5. The Illinois Pension Code is amended by changing Section 1A-112 as follows:

(40 ILCS 5/1A-112)

Sec. 1A-112. Fees.

(a) Every pension fund that is required to file an annual statement under Section 1A-109 shall pay to the Department an annual compliance fee. In the case of a

pension fund under Article 3 or 4 of this Code, the annual compliance fee shall be 0.02% ~~0.007~~% (2 ~~0.7~~ basis points) of the total assets of the pension fund, as reported in the most current annual statement of the fund, but not more than $8,000 ~~$6,000~~. In the case of all other pension funds and retirement systems, the annual compliance fee shall be $8,000 ~~$6,000~~.

(b) The annual compliance fee shall be due on June 30 for the following State fiscal year, except that the fee payable in 1997 for fiscal year 1998 shall be due no earlier than 30 days following the effective date of this amendatory Act of 1997.

(c) Any information obtained by the Division that is available to the public under the Freedom of Information Act and is either compiled in published form or maintained on a computer processible medium shall be furnished upon the written request of any applicant and the payment of a reasonable information services fee established by the Director, sufficient to cover the total cost to the Division of compiling, processing, maintaining, and generating the information. The information may be furnished by means of published copy or on a computer processed or computer processible medium.

No fee may be charged to any person for information that the Division is required by law to furnish to that person.

(d) Except as otherwise provided in this Section, all fees and penalties collected by the Department under this Code shall be deposited into the Public Pension Regulation Fund.

(e) Fees collected under subsection (c) of this Section and money collected under Section 1A-107 shall be deposited into the Department's Statistical Services Revolving Fund and credited to the account of the Public Pension Division. This income shall be used exclusively for the purposes set forth

in Section 1A-107. Notwithstanding the provisions of Section 408.2 of the Illinois Insurance Code, no surplus funds remaining in this account shall be deposited in the Insurance Financial Regulation Fund. All money in this account that the Director certifies is not needed for the purposes set forth in Section 1A-107 of this Code shall be transferred to the Public Pension Regulation Fund.

(f) Nothing in this Code prohibits the General Assembly from appropriating funds from the General Revenue Fund to the Department for the purpose of administering or enforcing this Code.

(Source: P.A. 90-507, eff. 8-22-97.)

Section 75-7. The Illinois Savings and Loan Act of 1985 is amended by changing Section 2B-6 as follows:

(205 ILCS 105/2B-6) (from Ch. 17, par. 3302B-6)

Sec. 2B-6. Foreign savings and loan associations shall pay to the Commissioner the following fees that shall be paid into the Savings and Residential Finance Regulatory Fund, to wit: For filing each application for admission to do business in this State, $1,125 ~~$750~~; and for each certificate of authority and annual renewal of same, $300 ~~$200~~.

(Source: P.A. 85-1143; 86-1213.)

Section 75-10. The Illinois Credit Union Act is amended by changing Section 12 as follows:

(205 ILCS 305/12) (from Ch. 17, par. 4413)

Sec. 12. Regulatory fees.

(1) A credit union regulated by the Department shall pay a regulatory fee to the Department based upon its total assets as shown by its Year-end Call Report at the following rates:

TOTAL ASSETS	REGULATORY FEE
$25,000 or less	$150 ~~$100~~
Over $25,000 and not over $100,000	$150 ~~$100~~ plus $6 ~~$4~~ per $1,000 of assets in excess of $25,000
Over $100,000 and not over $200,000	$600 ~~$400~~ plus $4.50 ~~$3~~ per $1,000 of assets in excess of $100,000
Over $200,000 and not over $500,000	$1,050 ~~$700~~ plus $3 ~~$2~~ per $1,000 of assets in excess of $200,000
Over $500,000 and not over $1,000,000	$1,950 ~~$1,300~~ plus $2.10 ~~$1.40~~ per $1,000 of assets in excess of $500,000
Over $1,000,000 and not over $5,000,000	$3,000 ~~$2,000~~ plus $0.75 ~~$0.50~~ per $1,000 of assets in excess of $1,000,000
Over $5,000,000 and not over $30,000,000	$6,000 ~~$4,000~~ plus $0.525 ~~$0.35~~ per $1,000 assets in excess of $5,000,000
Over $30,000,000 and not over $100,000,000	$19,125 ~~$12,750~~ plus $0.45 ~~$0.30~~ per $1,000 of assets in excess of $30,000,000
Over $100,000,000 and not over $500,000,000	$50,625 ~~$33,750~~ plus $0.225 ~~$0.15~~ per $1,000 of assets in excess of $100,000,000

Over $500,000,000 ..... $140,625 ~~$93,750~~ plus $0.075 ~~$0.05~~ per $1,000 of assets in excess of $500,000,000

(2) The Director shall review the regulatory fee schedule in subsection (1) and the projected earnings on those fees on an annual basis and adjust the fee schedule no more than 5% annually if necessary to defray the estimated administrative and operational expenses of the Department as defined in subsection (5). The Director shall provide credit unions with written notice of any adjustment made in the regulatory fee schedule.

(3) Not later than March 1 of each calendar year, a credit union shall pay to the Department a regulatory fee for that calendar year in accordance with the regulatory fee schedule in subsection (1), on the basis of assets as of the Year-end Call Report of the preceding year. The regulatory fee shall not be less than $150 ~~$100~~ or more than $187,500 ~~$125,000~~, provided that the regulatory fee cap of $187,500 ~~$125,000~~ shall be adjusted to incorporate the same percentage increase as the Director makes in the regulatory fee schedule from time to time under subsection (2). No regulatory fee shall be collected from a credit union until it has been in operation for one year.

(4) The aggregate of all fees collected by the Department under this Act shall be paid promptly after they are received, accompanied by a detailed statement thereof, into the State Treasury and shall be set apart in the Credit Union Fund, a special fund hereby created in the State treasury. The amount from time to time deposited in the Credit Union Fund and shall be used to offset the ordinary administrative and operational expenses of the Department under this Act. All earnings received from investments of funds in the Credit Union Fund shall be deposited into the Credit Union Fund and may be used for the same purposes as

fees deposited into that Fund.

(5) The administrative and operational expenses for any calendar year shall mean the ordinary and contingent expenses for that year incidental to making the examinations provided for by, and for administering, this Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State to enforce this Act; all expenditures for telephone and telegraph charges, postage and postal charges, office supplies and services, furniture and equipment, office space and maintenance thereof, travel expenses and other necessary expenses; all to the extent that such expenditures are directly incidental to such examination or administration.

(6) When the aggregate of all fees collected by the Department under this Act and all earnings thereon for any calendar year exceeds 150% of the total administrative and operational expenses under this Act for that year, such excess shall be credited to credit unions and applied against their regulatory fees for the subsequent year. The amount credited to a credit union shall be in the same proportion as the fee paid by such credit union for the calendar year in which the excess is produced bears to the aggregate of the fees collected by the Department under this Act for the same year.

(7) Examination fees for the year 2000 statutory examinations paid pursuant to the examination fee schedule in effect at that time shall be credited toward the regulatory fee to be assessed the credit union in calendar year 2001.

(8) Nothing in this Act shall prohibit the General Assembly from appropriating funds to the Department from the General Revenue Fund for the purpose of administering this Act.

(Source: P.A. 91-755, eff. 1-1-01; 92-293, eff. 8-9-01.)

Section 75-15. The Currency Exchange Act is amended by changing Section 16 as follows:

(205 ILCS 405/16) (from Ch. 17, par. 4832)

Sec. 16. Annual report; investigation; costs. Each licensee shall annually, on or before the 1st day of March, file a report with the Director for the calendar year period from January 1st through December 31st, except that the report filed on or before March 15, 1990 shall cover the period from October 1, 1988 through December 31, 1989, (which shall be used only for the official purposes of the Director) giving such relevant information as the Director may reasonably require concerning, and for the purpose of examining, the business and operations during the preceding fiscal year period of each licensed currency exchange conducted by such licensee within the State. Such report shall be made under oath and shall be in the form prescribed by the Director and the Director may at any time and shall at least once in each year investigate the currency exchange business of any licensee and of every person, partnership, association, limited liability company, and corporation who or which shall be engaged in the business of operating a currency exchange. For that purpose, the Director shall have free access to the offices and places of business and to such records of all such persons, firms, partnerships, associations, limited liability companies and members thereof, and corporations and to the officers and directors thereof that shall relate to such currency exchange business. The investigation may be conducted in conjunction with representatives of other State agencies or agencies of another state or of the United States as determined by the Director. The Director may at any time inspect the locations served by an ambulatory currency exchange, for the purpose of determining whether such currency exchange is complying with

the provisions of this Act at each location served. The Director may require by subpoena the attendance of and examine under oath all persons whose testimony he may require relative to such business, and in such cases the Director, or any qualified representative of the Director whom the Director may designate, may administer oaths to all such persons called as witnesses, and the Director, or any such qualified representative of the Director, may conduct such examinations, and there shall be paid to the Director for each such examination a fee of $225 ~~$150~~ for each day or part thereof for each qualified representative designated and required to conduct the examination; provided, however, that in the case of an ambulatory currency exchange, such fee shall be $75 for each day or part thereof and shall not be increased by reason of the number of locations served by it. (Source: P.A. 92-398, eff. 1-1-02.)

Section 75-17. The Residential Mortgage License Act of 1987 is amended by changing Sections 2-2 and 2-6 as follows:

(205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

Sec. 2-2. Application process; investigation; fee.

(a) The Commissioner shall issue a license upon completion of all of the following:

(1) The filing of an application for license.

(2) The filing with the Commissioner of a listing of judgments entered against, and bankruptcy petitions by, the license applicant for the preceding 10 years.

(3) The payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to $2,700 ~~$1,800~~ annually, however, the Commissioner may increase the investigation and application fees by rule as provided in Section 4-11.

(4) Except for a broker applying to renew a

license, the filing of an audited balance sheet including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing principles which evidences that the applicant meets the net worth requirements of Section 3-5.

(5) The filing of proof satisfactory to the Commissioner that the applicant, the members thereof if the applicant is a partnership or association, the members or managers thereof that retain any authority or responsibility under the operating agreement if the applicant is a limited liability company, or the officers thereof if the applicant is a corporation have 3 years experience preceding application in real estate finance. Instead of this requirement, the applicant and the applicant's officers or members, as applicable, may satisfactorily complete a program of education in real estate finance and fair lending, as approved by the Commissioner, prior to receiving the initial license. The Commissioner shall promulgate rules regarding proof of experience requirements and educational requirements and the satisfactory completion of those requirements. The Commissioner may establish by rule a list of duly licensed professionals and others who may be exempt from this requirement.

(6) An investigation of the averments required by Section 2-4, which investigation must allow the Commissioner to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or

responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purpose of this Act. If the Commissioner shall not so find, he or she shall not issue such license, and he or she shall notify the license applicant of the denial.

(b) All licenses shall be issued in duplicate with one copy being transmitted to the license applicant and the second being retained with the Commissioner.

Upon receipt of such license, a residential mortgage licensee shall be authorized to engage in the business regulated by this Act. Such license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee or revoked or suspended as hereinafter provided.

(Source: P.A. 91-586, eff. 8-14-99.)

(205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

Sec. 2-6. License issuance and renewal; fee.

(a) Beginning July 1, 2003, licenses shall be renewed every year on the anniversary of the date of issuance of the original license. ~~Beginning May 1, 1992, licenses issued before January 1, 1988, shall be renewed every 2 years on May 1. Beginning May 1, 1992, licenses issued on or after January 1, 1988, shall be renewed every 2 years on the anniversary of the date of the issuance of the original license. Licenses issued for first time applicants on or after May 1, 1992, shall be renewed on the first anniversary of their issuance and every 2 years thereafter.~~ Properly completed renewal application forms and filing fees must be received by the Commissioner 45 days prior to the renewal date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license; failure of the licensee to receive renewal forms absent a request sent by certified mail for such forms will not waive said responsibility. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Commissioner, will result in the assessment of additional fees, as follows:

(1) A fee of $750 ~~$500~~ will be assessed to the licensee 30 days after the proper renewal date and $1,500 ~~$1,000~~ each month thereafter, until the license is either renewed or expires pursuant to Section 2-6, subsections (c) and (d), of this Act.

(2) Such fee will be assessed without prior notice to the licensee, but will be assessed only in cases wherein the Commissioner has in his or her possession documentation of the licensee's continuing activity for which the unrenewed license was issued.

(c) A license which is not renewed by the date required in this Section shall automatically become inactive. No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by filing a completed reactivation application with the Commissioner, payment of the renewal fee, and payment of a reactivation fee equal to the renewal fee.

(d) A license which is not renewed within one year of becoming inactive shall expire.

(e) A licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall so inform the Commissioner in writing and, at the same time, convey the license and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for

the disposition of the business. Upon receipt of such written notice, the Commissioner shall issue a certified statement canceling the license.

(Source: P.A. 90-301, eff. 8-1-97.)

Section 75-20. The Consumer Installment Loan Act is amended by changing Section 2 as follows:

(205 ILCS 670/2) (from Ch. 17, par. 5402)

Sec. 2. Application; fees; positive net worth. Application for such license shall be in writing, and in the form prescribed by the Director. Such applicant at the time of making such application shall pay to the Director the sum of $300 as an application fee and the additional sum of $450 ~~$300~~ as an annual license fee, for a period terminating on the last day of the current calendar year; provided that if the application is filed after June 30th in any year, such license fee shall be 1/2 of the annual license fee for such year.

Before the license is granted, every applicant shall prove in form satisfactory to the Director that the applicant has and will maintain a positive net worth of a minimum of $30,000. Every applicant and licensee shall maintain a surety bond in the principal sum of $25,000 issued by a bonding company authorized to do business in this State and which shall be approved by the Director. Such bond shall run to the Director and shall be for the benefit of any consumer who incurs damages as a result of any violation of the Act or rules by a licensee. If the Director finds at any time that a bond is of insufficient size, is insecure, exhausted, or otherwise doubtful, an additional bond in such amount as determined by the Director shall be filed by the licensee within 30 days after written demand therefor by the Director. "Net worth" means total assets minus total liabilities.

(Source: P.A. 92-398, eff. 1-1-02.)

Section 75-23. The Nursing Home Care Act is amended by changing Section 3-103 as follows:

(210 ILCS 45/3-103) (from Ch. 111 1/2, par. 4153-103)

Sec. 3-103. The procedure for obtaining a valid license shall be as follows:

(1) Application to operate a facility shall be made to the Department on forms furnished by the Department.

(2) All license applications shall be accompanied with an application fee. The fee for an annual license shall be based on the licensed capacity of the facility and shall be determined as follows: 0-49 licensed beds, a flat fee of $500; 50-99 licensed beds, a flat fee of $750; and for any facility with 100 or more licensed beds, a fee of $1,000 plus $10 per licensed bed. The fee for a 2-year license shall be double the fee for the annual license set forth in the preceding sentence. The first $600,000 of such fees collected each fiscal year shall be deposited with the State Treasurer into the Long Term Care Monitor/Receiver Fund, which has been created as a special fund in the State treasury. Any such fees in excess of $600,000 collected in a fiscal year shall be deposited into the General Revenue Fund. ~~All applications, except those of homes for the aged, shall be accompanied by an application fee of $200 for an annual license and $400 for a 2-year license. The fee shall be deposited with the State Treasurer into the Long Term Care Monitor/Receiver Fund, which is hereby created as a special fund in the State Treasury.~~ This special fund is to be used by the Department for expenses related to the appointment of monitors and receivers as contained in Sections 3-501 through 3-517. At the end of each fiscal year, any funds in excess of $1,000,000 held in the Long Term Care Monitor/Receiver Fund

shall be deposited in the State's General Revenue Fund. The application shall be under oath and the submission of false or misleading information shall be a Class A misdemeanor. The application shall contain the following information:

(a) The name and address of the applicant if an individual, and if a firm, partnership, or association, of every member thereof, and in the case of a corporation, the name and address thereof and of its officers and its registered agent, and in the case of a unit of local government, the name and address of its chief executive officer;

(b) The name and location of the facility for which a license is sought;

(c) The name of the person or persons under whose management or supervision the facility will be conducted;

(d) The number and type of residents for which maintenance, personal care, or nursing is to be provided; and

(e) Such information relating to the number, experience, and training of the employees of the facility, any management agreements for the operation of the facility, and of the moral character of the applicant and employees as the Department may deem necessary.

(3) Each initial application shall be accompanied by a financial statement setting forth the financial condition of the applicant and by a statement from the unit of local government having zoning jurisdiction over the facility's location stating that the location of the facility is not in violation of a zoning ordinance. An initial application for a new facility shall be accompanied by a permit as required by the "Illinois Health Facilities Planning Act". After the application is approved, the applicant shall advise the Department every 6 months of any changes in the information originally provided in the application.

(4) Other information necessary to determine the identity and qualifications of an applicant to operate a facility in accordance with this Act shall be included in the application as required by the Department in regulations.

(Source: P.A. 86-663; 87-1102.)

Section 75-25. The Illinois Insurance Code is amended by changing Sections 121-19, 123A-4, 123B-4, 123C-17, 131.24, 141a, 149, 310.1, 315.4, 325, 363a, 370, 403, 403A, 408, 412, 431, 445, 500-70, 500-110, 500-120, 500-135, 511.103, 511.105, 511.110, 512.63, 513a3, 513a4, 513a7, 529.5, 544, 1020, 1108, and 1204 as follows:

(215 ILCS 5/121-19) (from Ch. 73, par. 733-19)

Sec. 121-19. Fine for unauthorized insurance. Any unauthorized insurer who transacts any unauthorized act of an insurance business as set forth in this Act is guilty of a business offense and may be fined not more than $20,000 ~~$10,000~~.

(Source: P. A. 78-255.)

(215 ILCS 5/123A-4) (from Ch. 73, par. 735A-4)

Sec. 123A-4. Licenses-Application-Fees.

(1) An advisory organization must be licensed by the Director before it is authorized to conduct activities in this State.

(2) Any advisory organization shall make application for a license as an advisory organization by providing with the application satisfactory evidence to the Director that it has complied with Sections 123A-6 and 123A-7 of this Article.

(3) The fee for filing an application as an advisory organization is $50 ~~$25~~ payable to the Director.

(Source: P. A. 77-1882.)

(215 ILCS 5/123B-4) (from Ch. 73, par. 735B-4)

Sec. 123B-4. Risk retention groups not organized in this State. Any risk retention group organized and licensed in a state other than this State and seeking to do business as a risk retention group in this State shall comply with the laws of this State as follows:

A. Notice of operations and designation of the Director as agent.

Before offering insurance in this State, a risk retention group shall submit to the Director on a form approved by the Director:

(1) a statement identifying the state or states in which the risk retention group is organized and licensed as a liability insurance company, its date of organization, its principal place of business, and such other information, including information on its membership, as the Director may require to verify that the risk retention group is qualified under subsection (11) of Section 123B-2 of this Article;

(2) a copy of its plan of operations or a feasibility study and revisions of such plan or study submitted to its state of domicile; provided, however, that the provision relating to the submission of a plan of operation or a feasibility study shall not apply with respect to any line or classification of liability insurance which (a) was defined in the Product Liability Risk Retention Act of 1981 before October 27, 1986, and (b) was offered before such date by any risk retention group which had been organized and operating for not less than 3 years before such date; and

(3) a statement of registration which designates the Director as its agent for the purpose of receiving service of legal documents or process, together with a filing fee of <u>$200</u> ~~$100~~ payable to the Director.

B. Financial condition. Any risk retention group doing business in this State shall submit to the Director:

(1) a copy of the group's financial statement submitted to the state in which the risk retention group is organized and licensed, which shall be certified by an independent public accountant and contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or a qualified loss reserve specialist (under criteria established by the National Association of Insurance Commissioners);

(2) a copy of each examination of the risk retention group as certified by the public official conducting the examination;

(3) upon request by the Director, a copy of any audit performed with respect to the risk retention group; and

(4) such information as may be required to verify its continuing qualification as a risk retention group under subsection (11) of Section 123B-2.

C. Taxation.

(1) Each risk retention group shall be liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within this State, and shall report to the Director the net premiums written for risks resident or located within this State. Such risk retention group shall be subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(2) To the extent licensed insurance producers are utilized pursuant to Section 123B-11, they shall report to the Director the premiums for direct business for risks resident or located within this State which such licensees have placed with or on behalf of a risk

retention group not organized in this State.

(3) To the extent that licensed insurance producers are utilized pursuant to Section 123B-11, each such producer shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the Director, as provided in Section 506.1 of this Code. These records shall, for each policy and each kind of insurance provided thereunder, include the following:

(a) the limit of the liability;

(b) the time period covered;

(c) the effective date;

(d) the name of the risk retention group which issued the policy;

(e) the gross premium charged; and

(f) the amount of return premiums, if any.

D. Compliance With unfair claims practices provisions. Any risk retention group, its agents and representatives shall be subject to the unfair claims practices provisions of Sections 154.5 through 154.8 of this Code.

E. Deceptive, false, or fraudulent practices. Any risk retention group shall comply with the laws of this State regarding deceptive, false, or fraudulent acts or practices. However, if the Director seeks an injunction regarding such conduct, the injunction must be obtained from a court of competent jurisdiction.

F. Examination regarding financial condition. Any risk retention group must submit to an examination by the Director to determine its financial condition if the commissioner of insurance of the jurisdiction in which the group is organized and licensed has not initiated an examination or does not initiate an examination within 60 days after a request by the Director. Any such examination shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner

and in accordance with the National Association of Insurance Commissioners' Examiner Handbook.

G. Notice to purchasers. Every application form for insurance from a risk retention group and the front page and declaration page of every policy issued by a risk retention group shall contain in 10 point type the following notice:

"NOTICE

This policy is issued by your risk retention group. Your risk retention group is not subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty fund protection is not available for your risk retention group".

H. Prohibited acts regarding solicitation or sale. The following acts by a risk retention group are hereby prohibited:

(1) the solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in such group; and

(2) the solicitation or sale of insurance by, or operation of, a risk retention group that is in a hazardous financial condition or is financially impaired.

I. Prohibition on ownership by an insurance company. No risk retention group shall be allowed to do business in this State if an insurance company is directly or indirectly a member or owner of such risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

J. Prohibited coverage. No risk retention group may offer insurance policy coverage prohibited by Articles IX or XI of this Code or declared unlawful by the Illinois Supreme Court; provided however, a risk retention group organized and licensed in a state other than this State that selects the law of this State to govern the validity, construction, or enforceability of policies issued by it is permitted to

provide coverage under policies issued by it for penalties in the nature of compensatory damages including, without limitation, punitive damages and the multiplied portion of multiple damages, so long as coverage of those penalties is not prohibited by the law of the state under which the risk retention group is organized.

K. Delinquency proceedings. A risk retention group not organized in this State and doing business in this State shall comply with a lawful order issued in a voluntary dissolution proceeding or in a conservation, rehabilitation, liquidation, or other delinquency proceeding commenced by the Director or by another state insurance commissioner if there has been a finding of financial impairment after an examination under subsection F of Section 123B-4 of this Article.

L. Compliance with injunctive relief. A risk retention group shall comply with an injunctive order issued in another state by a court of competent jurisdiction or by a United States District Court based on a finding of financial impairment or hazardous financial condition.

M. Penalties. A risk retention group that violates any provision of this Article will be subject to fines and penalties applicable to licensed insurers generally, including revocation of its license or the right to do business in this State, or both.

N. Operations prior to August 3, 1987. In addition to complying with the requirements of this Section, any risk retention group operating in this State prior to August 3, 1987, shall within 30 days after such effective date comply with the provisions of subsection A of this Section.

(Source: P.A. 91-292, eff. 7-29-99.)

(215 ILCS 5/123C-17) (from Ch. 73, par. 735C-17)

Sec. 123C-17. Fees.

A. The Director shall charge, collect, and give proper acquittances for the payment of the following fees and charges with respect to a captive insurance company:

1. For filing all documents submitted for the incorporation or organization or certification of a captive insurance company, $7,000 ~~$3,500~~.

2. For filing requests for approval of changes in the elements of a plan of operations, $200 ~~$100~~.

B. Except as otherwise provided in subsection A of this Section and in Section 123C-10, the provisions of Section 408 shall apply to captive insurance companies.

C. Any funds collected from captive insurance companies pursuant to this Section shall be treated in the manner provided in subsection (11) of Section 408.

(Source: P.A. 87-108.)

(215 ILCS 5/131.24) (from Ch. 73, par. 743.24)

Sec. 131.24. Sanctions.

(1) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the company to engage in transactions or make investments which have not been properly filed or approved or which violate this Article, shall pay, in their individual capacity, a civil forfeiture of not more than $100,000 ~~$50,000~~ per violation, after notice and hearing before the Director. In determining the amount of the civil forfeiture, the Director shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(2) Whenever it appears to the Director that any company subject to this Article or any director, officer, employee or agent thereof has engaged in any transaction or entered into

a contract which is subject to Section 131.20, and any one of Sections 131.16, 131.20a, 141, 141.1, or 174 of this Code and which would not have been approved had such approval been requested or would have been disapproved had required notice been given, the Director may order the company to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the Director may also order (a) the company to void any such contracts and restore the status quo if such action is in the best interest of the policyholders or the public, and (b) any affiliate of the company, which has received from the company dividends, distributions, assets, loans, extensions of credit, guarantees, or investments in violation of any such Section, to immediately repay, refund or restore to the company such dividends, distributions, assets, extensions of credit, guarantees or investments.

(3) Whenever it appears to the Director that any company or any director, officer, employee or agent thereof has committed a willful violation of this Article, the Director may cause criminal proceedings to be instituted in the Circuit Court for the county in which the principal office of the company is located or in the Circuit Court of Sangamon or Cook County against such company or the responsible director, officer, employee or agent thereof. Any company which willfully violates this Article commits a business offense and may be fined up to $500,000 ~~$250,000~~. Any individual who willfully violates this Article commits a Class 4 felony and may be fined in his individual capacity not more than $500,000 ~~$250,000~~ or be imprisoned for not less than one year nor more than 3 years, or both.

(4) Any officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to or makes or causes to be made any false statements or false reports or false filings with the intent to deceive the

Director in the performance of his duties under this Article, commits a Class 3 felony and upon conviction thereof, shall be imprisoned for not less than 2 years nor more than 5 years or fined $500,000 ~~$250,000~~ or both. Any fines imposed shall be paid by the officer, Director, or employee in his individual capacity.

(Source: P.A. 89-97, eff. 7-7-95.)

(215 ILCS 5/141a) (from Ch. 73, par. 753a)

Sec. 141a. Managing general agents and retrospective compensation agreements.

(a) As used in this Section, the following terms have the following meanings:

"Actuary" means a person who is a member in good standing of the American Academy of Actuaries.

"Gross direct written premium" means direct premium including policy and membership fees, net of returns and cancellations, and prior to any cessions.

"Insurer" means any person duly licensed in this State as an insurance company pursuant to Articles II, III, III 1/2, IV, V, VI, and XVII of this Code.

"Managing general agent" means any person, firm, association, or corporation, either separately or together with affiliates, that:

(1) manages all or part of the insurance business of an insurer (including the management of a separate division, department, or underwriting office), and

(2) acts as an agent for the insurer whether known as a managing general agent, manager, or other similar term, and

(3) with or without the authority produces, directly or indirectly, and underwrites:

(A) within any one calendar quarter, an amount of gross direct written premium equal to or more

than 5% of the policyholders' surplus as reported in the insurer's last annual statement, or

(B) within any one calendar year, an amount of gross direct written premium equal to or more than 8% of the policyholders' surplus as reported in the insurer's last annual statement, and either

(4) has the authority to bind the company in settlement of individual claims in amounts in excess of $500, or

(5) has the authority to negotiate reinsurance on behalf of the insurer.

Notwithstanding the provisions of items (1) through (5), the following persons shall not be considered to be managing general agents for the purposes of this Code:

(1) An employee of the insurer;

(2) A U.S. manager of the United States branch of an alien insurer;

(3) An underwriting manager who, pursuant to a contract meeting the standards of Section 141.1 manages all or part of the insurance operations of the insurer, is affiliated with the insurer, subject to Article VIII 1/2, and whose compensation is not based on the volume of premiums written;

(4) The attorney or the attorney in fact authorized and acting for or on behalf of the subscriber policyholders of a reciprocal or inter-insurance exchange, under the terms of the subscription agreement, power of attorney, or policy of insurance or the attorney in fact for any Lloyds organization licensed in this State.

"Retrospective compensation agreement" means any arrangement, agreement, or contract having as its purpose the actual or constructive retention by the insurer of a fixed proportion of the gross premiums, with the balance of the

premiums, retained actually or constructively by the agent or the producer of the business, who assumes to pay therefrom all losses, all subordinate commission, loss adjustment expenses, and his profit, if any, with other provisions of the arrangement, agreement, or contract being auxiliary or incidental to that purpose.

"Underwrite" means to accept or reject risk on behalf of the insurer.

(b) Licensure of managing general agents.

(1) No person, firm, association, or corporation shall act in the capacity of a managing general agent with respect to risks located in this State for an insurer licensed in this State unless the person is a licensed producer or a registered firm in this State under Article XXXI of this Code or a licensed third party administrator in this State under Article XXXI 1/4 of this Code.

(2) No person, firm, association, or corporation shall act in the capacity of a managing general agent with respect to risks located outside this State for an insurer domiciled in this State unless the person is a licensed producer or a registered firm in this State under Article XXXI of this Code or a licensed third party administrator in this State under Article XXXI 1/4 of this Code.

(3) The managing general agent must provide a surety bond for the benefit of the insurer in an amount equal to the greater of $100,000 or 5% of the gross direct written premium underwritten by the managing general agent on behalf of the insurer. The bond shall provide for a discovery period and prior notification of cancellation in accordance with the rules of the Department unless otherwise approved in writing by the Director.

(4) The managing general agent must maintain an errors and omissions policy for the benefit of the insurer with coverage in an amount equal to the greater of $1,000,000 or 5% of the gross direct written premium underwritten by the managing general agent on behalf of the insurer.

(5) Evidence of the existence of the bond and the errors and omissions policy must be made available to the Director upon his request.

(c) No person, firm, association, or corporation acting in the capacity of a managing general agent shall place business with an insurer unless there is in force a written contract between the parties that sets forth the responsibilities of each party, that, if both parties share responsibility for a particular function, specifies the division of responsibility, and that contains the following minimum provisions:

(1) The insurer may terminate the contract for cause upon written notice to the managing general agent. The insurer may suspend the underwriting authority of the managing general agent during the pendency of any dispute regarding the cause for termination.

(2) The managing general agent shall render accounts to the insurer detailing all transactions and remit all funds due under the contract to the insurer on not less than a monthly basis.

(3) All funds collected for the account of an insurer shall be held by the managing general agent in a fiduciary capacity in a bank that is a federally or State chartered bank and that is a member of the Federal Deposit Insurance Corporation. This account shall be used for all payments on behalf of the insurer; however, the managing general agent shall not have authority to draw on any other accounts of the insurer. The managing

general agent may retain no more than 3 months estimated claims payments and allocated loss adjustment expenses.

(4) Separate records of business written by the managing general agent will be maintained. The insurer shall have access to and the right to copy all accounts and records related to its business in a form usable by the insurer, and the Director shall have access to all books, bank accounts, and records of the managing general agent in a form usable to the Director.

(5) The contract may not be assigned in whole or part by the managing general agent.

(6) The managing general agent shall provide to the company audited financial statements required under paragraph (1) of subsection (d).

(7) That appropriate underwriting guidelines be followed, which guidelines shall stipulate the following:

(A) the maximum annual premium volume;

(B) the basis of the rates to be charged;

(C) the types of risks that may be written;

(D) maximum limits of liability;

(E) applicable exclusions;

(F) territorial limitations;

(G) policy cancellation provisions; and

(H) the maximum policy period.

(8) The insurer shall have the right to: (i) cancel or nonrenew any policy of insurance subject to applicable laws and regulations concerning those actions; and (ii) require cancellation of any subproducer's contract after appropriate notice.

(9) If the contract permits the managing general agent to settle claims on behalf of the insurer:

(A) all claims must be reported to the company in a timely manner.

(B) a copy of the claim file must be sent to

the insurer at its request or as soon as it becomes known that the claim:

(i) has the potential to exceed an amount determined by the company;

(ii) involves a coverage dispute;

(iii) may exceed the managing general agent's claims settlement authority;

(iv) is open for more than 6 months; or

(v) is closed by payment of an amount set by the company.

(C) all claim files will be the joint property of the insurer and the managing general agent. However, upon an order of liquidation of the insurer, the files shall become the sole property of the insurer or its estate; the managing general agent shall have reasonable access to and the right to copy the files on a timely basis.

(D) any settlement authority granted to the managing general agent may be terminated for cause upon the insurer's written notice to the managing general agent or upon the termination of the contract. The insurer may suspend the settlement authority during the pendency of any dispute regarding the cause for termination.

(10) Where electronic claims files are in existence, the contract must address the timely transmission of the data.

(11) If the contract provides for a sharing of interim profits by the managing general agent and the managing general agent has the authority to determine the amount of the interim profits by establishing loss reserves, controlling claim payments, or by any other manner, interim profits will not be paid to the managing general agent until one year after they are earned for

property insurance business and until 5 years after they are earned on casualty business and in either case, not until the profits have been verified.

(12) The managing general agent shall not:

(A) Bind reinsurance or retrocessions on behalf of the insurer, except that the managing general agent may bind facultative reinsurance contracts under obligatory facultative agreements if the contract with the insurer contains reinsurance underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

(B) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of insurance for which he is appointed.

(C) Without prior approval of the insurer, pay or commit the insurer to pay a claim over a specified amount, net of reinsurance, that shall not exceed 1% of the insurer's policyholders' surplus as of December 31 of the last completed calendar year.

(D) Collect any payment from a reinsurer or commit the insurer to any claim settlement with a reinsurer without prior approval of the insurer. If prior approval is given, a report must be promptly forwarded to the insurer.

(E) Permit its subproducer to serve on its board of directors.

(F) Employ an individual who is also employed by the insurer.

(13) The contract may not be written for a term of greater than 5 years.

(d) Insurers shall have the following duties:

(1) The insurer shall have on file the managing general agent's audited financial statements as of the end of the most recent fiscal year prepared in accordance with Generally Accepted Accounting Principles. The insurer shall notify the Director if the auditor's opinion on those statements is other than an unqualified opinion. That notice shall be given to the Director within 10 days of receiving the audited financial statements or becoming aware that such opinion has been given.

(2) If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent, in addition to any other required loss reserve certification.

(3) The insurer shall periodically (at least semiannually) conduct an on-site review of the underwriting and claims processing operations of the managing general agent.

(4) Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the managing general agent.

(5) Within 30 days of entering into or terminating a contract with a managing general agent, the insurer shall provide written notification of the appointment or termination to the Director. Notices of appointment of a managing general agent shall include a statement of duties that the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the Director may request.

(6) An insurer shall review its books and records each quarter to determine if any producer has become a managing general agent. If the insurer determines that a producer has become a managing general agent, the insurer shall promptly notify the producer and the Director of that determination, and the insurer and producer must fully comply with the provisions of this Section within 30 days of the notification.

(7) The insurer shall file any managing general agent contract for the Director's approval within 45 days after the contract becomes subject to this Section. Failure of the Director to disapprove the contract within 45 days shall constitute approval thereof. Upon expiration of the contract, the insurer shall submit the replacement contract for approval. Contracts filed under this Section shall be exempt from filing under Sections 141, 141.1 and 131.20a.

(8) An insurer shall not appoint to its board of directors an officer, director, employee, or controlling shareholder of its managing general agents. This provision shall not apply to relationships governed by Article VIII 1/2 of this Code.

(e) The acts of a managing general agent are considered to be the acts of the insurer on whose behalf it is acting. A managing general agent may be examined in the same manner as an insurer.

(f) Retrospective compensation agreements for business written under Section 4 of this Code in Illinois and outside of Illinois by an insurer domiciled in this State must be filed for approval. The standards for approval shall be as set forth under Section 141 of this Code.

(g) Unless specifically required by the Director, the provisions of this Section shall not apply to arrangements between a managing general agent not underwriting any risks

located in Illinois and a foreign insurer domiciled in an NAIC accredited state that has adopted legislation substantially similar to the NAIC Managing General Agents Model Act. "NAIC accredited state" means a state or territory of the United States having an insurance regulatory agency that maintains an accredited status granted by the National Association of Insurance Commissioners.

(h) If the Director determines that a managing general agent has not materially complied with this Section or any regulation or order promulgated hereunder, after notice and opportunity to be heard, the Director may order a penalty in an amount not exceeding $100,000 ~~$50,000~~ for each separate violation and may order the revocation or suspension of the producer's license. If it is found that because of the material noncompliance the insurer has suffered any loss or damage, the Director may maintain a civil action brought by or on behalf of the insurer and its policyholders and creditors for recovery of compensatory damages for the benefit of the insurer and its policyholders and creditors or other appropriate relief. This subsection (h) shall not be construed to prevent any other person from taking civil action against a managing general agent.

(i) If an Order of Rehabilitation or Liquidation is entered under Article XIII and the receiver appointed under that Order determines that the managing general agent or any other person has not materially complied with this Section or any regulation or Order promulgated hereunder and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

Any decision, determination, or order of the Director under this subsection shall be subject to judicial review under the Administrative Review Law.

Nothing contained in this subsection shall affect the

right of the Director to impose any other penalties provided for in this Code.

Nothing contained in this subsection is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.

(j) A domestic company shall not during any calendar year write, through a managing general agent or managing general agents, premiums in an amount equal to or greater than its capital and surplus as of the preceding December 31st unless the domestic company requests in writing the Director's permission to do so and the Director has either approved the request or has not disapproved the request within 45 days after the Director received the request.

No domestic company with less than $5,000,000 of capital and surplus may write any business through a managing general agent unless the domestic company requests in writing the Director's permission to do so and the Director has either approved the request or has not disapproved the request within 45 days after the Director received the request.

(Source: P.A. 88-364; 89-97, eff. 7-7-95.)

(215 ILCS 5/149) (from Ch. 73, par. 761)

Sec. 149. Misrepresentation and defamation prohibited.

(1) No company doing business in this State, and no officer, director, agent, clerk or employee thereof, broker, or any other person, shall make, issue or circulate or cause or knowingly permit to be made, issued or circulated any estimate, illustration, circular, or verbal or written statement of any sort misrepresenting the terms of any policy issued or to be issued by it or any other company or the benefits or advantages promised thereby or any misleading estimate of the dividends or share of the surplus to be received thereon, or shall by the use of any name or title of any policy or class of policies misrepresent the nature

thereof.

(2) No such company or officer, director, agent, clerk or employee thereof, or broker shall make any misleading representation or comparison of companies or policies, to any person insured in any company for the purpose of inducing or tending to induce a policyholder in any company to lapse, forfeit, change or surrender his insurance, whether on a temporary or permanent plan.

(3) No such company, officer, director, agent, clerk or employee thereof, broker or other person shall make, issue or circulate or cause or knowingly permit to be made, issued or circulated any pamphlet, circular, article, literature or verbal or written statement of any kind which contains any false or malicious statement calculated to injure any company doing business in this State in its reputation or business.

(4) No such company, or officer, director, agent, clerk or employee thereof, no agent, broker, solicitor, or company service representative, and no other person, firm, corporation, or association of any kind or character, shall make, issue, circulate, use, or utter, or cause or knowingly permit to be made, issued, circulated, used, or uttered, any policy or certificate of insurance, or endorsement or rider thereto, or matter incorporated therein by reference, or application blanks, or any stationery, pamphlet, circular, article, literature, advertisement or advertising of any kind or character, visual, or aural, including radio advertising and television advertising, or any other verbal or written statement or utterance (a) which tends to create the impression or from which it may be implied or inferred, directly or indirectly, that the company, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds or plans of insurance are approved, endorsed, or guaranteed by the State of Illinois or United States

Government or the Director or the Department or are secured by Government bonds or are secured by a deposit with the Director, or (b) which uses or refers to any deposit with the Director or any certificate of deposit issued by the Director or any facsimile, reprint, photograph, photostat, or other reproduction of any such certificate of deposit.

(5) Any company, officer, director, agent, clerk or employee thereof, broker, or other person who violates any of the provisions of this Section, or knowingly participates in or abets such violation, is guilty of a business offense and shall be required to pay a penalty of not less than $200 ~~$100~~ nor more than $10,000 ~~$5,000~~, to be recovered in the name of the People of the State of Illinois either by the Attorney General or by the State's Attorney of the county in which the violation occurs. The penalty so recovered shall be paid into the county treasury if recovered by the State's Attorney or into the State treasury if recovered by the Attorney General.

(6) No company shall be held guilty of having violated any of the provisions of this Section by reason of the act of any agent, solicitor or employee, not an officer, director or department head thereof, unless an officer, director or department head of such company shall have knowingly permitted such act or shall have had prior knowledge thereof.

(7) Any person, association, organization, partnership, business trust or corporation not authorized to transact an insurance business in this State which disseminates in or causes to be disseminated in this State any advertising, invitations to inquire, questionnaires or requests for information designed to result in a solicitation for the purchase of insurance by residents of this State is also subject to the sanctions of this Section. The phrase "designed to result in a solicitation for the purchase of insurance" includes but is not limited to:

(a) the use of any form or document which provides

either generalized or specific information or recommendations regardless of the insurance needs of the recipient or the availability of any insurance policy or plan; or

(b) any offer to provide such information or recommendation upon subsequent contacts or solicitation either by the entity generating the material or some other person; or

(c) the use of a coupon, reply card or request to write for further information; or

(d) the use of an application for insurance or an offer to provide insurance coverage for any purpose; or

(e) the use of any material which, regardless of the form and content used or the information imparted, is intended to result, in the generation of leads for further solicitations or the preparation of a mailing list which can be sold to others for such purpose.

(Source: P.A. 90-655, eff. 7-30-98.)

(215 ILCS 5/310.1) (from Ch. 73, par. 922.1)

Sec. 310.1. Suspension, Revocation or Refusal to Renew Certificate of Authority. (a) Domestic Societies. When, upon investigation, the Director is satisfied that any domestic society transacting business under this amendatory Act has exceeded its powers or has failed to comply with any provisions of this amendatory Act or is conducting business fraudulently or in a way hazardous to its members, creditors or the public or is not carrying out its contracts in good faith, the Director shall notify the society of his or her findings, stating in writing the grounds of his or her dissatisfaction, and, after reasonable notice, require the society on a date named to show cause why its certificate of authority should not be revoked or suspended or why such society should not be fined as hereinafter provided or why

the Director should not proceed against the society under Article XIII of this Code. If, on the date named in said notice, such objections have not been removed to the satisfaction of the Director or if the society does not present good and sufficient reasons why its authority to transact business in this State should not at that time be revoked or suspended or why such society should not be fined as hereinafter provided, the Director may revoke the authority of the society to continue business in this State and proceed against the society under Article XIII of this Code or suspend such certificate of authority for any period of time up to, but not to exceed, 2 years; or may by order require such society to pay to the people of the State of Illinois a penalty in a sum not exceeding $10,000 ~~$5,000~~, and, upon the failure of such society to pay such penalty within 20 days after the mailing of such order, postage prepaid, registered and addressed to the last known place of business of such society, unless such order is stayed by an order of a court of competent jurisdiction, the Director may revoke or suspend the license of such society for any period of time up to, but not exceeding, a period of 2 years.

(b) Foreign or alien societies. The Director shall suspend, revoke or refuse to renew certificates of authority in accordance with Article VI of this Code.

(Source: P.A. 84-303.)

(215 ILCS 5/315.4) (from Ch. 73, par. 927.4)

Sec. 315.4. Penalties. (a) Any person who willfully makes a false or fraudulent statement in or relating to an application for membership or for the purpose of obtaining money from, or a benefit in, any society shall upon conviction be fined not less than $200 ~~$100~~ nor more than $10,000 ~~$5,000~~ or be subject to imprisonment in the county jail not less than 30 days nor more than one year, or both.

(b) Any person who willfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by this amendatory Act, or of any material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

(c) Any person who solicits membership for, or in any manner assists in procuring membership in, any society not licensed to do business in this State shall upon conviction be fined not less than $100 ~~$50~~ nor more than $400 ~~$200~~.

(d) Any person guilty of a willful violation of, or neglect or refusal to comply with, the provisions of this amendatory Act for which a penalty is not otherwise prescribed shall upon conviction be subject to a fine not exceeding $10,000 ~~$5,000~~.

(Source: P.A. 84-303.)

(215 ILCS 5/325) (from Ch. 73, par. 937)

Sec. 325. Officers bonds.

The officer or officers of the association entrusted with the custody of its funds shall within thirty days after the effective date of this Code file with the Director a bond in favor of the association in the penalty of double the amount of its benefit account, as defined in the act mentioned in section 316, as of the end of a preceding calendar year, exclusive of such amount as the association may maintain on deposit with the Director, (but in no event a bond in a penalty of less than $2,000 ~~one-thousand-dollars~~) with such officer or officers as principal and a duly authorized surety company as surety, conditioned upon the faithful performance of his or their duties and the accounting of the funds entrusted to his or their custody. If the penalty of any bond

filed pursuant to this section shall at any time be less than twice the largest amount in the benefit fund of the association not maintained on deposit with the Director during the preceding calendar year, a new bond in the penalty of double the largest amount in the benefit fund during said preceding calendar year, with such officer or officers as principal and a duly authorized surety company as surety, conditioned as aforesaid, shall be filed with the Director within sixty days after the end of such calendar year.

(Source: Laws 1945, p. 966.)

(215 ILCS 5/363a) (from Ch. 73, par. 975a)

Sec. 363a. Medicare supplement policies; disclosure, advertising, loss ratio standards.

(1) Scope. This Section pertains to disclosure requirements of companies and agents and mandatory and prohibited practices of agents when selling a policy to supplement the Medicare program or any other health insurance policy sold to individuals eligible for Medicare. No policy shall be referred to or labeled as a Medicare supplement policy if it does not comply with the minimum standards required by regulation pursuant to Section 363 of this Code. Except as otherwise specifically provided in paragraph (d) of subsection (6), this Section shall not apply to accident only or specified disease type of policies or hospital confinement indemnity or other type policies clearly unrelated to Medicare.

(2) Advertising. An advertisement that describes or offers to provide information concerning the federal Medicare program shall comply with all of the following:

(a) It may not include any reference to that program on the envelope, the reply envelope, or the address side of the reply postal card, if any, nor use any language to imply that failure to respond to the

advertisement might result in loss of Medicare benefits.

(b) It must include a prominent statement to the effect that in providing supplemental coverage the insurer and agent involved in the solicitation are not in any manner connected with that program.

(c) It must prominently disclose that it is an advertisement for insurance or is intended to obtain insurance prospects.

(d) It must prominently identify and set forth the actual address of the insurer or insurers that issue the coverage.

(e) It must prominently state that any material or information offered will be delivered in person by a representative of the insurer, if that is the case.

The Director may issue reasonable rules and regulations for the purpose of establishing criteria and guidelines for the advertising of Medicare supplement insurance.

(3) Mandatory agent practices. For the purpose of this Act, "home solicitation sale by an agent" means a sale or attempted sale of an insurance policy at the purchaser's residence, agent's transient quarters, or away from the agent's home office when the initial contact is personally solicited by the agent or insurer. Any agent involved in any home solicitation sale of a Medicare supplement policy or other policy of accident and health insurance, subject to subsection (1) of this Section, sold to individuals eligible for Medicare shall promptly do the following:

(a) Identify himself as an insurance agent.

(b) Identify the insurer or insurers for which he is a licensed agent.

(c) Provide the purchaser with a clearly printed or typed identification of his name, address, telephone number, and the name of the insurer in which the insurance is to be written.

(d) Determine what, if any, policy is appropriate, suitable, and nonduplicative for the purchaser considering existing coverage and be able to provide proof to the company that such a determination has been made.

(e) Fully and completely disclose the purchaser's medical history on the application if required for issue.

(f) Complete a Policy Check List in duplicate as follows:

POLICY CHECK LIST

Applicant's Name:

Policy Number:

Name of Existing Insurer:

Expiration Date of Existing Insurance:

Medicare Pays	Existing Coverage	Supplement Pays	Insured's Responsibility
Service			
Hospital			
Skilled Nursing			
Home Care			
Prescription Drugs			

This policy does/does not (circle one) comply with the minimum standards for Medicare supplements set forth in Section 363 of the Illinois Insurance Code.

Signature of Applicant

Signature of Agent

This Policy Check List is to be completed in the presence of the purchaser at the point of sale, and copies of it, completed and duly signed, are to be provided to the purchaser and to the company.

(g) Except in the case of refunds of premium made pursuant to subsection (5) of Section 363 of this Code,

send by mail to an insured or an applicant for insurance, when the insurer follows a practice of having agents return premium refund drafts issued by the insurer, a premium refund draft within 2 weeks of its receipt by the agent from the insurer making such refund.

(h) Deliver to the purchaser, along with every policy issued pursuant to Section 363 of this Code, an Outline of Coverage as described in paragraph (b) of subsection (6) of this Section.

(4) Prohibited agent practices.

(a) No insurance agent engaged in a home solicitation sale of a Medicare supplement policy or other policy of accident and health insurance, subject to subsection (1) of this Section, sold to individuals eligible for Medicare shall use any false, deceptive, or misleading representation to induce a sale, or use any plan, scheme, or ruse, that misrepresents the true status or mission of the person making the call, or represent directly or by implication that the agent:

(i) Is offering insurance that is approved or recommended by the State or federal government to supplement Medicare.

(ii) Is in any way representing, working for, or compensated by a local, State, or federal government agency.

(iii) Is engaged in an advisory business in which his compensation is unrelated to the sale of insurance by the use of terms such as Medicare consultant, Medicare advisor, Medicare Bureau, disability insurance consultant, or similar expression in a letter, envelope, reply card, or other.

(iv) Will provide a continuing service to the purchaser of the policy unless he does provide

services to the purchaser beyond the sale and renewal of policies.

(b) No agent engaged in a home solicitation sale of a Medicare supplement policy or other policy of accident and health insurance sold to individuals eligible for Medicare shall misrepresent, directly or by implication, any of the following:

(i) The identity of the insurance company or companies he represents.

(ii) That the assistance programs of the State or county or the federal Medicare programs for medical insurance are to be discontinued or are increasing in cost to the prospective buyer or are in any way endangered.

(iii) That an insurance company in which the prospective purchaser is insured is financially unstable, cancelling its outstanding policies, merging, or withdrawing from the State.

(iv) The coverage of the policy being sold.

(v) The effective date of coverage under the policy.

(vi) That any pre-existing health condition of the purchaser is irrelevant.

(vii) The right of the purchaser to cancel the policy within 30 days after receiving it.

(5) Mandatory company practices. Any company involved in the sale of Medicare supplement policies or any policies of accident and health insurance (subject to subsection (1) of this Section) sold to individuals eligible for Medicare shall do the following:

(a) Be able to readily determine the number of accident and health policies in force with the company on each insured eligible for Medicare.

(b) Make certain that policies of Medicare

supplement insurance are not issued, and any premium collected for those policies is refunded, when they are deemed duplicative, inappropriate, or not suitable considering existing coverage with the company.

(c) Maintain copies of the Policy Check List as completed by the agent at the point of sale of a Medicare supplement policy or any policy of accident and health insurance (subject to subsection (1) of this Section) sold to individuals eligible for Medicare on file at the company's regional or other administrative office.

(6) Disclosures. In order to provide for full and fair disclosure in the sale of Medicare supplement policies, there must be compliance with the following:

(a) No Medicare supplement policy or certificate shall be delivered in this State unless an outline of coverage is delivered to the applicant at the time application is made and, except for direct response policies, an acknowledgement from the applicant of receipt of the outline is obtained.

(b) Outline of coverage requirements for Medicare supplement policies.

(i) Insurers issuing Medicare supplement policies or certificates for delivery in this State shall provide an outline of coverage to all applicants at the time application is made and, except for direct response policies, shall obtain an acknowledgement of receipt of the outline from the applicant.

(ii) If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis that would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate must accompany the policy or

certificate when it is delivered and shall contain immediately above the company name, in no less than 12 point type, the following statement:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.".

(iii) The outline of coverage provided to applicants shall be in the form prescribed by rule by the Department.

(c) Insurers issuing policies that provide hospital or medical expense coverage on an expense incurred or indemnity basis, other than incidentally, to a person or persons eligible for Medicare shall provide to the policyholder a buyer's guide approved by the Director. Delivery of the buyer's guide shall be made whether or not the policy qualifies as a "Medicare Supplement Coverage" in accordance with Section 363 of this Code. Except in the case of direct response insurers, delivery of the buyer's guide shall be made at the time of application, and acknowledgement of receipt of certification of delivery of the buyer's guide shall be provided to the insurer. Direct response insurers shall deliver the buyer's guide upon request, but not later than at the time the policy is delivered.

(d) Outlines of coverage delivered in connection with policies defined in subsection (4) of Section 355a of this Code as Hospital confinement Indemnity (Section 4c), Accident Only Coverage (Section 4f), Specified Disease (Section 4g) or Limited Benefit Health Insurance Coverage to persons eligible for Medicare shall contain, in addition to other requirements for those outlines, the following language that shall be printed on or attached to the first page of the outline of coverage:

"This policy, certificate or subscriber contract IS NOT A MEDICARE SUPPLEMENT policy or certificate. It does not fully supplement your federal Medicare health insurance. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company.".

(e) In the case wherein a policy, as defined in paragraph (a) of subsection (2) of Section 355a of this Code, being sold to a person eligible for Medicare provides one or more but not all of the minimum standards for Medicare supplements set forth in Section 363 of this Code, disclosure must be provided that the policy is not a Medicare supplement and does not meet the minimum benefit standards set for those policies in this State.

(7) Loss ratio standards.

(a) Every issuer of Medicare supplement policies or certificates in this State, as defined in Section 363 of this Code, shall file annually its rates, rating schedule, and supporting documentation demonstrating that it is in compliance with the applicable loss ratio standards of this State. All filings of rates and rating schedules shall demonstrate that the actual and anticipated losses in relation to premiums comply with the requirements of this Code.

(b) Medicare supplement policies shall, for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for the period and in accordance with accepted actuarial principles and practices, return to policyholders in the form of aggregate benefits the following:

(i) In the case of group policies, at least 75% of the aggregate amount of premiums earned.

(ii) In the case of individual policies, at

least 60% of the aggregate amount of premiums earned; and beginning November 5, 1991, at least 65% of the aggregate amount of premiums earned.

(iii) In the case of sponsored group policies in which coverage is marketed on an individual basis by direct response to eligible individuals in that group only, at least 65% of the aggregate amount of premiums earned.

(c) For the purposes of this Section, the insurer shall be deemed to comply with the loss ratio standards if: (i) for the most recent year, the ratio of the incurred losses to earned premiums for policies or certificates that have been in force for 3 years or more is greater than or equal to the applicable percentages contained in this Section; and (ii) the anticipated losses in relation to premiums over the entire period for which the policy is rated comply with the requirements of this Section. An anticipated third-year loss ratio that is greater than or equal to the applicable percentage shall be demonstrated for policies or certificates in force less than 3 years.

(8) Applicability. This Section shall apply to those companies writing the kind or kinds of business enumerated in Classes 1(b) and 2(a) of Section 4 of this Code and to those entities organized and operating under the Voluntary Health Services Plans Act and the Health Maintenance Organization Act.

(9) Penalties.

(a) Any company or agent who is found to have violated any of the provisions of this Section may be required by order of the Director of Insurance to forfeit by civil penalty not less than $500 ~~$250~~ nor more than $5,000 ~~$2,500~~ for each offense. Written notice will be issued and an opportunity for a hearing will be granted

pursuant to subsection (2) of Section 403A of this Code.

(b) In addition to any other applicable penalties for violations of this Code, the Director may require insurers violating any provision of this Code or regulations promulgated pursuant to this Code to cease marketing in this State any Medicare supplement policy or certificate that is related directly or indirectly to a violation and may require the insurer to take actions as are necessary to comply with the provisions of Sections 363 and 363a of this Code.

(c) After June 30, 1991, no person may advertise, solicit for the sale or purchase of, offer for sale, or deliver a Medicare supplement policy that has not been approved by the Director. A person who knowingly violates, directly or through an agent, the provisions of this paragraph commits a Class 3 felony. Any person who violates the provisions of this paragraph may be subjected to a civil penalty not to exceed $10,000 ~~$5,000~~. The civil penalty authorized in this paragraph shall be enforced in the manner provided in Section 403A of this Code.

(10) Replacement. Application forms shall include a question designed to elicit information as to whether a Medicare supplement policy or certificate is intended to replace any similar accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant containing the question may be used. Upon determining that a sale of Medicare supplement coverage will involve replacement, an insurer, other than a direct response insurer, or its agent, shall furnish the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice shall be provided to the applicant, and an

additional copy signed by the applicant shall be retained by the insurer. A direct response insurer shall deliver to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage.
(Source: P.A. 88-313; 89-484, eff. 6-21-96.)

(215 ILCS 5/370) (from Ch. 73, par. 982)

Sec. 370. Policies issued in violation of article-Penalty.

(1) Any company, or any officer or agent thereof, issuing or delivering to any person in this State any policy in wilful violation of the provision of this article shall be guilty of a petty offense.

(2) The Director may revoke the license of any foreign or alien company, or of the agent thereof wilfully violating any provision of this article or suspend such license for any period of time up to, but not to exceed, two years; or may by order require such insurance company or agent to pay to the people of the State of Illinois a penalty in a sum not exceeding $1,000 ~~five-hundred-dollars~~, and upon the failure of such insurance company or agent to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such insurance company or agent, unless such order is stayed by an order of a court of competent jurisdiction, the Director of Insurance may revoke or suspend the license of such insurance company or agent for any period of time up to, but not exceeding a period of, two years.
(Source: P.A. 77-2699.)

(215 ILCS 5/403) (from Ch. 73, par. 1015)

Sec. 403. Power to subpoena and examine witnesses.

(1) In the conduct of any examination, investigation or hearing provided for by this Code, the Director or other

officer designated by him or her to conduct the same, shall have power to compel the attendance of any person by subpoena, to administer oaths and to examine any person under oath concerning the business, conduct or affairs of any company or person subject to the provisions of this Code, and in connection therewith to require the production of any books, records or papers relevant to the inquiry.

(2) If a person subpoenaed to attend such inquiry fails to obey the command of the subpoena without reasonable excuse, or if a person in attendance upon such inquiry shall, without reasonable cause, refuse to be sworn or to be examined or to answer a question or to produce a book or paper when ordered to do so by any officer conducting such inquiry, or if any person fails to perform any act required hereunder to be performed, he or she shall be required to pay a penalty of not more than $2,000 ~~$1,000~~ to be recovered in the name of the People of the State of Illinois by the State's Attorney of the county in which the violation occurs, and the penalty so recovered shall be paid into the county treasury.

(3) When any person neglects or refuses without reasonable cause to obey a subpoena issued by the Director, or refuses without reasonable cause to testify, to be sworn or to produce any book or paper described in the subpoena, the Director may file a petition against such person in the circuit court of the county in which the testimony is desired to be or has been taken or has been attempted to be taken, briefly setting forth the fact of such refusal or neglect and attaching a copy of the subpoena and the return of service thereon and applying for an order requiring such person to attend, testify or produce the books or papers before the Director or his or her actuary, supervisor, deputy or examiner, at such time or place as may be specified in such order. Any circuit court of this State, upon the filing of

such petition, either before or after notice to such person, may, in the judicial discretion of such court, order the attendance of such person, the production of books and papers and the giving of testimony before the Director or any of his or her actuaries, supervisors, deputies or examiners. If such person shall fail or refuse to obey the order of the court and it shall appear to the court that the failure or refusal of such person to obey its order is wilful, and without lawful excuse, the court shall punish such person by fine or imprisonment in the county jail, or both, as the nature of the case may require, as is now, or as may hereafter be lawful for the court to do in cases of contempt of court.

(4) The fees of witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of this State. When a witness is subpoenaed by or testifies at the instance of the Director or other officer designated by him or her, such fees shall be paid in the same manner as other expenses of the Department. When a witness is subpoenaed or testifies at the instance of any other party to any such proceeding, the cost of the subpoena or subpoenas duces tecum and the fee of the witness shall be borne by the party at whose instance a witness is summoned. In such case, the Department in its discretion, may require a deposit to cover the cost of such service and witness fees.

(Source: P.A. 83-334.)

(215 ILCS 5/403A) (from Ch. 73, par. 1015A)

Sec. 403A. Violations; Notice of Apparent Liability; Limitation of Forfeiture Liability. (1) Any company or person, agent or broker, officer or director and any other person subject to this Code and as may be defined in Section 2 of this Code, who willfully or repeatedly fails to observe or who otherwise violates any of the provisions of this Code or any rule or regulation promulgated by the Director under

authority of this Code or any final order of the Director entered under the authority of this Code shall by civil penalty forfeit to the State of Illinois a sum not to exceed $2,000 ~~$1,000~~. Each day during which a violation occurs constitutes a separate offense. The civil penalty provided for in this Section shall apply only to those Sections of this Code or administrative regulations thereunder that do not otherwise provide for a monetary civil penalty.

(2) No forfeiture liability under paragraph (1) of this Section may attach unless a written notice of apparent liability has been issued by the Director and received by the respondent, or the Director sends written notice of apparent liability by registered or certified mail, return receipt requested, to the last known address of the respondent. Any respondent so notified must be granted an opportunity to request a hearing within 10 days from receipt of notice, or to show in writing, why he should not be held liable. A notice issued under this Section must set forth the date, facts and nature of the act or omission with which the respondent is charged and must specifically identify the particular provision of the Code, rule, regulation or order of which a violation is charged.

(3) No forfeiture liability under paragraph (1) of this Section may attach for any violation occurring more than 2 years prior to the date of issuance of the notice of apparent liability and in no event may the total civil penalty forfeiture imposed for the acts or omissions set forth in any one notice of apparent liability exceed $500,000 ~~$250,000~~.

(4) The civil penalty forfeitures provided for in this Section are payable to the General Revenue Fund of the State of Illinois, and may be recovered in a civil suit in the name of the State of Illinois brought in the Circuit Court in Sangamon County, or in the Circuit Court of the county where the respondent is domiciled or has its principal operating

office.

(5) In any case where the Director issues a notice of apparent liability looking toward the imposition of a civil penalty forfeiture under this Section, that fact may not be used in any other proceeding before the Director to the prejudice of the respondent to whom the notice was issued, unless (a) the civil penalty forfeiture has been paid, or (b) a court has ordered payment of the civil penalty forfeiture and that order has become final.

(Source: P.A. 86-938.)

(215 ILCS 5/408) (from Ch. 73, par. 1020)

Sec. 408. Fees and charges.

(1) The Director shall charge, collect and give proper acquittances for the payment of the following fees and charges:

(a) For filing all documents submitted for the incorporation or organization or certification of a domestic company, except for a fraternal benefit society, $2,000 ~~$1,000~~.

(b) For filing all documents submitted for the incorporation or organization of a fraternal benefit society, $500 ~~$250~~.

(c) For filing amendments to articles of incorporation and amendments to declaration of organization, except for a fraternal benefit society, a mutual benefit association, a burial society or a farm mutual, $200 ~~$100~~.

(d) For filing amendments to articles of incorporation of a fraternal benefit society, a mutual benefit association or a burial society, $100 ~~$50~~.

(e) For filing amendments to articles of incorporation of a farm mutual, $50 ~~$25~~.

(f) For filing bylaws or amendments thereto, $50

~~$25~~.

(g) For filing agreement of merger or consolidation:

(i) for a domestic company, except for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $2,000 ~~$1,000~~.

(ii) for a foreign or alien company, except for a fraternal benefit society, $600 ~~$300~~.

(iii) for a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $200 ~~$100~~.

(h) For filing agreements of reinsurance by a domestic company, $200 ~~$100~~.

(i) For filing all documents submitted by a foreign or alien company to be admitted to transact business or accredited as a reinsurer in this State, except for a fraternal benefit society, $5,000 ~~$2,500~~.

(j) For filing all documents submitted by a foreign or alien fraternal benefit society to be admitted to transact business in this State, $500 ~~$250~~.

(k) For filing declaration of withdrawal of a foreign or alien company, $50 ~~$25~~.

(l) For filing annual statement, except a fraternal benefit society, a mutual benefit association, a burial society, or a farm mutual, $200 ~~$100~~.

(m) For filing annual statement by a fraternal benefit society, $100 ~~$50~~.

(n) For filing annual statement by a farm mutual, a mutual benefit association, or a burial society, $50 ~~$25~~.

(o) For issuing a certificate of authority or renewal thereof except to a fraternal benefit society, $200 ~~$100~~.

(p) For issuing a certificate of authority or

renewal thereof to a fraternal benefit society, $100 ~~$50~~.

(q) For issuing an amended certificate of authority, $50 ~~$25~~.

(r) For each certified copy of certificate of authority, $20 ~~$10~~.

(s) For each certificate of deposit, or valuation, or compliance or surety certificate, $20 ~~$10~~.

(t) For copies of papers or records per page, $1.

(u) For each certification to copies of papers or records, $10.

(v) For multiple copies of documents or certificates listed in subparagraphs (r), (s), and (u) of paragraph (1) of this Section, $10 for the first copy of a certificate of any type and $5 for each additional copy of the same certificate requested at the same time, unless, pursuant to paragraph (2) of this Section, the Director finds these additional fees excessive.

(w) For issuing a permit to sell shares or increase paid-up capital:

(i) in connection with a public stock offering, $300 ~~$150~~;

(ii) in any other case, $100 ~~$50~~.

(x) For issuing any other certificate required or permissible under the law, $50 ~~$25~~.

(y) For filing a plan of exchange of the stock of a domestic stock insurance company, a plan of demutualization of a domestic mutual company, or a plan of reorganization under Article XII, $2,000 ~~$1,000~~.

(z) For filing a statement of acquisition of a domestic company as defined in Section 131.4 of this Code, $2,000 ~~$1,000~~.

(aa) For filing an agreement to purchase the business of an organization authorized under the Dental Service Plan Act or the Voluntary Health Services Plans

Act or of a health maintenance organization or a limited health service organization, $2,000 ~~$1,000~~.

(bb) For filing a statement of acquisition of a foreign or alien insurance company as defined in Section 131.12a of this Code, $1,000 ~~$500~~.

(cc) For filing a registration statement as required in Sections 131.13 and 131.14, the notification as required by Sections 131.16, 131.20a, or 141.4, or an agreement or transaction required by Sections 124.2(2), 141, 141a, or 141.1, $200 ~~$100~~.

(dd) For filing an application for licensing of:

(i) a religious or charitable risk pooling trust or a workers' compensation pool, $1,000 ~~$500~~;

(ii) a workers' compensation service company, $500 ~~$250~~;

(iii) a self-insured automobile fleet, $200 ~~$100~~; or

(iv) a renewal of or amendment of any license issued pursuant to (i), (ii), or (iii) above, $100 ~~$50~~.

(ee) For filing articles of incorporation for a syndicate to engage in the business of insurance through the Illinois Insurance Exchange, $2,000 ~~$1,000~~.

(ff) For filing amended articles of incorporation for a syndicate engaged in the business of insurance through the Illinois Insurance Exchange, $100 ~~$50~~.

(gg) For filing articles of incorporation for a limited syndicate to join with other subscribers or limited syndicates to do business through the Illinois Insurance Exchange, $1,000 ~~$500~~.

(hh) For filing amended articles of incorporation for a limited syndicate to do business through the Illinois Insurance Exchange, $100 ~~$50~~.

(ii) For a permit to solicit subscriptions to a

syndicate or limited syndicate, $100 ~~$50~~.

(jj) For the filing of each form as required in Section 143 of this Code, $50 ~~$25~~ per form. The fee for advisory and rating organizations shall be $200 ~~$100~~ per form.

(i) For the purposes of the form filing fee, filings made on insert page basis will be considered one form at the time of its original submission. Changes made to a form subsequent to its approval shall be considered a new filing.

(ii) Only one fee shall be charged for a form, regardless of the number of other forms or policies with which it will be used.

(iii) Fees charged for a policy filed as it will be issued regardless of the number of forms comprising that policy shall not exceed $1,000 ~~$500~~ or $2,000 ~~$1000~~ for advisory or rating organizations.

(iv) The Director may by rule exempt forms from such fees.

(kk) For filing an application for licensing of a reinsurance intermediary, $500 ~~$250~~.

(ll) For filing an application for renewal of a license of a reinsurance intermediary, $200 ~~$100~~.

(2) When printed copies or numerous copies of the same paper or records are furnished or certified, the Director may reduce such fees for copies if he finds them excessive. He may, when he considers it in the public interest, furnish without charge to state insurance departments and persons other than companies, copies or certified copies of reports of examinations and of other papers and records.

(3) The expenses incurred in any performance examination authorized by law shall be paid by the company or person being examined. The charge shall be reasonably related to the

cost of the examination including but not limited to compensation of examiners, electronic data processing costs, supervision and preparation of an examination report and lodging and travel expenses. All lodging and travel expenses shall be in accord with the applicable travel regulations as published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Section 132 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon authorization of the Director. With the exception of the direct reimbursements authorized by the Director, all performance examination charges collected by the Department shall be paid to the Insurance Producers Administration Fund, however, the electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company being examined for payment to the Statistical Services Revolving Fund.

(4) At the time of any service of process on the Director as attorney for such service, the Director shall charge and collect the sum of $20 ~~$10.00~~, which may be recovered as taxable costs by the party to the suit or action causing such service to be made if he prevails in such suit or action.

(5) (a) The costs incurred by the Department of Insurance in conducting any hearing authorized by law shall be assessed against the parties to the hearing in such proportion as the Director of Insurance may determine upon consideration of all relevant circumstances including: (1) the nature of the hearing; (2) whether the hearing was

instigated by, or for the benefit of a particular party or parties; (3) whether there is a successful party on the merits of the proceeding; and (4) the relative levels of participation by the parties.

(b) For purposes of this subsection (5) costs incurred shall mean the hearing officer fees, court reporter fees, and travel expenses of Department of Insurance officers and employees; provided however, that costs incurred shall not include hearing officer fees or court reporter fees unless the Department has retained the services of independent contractors or outside experts to perform such functions.

(c) The Director shall make the assessment of costs incurred as part of the final order or decision arising out of the proceeding; provided, however, that such order or decision shall include findings and conclusions in support of the assessment of costs. This subsection (5) shall not be construed as permitting the payment of travel expenses unless calculated in accordance with the applicable travel regulations of the Department of Central Management Services, as approved by the Governor's Travel Control Board. The Director as part of such order or decision shall require all assessments for hearing officer fees and court reporter fees, if any, to be paid directly to the hearing officer or court reporter by the party(s) assessed for such costs. The assessments for travel expenses of Department officers and employees shall be reimbursable to the Director of Insurance for deposit to the fund out of which those expenses had been paid.

(d) The provisions of this subsection (5) shall apply in the case of any hearing conducted by the Director of Insurance not otherwise specifically provided for by law.

(6) The Director shall charge and collect an annual financial regulation fee from every domestic company for examination and analysis of its financial condition and to

fund the internal costs and expenses of the Interstate Insurance Receivership Commission as may be allocated to the State of Illinois and companies doing an insurance business in this State pursuant to Article X of the Interstate Insurance Receivership Compact. The fee shall be the greater fixed amount based upon the combination of nationwide direct premium income and nationwide reinsurance assumed premium income or upon admitted assets calculated under this subsection as follows:

(a) Combination of nationwide direct premium income and nationwide reinsurance assumed premium.

(i) $150 ~~$100~~, if the premium is less than $500,000 and there is no reinsurance assumed premium;

(ii) $750 ~~$500~~, if the premium is $500,000 or more, but less than $5,000,000 and there is no reinsurance assumed premium; or if the premium is less than $5,000,000 and the reinsurance assumed premium is less than $10,000,000;

(iii) $3,750 ~~$2,500~~, if the premium is less than $5,000,000 and the reinsurance assumed premium is $10,000,000 or more;

(iv) $7,500 ~~$5,000~~, if the premium is $5,000,000 or more, but less than $10,000,000;

(v) $18,000 ~~$12,000~~, if the premium is $10,000,000 or more, but less than $25,000,000;

(vi) $22,500 ~~$15,000~~, if the premium is $25,000,000 or more, but less than $50,000,000;

(vii) $30,000 ~~$20,000~~, if the premium is $50,000,000 or more, but less than $100,000,000;

(viii) $37,500 ~~$25,000~~, if the premium is $100,000,000 or more.

(b) Admitted assets.

(i) $150 ~~$100~~, if admitted assets are less

than $1,000,000;

(ii) $750 ~~$500~~, if admitted assets are $1,000,000 or more, but less than $5,000,000;

(iii) $3,750 ~~2,500~~, if admitted assets are $5,000,000 or more, but less than $25,000,000;

(iv) $7,500 ~~$5,000~~, if admitted assets are $25,000,000 or more, but less than $50,000,000;

(v) $18,000 ~~$12,000~~, if admitted assets are $50,000,000 or more, but less than $100,000,000;

(vi) $22,500 ~~$15,000~~, if admitted assets are $100,000,000 or more, but less than $500,000,000;

(vii) $30,000 ~~$20,000~~, if admitted assets are $500,000,000 or more, but less than $1,000,000,000;

(viii) $37,500 ~~$25,000~~, if admitted assets are $1,000,000,000 or more.

(c) The sum of financial regulation fees charged to the domestic companies of the same affiliated group shall not exceed $250,000 ~~$100,000~~ in the aggregate in any single year and shall be billed by the Director to the member company designated by the group.

(7) The Director shall charge and collect an annual financial regulation fee from every foreign or alien company, except fraternal benefit societies, for the examination and analysis of its financial condition and to fund the internal costs and expenses of the Interstate Insurance Receivership Commission as may be allocated to the State of Illinois and companies doing an insurance business in this State pursuant to Article X of the Interstate Insurance Receivership Compact. The fee shall be a fixed amount based upon Illinois direct premium income and nationwide reinsurance assumed premium income in accordance with the following schedule:

(a) $150 ~~$100~~, if the premium is less than $500,000 and there is no reinsurance assumed premium;

(b) $750 ~~$500~~, if the premium is $500,000 or more,

but less than $5,000,000 and there is no reinsurance assumed premium; or if the premium is less than $5,000,000 and the reinsurance assumed premium is less than $10,000,000;

(c) $3,750 ~~$2,500~~, if the premium is less than $5,000,000 and the reinsurance assumed premium is $10,000,000 or more;

(d) $7,500 ~~$5,000~~, if the premium is $5,000,000 or more, but less than $10,000,000;

(e) $18,000 ~~$12,000~~, if the premium is $10,000,000 or more, but less than $25,000,000;

(f) $22,500 ~~$15,000~~, if the premium is $25,000,000 or more, but less than $50,000,000;

(g) $30,000 ~~$20,000~~, if the premium is $50,000,000 or more, but less than $100,000,000;

(h) $37,500 ~~$25,000~~, if the premium is $100,000,000 or more.

The sum of financial regulation fees under this subsection (7) charged to the foreign or alien companies within the same affiliated group shall not exceed $250,000 ~~$100,000~~ in the aggregate in any single year and shall be billed by the Director to the member company designated by the group.

(8) Beginning January 1, 1992, the financial regulation fees imposed under subsections (6) and (7) of this Section shall be paid by each company or domestic affiliated group annually. After January 1, 1994, the fee shall be billed by Department invoice based upon the company's premium income or admitted assets as shown in its annual statement for the preceding calendar year. The invoice is due upon receipt and must be paid no later than June 30 of each calendar year. All financial regulation fees collected by the Department shall be paid to the Insurance Financial Regulation Fund. The Department may not collect financial examiner per diem

charges from companies subject to subsections (6) and (7) of this Section undergoing financial examination after June 30, 1992.

(9) In addition to the financial regulation fee required by this Section, a company undergoing any financial examination authorized by law shall pay the following costs and expenses incurred by the Department: electronic data processing costs, the expenses authorized under Section 131.21 and subsection (d) of Section 132.4 of this Code, and lodging and travel expenses.

Electronic data processing costs incurred by the Department in the performance of any examination shall be billed directly to the company undergoing examination for payment to the Statistical Services Revolving Fund. Except for direct reimbursements authorized by the Director or direct payments made under Section 131.21 or subsection (d) of Section 132.4 of this Code, all financial regulation fees and all financial examination charges collected by the Department shall be paid to the Insurance Financial Regulation Fund.

All lodging and travel expenses shall be in accordance with applicable travel regulations published by the Department of Central Management Services and approved by the Governor's Travel Control Board, except that out-of-state lodging and travel expenses related to examinations authorized under Sections 132.1 through 132.7 shall be in accordance with travel rates prescribed under paragraph 301-7.2 of the Federal Travel Regulations, 41 C.F.R. 301-7.2, for reimbursement of subsistence expenses incurred during official travel. All lodging and travel expenses may be reimbursed directly upon the authorization of the Director.

In the case of an organization or person not subject to the financial regulation fee, the expenses incurred in any financial examination authorized by law shall be paid by the

organization or person being examined. The charge shall be reasonably related to the cost of the examination including, but not limited to, compensation of examiners and other costs described in this subsection.

(10) Any company, person, or entity failing to make any payment of $150 ~~$100~~ or more as required under this Section shall be subject to the penalty and interest provisions provided for in subsections (4) and (7) of Section 412.

(11) Unless otherwise specified, all of the fees collected under this Section shall be paid into the Insurance Financial Regulation Fund.

(12) For purposes of this Section:

(a) "Domestic company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of this State, and in addition includes a not-for-profit corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act, a health maintenance organization, and a limited health service organization.

(b) "Foreign company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any state of the United States other than this State and in addition includes a health maintenance organization and a limited health service organization which is incorporated or organized under the laws of any state of the United States other than this State.

(c) "Alien company" means a company as defined in Section 2 of this Code which is incorporated or organized under the laws of any country other than the United States.

(d) "Fraternal benefit society" means a corporation, society, order, lodge or voluntary association as defined in Section 282.1 of this Code.

(e) "Mutual benefit association" means a company, association or corporation authorized by the Director to do business in this State under the provisions of Article XVIII of this Code.

(f) "Burial society" means a person, firm, corporation, society or association of individuals authorized by the Director to do business in this State under the provisions of Article XIX of this Code.

(g) "Farm mutual" means a district, county and township mutual insurance company authorized by the Director to do business in this State under the provisions of the Farm Mutual Insurance Company Act of 1986.

(Source: P.A. 90-177, eff. 7-23-97; 90-583, eff. 5-29-98; 91-357, eff. 7-29-99.)

(215 ILCS 5/412) (from Ch. 73, par. 1024)

Sec. 412. Refunds; penalties; collection.

(1) (a) Whenever it appears to the satisfaction of the Director that because of some mistake of fact, error in calculation, or erroneous interpretation of a statute of this or any other state, any authorized company has paid to him, pursuant to any provision of law, taxes, fees, or other charges in excess of the amount legally chargeable against it, during the 6 year period immediately preceding the discovery of such overpayment, he shall have power to refund to such company the amount of the excess or excesses by applying the amount or amounts thereof toward the payment of taxes, fees, or other charges already due, or which may thereafter become due from that company until such excess or excesses have been fully refunded, or upon a written request from the authorized company, the Director shall provide a cash refund within 120 days after receipt of the written

request if all necessary information has been filed with the Department in order for it to perform an audit of the annual return for the year in which the overpayment occurred or within 120 days after the date the Department receives all the necessary information to perform such audit. The Director shall not provide a cash refund if there are insufficient funds in the Insurance Premium Tax Refund Fund to provide a cash refund, if the amount of the overpayment is less than $100, or if the amount of the overpayment can be fully offset against the taxpayer's estimated liability for the year following the year of the cash refund request. Any cash refund shall be paid from the Insurance Premium Tax Refund Fund, a special fund hereby created in the State treasury.

(b) Beginning January 1, 2000 and thereafter, the Department shall deposit a percentage of the amounts collected under Sections 409, 444, and 444.1 of this Code into the Insurance Premium Tax Refund Fund. The percentage deposited into the Insurance Premium Tax Refund Fund shall be the annual percentage. The annual percentage shall be calculated as a fraction, the numerator of which shall be the amount of cash refunds approved by the Director for payment and paid during the preceding calendar year as a result of overpayment of tax liability under Sections 409, 444, and 444.1 of this Code and the denominator of which shall be the amounts collected pursuant to Sections 409, 444, and 444.1 of this Code during the preceding calendar year. However, if there were no cash refunds paid in a preceding calendar year, the Department shall deposit 5% of the amount collected in that preceding calendar year pursuant to Sections 409, 444, and 444.1 of this Code into the Insurance Premium Tax Refund Fund instead of an amount calculated by using the annual percentage.

(c) Beginning July 1, 1999, moneys in the Insurance

Premium Tax Refund Fund shall be expended exclusively for the purpose of paying cash refunds resulting from overpayment of tax liability under Sections 409, 444, and 444.1 of this Code as determined by the Director pursuant to subsection 1(a) of this Section. Cash refunds made in accordance with this Section may be made from the Insurance Premium Tax Refund Fund only to the extent that amounts have been deposited and retained in the Insurance Premium Tax Refund Fund.

(d) This Section shall constitute an irrevocable and continuing appropriation from the Insurance Premium Tax Refund Fund for the purpose of paying cash refunds pursuant to the provisions of this Section.

(2) When any insurance company or any surplus line producer fails to file any tax return required under Sections 408.1, 409, 444, 444.1 and 445 of this Code or Section 12 of the Fire Investigation Act on the date prescribed, including any extensions, there shall be added as a penalty $400 ~~$200~~ or 10% ~~5%~~ of the amount of such tax, whichever is greater, for each month or part of a month of failure to file, the entire penalty not to exceed $2,000 ~~$1,000~~ or 50% ~~25%~~ of the tax due, whichever is greater.

(3) (a) When any insurance company or any surplus line producer fails to pay the full amount due under the provisions of this Section, Sections 408.1, 409, 444, 444.1 or 445 of this Code, or Section 12 of the Fire Investigation Act, there shall be added to the amount due as a penalty an amount equal to 10% ~~5%~~ of the deficiency.

(b) If such failure to pay is determined by the Director to be wilful, after a hearing under Sections 402 and 403, there shall be added to the tax as a penalty an amount equal to the greater of 50% ~~25%~~ of the deficiency or 10% ~~5%~~ of the amount due and unpaid for each month or part of a month that the deficiency remains unpaid commencing with the date that the amount becomes due. Such amount shall be in lieu of any

determined under paragraph (a).

(4) Any insurance company or any surplus line producer which fails to pay the full amount due under this Section or Sections 408.1, 409, 444, 444.1 or 445 of this Code, or Section 12 of the Fire Investigation Act is liable, in addition to the tax and any penalties, for interest on such deficiency at the rate of 12% per annum, or at such higher adjusted rates as are or may be established under subsection (b) of Section 6621 of the Internal Revenue Code, from the date that payment of any such tax was due, determined without regard to any extensions, to the date of payment of such amount.

(5) The Director, through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction, for the recovery of the amount of such taxes, fees, and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same.

(6) In the event that the certificate of authority of a foreign or alien company is revoked for any cause or the company withdraws from this State prior to the renewal date of the certificate of authority as provided in Section 114, the company may recover the amount of any such tax paid in advance. Except as provided in this subsection, no revocation or withdrawal excuses payment of or constitutes grounds for the recovery of any taxes or penalties imposed by this Code.

(7) When an insurance company or domestic affiliated group fails to pay the full amount of any fee of $200 ~~$100~~ or more due under Section 408 of this Code, there shall be added to the amount due as a penalty the greater of $100 ~~$50~~ or an amount equal to 10% ~~5%~~ of the deficiency for each month or part of a month that the deficiency remains unpaid.

(Source: P.A. 91-643, eff. 8-20-99.)

(215 ILCS 5/431) (from Ch. 73, par. 1038)

Sec. 431. Penalty.

Any person who violates a cease and desist order of the Director under Section 427, after it has become final, and while such order is in effect, or who violates an order of the Circuit Court under Section 429, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the State of Illinois, a sum not to exceed $1,000 ~~$500~~, which may be recovered in a civil action, for each violation.

(Source: Laws 1967, p. 990.)

(215 ILCS 5/445) (from Ch. 73, par. 1057)

Sec. 445. Surplus line.

(1) Surplus line defined; surplus line insurer requirements. Surplus line insurance is insurance on an Illinois risk of the kinds specified in Classes 2 and 3 of Section 4 of this Code procured from an unauthorized insurer or a domestic surplus line insurer as defined in Section 445a after the insurance producer representing the insured or the surplus line producer is unable, after diligent effort, to procure said insurance from insurers which are authorized to transact business in this State other than domestic surplus line insurers as defined in Section 445a.

Insurance producers may procure surplus line insurance only if licensed as a surplus line producer under this Section and may procure that insurance only from an unauthorized insurer or from a domestic surplus line insurer as defined in Section 445a:

(a) that based upon information available to the surplus line producer has a policyholders surplus of not less than $15,000,000 determined in accordance with accounting rules that are applicable to authorized insurers; and

(b) that has standards of solvency and management

that are adequate for the protection of policyholders; and

(c) where an unauthorized insurer does not meet the standards set forth in (a) and (b) above, a surplus line producer may, if necessary, procure insurance from that insurer only if prior written warning of such fact or condition is given to the insured by the insurance producer or surplus line producer.

(2) Surplus line producer; license. Any licensed producer who is a resident of this State, or any nonresident who qualifies under Section 500-40, may be licensed as a surplus line producer upon:

(a) completing a prelicensing course of study. The course provided for by this Section shall be conducted under rules and regulations prescribed by the Director. The Director may administer the course or may make arrangements, including contracting with an outside educational service, for administering the course and collecting the non-refundable application fee provided for in this subsection. Any charges assessed by the Director or the educational service for administering the course shall be paid directly by the individual applicants. Each applicant required to take the course shall enclose with the application a non-refundable $20 ~~$10~~ application fee payable to the Director plus a separate course administration fee. An applicant who fails to appear for the course as scheduled, or appears but fails to complete the course, shall not be entitled to any refund, and shall be required to submit a new request to attend the course together with all the requisite fees before being rescheduled for another course at a later date; and

(b) payment of an annual license fee of $400 ~~$200~~; and

(c) procurement of the surety bond required in subsection (4) of this Section.

A surplus line producer so licensed shall keep a separate account of the business transacted thereunder which shall be open at all times to the inspection of the Director or his representative.

The prelicensing course of study requirement in (a) above shall not apply to insurance producers who were licensed under the Illinois surplus line law on or before the effective date of this amendatory Act of the 92nd General Assembly.

(3) Taxes and reports.

(a) Surplus line tax and penalty for late payment.

A surplus line producer shall file with the Director on or before February 1 and August 1 of each year a report in the form prescribed by the Director on all surplus line insurance procured from unauthorized insurers during the preceding 6 month period ending December 31 or June 30 respectively, and on the filing of such report shall pay to the Director for the use and benefit of the State a sum equal to 3.5% ~~3%~~ of the gross premiums less returned premiums upon all surplus line insurance procured or cancelled during the preceding 6 months.

Any surplus line producer who fails to pay the full amount due under this subsection is liable, in addition to the amount due, for such penalty and interest charges as are provided for under Section 412 of this Code. The Director, through the Attorney General, may institute an action in the name of the People of the State of Illinois, in any court of competent jurisdiction, for the recovery of the amount of such taxes and penalties due, and prosecute the same to final judgment, and take such steps as are necessary to collect the same.

(b) Fire Marshal Tax.

Each surplus line producer shall file with the Director on or before March 31 of each year a report in the form prescribed by the Director on all fire insurance procured from unauthorized insurers subject to tax under Section 12 of the Fire Investigation Act and shall pay to the Director the fire marshal tax required thereunder.

(c) Taxes and fees charged to insured. The taxes imposed under this subsection and the countersigning fees charged by the Surplus Line Association of Illinois may be charged to and collected from surplus line insureds.

(4) Bond. Each surplus line producer, as a condition to receiving a surplus line producer's license, shall execute and deliver to the Director a surety bond to the People of the State in the penal sum of $20,000, with a surety which is authorized to transact business in this State, conditioned that the surplus line producer will pay to the Director the tax, interest and penalties levied under subsection (3) of this Section.

(5) Submission of documents to Surplus Line Association of Illinois. A surplus line producer shall submit every insurance contract issued under his or her license to the Surplus Line Association of Illinois for recording and countersignature. The submission and countersignature may be effected through electronic means. The submission shall set forth:

(a) the name of the insured;

(b) the description and location of the insured property or risk;

(c) the amount insured;

(d) the gross premiums charged or returned;

(e) the name of the unauthorized insurer or domestic surplus line insurer as defined in Section 445a from whom coverage has been procured;

(f) the kind or kinds of insurance procured; and

(g) amount of premium subject to tax required by Section 12 of the Fire Investigation Act.

Proposals, endorsements, and other documents which are incidental to the insurance but which do not affect the premium charged are exempted from filing and countersignature.

The submission of insuring contracts to the Surplus Line Association of Illinois constitutes a certification by the surplus line producer or by the insurance producer who presented the risk to the surplus line producer for placement as a surplus line risk that after diligent effort the required insurance could not be procured from insurers which are authorized to transact business in this State other than domestic surplus line insurers as defined in Section 445a and that such procurement was otherwise in accordance with the surplus line law.

(6) Countersignature required. It shall be unlawful for an insurance producer to deliver any unauthorized insurer contract or domestic surplus line insurer contract unless such insurance contract is countersigned by the Surplus Line Association of Illinois.

(7) Inspection of records. A surplus line producer shall maintain separate records of the business transacted under his or her license, including complete copies of surplus line insurance contracts maintained on paper or by electronic means, which records shall be open at all times for inspection by the Director and by the Surplus Line Association of Illinois.

(8) Violations and penalties. The Director may suspend or revoke or refuse to renew a surplus line producer license for any violation of this Code. In addition to or in lieu of suspension or revocation, the Director may subject a surplus line producer to a civil penalty of up to $2,000 ~~$1,000~~ for

each cause for suspension or revocation. Such penalty is enforceable under subsection (5) of Section 403A of this Code.

(9) Director may declare insurer ineligible. If the Director determines that the further assumption of risks might be hazardous to the policyholders of an unauthorized insurer, the Director may order the Surplus Line Association of Illinois not to countersign insurance contracts evidencing insurance in such insurer and order surplus line producers to cease procuring insurance from such insurer.

(10) Service of process upon Director. Insurance contracts delivered under this Section from unauthorized insurers shall contain a provision designating the Director and his successors in office the true and lawful attorney of the insurer upon whom may be served all lawful process in any action, suit or proceeding arising out of such insurance. Service of process made upon the Director to be valid hereunder must state the name of the insured, the name of the unauthorized insurer and identify the contract of insurance. The Director at his option is authorized to forward a copy of the process to the Surplus Line Association of Illinois for delivery to the unauthorized insurer or the Director may deliver the process to the unauthorized insurer by other means which he considers to be reasonably prompt and certain.

(11) The Illinois Surplus Line law does not apply to insurance of property and operations of railroads or aircraft engaged in interstate or foreign commerce, insurance of vessels, crafts or hulls, cargoes, marine builder's risks, marine protection and indemnity, or other risks including strikes and war risks insured under ocean or wet marine forms of policies.

(12) Surplus line insurance procured under this Section, including insurance procured from a domestic surplus line insurer, is not subject to the provisions of the Illinois

Insurance Code other than Sections 123, 123.1, 401, 401.1, 402, 403, 403A, 408, 412, 445, 445.1, 445.2, 445.3, 445.4, and all of the provisions of Article XXXI to the extent that the provisions of Article XXXI are not inconsistent with the terms of this Act.

(Source: P.A. 92-386, eff. 1-1-02.)

(215 ILCS 5/500-70)

Sec. 500-70. License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) violating any insurance laws, or violating any rule, subpoena, or order of the Director or of another state's insurance commissioner;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony;

(7) having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere;

(9) having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory;

(10) forging a name to an application for insurance or to a document related to an insurance transaction;

(11) improperly using notes or any other reference material to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay state income tax or penalty or interest or comply with any administrative or court order directing payment of state income tax or failed to file a return or to pay any final assessment of any tax due to the Department of Revenue; or

(15) failing to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted student loan.

(b) If the action by the Director is to nonrenew, suspend, or revoke a license or to deny an application for a license, the Director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the suspension, revocation, denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to 50 Ill. Adm. Code 2402.

(c) The license of a business entity may be suspended, revoked, or refused if the Director finds, after hearing,

that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership, corporation, limited liability company, or limited liability partnership and the violation was neither reported to the Director nor corrective action taken.

(d) In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil penalty of up to $10,000 ~~$5,000~~ for each cause for denial, suspension, or revocation, however, the civil penalty may total no more than $100,000 ~~$20,000~~.

(e) The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Code or rules even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a license, the licensee or other person having possession or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify interested insurance companies and other persons.

(g) A person whose license is revoked or whose application is denied pursuant to this Section is ineligible to apply for any license for 3 years after the revocation or denial. A person whose license as an insurance producer has been revoked, suspended, or denied may not be employed, contracted, or engaged in any insurance related capacity during the time the revocation, suspension, or denial is in effect.

(Source: P.A. 92-386, eff. 1-1-02.)

(215 ILCS 5/500-110)

Sec. 500-110. Regulatory examinations.

(a) The Director may examine any applicant for or holder of an insurance producer license, limited line producer license or temporary insurance producer license or any business entity.

(b) All persons being examined, as well as their officers, directors, insurance producers, limited lines producers, and temporary insurance producers must provide to the Director convenient and free access, at all reasonable hours at their offices, to all books, records, documents, and other papers relating to the persons' insurance business affairs. The officers, directors, insurance producers, limited lines producers, temporary insurance producers, and employees must facilitate and aid the Director in the examinations as much as it is in their power to do so.

(c) The Director may designate an examiner or examiners to conduct any examination under this Section. The Director or his or her designee may administer oaths and examine under oath any individual relative to the business of the person being examined.

(d) The examiners designated by the Director under this Section may make reports to the Director. A report alleging substantive violations of this Article or any rules prescribed by the Director must be in writing and be based upon facts ascertained from the books, records, documents, papers, and other evidence obtained by the examiners or from sworn or affirmed testimony of or written affidavits from the person's officers, directors, insurance producers, limited lines producer, temporary insurance producers, or employees or other individuals, as given to the examiners. The report of an examination must be verified by the examiners.

(e) If a report is made, the Director must either deliver a duplicate of the report to the person being

examined or send the duplicate by certified or registered mail to the person's address of record. The Director shall afford the person an opportunity to demand a hearing with reference to the facts and other evidence contained in the report. The person may request a hearing within 14 calendar days after he or she receives the duplicate of the examination report by giving the Director written notice of that request, together with a written statement of the person's objections to the report. The Director must, if requested to do so, conduct a hearing in accordance with Sections 402 and 403 of this Code. The Director must issue a written order based upon the examination report and upon the hearing, if a hearing is held, within 90 days after the report is filed, or within 90 days after the hearing if a hearing is held. If the report is refused or otherwise undeliverable, or a hearing is not requested in a timely fashion, the right to a hearing is waived. After the hearing or the expiration of the time period in which a person may request a hearing, if the examination reveals that the person is operating in violation of any law, rule, or prior order, the Director in the written order may require the person to take any action the Director considers necessary or appropriate in accordance with the report or examination hearing. The order is subject to review under the Administrative Review Law.

(f) The Director may adopt reasonable rules to further the purposes of this Section.

(g) A person who violates or aids and abets any violation of a written order issued under this Section shall be guilty of a business offense and his or her license may be revoked or suspended pursuant to Section 500-70 of this Article and he or she may be subjected to a civil penalty of not more than $20,000 ~~$10,000~~.

(Source: P.A. 92-386, eff. 1-1-02.)

(215 ILCS 5/500-120)

Sec. 500-120. Conflicts of interest; inactive status.

(a) A person, partnership, association, or corporation licensed by the Department who, due to employment with any unit of government that would cause a conflict of interest with the holding of that license, notifies the Director in writing on forms prescribed by the Department and, subject to rules of the Department, makes payment of applicable licensing renewal fees, may elect to place the license on an inactive status.

(b) A licensee whose license is on inactive status may have the license restored by making application to the Department on such form as may be prescribed by the Department. The application must be accompanied with a fee of $100 ~~$50~~ plus the current applicable license fee.

(c) A license may be placed on inactive status for a 2-year period, and upon request, the inactive status may be extended for a successive 2-year period not to exceed a cumulative 4-year inactive period. After a license has been on inactive status for 4 years or more, the licensee must meet all of the standards required of a new applicant before the license may be restored to active status.

(d) If requests for inactive status are not renewed as set forth in subsection (c), the license will be taken off the inactive status and the license will lapse immediately.
(Source: P.A. 92-386, eff. 1-1-02.)

(215 ILCS 5/500-135)

Sec. 500-135. Fees.

(a) The fees required by this Article are as follows:

(1) a fee of $180 for a person who is a resident of Illinois, and $250 for a person who is not a resident of Illinois, ~~$150~~ payable once every 2 years for an insurance producer license;

(2) a fee of $50 ~~$25~~ for the issuance of a temporary insurance producer license;

(3) a fee of $150 ~~$50~~ payable once every 2 years for a business entity;

(4) an annual $50 ~~$25~~ fee for a limited line producer license issued under items (1) through (7) of subsection (a) of Section 500-100;

(5) a $50 ~~$25~~ application fee for the processing of a request to take the written examination for an insurance producer license;

(6) an annual registration fee of $1,000 ~~$500~~ for registration of an education provider;

(7) a certification fee of $50 ~~$25~~ for each certified pre-licensing or continuing education course and an annual fee of $20 ~~$10~~ for renewing the certification of each such course;

(8) a fee of $180 for a person who is a resident of Illinois, and $250 for a person who is not a resident of Illinois, ~~$50~~ payable once every 2 years for a car rental limited line license;

(9) a fee of $200 ~~$150~~ payable once every 2 years for a limited lines license other than the licenses issued under items (1) through (7) of subsection (a) of Section 500-100 or a car rental limited line license.

(b) Except as otherwise provided, all fees paid to and collected by the Director under this Section shall be paid promptly after receipt thereof, together with a detailed statement of such fees, into a special fund in the State Treasury to be known as the Insurance Producer Administration Fund. The moneys deposited into the Insurance Producer Administration Fund may be used only for payment of the expenses of the Department in the execution, administration, and enforcement of the insurance laws of this State, and shall be appropriated as otherwise provided by law for the

payment of those expenses with first priority being any expenses incident to or associated with the administration and enforcement of this Article.

(Source: P.A. 92-386, eff. 1-1-02.)

(215 ILCS 5/511.103) (from Ch. 73, par. 1065.58-103)

Sec. 511.103. Application. The applicant for a license shall file with the Director an application upon a form prescribed by the Director, which shall include or have attached the following:

(1) The names, addresses and official positions of the individuals who are responsible for the conduct of the affairs of the administrator, including but not limited to all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers in the case of a corporation or the partners in the case of a partnership; and

(2) A non-refundable filing fee of $200 ~~$100~~ which shall become the initial administrator license fee should the Director issue an administrator license.

(Source: P.A. 84-887.)

(215 ILCS 5/511.105) (from Ch. 73, par. 1065.58-105)

Sec. 511.105. License. (a) The Director shall cause a license to be issued to each applicant that has demonstrated to the Director's satisfaction compliance with the requirements of this Article.

(b) Each administrator license shall remain in effect as long as the holder of the license maintains in force and effect the bond required by Section 511.104 and pays the annual fee of $200 ~~$100~~ prior to the anniversary date of the license, unless the license is revoked or suspended pursuant to Section 511.107.

(c) Each license shall contain the name, business

address and identification number of the licensee, the date the license was issued and any other information the Director considers proper.

(Source: P.A. 84-887.)

(215 ILCS 5/511.110) (from Ch. 73, par. 1065.58-110)

Sec. 511.110. Administrative Fine. (a) If the Director finds that one or more grounds exist for the revocation or suspension of a license issued under this Article, the Director may, in lieu of or in addition to such suspension or revocation, impose a fine upon the administrator.

(b) With respect to any knowing and wilful violation of a lawful order of the Director, any applicable portion of the Illinois Insurance Code or Part of Title 50 of the Illinois Administrative Code, or a provision of this Article, the Director may impose a fine upon the administrator in an amount not to exceed $10,000 ~~$5,000~~ for each such violation. In no event shall such fine exceed an aggregate amount of $50,000 ~~$25,000~~ for all knowing and wilful violations arising out of the same action.

(Source: P.A. 84-887.)

(215 ILCS 5/512.63) (from Ch. 73, par. 1065.59-63)

Sec. 512.63. Fees. (a) The fees required by this Article are as follows:

(1) Public Insurance Adjuster license annual fee, $100 ~~$30~~;

(2) Registration of Firms, $100 ~~$20~~;

(3) Application Fee for processing each request to take the written examination for a Public Adjuster license, $20 ~~$10~~.

(Source: P.A. 83-1362.)

(215 ILCS 5/513a3) (from Ch. 73, par. 1065.60a3)

Sec. 513a3. License required.

(a) No person may act as a premium finance company or hold himself out to be engaged in the business of financing insurance premiums, either directly or indirectly, without first having obtained a license as a premium finance company from the Director.

(b) An insurance producer shall be deemed to be engaged in the business of financing insurance premiums if 10% or more of the producer's total premium accounts receivable are more than 90 days past due.

(c) In addition to any other penalty set forth in this Article, any person violating subsection (a) of this Section may, after hearing as set forth in Article XXIV of this Code, be required to pay a civil penalty of not more than $2,000 ~~$1000~~ for each offense.

(d) In addition to any other penalty set forth in this Article, any person violating subsection (a) of this Section is guilty of a Class A misdemeanor. Any individual violating subsection (a) of this Section, and misappropriating or converting any monies collected in conjunction with the violation, is guilty of a Class 4 felony.

(Source: P.A. 89-626, eff. 8-9-96.)

(215 ILCS 5/513a4) (from Ch. 73, par. 1065.60a4)

Sec. 513a4. Application and license.

(a) Each application for a premium finance license shall be made on a form specified by the Director and shall be signed by the applicant declaring under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief. The Director shall cause to be issued a license to each applicant that has demonstrated to the Director that the applicant:

(1) is competent and trustworthy and of a good

business reputation;

(2) has a minimum net worth of $50,000; and

(3) has paid the fees required by this Article.

(b) Each applicant at the time of request for a license or renewal of a license shall:

(1) certify that no charge for financing premiums shall exceed the rates permitted by this Article;

(2) certify that the premium finance agreement or other forms being used are in compliance with the requirements of this Article;

(3) certify that he or she has a minimum net worth of $50,000; and

(4) attach with the application a non-refundable annual fee of $400 ~~$200~~.

(c) An applicant who has met the requirements of subsection (a) and subsection (b) shall be issued a premium finance license.

(d) Each premium finance license shall remain in effect as long as the holder of the license annually continues to meet the requirements of subsections (a) and (b) by the due date unless the license is revoked or suspended by the Director.

(e) The individual holder of a premium finance license shall inform the Director in writing of a change in residence address within 30 days of the change, and a corporation, partnership, or association holder of a premium finance license shall inform the Director in writing of a change in business address within 30 days of the change.

(f) Every partnership or corporation holding a license as a premium finance company shall appoint one or more partners or officers to be responsible for the firm's compliance with the Illinois Insurance Code and applicable rules and regulations. Any change in the appointed person or persons shall be reported to the Director in writing within

30 days of the change.

(Source: P.A. 87-811.)

(215 ILCS 5/513a7) (from Ch. 73, par. 1065.60a7)

Sec. 513a7. License suspension; revocation or denial.

(a) Any license issued under this Article may be suspended, revoked, or denied if the Director finds that the licensee or applicant:

(1) has wilfully violated any provisions of this Code or the rules and regulations thereunder;

(2) has intentionally made a material misstatement in the application for a license;

(3) has obtained or attempted to obtain a license through misrepresentation or fraud;

(4) has misappropriated or converted to his own use or improperly withheld monies;

(5) has used fraudulent, coercive, or dishonest practices or has demonstrated incompetence, untrustworthiness, or financial irresponsibility;

(6) has been, within the past 3 years, convicted of a felony, unless the individual demonstrates to the Director sufficient rehabilitation to warrant public trust;

(7) has failed to appear without reasonable cause or excuse in response to a subpoena issued by the Director;

(8) has had a license suspended, revoked, or denied in any other state on grounds similar to those stated in this Section; or

(9) has failed to report a felony conviction as required by Section 513a6.

(b) Suspension, revocation, or denial of a license under this Section shall be by written order sent to the licensee or applicant by certified or registered mail at the address

specified in the records of the Department. The licensee or applicant may in writing request a hearing within 30 days from the date of mailing. If no written request is made the order shall be final upon the expiration of that 30 day period.

(c) If the licensee or applicant requests a hearing under this Section, the Director shall issue a written notice of hearing sent to the licensee or applicant by certified or registered mail at his address, as specified in the records of the Department, and stating:

(1) the grounds, charges, or conduct that justifies suspension, revocation, or denial under this Section;

(2) the specific time for the hearing, which may not be fewer than 20 nor more than 30 days after the mailing of the notice of hearing; and

(3) a specific place for the hearing, which may be either in the City of Springfield or in the county where the licensee's principal place of business is located.

(d) Upon the suspension or revocation of a license, the licensee or other person having possession or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions and revocations after they become final in a manner designed to notify interested insurance companies and other persons.

(e) Any person whose license is revoked or denied under this Section shall be ineligible to apply for any license for 2 years. A suspension under this Section may be for a period of up to 2 years.

(f) In addition to or instead of a denial, suspension, or revocation of a license under this Section, the licensee may be subjected to a civil penalty of up to $2,000 ~~$1,000~~ for each cause for denial, suspension, or revocation. The penalty is enforceable under subsection (5) of Section 403A of this Code.

(Source: P.A. 87-811.)

(215 ILCS 5/529.5) (from Ch. 73, par. 1065.76-5)

Sec. 529.5. The Industry Placement Facility shall compile an annual operating report, and publish such report in at least 2 newspapers having widespread circulation in the State, which report shall include:

(1) a description of the origin and purpose of the Illinois Fair Plan and its relationship to the property and casualty insurance industry in Illinois;

(2) a financial statement specifying the amount of profit or loss incurred by the Facility for its financial year; and

(3) a disclosure as to the amount of subsidization per type of policy written by the Facility, which is provided by the property and casualty insurance companies operating in Illinois, if any.

This annual report shall be a matter of public record to be made available to any person requesting a copy from the Facility at a fee not to exceed $10 ~~$5~~ per copy. A copy shall be available for inspection at the Department of Insurance.

(Source: P.A. 82-499.)

(215 ILCS 5/544) (from Ch. 73, par. 1065.94)

Sec. 544. Powers of the Director. The Director shall either (a) suspend or revoke, after notice and hearing pursuant to Sections 401, 402 and 403 of this Code, the certificate of authority to do business in this State of any member company which fails to pay an assessment when due or fails to comply with the plan of operation, or (b) levy a fine on any member company which fails to pay an assessment when due. Such fine shall not exceed 5% per month of the unpaid assessment, except that no fine shall be less than

$200 ~~$100~~ per month.

(Source: P.A. 85-576.)

(215 ILCS 5/1020) (from Ch. 73, par. 1065.720)

Sec. 1020. Penalties. (A) In any case where a hearing pursuant to Section 1016 results in the finding of a knowing violation of this Article, the Director may, in addition to the issuance of a cease and desist order as prescribed in Section 1018, order payment of a monetary penalty of not more than $1,000 ~~$500~~ for each violation but not to exceed $20,000 ~~$10,000~~ in the aggregate for multiple violations.

(B) Any person who violates a cease and desist order of the Director under Section 1018 of this Article may, after notice and hearing and upon order of the Director, be subject to one or more of the following penalties, at the discretion of the Director:

(1) a monetary fine of not more than $20,000 ~~$10,000~~ for each violation,

(2) a monetary fine of not more than $100,000 ~~$50,000~~ if the Director finds that violations have occurred with such frequency as to constitute a general business practice, or

(3) suspension or revocation of an insurance institution's or agent's license.

(Source: P.A. 82-108.)

(215 ILCS 5/1108) (from Ch. 73, par. 1065.808)

Sec. 1108. Trust; filing requirements; records.

(1) Any risk retention trust created under this Article shall file with the Director:

(a) A statement of intent to provide named coverages.

(b) The trust agreement between the trust sponsor and the trustees, detailing the organization and administration of the trust and fiduciary

responsibilities.

(c) Signed risk pooling agreements from each trust member describing their intent to participate in the trust and maintain the contingency reserve fund.

(d) By April 1 of each year a financial statement for the preceding calendar year ending December 31, and a list of all beneficiaries during the year. The financial statement and report shall be in such form as the Director of Insurance may prescribe. The truth and accuracy of the financial statement shall be attested to by each trustee. Each Risk Retention Trust shall file with the Director by June 1 an opinion of an independent certified public accountant on the financial condition of the Risk Retention Trust for the most recent calendar year and the results of its operations, changes in financial position and changes in capital and surplus for the year then ended in conformity with accounting practices permitted or prescribed by the Illinois Department of Insurance.

(e) The name of a bank or trust company with whom the trust will enter into an escrow agreement which shall state that the contingency reserve fund will be maintained at the levels prescribed in this Article.

(f) Copies of coverage grants it will issue.

(2) The Director of Insurance shall charge, collect and give proper acquittances for the payment of the following fees and charges:

(a) For filing trust instruments, amendments thereto and financial statement and report of the trustees, $50 ~~$25~~.

(b) For copies of papers or records per page, $2 ~~$1~~.

(c) For certificate to copy of paper, $10 ~~$5~~.

(d) For filing an application for the licensing of

a risk retention trust, $1,000 ~~$500~~.

(3) The trust shall keep its books and records in accordance with the provisions of Section 133 of this Code. The Director may examine such books and records from time to time as provided in Sections 132 through 132.7 of this Code and may charge the expense of such examination to the trust as provided in subsection (3) of Section 408 of this Code.

(4) Trust funds established under this Section and all persons interest therein or dealing therewith shall be subject to the provisions of Sections 133, 144.1, 149, 401, 401.1, 402, 403, 403A, 412, and all of the provisions of Articles VII, VIII, XII 1/2 and XIII of the Code, as amended. Except as otherwise provided in this Section, trust funds established under and which fully comply with this Section, shall not be subjected to any other provision of the Code.

(5) The Director of Insurance may make reasonable rules and regulations pertaining to the standards of coverage and administration of the trust authorized by this Section. Such rules may include but need not be limited to reasonable standards for fiduciary duties of the trustees, standards for the investment of funds, limitation of risks assumed, minimum size, capital, surplus, reserves, and contingency reserves.
(Source: P.A. 89-97, eff. 7-7-95.)

(215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

Sec. 1204. (A) The Director shall promulgate rules and regulations which shall require each insurer licensed to write property or casualty insurance in the State and each syndicate doing business on the Illinois Insurance Exchange to record and report its loss and expense experience and other data as may be necessary to assess the relationship of insurance premiums and related income as compared to insurance costs and expenses. The Director may designate one or more rate service organizations or advisory organizations

to gather and compile such experience and data. The Director shall require each insurer licensed to write property or casualty insurance in this State and each syndicate doing business on the Illinois Insurance Exchange to submit a report, on a form furnished by the Director, showing its direct writings in this State and companywide.

(B) Such report required by subsection (A) of this Section may include, but not be limited to, the following specific types of insurance written by such insurer:

(1) Political subdivision liability insurance reported separately in the following categories:

(a) municipalities;

(b) school districts;

(c) other political subdivisions;

(2) Public official liability insurance;

(3) Dram shop liability insurance;

(4) Day care center liability insurance;

(5) Labor, fraternal or religious organizations liability insurance;

(6) Errors and omissions liability insurance;

(7) Officers and directors liability insurance reported separately as follows:

(a) non-profit entities;

(b) for-profit entities;

(8) Products liability insurance;

(9) Medical malpractice insurance;

(10) Attorney malpractice insurance;

(11) Architects and engineers malpractice insurance; and

(12) Motor vehicle insurance reported separately for commercial and private passenger vehicles as follows:

(a) motor vehicle physical damage insurance;

(b) motor vehicle liability insurance.

(C) Such report may include, but need not be limited to

the following data, both specific to this State and companywide, in the aggregate or by type of insurance for the previous year on a calendar year basis:

(1) Direct premiums written;

(2) Direct premiums earned;

(3) Number of policies;

(4) Net investment income, using appropriate estimates where necessary;

(5) Losses paid;

(6) Losses incurred;

(7) Loss reserves:

(a) Losses unpaid on reported claims;

(b) Losses unpaid on incurred but not reported claims;

(8) Number of claims:

(a) Paid claims;

(b) Arising claims;

(9) Loss adjustment expenses:

(a) Allocated loss adjustment expenses;

(b) Unallocated loss adjustment expenses;

(10) Net underwriting gain or loss;

(11) Net operation gain or loss, including net investment income;

(12) Any other information requested by the Director.

(D) In addition to the information which may be requested under subsection (C), the Director may also request on a companywide, aggregate basis, Federal Income Tax recoverable, net realized capital gain or loss, net unrealized capital gain or loss, and all other expenses not requested in subsection (C) above.

(E) Violations - Suspensions - Revocations.

(1) Any company or person subject to this Article, who willfully or repeatedly fails to observe or who

otherwise violates any of the provisions of this Article or any rule or regulation promulgated by the Director under authority of this Article or any final order of the Director entered under the authority of this Article shall by civil penalty forfeit to the State of Illinois a sum not to exceed $2,000 ~~$1,000~~. Each day during which a violation occurs constitutes a separate offense.

(2) No forfeiture liability under paragraph (1) of this subsection may attach unless a written notice of apparent liability has been issued by the Director and received by the respondent, or the Director sends written notice of apparent liability by registered or certified mail, return receipt requested, to the last known address of the respondent. Any respondent so notified must be granted an opportunity to request a hearing within 10 days from receipt of notice, or to show in writing, why he should not be held liable. A notice issued under this Section must set forth the date, facts and nature of the act or omission with which the respondent is charged and must specifically identify the particular provision of this Article, rule, regulation or order of which a violation is charged.

(3) No forfeiture liability under paragraph (1) of this subsection may attach for any violation occurring more than 2 years prior to the date of issuance of the notice of apparent liability and in no event may the total civil penalty forfeiture imposed for the acts or omissions set forth in any one notice of apparent liability exceed $100,000 ~~$50,000~~.

(4) All administrative hearings conducted pursuant to this Article are subject to 50 Ill. Adm. Code 2402 and all administrative hearings are subject to the Administrative Review Law.

(5) The civil penalty forfeitures provided for in

this Section are payable to the General Revenue Fund of the State of Illinois, and may be recovered in a civil suit in the name of the State of Illinois brought in the Circuit Court in Sangamon County or in the Circuit Court of the county where the respondent is domiciled or has its principal operating office.

(6) In any case where the Director issues a notice of apparent liability looking toward the imposition of a civil penalty forfeiture under this Section that fact may not be used in any other proceeding before the Director to the prejudice of the respondent to whom the notice was issued, unless (a) the civil penalty forfeiture has been paid, or (b) a court has ordered payment of the civil penalty forfeiture and that order has become final.

(7) When any person or company has a license or certificate of authority under this Code and knowingly fails or refuses to comply with a lawful order of the Director requiring compliance with this Article, entered after notice and hearing, within the period of time specified in the order, the Director may, in addition to any other penalty or authority provided, revoke or refuse to renew the license or certificate of authority of such person or company, or may suspend the license or certificate of authority of such person or company until compliance with such order has been obtained.

(8) When any person or company has a license or certificate of authority under this Code and knowingly fails or refuses to comply with any provisions of this Article, the Director may, after notice and hearing, in addition to any other penalty provided, revoke or refuse to renew the license or certificate of authority of such person or company, or may suspend the license or certificate of authority of such person or company, until compliance with such provision of this Article has been

obtained.

(9) No suspension or revocation under this Section may become effective until 5 days from the date that the notice of suspension or revocation has been personally delivered or delivered by registered or certified mail to the company or person. A suspension or revocation under this Section is stayed upon the filing, by the company or person, of a petition for judicial review under the Administrative Review Law.

(Source: P.A. 91-357, eff. 7-29-99.)

Section 75-26. The Reinsurance Intermediary Act is amended by changing Section 55 as follows:

(215 ILCS 100/55) (from Ch. 73, par. 1655)

Sec. 55. Penalties and liabilities.

(a) If the Director determines that a reinsurance intermediary has not materially complied with this Act or any regulation or Order promulgated hereunder, after notice and opportunity to be heard, the Director may order a penalty in an amount not exceeding $100,000 ~~$50,000~~ for each separate violation and may order the revocation or suspension of the reinsurance intermediary's license. If it is found that because of the material noncompliance the insurer or reinsurer has suffered any loss or damage, the Director may maintain a civil action brought by or on behalf of the reinsurer or insurer and its policyholders and creditors for recovery of compensatory damages for the benefit of the reinsurer or insurer and its policyholders and creditors or seek other appropriate relief.

This subsection (a) shall not be construed to prevent any other person from taking civil action against a reinsurance intermediary.

(b) If an Order of Rehabilitation or Liquidation of the

insurer is entered under Article XIII of the Illinois Insurance Code and the receiver appointed under that Order determines that the reinsurance intermediary or any other person has not materially complied with this Act or any regulation or Order promulgated hereunder and the insurer has suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

(c) The decision, determination, or order of the Director under subsection (a) of this Section shall be subject to judicial review under the Administrative Review Law.

(d) Nothing contained in this Act shall affect the right of the Director to impose any other penalties provided in the Illinois Insurance Code.

(e) Nothing contained in this Act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors, or other third parties or confer any rights to those persons.

(Source: P.A. 87-108; 88-364.)

Section 75-26.1. The Employee Leasing Company Act is amended by changing Section 20 as follows:

(215 ILCS 113/20)

Sec. 20. Registration.

(a) A lessor shall register with the Department prior to becoming a qualified self-insured for workers' compensation or becoming eligible to be issued a workers' compensation and employers' liability insurance policy. The registration shall:

(1) identify the name of the lessor;

(2) identify the address of the principal place of business of the lessor;

(3) include the lessor's taxpayer or employer identification number;

(4) include a list by jurisdiction of each and every name that the lessor has operated under in the preceding 5 years including any alternative names and names of predecessors;

(5) include a list of the officers and directors of the lessor and its predecessors, successors, or alter egos in the preceding 5 years; and

(6) include a $1,000 ~~$500~~ fee for the registration and each annual renewal thereafter.

Amounts received as registration fees shall be deposited into the Insurance Producer Administration Fund.

(b) (Blank).

(c) Lessors registering pursuant to this Section shall notify the Department within 30 days as to any changes in any information provided pursuant to this Section.

(d) The Department shall maintain a list of those lessors who are registered with the Department.

(e) The Department may prescribe any forms that are necessary to promote the efficient administration of this Section.

(f) Any lessor that was doing business in this State prior to enactment of this Act shall register with the Department within 60 days of the effective date of this Act.
(Source: P.A. 90-499, eff. 1-1-98; 90-794, eff. 8-14-98.)

Section 75-26.2. The Health Care Purchasing Group Act is amended by changing Section 20 as follows:

(215 ILCS 123/20)

Sec. 20. HPG sponsors. Except as provided by Sections 15 and 25 of this Act, only a corporation authorized by the Secretary of State to transact business in Illinois may

sponsor one or more HPGs with no more than 100,000 covered individuals by negotiating, soliciting, or servicing health insurance contracts for HPGs and their members. Such a corporation may assert and maintain authority to act as an HPG sponsor by complying with all of the following requirements:

(1) The principal officers and directors responsible for the conduct of the HPG sponsor must perform their HPG sponsor related functions in Illinois.

(2) No insurance risk may be borne or retained by the HPG sponsor; all health insurance contracts issued to HPGs through the HPG sponsor must be delivered in Illinois.

(3) No HPG sponsor may collect premium in its name or hold or manage premium or claim fund accounts unless duly qualified and licensed as a managing general agent pursuant to Section 141a of the Illinois Insurance Code or as a third party administrator pursuant to Section 511.105 of the Illinois Insurance Code.

(4) If the HPG gives an offer, application, notice, or proposal of insurance to an employer, it must disclose the total cost of the insurance. Dues, fees, or charges to be paid to the HPG, HPG sponsor, or any other entity as a condition to purchasing the insurance must be itemized. The HPG shall also disclose to its members the amount of any dividends, experience refunds, or other such payments it receives from the risk-bearer.

(5) An HPG sponsor must register with the Director before negotiating or soliciting any group or master health insurance contract for any HPG and must renew the registration annually on forms and at times prescribed by the Director in rules specifying, at minimum, (i) the identity of the officers and directors of the HPG sponsor corporation; (ii) a certification that those persons have

not been convicted of any felony offense involving a breach of fiduciary duty or improper manipulation of accounts; (iii) the number of employer members then enrolled in each HPG sponsored; (iv) the date on which each HPG was issued a group or master health insurance contract, if any; and (v) the date on which each such contract, if any, was terminated.

(6) At the time of initial registration and each renewal thereof an HPG sponsor shall pay a fee of $200 ~~$100~~ to the Director.

(Source: P.A. 90-337, eff. 1-1-98; 91-617, eff. 1-1-00.)

Section 75-26.3. The Service Contract Act is amended by changing Section 25 as follows:

(215 ILCS 152/25)

Sec. 25. Registration requirements for service contract providers.

(a) No service contract shall be issued or sold in this State until the following information has been submitted to the Department:

(1) the name of the service contract provider;

(2) a list identifying the service contract provider's executive officer or officers directly responsible for the service contract provider's service contract business;

(3) the name and address of the service contract provider's agent for service of process in this State, if other than the service contract provider;

(4) a true and accurate copy of all service contracts to be sold in this State; and

(5) a statement indicating under which provision of Section 15 the service contract provider qualifies to do business in this State as a service contract provider.

(b) The service contract provider shall pay an initial registration fee of $1,000 ~~$500~~ and a renewal fee of $150 ~~$75~~ each year thereafter. All fees and penalties collected under this Act shall be paid to the Director and deposited in the Insurance Financial Regulation Fund.

(Source: P.A. 90-711, eff. 8-7-98.)

Section 75-27. The Title Insurance Act is amended by changing Section 14 as follows:

(215 ILCS 155/14) (from Ch. 73, par. 1414)

Sec. 14. (a) Every title insurance company and every independent escrowee subject to this Act shall pay the following fees:

(1) for filing the original application for a certificate of authority and receiving the deposit required under this Act, $500;

(2) for the certificate of authority, $10;

(3) for every copy of a paper filed in the Department under this Act, $1 per folio;

(4) for affixing the seal of the Department and certifying a copy, $2;

(5) for filing the annual statement, $50.

(b) Each title insurance company shall pay, for all of its title insurance agents subject to this Act for filing an annual registration of its agents, an amount equal to $3 ~~$1.00~~ for each policy issued by all of its agents in the immediately preceding calendar year~~, provided such sum shall not exceed $20,000 per annum~~.

(Source: P.A. 86-239.)

Section 75-28. The Viatical Settlements Act is amended by changing Section 10 as follows:

(215 ILCS 158/10)

Sec. 10. License requirements.

(a) No individual, partnership, corporation, or other entity may act as a viatical settlement provider without first having obtained a license from the Director.

(b) Application for a viatical settlement provider license shall be made to the Director by the applicant on a form prescribed by the Director. The application shall be accompanied by a fee of $3,000 ~~$1,500~~, which shall be deposited into the Insurance Producer Administration Fund.

(c) Viatical settlement providers' licenses may be renewed from year to year on the anniversary date upon (1) submission of renewal forms prescribed by the Director and (2) payment of the annual renewal fee of $1,500 ~~$750~~, which shall be deposited into the Insurance Producer Administration Fund. Failure to pay the fee within the terms prescribed by the Director shall result in the expiration of the license.

(d) Applicants for a viatical settlement provider's license shall provide such information as the Director may require. The Director shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, and employees. The Director may, in the exercise of discretion, refuse to issue a license in the name of any firm, partnership, or corporation if not satisfied that an officer, employee, stockholder, or partner thereof who may materially influence the applicant's conduct meets the standards of this Act.

(e) A viatical settlement provider's license issued to a partnership, corporation, or other entity authorizes all members, officers, and designated employees to act as viatical settlement providers under the license. All those persons must be named in the application and any supplements thereto.

(f) Upon the filing of an application for a viatical

settlement provider's license and the payment of the license fee, the Director shall make an investigation of the applicant and may issue a license if the Director finds that the applicant:

(1) has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to act in good faith in the capacity authorized by the license applied for;

(3) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for; and

(4) if a corporation, is a corporation incorporated under the laws of this State or a foreign corporation authorized to transact business in this State.

(g) The Director may not issue a license to a nonresident applicant, unless a written designation of an agent for service of process is filed and maintained with the Director or the applicant has filed with the Director the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Director.

(h) A viatical settlement provider must assume responsibility for all actions of its appointed viatical settlement agents associated with a viatical settlement.

(Source: P.A. 89-484, eff. 6-21-96.)

Section 75-30. The Public Utilities Act is amended by changing Section 6-108 as follows:

(220 ILCS 5/6-108) (from Ch. 111 2/3, par. 6-108)

Sec. 6-108. The Commission shall charge every public utility receiving permission under this Act for the issue of stocks, bonds, notes and other evidences of indebtedness an amount equal to 12 ~~10~~ cents for every $100 of the par or

stated value of stocks, and 24 ~~20~~ cents for every $100 of the principal amount of bonds, notes or other evidences of indebtedness, authorized by the Commission, which shall be paid to the Commission no later than 30 days after service of the Commission order authorizing the issuance of those stocks, bonds, notes or other evidences of indebtedness. Provided, that if any such stock, bonds, notes or other evidences of indebtedness constitutes or creates a lien or charge on, or right to profits from, any property not situated in this State, this fee shall be paid only on the amount of any such issue which is the same proportion of the whole issue as the property situated in this State is of the total property on which such securities issue creates a lien or charge, or from which a right to profits is established; and provided further, that no public utility shall be required to pay any fee for permission granted to it by the Commission in any of the following cases:

(1) To guarantee bonds or other securities.

(2) To issue bonds, notes or other evidences of indebtedness issued for the purpose of converting, exchanging, taking over, refunding, discharging or retiring any bonds, notes or other evidences of indebtedness except:

(a) When issued for an aggregate period of longer than 2 years for the purpose of converting, exchanging, taking over, refunding, discharging or retiring any note, or renewals thereof, issued without the consent of the State Public Utilities Commission of Illinois or the Public Utilities Commission or the Illinois Commerce Commission; or

(b) When issued for the purpose of converting, exchanging, taking over, refunding, discharging or retiring bonds, notes or other evidences of indebtedness issued prior to January 1, 1914, and upon which no fee has been previously paid.

(3) To issue shares of stock upon the conversion of convertible bonds, notes or other evidences of indebtedness or upon the conversion of convertible stock of another class in accordance with a conversion privilege contained in such convertible bonds, notes or other evidences of indebtedness or contained in such convertible stock, as the case may be, where a fee (in the amount payable under this Section in the case of evidences of indebtedness) has been previously paid for the issuance of such convertible bonds, notes or other evidences of indebtedness, or where a fee (in the amount payable under this Section in the case of stocks) has been previously paid for the issuance of such convertible stock, or where such convertible stock was issued prior to July 1, 1951 and upon which no fee has been previously paid, as the case may be.

(4) To issue shares of stocks for the purpose of redeeming or otherwise retiring, or in exchange for, other stocks, where the fee for the issuance of such other stocks has been previously paid, or where such other stocks were issued prior to July 1, 1951 and upon which no fee has been previously paid, as the case may be, but only to the extent that the par or stated value of the shares of stock so issued does not exceed the par or stated value of the other stocks redeemed or otherwise retired or exchanged.

All fees collected by the Commission under this Section shall be paid within 10 days after the receipt of the same, accompanied by a detailed statement of the same, into the Public Utility Fund in the State treasury.

(Source: P.A. 87-971.)

Section 75-35. The Professional Boxing Act is amended by changing Section 23 as follows:

(225 ILCS 105/23) (from Ch. 111, par. 5023)

(Section scheduled to be repealed on January 1, 2012)

Sec. 23. Fees. The fees for the administration and enforcement of this Act including, but not limited to, original licensure, renewal, and restoration shall be set by rule. The fees shall not be refundable. Beginning July 1, 2003, all of the fees, taxes, and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

(Source: P.A. 91-357, eff. 7-29-99; 91-408, eff. 1-1-00; 92-16, eff. 6-28-01; 92-499, eff. 1-1-02.)

Section 75-40. The Illinois Certified Shorthand Reporters Act of 1984 is amended by changing Section 17 as follows:

(225 ILCS 415/17) (from Ch. 111, par. 6217)

(Section scheduled to be repealed on January 1, 2004)

Sec. 17. Fees; returned checks; expiration while in military.

(a) The fees for the administration and enforcement of this Act, including but not limited to, original certification, renewal and restoration, shall be set by rule.

(b) Beginning July 1, 2003, all of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

(c) Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of $50. The fines imposed by this Section are in addition to any other discipline provided under this Act prohibiting unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the

Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or certificate or deny the application, without hearing. If, after termination or denial, the person seeks a license or certificate, he or she shall apply to the Department for restoration or issuance of the license or certificate and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license or certificate to pay all expenses of processing this application. The Director may waive the fines due under this Section in individual cases where the Director finds that the fines would be unreasonable or unnecessarily burdensome.

However, any person whose license has expired while he has been engaged (l) in federal or state service active duty, or (2) in training or education under the supervision of the United States preliminary to induction into the military service, may have his license renewed, reinstated or restored without paying any lapsed renewal and restoration fees, if within 2 years after termination of such service, training or education other than by dishonorable discharge, he furnishes the Department with satisfactory proof that he has been so engaged and that his service, training or education has been so terminated.

(Source: P.A. 92-146, eff. 1-1-02.)

Section 75-45. The Weights and Measures Act is amended by changing Section 8.1 as follows:

(225 ILCS 470/8.1) (from Ch. 147, par. 108.1)

Sec. 8.1. Registration of servicepersons, service agents, and special sealers. No person, firm, or corporation

shall sell, install, service, recondition or repair a weighing or measuring device used in trade or commerce without first obtaining a certificate of registration. Applications by individuals for a certificate of registration shall be made to the Department, shall be in writing on forms prescribed by the Department, and shall be accompanied by the required fee.

Each application shall provide such information that will enable the Department to pass on the qualifications of the applicant for the certificate of registration. The information requests shall include present residence, location of the business to be licensed under this Act, whether the applicant has had any previous registration under this Act or any federal, state, county, or local law, ordinance, or regulation relating to servicepersons and service Agencies, whether the applicant has ever had a registration suspended or revoked, whether the applicant has been convicted of a felony, and such other information as the Department deems necessary to determine if the applicant is qualified to receive a certificate of registration.

Before any certificate of registration is issued, the Department shall require the registrant to meet the following qualifications:

(1) Has possession of or available for use weights and measures, standards, and testing equipment appropriate in design and adequate in amount to provide the services for which the person is requesting registration.

(2) Passes a qualifying examination for each type of weighing or measuring device he intends to install, service, recondition, or repair.

(3) Demonstrates a working knowledge of weighing and measuring devices for which he intends to be registered.

(4) Has a working knowledge of all appropriate weights and measures laws and their rules and regulations.

(5) Has available a current copy of National Institute of Standards and Technology Handbook 44.

(6) Pays the prescribed registration fee for the type of registration:

(A) The annual fee for a Serviceperson Certificate of Registration shall be $25 ~~$5~~.

(B) The annual fee for a Special Sealer Certificate of Registration shall be $50 ~~$25~~.

(C) The annual fee for a Service Agency Certificate of Registration shall be $50 ~~$25~~.

"Registrant" means any individual, partnership, corporation, agency, firm, or company registered by the Department who installs, services, repairs, or reconditions, for hire, award, commission, or any other payment of any kind, any commercial weighing or measuring device.

"Commercial weighing and measuring device" means any weight or measure or weighing or measuring device commercially used or employed (i) in establishing size, quantity, extent, area, or measurement of quantities, things, produce, or articles for distribution or consumption which are purchased, offered, or submitted for sale, hire, or award, or (ii) in computing any basic charge or payment for services rendered, except as otherwise excluded by Section 2 of this Act, and shall also include any accessory attached to or used in connection with a commercial weighing or measuring device when the accessory is so designed or installed that its operation affects, or may affect, the accuracy of the device.

"Serviceperson" means any individual who sells, installs, services, repairs, or reconditions, for hire, award, commission, or any other payment of kind, a commercial

weighing or measuring device.

"Service agency" means any individual, agency, firm, company, or corporation that, for hire, award, commission, or any other payment of any kind, sells, installs, services, repairs, or reconditions a commercial weighing or measuring device.

"Special sealer" means any serviceperson who is allowed to service only one service agency's liquid petroleum meters or liquid petroleum measuring devices.

Each registered service agency and serviceperson shall have report forms, known as "Placed in Service Reports". These forms shall be executed in triplicate, shall include the assigned registration number (in the case where a registered serviceperson is representing a registered service agency both assigned registration numbers shall be included), and shall be signed by a registered serviceperson or by a registered serviceperson representing a registered service agency for each rejected or repaired device restored to service and for each newly installed device placed in service. Whenever a registered serviceperson or special sealer places into service a weighing or measuring device, there shall be affixed to the device indicator a decal provided by the Department that indicates the device accuracy.

Within 5 days after a device is restored to service or placed in service, the original of a properly executed "Placed in Service Report", together with any official rejection tag or seal removed from the device, shall be mailed to the Department. The duplicate copy of the report shall be handed to the owner or operator of the device and the triplicate copy of the report shall be retained by the service agency or serviceperson.

A registered service agency and a registered serviceperson shall submit, at least once every 2 years to

the Department for examination and certification, any standards and testing equipment that are used, or are to be used, in the performance of the service and testing functions with respect to weighing and measuring devices for which competence is registered. A registered serviceperson or agency shall not use in servicing commercial weighing and measuring devices any standards or testing equipment that have not been certified by the Department.

When a serviceperson's or service agency's weights and measures are carried to a National Institute of Standards and Technology approved out-of-state weights and measures laboratory for inspection and testing, the serviceperson or service agency shall be responsible for providing the Department a copy of the current certification of all weights and measures used in the repair, service, or testing of weighing or measuring devices within the State of Illinois.

All registered servicepersons placing into service scales in excess of 30,000 pounds shall have a minimum of 10,000 pounds of State approved certified test weights to accurately test a scale.

Persons working as apprentices are not subject to registration if they work with and under the supervision of a registered serviceperson.

The Director is authorized to promulgate, after public hearing, rules and regulations necessary to enforce the provisions of this Section.

For good cause and after a hearing upon reasonable notice, the Director may deny any application for registration or any application for renewal of registration, or may revoke or suspend the registration of any registrant.

The Director may publish from time to time as he deems appropriate, and may supply upon request, lists of registered servicepersons and registered service agencies.

All final administrative decisions of the Director under

this Section shall be subject to judicial review under the Administrative Review Law. The term "administrative decision" is defined as in Section 1 of the Administrative Review Law.

(Source: P.A. 88-600, eff. 9-1-94.)

Section 75-52. The Environmental Protection Act is amended by changing Sections 9.6, 12.2, 16.1, 22.8, 22.15, 22.44, 39.5, 56.4, 56.5, and 56.6 and adding Sections 9.12, 9.13, 12.5, and 12.6 as follows:

(415 ILCS 5/9.6) (from Ch. 111 1/2, par. 1009.6)

Sec. 9.6. Air pollution operating permit fee.

(a) For any site for which an air pollution operating permit is required, other than a site permitted solely as a retail liquid dispensing facility that has air pollution control equipment or an agrichemical facility with an endorsed permit pursuant to Section 39.4, the owner or operator of that site shall pay an initial annual fee to the Agency within 30 days of receipt of the permit and an annual fee each year thereafter for as long as a permit is in effect. The owner or operator of a portable emission unit, as defined in 35 Ill. Adm. Code 201.170, may change the site of any unit previously permitted without paying an additional fee under this Section for each site change, provided that no further change to the permit is otherwise necessary or requested.

(b) Notwithstanding any rules to the contrary, the following fee amounts shall apply:

(1) The fee for a site permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, is $100 per year, beginning July 1, 1993, and increases to $200 per year beginning on July 1, 2003, except as

provided in subsection (c) of this Section.

(2) The fee for a site permitted to emit at least 25 tons per year but less than 100 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, is $1,000 per year beginning July 1, 1993, and increases to $1,800 per year beginning on July 1, 2003, except as provided in subsection (c) of this Section.

(3) The fee for a site permitted to emit at least 100 tons per year of any combination of regulated air pollutants is $2,500 per year beginning July 1, 1993, and increases to $3,500 per year beginning on July 1, 2003, except as provided in subsection (c) of this Section; provided, however, that the fee shall not exceed the amount that would be required for the site if it were subject to the fee requirements of Section 39.5 of this Act.

(c) The owner or operator of any source subject to paragraphs (b)(1), (b)(2), or (b)(3) of this Section that becomes subject to Section 39.5 of this Act shall continue to pay the fee set forth in this Section until the source becomes subject to the fee set forth within subsection 18 of Section 39.5 of this Act. In the event a site has paid a fee under this Section during the 12 month period following the effective date of the CAAPP for that site, the fee amount shall be deducted from any amount due under subsection 18 of Section 39.5 of this Act. Owners or operators that are subject to paragraph (b)(1), (b)(2), or (b)(3) of this Section, but that are not also subject to Section 39.5, or excluded pursuant to subsection 1.1 or subsection 3(c) of Section 39.5 shall continue to pay the fee amounts set forth within paragraphs (b)(1), (b)(2), or (b)(3), whichever is applicable.

(d) Only one air pollution site fee may be collected

from any site, even if such site receives more than one air pollution control permit.

(e) The Agency shall establish procedures for the collection of air pollution site fees. Air pollution site fees may be paid annually, or in advance for the number of years for which the permit is issued, at the option of the owner or operator. Payment in advance does not exempt the owner or operator from paying any increase in the fee that may occur during the term of the permit; the owner or operator must pay the amount of the increase upon and from the effective date of the increase.

(f) The Agency may deny an application for the issuance, transfer, or renewal of an air pollution operating permit if any air pollution site fee owed by the applicant has not been paid within 60 days of the due date, unless the applicant, at the time of application, pays to the Agency in advance the air pollution site fee for the site that is the subject of the operating permit, plus any other air pollution site fees then owed by the applicant. The denial of an air pollution operating permit for failure to pay an air pollution site fee shall be subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

(g) If the Agency determines that an owner or operator of a site was required, but failed, to timely obtain an air pollution operating permit, and as a result avoided the payment of permit fees, the Agency may collect the avoided permit fees with or without pursuing enforcement under Section 31 of this Act. The avoided permit fees shall be calculated as double the amount that would have been owed had a permit been timely obtained. Fees collected pursuant to this subsection (g) shall be deposited into the Environmental Protection Permit and Inspection Fund.

(h) If the Agency determines that an owner or operator of a site was required, but failed, to timely obtain an air

pollution operating permit and as a result avoided the payment of permit fees, an enforcement action may be brought under Section 31 of this Act. In addition to any other relief that may be obtained as part of this action, the Agency may seek to recover the avoided permit fees. The avoided permit fees shall be calculated as double the amount that would have been owed had a permit been timely obtained. Fees collected pursuant to this subsection (h) shall be deposited into the Environmental Protection Permit and Inspection Fund.

(i) If a permittee subject to a fee under this Section fails to pay the fee within 90 days of its due date, or makes the fee payment from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution operating permit. Failure of the Agency to notify the permittee of failure to pay a fee due under this Section, or the payment of the fee from an account with insufficient funds to cover the amount of the fee payment, does not excuse or alter the duty of the permittee to comply with the provisions of this Section.

(Source: P.A. 90-367, eff. 8-10-97.)

(415 ILCS 5/9.12 new)

Sec. 9.12. Construction permit fees for air pollution sources.

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other

applicable fee listed in this Section.

(b) The fee amounts in this subsection (b) apply to construction permit applications relating to (i) a source subject to Section 39.5 of this Act (the Clean Air Act Permit Program); (ii) a source that, upon issuance of the requested construction permit, will become a major source subject to Section 39.5; or (iii) a source that has or will require a federally enforceable State operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) If the construction permit application relates to one or more new emission units or to a combination of new and modified emission units, a fee of $4,000 for the first new emission unit and a fee of $1,000 for each additional new or modified emission unit; provided that the total base fee under this subdivision (A) shall not exceed $10,000.

(B) If the construction permit application relates to one or more modified emission units but not to any new emission unit, a fee of $2,000 for the first modified emission unit and a fee of $1,000 for each additional modified emission unit; provided that the total base fee under this subdivision (B) shall not exceed $5,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If, based on the construction permit application, the source will be, but is not currently, subject to Section 39.5 of this Act, a CAAPP entry fee of $5,000.

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial

incinerator or other municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) one or more other emission units designated as a complex source by Agency rulemaking, a fee of $25,000.

(C) If the construction permit application involves an emissions netting exercise or reliance on a contemporaneous emissions decrease for a pollutant to avoid application of the federal PSD program (40 CFR 52.21) or nonattainment new source review (35 Ill. Adm. Code 203), a fee of $3,000 for each such pollutant.

(D) If the construction permit application is for a new major source subject to the federal PSD program, a fee of $12,000.

(E) If the construction permit application is for a new major source subject to nonattainment new source review, a fee of $20,000.

(F) If the construction permit application is for a major modification subject to the federal PSD program, a fee of $6,000.

(G) If the construction permit application is for a major modification subject to nonattainment new source review, a fee of $12,000.

(H) If the construction permit application review involves a determination of whether an emission unit has Clean Unit Status and is therefore not subject to the Best Available Control Technology (BACT) or Lowest Achievable Emission Rate (LAER) under the federal PSD program or nonattainment new source review, a fee of $5,000 per unit for which a determination is requested or otherwise required.

(I) If the construction permit application review involves a determination of the Maximum

Achievable Control Technology standard for a pollutant and the project is not otherwise subject to BACT or LAER for a related pollutant under the federal PSD program or nonattainment new source review, a fee of $5,000 per unit for which a determination is requested or otherwise required.

(J) If the applicant is requesting a construction permit that will alter the source's status so that it is no longer a major source subject to Section 39.5 of this Act, a fee of $4,000.

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000, subject to adjustment under subsection (f) of this Section.

(c) The fee amounts in this subsection (c) apply to construction permit applications relating to a source that, upon issuance of the construction permit, will not (i) be or become subject to Section 39.5 of this Act (the Clean Air Act Permit Program) or (ii) have or require a federally enforceable state operating permit limiting its potential to emit.

(1) Base fees for each construction permit application shall be assessed as follows:

(A) For a construction permit application involving a single new emission unit, a fee of $500.

(B) For a construction permit application involving more than one new emission unit, a fee of $1,000.

(C) For a construction permit application involving no more than 2 modified emission units, a fee of $500.

(D) For a construction permit application involving more than 2 modified emission units, a fee

of $1,000.

(2) Supplemental fees for each construction permit application shall be assessed as follows:

(A) If the source is a new source, i.e., does not currently have an operating permit, an entry fee of $500;

(B) If the construction permit application involves (i) a new source or emission unit subject to Section 39.2 of this Act, (ii) a commercial incinerator or a municipal waste, hazardous waste, or waste tire incinerator, (iii) a commercial power generator, or (iv) an emission unit designated as a complex source by Agency rulemaking, a fee of $15,000.

(3) If a public hearing is held regarding the construction permit application, an administrative fee of $10,000.

(d) If no other fee is applicable under this Section, a construction permit application addressing one or more of the following shall be subject to a filing fee of $500:

(1) A construction permit application to add or replace a control device on a permitted emission unit.

(2) A construction permit application to conduct a pilot project or trial burn for a permitted emission unit.

(3) A construction permit application for a land remediation project.

(4) A construction permit application for an insignificant activity as described in 35 Ill. Adm. Code 201.210.

(5) A construction permit application to revise an emissions testing methodology or the timing of required emissions testing.

(6) A construction permit application that provides

for a change in the name, address, or phone number of any person identified in the permit, or for a change in the stated ownership or control, or for a similar minor administrative permit change at the source.

(e) No fee shall be assessed for a request to correct an issued permit that involves only an Agency error, if the request is received within the deadline for a permit appeal to the Pollution Control Board.

(f) The applicant for a new or revised air pollution construction permit shall submit to the Agency, with the construction permit application, both a certification of the fee that he or she estimates to be due under this Section and the fee itself.

(g) Notwithstanding the requirements of Section 39(a) of this Act, the application for an air pollution construction permit shall not be deemed to be filed with the Agency until the Agency receives the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section. Unless the Agency has received the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section, the Agency is not required to review or process the application.

(h) If the Agency determines at any time that a construction permit application is subject to an additional fee under this Section that the applicant has not submitted, the Agency shall notify the applicant in writing of the amount due under this Section. The applicant shall have 60 days to remit the assessed fee to the Agency.

If the proper fee established under this Section is not submitted within 60 days after the request for further remittance:

(1) If the construction permit has not yet been issued, the Agency is not required to further review or

process, and the provisions of Section 39(a) of this Act do not apply to, the application for a construction permit until such time as the proper fee is remitted.

(2) If the construction permit has been issued, the Agency may, upon written notice, immediately revoke the construction permit.

The denial or revocation of a construction permit does not excuse the applicant from the duty of paying the fees required under this Section.

(i) The Agency may deny the issuance of a pending air pollution construction permit or the subsequent operating permit if the applicant has not paid the required fees by the date required for issuance of the permit. The denial or revocation of a permit for failure to pay a construction permit fee is subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

(j) If the owner or operator undertakes construction without obtaining an air pollution construction permit, the fee under this Section is still required. Payment of the required fee does not preclude the Agency or the Attorney General or other authorized persons from pursuing enforcement against the applicant for failure to have an air pollution construction permit prior to commencing construction.

(k) If an air pollution construction permittee makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution construction permit. Failure of the Agency to notify the permittee of the permittee's failure to make payment does not excuse or alter the duty of the permittee to comply with the provisions of this Section.

(l) The Agency may establish procedures for the collection of air pollution construction permit fees.

(m) Fees collected pursuant to this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

(415 ILCS 5/9.13 new)

Sec. 9.13. Asbestos fees.

(a) For any site for which the owner or operator must file an original 10-day notice of intent to renovate or demolish pursuant to 40 CFR 61.145(b) (part of the federal asbestos National Emission Standard for Hazardous Air Pollutants or NESHAP), the owner or operator shall pay to the Agency with the filing of each 10-day Notice a fee of $150.

(b) If demolition or renovation of a site has commenced without proper filing of the 10-day Notice, the fee is double the amount otherwise due. This doubling of the fee is in addition to any other penalties under this Act, the federal NESHAP, or otherwise, and does not preclude the Agency, the Attorney General, or other authorized persons from pursuing an enforcement action against the owner or operator for failure to file a 10-day Notice prior to commencing demolition or renovation activities.

(c) In the event that an owner or operator makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the 10-day Notice shall be deemed improperly filed. The Agency shall so notify the owner or operator within 60 days of receiving the notice of insufficient funds. Failure of the Agency to so notify the owner or operator does not excuse or alter the duty of the owner or operator to comply with the requirements of this Section.

(d) Where asbestos remediation or demolition activities have not been conducted in accordance with the asbestos

NESHAP, in addition to the fees imposed by this Section, the Agency may also collect its actual costs incurred for asbestos-related activities at the site, including without limitation costs of sampling, sample analysis, remediation plan review, and activity oversight for demolition or renovation.

(e) Fees and cost recovery amounts collected under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

(415 ILCS 5/12.2) (from Ch. 111 1/2, par. 1012.2)

Sec. 12.2. Water pollution construction permit fees.

(a) Beginning July 1, 2003 ~~January 1, 1991~~, the Agency shall collect a fee in the amount set forth in this Section: ~~subsection (e)~~

(1) for any sewer which requires a construction permit under paragraph (b) of Section 12, from each applicant for a sewer construction permit under paragraph (b) of Section 12 or regulations adopted hereunder; and.

(2) for any treatment works, industrial pretreatment works, or industrial wastewater source that requires a construction permit under paragraph (b) of Section 12, from the applicant for the construction permit. However, no fee shall be required for a treatment works or wastewater source directly covered and authorized under an NPDES permit issued by the Agency, nor for any treatment works, industrial pretreatment works, or industrial wastewater source (i) that is under or pending construction authorized by a valid construction permit issued by the Agency prior to July 1, 2003, during the term of that construction permit, or (ii) for which a completed construction permit application has been received by the Agency prior to July 1, 2003, with respect to the permit issued under that

application.

(b) Each applicant or person required to pay a fee under this Section shall submit the fee to the Agency along with the permit application. The Agency shall deny any construction permit application for which a fee is required under this Section that does not contain the appropriate fee.

(c) The amount of the fee is as follows:

(1) A $100 ~~$50~~ fee shall be required for any sewer constructed with a design population of 1.

(2) A $400 ~~$200~~ fee shall be required for any sewer constructed with a design population of 2 to 20.

(3) A $800 ~~$400~~ fee shall be required for any sewer constructed with a design population greater than 20 but less than 101.

(4) A $1200 ~~$600~~ fee shall be required for any sewer constructed with a design population greater than 100 but less than 500.

(5) A $2400 ~~$1200~~ fee shall be required for any sewer constructed with a design population of 500 or more.

(6) A $1,000 fee shall be required for any industrial wastewater source that does not require pretreatment of the wastewater prior to discharge to the publicly owned treatment works or publicly regulated treatment works.

(7) A $3,000 fee shall be required for any industrial wastewater source that requires pretreatment of the wastewater for non-toxic pollutants prior to discharge to the publicly owned treatment works or publicly regulated treatment works.

(8) A $6,000 fee shall be required for any industrial wastewater source that requires pretreatment of the wastewater for toxic pollutants prior to discharge to the publicly owned treatment works or publicly

regulated treatment works.

(9) A $2,500 fee shall be required for construction relating to land application of industrial sludge or spray irrigation of industrial wastewater.

All fees collected by the Agency under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund in accordance with Section 22.8.

(d) Prior to a final Agency decision on a permit application for which a fee has been paid under this Section, the applicant may propose modification to the application in accordance with this Act and regulations adopted hereunder without any additional fee becoming due, unless the proposed modifications cause an increase in the design population served by the sewer specified in the permit application before the modifications or the modifications cause a change in the applicable fee category stated in subsection (c). If the modifications cause such an increase or change the fee category and the increase results in additional fees being due under subsection (c), the applicant shall submit the additional fee to the Agency with the proposed modifications.

(e) No fee shall be due under this Section from:

(1) any department, agency or unit of State government for installing or extending a sewer;

(2) any unit of local government with which the Agency has entered into a written delegation agreement under Section 4 which allows such unit to issue construction permits under this Title, or regulations adopted hereunder, for installing or extending a sewer; or

(3) any unit of local government or school district for installing or extending a sewer where both of the following conditions are met:

(i) the cost of the installation or extension is paid wholly from monies of the unit of local

government or school district, State grants or loans, federal grants or loans, or any combination thereof; and

(ii) the unit of local government or school district is not given monies, reimbursed or paid, either in whole or in part, by another person (except for State grants or loans or federal grants or loans) for the installation or extension.

(f) The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this Section. Notwithstanding the provisions of any rule adopted before July 1, 2003 concerning fees under this Section, the Agency shall assess and collect the fees imposed under subdivision (a)(2) of this Section and the increases in the fees imposed under subdivision (a)(1) of this Section beginning on July 1, 2003, for all completed applications received on or after that date.

(g) Notwithstanding any other provision of this Act, the Agency shall, not later than 45 days following the receipt of both an application for a construction permit and the fee required by this Section, either approve that application and issue a permit or tender to the applicant a written statement setting forth with specificity the reasons for the disapproval of the application and denial of a permit. If the Agency takes no final action within 45 days after the filing of the application for a permit, the applicant may deem the permit issued.

(h) For purposes of this Section:

"Toxic pollutants" means those pollutants defined in Section 502(13) of the federal Clean Water Act and regulations adopted pursuant to that Act.

"Industrial" refers to those industrial users referenced in Section 502(13) of the federal Clean Water Act and

regulations adopted pursuant to that Act.

"Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing those pollutants into a publicly owned treatment works or publicly regulated treatment works.

(Source: P.A. 87-843; 88-488.)

(415 ILCS 5/12.5 new)

Sec. 12.5. NPDES discharge fees; sludge permit fees.

(a) Beginning July 1, 2003, the Agency shall assess and collect annual fees (i) in the amounts set forth in subsection (e) for all discharges that require an NPDES permit under subsection (f) of Section 12, from each person holding an NPDES permit authorizing those discharges (including a person who continues to discharge under an expired permit pending renewal), and (ii) in the amounts set forth in subsection (f) of this Section for all activities that require a permit under subsection (b) of Section 12, from each person holding a domestic sewage sludge generator or user permit.

Each person subject to this Section must remit the applicable annual fee to the Agency in accordance with the requirements set forth in this Section and any rules adopted pursuant to this Section.

(b) Within 30 days after the effective date of this Section, and by May 31 of each year thereafter, the Agency shall send a fee notice by mail to each existing permittee subject to a fee under this Section at his or her address of record. The notice shall state the amount of the applicable annual fee and the date by which payment is required.

Except as provided in subsection (c) with respect to initial fees under new permits and certain modifications of

existing permits, fees payable under this Section for the 12 months beginning July 1, 2003 are due by the date specified in the fee notice, which shall be no less than 30 days after the date the fee notice is mailed by the Agency, and fees payable under this Section for subsequent years shall be due on July 1 or as otherwise required in any rules that may be adopted pursuant to this Section.

(c) The initial annual fee for discharges under a new individual NPDES permit or for activity under a new individual sludge generator or sludge user permit must be remitted to the Agency prior to the issuance of the permit. The Agency shall provide notice of the amount of the fee to the applicant during its review of the application. In the case of a new individual NPDES or sludge permit issued during the months of January through June, the Agency may prorate the initial annual fee payable under this Section.

The initial annual fee for discharges or other activity under a general NPDES permit must be remitted to the Agency as part of the application for coverage under that general permit.

If a requested modification to an existing NPDES permit causes a change in the applicable fee categories under subsection (e) that results in an increase in the required fee, the permittee must pay to the Agency the amount of the increase, prorated for the number of months remaining before the next July 1, before the modification is granted.

(d) Failure to submit the fee required under this Section by the due date constitutes a violation of this Section. Late payments shall incur an interest penalty, calculated at the rate in effect from time to time for tax delinquencies under subsection (a) of Section 1003 of the Illinois Income Tax Act, from the date the fee is due until the date the fee payment is received by the Agency.

(e) The annual fees applicable to discharges under NPDES

permits are as follows:

(1) For NPDES permits for publicly owned treatment works, other facilities for which the wastewater being treated and discharged is primarily domestic sewage, and wastewater discharges from the operation of public water supply treatment facilities, the fee is:

(i) $1,500 for facilities with a Design Average Flow rate of less than 100,000 gallons per day;

(ii) $5,000 for facilities with a Design Average Flow rate of at least 100,000 gallons per day but less than 500,000 gallons per day;

(iii) $7,500 for facilities with a Design Average Flow rate of at least 500,000 gallons per day but less than 1,000,000 gallons per day;

(iv) $15,000 for facilities with a Design Average Flow rate of at least 1,000,000 gallons per day but less than 5,000,000 gallons per day;

(v) $30,000 for facilities with a Design Average Flow rate of at least 5,000,000 gallons per day but less than 10,000,000 gallons per day; and

(vi) $50,000 for facilities with a Design Average Flow rate of 10,000,000 gallons per day or more.

(2) For NPDES permits for treatment works or sewer collection systems that include combined sewer overflow outfalls, the fee is:

(i) $1,000 for systems serving a tributary population of 10,000 or less;

(ii) $5,000 for systems serving a tributary population that is greater than 10,000 but not more than 25,000; and

(iii) $20,000 for systems serving a tributary population that is greater than 25,000.

The fee amounts in this subdivision (e)(2) are in addition to the fees stated in subdivision (e)(1) when the combined sewer overflow outfall is contained within a permit subject to subsection (e)(1) fees.

(3) For NPDES permits for mines producing coal, the fee is $5,000.

(4) For NPDES permits for mines other than mines producing coal, the fee is $5,000.

(5) For NPDES permits for industrial activity where toxic substances are not regulated, other than permits covered under subdivision (e)(3) or (e)(4), the fee is:

(i) $1,000 for a facility with a Design Average Flow rate that is not more than 10,000 gallons per day;

(ii) $2,500 for a facility with a Design Average Flow rate that is more than 10,000 gallons per day but not more than 100,000 gallons per day; and

(iii) $10,000 for a facility with a Design Average Flow rate that is more than 100,000 gallons per day.

(6) For NPDES permits for industrial activity where toxic substances are regulated, other than permits covered under subdivision (e)(3) or (e)(4), the fee is:

(i) $15,000 for a facility with a Design Average Flow rate that is not more than 250,000 gallons per day; and

(ii) $20,000 for a facility with a Design Average Flow rate that is more than 250,000 gallons per day.

(7) For NPDES permits for industrial activity classified by USEPA as a major discharge, other than permits covered under subdivision (e)(3) or (e)(4), the fee is:

(i) $30,000 for a facility where toxic substances are not regulated; and

(ii) $50,000 for a facility where toxic substances are regulated.

(8) For NPDES permits for municipal separate storm sewer systems, the fee is $1,000.

(9) For NPDES permits for construction site or industrial storm water, the fee is $500.

(f) The annual fee for activities under a permit that authorizes applying sludge on land is $2,500 for a sludge generator permit and $5,000 for a sludge user permit.

(g) More than one of the annual fees specified in subsections (e) and (f) may be applicable to a permit holder. These fees are in addition to any other fees required under this Act.

(h) The fees imposed under this Section do not apply to the State or any department or agency of the State, nor to any school district.

(i) The Agency may adopt rules to administer the fee program established in this Section. The Agency may include provisions pertaining to invoices, notice of late payment, and disputes concerning the amount or timeliness of payment. The Agency may set forth procedures and criteria for the acceptance of payments. The absence of such rules does not affect the duty of the Agency to immediately begin the assessment and collection of fees under this Section.

(j) All fees and interest penalties collected by the Agency under this Section shall be deposited into the Illinois Clean Water Fund, which is hereby created as a special fund in the State treasury. Gifts, supplemental environmental project funds, and grants may be deposited into the Fund. Investment earnings on moneys held in the Fund shall be credited to the Fund.

Subject to appropriation, the moneys in the Fund shall be

used by the Agency to carry out the Agency's clean water activities.

(k) Fees paid to the Agency under this Section are not refundable.

(415 ILCS 5/12.6 new)

Sec. 12.6. Certification fees.

(a) Beginning July 1, 2003, the Agency shall collect a fee in the amount set forth in subsection (b) from each applicant for a state water quality certification required by Section 401 of the federal Clean Water Act prior to a federal authorization pursuant to Section 404 of that Act; except that the fee does not apply to the State or any department or agency of the State, nor to any school district.

(b) The amount of the fee for a State water quality certification is $350 or 1% of the gross value of the proposed project, whichever is greater, but not to exceed $10,000.

(c) Each applicant seeking a federal authorization of an action requiring a Section 401 state water quality certification by the Agency shall submit the required fee with the application. The Agency shall deny an application for which a fee is required under this Section, if the application does not contain the appropriate fee.

(d) The Agency may establish procedures relating to the collection of fees under this Section. Notwithstanding the adoption of any rules establishing such procedures, the Agency may begin collecting fees under this Section on July 1, 2003 for all complete applications received on or after that date.

All fees collected by the Agency under this Section shall be deposited into the Illinois Clean Water Fund. Fees paid under this Section are not refundable.

(415 ILCS 5/16.1) (from Ch. 111 1/2, par. 1016.1)

Sec. 16.1. Permit fees.

(a) ~~Beginning January 1, 1990,~~ Except as provided in subsection (f), the Agency shall collect a fee in the amount set forth in subsection (d) from: (1) each applicant for a construction permit under this Title, or regulations adopted hereunder, to install or extend water main; and (2) each person who submits as-built plans under this Title, or regulations adopted hereunder, to install or extend water main.

(b) Except as provided in subsection (c), each applicant or person required to pay a fee under this Section shall submit the fee to the Agency along with the permit application or as-built plans. The Agency shall deny any construction permit application for which a fee is required under this Section that does not contain the appropriate fee. The Agency shall not approve any as-built plans for which a fee is required under this Section that do not contain the appropriate fee.

(c) Each applicant for an emergency construction permit under this Title, or regulations adopted hereunder, to install or extend a water main shall submit the appropriate fee to the Agency within 10 calendar days from the date of issuance of the emergency construction permit.

(d) The amount of the fee is as follows:

(1) $240 ~~$120~~ if the construction permit application is to install or extend water main that is more than 200 feet, but not more than 1,000 feet in length;

(2) $720 ~~$360~~ if the construction permit application is to install or extend water main that is more than 1,000 feet but not more than 5,000 feet in length;

(3) $1200 ~~$600~~ if the construction permit

application is to install or extend water main that is more than 5,000 feet in length.

(e) Prior to a final Agency decision on a permit application for which a fee has been paid under this Section, the applicant may propose modifications to the application in accordance with this Act and regulations adopted hereunder without any additional fee becoming due unless the proposed modifications cause the length of water main to increase beyond the length specified in the permit application before the modifications. If the modifications cause such an increase and the increase results in additional fees being due under subsection (d), the applicant shall submit the additional fee to the Agency with the proposed modifications.

(f) No fee shall be due under this Section from (1) any department, agency or unit of State government for installing or extending a water main; (2) any unit of local government with which the Agency has entered into a written delegation agreement under Section 4 of this Act which allows such unit to issue construction permits under this Title, or regulations adopted hereunder, for installing or extending a water main; or (3) any unit of local government or school district for installing or extending a water main where both of the following conditions are met: (i) the cost of the installation or extension is paid wholly from monies of the unit of local government or school district, State grants or loans, federal grants or loans, or any combination thereof; and (ii) the unit of local government or school district is not given monies, reimbursed or paid, either in whole or in part, by another person (except for State grants or loans or federal grants or loans) for the installation or extension.

(g) The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this Section.

(h) For the purposes of this Section, the term "water

main" means any pipe that is to be used for the purpose of distributing potable water which serves or is accessible to more than one property, dwelling or rental unit, and that is exterior to buildings.

(i) Notwithstanding any other provision of this Act, the Agency shall, not later than 45 days following the receipt of both an application for a construction permit and the fee required by this Section, either approve that application and issue a permit or tender to the applicant a written statement setting forth with specificity the reasons for the disapproval of the application and denial of a permit. If there is no final action by the Agency within 45 days after the filing of the application for a permit, the applicant may deem the permit issued.

(Source: P.A. 86-670; 87-843.)

(415 ILCS 5/22.8) (from Ch. 111 1/2, par. 1022.8)

Sec. 22.8. Environmental Protection Permit and Inspection Fund.

(a) There is hereby created in the State Treasury a special fund to be known as the Environmental Protection Permit and Inspection Fund. All fees collected by the Agency pursuant to this Section, Section 9.6, 12.2, 16.1, 22.2 (j)(6)(E)(v)(IV), 56.4, 56.5, 56.6, and subsection (f) of Section 5 of this Act or pursuant to Section 22 of the Public Water Supply Operations Act and funds collected under subsection (b.5) of Section 42 of this Act shall be deposited into the Fund. In addition to any monies appropriated from the General Revenue Fund, monies in the Fund shall be appropriated by the General Assembly to the Agency in amounts deemed necessary for manifest, permit, and inspection activities and for processing requests under Section 22.2 (j)(6)(E)(v)(IV).

The General Assembly may appropriate monies in the Fund

deemed necessary for Board regulatory and adjudicatory proceedings.

(b) ~~On and after January 1, 1989,~~ The Agency shall collect from the owner or operator of any of the following types of hazardous waste disposal sites or management facilities which require a RCRA permit under subsection (f) of Section 21 of this Act, or a UIC permit under subsection (g) of Section 12 of this Act, an annual fee in the amount of:

(1) $35,000 ($70,000 beginning in 2004) for a hazardous waste disposal site receiving hazardous waste if the hazardous waste disposal site is located off the site where such waste was produced;

(2) $9,000 ($18,000 beginning in 2004) for a hazardous waste disposal site receiving hazardous waste if the hazardous waste disposal site is located on the site where such waste was produced;

(3) $7,000 ($14,000 beginning in 2004) for a hazardous waste disposal site receiving hazardous waste if the hazardous waste disposal site is an underground injection well;

(4) $2,000 ($4,000 beginning in 2004) for a hazardous waste management facility treating hazardous waste by incineration;

(5) $1,000 ($2,000 beginning in 2004) for a hazardous waste management facility treating hazardous waste by a method, technique or process other than incineration;

(6) $1,000 ($2,000 beginning in 2004) for a hazardous waste management facility storing hazardous waste in a surface impoundment or pile; ~~or~~

(7) $250 ($500 beginning in 2004) for a hazardous waste management facility storing hazardous waste other than in a surface impoundment or pile; and~~.~~

(8) Beginning in 2004, $500 for a large quantity hazardous waste generator required to submit an annual or biennial report for hazardous waste generation.

(c) Where two or more operational units are located within a single hazardous waste disposal site, the Agency shall collect from the owner or operator of such site an annual fee equal to the highest fee imposed by subsection (b) of this Section upon any single operational unit within the site.

(d) The fee imposed upon a hazardous waste disposal site under this Section shall be the exclusive permit and inspection fee applicable to hazardous waste disposal at such site, provided that nothing in this Section shall be construed to diminish or otherwise affect any fee imposed upon the owner or operator of a hazardous waste disposal site by Section 22.2.

(e) The Agency shall establish procedures, no later than December 1, 1984, relating to the collection of the hazardous waste disposal site fees authorized by this Section. Such procedures shall include, but not be limited to the time and manner of payment of fees to the Agency, which shall be quarterly, payable at the beginning of each quarter for hazardous waste disposal site fees. Annual fees required under paragraph (7) of subsection (b) of this Section shall accompany the annual report required by Board regulations for the calendar year for which the report applies.

(f) For purposes of this Section, a hazardous waste disposal site consists of one or more of the following operational units:

(1) a landfill receiving hazardous waste for disposal;

(2) a waste pile or surface impoundment, receiving hazardous waste, in which residues which exhibit any of the characteristics of hazardous waste pursuant to Board

regulations are reasonably expected to remain after closure;

(3) a land treatment facility receiving hazardous waste; or

(4) a well injecting hazardous waste.

(g) The Agency shall assess a fee for each manifest provided by the Agency. For manifests provided on or after January 1, 1989 but before July 1, 2003, the fee shall be $1 per manifest. For manifests provided on or after July 1, 2003, the fee shall be $3 per manifest.

~~(g) On and after January 1, 1989, the Agency shall assess a fee of $1.00 for each manifest provided by the Agency, except that the Agency shall furnish up to 20 manifests requested by any generator at no charge and no generator shall be required to pay more than $500 per year in such manifest fees.~~

(Source: P.A. 89-79, eff. 6-30-95; 90-372, eff. 7-1-98.)

(415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

Sec. 22.15. Solid Waste Management Fund; fees.

(a) There is hereby created within the State Treasury a special fund to be known as the "Solid Waste Management Fund", to be constituted from the fees collected by the State pursuant to this Section and from repayments of loans made from the Fund for solid waste projects. Moneys received by the Department of Commerce and Community Affairs in repayment of loans made pursuant to the Illinois Solid Waste Management Act shall be deposited into the Solid Waste Management Revolving Loan Fund.

(b) ~~On and after January 1, 1987,~~ The Agency shall assess and collect a fee in the amount set forth herein from the owner or operator of each sanitary landfill permitted or required to be permitted by the Agency to dispose of solid waste if the sanitary landfill is located off the site where

such waste was produced and if such sanitary landfill is owned, controlled, and operated by a person other than the generator of such waste. The Agency shall deposit all fees collected into the Solid Waste Management Fund. If a site is contiguous to one or more landfills owned or operated by the same person, the volumes permanently disposed of by each landfill shall be combined for purposes of determining the fee under this subsection.

(1) If more than 150,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall either pay a fee of 95 cents ~~45 cents~~ per cubic yard or, alternatively, the owner or operator may weigh the quantity of the solid waste permanently disposed of with a device for which certification has been obtained under the Weights and Measures Act and pay a fee of $2.00 ~~95 cents~~ per ton of solid waste permanently disposed of. In no case shall the fee collected or paid by the owner or operator under this paragraph exceed $1.55 ~~$1.05~~ per cubic yard or $3.27 ~~$2.22~~ per ton.

(2) If more than 100,000 cubic yards but not more than 150,000 cubic yards of non-hazardous waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $52,630 ~~$25,000~~.

(3) If more than 50,000 cubic yards but not more than 100,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $23,790 ~~$11,300~~.

(4) If more than 10,000 cubic yards but not more than 50,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $7,260 ~~$3,450~~.

(5) If not more than 10,000 cubic yards of non-hazardous solid waste is permanently disposed of at a

site in a calendar year, the owner or operator shall pay a fee of $1050 ~~$500~~.

(c) (Blank.)

(d) The Agency shall establish rules relating to the collection of the fees authorized by this Section. Such rules shall include, but not be limited to:

(1) necessary records identifying the quantities of solid waste received or disposed;

(2) the form and submission of reports to accompany the payment of fees to the Agency;

(3) the time and manner of payment of fees to the Agency, which payments shall not be more often than quarterly; and

(4) procedures setting forth criteria establishing when an owner or operator may measure by weight or volume during any given quarter or other fee payment period.

(e) Pursuant to appropriation, all monies in the Solid Waste Management Fund shall be used by the Agency and the Department of Commerce and Community Affairs for the purposes set forth in this Section and in the Illinois Solid Waste Management Act, including for the costs of fee collection and administration.

(f) The Agency is authorized to enter into such agreements and to promulgate such rules as are necessary to carry out its duties under this Section and the Illinois Solid Waste Management Act.

(g) On the first day of January, April, July, and October of each year, beginning on July 1, 1996, the State Comptroller and Treasurer shall transfer $500,000 from the Solid Waste Management Fund to the Hazardous Waste Fund. Moneys transferred under this subsection (g) shall be used only for the purposes set forth in item (1) of subsection (d) of Section 22.2.

(h) The Agency is authorized to provide financial

assistance to units of local government for the performance of inspecting, investigating and enforcement activities pursuant to Section 4(r) at nonhazardous solid waste disposal sites.

(i) The Agency is authorized to support the operations of an industrial materials exchange service, and to conduct household waste collection and disposal programs.

(j) A unit of local government, as defined in the Local Solid Waste Disposal Act, in which a solid waste disposal facility is located may establish a fee, tax, or surcharge with regard to the permanent disposal of solid waste. All fees, taxes, and surcharges collected under this subsection shall be utilized for solid waste management purposes, including long-term monitoring and maintenance of landfills, planning, implementation, inspection, enforcement and other activities consistent with the Solid Waste Management Act and the Local Solid Waste Disposal Act, or for any other environment-related purpose, including but not limited to an environment-related public works project, but not for the construction of a new pollution control facility other than a household hazardous waste facility. However, the total fee, tax or surcharge imposed by all units of local government under this subsection (j) upon the solid waste disposal facility shall not exceed:

(1) 60¢ per cubic yard if more than 150,000 cubic yards of non-hazardous solid waste is permanently disposed of at the site in a calendar year, unless the owner or operator weighs the quantity of the solid waste received with a device for which certification has been obtained under the Weights and Measures Act, in which case the fee shall not exceed $1.27 per ton of solid waste permanently disposed of.

(2) $33,350 if more than 100,000 cubic yards, but not more than 150,000 cubic yards, of non-hazardous waste

is permanently disposed of at the site in a calendar year.

(3) $15,500 if more than 50,000 cubic yards, but not more than 100,000 cubic yards, of non-hazardous solid waste is permanently disposed of at the site in a calendar year.

(4) $4,650 if more than 10,000 cubic yards, but not more than 50,000 cubic yards, of non-hazardous solid waste is permanently disposed of at the site in a calendar year.

(5) $$650 if not more than 10,000 cubic yards of non-hazardous solid waste is permanently disposed of at the site in a calendar year.

The corporate authorities of the unit of local government may use proceeds from the fee, tax, or surcharge to reimburse a highway commissioner whose road district lies wholly or partially within the corporate limits of the unit of local government for expenses incurred in the removal of nonhazardous, nonfluid municipal waste that has been dumped on public property in violation of a State law or local ordinance.

A county or Municipal Joint Action Agency that imposes a fee, tax, or surcharge under this subsection may use the proceeds thereof to reimburse a municipality that lies wholly or partially within its boundaries for expenses incurred in the removal of nonhazardous, nonfluid municipal waste that has been dumped on public property in violation of a State law or local ordinance.

If the fees are to be used to conduct a local sanitary landfill inspection or enforcement program, the unit of local government must enter into a written delegation agreement with the Agency pursuant to subsection (r) of Section 4. The unit of local government and the Agency shall enter into such a written delegation agreement within 60 days after the

establishment of such fees. At least annually, the Agency shall conduct an audit of the expenditures made by units of local government from the funds granted by the Agency to the units of local government for purposes of local sanitary landfill inspection and enforcement programs, to ensure that the funds have been expended for the prescribed purposes under the grant.

The fees, taxes or surcharges collected under this subsection (j) shall be placed by the unit of local government in a separate fund, and the interest received on the moneys in the fund shall be credited to the fund. The monies in the fund may be accumulated over a period of years to be expended in accordance with this subsection.

A unit of local government, as defined in the Local Solid Waste Disposal Act, shall prepare and distribute to the Agency, in April of each year, a report that details spending plans for monies collected in accordance with this subsection. The report will at a minimum include the following:

(1) The total monies collected pursuant to this subsection.

(2) The most current balance of monies collected pursuant to this subsection.

(3) An itemized accounting of all monies expended for the previous year pursuant to this subsection.

(4) An estimation of monies to be collected for the following 3 years pursuant to this subsection.

(5) A narrative detailing the general direction and scope of future expenditures for one, 2 and 3 years.

The exemptions granted under Sections 22.16 and 22.16a, and under subsections (c) and (k) of this Section, shall be applicable to any fee, tax or surcharge imposed under this subsection (j); except that the fee, tax or surcharge authorized to be imposed under this subsection (j) may be

made applicable by a unit of local government to the permanent disposal of solid waste after December 31, 1986, under any contract lawfully executed before June 1, 1986 under which more than 150,000 cubic yards (or 50,000 tons) of solid waste is to be permanently disposed of, even though the waste is exempt from the fee imposed by the State under subsection (b) of this Section pursuant to an exemption granted under Section 22.16.

(k) In accordance with the findings and purposes of the Illinois Solid Waste Management Act, beginning January 1, 1989 the fee under subsection (b) and the fee, tax or surcharge under subsection (j) shall not apply to:

(1) Waste which is hazardous waste; or

(2) Waste which is pollution control waste; or

(3) Waste from recycling, reclamation or reuse processes which have been approved by the Agency as being designed to remove any contaminant from wastes so as to render such wastes reusable, provided that the process renders at least 50% of the waste reusable; or

(4) Non-hazardous solid waste that is received at a sanitary landfill and composted or recycled through a process permitted by the Agency; or

(5) Any landfill which is permitted by the Agency to receive only demolition or construction debris or landscape waste.

(Source: P.A. 92-574, eff. 6-26-02.)

(415 ILCS 5/22.44)

Sec. 22.44. Subtitle D management fees.

(a) There is created within the State treasury a special fund to be known as the "Subtitle D Management Fund" constituted from the fees collected by the State under this Section.

(b) ~~On and after January 1, 1994,~~ The Agency shall

assess and collect a fee in the amount set forth in this subsection from the owner or operator of each sanitary landfill permitted or required to be permitted by the Agency to dispose of solid waste if the sanitary landfill is located off the site where the waste was produced and if the sanitary landfill is owned, controlled, and operated by a person other than the generator of the waste. The Agency shall deposit all fees collected under this subsection into the Subtitle D Management Fund. If a site is contiguous to one or more landfills owned or operated by the same person, the volumes permanently disposed of by each landfill shall be combined for purposes of determining the fee under this subsection.

(1) If more than 150,000 cubic yards of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall either pay a fee of 10.1 cents ~~5.5 cents~~ per cubic yard or, alternatively, the owner or operator may weigh the quantity of the solid waste permanently disposed of with a device for which certification has been obtained under the Weights and Measures Act and pay a fee of 22 cents ~~12 cents~~ per ton of waste permanently disposed of.

(2) If more than 100,000 cubic yards, but not more than 150,000 cubic yards, of non-hazardous waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $7,020 ~~$3,825~~.

(3) If more than 50,000 cubic yards, but not more than 100,000 cubic yards, of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $3,120 ~~$1,700~~.

(4) If more than 10,000 cubic yards, but not more than 50,000 cubic yards, of non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $975 ~~$530~~.

(5) If not more than 10,000 cubic yards of

non-hazardous solid waste is permanently disposed of at a site in a calendar year, the owner or operator shall pay a fee of $210 ~~$110~~.

(c) The fee under subsection (b) shall not apply to any of the following:

(1) Hazardous waste.

(2) Pollution control waste.

(3) Waste from recycling, reclamation, or reuse processes that have been approved by the Agency as being designed to remove any contaminant from wastes so as to render the wastes reusable, provided that the process renders at least 50% of the waste reusable.

(4) Non-hazardous solid waste that is received at a sanitary landfill and composted or recycled through a process permitted by the Agency.

(5) Any landfill that is permitted by the Agency to receive only demolition or construction debris or landscape waste.

(d) The Agency shall establish rules relating to the collection of the fees authorized by this Section. These rules shall include, but not be limited to the following:

(1) Necessary records identifying the quantities of solid waste received or disposed.

(2) The form and submission of reports to accompany the payment of fees to the Agency.

(3) The time and manner of payment of fees to the Agency, which payments shall not be more often than quarterly.

(4) Procedures setting forth criteria establishing when an owner or operator may measure by weight or volume during any given quarter or other fee payment period.

(e) Fees collected under this Section shall be in addition to any other fees collected under any other Section.

(f) The Agency shall not refund any fee paid to it under

this Section.

(g) Pursuant to appropriation, all moneys in the Subtitle D Management Fund shall be used by the Agency to administer the United States Environmental Protection Agency's Subtitle D Program provided in Sections 4004 and 4010 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) as it relates to a municipal solid waste landfill program in Illinois and to fund a delegation of inspecting, investigating, and enforcement functions, within the municipality only, pursuant to subsection (r) of Section 4 of this Act to a municipality having a population of more than 1,000,000 inhabitants. The Agency shall execute a delegation agreement pursuant to subsection (r) of Section 4 of this Act with a municipality having a population of more than 1,000,000 inhabitants within 90 days of September 13, 1993 and shall on an annual basis distribute from the Subtitle D Management Fund to that municipality no less than $150,000.

(Source: P.A. 92-574, eff. 6-26-02.)

(415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

Sec. 39.5. Clean Air Act Permit Program.

1. Definitions.

For purposes of this Section:

"Administrative permit amendment" means a permit revision subject to subsection 13 of this Section.

"Affected source for acid deposition" means a source that includes one or more affected units under Title IV of the Clean Air Act.

"Affected States" for purposes of formal distribution of a draft CAAPP permit to other States for comments prior to issuance, means all States:

(1) Whose air quality may be affected by the source covered by the draft permit and that are contiguous to

Illinois; or

(2) That are within 50 miles of the source.

"Affected unit for acid deposition" shall have the meaning given to the term "affected unit" in the regulations promulgated under Title IV of the Clean Air Act.

"Applicable Clean Air Act requirement" means all of the following as they apply to emissions units in a source (including regulations that have been promulgated or approved by USEPA pursuant to the Clean Air Act which directly impose requirements upon a source and other such federal requirements which have been adopted by the Board. These may include requirements and regulations which have future effective compliance dates. Requirements and regulations will be exempt if USEPA determines that such requirements need not be contained in a Title V permit):

(1) Any standard or other requirement provided for in the applicable state implementation plan approved or promulgated by USEPA under Title I of the Clean Air Act that implement the relevant requirements of the Clean Air Act, including any revisions to the state Implementation Plan promulgated in 40 CFR Part 52, Subparts A and O and other subparts applicable to Illinois. For purposes of this subsection (1) of this definition, "any standard or other requirement" shall mean only such standards or requirements directly enforceable against an individual source under the Clean Air Act.

(2)(i) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated by USEPA under Title I of the Clean Air Act, including Part C or D of the Clean Air Act.

(ii) Any term or condition as required pursuant to Section 39.5 of any federally enforceable State operating permit issued pursuant to regulations approved or promulgated by USEPA

under Title I of the Clean Air Act, including Part C or D of the Clean Air Act.

(3) Any standard or other requirement under Section 111 of the Clean Air Act, including Section 111(d).

(4) Any standard or other requirement under Section 112 of the Clean Air Act, including any requirement concerning accident prevention under Section 112(r)(7) of the Clean Air Act.

(5) Any standard or other requirement of the acid rain program under Title IV of the Clean Air Act or the regulations promulgated thereunder.

(6) Any requirements established pursuant to Section 504(b) or Section 114(a)(3) of the Clean Air Act.

(7) Any standard or other requirement governing solid waste incineration, under Section 129 of the Clean Air Act.

(8) Any standard or other requirement for consumer and commercial products, under Section 183(e) of the Clean Air Act.

(9) Any standard or other requirement for tank vessels, under Section 183(f) of the Clean Air Act.

(10) Any standard or other requirement of the program to control air pollution from Outer Continental Shelf sources, under Section 328 of the Clean Air Act.

(11) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Clean Air Act, unless USEPA has determined that such requirements need not be contained in a Title V permit.

(12) Any national ambient air quality standard or increment or visibility requirement under Part C of Title I of the Clean Air Act, but only as it would apply to temporary sources permitted pursuant to Section 504(e) of the Clean Air Act.

"Applicable requirement" means all applicable Clean Air Act requirements and any other standard, limitation, or other requirement contained in this Act or regulations promulgated under this Act as applicable to sources of air contaminants (including requirements that have future effective compliance dates).

"CAAPP" means the Clean Air Act Permit Program, developed pursuant to Title V of the Clean Air Act.

"CAAPP application" means an application for a CAAPP permit.

"CAAPP Permit" or "permit" (unless the context suggests otherwise) means any permit issued, renewed, amended, modified or revised pursuant to Title V of the Clean Air Act.

"CAAPP source" means any source for which the owner or operator is required to obtain a CAAPP permit pursuant to subsection 2 of this Section.

"Clean Air Act" means the Clean Air Act, as now and hereafter amended, 42 U.S.C. 7401, et seq.

"Designated representative" shall have the meaning given to it in Section 402(26) of the Clean Air Act and the regulations promulgated thereunder which states that the term 'designated representative' shall mean a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in all matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and compliance with permits, permit applications, and compliance plans for the unit.

"Draft CAAPP permit" means the version of a CAAPP permit for which public notice and an opportunity for public comment and hearing is offered by the Agency.

"Effective date of the CAAPP" means the date that USEPA approves Illinois' CAAPP.

"Emission unit" means any part or activity of a stationary source that emits or has the potential to emit any

air pollutant. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the Clean Air Act.

"Federally enforceable" means enforceable by USEPA.

"Final permit action" means the Agency's granting with conditions, refusal to grant, renewal of, or revision of a CAAPP permit, the Agency's determination of incompleteness of a submitted CAAPP application, or the Agency's failure to act on an application for a permit, permit renewal, or permit revision within the time specified in paragraph 5(j), subsection 13, or subsection 14 of this Section.

"General permit" means a permit issued to cover numerous similar sources in accordance with subsection 11 of this Section.

"Major source" means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant to paragraph 2(c) of this Section.

"Maximum achievable control technology" or "MACT" means the maximum degree of reductions in emissions deemed achievable under Section 112 of the Clean Air Act.

"Owner or operator" means any person who owns, leases, operates, controls, or supervises a stationary source.

"Permit modification" means a revision to a CAAPP permit that cannot be accomplished under the provisions for administrative permit amendments under subsection 13 of this Section.

"Permit revision" means a permit modification or administrative permit amendment.

"Phase II" means the period of the national acid rain program, established under Title IV of the Clean Air Act, beginning January 1, 2000, and continuing thereafter.

"Phase II acid rain permit" means the portion of a CAAPP permit issued, renewed, modified, or revised by the Agency during Phase II for an affected source for acid deposition.

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

"Preconstruction Permit" or "Construction Permit" means a permit which is to be obtained prior to commencing or beginning actual construction or modification of a source or emissions unit.

"Proposed CAAPP permit" means the version of a CAAPP permit that the Agency proposes to issue and forwards to USEPA for review in compliance with applicable requirements of the Act and regulations promulgated thereunder.

"Regulated air pollutant" means the following:

(1) Nitrogen oxides (NOx) or any volatile organic compound.

(2) Any pollutant for which a national ambient air quality standard has been promulgated.

(3) Any pollutant that is subject to any standard promulgated under Section 111 of the Clean Air Act.

(4) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the Clean Air Act.

(5) Any pollutant subject to a standard promulgated under Section 112 or other requirements established under Section 112 of the Clean Air Act, including Sections 112(g), (j) and (r).

(i) Any pollutant subject to requirements under Section 112(j) of the Clean Air Act. Any pollutant listed under Section 112(b) for which the subject source would be major shall be considered to be regulated 18 months after the date on which USEPA was required to promulgate an applicable standard pursuant to Section 112(e) of the Clean Air Act, if USEPA fails to promulgate such standard.

(ii) Any pollutant for which the requirements of Section 112(g)(2) of the Clean Air Act have been met, but only with respect to the individual source subject to Section 112(g)(2) requirement.

"Renewal" means the process by which a permit is reissued at the end of its term.

"Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), or (ii) the delegation of authority to such representative is approved in advance by the Agency.

(2) For a partnership or sole proprietorship: a general partner or the proprietor, respectively, or in the case of a partnership in which all of the partners are corporations, a duly authorized representative of the partnership if the representative is responsible for the overall operation of one or more manufacturing,

production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding $25 million (in second quarter 1980 dollars), or (ii) the delegation of authority to such representative is approved in advance by the Agency.

(3) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of USEPA).

(4) For affected sources for acid deposition:

(i) The designated representative shall be the "responsible official" in so far as actions, standards, requirements, or prohibitions under Title IV of the Clean Air Act or the regulations promulgated thereunder are concerned.

(ii) The designated representative may also be the "responsible official" for any other purposes with respect to air pollution control.

"Section 502(b)(10) changes" means changes that contravene express permit terms. "Section 502(b)(10) changes" do not include changes that would violate applicable requirements or contravene federally enforceable permit terms or conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

"Solid waste incineration unit" means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences,

hotels, and motels). The term does not include incinerators or other units required to have a permit under Section 3005 of the Solid Waste Disposal Act. The term also does not include (A) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals, (B) qualifying small power production facilities, as defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes, or (C) air curtain incinerators provided that such incinerators only burn wood wastes, yard waste and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the USEPA by rule.

"Source" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987, or such pollutant emitting

activities at a stationary source (or group of stationary sources) located on contiguous or adjacent properties and under common control constitute a support facility. The determination as to whether any group of stationary sources are located on contiguous or adjacent properties, and/or are under common control, and/or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case by case basis.

"Stationary source" means any building, structure, facility, or installation that emits or may emit any regulated air pollutant or any pollutant listed under Section 112(b) of the Clean Air Act.

"Support facility" means any stationary source (or group of stationary sources) that conveys, stores, or otherwise assists to a significant extent in the production of a principal product at another stationary source (or group of stationary sources). A support facility shall be considered to be part of the same source as the stationary source (or group of stationary sources) that it supports regardless of the 2-digit Standard Industrial Classification code for the support facility.

"USEPA" means the Administrator of the United States Environmental Protection Agency (USEPA) or a person designated by the Administrator.

1.1. Exclusion From the CAAPP.

a. An owner or operator of a source which determines that the source could be excluded from the CAAPP may seek such exclusion prior to the date that the CAAPP application for the source is due but in no case later than 9 months after the effective date of the CAAPP through the imposition of federally enforceable conditions limiting the "potential to emit" of the source to a level below the major source threshold for that source as described in paragraph 2(c) of this Section,

within a State operating permit issued pursuant to Section 39(a) of this Act. After such date, an exclusion from the CAAPP may be sought under paragraph 3(c) of this Section.

b. An owner or operator of a source seeking exclusion from the CAAPP pursuant to paragraph (a) of this subsection must submit a permit application consistent with the existing State permit program which specifically requests such exclusion through the imposition of such federally enforceable conditions.

c. Upon such request, if the Agency determines that the owner or operator of a source has met the requirements for exclusion pursuant to paragraph (a) of this subsection and other applicable requirements for permit issuance under Section 39(a) of this Act, the Agency shall issue a State operating permit for such source under Section 39(a) of this Act, as amended, and regulations promulgated thereunder with federally enforceable conditions limiting the "potential to emit" of the source to a level below the major source threshold for that source as described in paragraph 2(c) of this Section.

d. The Agency shall provide an owner or operator of a source which may be excluded from the CAAPP pursuant to this subsection with reasonable notice that the owner or operator may seek such exclusion.

e. The Agency shall provide such sources with the necessary permit application forms.

2. Applicability.

a. Sources subject to this Section shall include:

i. Any major source as defined in paragraph (c) of this subsection.

ii. Any source subject to a standard or other requirements promulgated under Section 111 (New

Source Performance Standards) or Section 112 (Hazardous Air Pollutants) of the Clean Air Act, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under Section 112(r) of the Clean Air Act.

iii. Any affected source for acid deposition, as defined in subsection 1 of this Section.

iv. Any other source subject to this Section under the Clean Air Act or regulations promulgated thereunder, or applicable Board regulations.

b. Sources exempted from this Section shall include:

i. All sources listed in paragraph (a) of this subsection which are not major sources, affected sources for acid deposition or solid waste incineration units required to obtain a permit pursuant to Section 129(e) of the Clean Air Act, until the source is required to obtain a CAAPP permit pursuant to the Clean Air Act or regulations promulgated thereunder.

ii. Nonmajor sources subject to a standard or other requirements subsequently promulgated by USEPA under Section 111 or 112 of the Clean Air Act which are determined by USEPA to be exempt at the time a new standard is promulgated.

iii. All sources and source categories that would be required to obtain a permit solely because they are subject to Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters (40 CFR Part 60).

iv. All sources and source categories that would be required to obtain a permit solely because they are subject to Part 61, Subpart M - National

Emission Standard for Hazardous Air Pollutants for Asbestos, Section 61.145 (40 CFR Part 61).

v. Any other source categories exempted by USEPA regulations pursuant to Section 502(a) of the Clean Air Act.

c. For purposes of this Section the term "major source" means any source that is:

i. A major source under Section 112 of the Clean Air Act, which is defined as:

A. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as USEPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such stations are major sources.

B. For radionuclides, "major source" shall have the meaning specified by the USEPA by rule.

ii. A major stationary source of air pollutants, as defined in Section 302 of the Clean

Air Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by USEPA). For purposes of this subsection, "fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Clean Air Act, unless the source belongs to one of the following categories of stationary source:

A. Coal cleaning plants (with thermal dryers).

B. Kraft pulp mills.

C. Portland cement plants.

D. Primary zinc smelters.

E. Iron and steel mills.

F. Primary aluminum ore reduction plants.

G. Primary copper smelters.

H. Municipal incinerators capable of charging more than 250 tons of refuse per day.

I. Hydrofluoric, sulfuric, or nitric acid plants.

J. Petroleum refineries.

K. Lime plants.

L. Phosphate rock processing plants.

M. Coke oven batteries.

N. Sulfur recovery plants.

O. Carbon black plants (furnace process).

P. Primary lead smelters.

Q. Fuel conversion plants.

R. Sintering plants.

S. Secondary metal production plants.

T. Chemical process plants.

U. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.

V. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.

W. Taconite ore processing plants.

X. Glass fiber processing plants.

Y. Charcoal production plants.

Z. Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input.

AA. All other stationary source categories regulated by a standard promulgated under Section 111 or 112 of the Clean Air Act, but only with respect to those air pollutants that have been regulated for that category.

BB. Any other stationary source category designated by USEPA by rule.

iii. A major stationary source as defined in part D of Title I of the Clean Air Act including:

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme"; except that the references in this clause to 100, 50, 25, and 10 tons per year of

nitrogen oxides shall not apply with respect to any source for which USEPA has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements otherwise applicable to such source under Section 182(f) of the Clean Air Act do not apply. Such sources shall remain subject to the major source criteria of paragraph 2(c)(ii) of this subsection.

B. For ozone transport regions established pursuant to Section 184 of the Clean Air Act, sources with the potential to emit 50 tons or more per year of volatile organic compounds (VOCs).

C. For carbon monoxide nonattainment areas (1) that are classified as "serious", and (2) in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by USEPA, sources with the potential to emit 50 tons or more per year of carbon monoxide.

D. For particulate matter (PM-10) nonattainment areas classified as "serious", sources with the potential to emit 70 tons or more per year of PM-10.

3. Agency Authority To Issue CAAPP Permits and Federally Enforceable State Operating Permits.

a. The Agency shall issue CAAPP permits under this Section consistent with the Clean Air Act and regulations promulgated thereunder and this Act and regulations promulgated thereunder.

b. The Agency shall issue CAAPP permits for fixed terms of 5 years, except CAAPP permits issued for solid waste incineration units combusting municipal waste which shall be issued for fixed terms of 12 years and except

CAAPP permits for affected sources for acid deposition which shall be issued for initial terms to expire on December 31, 1999, and for fixed terms of 5 years thereafter.

c. The Agency shall have the authority to issue a State operating permit for a source under Section 39(a) of this Act, as amended, and regulations promulgated thereunder, which includes federally enforceable conditions limiting the "potential to emit" of the source to a level below the major source threshold for that source as described in paragraph 2(c) of this Section, thereby excluding the source from the CAAPP, when requested by the applicant pursuant to paragraph 5(u) of this Section. The public notice requirements of this Section applicable to CAAPP permits shall also apply to the initial issuance of permits under this paragraph.

d. For purposes of this Act, a permit issued by USEPA under Section 505 of the Clean Air Act, as now and hereafter amended, shall be deemed to be a permit issued by the Agency pursuant to Section 39.5 of this Act.

4. Transition.

a. An owner or operator of a CAAPP source shall not be required to renew an existing State operating permit for any emission unit at such CAAPP source once a CAAPP application timely submitted prior to expiration of the State operating permit has been deemed complete. For purposes other than permit renewal, the obligation upon the owner or operator of a CAAPP source to obtain a State operating permit is not removed upon submittal of the complete CAAPP permit application. An owner or operator of a CAAPP source seeking to make a modification to a source prior to the issuance of its CAAPP permit shall be required to obtain a construction and/or operating permit as required for such modification in accordance with the

State permit program under Section 39(a) of this Act, as amended, and regulations promulgated thereunder. The application for such construction and/or operating permit shall be considered an amendment to the CAAPP application submitted for such source.

b. An owner or operator of a CAAPP source shall continue to operate in accordance with the terms and conditions of its applicable State operating permit notwithstanding the expiration of the State operating permit until the source's CAAPP permit has been issued.

c. An owner or operator of a CAAPP source shall submit its initial CAAPP application to the Agency no later than 12 months after the effective date of the CAAPP. The Agency may request submittal of initial CAAPP applications during this 12 month period according to a schedule set forth within Agency procedures, however, in no event shall the Agency require such submittal earlier than 3 months after such effective date of the CAAPP. An owner or operator may voluntarily submit its initial CAAPP application prior to the date required within this paragraph or applicable procedures, if any, subsequent to the date the Agency submits the CAAPP to USEPA for approval.

d. The Agency shall act on initial CAAPP applications in accordance with subsection 5(j) of this Section.

e. For purposes of this Section, the term "initial CAAPP application" shall mean the first CAAPP application submitted for a source existing as of the effective date of the CAAPP.

f. The Agency shall provide owners or operators of CAAPP sources with at least three months advance notice of the date on which their applications are required to be submitted. In determining which sources shall be

subject to early submittal, the Agency shall include among its considerations the complexity of the permit application, and the burden that such early submittal will have on the source.

g. The CAAPP permit shall upon becoming effective supersede the State operating permit.

h. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

5. Applications and Completeness.

a. An owner or operator of a CAAPP source shall submit its complete CAAPP application consistent with the Act and applicable regulations.

b. An owner or operator of a CAAPP source shall submit a single complete CAAPP application covering all emission units at that source.

c. To be deemed complete, a CAAPP application must provide all information, as requested in Agency application forms, sufficient to evaluate the subject source and its application and to determine all applicable requirements, pursuant to the Clean Air Act, and regulations thereunder, this Act and regulations thereunder. Such Agency application forms shall be finalized and made available prior to the date on which any CAAPP application is required.

d. An owner or operator of a CAAPP source shall submit, as part of its complete CAAPP application, a compliance plan, including a schedule of compliance, describing how each emission unit will comply with all applicable requirements. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

e. Each submitted CAAPP application shall be certified for truth, accuracy, and completeness by a responsible official in accordance with applicable regulations.

f. The Agency shall provide notice to a CAAPP applicant as to whether a submitted CAAPP application is complete. Unless the Agency notifies the applicant of incompleteness, within 60 days of receipt of the CAAPP application, the application shall be deemed complete. The Agency may request additional information as needed to make the completeness determination. The Agency may to the extent practicable provide the applicant with a reasonable opportunity to correct deficiencies prior to a final determination of completeness.

g. If after the determination of completeness the Agency finds that additional information is necessary to evaluate or take final action on the CAAPP application, the Agency may request in writing such information from the source with a reasonable deadline for response.

h. If the owner or operator of a CAAPP source submits a timely and complete CAAPP application, the source's failure to have a CAAPP permit shall not be a violation of this Section until the Agency takes final action on the submitted CAAPP application, provided, however, where the applicant fails to submit the requested information under paragraph 5(g) within the time frame specified by the Agency, this protection shall cease to apply.

i. Any applicant who fails to submit any relevant facts necessary to evaluate the subject source and its CAAPP application or who has submitted incorrect information in a CAAPP application shall, upon becoming aware of such failure or incorrect submittal, submit supplementary facts or correct information to the Agency.

In addition, an applicant shall provide to the Agency additional information as necessary to address any requirements which become applicable to the source subsequent to the date the applicant submitted its complete CAAPP application but prior to release of the draft CAAPP permit.

j. The Agency shall issue or deny the CAAPP permit within 18 months after the date of receipt of the complete CAAPP application, with the following exceptions: (i) permits for affected sources for acid deposition shall be issued or denied within 6 months after receipt of a complete application in accordance with subsection 17 of this Section; (ii) the Agency shall act on initial CAAPP applications within 24 months after the date of receipt of the complete CAAPP application; (iii) the Agency shall act on complete applications containing early reduction demonstrations under Section 112(i)(5) of the Clean Air Act within 9 months of receipt of the complete CAAPP application.

Where the Agency does not take final action on the permit within the required time period, the permit shall not be deemed issued; rather, the failure to act shall be treated as a final permit action for purposes of judicial review pursuant to Sections 40.2 and 41 of this Act.

k. The submittal of a complete CAAPP application shall not affect the requirement that any source have a preconstruction permit under Title I of the Clean Air Act.

l. Unless a timely and complete renewal application has been submitted consistent with this subsection, a CAAPP source operating upon the expiration of its CAAPP permit shall be deemed to be operating without a CAAPP permit. Such operation is prohibited under this Act.

m. Permits being renewed shall be subject to the

same procedural requirements, including those for public participation and federal review and objection, that apply to original permit issuance.

n. For purposes of permit renewal, a timely application is one that is submitted no less than 9 months prior to the date of permit expiration.

o. The terms and conditions of a CAAPP permit shall remain in effect until the issuance of a CAAPP renewal permit provided a timely and complete CAAPP application has been submitted.

p. The owner or operator of a CAAPP source seeking a permit shield pursuant to paragraph 7(j) of this Section shall request such permit shield in the CAAPP application regarding that source.

q. The Agency shall make available to the public all documents submitted by the applicant to the Agency, including each CAAPP application, compliance plan (including the schedule of compliance), and emissions or compliance monitoring report, with the exception of information entitled to confidential treatment pursuant to Section 7 of this Act.

r. The Agency shall use the standardized forms required under Title IV of the Clean Air Act and regulations promulgated thereunder for affected sources for acid deposition.

s. An owner or operator of a CAAPP source may include within its CAAPP application a request for permission to operate during a startup, malfunction, or breakdown consistent with applicable Board regulations.

t. An owner or operator of a CAAPP source, in order to utilize the operational flexibility provided under paragraph 7(l) of this Section, must request such use and provide the necessary information within its CAAPP application.

u. An owner or operator of a CAAPP source which seeks exclusion from the CAAPP through the imposition of federally enforceable conditions, pursuant to paragraph 3(c) of this Section, must request such exclusion within a CAAPP application submitted consistent with this subsection on or after the date that the CAAPP application for the source is due. Prior to such date, but in no case later than 9 months after the effective date of the CAAPP, such owner or operator may request the imposition of federally enforceable conditions pursuant to paragraph 1.1(b) of this Section.

v. CAAPP applications shall contain accurate information on allowable emissions to implement the fee provisions of subsection 18 of this Section.

w. An owner or operator of a CAAPP source shall submit within its CAAPP application emissions information regarding all regulated air pollutants emitted at that source consistent with applicable Agency procedures. Emissions information regarding insignificant activities or emission levels, as determined by the Agency pursuant to Board regulations, may be submitted as a list within the CAAPP application. The Agency shall propose regulations to the Board defining insignificant activities or emission levels, consistent with federal regulations, if any, no later than 18 months after the effective date of this amendatory Act of 1992, consistent with Section 112(n)(1) of the Clean Air Act. The Board shall adopt final regulations defining insignificant activities or emission levels no later than 9 months after the date of the Agency's proposal.

x. The owner or operator of a new CAAPP source shall submit its complete CAAPP application consistent with this subsection within 12 months after commencing operation of such source. The owner or operator of an

existing source that has been excluded from the provisions of this Section under subsection 1.1 or subsection 3(c) of this Section and that becomes subject to the CAAPP solely due to a change in operation at the source shall submit its complete CAAPP application consistent with this subsection at least 180 days before commencing operation in accordance with the change in operation.

y. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary to implement this subsection.

6. Prohibitions.

a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as not being federally enforceable in the permit pursuant to paragraph 7(m) of this Section.

b. After the applicable CAAPP permit or renewal application submittal date, as specified in subsection 5 of this Section, no person shall operate a CAAPP source without a CAAPP permit unless the complete CAAPP permit or renewal application for such source has been timely submitted to the Agency.

c. No owner or operator of a CAAPP source shall cause or threaten or allow the continued operation of an emission source during malfunction or breakdown of the emission source or related air pollution control equipment if such operation would cause a violation of

the standards or limitations applicable to the source, unless the CAAPP permit granted to the source provides for such operation consistent with this Act and applicable Board regulations.

7. Permit Content.

a. All CAAPP permits shall contain emission limitations and standards and other enforceable terms and conditions, including but not limited to operational requirements, and schedules for achieving compliance at the earliest reasonable date, which are or will be required to accomplish the purposes and provisions of this Act and to assure compliance with all applicable requirements.

b. The Agency shall include among such conditions applicable monitoring, reporting, record keeping and compliance certification requirements, as authorized by paragraphs d, e, and f of this subsection, that the Agency deems necessary to assure compliance with the Clean Air Act, the regulations promulgated thereunder, this Act, and applicable Board regulations. When monitoring, reporting, record keeping, and compliance certification requirements are specified within the Clean Air Act, regulations promulgated thereunder, this Act, or applicable regulations, such requirements shall be included within the CAAPP permit. The Board shall have authority to promulgate additional regulations where necessary to accomplish the purposes of the Clean Air Act, this Act, and regulations promulgated thereunder.

c. The Agency shall assure, within such conditions, the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable emission limitations, standards, and other requirements contained in the permit.

d. To meet the requirements of this subsection with

respect to monitoring, the permit shall:

i. Incorporate and identify all applicable emissions monitoring and analysis procedures or test methods required under the Clean Air Act, regulations promulgated thereunder, this Act, and applicable Board regulations, including any procedures and methods promulgated by USEPA pursuant to Section 504(b) or Section 114 (a)(3) of the Clean Air Act.

ii. Where the applicable requirement does not require periodic testing or instrumental or noninstrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), require periodic monitoring sufficient to yield reliable data from the relevant time period that is representative of the source's compliance with the permit, as reported pursuant to paragraph (f) of this subsection. The Agency may determine that recordkeeping requirements are sufficient to meet the requirements of this subparagraph.

iii. As necessary, specify requirements concerning the use, maintenance, and when appropriate, installation of monitoring equipment or methods.

e. To meet the requirements of this subsection with respect to record keeping, the permit shall incorporate and identify all applicable recordkeeping requirements and require, where applicable, the following:

i. Records of required monitoring information that include the following:

A. The date, place and time of sampling or measurements.

B. The date(s) analyses were performed.

C. The company or entity that performed

the analyses.

D. The analytical techniques or methods used.

E. The results of such analyses.

F. The operating conditions as existing at the time of sampling or measurement.

ii. Retention of records of all monitoring data and support information for a period of at least 5 years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records, original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

f. To meet the requirements of this subsection with respect to reporting, the permit shall incorporate and identify all applicable reporting requirements and require the following:

i. Submittal of reports of any required monitoring every 6 months. More frequent submittals may be requested by the Agency if such submittals are necessary to assure compliance with this Act or regulations promulgated by the Board thereunder. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official consistent with subsection 5 of this Section.

ii. Prompt reporting of deviations from permit requirements, including those attributable to upset conditions as defined in the permit, the probable cause of such deviations, and any corrective actions or preventive measures taken.

g. Each CAAPP permit issued under subsection 10 of

this Section shall include a condition prohibiting emissions exceeding any allowances that the source lawfully holds under Title IV of the Clean Air Act or the regulations promulgated thereunder, consistent with subsection 17 of this Section and applicable regulations, if any.

h. All CAAPP permits shall state that, where another applicable requirement of the Clean Air Act is more stringent than any applicable requirement of regulations promulgated under Title IV of the Clean Air Act, both provisions shall be incorporated into the permit and shall be State and federally enforceable.

i. Each CAAPP permit issued under subsection 10 of this Section shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

j. The following shall apply with respect to owners or operators requesting a permit shield:

i. The Agency shall include in a CAAPP permit, when requested by an applicant pursuant to paragraph 5(p) of this Section, a provision stating that compliance with the conditions of the permit shall be deemed compliance with applicable requirements which are applicable as of the date of release of the proposed permit, provided that:

A. The applicable requirement is specifically identified within the permit; or

B. The Agency in acting on the CAAPP application or revision determines in writing that other requirements specifically identified are not applicable to the source, and the permit includes that determination or a concise summary thereof.

ii. The permit shall identify the requirements for which the source is shielded. The shield shall not extend to applicable requirements which are promulgated after the date of release of the proposed permit unless the permit has been modified to reflect such new requirements.

iii. A CAAPP permit which does not expressly indicate the existence of a permit shield shall not provide such a shield.

iv. Nothing in this paragraph or in a CAAPP permit shall alter or affect the following:

A. The provisions of Section 303 (emergency powers) of the Clean Air Act, including USEPA's authority under that section.

B. The liability of an owner or operator of a source for any violation of applicable requirements prior to or at the time of permit issuance.

C. The applicable requirements of the acid rain program consistent with Section 408(a) of the Clean Air Act.

D. The ability of USEPA to obtain information from a source pursuant to Section 114 (inspections, monitoring, and entry) of the Clean Air Act.

k. Each CAAPP permit shall include an emergency provision providing an affirmative defense of emergency to an action brought for noncompliance with technology-based emission limitations under a CAAPP permit if the following conditions are met through properly signed, contemporaneous operating logs, or other relevant evidence:

i. An emergency occurred and the permittee can identify the cause(s) of the emergency.

ii. The permitted facility was at the time being properly operated.

iii. The permittee submitted notice of the emergency to the Agency within 2 working days of the time when emission limitations were exceeded due to the emergency. This notice must contain a detailed description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

iv. During the period of the emergency the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission limitations, standards, or requirements in the permit.

For purposes of this subsection, "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the source, such as an act of God, that requires immediate corrective action to restore normal operation, and that causes the source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operation error.

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. This provision is in addition to any emergency or upset provision contained in any applicable requirement. This provision does not relieve a permittee of any reporting obligations under existing federal or state laws or regulations.

l. The Agency shall include in each permit issued under subsection 10 of this Section:

i. Terms and conditions for reasonably anticipated operating scenarios identified by the source in its application. The permit terms and conditions for each such operating scenario shall meet all applicable requirements and the requirements of this Section.

A. Under this subparagraph, the source must record in a log at the permitted facility a record of the scenario under which it is operating contemporaneously with making a change from one operating scenario to another.

B. The permit shield described in paragraph 7(j) of this Section shall extend to all terms and conditions under each such operating scenario.

ii. Where requested by an applicant, all terms and conditions allowing for trading of emissions increases and decreases between different emission units at the CAAPP source, to the extent that the applicable requirements provide for trading of such emissions increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

A. Shall include all terms required under this subsection to determine compliance;

B. Must meet all applicable requirements;

C. Shall extend the permit shield described in paragraph 7(j) of this Section to all terms and conditions that allow such increases and decreases in emissions.

m. The Agency shall specifically designate as not being federally enforceable under the Clean Air Act any terms and conditions included in the permit that are not specifically required under the Clean Air Act or federal

regulations promulgated thereunder. Terms or conditions so designated shall be subject to all applicable state requirements, except the requirements of subsection 7 (other than this paragraph, paragraph q of subsection 7, subsections 8 through 11, and subsections 13 through 16 of this Section. The Agency shall, however, include such terms and conditions in the CAAPP permit issued to the source.

n. Each CAAPP permit issued under subsection 10 of this Section shall specify and reference the origin of and authority for each term or condition, and identify any difference in form as compared to the applicable requirement upon which the term or condition is based.

o. Each CAAPP permit issued under subsection 10 of this Section shall include provisions stating the following:

i. Duty to comply. The permittee must comply with all terms and conditions of the CAAPP permit. Any permit noncompliance constitutes a violation of the Clean Air Act and the Act, and is grounds for any or all of the following: enforcement action; permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

ii. Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

iii. Permit actions. The permit may be modified, revoked, reopened, and reissued, or terminated for cause in accordance with the applicable subsections of Section 39.5 of this Act.

The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition.

iv. Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege.

v. Duty to provide information. The permittee shall furnish to the Agency within a reasonable time specified by the Agency any information that the Agency may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Agency copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to USEPA along with a claim of confidentiality.

vi. Duty to pay fees. The permittee must pay fees to the Agency consistent with the fee schedule approved pursuant to subsection 18 of this Section, and submit any information relevant thereto.

vii. Emissions trading. No permit revision shall be required for increases in emissions allowed under any approved economic incentives, marketable permits, emissions trading, and other similar programs or processes for changes that are provided for in the permit and that are authorized by the applicable requirement.

p. Each CAAPP permit issued under subsection 10 of this Section shall contain the following elements with respect to compliance:

i. Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a CAAPP permit shall contain a certification by a responsible official that meets the requirements of subsection 5 of this Section and applicable regulations.

ii. Inspection and entry requirements that necessitate that, upon presentation of credentials and other documents as may be required by law and in accordance with constitutional limitations, the permittee shall allow the Agency, or an authorized representative to perform the following:

A. Enter upon the permittee's premises where a CAAPP source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit.

B. Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit.

C. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.

D. Sample or monitor any substances or parameters at any location:

1. As authorized by the Clean Air Act, at reasonable times, for the purposes of assuring compliance with the CAAPP permit or applicable requirements; or

2. As otherwise authorized by this Act.

iii. A schedule of compliance consistent with subsection 5 of this Section and applicable regulations.

iv. Progress reports consistent with an applicable schedule of compliance pursuant to paragraph 5(d) of this Section and applicable regulations to be submitted semiannually, or more frequently if the Agency determines that such more frequent submittals are necessary for compliance with the Act or regulations promulgated by the Board thereunder. Such progress reports shall contain the following:

A. Required dates for achieving the activities, milestones, or compliance required by the schedule of compliance and dates when such activities, milestones or compliance were achieved.

B. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

v. Requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

A. The frequency (annually or more frequently as specified in any applicable requirement or by the Agency pursuant to written procedures) of submissions of compliance certifications.

B. A means for assessing or monitoring

the compliance of the source with its emissions limitations, standards, and work practices.

C. A requirement that the compliance certification include the following:

1. The identification of each term or condition contained in the permit that is the basis of the certification.

2. The compliance status.

3. Whether compliance was continuous or intermittent.

4. The method(s) used for determining the compliance status of the source, both currently and over the reporting period consistent with subsection 7 of Section 39.5 of the Act.

D. A requirement that all compliance certifications be submitted to USEPA as well as to the Agency.

E. Additional requirements as may be specified pursuant to Sections 114(a)(3) and 504(b) of the Clean Air Act.

F. Other provisions as the Agency may require.

q. If the owner or operator of CAAPP source can demonstrate in its CAAPP application, including an application for a significant modification, that an alternative emission limit would be equivalent to that contained in the applicable Board regulations, the Agency shall include the alternative emission limit in the CAAPP permit, which shall supersede the emission limit set forth in the applicable Board regulations, and shall include conditions that insure that the resulting emission limit is quantifiable, accountable, enforceable, and based on replicable procedures.

8. Public Notice; Affected State Review.

a. The Agency shall provide notice to the public, including an opportunity for public comment and a hearing, on each draft CAAPP permit for issuance, renewal or significant modification, subject to Sections 7(a) and 7.1 of this Act.

b. The Agency shall prepare a draft CAAPP permit and a statement that sets forth the legal and factual basis for the draft CAAPP permit conditions, including references to the applicable statutory or regulatory provisions. The Agency shall provide this statement to any person who requests it.

c. The Agency shall give notice of each draft CAAPP permit to the applicant and to any affected State on or before the time that the Agency has provided notice to the public, except as otherwise provided in this Act.

d. The Agency, as part of its submittal of a proposed permit to USEPA (or as soon as possible after the submittal for minor permit modification procedures allowed under subsection 14 of this Section), shall notify USEPA and any affected State in writing of any refusal of the Agency to accept all of the recommendations for the proposed permit that an affected State submitted during the public or affected State review period. The notice shall include the Agency's reasons for not accepting the recommendations. The Agency is not required to accept recommendations that are not based on applicable requirements or the requirements of this Section.

e. The Agency shall make available to the public any CAAPP permit application, compliance plan (including the schedule of compliance), CAAPP permit, and emissions or compliance monitoring report. If an owner or operator of a CAAPP source is required to submit information

entitled to protection from disclosure under Section 7(a) or Section 7.1 of this Act, the owner or operator shall submit such information separately. The requirements of Section 7(a) or Section 7.1 of this Act shall apply to such information, which shall not be included in a CAAPP permit unless required by law. The contents of a CAAPP permit shall not be entitled to protection under Section 7(a) or Section 7.1 of this Act.

f. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

9. USEPA Notice and Objection.

a. The Agency shall provide to USEPA for its review a copy of each CAAPP application (including any application for permit modification), statement of basis as provided in paragraph 8(b) of this Section, proposed CAAPP permit, CAAPP permit, and, if the Agency does not incorporate any affected State's recommendations on a proposed CAAPP permit, a written statement of this decision and its reasons for not accepting the recommendations, except as otherwise provided in this Act or by agreement with USEPA. To the extent practicable, the preceding information shall be provided in computer readable format compatible with USEPA's national database management system.

b. The Agency shall not issue the proposed CAAPP permit if USEPA objects in writing within 45 days of receipt of the proposed CAAPP permit and all necessary supporting information.

c. If USEPA objects in writing to the issuance of the proposed CAAPP permit within the 45-day period, the Agency shall respond in writing and may revise and resubmit the proposed CAAPP permit in response to the

stated objection, to the extent supported by the record, within 90 days after the date of the objection. Prior to submitting a revised permit to USEPA, the Agency shall provide the applicant and any person who participated in the public comment process, pursuant to subsection 8 of this Section, with a 10-day period to comment on any revision which the Agency is proposing to make to the permit in response to USEPA's objection in accordance with Agency procedures.

d. Any USEPA objection under this subsection, according to the Clean Air Act, will include a statement of reasons for the objection and a description of the terms and conditions that must be in the permit, in order to adequately respond to the objections. Grounds for a USEPA objection include the failure of the Agency to: (1) submit the items and notices required under this subsection; (2) submit any other information necessary to adequately review the proposed CAAPP permit; or (3) process the permit under subsection 8 of this Section except for minor permit modifications.

e. If USEPA does not object in writing to issuance of a permit under this subsection, any person may petition USEPA within 60 days after expiration of the 45-day review period to make such objection.

f. If the permit has not yet been issued and USEPA objects to the permit as a result of a petition, the Agency shall not issue the permit until USEPA's objection has been resolved. The Agency shall provide a 10-day comment period in accordance with paragraph c of this subsection. A petition does not, however, stay the effectiveness of a permit or its requirements if the permit was issued after expiration of the 45-day review period and prior to a USEPA objection.

g. If the Agency has issued a permit after

expiration of the 45-day review period and prior to receipt of a USEPA objection under this subsection in response to a petition submitted pursuant to paragraph e of this subsection, the Agency may, upon receipt of an objection from USEPA, revise and resubmit the permit to USEPA pursuant to this subsection after providing a 10-day comment period in accordance with paragraph c of this subsection. If the Agency fails to submit a revised permit in response to the objection, USEPA shall modify, terminate or revoke the permit. In any case, the source will not be in violation of the requirement to have submitted a timely and complete application.

h. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

10. Final Agency Action.

a. The Agency shall issue a CAAPP permit, permit modification, or permit renewal if all of the following conditions are met:

i. The applicant has submitted a complete and certified application for a permit, permit modification, or permit renewal consistent with subsections 5 and 14 of this Section, as applicable, and applicable regulations.

ii. The applicant has submitted with its complete application an approvable compliance plan, including a schedule for achieving compliance, consistent with subsection 5 of this Section and applicable regulations.

iii. The applicant has timely paid the fees required pursuant to subsection 18 of this Section and applicable regulations.

iv. The Agency has received a complete CAAPP

application and, if necessary, has requested and received additional information from the applicant consistent with subsection 5 of this Section and applicable regulations.

v. The Agency has complied with all applicable provisions regarding public notice and affected State review consistent with subsection 8 of this Section and applicable regulations.

vi. The Agency has provided a copy of each CAAPP application, or summary thereof, pursuant to agreement with USEPA and proposed CAAPP permit required under subsection 9 of this Section to USEPA, and USEPA has not objected to the issuance of the permit in accordance with the Clean Air Act and 40 CFR Part 70.

b. The Agency shall have the authority to deny a CAAPP permit, permit modification, or permit renewal if the applicant has not complied with the requirements of paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA objects to its issuance.

c. i. Prior to denial of a CAAPP permit, permit modification, or permit renewal under this Section, the Agency shall notify the applicant of the possible denial and the reasons for the denial.

ii. Within such notice, the Agency shall specify an appropriate date by which the applicant shall adequately respond to the Agency's notice. Such date shall not exceed 15 days from the date the notification is received by the applicant. The Agency may grant a reasonable extension for good cause shown.

iii. Failure by the applicant to adequately respond by the date specified in the notification or by any granted extension date shall be grounds for

denial of the permit.

For purposes of obtaining judicial review under Sections 40.2 and 41 of this Act, the Agency shall provide to USEPA and each applicant, and, upon request, to affected States, any person who participated in the public comment process, and any other person who could obtain judicial review under Sections 40.2 and 41 of this Act, a copy of each CAAPP permit or notification of denial pertaining to that party.

d. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

11. General Permits.

a. The Agency may issue a general permit covering numerous similar sources, except for affected sources for acid deposition unless otherwise provided in regulations promulgated under Title IV of the Clean Air Act.

b. The Agency shall identify, in any general permit, criteria by which sources may qualify for the general permit.

c. CAAPP sources that would qualify for a general permit must apply for coverage under the terms of the general permit or must apply for a CAAPP permit consistent with subsection 5 of this Section and applicable regulations.

d. The Agency shall comply with the public comment and hearing provisions of this Section as well as the USEPA and affected State review procedures prior to issuance of a general permit.

e. When granting a subsequent request by a qualifying CAAPP source for coverage under the terms of a general permit, the Agency shall not be required to

repeat the public notice and comment procedures. The granting of such request shall not be considered a final permit action for purposes of judicial review.

f. The Agency may not issue a general permit to cover any discrete emission unit at a CAAPP source if another CAAPP permit covers emission units at the source.

g. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

12. Operational Flexibility.

a. An owner or operator of a CAAPP source may make changes at the CAAPP source without requiring a prior permit revision, consistent with subparagraphs (a) (i) through (a) (iii) of this subsection, so long as the changes are not modifications under any provision of Title I of the Clean Air Act and they do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions), provided that the owner or operator of the CAAPP source provides USEPA and the Agency with written notification as required below in advance of the proposed changes, which shall be a minimum of 7 days, unless otherwise provided by the Agency in applicable regulations regarding emergencies. The owner or operator of a CAAPP source and the Agency shall each attach such notice to their copy of the relevant permit.

i. An owner or operator of a CAAPP source may make Section 502 (b) (10) changes without a permit revision, if the changes are not modifications under any provision of Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

A. For each such change, the written notification required above shall include a brief description of the change within the source, the date on which the change will occur, any change in emissions, and any permit term or condition that is no longer applicable as a result of the change.

B. The permit shield described in paragraph 7(j) of this Section shall not apply to any change made pursuant to this subparagraph.

ii. An owner or operator of a CAAPP source may trade increases and decreases in emissions in the CAAPP source, where the applicable implementation plan provides for such emission trades without requiring a permit revision. This provision is available in those cases where the permit does not already provide for such emissions trading.

A. Under this subparagraph (a)(ii), the written notification required above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum, when the proposed changes will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions in the applicable implementation plan with which the source will comply and provide for the emissions trade.

B. The permit shield described in paragraph 7(j) of this Section shall not apply to any change made pursuant to this subparagraph (a) (ii). Compliance with the permit requirements that the source will meet using the emissions trade shall be determined according to the requirements of the applicable implementation plan authorizing the emissions trade.

iii. If requested within a CAAPP application, the Agency shall issue a CAAPP permit which contains terms and conditions, including all terms required under subsection 7 of this Section to determine compliance, allowing for the trading of emissions increases and decreases at the CAAPP source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The owner or operator of a CAAPP source shall include in its CAAPP application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The permit shall also require compliance with all applicable requirements.

A. Under this subparagraph (a)(iii), the written notification required above shall state when the change will occur and shall describe the changes in emissions that will result and how these increases and decreases in emissions will comply with the terms and conditions of the permit.

B. The permit shield described in paragraph 7(j) of this Section shall extend to terms and conditions that allow such increases

and decreases in emissions.

b. An owner or operator of a CAAPP source may make changes that are not addressed or prohibited by the permit, other than those which are subject to any requirements under Title IV of the Clean Air Act or are modifications under any provisions of Title I of the Clean Air Act, without a permit revision, in accordance with the following requirements:

(i) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition;

(ii) Sources must provide contemporaneous written notice to the Agency and USEPA of each such change, except for changes that qualify as insignificant under provisions adopted by the Agency or the Board. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change;

(iii) The change shall not qualify for the shield described in paragraph 7(j) of this Section; and

(iv) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable Clean Air Act requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

c. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary to implement this subsection.

13. Administrative Permit Amendments.

a. The Agency shall take final action on a request for an administrative permit amendment within 60 days of receipt of the request. Neither notice nor an opportunity for public and affected State comment shall be required for the Agency to incorporate such revisions, provided it designates the permit revisions as having been made pursuant to this subsection.

b. The Agency shall submit a copy of the revised permit to USEPA.

c. For purposes of this Section the term "administrative permit amendment" shall be defined as a permit revision that can accomplish one or more of the changes described below:

i. Corrects typographical errors;

ii. Identifies a change in the name, address, or phone number of any person identified in the permit, or provides a similar minor administrative change at the source;

iii. Requires more frequent monitoring or reporting by the permittee;

iv. Allows for a change in ownership or operational control of a source where the Agency determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the Agency;

v. Incorporates into the CAAPP permit the requirements from preconstruction review permits authorized under a USEPA-approved program, provided the program meets procedural and compliance requirements substantially equivalent to those contained in this Section;

vi. (Blank); or

vii. Any other type of change which USEPA has determined as part of the approved CAAPP permit program to be similar to those included in this subsection.

d. The Agency shall, upon taking final action granting a request for an administrative permit amendment, allow coverage by the permit shield in paragraph 7(j) of this Section for administrative permit amendments made pursuant to subparagraph (c)(v) of this subsection which meet the relevant requirements for significant permit modifications.

e. Permit revisions and modifications, including administrative amendments and automatic amendments (pursuant to Sections 408(b) and 403(d) of the Clean Air Act or regulations promulgated thereunder), for purposes of the acid rain portion of the permit shall be governed by the regulations promulgated under Title IV of the Clean Air Act. Owners or operators of affected sources for acid deposition shall have the flexibility to amend their compliance plans as provided in the regulations promulgated under Title IV of the Clean Air Act.

f. The CAAPP source may implement the changes addressed in the request for an administrative permit amendment immediately upon submittal of the request.

g. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

14. Permit Modifications.

a. Minor permit modification procedures.

i. The Agency shall review a permit modification using the "minor permit" modification procedures only for those permit modifications that:

A. Do not violate any applicable requirement;

B. Do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit;

C. Do not require a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or a visibility or increment analysis;

D. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying requirement and which avoids an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

1. A federally enforceable emissions cap assumed to avoid classification as a modification under any provision of Title I of the Clean Air Act; and

2. An alternative emissions limit approved pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act;

E. Are not modifications under any provision of Title I of the Clean Air Act; and

F. Are not required to be processed as a significant modification.

ii. Notwithstanding subparagraphs (a)(i) and (b)(ii) of this subsection, minor permit modification procedures may be used for permit modifications involving the use of economic incentives, marketable permits, emissions trading, and other similar approaches, to the extent that

such minor permit modification procedures are explicitly provided for in an applicable implementation plan or in applicable requirements promulgated by USEPA.

iii. An applicant requesting the use of minor permit modification procedures shall meet the requirements of subsection 5 of this Section and shall include the following in its application:

A. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs;

B. The source's suggested draft permit;

C. Certification by a responsible official, consistent with paragraph 5(e) of this Section and applicable regulations, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

D. Completed forms for the Agency to use to notify USEPA and affected States as required under subsections 8 and 9 of this Section.

iv. Within 5 working days of receipt of a complete permit modification application, the Agency shall notify USEPA and affected States of the requested permit modification in accordance with subsections 8 and 9 of this Section. The Agency promptly shall send any notice required under paragraph 8(d) of this Section to USEPA.

v. The Agency may not issue a final permit modification until after the 45-day review period for USEPA or until USEPA has notified the Agency that USEPA will not object to the issuance of the permit modification, whichever comes first, although

the Agency can approve the permit modification prior to that time. Within 90 days of the Agency's receipt of an application under the minor permit modification procedures or 15 days after the end of USEPA's 45-day review period under subsection 9 of this Section, whichever is later, the Agency shall:

A. Issue the permit modification as proposed;

B. Deny the permit modification application;

C. Determine that the requested modification does not meet the minor permit modification criteria and should be reviewed under the significant modification procedures; or

D. Revise the draft permit modification and transmit to USEPA the new proposed permit modification as required by subsection 9 of this Section.

vi. Any CAAPP source may make the change proposed in its minor permit modification application immediately after it files such application. After the CAAPP source makes the change allowed by the preceding sentence, and until the Agency takes any of the actions specified in subparagraphs (a)(v)(A) through (a)(v)(C) of this subsection, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. If the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and

conditions which it seeks to modify may be enforced against it.

vii. The permit shield under subparagraph 7(j) of this Section may not extend to minor permit modifications.

viii. If a construction permit is required, pursuant to Section 39(a) of this Act and regulations thereunder, for a change for which the minor permit modification procedures are applicable, the source may request that the processing of the construction permit application be consolidated with the processing of the application for the minor permit modification. In such cases, the provisions of this Section, including those within subsections 5, 8, and 9, shall apply and the Agency shall act on such applications pursuant to subparagraph 14(a)(v). The source may make the proposed change immediately after filing its application for the minor permit modification. Nothing in this subparagraph shall otherwise affect the requirements and procedures applicable to construction permits.

b. Group Processing of Minor Permit Modifications.

i. Where requested by an applicant within its application, the Agency shall process groups of a source's applications for certain modifications eligible for minor permit modification processing in accordance with the provisions of this paragraph (b).

ii. Permit modifications may be processed in accordance with the procedures for group processing, for those modifications:

A. Which meet the criteria for minor permit modification procedures under subparagraph 14(a)(i) of this Section; and

B. That collectively are below 10 percent of the emissions allowed by the permit for the emissions unit for which change is requested, 20 percent of the applicable definition of major source set forth in subsection 2 of this Section, or 5 tons per year, whichever is least.

iii. An applicant requesting the use of group processing procedures shall meet the requirements of subsection 5 of this Section and shall include the following in its application:

A. A description of the change, the emissions resulting from the change, and any new applicable requirements that will apply if the change occurs.

B. The source's suggested draft permit.

C. Certification by a responsible official consistent with paragraph 5(e) of this Section, that the proposed modification meets the criteria for use of group processing procedures and a request that such procedures be used.

D. A list of the source's other pending applications awaiting group processing, and a determination of whether the requested modification, aggregated with these other applications, equals or exceeds the threshold set under subparagraph (b)(ii)(B) of this subsection.

E. Certification, consistent with paragraph 5(e), that the source has notified USEPA of the proposed modification. Such notification need only contain a brief description of the requested modification.

F. Completed forms for the Agency to use to notify USEPA and affected states as required under subsections 8 and 9 of this Section.

iv. On a quarterly basis or within 5 business days of receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set forth within subparagraph (b)(ii)(B) of this subsection, whichever is earlier, the Agency shall promptly notify USEPA and affected States of the requested permit modifications in accordance with subsections 8 and 9 of this Section. The Agency shall send any notice required under paragraph 8(d) of this Section to USEPA.

v. The provisions of subparagraph (a)(v) of this subsection shall apply to modifications eligible for group processing, except that the Agency shall take one of the actions specified in subparagraphs (a)(v)(A) through (a)(v)(D) of this subsection within 180 days of receipt of the application or 15 days after the end of USEPA's 45-day review period under subsection 9 of this Section, whichever is later.

vi. The provisions of subparagraph (a)(vi) of this subsection shall apply to modifications for group processing.

vii. The provisions of paragraph 7(j) of this Section shall not apply to modifications eligible for group processing.

c. Significant Permit Modifications.

i. Significant modification procedures shall be used for applications requesting significant permit modifications and for those applications that do not qualify as either minor permit modifications

or as administrative permit amendments.

ii. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping requirements shall be considered significant. A modification shall also be considered significant if in the judgment of the Agency action on an application for modification would require decisions to be made on technically complex issues. Nothing herein shall be construed to preclude the permittee from making changes consistent with this Section that would render existing permit compliance terms and conditions irrelevant.

iii. Significant permit modifications must meet all the requirements of this Section, including those for applications (including completeness review), public participation, review by affected States, and review by USEPA applicable to initial permit issuance and permit renewal. The Agency shall take final action on significant permit modifications within 9 months after receipt of a complete application.

d. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

15. Reopenings for Cause by the Agency.

a. Each issued CAAPP permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. Such revisions shall be made as expeditiously as practicable. A CAAPP permit shall be reopened and revised under any of the following circumstances, in accordance with procedures adopted by the Agency:

i. Additional requirements under the Clean Air Act become applicable to a major CAAPP source for which 3 or more years remain on the original term of the permit. Such a reopening shall be completed not later than 18 months after the promulgation of the applicable requirement. No such revision is required if the effective date of the requirement is later than the date on which the permit is due to expire.

ii. Additional requirements (including excess emissions requirements) become applicable to an affected source for acid deposition under the acid rain program. Excess emissions offset plans shall be deemed to be incorporated into the permit upon approval by USEPA.

iii. The Agency or USEPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

iv. The Agency or USEPA determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

b. In the event that the Agency determines that there are grounds for revoking a CAAPP permit, for cause, consistent with paragraph a of this subsection, it shall file a petition before the Board setting forth the basis for such revocation. In any such proceeding, the Agency shall have the burden of establishing that the permit should be revoked under the standards set forth in this Act and the Clean Air Act. Any such proceeding shall be conducted pursuant to the Board's procedures for adjudicatory hearings and the Board shall render its decision within 120 days of the filing of the petition.

The Agency shall take final action to revoke and reissue a CAAPP permit consistent with the Board's order.

c. Proceedings regarding a reopened CAAPP permit shall follow the same procedures as apply to initial permit issuance and shall affect only those parts of the permit for which cause to reopen exists.

d. Reopenings under paragraph (a) of this subsection shall not be initiated before a notice of such intent is provided to the CAAPP source by the Agency at least 30 days in advance of the date that the permit is to be reopened, except that the Agency may provide a shorter time period in the case of an emergency.

e. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

16. Reopenings for Cause by USEPA.

a. When USEPA finds that cause exists to terminate, modify, or revoke and reissue a CAAPP permit pursuant to subsection 15 of this Section, and thereafter notifies the Agency and the permittee of such finding in writing, the Agency shall forward to USEPA and the permittee a proposed determination of termination, modification, or revocation and reissuance as appropriate, in accordance with paragraph b of this subsection. The Agency's proposed determination shall be in accordance with the record, the Clean Air Act, regulations promulgated thereunder, this Act and regulations promulgated thereunder. Such proposed determination shall not affect the permit or constitute a final permit action for purposes of this Act or the Administrative Review Law. The Agency shall forward to USEPA such proposed determination within 90 days after receipt of the notification from USEPA. If additional time is necessary

to submit the proposed determination, the Agency shall request a 90-day extension from USEPA and shall submit the proposed determination within 180 days of receipt of notification from USEPA.

b. i. Prior to the Agency's submittal to USEPA of a proposed determination to terminate or revoke and reissue the permit, the Agency shall file a petition before the Board setting forth USEPA's objection, the permit record, the Agency's proposed determination, and the justification for its proposed determination. The Board shall conduct a hearing pursuant to the rules prescribed by Section 32 of this Act, and the burden of proof shall be on the Agency.

ii. After due consideration of the written and oral statements, the testimony and arguments that shall be submitted at hearing, the Board shall issue and enter an interim order for the proposed determination, which shall set forth all changes, if any, required in the Agency's proposed determination. The interim order shall comply with the requirements for final orders as set forth in Section 33 of this Act. Issuance of an interim order by the Board under this paragraph, however, shall not affect the permit status and does not constitute a final action for purposes of this Act or the Administrative Review Law.

iii. The Board shall cause a copy of its interim order to be served upon all parties to the proceeding as well as upon USEPA. The Agency shall submit the proposed determination to USEPA in accordance with the Board's Interim Order within 180 days after receipt of the notification from USEPA.

c. USEPA shall review the proposed determination to

terminate, modify, or revoke and reissue the permit within 90 days of receipt.

i. When USEPA reviews the proposed determination to terminate or revoke and reissue and does not object, the Board shall, within 7 days of receipt of USEPA's final approval, enter the interim order as a final order. The final order may be appealed as provided by Title XI of this Act. The Agency shall take final action in accordance with the Board's final order.

ii. When USEPA reviews such proposed determination to terminate or revoke and reissue and objects, the Agency shall submit USEPA's objection and the Agency's comments and recommendation on the objection to the Board and permittee. The Board shall review its interim order in response to USEPA's objection and the Agency's comments and recommendation and issue a final order in accordance with Sections 32 and 33 of this Act. The Agency shall, within 90 days after receipt of such objection, respond to USEPA's objection in accordance with the Board's final order.

iii. When USEPA reviews such proposed determination to modify and objects, the Agency shall, within 90 days after receipt of the objection, resolve the objection and modify the permit in accordance with USEPA's objection, based upon the record, the Clean Air Act, regulations promulgated thereunder, this Act, and regulations promulgated thereunder.

d. If the Agency fails to submit the proposed determination pursuant to paragraph a of this subsection or fails to resolve any USEPA objection pursuant to paragraph c of this subsection, USEPA will terminate,

modify, or revoke and reissue the permit.

e. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

17. Title IV; Acid Rain Provisions.

a. The Agency shall act on initial CAAPP applications for affected sources for acid deposition in accordance with this Section and Title V of the Clean Air Act and regulations promulgated thereunder, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder. The Agency shall issue initial CAAPP permits to the affected sources for acid deposition which shall become effective no earlier than January 1, 1995, and which shall terminate on December 31, 1999, in accordance with this Section. Subsequent CAAPP permits issued to affected sources for acid deposition shall be issued for a fixed term of 5 years. Title IV of the Clean Air Act and regulations promulgated thereunder, including but not limited to 40 C.F.R. Part 72, as now or hereafter amended, are applicable to and enforceable under this Act.

b. A designated representative of an affected source for acid deposition shall submit a timely and complete Phase II acid rain permit application and compliance plan to the Agency, not later than January 1, 1996, that meets the requirements of Titles IV and V of the Clean Air Act and regulations. The Agency shall act on the Phase II acid rain permit application and compliance plan in accordance with this Section and Title V of the Clean Air Act and regulations promulgated thereunder, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder. The Agency shall issue the Phase II acid rain permit to an

affected source for acid deposition no later than December 31, 1997, which shall become effective on January 1, 2000, in accordance with this Section, except as modified by Title IV and regulations promulgated thereunder; provided that the designated representative of the source submitted a timely and complete Phase II permit application and compliance plan to the Agency that meets the requirements of Title IV and V of the Clean Air Act and regulations.

c. Each Phase II acid rain permit issued in accordance with this subsection shall have a fixed term of 5 years. Except as provided in paragraph b above, the Agency shall issue or deny a Phase II acid rain permit within 18 months of receiving a complete Phase II permit application and compliance plan.

d. A designated representative of a new unit, as defined in Section 402 of the Clean Air Act, shall submit a timely and complete Phase II acid rain permit application and compliance plan that meets the requirements of Titles IV and V of the Clean Air Act and its regulations. The Agency shall act on the new unit's Phase II acid rain permit application and compliance plan in accordance with this Section and Title V of the Clean Air Act and its regulations, except as modified by Title IV of the Clean Air Act and its regulations. The Agency shall reopen the new unit's CAAPP permit for cause to incorporate the approved Phase II acid rain permit in accordance with this Section. The Phase II acid rain permit for the new unit shall become effective no later than the date required under Title IV of the Clean Air Act and its regulations.

e. A designated representative of an affected source for acid deposition shall submit a timely and complete Title IV NOx permit application to the Agency,

not later than January 1, 1998, that meets the requirements of Titles IV and V of the Clean Air Act and its regulations. The Agency shall reopen the Phase II acid rain permit for cause and incorporate the approved NOx provisions into the Phase II acid rain permit not later than January 1, 1999, in accordance with this Section, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder. Such reopening shall not affect the term of the Phase II acid rain permit.

f. The designated representative of the affected source for acid deposition shall renew the initial CAAPP permit and Phase II acid rain permit in accordance with this Section and Title V of the Clean Air Act and regulations promulgated thereunder, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder.

g. In the case of an affected source for acid deposition for which a complete Phase II acid rain permit application and compliance plan are timely received under this subsection, the complete permit application and compliance plan, including amendments thereto, shall be binding on the owner, operator and designated representative, all affected units for acid deposition at the affected source, and any other unit, as defined in Section 402 of the Clean Air Act, governed by the Phase II acid rain permit application and shall be enforceable as an acid rain permit for purposes of Titles IV and V of the Clean Air Act, from the date of submission of the acid rain permit application until a Phase II acid rain permit is issued or denied by the Agency.

h. The Agency shall not include or implement any measure which would interfere with or modify the requirements of Title IV of the Clean Air Act or

regulations promulgated thereunder.

i. Nothing in this Section shall be construed as affecting allowances or USEPA's decision regarding an excess emissions offset plan, as set forth in Title IV of the Clean Air Act or regulations promulgated thereunder.

i. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

ii. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

iii. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.

j. To the extent that the federal regulations promulgated under Title IV, including but not limited to 40 C.F.R. Part 72, as now or hereafter amended, are inconsistent with the federal regulations promulgated under Title V, the federal regulations promulgated under Title IV shall take precedence.

k. The USEPA may intervene as a matter of right in any permit appeal involving a Phase II acid rain permit provision or denial of a Phase II acid rain permit.

l. It is unlawful for any owner or operator to violate any terms or conditions of a Phase II acid rain permit issued under this subsection, to operate any affected source for acid deposition except in compliance with a Phase II acid rain permit issued by the Agency under this subsection, or to violate any other applicable

requirements.

m. The designated representative of an affected source for acid deposition shall submit to the Agency the data and information submitted quarterly to USEPA, pursuant to 40 CFR 75.64, concurrently with the submission to USEPA. The submission shall be in the same electronic format as specified by USEPA.

n. The Agency shall act on any petition for exemption of a new unit or retired unit, as those terms are defined in Section 402 of the Clean Air Act, from the requirements of the acid rain program in accordance with Title IV of the Clean Air Act and its regulations.

o. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary to implement this subsection.

18. Fee Provisions.

a. For each 12 month period after the date on which the USEPA approves or conditionally approves the CAAPP, but in no event prior to January 1, 1994, a source subject to this Section or excluded under subsection 1.1 or paragraph 3(c) of this Section, shall pay a fee as provided in this part (a) of this subsection 18. However, a source that has been excluded from the provisions of this Section under subsection 1.1 or paragraph 3(c) of this Section because the source emits less than 25 tons per year of any combination of regulated air pollutants shall pay fees in accordance with paragraph (1) of subsection (b) of Section 9.6.

i. The fee for a source allowed to emit less than 100 tons per year of any combination of regulated air pollutants shall be $1,800 ~~$1,000~~ per year.

ii. The fee for a source allowed to emit 100

tons or more per year of any combination of regulated air pollutants, except for those regulated air pollutants excluded in paragraph 18(f) of this subsection, shall be as follows:

A. The Agency shall assess an annual fee of $18.00 ~~$13.50~~ per ton for the allowable emissions of all regulated air pollutants at that source during the term of the permit. These fees shall be used by the Agency and the Board to fund the activities required by Title V of the Clean Air Act including such activities as may be carried out by other State or local agencies pursuant to paragraph (d) of this subsection. The amount of such fee shall be based on the information supplied by the applicant in its complete CAAPP permit application or in the CAAPP permit if the permit has been granted and shall be determined by the amount of emissions that the source is allowed to emit annually, provided however, that no source shall be required to pay an annual fee in excess of $250,000 ~~$100,000~~. The Agency shall provide as part of the permit application form required under subsection 5 of this Section a separate fee calculation form which will allow the applicant to identify the allowable emissions and calculate the fee for the term of the permit. In no event shall the Agency raise the amount of allowable emissions requested by the applicant unless such increases are required to demonstrate compliance with terms of a CAAPP permit.

Notwithstanding the above, any applicant may seek a change in its permit which would

result in increases in allowable emissions due to an increase in the hours of operation or production rates of an emission unit or units and such a change shall be consistent with the construction permit requirements of the existing State permit program, under Section 39(a) of this Act and applicable provisions of this Section. Where a construction permit is required, the Agency shall expeditiously grant such construction permit and shall, if necessary, modify the CAAPP permit based on the same application.

B. The applicant or permittee may pay the fee annually or semiannually for those fees greater than $5,000. However, any applicant paying a fee equal to or greater than $100,000 shall pay the full amount on July 1, for the subsequent fiscal year, or pay 50% of the fee on July 1 and the remaining 50% by the next January 1. The Agency may change any annual billing date upon reasonable notice, but shall prorate the new bill so that the permittee or applicant does not pay more than its required fees for the fee period for which payment is made.

b. (Blank).

c. (Blank). ~~There shall be created a CAA Fee Panel of 5 persons. The Panel shall:~~

~~i. If it deems necessary on an annual basis, render advisory opinions to the Agency and the General Assembly regarding the appropriate level of Title V Clean Air Act fees for the next fiscal year. Such advisory opinions shall be based on a study of the operations of the Agency and any other entity~~

requesting appropriations from the CAA Permit Fund. This study shall recommend changes in the fee structure, if warranted. The study will be based on the ability of the Agency or other entity to effectively utilize the funds generated as well as the entity's conformance with the objectives and measurable benchmarks identified by the Agency as justification for the prior year's fee. Such advisory opinions shall be submitted to the appropriation committees no later than April 15th of each year.

ii. Not be compensated for their services, but shall receive reimbursement for their expenses.

iii. Be appointed as follows: 4 members by the Director of the Agency from a list of no more than 8 persons, submitted by representatives of associations who represent facilities subject to the provisions of this subsection and the Director of the Agency or designee.

d. There is hereby created in the State Treasury a special fund to be known as the "CAA Permit Fund". All Funds collected by the Agency pursuant to this subsection shall be deposited into the Fund. The General Assembly shall appropriate monies from this Fund to the Agency and to the Board to carry out their obligations under this Section. The General Assembly may also authorize monies to be granted by the Agency from this Fund to other State and local agencies which perform duties related to the CAAPP. Interest generated on the monies deposited in this Fund shall be returned to the Fund. The General Assembly may appropriate up to the sum of $25,000 to the Agency from the CAA Permit Fund for use by the Panel in carrying out its responsibilities under this subsection.

e. The Agency shall have the authority to adopt

procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary to implement this subsection.

f. For purposes of this subsection, the term "regulated air pollutant" shall have the meaning given to it under subsection 1 of this Section but shall exclude the following:

i. carbon monoxide;

ii. any Class I or II substance which is a regulated air pollutant solely because it is listed pursuant to Section 602 of the Clean Air Act; and

iii. any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Clean Air Act based on the emissions allowed in the permit effective in that calendar year, at the time the applicable bill is generated.

19. Air Toxics Provisions.

a. In the event that the USEPA fails to promulgate in a timely manner a standard pursuant to Section 112(d) of the Clean Air Act, the Agency shall have the authority to issue permits, pursuant to Section 112(j) of the Clean Air Act and regulations promulgated thereunder, which contain emission limitations which are equivalent to the emission limitations that would apply to a source if an emission standard had been promulgated in a timely manner by USEPA pursuant to Section 112(d). Provided, however, that the owner or operator of a source shall have the opportunity to submit to the Agency a proposed emission limitation which it determines to be equivalent to the emission limitations that would apply to such source if an emission standard had been promulgated in a timely manner by USEPA. If the Agency refuses to include the emission limitation proposed by the owner or operator in

a CAAPP permit, the owner or operator may petition the Board to establish whether the emission limitation proposal submitted by the owner or operator provides for emission limitations which are equivalent to the emission limitations that would apply to the source if the emission standard had been promulgated by USEPA in a timely manner. The Board shall determine whether the emission limitation proposed by the owner or operator or an alternative emission limitation proposed by the Agency provides for the level of control required under Section 112 of the Clean Air Act, or shall otherwise establish an appropriate emission limitation, pursuant to Section 112 of the Clean Air Act.

b. Any Board proceeding brought under paragraph (a) or (e) of this subsection shall be conducted according to the Board's procedures for adjudicatory hearings and the Board shall render its decision within 120 days of the filing of the petition. Any such decision shall be subject to review pursuant to Section 41 of this Act. Where USEPA promulgates an applicable emission standard prior to the issuance of the CAAPP permit, the Agency shall include in the permit the promulgated standard, provided that the source shall have the compliance period provided under Section 112(i) of the Clean Air Act. Where USEPA promulgates an applicable standard subsequent to the issuance of the CAAPP permit, the Agency shall revise such permit upon the next renewal to reflect the promulgated standard, providing a reasonable time for the applicable source to comply with the standard, but no longer than 8 years after the date on which the source is first required to comply with the emissions limitation established under this subsection.

c. The Agency shall have the authority to implement and enforce complete or partial emission standards

promulgated by USEPA pursuant to Section 112(d), and standards promulgated by USEPA pursuant to Sections 112(f), 112(h), 112(m), and 112(n), and may accept delegation of authority from USEPA to implement and enforce Section 112(l) and requirements for the prevention and detection of accidental releases pursuant to Section 112(r) of the Clean Air Act.

d. The Agency shall have the authority to issue permits pursuant to Section 112(i)(5) of the Clean Air Act.

e. The Agency has the authority to implement Section 112(g) of the Clean Air Act consistent with the Clean Air Act and federal regulations promulgated thereunder. If the Agency refuses to include the emission limitations proposed in an application submitted by an owner or operator for a case-by-case maximum achievable control technology (MACT) determination, the owner or operator may petition the Board to determine whether the emission limitation proposed by the owner or operator or an alternative emission limitation proposed by the Agency provides for a level of control required by Section 112 of the Clean Air Act, or to otherwise establish an appropriate emission limitation under Section 112 of the Clean Air Act.

20. Small Business.

a. For purposes of this subsection:

"Program" is the Small Business Stationary Source Technical and Environmental Compliance Assistance Program created within this State pursuant to Section 507 of the Clean Air Act and guidance promulgated thereunder, to provide technical assistance and compliance information to small business stationary sources;

"Small Business Assistance Program" is a component of the Program responsible for providing sufficient

communications with small businesses through the collection and dissemination of information to small business stationary sources; and

"Small Business Stationary Source" means a stationary source that:

1. is owned or operated by a person that employs 100 or fewer individuals;

2. is a small business concern as defined in the "Small Business Act";

3. is not a major source as that term is defined in subsection 2 of this Section;

4. does not emit 50 tons or more per year of any regulated air pollutant; and

5. emits less than 75 tons per year of all regulated pollutants.

b. The Agency shall adopt and submit to USEPA, after reasonable notice and opportunity for public comment, as a revision to the Illinois state implementation plan, plans for establishing the Program.

c. The Agency shall have the authority to enter into such contracts and agreements as the Agency deems necessary to carry out the purposes of this subsection.

d. The Agency may establish such procedures as it may deem necessary for the purposes of implementing and executing its responsibilities under this subsection.

e. There shall be appointed a Small Business Ombudsman (hereinafter in this subsection referred to as "Ombudsman") to monitor the Small Business Assistance Program. The Ombudsman shall be a nonpartisan designated official, with the ability to independently assess whether the goals of the Program are being met.

f. The State Ombudsman Office shall be located in an existing Ombudsman office within the State or in any State Department.

g. There is hereby created a State Compliance Advisory Panel (hereinafter in this subsection referred to as "Panel") for determining the overall effectiveness of the Small Business Assistance Program within this State.

h. The selection of Panel members shall be by the following method:

1. The Governor shall select two members who are not owners or representatives of owners of small business stationary sources to represent the general public;

2. The Director of the Agency shall select one member to represent the Agency; and

3. The State Legislature shall select four members who are owners or representatives of owners of small business stationary sources. Both the majority and minority leadership in both Houses of the Legislature shall appoint one member of the panel.

i. Panel members should serve without compensation but will receive full reimbursement for expenses including travel and per diem as authorized within this State.

j. The Panel shall select its own Chair by a majority vote. The Chair may meet and consult with the Ombudsman and the head of the Small Business Assistance Program in planning the activities for the Panel.

21. Temporary Sources.

a. The Agency may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations, except for sources which are affected sources for acid deposition under Title IV of the Clean Air Act.

b. The applicant must demonstrate that the

operation is temporary and will involve at least one change of location during the term of the permit.

c. Any such permit shall meet all applicable requirements of this Section and applicable regulations, and include conditions assuring compliance with all applicable requirements at all authorized locations and requirements that the owner or operator notify the Agency at least 10 days in advance of each change in location.

22. Solid Waste Incineration Units.

a. A CAAPP permit for a solid waste incineration unit combusting municipal waste subject to standards promulgated under Section 129(e) of the Clean Air Act shall be issued for a period of 12 years and shall be reviewed every 5 years, unless the Agency requires more frequent review through Agency procedures.

b. During the review in paragraph (a) of this subsection, the Agency shall fully review the previously submitted CAAPP permit application and corresponding reports subsequently submitted to determine whether the source is in compliance with all applicable requirements.

c. If the Agency determines that the source is not in compliance with all applicable requirements it shall revise the CAAPP permit as appropriate.

d. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems necessary, to implement this subsection.

(Source: P.A. 92-24, eff. 7-1-01.)

(415 ILCS 5/56.4) (from Ch. 111 1/2, par. 1056.4)

Sec. 56.4. <u>Medical waste manifests.</u>

(a) Manifests for potentially infectious medical waste shall consist of an original (the first page of the form) and 3 copies. Upon delivery of potentially infectious medical

waste by a generator to a transporter, the transporter shall deliver one copy of the completed manifest to the generator. Upon delivery of potentially infectious medical waste by a transporter to a treatment or disposal facility, the transporter shall keep one copy of the completed manifest, and the transporter shall deliver the original and one copy of the completed manifest to the treatment or disposal facility. The treatment or disposal facility shall keep one copy of the completed manifest and return the original to the generator within 35 days. The manifest, as provided for in this Section, shall not terminate while being transferred between the generator, transporter, transfer station, or storage facility, unless transfer activities are conducted at the treatment or disposal facility. The manifest shall terminate at the treatment or disposal facility.

(b) Potentially infectious medical waste manifests shall be in a form prescribed and provided by the Agency. Generators and transporters of potentially infectious medical waste and facilities accepting potentially infectious medical waste are not required to submit copies of such manifests to the Agency. The manifest described in this Section shall be used for the transportation of potentially infectious medical waste instead of the manifest described in Section 22.01 of this Act. Copies of each manifest shall be retained for 3 years by generators, transporters, and facilities, and shall be available for inspection and copying by the Agency.

(c) The Agency shall assess a fee of $4.00 ~~$2.00~~ for each potentially infectious medical waste manifest provided by the Agency.

(d) All fees collected by the Agency under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund. The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this

Section.

(Source: P.A. 90-773, eff. 8-14-98.)

(415 ILCS 5/56.5) (from Ch. 111 1/2, par. 1056.5)

Sec. 56.5. Medical waste hauling fees.

(a) The Agency shall annually collect a $2000 ~~$1000~~ fee for each potentially infectious medical waste hauling permit application and, in addition, shall collect a fee of $250 for each potentially infectious medical waste hauling vehicle identified in the annual permit application and for each vehicle that is added to the permit during the annual period. Each applicant required to pay a fee under this Section shall submit the fee along with the permit application. The Agency shall deny any permit application for which a fee is required under this Section that does not contain the appropriate fee.

(b) All fees collected by the Agency under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund. The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this Section.

(c) The Agency shall not collect a fee under this Section from any hospital that transports only potentially infectious medical waste generated by its own activities or by members of its medical staff.

(Source: P.A. 87-752.)

(415 ILCS 5/56.6) (from Ch. 111 1/2, par. 1056.6)

Sec. 56.6. Medical waste transportation fees.

(a) The Agency shall collect from each transporter of potentially infectious medical waste required to have a permit under Section 56.1(f) of this Act a fee in the amount of 3 ~~1.5~~ cents per pound of potentially infectious medical waste transported. The Agency shall collect from each

transporter of potentially infectious medical waste not required to have a permit under Section 56.1(f)(1)(A) of this Act a fee in the amount of 3 ~~1.5~~ cents per pound of potentially infectious medical waste transported to a site or facility not owned, controlled, or operated by the transporter. The Agency shall deny any permit required under Section 56.1(f) of this Act from any applicant who has not paid to the Agency all fees due under this Section.

A fee in the amount of 3 ~~1.5~~ cents per pound of potentially infectious medical waste shall be collected by the Agency from a potentially infectious medical waste storage site or treatment facility receiving potentially infectious medical waste, unless the fee has been previously paid by a transporter.

(b) The Agency shall establish procedures, not later than January 1, 1992, relating to the collection of the fees authorized by this Section. These procedures shall include, but not be limited to: (i) necessary records identifying the quantities of potentially infectious medical waste transported; (ii) the form and submission of reports to accompany the payment of fees to the Agency; and (iii) the time and manner of payment of fees to the Agency, which payments shall be not more often than quarterly.

(c) All fees collected by the Agency under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund. The Agency may establish procedures relating to the collection of fees under this Section. The Agency shall not refund any fee paid to it under this Section.

(d) The Agency shall not collect a fee under this Section from a person transporting potentially infectious medical waste to a hospital when the person is a member of the hospital's medical staff.

(Source: P.A. 87-752; 87-1097.)

Section 75-55. The Illinois Pesticide Act is amended by changing Sections 6 and 22.1 as follows:

(415 ILCS 60/6) (from Ch. 5, par. 806)

Sec. 6. Registration.

1. Every pesticide which is distributed, sold, offered for sale within this State, delivered for transportation or transported in interstate commerce or between points within the State through any point outside the State, shall be registered with the Director or his designated agent, subject to provisions of this Act. Such registration shall be renewed annually with registrations expiring December 31 each year. Registration is not required if a pesticide is shipped from one plant or warehouse to another plant or warehouse by the same person and is used solely at such plant or warehouse as a constituent part to make a pesticide which is registered under provisions of this Act and FIFRA.

2. Registration applicant shall file a statement with the Director which shall include:

A. The name and address of the applicant and the name and address of the person whose name will appear on the label if different from the applicant's.

B. The name of the pesticide.

C. A copy of the labeling accompanying the pesticide under customary conditions of distribution, sale and use, including ingredient statement, direction for use, use classification, and precautionary or warning statements.

3. The Director may require the submission of complete formula data.

4. The Director may require a full description of tests made and the results thereof, upon which the claims are based, for any pesticide not registered pursuant to FIFRA, or on any pesticide under consideration to be classified for

restricted use.

A. The Director will not consider data he required of the initial registrant of a pesticide in support of another applicants' registration unless the subsequent applicant has obtained written permission to use such data.

B. In the case of renewal registration, the Director may accept a statement only with respect to information which is different from that furnished previously.

5. The Director may prescribe other requirements to support a pesticide registration by regulation.

6. For the years preceding the year 2004, any registrant desiring to register a pesticide product at any time during one year shall pay the annual registration fee of $100 per product registered for that applicant. For the years 2004 and thereafter, the annual product registration fee is $200 per product ~~$130~~.

In addition, for the years preceding the year 2004 any business registering a pesticide product at any time during one year shall pay the annual business registration fee of $250. For the years 2004 and thereafter, the annual business registration fee shall be $400 ~~$300~~. Each legal entity of the business shall pay the annual business registration fee.

For the years preceding the year 2004, any applicant requesting an experimental use permit shall pay the annual fee of $100 per permit and all special local need pesticide registration applicants shall pay an annual fee of $100 per product. For the years 2004 and thereafter, the annual experimental use permit fee and special local need pesticide registration fee is $200 per permit ~~$130~~. Subsequent SLN registrations for a pesticide already registered shall be exempted from the registration fee.

A. All registration accepted and approved by the

Director shall expire on the 31st day of December in any one year unless cancelled. Registration for a special local need may be granted for a specific period of time with the approval date and expiration date specified.

B. If a registration for special local need granted by the Director does not receive approval of the Administrator of USEPA, the registration shall expire on the date of the Administrator's disapproval.

7. Registrations approved and accepted by the Director and in effect on the 31st day of December, for which renewal application is made, shall continue in full force and effect until the Director notifies the registrant that the renewal has been approved and accepted or the registration is denied under this Act. Renewal registration forms will be provided to applicants by the Director.

8. If the renewal of a pesticide registration is not filed within 30 days of the date of expiration, a penalty late registration assessment of $300 ~~$200~~ per product shall apply in lieu of the normal annual product registration fee. The late registration assessment shall not apply if the applicant furnishes an affidavit certifying that no unregulated pesticide was distributed or sold during the period of registration. The late assessment is not a bar to prosecution for doing business without proper registry.

9. The Director may prescribe by regulation to allow pesticide use for a special local need, pursuant to FIFRA.

10. The Director may prescribe by regulation the provisions for and requirements of registering a pesticide intended for experimental use.

11. The Director shall not make any lack of essentiality a criterion for denial of registration of any pesticide. Where 2 pesticides meet the requirements, one should not be registered in preference to the other.

12. It shall be the duty of the pesticide registrant to

properly dispose of any pesticide the registration of which has been suspended, revoked or cancelled or which is otherwise not properly registered in the State.

(Source: P.A. 90-205, eff. 1-1-98.)

(415 ILCS 60/22.1) (from Ch. 5, par. 822.1)

Sec. 22.1. Pesticide Control Fund. There is hereby created in the State Treasury a special fund to be known as the Pesticide Control Fund. All registration, penalty and license fees collected by the Department pursuant to this Act shall be deposited into the Fund. The amount annually collected as fees shall be appropriated by the General Assembly to the Department for the purposes of conducting a public educational program on the proper use of pesticides, for other activities related to the enforcement of this Act, and for administration of the Insect Pest and Plant Disease Act. However, the increase in fees in Sections 6, 10, and 13 of this Act resulting from this amendatory Act of 1990 shall be used by the Department for the purpose of carrying out the Department's powers and duties as set forth in paragraph 8 of Section 19 of this Act. The monies collected under Section 13.1 of this Act shall be deposited in the Agrichemical Incident Response Fund. <u>In addition, for the years 2004 and thereafter, $125 of each pesticide annual business registration fee and $50 of each pesticide product annual registration fee collected by the Department pursuant to Section 6, paragraph 6 of this Act shall be deposited by the Department directly into the State's General Revenue Fund.</u>

(Source: P.A. 90-372, eff. 7-1-98.)

Section 75-58. The Alternate Fuels Act is amended by changing Sections 35 and 40 as follows:

(415 ILCS 120/35)

Sec. 35. User fees.

(a) ~~During fiscal years 1999, 2000, 2001, and 2002~~ The Office of the Secretary of State shall collect annual user fees from any individual, partnership, association, corporation, or agency of the United States government that registers any combination of 10 or more of the following types of motor vehicles in the Covered Area: (1) vehicles of the First Division, as defined in the Illinois Vehicle Code; (2) vehicles of the Second Division registered under the B, D, F, H, MD, MF, MG, MH and MJ plate categories, as defined in the Illinois Vehicle Code; and (3) commuter vans and livery vehicles as defined in the Illinois Vehicle Code. This Section does not apply to vehicles registered under the International Registration Plan under Section 3-402.1 of the Illinois Vehicle Code. The user fee shall be $20 for each vehicle registered in the Covered Area for each fiscal year. The Office of the Secretary of State shall collect the $20 when a vehicle's registration fee is paid.

(b) Owners of State, county, and local government vehicles, rental vehicles, antique vehicles, electric vehicles, and motorcycles are exempt from paying the user fees on such vehicles.

(c) The Office of the Secretary of State shall deposit the user fees collected into the Alternate Fuels Fund.
(Source: P.A. 92-858, eff. 1-3-03.)

(415 ILCS 120/40)

Sec. 40. Appropriations from the Alternate Fuels Fund.

(a) User Fees Funds. The Agency shall estimate the amount of user fees expected to be collected under Section 35 of this Act for each fiscal year ~~years 1999, 2000, 2001, and 2002~~. User fee funds shall be deposited into and distributed from the Alternate Fuels Fund in the following manner:

(1) In each of fiscal years 1999, 2000, 2001, ~~and~~

2002, and 2003, an amount not to exceed $200,000, and beginning in fiscal year 2004 an annual amount not to exceed $225,000, may be appropriated to the Agency from the Alternate Fuels Fund to pay its costs of administering the programs authorized by Section 30 of this Act. Up to $200,000 may be appropriated to the Office of the Secretary of State in each of fiscal years 1999, 2000, 2001, and 2002, and 2003 from the Alternate Fuels Fund to pay the Secretary of State's costs of administering the programs authorized under this Act. Beginning in fiscal year 2004 and in each fiscal year thereafter, an amount not to exceed $225,000 may be appropriated to the Secretary of State from the Alternate Fuels Fund to pay the Secretary of State's costs of administering the programs authorized under this Act.

(2) In fiscal years 1999, 2000, 2001, and 2002, after appropriation of the amounts authorized by item (1) of subsection (a) of this Section, the remaining moneys estimated to be collected during each fiscal year shall be appropriated as follows: 80% of the remaining moneys shall be appropriated to fund the programs authorized by Section 30, and 20% shall be appropriated to fund the programs authorized by Section 25. In fiscal year 2004 and each fiscal year thereafter, after appropriation of the amounts authorized by item (1) of subsection (a) of this Section, the remaining moneys estimated to be collected during each fiscal year shall be appropriated as follows: 70% of the remaining moneys shall be appropriated to fund the programs authorized by Section 30 and 30% shall be appropriated to fund the programs authorized by Section 31.

(3) (Blank). ~~Additional---appropriations--to--the Agency-from-the-Alternate-Fuels-Fund-to-pay-its-costs--of administering--the--programs--authorized-by-Section-30-of~~

~~this Act may be made in fiscal years following 2002, not to exceed the amount of $200,000 in any fiscal year, if funds are still available and program costs are still being incurred.~~

(4) Moneys appropriated to fund the programs authorized in Sections 25 and 30 shall be expended only after they have been collected and deposited into the Alternate Fuels Fund.

(b) General Revenue Fund Appropriations. General Revenue Fund amounts appropriated to and deposited into the Alternate Fuels Fund shall be distributed from the Alternate Fuels Fund in the following manner:

(1) In each of fiscal years 2003 and 2004, an amount not to exceed $50,000 may be appropriated to the Department of Commerce and Community Affairs from the Alternate Fuels Fund to pay its costs of administering the programs authorized by Sections 31 and 32.

(2) In each of fiscal years 2003 and 2004, an amount not to exceed $50,000 may be appropriated to the Department of Commerce and Community Affairs to fund the programs authorized by Section 32.

(3) In each of fiscal years 2003 and 2004, after appropriation of the amounts authorized in items (1) and (2) of subsection (b) of this Section, the remaining moneys received from the General Revenue Fund shall be appropriated as follows: 52.632% of the remaining moneys shall be appropriated to fund the programs authorized by Sections 25 and 30 and 47.368% of the remaining moneys shall be appropriated to fund the programs authorized by Section 31. The moneys appropriated to fund the programs authorized by Sections 25 and 30 shall be used as follows: 20% shall be used to fund the programs authorized by Section 25, and 80% shall be used to fund the programs authorized by Section 30.

Moneys appropriated to fund the programs authorized in Section 31 shall be expended only after they have been deposited into the Alternate Fuels Fund.

(Source: P.A. 92-858, eff. 1-3-03.)

Section 75-65. The Boiler and Pressure Vessel Safety Act is amended by changing Section 13 as follows:

(430 ILCS 75/13) (from Ch. 111 1/2, par. 3214)

Sec. 13. Inspection fees. The owner or user of a boiler or pressure vessel required by this Act to be inspected by the Chief Inspector or his Deputy Inspector shall pay directly to the Office of the State Fire Marshal, upon completion of inspection, fees established by the Board.

On and after October 1, 2003, 50% of the fees for certification of boilers and pressure vessels as described in Section 11 shall be deposited into the General Revenue Fund and the remaining fees received under this Act shall be deposited in the Fire Prevention Fund.

(Source: P.A. 88-608, eff. 1-1-95; 89-467, eff. 1-1-97.)

Section 75-70. The Illinois Commercial Feed Act of 1961 is amended by changing Sections 6 and 14.3 as follows:

(505 ILCS 30/6) (from Ch. 56 1/2, par. 66.6)

Sec. 6. Inspection fees and reports.

(a) An inspection fee at the rate of 20 ~~16~~ cents per ton shall be paid to the Director on commercial feed distributed in this State by the person who first distributes the commercial feed subject to the following:

(1) The inspection fee is not required on the first distribution, if made to an Exempt Buyer, who with approval from the Director, will become responsible for the fee.

(2) Customer-formula feeds are hereby exempted if the inspection fee is paid on the commercial feeds which they contain.

(3) A fee shall not be paid on a commercial feed if the payment has been made by a previous distributor.

(4) In the case of pet food and specialty pet food which are distributed in the State in packages of 10 pounds or less, an annual fee of $75 ~~$50~~ shall be paid in lieu of an inspection fee. The inspection fee required by subsection (a) shall apply to pet food and specialty pet food distribution in packages exceeding 10 pounds. All fees collected pursuant to this Section shall be paid into the Feed Control Fund in the State Treasury.

(b) The minimum inspection fee shall be $25 every 6 months.

(c) Each person who is liable for the payment of the inspection fee shall:

(1) File, not later than the last day of January and July of each year, a statement setting forth the number of net tons of commercial feeds distributed in this State during the preceding calendar 6 months period; and upon filing such statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section. This report shall be made on a summary form provided by the Director or on other forms as approved by the Director. If the tonnage report is not filed and the inspection fee is not paid within 15 days after the end of the filing date a collection fee amounting to 10% of the inspection fee that is due or $50 whichever is greater, shall be assessed against the person who is liable for the payment of the inspection fee in addition to the inspection fee that is due.

(2) Keep such records as may be necessary or required by the Director to indicate accurately the

tonnage of commercial feed distributed in this State, and the Director shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute sufficient cause for the cancellation of all registrations or firm licenses on file for the manufacturer or distributor.

(Source: P.A. 87-664.)

(505 ILCS 30/14.3) (from Ch. 56 1/2, par. 66.14.3)

Sec. 14.3. Feed Control Fund. There is created in the State Treasury a special fund to be known as the Feed Control Fund. All firm license, inspection, and penalty fees collected by the Department under this Act shall be deposited in the Feed Control Fund. <u>In addition, for the years 2004 and thereafter, $22 of each annual fee collected by the Department pursuant to Section 6, paragraph 4 of this Act shall be deposited by the Department directly into the State's General Revenue Fund.</u> the amount annually collected as fees shall be appropriated by the General Assembly to the Department for activities related to the enforcement of this Act.

(Source: P.A. 87-664.)

Section 75-75. The Illinois Fertilizer Act of 1961 is amended by changing Sections 4 and 6 as follows:

(505 ILCS 80/4) (from Ch. 5, par. 55.4)

Sec. 4. Registration.

(a) Each brand and grade of commercial fertilizer shall be registered before being distributed in this State. The application for registration shall be submitted with a label or facsimile of same to the Director on form furnished by the

Director, and shall be accompanied by a fee of $10 ~~$5~~ per grade within a brand. Upon approval by the Director a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

The application shall include the following information:

(1) The net weight

(2) The brand and grade

(3) The guaranteed analysis

(4) The name and address of the registrant.

(b) A distributor shall not be required to register any brand of commercial fertilizer or custom mix which is already registered under this Act by another person.

(c) The plant nutrient content of each and every commercial fertilizer must remain uniform for the period of registration and, in no case, shall the percentage of any guaranteed plant nutrient element be changed in such a manner that the crop-producing quality of the commercial fertilizer is lowered.

(d) Each custom mixer shall register annually with the Director on forms furnished by the Director. The application for registration shall be accompanied by a fee of $50 ~~$25.00~~, unless the custom mixer elects to register each mixture, paying a fee of $10 ~~$5.00~~ per mixture. Upon approval by the Director, a copy of the registration shall be furnished to the applicant. All registrations expire on December 31 of each year.

(e) A custom mix as defined in section 3(f), prepared for one consumer shall not be co-mingled with the custom mixed fertilizer prepared for another consumer.

(f) All fees collected pursuant to this Section shall be paid into the State treasury.

(Source: Laws 1967, p. 297.)

(505 ILCS 80/6) (from Ch. 5, par. 55.6)

Sec. 6. Inspection fees.

(a) There shall be paid to the Director for all commercial fertilizers or custom mix distributed in this State an inspection fee at the rate of 25¢ ~~20¢~~ per ton. Sales to manufacturers or exchanges between them are hereby exempted from the inspection fee.

On individual packages of commercial or custom mix or specialty fertilizers containing 5 pounds or less, or if in liquid form containers of 4,000 cubic centimeters or less, there shall be paid instead of the 25¢ ~~20¢~~ per ton inspection fee, an annual inspection fee of $25 for each grade within a brand sold or distributed. Where a person sells commercial or custom mix or specialty fertilizers in packages of 5 pounds or less, or 4,000 cubic centimeters or less if in liquid form, and also sells in larger packages than 5 pounds or liquid containers larger than 4,000 cubic centimeters, this annual inspection fee of $25 applies only to that portion sold in packages of 5 pounds or less or 4,000 cubic centimeters or less, and that portion sold in larger packages or containers shall be subject to the same inspection fee of 25¢ ~~20¢~~ per ton as provided in this Act. The increased fees shall be effective after June 30, 1989.

(b) Every person who distributes a commercial fertilizer or custom mix in this State shall file with the Director, on forms furnished by the Director, a semi-annual statement for the periods ending June 30 and December 31, setting forth the number of net tons of each grade of commercial fertilizers within a brand or the net tons of custom mix distributed. The report shall be due on or before the 15th day of the month following the close of each semi-annual period and upon the statement shall pay the inspection fee at the rate stated in paragraph (a) of this Section.

One half of the 25¢ ~~20¢~~ per ton inspection fee shall be paid into the Fertilizer Control Fund and all other fees

collected under this Section shall be paid into the State treasury.

If the tonnage report is not filed and the payment of inspection fee is not made within 30 days after the end of the semi-annual period, a collection fee amounting to 10% (minimum $10) of the amount shall be assessed against the registrant. The amount of fees due shall constitute a debt and become the basis of a judgment against the registrant. Upon the written request to the Director additional time may be granted past the normal date of filing the semi-annual statement.

When more than one person is involved in the distribution of a commercial fertilizer, the last registrant who distributes to the non-registrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fee.

(Source: P.A. 86-232; 87-14.)

Section 75-80. The Illinois Vehicle Code is amended by changing Sections 2-119, 2-123, 2-124, 3-403, 3-405.1, 3-811, 5-101, 5-102, 6-118, 7-707, 18c-1501, 18c-1502.05, and 18c-1502.10 and by adding Section 3-806.5 as follows:

(625 ILCS 5/2-119) (from Ch. 95 1/2, par. 2-119)

Sec. 2-119. Disposition of fees and taxes.

(a) All moneys received from Salvage Certificates shall be deposited in the Common School Fund in the State Treasury.

(b) Beginning January 1, 1990 and concluding December 31, 1994, of the money collected for each certificate of title, duplicate certificate of title and corrected certificate of title, $0.50 shall be deposited into the Used Tire Management Fund. Beginning January 1, 1990 and concluding December 31, 1994, of the money collected for each certificate of title, duplicate certificate of title and

corrected certificate of title, $1.50 shall be deposited in the Park and Conservation Fund.

Beginning January 1, 1995, of the money collected for each certificate of title, duplicate certificate of title and corrected certificate of title, $2 shall be deposited in the Park and Conservation Fund. The moneys deposited in the Park and Conservation Fund pursuant to this Section shall be used for the acquisition and development of bike paths as provided for in Section 805-420 of the Department of Natural Resources (Conservation) Law (20 ILCS 805/805-420).

Beginning January 1, 2000 ~~and continuing through December 31, 2004~~, of the moneys collected for each certificate of title, duplicate certificate of title, and corrected certificate of title, $48 shall be deposited into the Road Fund and $4 shall be deposited into the Motor Vehicle License Plate Fund, except that if the balance in the Motor Vehicle License Plate Fund exceeds $40,000,000 on the last day of a calendar month, then during the next calendar month the $4 shall instead be deposited into the Road Fund.

~~Beginning January 1, 2005, of the moneys collected for each certificate of title, duplicate certificate of title, and corrected certificate of title, $52 shall be deposited into the Road Fund.~~

Except as otherwise provided in this Code, all remaining moneys collected for certificates of title, and all moneys collected for filing of security interests, shall be placed in the General Revenue Fund in the State Treasury.

(c) All moneys collected for that portion of a driver's license fee designated for driver education under Section 6-118 shall be placed in the Driver Education Fund in the State Treasury.

(d) Beginning January 1, 1999, of the monies collected as a registration fee for each motorcycle, motor driven cycle and motorized pedalcycle, 27% of each annual registration fee

for such vehicle and 27% of each semiannual registration fee for such vehicle is deposited in the Cycle Rider Safety Training Fund.

(e) Of the monies received by the Secretary of State as registration fees or taxes or as payment of any other fee, as provided in this Act, except fees received by the Secretary under paragraph (7) of subsection (b) of Section 5-101 and Section 5-109 of this Code, 37% shall be deposited into the State Construction Fund.

(f) Of the total money collected for a CDL instruction permit or original or renewal issuance of a commercial driver's license (CDL) pursuant to the Uniform Commercial Driver's License Act (UCDLA): (i) $6 of the total fee for an original or renewal CDL, and $6 of the total CDL instruction permit fee when such permit is issued to any person holding a valid Illinois driver's license, shall be paid into the CDLIS/AAMVAnet Trust Fund (Commercial Driver's License Information System/American Association of Motor Vehicle Administrators network Trust Fund) and shall be used for the purposes provided in Section 6z-23 of the State Finance Act and (ii) $20 of the total fee for an original or renewal CDL or commercial driver instruction permit shall be paid into the Motor Carrier Safety Inspection Fund, which is hereby created as a special fund in the State Treasury, to be used by the Department of State Police, subject to appropriation, to hire additional officers to conduct motor carrier safety inspections pursuant to Chapter 18b of this Code.

(g) All remaining moneys received by the Secretary of State as registration fees or taxes or as payment of any other fee, as provided in this Act, except fees received by the Secretary under paragraph (7)(A) of subsection (b) of Section 5-101 and Section 5-109 of this Code, shall be deposited in the Road Fund in the State Treasury. Moneys in the Road Fund shall be used for the purposes provided in

Section 8.3 of the State Finance Act.

(h) (Blank).

(i) (Blank).

(j) (Blank).

(k) There is created in the State Treasury a special fund to be known as the Secretary of State Special License Plate Fund. Money deposited into the Fund shall, subject to appropriation, be used by the Office of the Secretary of State (i) to help defray plate manufacturing and plate processing costs for the issuance and, when applicable, renewal of any new or existing ~~special~~ registration plates authorized under this Code and (ii) for grants made by the Secretary of State to benefit Illinois Veterans Home libraries.

On or before October 1, 1995, the Secretary of State shall direct the State Comptroller and State Treasurer to transfer any unexpended balance in the Special Environmental License Plate Fund, the Special Korean War Veteran License Plate Fund, and the Retired Congressional License Plate Fund to the Secretary of State Special License Plate Fund.

(l) The Motor Vehicle Review Board Fund is created as a special fund in the State Treasury. Moneys deposited into the Fund under paragraph (7) of subsection (b) of Section 5-101 and Section 5-109 shall, subject to appropriation, be used by the Office of the Secretary of State to administer the Motor Vehicle Review Board, including without limitation payment of compensation and all necessary expenses incurred in administering the Motor Vehicle Review Board under the Motor Vehicle Franchise Act.

(m) Effective July 1, 1996, there is created in the State Treasury a special fund to be known as the Family Responsibility Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Office of the Secretary of State for the purpose of enforcing the Family

Financial Responsibility Law.

(n) The Illinois Fire Fighters' Memorial Fund is created as a special fund in the State Treasury. Moneys deposited into the Fund shall, subject to appropriation, be used by the Office of the State Fire Marshal for construction of the Illinois Fire Fighters' Memorial to be located at the State Capitol grounds in Springfield, Illinois. Upon the completion of the Memorial, moneys in the Fund shall be used in accordance with Section 3-634.

(o) Of the money collected for each certificate of title for all-terrain vehicles and off-highway motorcycles, $17 shall be deposited into the Off-Highway Vehicle Trails Fund.

(p) For audits conducted on or after July 1, 2003 pursuant to Section 2-124(d) of this Code, 50% of the money collected as audit fees shall be deposited into the General Revenue Fund.

(Source: P.A. 91-37, eff. 7-1-99; 91-239, eff. 1-1-00; 91-537, eff. 8-13-99; 91-832, eff. 6-16-00; 92-16, eff. 6-28-01.)

(625 ILCS 5/2-123) (from Ch. 95 1/2, par. 2-123)

Sec. 2-123. Sale and Distribution of Information.

(a) Except as otherwise provided in this Section, the Secretary may make the driver's license, vehicle and title registration lists, in part or in whole, and any statistical information derived from these lists available to local governments, elected state officials, state educational institutions, and all other governmental units of the State and Federal Government requesting them for governmental purposes. The Secretary shall require any such applicant for services to pay for the costs of furnishing such services and the use of the equipment involved, and in addition is empowered to establish prices and charges for the services so furnished and for the use of the electronic equipment

utilized.

(b) The Secretary is further empowered to and he may, in his discretion, furnish to any applicant, other than listed in subsection (a) of this Section, vehicle or driver data on a computer tape, disk, other electronic format or computer processable medium, or printout at a fixed fee of $250 for orders received before October 1, 2003 and $500 for orders received on or after October 1, 2003, in advance, and require in addition a further sufficient deposit based upon the Secretary of State's estimate of the total cost of the information requested and a charge of $25 for orders received before October 1, 2003 and $50 for orders received on or after October 1, 2003, per 1,000 units or part thereof identified or the actual cost, whichever is greater. The Secretary is authorized to refund any difference between the additional deposit and the actual cost of the request. This service shall not be in lieu of an abstract of a driver's record nor of a title or registration search. This service may be limited to entities purchasing a minimum number of records as required by administrative rule. The information sold pursuant to this subsection shall be the entire vehicle or driver data list, or part thereof. The information sold pursuant to this subsection shall not contain personally identifying information unless the information is to be used for one of the purposes identified in subsection (f-5) of this Section. Commercial purchasers of driver and vehicle record databases shall enter into a written agreement with the Secretary of State that includes disclosure of the commercial use of the information to be purchased.

(c) Secretary of State may issue registration lists. The Secretary of State shall compile and publish, at least annually, a list of all registered vehicles. Each list of registered vehicles shall be arranged serially according to the registration numbers assigned to registered vehicles and

shall contain in addition the names and addresses of registered owners and a brief description of each vehicle including the serial or other identifying number thereof. Such compilation may be in such form as in the discretion of the Secretary of State may seem best for the purposes intended.

(d) The Secretary of State shall furnish no more than 2 current available lists of such registrations to the sheriffs of all counties and to the chiefs of police of all cities and villages and towns of 2,000 population and over in this State at no cost. Additional copies may be purchased by the sheriffs or chiefs of police at the fee of $500 each or at the cost of producing the list as determined by the Secretary of State. Such lists are to be used for governmental purposes only.

(e) (Blank).

(e-1) (Blank).

(f) The Secretary of State shall make a title or registration search of the records of his office and a written report on the same for any person, upon written application of such person, accompanied by a fee of $5 for each registration or title search. The written application shall set forth the intended use of the requested information. No fee shall be charged for a title or registration search, or for the certification thereof requested by a government agency. The report of the title or registration search shall not contain personally identifying information unless the request for a search was made for one of the purposes identified in subsection (f-5) of this Section.

The Secretary of State shall certify a title or registration record upon written request. The fee for certification shall be $5 in addition to the fee required for a title or registration search. Certification shall be made

under the signature of the Secretary of State and shall be authenticated by Seal of the Secretary of State.

The Secretary of State may notify the vehicle owner or registrant of the request for purchase of his title or registration information as the Secretary deems appropriate.

No information shall be released to the requestor until expiration of a 10 day period. This 10 day period shall not apply to requests for information made by law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, persons licensed as a private detective or firms licensed as a private detective agency under the Private Detective, Private Alarm, and Private Security Act of 1983, who are employed by or are acting on behalf of law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, and other business entities for purposes consistent with the Illinois Vehicle Code, the vehicle owner or registrant or other entities as the Secretary may exempt by rule and regulation.

Any misrepresentation made by a requestor of title or vehicle information shall be punishable as a petty offense, except in the case of persons licensed as a private detective or firms licensed as a private detective agency which shall be subject to disciplinary sanctions under Section 22 or 25 of the Private Detective, Private Alarm, and Private Security Act of 1983.

(f-5) The Secretary of State shall not disclose or otherwise make available to any person or entity any personally identifying information obtained by the Secretary of State in connection with a driver's license, vehicle, or title registration record unless the information is disclosed for one of the following purposes:

(1) For use by any government agency, including any

court or law enforcement agency, in carrying out its functions, or any private person or entity acting on behalf of a federal, State, or local agency in carrying out its functions.

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; and removal of non-owner records from the original owner records of motor vehicle manufacturers.

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors, but only:

(A) to verify the accuracy of personal information submitted by an individual to the business or its agents, employees, or contractors; and

(B) if such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual.

(4) For use in research activities and for use in producing statistical reports, if the personally identifying information is not published, redisclosed, or used to contact individuals.

(5) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, State, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or

pursuant to an order of a federal, State, or local court.

(6) For use by any insurer or insurance support organization or by a self-insured entity or its agents, employees, or contractors in connection with claims investigation activities, antifraud activities, rating, or underwriting.

(7) For use in providing notice to the owners of towed or impounded vehicles.

(8) For use by any private investigative agency or security service licensed in Illinois for any purpose permitted under this subsection.

(9) For use by an employer or its agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under chapter 313 of title 49 of the United States Code.

(10) For use in connection with the operation of private toll transportation facilities.

(11) For use by any requester, if the requester demonstrates it has obtained the written consent of the individual to whom the information pertains.

(12) For use by members of the news media, as defined in Section 1-148.5, for the purpose of newsgathering when the request relates to the operation of a motor vehicle or public safety.

(13) For any other use specifically authorized by law, if that use is related to the operation of a motor vehicle or public safety.

(g) 1. The Secretary of State may, upon receipt of a written request and a fee of $6 <u>before October 1, 2003 and a fee of $12 on and after October 1, 2003</u>, furnish to the person or agency so requesting a driver's record. Such document may include a record of: current driver's license issuance information, except that the information on judicial driving permits shall be available only as

otherwise provided by this Code; convictions; orders entered revoking, suspending or cancelling a driver's license or privilege; and notations of accident involvement. All other information, unless otherwise permitted by this Code, shall remain confidential. Information released pursuant to a request for a driver's record shall not contain personally identifying information, unless the request for the driver's record was made for one of the purposes set forth in subsection (f-5) of this Section.

2. The Secretary of State may certify an abstract of a driver's record upon written request therefor. Such certification shall be made under the signature of the Secretary of State and shall be authenticated by the Seal of his office.

3. All requests for driving record information shall be made in a manner prescribed by the Secretary and shall set forth the intended use of the requested information.

The Secretary of State may notify the affected driver of the request for purchase of his driver's record as the Secretary deems appropriate.

No information shall be released to the requester until expiration of a 10 day period. This 10 day period shall not apply to requests for information made by law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, persons licensed as a private detective or firms licensed as a private detective agency under the Private Detective, Private Alarm, and Private Security Act of 1983, who are employed by or are acting on behalf of law enforcement officials, government agencies, financial institutions, attorneys, insurers, employers, automobile associated businesses, and other

business entities for purposes consistent with the Illinois Vehicle Code, the affected driver or other entities as the Secretary may exempt by rule and regulation.

Any misrepresentation made by a requestor of driver information shall be punishable as a petty offense, except in the case of persons licensed as a private detective or firms licensed as a private detective agency which shall be subject to disciplinary sanctions under Section 22 or 25 of the Private Detective, Private Alarm, and Private Security Act of 1983.

4. The Secretary of State may furnish without fee, upon the written request of a law enforcement agency, any information from a driver's record on file with the Secretary of State when such information is required in the enforcement of this Code or any other law relating to the operation of motor vehicles, including records of dispositions; documented information involving the use of a motor vehicle; whether such individual has, or previously had, a driver's license; and the address and personal description as reflected on said driver's record.

5. Except as otherwise provided in this Section, the Secretary of State may furnish, without fee, information from an individual driver's record on file, if a written request therefor is submitted by any public transit system or authority, public defender, law enforcement agency, a state or federal agency, or an Illinois local intergovernmental association, if the request is for the purpose of a background check of applicants for employment with the requesting agency, or for the purpose of an official investigation conducted by the agency, or to determine a current address for the driver so public funds can be recovered or paid to the

driver, or for any other purpose set forth in subsection (f-5) of this Section.

The Secretary may also furnish the courts a copy of an abstract of a driver's record, without fee, subsequent to an arrest for a violation of Section 11-501 or a similar provision of a local ordinance. Such abstract may include records of dispositions; documented information involving the use of a motor vehicle as contained in the current file; whether such individual has, or previously had, a driver's license; and the address and personal description as reflected on said driver's record.

6. Any certified abstract issued by the Secretary of State or transmitted electronically by the Secretary of State pursuant to this Section, to a court or on request of a law enforcement agency, for the record of a named person as to the status of the person's driver's license shall be prima facie evidence of the facts therein stated and if the name appearing in such abstract is the same as that of a person named in an information or warrant, such abstract shall be prima facie evidence that the person named in such information or warrant is the same person as the person named in such abstract and shall be admissible for any prosecution under this Code and be admitted as proof of any prior conviction or proof of records, notices, or orders recorded on individual driving records maintained by the Secretary of State.

7. Subject to any restrictions contained in the Juvenile Court Act of 1987, and upon receipt of a proper request and a fee of $6 <u>before October 1, 2003 and a fee of $12 on or after October 1, 2003</u>, the Secretary of State shall provide a driver's record to the affected driver, or the affected driver's attorney, upon verification. Such record shall contain all the

information referred to in paragraph 1 of this subsection (g) plus: any recorded accident involvement as a driver; information recorded pursuant to subsection (e) of Section 6-117 and paragraph (4) of subsection (a) of Section 6-204 of this Code. All other information, unless otherwise permitted by this Code, shall remain confidential.

(h) The Secretary shall not disclose social security numbers except pursuant to a written request by, or with the prior written consent of, the individual except: (1) to officers and employees of the Secretary who have a need to know the social security numbers in performance of their official duties, (2) to law enforcement officials for a lawful, civil or criminal law enforcement investigation, and if the head of the law enforcement agency has made a written request to the Secretary specifying the law enforcement investigation for which the social security numbers are being sought, (3) to the United States Department of Transportation, or any other State, pursuant to the administration and enforcement of the Commercial Motor Vehicle Safety Act of 1986, (4) pursuant to the order of a court of competent jurisdiction, or (5) to the Department of Public Aid for utilization in the child support enforcement duties assigned to that Department under provisions of the Public Aid Code after the individual has received advanced meaningful notification of what redisclosure is sought by the Secretary in accordance with the federal Privacy Act.

(i) (Blank).

(j) Medical statements or medical reports received in the Secretary of State's Office shall be confidential. No confidential information may be open to public inspection or the contents disclosed to anyone, except officers and employees of the Secretary who have a need to know the information contained in the medical reports and the Driver

License Medical Advisory Board, unless so directed by an order of a court of competent jurisdiction.

(k) All fees collected under this Section shall be paid into the Road Fund of the State Treasury, except that (i) for fees collected before October 1, 2003, $3 of the $6 fee for a driver's record shall be paid into the Secretary of State Special Services Fund, (ii) for fees collected on and after October 1, 2003, of the $12 fee for a driver's record, $3 shall be paid into the Secretary of State Special Services Fund and $6 shall be paid into the General Revenue Fund, and (iii) for fees collected on and after October 1, 2003, 50% of the amounts collected pursuant to subsection (b) shall be paid into the General Revenue Fund.

(l) (Blank).

(m) Notations of accident involvement that may be disclosed under this Section shall not include notations relating to damage to a vehicle or other property being transported by a tow truck. This information shall remain confidential, provided that nothing in this subsection (m) shall limit disclosure of any notification of accident involvement to any law enforcement agency or official.

(n) Requests made by the news media for driver's license, vehicle, or title registration information may be furnished without charge or at a reduced charge, as determined by the Secretary, when the specific purpose for requesting the documents is deemed to be in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public and is not for the principal purpose of gaining a personal or commercial benefit. The information provided pursuant to this subsection shall not contain personally identifying information unless the information is to be used for one of the purposes

identified in subsection (f-5) of this Section.

(o) The redisclosure of personally identifying information obtained pursuant to this Section is prohibited, except to the extent necessary to effectuate the purpose for which the original disclosure of the information was permitted.

(p) The Secretary of State is empowered to adopt rules to effectuate this Section.

(Source: P.A. 91-37, eff. 7-1-99; 91-357, eff. 7-29-99; 91-716, eff. 10-1-00; 92-32, eff. 7-1-01; 92-651, eff. 7-11-02.)

(625 ILCS 5/2-124) (from Ch. 95 1/2, par. 2-124)

Sec. 2-124. Audits, interest and penalties.

(a) Audits. The Secretary of State or employees and agents designated by him, may audit the books, records, tax returns, reports, and any and all other pertinent records or documents of any person licensed or registered, or required to be licensed or registered, under any provisions of this Act, for the purpose of determining whether such person has not paid any fees or taxes required to be paid to the Secretary of State and due to the State of Illinois. For purposes of this Section, "person" means an individual, corporation, or partnership, or an officer or an employee of any corporation, including a dissolved corporation, or a member or an employee of any partnership, who as an officer, employee, or member under a duty to perform the act in respect to which the violation occurs.

(b) Joint Audits. The Secretary of State may enter into reciprocal audit agreements with officers, agents or agencies of another State or States, for joint audits of any person subject to audit under this Act.

(c) Special Audits. If the Secretary of State is not satisfied with the books, records and documents made

available for an audit, or if the Secretary of State is unable to determine therefrom whether any fees or taxes are due to the State of Illinois, or if there is cause to believe that the person audited has declined or refused to supply the books, records and documents necessary to determine whether a deficiency exists, the Secretary of State may either seek a court order for production of any and all books, records and documents he deems relevant and material, or, in his discretion, the Secretary of State may instead give written notice to such person requiring him to produce any and all books, records and documents necessary to properly audit and determine whether any fees or taxes are due to the State of Illinois. If such person fails, refuses or declines to comply with either the court order or written notice within the time specified, the Secretary of State shall then order a special audit at the expense of the person affected. Upon completion of the special audit, the Secretary of State shall determine if any fees or taxes required to be paid under this Act have not been paid, and make an assessment of any deficiency based upon the books, records and documents available to him, and in an assessment, he may rely upon records of other persons having an operation similar to that of the person audited specially. A person audited specially and subject to a court order and in default thereof, shall in addition, be subject to any penalty or punishment imposed by the court entering the order.

(d) Deficiency; Audit Costs. When a deficiency is found and any fees or taxes required to be paid under this Act have not been paid to the State of Illinois, the Secretary of State may impose an audit fee of $100 ~~$50~~ per day, or $50 ~~$25~~ per half-day, per auditor, plus in the case of out-of-state travel, transportation expenses incurred by the auditor or auditors. Where more than one person is audited on the same out-of-state trip, the additional transportation expenses may

be apportioned. The actual costs of a special audit shall be imposed upon the person audited.

(e) Interest. When a deficiency is found and any fees or taxes required to be paid under this Act have not been paid to the State of Illinois, the amount of the deficiency, if greater than $100 for all registration years examined, shall also bear interest at the rate of 1/2 of 1% per month or fraction thereof, from the date when the fee or tax due should have been paid under the provisions of this Act, subject to a maximum of 6% per annum.

(f) Willful Negligence. When a deficiency is determined by the Secretary to be caused by the willful neglect or negligence of the person audited, an additional 10% penalty, that is 10% of the amount of the deficiency or assessment, shall be imposed, and the 10% penalty shall bear interest at the rate of 1/2 of 1% on and after the 30th day after the penalty is imposed until paid in full.

(g) Fraud or Evasion. When a deficiency is determined by the Secretary to be caused by fraud or willful evasion of the provisions of this Act, an additional penalty, that is 20% of the amount of the deficiency or assessment, shall be imposed, and the 20% penalty shall bear interest at the rate of 1/2 of 1% on and after the 30th day after the penalty is imposed until paid in full.

(h) Notice. The Secretary of State shall give written notice to any person audited, of the amount of any deficiency found or assessment made, of the costs of an audit or special audit, and of the penalty imposed, and payment shall be made within 30 days of the date of the notice unless such person petitions for a hearing.

However, except in the case of fraud or willful evasion, or the inaccessibility of books and records for audit or with the express consent of the person audited, no notice of a deficiency or assessment shall be issued by the Secretary for

more than 3 registration years. This limitation shall commence on any January 1 as to calendar year registrations and on any July 1 as to fiscal year registrations. This limitation shall not apply for any period during which the person affected has declined or refuses to make his books and records available for audit, nor during any period of time in which an Order of any Court has the effect of enjoining or restraining the Secretary from making an audit or issuing a notice. Notwithstanding, each person licensed under the International Registration Plan and audited by this State or any member jurisdiction shall follow the assessment and refund procedures as adopted and amended by the International Registration Plan members. The Secretary of State shall have the final decision as to which registrants may be subject to the netting of audit fees as outlined in the International Registration Plan. Persons audited may be subject to a review process to determine the final outcome of the audit finding. This process shall follow the adopted procedure as outlined in the International Registration Plan. All decisions by the IRP designated tribunal shall be binding.

(i) Every person subject to licensing or registration and audit under the provisions of this Chapter shall retain all pertinent licensing and registration documents, books, records, tax returns, reports and all supporting records and documents for a period of 4 years.

(j) Hearings. Any person receiving written notice of a deficiency or assessment may, within 30 days after the date of the notice, petition for a hearing before the Secretary of State or his duly appointed hearing officer to contest the audit in whole or in part, and the petitioner shall simultaneously file a certified check or money order, or certificate of deposit, or a surety bond approved by the Secretary in the amount of the deficiency or assessment. Hearings shall be held pursuant to the provisions of Section

2-118 of this Act.

(k) Judgments. The Secretary of State may enforce any notice of deficiency or assessment pursuant to the provisions of Section 3-831 of this Act.

(Source: P.A. 92-69, eff. 7-12-01.)

(625 ILCS 5/3-403) (from Ch. 95 1/2, par. 3-403)

Sec. 3-403. Trip and Short-term permits.

(a) The Secretary of State may issue a short-term permit to operate a nonregistered first or second division vehicle within the State of Illinois for a period of not more than 7 days. Any second division vehicle operating on such permit may operate only on empty weight. The fee for the short-term permit shall be $6 <u>for permits purchased on or before June 30, 2003 and $10 for permits purchased on or after July 1, 2003. For short-term permits purchased on or after July 1, 2003, $4 of the fee collected for the purchase of each permit shall be deposited into the General Revenue Fund</u>.

This permit may also be issued to operate an unladen registered vehicle which is suspended under the Vehicle Emissions Inspection Law and allow it to be driven on the roads and highways of the State in order to be repaired or when travelling to and from an emissions inspection station.

(b) The Secretary of State may, subject to reciprocal agreements, arrangements or declarations made or entered into pursuant to Section 3-402, 3-402.4 or by rule, provide for and issue registration permits for the use of Illinois highways by vehicles of the second division on an occasional basis or for a specific and special short-term use, in compliance with rules and regulations promulgated by the Secretary of State, and upon payment of the prescribed fee as follows:

One-trip permits. A registration permit for one trip, or one round-trip into and out of Illinois, for a period not to

exceed 72 consecutive hours or 3 calendar days may be provided, for a fee as prescribed in Section 3-811.

One-Month permits. A registration permit for 30 days may be provided for a fee of $13 for registration plus 1/10 of the flat weight tax. The minimum fee for such permit shall be $31.

In-transit permits. A registration permit for one trip may be provided for vehicles in transit by the driveaway or towaway method and operated by a transporter in compliance with the Illinois Motor Carrier of Property Law, for a fee as prescribed in Section 3-811.

Illinois Temporary Apportionment Authorization Permits. An apportionment authorization permit for forty-five days for the immediate operation of a vehicle upon application for and prior to receiving apportioned credentials or interstate credentials from the State of Illinois. The fee for such permit shall be $3.

Illinois Temporary Prorate Authorization Permit. A prorate authorization permit for forty-five days for the immediate operation of a vehicle upon application for and prior to receiving prorate credentials or interstate credentials from the State of Illinois. The fee for such permit shall be $3.

(c) The Secretary of State shall promulgate by such rule or regulation, schedules of fees and taxes for such permits and in computing the amount or amounts due, may round off such amount to the nearest full dollar amount.

(d) The Secretary of State shall further prescribe the form of application and permit and may require such information and data as necessary and proper, including confirming the status or identity of the applicant and the vehicle in question.

(e) Rules or regulations promulgated by the Secretary of State under this Section shall provide for reasonable and

proper limitations and restrictions governing the application for and issuance and use of permits, and shall provide for the number of permits per vehicle or per applicant, so as to preclude evasion of annual registration requirements as may be required by this Act.

(f) Any permit under this Section is subject to suspension or revocation under this Act, and in addition, any such permit is subject to suspension or revocation should the Secretary of State determine that the vehicle identified in any permit should be properly registered in Illinois. In the event any such permit is suspended or revoked, the permit is then null and void, may not be re-instated, nor is a refund therefor available. The vehicle identified in such permit may not thereafter be operated in Illinois without being properly registered as provided in this Chapter.

(Source: P.A. 91-37, eff. 7-1-99; 92-680, eff. 7-16-02.)

(625 ILCS 5/3-405.1) (from Ch. 95 1/2, par. 3-405.1)

Sec. 3-405.1. Application for vanity and personalized license plates.

(a) Vanity license plates mean any license plates, assigned to a passenger motor vehicle of the first division, to a motor vehicle of the second division registered at not more than 8,000 pounds or to a recreational vehicle, which display a registration number containing <u>1</u> ~~4~~ to 7 letters <u>and no numbers or 1, 2, or 3 numbers and no letters</u> as requested by the owner of the vehicle and license plates issued to retired members of Congress under Section 3-610.1 or to retired members of the General Assembly as provided in Section 3-606.1. ~~A license plate consisting of 3 letters and no numbers or of 1, 2 or 3 numbers, upon its becoming available, is a vanity license plate.~~ Personalized license plates mean any license plates, assigned to a passenger motor vehicle of the first division, to a motor vehicle of the

second division registered at not more than 8,000 pounds, or to a recreational vehicle, which display a registration number containing one of the following combinations a ~~combination~~ of letters and numbers ~~as prescribed by rule~~, as requested by the owner of the vehicle: ~~.~~

Standard Passenger Plates

First Division Vehicles

1 letter plus 0-99

2 letters plus 0-99

3 letters plus 0-99

4 letters plus 0-99

5 letters plus 0-99

6 letters plus 0-9

Second Division Vehicles

8,000 pounds or less and Recreation Vehicles

0-999 plus 1 letter

0-999 plus 2 letters

0-999 plus 3 letters

0-99 plus 4 letters

0-9 plus 5 letters

(b) For any registration period commencing after December 31, 2003, ~~1979,~~ any person who is the registered owner of a passenger motor vehicle of the first division, of a motor vehicle of the second division registered at not more than 8,000 pounds or of a recreational vehicle registered with the Secretary of State or who makes application for an original registration of such a motor vehicle or renewal registration of such a motor vehicle may, upon payment of a fee prescribed in Section 3-806.1 or Section 3-806.5, apply to the Secretary of State for vanity or personalized license plates.

(c) Except as otherwise provided in this Chapter 3, vanity and personalized license plates as issued under this Section shall be the same color and design as other passenger vehicle license plates and shall not in any manner conflict with any other existing passenger, commercial, trailer, motorcycle, or special license plate series. However, special registration plates issued under Sections 3-611 and 3-616 for vehicles operated by or for persons with disabilities may also be vanity or personalized license plates.

(d) Vanity and personalized license plates shall be issued only to the registered owner of the vehicle on which they are to be displayed, except as provided in Sections 3-611 and 3-616 for special registration plates for vehicles operated by or for persons with disabilities.

(e) An applicant for the issuance of vanity or personalized license plates or subsequent renewal thereof shall file an application in such form and manner and by such date as the Secretary of State may, in his discretion, require.

No vanity nor personalized license plates shall be approved, manufactured, or distributed that contain any characters, symbols other than the international accessibility symbol for vehicles operated by or for persons with disabilities, foreign words, or letters of punctuation.

(f) Vanity and personalized license plates as issued pursuant to this Act may be subject to the Staggered Registration System as prescribed by the Secretary of State.
(Source: P.A. 92-651, eff. 7-11-02.)

(625 ILCS 5/3-806.5 new)

Sec. 3-806.5. Additional fees for personalized license plates. For registration periods commencing after December 31, 2003, in addition to the regular registration fee, an

applicant shall be charged $47 for each set of personalized license plates issued to a motor vehicle of the first division or a motor vehicle of the second division registered at not more than 8,000 pounds or to a recreational vehicle and $25 for each set of personalized plates issued to a motorcycle. In addition to the regular renewal fee, an applicant shall be charged $7 for the renewal of each set of personalized license plates. Of the money received by the Secretary of State as additional fees for personalized license plates, 50% shall be deposited into the Secretary of State Special License Plate Fund and 50% shall be deposited into the General Revenue Fund.

(625 ILCS 5/3-811) (from Ch. 95 1/2, par. 3-811)

Sec. 3-811. Drive-away and other permits - Fees.

(a) Dealers may obtain drive-away permits for use as provided in this Code, for a fee of $6 per permit for permits purchased on or before June 30, 2003 and $10 for permits purchased on or after July 1, 2003. For drive-away permits purchased on or after July 1, 2003, $4 of the fee collected for the purchase of each permit shall be deposited into the General Revenue Fund.

(b) Transporters may obtain one-trip permits for vehicles in transit for use as provided in this Code, for a fee of $6 per permit for permits purchased on or before June 30, 2003 and $10 for permits purchased on or after July 1, 2003. For one-trip permits purchased on or after July 1, 2003, $4 of the fee collected from the purchase of each permit shall be deposited into the General Revenue Fund.

(c) Non-residents may likewise obtain a drive-away permit from the Secretary of State to export a motor vehicle purchased in Illinois, for a fee of $6 per permit for permits purchased on or before June 30, 2003 and $10 for permits purchased on or after July 1, 2003. For drive-away permits

purchased on or after July 1, 2003, $4 of the fee collected for the purchase of each permit shall be deposited into the General Revenue Fund.

(d) One-trip permits may be obtained for an occasional single trip by a vehicle as provided in this Code, upon payment of a fee of $19.

(e) One month permits may likewise be obtained for the fees and taxes prescribed in this Code and as promulgated by the Secretary of State.

(Source: P.A. 91-37, eff. 7-1-99; 92-680, eff. 7-16-02.)

(625 ILCS 5/5-101) (from Ch. 95 1/2, par. 5-101)

Sec. 5-101. New vehicle dealers must be licensed.

(a) No person shall engage in this State in the business of selling or dealing in, on consignment or otherwise, new vehicles of any make, or act as an intermediary or agent or broker for any licensed dealer or vehicle purchaser other than as a salesperson, or represent or advertise that he is so engaged or intends to so engage in such business unless licensed to do so in writing by the Secretary of State under the provisions of this Section.

(b) An application for a new vehicle dealer's license shall be filed with the Secretary of State, duly verified by oath, on such form as the Secretary of State may by rule or regulation prescribe and shall contain:

1. The name and type of business organization of the applicant and his established and additional places of business, if any, in this State.

2. If the applicant is a corporation, a list of its officers, directors, and shareholders having a ten percent or greater ownership interest in the corporation, setting forth the residence address of each; if the applicant is a sole proprietorship, a partnership, an unincorporated association, a trust, or any similar form

of business organization, the name and residence address of the proprietor or of each partner, member, officer, director, trustee, or manager.

3. The make or makes of new vehicles which the applicant will offer for sale at retail in this State.

4. The name of each manufacturer or franchised distributor, if any, of new vehicles with whom the applicant has contracted for the sale of such new vehicles. As evidence of this fact, the application shall be accompanied by a signed statement from each such manufacturer or franchised distributor. If the applicant is in the business of offering for sale new conversion vehicles, trucks or vans, except for trucks modified to serve a special purpose which includes but is not limited to the following vehicles: street sweepers, fertilizer spreaders, emergency vehicles, implements of husbandry or maintenance type vehicles, he must furnish evidence of a sales and service agreement from both the chassis manufacturer and second stage manufacturer.

5. A statement that the applicant has been approved for registration under the Retailers' Occupation Tax Act by the Department of Revenue: Provided that this requirement does not apply to a dealer who is already licensed hereunder with the Secretary of State, and who is merely applying for a renewal of his license. As evidence of this fact, the application shall be accompanied by a certification from the Department of Revenue showing that that Department has approved the applicant for registration under the Retailers' Occupation Tax Act.

6. A statement that the applicant has complied with the appropriate liability insurance requirement. A Certificate of Insurance in a solvent company authorized to do business in the State of Illinois shall be included

with each application covering each location at which he proposes to act as a new vehicle dealer. The policy must provide liability coverage in the minimum amounts of $100,000 for bodily injury to, or death of, any person, $300,000 for bodily injury to, or death of, two or more persons in any one accident, and $50,000 for damage to property. Such policy shall expire not sooner than December 31 of the year for which the license was issued or renewed. The expiration of the insurance policy shall not terminate the liability under the policy arising during the period for which the policy was filed. Trailer and mobile home dealers are exempt from this requirement.

If the permitted user has a liability insurance policy that provides automobile liability insurance coverage of at least $100,000 for bodily injury to or the death of any person, $300,000 for bodily injury to or the death of any 2 or more persons in any one accident, and $50,000 for damage to property, then the permitted user's insurer shall be the primary insurer and the dealer's insurer shall be the secondary insurer. If the permitted user does not have a liability insurance policy that provides automobile liability insurance coverage of at least $100,000 for bodily injury to or the death of any person, $300,000 for bodily injury to or the death of any 2 or more persons in any one accident, and $50,000 for damage to property, or does not have any insurance at all, then the dealer's insurer shall be the primary insurer and the permitted user's insurer shall be the secondary insurer.

When a permitted user is "test driving" a new vehicle dealer's automobile, the new vehicle dealer's insurance shall be primary and the permitted user's insurance shall be secondary.

As used in this paragraph 6, a "permitted user" is a person who, with the permission of the new vehicle dealer or an employee of the new vehicle dealer, drives a vehicle owned and held for sale or lease by the new vehicle dealer which the person is considering to purchase or lease, in order to evaluate the performance, reliability, or condition of the vehicle. The term "permitted user" also includes a person who, with the permission of the new vehicle dealer, drives a vehicle owned or held for sale or lease by the new vehicle dealer for loaner purposes while the user's vehicle is being repaired or evaluated.

As used in this paragraph 6, "test driving" occurs when a permitted user who, with the permission of the new vehicle dealer or an employee of the new vehicle dealer, drives a vehicle owned and held for sale or lease by a new vehicle dealer that the person is considering to purchase or lease, in order to evaluate the performance, reliability, or condition of the vehicle.

As used in this paragraph 6, "loaner purposes" means when a person who, with the permission of the new vehicle dealer, drives a vehicle owned or held for sale or lease by the new vehicle dealer while the user's vehicle is being repaired or evaluated.

7. (A) An application for a new motor vehicle dealer's license shall be accompanied by the following license fees:

$1,000 ~~$100~~ for applicant's established place of business, and $100 ~~$50~~ for each additional place of business, if any, to which the application pertains; but if the application is made after June 15 of any year, the license fee shall be $500 ~~$50~~ for applicant's established place of business plus $50 ~~$25~~ for each additional place of business, if

any, to which the application pertains. License fees shall be returnable only in the event that the application is denied by the Secretary of State. All moneys received by the Secretary of State as license fees under paragraph (7)(A) of subsection (b) of this Section prior to applications for the 2004 licensing year shall be deposited into the Motor Vehicle Review Board Fund and shall be used to administer the Motor Vehicle Review Board under the Motor Vehicle Franchise Act. Of the money received by the Secretary of State as license fees under paragraph (7)(A) of subsection (b) of this Section for the 2004 licensing year and thereafter, 10% shall be deposited into the Motor Vehicle Review Board Fund and shall be used to administer the Motor Vehicle Review Board under the Motor Vehicle Franchise Act and 90% shall be deposited into the General Revenue Fund.

(B) An application for a new vehicle dealer's license, other than for a new motor vehicle dealer's license, shall be accompanied by the following license fees:

$1,000 ~~$50~~ for applicant's established place of business, and $50 ~~$25~~ for each additional place of business, if any, to which the application pertains; but if the application is made after June 15 of any year, the license fee shall be $500 ~~$25~~ for applicant's established place of business plus $25 ~~$12.50~~ for each additional place of business, if any, to which the application pertains. License fees shall be returnable only in the event that the application is denied by the Secretary of State. Of the money received by the Secretary of State as license fees under this subsection for the 2004

licensing year and thereafter, 95% shall be deposited into the General Revenue Fund.

8. A statement that the applicant's officers, directors, shareholders having a 10% or greater ownership interest therein, proprietor, a partner, member, officer, director, trustee, manager or other principals in the business have not committed in the past 3 years any one violation as determined in any civil, criminal or administrative proceedings of any one of the following Acts:

(A) The Anti Theft Laws of the Illinois Vehicle Code;

(B) The Certificate of Title Laws of the Illinois Vehicle Code;

(C) The Offenses against Registration and Certificates of Title Laws of the Illinois Vehicle Code;

(D) The Dealers, Transporters, Wreckers and Rebuilders Laws of the Illinois Vehicle Code;

(E) Section 21-2 of the Criminal Code of 1961, Criminal Trespass to Vehicles; or

(F) The Retailers' Occupation Tax Act.

9. A statement that the applicant's officers, directors, shareholders having a 10% or greater ownership interest therein, proprietor, partner, member, officer, director, trustee, manager or other principals in the business have not committed in any calendar year 3 or more violations, as determined in any civil, criminal or administrative proceedings, of any one or more of the following Acts:

(A) The Consumer Finance Act;

(B) The Consumer Installment Loan Act;

(C) The Retail Installment Sales Act;

(D) The Motor Vehicle Retail Installment Sales

Act;

(E) The Interest Act;

(F) The Illinois Wage Assignment Act;

(G) Part 8 of Article XII of the Code of Civil Procedure; or

(H) The Consumer Fraud Act.

10. A bond or certificate of deposit in the amount of $20,000 for each location at which the applicant intends to act as a new vehicle dealer. The bond shall be for the term of the license, or its renewal, for which application is made, and shall expire not sooner than December 31 of the year for which the license was issued or renewed. The bond shall run to the People of the State of Illinois, with surety by a bonding or insurance company authorized to do business in this State. It shall be conditioned upon the proper transmittal of all title and registration fees and taxes (excluding taxes under the Retailers' Occupation Tax Act) accepted by the applicant as a new vehicle dealer.

11. Such other information concerning the business of the applicant as the Secretary of State may by rule or regulation prescribe.

12. A statement that the applicant understands Chapter One through Chapter Five of this Code.

(c) Any change which renders no longer accurate any information contained in any application for a new vehicle dealer's license shall be amended within 30 days after the occurrence of such change on such form as the Secretary of State may prescribe by rule or regulation, accompanied by an amendatory fee of $2.

(d) Anything in this Chapter 5 to the contrary notwithstanding no person shall be licensed as a new vehicle dealer unless:

1. He is authorized by contract in writing between

himself and the manufacturer or franchised distributor of such make of vehicle to so sell the same in this State, and

2. Such person shall maintain an established place of business as defined in this Act.

(e) The Secretary of State shall, within a reasonable time after receipt, examine an application submitted to him under this Section and unless he makes a determination that the application submitted to him does not conform with the requirements of this Section or that grounds exist for a denial of the application, under Section 5-501 of this Chapter, grant the applicant an original new vehicle dealer's license in writing for his established place of business and a supplemental license in writing for each additional place of business in such form as he may prescribe by rule or regulation which shall include the following:

1. The name of the person licensed;

2. If a corporation, the name and address of its officers or if a sole proprietorship, a partnership, an unincorporated association or any similar form of business organization, the name and address of the proprietor or of each partner, member, officer, director, trustee or manager;

3. In the case of an original license, the established place of business of the licensee;

4. In the case of a supplemental license, the established place of business of the licensee and the additional place of business to which such supplemental license pertains;

5. The make or makes of new vehicles which the licensee is licensed to sell.

(f) The appropriate instrument evidencing the license or a certified copy thereof, provided by the Secretary of State, shall be kept posted conspicuously in the established place

of business of the licensee and in each additional place of business, if any, maintained by such licensee.

(g) Except as provided in subsection (h) hereof, all new vehicle dealer's licenses granted under this Section shall expire by operation of law on December 31 of the calendar year for which they are granted unless sooner revoked or cancelled under the provisions of Section 5-501 of this Chapter.

(h) A new vehicle dealer's license may be renewed upon application and payment of the fee required herein, and submission of proof of coverage under an approved bond under the "Retailers' Occupation Tax Act" or proof that applicant is not subject to such bonding requirements, as in the case of an original license, but in case an application for the renewal of an effective license is made during the month of December, the effective license shall remain in force until the application is granted or denied by the Secretary of State.

(i) All persons licensed as a new vehicle dealer are required to furnish each purchaser of a motor vehicle:

1. In the case of a new vehicle a manufacturer's statement of origin and in the case of a used motor vehicle a certificate of title, in either case properly assigned to the purchaser;

2. A statement verified under oath that all identifying numbers on the vehicle agree with those on the certificate of title or manufacturer's statement of origin;

3. A bill of sale properly executed on behalf of such person;

4. A copy of the Uniform Invoice-transaction reporting return referred to in Section 5-402 hereof;

5. In the case of a rebuilt vehicle, a copy of the Disclosure of Rebuilt Vehicle Status; and

6. In the case of a vehicle for which the warranty has been reinstated, a copy of the warranty.

(j) Except at the time of sale or repossession of the vehicle, no person licensed as a new vehicle dealer may issue any other person a newly created key to a vehicle unless the new vehicle dealer makes a copy of the driver's license or State identification card of the person requesting or obtaining the newly created key. The new vehicle dealer must retain the copy for 30 days.

A new vehicle dealer who violates this subsection (j) is guilty of a petty offense. Violation of this subsection (j) is not cause to suspend, revoke, cancel, or deny renewal of the new vehicle dealer's license.

This amendatory Act of 1983 shall be applicable to the 1984 registration year and thereafter.

(Source: P.A. 92-391, eff. 8-16-01; 92-835, eff. 6-1-03.)

(625 ILCS 5/5-102) (from Ch. 95 1/2, par. 5-102)

Sec. 5-102. Used vehicle dealers must be licensed.

(a) No person, other than a licensed new vehicle dealer, shall engage in the business of selling or dealing in, on consignment or otherwise, 5 or more used vehicles of any make during the year (except house trailers as authorized by paragraph (j) of this Section and rebuilt salvage vehicles sold by their rebuilders to persons licensed under this Chapter), or act as an intermediary, agent or broker for any licensed dealer or vehicle purchaser (other than as a salesperson) or represent or advertise that he is so engaged or intends to so engage in such business unless licensed to do so by the Secretary of State under the provisions of this Section.

(b) An application for a used vehicle dealer's license shall be filed with the Secretary of State, duly verified by oath, in such form as the Secretary of State may by rule or

regulation prescribe and shall contain:

1. The name and type of business organization established and additional places of business, if any, in this State.

2. If the applicant is a corporation, a list of its officers, directors, and shareholders having a ten percent or greater ownership interest in the corporation, setting forth the residence address of each; if the applicant is a sole proprietorship, a partnership, an unincorporated association, a trust, or any similar form of business organization, the names and residence address of the proprietor or of each partner, member, officer, director, trustee or manager.

3. A statement that the applicant has been approved for registration under the Retailers' Occupation Tax Act by the Department of Revenue. However, this requirement does not apply to a dealer who is already licensed hereunder with the Secretary of State, and who is merely applying for a renewal of his license. As evidence of this fact, the application shall be accompanied by a certification from the Department of Revenue showing that the Department has approved the applicant for registration under the Retailers' Occupation Tax Act.

4. A statement that the applicant has complied with the appropriate liability insurance requirement. A Certificate of Insurance in a solvent company authorized to do business in the State of Illinois shall be included with each application covering each location at which he proposes to act as a used vehicle dealer. The policy must provide liability coverage in the minimum amounts of $100,000 for bodily injury to, or death of, any person, $300,000 for bodily injury to, or death of, two or more persons in any one accident, and $50,000 for damage to property. Such policy shall expire not sooner than

December 31 of the year for which the license was issued or renewed. The expiration of the insurance policy shall not terminate the liability under the policy arising during the period for which the policy was filed. Trailer and mobile home dealers are exempt from this requirement.

If the permitted user has a liability insurance policy that provides automobile liability insurance coverage of at least $100,000 for bodily injury to or the death of any person, $300,000 for bodily injury to or the death of any 2 or more persons in any one accident, and $50,000 for damage to property, then the permitted user's insurer shall be the primary insurer and the dealer's insurer shall be the secondary insurer. If the permitted user does not have a liability insurance policy that provides automobile liability insurance coverage of at least $100,000 for bodily injury to or the death of any person, $300,000 for bodily injury to or the death of any 2 or more persons in any one accident, and $50,000 for damage to property, or does not have any insurance at all, then the dealer's insurer shall be the primary insurer and the permitted user's insurer shall be the secondary insurer.

When a permitted user is "test driving" a used vehicle dealer's automobile, the used vehicle dealer's insurance shall be primary and the permitted user's insurance shall be secondary.

As used in this paragraph 4, a "permitted user" is a person who, with the permission of the used vehicle dealer or an employee of the used vehicle dealer, drives a vehicle owned and held for sale or lease by the used vehicle dealer which the person is considering to purchase or lease, in order to evaluate the performance, reliability, or condition of the vehicle. The term

"permitted user" also includes a person who, with the permission of the used vehicle dealer, drives a vehicle owned or held for sale or lease by the used vehicle dealer for loaner purposes while the user's vehicle is being repaired or evaluated.

As used in this paragraph 4, "test driving" occurs when a permitted user who, with the permission of the used vehicle dealer or an employee of the used vehicle dealer, drives a vehicle owned and held for sale or lease by a used vehicle dealer that the person is considering to purchase or lease, in order to evaluate the performance, reliability, or condition of the vehicle.

As used in this paragraph 4, "loaner purposes" means when a person who, with the permission of the used vehicle dealer, drives a vehicle owned or held for sale or lease by the used vehicle dealer while the user's vehicle is being repaired or evaluated.

5. An application for a used vehicle dealer's license shall be accompanied by the following license fees:

$1,000 ~~$50~~ for applicant's established place of business, and $50 ~~$25~~ for each additional place of business, if any, to which the application pertains; however, if the application is made after June 15 of any year, the license fee shall be $500 ~~$25~~ for applicant's established place of business plus $25 ~~$12.50~~ for each additional place of business, if any, to which the application pertains. License fees shall be returnable only in the event that the application is denied by the Secretary of State. Of the money received by the Secretary of State as license fees under this Section for the 2004 licensing year and thereafter, 95% shall be deposited into the General Revenue Fund.

6. A statement that the applicant's officers,

directors, shareholders having a 10% or greater ownership interest therein, proprietor, partner, member, officer, director, trustee, manager or other principals in the business have not committed in the past 3 years any one violation as determined in any civil, criminal or administrative proceedings of any one of the following Acts:

(A) The Anti Theft Laws of the Illinois Vehicle Code;

(B) The Certificate of Title Laws of the Illinois Vehicle Code;

(C) The Offenses against Registration and Certificates of Title Laws of the Illinois Vehicle Code;

(D) The Dealers, Transporters, Wreckers and Rebuilders Laws of the Illinois Vehicle Code;

(E) Section 21-2 of the Illinois Criminal Code of 1961, Criminal Trespass to Vehicles; or

(F) The Retailers' Occupation Tax Act.

7. A statement that the applicant's officers, directors, shareholders having a 10% or greater ownership interest therein, proprietor, partner, member, officer, director, trustee, manager or other principals in the business have not committed in any calendar year 3 or more violations, as determined in any civil or criminal or administrative proceedings, of any one or more of the following Acts:

(A) The Consumer Finance Act;

(B) The Consumer Installment Loan Act;

(C) The Retail Installment Sales Act;

(D) The Motor Vehicle Retail Installment Sales Act;

(E) The Interest Act;

(F) The Illinois Wage Assignment Act;

(G) Part 8 of Article XII of the Code of Civil Procedure; or

(H) The Consumer Fraud Act.

8. A bond or Certificate of Deposit in the amount of $20,000 for each location at which the applicant intends to act as a used vehicle dealer. The bond shall be for the term of the license, or its renewal, for which application is made, and shall expire not sooner than December 31 of the year for which the license was issued or renewed. The bond shall run to the People of the State of Illinois, with surety by a bonding or insurance company authorized to do business in this State. It shall be conditioned upon the proper transmittal of all title and registration fees and taxes (excluding taxes under the Retailers' Occupation Tax Act) accepted by the applicant as a used vehicle dealer.

9. Such other information concerning the business of the applicant as the Secretary of State may by rule or regulation prescribe.

10. A statement that the applicant understands Chapter 1 through Chapter 5 of this Code.

(c) Any change which renders no longer accurate any information contained in any application for a used vehicle dealer's license shall be amended within 30 days after the occurrence of each change on such form as the Secretary of State may prescribe by rule or regulation, accompanied by an amendatory fee of $2.

(d) Anything in this Chapter to the contrary notwithstanding, no person shall be licensed as a used vehicle dealer unless such person maintains an established place of business as defined in this Chapter.

(e) The Secretary of State shall, within a reasonable time after receipt, examine an application submitted to him under this Section. Unless the Secretary makes a

determination that the application submitted to him does not conform to this Section or that grounds exist for a denial of the application under Section 5-501 of this Chapter, he must grant the applicant an original used vehicle dealer's license in writing for his established place of business and a supplemental license in writing for each additional place of business in such form as he may prescribe by rule or regulation which shall include the following:

1. The name of the person licensed;

2. If a corporation, the name and address of its officers or if a sole proprietorship, a partnership, an unincorporated association or any similar form of business organization, the name and address of the proprietor or of each partner, member, officer, director, trustee or manager;

3. In case of an original license, the established place of business of the licensee;

4. In the case of a supplemental license, the established place of business of the licensee and the additional place of business to which such supplemental license pertains.

(f) The appropriate instrument evidencing the license or a certified copy thereof, provided by the Secretary of State shall be kept posted, conspicuously, in the established place of business of the licensee and in each additional place of business, if any, maintained by such licensee.

(g) Except as provided in subsection (h) of this Section, all used vehicle dealer's licenses granted under this Section expire by operation of law on December 31 of the calendar year for which they are granted unless sooner revoked or cancelled under Section 5-501 of this Chapter.

(h) A used vehicle dealer's license may be renewed upon application and payment of the fee required herein, and submission of proof of coverage by an approved bond under the

"Retailers' Occupation Tax Act" or proof that applicant is not subject to such bonding requirements, as in the case of an original license, but in case an application for the renewal of an effective license is made during the month of December, the effective license shall remain in force until the application for renewal is granted or denied by the Secretary of State.

(i) All persons licensed as a used vehicle dealer are required to furnish each purchaser of a motor vehicle:

1. A certificate of title properly assigned to the purchaser;

2. A statement verified under oath that all identifying numbers on the vehicle agree with those on the certificate of title;

3. A bill of sale properly executed on behalf of such person;

4. A copy of the Uniform Invoice-transaction reporting return referred to in Section 5-402 of this Chapter;

5. In the case of a rebuilt vehicle, a copy of the Disclosure of Rebuilt Vehicle Status; and

6. In the case of a vehicle for which the warranty has been reinstated, a copy of the warranty.

(j) A real estate broker holding a valid certificate of registration issued pursuant to "The Real Estate Brokers and Salesmen License Act" may engage in the business of selling or dealing in house trailers not his own without being licensed as a used vehicle dealer under this Section; however such broker shall maintain a record of the transaction including the following:

(1) the name and address of the buyer and seller,

(2) the date of sale,

(3) a description of the mobile home, including the vehicle identification number, make, model, and year, and

(4) the Illinois certificate of title number.

The foregoing records shall be available for inspection by any officer of the Secretary of State's Office at any reasonable hour.

(k) Except at the time of sale or repossession of the vehicle, no person licensed as a used vehicle dealer may issue any other person a newly created key to a vehicle unless the used vehicle dealer makes a copy of the driver's license or State identification card of the person requesting or obtaining the newly created key. The used vehicle dealer must retain the copy for 30 days.

A used vehicle dealer who violates this subsection (k) is guilty of a petty offense. Violation of this subsection (k) is not cause to suspend, revoke, cancel, or deny renewal of the used vehicle dealer's license.

(Source: P.A. 92-391, eff. 8-16-01; 92-835, eff. 6-1-03.)

(625 ILCS 5/6-118) (from Ch. 95 1/2, par. 6-118)

Sec. 6-118. Fees.

(a) The fee for licenses and permits under this Article is as follows:

Original driver's license.....$10

Original or renewal driver's license
issued to 18, 19 and 20 year olds.....5

All driver's licenses for persons
age 69 through age 80.....5

All driver's licenses for persons
age 81 through age 86.....2

All driver's licenses for persons
age 87 or older.....0

Renewal driver's license (except for
applicants ages 18, 19 and 20 or
age 69 and older).....10

Original instruction permit issued to

persons (except those age 69 and older) who do not hold or have not previously held an Illinois instruction permit or driver's license.....20

Instruction permit issued to any person holding an Illinois driver's license who wishes a change in classifications, other than at the time of renewal.....5

Any instruction permit issued to a person age 69 and older.....5

Instruction permit issued to any person, under age 69, not currently holding a valid Illinois driver's license or instruction permit but who has previously been issued either document in Illinois.....10

Restricted driving permit.....8

Duplicate or corrected driver's license or permit.....5

Duplicate or corrected restricted driving permit.....5

Original or renewal M or L endorsement.....5

SPECIAL FEES FOR COMMERCIAL DRIVER'S LICENSE

The fees for commercial driver licenses and permits under Article V shall be as follows:

Commercial driver's license:

$6 for the CDLIS/AAMVAnet Fund (Commercial Driver's License Information System/American Association of Motor Vehicle Administrators network Trust Fund);

$20 for the Motor Carrier Safety Inspection Fund;

$10 for the driver's license;

and $24 for the CDL:.....$60

Renewal commercial driver's license:

$6 for the CDLIS/AAMVAnet Trust Fund;

$20 for the Motor Carrier Safety Inspection Fund;

$10 for the driver's license; and

$24 for the CDL:.....$60

Commercial driver instruction permit

issued to any person holding a valid

Illinois driver's license for the

purpose of changing to a

CDL classification: $6 for the

CDLIS/AAMVAnet Trust Fund;

$20 for the Motor Carrier

Safety Inspection Fund; and

$24 for the CDL classification.....$50

Commercial driver instruction permit

issued to any person holding a valid

Illinois CDL for the purpose of

making a change in a classification,

endorsement or restriction.....$5

CDL duplicate or corrected license.....$5

In order to ensure the proper implementation of the Uniform Commercial Driver License Act, Article V of this Chapter, the Secretary of State is empowered to pro-rate the $24 fee for the commercial driver's license proportionate to the expiration date of the applicant's Illinois driver's license.

The fee for any duplicate license or permit shall be waived for any person age 60 or older who presents the Secretary of State's office with a police report showing that his license or permit was stolen.

No additional fee shall be charged for a driver's license, or for a commercial driver's license, when issued to the holder of an instruction permit for the same classification or type of license who becomes eligible for such license.

(b) Any person whose license or privilege to operate a motor vehicle in this State has been suspended or revoked under any provision of Chapter 6, Chapter 11, or Section 7-205, 7-303, or 7-702 of the Family Financial Responsibility Law of this Code, shall in addition to any other fees required by this Code, pay a reinstatement fee as follows:

Summary suspension under Section 11-501.1.....$250 ~~$60~~

Other suspension.....$70 ~~$30~~

Revocation.....$500 ~~$60~~

However, any person whose license or privilege to operate a motor vehicle in this State has been suspended or revoked for a second or subsequent time for a violation of Section 11-501 or 11-501.1 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961 and each suspension or revocation was for a violation of Section 11-501 or 11-501.1 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961 shall pay, in addition to any other fees required by this Code, a reinstatement fee as follows:

Summary suspension under Section 11-501.1.....$500 ~~$250~~

Revocation.....$500 ~~$250~~

(c) All fees collected under the provisions of this Chapter 6 shall be paid into the Road Fund in the State Treasury except as follows:

1. The following amounts shall be paid into the Driver Education Fund:

(A) $16 of the $20 fee for an original driver's instruction permit;

(B) $5 of the $20 ~~$10~~ fee for an original driver's license;

(C) $5 of the $20 ~~$10~~ fee for a 4 year renewal driver's license; and

(D) $4 of the $8 fee for a restricted driving

permit.

2. $30 of the $250 ~~$60~~ fee for reinstatement of a license summarily suspended under Section 11-501.1 shall be deposited into the Drunk and Drugged Driving Prevention Fund. However, for a person whose license or privilege to operate a motor vehicle in this State has been suspended or revoked for a second or subsequent time for a violation of Section 11-501 or 11-501.1 of this Code or Section 9-3 of the Criminal Code of 1961, $190 of the $500 ~~$250~~ fee for reinstatement of a license summarily suspended under Section 11-501.1, and $190 of the $500 ~~$250~~ fee for reinstatement of a revoked license shall be deposited into the Drunk and Drugged Driving Prevention Fund.

3. $6 of such original or renewal fee for a commercial driver's license and $6 of the commercial driver instruction permit fee when such permit is issued to any person holding a valid Illinois driver's license, shall be paid into the CDLIS/AAMVAnet Trust Fund.

4. $30 of the $70 fee for reinstatement of a license suspended under the Family Financial Responsibility Law shall be paid into the Family Responsibility Fund.

5. The $5 fee for each original or renewal M or L endorsement shall be deposited into the Cycle Rider Safety Training Fund.

6. $20 of any original or renewal fee for a commercial driver's license or commercial driver instruction permit shall be paid into the Motor Carrier Safety Inspection Fund.

7. The following amounts shall be paid into the General Revenue Fund:

(A) $190 of the $250 reinstatement fee for a summary suspension under Section 11-501.1;

(B) $40 of the $70 reinstatement fee for any other suspension provided in subsection (b) of this Section; and

(C) $440 of the $500 reinstatement fee for a first offense revocation and $310 of the $500 reinstatement fee for a second or subsequent revocation.

(Source: P.A. 91-357, eff. 7-29-99; 91-537, eff. 8-13-99; 92-458, eff. 8-22-01.)

(625 ILCS 5/7-707)

Sec. 7-707. Payment of reinstatement fee. When an obligor receives notice from the Secretary of State that the suspension of driving privileges has been terminated based upon receipt of notification from the circuit clerk of the obligor's compliance with a court order of support, the obligor shall pay a $70 ~~$30~~ reinstatement fee to the Secretary of State as set forth in Section 6-118 of this Code. $30 of the $70 fee shall be deposited into the Family Responsibility Fund. In accordance with subsection (e) of Section 6-115 of this Code, the Secretary of State may decline to process a renewal of a driver's license of a person who has not paid this fee.

(Source: P.A. 92-16, eff. 6-28-01.)

(625 ILCS 5/18c-1501) (from Ch. 95 1/2, par. 18c-1501)

Sec. 18c-1501. Franchise, Franchise Renewal, Filing and Other Fees for Motor Carriers of Property.

(1) Franchise, Franchise Renewal, Filing, and Other Fee Levels in Effect Absent Commission Regulations Prescribing Different Fee Levels. The levels of franchise, franchise renewal, filing, and other fees for motor carriers of property in effect, absent Commission regulations prescribing different fee levels, shall be:

(a) Franchise and franchise renewal fees: $19 for each motor vehicle operated by a motor carrier of property in intrastate commerce, and $2 for each motor vehicle operated by a motor carrier of property in interstate commerce.

(b) Filing fees: $100 for each application seeking a Commission license or other authority, the reinstatement of a cancelled license or authority, or authority to establish a rate, other than by special permission, excluding both released rate applications and rate filings which may be investigated or suspended but which require no prior authorization for filing; $25 for each released rate application and each application to register as an interstate carrier; $15 for each application seeking special permission in regard to rates; and $15 for each equipment lease.

(2) Adjustment of Fee Levels. The Commission may, by rulemaking in accordance with provisions of The Illinois Administrative Procedure Act, adjust franchise, franchise renewal, filing, and other fees for motor carriers of property by increasing or decreasing them from levels in effect absent Commission regulations prescribing different fee levels. Franchise and franchise renewal fees prescribed by the Commission for motor carriers of property shall not exceed:

(a) $50 for each motor vehicle operated by a household goods carrier in intrastate commerce;

(a-5) $15 ~~$5~~ for each motor vehicle operated by a public carrier in intrastate commerce; and

(b) $7 for each motor vehicle operated by a motor carrier of property in interstate commerce.

(3) Late-Filing Fees.

(a) Commission to Prescribe Late-Filing Fees. The Commission may prescribe fees for the late filing of

proof of insurance, operating reports, franchise or franchise renewal fee applications, or other documents required to be filed on a periodic basis with the Commission.

(b) Late-filing Fees to Accrue Automatically. Late-filing fees shall accrue automatically from the filing deadline set forth in Commission regulations, and all persons or entities required to make such filings shall be on notice of such deadlines.

(c) Maximum Fees. Late-filing fees prescribed by the Commission shall not exceed $100 for an initial period, plus $10 for each day after the expiration of the initial period. The Commission may provide for waiver of all or part of late-filing fees accrued under this subsection on a showing of good cause.

(d) Effect of Failure to Make Timely Filings and Pay Late-Filing Fees. Failure of a person to file proof of continuous insurance coverage or to make other periodic filings required under Commission regulations shall make licenses and registrations held by the person subject to revocation or suspension. The licenses or registrations cannot thereafter be returned to good standing until after payment of all late-filing fees accrued and not waived under this subsection.

(4) Payment of Fees.

(a) Franchise and Franchise Renewal Fees. Franchise and franchise renewal fees for motor carriers of property shall be due and payable on or before the 31st day of December of the calendar year preceding the calendar year for which the fees are owing, unless otherwise provided in Commission regulations.

(b) Filing and Other Fees. Filing and other fees (including late-filing fees) shall be due and payable on the date of filing, or on such other date as is set forth

in Commission regulations.

(5) When Fees Returnable.

(a) Whenever an application to the Illinois Commerce Commission is accompanied by any fee as required by law and such application is refused or rejected, said fee shall be returned to said applicant.

(b) The Illinois Commerce Commission may reduce by interlineation the amount of any personal check or corporate check or company check drawn on the account of and delivered by any person for payment of a fee required by the Illinois Commerce Commission.

(c) Any check altered pursuant to above shall be endorsed by the Illinois Commerce Commission as follows: "This check is warranted to subsequent holders and to the drawee to be in the amount $."

(d) All applications to the Illinois Commerce Commission requiring fee payment upon reprinting shall contain the following authorization statement: "My signature authorizes the Illinois Commerce Commission to lower the amount of check if fee submitted exceeds correct amount."

(Source: P.A. 89-444, eff. 1-25-96.)

(625 ILCS 5/18c-1502.05)

Sec. 18c-1502.05. Route Mileage Fee for Rail Carriers. Beginning with calendar year 2004 ~~1997~~, every rail carrier shall pay to the Commission for each calendar year a route mileage fee of $45 ~~$37~~ for each route mile of railroad right of way owned by the rail carrier in Illinois. The fee shall be based on the number of route miles as of January 1 of the year for which the fee is due, and the payment of the route mileage fee shall be due by February 1 of each calendar year.

(Source: P.A. 89-699, eff. 1-16-97.)

(625 ILCS 5/18c-1502.10)

Sec. 18c-1502.10. Railroad-Highway Grade Crossing and Grade Separation Fee. Beginning with calendar year 2004 ~~1997~~, every rail carrier shall pay to the Commission for each calendar year a fee of $28 ~~$23~~ for each location at which the rail carrier's track crosses a public road, highway, or street, whether the crossing be at grade, by overhead structure, or by subway. The fee shall be based on the number of the crossings as of January 1 of each calendar year, and the fee shall be due by February 1 of each calendar year.

(Source: P.A. 89-699, eff. 1-16-97.)

Section 75-85. The Boat Registration and Safety Act is amended by changing Sections 3-2 and 3-7 as follows:

(625 ILCS 45/3-2) (from Ch. 95 1/2, par. 313-2)

Sec. 3-2. Identification number application. The owner of each watercraft requiring numbering by this State shall file an application for number with the Department on forms approved by it. The application shall be signed by the owner of the watercraft and shall be accompanied by a fee as follows:

A. Class A (all canoes and kayaks)..... $6

B. Class 1 (all watercraft less than 16 feet in length, except canoes and kayaks)... $15

C. Class 2 (all watercraft 16 feet or more but less than 26 feet in length except canoes and kayaks)..... $45 ~~$20~~

D. Class 3 (all watercraft 26 feet or more but less than 40 feet in length)..... $75 ~~$25~~

E. Class 4 (all watercraft 40 feet in length or more)..... $100 ~~$30~~

Upon receipt of the application in approved form, and

when satisfied that no tax imposed pursuant to the "Municipal Use Tax Act" or the "County Use Tax Act" is owed, or that such tax has been paid, the Department shall enter the same upon the records of its office and issue to the applicant a certificate of number stating the number awarded to the watercraft and the name and address of the owner.

(Source: P.A. 88-91.)

(625 ILCS 45/3-7) (from Ch. 95 1/2, par. 313-7)

Sec. 3-7. Loss of certificate. Should a certificate of number or registration expiration decal become lost, destroyed, or mutilated beyond legibility, the owner of the watercraft shall make application to the Department for the replacement of the certificate or decal, giving his name, address, and the number of his boat and shall at the same time pay to the Department a fee of $5 ~~$1~~.

(Source: P.A. 85-149.)

Section 75-90. The Illinois Controlled Substances Act is amended by changing Section 303 as follows:

(720 ILCS 570/303) (from Ch. 56 1/2, par. 1303)

Sec. 303. (a) The Department of Professional Regulation shall license an applicant to manufacture, distribute or dispense controlled substances included in Sections 204, 206, 208, 210 and 212 of this Act unless it determines that the issuance of that license would be inconsistent with the public interest. In determining the public interest, the Department of Professional Regulation shall consider the following:

(1) maintenance of effective controls against diversion of controlled substances into other than lawful medical, scientific, or industrial channels;

(2) compliance with applicable Federal, State and

local law;

(3) any convictions of the applicant under any law of the United States or of any State relating to any controlled substance;

(4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under this Act;

(6) suspension or revocation of the applicant's Federal registration to manufacture, distribute, or dispense controlled substances as authorized by Federal law;

(7) whether the applicant is suitably equipped with the facilities appropriate to carry on the operation described in his application;

(8) whether the applicant is of good moral character or, if the applicant is a partnership, association, corporation or other organization, whether the partners, directors, governing committee and managing officers are of good moral character;

(9) any other factors relevant to and consistent with the public health and safety; and

(10) Evidence from court, medical disciplinary and pharmacy board records and those of State and Federal investigatory bodies that the applicant has not or does not prescribe controlled substances within the provisions of this Act.

(b) No license shall be granted to or renewed for any person who has within 5 years been convicted of a wilful violation of any law of the United States or any law of any State relating to controlled substances, or who is found to

be deficient in any of the matters enumerated in subsections (a)(1) through (a)(8).

(c) Licensure under subsection (a) does not entitle a registrant to manufacture, distribute or dispense controlled substances in Schedules I or II other than those specified in the registration.

(d) Practitioners who are licensed to dispense any controlled substances in Schedules II through V are authorized to conduct instructional activities with controlled substances in Schedules II through V under the law of this State.

(e) If an applicant for registration is registered under the Federal law to manufacture, distribute or dispense controlled substances, upon filing a completed application for licensure in this State and payment of all fees due hereunder, he shall be licensed in this State to the same extent as his Federal registration, unless, within 30 days after completing his application in this State, the Department of Professional Regulation notifies the applicant that his application has not been granted. A practitioner who is in compliance with the Federal law with respect to registration to dispense controlled substances in Schedules II through V need only send a current copy of that Federal registration to the Department of Professional Regulation and he shall be deemed in compliance with the registration provisions of this State.

(e-5) Beginning July 1, 2003, all of the fees and fines collected under this Section 303 shall be deposited into the Illinois State Pharmacy Disciplinary Fund.

(f) The fee for registration as a manufacturer or wholesale distributor of controlled substances shall be $50.00 per year, except that the fee for registration as a manufacturer or wholesale distributor of controlled substances that may be dispensed without a prescription under

this Act shall be $15.00 per year. The expiration date and renewal period for each controlled substance license issued under this Act shall be set by rule.

(Source: P.A. 90-818, eff. 3-23-99.)

Section 75-92. The Business Corporation Act of 1983 is amended by changing Sections 15.10, 15.12, 15.15, 15.45, and 15.75 as follows:

(805 ILCS 5/15.10) (from Ch. 32, par. 15.10)

Sec. 15.10. Fees for filing documents. The Secretary of State shall charge and collect for:

(a) Filing articles of incorporation, $150 ~~$75~~.

(b) Filing articles of amendment, $50 ~~$25~~, unless the amendment is a restatement of the articles of incorporation, in which case the fee shall be $150 ~~$100~~.

(c) Filing articles of merger or consolidation, $100, but if the merger or consolidation involves more than 2 corporations, $50 for each additional corporation.

(d) Filing articles of share exchange, $100.

(e) Filing articles of dissolution, $5.

(f) Filing application to reserve a corporate name, $25.

(g) Filing a notice of transfer of a reserved corporate name, $25.

(h) Filing statement of change of address of registered office or change of registered agent, or both, if other than on an annual report, $25 ~~$5~~.

(i) Filing statement of the establishment of a series of shares, $25.

(j) Filing an application of a foreign corporation for authority to transact business in this State, $150 ~~$75~~.

(k) Filing an application of a foreign corporation for amended authority to transact business in this State, $25.

(l) Filing a copy of amendment to the articles of

incorporation of a foreign corporation holding authority to transact business in this State, $50 ~~$25~~, unless the amendment is a restatement of the articles of incorporation, in which case the fee shall be $150 ~~$100~~.

(m) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to transact business in this State, $100, but if the merger involves more than 2 corporations, $50 for each additional corporation.

(n) Filing an application for withdrawal and final report or a copy of articles of dissolution of a foreign corporation, $25.

(o) Filing an annual report, interim annual report, or final transition annual report of a domestic or foreign corporation, $75 ~~$25~~.

(p) Filing an application for reinstatement of a domestic or a foreign corporation, $200 ~~$100~~.

(q) Filing an application for use of an assumed corporate name, $150 for each year or part thereof ending in 0 or 5, $120 for each year or part thereof ending in 1 or 6, $90 for each year or part thereof ending in 2 or 7, $60 for each year or part thereof ending in 3 or 8, $30 for each year or part thereof ending in 4 or 9, between the date of filing the application and the date of the renewal of the assumed corporate name; and a renewal fee for each assumed corporate name, $150.

(r) To change an assumed corporate name for the period remaining until the renewal date of the original assumed name, $25.

(s) Filing an application for cancellation of an assumed corporate name, $5.

(t) Filing an application to register the corporate name of a foreign corporation, $50; and an annual renewal fee for the registered name, $50.

(u) Filing an application for cancellation of a

registered name of a foreign corporation, $25.

(v) Filing a statement of correction, $50 ~~$25~~.

(w) Filing a petition for refund or adjustment, $5.

(x) Filing a statement of election of an extended filing month, $25.

(y) Filing any other statement or report, $5.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 5/15.12)

Sec. 15.12. Disposition of fees. Of the total money collected for the filing of an annual report under this Act, $15 ~~$10~~ of the filing fee shall be paid into the Secretary of State Special Services Fund. The remaining $60 ~~$15~~ shall be deposited into the General Revenue Fund in the State Treasury.

(Source: P.A. 89-503, eff. 1-1-97.)

(805 ILCS 5/15.15) (from Ch. 32, par. 15.15)

Sec. 15.15. Miscellaneous charges. The Secretary of State shall charge and collect; (a) For furnishing a copy or certified copy of any document, instrument, or paper relating to a corporation, or for a certificate, $25 ~~50¢ per page, but not less than $5.00 and $5 for the certificate and for affixing the seal thereto~~.

(b) At the time of any service of process, notice or demand on him or her as resident agent of a corporation, $10, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if such party prevails in the suit or action.

(Source: P.A. 83-1025.)

(805 ILCS 5/15.45) (from Ch. 32, par. 15.45)

Sec. 15.45. Rate of franchise taxes payable by domestic corporations.

(a) The annual franchise tax payable by each domestic corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof for the period commencing on the first day of July 1983 to the first day of the anniversary month in 1984, but in no event shall the amount of the annual franchise tax be less than $2.08333 per month assessed on a minimum of $25 per annum or more than $83,333.333333 per month; commencing on January 1, 1984 to the first day of the anniversary month in 2004 ~~thereafter~~, the annual franchise tax payable by each domestic corporation shall be computed at the rate of 1/10 of 1% for the 12-months' period commencing on the first day of the anniversary month or, in cases where a corporation has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than $25 nor more than $1,000,000 per annum; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable by each domestic corporation shall be computed at the rate of 1/10 of 1% for the 12-months' period commencing on the first day of the anniversary month or, in cases where a corporation has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than $25 nor more than $2,000,000 per annum.

(b) The annual franchise tax payable by each domestic corporation at the time of filing a statement of election and interim annual report in connection with an anniversary month prior to January, 2004 shall be computed at the rate of 1/10 of 1% for the 12 month period commencing on the first day of the anniversary month of the corporation next following such filing, but in no event shall the amount of the annual franchise tax be less than $25 nor more than $1,000,000 per annum; commencing with the first anniversary month that

occurs after December, 2003, the annual franchise tax payable by each domestic corporation at the time of filing a statement of election and interim annual report shall be computed at the rate of 1/10 of 1% for the 12-month period commencing on the first day of the anniversary month of the corporation next following such filing, but in no event shall the amount of the annual franchise tax be less than $25 nor more than $2,000,000 per annum.

(c) The annual franchise tax payable at the time of filing the final transition annual report in connection with an anniversary month prior to January, 2004 shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than $2.08333 per month assessed on a minimum of $25 per annum or more than $83,333.333333 per month; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable at the time of filing the final transition annual report shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than $2.08333 per month assessed on a

minimum of $25 per annum or more than $166,666.666666 per month.

(d) The initial franchise tax payable after January 1, 1983, but prior to January 1, 1991, by each domestic corporation shall be computed at the rate of 1/10 of 1% for the 12 months' period commencing on the first day of the anniversary month in which the certificate of incorporation is issued to the corporation under Section 2.10 of this Act, but in no event shall the franchise tax be less than $25 nor more than $1,000,000 per annum. The initial franchise tax payable on or after January 1, 1991, but prior to January 1, 2004, by each domestic corporation shall be computed at the rate of 15/100 of 1% for the 12 month period commencing on the first day of the anniversary month in which the articles ~~certificate~~ of incorporation are filed in accordance with ~~is issued to the corporation under~~ Section 2.10 of this Act, but in no event shall the initial franchise tax be less than $25 nor more than $1,000,000 per annum plus 1/20th of 1% of the basis therefor. The initial franchise tax payable on or after January 1, 2004, by each domestic corporation shall be computed at the rate of 15/100 of 1% for the 12-month period commencing on the first day of the anniversary month in which the articles of incorporation are filed in accordance with Section 2.10 of this Act, but in no event shall the initial franchise tax be less than $25 nor more than $2,000,000 per annum plus 1/10th of 1% of the basis therefor.

(e) Each additional franchise tax payable by each domestic corporation for the period beginning January 1, 1983 through December 31, 1983 shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof, between the date of each respective increase in its paid-in capital and its anniversary month in 1984; thereafter until the last day of the month that is both after December 31, 1990 and the third month immediately preceding the

anniversary month in 1991, each additional franchise tax payable by each domestic corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month, or fraction thereof, between the date of each respective increase in its paid-in capital and its next anniversary month; however, if the increase occurs within the 2 month period immediately preceding the anniversary month, the tax shall be computed to the anniversary month of the next succeeding calendar year. Commencing with increases in paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month in 1991, the additional franchise tax payable by a domestic corporation shall be computed at the rate of 15/100 of 1%.

(Source: P.A. 91-464, eff. 1-1-00.)

(805 ILCS 5/15.75) (from Ch. 32, par. 15.75)

Sec. 15.75. Rate of franchise taxes payable by foreign corporations.

(a) The annual franchise tax payable by each foreign corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof for the period commencing on the first day of July 1983 to the first day of the anniversary month in 1984, but in no event shall the amount of the annual franchise tax be less than $2.083333 per month based on a minimum of $25 per annum or more than $83,333.333333 per month; commencing on January 1, 1984 to the first day of the anniversary month in 2004, ~~thereafter,~~ the annual franchise tax payable by each foreign corporation shall be computed at the rate of 1/10 of 1% for the 12-months' period commencing on the first day of the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of

the annual franchise tax be less than $25 nor more than $1,000,000 per annum; commencing on January 1, 2004, the annual franchise tax payable by each foreign corporation shall be computed at the rate of 1/10 of 1% for the 12-month period commencing on the first day of the anniversary month or, in the case of a corporation that has established an extended filing month, the extended filing month of the corporation, but in no event shall the amount of the annual franchise tax be less than $25 nor more then $2,000,000 per annum.

(b) The annual franchise tax payable by each foreign corporation at the time of filing a statement of election and interim annual report in connection with an anniversary month prior to January, 2004 shall be computed at the rate of 1/10 of 1% for the 12 month period commencing on the first day of the anniversary month of the corporation next following the filing, but in no event shall the amount of the annual franchise tax be less than $25 nor more than $1,000,000 per annum; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable by each foreign corporation at the time of filing a statement of election and interim annual report shall be computed at the rate of 1/10 of 1% for the 12-month period commencing on the first day of the anniversary month of the corporation next following such filing, but in no event shall the amount of the annual franchise tax be less than $25 nor more than $2,000,000 per annum.

(c) The annual franchise tax payable at the time of filing the final transition annual report in connection with an anniversary month prior to January, 2004 shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary

month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than $2.083333 per month based on a minimum of $25 per annum or more than $83,333.333333 per month; commencing with the first anniversary month that occurs after December, 2003, the annual franchise tax payable at the time of filing the final transition annual report shall be an amount equal to (i) 1/12 of 1/10 of 1% per month of the proportion of paid-in capital represented in this State as shown in the final transition annual report multiplied by (ii) the number of months commencing with the anniversary month next following the filing of the statement of election until, but excluding, the second extended filing month, less the annual franchise tax theretofore paid at the time of filing the statement of election, but in no event shall the amount of the annual franchise tax be less than $2.083333 per month based on a minimum of $25 per annum or more than $166,666.666666 per month.

(d) The initial franchise tax payable after January 1, 1983, but prior to January 1, 1991, by each foreign corporation shall be computed at the rate of 1/10 of 1% for the 12 months' period commencing on the first day of the anniversary month in which the application for authority is filed by the corporation under Section 13.15 of this Act, but in no event shall the franchise tax be less than $25 nor more than $1,000,000 per annum. Except in the case of a foreign corporation that has begun transacting business in Illinois prior to January 1, 1991, the initial franchise tax payable on or after January 1, 1991, by each foreign corporation, shall be computed at the rate of 15/100 of 1% for the 12-month ~~12-month~~ period commencing on the first day of the

anniversary month in which the application for authority is filed by the corporation under Section 13.15 of this Act, but in no event shall the franchise tax for a taxable year commencing prior to January 1, 2004 be less than $25 nor more than $1,000,000 per annum plus 1/20 of 1% of the basis therefor and in no event shall the franchise tax for a taxable year commencing on or after January 1, 2004 be less than $25 or more than $2,000,000 per annum plus 1/20 of 1% of the basis therefor.

(e) Whenever the application for authority indicates that the corporation commenced transacting business:

(1) prior to January 1, 1991, the initial franchise tax shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month; or

(2) after December 31, 1990, the initial franchise tax shall be computed at the rate of 1/12 of 15/100 of 1% for each calendar month.

(f) Each additional franchise tax payable by each foreign corporation for the period beginning January 1, 1983 through December 31, 1983 shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month or fraction thereof between the date of each respective increase in its paid-in capital and its anniversary month in 1984; thereafter until the last day of the month that is both after December 31, 1990 and the third month immediately preceding the anniversary month in 1991, each additional franchise tax payable by each foreign corporation shall be computed at the rate of 1/12 of 1/10 of 1% for each calendar month, or fraction thereof, between the date of each respective increase in its paid-in capital and its next anniversary month; however, if the increase occurs within the 2 month period immediately preceding the anniversary month, the tax shall be computed to the anniversary month of the next succeeding calendar year. Commencing with increases in

paid-in capital that occur subsequent to both December 31, 1990 and the last day of the third month immediately preceding the anniversary month in 1991, the additional franchise tax payable by a foreign corporation shall be computed at the rate of 15/100 of 1%.

(Source: P.A. 91-464, eff. 1-1-00; 92-33, eff. 7-1-01.)

Section 75-93. The Business Corporation Act of 1983 is amended by changing Section 15.95 as follows:

(805 ILCS 5/15.95) (from Ch. 32, par. 15.95)

Sec. 15.95. Department of Business Services Special Operations Fund.

(a) A special fund in the State treasury known as the Division of Corporations Special Operations Fund is renamed the Department of Business Services Special Operations Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Department of Business Services of the Office of the Secretary of State, hereinafter "Department", to create and maintain the capability to perform expedited services in response to special requests made by the public for same day or 24 hour service. Moneys deposited into the Fund shall be used for, but not limited to, expenditures for personal services, retirement, social security, contractual services, equipment, electronic data processing, and telecommunications.

(b) The balance in the Fund at the end of any fiscal year shall not exceed $600,000 ~~$400,000~~ and any amount in excess thereof shall be transferred to the General Revenue Fund.

(c) All fees payable to the Secretary of State under this Section shall be deposited into the Fund. No other fees or taxes collected under this Act shall be deposited into the Fund.

(d) "Expedited services" means services rendered within the same day, or within 24 hours from the time, the request therefor is submitted by the filer, law firm, service company, or messenger physically in person or, at the Secretary of State's discretion, by electronic means, to the Department's Springfield Office and includes requests for certified copies, photocopies, and certificates of good standing or fact made to the Department's Springfield Office in person or by telephone, or requests for certificates of good standing or fact made in person or by telephone to the Department's Chicago Office.

(e) Fees for expedited services shall be as follows:

Restatement of articles, $200 ~~$100~~;

Merger, consolidation or exchange, $200 ~~$100~~;

Articles of incorporation, $100 ~~$50~~;

Articles of amendment, $100 ~~$50~~;

Revocation of dissolution, $100 ~~$50~~;

Reinstatement, $100 ~~$50~~;

Application for authority, $100 ~~$50~~;

Cumulative report of changes in issued shares or paid-in capital, $100 ~~$50~~;

Report following merger or consolidation, $100 ~~$50~~;

Certificate of good standing or fact, $20 ~~$10~~;

All other filings, copies of documents, annual reports for the 3 preceding years, and copies of documents of dissolved or revoked corporations having a file number over 5199, $50 ~~$25~~.

(f) Expedited services shall not be available for a statement of correction, a petition for refund or adjustment, or a request involving more than 3 year's annual reports or involving dissolved corporations with a file number below 5200.

(Source: P.A. 91-463, eff. 1-1-00; 92-33, eff. 7-1-01.)

Section 75-95. The Medical Corporation Act is amended by adding Section 5.1 as follows:

(805 ILCS 15/5.1 new)

Sec. 5.1. Deposit of fees and fines. Beginning July 1, 2003, all of the fees and fines collected under this Act shall be deposited into the General Professions Dedicated Fund.

Section 75-100. The Limited Liability Company Act is amended by changing Sections 45-45, 50-10, and 50-15 as follows:

(805 ILCS 180/45-45)

Sec. 45-45. Transaction of business without admission.

(a) A foreign limited liability company transacting business in this State may not maintain a civil action in any court of this State until the limited liability company is admitted to transact business in this State.

(b) The failure of a foreign limited liability company to be admitted to transact business in this State does not impair the validity of any contract or act of the foreign limited liability company or prevent the foreign limited liability company from defending any civil action in any court of this State.

(c) A foreign limited liability company, by transacting business in this State without being admitted to do so, appoints the Secretary of State as its agent upon whom any notice, process, or demand may be served.

(d) A foreign limited liability company that transacts business in this State without being admitted to do so shall be liable to the State for the years or parts thereof during which it transacted business in this State without being admitted in an amount equal to all fees that would have been

imposed by this Article upon that limited liability company had it been duly admitted, filed all reports required by this Article, and paid all penalties imposed by this Article. If a limited liability company fails to be admitted to do business in this State within 60 days after it commences transacting business in Illinois, it is liable for a penalty of $2,000 ~~$1,000~~ plus $100 ~~$50~~ for each month or fraction thereof in which it has continued to transact business in this State without being admitted to do so. The Attorney General shall bring proceedings to recover all amounts due this State under this Article.

(e) A member of a foreign limited liability company is not liable for the debts and obligations of the limited liability company solely by reason of the company's having transacted business in this State without being admitted to do so.

(Source: P.A. 87-1062.)

(805 ILCS 180/50-10)

Sec. 50-10. Fees.

(a) The Secretary of State shall charge and collect in accordance with the provisions of this Act and rules promulgated under its authority all of the following:

(1) Fees for filing documents.

(2) Miscellaneous charges.

(3) Fees for the sale of lists of filings, copies of any documents, and for the sale or release of any information.

(b) The Secretary of State shall charge and collect for all of the following:

(1) Filing articles of organization of limited liability companies (domestic), application for admission (foreign), and restated articles of organization (domestic), $500 ~~$400~~.

(2) Filing amendments:

(A) For other than change of registered agent name or registered office, or both, $150 ~~$100~~.

(B) For the purpose of changing the registered agent name or registered office, or both, $35 ~~$25~~.

(3) Filing articles of dissolution or application for withdrawal, $100.

(4) Filing an application to reserve a name, $300.

(5) Renewal fee for reserved name, $100.

(6) Filing a notice of a transfer of a reserved name, $100.

(7) Registration of a name, $300.

(8) Renewal of registration of a name, $100.

(9) Filing an application for use of an assumed name under Section 1-20 of this Act, $150 for each year or part thereof ending in 0 or 5, $120 for each year or part thereof ending in 1 or 6, $90 for each year or part thereof ending in 2 or 7, $60 for each year or part thereof ending in 3 or 8, $30 for each year or part thereof ending in 4 or 9, and a renewal for each assumed name, $300.

(10) Filing an application for change of an assumed name, $100.

(11) Filing an annual report of a limited liability company or foreign limited liability company, $250 ~~$200~~, if filed as required by this Act, plus a penalty if delinquent.

(12) Filing an application for reinstatement of a limited liability company or foreign limited liability company $500.

(13) Filing Articles of Merger, $100 plus $50 for each party to the merger in excess of the first 2 parties.

(14) Filing an Agreement of Conversion or Statement

of Conversion, $100.

(15) Filing any other document, $100.

(c) The Secretary of State shall charge and collect all of the following:

(1) For furnishing a copy or certified copy of any document, instrument, or paper relating to a limited liability company or foreign limited liability company, $1 per page, but not less than $25, and $25 for the certificate and for affixing the seal thereto.

(2) For the transfer of information by computer process media to any purchaser, fees established by rule. (Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 180/50-15)

Sec. 50-15. Penalty.

(a) The Secretary of State shall declare any limited liability company or foreign limited liability company to be delinquent and not in good standing if any of the following occur:

(1) It has failed to file its annual report and pay the requisite fee as required by this Act before the first day of the anniversary month in the year in which it is due.

(2) It has failed to appoint and maintain a registered agent in Illinois within 60 days of notification of the Secretary of State by the resigning registered agent.

(3) (Blank).

(b) If the limited liability company or foreign limited liability company has not corrected the default within the time periods prescribed by this Act, the Secretary of State shall be empowered to invoke any of the following penalties:

(1) For failure or refusal to comply with subsection (a) of this Section within 60 days after the

due date, a penalty of $300 ~~$100 plus $50 for each month or fraction thereof until returned to good standing or until administratively dissolved by the Secretary of State~~.

(2) The Secretary of State shall not file any additional documents, amendments, reports, or other papers relating to any limited liability company or foreign limited liability company organized under or subject to the provisions of this Act until any delinquency under subsection (a) is satisfied.

(3) In response to inquiries received in the Office of the Secretary of State from any party regarding a limited liability company that is delinquent, the Secretary of State may show the limited liability company as not in good standing.

(Source: P.A. 90-424, eff. 1-1-98; 91-354, eff. 1-1-00.)

Section 75-105. The Limited Liability Company Act is amended by changing Section 50-50 as follows:

(805 ILCS 180/50-50)

Sec. 50-50. Department of Business Services Special Operations Fund.

(a) A special fund in the State treasury is created and shall be known as the Department of Business Services Special Operations Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Department of Business Services of the Office of the Secretary of State, hereinafter "Department", to create and maintain the capability to perform expedited services in response to special requests made by the public for same-day or 24-hour service. Moneys deposited into the Fund shall be used for, but not limited to, expenditures for personal services, retirement, Social Security, contractual services, equipment,

electronic data processing, and telecommunications.

(b) The balance in the Fund at the end of any fiscal year shall not exceed $600,000 ~~$400,000~~, and any amount in excess thereof shall be transferred to the General Revenue Fund.

(c) All fees payable to the Secretary of State under this Section shall be deposited into the Fund. No other fees or charges collected under this Act shall be deposited into the Fund.

(d) "Expedited services" means services rendered within the same day, or within 24 hours from the time, the request therefor is submitted by the filer, law firm, service company, or messenger physically in person or, at the Secretary of State's discretion, by electronic means, to the Department's Springfield Office and includes requests for certified copies, photocopies, and certificates of good standing made to the Department's Springfield Office in person or by telephone, or requests for certificates of good standing made in person or by telephone to the Department's Chicago Office.

(e) Fees for expedited services shall be as follows:

Restated articles of organization, $200 ~~$100~~;

Merger or conversion, $200 ~~$100~~;

Articles of organization, $100 ~~$50~~;

Articles of amendment, $100 ~~$50~~;

Reinstatement, $100 ~~$50~~;

Application for admission to transact business, $100 ~~$50~~;

Certificate of good standing or abstract of computer record, $20 ~~$10~~;

All other filings, copies of documents, annual reports, and copies of documents of dissolved or revoked limited liability companies, $50 ~~$25~~.

(Source: P.A. 91-463, eff. 1-1-00; 92-33, eff. 7-1-01.)

Section 75-110. The Revised Uniform Limited Partnership Act is amended by changing Sections 1102 and 1111 as follows:

(805 ILCS 210/1102) (from Ch. 106 1/2, par. 161-2)

Sec. 1102. Fees.

(a) The Secretary of State shall charge and collect in accordance with the provisions of this Act and rules promulgated pursuant to its authority:

(1) fees for filing documents;

(2) miscellaneous charges;

(3) fees for the sale of lists of filings, copies of any documents, and for the sale or release of any information.

(b) The Secretary of State shall charge and collect for:

(1) filing certificates of limited partnership (domestic), certificates of admission (foreign), restated certificates of limited partnership (domestic), and restated certificates of admission (foreign), $150 ~~$75~~;

(2) filing certificates to be governed by this Act, $50 ~~$25~~;

(3) filing amendments and certificates of amendment, $50 ~~$25~~;

(4) filing certificates of cancellation, $25;

(5) filing an application for use of an assumed name pursuant to Section 108 of this Act, $150 for each year or part thereof ending in 0 or 5, $120 for each year or part thereof ending in 1 or 6, $90 for each year or part thereof ending in 2 or 7, $60 for each year or part thereof ending in 3 or 8, $30 for each year or part thereof ending in 4 or 9, and a renewal fee for each assumed name, $150;

(6) filing a renewal report of a domestic or foreign limited partnership, $150 ~~$15~~ if filed as required by this Act, plus $100 penalty if delinquent;

(7) filing an application for reinstatement of a domestic or foreign limited partnership, and for issuing a certificate of reinstatement, $200 ~~$100~~;

(8) filing any other document, $50 ~~$5~~.

(c) The Secretary of State shall charge and collect:

(1) for furnishing a copy or certified copy of any document, instrument or paper relating to a domestic limited partnership or foreign limited partnership, $25 ~~$.50--per--page,--but--not--less--than-$5,-and-$5-for-the certificate-and-for-affixing-the-seal-thereto~~; and

(2) for the transfer of information by computer process media to any purchaser, fees established by rule.

(Source: P.A. 92-33, eff. 7-1-01.)

(805 ILCS 210/1111)

Sec. 1111. Department of Business Services Special Operations Fund.

(a) A special fund in the State Treasury is created and shall be known as the Department of Business Services Special Operations Fund. Moneys deposited into the Fund shall, subject to appropriation, be used by the Department of Business Services of the Office of the Secretary of State, hereinafter "Department", to create and maintain the capability to perform expedited services in response to special requests made by the public for same day or 24 hour service. Moneys deposited into the Fund shall be used for, but not limited to, expenditures for personal services, retirement, social security contractual services, equipment, electronic data processing, and telecommunications.

(b) The balance in the Fund at the end of any fiscal year shall not exceed $600,000 ~~$400,000~~ and any amount in excess thereof shall be transferred to the General Revenue Fund.

(c) All fees payable to the Secretary of State under

this Section shall be deposited into the Fund. No other fees or charges collected under this Act shall be deposited into the Fund.

(d) "Expedited services" means services rendered within the same day, or within 24 hours from the time, the request therefor is submitted by the filer, law firm, service company, or messenger physically in person, or at the Secretary of State's discretion, by electronic means, to the Department's Springfield Office or Chicago Office and includes requests for certified copies, photocopies, and certificates of existence or abstracts of computer record made to the Department's Springfield Office in person or by telephone, or requests for certificates of existence or abstracts of computer record made in person or by telephone to the Department's Chicago Office.

(e) Fees for expedited services shall be as follows:

Merger or conversion, $200 ~~$100~~;

Certificate of limited partnership, $100 ~~$50~~;

Certificate of amendment, $100 ~~$50~~;

Reinstatement, $100 ~~$50~~;

Application for admission to transact business, $100 ~~$50~~;

Certificate of cancellation of admission, $100 ~~$50~~;

Certificate of existence or abstract of computer record, $20 ~~$10~~.

All other filings, copies of documents, biennial renewal reports, and copies of documents of canceled limited partnerships, $50 ~~$25~~.

(Source: P.A. 91-463, eff. 1-1-00; 92-33, eff. 7-1-01.)

Section 75-115. The Illinois Securities Law of 1953 is amended by adding Section 18.1 as follows:

(815 ILCS 5/18.1 new)

Sec. 18.1. Additional fees. In addition to any other

fee that the Secretary of State may impose and collect pursuant to the authority contained in Sections 4, 8, and 11a of this Act, beginning on July 1, 2003 the Secretary of State shall also collect the following additional fees:

Securities offered or sold under the Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act.....	$100
Registration and renewal of a dealer.....	$300
Registration and renewal of an investment adviser.	$200
Federal covered investment adviser notification filing and annual notification filing.....	$200
Registration and renewal of a salesperson.....	$75
Registration and renewal of an investment adviser representative and a federal covered investment adviser representative.....	$75

Investment fund shares notification filing and annual notification filing: $800 plus $80 for each series, class, or portfolio.

All fees collected by the Secretary of State pursuant to this amendatory Act of the 93rd General Assembly shall be deposited into the General Revenue Fund in the State treasury.

ARTICLE 999

Section 999-1. Effective date. This Act, except for Article 75, takes effect upon becoming law. Article 75 takes effect on July 1, 2003, except as follows:

(1) The provisions of Article 75 changing Section 15.95 of the Business Corporation Act of 1983 and Section 50-50 of the Limited Liability Company Act take effect on

September 1, 2003.

(2) The provisions of Article 75 changing Sections 15.10, 15.12, 15.15, 15.45, and 15.75 of the Business Corporation Act of 1983 and the provisions changing Sections 45-45, 50-10, and 50-15 of the Limited Liability Company Act take effect on December 1, 2003.

(3) The provisions of Article 75 changing Section 5.5 of the Secretary of State Act and Sections 6-118 and 7-707 of the Illinois Vehicle Code take effect on January 1, 2004.