



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB1657

Introduced 2/24/2005, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

See Index

Creates the Department of Financial and Professional Regulation Act and amends various Acts. Implements and supersedes Executive Order 6 (2004). Abolishes the Department of Financial Institutions, the Department of Insurance, the Department of Professional Regulation, and the Office of Banks and Real Estate and transfers all of the functions of those agencies to the Department of Financial and Professional Regulation, which is created. Provides that the Secretary of Financial and Professional Regulation is the head of the new agency, and provides for 4 Directors, each of whom shall report to the Secretary and shall oversee the functions transferred from one of the abolished agencies to the new agency. Transfers the staffs, records, and unexpended funds of the abolished agencies to the Department of Financial and Professional Regulation. Makes conforming changes in other Acts. Authorizes transfers of moneys to the Professions Indirect Cost Fund from certain special funds that receive moneys from fees and fines associated with the licensing of regulated professions, trades, occupations, and industries by the Department of Financial and Professional Regulation. Effective immediately.

LRB094 09136 DRJ 41810 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT concerning the implementation of Executive Order 6
2 (2004).

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

5 Section 1. Short title. This Act may be cited as the
6 Department of Financial and Professional Regulation Act.

7 Section 5. Effect. This Act, including all of the
8 amendatory provisions of this Act, implements and supersedes
9 Executive Order 6 (2004).

10 Section 10. Department of Financial and Professional
11 Regulation.

12 (a) The Department of Financial and Professional
13 Regulation is created.

14 (b) The Department of Financial and Professional
15 Regulation shall have as its head the Secretary of Financial
16 and Professional Regulation, who shall be responsible for all
17 of the Department's functions. The Governor shall appoint the
18 Secretary, by and with the advice and consent of the Senate.
19 Vacancies in the office of Secretary shall be filled as
20 provided in Section 5-605 of the Civil Administrative Code of
21 Illinois. The Secretary is entitled to an annual salary as set
22 by the Governor from time to time or as set by the Compensation
23 Review Board, whichever is greater.

24 (c) The Department of Financial and Professional
25 Regulation shall have 4 Directors, each of whom shall report to
26 the Secretary and shall oversee the functions transferred from
27 one of the agencies whose functions are transferred to the
28 Department under this Act. The Governor shall appoint the 4
29 Directors, by and with the advice and consent of the Senate.
30 The appointment of the 4 Directors is subject to Section 5-710
31 of the Civil Administrative Code of Illinois.

1 (d) The Department of Financial and Professional
2 Regulation shall also have such other assistants and deputies
3 as may be appropriate for the efficient operation of the
4 Department. None of those other assistants or deputies shall be
5 a State officer subject to Senate confirmation.

6 (e) The Secretary of Financial and Professional Regulation
7 shall create divisions and administrative units within the
8 Department of Financial and Professional Regulation and shall
9 assign functions, powers, duties, and personnel as may now or
10 in the future be required by State or federal law. The
11 Secretary may create other divisions and administrative units
12 and may assign other functions, powers, duties, and personnel
13 as may be necessary or desirable to carry out the functions and
14 responsibilities vested by law in the Department.

15 (f) Whenever the Secretary of Financial and Professional
16 Regulation is authorized to take any action or required by law
17 to consider or make findings, the Secretary may delegate or
18 appoint, in writing, a Director of Financial and Professional
19 Regulation or other officer or employee of the Department of
20 Financial and Professional Regulation to take that action or
21 make that finding. A Director of Financial and Professional
22 Regulation, in turn, may delegate or appoint, in writing, a
23 Department officer or employee assigned to functions overseen
24 by that Director to take that action or make that finding.

25 (g) The Department of Financial and Professional
26 Regulation is the successor agency to the Department of
27 Financial Institutions, the Department of Insurance, the
28 Department of Professional Regulation, and the Office of Banks
29 and Real Estate for purposes of the Successor Agency Act and
30 for purposes of Section 9b of the State Finance Act.

31 Section 15. Agencies abolished. The following agencies are
32 abolished:

- 33 (1) The Department of Financial Institutions.
- 34 (2) The Department of Insurance.
- 35 (3) The Department of Professional Regulation.

1 (4) The Office of Banks and Real Estate.

2 Section 20. Functions transferred.

3 (a) All of the functions of the Department of Financial
4 Institutions, the Department of Insurance, the Department of
5 Professional Regulation, and the Office of Banks and Real
6 Estate, and all of the powers and duties, including funding
7 mechanisms, associated with or related to those functions and
8 vested by law in one of those agencies or in any office,
9 division, council, committee, bureau, board, commission,
10 officer, employee, or other individual or entity associated
11 with one of those agencies, are transferred to the Department
12 of Financial and Professional Regulation.

13 (b) The functions, powers, and duties transferred to the
14 Department of Financial and Professional Regulation under this
15 Act are not affected by this Act, except that they shall be
16 carried out by the Department of Financial and Professional
17 Regulation on and after the effective date of this Act.

18 Section 25. Representation on boards or other entities.
19 When any provision of an Executive Order or Act provides for
20 the membership of the Director of Financial Institutions, the
21 Director of Insurance, the Director of Professional
22 Regulation, or the Commissioner of Banks and Real Estate on any
23 council, commission, board, or other entity, the Secretary of
24 Financial and Professional Regulation, or, at the Governor's
25 discretion, the appropriate Director of Financial and
26 Professional Regulation, or the designee of that person, shall
27 serve in that place. If more than one such person is required
28 by law to serve on any council, commission, board, or other
29 entity, then an equivalent number of representatives of the
30 Department of Financial and Professional Regulation shall so
31 serve.

32 Section 30. Employees transferred. The employees of the
33 Department of Financial Institutions, the Department of

1 Insurance, the Department of Professional Regulation, and the
2 Office of Banks and Real Estate engaged in performing the
3 functions of those agencies transferred to the Department of
4 Financial and Professional Regulation under this Act shall be
5 transferred to the Department of Financial and Professional
6 Regulation. The status and rights of those employees, and the
7 rights of the State of Illinois and its agencies, under the
8 Personnel Code and applicable collective bargaining agreements
9 or under any pension, retirement, or annuity plan are not
10 affected by that transfer or by any other provision of this
11 Act.

12 Section 35. Books and records transferred. All books,
13 records, papers, documents, property (real and personal),
14 contracts, and pending business pertaining to the powers and
15 duties transferred under this Act from the Department of
16 Financial Institutions, the Department of Insurance, the
17 Department of Professional Regulation, and the Office of Banks
18 and Real Estate to the Department of Financial and Professional
19 Regulation, including but not limited to material in electronic
20 or magnetic format and necessary computer hardware and
21 software, shall be delivered to the Department of Financial and
22 Professional Regulation.

23 Section 40. Unexpended moneys transferred. All unexpended
24 appropriations and balances and other moneys available for use
25 in connection with any of the functions transferred to the
26 Department of Financial and Professional Regulation under this
27 Act shall be transferred for use by that Department for the
28 exercise of those functions pursuant to the direction of the
29 Governor. Unexpended balances so transferred shall be expended
30 only for the purpose for which the appropriations were
31 originally made.

32 Section 45. Exercise of transferred powers; savings
33 provisions.

1 (a) The powers and duties related to the functions
2 transferred to the Department of Financial and Professional
3 Regulation under this Act are vested in and shall be exercised
4 by that Department. Each act done by the Department of
5 Financial and Professional Regulation or any of its officers,
6 employees, or agents in the exercise of those powers and duties
7 shall have the same legal effect as if done by the Department
8 of Financial Institutions, the Department of Insurance, the
9 Department of Professional Regulation, or the Office of Banks
10 and Real Estate, or the divisions, officers, employees, or
11 agents of those agencies.

12 (b) The transfer of functions to the Department of
13 Financial and Professional Regulation under this Act does not
14 invalidate any action taken by the Department of Financial
15 Institutions, the Department of Insurance, the Department of
16 Professional Regulation, or the Office of Banks and Real Estate
17 before the effective date of this Act.

18 (c) On and after the effective date of this Act, references
19 in any Act to the Department of Financial Institutions, the
20 Department of Insurance, the Department of Professional
21 Regulation, or the Office of Banks and Real Estate shall, in
22 appropriate contexts, be deemed to be references to the
23 Department of Financial and Professional Regulation.

24 (d) The transfer of functions to the Department of
25 Financial and Professional Regulation under this Act does not
26 affect the powers or duties of any registrant, licensee, or
27 regulated entity arising out of those transferred functions.

28 Section 50. Officers, employees, and agents; penalties.
29 Every officer, employee, and agent of the Department of
30 Financial and Professional Regulation is, for any offense,
31 subject to the same penalty or penalties, civil or criminal, as
32 are prescribed by the law in effect on the effective date of
33 Executive Order 6 (2204) for the same offense by any officer,
34 employee, or agent whose powers or duties are transferred under
35 this Act.

1 Section 55. Reports, notices, or papers. Whenever reports
2 or notices are required to be made or given or papers or
3 documents furnished or served by any person to or upon the
4 Department of Financial Institutions, the Department of
5 Insurance, the Department of Professional Regulation, or the
6 Office of Banks and Real Estate in connection with any function
7 transferred under this Act, the same shall be made, given,
8 furnished, or served in the same manner to or upon the
9 Department of Financial and Professional Regulation.

10 Section 60. Acts and actions unaffected by transfer. This
11 Act does not affect any act done, ratified, or canceled, or any
12 right occurring or established, before the effective date of
13 Executive Order 6 (2004) in connection with any function
14 transferred under this Act. This Act does not affect any action
15 or proceeding had or commenced before the effective date of
16 Executive Order 6 (2004) in an administrative, civil, or
17 criminal cause regarding the Department of Financial
18 Institutions, the Department of Insurance, the Department of
19 Professional Regulation, or the Office of Banks and Real
20 Estate, but any such action or proceeding may be prosecuted,
21 defended, or continued by the Department of Financial and
22 Professional Regulation.

23 Section 65. Rules.

24 (a) Any rule of the Department of Financial Institutions,
25 the Department of Insurance, the Department of Professional
26 Regulation, or the Office of Banks and Real Estate that (i)
27 relates to the functions transferred under this Act, (ii) was
28 in full force on the effective date of Executive Order 6
29 (2004), and (iii) was duly adopted by one of those agencies
30 shall become the rule of the Department of Financial and
31 Professional Regulation. This Act does not affect the legality
32 of any such rules contained in the Illinois Administrative
33 Code.

1 (b) Any proposed rule filed with the Secretary of State by
2 the Department of Financial Institutions, the Department of
3 Insurance, the Department of Professional Regulation, or the
4 Office of Banks and Real Estate that was pending in the
5 rulemaking process on the effective date of Executive Order 6
6 (2004) and that pertains to the functions transferred under
7 this Act shall be deemed to have been filed by the Department
8 of Financial and Professional Regulation.

9 (c) As soon as practicable after the effective date of this
10 Act, the Department of Financial and Professional Regulation
11 shall revise and clarify the rules transferred to it under this
12 Section to reflect the reorganization of powers and duties
13 effected by this Act, using the procedures for recodification
14 of rules available under the Illinois Administrative Procedure
15 Act, except that existing title, part, and section numbering
16 for the affected rules may be retained.

17 (d) All rulemaking authority of the Secretary of Financial
18 and Professional Regulation shall be exercised jointly by the
19 Secretary and the Director of Financial and Professional
20 Regulation assigned to oversee functions that are the subject
21 of the rule.

22 (e) The Department of Financial and Professional
23 Regulation may propose and adopt other rules, as necessary, to
24 consolidate and clarify the rules formerly administered by the
25 Office of Banks and Real Estate, the Department of Financial
26 Institutions, the Department of Insurance, or the Department of
27 Professional Regulation.

28 Section 70. Professions Indirect Cost Fund; allocations;
29 analyses.

30 (a) Appropriations for the direct and allocable indirect
31 costs of licensing and regulating each regulated profession,
32 trade, occupation, or industry are intended to be payable from
33 the fees and fines that are assessed and collected from that
34 profession, trade, occupation, or industry, to the extent that
35 those fees and fines are sufficient. In any fiscal year in

1 which the fees and fines generated by a specific profession,
2 trade, occupation, or industry are insufficient to finance the
3 necessary direct and allocable indirect costs of licensing and
4 regulating that profession, trade, occupation, or industry,
5 the remainder of those costs shall be financed from
6 appropriations payable from revenue sources other than fees and
7 fines. The direct and allocable indirect costs of the
8 Department of Financial and Professional Regulation identified
9 in its cost allocation plans that are not attributable to the
10 licensing and regulation of a specific profession, trade,
11 occupation, or industry or group of professions, trades,
12 occupations, or industries shall be financed from
13 appropriations from revenue sources other than fees and fines.

14 (b) The Professions Indirect Cost Fund is created as a
15 special fund in the State treasury. The Fund may receive
16 transfers of moneys authorized by the Department of Financial
17 and Professional Regulation from the cash balances in special
18 funds that receive revenues from the fees and fines associated
19 with the licensing of regulated professions, trades,
20 occupations, and industries by the Department. Moneys in the
21 Fund shall be invested and earnings on the investments shall be
22 retained in the Fund. Subject to appropriation, the Department
23 shall use moneys in the Fund to pay the ordinary and necessary
24 allocable indirect expenses associated with each of the
25 regulated profession, trade, occupation, or industry.

26 (c) Before the beginning of each fiscal year, the
27 Department of Financial and Professional Regulation shall
28 prepare a cost allocation analysis to be used in establishing
29 the necessary appropriation levels for each cost purpose and
30 revenue source. At the conclusion of each fiscal year, the
31 Department shall prepare a cost allocation analysis reflecting
32 the extent of the variation between how the costs were actually
33 financed in that year and the planned cost allocation for that
34 year. Variations between the planned and actual cost
35 allocations for the prior fiscal year shall be adjusted into
36 the Department's planned cost allocation for the next fiscal

1 year.

2 Each cost allocation analysis shall separately identify
3 the direct and allocable indirect costs of each regulated
4 profession, trade, occupation, or industry and the costs of the
5 Department's general public health and safety purposes. The
6 analyses shall determine whether the direct and allocable
7 indirect costs of each regulated profession, trade,
8 occupation, or industry and the costs of the Department's
9 general public health and safety purposes are sufficiently
10 financed from their respective funding sources. The Department
11 shall prepare the cost allocation analyses in consultation with
12 the respective regulated profession, trade, occupation, or
13 industry and shall make copies of the analyses available to
14 them in a timely fashion.

15 (d) The Department of Financial and Professional
16 Regulation may direct the State Comptroller and the State
17 Treasurer to transfer moneys from the special funds that
18 receive fees and fines associated with regulated professions,
19 trades, occupations, or industries into the Professions
20 Indirect Cost Fund in accordance with the Department's cost
21 allocation analysis plan for the applicable fiscal year. For a
22 given fiscal year, the Department shall not direct the transfer
23 of moneys under this subsection from a special fund associated
24 with a specific regulated profession, trade, occupation, or
25 industry (or group of professions, trades, occupations, or
26 industries) in an amount exceeding the allocable indirect costs
27 associated with that profession, trade, occupation, or
28 industry (or group of professions, trades, occupations, or
29 industries) as provided in the cost allocation analysis for
30 that fiscal year and adjusted for allocation variations from
31 the prior fiscal year. No direct costs identified in the cost
32 allocation plan shall be used as a basis for transfers into the
33 Professions Indirect Cost Fund or for expenditures from the
34 Fund.

35 Section 9005. The Intergovernmental Cooperation Act is

1 amended by changing Section 6 as follows:

2 (5 ILCS 220/6) (from Ch. 127, par. 746)

3 Sec. 6. Joint self-insurance. An intergovernmental
4 contract may, among other undertakings, authorize public
5 agencies to jointly self-insure and authorize each public
6 agency member of the contract to utilize its funds to pay to a
7 joint insurance pool its costs and reserves to protect, wholly
8 or partially, itself or any public agency member of the
9 contract against liability or loss in the designated insurable
10 area. A joint insurance pool shall have an annual audit
11 performed by an independent certified public accountant and
12 shall file an annual audited financial report with the
13 Secretary of Financial and Professional Regulation ~~Director of~~
14 ~~Insurance~~ no later than 150 days after the end of the pool's
15 immediately preceding fiscal year. The Secretary of Financial
16 and Professional Regulation ~~Director of Insurance~~ shall issue
17 rules necessary to implement this audit and report requirement.
18 The rule shall establish the due date for filing the initial
19 annual audited financial report. Within 30 days after January
20 1, 1991, and within 30 days after each January 1 thereafter,
21 public agencies that are jointly self-insured to protect
22 against liability under the Workers' Compensation Act and the
23 Workers' Occupational Diseases Act shall file with the Illinois
24 Workers' Compensation Commission a report indicating an
25 election to self-insure.

26 For purposes of this Section, "public agency member" means
27 any public agency defined or created under this Act, any local
28 public entity as defined in Section 1-206 of the Local
29 Governmental and Governmental Employees Tort Immunity Act, and
30 any public agency, authority, instrumentality, council, board,
31 service region, district, unit, bureau, or, commission, or any
32 municipal corporation, college, or university, whether
33 corporate or otherwise, and any other local governmental body
34 or similar entity that is presently existing or created after
35 the effective date of this amendatory Act of the 92nd General

1 Assembly, whether or not specified in this Section. Only public
2 agency members with tax receipts, tax revenues, taxing
3 authority, or other resources sufficient to pay costs and to
4 service debt related to intergovernmental activities described
5 in this Section, or public agency members created by or as part
6 of a public agency with these powers, may enter into contracts
7 or otherwise associate among themselves as permitted in this
8 Section.

9 (Source: P.A. 92-530, eff. 2-8-02; 93-721, eff. 1-1-05.)

10 Section 9010. The State Officials and Employees Ethics Act
11 is amended by changing Section 5-50 as follows:

12 (5 ILCS 430/5-50)

13 Sec. 5-50. Ex parte communications; special government
14 agents.

15 (a) This Section applies to ex parte communications made to
16 any agency listed in subsection (e).

17 (b) "Ex parte communication" means any written or oral
18 communication by any person that imparts or requests material
19 information or makes a material argument regarding potential
20 action concerning regulatory, quasi-adjudicatory, investment,
21 or licensing matters pending before or under consideration by
22 the agency. "Ex parte communication" does not include the
23 following: (i) statements by a person publicly made in a public
24 forum; (ii) statements regarding matters of procedure and
25 practice, such as format, the number of copies required, the
26 manner of filing, and the status of a matter; and (iii)
27 statements made by a State employee of the agency to the agency
28 head or other employees of that agency.

29 (b-5) An ex parte communication received by an agency,
30 agency head, or other agency employee from an interested party
31 or his or her official representative or attorney shall
32 promptly be memorialized and made a part of the record.

33 (c) An ex parte communication received by any agency,
34 agency head, or other agency employee, other than an ex parte

1 communication described in subsection (b-5), shall immediately
2 be reported to that agency's ethics officer by the recipient of
3 the communication and by any other employee of that agency who
4 responds to the communication. The ethics officer shall require
5 that the ex parte communication be promptly made a part of the
6 record. The ethics officer shall promptly file the ex parte
7 communication with the Executive Ethics Commission, including
8 all written communications, all written responses to the
9 communications, and a memorandum prepared by the ethics officer
10 stating the nature and substance of all oral communications,
11 the identity and job title of the person to whom each
12 communication was made, all responses made, the identity and
13 job title of the person making each response, the identity of
14 each person from whom the written or oral ex parte
15 communication was received, the individual or entity
16 represented by that person, any action the person requested or
17 recommended, and any other pertinent information. The
18 disclosure shall also contain the date of any ex parte
19 communication.

20 (d) "Interested party" means a person or entity whose
21 rights, privileges, or interests are the subject of or are
22 directly affected by a regulatory, quasi-adjudicatory,
23 investment, or licensing matter.

24 (e) This Section applies to the following agencies:

25 Executive Ethics Commission
26 Illinois Commerce Commission
27 Educational Labor Relations Board
28 State Board of Elections
29 Illinois Gaming Board
30 Health Facilities Planning Board
31 Industrial Commission
32 Illinois Labor Relations Board
33 Illinois Liquor Control Commission
34 Pollution Control Board
35 Property Tax Appeal Board
36 Illinois Racing Board

1 Illinois Purchased Care Review Board
2 Department of State Police Merit Board
3 Motor Vehicle Review Board
4 Prisoner Review Board
5 Civil Service Commission
6 Personnel Review Board for the Treasurer
7 Merit Commission for the Secretary of State
8 Merit Commission for the Office of the Comptroller
9 Court of Claims
10 Board of Review of the Department of Employment Security
11 Department of Financial and Professional Regulation, in its
12 capacity as the successor of the Department of Insurance
13 Department of Financial and Professional Regulation, in its
14
15 capacity as the successor of the Department of
16 Professional Regulation, and licensing boards
17 under the Department in that capacity
18 Department of Public Health and licensing boards under the
19 Department
20 Department of Financial and Professional Regulation, in its
21 capacity as the successor of the Office of Banks and Real
22 Estate, and licensing boards under the Department in
23 that capacity
24 ~~Office~~
25 State Employees Retirement System Board of Trustees
26 Judges Retirement System Board of Trustees
27 General Assembly Retirement System Board of Trustees
28 Illinois Board of Investment
29 State Universities Retirement System Board of Trustees
30 Teachers Retirement System Officers Board of Trustees
31 (f) Any person who fails to (i) report an ex parte
32 communication to an ethics officer, (ii) make information part
33 of the record, or (iii) make a filing with the Executive Ethics
34 Commission as required by this Section or as required by
35 Section 5-165 of the Illinois Administrative Procedure Act
36 violates this Act.

1 (Source: P.A. 93-617, eff. 12-9-03.)

2 Section 9015. The State Treasurer Act is amended by
3 changing Sections 0.02, 0.05, and 0.06 as follows:

4 (15 ILCS 505/0.02)

5 Sec. 0.02. Transfer of powers.

6 (a) The rights, powers, duties, and functions vested in the
7 Department of Financial Institutions to administer the Uniform
8 Disposition of Unclaimed Property Act are transferred to the
9 State Treasurer on July 1, 1999; provided, however, that the
10 rights, powers, duties, and functions involving the
11 examination of the records of any person that the State
12 Treasurer has reason to believe has failed to report properly
13 under this Act shall be transferred to the Office of Banks and
14 Real Estate if the person is regulated by the Office of Banks
15 and Real Estate under the Illinois Banking Act, the Corporate
16 Fiduciary Act, the Foreign Banking Office Act, the Illinois
17 Savings and Loan Act of 1985, or the Savings Bank Act and shall
18 be retained by the Department of Financial Institutions if the
19 person is doing business in the State under the supervision of
20 the Department of Financial Institutions, the National Credit
21 Union Administration, the Office of Thrift Supervision, or the
22 Comptroller of the Currency.

23 (b) The rights, powers, duties, and functions transferred
24 to the Office of Banks and Real Estate or retained by the
25 Department of Financial Institutions under this Section are
26 subject to the Department of Financial and Professional
27 Regulation Act.

28 (Source: P.A. 91-16, eff. 6-4-99.)

29 (15 ILCS 505/0.05)

30 Sec. 0.05. Rules and standards.

31 (a) The rules and standards of the Department of Financial
32 Institutions that are in effect on June 30, 1999 and pertain to
33 the administration of the Uniform Disposition of Unclaimed

1 Property Act shall become the rules and standards of the State
2 Treasurer on July 1, 1999 and shall continue in effect until
3 amended or repealed by the State Treasurer.

4 (b) Any rules pertaining to the administration of the
5 Uniform Disposition of Unclaimed Property Act that have been
6 proposed by the Department of Financial Institutions but have
7 not taken effect or been finally adopted by June 30, 1999 shall
8 become proposed rules of the State Treasurer on July 1, 1999,
9 and any rulemaking procedures that have already been completed
10 by the Department of Financial Institutions need not be
11 repeated.

12 (c) As soon as practical after July 1, 1999, the State
13 Treasurer shall revise and clarify the rules transferred to it
14 under this amendatory Act of 1999 to reflect the reorganization
15 of rights, powers, duties, and functions effected by this
16 amendatory Act of 1999 using the procedures for recodification
17 of rules available under the Illinois Administrative Procedure
18 Act, except that existing title, part, and section numbering
19 for the affected rules may be retained.

20 (d) As soon as practical after July 1, 1999, the Office of
21 Banks and Real Estate and the Office of the State Treasurer
22 shall jointly promulgate rules to reflect the transfer of
23 examination functions to the Office of Banks and Real Estate
24 under this amendatory Act of 1999 using the procedures
25 available under the Illinois Administrative Procedure Act.

26 (e) As soon as practical after July 1, 1999, the Department
27 of Financial Institutions and the Office of the State Treasurer
28 shall jointly promulgate rules to reflect the retention of
29 examination functions by the Department of Financial
30 Institutions under this amendatory Act of 1999 using the
31 procedures available under the Illinois Administrative
32 Procedure Act.

33 (f) The rules pertaining to the rights, powers, duties, and
34 functions transferred to the Office of Banks and Real Estate or
35 retained by the Department of Financial Institutions under this
36 Section are subject to the Department of Financial and

1 Professional Regulation Act.

2 (Source: P.A. 91-16, eff. 6-4-99.)

3 (15 ILCS 505/0.06)

4 Sec. 0.06. Savings provisions.

5 (a) The rights, powers, duties, and functions transferred
6 to the State Treasurer or the Commissioner of Banks and Real
7 Estate by this amendatory Act of 1999 shall be vested in and
8 exercised by the State Treasurer or the Commissioner of Banks
9 and Real Estate subject to the provisions of this amendatory
10 Act of 1999. An act done by the State Treasurer or the
11 Commissioner of Banks and Real Estate or an officer, employee,
12 or agent of the State Treasurer or the Commissioner of Banks
13 and Real Estate in the exercise of the transferred rights,
14 powers, duties, or functions shall have the same legal effect
15 as if done by the Department of Financial Institutions or an
16 officer, employee, or agent of the Department of Financial
17 Institutions prior to the effective date of this amendatory Act
18 of 1999.

19 (a-5) The vesting of rights, powers, duties, and functions
20 in the Office of Banks and Real Estate under this Section, and
21 the exercise of those rights, powers, duties, and functions by
22 that Office, are subject to the Department of Financial and
23 Professional Regulation Act.

24 (b) The transfer of rights, powers, duties, and functions
25 to the State Treasurer or the Commissioner of Banks and Real
26 Estate under this amendatory Act of 1999 does not invalidate
27 any previous action taken by or in respect to the Department of
28 Financial Institutions or its officers, employees, or agents.
29 References to the Department of Financial Institutions or its
30 officers, employees or agents in any document, contract,
31 agreement, or law shall, in appropriate contexts, be deemed to
32 refer to the State Treasurer or the Commissioner of Banks and
33 Real Estate or the officers, employees, or agents of the State
34 Treasurer or the Commissioner of Banks and Real Estate.

35 (c) The transfer of rights, powers, duties, and functions

1 from the Department of Financial Institutions to the State
2 Treasurer or the Commissioner of Banks and Real Estate under
3 this amendatory Act of 1999 does not affect the rights,
4 obligations, or duties of any other person or entity, including
5 any civil or criminal penalties applicable thereto, arising out
6 of those transferred rights, powers, duties, and functions.

7 (d) With respect to matters that pertain to a right, power,
8 duty, or function transferred to the State Treasurer under this
9 amendatory Act of 1999:

10 (1) Beginning July 1, 1999, any report or notice that
11 was previously required to be made or given by any person
12 to the Department of Financial Institutions or any of its
13 officers, employees, or agents under the Uniform
14 Disposition of Unclaimed Property Act or rules promulgated
15 pursuant to that Act shall be made or given in the same
16 manner to the State Treasurer or his or her appropriate
17 officer, employee, or agent.

18 (2) Beginning July 1, 1999, any document that was
19 previously required to be furnished or served by any person
20 to or upon the Department of Financial Institutions or any
21 of its officers, employees, or agents under the Uniform
22 Disposition of Unclaimed Property Act or rules promulgated
23 pursuant to that Act shall be furnished or served in the
24 same manner to or upon the State Treasurer or his or her
25 appropriate officer, employee, or agent.

26 (e) This amendatory Act of 1999 does not affect any act
27 done, ratified, or canceled, any right occurring or
28 established, or any action or proceeding had or commenced in an
29 administrative, civil, or criminal cause before July 1, 1999.
30 Any such action or proceeding that pertains to the Uniform
31 Disposition of Unclaimed Property Act or rules promulgated
32 pursuant to that Act and that is pending on that date may be
33 prosecuted, defended, or continued by the State Treasurer.

34 (Source: P.A. 91-16, eff. 6-4-99.)

35 Section 9020. The Deposit of State Moneys Act is amended by

1 changing Sections 3, 6, and 15 as follows:

2 (15 ILCS 520/3) (from Ch. 130, par. 22)

3 Sec. 3. The State Treasurer shall, at such times as he may
4 in his discretion determine, cause a notice to be sent to each
5 savings and loan association, Federally insured credit union of
6 \$50,000,000 or more assets, or regularly established National
7 and State bank doing business in this State, indicating that on
8 a date named therein not less than one month after the date of
9 such notice, he will receive sealed proposals for the deposit
10 of the public moneys in his custody or control. The State
11 Treasurer may also at any time receive a new or supplemental
12 proposal from any savings and loan association, credit union or
13 national or State bank.

14 A "regularly established" national or State bank is a bank
15 which is doing business in the State under the supervision of
16 the Comptroller of the Currency or the Department of Financial
17 and Professional Regulation ~~Office of Banks and Real Estate~~.

18 (Source: P.A. 89-508, eff. 7-3-96.)

19 (15 ILCS 520/6) (from Ch. 130, par. 25)

20 Sec. 6. Within 5 days after the last day named for the
21 receipt of proposals, such proposals shall be publicly opened
22 by the State Treasurer in the presence of the Secretary of
23 Financial and Professional Regulation ~~Commissioner of Banks~~
24 ~~and Real Estate~~ and the Director of Central Management
25 Services.

26 The State Treasurer may reject any and all proposals, and
27 may ask for new or additional proposals.

28 (Source: P.A. 89-508, eff. 7-3-96.)

29 (15 ILCS 520/15) (from Ch. 130, par. 34)

30 Sec. 15. (a) A bank or savings and loan association
31 approved as a depository shall cease to be an approved bank or
32 savings and loan association, and shall be disqualified by the
33 State Treasurer:

1 (1) Upon its failure to post a suitable bond or deposit
2 securities with the State Treasurer;

3 (2) Upon its failure or refusal to pay over public
4 moneys or any part thereof;

5 (3) Upon its becoming insolvent or bankrupt, or being
6 placed in the hands of a receiver;

7 (4) Upon a showing of unsatisfactory financial
8 condition through a report made to, or an examination made
9 by, the Comptroller of the Currency, the Secretary of
10 Financial and Professional Regulation ~~Commissioner of~~
11 ~~Banks and Real Estate~~, or the Federal Home Loan Bank or its
12 successors.

13 (b) No approved depository shall be disqualified by the
14 State Treasurer solely by reason of its acquisition by another
15 institution.

16 (Source: P.A. 89-508, eff. 7-3-96.)

17 Section 9025. The Civil Administrative Code of Illinois is
18 amended by changing Sections 1-5, 5-15, 5-20, and 5-710 and
19 adding Sections 5-131, 5-216, and 5-346 as follows:

20 (20 ILCS 5/1-5)

21 Sec. 1-5. Articles. The Civil Administrative Code of
22 Illinois consists of the following Articles:

23 Article 1. General Provisions (20 ILCS 5/1-1 and
24 following).

25 Article 5. Departments of State Government Law (20 ILCS
26 5/5-1 and following).

27 Article 50. State Budget Law (15 ILCS 20/).

28 Article 110. Department on Aging Law (20 ILCS 110/).

29 Article 205. Department of Agriculture Law (20 ILCS 205/).

30 Article 250. State Fair Grounds Title Law (5 ILCS 620/).

31 Article 310. Department of Human Services (Alcoholism and
32 Substance Abuse) Law (20 ILCS 310/).

33 Article 405. Department of Central Management Services Law
34 (20 ILCS 405/).

1 Article 510. Department of Children and Family Services
2 Powers Law (20 ILCS 510/).

3 Article 605. Department of Commerce and Economic
4 Opportunity Law (20 ILCS 605/).

5 Article 805. Department of Natural Resources
6 (Conservation) Law (20 ILCS 805/).

7 Article 1005. Department of Employment Security Law (20
8 ILCS 1005/).

9 Article 1405. Department of Financial and Professional
10 Regulation (Insurance) Law (20 ILCS 1405/).

11 Article 1505. Department of Labor Law (20 ILCS 1505/).

12 Article 1710. Department of Human Services (Mental Health
13 and Developmental Disabilities) Law (20 ILCS 1710/).

14 Article 1905. Department of Natural Resources (Mines and
15 Minerals) Law (20 ILCS 1905/).

16 Article 2005. Department of Nuclear Safety Law (20 ILCS
17 2005/).

18 Article 2105. Department of Financial and Professional
19 Regulation (Professional Regulation) Law (20 ILCS 2105/).

20 Article 2205. Department of Public Aid Law (20 ILCS 2205/).

21 Article 2310. Department of Public Health Powers and Duties
22 Law (20 ILCS 2310/).

23 Article 2505. Department of Revenue Law (20 ILCS 2505/).

24 Article 2510. Certified Audit Program Law (20 ILCS 2510/).

25 Article 2605. Department of State Police Law (20 ILCS
26 2605/).

27 Article 2705. Department of Transportation Law (20 ILCS
28 2705/).

29 Article 3000. University of Illinois Exercise of Functions
30 and Duties Law (110 ILCS 355/).

31 (Source: P.A. 92-16, eff. 6-28-01; 92-651, eff. 7-11-02; 93-25,
32 eff. 6-20-03.)

33 (20 ILCS 5/5-15) (was 20 ILCS 5/3)

34 Sec. 5-15. Departments of State government. The
35 Departments of State government are created as follows:

1 The Department on Aging.
2 The Department of Agriculture.
3 The Department of Central Management Services.
4 The Department of Children and Family Services.
5 The Department of Commerce and Economic Opportunity.
6 The Department of Corrections.
7 The Department of Employment Security.
8 The Emergency Management Agency.
9 The Department of Financial and Professional Regulation.
10 ~~The Department of Financial Institutions.~~
11 The Department of Human Rights.
12 The Department of Human Services.
13 ~~The Department of Insurance.~~
14 The Department of Labor.
15 The Department of the Lottery.
16 The Department of Natural Resources.
17 ~~The Department of Professional Regulation.~~
18 The Department of Public Aid.
19 The Department of Public Health.
20 The Department of Revenue.
21 The Department of State Police.
22 The Department of Transportation.
23 The Department of Veterans' Affairs.

24 (Source: P.A. 93-25, eff. 6-20-03; 93-1029, eff. 8-25-04.)

25 (20 ILCS 5/5-20) (was 20 ILCS 5/4)

26 Sec. 5-20. Heads of departments. Each department shall have
27 an officer as its head who shall be known as director or
28 secretary and who shall, subject to the provisions of the Civil
29 Administrative Code of Illinois, execute the powers and
30 discharge the duties vested by law in his or her respective
31 department.

32 The following officers are hereby created:

33 Director of Aging, for the Department on Aging.

34 Director of Agriculture, for the Department of
35 Agriculture.

1 Director of Central Management Services, for the
2 Department of Central Management Services.

3 Director of Children and Family Services, for the
4 Department of Children and Family Services.

5 Director of Commerce and Economic Opportunity, for the
6 Department of Commerce and Economic Opportunity.

7 Director of Corrections, for the Department of
8 Corrections.

9 Director of Emergency Management Agency, for the Emergency
10 Management Agency.

11 Director of Employment Security, for the Department of
12 Employment Security.

13 Secretary of Financial and Professional Regulation, for
14 the Department of Financial and Professional Regulation.

15 ~~Director of Financial Institutions, for the Department of~~
16 ~~Financial Institutions.~~

17 Director of Human Rights, for the Department of Human
18 Rights.

19 Secretary of Human Services, for the Department of Human
20 Services.

21 ~~Director of Insurance, for the Department of Insurance.~~

22 Director of Labor, for the Department of Labor.

23 Director of the Lottery, for the Department of the Lottery.

24 Director of Natural Resources, for the Department of
25 Natural Resources.

26 ~~Director of Professional Regulation, for the Department of~~
27 ~~Professional Regulation.~~

28 Director of Public Aid, for the Department of Public Aid.

29 Director of Public Health, for the Department of Public
30 Health.

31 Director of Revenue, for the Department of Revenue.

32 Director of State Police, for the Department of State
33 Police.

34 Secretary of Transportation, for the Department of
35 Transportation.

36 Director of Veterans' Affairs, for the Department of

1 Veterans' Affairs.

2 (Source: P.A. 93-25, eff. 6-20-03; 93-1029, eff. 8-25-04.)

3 (20 ILCS 5/5-131 new)

4 Sec. 5-131. In the Department of Financial and Professional
5 Regulation. Four Directors of Financial and Professional
6 Regulation.

7 (20 ILCS 5/5-216 new)

8 Sec. 5-216. In the Department of Financial and Professional
9 Regulation.

10 (a) Neither the Secretary of Financial and Professional
11 Regulation, nor any other executive and administrative officer
12 in the Department of Financial and Professional Regulation
13 designated to oversee the functions administered pursuant to
14 the Department of Financial and Professional Regulation
15 (Professional Regulation) Law of the Civil Administrative Code
16 of Illinois, shall be affiliated with any college or school
17 that prepares individuals for licensure in any profession or
18 occupation regulated by the Department, either as teacher,
19 officer, or stockholder, nor shall the Secretary or other
20 executive and administrative officer hold a license or
21 certificate to exercise or practice any of the professions,
22 trades, or occupations regulated.

23 (b) The Secretary of Financial and Professional Regulation
24 shall be familiar with regulatory law and practice in the State
25 of Illinois. Each Director of Financial and Professional
26 Regulation shall be familiar with regulatory law and practice
27 regarding those functions that the Director is assigned to
28 oversee.

29 (20 ILCS 5/5-346 new)

30 Sec. 5-346. In the Department of Financial and Professional
31 Regulation. The Secretary of Financial and Professional
32 Regulation shall receive an annual salary as set by the
33 Governor from time to time or as set by the Compensation Review

1 Board, whichever is greater.

2 (20 ILCS 5/5-710)

3 Sec. 5-710. Executive Order provision superseded.

4 (a) Executive Order No. 2004-6 creates the Department of
5 Financial and Professional Regulation and, in subdivision
6 I(B), provides in part: "The new agency shall have an officer
7 as its head known as the Secretary who shall be responsible for
8 all agency functions. Appointment to this office shall be made
9 by the Governor, by and with the advice and consent of the
10 Senate."

11 (b) Executive Order No. 2004-6, in subdivision I(C),
12 provides in part: "None of the four Directors, nor any such
13 assistants or deputies, shall be state officers subject to
14 Senate confirmation."

15 (c) The sentence of subdivision I(C) of Executive Order
16 2004-6 that is quoted in subsection (b), to the extent that it
17 exempts the appointments of the 4 Directors of the Department
18 of Financial and Professional Regulation from Senate
19 confirmation, is superseded by subsection (d) of this Section
20 and is of no force or effect as to the appointment of the 4
21 Directors of the Department of Financial and Professional
22 Regulation.

23 (d) In addition to appointments to the Office of Secretary
24 of Financial and Professional Regulation, appointments to the 4
25 Offices of Director of Financial and Professional Regulation
26 must each be made by the Governor, by and with the advice and
27 consent of the Senate, as provided in Section 10 of the
28 Department of Financial and Professional Regulation Act.

29 (Source: P.A. 93-735, eff. 7-14-04.)

30 (20 ILCS 5/5-130 rep.)

31 (20 ILCS 5/5-140 rep.)

32 (20 ILCS 5/5-215 rep.)

33 (20 ILCS 5/5-225 rep.)

34 (20 ILCS 5/5-345 rep.)

1 (20 ILCS 5/5-360 rep.)

2 (20 ILCS 5/5-390 rep.)

3 Section 9026. The Civil Administrative Code of Illinois is
4 amended by repealing Sections 5-130, 5-140, 5-215, 5-225,
5 5-345, 5-360, and 5-390.

6 Section 9030. The Alcoholism and Other Drug Abuse and
7 Dependency Act is amended by changing Sections 10-45 and 15-5
8 as follows:

9 (20 ILCS 301/10-45)

10 Sec. 10-45. Membership. The Board shall consist of 16
11 members:

12 (a) The Director of Aging.

13 (b) The State Superintendent of Education.

14 (c) The Director of Corrections.

15 (d) The Director of State Police.

16 (e) The Secretary of Financial and Professional
17 Regulation, or the Secretary's designee, in the
18 Secretary's capacity as the successor of the Director of
19 Professional Regulation.

20 (f) (Blank).

21 (g) The Director of Children and Family Services.

22 (h) (Blank).

23 (i) The Director of Public Aid.

24 (j) The Director of Public Health.

25 (k) The Secretary of State.

26 (l) The Secretary of Transportation.

27 (m) The Secretary of Financial and Professional
28 Regulation, or the Secretary's designee, in the
29 Secretary's capacity as the successor of the Director of
30 Insurance.

31 (n) The Director of the Administrative Office of the
32 Illinois Courts.

33 (o) The Chairman of the Board of Higher Education.

34 (p) The Director of Revenue.

1 (q) The Executive Director of the Criminal Justice
2 Information Authority.

3 (r) A chairman who shall be appointed by the Governor
4 for a term of 3 years.

5 Each member may designate a representative to serve in his or
6 her place by written notice to the Department.

7 (Source: P.A. 92-16, eff. 6-28-01.)

8 (20 ILCS 301/15-5)

9 Sec. 15-5. Applicability.

10 (a) It is unlawful for any person to provide treatment for
11 alcoholism and other drug abuse or dependency or to provide
12 services as specified in subsections (c), (d), (e), and (f) of
13 Section 15-10 of this Act unless the person is licensed to do
14 so by the Department. The performance of these activities by
15 any person in violation of this Act is declared to be inimical
16 to the public health and welfare, and to be a public nuisance.
17 The Department may undertake such inspections and
18 investigations as it deems appropriate to determine whether
19 licensable activities are being conducted without the
20 requisite license.

21 (b) Nothing in this Act shall be construed to require any
22 hospital, as defined by the Hospital Licensing Act, required to
23 have a license from the Department of Public Health pursuant to
24 the Hospital Licensing Act to obtain any license under this Act
25 for any alcoholism and other drug dependency treatment services
26 operated on the licensed premises of the hospital, and operated
27 by the hospital or its designated agent, provided that such
28 services are covered within the scope of the Hospital Licensing
29 Act. No person or facility required to be licensed under this
30 Act shall be required to obtain a license pursuant to the
31 Hospital Licensing Act or the Child Care Act of 1969.

32 (c) Nothing in this Act shall be construed to require an
33 individual employee of a licensed program to be licensed under
34 this Act.

35 (d) Nothing in this Act shall be construed to require any

1 private professional practice, whether by an individual
2 practitioner, by a partnership, or by a duly incorporated
3 professional service corporation, that provides outpatient
4 treatment for alcoholism and other drug abuse to be licensed
5 under this Act, provided that the treatment is rendered
6 personally by the professional in his own name and the
7 professional is authorized by individual professional
8 licensure or registration from the Department of Financial and
9 Professional Regulation or its predecessor, the Department of
10 Professional Regulation, to do such treatment unsupervised.
11 This exemption shall not apply to such private professional
12 practice which specializes primarily or exclusively in the
13 treatment of alcoholism and other drug abuse. This exemption
14 shall also not apply to intervention services, research, or
15 residential treatment services as defined in this Act or by
16 rule.

17 Notwithstanding any other provisions of this subsection to
18 the contrary, persons licensed to practice medicine in all of
19 its branches in Illinois shall not require licensure under this
20 Act unless their private professional practice specializes
21 exclusively in the treatment of alcoholism and other drug
22 abuse.

23 (e) Nothing in this Act shall be construed to require any
24 employee assistance program operated by an employer or any
25 intervenor program operated by a professional association to
26 obtain any license pursuant to this Act to perform services
27 that do not constitute licensable treatment or intervention as
28 defined in this Act.

29 (f) Before any violation of this Act is reported by the
30 Department or any of its agents to any State's Attorney for the
31 institution of a criminal proceeding, the person against whom
32 such proceeding is contemplated shall be given appropriate
33 notice and an opportunity to present his views before the
34 Department or its designated agent, either orally or in
35 writing, in person or by an attorney, with regard to such
36 contemplated proceeding. Nothing in this Act shall be construed

1 as requiring the Department to report minor violations of this
2 Act whenever the Department believes that the public interest
3 would be adequately served by a suitable written notice or
4 warning.

5 (Source: P.A. 88-80; 89-202, eff. 7-21-95; 89-507, eff.
6 7-1-97.)

7 Section 9035. The Personnel Code is amended by changing
8 Section 4c as follows:

9 (20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

10 Sec. 4c. General exemptions. The following positions in
11 State service shall be exempt from jurisdictions A, B, and C,
12 unless the jurisdictions shall be extended as provided in this
13 Act:

14 (1) All officers elected by the people.

15 (2) All positions under the Lieutenant Governor,
16 Secretary of State, State Treasurer, State Comptroller,
17 State Board of Education, Clerk of the Supreme Court, and
18 Attorney General.

19 (3) Judges, and officers and employees of the courts,
20 and notaries public.

21 (4) All officers and employees of the Illinois General
22 Assembly, all employees of legislative commissions, all
23 officers and employees of the Illinois Legislative
24 Reference Bureau, the Legislative Research Unit, and the
25 Legislative Printing Unit.

26 (5) All positions in the Illinois National Guard and
27 Illinois State Guard, paid from federal funds or positions
28 in the State Military Service filled by enlistment and paid
29 from State funds.

30 (6) All employees of the Governor at the executive
31 mansion and on his immediate personal staff.

32 (7) Directors of Departments, the Adjutant General,
33 the Assistant Adjutant General, the Director of the
34 Illinois Emergency Management Agency, members of boards

1 and commissions, and all other positions appointed by the
2 Governor by and with the consent of the Senate.

3 (8) The presidents, other principal administrative
4 officers, and teaching, research and extension faculties
5 of Chicago State University, Eastern Illinois University,
6 Governors State University, Illinois State University,
7 Northeastern Illinois University, Northern Illinois
8 University, Western Illinois University, the Illinois
9 Community College Board, Southern Illinois University,
10 Illinois Board of Higher Education, University of
11 Illinois, State Universities Civil Service System,
12 University Retirement System of Illinois, and the
13 administrative officers and scientific and technical staff
14 of the Illinois State Museum.

15 (9) All other employees except the presidents, other
16 principal administrative officers, and teaching, research
17 and extension faculties of the universities under the
18 jurisdiction of the Board of Regents and the colleges and
19 universities under the jurisdiction of the Board of
20 Governors of State Colleges and Universities, Illinois
21 Community College Board, Southern Illinois University,
22 Illinois Board of Higher Education, Board of Governors of
23 State Colleges and Universities, the Board of Regents,
24 University of Illinois, State Universities Civil Service
25 System, University Retirement System of Illinois, so long
26 as these are subject to the provisions of the State
27 Universities Civil Service Act.

28 (10) The State Police so long as they are subject to
29 the merit provisions of the State Police Act.

30 (11) The scientific staff of the State Scientific
31 Surveys and the Waste Management and Research Center.

32 (12) The technical and engineering staffs of the
33 Department of Transportation, the Department of Nuclear
34 Safety, the Pollution Control Board, and the Illinois
35 Commerce Commission, and the technical and engineering
36 staff providing architectural and engineering services in

1 the Department of Central Management Services.

2 (13) All employees of the Illinois State Toll Highway
3 Authority.

4 (14) The Secretary of the Illinois Workers'
5 Compensation Commission.

6 (15) All persons who are appointed or employed by the
7 Secretary of Financial and Professional Regulation
8 ~~Director of Insurance~~ under authority of Section 202 of the
9 Illinois Insurance Code to assist the Secretary ~~Director of~~
10 ~~Insurance~~ in discharging his responsibilities relating to
11 the rehabilitation, liquidation, conservation, and
12 dissolution of companies that are subject to the
13 jurisdiction of the Illinois Insurance Code.

14 (16) All employees of the St. Louis Metropolitan Area
15 Airport Authority.

16 (17) All investment officers employed by the Illinois
17 State Board of Investment.

18 (18) Employees of the Illinois Young Adult
19 Conservation Corps program, administered by the Illinois
20 Department of Natural Resources, authorized grantee under
21 Title VIII of the Comprehensive Employment and Training Act
22 of 1973, 29 USC 993.

23 (19) Seasonal employees of the Department of
24 Agriculture for the operation of the Illinois State Fair
25 and the DuQuoin State Fair, no one person receiving more
26 than 29 days of such employment in any calendar year.

27 (20) All "temporary" employees hired under the
28 Department of Natural Resources' Illinois Conservation
29 Service, a youth employment program that hires young people
30 to work in State parks for a period of one year or less.

31 (21) All hearing officers of the Human Rights
32 Commission.

33 (22) All employees of the Illinois Mathematics and
34 Science Academy.

35 (23) All employees of the Kankakee River Valley Area
36 Airport Authority.

1 (24) The commissioners and employees of the Executive
2 Ethics Commission.

3 (25) The Executive Inspectors General, including
4 special Executive Inspectors General, and employees of
5 each Office of an Executive Inspector General.

6 (26) The commissioners and employees of the
7 Legislative Ethics Commission.

8 (27) The Legislative Inspector General, including
9 special Legislative Inspectors General, and employees of
10 the Office of the Legislative Inspector General.

11 (28) The Auditor General's Inspector General and
12 employees of the Office of the Auditor General's Inspector
13 General.

14 (Source: P.A. 93-617, eff. 12-9-03; 93-721, eff. 1-1-05;
15 revised 10-14-04.)

16 Section 9040. The Financial Institutions Code is amended by
17 changing Sections 1, 2, and 17 and by adding Section 1.5 as
18 follows:

19 (20 ILCS 1205/1) (from Ch. 17, par. 101)

20 Sec. 1. This Act shall be known and shall be cited as the
21 "Department of Financial and Professional Regulation
22 (Financial Institutions) Code."

23 (Source: Laws 1957, p. 369.)

24 (20 ILCS 1205/1.5 new)

25 Sec. 1.5. References to Department or Director of Financial
26 Institutions. On and after the effective date of this
27 amendatory Act of the 94th General Assembly:

28 (1) References in this Code to the Department of
29 Financial Institutions or "the Department" mean the
30 Department of Financial and Professional Regulation.

31 (2) References in this Code to the Director of
32 Financial Institutions or "the Director" mean the
33 Secretary of Financial and Professional Regulation.

1 (20 ILCS 1205/2) (from Ch. 17, par. 102)

2 Sec. 2. The purpose of the Department of Financial and
3 Professional Regulation (Financial Institutions) Code is to
4 provide under the Governor for the orderly administration and
5 enforcement of laws relating to financial institutions.

6 (Source: Laws 1957, p. 369.)

7 (20 ILCS 1205/17) (from Ch. 17, par. 118)

8 Sec. 17. Neither the Secretary of Financial and
9 Professional Regulation nor the Director of Financial and
10 Professional Regulation designated to oversee the functions
11 administered pursuant to the Department of Financial and
12 Professional Regulation (Financial Institutions) Code, nor any
13 supervisor, nor any examiner shall be an officer, director,
14 owner, or shareholder of, or a partner in, or have any
15 proprietary interest, direct or indirect, in any financial
16 institution; provided, however, that ownership of withdrawable
17 capital accounts or shares in credit unions shall not be deemed
18 to be prevented hereby. If the Secretary of Financial and
19 Professional Regulation, or the Director of Financial and
20 Professional Regulation designated to oversee the functions
21 administered pursuant to the Department of Financial and
22 Professional Regulation (Financial Institutions) Code, or any
23 supervisor, or any examiner, shall be a shareholder, or partner
24 in or an owner of or have any interest, direct or indirect, in
25 any such financial institution at the time of his appointment,
26 he shall dispose of his shares of stock or other evidences of
27 ownership or property within 120 days from the date of his
28 appointment. It is unlawful for the Secretary of Financial and
29 Professional Regulation, or the Director of Financial and
30 Professional Regulation designated to oversee the functions
31 administered pursuant to the Department of Financial and
32 Professional Regulation (Financial Institutions) Code, or any
33 supervisor or examiner to obtain any loan or gratuity from a
34 financial institution subject to the jurisdiction of the

1 Department as herein provided. If any other employee of the
2 Department borrows from or becomes indebted in an aggregate
3 amount of \$2,500 or more to any financial institution subject
4 to the jurisdiction of the Department, he shall make a written
5 report to the Director stating the date and amount of such loan
6 or indebtedness, the security therefor, if any, and the purpose
7 or purposes for which proceeds have been or are to be used.

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

9 Section 9045. The Department of Insurance Law of the Civil
10 Administrative Code of Illinois is amended by changing the
11 heading of Article 1405 and Sections 1405-1, 1405-5, 1405-10,
12 1405-15, 1405-20, 1405-25, and 1405-30 as follows:

13 (20 ILCS 1405/Art. 1405 heading)

14 ARTICLE 1405. DEPARTMENT OF FINANCIAL AND PROFESSIONAL
15 REGULATION (INSURANCE)

16 (20 ILCS 1405/1405-1)

17 Sec. 1405-1. Article short title. This Article 1405 of the
18 Civil Administrative Code of Illinois may be cited as the
19 Department of Financial and Professional Regulation
20 (Insurance) Law.

21 (Source: P.A. 91-239, eff. 1-1-00.)

22 (20 ILCS 1405/1405-5) (was 20 ILCS 1405/56)

23 Sec. 1405-5. General powers. The Department of Financial
24 and Professional Regulation, as the successor of the Department
25 of Insurance, has the following powers:

26 (1) To exercise the rights, powers, and duties vested
27 by law in the insurance superintendent and the
28 superintendent's officers and employees.

29 (2) To exercise the rights, powers, and duties that
30 have been vested by law in the Department of Trade and
31 Commerce as the successor of the insurance superintendent
32 and the superintendent's officers and employees.

1 (3) To exercise the rights, powers, and duties
2 heretofore vested by law in the Department of Trade and
3 Commerce or in the Director of Trade and Commerce by:

4 (A) all laws in relation to insurance; and

5 (B) Article 22 of the Illinois Pension Code.

6 (4) To execute and administer all laws heretofore or
7 hereafter enacted relating to insurance.

8 (5) To transfer jurisdiction of any realty under the
9 control of the Department to any other department of the
10 State Government or to acquire or accept federal lands when
11 the transfer, acquisition, or acceptance is advantageous
12 to the State and is approved in writing by the Governor.

13 (Source: P.A. 91-239, eff. 1-1-00.)

14 (20 ILCS 1405/1405-10) (was 20 ILCS 1405/56.1)

15 Sec. 1405-10. Child health insurance plan study. The
16 Department of Financial and Professional Regulation ~~Insurance~~
17 shall cooperate with and provide consultation to the Department
18 of Public Health in studying the feasibility of a child health
19 insurance plan as provided in Section 2310-275 of the
20 Department of Public Health Powers and Duties Law (20 ILCS
21 2310/2310-275).

22 (Source: P.A. 91-239, eff. 1-1-00.)

23 (20 ILCS 1405/1405-15) (was 20 ILCS 1405/56.2)

24 Sec. 1405-15. Senior citizen assistance and information
25 program.

26 (a) The Department of Financial and Professional
27 Regulation ~~Insurance~~ shall administer and operate a program to
28 provide assistance and information to senior citizens in
29 relation to insurance matters. The program may include, but is
30 not limited to, counseling for senior citizens in the
31 evaluation, comparison, or selection of Medicare options,
32 Medicare supplement insurance, and long-term care insurance.

33 (b) The Department shall recruit and train volunteers to
34 provide the following:

1 (i) one-on-one counseling on insurance matters; and
2 (ii) education on insurance matters to senior citizens
3 through public forums.

4 (c) The Department shall solicit the volunteers for their
5 input and advice on the success and accessibility of the
6 program.

7 (d) The Department shall strive to assure that all seniors
8 residing in Illinois have access to the program.

9 (e) The Department ~~of Insurance~~ may promulgate reasonable
10 rules necessary to implement this Section.

11 (Source: P.A. 91-239, eff. 1-1-00.)

12 (20 ILCS 1405/1405-20) (was 20 ILCS 1405/56.3)

13 Sec. 1405-20. Investigational cancer treatments; study.

14 (a) The Department of Financial and Professional
15 Regulation ~~Insurance~~ shall conduct an analysis and study of
16 costs and benefits derived from the implementation of the
17 coverage requirements for investigational cancer treatments
18 established under Section 356y of the Illinois Insurance Code.
19 The study shall cover the years 2000, 2001, and 2002. The study
20 shall include an analysis of the effect of the coverage
21 requirements on the cost of insurance and health care, the
22 results of the treatments to patients, the mortality rate among
23 cancer patients, any improvements in care of patients, and any
24 improvements in the quality of life of patients.

25 (b) The Department shall report the results of its study to
26 the General Assembly and the Governor on or before March 1,
27 2003.

28 (Source: P.A. 91-406, eff. 1-1-00; 92-16, eff. 6-28-01.)

29 (20 ILCS 1405/1405-25)

30 Sec. 1405-25. Uninsured Ombudsman Program.

31 (a) The Department of Financial and Professional
32 Regulation ~~Insurance~~ shall establish and operate an Ombudsman
33 Program for uninsured individuals to provide assistance and
34 education to those individuals regarding health insurance

1 benefits options and rights under State and federal law. The
2 program may include, but is not limited to, counseling for
3 uninsured individuals in the discovery, evaluation, and
4 comparison of options for obtaining health insurance coverage.

5 (b) The Department may recruit and train volunteers to
6 assist in the Ombudsman Program. The volunteers may provide
7 one-on-one counseling on health insurance availability matters
8 and provide education to uninsured individuals through public
9 forums.

10 (c) The Department may issue reasonable rules necessary to
11 implement this Section.

12 (Source: P.A. 92-331, eff. 1-1-02.)

13 (20 ILCS 1405/1405-30)

14 Sec. 1405-30. Mental health insurance study.

15 (a) The Department of Financial and Professional
16 Regulation ~~Insurance~~ shall conduct an analysis and study of
17 costs and benefits derived from the implementation of the
18 coverage requirements for treatment of mental disorders
19 established under Section 370c of the Illinois Insurance Code.
20 The study shall cover the years 2002, 2003, and 2004. The study
21 shall include an analysis of the effect of the coverage
22 requirements on the cost of insurance and health care, the
23 results of the treatments to patients, any improvements in care
24 of patients, and any improvements in the quality of life of
25 patients.

26 (b) The Department shall report the results of its study to
27 the General Assembly and the Governor on or before March 1,
28 2005.

29 (Source: P.A. 92-185, eff. 1-1-02.)

30 Section 9050. The Mental Health and Developmental
31 Disabilities Administrative Act is amended by changing Section
32 56 as follows:

33 (20 ILCS 1705/56) (from Ch. 91 1/2, par. 100-56)

1 Sec. 56. The Secretary, upon making a determination based
2 upon information in the possession of the Department, that
3 continuation in practice of a licensed health care professional
4 would constitute an immediate danger to the public, shall
5 submit a written communication to the Secretary ~~Director~~ of
6 Financial and Professional Regulation indicating such
7 determination and additionally providing a complete summary of
8 the information upon which such determination is based, and
9 recommending that the Secretary ~~Director~~ of Financial and
10 Professional Regulation immediately suspend such person's
11 license. All relevant evidence, or copies thereof, in the
12 Department's possession may also be submitted in conjunction
13 with the written communication. A copy of such written
14 communication, which is exempt from the copying and inspection
15 provisions of the Freedom of Information Act, shall at the time
16 of submittal to the Secretary ~~Director~~ of Financial and
17 Professional Regulation be simultaneously mailed to the last
18 known business address of such licensed health care
19 professional by certified or registered postage, United States
20 Mail, return receipt requested. Any evidence, or copies
21 thereof, which is submitted in conjunction with the written
22 communication is also exempt from the copying and inspection
23 provisions of the Freedom of Information Act.

24 For the purposes of this Section, "licensed health care
25 professional" means any person licensed under the Illinois
26 Dental Practice Act, the Nursing and Advanced Practice Nursing
27 Act, the Medical Practice Act of 1987, the Pharmacy Practice
28 Act of 1987, the Podiatric Medical Practice Act of 1987, and
29 the Illinois Optometric Practice Act of 1987.

30 (Source: P.A. 89-507, eff. 7-1-97; 90-742, eff. 8-13-98.)

31 Section 9055. The Department of Professional Regulation
32 Law of the Civil Administrative Code of Illinois is amended by
33 changing the heading of Article 2105 and Section 2105-1 and
34 adding Section 2105-2 as follows:

1 (20 ILCS 2105/Art. 2105 heading)

2 ARTICLE 2105. DEPARTMENT OF

3 FINANCIAL AND PROFESSIONAL REGULATION (PROFESSIONAL
4 REGULATION)

5 (20 ILCS 2105/2105-1)

6 Sec. 2105-1. Article short title. This Article 2105 of the
7 Civil Administrative Code of Illinois may be cited as the
8 Department of Financial and Professional Regulation
9 (Professional Regulation) Law.

10 (Source: P.A. 91-239, eff. 1-1-00.)

11 (20 ILCS 2105/2105-2 new)

12 Sec. 2105-2. References to Department or Director of
13 Professional Regulation. On and after the effective date of
14 this amendatory Act of the 94th General Assembly:

15 (1) References in this Law to the Department of
16 Professional Regulation or "the Department" mean the
17 Department of Financial and Professional Regulation.

18 (2) References in this Law to the Director of
19 Professional Regulation or "the Director" mean the
20 Secretary of Financial and Professional Regulation.

21 (20 ILCS 2105/2105-300 rep.) (was 20 ILCS 2105/61e)

22 Section 9056. The Department of Professional Regulation
23 Law of the Civil Administrative Code of Illinois is amended by
24 repealing Section 2105-300.

25 Section 9060. The Department of Public Aid Law of the Civil
26 Administrative Code of Illinois is amended by changing Section
27 2205-10 as follows:

28 (20 ILCS 2205/2205-10) (was 20 ILCS 2205/48b)

29 Sec. 2205-10. Suspension or termination of authorization
30 to provide medical services. Whenever the Department of Public
31 Aid suspends or terminates the authorization of any person,

1 firm, corporation, association, agency, institution, or other
2 legal entity to provide medical services under Article V of the
3 Illinois Public Aid Code and the practice of providing those
4 services or the maintenance of facilities for those services is
5 licensed under a licensing Act administered by the Department
6 of Public Health or the Department of Financial and
7 Professional Regulation, the Department of Public Aid shall,
8 within 30 days of the suspension or termination, give written
9 notice of the suspension or termination and transmit a record
10 of the evidence and specify the grounds on which the suspension
11 or termination is based to the Department that administers the
12 licensing Act under which that person, firm, corporation,
13 association, agency, institution, or other legal entity is
14 licensed, subject to any confidentiality requirements imposed
15 by applicable federal or State law. The cost of any such record
16 shall be borne by the Department to which it is transmitted.

17 (Source: P.A. 91-239, eff. 1-1-00.)

18 Section 9065. The Illinois Health Finance Reform Act is
19 amended by changing Section 4-2 as follows:

20 (20 ILCS 2215/4-2) (from Ch. 111 1/2, par. 6504-2)

21 Sec. 4-2. Powers and duties.

22 (a) (Blank).

23 (b) (Blank).

24 (c) (Blank).

25 (d) Uniform Provider Utilization and Charge Information.

26 (1) The Department of Public Health shall require that
27 all hospitals licensed to operate in the State of Illinois
28 adopt a uniform system for submitting patient charges for
29 payment from public and private payors. This system shall
30 be based upon adoption of the uniform electronic hospital
31 billing form pursuant to the Health Insurance Portability
32 and Accountability Act.

33 (2) (Blank).

34 (3) The Department of Financial and Professional

1 Regulation Insurance shall require all third-party payors,
2 including but not limited to, licensed insurers, medical
3 and hospital service corporations, health maintenance
4 organizations, and self-funded employee health plans, to
5 accept the uniform billing form, without attachment as
6 submitted by hospitals pursuant to paragraph (1) of
7 subsection (d) above, effective January 1, 1985; provided,
8 however, nothing shall prevent all such third party payors
9 from requesting additional information necessary to
10 determine eligibility for benefits or liability for
11 reimbursement for services provided.

12 (4) Each hospital licensed in the State shall
13 electronically submit to the Department patient billing
14 data for conditions and procedures required for public
15 disclosure pursuant to paragraph (6). For hospitals, the
16 billing data to be reported shall include all inpatient
17 surgical cases. Billing data submitted under this Act shall
18 not include a patient's name, address, or Social Security
19 number.

20 (5) By no later than January 1, 2005, the Department
21 must collect and compile billing data required under
22 paragraph (6) according to uniform electronic submission
23 formats as required under the Health Insurance Portability
24 and Accountability Act.

25 (6) The Department shall make available on its website
26 the "Consumer Guide to Health Care" by January 1, 2006. The
27 "Consumer Guide to Health Care" shall include information
28 on 30 conditions and procedures identified by the
29 Department that demonstrate the highest degree of
30 variation in patient charges and quality of care. As to
31 each condition or procedure, the "Consumer Guide to Health
32 Care" shall include up-to-date comparison information
33 relating to volume of cases, average charges,
34 risk-adjusted mortality rates, and nosocomial infection
35 rates. Information disclosed pursuant to this paragraph on
36 mortality and infection rates shall be based upon

1 information hospitals have previously submitted to the
2 Department pursuant to their obligations to report health
3 care information under other public health reporting laws
4 and regulations outside of this Act.

5 (7) Publicly disclosed information must be provided in
6 language that is easy to understand and accessible to
7 consumers using an interactive query system.

8 (8) None of the information the Department discloses to
9 the public under this subsection may be made available
10 unless the information has been reviewed, adjusted, and
11 validated according to the following process:

12 (i) Hospitals and organizations representing
13 hospitals are meaningfully involved in the development
14 of all aspects of the Department's methodology for
15 collecting, analyzing, and disclosing the information
16 collected under this Act, including collection
17 methods, formatting, and methods and means for release
18 and dissemination;

19 (ii) The entire methodology for collection and
20 analyzing the data is disclosed to all relevant
21 organizations and to all providers that are the subject
22 of any information to be made available to the public
23 before any public disclosure of such information;

24 (iii) Data collection and analytical methodologies
25 are used that meet accepted standards of validity and
26 reliability before any information is made available
27 to the public;

28 (iv) The limitations of the data sources and
29 analytic methodologies used to develop comparative
30 provider information are clearly identified and
31 acknowledged, including, but not limited to,
32 appropriate and inappropriate uses of the data;

33 (v) To the greatest extent possible, comparative
34 hospital information initiatives use standard-based
35 norms derived from widely accepted provider-developed
36 practice guidelines;

1 (vi) Comparative hospital information and other
2 information that the Department has compiled regarding
3 hospitals is shared with the hospitals under review
4 prior to public dissemination of the information and
5 these providers have an opportunity to make
6 corrections and additions of helpful explanatory
7 comments about the information before the publication;

8 (vii) Comparisons among hospitals adjust for
9 patient case mix and other relevant risk factors and
10 control for provider peer groups;

11 (viii) Effective safeguards to protect against the
12 unauthorized use or disclosure of hospital information
13 are developed and implemented;

14 (ix) Effective safeguards to protect against the
15 dissemination of inconsistent, incomplete, invalid,
16 inaccurate, or subjective provider data are developed
17 and implemented;

18 (x) The quality and accuracy of hospital
19 information reported under this Act and its data
20 collection, analysis, and dissemination methodologies
21 are evaluated regularly; and

22 (xi) Only the most basic identifying information
23 from mandatory reports is used, and patient
24 identifiable information is not released. The input
25 data collected by the Department shall not be a public
26 record under the Illinois Freedom of Information Act.

27 None of the information the Department discloses to the
28 public under this Act may be used to establish a standard
29 of care in a private civil action.

30 (9) The Department must develop and implement an
31 outreach campaign to educate the public regarding the
32 availability of the "Consumer Guide to Health Care".

33 (10) Within 12 months after the effective date of this
34 amendatory Act of the 93rd General Assembly, the Department
35 must study the most effective methods for public disclosure
36 of patient charge data and health care quality information

1 that will be useful to consumers in making health care
2 decisions and report its recommendations to the Governor
3 and to the General Assembly.

4 (11) The Department must undertake all steps necessary
5 under State and Federal law to protect patient
6 confidentiality in order to prevent the identification of
7 individual patient records.

8 (e) (Blank).

9 (Source: P.A. 92-597, eff. 7-1-02; 93-144, eff. 7-10-03.)

10 Section 9070. The Department of Public Health Powers and
11 Duties Law of the Civil Administrative Code of Illinois is
12 amended by changing Sections 2310-140 and 2310-445 as follows:

13 (20 ILCS 2310/2310-140) (was 20 ILCS 2310/55.37a)

14 Sec. 2310-140. Recommending suspension of licensed health
15 care professional. The Director, upon making a determination
16 based upon information in the possession of the Department that
17 continuation in practice of a licensed health care professional
18 would constitute an immediate danger to the public, shall
19 submit a written communication to the Secretary ~~Director~~ of
20 Financial and Professional Regulation indicating that
21 determination and additionally (i) providing a complete
22 summary of the information upon which the determination is
23 based and (ii) recommending that the Secretary ~~Director~~ of
24 Financial and Professional Regulation immediately suspend the
25 person's license. All relevant evidence, or copies thereof, in
26 the Department's possession may also be submitted in
27 conjunction with the written communication. A copy of the
28 written communication, which is exempt from the copying and
29 inspection provisions of the Freedom of Information Act, shall
30 at the time of submittal to the Secretary ~~Director~~ of Financial
31 and Professional Regulation be simultaneously mailed to the
32 last known business address of the licensed health care
33 professional by certified or registered postage, United States
34 Mail, return receipt requested. Any evidence, or copies

1 thereof, that is submitted in conjunction with the written
2 communication is also exempt from the copying and inspection
3 provisions of the Freedom of Information Act.

4 For the purposes of this Section, "licensed health care
5 professional" means any person licensed under the Illinois
6 Dental Practice Act, the Nursing and Advanced Practice Nursing
7 Act, the Medical Practice Act of 1987, the Pharmacy Practice
8 Act of 1987, the Podiatric Medical Practice Act of 1987, or the
9 Illinois Optometric Practice Act of 1987.

10 (Source: P.A. 90-742, eff. 8-13-98; 91-239, eff. 1-1-00.)

11 (20 ILCS 2310/2310-445) (was 20 ILCS 2310/55.71)

12 Sec. 2310-445. Interagency council on health care for
13 pregnant women and infants.

14 (a) On or before January 1, 1994, the Director, in
15 cooperation with the Director of Public Aid, the Director of
16 Children and Family Services, the Director of Alcoholism and
17 Substance Abuse, and the Director of Insurance, shall develop
18 and submit to the Governor a proposal for consolidating all
19 existing health programs required by law for pregnant women and
20 infants into one comprehensive plan to be implemented by one or
21 several agencies. The proposal shall:

22 (1) include a time schedule for implementing the plan;

23 (2) provide a cost estimate of the plan;

24 (3) identify federal waivers necessary to implement
25 the plan;

26 (4) examine innovative programs; and

27 (5) identify sources of funding for the plan.

28 (b) The plan developed under subsection (a) shall provide
29 the following services statewide:

30 (1) Comprehensive prenatal services for all pregnant
31 women who qualify for existing programs through the
32 Department of Public Aid or the Department of Public Health
33 or any other government-funded programs.

34 (2) Comprehensive medical care for all infants under 1
35 year of age.

1 (3) A case management system under which each family
2 with a child under the plan is assigned a case manager and
3 under which every reasonable effort is made to assure
4 continuity of case management and access to other
5 appropriate social services.

6 (4) Services regardless of and fees for services based
7 on clients' ability to pay.

8 (c) To the extent that any functions of the Director of
9 Insurance under this Section remain unperformed on the
10 effective date of this amendatory Act of the 94th General
11 Assembly, the Secretary of Financial and Professional
12 Regulation shall perform those functions on and after that
13 date.

14 (Source: P.A. 91-239, eff. 1-1-00.)

15 Section 9075. The Criminal Identification Act is amended by
16 changing Section 3.1 as follows:

17 (20 ILCS 2630/3.1) (from Ch. 38, par. 206-3.1)

18 Sec. 3.1. (a) The Department may furnish, pursuant to
19 positive identification, records of convictions to the
20 Department of Financial and Professional Regulation for the
21 purpose of meeting registration or licensure requirements
22 under The Private Detective, Private Alarm, Private Security,
23 and Locksmith Act of 2004.

24 (b) The Department may furnish, pursuant to positive
25 identification, records of convictions to policing bodies of
26 this State for the purpose of assisting local liquor control
27 commissioners in carrying out their duty to refuse to issue
28 licenses to persons specified in paragraphs (4), (5) and (6) of
29 Section 6-2 of The Liquor Control Act of 1934.

30 (c) The Department shall charge an application fee, based
31 on actual costs, for the dissemination of records pursuant to
32 this Section. Fees received for the dissemination of records
33 pursuant to this Section shall be deposited in the State Police
34 Services Fund. The Department is empowered to establish this

1 fee and to prescribe the form and manner for requesting and
2 furnishing conviction information pursuant to this Section.

3 (d) Any dissemination of any information obtained pursuant
4 to this Section to any person not specifically authorized
5 hereby to receive or use it for the purpose for which it was
6 disseminated shall constitute a violation of Section 7.

7 (Source: P.A. 93-438, eff. 8-5-03.)

8 Section 9080. The Office of Banks and Real Estate Act is
9 amended by changing the title of the Act and Sections 0.1, 0.8,
10 2, 2.5, 6, and 6.5 and by adding Sections 0.1a as follows:

11 (20 ILCS 3205/Act title)

12 An Act to provide for the administration of the Department
13 of Financial and Professional Regulation as the successor of
14 the Office of Banks and Real Estate.

15 (20 ILCS 3205/0.1)

16 Sec. 0.1. Short title. This Act may be cited as the
17 Department of Financial and Professional Regulation (~~Office of~~
18 Banks and Real Estate) Act.

19 (Source: P.A. 89-508, eff. 7-3-96.)

20 (20 ILCS 3205/0.1a new)

21 Sec. 0.1a. Department of Financial and Professional
22 Regulation Act; references to Office or Commissioner of Banks
23 and Real Estate.

24 (a) This Act is subject to the Department of Financial and
25 Professional Regulation Act.

26 (b) On and after the effective date of this amendatory Act
27 of the 94th General Assembly:

28 (1) References in this Act to the Office of Banks and
29 Real Estate or "the Office" mean the Department of
30 Financial and Professional Regulation.

31 (2) References in this Act to the Commissioner of Banks
32 and Real Estate or "the Commissioner" mean the Secretary of

1 Financial and Professional Regulation.

2 (20 ILCS 3205/0.8)

3 Sec. 0.8. Commissioner and deputy commissioners.

4 ~~(a) The Office of Banks and Real Estate shall be under the~~
5 ~~direction of the Commissioner of Banks and Real Estate.~~

6 ~~There shall be a First Deputy Commissioner and such other~~
7 ~~deputy commissioners as the Governor may deem appropriate. All~~
8 ~~deputy commissioners shall be under the direction,~~
9 ~~supervision, and control of the Commissioner. The Commissioner~~
10 ~~may delegate to one or more of the deputy commissioners any~~
11 ~~power or duty that the Commissioner is authorized or required~~
12 ~~by law to perform.~~

13 ~~(b) The Commissioner and all deputy commissioners shall be~~
14 ~~persons who are experienced in the theory and practice of the~~
15 ~~business of banks and other financial institutions.~~

16 ~~(c) The Commissioner, the First Deputy Commissioner, and~~
17 ~~the deputy commissioners shall be appointed by the Governor~~
18 ~~with the advice and consent of the Senate. If a vacancy occurs~~
19 ~~while the Senate is not in session, the Governor may make a~~
20 ~~temporary appointment until the next meeting of the Senate,~~
21 ~~when the Governor shall nominate some person to fill the~~
22 ~~vacancy. A person nominated to fill a vacancy, if confirmed by~~
23 ~~the Senate, shall hold office for the remainder of the vacated~~
24 ~~term and until his or her successor has been appointed and has~~
25 ~~qualified.~~

26 ~~(d) If the Commissioner is absent or unable to act, or if~~
27 ~~the position of Commissioner becomes vacant, the First Deputy~~
28 ~~Commissioner shall be Acting Commissioner and shall execute the~~
29 ~~powers and discharge the duties vested by law in the~~
30 ~~Commissioner until a temporary appointment is made as provided~~
31 ~~in subsection (c).~~

32 ~~If both the Commissioner and the First Deputy Commissioner~~
33 ~~are absent or unable to act, or if the positions of~~
34 ~~Commissioner and First Deputy Commissioner are both vacant, the~~
35 ~~Governor shall designate another deputy commissioner as Acting~~

1 ~~Commissioner to execute the powers and discharge the duties~~
2 ~~vested by law in the Commissioner until a temporary appointment~~
3 ~~is made as provided in subsection (c).~~

4 ~~(c) The terms of the persons serving as the Commissioner,~~
5 ~~First Deputy Commissioner, and Deputy Commissioners of Banks~~
6 ~~and Trust Companies shall end on the effective date of this~~
7 ~~amendatory Act of 1996, or as sooner provided by executive~~
8 ~~order, except that those persons shall continue to serve as~~
9 ~~Commissioner, First Deputy Commissioner, and Deputy~~
10 ~~Commissioners of the Office of Banks and Real Estate,~~
11 ~~respectively, until their successors have been appointed and~~
12 ~~have qualified.~~

13 ~~(f) The Commissioner, First Deputy Commissioner, and~~
14 ~~Deputy Commissioners of the Office of Banks and Real Estate~~
15 ~~shall hold office for terms beginning upon confirmation and~~
16 ~~continuing until January 31, 2000 and until their successors~~
17 ~~have been appointed and have qualified. Thereafter the~~
18 ~~Commissioner, First Deputy Commissioner, and Deputy~~
19 ~~Commissioners of the Office of Banks and Real Estate shall~~
20 ~~serve for terms of 4 years beginning on February 1, 2000 and on~~
21 ~~February 1 of every fourth year thereafter.~~

22 (Source: P.A. 89-508, eff. 7-3-96.)

23 (20 ILCS 3205/2) (from Ch. 17, par. 452)

24 Sec. 2. Oath and bond.

25 (a) The Commissioner ~~and each deputy commissioner,~~ before
26 entering upon the duties of office, shall take and subscribe
27 the constitutional oath of office.

28 (b) The Commissioner ~~and each deputy commissioner,~~ before
29 entering upon the duties of office, shall give bond, with
30 security to be approved by the Governor, in the sum of \$20,000
31 ~~for the Commissioner and \$10,000 for each deputy commissioner,~~
32 conditioned upon the faithful performance of his or her ~~their~~
33 duties. Each such bond shall be filed with the Secretary of
34 State.

35 (Source: P.A. 89-508, eff. 7-3-96.)

1 (20 ILCS 3205/2.5)

2 Sec. 2.5. Prohibited activities.

3 (a) For the purposes of this Section, "regulated entity"
4 means any person, business, company, corporation, institution,
5 or other entity subject to regulation by the Department of
6 Financial and Professional Regulation ~~Office of Banks and Real~~
7 ~~Estate~~ under the Illinois Banking Act, the Savings and Loan Act
8 of 1985, the Savings Bank Act, the Residential Mortgage License
9 Act of 1987, the Corporate Fiduciary Act, the Illinois Bank
10 Holding Company Act of 1957, the Foreign Banking Office Act, or
11 the Electronic Fund Transfer Act.

12 (b) The Secretary of Financial and Professional Regulation
13 ~~Commissioner~~ and the Director of Financial and Professional
14 Regulation designated to oversee the functions administered
15 pursuant to the Department of Financial and Professional
16 Regulation (Banks and Real Estate) Act ~~deputy commissioners~~
17 shall not be an officer, director, employee, or agent of a
18 regulated entity or of a corporation or company that owns or
19 controls a regulated entity.

20 The Secretary of Financial and Professional Regulation
21 ~~Commissioner~~ and the Director of Financial and Professional
22 Regulation designated to oversee the functions administered
23 pursuant to the Department of Financial and Professional
24 Regulation (Banks and Real Estate) Act ~~deputy commissioners~~
25 shall not own shares of stock or hold any other equity interest
26 in a regulated entity or in a corporation or company that owns
27 or controls a regulated entity. If the Secretary of Financial
28 and Professional Regulation ~~Commissioner~~ or the Director of
29 Financial and Professional Regulation designated to oversee
30 the functions administered pursuant to the Department of
31 Financial and Professional Regulation (Banks and Real Estate)
32 Act ~~a deputy commissioner~~ owns shares of stock or holds an
33 equity interest in a regulated entity at the time of
34 appointment, he or she shall dispose of such shares or other
35 equity interest within 120 days from the date of appointment.

1 The Secretary of Financial and Professional Regulation
2 ~~Commissioner~~ and the Director of Financial and Professional
3 Regulation designated to oversee the functions administered
4 pursuant to the Department of Financial and Professional
5 Regulation (Banks and Real Estate) Act ~~deputy commissioners~~
6 shall not directly or indirectly obtain a loan from a regulated
7 entity or accept a gratuity from a regulated entity that is
8 intended to influence the performance of official duties.

9 (c) Employees of the Department of Financial and
10 Professional Regulation ~~Office of Banks and Real Estate~~ shall
11 not be officers, directors, employees, or agents of a regulated
12 entity or of a corporation or company that owns or controls a
13 regulated entity.

14 Except as provided by standards which the Department of
15 Financial and Professional Regulation ~~Office of Banks and Real~~
16 ~~Estate~~ may establish, employees of the Department of Financial
17 and Professional Regulation ~~Office of Banks and Real Estate~~
18 shall not own shares of stock or hold any other equity interest
19 in a regulated entity or in a corporation or company that owns
20 or controls a regulated entity, or directly or indirectly
21 obtain a loan from a regulated entity, or accept a gratuity
22 from a regulated entity that is intended to influence the
23 performance of official duties. However, in no case shall an
24 employee of the Department of Financial and Professional
25 Regulation ~~Office of Banks and Real Estate~~ participate in any
26 manner in the examination or direct regulation of a regulated
27 entity in which the employee owns shares of stock or holds any
28 other equity interest, or which is servicing a loan to which
29 the employee is an obligor.

30 (d) If the Secretary of Financial and Professional
31 Regulation ~~Commissioner~~, the Director of Financial and
32 Professional Regulation designated to oversee the functions
33 administered pursuant to the Department of Financial and
34 Professional Regulation (Banks and Real Estate) Act ~~a deputy~~
35 ~~commissioner~~, or any employee of the Department of Financial
36 and Professional Regulation ~~Office of Banks and Real Estate~~

1 properly obtains a loan or extension of credit from an entity
2 that is not a regulated entity, and the loan or extension of
3 credit is subsequently acquired by a regulated entity or the
4 entity converts to become a regulated entity after the loan is
5 made, such purchase by or conversion to a regulated entity
6 shall not cause the loan or extension of credit to be deemed a
7 violation of this Section.

8 Nothing in this Section shall be deemed to prevent the
9 ownership of a checking account, a savings deposit account, a
10 money market account, a certificate of deposit, a credit or
11 debit card account, or shares in open-end investment companies
12 registered with the Securities and Exchange Commission
13 pursuant to the federal Investment Company Act of 1940 and the
14 Securities Act of 1933 (commonly referred to as mutual or money
15 market funds).

16 (e) Neither the Secretary of Financial and Professional
17 Regulation ~~No Commissioner~~, nor the Director of Financial and
18 Professional Regulation designated to oversee the functions
19 administered pursuant to the Department of Financial and
20 Professional Regulation (Banks and Real Estate) Act ~~deputy~~
21 ~~commissioner~~, nor any employee~~7~~ or agent of the Department of
22 Financial and Professional Regulation ~~Office of Banks and Real~~
23 ~~Estate~~ shall, either during or after the holding of his or her
24 term of office or employment, disclose confidential
25 information concerning any regulated entity or person except as
26 authorized by law or prescribed by rule. "Confidential
27 information", as used in this Section, means any information
28 that the person or officer obtained during his or her term of
29 office or employment that is not available from the Department
30 of Financial and Professional Regulation ~~Office of Banks and~~
31 ~~Real Estate~~ pursuant to a request under the Freedom of
32 Information Act.

33 (Source: P.A. 89-508, eff. 7-3-96.)

34 (20 ILCS 3205/6) (from Ch. 17, par. 456)

35 Sec. 6. Duties. The Commissioner shall direct and supervise

1 all the administrative and technical activities of the Office
2 and shall:

3 (a) Apply and carry out this Act and the law and all rules
4 adopted in pursuance thereof.

5 (b) Appoint, subject to the provisions of the Personnel
6 Code, such employees, experts, and special assistants as may be
7 necessary to carry out effectively the provisions of this Act
8 and, if the rate of compensation is not otherwise fixed by law,
9 fix their compensation; but ~~neither~~ the Commissioner ~~nor any~~
10 ~~deputy commissioner~~ shall not be subject to the Personnel Code.

11 (c) Serve as Chairman of the State Banking Board of
12 Illinois.

13 (d) Serve as Chairman of the Board of Trustees of the
14 Illinois Bank Examiners' Education Foundation.

15 (e) Issue guidelines in the form of rules or regulations
16 which will prohibit discrimination by any State chartered bank
17 against any individual, corporation, partnership, association
18 or other entity because it appears in a so-called blacklist
19 issued by any domestic or foreign corporate or governmental
20 entity.

21 (f) Make an annual report to the Governor regarding the
22 work of the Office as the Commissioner may consider desirable
23 or as the Governor may request.

24 (g) Perform such other acts as may be requested by the
25 State Banking Board of Illinois pursuant to its lawful powers
26 and perform any other lawful act that the Commissioner
27 considers to be necessary or desirable to carry out the
28 purposes and provisions of this Act.

29 (h) Adopt, in accordance with the Illinois Administrative
30 Procedure Act, reasonable rules that the Commissioner deems
31 necessary for the proper administration and enforcement of any
32 Act the administration of which is vested in the Commissioner
33 or the Office of Banks and Real Estate.

34 (i) Work in cooperation with the Director of Aging to
35 encourage all financial institutions regulated by the Office to
36 participate fully in the Department on Aging's financial

1 exploitation of the elderly intervention program.

2 (Source: P.A. 92-483, eff. 8-23-01; 93-786, eff. 7-21-04.)

3 (20 ILCS 3205/6.5)

4 Sec. 6.5. Commissioner, boards, actions taken. Neither the
5 Commissioner, ~~any deputy commissioner~~, any member of any Board
6 or committee which performs functions related to Acts
7 administered by the Commissioner, nor any employee of the
8 Commissioner's office shall be subject to any civil liability
9 or penalty, whether for damages or otherwise, on account of or
10 for any action taken or omitted to be taken in their respective
11 official capacities, except when such acts or omissions to act
12 are corrupt or malicious or unless such action is taken or
13 omitted to be taken not in good faith and without reasonable
14 grounds.

15 (Source: P.A. 90-602, eff. 7-1-98.)

16 (20 ILCS 3205/1 rep.) (from Ch. 17, par. 451)

17 Section 9081. The Office of Banks and Real Estate Act is
18 amended by repealing Section 1.

19 Section 9085. The Illinois Bank Examiners' Education
20 Foundation Act is amended by adding Section 2.5 as follows:

21 (20 ILCS 3210/2.5 new)

22 Sec. 2.5. References to Office or Commissioner of Banks and
23 Real Estate. On and after the effective date of this amendatory
24 Act of the 94th General Assembly:

25 (1) References in this Act to the Office of Banks and
26 Real Estate or "the Office" mean the Department of
27 Financial and Professional Regulation.

28 (2) References in this Act to the Commissioner of Banks
29 and Real Estate or "the Commissioner" mean the Secretary of
30 Financial and Professional Regulation.

31 Section 9090. The Illinois Investment and Development

1 Authority Act is amended by changing Section 15 as follows:

2 (20 ILCS 3820/15)

3 Sec. 15. Creation of Illinois Investment and Development
4 Authority; members.

5 (a) There is created a political subdivision, body politic
6 and corporate, to be known as the Illinois Investment and
7 Development Authority. The exercise by the Authority of the
8 powers conferred by law shall be an essential public function.
9 The governing powers of the Authority shall be vested in a body
10 consisting of 11 members, including, as ex officio members, the
11 Secretary of Financial and Professional Regulation
12 ~~Commissioner of Banks and Real Estate~~ and the Director of
13 Commerce and Economic Opportunity ~~Community Affairs~~ or their
14 designees. The other 9 members of the Authority shall be
15 appointed by the Governor, with the advice and consent of the
16 Senate, and shall be designated "public members". The public
17 members shall include representatives from banks and other
18 private financial services industries, community development
19 finance experts, small business development experts, and other
20 community leaders. Not more than 6 members of the Authority may
21 be of the same political party. The Chairperson of the
22 Authority shall be designated by the Governor from among its
23 public members.

24 (b) Six members of the Authority shall constitute a quorum.
25 However, when a quorum of members of the Authority is
26 physically present at the meeting site, other Authority members
27 may participate in and act at any meeting through the use of a
28 conference telephone or other communications equipment by
29 means of which all persons participating in the meeting can
30 hear each other. Participation in such meeting shall constitute
31 attendance and presence in person at the meeting of the person
32 or persons so participating. All official acts of the Authority
33 shall require the approval of at least 5 members.

34 (c) Of the members initially appointed by the Governor
35 pursuant to this Act, 3 shall serve until the third Monday in

1 January, 2004, 3 shall serve until the third Monday in January,
2 2005, and 3 shall serve until the third Monday in January, 2006
3 and all shall serve until their successors are appointed and
4 qualified. All successors shall hold office for a term of 3
5 years commencing on the third Monday in January of the year in
6 which their term commences, except in case of an appointment to
7 fill a vacancy. Each member appointed under this Section who is
8 confirmed by the Senate shall hold office during the specified
9 term and until his or her successor is appointed and qualified.
10 In case of vacancy in the office when the Senate is not in
11 session, the Governor may make a temporary appointment until
12 the next meeting of the Senate, when the Governor shall
13 nominate such person to fill the office, and any person so
14 nominated who is confirmed by the Senate, shall hold his or her
15 office during the remainder of the term and until his or her
16 successor is appointed and qualified.

17 (d) Members of the Authority shall not be entitled to
18 compensation for their services as members, but shall be
19 entitled to reimbursement for all necessary expenses incurred
20 in connection with the performance of their duties as members.

21 (e) The Governor may remove any public member of the
22 Authority in case of incompetency, neglect of duty, or
23 malfeasance in office, after service on the member of a copy of
24 the written charges against him or her and an opportunity to be
25 publicly heard in person or by counsel in his or her own
26 defense upon not less than 10 days notice.

27 (Source: P.A. 92-864, eff. 6-1-03; revised 12-6-03.)

28 Section 9095. The Experimental Organ Transplantation
29 Procedures Act is amended by changing Section 4 as follows:

30 (20 ILCS 3935/4) (from Ch. 111 1/2, par. 6604)

31 Sec. 4. Determination of an individual transplant
32 candidate's eligibility. (a) The Board shall have until June
33 30, 1985 to organize, establish all of the necessary criteria
34 and operating procedures, and adopt such rules and regulations

1 as it deems necessary to screen and act on such applications as
2 it may receive under this Act.

3 (b) The Board shall begin screening applications
4 nominating Illinois residents who are potential or actual organ
5 transplant recipients after July 1, 1985, and who due to
6 limitations, exclusions or gaps in their accident and health
7 insurance or in federal, state, and local government medical
8 assistance programs, might be eligible to receive benefits from
9 funds appropriated to the Department of Public Health to cover
10 part or all of the expenses involved in undergoing an
11 experimental organ transplantation procedure. All such
12 applications must be in such form and contain such information
13 as the Board shall require, and must come directly from a
14 teaching hospital or affiliated medical center with an
15 established and proven experimental organ transplantation
16 program which exists for the purpose of treatment of human
17 subjects and which is formally affiliated with or part of a
18 school whose graduates are eligible for examination for
19 licensing pursuant to the statutes, rules and regulations
20 administered by the Department of Financial and Professional
21 Regulation, as the successor of the Department of Professional
22 Regulation, and whose graduates, if licensed, are eligible for
23 admission to the medical staff of an accredited hospital. In
24 the application the teaching hospital or affiliated medical
25 center must certify that the nominee is a viable candidate for
26 an organ transplant procedure, and has been medically approved
27 by their medical specialists in this field for this procedure.
28 All tests and applicable work-ups necessary to support such
29 conclusions shall have been completed at the time of the
30 application at no cost to the State of Illinois, and the
31 results of such tests and all other applicable medical records
32 concerning the nominee shall be forwarded to the Board for the
33 confidential use of its members and staff only. Such medical
34 records shall not be public records, and shall be maintained as
35 a separate part of each nominee's application file. Such
36 records and deliberations of the Board shall be privileged and

1 confidential in accordance with Sections 8-2101, 8-2102,
2 8-2103, 8-2104 and 8-2105 of the Code of Civil Procedure, as
3 amended, and such applications, records and deliberations of
4 the Board are exempt from the provisions of The Freedom of
5 Information Act. The application and supporting records must
6 document that the nominee was a legally domiciled resident of
7 this State at the time the pathophysiological state
8 necessitating the organ transplantation procedure was
9 originally identified, and that the nominee continues to be
10 legally domiciled in the State of Illinois.

11 (c) Screening of applications may be performed as often as
12 necessary and may be performed by any 3 members of the Board.

13 (d) Those applications deemed eligible by the screening
14 team shall be referred to the full Board for final
15 determination as to eligibility for state benefits and for
16 recommendation to the Director of Public Health as to the level
17 of benefits the nominee shall receive. However, in emergency
18 situations, a screening team may make a final determination as
19 to eligibility for state benefits.

20 All benefits shall cover all or part of the actual costs
21 of, rather than the billed charges for, the procedure, with no
22 more than 10 percent of the award being allocated to
23 professional fees.

24 (e) Any benefits which the Board recommends to be paid on
25 behalf of an eligible nominee shall be supplemental to any
26 health insurance benefits that individual is otherwise
27 entitled to, and no state benefits shall be paid to a hospital
28 or other provider until all other health insurance benefits for
29 that individual have been exhausted.

30 (f) Whenever the Board recommends, and the Director of
31 Public Health approves, payment of such benefits as are
32 authorized by this Act or the rules and regulations promulgated
33 hereunder shall be made from such appropriations as the General
34 Assembly may provide for this purpose to the Department of
35 Public Health. No one individual shall be eligible to receive
36 more than a total of \$200,000 under this Act.

1 The maximum level of payment recommended by the Board for
2 live donor acquisition charges shall be \$10,000. No payments
3 shall be made for complications or follow-up hospitalization
4 for a donor of an organ transplanted under this program.

5 (g) Meetings of the Board or any screening team for the
6 purpose of reviewing or discussing applications are exempt from
7 the Open Meetings Act; provided that those portions of meetings
8 at which final determinations are made shall be public
9 meetings.

10 (h) A transplantation institution located outside of the
11 State of Illinois shall not be approved for participation under
12 this program unless such institution is closer to the residence
13 of the patient than is any approved Illinois institution, or
14 unless the required procedure is offered at the out-of-state
15 institution and the procedure is not approved at any
16 institution located within the State.

17 (Source: P.A. 85-1209.)

18 Section 9100. The Geriatric Medicine Assistance Act is
19 amended by changing Section 2 as follows:

20 (20 ILCS 3945/2) (from Ch. 144, par. 2002)

21 Sec. 2. There is created the Geriatric Medicine Assistance
22 Commission. The Commission shall receive and approve
23 applications for grants from schools, recognized by the
24 Department of Financial and Professional Regulation as being
25 authorized to confer doctor of medicine, doctor of osteopathy,
26 doctor of chiropractic or registered professional nursing
27 degrees in the State, to help finance the establishment of
28 geriatric medicine programs within such schools. In
29 determining eligibility for grants, the Commission shall give
30 preference to those programs which exhibit the greatest
31 potential for directly benefiting the largest number of elderly
32 citizens in the State. The Commission may not approve the
33 application of any institution which is unable to demonstrate
34 its current financial stability and reasonable prospects for

1 future stability. No institution which fails to possess and
2 maintain an open policy with respect to race, creed, color and
3 sex as to admission of students, appointment of faculty and
4 employment of staff shall be eligible for grants under this
5 Act. The Commission shall establish such rules and standards as
6 it deems necessary for the implementation of this Act.

7 The Commission shall be composed of 8 members selected as
8 follows: 2 physicians licensed to practice under the Medical
9 Practice Act of 1987 and specializing in geriatric medicine; a
10 registered professional nurse licensed under the Nursing and
11 Advanced Practice Nursing Act and specializing in geriatric
12 health care; 2 representatives of organizations interested in
13 geriatric medicine or the care of the elderly; and 3
14 individuals 60 or older who are interested in geriatric health
15 care or the care of the elderly. The members of the Commission
16 shall be selected by the Governor from a list of
17 recommendations submitted to him by organizations concerned
18 with geriatric medicine or the care of the elderly.

19 The terms of the members of the Commission shall be 4
20 years, except that of the members initially appointed, 2 shall
21 be designated to serve until January 1, 1986, 3 until January
22 1, 1988, and 2 until January 1, 1990. Members of the Commission
23 shall receive no compensation, but shall be reimbursed for
24 actual expenses incurred in carrying out their duties.

25 (Source: P.A. 90-742, eff. 8-13-98.)

26 Section 9105. The State Finance Act is amended by changing
27 Sections 6q, 6z-26, 6z-38, 8.12, 8f, and 12-1 as follows:

28 (30 ILCS 105/6q) (from Ch. 127, par. 142q)

29 Sec. 6q. (a) All moneys received by the Department of
30 Central Management Services as an incident to the operation of
31 paper and printing warehouses, including fees received for wall
32 certificates from the Department of Professional Regulation,
33 or from the Department of Financial and Professional Regulation
34 in its capacity as the successor of the Department of

1 Professional Regulation, shall be paid into the paper and
2 printing revolving fund.

3 (b) All funds in the special wastepaper recycling account
4 in the State Surplus Property Revolving Fund not used or
5 designated for recycling expenses shall be paid into the Paper
6 and Printing Revolving Fund and held in a special account for
7 recycled paper expenses.

8 (Source: P.A. 85-1209; 85-1440.)

9 (30 ILCS 105/6z-26)

10 Sec. 6z-26. The Financial Institution Fund. All moneys
11 received by the Department of Financial and Professional
12 Regulation ~~Institutions~~ under the Safety Deposit License Act,
13 the Foreign Exchange License Act, the Pawnors Societies Act,
14 the Sale of Exchange Act, the Currency Exchange Act, the Sales
15 Finance Agency Act, the Debt Management Service Act, the
16 Consumer Installment Loan Act, the Illinois Development Credit
17 Corporation Act, the Title Insurance Act, and any other Act
18 administered by the Department of Financial and Professional
19 Regulation as the successor of the Department of Financial
20 Institutions now or in the future (unless an Act specifically
21 provides otherwise) shall be deposited in the Financial
22 Institution Fund (hereinafter "Fund"), a special fund that is
23 hereby created in the State Treasury.

24 Moneys in the Fund shall be used by the Department, subject
25 to appropriation, for expenses incurred in administering the
26 above named and referenced Acts.

27 The Comptroller and the State Treasurer shall transfer from
28 the General Revenue Fund to the Fund any monies received by the
29 Department after June 30, 1993, under any of the above named
30 and referenced Acts that have been deposited in the General
31 Revenue Fund.

32 As soon as possible after the end of each calendar year,
33 the Comptroller shall compare the balance in the Fund at the
34 end of the calendar year with the amount appropriated from the
35 Fund for the fiscal year beginning on July 1 of that calendar

1 year. If the balance in the Fund exceeds the amount
2 appropriated, the Comptroller and the State Treasurer shall
3 transfer from the Fund to the General Revenue Fund an amount
4 equal to the difference between the balance in the Fund and the
5 amount appropriated.

6 Moneys in the Fund may be transferred to the Professions
7 Indirect Cost Fund as authorized under Section 70 of the
8 Department of Financial and Professional Regulation Act.

9 Nothing in this Section shall be construed to prohibit
10 appropriations from the General Revenue Fund for expenses
11 incurred in the administration of the above named and
12 referenced Acts.

13 (Source: P.A. 90-545, eff. 1-1-98.)

14 (30 ILCS 105/6z-38)

15 Sec. 6z-38. General Professions Dedicated Fund. The
16 General Professions Dedicated Fund is created in the State
17 treasury. Moneys in the Fund shall be invested and earnings on
18 the investments shall be retained in the Fund. Moneys in the
19 Fund shall be appropriated to the Department of Financial and
20 Professional Regulation for the ordinary and contingent
21 expenses of the Department. Moneys in the Fund may be
22 transferred to the Professions Indirect Cost Fund as authorized
23 by Section 70 ~~2105-300~~ of the Department of Financial and
24 Professional Regulation Act ~~Law (20 ILCS 2105/2105-300)~~.

25 (Source: P.A. 91-239, eff. 1-1-00.)

26 (30 ILCS 105/8.12) (from Ch. 127, par. 144.12)

27 Sec. 8.12. State Pensions Fund.

28 (a) The moneys in the State Pensions Fund shall be used
29 exclusively for the administration of the Uniform Disposition
30 of Unclaimed Property Act and for the payment of or repayment
31 to the General Revenue Fund a portion of the required State
32 contributions to the designated retirement systems.

33 "Designated retirement systems" means:

34 (1) the State Employees' Retirement System of

1 Illinois;

2 (2) the Teachers' Retirement System of the State of
3 Illinois;

4 (3) the State Universities Retirement System;

5 (4) the Judges Retirement System of Illinois; and

6 (5) the General Assembly Retirement System.

7 (b) Each year the General Assembly may make appropriations
8 from the State Pensions Fund for the administration of the
9 Uniform Disposition of Unclaimed Property Act.

10 Each month, the Secretary of Financial and Professional
11 Regulation ~~Commissioner of the Office of Banks and Real Estate~~
12 shall certify to the State Treasurer the actual expenditures
13 that the Department of Financial and Professional Regulation or
14 its predecessor, the Office of Banks and Real Estate, incurred
15 conducting unclaimed property examinations under the Uniform
16 Disposition of Unclaimed Property Act during the immediately
17 preceding month. Within a reasonable time following the
18 acceptance of such certification by the State Treasurer, the
19 State Treasurer shall pay from its appropriation from the State
20 Pensions Fund to the Bank and Trust Company Fund and the
21 Savings and Residential Finance Regulatory Fund an amount equal
22 to the expenditures incurred by each Fund for that month.

23 ~~Each month, the Director of Financial Institutions shall~~
24 ~~certify to the State Treasurer the actual expenditures that the~~
25 ~~Department of Financial Institutions incurred conducting~~
26 ~~unclaimed property examinations under the Uniform Disposition~~
27 ~~of Unclaimed Property Act during the immediately preceding~~
28 ~~month. Within a reasonable time following the acceptance of~~
29 ~~such certification by the State Treasurer, the State Treasurer~~
30 ~~shall pay from its appropriation from the State Pensions Fund~~
31 ~~to the Financial Institutions Fund and the Credit Union Fund an~~
32 ~~amount equal to the expenditures incurred by each Fund for that~~
33 ~~month.~~

34 (c) As soon as possible after the effective date of this
35 amendatory Act of the 93rd General Assembly, the General
36 Assembly shall appropriate from the State Pensions Fund (1) to

1 the State Universities Retirement System the amount certified
2 under Section 15-165 during the prior year, (2) to the Judges
3 Retirement System of Illinois the amount certified under
4 Section 18-140 during the prior year, and (3) to the General
5 Assembly Retirement System the amount certified under Section
6 2-134 during the prior year as part of the required State
7 contributions to each of those designated retirement systems;
8 except that amounts appropriated under this subsection (c) in
9 State fiscal year 2005 shall not reduce the amount in the State
10 Pensions Fund below \$5,000,000. If the amount in the State
11 Pensions Fund does not exceed the sum of the amounts certified
12 in Sections 15-165, 18-140, and 2-134 by at least \$5,000,000,
13 the amount paid to each designated retirement system under this
14 subsection shall be reduced in proportion to the amount
15 certified by each of those designated retirement systems. For
16 each State fiscal year beginning with State fiscal year 2006,
17 the General Assembly shall appropriate a total amount equal to
18 the balance in the State Pensions Fund at the close of business
19 on June 30 of the preceding fiscal year, less \$5,000,000, as
20 part of the required State contributions to the designated
21 retirement systems. The amount of the appropriation to
22 designated retirement systems shall constitute a portion of the
23 total appropriation under this subsection for that fiscal year
24 which is the same as that retirement system's portion of the
25 total actuarial reserve deficiency of the systems, as most
26 recently determined by the Governor's Office of Management and
27 Budget.

28 (d) The Governor's Office of Management and Budget shall
29 determine the individual and total reserve deficiencies of the
30 designated retirement systems. For this purpose, the
31 Governor's Office of Management and Budget shall utilize the
32 latest available audit and actuarial reports of each of the
33 retirement systems and the relevant reports and statistics of
34 the Public Employee Pension Fund Division of the Department of
35 Financial and Professional Regulation Insurance.

36 (d-1) As soon as practicable after the effective date of

1 this amendatory Act of the 93rd General Assembly, the
2 Comptroller shall direct and the Treasurer shall transfer from
3 the State Pensions Fund to the General Revenue Fund, as funds
4 become available, a sum equal to the amounts that would have
5 been paid from the State Pensions Fund to the Teachers'
6 Retirement System of the State of Illinois, the State
7 Universities Retirement System, the Judges Retirement System
8 of Illinois, the General Assembly Retirement System, and the
9 State Employees' Retirement System of Illinois after the
10 effective date of this amendatory Act during the remainder of
11 fiscal year 2004 to the designated retirement systems from the
12 appropriations provided for in this Section if the transfers
13 provided in Section 6z-61 had not occurred. The transfers
14 described in this subsection (d-1) are to partially repay the
15 General Revenue Fund for the costs associated with the bonds
16 used to fund the moneys transferred to the designated
17 retirement systems under Section 6z-61.

18 (e) The changes to this Section made by this amendatory Act
19 of 1994 shall first apply to distributions from the Fund for
20 State fiscal year 1996.

21 (Source: P.A. 93-665, eff. 3-5-04; 93-839, eff. 7-30-04.)

22 (30 ILCS 105/8f)

23 Sec. 8f. Public Pension Regulation Fund. The Public Pension
24 Regulation Fund is created in the State Treasury. Except as
25 otherwise provided in the Illinois Pension Code, all money
26 received by the Department of Financial and Professional
27 Regulation, in its capacity as the successor of the Illinois
28 Department of Insurance, under the Illinois Pension Code shall
29 be paid into the Fund. The State Treasurer promptly shall
30 invest the money in the Fund, and all earnings that accrue on
31 the money in the Fund shall be credited to the Fund. Moneys in
32 the Fund may be transferred to the Professions Indirect Cost
33 Fund as authorized under Section 70 of the Department of
34 Financial and Professional Regulation Act. No other money may
35 be transferred from this Fund to any other fund. The General

1 Assembly may make appropriations from this Fund for the
2 ordinary and contingent expenses of the Public Pension Division
3 of the Illinois Department of Financial and Professional
4 Regulation Insurance.

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

6 (30 ILCS 105/12-1) (from Ch. 127, par. 148-1)

7 Sec. 12-1. Travel control boards.

8 (a) The following travel control boards are created with
9 the members and jurisdiction set forth below:

10 (1) A Travel Control Board is created within the Office
11 of the Attorney General consisting of the Attorney General
12 as chairman and 2 members of his supervisory staff
13 appointed by him. The board shall have jurisdiction over
14 travel by employees of the office.

15 (2) A Travel Control Board is created within the Office
16 of the State Comptroller consisting of the Comptroller as
17 chairman and 2 members of his supervisory staff appointed
18 by him. The board shall have jurisdiction over travel by
19 employees of the office.

20 (3) The Higher Education Travel Control Board shall
21 consist of 11 members, one to be appointed by each of the
22 following: the Board of Trustees of the University of
23 Illinois, the Board of Trustees of Southern Illinois
24 University, the Board of Trustees of Chicago State
25 University, the Board of Trustees of Eastern Illinois
26 University, the Board of Trustees of Governors State
27 University, the Board of Trustees of Illinois State
28 University, the Board of Trustees of Northeastern Illinois
29 University, the Board of Trustees of Northern Illinois
30 University, the Board of Trustees of Western Illinois
31 University, the Illinois Community College Board and the
32 Illinois Board of Higher Education. Each member shall be an
33 officer, member or employee of the board making the
34 appointment, or of an institution governed or maintained by
35 such board. The board shall have jurisdiction over travel

1 by the Board of Higher Education, the Board of Trustees of
2 the University of Illinois, the Board of Trustees of
3 Southern Illinois University, the Board of Trustees of
4 Chicago State University, the Board of Trustees of Eastern
5 Illinois University, the Board of Trustees of Governors
6 State University, the Board of Trustees of Illinois State
7 University, the Board of Trustees of Northeastern Illinois
8 University, the Board of Trustees of Northern Illinois
9 University, the Board of Trustees of Western Illinois
10 University, the Illinois Community College Board, the
11 State Community College of East St. Louis, the Illinois
12 State Scholarship Commission, the State Universities
13 Retirement System, the University Civil Service Merit
14 Board, the Board of Trustees of the Illinois Mathematics
15 and Science Academy and all employees of the named Boards,
16 Commission and System and of the institutions governed or
17 maintained by the named Boards. The Higher Education Travel
18 Control Board shall select a chairman from among its
19 members.

20 (4) The Legislative Travel Control Board shall consist
21 of the following members serving ex-officio: The Auditor
22 General as chairman, the President and the Minority Leader
23 of the Senate and the Speaker and the Minority Leader of
24 the House of Representatives. The board shall have
25 jurisdiction over travel by employees of: the General
26 Assembly, legislative boards and commissions, the Office
27 of the Auditor General and all legislative agencies.

28 (5) A Travel Control Board is created within the Office
29 of the Lieutenant Governor consisting of the Lieutenant
30 Governor as chairman and 2 members of his supervisory staff
31 appointed by him. The board shall have jurisdiction over
32 travel by employees of the office. The Travel Control Board
33 within the office of the Lieutenant Governor is subject to
34 the provisions of Section 405-500 of the Department of
35 Central Management Services Law (20 ILCS 405/405-500).

36 (6) A Travel Control Board is created within the Office

1 of the Secretary of State consisting of the Secretary of
2 State as chairman, and 2 members of his supervisory staff
3 appointed by him. The board shall have jurisdiction over
4 travel by employees of the office.

5 (7) A Travel Control Board is created within the
6 Judicial Branch consisting of a chairman and 2 members
7 appointed by the Supreme Court. The board shall have
8 jurisdiction over travel by personnel of the Judicial
9 Branch, except the circuit courts and the judges.

10 (8) A Travel Control Board is created under the State
11 Board of Education, consisting of the State Superintendent
12 of Education as chairman, and 2 members of his supervisory
13 staff appointed by the State Board of Education. The Board
14 shall have jurisdiction over travel by employees of the
15 State Board of Education.

16 (9) A Travel Control Board is created within the Office
17 of the State Treasurer, consisting of the State Treasurer
18 as chairman and 2 members of his supervisory staff
19 appointed by him. The board shall have jurisdiction over
20 travel by employees of the office.

21 (10) A Governor's Travel Control Board is created
22 consisting of the Governor ex-officio as chairman, and 2
23 members appointed by the Governor. The board shall have
24 jurisdiction over travel by employees and officers of all
25 State agencies as defined in the Illinois State Auditing
26 Act, except for the following: judges, members of the
27 General Assembly, elected constitutional officers of the
28 State, the Auditor General, and personnel under the
29 jurisdiction of another travel control board created by
30 statute.

31 (a-5) The Secretary of Financial and Professional
32 Regulation ~~Commissioner of Banks and Real Estate~~, the Prisoner
33 Review Board, and the State Fire Marshal shall submit to the
34 Governor's Travel Control Board the quarterly reports required
35 by regulation pertaining to their employees reimbursed for
36 housing.

1 (b) Each travel control board created by this Section shall
2 meet at the call of the chairman at least quarterly to review
3 all vouchers, or a report thereof, for travel reimbursements
4 involving an exception to the State Travel Regulations and
5 Rates. Each travel control board shall prescribe the procedures
6 for submission of an information copy of vouchers involving an
7 exception to the general provisions established by the State
8 Travel Regulations and Reimbursement Rates.

9 (c) Any chairman or member of a travel control board may,
10 with the consent of the respective appointing official,
11 designate a deputy to serve in his place at any or all meetings
12 of the board. The designation shall be in writing and directed
13 to the chairman of the board.

14 (d) No member of a travel control board may receive
15 additional compensation for his service as a member.

16 (e) A report of the travel reimbursement claims reviewed by
17 each travel control board shall be submitted to the Legislative
18 Audit Commission at least once each quarter and that Commission
19 shall comment on all such reports in its annual reports to the
20 General Assembly.

21 (Source: P.A. 90-609, eff. 6-30-98; 91-239, eff. 1-1-00.)

22 Section 9110. The State Officers and Employees Money
23 Disposition Act is amended by changing Section 1 as follows:

24 (30 ILCS 230/1) (from Ch. 127, par. 170)

25 Sec. 1. Application of Act; exemptions. The officers of the
26 Executive Department of the State Government, the Clerk of the
27 Supreme Court, the Clerks of the Appellate Courts, the
28 Departments of the State government created by the Civil
29 Administrative Code of Illinois, and all other officers,
30 boards, commissions, commissioners, departments, institutions,
31 arms or agencies, or agents of the Executive Department of the
32 State government except the University of Illinois, Southern
33 Illinois University, Chicago State University, Eastern
34 Illinois University, Governors State University, Illinois

1 State University, Northeastern Illinois University, Northern
2 Illinois University, Western Illinois University, the
3 Cooperative Computer Center, and the Board of Trustees of the
4 Illinois Bank Examiners' Education Foundation for moneys
5 collected pursuant to subsection (11) of Section 48 of the
6 Illinois Banking Act for purposes of the Illinois Bank
7 Examiners' Education Program are subject to this Act. This Act
8 shall not apply, however, to any of the following: (i) the
9 receipt by any such officer of federal funds made available
10 under such conditions as precluded the payment thereof into the
11 State Treasury, (ii) (blank), (iii) the Secretary of Financial
12 and Professional Regulation ~~Director of Insurance~~ in his
13 capacity as rehabilitator or liquidator under Article XIII of
14 the Illinois Insurance Code, (iv) funds received by the
15 Illinois State Scholarship Commission from private firms
16 employed by the State to collect delinquent amounts due and
17 owing from a borrower on any loans guaranteed by such
18 Commission under the Higher Education Student Assistance Law or
19 on any "eligible loans" as that term is defined under the
20 Education Loan Purchase Program Law, or (v) moneys collected on
21 behalf of lessees of facilities of the Department of
22 Agriculture located on the Illinois State Fairgrounds at
23 Springfield and DuQuoin. This Section 1 shall not apply to the
24 receipt of funds required to be deposited in the Industrial
25 Project Fund pursuant to Section 12 of the Disabled Persons
26 Rehabilitation Act.

27 (Source: P.A. 92-850, eff. 8-26-02.)

28 Section 9115. The Public Funds Investment Act is amended by
29 changing Section 6 as follows:

30 (30 ILCS 235/6) (from Ch. 85, par. 906)

31 Sec. 6. Report of financial institutions.

32 (a) No bank shall receive any public funds unless it has
33 furnished the corporate authorities of a public agency
34 submitting a deposit with copies of the last two sworn

1 statements of resources and liabilities which the bank is
2 required to furnish to the Secretary of Financial and
3 Professional Regulation ~~Commissioner of Banks and Real Estate~~
4 or to the Comptroller of the Currency. Each bank designated as
5 a depository for public funds shall, while acting as such
6 depository, furnish the corporate authorities of a public
7 agency with a copy of all statements of resources and
8 liabilities which it is required to furnish to the Secretary of
9 Financial and Professional Regulation ~~Commissioner of Banks~~
10 ~~and Real Estate~~ or to the Comptroller of the Currency;
11 provided, that if such funds or moneys are deposited in a bank,
12 the amount of all such deposits not collateralized or insured
13 by an agency of the federal government shall not exceed 75% of
14 the capital stock and surplus of such bank, and the corporate
15 authorities of a public agency submitting a deposit shall not
16 be discharged from responsibility for any funds or moneys
17 deposited in any bank in excess of such limitation.

18 (b) No savings bank or savings and loan association shall
19 receive public funds unless it has furnished the corporate
20 authorities of a public agency submitting a deposit with copies
21 of the last 2 sworn statements of resources and liabilities
22 which the savings bank or savings and loan association is
23 required to furnish to the Secretary of Financial and
24 Professional Regulation ~~Commissioner of Banks and Real Estate~~
25 or the Federal Deposit Insurance Corporation. Each savings bank
26 or savings and loan association designated as a depository for
27 public funds shall, while acting as such depository, furnish
28 the corporate authorities of a public agency with a copy of all
29 statements of resources and liabilities which it is required to
30 furnish to the Secretary of Financial and Professional
31 Regulation ~~Commissioner of Banks and Real Estate~~ or the Federal
32 Deposit Insurance Corporation; provided, that if such funds or
33 moneys are deposited in a savings bank or savings and loan
34 association, the amount of all such deposits not collateralized
35 or insured by an agency of the federal government shall not
36 exceed 75% of the net worth of such savings bank or savings and

1 loan association as defined by the Federal Deposit Insurance
2 Corporation, and the corporate authorities of a public agency
3 submitting a deposit shall not be discharged from
4 responsibility for any funds or moneys deposited in any savings
5 bank or savings and loan association in excess of such
6 limitation.

7 (c) No credit union shall receive public funds unless it
8 has furnished the corporate authorities of a public agency
9 submitting a share deposit with copies of the last two reports
10 of examination prepared by or submitted to the Illinois
11 Department of Financial and Professional Regulation
12 ~~Institutions~~ or the National Credit Union Administration. Each
13 credit union designated as a depository for public funds shall,
14 while acting as such depository, furnish the corporate
15 authorities of a public agency with a copy of all reports of
16 examination prepared by or furnished to the Illinois Department
17 of Financial and Professional Regulation ~~Institutions~~ or the
18 National Credit Union Administration; provided that if such
19 funds or moneys are invested in a credit union account, the
20 amount of all such investments not collateralized or insured by
21 an agency of the federal government or other approved share
22 insurer shall not exceed 50% of the unimpaired capital and
23 surplus of such credit union, which shall include shares,
24 reserves and undivided earnings and the corporate authorities
25 of a public agency making an investment shall not be discharged
26 from responsibility for any funds or moneys invested in a
27 credit union in excess of such limitation.

28 (d) Whenever a public agency deposits any public funds in a
29 financial institution, the public agency may enter into an
30 agreement with the financial institution requiring any funds
31 not insured by the Federal Deposit Insurance Corporation or the
32 National Credit Union Administration or other approved share
33 insurer to be collateralized by any of the following classes of
34 securities, provided there has been no default in the payment
35 of principal or interest thereon:

36 (1) Bonds, notes, or other securities constituting

1 direct and general obligations of the United States, the
2 bonds, notes, or other securities constituting the direct
3 and general obligation of any agency or instrumentality of
4 the United States, the interest and principal of which is
5 unconditionally guaranteed by the United States, and
6 bonds, notes, or other securities or evidence of
7 indebtedness constituting the obligation of a U.S. agency
8 or instrumentality.

9 (2) Direct and general obligation bonds of the State of
10 Illinois or of any other state of the United States.

11 (3) Revenue bonds of this State or any authority,
12 board, commission, or similar agency thereof.

13 (4) Direct and general obligation bonds of any city,
14 town, county, school district, or other taxing body of any
15 state, the debt service of which is payable from general ad
16 valorem taxes.

17 (5) Revenue bonds of any city, town, county, or school
18 district of the State of Illinois.

19 (6) Obligations issued, assumed, or guaranteed by the
20 International Finance Corporation, the principal of which
21 is not amortized during the life of the obligation, but no
22 such obligation shall be accepted at more than 90% of its
23 market value.

24 (7) Illinois Affordable Housing Program Trust Fund
25 Bonds or Notes as defined in and issued pursuant to the
26 Illinois Housing Development Act.

27 (8) In an amount equal to at least market value of that
28 amount of funds deposited exceeding the insurance
29 limitation provided by the Federal Deposit Insurance
30 Corporation or the National Credit Union Administration or
31 other approved share insurer: (i) securities, (ii)
32 mortgages, (iii) letters of credit issued by a Federal Home
33 Loan Bank, or (iv) loans covered by a State Guarantee
34 Guaranty under the Illinois Farm Development Act, if that
35 guarantee has been assumed by the Illinois Finance
36 Authority under Section 845-75 of the Illinois Finance

1 Authority Act, and loans covered by a State Guarantee under
2 Article 830 of the Illinois Finance Authority Act.

3 (9) Certificates of deposit or share certificates
4 issued to the depository institution pledging them as
5 security. The public agency may require security in the
6 amount of 125% of the value of the public agency deposit.
7 Such certificate of deposit or share certificate shall:

8 (i) be fully insured by the Federal Deposit
9 Insurance Corporation, the Federal Savings and Loan
10 Insurance Corporation, or the National Credit Union
11 Share Insurance Fund or issued by a depository
12 institution which is rated within the 3 highest
13 classifications established by at least one of the 2
14 standard rating services;

15 (ii) be issued by a financial institution having
16 assets of \$15,000,000 or more; and

17 (iii) be issued by either a savings and loan
18 association having a capital to asset ratio of at least
19 2%, by a bank having a capital to asset ratio of at
20 least 6% or by a credit union having a capital to asset
21 ratio of at least 4%.

22 The depository institution shall effect the assignment of
23 the certificate of deposit or share certificate to the public
24 agency and shall agree that, in the event the issuer of the
25 certificate fails to maintain the capital to asset ratio
26 required by this Section, such certificate of deposit or share
27 certificate shall be replaced by additional suitable security.

28 (e) The public agency may accept a system established by
29 the State Treasurer to aggregate permissible securities
30 received as collateral from financial institutions in a
31 collateral pool to secure public deposits of the institutions
32 that have pledged securities to the pool.

33 (f) The public agency may at any time declare any
34 particular security ineligible to qualify as collateral when,
35 in the public agency's judgment, it is deemed desirable to do
36 so.

1 (g) Notwithstanding any other provision of this Section, as
2 security a public agency may, at its discretion, accept a bond,
3 executed by a company authorized to transact the kinds of
4 business described in clause (g) of Section 4 of the Illinois
5 Insurance Code, in an amount not less than the amount of the
6 deposits required by this Section to be secured, payable to the
7 public agency for the benefit of the People of the unit of
8 government, in a form that is acceptable to the public agency
9 ~~Finance Authority.~~

10 (h) Paragraphs (a), (b), (c), (d), (e), (f), and (g) of
11 this Section do not apply to the University of Illinois,
12 Southern Illinois University, Chicago State University,
13 Eastern Illinois University, Governors State University,
14 Illinois State University, Northeastern Illinois University,
15 Northern Illinois University, Western Illinois University, the
16 Cooperative Computer Center and public community colleges.

17 (Source: P.A. 93-205, eff. 1-1-04; 93-561, eff. 1-1-04; revised
18 1-14-04.)

19 Section 9120. The Architectural, Engineering, and Land
20 Surveying Qualifications Based Selection Act is amended by
21 changing Section 5 as follows:

22 (30 ILCS 535/5) (from Ch. 127, par. 4151-5)

23 Sec. 5. State policy on procurement of architectural,
24 engineering, and land surveying services. It is the policy of
25 State agencies of this State to publicly announce all
26 requirements for architectural, engineering, and land
27 surveying services, to procure these services on the basis of
28 demonstrated competence and qualifications, to negotiate
29 contracts at fair and reasonable prices, and to authorize the
30 Department of Financial and Professional Regulation to enforce
31 the provisions of Section 65 of this Act.

32 (Source: P.A. 87-673.)

33 Section 9125. The Public Construction Bond Act is amended

1 by changing Section 3 as follows:

2 (30 ILCS 550/3)

3 Sec. 3. Builder or developer cash bond or other surety.

4 (a) A county or municipality may not require a cash bond,
5 irrevocable letter of credit, surety bond, or letter of
6 commitment issued by a bank, savings and loan association,
7 surety, or insurance company from a builder or developer to
8 guarantee completion of a project improvement when the builder
9 or developer has filed with the county or municipal clerk a
10 current, irrevocable letter of credit, surety bond, or letter
11 of commitment issued by a bank, savings and loan association,
12 surety, or insurance company, deemed good and sufficient by the
13 county or municipality accepting such security, in an amount
14 equal to or greater than 110% of the amount of the bid on each
15 project improvement. A builder or developer has the option to
16 utilize a cash bond, irrevocable letter of credit, surety bond,
17 or letter of commitment, issued by a bank, savings and loan
18 association, surety, or insurance company, deemed good and
19 sufficient by the county or municipality, to satisfy any cash
20 bond requirement established by a county or municipality.
21 Except for a municipality or county with a population of
22 1,000,000 or more, the county or municipality must approve and
23 deem a surety or insurance company good and sufficient for the
24 purposes set forth in this Section if the surety or insurance
25 company is authorized by the Illinois Department of Financial
26 and Professional Regulation ~~Insurance~~ to sell and issue
27 sureties in the State of Illinois.

28 (b) If a county or municipality receives a cash bond,
29 irrevocable letter of credit, or surety bond from a builder or
30 developer to guarantee completion of a project improvement, the
31 county or municipality shall (i) register the bond under the
32 address of the project and the construction permit number and
33 (ii) give the builder or developer a receipt for the bond. The
34 county or municipality shall establish and maintain a separate
35 account for all cash bonds received from builders and

1 developers to guarantee completion of a project improvement.

2 (c) The county or municipality shall refund a cash bond to
3 a builder or developer, or release the irrevocable letter of
4 credit or surety bond, within 60 days after the builder or
5 developer notifies the county or municipality in writing of the
6 completion of the project improvement for which the bond was
7 required. For these purposes, "completion" means that the
8 county or municipality has determined that the project
9 improvement for which the bond was required is complete or a
10 licensed engineer or licensed architect has certified to the
11 builder or developer and the county or municipality that the
12 project improvement has been completed to the applicable codes
13 and ordinances. The county or municipality shall pay interest
14 to the builder or developer, beginning 60 days after the
15 builder or developer notifies the county or municipality in
16 writing of the completion of the project improvement, on any
17 bond not refunded to a builder or developer, at the rate of 1%
18 per month.

19 (d) A home rule county or municipality may not require or
20 maintain cash bonds, irrevocable letters of credit, surety
21 bonds, or letters of commitment issued by a bank, savings and
22 loan association, surety, or insurance company from builders or
23 developers in a manner inconsistent with this Section. This
24 Section supercedes and controls over other provisions of the
25 Counties Code or Illinois Municipal Code as they apply to and
26 guarantee completion of a project improvement that is required
27 by the county or municipality, regardless of whether the
28 project improvement is a condition of annexation agreements.
29 This Section is a denial and limitation under subsection (i) of
30 Section 6 of Article VII of the Illinois Constitution on the
31 concurrent exercise by a home rule county or municipality of
32 powers and functions exercised by the State.

33 (Source: P.A. 92-479, eff. 1-1-02.)

34 Section 9130. The Illinois Income Tax Act is amended by
35 changing Section 304 as follows:

1 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

2 Sec. 304. Business income of persons other than residents.

3 (a) In general. The business income of a person other than
4 a resident shall be allocated to this State if such person's
5 business income is derived solely from this State. If a person
6 other than a resident derives business income from this State
7 and one or more other states, then, for tax years ending on or
8 before December 30, 1998, and except as otherwise provided by
9 this Section, such person's business income shall be
10 apportioned to this State by multiplying the income by a
11 fraction, the numerator of which is the sum of the property
12 factor (if any), the payroll factor (if any) and 200% of the
13 sales factor (if any), and the denominator of which is 4
14 reduced by the number of factors other than the sales factor
15 which have a denominator of zero and by an additional 2 if the
16 sales factor has a denominator of zero. For tax years ending on
17 or after December 31, 1998, and except as otherwise provided by
18 this Section, persons other than residents who derive business
19 income from this State and one or more other states shall
20 compute their apportionment factor by weighting their
21 property, payroll, and sales factors as provided in subsection
22 (h) of this Section.

23 (1) Property factor.

24 (A) The property factor is a fraction, the numerator of
25 which is the average value of the person's real and
26 tangible personal property owned or rented and used in the
27 trade or business in this State during the taxable year and
28 the denominator of which is the average value of all the
29 person's real and tangible personal property owned or
30 rented and used in the trade or business during the taxable
31 year.

32 (B) Property owned by the person is valued at its
33 original cost. Property rented by the person is valued at 8
34 times the net annual rental rate. Net annual rental rate is
35 the annual rental rate paid by the person less any annual

1 rental rate received by the person from sub-rentals.

2 (C) The average value of property shall be determined
3 by averaging the values at the beginning and ending of the
4 taxable year but the Director may require the averaging of
5 monthly values during the taxable year if reasonably
6 required to reflect properly the average value of the
7 person's property.

8 (2) Payroll factor.

9 (A) The payroll factor is a fraction, the numerator of
10 which is the total amount paid in this State during the
11 taxable year by the person for compensation, and the
12 denominator of which is the total compensation paid
13 everywhere during the taxable year.

14 (B) Compensation is paid in this State if:

15 (i) The individual's service is performed entirely
16 within this State;

17 (ii) The individual's service is performed both
18 within and without this State, but the service
19 performed without this State is incidental to the
20 individual's service performed within this State; or

21 (iii) Some of the service is performed within this
22 State and either the base of operations, or if there is
23 no base of operations, the place from which the service
24 is directed or controlled is within this State, or the
25 base of operations or the place from which the service
26 is directed or controlled is not in any state in which
27 some part of the service is performed, but the
28 individual's residence is in this State.

29 Beginning with taxable years ending on or after
30 December 31, 1992, for residents of states that impose a
31 comparable tax liability on residents of this State, for
32 purposes of item (i) of this paragraph (B), in the case of
33 persons who perform personal services under personal
34 service contracts for sports performances, services by
35 that person at a sporting event taking place in Illinois
36 shall be deemed to be a performance entirely within this

1 State.

2 (3) Sales factor.

3 (A) The sales factor is a fraction, the numerator of
4 which is the total sales of the person in this State during
5 the taxable year, and the denominator of which is the total
6 sales of the person everywhere during the taxable year.

7 (B) Sales of tangible personal property are in this
8 State if:

9 (i) The property is delivered or shipped to a
10 purchaser, other than the United States government,
11 within this State regardless of the f. o. b. point or
12 other conditions of the sale; or

13 (ii) The property is shipped from an office, store,
14 warehouse, factory or other place of storage in this
15 State and either the purchaser is the United States
16 government or the person is not taxable in the state of
17 the purchaser; provided, however, that premises owned
18 or leased by a person who has independently contracted
19 with the seller for the printing of newspapers,
20 periodicals or books shall not be deemed to be an
21 office, store, warehouse, factory or other place of
22 storage for purposes of this Section. Sales of tangible
23 personal property are not in this State if the seller
24 and purchaser would be members of the same unitary
25 business group but for the fact that either the seller
26 or purchaser is a person with 80% or more of total
27 business activity outside of the United States and the
28 property is purchased for resale.

29 (B-1) Patents, copyrights, trademarks, and similar
30 items of intangible personal property.

31 (i) Gross receipts from the licensing, sale, or
32 other disposition of a patent, copyright, trademark,
33 or similar item of intangible personal property are in
34 this State to the extent the item is utilized in this
35 State during the year the gross receipts are included
36 in gross income.

1 (ii) Place of utilization.

2 (I) A patent is utilized in a state to the
3 extent that it is employed in production,
4 fabrication, manufacturing, or other processing in
5 the state or to the extent that a patented product
6 is produced in the state. If a patent is utilized
7 in more than one state, the extent to which it is
8 utilized in any one state shall be a fraction equal
9 to the gross receipts of the licensee or purchaser
10 from sales or leases of items produced,
11 fabricated, manufactured, or processed within that
12 state using the patent and of patented items
13 produced within that state, divided by the total of
14 such gross receipts for all states in which the
15 patent is utilized.

16 (II) A copyright is utilized in a state to the
17 extent that printing or other publication
18 originates in the state. If a copyright is utilized
19 in more than one state, the extent to which it is
20 utilized in any one state shall be a fraction equal
21 to the gross receipts from sales or licenses of
22 materials printed or published in that state
23 divided by the total of such gross receipts for all
24 states in which the copyright is utilized.

25 (III) Trademarks and other items of intangible
26 personal property governed by this paragraph (B-1)
27 are utilized in the state in which the commercial
28 domicile of the licensee or purchaser is located.

29 (iii) If the state of utilization of an item of
30 property governed by this paragraph (B-1) cannot be
31 determined from the taxpayer's books and records or
32 from the books and records of any person related to the
33 taxpayer within the meaning of Section 267(b) of the
34 Internal Revenue Code, 26 U.S.C. 267, the gross
35 receipts attributable to that item shall be excluded
36 from both the numerator and the denominator of the

1 sales factor.

2 (B-2) Gross receipts from the license, sale, or other
3 disposition of patents, copyrights, trademarks, and
4 similar items of intangible personal property may be
5 included in the numerator or denominator of the sales
6 factor only if gross receipts from licenses, sales, or
7 other disposition of such items comprise more than 50% of
8 the taxpayer's total gross receipts included in gross
9 income during the tax year and during each of the 2
10 immediately preceding tax years; provided that, when a
11 taxpayer is a member of a unitary business group, such
12 determination shall be made on the basis of the gross
13 receipts of the entire unitary business group.

14 (C) Sales, other than sales governed by paragraphs (B)
15 and (B-1), are in this State if:

16 (i) The income-producing activity is performed in
17 this State; or

18 (ii) The income-producing activity is performed
19 both within and without this State and a greater
20 proportion of the income-producing activity is
21 performed within this State than without this State,
22 based on performance costs.

23 (D) For taxable years ending on or after December 31,
24 1995, the following items of income shall not be included
25 in the numerator or denominator of the sales factor:
26 dividends; amounts included under Section 78 of the
27 Internal Revenue Code; and Subpart F income as defined in
28 Section 952 of the Internal Revenue Code. No inference
29 shall be drawn from the enactment of this paragraph (D) in
30 construing this Section for taxable years ending before
31 December 31, 1995.

32 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
33 ending on or after December 31, 1999, provided that a
34 taxpayer may elect to apply the provisions of these
35 paragraphs to prior tax years. Such election shall be made
36 in the form and manner prescribed by the Department, shall

1 be irrevocable, and shall apply to all tax years; provided
2 that, if a taxpayer's Illinois income tax liability for any
3 tax year, as assessed under Section 903 prior to January 1,
4 1999, was computed in a manner contrary to the provisions
5 of paragraphs (B-1) or (B-2), no refund shall be payable to
6 the taxpayer for that tax year to the extent such refund is
7 the result of applying the provisions of paragraph (B-1) or
8 (B-2) retroactively. In the case of a unitary business
9 group, such election shall apply to all members of such
10 group for every tax year such group is in existence, but
11 shall not apply to any taxpayer for any period during which
12 that taxpayer is not a member of such group.

13 (b) Insurance companies.

14 (1) In general. Except as otherwise provided by
15 paragraph (2), business income of an insurance company for
16 a taxable year shall be apportioned to this State by
17 multiplying such income by a fraction, the numerator of
18 which is the direct premiums written for insurance upon
19 property or risk in this State, and the denominator of
20 which is the direct premiums written for insurance upon
21 property or risk everywhere. For purposes of this
22 subsection, the term "direct premiums written" means the
23 total amount of direct premiums written, assessments and
24 annuity considerations as reported for the taxable year on
25 the annual statement filed by the company with the
26 Secretary of Financial and Professional Regulation or the
27 Secretary's predecessor, the Illinois Director of
28 Insurance, in the form approved by the National Convention
29 of Insurance Commissioners or such other form as may be
30 prescribed in lieu thereof.

31 (2) Reinsurance. If the principal source of premiums
32 written by an insurance company consists of premiums for
33 reinsurance accepted by it, the business income of such
34 company shall be apportioned to this State by multiplying
35 such income by a fraction, the numerator of which is the
36 sum of (i) direct premiums written for insurance upon

1 property or risk in this State, plus (ii) premiums written
2 for reinsurance accepted in respect of property or risk in
3 this State, and the denominator of which is the sum of
4 (iii) direct premiums written for insurance upon property
5 or risk everywhere, plus (iv) premiums written for
6 reinsurance accepted in respect of property or risk
7 everywhere. For purposes of this paragraph, premiums
8 written for reinsurance accepted in respect of property or
9 risk in this State, whether or not otherwise determinable,
10 may, at the election of the company, be determined on the
11 basis of the proportion which premiums written for
12 reinsurance accepted from companies commercially domiciled
13 in Illinois bears to premiums written for reinsurance
14 accepted from all sources, or, alternatively, in the
15 proportion which the sum of the direct premiums written for
16 insurance upon property or risk in this State by each
17 ceding company from which reinsurance is accepted bears to
18 the sum of the total direct premiums written by each such
19 ceding company for the taxable year.

20 (c) Financial organizations.

21 (1) In general. Business income of a financial
22 organization shall be apportioned to this State by
23 multiplying such income by a fraction, the numerator of
24 which is its business income from sources within this
25 State, and the denominator of which is its business income
26 from all sources. For the purposes of this subsection, the
27 business income of a financial organization from sources
28 within this State is the sum of the amounts referred to in
29 subparagraphs (A) through (E) following, but excluding the
30 adjusted income of an international banking facility as
31 determined in paragraph (2):

32 (A) Fees, commissions or other compensation for
33 financial services rendered within this State;

34 (B) Gross profits from trading in stocks, bonds or
35 other securities managed within this State;

36 (C) Dividends, and interest from Illinois

1 customers, which are received within this State;

2 (D) Interest charged to customers at places of
3 business maintained within this State for carrying
4 debit balances of margin accounts, without deduction
5 of any costs incurred in carrying such accounts; and

6 (E) Any other gross income resulting from the
7 operation as a financial organization within this
8 State. In computing the amounts referred to in
9 paragraphs (A) through (E) of this subsection, any
10 amount received by a member of an affiliated group
11 (determined under Section 1504(a) of the Internal
12 Revenue Code but without reference to whether any such
13 corporation is an "includible corporation" under
14 Section 1504(b) of the Internal Revenue Code) from
15 another member of such group shall be included only to
16 the extent such amount exceeds expenses of the
17 recipient directly related thereto.

18 (2) International Banking Facility.

19 (A) Adjusted Income. The adjusted income of an
20 international banking facility is its income reduced
21 by the amount of the floor amount.

22 (B) Floor Amount. The floor amount shall be the
23 amount, if any, determined by multiplying the income of
24 the international banking facility by a fraction, not
25 greater than one, which is determined as follows:

26 (i) The numerator shall be:

27 The average aggregate, determined on a
28 quarterly basis, of the financial organization's
29 loans to banks in foreign countries, to foreign
30 domiciled borrowers (except where secured
31 primarily by real estate) and to foreign
32 governments and other foreign official
33 institutions, as reported for its branches,
34 agencies and offices within the state on its
35 "Consolidated Report of Condition", Schedule A,
36 Lines 2.c., 5.b., and 7.a., which was filed with

1 the Federal Deposit Insurance Corporation and
2 other regulatory authorities, for the year 1980,
3 minus

4 The average aggregate, determined on a
5 quarterly basis, of such loans (other than loans of
6 an international banking facility), as reported by
7 the financial institution for its branches,
8 agencies and offices within the state, on the
9 corresponding Schedule and lines of the
10 Consolidated Report of Condition for the current
11 taxable year, provided, however, that in no case
12 shall the amount determined in this clause (the
13 subtrahend) exceed the amount determined in the
14 preceding clause (the minuend); and

15 (ii) the denominator shall be the average
16 aggregate, determined on a quarterly basis, of the
17 international banking facility's loans to banks in
18 foreign countries, to foreign domiciled borrowers
19 (except where secured primarily by real estate)
20 and to foreign governments and other foreign
21 official institutions, which were recorded in its
22 financial accounts for the current taxable year.

23 (C) Change to Consolidated Report of Condition and
24 in Qualification. In the event the Consolidated Report
25 of Condition which is filed with the Federal Deposit
26 Insurance Corporation and other regulatory authorities
27 is altered so that the information required for
28 determining the floor amount is not found on Schedule
29 A, lines 2.c., 5.b. and 7.a., the financial institution
30 shall notify the Department and the Department may, by
31 regulations or otherwise, prescribe or authorize the
32 use of an alternative source for such information. The
33 financial institution shall also notify the Department
34 should its international banking facility fail to
35 qualify as such, in whole or in part, or should there
36 be any amendment or change to the Consolidated Report

1 of Condition, as originally filed, to the extent such
2 amendment or change alters the information used in
3 determining the floor amount.

4 (d) Transportation services. Business income derived from
5 furnishing transportation services shall be apportioned to
6 this State in accordance with paragraphs (1) and (2):

7 (1) Such business income (other than that derived from
8 transportation by pipeline) shall be apportioned to this
9 State by multiplying such income by a fraction, the
10 numerator of which is the revenue miles of the person in
11 this State, and the denominator of which is the revenue
12 miles of the person everywhere. For purposes of this
13 paragraph, a revenue mile is the transportation of 1
14 passenger or 1 net ton of freight the distance of 1 mile
15 for a consideration. Where a person is engaged in the
16 transportation of both passengers and freight, the
17 fraction above referred to shall be determined by means of
18 an average of the passenger revenue mile fraction and the
19 freight revenue mile fraction, weighted to reflect the
20 person's

21 (A) relative railway operating income from total
22 passenger and total freight service, as reported to the
23 Interstate Commerce Commission, in the case of
24 transportation by railroad, and

25 (B) relative gross receipts from passenger and
26 freight transportation, in case of transportation
27 other than by railroad.

28 (2) Such business income derived from transportation
29 by pipeline shall be apportioned to this State by
30 multiplying such income by a fraction, the numerator of
31 which is the revenue miles of the person in this State, and
32 the denominator of which is the revenue miles of the person
33 everywhere. For the purposes of this paragraph, a revenue
34 mile is the transportation by pipeline of 1 barrel of oil,
35 1,000 cubic feet of gas, or of any specified quantity of
36 any other substance, the distance of 1 mile for a

1 consideration.

2 (e) Combined apportionment. Where 2 or more persons are
3 engaged in a unitary business as described in subsection
4 (a)(27) of Section 1501, a part of which is conducted in this
5 State by one or more members of the group, the business income
6 attributable to this State by any such member or members shall
7 be apportioned by means of the combined apportionment method.

8 (f) Alternative allocation. If the allocation and
9 apportionment provisions of subsections (a) through (e) and of
10 subsection (h) do not fairly represent the extent of a person's
11 business activity in this State, the person may petition for,
12 or the Director may require, in respect of all or any part of
13 the person's business activity, if reasonable:

14 (1) Separate accounting;

15 (2) The exclusion of any one or more factors;

16 (3) The inclusion of one or more additional factors
17 which will fairly represent the person's business
18 activities in this State; or

19 (4) The employment of any other method to effectuate an
20 equitable allocation and apportionment of the person's
21 business income.

22 (g) Cross reference. For allocation of business income by
23 residents, see Section 301(a).

24 (h) For tax years ending on or after December 31, 1998, the
25 apportionment factor of persons who apportion their business
26 income to this State under subsection (a) shall be equal to:

27 (1) for tax years ending on or after December 31, 1998
28 and before December 31, 1999, 16 2/3% of the property
29 factor plus 16 2/3% of the payroll factor plus 66 2/3% of
30 the sales factor;

31 (2) for tax years ending on or after December 31, 1999
32 and before December 31, 2000, 8 1/3% of the property factor
33 plus 8 1/3% of the payroll factor plus 83 1/3% of the sales
34 factor;

35 (3) for tax years ending on or after December 31, 2000,
36 the sales factor.

1 If, in any tax year ending on or after December 31, 1998 and
2 before December 31, 2000, the denominator of the payroll,
3 property, or sales factor is zero, the apportionment factor
4 computed in paragraph (1) or (2) of this subsection for that
5 year shall be divided by an amount equal to 100% minus the
6 percentage weight given to each factor whose denominator is
7 equal to zero.

8 (Source: P.A. 90-562, eff. 12-16-97; 90-613, eff. 7-9-98;
9 91-541, eff. 8-13-99.)

10 Section 9135. The Property Tax Code is amended by changing
11 Section 15-65 as follows:

12 (35 ILCS 200/15-65)

13 Sec. 15-65. Charitable purposes. All property of the
14 following is exempt when actually and exclusively used for
15 charitable or beneficent purposes, and not leased or otherwise
16 used with a view to profit:

17 (a) Institutions of public charity.

18 (b) Beneficent and charitable organizations
19 incorporated in any state of the United States, including
20 organizations whose owner, and no other person, uses the
21 property exclusively for the distribution, sale, or resale
22 of donated goods and related activities and uses all the
23 income from those activities to support the charitable,
24 religious or beneficent activities of the owner, whether or
25 not such activities occur on the property.

26 (c) Old people's homes, facilities for persons with a
27 developmental disability, and not-for-profit organizations
28 providing services or facilities related to the goals of
29 educational, social and physical development, if, upon
30 making application for the exemption, the applicant
31 provides affirmative evidence that the home or facility or
32 organization is an exempt organization under paragraph (3)
33 of Section 501(c) of the Internal Revenue Code or its
34 successor, and either: (i) the bylaws of the home or

1 facility or not-for-profit organization provide for a
2 waiver or reduction, based on an individual's ability to
3 pay, of any entrance fee, assignment of assets, or fee for
4 services, or (ii) the home or facility is qualified, built
5 or financed under Section 202 of the National Housing Act
6 of 1959, as amended.

7 An applicant that has been granted an exemption under
8 this subsection on the basis that its bylaws provide for a
9 waiver or reduction, based on an individual's ability to
10 pay, of any entrance fee, assignment of assets, or fee for
11 services may be periodically reviewed by the Department to
12 determine if the waiver or reduction was a past policy or
13 is a current policy. The Department may revoke the
14 exemption if it finds that the policy for waiver or
15 reduction is no longer current.

16 If a not-for-profit organization leases property that
17 is otherwise exempt under this subsection to an
18 organization that conducts an activity on the leased
19 premises that would entitle the lessee to an exemption from
20 real estate taxes if the lessee were the owner of the
21 property, then the leased property is exempt.

22 (d) Not-for-profit health maintenance organizations
23 certified by the Secretary of Financial and Professional
24 Regulation or the Secretary's predecessor, the Director of
25 the Illinois Department of Insurance, under the Health
26 Maintenance Organization Act, including any health
27 maintenance organization that provides services to members
28 at prepaid rates approved by the Department of Financial
29 and Professional Regulation or the Illinois Department of
30 Insurance if the membership of the organization is
31 sufficiently large or of indefinite classes so that the
32 community is benefited by its operation. No exemption shall
33 apply to any hospital or health maintenance organization
34 which has been adjudicated by a court of competent
35 jurisdiction to have denied admission to any person because
36 of race, color, creed, sex or national origin.

1 (e) All free public libraries.

2 (f) Historical societies.

3 Property otherwise qualifying for an exemption under this
4 Section shall not lose its exemption because the legal title is
5 held (i) by an entity that is organized solely to hold that
6 title and that qualifies under paragraph (2) of Section 501(c)
7 of the Internal Revenue Code or its successor, whether or not
8 that entity receives rent from the charitable organization for
9 the repair and maintenance of the property, (ii) by an entity
10 that is organized as a partnership, in which the charitable
11 organization, or an affiliate or subsidiary of the charitable
12 organization, is a general partner, for the purposes of owning
13 and operating a residential rental property that has received
14 an allocation of Low Income Housing Tax Credits for 100% of the
15 dwelling units under Section 42 of the Internal Revenue Code of
16 1986, or (iii) for any assessment year including and subsequent
17 to January 1, 1996 for which an application for exemption has
18 been filed and a decision on which has not become final and
19 nonappealable, by a limited liability company organized under
20 the Limited Liability Company Act provided that (A) the limited
21 liability company receives a notification from the Internal
22 Revenue Service that it qualifies under paragraph (2) or (3) of
23 Section 501(c) of the Internal Revenue Code; (B) the limited
24 liability company's sole members, as that term is used in
25 Section 1-5 of the Limited Liability Company Act, are the
26 institutions of public charity that actually and exclusively
27 use the property for charitable and beneficent purposes; and
28 (C) the limited liability company does not lease the property
29 or otherwise use it with a view to profit.

30 (Source: P.A. 91-416, eff. 8-6-99; 92-382, eff. 8-16-01.)

31 Section 9140. The Illinois Pension Code is amended by
32 changing Sections 1-113.3, 1-113.4, 1-113.5, 1-113.6, 1-113.7,
33 1-113.11, 1A-101, 1A-102, 1A-104, 1A-105, 1A-107, 1A-111,
34 1A-112, 1A-113, 3-110, 4-118, 4-121, 5-188, 5-226, 6-184,
35 6-220, 13-711, 14-104, and 14-110 as follows:

1 (40 ILCS 5/1-113.3)

2 Sec. 1-113.3. List of additional permitted investments for
3 pension funds with net assets of \$2,500,000 or more.

4 (a) In addition to the items in Section 3-113.2, a pension
5 fund established under Article 3 or 4 that has net assets of at
6 least \$2,500,000 may invest a portion of its net assets in the
7 following items:

8 (1) Separate accounts that are managed by life
9 insurance companies authorized to transact business in
10 Illinois and are comprised of diversified portfolios
11 consisting of common or preferred stocks, bonds, or money
12 market instruments.

13 (2) Mutual funds that meet the following requirements:

14 (i) the mutual fund is managed by an investment
15 company as defined and registered under the federal
16 Investment Company Act of 1940 and registered under the
17 Illinois Securities Law of 1953;

18 (ii) the mutual fund has been in operation for at
19 least 5 years;

20 (iii) the mutual fund has total net assets of \$250
21 million or more; and

22 (iv) the mutual fund is comprised of diversified
23 portfolios of common or preferred stocks, bonds, or
24 money market instruments.

25 (b) A pension fund's total investment in the items
26 authorized under this Section shall not exceed 35% of the
27 market value of the pension fund's net present assets stated in
28 its most recent annual report on file with the Department of
29 Financial and Professional Regulation ~~the Illinois Department~~
30 ~~of Insurance.~~

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

32 (40 ILCS 5/1-113.4)

33 Sec. 1-113.4. List of additional permitted investments for
34 pension funds with net assets of \$5,000,000 or more.

1 (a) In addition to the items in Sections 1-113.2 and
2 1-113.3, a pension fund established under Article 3 or 4 that
3 has net assets of at least \$5,000,000 and has appointed an
4 investment adviser under Section 1-113.5 may, through that
5 investment adviser, invest a portion of its assets in common
6 and preferred stocks authorized for investments of trust funds
7 under the laws of the State of Illinois. The stocks must meet
8 all of the following requirements:

9 (1) The common stocks are listed on a national
10 securities exchange or board of trade (as defined in the
11 federal Securities Exchange Act of 1934 and set forth in
12 Section 3.G of the Illinois Securities Law of 1953) or
13 quoted in the National Association of Securities Dealers
14 Automated Quotation System National Market System (NASDAQ
15 NMS).

16 (2) The securities are of a corporation created or
17 existing under the laws of the United States or any state,
18 district, or territory thereof and the corporation has been
19 in existence for at least 5 years.

20 (3) The corporation has not been in arrears on payment
21 of dividends on its preferred stock during the preceding 5
22 years.

23 (4) The market value of stock in any one corporation
24 does not exceed 5% of the cash and invested assets of the
25 pension fund, and the investments in the stock of any one
26 corporation do not exceed 5% of the total outstanding stock
27 of that corporation.

28 (5) The straight preferred stocks or convertible
29 preferred stocks are issued or guaranteed by a corporation
30 whose common stock qualifies for investment by the board.

31 (6) The issuer of the stocks has been subject to the
32 requirements of Section 12 of the federal Securities
33 Exchange Act of 1934 and has been current with the filing
34 requirements of Sections 13 and 14 of that Act during the
35 preceding 3 years.

36 (b) A pension fund's total investment in the items

1 authorized under this Section and Section 1-113.3 shall not
2 exceed 35% of the market value of the pension fund's net
3 present assets stated in its most recent annual report on file
4 with the Department of Financial and Professional Regulation
5 ~~the Illinois Department of Insurance.~~

6 (c) A pension fund that invests funds under this Section
7 shall electronically file with the Division any reports of its
8 investment activities that the Division may require, at the
9 times and in the format required by the Division.

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

11 (40 ILCS 5/1-113.5)

12 Sec. 1-113.5. Investment advisers and investment services.

13 (a) The board of trustees of a pension fund may appoint
14 investment advisers as defined in Section 1-101.4. The board of
15 any pension fund investing in common or preferred stock under
16 Section 1-113.4 shall appoint an investment adviser before
17 making such investments.

18 The investment adviser shall be a fiduciary, as defined in
19 Section 1-101.2, with respect to the pension fund and shall be
20 one of the following:

21 (1) an investment adviser registered under the federal
22 Investment Advisers Act of 1940 and the Illinois Securities
23 Law of 1953;

24 (2) a bank or trust company authorized to conduct a
25 trust business in Illinois;

26 (3) a life insurance company authorized to transact
27 business in Illinois; or

28 (4) an investment company as defined and registered
29 under the federal Investment Company Act of 1940 and
30 registered under the Illinois Securities Law of 1953.

31 (b) All investment advice and services provided by an
32 investment adviser appointed under this Section shall be
33 rendered pursuant to a written contract between the investment
34 adviser and the board, and in accordance with the board's
35 investment policy.

1 The contract shall include all of the following:

2 (1) acknowledgement in writing by the investment
3 adviser that he or she is a fiduciary with respect to the
4 pension fund;

5 (2) the board's investment policy;

6 (3) full disclosure of direct and indirect fees,
7 commissions, penalties, and any other compensation that
8 may be received by the investment adviser, including
9 reimbursement for expenses; and

10 (4) a requirement that the investment adviser submit
11 periodic written reports, on at least a quarterly basis,
12 for the board's review at its regularly scheduled meetings.
13 All returns on investment shall be reported as net returns
14 after payment of all fees, commissions, and any other
15 compensation.

16 (c) Within 30 days after appointing an investment adviser,
17 the board shall submit a copy of the contract to the Department
18 of Financial and Professional Regulation ~~Insurance~~.

19 (d) Investment services provided by a person other than an
20 investment adviser appointed under this Section, including but
21 not limited to services provided by the kinds of persons listed
22 in items (1) through (4) of subsection (a), shall be rendered
23 only after full written disclosure of direct and indirect fees,
24 commissions, penalties, and any other compensation that shall
25 or may be received by the person rendering those services.

26 (e) The board of trustees of each pension fund shall retain
27 records of investment transactions in accordance with the rules
28 of the Department of Financial and Professional Regulation
29 ~~Insurance~~.

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

31 (40 ILCS 5/1-113.6)

32 Sec. 1-113.6. Investment policies. Every board of trustees
33 of a pension fund shall adopt a written investment policy and
34 file a copy of that policy with the Department of Financial and
35 Professional Regulation ~~Insurance~~ within 30 days after its

1 adoption. Whenever a board changes its investment policy, it
2 shall file a copy of the new policy with the Department within
3 30 days.

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

5 (40 ILCS 5/1-113.7)

6 Sec. 1-113.7. Registration of investments; custody and
7 safekeeping. The board of trustees may register the investments
8 of its pension fund in the name of the pension fund, in the
9 nominee name of a bank or trust company authorized to conduct a
10 trust business in Illinois, or in the nominee name of the
11 Illinois Public Treasurer's Investment Pool.

12 The assets of the pension fund and ownership of its
13 investments shall be protected through third-party custodial
14 safekeeping. The board of trustees may appoint as custodian of
15 the investments of its pension fund the treasurer of the
16 municipality, a bank or trust company authorized to conduct a
17 trust business in Illinois, or the Illinois Public Treasurer's
18 Investment Pool.

19 A dealer may not maintain possession of or control over
20 securities of a pension fund subject to the provisions of this
21 Section unless it is registered as a broker-dealer with the
22 U.S. Securities and Exchange Commission and is a member in good
23 standing of the National Association of Securities Dealers, and
24 (1) with respect to securities that are not issued only in
25 book-entry form, (A) all such securities of each fund are
26 either held in safekeeping in a place reasonably free from risk
27 of destruction or held in custody by a securities depository
28 that is a "clearing agency" registered with the U.S. Securities
29 and Exchange Commission, (B) the dealer is a member of the
30 Securities Investor Protection Corporation, (C) the dealer
31 sends to each fund, no less frequently than each calendar
32 quarter, an itemized statement showing the moneys and
33 securities in the custody or possession of the dealer at the
34 end of such period, and (D) an independent certified public
35 accountant conducts an audit, no less frequently than each

1 calendar year, that reviews the dealer's internal accounting
2 controls and procedures for safeguarding securities; and (2)
3 with respect to securities that are issued only in book-entry
4 form, (A) all such securities of each fund are held either in a
5 securities depository that is a "clearing agency" registered
6 with the U.S. Securities and Exchange Commission or in a bank
7 that is a member of the Federal Reserve System, (B) the dealer
8 records the ownership interest of the funds in such securities
9 on the dealer's books and records, (C) the dealer is a member
10 of the Securities Investor Protection Corporation, (D) the
11 dealer sends to each fund, no less frequently than each
12 calendar quarter, an itemized statement showing the moneys and
13 securities in the custody or possession of the dealer at the
14 end of such period, and (E) the dealer's financial statement
15 (which shall contain among other things a statement of the
16 dealer's net capital and its required net capital computed in
17 accordance with Rule 15c3-1 under the Securities Exchange Act
18 of 1934) is audited annually by an independent certified public
19 accountant, and the dealer's most recent audited financial
20 statement is furnished to the fund. No broker-dealer serving as
21 a custodian for any public pension fund as provided by this Act
22 shall be authorized to serve as an investment advisor for that
23 same public pension fund as described in Section 1-101.4 of
24 this Code, to the extent that the investment advisor acquires
25 or disposes of any asset of that same public pension fund.
26 Notwithstanding the foregoing, in no event may a broker or
27 dealer that is a natural person maintain possession of or
28 control over securities or other assets of a pension fund
29 subject to the provisions of this Section. In maintaining
30 securities of a pension fund subject to the provisions of this
31 Section, each dealer must maintain those securities in
32 conformity with the provisions of Rule 15c3-3(b) of the
33 Securities Exchange Act of 1934 (Physical Possession or Control
34 of Securities). The Secretary of Financial and Professional
35 Regulation ~~Director of the Department of Insurance~~ may adopt
36 such rules and regulations as shall be necessary and

1 appropriate in his or her judgment to effectuate the purposes
2 of this Section.

3 A bank or trust company authorized to conduct a trust
4 business in Illinois shall register, deposit, or hold
5 investments for safekeeping, all in accordance with the
6 obligations and subject to the limitations of the Securities in
7 Fiduciary Accounts Act.

8 (Source: P.A. 92-651, eff. 7-11-02.)

9 (40 ILCS 5/1-113.11)

10 Sec. 1-113.11. Rules. The Department of Financial and
11 Professional Regulation ~~Insurance~~ is authorized to promulgate
12 rules that are necessary or useful for the administration and
13 enforcement of Sections 1-113.1 through 1-113.10 of this
14 Article.

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

16 (40 ILCS 5/1A-101)

17 Sec. 1A-101. Creation of Public Pension Division. There is
18 created in the Department of Financial and Professional
19 Regulation ~~Insurance~~ a Public Pension Division which, under the
20 supervision and direction of the Secretary of Financial and
21 Professional Regulation ~~Director of Insurance~~, shall exercise
22 the powers and perform the duties and functions prescribed
23 under this Code. The Division shall consist of an
24 administrator, a supervisor, a technical staff trained in the
25 fundamentals of public pension fund planning, operations,
26 administration, and investment of public pension funds, and
27 such other personnel as may be necessary properly and
28 effectively to discharge the functions of the Division.

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

30 (40 ILCS 5/1A-102)

31 Sec. 1A-102. Definitions. As used in this Article, the
32 following terms have the meanings ascribed to them in this
33 Section, unless the context otherwise requires:

1 "Accrued liability" means the actuarial present value of
2 future benefit payments and appropriate administrative
3 expenses under a plan, reduced by the actuarial present value
4 of all future normal costs (including any participant
5 contributions) with respect to the participants included in the
6 actuarial valuation of the plan.

7 "Actuarial present value" means the single amount, as of a
8 given valuation date, that results from applying actuarial
9 assumptions to an amount or series of amounts payable or
10 receivable at various times.

11 "Actuarial value of assets" means the value assigned by the
12 actuary to the assets of a plan for the purposes of an
13 actuarial valuation.

14 "Basis point" means 1/100th of one percent.

15 "Beneficiary" means a person eligible for or receiving
16 benefits from a pension fund as provided in the Article of this
17 Code under which the fund is established.

18 "Credited projected benefit" means that portion of a
19 participant's projected benefit based on an allocation taking
20 into account service to date determined in accordance with the
21 terms of the plan based on anticipated future compensation.

22 "Current value" means the fair market value when available;
23 otherwise, the fair value as determined in good faith by a
24 trustee, assuming an orderly liquidation at the time of the
25 determination.

26 "Department" means the Department of Financial and
27 Professional Regulation ~~Insurance~~ of the State of Illinois.

28 ~~"Director" means the Director of the Department of~~
29 ~~Insurance.~~

30 "Division" means the Public Pension Division of the
31 Department of Financial and Professional Regulation ~~Insurance~~.

32 "Governmental unit" means the State of Illinois, any
33 instrumentality or agency thereof (except transit authorities
34 or agencies operating within or within and without cities with
35 a population over 3,000,000), and any political subdivision or
36 municipal corporation that establishes and maintains a public

1 pension fund.

2 "Normal cost" means that part of the actuarial present
3 value of all future benefit payments and appropriate
4 administrative expenses assigned to the current year under the
5 actuarial valuation method used by the plan (excluding any
6 amortization of the unfunded accrued liability).

7 "Participant" means a participating member or deferred
8 pensioner or annuitant of a pension fund as provided in the
9 Article of this Code under which the pension fund is
10 established, or a beneficiary thereof.

11 "Pension fund" means any public pension fund, annuity and
12 benefit fund, or retirement system established under this Code.

13 "Plan year" means the calendar or fiscal year on which the
14 records of a given plan are kept.

15 "Projected benefits" means benefit amounts under a plan
16 which are expected to be paid at various future times under a
17 particular set of actuarial assumptions, taking into account,
18 as applicable, the effect of advancement in age and past and
19 anticipated future compensation and service credits.

20 "Secretary" means the Secretary of Financial and
21 Professional Regulation.

22 "Supplemental annual cost" means that portion of the
23 unfunded accrued liability assigned to the current year under
24 one of the following bases:

25 (1) interest only on the unfunded accrued liability;

26 (2) the level annual amount required to amortize the
27 unfunded accrued liability over a period not exceeding 40
28 years;

29 (3) the amount required for the current year to
30 amortize the unfunded accrued liability over a period not
31 exceeding 40 years as a level percentage of payroll.

32 "Total annual cost" means the sum of the normal cost plus
33 the supplemental annual cost.

34 "Unfunded accrued liability" means the excess of the
35 accrued liability over the actuarial value of the assets of a
36 plan.

1 "Vested pension benefit" means an interest obtained by a
2 participant or beneficiary in that part of an immediate or
3 deferred benefit under a plan which arises from the
4 participant's service and is not conditional upon the
5 participant's continued service for an employer any of whose
6 employees are covered under the plan, and which has not been
7 forfeited under the terms of the plan.

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

9 (40 ILCS 5/1A-104)

10 Sec. 1A-104. Examinations and investigations.

11 (a) The Division shall make periodic examinations and
12 investigations of all pension funds established under this Code
13 and maintained for the benefit of employees and officers of
14 governmental units in the State of Illinois. However, in lieu
15 of making an examination and investigation, the Division may
16 accept and rely upon a report of audit or examination of any
17 pension fund made by an independent certified public accountant
18 pursuant to the provisions of the Article of this Code
19 governing the pension fund. The acceptance of the report of
20 audit or examination does not bar the Division from making a
21 further audit, examination, and investigation if deemed
22 necessary by the Division.

23 The Department may implement a flexible system of
24 examinations under which it directs resources as it deems
25 necessary or appropriate. In consultation with the pension fund
26 being examined, the Division may retain attorneys, independent
27 actuaries, independent certified public accountants, and other
28 professionals and specialists as examiners, the cost of which
29 (except in the case of pension funds established under Article
30 3 or 4) shall be borne by the pension fund that is the subject
31 of the examination.

32 (b) The Division shall examine or investigate each pension
33 fund established under Article 3 or Article 4 of this Code.

34 Each examination shall include the following:

35 (1) an audit of financial transactions, investment

1 policies, and procedures;

2 (2) an examination of books, records, documents,
3 files, and other pertinent memoranda relating to
4 financial, statistical, and administrative operations;

5 (3) a review of policies and procedures maintained for
6 the administration and operation of the pension fund;

7 (4) a determination of whether or not full effect is
8 being given to the statutory provisions governing the
9 operation of the pension fund;

10 (5) a determination of whether or not the
11 administrative policies in force are in accord with the
12 purposes of the statutory provisions and effectively
13 protect and preserve the rights and equities of the
14 participants; and

15 (6) a determination of whether or not proper financial
16 and statistical records have been established and adequate
17 documentary evidence is recorded and maintained in support
18 of the several types of annuity and benefit payments being
19 made.

20 In addition, the Division may conduct investigations,
21 which shall be identified as such and which may include one or
22 more of the items listed in this subsection.

23 A copy of the report of examination or investigation as
24 prepared by the Division shall be submitted to the secretary of
25 the board of trustees of the pension fund examined or
26 investigated. The Secretary ~~Director~~, upon request, shall
27 grant a hearing to the officers or trustees of the pension fund
28 or their duly appointed representatives, upon any facts
29 contained in the report of examination. The hearing shall be
30 conducted before filing the report or making public any
31 information contained in the report. The Secretary ~~Director~~ may
32 withhold the report from public inspection for up to 60 days
33 following the hearing.

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

35 (40 ILCS 5/1A-105)

1 Sec. 1A-105. Examination and subpoena of records and
2 witnesses. The Secretary ~~Director~~ may administer oaths and
3 affirmations and summon and compel the attendance before him or
4 her and examine under oath any officer, trustee, agent,
5 actuary, attorney, or employee connected either directly or
6 indirectly with any pension fund, or any other person having
7 information regarding the condition, affairs, management,
8 administration, or methods of conducting a pension fund. The
9 Secretary ~~Director~~ may require any person having possession of
10 any record, book, paper, contract, or other document pertaining
11 to a pension fund to surrender it or to otherwise afford the
12 Secretary ~~Director~~ access to it and for failure so to do the
13 Secretary ~~Director~~ may attach the same.

14 Should any person fail to obey the summons of the Secretary
15 ~~Director~~ or refuse to surrender to him or her or afford him or
16 her access to any such record, book, paper, contract, or other
17 document, the Secretary ~~Director~~ may apply to the circuit court
18 of the county in which the principal office of the pension fund
19 involved is located, and the court, if it finds that the
20 Secretary ~~Director~~ has not exceeded his or her authority in the
21 matter, may, by order duly entered, require the attendance of
22 witnesses and the production of all relevant documents required
23 by the Secretary ~~Director~~ in carrying out his or her
24 responsibilities under this Code. Upon refusal or neglect to
25 obey the order of the court, the court may compel obedience by
26 proceedings for contempt of court.

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

28 (40 ILCS 5/1A-107)

29 Sec. 1A-107. Automation of services. The Division shall
30 automate its operations, services, and communications to the
31 fullest practical extent. This automation shall include, but
32 need not be limited to, the acquisition, use, and maintenance
33 of electronic data processing technology to (i) automate
34 Division operations as necessary to carry out its duties and
35 responsibilities under this Code, (ii) provide by FY 2000

1 electronic exchange of information between the Division and
2 pension funds subject to this Code, (iii) provide to pension
3 funds and the general public and receive from pension funds and
4 the general public data on computer processible media, and (iv)
5 control access to information when necessary to protect the
6 confidentiality of persons identified in the information.

7 The Division shall ensure that this automation is designed
8 so as to protect any confidential data it may receive from a
9 pension fund. This Section does not authorize the Division or
10 the Department ~~of Insurance~~ to disclose any information
11 identifying specific pension fund participants or relating to
12 an identifiable pension fund participant.

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

14 (40 ILCS 5/1A-111)

15 Sec. 1A-111. Actuarial statements by pension funds
16 established under Article 3 or 4.

17 (a) Each pension fund established under Article 3 or 4 of
18 this Code shall include as part of its annual statement a
19 complete actuarial statement applicable to the plan year.

20 If the actuarial statement is prepared by a person other
21 than the Department, it shall be filed with the Division within
22 9 months after the close of the fiscal year of the pension
23 fund. Any pension fund that fails to file within that time
24 shall be subject to the penalty provisions of Section 1A-113.
25 The statement shall be prepared by or under the supervision of
26 a qualified actuary, signed by the qualified actuary, and
27 contain such information as the Division may by rule require.

28 (b) For the purposes of this Section, "qualified actuary"
29 means (i) a member of the American Academy of Actuaries, or
30 (ii) an individual who has demonstrated to the satisfaction of
31 the Secretary ~~Director~~ that he or she has the educational
32 background necessary for the practice of actuarial science and
33 has at least 7 years of actuarial experience.

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

1 (40 ILCS 5/1A-112)

2 Sec. 1A-112. Fees.

3 (a) Every pension fund that is required to file an annual
4 statement under Section 1A-109 shall pay to the Department an
5 annual compliance fee. In the case of a pension fund under
6 Article 3 or 4 of this Code, the annual compliance fee shall be
7 0.02% (2 basis points) of the total assets of the pension fund,
8 as reported in the most current annual statement of the fund,
9 but not more than \$8,000. In the case of all other pension
10 funds and retirement systems, the annual compliance fee shall
11 be \$8,000.

12 (b) The annual compliance fee shall be due on June 30 for
13 the following State fiscal year, except that the fee payable in
14 1997 for fiscal year 1998 shall be due no earlier than 30 days
15 following the effective date of this amendatory Act of 1997.

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

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

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

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

1 Section 1A-107. Notwithstanding the provisions of Section
2 408.2 of the Illinois Insurance Code, no surplus funds
3 remaining in this account shall be deposited in the Insurance
4 Financial Regulation Fund. All money in this account that the
5 Secretary ~~Director~~ certifies is not needed for the purposes set
6 forth in Section 1A-107 of this Code shall be transferred to
7 the Public Pension Regulation Fund.

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

12 (Source: P.A. 93-32, eff. 7-1-03.)

13 (40 ILCS 5/1A-113)

14 Sec. 1A-113. Penalties.

15 (a) A pension fund that fails, without just cause, to file
16 its annual statement within the time prescribed under Section
17 1A-109 shall pay to the Department a penalty to be determined
18 by the Department, which shall not exceed \$100 for each day's
19 delay.

20 (b) A pension fund that fails, without just cause, to file
21 its actuarial statement within the time prescribed under
22 Section 1A-110 or 1A-111 shall pay to the Department a penalty
23 to be determined by the Department, which shall not exceed \$100
24 for each day's delay.

25 (c) A pension fund that fails to pay a fee within the time
26 prescribed under Section 1A-112 shall pay to the Department a
27 penalty of 5% of the amount of the fee for each month or part of
28 a month that the fee is late. The entire penalty shall not
29 exceed 25% of the fee due.

30 (d) This subsection applies to any governmental unit, as
31 defined in Section 1A-102, that is subject to any law
32 establishing a pension fund or retirement system for the
33 benefit of employees of the governmental unit.

34 Whenever the Division determines by examination,
35 investigation, or in any other manner that the governing body

1 or any elected or appointed officer or official of a
2 governmental unit has failed to comply with any provision of
3 that law:

4 (1) The Secretary ~~Director~~ shall notify in writing the
5 governing body, officer, or official of the specific
6 provision or provisions of the law with which the person
7 has failed to comply.

8 (2) Upon receipt of the notice, the person notified
9 shall take immediate steps to comply with the provisions of
10 law specified in the notice.

11 (3) If the person notified fails to comply within a
12 reasonable time after receiving the notice, the Secretary
13 ~~Director~~ may hold a hearing at which the person notified
14 may show cause for noncompliance with the law.

15 (4) If upon hearing the Secretary ~~Director~~ determines
16 that good and sufficient cause for noncompliance has not
17 been shown, the Secretary ~~Director~~ may order the person to
18 submit evidence of compliance within a specified period of
19 not less than 30 days.

20 (5) If evidence of compliance has not been submitted to
21 the Secretary ~~Director~~ within the period of time prescribed
22 in the order and no administrative appeal from the order
23 has been initiated, the Secretary ~~Director~~ may assess a
24 civil penalty of up to \$2,000 against the governing body,
25 officer, or official for each noncompliance with an order
26 of the Secretary ~~Director~~.

27 The Secretary ~~Director~~ shall develop by rule, with as much
28 specificity as practicable, the standards and criteria to be
29 used in assessing penalties and their amounts. The standards
30 and criteria shall include, but need not be limited to,
31 consideration of evidence of efforts made in good faith to
32 comply with applicable legal requirements. This rulemaking is
33 subject to the provisions of the Illinois Administrative
34 Procedure Act.

35 If a penalty is not paid within 30 days of the date of
36 assessment, the Secretary ~~Director~~ without further notice

1 shall report the act of noncompliance to the Attorney General
2 of this State. It shall be the duty of the Attorney General or,
3 if the Attorney General so designates, the State's Attorney of
4 the county in which the governmental unit is located to apply
5 promptly by complaint on relation of the Secretary of Financial
6 and Professional Regulation ~~Director of Insurance~~ in the name
7 of the people of the State of Illinois, as plaintiff, to the
8 circuit court of the county in which the governmental unit is
9 located for enforcement of the penalty prescribed in this
10 subsection or for such additional relief as the nature of the
11 case and the interest of the employees of the governmental unit
12 or the public may require.

13 (e) Whoever knowingly makes a false certificate, entry, or
14 memorandum upon any of the books or papers pertaining to any
15 pension fund or upon any statement, report, or exhibit filed or
16 offered for file with the Division or the Secretary ~~Director of~~
17 ~~Insurance~~ in the course of any examination, inquiry, or
18 investigation, with intent to deceive the Secretary ~~Director~~,
19 the Division, or any of its employees is guilty of a Class A
20 misdemeanor.

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

22 (40 ILCS 5/3-110) (from Ch. 108 1/2, par. 3-110)

23 Sec. 3-110. Creditable service.

24 (a) "Creditable service" is the time served by a police
25 officer as a member of a regularly constituted police force of
26 a municipality. In computing creditable service furloughs
27 without pay exceeding 30 days shall not be counted, but all
28 leaves of absence for illness or accident, regardless of
29 length, and all periods of disability retirement for which a
30 police officer has received no disability pension payments
31 under this Article shall be counted.

32 (a-5) Up to 3 years of time during which the police officer
33 receives a disability pension under Section 3-114.1, 3-114.2,
34 3-114.3, or 3-114.6 shall be counted as creditable service,
35 provided that (i) the police officer returns to active service

1 after the disability for a period at least equal to the period
2 for which credit is to be established and (ii) the police
3 officer makes contributions to the fund based on the rates
4 specified in Section 3-125.1 and the salary upon which the
5 disability pension is based. These contributions may be paid at
6 any time prior to the commencement of a retirement pension. The
7 police officer may, but need not, elect to have the
8 contributions deducted from the disability pension or to pay
9 them in installments on a schedule approved by the board. If
10 not deducted from the disability pension, the contributions
11 shall include interest at the rate of 6% per year, compounded
12 annually, from the date for which service credit is being
13 established to the date of payment. If contributions are paid
14 under this subsection (a-5) in excess of those needed to
15 establish the credit, the excess shall be refunded. This
16 subsection (a-5) applies to persons receiving a disability
17 pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on
18 the effective date of this amendatory Act of the 91st General
19 Assembly, as well as persons who begin to receive such a
20 disability pension after that date.

21 (b) Creditable service includes all periods of service in
22 the military, naval or air forces of the United States entered
23 upon while an active police officer of a municipality, provided
24 that upon applying for a permanent pension, and in accordance
25 with the rules of the board, the police officer pays into the
26 fund the amount the officer would have contributed if he or she
27 had been a regular contributor during such period, to the
28 extent that the municipality which the police officer served
29 has not made such contributions in the officer's behalf. The
30 total amount of such creditable service shall not exceed 5
31 years, except that any police officer who on July 1, 1973 had
32 more than 5 years of such creditable service shall receive the
33 total amount thereof.

34 (c) Creditable service also includes service rendered by a
35 police officer while on leave of absence from a police
36 department to serve as an executive of an organization whose

1 membership consists of members of a police department, subject
2 to the following conditions: (i) the police officer is a
3 participant of a fund established under this Article with at
4 least 10 years of service as a police officer; (ii) the police
5 officer received no credit for such service under any other
6 retirement system, pension fund, or annuity and benefit fund
7 included in this Code; (iii) pursuant to the rules of the board
8 the police officer pays to the fund the amount he or she would
9 have contributed had the officer been an active member of the
10 police department; and (iv) the organization pays a
11 contribution equal to the municipality's normal cost for that
12 period of service.

13 (d) (1) Creditable service also includes periods of
14 service originally established in another police pension
15 fund under this Article or in the Fund established under
16 Article 7 of this Code for which (i) the contributions have
17 been transferred under Section 3-110.7 or Section 7-139.9
18 and (ii) any additional contribution required under
19 paragraph (2) of this subsection has been paid in full in
20 accordance with the requirements of this subsection (d).

21 (2) If the board of the pension fund to which
22 creditable service and related contributions are
23 transferred under Section 3-110.7 or 7-139.9 determines
24 that the amount transferred is less than the true cost to
25 the pension fund of allowing that creditable service to be
26 established, then in order to establish that creditable
27 service the police officer must pay to the pension fund,
28 within the payment period specified in paragraph (3) of
29 this subsection, an additional contribution equal to the
30 difference, as determined by the board in accordance with
31 the rules and procedures adopted under paragraph (6) of
32 this subsection.

33 (3) Except as provided in paragraph (4), the additional
34 contribution must be paid to the board (i) within 5 years
35 from the date of the transfer of contributions under
36 Section 3-110.7 or 7-139.9 and (ii) before the police

1 officer terminates service with the fund. The additional
2 contribution may be paid in a lump sum or in accordance
3 with a schedule of installment payments authorized by the
4 board.

5 (4) If the police officer dies in service before
6 payment in full has been made and before the expiration of
7 the 5-year payment period, the surviving spouse of the
8 officer may elect to pay the unpaid amount on the officer's
9 behalf within 6 months after the date of death, in which
10 case the creditable service shall be granted as though the
11 deceased police officer had paid the remaining balance on
12 the day before the date of death.

13 (5) If the additional contribution is not paid in full
14 within the required time, the creditable service shall not
15 be granted and the police officer (or the officer's
16 surviving spouse or estate) shall be entitled to receive a
17 refund of (i) any partial payment of the additional
18 contribution that has been made by the police officer and
19 (ii) those portions of the amounts transferred under
20 subdivision (a)(1) of Section 3-110.7 or subdivisions
21 (a)(1) and (a)(3) of Section 7-139.9 that represent
22 employee contributions paid by the police officer (but not
23 the accumulated interest on those contributions) and
24 interest paid by the police officer to the prior pension
25 fund in order to reinstate service terminated by acceptance
26 of a refund.

27 At the time of paying a refund under this item (5), the
28 pension fund shall also repay to the pension fund from
29 which the contributions were transferred under Section
30 3-110.7 or 7-139.9 the amount originally transferred under
31 subdivision (a)(2) of that Section, plus interest at the
32 rate of 6% per year, compounded annually, from the date of
33 the original transfer to the date of repayment. Amounts
34 repaid to the Article 7 fund under this provision shall be
35 credited to the appropriate municipality.

36 Transferred credit that is not granted due to failure

1 to pay the additional contribution within the required time
2 is lost; it may not be transferred to another pension fund
3 and may not be reinstated in the pension fund from which it
4 was transferred.

5 (6) The Public Employee Pension Fund Division of the
6 Department of Financial and Professional Regulation
7 ~~Insurance~~ shall establish by rule the manner of making the
8 calculation required under paragraph (2) of this
9 subsection, taking into account the appropriate actuarial
10 assumptions; the police officer's service, age, and salary
11 history; the level of funding of the pension fund to which
12 the credits are being transferred; and any other factors
13 that the Division determines to be relevant. The rules may
14 require that all calculations made under paragraph (2) be
15 reported to the Division by the board performing the
16 calculation, together with documentation of the creditable
17 service to be transferred, the amounts of contributions and
18 interest to be transferred, the manner in which the
19 calculation was performed, the numbers relied upon in
20 making the calculation, the results of the calculation, and
21 any other information the Division may deem useful.

22 (Source: P.A. 90-460, eff. 8-17-97; 91-887, eff. 7-6-00;
23 91-939, eff. 2-1-01.)

24 (40 ILCS 5/4-118) (from Ch. 108 1/2, par. 4-118)
25 Sec. 4-118. Financing.

26 (a) The city council or the board of trustees of the
27 municipality shall annually levy a tax upon all the taxable
28 property of the municipality at the rate on the dollar which
29 will produce an amount which, when added to the deductions from
30 the salaries or wages of firefighters and revenues available
31 from other sources, will equal a sum sufficient to meet the
32 annual actuarial requirements of the pension fund, as
33 determined by an enrolled actuary employed by the Illinois
34 Department of Financial and Professional Regulation ~~Insurance~~
35 or by an enrolled actuary retained by the pension fund or

1 municipality. For the purposes of this Section, the annual
2 actuarial requirements of the pension fund are equal to (1) the
3 normal cost of the pension fund, or 17.5% of the salaries and
4 wages to be paid to firefighters for the year involved,
5 whichever is greater, plus (2) the annual amount necessary to
6 amortize the fund's unfunded accrued liabilities over a period
7 of 40 years from July 1, 1993, as annually updated and
8 determined by an enrolled actuary employed by the Illinois
9 Department of Financial and Professional Regulation ~~Insurance~~
10 or by an enrolled actuary retained by the pension fund or the
11 municipality. The amount to be applied towards the amortization
12 of the unfunded accrued liability in any year shall not be less
13 than the annual amount required to amortize the unfunded
14 accrued liability, including interest, as a level percentage of
15 payroll over the number of years remaining in the 40 year
16 amortization period.

17 (b) The tax shall be levied and collected in the same
18 manner as the general taxes of the municipality, and shall be
19 in addition to all other taxes now or hereafter authorized to
20 be levied upon all property within the municipality, and in
21 addition to the amount authorized to be levied for general
22 purposes, under Section 8-3-1 of the Illinois Municipal Code or
23 under Section 14 of the Fire Protection District Act. The tax
24 shall be forwarded directly to the treasurer of the board
25 within 30 business days of receipt by the municipality (or, in
26 the case of amounts added to the tax levy under subsection (f),
27 used by the municipality to pay the employer contributions
28 required under subsection (b-1) of Section 15-155 of this
29 Code).

30 (c) The board shall make available to the membership and
31 the general public for inspection and copying at reasonable
32 times the most recent Actuarial Valuation Balance Sheet and Tax
33 Levy Requirement issued to the fund by the Department of
34 Financial and Professional Regulation or its predecessor, the
35 Department of Insurance.

36 (d) The firefighters' pension fund shall consist of the

1 following moneys which shall be set apart by the treasurer of
2 the municipality: (1) all moneys derived from the taxes levied
3 hereunder; (2) contributions by firefighters as provided under
4 Section 4-118.1; (3) all rewards in money, fees, gifts, and
5 emoluments that may be paid or given for or on account of
6 extraordinary service by the fire department or any member
7 thereof, except when allowed to be retained by competitive
8 awards; and (4) any money, real estate or personal property
9 received by the board.

10 (e) For the purposes of this Section, "enrolled actuary"
11 means an actuary: (1) who is a member of the Society of
12 Actuaries or the American Academy of Actuaries; and (2) who is
13 enrolled under Subtitle C of Title III of the Employee
14 Retirement Income Security Act of 1974, or who has been engaged
15 in providing actuarial services to one or more public
16 retirement systems for a period of at least 3 years as of July
17 1, 1983.

18 (f) The corporate authorities of a municipality that
19 employs a person who is described in subdivision (d) of Section
20 4-106 may add to the tax levy otherwise provided for in this
21 Section an amount equal to the projected cost of the employer
22 contributions required to be paid by the municipality to the
23 State Universities Retirement System under subsection (b-1) of
24 Section 15-155 of this Code.

25 (Source: P.A. 90-576, eff. 3-31-98.)

26 (40 ILCS 5/4-121) (from Ch. 108 1/2, par. 4-121)

27 Sec. 4-121. Board created. There is created in each
28 municipality a board of trustees to be known as the "Board of
29 Trustees of the Firefighters' Pension Fund". The membership of
30 the board for each municipality shall be, respectively, as
31 follows: in cities, the treasurer, clerk, marshall or chief
32 officer of the fire department, and the comptroller if there is
33 one, or if not, the mayor; in each township, village or
34 incorporated town, the president of the municipality's board of
35 trustees, the village or town clerk, village or town attorney,

1 village or town treasurer, and the chief officer of the fire
2 department; and in each fire protection district, the president
3 and other 2 members of its board of trustees and the marshall
4 or chief of its fire department or service, as the case may be;
5 and in all the municipalities above designated 3 additional
6 persons chosen from their active firefighters and one other
7 person who has retired under the "Firemen's Pension Fund Act of
8 1919", or this Article.

9 For the purposes of this Section, a firefighter receiving a
10 disability pension shall be considered a retired firefighter.
11 In the event that there are no retired firefighters under the
12 Fund or if none is willing to serve on the board, then an
13 additional active firefighter shall be elected to the board in
14 lieu of the retired firefighter that would otherwise be
15 elected.

16 If the regularly constituted fire department of a
17 municipality is dissolved and Section 4-106.1 is not
18 applicable, the board shall continue to exist and administer
19 the Fund so long as there continues to be any annuitant or
20 deferred pensioner in the Fund. In such cases, elections shall
21 continue to be held as specified in this Section, except that:
22 (1) deferred pensioners shall be deemed to be active members
23 for the purposes of such elections; (2) any otherwise
24 unfillable positions on the board, including ex officio
25 positions, shall be filled by election from the remaining
26 firefighters and deferred pensioners of the Fund, to the extent
27 possible; and (3) if the membership of the board falls below 3
28 persons, the Illinois Secretary of Financial and Professional
29 Regulation ~~Director of Insurance~~ or his designee shall be
30 deemed a member of the board, ex officio.

31 The members chosen from the active and retired firefighters
32 shall be elected by ballot at elections to be held on the 3rd
33 Monday in April of the applicable years under the Australian
34 ballot system, at such place or places, in the municipality,
35 and under such regulations as shall be prescribed by the board.

36 No person shall cast more than one vote for each candidate

1 for whom he or she is eligible to vote. In the elections for
2 board members to be chosen from the active firefighters, all
3 active firefighters and no others may vote. In the elections
4 for board members to be chosen from retired firefighters, the
5 retired firefighters and no others may vote.

6 Each member of the board so elected shall hold office for a
7 term of 3 years and until his or her successor has been duly
8 elected and qualified.

9 The board shall canvass the ballots and declare which
10 persons have been elected and for what term or terms
11 respectively. In case of a tie vote between 2 or more
12 candidates, the board shall determine by lot which candidate or
13 candidates have been elected and for what term or terms
14 respectively. In the event of the failure, resignation, or
15 inability to act of any board member, a successor shall be
16 elected for the unexpired term at a special election called by
17 the board and conducted in the same manner as a regular
18 election.

19 The board shall elect annually from its members a president
20 and secretary.

21 Board members shall not receive or have any right to
22 receive any salary from a pension fund for services performed
23 as board members.

24 (Source: P.A. 84-1039.)

25 (40 ILCS 5/5-188) (from Ch. 108 1/2, par. 5-188)

26 Sec. 5-188. To have an audit. To contract with an
27 independent certified public accounting firm to perform an
28 annual audit of the assets of the fund and issue a financial
29 opinion. The annual audit shall be in addition to any
30 examination of the fund by the Secretary of Financial and
31 Professional Regulation State Director of Insurance.

32 (Source: P.A. 85-964.)

33 (40 ILCS 5/5-226) (from Ch. 108 1/2, par. 5-226)

34 Sec. 5-226. Examination and report by Secretary of

1 Financial and Professional Regulation ~~Director of Insurance~~.

2 The Secretary of Financial and Professional Regulation

3 ~~Director of Insurance~~ biennially shall make a thorough

4 examination of the fund provided for in this Article. He or she

5 shall report the results thereof with such recommendations as

6 he or she deems proper to the Governor for transmittal to the

7 General Assembly, and send a copy to the board and to the city

8 council of the city. The city council shall file such report

9 and recommendations in the official record of its proceedings.

10 The requirement for reporting to the General Assembly shall

11 be satisfied by filing copies of the report with the Speaker,

12 the Minority Leader and the Clerk of the House of

13 Representatives and the President, the Minority Leader and the

14 Secretary of the Senate and the Legislative Research Unit, as

15 required by Section 3.1 of "An Act to revise the law in

16 relation to the General Assembly", approved February 25, 1874,

17 as amended, and filing such additional copies with the State

18 Government Report Distribution Center for the General Assembly

19 as is required under paragraph (t) of Section 7 of the State

20 Library Act.

21 (Source: P.A. 84-1438.)

22 (40 ILCS 5/6-184) (from Ch. 108 1/2, par. 6-184)

23 Sec. 6-184. To have an audit. To contract with an

24 independent certified public accounting firm to perform an

25 annual audit of the assets of the fund and issue a financial

26 opinion. The annual audit shall be in addition to any

27 examination of the fund by the Secretary of Financial and

28 Professional Regulation ~~State Director of Insurance~~.

29 (Source: P.A. 86-273.)

30 (40 ILCS 5/6-220) (from Ch. 108 1/2, par. 6-220)

31 Sec. 6-220. Examination and report by Secretary of

32 Financial and Professional Regulation ~~director of insurance~~.

33 The Secretary of Financial and Professional Regulation

34 ~~Director of Insurance~~ biennially shall make a thorough

1 examination of the fund provided for in this Article. He or she
2 shall report the results thereof with such recommendations as
3 he or she deems proper to the Governor for transmittal to the
4 General Assembly and send a copy to the board and to the city
5 council of the city. The city council shall file such report
6 and recommendations in the official record of its proceedings.

7 The requirement for reporting to the General Assembly shall
8 be satisfied by filing copies of the report with the Speaker,
9 the Minority Leader and the Clerk of the House of
10 Representatives and the President, the Minority Leader and the
11 Secretary of the Senate and the Legislative Research Unit, as
12 required by Section 3.1 of "An Act to revise the law in
13 relation to the General Assembly", approved February 25, 1874,
14 as amended, and filing such additional copies with the State
15 Government Report Distribution Center for the General Assembly
16 as is required under paragraph (t) of Section 7 of the State
17 Library Act.

18 (Source: P.A. 84-1438.)

19 (40 ILCS 5/13-711) (from Ch. 108 1/2, par. 13-711)

20 Sec. 13-711. Examination of Fund. The Board shall have an
21 audit and a thorough examination of the affairs of the fund
22 made annually by a certified public accountant. The Board shall
23 submit the results of the examination to the Secretary of
24 Financial and Professional Regulation ~~Director of Insurance~~,
25 and to the Board of Commissioners of the District. The report
26 shall be filed in the official record of the proceedings of the
27 meeting of the District at which it is received. The expenses
28 of the examination shall be paid by the Board.

29 (Source: P.A. 87-794.)

30 (40 ILCS 5/14-104) (from Ch. 108 1/2, par. 14-104)

31 Sec. 14-104. Service for which contributions permitted.
32 Contributions provided for in this Section shall cover the
33 period of service granted. Except as otherwise provided in this
34 Section, the contributions shall be based upon the employee's

1 compensation and contribution rate in effect on the date he
2 last became a member of the System; provided that for all
3 employment prior to January 1, 1969 the contribution rate shall
4 be that in effect for a noncovered employee on the date he last
5 became a member of the System. Except as otherwise provided in
6 this Section, contributions permitted under this Section shall
7 include regular interest from the date an employee last became
8 a member of the System to the date of payment.

9 These contributions must be paid in full before retirement
10 either in a lump sum or in installment payments in accordance
11 with such rules as may be adopted by the board.

12 (a) Any member may make contributions as required in this
13 Section for any period of service, subsequent to the date of
14 establishment, but prior to the date of membership.

15 (b) Any employee who had been previously excluded from
16 membership because of age at entry and subsequently became
17 eligible may elect to make contributions as required in this
18 Section for the period of service during which he was
19 ineligible.

20 (c) An employee of the Department of Insurance or the
21 Department of Financial and Professional Regulation, as the
22 successor of the Department of Insurance, who, after January 1,
23 1944 but prior to becoming eligible for membership, received
24 salary from funds of insurance companies in the process of
25 rehabilitation, liquidation, conservation or dissolution, may
26 elect to make contributions as required in this Section for
27 such service.

28 (d) Any employee who rendered service in a State office to
29 which he was elected, or rendered service in the elective
30 office of Clerk of the Appellate Court prior to the date he
31 became a member, may make contributions for such service as
32 required in this Section. Any member who served by appointment
33 of the Governor under the Civil Administrative Code of Illinois
34 and did not participate in this System may make contributions
35 as required in this Section for such service.

36 (e) Any person employed by the United States government or

1 any instrumentality or agency thereof from January 1, 1942
2 through November 15, 1946 as the result of a transfer from
3 State service by executive order of the President of the United
4 States shall be entitled to prior service credit covering the
5 period from January 1, 1942 through December 31, 1943 as
6 provided for in this Article and to membership service credit
7 for the period from January 1, 1944 through November 15, 1946
8 by making the contributions required in this Section. A person
9 so employed on January 1, 1944 but whose employment began after
10 January 1, 1942 may qualify for prior service and membership
11 service credit under the same conditions.

12 (f) An employee of the Department of Labor of the State of
13 Illinois who performed services for and under the supervision
14 of that Department prior to January 1, 1944 but who was
15 compensated for those services directly by federal funds and
16 not by a warrant of the Auditor of Public Accounts paid by the
17 State Treasurer may establish credit for such employment by
18 making the contributions required in this Section. An employee
19 of the Department of Agriculture of the State of Illinois, who
20 performed services for and under the supervision of that
21 Department prior to June 1, 1963, but was compensated for those
22 services directly by federal funds and not paid by a warrant of
23 the Auditor of Public Accounts paid by the State Treasurer, and
24 who did not contribute to any other public employee retirement
25 system for such service, may establish credit for such
26 employment by making the contributions required in this
27 Section.

28 (g) Any employee who executed a waiver of membership within
29 60 days prior to January 1, 1944 may, at any time while in the
30 service of a department, file with the board a rescission of
31 such waiver. Upon making the contributions required by this
32 Section, the member shall be granted the creditable service
33 that would have been received if the waiver had not been
34 executed.

35 (h) Until May 1, 1990, an employee who was employed on a
36 full-time basis by a regional planning commission for at least

1 5 continuous years may establish creditable service for such
2 employment by making the contributions required under this
3 Section, provided that any credits earned by the employee in
4 the commission's retirement plan have been terminated.

5 (i) Any person who rendered full time contractual services
6 to the General Assembly as a member of a legislative staff may
7 establish service credit for up to 8 years of such services by
8 making the contributions required under this Section, provided
9 that application therefor is made not later than July 1, 1991.

10 (j) By paying the contributions otherwise required under
11 this Section, plus an amount determined by the Board to be
12 equal to the employer's normal cost of the benefit plus
13 interest, but with all of the interest calculated from the date
14 the employee last became a member of the System or November 19,
15 1991, whichever is later, to the date of payment, an employee
16 may establish service credit for a period of up to 2 years
17 spent in active military service for which he does not qualify
18 for credit under Section 14-105, provided that (1) he was not
19 dishonorably discharged from such military service, and (2) the
20 amount of service credit established by a member under this
21 subsection (j), when added to the amount of military service
22 credit granted to the member under subsection (b) of Section
23 14-105, shall not exceed 5 years. The change in the manner of
24 calculating interest under this subsection (j) made by this
25 amendatory Act of the 92nd General Assembly applies to credit
26 purchased by an employee on or after its effective date and
27 does not entitle any person to a refund of contributions or
28 interest already paid.

29 (k) An employee who was employed on a full-time basis by
30 the Illinois State's Attorneys Association Statewide Appellate
31 Assistance Service LEAA-ILEC grant project prior to the time
32 that project became the State's Attorneys Appellate Service
33 Commission, now the Office of the State's Attorneys Appellate
34 Prosecutor, an agency of State government, may establish
35 creditable service for not more than 60 months service for such
36 employment by making contributions required under this

1 Section.

2 (l) By paying the contributions otherwise required under
3 this Section, plus an amount determined by the Board to be
4 equal to the employer's normal cost of the benefit plus
5 interest, a member may establish service credit for periods of
6 less than one year spent on authorized leave of absence from
7 service, provided that (1) the period of leave began on or
8 after January 1, 1982 and (2) any credit established by the
9 member for the period of leave in any other public employee
10 retirement system has been terminated. A member may establish
11 service credit under this subsection for more than one period
12 of authorized leave, and in that case the total period of
13 service credit established by the member under this subsection
14 may exceed one year. In determining the contributions required
15 for establishing service credit under this subsection, the
16 interest shall be calculated from the beginning of the leave of
17 absence to the date of payment.

18 (m) Any person who rendered contractual services to a
19 member of the General Assembly as a worker in the member's
20 district office may establish creditable service for up to 3
21 years of those contractual services by making the contributions
22 required under this Section. The System shall determine a
23 full-time salary equivalent for the purpose of calculating the
24 required contribution. To establish credit under this
25 subsection, the applicant must apply to the System by March 1,
26 1998.

27 (n) Any person who rendered contractual services to a
28 member of the General Assembly as a worker providing
29 constituent services to persons in the member's district may
30 establish creditable service for up to 8 years of those
31 contractual services by making the contributions required
32 under this Section. The System shall determine a full-time
33 salary equivalent for the purpose of calculating the required
34 contribution. To establish credit under this subsection, the
35 applicant must apply to the System by March 1, 1998.

36 (o) A member who participated in the Illinois Legislative

1 Staff Internship Program may establish creditable service for
2 up to one year of that participation by making the contribution
3 required under this Section. The System shall determine a
4 full-time salary equivalent for the purpose of calculating the
5 required contribution. Credit may not be established under this
6 subsection for any period for which service credit is
7 established under any other provision of this Code.

8 (Source: P.A. 92-54, eff. 7-12-01.)

9 (40 ILCS 5/14-110) (from Ch. 108 1/2, par. 14-110)

10 Sec. 14-110. Alternative retirement annuity.

11 (a) Any member who has withdrawn from service with not less
12 than 20 years of eligible creditable service and has attained
13 age 55, and any member who has withdrawn from service with not
14 less than 25 years of eligible creditable service and has
15 attained age 50, regardless of whether the attainment of either
16 of the specified ages occurs while the member is still in
17 service, shall be entitled to receive at the option of the
18 member, in lieu of the regular or minimum retirement annuity, a
19 retirement annuity computed as follows:

20 (i) for periods of service as a noncovered employee: if
21 retirement occurs on or after January 1, 2001, 3% of final
22 average compensation for each year of creditable service;
23 if retirement occurs before January 1, 2001, 2 1/4% of
24 final average compensation for each of the first 10 years
25 of creditable service, 2 1/2% for each year above 10 years
26 to and including 20 years of creditable service, and 2 3/4%
27 for each year of creditable service above 20 years; and

28 (ii) for periods of eligible creditable service as a
29 covered employee: if retirement occurs on or after January
30 1, 2001, 2.5% of final average compensation for each year
31 of creditable service; if retirement occurs before January
32 1, 2001, 1.67% of final average compensation for each of
33 the first 10 years of such service, 1.90% for each of the
34 next 10 years of such service, 2.10% for each year of such
35 service in excess of 20 but not exceeding 30, and 2.30% for

1 each year in excess of 30.

2 Such annuity shall be subject to a maximum of 75% of final
3 average compensation if retirement occurs before January 1,
4 2001 or to a maximum of 80% of final average compensation if
5 retirement occurs on or after January 1, 2001.

6 These rates shall not be applicable to any service
7 performed by a member as a covered employee which is not
8 eligible creditable service. Service as a covered employee
9 which is not eligible creditable service shall be subject to
10 the rates and provisions of Section 14-108.

11 (b) For the purpose of this Section, "eligible creditable
12 service" means creditable service resulting from service in one
13 or more of the following positions:

14 (1) State policeman;

15 (2) fire fighter in the fire protection service of a
16 department;

17 (3) air pilot;

18 (4) special agent;

19 (5) investigator for the Secretary of State;

20 (6) conservation police officer;

21 (7) investigator for the Department of Revenue;

22 (8) security employee of the Department of Human
23 Services;

24 (9) Central Management Services security police
25 officer;

26 (10) security employee of the Department of
27 Corrections;

28 (11) dangerous drugs investigator;

29 (12) investigator for the Department of State Police;

30 (13) investigator for the Office of the Attorney
31 General;

32 (14) controlled substance inspector;

33 (15) investigator for the Office of the State's
34 Attorneys Appellate Prosecutor;

35 (16) Commerce Commission police officer;

36 (17) arson investigator;

1 (18) State highway maintenance worker.

2 A person employed in one of the positions specified in this
3 subsection is entitled to eligible creditable service for
4 service credit earned under this Article while undergoing the
5 basic police training course approved by the Illinois Law
6 Enforcement Training Standards Board, if completion of that
7 training is required of persons serving in that position. For
8 the purposes of this Code, service during the required basic
9 police training course shall be deemed performance of the
10 duties of the specified position, even though the person is not
11 a sworn peace officer at the time of the training.

12 (c) For the purposes of this Section:

13 (1) The term "state policeman" includes any title or
14 position in the Department of State Police that is held by
15 an individual employed under the State Police Act.

16 (2) The term "fire fighter in the fire protection
17 service of a department" includes all officers in such fire
18 protection service including fire chiefs and assistant
19 fire chiefs.

20 (3) The term "air pilot" includes any employee whose
21 official job description on file in the Department of
22 Central Management Services, or in the department by which
23 he is employed if that department is not covered by the
24 Personnel Code, states that his principal duty is the
25 operation of aircraft, and who possesses a pilot's license;
26 however, the change in this definition made by this
27 amendatory Act of 1983 shall not operate to exclude any
28 noncovered employee who was an "air pilot" for the purposes
29 of this Section on January 1, 1984.

30 (4) The term "special agent" means any person who by
31 reason of employment by the Division of Narcotic Control,
32 the Bureau of Investigation or, after July 1, 1977, the
33 Division of Criminal Investigation, the Division of
34 Internal Investigation, the Division of Operations, or any
35 other Division or organizational entity in the Department
36 of State Police is vested by law with duties to maintain

1 public order, investigate violations of the criminal law of
2 this State, enforce the laws of this State, make arrests
3 and recover property. The term "special agent" includes any
4 title or position in the Department of State Police that is
5 held by an individual employed under the State Police Act.

6 (5) The term "investigator for the Secretary of State"
7 means any person employed by the Office of the Secretary of
8 State and vested with such investigative duties as render
9 him ineligible for coverage under the Social Security Act
10 by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and
11 218(1)(1) of that Act.

12 A person who became employed as an investigator for the
13 Secretary of State between January 1, 1967 and December 31,
14 1975, and who has served as such until attainment of age
15 60, either continuously or with a single break in service
16 of not more than 3 years duration, which break terminated
17 before January 1, 1976, shall be entitled to have his
18 retirement annuity calculated in accordance with
19 subsection (a), notwithstanding that he has less than 20
20 years of credit for such service.

21 (6) The term "Conservation Police Officer" means any
22 person employed by the Division of Law Enforcement of the
23 Department of Natural Resources and vested with such law
24 enforcement duties as render him ineligible for coverage
25 under the Social Security Act by reason of Sections
26 218(d)(5)(A), 218(d)(8)(D), and 218(1)(1) of that Act. The
27 term "Conservation Police Officer" includes the positions
28 of Chief Conservation Police Administrator and Assistant
29 Conservation Police Administrator.

30 (7) The term "investigator for the Department of
31 Revenue" means any person employed by the Department of
32 Revenue and vested with such investigative duties as render
33 him ineligible for coverage under the Social Security Act
34 by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and
35 218(1)(1) of that Act.

36 (8) The term "security employee of the Department of

1 Human Services" means any person employed by the Department
2 of Human Services who (i) is employed at the Chester Mental
3 Health Center and has daily contact with the residents
4 thereof, (ii) is employed within a security unit at a
5 facility operated by the Department and has daily contact
6 with the residents of the security unit, (iii) is employed
7 at a facility operated by the Department that includes a
8 security unit and is regularly scheduled to work at least
9 50% of his or her working hours within that security unit,
10 or (iv) is a mental health police officer. "Mental health
11 police officer" means any person employed by the Department
12 of Human Services in a position pertaining to the
13 Department's mental health and developmental disabilities
14 functions who is vested with such law enforcement duties as
15 render the person ineligible for coverage under the Social
16 Security Act by reason of Sections 218(d)(5)(A),
17 218(d)(8)(D) and 218(1)(1) of that Act. "Security unit"
18 means that portion of a facility that is devoted to the
19 care, containment, and treatment of persons committed to
20 the Department of Human Services as sexually violent
21 persons, persons unfit to stand trial, or persons not
22 guilty by reason of insanity. With respect to past
23 employment, references to the Department of Human Services
24 include its predecessor, the Department of Mental Health
25 and Developmental Disabilities.

26 The changes made to this subdivision (c)(8) by Public
27 Act 92-14 apply to persons who retire on or after January
28 1, 2001, notwithstanding Section 1-103.1.

29 (9) "Central Management Services security police
30 officer" means any person employed by the Department of
31 Central Management Services who is vested with such law
32 enforcement duties as render him ineligible for coverage
33 under the Social Security Act by reason of Sections
34 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act.

35 (10) The term "security employee of the Department of
36 Corrections" means any employee of the Department of

1 Corrections or the former Department of Personnel, and any
2 member or employee of the Prisoner Review Board, who has
3 daily contact with inmates by working within a correctional
4 facility or who is a parole officer or an employee who has
5 direct contact with committed persons in the performance of
6 his or her job duties.

7 (11) The term "dangerous drugs investigator" means any
8 person who is employed as such by the Department of Human
9 Services.

10 (12) The term "investigator for the Department of State
11 Police" means a person employed by the Department of State
12 Police who is vested under Section 4 of the Narcotic
13 Control Division Abolition Act with such law enforcement
14 powers as render him ineligible for coverage under the
15 Social Security Act by reason of Sections 218(d)(5)(A),
16 218(d)(8)(D) and 218(1)(1) of that Act.

17 (13) "Investigator for the Office of the Attorney
18 General" means any person who is employed as such by the
19 Office of the Attorney General and is vested with such
20 investigative duties as render him ineligible for coverage
21 under the Social Security Act by reason of Sections
22 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act. For
23 the period before January 1, 1989, the term includes all
24 persons who were employed as investigators by the Office of
25 the Attorney General, without regard to social security
26 status.

27 (14) "Controlled substance inspector" means any person
28 who is employed as such by the Department of Financial and
29 Professional Regulation and is vested with such law
30 enforcement duties as render him ineligible for coverage
31 under the Social Security Act by reason of Sections
32 218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act. The
33 term "controlled substance inspector" includes the Program
34 Executive of Enforcement and the Assistant Program
35 Executive of Enforcement.

36 (15) The term "investigator for the Office of the

1 State's Attorneys Appellate Prosecutor" means a person
2 employed in that capacity on a full time basis under the
3 authority of Section 7.06 of the State's Attorneys
4 Appellate Prosecutor's Act.

5 (16) "Commerce Commission police officer" means any
6 person employed by the Illinois Commerce Commission who is
7 vested with such law enforcement duties as render him
8 ineligible for coverage under the Social Security Act by
9 reason of Sections 218(d)(5)(A), 218(d)(8)(D), and
10 218(1)(1) of that Act.

11 (17) "Arson investigator" means any person who is
12 employed as such by the Office of the State Fire Marshal
13 and is vested with such law enforcement duties as render
14 the person ineligible for coverage under the Social
15 Security Act by reason of Sections 218(d)(5)(A),
16 218(d)(8)(D), and 218(1)(1) of that Act. A person who was
17 employed as an arson investigator on January 1, 1995 and is
18 no longer in service but not yet receiving a retirement
19 annuity may convert his or her creditable service for
20 employment as an arson investigator into eligible
21 creditable service by paying to the System the difference
22 between the employee contributions actually paid for that
23 service and the amounts that would have been contributed if
24 the applicant were contributing at the rate applicable to
25 persons with the same social security status earning
26 eligible creditable service on the date of application.

27 (18) The term "State highway maintenance worker" means
28 a person who is either of the following:

29 (i) A person employed on a full-time basis by the
30 Illinois Department of Transportation in the position
31 of highway maintainer, highway maintenance lead
32 worker, highway maintenance lead/lead worker, heavy
33 construction equipment operator, power shovel
34 operator, or bridge mechanic; and whose principal
35 responsibility is to perform, on the roadway, the
36 actual maintenance necessary to keep the highways that

1 form a part of the State highway system in serviceable
2 condition for vehicular traffic.

3 (ii) A person employed on a full-time basis by the
4 Illinois State Toll Highway Authority in the position
5 of equipment operator/laborer H-4, equipment
6 operator/laborer H-6, welder H-4, welder H-6,
7 mechanical/electrical H-4, mechanical/electrical H-6,
8 water/sewer H-4, water/sewer H-6, sign maker/hanger
9 H-4, sign maker/hanger H-6, roadway lighting H-4,
10 roadway lighting H-6, structural H-4, structural H-6,
11 painter H-4, or painter H-6; and whose principal
12 responsibility is to perform, on the roadway, the
13 actual maintenance necessary to keep the Authority's
14 tollways in serviceable condition for vehicular
15 traffic.

16 (d) A security employee of the Department of Corrections,
17 and a security employee of the Department of Human Services who
18 is not a mental health police officer, shall not be eligible
19 for the alternative retirement annuity provided by this Section
20 unless he or she meets the following minimum age and service
21 requirements at the time of retirement:

22 (i) 25 years of eligible creditable service and age 55;

23 or

24 (ii) beginning January 1, 1987, 25 years of eligible
25 creditable service and age 54, or 24 years of eligible
26 creditable service and age 55; or

27 (iii) beginning January 1, 1988, 25 years of eligible
28 creditable service and age 53, or 23 years of eligible
29 creditable service and age 55; or

30 (iv) beginning January 1, 1989, 25 years of eligible
31 creditable service and age 52, or 22 years of eligible
32 creditable service and age 55; or

33 (v) beginning January 1, 1990, 25 years of eligible
34 creditable service and age 51, or 21 years of eligible
35 creditable service and age 55; or

36 (vi) beginning January 1, 1991, 25 years of eligible

1 creditable service and age 50, or 20 years of eligible
2 creditable service and age 55.

3 Persons who have service credit under Article 16 of this
4 Code for service as a security employee of the Department of
5 Corrections or the Department of Human Services in a position
6 requiring certification as a teacher may count such service
7 toward establishing their eligibility under the service
8 requirements of this Section; but such service may be used only
9 for establishing such eligibility, and not for the purpose of
10 increasing or calculating any benefit.

11 (e) If a member enters military service while working in a
12 position in which eligible creditable service may be earned,
13 and returns to State service in the same or another such
14 position, and fulfills in all other respects the conditions
15 prescribed in this Article for credit for military service,
16 such military service shall be credited as eligible creditable
17 service for the purposes of the retirement annuity prescribed
18 in this Section.

19 (f) For purposes of calculating retirement annuities under
20 this Section, periods of service rendered after December 31,
21 1968 and before October 1, 1975 as a covered employee in the
22 position of special agent, conservation police officer, mental
23 health police officer, or investigator for the Secretary of
24 State, shall be deemed to have been service as a noncovered
25 employee, provided that the employee pays to the System prior
26 to retirement an amount equal to (1) the difference between the
27 employee contributions that would have been required for such
28 service as a noncovered employee, and the amount of employee
29 contributions actually paid, plus (2) if payment is made after
30 July 31, 1987, regular interest on the amount specified in item
31 (1) from the date of service to the date of payment.

32 For purposes of calculating retirement annuities under
33 this Section, periods of service rendered after December 31,
34 1968 and before January 1, 1982 as a covered employee in the
35 position of investigator for the Department of Revenue shall be
36 deemed to have been service as a noncovered employee, provided

1 that the employee pays to the System prior to retirement an
2 amount equal to (1) the difference between the employee
3 contributions that would have been required for such service as
4 a noncovered employee, and the amount of employee contributions
5 actually paid, plus (2) if payment is made after January 1,
6 1990, regular interest on the amount specified in item (1) from
7 the date of service to the date of payment.

8 (g) A State policeman may elect, not later than January 1,
9 1990, to establish eligible creditable service for up to 10
10 years of his service as a policeman under Article 3, by filing
11 a written election with the Board, accompanied by payment of an
12 amount to be determined by the Board, equal to (i) the
13 difference between the amount of employee and employer
14 contributions transferred to the System under Section 3-110.5,
15 and the amounts that would have been contributed had such
16 contributions been made at the rates applicable to State
17 policemen, plus (ii) interest thereon at the effective rate for
18 each year, compounded annually, from the date of service to the
19 date of payment.

20 Subject to the limitation in subsection (i), a State
21 policeman may elect, not later than July 1, 1993, to establish
22 eligible creditable service for up to 10 years of his service
23 as a member of the County Police Department under Article 9, by
24 filing a written election with the Board, accompanied by
25 payment of an amount to be determined by the Board, equal to
26 (i) the difference between the amount of employee and employer
27 contributions transferred to the System under Section 9-121.10
28 and the amounts that would have been contributed had those
29 contributions been made at the rates applicable to State
30 policemen, plus (ii) interest thereon at the effective rate for
31 each year, compounded annually, from the date of service to the
32 date of payment.

33 (h) Subject to the limitation in subsection (i), a State
34 policeman or investigator for the Secretary of State may elect
35 to establish eligible creditable service for up to 12 years of
36 his service as a policeman under Article 5, by filing a written

1 election with the Board on or before January 31, 1992, and
2 paying to the System by January 31, 1994 an amount to be
3 determined by the Board, equal to (i) the difference between
4 the amount of employee and employer contributions transferred
5 to the System under Section 5-236, and the amounts that would
6 have been contributed had such contributions been made at the
7 rates applicable to State policemen, plus (ii) interest thereon
8 at the effective rate for each year, compounded annually, from
9 the date of service to the date of payment.

10 Subject to the limitation in subsection (i), a State
11 policeman, conservation police officer, or investigator for
12 the Secretary of State may elect to establish eligible
13 creditable service for up to 10 years of service as a sheriff's
14 law enforcement employee under Article 7, by filing a written
15 election with the Board on or before January 31, 1993, and
16 paying to the System by January 31, 1994 an amount to be
17 determined by the Board, equal to (i) the difference between
18 the amount of employee and employer contributions transferred
19 to the System under Section 7-139.7, and the amounts that would
20 have been contributed had such contributions been made at the
21 rates applicable to State policemen, plus (ii) interest thereon
22 at the effective rate for each year, compounded annually, from
23 the date of service to the date of payment.

24 (i) The total amount of eligible creditable service
25 established by any person under subsections (g), (h), (j), (k),
26 and (l) of this Section shall not exceed 12 years.

27 (j) Subject to the limitation in subsection (i), an
28 investigator for the Office of the State's Attorneys Appellate
29 Prosecutor or a controlled substance inspector may elect to
30 establish eligible creditable service for up to 10 years of his
31 service as a policeman under Article 3 or a sheriff's law
32 enforcement employee under Article 7, by filing a written
33 election with the Board, accompanied by payment of an amount to
34 be determined by the Board, equal to (1) the difference between
35 the amount of employee and employer contributions transferred
36 to the System under Section 3-110.6 or 7-139.8, and the amounts

1 that would have been contributed had such contributions been
2 made at the rates applicable to State policemen, plus (2)
3 interest thereon at the effective rate for each year,
4 compounded annually, from the date of service to the date of
5 payment.

6 (k) Subject to the limitation in subsection (i) of this
7 Section, an alternative formula employee may elect to establish
8 eligible creditable service for periods spent as a full-time
9 law enforcement officer or full-time corrections officer
10 employed by the federal government or by a state or local
11 government located outside of Illinois, for which credit is not
12 held in any other public employee pension fund or retirement
13 system. To obtain this credit, the applicant must file a
14 written application with the Board by March 31, 1998,
15 accompanied by evidence of eligibility acceptable to the Board
16 and payment of an amount to be determined by the Board, equal
17 to (1) employee contributions for the credit being established,
18 based upon the applicant's salary on the first day as an
19 alternative formula employee after the employment for which
20 credit is being established and the rates then applicable to
21 alternative formula employees, plus (2) an amount determined by
22 the Board to be the employer's normal cost of the benefits
23 accrued for the credit being established, plus (3) regular
24 interest on the amounts in items (1) and (2) from the first day
25 as an alternative formula employee after the employment for
26 which credit is being established to the date of payment.

27 (l) Subject to the limitation in subsection (i), a security
28 employee of the Department of Corrections may elect, not later
29 than July 1, 1998, to establish eligible creditable service for
30 up to 10 years of his or her service as a policeman under
31 Article 3, by filing a written election with the Board,
32 accompanied by payment of an amount to be determined by the
33 Board, equal to (i) the difference between the amount of
34 employee and employer contributions transferred to the System
35 under Section 3-110.5, and the amounts that would have been
36 contributed had such contributions been made at the rates

1 applicable to security employees of the Department of
2 Corrections, plus (ii) interest thereon at the effective rate
3 for each year, compounded annually, from the date of service to
4 the date of payment.

5 (Source: P.A. 91-357, eff. 7-29-99; 91-760, eff. 1-1-01; 92-14,
6 eff. 6-28-01; 92-257, eff. 8-6-01; 92-651, eff. 7-11-02.)

7 Section 9145. The Illinois Police Training Act is amended
8 by changing Section 6.1 as follows:

9 (50 ILCS 705/6.1)

10 Sec. 6.1. Decertification of full-time and part-time
11 police officers.

12 (a) The Board must review police officer conduct and
13 records to ensure that no police officer is certified or
14 provided a valid waiver if that police officer has been
15 convicted of a felony offense under the laws of this State or
16 any other state which if committed in this State would be
17 punishable as a felony. The Board must also ensure that no
18 police officer is certified or provided a valid waiver if that
19 police officer has been convicted on or after the effective
20 date of this amendatory Act of 1999 of any misdemeanor
21 specified in this Section or if committed in any other state
22 would be an offense similar to Section 11-6, 11-9.1, 11-14,
23 11-17, 11-19, 12-2, 12-15, 16-1, 17-1, 17-2, 28-3, 29-1, 31-1,
24 31-6, 31-7, 32-4a, or 32-7 of the Criminal Code of 1961 or to
25 Section 5 or 5.2 of the Cannabis Control Act. The Board must
26 appoint investigators to enforce the duties conferred upon the
27 Board by this Act.

28 (b) It is the responsibility of the sheriff or the chief
29 executive officer of every local law enforcement agency or
30 department within this State to report to the Board any arrest
31 or conviction of any officer for an offense identified in this
32 Section.

33 (c) It is the duty and responsibility of every full-time
34 and part-time police officer in this State to report to the

1 Board within 30 days, and the officer's sheriff or chief
2 executive officer, of his or her arrest or conviction for an
3 offense identified in this Section. Any full-time or part-time
4 police officer who knowingly makes, submits, causes to be
5 submitted, or files a false or untruthful report to the Board
6 must have his or her certificate or waiver immediately
7 decertified or revoked.

8 (d) Any person, or a local or State agency, or the Board is
9 immune from liability for submitting, disclosing, or releasing
10 information of arrests or convictions in this Section as long
11 as the information is submitted, disclosed, or released in good
12 faith and without malice. The Board has qualified immunity for
13 the release of the information.

14 (e) Any full-time or part-time police officer with a
15 certificate or waiver issued by the Board who is convicted of
16 any offense described in this Section immediately becomes
17 decertified or no longer has a valid waiver. The
18 decertification and invalidity of waivers occurs as a matter of
19 law. Failure of a convicted person to report to the Board his
20 or her conviction as described in this Section or any continued
21 law enforcement practice after receiving a conviction is a
22 Class 4 felony.

23 (f) The Board's investigators are peace officers and have
24 all the powers possessed by policemen in cities and by
25 sheriff's, provided that the investigators may exercise those
26 powers anywhere in the State, only after contact and
27 cooperation with the appropriate local law enforcement
28 authorities.

29 (g) The Board must request and receive information and
30 assistance from any federal, state, or local governmental
31 agency as part of the authorized criminal background
32 investigation. The Department of State Police must process,
33 retain, and additionally provide and disseminate information
34 to the Board concerning criminal charges, arrests,
35 convictions, and their disposition, that have been filed
36 before, on, or after the effective date of this amendatory Act

1 of the 91st General Assembly against a basic academy applicant,
2 law enforcement applicant, or law enforcement officer whose
3 fingerprint identification cards are on file or maintained by
4 the Department of State Police. The Federal Bureau of
5 Investigation must provide the Board any criminal history
6 record information contained in its files pertaining to law
7 enforcement officers or any applicant to a Board certified
8 basic law enforcement academy as described in this Act based on
9 fingerprint identification. The Board must make payment of fees
10 to the Department of State Police for each fingerprint card
11 submission in conformance with the requirements of paragraph 22
12 of Section 55a of the Civil Administrative Code of Illinois.

13 (h) A police officer who has been certified or granted a
14 valid waiver shall also be decertified or have his or her
15 waiver revoked upon a determination by the Illinois Labor
16 Relations Board State Panel that he or she, while under oath,
17 has knowingly and willfully made false statements as to a
18 material fact going to an element of the offense of murder. If
19 an appeal is filed, the determination shall be stayed.

20 (1) In the case of an acquittal on a charge of murder,
21 a verified complaint may be filed:

22 (A) by the defendant; or

23 (B) by a police officer with personal knowledge of
24 perjured testimony.

25 The complaint must allege that a police officer, while under
26 oath, knowingly and willfully made false statements as to a
27 material fact going to an element of the offense of murder. The
28 verified complaint must be filed with the Executive Director of
29 the Illinois Law Enforcement Training Standards Board within 2
30 years of the judgment of acquittal.

31 (2) Within 30 days, the Executive Director of the
32 Illinois Law Enforcement Training Standards Board shall
33 review the verified complaint and determine whether the
34 verified complaint is frivolous and without merit, or
35 whether further investigation is warranted. The Illinois
36 Law Enforcement Training Standards Board shall notify the

1 officer and the Executive Director of the Illinois Labor
2 Relations Board State Panel of the filing of the complaint
3 and any action taken thereon. If the Executive Director of
4 the Illinois Law Enforcement Training Standards Board
5 determines that the verified complaint is frivolous and
6 without merit, it shall be dismissed. The Executive
7 Director of the Illinois Law Enforcement Training
8 Standards Board has sole discretion to make this
9 determination and this decision is not subject to appeal.

10 (i) If the Executive Director of the Illinois Law
11 Enforcement Training Standards Board determines that the
12 verified complaint warrants further investigation, he or she
13 shall refer the matter to a task force of investigators created
14 for this purpose. This task force shall consist of 8 sworn
15 police officers: 2 from the Illinois State Police, 2 from the
16 City of Chicago Police Department, 2 from county police
17 departments, and 2 from municipal police departments. These
18 investigators shall have a minimum of 5 years of experience in
19 conducting criminal investigations. The investigators shall be
20 appointed by the Executive Director of the Illinois Law
21 Enforcement Training Standards Board. Any officer or officers
22 acting in this capacity pursuant to this statutory provision
23 will have statewide police authority while acting in this
24 investigative capacity. Their salaries and expenses for the
25 time spent conducting investigations under this paragraph
26 shall be reimbursed by the Illinois Law Enforcement Training
27 Standards Board.

28 (j) Once the Executive Director of the Illinois Law
29 Enforcement Training Standards Board has determined that an
30 investigation is warranted, the verified complaint shall be
31 assigned to an investigator or investigators. The investigator
32 or investigators shall conduct an investigation of the verified
33 complaint and shall write a report of his or her findings. This
34 report shall be submitted to the Executive Director of the
35 Illinois Labor Relations Board State Panel.

36 Within 30 days, the Executive Director of the Illinois

1 Labor Relations Board State Panel shall review the
2 investigative report and determine whether sufficient evidence
3 exists to conduct an evidentiary hearing on the verified
4 complaint. If the Executive Director of the Illinois Labor
5 Relations Board State Panel determines upon his or her review
6 of the investigatory report that a hearing should not be
7 conducted, the complaint shall be dismissed. This decision is
8 in the Executive Director's sole discretion, and this dismissal
9 may not be appealed.

10 If the Executive Director of the Illinois Labor Relations
11 Board State Panel determines that there is sufficient evidence
12 to warrant a hearing, a hearing shall be ordered on the
13 verified complaint, to be conducted by an administrative law
14 judge employed by the Illinois Labor Relations Board State
15 Panel. The Executive Director of the Illinois Labor Relations
16 Board State Panel shall inform the Executive Director of the
17 Illinois Law Enforcement Training Standards Board and the
18 person who filed the complaint of either the dismissal of the
19 complaint or the issuance of the complaint for hearing. The
20 Executive Director shall assign the complaint to the
21 administrative law judge within 30 days of the decision
22 granting a hearing.

23 (k) In the case of a finding of guilt on the offense of
24 murder, if a new trial is granted on direct appeal, or a state
25 post-conviction evidentiary hearing is ordered, based on a
26 claim that a police officer, under oath, knowingly and
27 willfully made false statements as to a material fact going to
28 an element of the offense of murder, the Illinois Labor
29 Relations Board State Panel shall hold a hearing to determine
30 whether the officer should be decertified if an interested
31 party requests such a hearing within 2 years of the court's
32 decision. The complaint shall be assigned to an administrative
33 law judge within 30 days so that a hearing can be scheduled.

34 At the hearing, the accused officer shall be afforded the
35 opportunity to:

36 (1) Be represented by counsel of his or her own

1 choosing;

2 (2) Be heard in his or her own defense;

3 (3) Produce evidence in his or her defense;

4 (4) Request that the Illinois Labor Relations Board
5 State Panel compel the attendance of witnesses and
6 production of related documents including but not limited
7 to court documents and records.

8 Once a case has been set for hearing, the verified
9 complaint shall be referred to the Department of Financial and
10 Professional Regulation. That office shall prosecute the
11 verified complaint at the hearing before the administrative law
12 judge. The Department of Financial and Professional Regulation
13 shall have the opportunity to produce evidence to support the
14 verified complaint and to request the Illinois Labor Relations
15 Board State Panel to compel the attendance of witnesses and the
16 production of related documents, including, but not limited to,
17 court documents and records. The Illinois Labor Relations Board
18 State Panel shall have the power to issue subpoenas requiring
19 the attendance of and testimony of witnesses and the production
20 of related documents including, but not limited to, court
21 documents and records and shall have the power to administer
22 oaths.

23 The administrative law judge shall have the responsibility
24 of receiving into evidence relevant testimony and documents,
25 including court records, to support or disprove the allegations
26 made by the person filing the verified complaint and, at the
27 close of the case, hear arguments. If the administrative law
28 judge finds that there is not clear and convincing evidence to
29 support the verified complaint that the police officer has,
30 while under oath, knowingly and willfully made false statements
31 as to a material fact going to an element of the offense of
32 murder, the administrative law judge shall make a written
33 recommendation of dismissal to the Illinois Labor Relations
34 Board State Panel. If the administrative law judge finds that
35 there is clear and convincing evidence that the police officer
36 has, while under oath, knowingly and willfully made false

1 statements as to a material fact that goes to an element of the
2 offense of murder, the administrative law judge shall make a
3 written recommendation so concluding to the Illinois Labor
4 Relations Board State Panel. The hearings shall be transcribed.
5 The Executive Director of the Illinois Law Enforcement Training
6 Standards Board shall be informed of the administrative law
7 judge's recommended findings and decision and the Illinois
8 Labor Relations Board State Panel's subsequent review of the
9 recommendation.

10 (l) An officer named in any complaint filed pursuant to
11 this Act shall be indemnified for his or her reasonable
12 attorney's fees and costs by his or her employer. These fees
13 shall be paid in a regular and timely manner. The State, upon
14 application by the public employer, shall reimburse the public
15 employer for the accused officer's reasonable attorney's fees
16 and costs. At no time and under no circumstances will the
17 accused officer be required to pay his or her own reasonable
18 attorney's fees or costs.

19 (m) The accused officer shall not be placed on unpaid
20 status because of the filing or processing of the verified
21 complaint until there is a final non-appealable order
22 sustaining his or her guilt and his or her certification is
23 revoked. Nothing in this Act, however, restricts the public
24 employer from pursuing discipline against the officer in the
25 normal course and under procedures then in place.

26 (n) The Illinois Labor Relations Board State Panel shall
27 review the administrative law judge's recommended decision and
28 order and determine by a majority vote whether or not there was
29 clear and convincing evidence that the accused officer, while
30 under oath, knowingly and willfully made false statements as to
31 a material fact going to the offense of murder. Within 30 days
32 of service of the administrative law judge's recommended
33 decision and order, the parties may file exceptions to the
34 recommended decision and order and briefs in support of their
35 exceptions with the Illinois Labor Relations Board State Panel.
36 The parties may file responses to the exceptions and briefs in

1 support of the responses no later than 15 days after the
2 service of the exceptions. If exceptions are filed by any of
3 the parties, the Illinois Labor Relations Board State Panel
4 shall review the matter and make a finding to uphold, vacate,
5 or modify the recommended decision and order. If the Illinois
6 Labor Relations Board State Panel concludes that there is clear
7 and convincing evidence that the accused officer, while under
8 oath, knowingly and willfully made false statements as to a
9 material fact going to an element of the offense murder, the
10 Illinois Labor Relations Board State Panel shall inform the
11 Illinois Law Enforcement Training Standards Board and the
12 Illinois Law Enforcement Training Standards Board shall revoke
13 the accused officer's certification. If the accused officer
14 appeals that determination to the Appellate Court, as provided
15 by this Act, he or she may petition the Appellate Court to stay
16 the revocation of his or her certification pending the court's
17 review of the matter.

18 (o) None of the Illinois Labor Relations Board State
19 Panel's findings or determinations shall set any precedent in
20 any of its decisions decided pursuant to the Illinois Public
21 Labor Relations Act by the Illinois Labor Relations Board State
22 Panel or the courts.

23 (p) A party aggrieved by the final order of the Illinois
24 Labor Relations Board State Panel may apply for and obtain
25 judicial review of an order of the Illinois Labor Relations
26 Board State Panel, in accordance with the provisions of the
27 Administrative Review Law, except that such judicial review
28 shall be afforded directly in the Appellate Court for the
29 district in which the accused officer resides. Any direct
30 appeal to the Appellate Court shall be filed within 35 days
31 from the date that a copy of the decision sought to be reviewed
32 was served upon the party affected by the decision.

33 (q) Interested parties. Only interested parties to the
34 criminal prosecution in which the police officer allegedly,
35 while under oath, knowingly and willfully made false statements
36 as to a material fact going to an element of the offense of

1 murder may file a verified complaint pursuant to this Section.
2 For purposes of this Section, "interested parties" shall be
3 limited to the defendant and any police officer who has
4 personal knowledge that the police officer who is the subject
5 of the complaint has, while under oath, knowingly and willfully
6 made false statements as to a material fact going to an element
7 of the offense of murder.

8 (r) Semi-annual reports. The Executive Director of the
9 Illinois Labor Relations Board shall submit semi-annual
10 reports to the Governor, President, and Minority Leader of the
11 Senate, and to the Speaker and Minority Leader of the House of
12 Representatives beginning on June 30, 2004, indicating:

13 (1) the number of verified complaints received
14 since the date of the last report;

15 (2) the number of investigations initiated since
16 the date of the last report;

17 (3) the number of investigations concluded since
18 the date of the last report;

19 (4) the number of investigations pending as of the
20 reporting date;

21 (5) the number of hearings held since the date of
22 the last report; and

23 (6) the number of officers decertified since the
24 date of the last report.

25 (Source: P.A. 93-605, eff. 11-19-03; 93-655, eff. 1-20-04.)

26 Section 9150. The Counties Code is amended by changing
27 Sections 5-1079, 5-1123, and 5-31007 as follows:

28 (55 ILCS 5/5-1079) (from Ch. 34, par. 5-1079)

29 Sec. 5-1079. Liability insurance. A county board may insure
30 against any loss or liability of any officer, employee or agent
31 of the county resulting from the wrongful or negligent act of
32 any such officer, employee or agent while discharging and
33 engaged in his duties and functions and acting within the scope
34 of his duties and functions as an officer, employee or agent of

1 the county. Such insurance shall be carried with a company
2 authorized by the Department of Financial and Professional
3 Regulation or its predecessor, the Department of Insurance, to
4 write such coverage in Illinois.

5 (Source: P.A. 86-962.)

6 (55 ILCS 5/5-1123)

7 Sec. 5-1123. Builder or developer cash bond or other
8 surety.

9 (a) A county may not require a cash bond, irrevocable
10 letter of credit, surety bond, or letter of commitment issued
11 by a bank, savings and loan association, surety, or insurance
12 company from a builder or developer to guarantee completion of
13 a project improvement when the builder or developer has filed
14 with the county clerk a current, irrevocable letter of credit,
15 surety bond, or letter of commitment, issued by a bank, savings
16 and loan association, surety, or insurance company, deemed good
17 and sufficient by the county accepting such security, in an
18 amount equal to or greater than 110% of the amount of the bid
19 on each project improvement. A builder or developer has the
20 option to utilize a cash bond, irrevocable letter of credit,
21 surety bond, or letter of commitment issued by a bank, savings
22 and loan association, surety, or insurance company, deemed good
23 and sufficient by the county, to satisfy any cash bond
24 requirement established by a county. The county must approve
25 and deem a surety or insurance company good and sufficient for
26 the purposes set forth in this Section if the surety or
27 insurance company is authorized by the Department of Financial
28 and Professional Regulation or its predecessor, the Illinois
29 Department of Insurance, to sell and issue sureties in the
30 State of Illinois.

31 (b) If a county receives a cash bond, irrevocable letter of
32 credit, or surety bond from a builder or developer to guarantee
33 completion of a project improvement, the county shall (i)
34 register the bond under the address of the project and the
35 construction permit number and (ii) give the builder or

1 developer a receipt for the bond. The county shall establish
2 and maintain a separate account for all cash bonds received
3 from builders and developers to guarantee completion of a
4 project improvement.

5 (c) The county shall refund a cash bond to a builder or
6 developer, or release the irrevocable letter of credit or
7 surety bond, within 60 days after the builder or developer
8 notifies the county in writing of the completion of the project
9 improvement for which the bond was required. For these
10 purposes, "completion" means that the county has determined
11 that the project improvement for which the bond was required is
12 complete or a licensed engineer or licensed architect has
13 certified to the builder or developer and the county that the
14 project improvement has been completed to the applicable codes
15 and ordinances. The county shall pay interest to the builder or
16 developer, beginning 60 days after the builder or developer
17 notifies the county in writing of the completion of the project
18 improvement, on any bond not refunded to a builder or
19 developer, at the rate of 1% per month.

20 (d) A home rule county may not require or maintain cash
21 bonds, irrevocable letters of credit, surety bonds, or other
22 adequate securities from builders or developers in a manner
23 inconsistent with this Section. This Section supercedes and
24 controls over other provisions of this Code as they apply to
25 and guarantee completion of a project improvement that is
26 required by the county. This Section is a denial and limitation
27 under subsection (i) of Section 6 of Article VII of the
28 Illinois Constitution on the concurrent exercise by a home rule
29 county of powers and functions exercised by the State.

30 (Source: P.A. 92-479, eff. 1-1-02.)

31 (55 ILCS 5/5-31007) (from Ch. 34, par. 5-31007)

32 Sec. 5-31007. Funds. The board of any museum district, when
33 requested by the treasurer, shall designate a bank, banks or
34 other depository in which the funds received by the treasurer
35 may be placed.

1 Each designated depository shall furnish the museum
2 district with a copy of all statements of resources and
3 liabilities which it is required to furnish to the Secretary of
4 Financial and Professional Regulation ~~Commissioner of Banks~~
5 ~~and Real Estate~~ or to the Comptroller of the Currency. No bank
6 is qualified to receive museum district funds until it has
7 furnished the museum district with copies of the 2 most recent
8 statements.

9 The treasurer of the museum district shall be discharged
10 from responsibility for all funds while they are in a
11 designated bank or depository, except that the amount of such
12 deposits shall not exceed 75% of the capital stock and surplus
13 of such bank or depository. The treasurer shall not be
14 discharged from responsibility for any funds deposited in
15 excess of such limitation.

16 When a bank has been designated as a depository it shall
17 continue as such until 10 days after a new depository is
18 designated and is qualified. When a new depository is
19 designated, the museum district shall notify the sureties of
20 the treasurer of that fact in writing at least 5 days before
21 the transfer of funds.

22 (Source: P.A. 89-508, eff. 7-3-96.)

23 Section 9155. The Township Code is amended by changing
24 Section 30-42 as follows:

25 (60 ILCS 1/30-42)

26 Sec. 30-42. The board of trustees may provide for the
27 purchase of insurance, including coverage obtained from a risk
28 management association, against any loss or liability of any
29 officer, employee, or agent of the township resulting from the
30 wrongful or negligent act of any officer, employee, or agent
31 while discharging and engaged in his duties and functions and
32 acting within the scope of his duties and functions as an
33 officer, employee, or agent of the township. The insurance
34 shall be carried with a company authorized by the Department of

1 Financial and Professional Regulation or its predecessor, the
2 Department of Insurance, to write such coverage in Illinois.
3 (Source: Incorporates P.A. 88-294; 88-670, eff. 12-2-94.)

4 Section 9160. The Illinois Municipal Code is amended by
5 changing Sections 11-9-2, 11-23-11, and 11-39-3 as follows:

6 (65 ILCS 5/11-9-2) (from Ch. 24, par. 11-9-2)

7 Sec. 11-9-2. If he deems it necessary, the specified fire
8 inspector shall take, or cause to be taken, the sworn testimony
9 of all persons supposed to be cognizant of any facts or to have
10 means of knowledge in relation to the matters as to which an
11 examination is required by Section 11-9-1 to be made, and cause
12 the testimony to be reduced to writing. If the fire inspector
13 is of the opinion that there is evidence sufficient to charge a
14 person with the crime of arson, the fire inspector shall cause
15 that person to be arrested and charged with that offense. He
16 shall furnish to the state's attorney the names of the
17 witnesses and all information obtained by him, including a copy
18 of all pertinent and material testimony taken in the case. The
19 fire inspector shall report to the Secretary of Financial and
20 Professional Regulation ~~Director of Insurance,~~ for the
21 Department of Financial and Professional Regulation ~~Insurance,~~
22 as that Secretary ~~Director~~ requires, his proceedings and the
23 progress made in all prosecutions of arson and the result of
24 all cases which are finally disposed of.

25 (Source: Laws 1961, p. 576.)

26 (65 ILCS 5/11-23-11) (from Ch. 24, par. 11-23-11)

27 Sec. 11-23-11. All physicians who are recognized as legal
28 practitioners by the Department of Financial and Professional
29 Regulation shall have equal privileges in treating patients in
30 such a hospital.

31 (Source: P.A. 85-1209.)

32 (65 ILCS 5/11-39-3)

1 Sec. 11-39-3. Builder or developer cash bond or other
2 surety.

3 (a) A municipality may not require a cash bond, irrevocable
4 letter of credit, surety bond, or letter of commitment issued
5 by a bank, savings and loan association, surety, or insurance
6 company from a builder or developer to guarantee completion of
7 a project improvement when the builder or developer has filed
8 with the municipal clerk a current, irrevocable letter of
9 credit, surety bond, or letter of commitment issued by a bank,
10 savings and loan association, surety, or insurance company,
11 deemed good and sufficient by the municipality accepting such
12 security, in an amount equal to or greater than 110% of the
13 amount of the bid on each project improvement. A builder or
14 developer has the option to utilize a cash bond, irrevocable
15 letter of credit, surety bond, or letter of commitment, issued
16 by a bank, savings and loan association, surety, or insurance
17 company, deemed good and sufficient by the municipality, to
18 satisfy any cash bond requirement established by a
19 municipality. Except for a municipality or county with a
20 population of 1,000,000 or more, the municipality must approve
21 and deem a surety or insurance company good and sufficient for
22 the purposes set forth in this Section if the surety or
23 insurance company is authorized by the Department of Financial
24 and Professional Regulation or its predecessor, the Illinois
25 Department of Insurance, to sell and issue sureties in the
26 State of Illinois.

27 (b) If a municipality receives a cash bond, irrevocable
28 letter of credit, or surety bond from a builder or developer to
29 guarantee completion of a project improvement, the
30 municipality shall (i) register the bond under the address of
31 the project and the construction permit number and (ii) give
32 the builder or developer a receipt for the bond. The
33 municipality shall establish and maintain a separate account
34 for all cash bonds received from builders and developers to
35 guarantee completion of a project improvement.

36 (c) The municipality shall refund a cash bond to a builder

1 or developer, or release the irrevocable letter of credit or
2 surety bond within 60 days after the builder or developer
3 notifies the municipality in writing of the completion of the
4 project improvement for which the bond was required. For these
5 purposes, "completion" means that the municipality has
6 determined that the project improvement for which the bond was
7 required is complete or a licensed engineer or licensed
8 architect has certified to the builder or developer and the
9 municipality that the project improvement has been completed to
10 the applicable codes and ordinances. The municipality shall pay
11 interest to the builder or developer, beginning 60 days after
12 builder or developer notifies the municipality in writing of
13 the completion of the project improvement, on any bond not
14 refunded to a builder or developer, at the rate of 1% per
15 month.

16 (d) A home rule municipality may not require or maintain
17 cash bonds, irrevocable letters of credit, surety bonds, or
18 letters of commitment issued by a bank, savings and loan
19 association, surety, or insurance company from builders or
20 developers in a manner inconsistent with this Section. This
21 Section supercedes and controls over other provisions of this
22 Code as they apply to and guarantee completion of a project
23 improvement that is required by the municipality, regardless of
24 whether the project improvement is a condition of annexation
25 agreements. This Section is a denial and limitation under
26 subsection (i) of Section 6 of Article VII of the Illinois
27 Constitution on the concurrent exercise by a home rule
28 municipality of powers and functions exercised by the State.

29 (Source: P.A. 92-479, eff. 1-1-02.)

30 Section 9165. The Conservation District Act is amended by
31 changing Section 7 as follows:

32 (70 ILCS 410/7) (from Ch. 96 1/2, par. 7107)

33 Sec. 7. Deposits. The board of any district, when so
34 requested by the treasurer of the district, shall designate one

1 or more banks or savings and loan associations in which the
2 funds and moneys received by the treasurer, by virtue of his
3 office, may be deposited.

4 Each bank or savings and loan association designated as a
5 depository for district funds or moneys shall, while acting as
6 such depository, furnish the district with a copy of all
7 statements of resources and liabilities which it is required to
8 furnish to the Secretary of Financial and Professional
9 Regulation ~~Commissioner of Banks and Real Estate~~ or to the
10 Comptroller of the Currency and no bank is qualified to receive
11 such district funds or moneys until it has furnished the
12 district with copies of the last 2 such statements.

13 The treasurer of the district shall be discharged from
14 responsibility for all funds and moneys while they are
15 deposited in a designated bank or savings and loan association.

16 No bank or savings and loan association shall receive
17 public funds as permitted by this Section, unless it has
18 complied with the requirements established pursuant to Section
19 6 of the Public Funds Investment Act.

20 When a bank or savings and loan association has been
21 designated as a depository it shall continue as such until 10
22 days have elapsed after a new depository is designated and is
23 qualified. When a new depository is designated, the district
24 shall notify the sureties of the treasurer of that fact in
25 writing at least 5 days before the transfer of funds.

26 (Source: P.A. 89-508, eff. 7-3-96.)

27 Section 9170. The School Code is amended by changing
28 Sections 3-15.12 and 14-6.03 as follows:

29 (105 ILCS 5/3-15.12) (from Ch. 122, par. 3-15.12)

30 Sec. 3-15.12. High school equivalency testing program. The
31 regional superintendent of schools shall make available for
32 qualified individuals residing within the region a High School
33 Equivalency Testing Program. For that purpose the regional
34 superintendent alone or with other regional superintendents

1 may establish and supervise a testing center or centers to
2 administer the secure forms of the high school level Test of
3 General Educational Development to qualified persons. Such
4 centers shall be under the supervision of the regional
5 superintendent in whose region such centers are located,
6 subject to the approval of the State Superintendent of
7 Education.

8 An individual is eligible to apply to the regional
9 superintendent of schools for the region in which he resides if
10 he is: (a) a person who is 18 years of age or older, has
11 maintained residence in the State of Illinois and is not a high
12 school graduate, but whose high school class has graduated; (b)
13 a member of the armed forces of the United States on active
14 duty who is 17 years of age or older and who is stationed in
15 Illinois or is a legal resident of Illinois; (c) a ward of the
16 Department of Corrections who is 17 years of age or older or an
17 inmate confined in any branch of the Illinois State
18 Penitentiary or in a county correctional facility who is 17
19 years of age or older; (d) a female who is 17 years of age or
20 older who is unable to attend school because she is either
21 pregnant or the mother of one or more children; (e) a male 17
22 years of age or older who is unable to attend school because he
23 is a father of one or more children; (f) a person who is
24 successfully completing an alternative education program under
25 Section 2-3.81, Article 13A, or Article 13B; (g) a person who
26 is enrolled in a youth education program sponsored by the
27 Illinois National Guard; or (h) a person who is 17 years of age
28 or older who has been a dropout for a period of at least one
29 year. For purposes of this Section, residence is that abode
30 which the applicant considers his home. Applicants may provide
31 as sufficient proof of such residence a picture identification
32 card and two pieces of correctly addressed and postmarked mail.
33 Such regional superintendent shall determine if the applicant
34 meets statutory and regulatory state standards. If qualified
35 the applicant shall at the time of such application pay a fee
36 established by the State Board of Education, which fee shall be

1 paid into a special fund under the control and supervision of
2 the regional superintendent. Such moneys received by the
3 regional superintendent shall be used, first, for the expenses
4 incurred in administering and scoring the examination, and next
5 for other educational programs that are developed and designed
6 by the regional superintendent of schools to assist those who
7 successfully complete the high school level test of General
8 Education Development in furthering their academic development
9 or their ability to secure and retain gainful employment,
10 including programs for the competitive award based on test
11 scores of college or adult education scholarship grants or
12 similar educational incentives. Any excess moneys shall be paid
13 into the institute fund.

14 Any applicant who has achieved the minimum passing
15 standards as established by the State Board of Education shall
16 be notified in writing by the regional superintendent and shall
17 be issued a high school equivalency certificate on the forms
18 provided by the State Superintendent of Education. The regional
19 superintendent shall then certify to the Office of the State
20 Superintendent of Education the score of the applicant and such
21 other and additional information that may be required by the
22 State Superintendent of Education. The moneys received
23 therefrom shall be used in the same manner as provided for in
24 this Section.

25 Any applicant who has attained the age of 18 years and
26 maintained residence in the State of Illinois and is not a high
27 school graduate but whose high school class has graduated or
28 any ward of the Department of Corrections who has attained the
29 age of 17 years, any inmate confined in any branch of the
30 Illinois State Penitentiary or in a county correctional
31 facility who has attained the age of 17 years, or any member of
32 the armed forces of the United States on active duty who has
33 attained the age of 17 years and who is stationed in Illinois
34 or is a legal resident of Illinois, or any female who has
35 attained the age of 17 years and is either pregnant or the
36 mother of one or more children, or any male who has attained

1 the age of 17 years and is the father of one or more children,
2 or any person who has successfully completed an alternative
3 education program under Section 2-3.81, Article 13A, or Article
4 13B and meets the requirements prescribed by the State Board of
5 Education, is eligible to apply for a high school equivalency
6 certificate upon showing evidence that he has completed,
7 successfully, the high school level General Educational
8 Development Tests, administered by the United States Armed
9 Forces Institute, official GED Centers established in other
10 states, or at Veterans' Administration Hospitals or the office
11 of the State Superintendent of Education administered for the
12 Illinois State Penitentiary System and the Department of
13 Corrections. Such applicant shall apply to the regional
14 superintendent of the region wherein he has maintained
15 residence, and upon payment of a fee established by the State
16 Board of Education the regional superintendent shall issue a
17 high school equivalency certificate, and immediately
18 thereafter certify to the State Superintendent of Education the
19 score of the applicant and such other and additional
20 information as may be required by the State Superintendent of
21 Education.

22 Notwithstanding the provisions of this Section, any
23 applicant who has been out of school for at least one year may
24 request the regional superintendent of schools to administer
25 the restricted GED test upon written request of: The director
26 of a program who certifies to the Chief Examiner of an official
27 GED center that the applicant has completed a program of
28 instruction provided by such agencies as the Job Corps, the
29 Postal Service Academy or apprenticeship training program; an
30 employer or program director for purposes of entry into
31 apprenticeship programs; another State Department of Education
32 in order to meet regulations established by that Department of
33 Education, a post high school educational institution for
34 purposes of admission, the Department of Financial and
35 Professional Regulation (as the successor of the Department of
36 Professional Regulation) for licensing purposes, or the Armed

1 Forces for induction purposes. The regional superintendent
2 shall administer such test and the applicant shall be notified
3 in writing that he is eligible to receive the Illinois High
4 School Equivalency Certificate upon reaching age 18, provided
5 he meets the standards established by the State Board of
6 Education.

7 Any test administered under this Section to an applicant
8 who does not speak and understand English may at the discretion
9 of the administering agency be given and answered in any
10 language in which the test is printed. The regional
11 superintendent of schools may waive any fees required by this
12 Section in case of hardship.

13 In counties of over 3,000,000 population a GED certificate
14 issued on or after July 1, 1994 shall contain the signatures of
15 the State Superintendent of Education, the superintendent,
16 president or other chief executive officer of the institution
17 where GED instruction occurred and any other signatures
18 authorized by the State Superintendent of Education.

19 (Source: P.A. 92-42, eff. 1-1-02.)

20 (105 ILCS 5/14-6.03)

21 Sec. 14-6.03. Speech-language pathology assistants.

22 (a) Except as otherwise provided in this subsection, on or
23 after January 1, 2002, no person shall perform the duties of a
24 speech-language pathology assistant without first applying for
25 and receiving a license for that purpose from the Department of
26 Professional Regulation or its successor, the Department of
27 Financial and Professional Regulation. A person employed as a
28 speech-language pathology assistant in any class, service, or
29 program authorized by this Article may perform only those
30 duties authorized by this Section under the supervision of a
31 speech-language pathologist as provided in this Section. This
32 Section does not apply to speech-language pathology
33 paraprofessionals approved by the State Board of Education.

34 (b) A speech-language pathology assistant may not be
35 assigned his or her own student caseload. The student caseload

1 limit of a speech-language pathologist who supervises any
2 speech-language pathology assistants shall be determined by
3 the severity of the needs of the students served by the
4 speech-language pathologist. A full-time speech-language
5 pathologist's caseload limit may not exceed 80 students (60
6 students on or after September 1, 2003) at any time. The
7 caseload limit of a part-time speech-language pathologist
8 shall be determined by multiplying the caseload limit of a
9 full-time speech-language pathologist by a percentage that
10 equals the number of hours worked by the part-time
11 speech-language pathologist divided by the number of hours
12 worked by a full-time speech-language pathologist in that
13 school district. Employment of a speech-language pathology
14 assistant may not increase or decrease the caseload of the
15 supervising speech-language pathologist.

16 (c) A school district that intends to utilize the services
17 of a speech-language pathology assistant must provide written
18 notification to the parent or guardian of each student who will
19 be served by a speech-language pathology assistant.

20 (d) The scope of responsibility of a speech-language
21 pathology assistant shall be limited to supplementing the role
22 of the speech-language pathologist in implementing the
23 treatment program established by a speech-language
24 pathologist. The functions and duties of a speech-language
25 pathology assistant shall be limited to the following:

26 (1) Conducting speech-language screening, without
27 interpretation, and using screening protocols selected by
28 the supervising speech-language pathologist.

29 (2) Providing direct treatment assistance to students
30 under the supervision of a speech-language pathologist.

31 (3) Following and implementing documented treatment
32 plans or protocols developed by a supervising
33 speech-language pathologist.

34 (4) Documenting student progress toward meeting
35 established objectives, and reporting the information to a
36 supervising speech-language pathologist.

1 (5) Assisting a speech-language pathologist during
2 assessments, including, but not limited to, assisting with
3 formal documentation, preparing materials, and performing
4 clerical duties for a supervising speech-language
5 pathologist.

6 (6) Acting as an interpreter for non-English speaking
7 students and their family members when competent to do so.

8 (7) Scheduling activities and preparing charts,
9 records, graphs, and data.

10 (8) Performing checks and maintenance of equipment,
11 including, but not limited to, augmentative communication
12 devices.

13 (9) Assisting with speech-language pathology research
14 projects, in-service training, and family or community
15 education.

16 (e) A speech-language pathology assistant may not:

17 (1) perform standardized or nonstandardized diagnostic
18 tests or formal or informal evaluations or interpret test
19 results;

20 (2) screen or diagnose students for feeding or
21 swallowing disorders;

22 (3) participate in parent conferences, case
23 conferences, or any interdisciplinary team without the
24 presence of the supervising speech-language pathologist;

25 (4) provide student or family counseling;

26 (5) write, develop, or modify a student's
27 individualized treatment plan;

28 (6) assist with students without following the
29 individualized treatment plan prepared by the supervising
30 speech-language pathologist;

31 (7) sign any formal documents, such as treatment plans,
32 reimbursement forms, or reports;

33 (8) select students for services;

34 (9) discharge a student from services;

35 (10) disclose clinical or confidential information,
36 either orally or in writing, to anyone other than the

- 1 supervising speech-language pathologist;
- 2 (11) make referrals for additional services;
- 3 (12) counsel or consult with the student, family, or
4 others regarding the student's status or service;
- 5 (13) represent himself or herself to be a
6 speech-language pathologist or a speech therapist;
- 7 (14) use a checklist or tabulate results of feeding or
8 swallowing evaluations; or
- 9 (15) demonstrate swallowing strategies or precautions
10 to students, family, or staff.

11 (f) A speech-language pathology assistant shall practice
12 only under the supervision of a speech-language pathologist who
13 has at least 2 years experience in addition to the supervised
14 professional experience required under subsection (f) of
15 Section 8 of the Illinois Speech-Language Pathology and
16 Audiology Practice Act. A speech-language pathologist who
17 supervises a speech-language pathology assistant must have
18 completed at least 10 clock hours of training in the
19 supervision of speech-language pathology assistants. The State
20 Board of Education shall promulgate rules describing the
21 supervision training requirements. The rules may allow a
22 speech-language pathologist to apply to the State Board of
23 Education for an exemption from this training requirement based
24 upon prior supervisory experience.

25 (g) A speech-language pathology assistant must be under the
26 direct supervision of a speech-language pathologist at least
27 30% of the speech-language pathology assistant's actual
28 student contact time per student for the first 90 days of
29 initial employment as a speech-language pathology assistant.
30 Thereafter, the speech-language pathology assistant must be
31 under the direct supervision of a speech-language pathologist
32 at least 20% of the speech-language pathology assistant's
33 actual student contact time per student. Supervision of a
34 speech-language pathology assistant beyond the minimum
35 requirements of this subsection may be imposed at the
36 discretion of the supervising speech-language pathologist. A

1 supervising speech-language pathologist must be available to
2 communicate with a speech-language pathology assistant
3 whenever the assistant is in contact with a student.

4 (h) A speech-language pathologist that supervises a
5 speech-language pathology assistant must document direct
6 supervision activities. At a minimum, supervision
7 documentation must provide (i) information regarding the
8 quality of the speech-language pathology assistant's
9 performance of assigned duties and (ii) verification that
10 clinical activity is limited to duties specified in this
11 Section.

12 (i) A full-time speech-language pathologist may supervise
13 no more than 2 speech-language pathology assistants. A
14 speech-language pathologist that does not work full-time may
15 supervise no more than one speech-language pathology
16 assistant.

17 (Source: P.A. 92-510, eff. 6-1-02.)

18 Section 9175. The Baccalaureate Assistance Law for
19 Registered Nurses is amended by changing Sections 3 and 6 as
20 follows:

21 (110 ILCS 915/3) (from Ch. 144, par. 1403)

22 Sec. 3. Definitions. The following terms, whenever used or
23 referred to, have the following meanings except where the
24 context clearly indicates otherwise:

25 (a) "Board" means the Board of Higher Education created by
26 "An Act creating a Board of Higher Education, defining its
27 powers and duties, making an appropriation therefor, and
28 repealing an Act therein named", approved August 22, 1961, as
29 now or hereafter amended.

30 (b) "Department" means the Illinois Department of Public
31 Health.

32 (c) "Approved institution" means a college or university
33 located in this State which has National League for Nursing
34 accreditation for the baccalaureate degree program in nursing.

1 (d) "Enrollment" means the establishment and maintenance
2 of an individual's status as a student in an approved
3 institution, regardless of the terms used at the institution to
4 describe such status.

5 (e) "Academic year" means the period of time from September
6 1 of one year through August 31 of the next year.

7 (f) "Registered Nurse" or "professional nurse" means a
8 nurse holding a valid existing license in good standing as a
9 registered professional nurse issued by the Department of
10 Financial and Professional Regulation or its predecessor, the
11 Department of Professional Regulation, under the Nursing and
12 Advanced Practice Nursing Act.

13 (g) "Regions" means the official and uniform state planning
14 and administrative regions established by the Governor by
15 Executive Order No. 7, dated June 22, 1971, as amended.

16 (h) "Director" means the Director of the Illinois
17 Department of Public Health.

18 (Source: P.A. 90-742, eff. 8-13-98.)

19 (110 ILCS 915/6) (from Ch. 144, par. 1406)

20 Sec. 6. Number of Loans. On January 1 of each year, the
21 Department of Financial and Professional Regulation shall
22 certify to the Department the number of registered nurses in
23 each region actively engaged in the practice of professional
24 nursing in each region, and shall base its certification on the
25 most reliable data available to it. Annually the Department
26 shall allocate the loans to nurses residing in each region
27 according to the region's proportionate share of the State's
28 nurses as last certified by the Department of Financial and
29 Professional Regulation or its predecessor, the Department of
30 Professional Regulation. The Department shall award loans to
31 applicants on the basis of financial need. Any loan not used in
32 a region may be allocated to another region. In determining the
33 number of loans it may make, the Department shall count each
34 award as a single loan even though the award may provide for a
35 series of loans to the applicant over a period greater than one

1 year.

2 (Source: P.A. 85-1209.)

3 Section 9180. The Higher Education Student Assistance Act
4 is amended by changing Sections 65.70 and 87 as follows:

5 (110 ILCS 947/65.70)

6 Sec. 65.70. Optometric Education Scholarship Program.

7 (a) The General Assembly finds and declares that the
8 provision of graduate education leading to a doctoral degree in
9 optometry for persons of this State who desire such an
10 education is important to the health and welfare of this State
11 and Nation and, consequently, is an important public purpose.
12 Many qualified potential optometrists are deterred by
13 financial considerations from pursuing their optometric
14 education with consequent irreparable loss to the State and
15 Nation of talents vital to health and welfare. A program of
16 scholarships, repayment of which may be excused if the
17 individual practices professional optometry in this State,
18 will enable such individuals to attend qualified public or
19 private institutions of their choice in the State.

20 (b) Beginning with the 2003-2004 academic year, the
21 Commission shall, each year, consider applications for
22 scholarship assistance under this Section. An applicant is
23 eligible for a scholarship under this Section if the Commission
24 finds that the applicant is:

25 (1) a United States citizen or eligible noncitizen;

26 (2) a resident of Illinois; and

27 (3) enrolled on a full-time basis in a public or
28 private college of optometry located in this State that
29 awards a doctorate degree in optometry and is approved by
30 the Department of Financial and Professional Regulation.

31 (c) Each year the Commission shall award 10 scholarships
32 under this Section among applicants qualified pursuant to
33 subsection (b). Two of these scholarships each shall be awarded
34 to eligible applicants enrolled in their first year, second

1 year, third year, and fourth year. The remaining 2 scholarships
2 shall be awarded to any level of student. The Commission shall
3 receive funding for the scholarships through appropriations
4 from the Optometric Licensing and Disciplinary Board Fund. If
5 in any year the number of qualified applicants exceeds the
6 number of scholarships to be awarded, the Commission shall give
7 priority in awarding scholarships to students demonstrating
8 exceptional merit and who are in financial need. A scholarship
9 shall be in the amount of \$5,000 each year applicable to
10 tuition and fees.

11 (d) The total amount of scholarship assistance awarded by
12 the Commission under this Section to an individual in any given
13 fiscal year, when added to other financial assistance awarded
14 to that individual for that year, shall not exceed the cost of
15 attendance at the institution at which the student is enrolled.

16 (e) A recipient may receive up to 8 semesters or 12
17 quarters of scholarship assistance under this Section.

18 (f) Subject to a separate appropriation made for such
19 purposes, payment of any scholarship awarded under this Section
20 shall be determined by the Commission. All scholarship funds
21 distributed in accordance with this Section shall be paid to
22 the institution on behalf of the recipients. Scholarship funds
23 are applicable toward 2 semesters or 3 quarters of enrollment
24 within an academic year.

25 (g) The Commission shall administer the Optometric
26 Education Scholarship Program established by this Section and
27 shall make all necessary and proper rules not inconsistent with
28 this Section for its effective implementation.

29 (h) Prior to receiving scholarship assistance for any
30 academic year, each recipient of a scholarship awarded under
31 this Section shall be required by the Commission to sign an
32 agreement under which the recipient pledges that, within the
33 one-year period following the termination of the academic
34 program for which the recipient was awarded a scholarship, the
35 recipient shall practice in this State as a licensed
36 optometrist under the Illinois Optometric Practice Act of 1987

1 for a period of not less than one year for each year of
2 scholarship assistance awarded under this Section. Each
3 recipient shall, upon request of the Commission, provide the
4 Commission with evidence that he or she is fulfilling or has
5 fulfilled the terms of the practice agreement provided for in
6 this subsection.

7 (i) If a recipient of a scholarship awarded under this
8 Section fails to fulfill the practice obligation set forth in
9 subsection (h) of this Section, the Commission shall require
10 the recipient to repay the amount of the scholarships received,
11 prorated according to the fraction of the obligation not
12 completed, plus interest at a rate of 5% and, if applicable,
13 reasonable collection fees. The Commission is authorized to
14 establish rules relating to its collection activities for
15 repayment of scholarships under this Section.

16 (j) A recipient of a scholarship awarded by the Commission
17 under this Section shall not be in violation of the agreement
18 entered into pursuant to subsection (h) if the recipient (i) is
19 serving as a member of the armed services of the United States;
20 (ii) is enrolled in a residency program following graduation at
21 an approved institution; (iii) is temporarily totally
22 disabled, as established by sworn affidavit of a qualified
23 physician; or (iii) cannot fulfill the employment obligation
24 due to his or her death, disability, or incompetency, as
25 established by sworn affidavit of a qualified physician. No
26 claim for repayment may be filed against the estate of such a
27 decedent or incompetent. Any extension of the period during
28 which the employment requirement must be fulfilled shall be
29 subject to limitations of duration as established by the
30 Commission.

31 (Source: P.A. 92-569, eff. 6-26-02.)

32 (110 ILCS 947/87)

33 Sec. 87. Coordination of reviews. In accordance with the
34 Federal Higher Education Act of 1965, as amended, the
35 Commission is designated as the Illinois agency ultimately

1 responsible for the coordination of reviews of Illinois
2 postsecondary institutions in cooperation with the Board of
3 Higher Education, State Board of Education, Department of
4 Financial and Professional Regulation, Secretary of State,
5 Department of Transportation and other appropriate State
6 agencies. As such, the Commission is granted the powers and
7 duties necessary for the proper implementation and execution of
8 these functions, including rulemaking.

9 The eligibility of schools to operate in Illinois shall be
10 determined in accordance with audit and review information
11 provided by the Commission to the appropriate State agencies.
12 These eligibility audits shall apply rules that are consistent
13 with those of the Federal Higher Education Act concerning
14 institutional eligibility and program integrity.

15 The Commission is authorized to provide or coordinate with
16 the Board of Higher Education, State Board of Education, the
17 Department of Financial and Professional Regulation, Secretary
18 of State, Department of Transportation and other involved
19 agencies, administration of institutional reviews for all
20 institutions participating in the Federal Title IV Financial
21 Aid programs:

22 1. at least once every 3 years;

23 2. at least once a year when it appears a school is out
24 of, or will soon be out of, compliance with stated
25 eligibility standards; and

26 3. within 2 months of, or as soon as practicable
27 following, a request from a State or Federal agency citing
28 questionable activities or changes in the school's
29 financial, operations or management status or practices.

30 Federal funds provided through the United States
31 Department of Education are to be used in enabling the
32 Commission and other appropriate State agencies to conduct the
33 oversight activities prescribed in this Section.

34 (Source: P.A. 88-483.)

35 Section 9185. The Nursing Education Scholarship Law is

1 amended by changing Sections 3 and 4 as follows:

2 (110 ILCS 975/3) (from Ch. 144, par. 2753)

3 Sec. 3. Definitions.

4 The following terms, whenever used or referred to, have the
5 following meanings except where the context clearly indicates
6 otherwise:

7 (1) "Board" means the Board of Higher Education created by
8 the Board of Higher Education Act.

9 (2) "Department" means the Illinois Department of Public
10 Health.

11 (3) "Approved institution" means a public community
12 college, private junior college, hospital-based diploma in
13 nursing program, or public or private college or university
14 located in this State that has approval by the Department of
15 Financial and Professional Regulation for an associate degree
16 in nursing program, associate degree in applied sciences in
17 nursing program, hospital-based diploma in nursing program,
18 baccalaureate degree in nursing program, graduate degree in
19 nursing program, or certificate in practical nursing program.

20 (4) "Baccalaureate degree in nursing program" means a
21 program offered by an approved institution and leading to a
22 bachelor of science degree in nursing.

23 (5) "Enrollment" means the establishment and maintenance
24 of an individual's status as a student in an approved
25 institution, regardless of the terms used at the institution to
26 describe such status.

27 (6) "Academic year" means the period of time from September
28 1 of one year through August 31 of the next year or as
29 otherwise defined by the academic institution.

30 (7) "Associate degree in nursing program or hospital-based
31 diploma in nursing program" means a program offered by an
32 approved institution and leading to an associate degree in
33 nursing, associate degree in applied sciences in nursing, or
34 hospital-based diploma in nursing.

35 (8) "Graduate degree in nursing program" means a program

1 offered by an approved institution and leading to a master of
2 science degree in nursing or a doctorate of philosophy or
3 doctorate of nursing degree in nursing.

4 (9) "Director" means the Director of the Illinois
5 Department of Public Health.

6 (10) "Accepted for admission" means a student has completed
7 the requirements for entry into an associate degree in nursing
8 program, associate degree in applied sciences in nursing
9 program, hospital-based diploma in nursing program,
10 baccalaureate degree in nursing program, graduate degree in
11 nursing program, or certificate in practical nursing program at
12 an approved institution, as documented by the institution.

13 (11) "Fees" means those mandatory charges, in addition to
14 tuition, that all enrolled students must pay, including
15 required course or lab fees.

16 (12) "Full-time student" means a student enrolled for at
17 least 12 hours per term or as otherwise determined by the
18 academic institution.

19 (13) "Law" means the Nursing Education Scholarship Law.

20 (14) "Nursing employment obligation" means employment in
21 this State as a registered professional nurse or licensed
22 practical nurse in direct patient care or as a nurse educator
23 in the case of a graduate degree in nursing program recipient
24 for at least one year for each year of scholarship assistance
25 received through the Nursing Education Scholarship Program.

26 (15) "Part-time student" means a person who is enrolled for
27 at least one-third of the number of hours required per term by
28 a school for its full-time students.

29 (16) "Practical nursing program" means a program offered by
30 an approved institution leading to a certificate in practical
31 nursing.

32 (17) "Registered professional nurse" means a person who is
33 currently licensed as a registered professional nurse by the
34 Department of Financial and Professional Regulation or its
35 predecessor, the Department of Professional Regulation, under
36 the Nursing and Advanced Practice Nursing Act.

1 (18) "Licensed practical nurse" means a person who is
2 currently licensed as a licensed practical nurse by the
3 Department of Financial and Professional Regulation or its
4 predecessor, the Department of Professional Regulation, under
5 the Nursing and Advanced Practice Nursing Act.

6 (19) "School term" means an academic term, such as a
7 semester, quarter, trimester, or number of clock hours, as
8 defined by an approved institution.

9 (20) "Student in good standing" means a student maintaining
10 a cumulative grade point average equivalent to at least the
11 academic grade of a "C".

12 (21) "Total and permanent disability" means a physical or
13 mental impairment, disease, or loss of a permanent nature that
14 prevents nursing employment with or without reasonable
15 accommodation. Proof of disability shall be a declaration from
16 the social security administration, Illinois Workers'
17 Compensation Commission, Department of Defense, or an insurer
18 authorized to transact business in Illinois who is providing
19 disability insurance coverage to a contractor.

20 (22) "Tuition" means the established charges of an
21 institution of higher learning for instruction at that
22 institution.

23 (23) "Nurse educator" means a person who is currently
24 licensed as a registered nurse by the Department of Financial
25 and Professional Regulation or its predecessor, the Department
26 of Professional Regulation, under the Nursing and Advanced
27 Practice Nursing Act, who has a graduate degree in nursing, and
28 who is employed by an approved academic institution to educate
29 registered nursing students, licensed practical nursing
30 students, and registered nurses pursuing graduate degrees.

31 (Source: P.A. 92-43, eff. 1-1-02; 93-721, eff. 1-1-05; 93-879,
32 eff. 1-1-05; revised 10-25-04.)

33 (110 ILCS 975/4) (from Ch. 144, par. 2754)

34 Sec. 4. Functions of Department. The Department shall
35 prepare and supervise the issuance of public information about

1 the provisions of this Article; prescribe the form and regulate
2 the submission of applications for scholarships; determine the
3 eligibility of applicants; award the appropriate scholarships;
4 prescribe the contracts or other acknowledgments of
5 scholarship which an applicant is required to execute; and
6 determine whether all or any part of a recipient's scholarship
7 needs to be monetarily repaid, or has been excused from
8 repayment, and the extent of any repayment or excused
9 repayment. The Department may require a recipient to reimburse
10 the State for expenses, including but not limited to attorney's
11 fees, incurred by the Department or other agent of the State
12 for a successful legal action against the recipient for a
13 breach of any provision of the scholarship contract. In a
14 breach of contract, the Department may utilize referral to the
15 Department of Financial and Professional Regulation to revoke,
16 suspend, refuse to renew, place on probationary status, or take
17 other disciplinary action concerning the recipient's
18 credentials. The Department is authorized to make all necessary
19 and proper rules, not inconsistent with this Article, for the
20 efficient exercise of the foregoing functions.

21 (Source: P.A. 92-43, eff. 1-1-02.)

22 Section 9190. The Illinois Banking Act is amended by adding
23 Section 1.5 and changing Section 48 as follows:

24 (205 ILCS 5/1.5 new)

25 Sec. 1.5. References to Office or Commissioner of Banks and
26 Real Estate. On and after the effective date of this amendatory
27 Act of the 94th General Assembly:

28 (1) References in this Act to the Office of Banks and
29 Real Estate or "the Office" mean the Department of
30 Financial and Professional Regulation.

31 (2) References in this Act to the Commissioner of Banks
32 and Real Estate or "the Commissioner" mean the Secretary of
33 Financial and Professional Regulation.

1 (205 ILCS 5/48) (from Ch. 17, par. 359)

2 Sec. 48. Commissioner's powers; duties. The Commissioner
3 shall have the powers and authority, and is charged with the
4 duties and responsibilities designated in this Act, and a State
5 bank shall not be subject to any other visitorial power other
6 than as authorized by this Act, except those vested in the
7 courts, or upon prior consultation with the Commissioner, a
8 foreign bank regulator with an appropriate supervisory
9 interest in the parent or affiliate of a state bank. In the
10 performance of the Commissioner's duties:

11 (1) The Commissioner shall call for statements from all
12 State banks as provided in Section 47 at least one time during
13 each calendar quarter.

14 (2) (a) The Commissioner, as often as the Commissioner
15 shall deem necessary or proper, and no less frequently than 18
16 months following the preceding examination, shall appoint a
17 suitable person or persons to make an examination of the
18 affairs of every State bank, except that for every eligible
19 State bank, as defined by regulation, the Commissioner in lieu
20 of the examination may accept on an alternating basis the
21 examination made by the eligible State bank's appropriate
22 federal banking agency pursuant to Section 111 of the Federal
23 Deposit Insurance Corporation Improvement Act of 1991,
24 provided the appropriate federal banking agency has made such
25 an examination. A person so appointed shall not be a
26 stockholder or officer or employee of any bank which that
27 person may be directed to examine, and shall have powers to
28 make a thorough examination into all the affairs of the bank
29 and in so doing to examine any of the officers or agents or
30 employees thereof on oath and shall make a full and detailed
31 report of the condition of the bank to the Commissioner. In
32 making the examination the examiners shall include an
33 examination of the affairs of all the affiliates of the bank,
34 as defined in subsection (b) of Section 35.2 of this Act, or
35 subsidiaries of the bank as shall be necessary to disclose
36 fully the conditions of the subsidiaries or affiliates, the

1 relations between the bank and the subsidiaries or affiliates
2 and the effect of those relations upon the affairs of the bank,
3 and in connection therewith shall have power to examine any of
4 the officers, directors, agents, or employees of the
5 subsidiaries or affiliates on oath. After May 31, 1997, the
6 Commissioner may enter into cooperative agreements with state
7 regulatory authorities of other states to provide for
8 examination of State bank branches in those states, and the
9 Commissioner may accept reports of examinations of State bank
10 branches from those state regulatory authorities. These
11 cooperative agreements may set forth the manner in which the
12 other state regulatory authorities may be compensated for
13 examinations prepared for and submitted to the Commissioner.

14 (b) After May 31, 1997, the Commissioner is authorized to
15 examine, as often as the Commissioner shall deem necessary or
16 proper, branches of out-of-state banks. The Commissioner may
17 establish and may assess fees to be paid to the Commissioner
18 for examinations under this subsection (b). The fees shall be
19 borne by the out-of-state bank, unless the fees are borne by
20 the state regulatory authority that chartered the out-of-state
21 bank, as determined by a cooperative agreement between the
22 Commissioner and the state regulatory authority that chartered
23 the out-of-state bank.

24 (2.5) Whenever any State bank, any subsidiary or affiliate
25 of a State bank, or after May 31, 1997, any branch of an
26 out-of-state bank causes to be performed, by contract or
27 otherwise, any bank services for itself, whether on or off its
28 premises:

29 (a) that performance shall be subject to examination by
30 the Commissioner to the same extent as if services were
31 being performed by the bank or, after May 31, 1997, branch
32 of the out-of-state bank itself on its own premises; and

33 (b) the bank or, after May 31, 1997, branch of the
34 out-of-state bank shall notify the Commissioner of the
35 existence of a service relationship. The notification
36 shall be submitted with the first statement of condition

1 (as required by Section 47 of this Act) due after the
2 making of the service contract or the performance of the
3 service, whichever occurs first. The Commissioner shall be
4 notified of each subsequent contract in the same manner.

5 For purposes of this subsection (2.5), the term "bank
6 services" means services such as sorting and posting of checks
7 and deposits, computation and posting of interest and other
8 credits and charges, preparation and mailing of checks,
9 statements, notices, and similar items, or any other clerical,
10 bookkeeping, accounting, statistical, or similar functions
11 performed for a State bank, including but not limited to
12 electronic data processing related to those bank services.

13 (3) The expense of administering this Act, including the
14 expense of the examinations of State banks as provided in this
15 Act, shall to the extent of the amounts resulting from the fees
16 provided for in paragraphs (a), (a-2), and (b) of this
17 subsection (3) be assessed against and borne by the State
18 banks:

19 (a) Each bank shall pay to the Commissioner a Call
20 Report Fee which shall be paid in quarterly installments
21 equal to one-fourth of the sum of the annual fixed fee of
22 \$800, plus a variable fee based on the assets shown on the
23 quarterly statement of condition delivered to the
24 Commissioner in accordance with Section 47 for the
25 preceding quarter according to the following schedule: 16¢
26 per \$1,000 of the first \$5,000,000 of total assets, 15¢ per
27 \$1,000 of the next \$20,000,000 of total assets, 13¢ per
28 \$1,000 of the next \$75,000,000 of total assets, 9¢ per
29 \$1,000 of the next \$400,000,000 of total assets, 7¢ per
30 \$1,000 of the next \$500,000,000 of total assets, and 5¢ per
31 \$1,000 of all assets in excess of \$1,000,000,000, of the
32 State bank. The Call Report Fee shall be calculated by the
33 Commissioner and billed to the banks for remittance at the
34 time of the quarterly statements of condition provided for
35 in Section 47. The Commissioner may require payment of the
36 fees provided in this Section by an electronic transfer of

1 funds or an automatic debit of an account of each of the
2 State banks. In case more than one examination of any bank
3 is deemed by the Commissioner to be necessary in any
4 examination frequency cycle specified in subsection 2(a)
5 of this Section, and is performed at his direction, the
6 Commissioner may assess a reasonable additional fee to
7 recover the cost of the additional examination; provided,
8 however, that an examination conducted at the request of
9 the State Treasurer pursuant to the Uniform Disposition of
10 Unclaimed Property Act shall not be deemed to be an
11 additional examination under this Section. In lieu of the
12 method and amounts set forth in this paragraph (a) for the
13 calculation of the Call Report Fee, the Commissioner may
14 specify by rule that the Call Report Fees provided by this
15 Section may be assessed semiannually or some other period
16 and may provide in the rule the formula to be used for
17 calculating and assessing the periodic Call Report Fees to
18 be paid by State banks.

19 (a-1) If in the opinion of the Commissioner an
20 emergency exists or appears likely, the Commissioner may
21 assign an examiner or examiners to monitor the affairs of a
22 State bank with whatever frequency he deems appropriate,
23 including but not limited to a daily basis. The reasonable
24 and necessary expenses of the Commissioner during the
25 period of the monitoring shall be borne by the subject
26 bank. The Commissioner shall furnish the State bank a
27 statement of time and expenses if requested to do so within
28 30 days of the conclusion of the monitoring period.

29 (a-2) On and after January 1, 1990, the reasonable and
30 necessary expenses of the Commissioner during examination
31 of the performance of electronic data processing services
32 under subsection (2.5) shall be borne by the banks for
33 which the services are provided. An amount, based upon a
34 fee structure prescribed by the Commissioner, shall be paid
35 by the banks or, after May 31, 1997, branches of
36 out-of-state banks receiving the electronic data

1 processing services along with the Call Report Fee assessed
2 under paragraph (a) of this subsection (3).

3 (a-3) After May 31, 1997, the reasonable and necessary
4 expenses of the Commissioner during examination of the
5 performance of electronic data processing services under
6 subsection (2.5) at or on behalf of branches of
7 out-of-state banks shall be borne by the out-of-state
8 banks, unless those expenses are borne by the state
9 regulatory authorities that chartered the out-of-state
10 banks, as determined by cooperative agreements between the
11 Commissioner and the state regulatory authorities that
12 chartered the out-of-state banks.

13 (b) "Fiscal year" for purposes of this Section 48 is
14 defined as a period beginning July 1 of any year and ending
15 June 30 of the next year. The Commissioner shall receive
16 for each fiscal year, commencing with the fiscal year
17 ending June 30, 1987, a contingent fee equal to the lesser
18 of the aggregate of the fees paid by all State banks under
19 paragraph (a) of subsection (3) for that year, or the
20 amount, if any, whereby the aggregate of the administration
21 expenses, as defined in paragraph (c), for that fiscal year
22 exceeds the sum of the aggregate of the fees payable by all
23 State banks for that year under paragraph (a) of subsection
24 (3), plus any amounts transferred into the Bank and Trust
25 Company Fund from the State Pensions Fund for that year,
26 plus all other amounts collected by the Commissioner for
27 that year under any other provision of this Act, plus the
28 aggregate of all fees collected for that year by the
29 Commissioner under the Corporate Fiduciary Act, excluding
30 the receivership fees provided for in Section 5-10 of the
31 Corporate Fiduciary Act, and the Foreign Banking Office
32 Act. The aggregate amount of the contingent fee thus
33 arrived at for any fiscal year shall be apportioned
34 amongst, assessed upon, and paid by the State banks and
35 foreign banking corporations, respectively, in the same
36 proportion that the fee of each under paragraph (a) of

1 subsection (3), respectively, for that year bears to the
2 aggregate for that year of the fees collected under
3 paragraph (a) of subsection (3). The aggregate amount of
4 the contingent fee, and the portion thereof to be assessed
5 upon each State bank and foreign banking corporation,
6 respectively, shall be determined by the Commissioner and
7 shall be paid by each, respectively, within 120 days of the
8 close of the period for which the contingent fee is
9 computed and is payable, and the Commissioner shall give 20
10 days advance notice of the amount of the contingent fee
11 payable by the State bank and of the date fixed by the
12 Commissioner for payment of the fee.

13 (c) The "administration expenses" for any fiscal year
14 shall mean the ordinary and contingent expenses for that
15 year incident to making the examinations provided for by,
16 and for otherwise administering, this Act, the Corporate
17 Fiduciary Act, excluding the expenses paid from the
18 Corporate Fiduciary Receivership account in the Bank and
19 Trust Company Fund, the Foreign Banking Office Act, the
20 Electronic Fund Transfer Act, and the Illinois Bank
21 Examiners' Education Foundation Act, including all
22 salaries and other compensation paid for personal services
23 rendered for the State by officers or employees of the
24 State, including the Commissioner and the Deputy
25 Commissioners, all expenditures for telephone and
26 telegraph charges, postage and postal charges, office
27 stationery, supplies and services, and office furniture
28 and equipment, including typewriters and copying and
29 duplicating machines and filing equipment, surety bond
30 premiums, and travel expenses of those officers and
31 employees, employees, expenditures or charges for the
32 acquisition, enlargement or improvement of, or for the use
33 of, any office space, building, or structure, or
34 expenditures for the maintenance thereof or for furnishing
35 heat, light, or power with respect thereto, all to the
36 extent that those expenditures are directly incidental to

1 such examinations or administration. The Commissioner
2 shall not be required by paragraphs (c) or (d-1) of this
3 subsection (3) to maintain in any fiscal year's budget
4 appropriated reserves for accrued vacation and accrued
5 sick leave that is required to be paid to employees of the
6 Commissioner upon termination of their service with the
7 Commissioner in an amount that is more than is reasonably
8 anticipated to be necessary for any anticipated turnover in
9 employees, whether due to normal attrition or due to
10 layoffs, terminations, or resignations.

11 (d) The aggregate of all fees collected by the
12 Commissioner under this Act, the Corporate Fiduciary Act,
13 or the Foreign Banking Office Act on and after July 1,
14 1979, shall be paid promptly after receipt of the same,
15 accompanied by a detailed statement thereof, into the State
16 treasury and shall be set apart in a special fund to be
17 known as the "Bank and Trust Company Fund", except as
18 provided in paragraph (c) of subsection (11) of this
19 Section. All earnings received from investments of funds in
20 the Bank and Trust Company Fund shall be deposited in the
21 Bank and Trust Company Fund and may be used for the same
22 purposes as fees deposited in that Fund. The amount from
23 time to time deposited into the Bank and Trust Company Fund
24 shall be used to offset the ordinary administrative
25 expenses of the Commissioner of Banks and Real Estate as
26 defined in this Section. Nothing in this amendatory Act of
27 1979 shall prevent continuing the practice of paying
28 expenses involving salaries, retirement, social security,
29 and State-paid insurance premiums of State officers by
30 appropriations from the General Revenue Fund. However, the
31 General Revenue Fund shall be reimbursed for those payments
32 made on and after July 1, 1979, by an annual transfer of
33 funds from the Bank and Trust Company Fund. Moneys in the
34 Bank and Trust Company Fund may be transferred to the
35 Professions Indirect Cost Fund as authorized under Section
36 70 of the Department of Financial and Professional

1 Regulation Act.

2 (d-1) Adequate funds shall be available in the Bank and
3 Trust Company Fund to permit the timely payment of
4 administration expenses. In each fiscal year the total
5 administration expenses shall be deducted from the total
6 fees collected by the Commissioner and the remainder
7 transferred into the Cash Flow Reserve Account, unless the
8 balance of the Cash Flow Reserve Account prior to the
9 transfer equals or exceeds one-fourth of the total initial
10 appropriations from the Bank and Trust Company Fund for the
11 subsequent year, in which case the remainder shall be
12 credited to State banks and foreign banking corporations
13 and applied against their fees for the subsequent year. The
14 amount credited to each State bank and foreign banking
15 corporation shall be in the same proportion as the Call
16 Report Fees paid by each for the year bear to the total
17 Call Report Fees collected for the year. If, after a
18 transfer to the Cash Flow Reserve Account is made or if no
19 remainder is available for transfer, the balance of the
20 Cash Flow Reserve Account is less than one-fourth of the
21 total initial appropriations for the subsequent year and
22 the amount transferred is less than 5% of the total Call
23 Report Fees for the year, additional amounts needed to make
24 the transfer equal to 5% of the total Call Report Fees for
25 the year shall be apportioned amongst, assessed upon, and
26 paid by the State banks and foreign banking corporations in
27 the same proportion that the Call Report Fees of each,
28 respectively, for the year bear to the total Call Report
29 Fees collected for the year. The additional amounts
30 assessed shall be transferred into the Cash Flow Reserve
31 Account. For purposes of this paragraph (d-1), the
32 calculation of the fees collected by the Commissioner shall
33 exclude the receivership fees provided for in Section 5-10
34 of the Corporate Fiduciary Act.

35 (e) The Commissioner may upon request certify to any
36 public record in his keeping and shall have authority to

1 levy a reasonable charge for issuing certifications of any
2 public record in his keeping.

3 (f) In addition to fees authorized elsewhere in this
4 Act, the Commissioner may, in connection with a review,
5 approval, or provision of a service, levy a reasonable
6 charge to recover the cost of the review, approval, or
7 service.

8 (4) Nothing contained in this Act shall be construed to
9 limit the obligation relative to examinations and reports of
10 any State bank, deposits in which are to any extent insured by
11 the United States or any agency thereof, nor to limit in any
12 way the powers of the Commissioner with reference to
13 examinations and reports of that bank.

14 (5) The nature and condition of the assets in or investment
15 of any bonus, pension, or profit sharing plan for officers or
16 employees of every State bank or, after May 31, 1997, branch of
17 an out-of-state bank shall be deemed to be included in the
18 affairs of that State bank or branch of an out-of-state bank
19 subject to examination by the Commissioner under the provisions
20 of subsection (2) of this Section, and if the Commissioner
21 shall find from an examination that the condition of or
22 operation of the investments or assets of the plan is unlawful,
23 fraudulent, or unsafe, or that any trustee has abused his
24 trust, the Commissioner shall, if the situation so found by the
25 Commissioner shall not be corrected to his satisfaction within
26 60 days after the Commissioner has given notice to the board of
27 directors of the State bank or out-of-state bank of his
28 findings, report the facts to the Attorney General who shall
29 thereupon institute proceedings against the State bank or
30 out-of-state bank, the board of directors thereof, or the
31 trustees under such plan as the nature of the case may require.

32 (6) The Commissioner shall have the power:

33 (a) To promulgate reasonable rules for the purpose of
34 administering the provisions of this Act.

35 (a-5) To impose conditions on any approval issued by
36 the Commissioner if he determines that the conditions are

1 necessary or appropriate. These conditions shall be
2 imposed in writing and shall continue in effect for the
3 period prescribed by the Commissioner.

4 (b) To issue orders against any person, if the
5 Commissioner has reasonable cause to believe that an unsafe
6 or unsound banking practice has occurred, is occurring, or
7 is about to occur, if any person has violated, is
8 violating, or is about to violate any law, rule, or written
9 agreement with the Commissioner, or for the purpose of
10 administering the provisions of this Act and any rule
11 promulgated in accordance with this Act.

12 (b-1) To enter into agreements with a bank establishing
13 a program to correct the condition of the bank or its
14 practices.

15 (c) To appoint hearing officers to execute any of the
16 powers granted to the Commissioner under this Section for
17 the purpose of administering this Act and any rule
18 promulgated in accordance with this Act and otherwise to
19 authorize, in writing, an officer or employee of the Office
20 of Banks and Real Estate to exercise his powers under this
21 Act.

22 (d) To subpoena witnesses, to compel their attendance,
23 to administer an oath, to examine any person under oath,
24 and to require the production of any relevant books,
25 papers, accounts, and documents in the course of and
26 pursuant to any investigation being conducted, or any
27 action being taken, by the Commissioner in respect of any
28 matter relating to the duties imposed upon, or the powers
29 vested in, the Commissioner under the provisions of this
30 Act or any rule promulgated in accordance with this Act.

31 (e) To conduct hearings.

32 (7) Whenever, in the opinion of the Commissioner, any
33 director, officer, employee, or agent of a State bank or any
34 subsidiary or bank holding company of the bank or, after May
35 31, 1997, of any branch of an out-of-state bank or any
36 subsidiary or bank holding company of the bank shall have

1 violated any law, rule, or order relating to that bank or any
2 subsidiary or bank holding company of the bank, shall have
3 obstructed or impeded any examination or investigation by the
4 Commissioner, shall have engaged in an unsafe or unsound
5 practice in conducting the business of that bank or any
6 subsidiary or bank holding company of the bank, or shall have
7 violated any law or engaged or participated in any unsafe or
8 unsound practice in connection with any financial institution
9 or other business entity such that the character and fitness of
10 the director, officer, employee, or agent does not assure
11 reasonable promise of safe and sound operation of the State
12 bank, the Commissioner may issue an order of removal. If, in
13 the opinion of the Commissioner, any former director, officer,
14 employee, or agent of a State bank or any subsidiary or bank
15 holding company of the bank, prior to the termination of his or
16 her service with that bank or any subsidiary or bank holding
17 company of the bank, violated any law, rule, or order relating
18 to that State bank or any subsidiary or bank holding company of
19 the bank, obstructed or impeded any examination or
20 investigation by the Commissioner, engaged in an unsafe or
21 unsound practice in conducting the business of that bank or any
22 subsidiary or bank holding company of the bank, or violated any
23 law or engaged or participated in any unsafe or unsound
24 practice in connection with any financial institution or other
25 business entity such that the character and fitness of the
26 director, officer, employee, or agent would not have assured
27 reasonable promise of safe and sound operation of the State
28 bank, the Commissioner may issue an order prohibiting that
29 person from further service with a bank or any subsidiary or
30 bank holding company of the bank as a director, officer,
31 employee, or agent. An order issued pursuant to this subsection
32 shall be served upon the director, officer, employee, or agent.
33 A copy of the order shall be sent to each director of the bank
34 affected by registered mail. The person affected by the action
35 may request a hearing before the State Banking Board within 10
36 days after receipt of the order. The hearing shall be held by

1 the Board within 30 days after the request has been received by
2 the Board. The Board shall make a determination approving,
3 modifying, or disapproving the order of the Commissioner as its
4 final administrative decision. If a hearing is held by the
5 Board, the Board shall make its determination within 60 days
6 from the conclusion of the hearing. Any person affected by a
7 decision of the Board under this subsection (7) of Section 48
8 of this Act may have the decision reviewed only under and in
9 accordance with the Administrative Review Law and the rules
10 adopted pursuant thereto. A copy of the order shall also be
11 served upon the bank of which he is a director, officer,
12 employee, or agent, whereupon he shall cease to be a director,
13 officer, employee, or agent of that bank. The Commissioner may
14 institute a civil action against the director, officer, or
15 agent of the State bank or, after May 31, 1997, of the branch
16 of the out-of-state bank against whom any order provided for by
17 this subsection (7) of this Section 48 has been issued, and
18 against the State bank or, after May 31, 1997, out-of-state
19 bank, to enforce compliance with or to enjoin any violation of
20 the terms of the order. Any person who has been the subject of
21 an order of removal or an order of prohibition issued by the
22 Commissioner under this subsection or Section 5-6 of the
23 Corporate Fiduciary Act may not thereafter serve as director,
24 officer, employee, or agent of any State bank or of any branch
25 of any out-of-state bank, or of any corporate fiduciary, as
26 defined in Section 1-5.05 of the Corporate Fiduciary Act, or of
27 any other entity that is subject to licensure or regulation by
28 the Commissioner or the Office of Banks and Real Estate unless
29 the Commissioner has granted prior approval in writing.

30 For purposes of this paragraph (7), "bank holding company"
31 has the meaning prescribed in Section 2 of the Illinois Bank
32 Holding Company Act of 1957.

33 (8) The Commissioner may impose civil penalties of up to
34 \$10,000 against any person for each violation of any provision
35 of this Act, any rule promulgated in accordance with this Act,
36 any order of the Commissioner, or any other action which in the

1 Commissioner's discretion is an unsafe or unsound banking
2 practice.

3 (9) The Commissioner may impose civil penalties of up to
4 \$100 against any person for the first failure to comply with
5 reporting requirements set forth in the report of examination
6 of the bank and up to \$200 for the second and subsequent
7 failures to comply with those reporting requirements.

8 (10) All final administrative decisions of the
9 Commissioner hereunder shall be subject to judicial review
10 pursuant to the provisions of the Administrative Review Law.
11 For matters involving administrative review, venue shall be in
12 either Sangamon County or Cook County.

13 (11) The endowment fund for the Illinois Bank Examiners'
14 Education Foundation shall be administered as follows:

15 (a) (Blank).

16 (b) The Foundation is empowered to receive voluntary
17 contributions, gifts, grants, bequests, and donations on
18 behalf of the Illinois Bank Examiners' Education
19 Foundation from national banks and other persons for the
20 purpose of funding the endowment of the Illinois Bank
21 Examiners' Education Foundation.

22 (c) The aggregate of all special educational fees
23 collected by the Commissioner and property received by the
24 Commissioner on behalf of the Illinois Bank Examiners'
25 Education Foundation under this subsection (11) on or after
26 June 30, 1986, shall be either (i) promptly paid after
27 receipt of the same, accompanied by a detailed statement
28 thereof, into the State Treasury and shall be set apart in
29 a special fund to be known as "The Illinois Bank Examiners'
30 Education Fund" to be invested by either the Treasurer of
31 the State of Illinois in the Public Treasurers' Investment
32 Pool or in any other investment he is authorized to make or
33 by the Illinois State Board of Investment as the board of
34 trustees of the Illinois Bank Examiners' Education
35 Foundation may direct or (ii) deposited into an account
36 maintained in a commercial bank or corporate fiduciary in

1 the name of the Illinois Bank Examiners' Education
2 Foundation pursuant to the order and direction of the Board
3 of Trustees of the Illinois Bank Examiners' Education
4 Foundation.

5 (12) (Blank).

6 (Source: P.A. 91-16, eff. 7-1-99; 92-20, eff. 7-1-01; 92-483,
7 eff. 8-23-01; 92-651, eff. 7-11-02.)

8 Section 9195. The Illinois Bank Holding Company Act of 1957
9 is amended by adding Section 1.5 as follows:

10 (205 ILCS 10/1.5 new)

11 Sec. 1.5. References to Office or Commissioner of Banks and
12 Real Estate. On and after the effective date of this amendatory
13 Act of the 94th General Assembly:

14 (1) References in this Act to the Office of Banks and
15 Real Estate or "the Office" mean the Department of
16 Financial and Professional Regulation.

17 (2) References in this Act to the Commissioner of Banks
18 and Real Estate or "the Commissioner" mean the Secretary of
19 Financial and Professional Regulation.

20 Section 9200. The Illinois Savings and Loan Act of 1985 is
21 amended by adding Section 1-1.5 and changing Section 7-19.1 as
22 follows:

23 (205 ILCS 105/1-1.5 new)

24 Sec. 1-1.5. References to Office or Commissioner of Banks
25 and Real Estate. On and after the effective date of this
26 amendatory Act of the 94th General Assembly:

27 (1) References in this Act to the Office of Banks and
28 Real Estate or "the Office" mean the Department of
29 Financial and Professional Regulation.

30 (2) References in this Act to the Commissioner of Banks
31 and Real Estate or "the Commissioner" mean the Secretary of
32 Financial and Professional Regulation.

1 (205 ILCS 105/7-19.1) (from Ch. 17, par. 3307-19.1)

2 Sec. 7-19.1. Savings and Residential Finance Regulatory
3 Fund.

4 (a) The aggregate of all fees collected by the Commissioner
5 under this Act shall be paid promptly after receipt of the
6 same, accompanied by a detailed statement thereof, into the
7 State treasury and shall be set apart in the Savings and
8 Residential Finance Regulatory Fund, a special fund hereby
9 created in the State treasury. The amounts deposited into the
10 Fund shall be used for the ordinary and contingent expenses of
11 the Office of Banks and Real Estate. Nothing in this Act shall
12 prevent continuing the practice of paying expenses involving
13 salaries, retirement, social security, and State-paid
14 insurance of State officers by appropriation from the General
15 Revenue Fund.

16 (b) Except as provided in subsection (b-5), moneys ~~Moneys~~
17 in the Savings and Residential Finance Regulatory Fund may not
18 be appropriated, assigned, or transferred to another State
19 fund. The moneys in the Fund shall be for the sole benefit of
20 the institutions assessed.

21 (b-5) Moneys in the Savings and Residential Finance
22 Regulatory Fund may be transferred to the Professions Indirect
23 Cost Fund as authorized under Section 70 of the Department of
24 Financial and Professional Regulation Act.

25 (c) All earnings received from investments of funds in the
26 Savings and Residential Finance Regulatory Fund shall be
27 deposited into the Savings and Residential Finance Regulatory
28 Fund and may be used for the same purposes as fees deposited
29 into that Fund.

30 (Source: P.A. 92-700, eff. 7-19-02.)

31 Section 9205. The Savings Bank Act is amended by adding
32 Section 1001.5 as follows:

33 (205 ILCS 205/1001.5 new)

1 Sec. 1001.5. References to Office or Commissioner of Banks
2 and Real Estate. On and after the effective date of this
3 amendatory Act of the 94th General Assembly:

4 (1) References in this Act to the Office of Banks and
5 Real Estate or "the Office" mean the Department of
6 Financial and Professional Regulation.

7 (2) References in this Act to the Commissioner of Banks
8 and Real Estate or "the Commissioner" mean the Secretary of
9 Financial and Professional Regulation.

10 Section 9210. The Illinois Credit Union Act is amended by
11 changing Sections 12 and 58 and by adding Section 1.05 as
12 follows:

13 (205 ILCS 305/1.05 new)

14 Sec. 1.05. References to Department or Director of
15 Financial Institutions. On and after the effective date of this
16 amendatory Act of the 94th General Assembly:

17 (1) References in this Act to the Department of
18 Financial Institutions or "the Department" mean the
19 Department of Financial and Professional Regulation.

20 (2) References in this Act to the Director of Financial
21 Institutions or "the Director" mean the Secretary of
22 Financial and Professional Regulation.

23 (205 ILCS 305/12) (from Ch. 17, par. 4413)

24 Sec. 12. Regulatory fees.

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

TOTAL ASSETS	REGULATORY FEE
\$25,000 or less	\$100
Over \$25,000 and not over	
\$100,000	\$100 plus \$4 per
	\$1,000 of assets in excess of
	\$25,000

1	Over \$100,000 and not over	
2	\$200,000	\$400 plus \$3 per
3		\$1,000 of assets in excess of
4		\$100,000
5	Over \$200,000 and not over	
6	\$500,000	\$700 plus \$2 per
7		\$1,000 of assets in excess of
8		\$200,000
9	Over \$500,000 and not over	
10	\$1,000,000	\$1,300 plus \$1.40
11		per \$1,000 of assets in excess
12		of \$500,000
13	Over \$1,000,000 and not	
14	over \$5,000,000	\$2,000 plus \$0.50
15		per \$1,000 of assets in
16		excess of \$1,000,000
17	Over \$5,000,000 and not	
18	over \$30,000,000	\$5,080 plus \$0.44
19		per \$1,000 assets
20		in excess of \$5,000,000
21	Over \$30,000,000 and not	
22	over \$100,000,000	\$16,192 plus \$0.38
23		per \$1,000 of assets in
24		excess of \$30,000,000
25	Over \$100,000,000 and not	
26	over \$500,000,000	\$42,862 plus \$0.19
27		per \$1,000 of assets in
28		excess of \$100,000,000
29	Over \$500,000,000	\$140,625 plus \$0.075
30		per \$1,000 of assets in
31		excess of \$500,000,000

32 (2) The Director shall review the regulatory fee schedule
33 in subsection (1) and the projected earnings on those fees on
34 an annual basis and adjust the fee schedule no more than 5%
35 annually if necessary to defray the estimated administrative
36 and operational expenses of the Department as defined in

1 subsection (5). The Director shall provide credit unions with
2 written notice of any adjustment made in the regulatory fee
3 schedule.

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

15 (4) The aggregate of all fees collected by the Department
16 under this Act shall be paid promptly after they are received,
17 accompanied by a detailed statement thereof, into the State
18 Treasury and shall be set apart in the Credit Union Fund, a
19 special fund hereby created in the State treasury. The amount
20 from time to time deposited in the Credit Union Fund and shall
21 be used to offset the ordinary administrative and operational
22 expenses of the Department under this Act. All earnings
23 received from investments of funds in the Credit Union Fund
24 shall be deposited into the Credit Union Fund and may be used
25 for the same purposes as fees deposited into that Fund. Moneys
26 in the Credit Union Fund may be transferred to the Professions
27 Indirect Cost Fund as authorized under Section 70 of the
28 Department of Financial and Professional Regulation Act.

29 (5) The administrative and operational expenses for any
30 calendar year shall mean the ordinary and contingent expenses
31 for that year incidental to making the examinations provided
32 for by, and for administering, this Act, including all salaries
33 and other compensation paid for personal services rendered for
34 the State by officers or employees of the State to enforce this
35 Act; all expenditures for telephone and telegraph charges,
36 postage and postal charges, office supplies and services,

1 furniture and equipment, office space and maintenance thereof,
2 travel expenses and other necessary expenses; all to the extent
3 that such expenditures are directly incidental to such
4 examination or administration.

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

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

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

22 (Source: P.A. 92-293, eff. 8-9-01; 93-32, eff. 7-1-03; 93-652,
23 eff. 1-8-04.)

24 (205 ILCS 305/58) (from Ch. 17, par. 4459)

25 Sec. 58. Share insurance.

26 (1) Each credit union operating in this State shall insure
27 its share accounts with the NCUA, under 12 U.S.C. 1781 et seq.
28 (Sec. 201 et seq. of the Federal Credit Union Act) or with such
29 other insurers as may be ~~jointly~~ approved by the Secretary of
30 Financial and Professional Regulation ~~Director of Financial~~
31 ~~Institutions and the Director of Insurance~~. Each approved
32 insurer shall be found to be financially sound and to employ
33 approved actuarial practices. The Secretary ~~Director~~ shall
34 determine that a firm commitment to insure share accounts has
35 been issued before a charter may be granted for a new credit

1 union. Application for such insurance by credit unions in
2 existence on the effective date of this Section shall be made
3 not later than December 31, 1981 and such credit unions shall
4 receive a commitment to insure share accounts by December 31,
5 1984.

6 (2) A credit union which has been denied a commitment of
7 insurance of accounts shall either dissolve, merge with another
8 credit union, or apply in writing, within 30 days of denial, to
9 the Secretary ~~Director~~ for additional time to obtain an
10 insurance commitment. The Secretary ~~Director~~ may grant up to 24
11 months additional time upon satisfactory evidence that the
12 credit union is making a substantial effort to achieve the
13 conditions precedent to issuance of the commitment.

14 (3) The Secretary ~~Director~~ shall cooperate with the NCUA or
15 other approved insurers by furnishing copies of financial and
16 examination reports and other information bearing on the
17 financial condition of any credit union.

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

19 Section 9215. The Currency Exchange Act is amended by
20 adding Section 0.1a as follows:

21 (205 ILCS 405/0.1a new)

22 Sec. 0.1a. References to Department or Director of
23 Financial Institutions. On and after the effective date of this
24 amendatory Act of the 94th General Assembly:

25 (1) References in this Act to the Department of
26 Financial Institutions or "the Department" mean the
27 Department of Financial and Professional Regulation.

28 (2) References in this Act to the Director of Financial
29 Institutions or "the Director" mean the Secretary of
30 Financial and Professional Regulation.

31 Section 9220. The Pawnbroker Regulation Act is amended by
32 adding Section 0.02 and changing Section 0.05 as follows:

1 (205 ILCS 510/0.02 new)

2 Sec. 0.02. References to Office or Commissioner of Banks
3 and Real Estate. On and after the effective date of this
4 amendatory Act of the 94th General Assembly:

5 (1) References in this Act to the Office of Banks and
6 Real Estate or "the Office" mean the Department of
7 Financial and Professional Regulation.

8 (2) References in this Act to the Commissioner of Banks
9 and Real Estate or "the Commissioner" mean the Secretary of
10 Financial and Professional Regulation.

11 (205 ILCS 510/0.05)

12 Sec. 0.05. Administration of Act.

13 (a) This Act shall be administered by the Commissioner of
14 Banks and Real Estate who shall have all of the following
15 powers and duties in administering this Act:

16 (1) To promulgate reasonable rules for the purpose of
17 administering the provisions of this Act.

18 (2) To issue orders for the purpose of administering
19 the provisions of this Act and any rule promulgated in
20 accordance with this Act.

21 (3) To appoint hearing officers and to hire employees
22 or to contract with appropriate persons to execute any of
23 the powers granted to the Commissioner under this Section
24 for the purpose of administering this Act and any rule
25 promulgated in accordance with this Act.

26 (4) To subpoena witnesses, to compel their attendance,
27 to administer an oath, to examine any person under oath,
28 and to require the production of any relevant books,
29 papers, accounts, and documents in the course of and
30 pursuant to any investigation being conducted, or any
31 action being taken, by the Commissioner in respect of any
32 matter relating to the duties imposed upon, or the powers
33 vested in, the Commissioner under the provisions of this
34 Act or any rule promulgated in accordance with this Act.

35 (5) To conduct hearings.

1 (6) To impose civil penalties graduated up to \$1,000
2 against any person for each violation of any provision of
3 this Act, any rule promulgated in accordance with this Act,
4 or any order of the Commissioner based upon the seriousness
5 of the violation.

6 (6.5) To initiate, through the Attorney General,
7 injunction proceedings whenever it appears to the
8 Commissioner that any person, whether licensed under this
9 Act or not, is engaged or about to engage in an act or
10 practice that constitutes or will constitute a violation of
11 this Act or any rule prescribed under the authority of this
12 Act. The Commissioner may, in his or her discretion,
13 through the Attorney General, apply for an injunction, and
14 upon a proper showing, any circuit court may enter a
15 permanent or preliminary injunction or a temporary
16 restraining order without bond to enforce this Act in
17 addition to the penalties and other remedies provided for
18 in this Act.

19 (7) To issue a cease and desist order and, for
20 violations of this Act, any order issued by the
21 Commissioner pursuant to this Act, any rule promulgated in
22 accordance with this Act, or any other applicable law in
23 connection with the operation of a pawnshop, to suspend a
24 license issued under this Act for up to 30 days.

25 (8) To determine compliance with applicable law and
26 rules related to the operation of pawnshops and to verify
27 the accuracy of reports filed with the Commissioner, the
28 Commissioner, not more than one time every 2 years, may,
29 but is not required to, conduct a routine examination of a
30 pawnshop, and in addition, the Commissioner may examine the
31 affairs of any pawnshop at any time if the Commissioner has
32 reasonable cause to believe that unlawful or fraudulent
33 activity is occurring, or has occurred, therein.

34 (9) In response to a complaint, to address any
35 inquiries to any pawnshop in relation to its affairs, and
36 it shall be the duty of the pawnshop to promptly reply in

1 writing to such inquiries. The Commissioner may also
2 require reports or information from any pawnshop at any
3 time the Commissioner may deem desirable.

4 (10) To revoke a license issued under this Act if the
5 Commissioner determines that (a) a licensee has been
6 convicted of a felony in connection with the operations of
7 a pawnshop; (b) a licensee knowingly, recklessly, or
8 continuously violated this Act, a rule promulgated in
9 accordance with this Act, or any order of the Commissioner;
10 (c) a fact or condition exists that, if it had existed or
11 had been known at the time of the original application,
12 would have justified license refusal; or (d) the licensee
13 knowingly submits materially false or misleading documents
14 with the intent to deceive the Commissioner or any other
15 party.

16 (11) Following license revocation, to take possession
17 and control of a pawnshop for the purpose of examination,
18 reorganization, or liquidation through receivership and to
19 appoint a receiver, which may be the Commissioner, a
20 pawnshop, or another suitable person.

21 (b) After consultation with local law enforcement
22 officers, the Attorney General, and the industry, the
23 Commissioner may by rule require that pawnbrokers operate video
24 camera surveillance systems to record photographic
25 representations of customers and retain the tapes produced for
26 up to 30 days.

27 (c) Pursuant to rule, the Commissioner shall issue licenses
28 on an annual or multi-year basis for operating a pawnshop. Any
29 person currently operating or who has operated a pawnshop in
30 this State during the 2 years preceding the effective date of
31 this amendatory Act of 1997 shall be issued a license upon
32 payment of the fee required under this Act. New applicants
33 shall meet standards for a license as established by the
34 Commissioner. Except with the prior written consent of the
35 Commissioner, no individual, either a new applicant or a person
36 currently operating a pawnshop, may be issued a license to

1 operate a pawnshop if the individual has been convicted of a
2 felony or of any criminal offense relating to dishonesty or
3 breach of trust in connection with the operations of a
4 pawnshop. The Commissioner shall establish license fees. The
5 fees shall not exceed the amount reasonably required for
6 administration of this Act. It shall be unlawful to operate a
7 pawnshop without a license issued by the Commissioner.

8 (d) In addition to license fees, the Commissioner may, by
9 rule, establish fees in connection with a review, approval, or
10 provision of a service, and levy a reasonable charge to recover
11 the cost of the review, approval, or service (such as a change
12 in control, change in location, or renewal of a license). The
13 Commissioner may also levy a reasonable charge to recover the
14 cost of an examination if the Commissioner determines that
15 unlawful or fraudulent activity has occurred. The Commissioner
16 may require payment of the fees and charges provided in this
17 Act by certified check, money order, an electronic transfer of
18 funds, or an automatic debit of an account.

19 (e) The Pawnbroker Regulation Fund is established as a
20 special fund in the State treasury. Moneys collected under this
21 Act shall be deposited into the Fund and used for the
22 administration of this Act. In the event that General Revenue
23 Funds are appropriated to the Office of the Commissioner of
24 Banks and Real Estate for the initial implementation of this
25 Act, the Governor may direct the repayment from the Pawnbroker
26 Regulation Fund to the General Revenue Fund of such advance in
27 an amount not to exceed \$30,000. The Governor may direct this
28 interfund transfer at such time as he deems appropriate by
29 giving appropriate written notice. Moneys in the Pawnbroker
30 Regulation Fund may be transferred to the Professions Indirect
31 Cost Fund as authorized under Section 70 of the Department of
32 Financial and Professional Regulation Act.

33 (f) The Commissioner may, by rule, require all pawnshops to
34 provide for the expenses that would arise from the
35 administration of the receivership of a pawnshop under this Act
36 through the assessment of fees, the requirement to pledge

1 surety bonds, or such other methods as determined by the
2 Commissioner.

3 (g) All final administrative decisions of the Commissioner
4 under this Act shall be subject to judicial review pursuant to
5 the provisions of the Administrative Review Law. For matters
6 involving administrative review, venue shall be in either
7 Sangamon County or Cook County.

8 (Source: P.A. 92-215, eff. 8-2-01.)

9 Section 9222. The Banking Emergencies Act is amended by
10 adding Section 0.5 as follows:

11 (205 ILCS 610/0.5 new)

12 Sec. 0.5. References to Office or Commissioner of Banks and
13 Real Estate. On and after the effective date of this amendatory
14 Act of the 94th General Assembly:

15 (1) References in this Act to the Office of Banks and
16 Real Estate or "the Office" mean the Department of
17 Financial and Professional Regulation.

18 (2) References in this Act to the Commissioner of Banks
19 and Real Estate or "the Commissioner" mean the Secretary of
20 Financial and Professional Regulation.

21 Section 9225. The Electronic Fund Transfer Act is amended
22 by adding Section 2 as follows:

23 (205 ILCS 616/2 new)

24 Sec. 2. References to Office or Commissioner of Banks and
25 Real Estate. On and after the effective date of this amendatory
26 Act of the 94th General Assembly:

27 (1) References in this Act to the Office of Banks and
28 Real Estate or "the Office" mean the Department of
29 Financial and Professional Regulation.

30 (2) References in this Act to the Commissioner of Banks
31 and Real Estate or "the Commissioner" mean the Secretary of
32 Financial and Professional Regulation.

1 Section 9230. The Corporate Fiduciary Act is amended by
2 adding Section 1-1.5 as follows:

3 (205 ILCS 620/1-1.5 new)

4 Sec. 1-1.5. References to Office or Commissioner of Banks
5 and Real Estate. On and after the effective date of this
6 amendatory Act of the 94th General Assembly:

7 (1) References in this Act to the Office of Banks and
8 Real Estate or "the Office" mean the Department of
9 Financial and Professional Regulation.

10 (2) References in this Act to the Commissioner of Banks
11 and Real Estate or "the Commissioner" mean the Secretary of
12 Financial and Professional Regulation.

13 Section 9235. The Promissory Note and Bank Holiday Act is
14 amended by changing Section 17 as follows:

15 (205 ILCS 630/17) (from Ch. 17, par. 2201)

16 Sec. 17. Holidays.

17 (a) The following days shall be legal holidays in the State
18 of Illinois upon which day a bank may, but is not required to,
19 remain closed:

20 the first day of January (New Year's Day);

21 the third Monday in January (observance of Martin Luther
22 King, Jr.'s birthday);

23 the twelfth day in February (Abraham Lincoln's birthday);

24 the third Monday in February (Presidents Day);

25 the first Monday in March (observance of Casimir Pulaski's
26 birthday);

27 the Friday preceding Easter Sunday (Good Friday);

28 the last Monday of May (Memorial Day);

29 the fourth day of July (Independence Day);

30 the first Monday in September (Labor Day);

31 the second Monday in October (Columbus Day);

32 the eleventh day of November (Veterans' Day);

1 the fourth Thursday in November (Thanksgiving Day);
2 the twenty-fifth day in December (Christmas Day);
3 the days upon which the general elections for members of
4 the House of Representatives are held, and any day proclaimed
5 by the Governor of this State as a legal holiday. From 12
6 o'clock noon to 12 o'clock midnight of each Saturday shall be
7 considered a half holiday. In addition to such holidays and
8 half-holidays, a bank may select one day of the week to remain
9 closed, as provided in subsection (b) of this Section.

10 (b) Any bank doing business within this State may select
11 any one day of the week to remain closed on a regular basis
12 upon adoption of a resolution by the board of directors of such
13 bank designating the day selected and upon filing and
14 publishing a copy of such resolution as hereinafter required.
15 Any such resolution shall be deemed effective for the purpose
16 of this Section only when a copy thereof, certified by an
17 officer having charge of the records of such bank, is filed
18 with the Recorder of the county in which such bank is located
19 and published once each week for 3 successive weeks in a
20 newspaper of general circulation in such county. Such
21 publication shall be accomplished by, and at the expense of,
22 the bank, and the bank shall submit to the Secretary of
23 Financial and Professional Regulation ~~Commissioner of Banks~~
24 ~~and Real Estate~~ such evidence of the publication as the
25 Secretary ~~Commissioner~~ shall deem appropriate. Any such
26 selection shall remain in full force and effect until a copy of
27 the later resolution of the board of directors of such bank,
28 certified in like manner, terminating or altering any such
29 prior selection shall be filed and published in the same manner
30 as such prior resolution.

31 (c) If an occasion arises when a state bank wishes to
32 remain closed on a particular day, other than a day on which
33 the bank has selected to remain closed on a regular basis as
34 provided in this Section, such state bank may remain closed on
35 such an occasion after first sending to the Secretary
36 ~~Commissioner~~ a copy of a resolution adopted by the board of

1 directors authorizing the bank to remain closed on such
2 occasion and notice of the intent to remain closed on such
3 occasion shall be conspicuously posted in the lobby of the main
4 banking office and any branches of such bank for at least 3
5 weeks in advance of such occasion. Any day which any bank doing
6 business within the State shall select to remain closed
7 pursuant to this Section shall, with respect to such bank, be
8 treated and considered as a Sunday.

9 (d) All legal holidays, the half holidays and any day
10 selected by a bank doing business within the State to remain
11 closed, shall, for all purposes whatsoever, as regards the
12 presenting for payment or acceptance, the maturity and
13 protesting and giving of notice of the dishonor of bills of
14 exchange, bank checks and promissory notes and other negotiable
15 or commercial paper or instrument, be treated and considered as
16 a Sunday. When any such holidays fall on Sunday, the Monday
17 next following shall be held and considered such holiday. All
18 notes, bills, drafts, checks or other evidence of indebtedness,
19 falling due or maturing on either of such days, shall be deemed
20 as due or maturing upon the day following, and when 2 or more
21 of these days come together, or immediately succeeding each
22 other, then such instruments, paper or indebtedness shall be
23 deemed as due or having matured on the day following the last
24 of such days.

25 (e) Any act authorized, required or permitted to be
26 performed at or by or with respect to any bank doing business
27 within the State on a day which it has selected to remain
28 closed under this Section may be so performed on the next
29 succeeding business day and no liability or loss of rights of
30 any kind shall result from such delay.

31 (f) Nothing in this Act shall in any manner affect the
32 validity of, or render void or voidable, the payment,
33 certification, or acceptance of a check or other negotiable
34 instrument, or any other transaction by a bank in this State,
35 because done or performed on any Saturday, Sunday, holiday, or
36 any day selected by a bank to remain closed, or during any time

1 other than regular banking hours; but no bank in this State,
2 which by law or custom is entitled to remain open or to close
3 for the whole or any part of any day selected by it to remain
4 open or to close, is compelled to close, or to remain open for
5 the transaction of business or to perform any of the acts or
6 transactions aforesaid except at its own option.

7 (Source: P.A. 89-508, eff. 7-3-96; 89-567, eff. 7-26-96; 90-14,
8 eff. 7-1-97.)

9 Section 9240. The Residential Mortgage License Act of 1987
10 is amended by adding Section 1-1.5 as follows:

11 (205 ILCS 635/1-1.5 new)

12 Sec. 1-1.5. References to Office or Commissioner of Banks
13 and Real Estate. On and after the effective date of this
14 amendatory Act of the 94th General Assembly:

15 (1) References in this Act to the Office of Banks and
16 Real Estate or "the Office" mean the Department of
17 Financial and Professional Regulation.

18 (2) References in this Act to the Commissioner of Banks
19 and Real Estate or "the Commissioner" mean the Secretary of
20 Financial and Professional Regulation.

21 Section 9245. The Foreign Banking Office Act is amended by
22 adding Section 1.5 as follows:

23 (205 ILCS 645/1.5 new)

24 Sec. 1.5. References to Office or Commissioner of Banks and
25 Real Estate. On and after the effective date of this amendatory
26 Act of the 94th General Assembly:

27 (1) References in this Act to the Office of Banks and
28 Real Estate or "the Office" mean the Department of
29 Financial and Professional Regulation.

30 (2) References in this Act to the Commissioner of Banks
31 and Real Estate or "the Commissioner" mean the Secretary of
32 Financial and Professional Regulation.

1 Section 9250. The Foreign Bank Representative Office Act is
2 amended by adding Section 1.5 as follows:

3 (205 ILCS 650/1.5 new)

4 Sec. 1.5. References to Office or Commissioner of Banks and
5 Real Estate. On and after the effective date of this amendatory
6 Act of the 94th General Assembly:

7 (1) References in this Act to the Office of Banks and
8 Real Estate or "the Office" mean the Department of
9 Financial and Professional Regulation.

10 (2) References in this Act to the Commissioner of Banks
11 and Real Estate or "the Commissioner" mean the Secretary of
12 Financial and Professional Regulation.

13 Section 9255. The Transmitters of Money Act is amended by
14 adding Section 2 and changing Section 93 as follows:

15 (205 ILCS 657/2 new)

16 Sec. 2. References to Department or Director of Financial
17 Institutions. On and after the effective date of this
18 amendatory Act of the 94th General Assembly:

19 (1) References in this Act to the Department of
20 Financial Institutions or "the Department" mean the
21 Department of Financial and Professional Regulation.

22 (2) References in this Act to the Director of Financial
23 Institutions or "the Director" mean the Secretary of
24 Financial and Professional Regulation.

25 (205 ILCS 657/93)

26 Sec. 93. Consumer Protection Fund.

27 (a) A special income-earning fund is hereby created in the
28 State treasury, known as the TOMA Consumer Protection Fund.

29 (b) All moneys paid into the fund together with all
30 accumulated undistributed income thereon shall be held as a
31 special fund in the State treasury. The fund shall be used

1 solely for the purpose of providing restitution to consumers
2 who have suffered monetary loss arising out of a transaction
3 regulated by this Act.

4 (c) The fund shall be applied only to restitution when
5 restitution has been ordered by the Director. Restitution shall
6 not exceed the amount actually lost by the consumer. The fund
7 shall not be used for the payment of any attorney or other
8 fees.

9 (d) The fund shall be subrogated to the amount of the
10 restitution, and the Director shall request the Attorney
11 General to engage in all reasonable collection steps to collect
12 restitution from the party responsible for the loss and
13 reimburse the fund.

14 (e) Notwithstanding any other provisions of this Section,
15 the payment of restitution from the fund shall be a matter of
16 grace and not of right, and no consumer shall have any vested
17 rights in the fund as a beneficiary or otherwise. Before
18 seeking restitution from the fund, the consumer or beneficiary
19 seeking payment of restitution shall apply for restitution on a
20 form provided by the Director. The form shall include any
21 information the Director may reasonably require in order to
22 determine that restitution is appropriate.

23 (f) Notwithstanding any other provision of this Section,
24 moneys in the TOMA Consumer Protection Fund may be transferred
25 to the Professions Indirect Cost Fund as authorized under
26 Section 70 of the Department of Financial and Professional
27 Regulation Act.

28 (Source: P.A. 93-535, eff. 1-1-04.)

29 Section 9260. The Sales Finance Agency Act is amended by
30 adding Section 1.5 as follows:

31 (205 ILCS 660/1.5 new)

32 Sec. 1.5. References to Department or Director of Financial
33 Institutions. On and after the effective date of this
34 amendatory Act of the 94th General Assembly:

1 (1) References in this Act to the Department of
2 Financial Institutions or "the Department" mean the
3 Department of Financial and Professional Regulation.

4 (2) References in this Act to the Director of Financial
5 Institutions or "the Director" mean the Secretary of
6 Financial and Professional Regulation.

7 Section 9265. The Debt Management Service Act is amended by
8 adding Section 1.5 as follows:

9 (205 ILCS 665/1.5 new)

10 Sec. 1.5. References to Department or Director of Financial
11 Institutions. On and after the effective date of this
12 amendatory Act of the 94th General Assembly:

13 (1) References in this Act to the Department of
14 Financial Institutions or "the Department" mean the
15 Department of Financial and Professional Regulation.

16 (2) References in this Act to the Director of Financial
17 Institutions or "the Director" mean the Secretary of
18 Financial and Professional Regulation.

19 Section 9270. The Consumer Installment Loan Act is amended
20 by adding Section 0.5 as follows:

21 (205 ILCS 670/0.5 new)

22 Sec. 0.5. References to Department or Director of Financial
23 Institutions. On and after the effective date of this
24 amendatory Act of the 94th General Assembly:

25 (1) References in this Act to the Department of
26 Financial Institutions or "the Department" mean the
27 Department of Financial and Professional Regulation.

28 (2) References in this Act to the Director of Financial
29 Institutions or "the Director" mean the Secretary of
30 Financial and Professional Regulation.

31 Section 9275. The Financial Institution Activity Reporting

1 Act is amended by adding Section 2 as follows:

2 (205 ILCS 680/2 new)

3 Sec. 2. References to Office or Commissioner of Banks and
4 Real Estate. On and after the effective date of this amendatory
5 Act of the 94th General Assembly:

6 (1) References in this Act to the Office of Banks and
7 Real Estate or "the Office" mean the Department of
8 Financial and Professional Regulation.

9 (2) References in this Act to the Commissioner of Banks
10 and Real Estate or "the Commissioner" mean the Secretary of
11 Financial and Professional Regulation.

12 Section 9280. The Check Printer and Check Number Act is
13 amended by adding Section 2 as follows:

14 (205 ILCS 690/2 new)

15 Sec. 2. References to Office or Commissioner of Banks and
16 Real Estate. On and after the effective date of this amendatory
17 Act of the 94th General Assembly:

18 (1) References in this Act to the Office of Banks and
19 Real Estate or "the Office" mean the Department of
20 Financial and Professional Regulation.

21 (2) References in this Act to the Commissioner of Banks
22 and Real Estate or "the Commissioner" mean the Secretary of
23 Financial and Professional Regulation.

24 Section 9285. The Data Processing Services for Financial
25 Institutions Act is amended by changing Section 5 as follows:

26 (205 ILCS 715/5)

27 Sec. 5. Definitions. As used in this Act, the following
28 terms shall have the following meanings:

29 "Corporate fiduciary" has the meaning ascribed to that term
30 in the Corporate Fiduciary Act.

31 "Depository institution" means a bank, savings and loan

1 association, savings bank, or credit union chartered under the
2 laws of Illinois or of the United States.

3 "Financial institution" means any depository institution
4 or corporate fiduciary that has its main office in Illinois and
5 includes foreign banking corporations that receive
6 certificates of authority from the Department of Financial and
7 Professional Regulation ~~Office of Banks and Real Estate~~ under
8 the Foreign Banking Office Act.

9 "Independent data processing servicer" means an entity
10 that provides electronic data processing services to a
11 financial institution, but does not include an entity to the
12 extent the entity processes interchange transactions, as
13 defined in the Electronic Fund Transfer Act.

14 "Interface agreement" means a written agreement specifying
15 the terms and conditions under which an interface of
16 communications, data, or systems between independent data
17 processing servicers shall be accomplished.

18 "Main office" means the location designated as the main
19 office or principal place of business in the charter, articles
20 of incorporation, or certificate of authority of the depository
21 institution or corporate fiduciary.

22 (Source: P.A. 91-742, eff. 6-2-00.)

23 Section 9290. The Illinois Clinical Laboratory and Blood
24 Bank Act is amended by changing Section 2-116 as follows:

25 (210 ILCS 25/2-116) (from Ch. 111 1/2, par. 622-116)

26 Sec. 2-116. "Physician" means, unless otherwise indicated
27 in this Act, (a) a person licensed by the Department of
28 Financial and Professional Regulation or its predecessor, the
29 Department of Professional Regulation, pursuant to the
30 requirements of the Medical Practice Act of 1987; or (b) a
31 person licensed as a physician under the laws of another state
32 or territory of the United States.

33 (Source: P.A. 85-1025.)

1 Section 9295. The Nursing Home Care Act is amended by
2 changing Sections 2-205, 3-108, 3-206, and 3-210 as follows:

3 (210 ILCS 45/2-205) (from Ch. 111 1/2, par. 4152-205)

4 Sec. 2-205. The following information is subject to
5 disclosure to the public from the Department or the Department
6 of Public Aid:

7 (1) Information submitted under Sections 3-103 and 3-207
8 except information concerning the remuneration of personnel
9 licensed, registered, or certified by the Department of
10 Financial and Professional Regulation or its predecessor, the
11 Department of Professional Regulation, and monthly charges for
12 an individual private resident;

13 (2) Records of license and certification inspections,
14 surveys, and evaluations of facilities, other reports of
15 inspections, surveys, and evaluations of resident care, and
16 reports concerning a facility prepared pursuant to Titles XVIII
17 and XIX of the Social Security Act, subject to the provisions
18 of the Social Security Act;

19 (3) Cost and reimbursement reports submitted by a facility
20 under Section 3-208, reports of audits of facilities, and other
21 public records concerning costs incurred by, revenues received
22 by, and reimbursement of facilities; and

23 (4) Complaints filed against a facility and complaint
24 investigation reports, except that a complaint or complaint
25 investigation report shall not be disclosed to a person other
26 than the complainant or complainant's representative before it
27 is disclosed to a facility under Section 3-702, and, further,
28 except that a complainant or resident's name shall not be
29 disclosed except under Section 3-702.

30 The Department shall disclose information under this
31 Section in accordance with provisions for inspection and
32 copying of public records required by The Freedom of
33 Information Act.

34 However, the disclosure of information described in
35 subsection (1) shall not be restricted by any provision of The

1 Freedom of Information Act.

2 (Source: P.A. 85-1209; 85-1378.)

3 (210 ILCS 45/3-108) (from Ch. 111 1/2, par. 4153-108)

4 Sec. 3-108. The Department shall coordinate the functions
5 within State government affecting facilities licensed under
6 this Act and shall cooperate with other State agencies which
7 establish standards or requirements for facilities to assure
8 necessary, equitable, and consistent State supervision of
9 licensees without unnecessary duplication of survey,
10 evaluation, and consultation services or complaint
11 investigations. The Department shall cooperate with the
12 Department of Human Services in regard to facilities containing
13 more than 20% of residents for whom the Department of Human
14 Services has mandated follow-up responsibilities under the
15 Mental Health and Developmental Disabilities Administrative
16 Act.

17 The Department shall cooperate with the Department of
18 Public Aid in regard to facilities where recipients of public
19 aid are residents.

20 The Department shall immediately refer to the Department of
21 Financial and Professional Regulation for investigation any
22 credible evidence of which it has knowledge that an individual
23 licensed by that Department or by its predecessor, the
24 Department of Professional Regulation, has violated this Act or
25 any rule issued under this Act.

26 The Department shall enter into agreements with other State
27 Departments, agencies or commissions to effectuate the purpose
28 of this Section.

29 (Source: P.A. 89-197, eff. 7-21-95; 89-507, eff. 7-1-97.)

30 (210 ILCS 45/3-206) (from Ch. 111 1/2, par. 4153-206)

31 Sec. 3-206. The Department shall prescribe a curriculum for
32 training nursing assistants, habilitation aides, and child
33 care aides.

34 (a) No person, except a volunteer who receives no

1 compensation from a facility and is not included for the
2 purpose of meeting any staffing requirements set forth by the
3 Department, shall act as a nursing assistant, habilitation
4 aide, or child care aide in a facility, nor shall any person,
5 under any other title, not licensed, certified, or registered
6 to render medical care by the Department of Financial and
7 Professional Regulation or its predecessor, the Department of
8 Professional Regulation, assist with the personal, medical, or
9 nursing care of residents in a facility, unless such person
10 meets the following requirements:

11 (1) Be at least 16 years of age, of temperate habits
12 and good moral character, honest, reliable and
13 trustworthy;

14 (2) Be able to speak and understand the English
15 language or a language understood by a substantial
16 percentage of the facility's residents;

17 (3) Provide evidence of employment or occupation, if
18 any, and residence for 2 years prior to his present
19 employment;

20 (4) Have completed at least 8 years of grade school or
21 provide proof of equivalent knowledge;

22 (5) Begin a current course of training for nursing
23 assistants, habilitation aides, or child care aides,
24 approved by the Department, within 45 days of initial
25 employment in the capacity of a nursing assistant,
26 habilitation aide, or child care aide at any facility. Such
27 courses of training shall be successfully completed within
28 120 days of initial employment in the capacity of nursing
29 assistant, habilitation aide, or child care aide at a
30 facility. Nursing assistants, habilitation aides, and
31 child care aides who are enrolled in approved courses in
32 community colleges or other educational institutions on a
33 term, semester or trimester basis, shall be exempt from the
34 120 day completion time limit. The Department shall adopt
35 rules for such courses of training. These rules shall
36 include procedures for facilities to carry on an approved

1 course of training within the facility.

2 The Department may accept comparable training in lieu
3 of the 120 hour course for student nurses, foreign nurses,
4 military personnel, or employes of the Department of Human
5 Services.

6 The facility shall develop and implement procedures,
7 which shall be approved by the Department, for an ongoing
8 review process, which shall take place within the facility,
9 for nursing assistants, habilitation aides, and child care
10 aides.

11 At the time of each regularly scheduled licensure
12 survey, or at the time of a complaint investigation, the
13 Department may require any nursing assistant, habilitation
14 aide, or child care aide to demonstrate, either through
15 written examination or action, or both, sufficient
16 knowledge in all areas of required training. If such
17 knowledge is inadequate the Department shall require the
18 nursing assistant, habilitation aide, or child care aide to
19 complete inservice training and review in the facility
20 until the nursing assistant, habilitation aide, or child
21 care aide demonstrates to the Department, either through
22 written examination or action, or both, sufficient
23 knowledge in all areas of required training; and

24 (6) Be familiar with and have general skills related to
25 resident care.

26 (a-0.5) An educational entity, other than a secondary
27 school, conducting a nursing assistant, habilitation aide, or
28 child care aide training program shall initiate a UCIA criminal
29 history record check prior to entry of an individual into the
30 training program. A secondary school may initiate a UCIA
31 criminal history record check prior to the entry of an
32 individual into a training program.

33 (a-1) Nursing assistants, habilitation aides, or child
34 care aides seeking to be included on the registry on or after
35 January 1, 1996 must authorize the Department of Public Health
36 or its designee that tests nursing assistants to request a UCIA

1 criminal history check and submit all necessary information.

2 (b) Persons subject to this Section shall perform their
3 duties under the supervision of a nurse.

4 (c) It is unlawful for any facility to employ any person in
5 the capacity of nursing assistant, habilitation aide, or child
6 care aide, or under any other title, not licensed by the State
7 of Illinois to assist in the personal, medical, or nursing care
8 of residents in such facility unless such person has complied
9 with this Section.

10 (d) Proof of compliance by each employee with the
11 requirements set out in this Section shall be maintained for
12 each such employee by each facility in the individual personnel
13 folder of the employee.

14 (e) Each facility shall certify to the Department on a form
15 provided by the Department the name and residence address of
16 each employee, and that each employee subject to this Section
17 meets all the requirements of this Section.

18 (f) Any facility that is operated under Section 3-803 shall
19 be exempt from the requirements of this Section.

20 (g) Each skilled nursing and intermediate care facility
21 that admits persons who are diagnosed as having Alzheimer's
22 disease or related dementias shall require all nursing
23 assistants, habilitation aides, or child care aides, who did
24 not receive 12 hours of training in the care and treatment of
25 such residents during the training required under paragraph (5)
26 of subsection (a), to obtain 12 hours of in-house training in
27 the care and treatment of such residents. If the facility does
28 not provide the training in-house, the training shall be
29 obtained from other facilities, community colleges or other
30 educational institutions that have a recognized course for such
31 training. The Department shall, by rule, establish a recognized
32 course for such training. The Department's rules shall provide
33 that such training may be conducted in-house at each facility
34 subject to the requirements of this subsection, in which case
35 such training shall be monitored by the Department.

36 The Department's rules shall also provide for

1 circumstances and procedures whereby any person who has
2 received training that meets the requirements of this
3 subsection shall not be required to undergo additional training
4 if he or she is transferred to or obtains employment at a
5 different facility but remains continuously employed as a
6 nursing assistant, habilitation aide, or child care aide.
7 Licensed sheltered care facilities shall be exempt from the
8 requirements of this Section.

9 (Source: P.A. 91-598, eff. 1-1-00.)

10 (210 ILCS 45/3-210) (from Ch. 111 1/2, par. 4153-210)

11 Sec. 3-210. A facility shall retain the following for
12 public inspection:

13 (1) A complete copy of every inspection report of the
14 facility received from the Department during the past 5 years;

15 (2) A copy of every order pertaining to the facility issued
16 by the Department or a court during the past 5 years;

17 (3) A description of the services provided by the facility
18 and the rates charged for those services and items for which a
19 resident may be separately charged;

20 (4) A copy of the statement of ownership required by
21 Section 3-207;

22 (5) A record of personnel employed or retained by the
23 facility who are licensed, certified or registered by the
24 Department of Financial and Professional Regulation or its
25 predecessor, the Department of Professional Regulation; and

26 (6) A complete copy of the most recent inspection report of
27 the facility received from the Department.

28 (Source: P.A. 85-1209)

29 Section 9300. The Hospital Licensing Act is amended by
30 changing Sections 10.3 and 10.4 as follows:

31 (210 ILCS 85/10.3) (from Ch. 111 1/2, par. 151.3)

32 Sec. 10.3. No hospital shall allow any person to take part
33 as a student in a clinical training program of that hospital

1 which is designed, in whole or in part, to fulfill the
2 requirements for licensure as a physician unless that person is
3 currently enrolled as a student in a curriculum of a medical or
4 osteopathic college or school which has been approved as being
5 reputable and in good standing by the Department of Financial
6 and Professional Regulation or its predecessor, the Department
7 of Professional Regulation, or is enrolled in a curriculum of a
8 professional school, college or institution teaching the
9 treatment of human ailments without drugs or medicines and
10 without operative surgery which has been approved as being
11 reputable and in good standing by the Department of Financial
12 and Professional Regulation or its predecessor, the Department
13 of Professional Regulation.

14 (Source: P.A. 85-1209.)

15 (210 ILCS 85/10.4) (from Ch. 111 1/2, par. 151.4)

16 Sec. 10.4. Medical staff privileges.

17 (a) Any hospital licensed under this Act or any hospital
18 organized under the University of Illinois Hospital Act shall,
19 prior to the granting of any medical staff privileges to an
20 applicant, or renewing a current medical staff member's
21 privileges, request of the Secretary ~~Director~~ of Financial and
22 Professional Regulation information concerning the licensure
23 status and any disciplinary action taken against the
24 applicant's or medical staff member's license, except: (1) for
25 medical personnel who enter a hospital to obtain organs and
26 tissues for transplant from a donor in accordance with the
27 Illinois Anatomical Gift Act; or (2) for medical personnel who
28 have been granted disaster privileges pursuant to the
29 procedures and requirements established by rules adopted by the
30 Department. Any hospital and any employees of the hospital or
31 others involved in granting privileges who ~~that~~, in good faith,
32 grant ~~grants~~ disaster privileges pursuant to this Section to
33 respond to an emergency shall not, as a result of their ~~his,~~
34 ~~her, or its~~ acts or omissions, be liable for civil damages for
35 granting or denying disaster privileges except in the event of

1 willful and wanton misconduct, as that term is defined in
2 Section 10.2 of this Act. Individuals granted privileges who
3 provide care in an emergency situation, in good faith and
4 without direct compensation, shall not, as a result of their
5 his or her acts or omissions, except for acts or omissions
6 involving willful and wanton misconduct, as that term is
7 defined in Section 10.2 of this Act, on the part of the person,
8 be liable for civil damages. The Secretary ~~Director~~ of
9 Financial and Professional Regulation shall transmit, in
10 writing and in a timely fashion, such information regarding the
11 license of the applicant or the medical staff member, including
12 the record of imposition of any periods of supervision or
13 monitoring as a result of alcohol or substance abuse, as
14 provided by Section 23 of the Medical Practice Act of 1987, and
15 such information as may have been submitted to the Department
16 indicating that the application or medical staff member has
17 been denied, or has surrendered, medical staff privileges at a
18 hospital licensed under this Act, or any equivalent facility in
19 another state or territory of the United States. The Secretary
20 ~~Director~~ of Financial and Professional Regulation shall define
21 by rule the period for timely response to such requests.

22 No transmittal of information by the Secretary ~~Director~~ of
23 Financial and Professional Regulation, under this Section
24 shall be to other than the president, chief operating officer,
25 chief administrative officer, or chief of the medical staff of
26 a hospital licensed under this Act, a hospital organized under
27 the University of Illinois Hospital Act, or a hospital operated
28 by the United States, or any of its instrumentalities. The
29 information so transmitted shall be afforded the same status as
30 is information concerning medical studies by Part 21 of Article
31 VIII of the Code of Civil Procedure, as now or hereafter
32 amended.

33 (b) All hospitals licensed under this Act, except county
34 hospitals as defined in subsection (c) of Section 15-1 of the
35 Illinois Public Aid Code, shall comply with, and the medical
36 staff bylaws of these hospitals shall include rules consistent

1 with, the provisions of this Section in granting, limiting,
2 renewing, or denying medical staff membership and clinical
3 staff privileges. Hospitals that require medical staff members
4 to possess faculty status with a specific institution of higher
5 education are not required to comply with subsection (1) below
6 when the physician does not possess faculty status.

7 (1) Minimum procedures for pre-applicants and
8 applicants for medical staff membership shall include the
9 following:

10 (A) Written procedures relating to the acceptance
11 and processing of pre-applicants or applicants for
12 medical staff membership, which should be contained in
13 medical staff bylaws.

14 (B) Written procedures to be followed in
15 determining a pre-applicant's or an applicant's
16 qualifications for being granted medical staff
17 membership and privileges.

18 (C) Written criteria to be followed in evaluating a
19 pre-applicant's or an applicant's qualifications.

20 (D) An evaluation of a pre-applicant's or an
21 applicant's current health status and current license
22 status in Illinois.

23 (E) A written response to each pre-applicant or
24 applicant that explains the reason or reasons for any
25 adverse decision (including all reasons based in whole
26 or in part on the applicant's medical qualifications or
27 any other basis, including economic factors).

28 (2) Minimum procedures with respect to medical staff
29 and clinical privilege determinations concerning current
30 members of the medical staff shall include the following:

31 (A) A written notice of an adverse decision.

32 (B) An explanation of the reasons for an adverse
33 decision including all reasons based on the quality of
34 medical care or any other basis, including economic
35 factors.

36 (C) A statement of the medical staff member's right

1 to request a fair hearing on the adverse decision
2 before a hearing panel whose membership is mutually
3 agreed upon by the medical staff and the hospital
4 governing board. The hearing panel shall have
5 independent authority to recommend action to the
6 hospital governing board. Upon the request of the
7 medical staff member or the hospital governing board,
8 the hearing panel shall make findings concerning the
9 nature of each basis for any adverse decision
10 recommended to and accepted by the hospital governing
11 board.

12 (i) Nothing in this subparagraph (C) limits a
13 hospital's or medical staff's right to summarily
14 suspend, without a prior hearing, a person's
15 medical staff membership or clinical privileges if
16 the continuation of practice of a medical staff
17 member constitutes an immediate danger to the
18 public, including patients, visitors, and hospital
19 employees and staff. A fair hearing shall be
20 commenced within 15 days after the suspension and
21 completed without delay.

22 (ii) Nothing in this subparagraph (C) limits a
23 medical staff's right to permit, in the medical
24 staff bylaws, summary suspension of membership or
25 clinical privileges in designated administrative
26 circumstances as specifically approved by the
27 medical staff. This bylaw provision must
28 specifically describe both the administrative
29 circumstance that can result in a summary
30 suspension and the length of the summary
31 suspension. The opportunity for a fair hearing is
32 required for any administrative summary
33 suspension. Any requested hearing must be
34 commenced within 15 days after the summary
35 suspension and completed without delay. Adverse
36 decisions other than suspension or other

1 restrictions on the treatment or admission of
2 patients may be imposed summarily and without a
3 hearing under designated administrative
4 circumstances as specifically provided for in the
5 medical staff bylaws as approved by the medical
6 staff.

7 (iii) If a hospital exercises its option to
8 enter into an exclusive contract and that contract
9 results in the total or partial termination or
10 reduction of medical staff membership or clinical
11 privileges of a current medical staff member, the
12 hospital shall provide the affected medical staff
13 member 60 days prior notice of the effect on his or
14 her medical staff membership or privileges. An
15 affected medical staff member desiring a hearing
16 under subparagraph (C) of this paragraph (2) must
17 request the hearing within 14 days after the date
18 he or she is so notified. The requested hearing
19 shall be commenced and completed (with a report and
20 recommendation to the affected medical staff
21 member, hospital governing board, and medical
22 staff) within 30 days after the date of the medical
23 staff member's request. If agreed upon by both the
24 medical staff and the hospital governing board,
25 the medical staff bylaws may provide for longer
26 time periods.

27 (D) A statement of the member's right to inspect
28 all pertinent information in the hospital's possession
29 with respect to the decision.

30 (E) A statement of the member's right to present
31 witnesses and other evidence at the hearing on the
32 decision.

33 (F) A written notice and written explanation of the
34 decision resulting from the hearing.

35 (F-5) A written notice of a final adverse decision
36 by a hospital governing board.

1 (G) Notice given 15 days before implementation of
2 an adverse medical staff membership or clinical
3 privileges decision based substantially on economic
4 factors. This notice shall be given after the medical
5 staff member exhausts all applicable procedures under
6 this Section, including item (iii) of subparagraph (C)
7 of this paragraph (2), and under the medical staff
8 bylaws in order to allow sufficient time for the
9 orderly provision of patient care.

10 (H) Nothing in this paragraph (2) of this
11 subsection (b) limits a medical staff member's right to
12 waive, in writing, the rights provided in
13 subparagraphs (A) through (G) of this paragraph (2) of
14 this subsection (b) upon being granted the written
15 exclusive right to provide particular services at a
16 hospital, either individually or as a member of a
17 group. If an exclusive contract is signed by a
18 representative of a group of physicians, a waiver
19 contained in the contract shall apply to all members of
20 the group unless stated otherwise in the contract.

21 (3) Every adverse medical staff membership and
22 clinical privilege decision based substantially on
23 economic factors shall be reported to the Hospital
24 Licensing Board before the decision takes effect. These
25 reports shall not be disclosed in any form that reveals the
26 identity of any hospital or physician. These reports shall
27 be utilized to study the effects that hospital medical
28 staff membership and clinical privilege decisions based
29 upon economic factors have on access to care and the
30 availability of physician services. The Hospital Licensing
31 Board shall submit an initial study to the Governor and the
32 General Assembly by January 1, 1996, and subsequent reports
33 shall be submitted periodically thereafter.

34 (4) As used in this Section:

35 "Adverse decision" means a decision reducing,
36 restricting, suspending, revoking, denying, or not

1 renewing medical staff membership or clinical privileges.

2 "Economic factor" means any information or reasons for
3 decisions unrelated to quality of care or professional
4 competency.

5 "Pre-applicant" means a physician licensed to practice
6 medicine in all its branches who requests an application
7 for medical staff membership or privileges.

8 "Privilege" means permission to provide medical or
9 other patient care services and permission to use hospital
10 resources, including equipment, facilities and personnel
11 that are necessary to effectively provide medical or other
12 patient care services. This definition shall not be
13 construed to require a hospital to acquire additional
14 equipment, facilities, or personnel to accommodate the
15 granting of privileges.

16 (5) Any amendment to medical staff bylaws required
17 because of this amendatory Act of the 91st General Assembly
18 shall be adopted on or before July 1, 2001.

19 (c) All hospitals shall consult with the medical staff
20 prior to closing membership in the entire or any portion of the
21 medical staff or a department. If the hospital closes
22 membership in the medical staff, any portion of the medical
23 staff, or the department over the objections of the medical
24 staff, then the hospital shall provide a detailed written
25 explanation for the decision to the medical staff 10 days prior
26 to the effective date of any closure. No applications need to
27 be provided when membership in the medical staff or any
28 relevant portion of the medical staff is closed.

29 (Source: P.A. 93-794, eff. 7-22-04; 93-829, eff. 7-28-04;
30 revised 10-25-04.)

31 Section 9305. The Illinois Insurance Code is amended by
32 changing Sections 107a.05, 155.24, 408.3, and 511.111 and by
33 adding Section 1.5 as follows:

34 (215 ILCS 5/1.5 new)

1 Sec. 1.5. References to Department or Director of
2 Insurance. On and after the effective date of this amendatory
3 Act of the 94th General Assembly:

4 (1) References in this Code to the Department of
5 Insurance or "the Department" mean the Department of
6 Financial and Professional Regulation.

7 (2) References in this Code to the Director of
8 Insurance or "the Director" mean the Secretary of Financial
9 and Professional Regulation.

10 (215 ILCS 5/107a.05)

11 Sec. 107a.05. Definitions and interchangeable terms.

12 (a) Unless otherwise provided, the following definitions
13 shall apply:

14 "Authorized insurer" means an insurer licensed in this
15 State to transact business as described in Clauses (c) and (d)
16 of Class 2 of Section 4 of this Code.

17 "Calendar Quarter" means the 3-month periods ending March
18 31, June 30, September 30, and December 31.

19 "Director" means the Director of Insurance.

20 "Engaged actively in the business" means a bona fide
21 business concern having conducted commerce, trade, or industry
22 in this State for a specified period of time. Any and all
23 records relating to this requirement shall be open to
24 inspection by the Director or his designee during normal
25 business hours.

26 "Gross annual payroll" means payroll for the preceding
27 fiscal year.

28 "Independent actuarial opinion" means an opinion expressed
29 by a member of the American Academy of Actuaries or Casualty
30 Actuarial Society.

31 "Independent CPA" means an independent certified public
32 accountant or independent certified public accounting firm in
33 good standing and licensed to practice by the Department of
34 Professional Regulation or by its successor, the Department of
35 Financial and Professional Regulation.

1 "Pool" means a qualified group workers' compensation pool
2 as authorized by this Article.

3 "Qualified group workers' compensation pool" means a group
4 workers' compensation pool that has received a certificate of
5 authority pursuant to this Article.

6 (b) For purposes of incorporating the provisions of this
7 Code designated in paragraphs (1) and (2) of subsection (a) of
8 Section 107a.04 into this Article, the following terms shall be
9 interchangeable:

10 "Contribution" shall be considered premium.

11 "Pooling agreement" shall be considered a policy of
12 insurance.

13 "Trustees of a group workers' compensation pool" shall be
14 considered as though they were directors of a domestic mutual
15 insurance company.

16 (Source: P.A. 91-757, eff. 1-1-01.)

17 (215 ILCS 5/155.24) (from Ch. 73, par. 767.24)

18 Sec. 155.24. Motor Vehicle Theft and Motor Insurance Fraud
19 Reporting and Immunity Law.

20 (a) As used in this Section:

21 (1) "authorized governmental agency" means the
22 Illinois Department of State Police, a local governmental
23 police department, a county sheriff's office, a State's
24 Attorney, the Attorney General, a municipal attorney, a
25 United States district attorney, a duly constituted
26 criminal investigative agency of the United States
27 government, ~~the Illinois Department of Insurance,~~ the
28 Illinois Department of Financial and Professional
29 Regulation and the office of the Illinois Secretary of
30 State;

31 (2) "relevant" means having a tendency to make the
32 existence of any information that is of consequence to an
33 investigation of motor vehicle theft or insurance fraud
34 investigation or a determination of such issue more
35 probable or less probable than it would be without such

1 information;

2 (3) information will be "deemed important" if within
3 the sole discretion of the authorized governmental agency
4 such information is requested by that authorized
5 governmental agency;

6 (4) "Illinois authorized governmental agency" means an
7 authorized governmental agency as defined in item (1) that
8 is a part of the government of the State of Illinois or any
9 of the counties or municipalities of this State or any
10 other authorized entity; and

11 (5) For the purposes of this Section and Section
12 155.23, "insurer" means insurance companies, insurance
13 support organizations, self-insured entities, and other
14 providers of insurance products and services doing
15 business in the State of Illinois.

16 (b) Upon written request to an insurer by an authorized
17 governmental agency, an insurer or agent authorized by an
18 insurer to act on its behalf shall release to the requesting
19 authorized governmental agency any or all relevant information
20 deemed important to the authorized governmental agency which
21 the insurer may possess relating to any specific motor vehicle
22 theft or motor vehicle insurance fraud. Relevant information
23 may include, but is not limited to:

24 (1) Insurance policy information relevant to the motor
25 vehicle theft or motor vehicle insurance fraud under
26 investigation, including any application for such a
27 policy.

28 (2) Policy premium payment records which are
29 available.

30 (3) History of previous claims made by the insured.

31 (4) Information relating to the investigation of the
32 motor vehicle theft or motor vehicle insurance fraud,
33 including statements of any person, proofs of loss and
34 notice of loss.

35 (c) When an insurer knows or reasonably believes to know
36 the identity of a person whom it has reason to believe

1 committed a criminal or fraudulent act relating to a motor
2 vehicle theft or a motor vehicle insurance claim or has
3 knowledge of such a criminal or fraudulent act which is
4 reasonably believed not to have been reported to an authorized
5 governmental agency, then for the purpose of notification and
6 investigation, the insurer or an agent authorized by an insurer
7 to act on its behalf shall notify an authorized governmental
8 agency of such knowledge or reasonable belief and provide any
9 additional relevant information in accordance with subsection
10 (b) of this Section. When the motor vehicle theft or motor
11 vehicle claim that gives rise to the suspected criminal or
12 fraudulent act has already generated an incident report to an
13 Illinois authorized governmental agency, the insurer shall
14 report the suspected criminal or fraudulent act to that agency.
15 When no prior incident report has been made, the insurer shall
16 report the suspected criminal or fraudulent act to the Attorney
17 General or State's Attorney in the county or counties where the
18 incident is claimed to have occurred. When the incident that
19 gives rise to the suspected criminal or fraudulent act is
20 claimed to have occurred outside the State of Illinois, but the
21 suspected criminal or fraudulent act occurs within the State of
22 Illinois, the insurer shall make the report to the Attorney
23 General or State's Attorney in the county or counties where the
24 suspected criminal or fraudulent act occurred. When the fraud
25 occurs in multiple counties the report shall also be sent to
26 the Attorney General.

27 (d) When an insurer provides any of the authorized
28 governmental agencies with notice pursuant to this Section it
29 shall be deemed sufficient notice to all authorized
30 governmental agencies for the purpose of this Act.

31 (e) The authorized governmental agency provided with
32 information pursuant to this Section may release or provide
33 such information to any other authorized governmental agency.

34 (f) Any insurer providing information to an authorized
35 governmental agency pursuant to this Section shall have the
36 right to request and receive relevant information from such

1 authorized governmental agency, and receive within a
2 reasonable time after the completion of the investigation, not
3 to exceed 30 days, the information requested.

4 (g) Any information furnished pursuant to this Section
5 shall be privileged and not a part of any public record. Except
6 as otherwise provided by law, any authorized governmental
7 agency, insurer, or an agent authorized by an insurer to act on
8 its behalf which receives any information furnished pursuant to
9 this Section, shall not release such information to public
10 inspection. Such evidence or information shall not be subject
11 to subpoena duces tecum in a civil or criminal proceeding
12 unless, after reasonable notice to any insurer, agent
13 authorized by an insurer to act on its behalf and authorized
14 governmental agency which has an interest in such information
15 and a hearing, the court determines that the public interest
16 and any ongoing investigation by the authorized governmental
17 agency, insurer, or any agent authorized by an insurer to act
18 on its behalf will not be jeopardized by obedience to such a
19 subpoena duces tecum.

20 (h) No insurer, or agent authorized by an insurer on its
21 behalf, authorized governmental agency or their respective
22 employees shall be subject to any civil or criminal liability
23 in a cause of action of any kind for releasing or receiving any
24 information pursuant to this Section. Nothing herein is
25 intended to or does in any way or manner abrogate or lessen the
26 common and statutory law privileges and immunities of an
27 insurer, agent authorized by an insurer to act on its behalf or
28 authorized governmental agency or any of their respective
29 employees.

30 (Source: P.A. 92-233, eff. 1-1-02.)

31 (215 ILCS 5/408.3) (from Ch. 73, par. 1020.3)

32 Sec. 408.3. Insurance Financial Regulation Fund; uses. The
33 monies deposited into the Insurance Financial Regulation Fund
34 shall be used only for (i) payment of the expenses of the
35 Department, including related administrative expenses,

1 incurred in analyzing, investigating and examining the
2 financial condition or control of insurance companies and other
3 entities licensed or seeking to be licensed by the Department,
4 including the collection, analysis and distribution of
5 information on insurance premiums, other income, costs and
6 expenses, and (ii) to pay internal costs and expenses of the
7 Interstate Insurance Receivership Commission allocated to this
8 State and authorized and admitted companies doing an insurance
9 business in this State under Article X of the Interstate
10 Receivership Compact. All distributions and payments from the
11 Insurance Financial Regulation Fund shall be subject to
12 appropriation as otherwise provided by law for payment of such
13 expenses.

14 Sums appropriated under clause (ii) of the preceding
15 paragraph shall be deemed to satisfy, pro tanto, the
16 obligations of insurers doing business in this State under
17 Article X of the Interstate Insurance Receivership Compact.

18 Nothing in this Code shall prohibit the General Assembly
19 from appropriating funds from the General Revenue Fund to the
20 Department for the purpose of administering this Code.

21 No fees collected pursuant to Section 408 of this Code
22 shall be used for the regulation of pension funds or activities
23 by the Department in the performance of its duties under
24 Article 22 of the Illinois Pension Code.

25 If at the end of a fiscal year the balance in the Insurance
26 Financial Regulation Fund which remains unexpended or
27 unobligated exceeds the amount of funds that the Director may
28 certify is needed for the purposes enumerated in this Section,
29 then the General Assembly may appropriate that excess amount
30 for purposes other than those enumerated in this Section.

31 Moneys in the Insurance Financial Regulation Fund may be
32 transferred to the Professions Indirect Cost Fund as authorized
33 under Section 70 of the Department of Financial and
34 Professional Regulation Act.

35 (Source: P.A. 89-247, eff. 1-1-96; 90-372, eff. 7-1-98.)

1 (215 ILCS 5/511.111) (from Ch. 73, par. 1065.58-111)

2 Sec. 511.111. Insurance Producer Administration Fund. All
3 fees and fines paid to and collected by the Director under this
4 Article shall be paid promptly after receipt thereof, together
5 with a detailed statement of such fees, into a special fund in
6 the State Treasury to be known as the Insurance Producer
7 Administration Fund. The monies deposited into the Insurance
8 Producer Administration Fund shall be used only for payment of
9 the expenses of the Department and shall be appropriated as
10 otherwise provided by law for the payment of such expenses.
11 Moneys in the Insurance Producer Administration Fund may be
12 transferred to the Professions Indirect Cost Fund as authorized
13 under Section 70 of the Department of Financial and
14 Professional Regulation Act.

15 (Source: P.A. 84-887.)

16 Section 9310. The Small Employer Health Insurance Rating
17 Act is amended by adding Section 2 as follows:

18 (215 ILCS 93/2 new)

19 Sec. 2. References to Department or Director of Insurance.
20 On and after the effective date of this amendatory Act of the
21 94th General Assembly:

22 (1) References in this Act to the Department of
23 Insurance or "the Department" mean the Department of
24 Financial and Professional Regulation.

25 (2) References in this Act to the Director of Insurance
26 or "the Director" mean the Secretary of Financial and
27 Professional Regulation.

28 Section 9315. The Illinois Health Insurance Portability
29 and Accountability Act is amended by changing Section 5 as
30 follows:

31 (215 ILCS 97/5)

32 Sec. 5. Definitions.

1 "Beneficiary" has the meaning given such term under Section
2 3(8) of the Employee Retirement Income Security Act of 1974.

3 "Bona fide association" means, with respect to health
4 insurance coverage offered in a State, an association which:

5 (1) has been actively in existence for at least 5
6 years;

7 (2) has been formed and maintained in good faith for
8 purposes other than obtaining insurance;

9 (3) does not condition membership in the association on
10 any health status-related factor relating to an individual
11 (including an employee of an employer or a dependent of an
12 employee);

13 (4) makes health insurance coverage offered through
14 the association available to all members regardless of any
15 health status-related factor relating to such members (or
16 individuals eligible for coverage through a member);

17 (5) does not make health insurance coverage offered
18 through the association available other than in connection
19 with a member of the association; and

20 (6) meets such additional requirements as may be
21 imposed under State law.

22 "Church plan" has the meaning given that term under Section
23 3(33) of the Employee Retirement Income Security Act of 1974.

24 "COBRA continuation provision" means any of the following:

25 (1) Section 4980B of the Internal Revenue Code of 1986,
26 other than subsection (f)(1) of that Section insofar as it
27 relates to pediatric vaccines.

28 (2) Part 6 of subtitle B of title I of the Employee
29 Retirement Income Security Act of 1974, other than Section
30 609 of that Act.

31 (3) Title XXII of federal Public Health Service Act.

32 "Department" means the Department of Financial and
33 Professional Regulation Insurance.

34 "Employee" has the meaning given that term under Section
35 3(6) of the Employee Retirement Income Security Act of 1974.

36 "Employer" has the meaning given that term under Section

1 3(5) of the Employee Retirement Income Security Act of 1974,
2 except that the term shall include only employers of 2 or more
3 employees.

4 "Enrollment date" means, with respect to an individual
5 covered under a group health plan or group health insurance
6 coverage, the date of enrollment of the individual in the plan
7 or coverage, or if earlier, the first day of the waiting period
8 for enrollment.

9 "Federal governmental plan" means a governmental plan
10 established or maintained for its employees by the government
11 of the United States or by any agency or instrumentality of
12 that government.

13 "Governmental plan" has the meaning given that term under
14 Section 3(32) of the Employee Retirement Income Security Act of
15 1974 and any federal governmental plan.

16 "Group health insurance coverage" means, in connection
17 with a group health plan, health insurance coverage offered in
18 connection with the plan.

19 "Group health plan" means an employee welfare benefit plan
20 (as defined in Section 3(1) of the Employee Retirement Income
21 Security Act of 1974) to the extent that the plan provides
22 medical care (as defined in paragraph (2) of that Section and
23 including items and services paid for as medical care) to
24 employees or their dependents (as defined under the terms of
25 the plan) directly or through insurance, reimbursement, or
26 otherwise.

27 "Health insurance coverage" means benefits consisting of
28 medical care (provided directly, through insurance or
29 reimbursement, or otherwise and including items and services
30 paid for as medical care) under any hospital or medical service
31 policy or certificate, hospital or medical service plan
32 contract, or health maintenance organization contract offered
33 by a health insurance issuer.

34 "Health insurance issuer" means an insurance company,
35 insurance service, or insurance organization (including a
36 health maintenance organization, as defined herein) which is

1 licensed to engage in the business of insurance in a state and
2 which is subject to Illinois law which regulates insurance
3 (within the meaning of Section 514(b)(2) of the Employee
4 Retirement Income Security Act of 1974). The term does not
5 include a group health plan.

6 "Health maintenance organization (HMO)" means:

7 (1) a Federally qualified health maintenance
8 organization (as defined in Section 1301(a) of the Public
9 Health Service Act.);

10 (2) an organization recognized under State law as a
11 health maintenance organization; or

12 (3) a similar organization regulated under State law
13 for solvency in the same manner and to the same extent as
14 such a health maintenance organization.

15 "Individual health insurance coverage" means health
16 insurance coverage offered to individuals in the individual
17 market, but does not include short-term limited duration
18 insurance.

19 "Individual market" means the market for health insurance
20 coverage offered to individuals other than in connection with a
21 group health plan.

22 "Large employer" means, in connection with a group health
23 plan with respect to a calendar year and a plan year, an
24 employer who employed an average of at least 51 employees on
25 business days during the preceding calendar year and who
26 employs at least 2 employees on the first day of the plan year.

27 (1) Application of aggregation rule for large
28 employers. All persons treated as a single employer under
29 subsection (b), (c), (m), or (o) of Section 414 of the
30 Internal Revenue Code of 1986 shall be treated as one
31 employer.

32 (2) Employers not in existence in preceding year. In
33 the case of an employer which was not in existence
34 throughout the preceding calendar year, the determination
35 of whether the employer is a large employer shall be based
36 on the average number of employees that it is reasonably

1 expected the employer will employ on business days in the
2 current calendar year.

3 (3) Predecessors. Any reference in this Act to an
4 employer shall include a reference to any predecessor of
5 such employer.

6 "Large group market" means the health insurance market
7 under which individuals obtain health insurance coverage
8 (directly or through any arrangement) on behalf of themselves
9 (and their dependents) through a group health plan maintained
10 by a large employer.

11 "Late enrollee" means with respect to coverage under a
12 group health plan, a participant or beneficiary who enrolls
13 under the plan other than during:

14 (1) the first period in which the individual is
15 eligible to enroll under the plan; or

16 (2) a special enrollment period under subsection (F) of
17 Section 20.

18 "Medical care" means amounts paid for:

19 (1) the diagnosis, cure, mitigation, treatment, or
20 prevention of disease, or amounts paid for the purpose of
21 affecting any structure or function of the body;

22 (2) amounts paid for transportation primarily for and
23 essential to medical care referred to in item (1); and

24 (3) amounts paid for insurance covering medical care
25 referred to in items (1) and (2).

26 "Nonfederal governmental plan" means a governmental plan
27 that is not a federal governmental plan.

28 "Network plan" means health insurance coverage of a health
29 insurance issuer under which the financing and delivery of
30 medical care (including items and services paid for as medical
31 care) are provided, in whole or in part, through a defined set
32 of providers under contract with the issuer.

33 "Participant" has the meaning given that term under Section
34 3(7) of the Employee Retirement Income Security Act of 1974.

35 "Placement" or being "placed" for adoption, in connection
36 with any placement for adoption of a child with any person,

1 means the assumption and retention by the person of a legal
2 obligation for total or partial support of the child in
3 anticipation of adoption of the child. The child's placement
4 with the person terminates upon the termination of the legal
5 obligation.

6 "Plan sponsor" has the meaning given that term under
7 Section 3(16)(B) of the Employee Retirement Income Security Act
8 of 1974.

9 "Preexisting condition exclusion" means, with respect to
10 coverage, a limitation or exclusion of benefits relating to a
11 condition based on the fact that the condition was present
12 before the date of enrollment for such coverage, whether or not
13 any medical advice, diagnosis, care, or treatment was
14 recommended or received before such date.

15 "Small employer" means, in connection with a group health
16 plan with respect to a calendar year and a plan year, an
17 employer who employed an average of at least 2 but not more
18 than 50 employees on business days during the preceding
19 calendar year and who employs at least 2 employees on the first
20 day of the plan year.

21 (1) Application of aggregation rule for small
22 employers. All persons treated as a single employer under
23 subsection (b), (c), (m), or (o) of Section 414 of the
24 Internal Revenue Code of 1986 shall be treated as one
25 employer.

26 (2) Employers not in existence in preceding year. In
27 the case of an employer which was not in existence
28 throughout the preceding calendar year, the determination
29 of whether the employer is a small employer shall be based
30 on the average number of employees that it is reasonably
31 expected the employer will employ on business days in the
32 current calendar year.

33 (3) Predecessors. Any reference in this Act to a small
34 employer shall include a reference to any predecessor of
35 that employer.

36 "Small group market" means the health insurance market

1 under which individuals obtain health insurance coverage
2 (directly or through any arrangement) on behalf of themselves
3 (and their dependents) through a group health plan maintained
4 by a small employer.

5 "State" means each of the several States, the District of
6 Columbia, Puerto Rico, the Virgin Islands, Guam, American
7 Samoa, and the Northern Mariana Islands.

8 "Waiting period" means with respect to a group health plan
9 and an individual who is a potential participant or beneficiary
10 in the plan, the period of time that must pass with respect to
11 the individual before the individual is eligible to be covered
12 for benefits under the terms of the plan.

13 (Source: P.A. 90-30, eff. 7-1-97.)

14 Section 9320. The Reinsurance Intermediary Act is amended
15 by adding Section 2 as follows:

16 (215 ILCS 100/2 new)

17 Sec. 2. References to Department or Director of Insurance.
18 On and after the effective date of this amendatory Act of the
19 94th General Assembly:

20 (1) References in this Act to the Department of
21 Insurance or "the Department" mean the Department of
22 Financial and Professional Regulation.

23 (2) References in this Act to the Director of Insurance
24 or "the Director" mean the Secretary of Financial and
25 Professional Regulation.

26 Section 9325. The Comprehensive Health Insurance Plan Act
27 is amended by adding Section 1.05 as follows:

28 (215 ILCS 105/1.05 new)

29 Sec. 1.05. References to Department or Director of
30 Insurance. On and after the effective date of this amendatory
31 Act of the 94th General Assembly:

32 (1) References in this Act to the Department of

1 Insurance or "the Department" mean the Department of
2 Financial and Professional Regulation.

3 (2) References in this Act to the Director of Insurance
4 or "the Director" mean the Secretary of Financial and
5 Professional Regulation.

6 Section 9330. The Producer Controlled Insurer Act is
7 amended by adding Section 2 as follows:

8 (215 ILCS 107/2 new)

9 Sec. 2. References to Department or Director of Insurance.

10 On and after the effective date of this amendatory Act of the
11 94th General Assembly:

12 (1) References in this Act to the Department of
13 Insurance or "the Department" mean the Department of
14 Financial and Professional Regulation.

15 (2) References in this Act to the Director of Insurance
16 or "the Director" mean the Secretary of Financial and
17 Professional Regulation.

18 Section 9335. The Dental Care Patient Protection Act is
19 amended by adding Section 2 as follows:

20 (215 ILCS 109/2 new)

21 Sec. 2. References to Department or Director of Insurance.

22 On and after the effective date of this amendatory Act of the
23 94th General Assembly:

24 (1) References in this Act to the Department of
25 Insurance or "the Department" mean the Department of
26 Financial and Professional Regulation.

27 (2) References in this Act to the Director of Insurance
28 or "the Director" mean the Secretary of Financial and
29 Professional Regulation.

30 Section 9340. The Dental Service Plan Act is amended by
31 adding Section 1.5 as follows:

1 (215 ILCS 110/1.5 new)

2 Sec. 1.5. References to Department or Director of
3 Insurance. On and after the effective date of this amendatory
4 Act of the 94th General Assembly:

5 (1) References in this Act to the Department of
6 Insurance or "the Department" mean the Department of
7 Financial and Professional Regulation.

8 (2) References in this Act to the Director of Insurance
9 or "the Director" mean the Secretary of Financial and
10 Professional Regulation.

11 Section 9345. The Employee Leasing Company Act is amended
12 by adding Section 2 as follows:

13 (215 ILCS 113/2 new)

14 Sec. 2. References to Department or Director of Insurance.
15 On and after the effective date of this amendatory Act of the
16 94th General Assembly:

17 (1) References in this Act to the Department of
18 Insurance or "the Department" mean the Department of
19 Financial and Professional Regulation.

20 (2) References in this Act to the Director of Insurance
21 or "the Director" mean the Secretary of Financial and
22 Professional Regulation.

23 Section 9350. The Farm Mutual Insurance Company Act of 1986
24 is amended by adding Section 1.5 as follows:

25 (215 ILCS 120/1.5 new)

26 Sec. 1.5. References to Department or Director of
27 Insurance. On and after the effective date of this amendatory
28 Act of the 94th General Assembly:

29 (1) References in this Act to the Department of
30 Insurance or "the Department" mean the Department of
31 Financial and Professional Regulation.

1 (2) References in this Act to the Director of Insurance
2 or "the Director" mean the Secretary of Financial and
3 Professional Regulation.

4 Section 9355. The Health Care Purchasing Group Act is
5 amended by adding Section 2 as follows:

6 (215 ILCS 123/2 new)

7 Sec. 2. References to Department or Director of Insurance.
8 On and after the effective date of this amendatory Act of the
9 94th General Assembly:

10 (1) References in this Act to the Department of
11 Insurance or "the Department" mean the Department of
12 Financial and Professional Regulation.

13 (2) References in this Act to the Director of Insurance
14 or "the Director" mean the Secretary of Financial and
15 Professional Regulation.

16 Section 9360. The Health Maintenance Organization Act is
17 amended by adding Section 1-1.5 as follows:

18 (215 ILCS 125/1-1.5 new)

19 Sec. 1-1.5. References to Department or Director of
20 Insurance. On and after the effective date of this amendatory
21 Act of the 94th General Assembly:

22 (1) References in this Act to the Department of
23 Insurance or "the Department" mean the Department of
24 Financial and Professional Regulation.

25 (2) References in this Act to the Director of Insurance
26 or "the Director" mean the Secretary of Financial and
27 Professional Regulation.

28 Section 9365. The Limited Health Service Organization Act
29 is amended by adding Section 1001.5 as follows:

30 (215 ILCS 130/1001.5 new)

1 Sec. 1001.5. References to Department or Director of
2 Insurance. On and after the effective date of this amendatory
3 Act of the 94th General Assembly:

4 (1) References in this Act to the Department of
5 Insurance or "the Department" mean the Department of
6 Financial and Professional Regulation.

7 (2) References in this Act to the Director of Insurance
8 or "the Director" mean the Secretary of Financial and
9 Professional Regulation.

10 Section 9370. The Managed Care Reform and Patient Rights
11 Act is amended by changing Section 35 and by adding Section 2
12 as follows:

13 (215 ILCS 134/2 new)

14 Sec. 2. References to Department or Director of Insurance.
15 On and after the effective date of this amendatory Act of the
16 94th General Assembly:

17 (1) References in this Act to the Department of
18 Insurance or "the Department" mean the Department of
19 Financial and Professional Regulation.

20 (2) References in this Act to the Director of Insurance
21 or "the Director" mean the Secretary of Financial and
22 Professional Regulation.

23 (215 ILCS 134/35)

24 Sec. 35. Medically appropriate health care protection.

25 (a) No health care plan or its subcontractors shall
26 retaliate against a physician or other health care provider who
27 advocates for appropriate health care services for patients.

28 (b) It is the public policy of the State of Illinois that a
29 physician or any other health care provider be encouraged to
30 advocate for medically appropriate health care services for his
31 or her patients. For purposes of this Section, "to advocate for
32 medically appropriate health care services" means to appeal a
33 decision to deny payment for a health care service pursuant to

1 the reasonable grievance or appeal procedure established by a
2 health care plan or to protest a decision, policy, or practice
3 that the physician or other health care provider, consistent
4 with that degree of learning and skill ordinarily possessed by
5 physicians or other health care providers practicing in the
6 same or a similar locality and under similar circumstances,
7 reasonably believes impairs the physician's or other health
8 care provider's ability to provide appropriate health care
9 services to his or her patients.

10 (c) This Section shall not be construed to prohibit a
11 health care plan or its subcontractors from making a
12 determination not to pay for a particular health care service
13 or to prohibit a medical group, independent practice
14 association, preferred provider organization, foundation,
15 hospital medical staff, hospital governing body or health care
16 plan from enforcing reasonable peer review or utilization
17 review protocols or determining whether a physician or other
18 health care provider has complied with those protocols.

19 (d) Nothing in this Section shall be construed to prohibit
20 the governing body of a hospital or the hospital medical staff
21 from taking disciplinary actions against a physician as
22 authorized by law.

23 (e) Nothing in this Section shall be construed to prohibit
24 the Department of Financial and Professional Regulation from
25 taking disciplinary actions against a physician or other health
26 care provider under the appropriate licensing Act.

27 (f) Any violation of this Section shall be subject to the
28 penalties under this Act.

29 (Source: P.A. 91-617, eff. 1-1-00.)

30 Section 9375. The Uniform Prescription Drug Information
31 Card Act is amended by adding Section 2 as follows:

32 (215 ILCS 138/2 new)

33 Sec. 2. References to Department or Director of Insurance.
34 On and after the effective date of this amendatory Act of the

1 94th General Assembly:

2 (1) References in this Act to the Department of
3 Insurance or "the Department" mean the Department of
4 Financial and Professional Regulation.

5 (2) References in this Act to the Director of Insurance
6 or "the Director" mean the Secretary of Financial and
7 Professional Regulation.

8 Section 9380. The Uniform Health Care Service Benefits
9 Information Card Act is amended by adding Section 2 as follows:

10 (215 ILCS 139/2 new)

11 Sec. 2. References to Department or Director of Insurance.

12 On and after the effective date of this amendatory Act of the
13 94th General Assembly:

14 (1) References in this Act to the Department of
15 Insurance or "the Department" mean the Department of
16 Financial and Professional Regulation.

17 (2) References in this Act to the Director of Insurance
18 or "the Director" mean the Secretary of Financial and
19 Professional Regulation.

20 Section 9385. The Property Fire Loss Act is amended by
21 changing Section 1 as follows:

22 (215 ILCS 145/1) (from Ch. 73, par. 1153)

23 Sec. 1. (a) The Fire Marshal, the Secretary of Financial
24 and Professional Regulation, ~~director of the Department of~~
25 ~~Insurance~~ or personnel from any other authorized fire
26 department or law enforcement agency charged with the
27 responsibility of investigating a fire loss or potential fire
28 loss, may request any insurance company that has investigated
29 or is investigating a fire loss or potential fire loss of real
30 or personal property to release any factual information in its
31 possession which is pertinent to this type of loss or potential
32 loss and has some relationship to the loss or potential loss

1 itself. The company shall release the information and cooperate
2 with any official authorized to request such information
3 pursuant to this Section. The information shall include, but is
4 not limited to:

5 (1) Any insurance policy relevant to a fire loss or
6 potential fire loss under investigation and any application for
7 such a policy;

8 (2) Policy premium payment records;

9 (3) History of previous claims made by the insured for fire
10 loss;

11 (4) Material relating to the investigation of the loss or
12 potential loss, including statements of any person, proof of
13 loss, and any other relevant evidence.

14 (b) If an insurance company has reason to believe that a
15 fire loss to its insured's real or personal property was caused
16 by other than accidental means, the company shall notify the
17 Fire Marshal, the Secretary of Financial and Professional
18 Regulation, ~~director of the Department of Insurance~~ or any
19 other appropriate law enforcement agency charged with the
20 responsibility to investigate fire losses and furnish such
21 persons with all relative material acquired during its
22 investigation of the fire loss, cooperate with and take such
23 reasonable action as may be requested by any law enforcement
24 agency, and cooperate with the Court and administrative
25 agencies of the State, and any official from the Fire Marshal's
26 office, the office of the Secretary of Financial and
27 Professional Regulation, ~~director of the Department of~~
28 ~~Insurance~~ or any law enforcement agency charged with the
29 responsibility to investigate the fire. Such insurance company
30 may request officials and departmental and agency personnel
31 receiving information on fire losses or potential fire losses
32 to release information relative to any investigation it has
33 made concerning any such fire loss or potential loss reported
34 by such company. Subject to the provisions of subsection (a)
35 and paragraphs (i), (iii), (iv), (v), (vii) and (viii) of
36 subsection (c) of Section 7 of the Freedom of Information Act,

1 such insurance company shall have the right to receive, within
2 a reasonable time, not to exceed 30 days after the receipt of
3 such request, the relevant information requested.

4 (c) In the absence of malice, no insurance company, or
5 person who furnishes information on its behalf, or authorized
6 person, department or agency as defined in subsection (a) who
7 releases information, is liable for damages in a civil action
8 or subject to criminal prosecution for any oral or written
9 statement made or any other action taken that is necessary to
10 supply information required pursuant to this Section.

11 (d) The officials and departmental and agency personnel
12 receiving any information furnished pursuant to this Section
13 shall hold the information in confidence until such time as its
14 release is required pursuant to this Section or a criminal or
15 civil proceeding.

16 (e) Any official referred to in paragraph (a) of this
17 Section may be required to testify as to any information in his
18 possession regarding the fire loss of real or personal property
19 in any civil action in which any person seeks recovery under a
20 policy against an insurance company for the fire loss.

21 (f) As used in this Section, "insurance company" includes
22 the Illinois Fair Plan Underwriting Association, and all
23 district, county and township mutual insurance companies.

24 (g) (1) No person shall intentionally or knowingly refuse
25 to release any information properly requested, pursuant to
26 paragraph (a) of this Section.

27 (2) No person shall refuse to make the necessary
28 notification of a fire loss pursuant to paragraph (b) of this
29 Section.

30 (3) No person shall refuse to supply to the proper
31 authorities pertinent information required to be furnished
32 pursuant to paragraph (b) of this Section.

33 (4) No person shall fail to hold in confidence information
34 required to be held in confidence by paragraph (d) of this
35 Section.

36 (h) Whoever violates paragraph (g) (1), (2), (3) or (4) of

1 this Section is guilty of a Class C misdemeanor and is subject
2 to a fine not to exceed \$100. It shall not be considered a
3 violation of this Section if an insurance company in good
4 faith, believes it has done everything required of it by this
5 Statute.

6 (i) A fire department or law enforcement agency that has
7 investigated or is investigating a fire loss or potential fire
8 loss of real or personal property may release to an insurer of
9 such property any factual information, including statements,
10 in its possession which is pertinent or related to the type of
11 loss or potential loss.

12 (Source: P.A. 86-1021.)

13 Section 9390. The Religious and Charitable Risk Pooling
14 Trust Act is amended by adding Section 1.5 as follows:

15 (215 ILCS 150/1.5 new)

16 Sec. 1.5. References to Department or Director of
17 Insurance. On and after the effective date of this amendatory
18 Act of the 94th General Assembly:

19 (1) References in this Act to the Department of
20 Insurance or "the Department" mean the Department of
21 Financial and Professional Regulation.

22 (2) References in this Act to the Director of Insurance
23 or "the Director" mean the Secretary of Financial and
24 Professional Regulation.

25 Section 9395. The Service Contract Act is amended by adding
26 Section 2 as follows:

27 (215 ILCS 152/2 new)

28 Sec. 2. References to Department or Director of Insurance.
29 On and after the effective date of this amendatory Act of the
30 94th General Assembly:

31 (1) References in this Act to the Department of
32 Insurance or "the Department" mean the Department of

1 Financial and Professional Regulation.

2 (2) References in this Act to the Director of Insurance
3 or "the Director" mean the Secretary of Financial and
4 Professional Regulation.

5 Section 9400. The Title Insurance Act is amended by adding
6 Section 1.5 as follows:

7 (215 ILCS 155/1.5 new)

8 Sec. 1.5. References to Department or Director of Financial
9 Institutions. On and after the effective date of this
10 amendatory Act of the 94th General Assembly:

11 (1) References in this Act to the Department of
12 Financial Institutions or "the Department" mean the
13 Department of Financial and Professional Regulation.

14 (2) References in this Act to the Director of Financial
15 Institutions or "the Director" mean the Secretary of
16 Financial and Professional Regulation.

17 Section 9405. The Use of Credit Information in Personal
18 Insurance Act is amended by changing Section 15 as follows:

19 (215 ILCS 157/15)

20 Sec. 15. Definitions. For the purposes of this Act, these
21 defined words have the following meanings:

22 "Adverse action" means a denial or cancellation of, an
23 increase in any charge for, or a reduction or other adverse or
24 unfavorable change in the terms of coverage or amount of, any
25 insurance, existing or applied for, in connection with the
26 underwriting of personal insurance.

27 "Affiliate" means any company that controls, is controlled
28 by, or is under common control with another company.

29 "Applicant" means an individual who has applied to be
30 covered by a personal insurance policy with an insurer.

31 "Consumer" means an insured or an applicant for a personal
32 insurance policy whose credit information is used or whose

1 insurance score is calculated in the underwriting or rating of
2 a personal insurance policy.

3 "Consumer reporting agency" means any person that, for
4 monetary fees or dues or on a cooperative nonprofit basis,
5 regularly engages in whole or in part in the practice of
6 assembling or evaluating consumer credit information or other
7 information on consumers for the purpose of furnishing consumer
8 reports to third parties.

9 "Credit information" means any credit-related information
10 derived from a credit report, found on a credit report itself,
11 or provided on an application for personal insurance.
12 Information that is not credit-related shall not be considered
13 "credit information," regardless of whether it is contained in
14 a credit report or in an application or is used to calculate an
15 insurance score.

16 "Credit report" means any written, oral, or other
17 communication of information by a consumer reporting agency
18 bearing on a consumer's credit worthiness, credit standing, or
19 credit capacity, that is used or expected to be used or
20 collected in whole or in part for the purpose of serving as a
21 factor to determine personal insurance premiums, eligibility
22 for coverage, or tier placement.

23 "Department" means the Department of Financial and
24 Professional Regulation Insurance.

25 "Insurance score" means a number or rating that is derived
26 from an algorithm, computer application, model, or other
27 process that is based in whole or in part on credit information
28 for the purposes of predicting the future insurance loss
29 exposure of an individual applicant or insured.

30 (Source: P.A. 93-114, eff. 10-1-03.)

31 Section 9410. The Viatical Settlements Act is amended by
32 adding Section 2 as follows:

33 (215 ILCS 158/2 new)

34 Sec. 2. References to Department or Director of Insurance.

1 On and after the effective date of this amendatory Act of the
2 94th General Assembly:

3 (1) References in this Act to the Department of
4 Insurance or "the Department" mean the Department of
5 Financial and Professional Regulation.

6 (2) References in this Act to the Director of Insurance
7 or "the Director" mean the Secretary of Financial and
8 Professional Regulation.

9 Section 9415. The Voluntary Health Services Plans Act is
10 amended by adding Section 1.5 as follows:

11 (215 ILCS 165/1.5 new)

12 Sec. 1.5. References to Department or Director of
13 Insurance. On and after the effective date of this amendatory
14 Act of the 94th General Assembly:

15 (1) References in this Act to the Department of
16 Insurance or "the Department" mean the Department of
17 Financial and Professional Regulation.

18 (2) References in this Act to the Director of Insurance
19 or "the Director" mean the Secretary of Financial and
20 Professional Regulation.

21 Section 9420. The Acupuncture Practice Act is amended by
22 adding Section 2 as follows:

23 (225 ILCS 2/2 new)

24 Sec. 2. References to Department or Director of
25 Professional Regulation. On and after the effective date of
26 this amendatory Act of the 94th General Assembly:

27 (1) References in this Act to the Department of
28 Professional Regulation or "the Department" mean the
29 Department of Financial and Professional Regulation.

30 (2) References in this Act to the Director of
31 Professional Regulation or "the Director" mean the
32 Secretary of Financial and Professional Regulation.

1 Section 9425. The Illinois Athletic Trainers Practice Act
2 is amended by adding Section 2.5 as follows:

3 (225 ILCS 5/2.5 new)

4 Sec. 2.5. References to Department or Director of
5 Professional Regulation. On and after the effective date of
6 this amendatory Act of the 94th General Assembly:

7 (1) References in this Act to the Department of
8 Professional Regulation or "the Department" mean the
9 Department of Financial and Professional Regulation.

10 (2) References in this Act to the Director of
11 Professional Regulation or "the Director" mean the
12 Secretary of Financial and Professional Regulation.

13 Section 9430. The Clinical Psychologist Licensing Act is
14 amended by adding Section 1.5 as follows:

15 (225 ILCS 15/1.5 new)

16 Sec. 1.5. References to Department or Director of
17 Professional Regulation. On and after the effective date of
18 this amendatory Act of the 94th General Assembly:

19 (1) References in this Act to the Department of
20 Professional Regulation or "the Department" mean the
21 Department of Financial and Professional Regulation.

22 (2) References in this Act to the Director of
23 Professional Regulation or "the Director" mean the
24 Secretary of Financial and Professional Regulation.

25 Section 9435. The Clinical Social Work and Social Work
26 Practice Act is amended by adding Section 2.5 as follows:

27 (225 ILCS 20/2.5 new)

28 Sec. 2.5. References to Department or Director of
29 Professional Regulation. On and after the effective date of
30 this amendatory Act of the 94th General Assembly:

1 (1) References in this Act to the Department of
2 Professional Regulation or "the Department" mean the
3 Department of Financial and Professional Regulation.

4 (2) References in this Act to the Director of
5 Professional Regulation or "the Director" mean the
6 Secretary of Financial and Professional Regulation.

7 Section 9440. The Illinois Dental Practice Act is amended
8 by adding Section 1.5 and changing Section 42 as follows:

9 (225 ILCS 25/1.5 new)

10 Sec. 1.5. References to Department or Director of
11 Professional Regulation. On and after the effective date of
12 this amendatory Act of the 94th General Assembly:

13 (1) References in this Act to the Department of
14 Professional Regulation or "the Department" mean the
15 Department of Financial and Professional Regulation.

16 (2) References in this Act to the Director of
17 Professional Regulation or "the Director" mean the
18 Secretary of Financial and Professional Regulation.

19 (225 ILCS 25/42) (from Ch. 111, par. 2342)

20 (Section scheduled to be repealed on January 1, 2006)

21 Sec. 42. Dental Disciplinary Fund. All fees, fines or
22 penalties received by the Department under this Act shall be
23 deposited in the Illinois State Dental Disciplinary Fund, a
24 special fund created hereunder in the State Treasury, and shall
25 be used only by the Department in the exercise of its powers
26 and performance of its duties under this Act, including but not
27 limited to the provision for evidence in dental investigation.
28 All earnings incurred from investment of moneys in the Illinois
29 State Dental Disciplinary Fund shall be deposited in the
30 Illinois State Dental Disciplinary Fund and shall be used for
31 the same purpose as fees deposited in such Fund.

32 Moneys in the Fund may be transferred to the Professions
33 Indirect Cost Fund as authorized under Section 70 ~~2105-300~~ of

1 the Department of Financial and Professional Regulation Act Law
2 ~~(20 ILCS 2105/2105-300)~~.

3 (Source: P.A. 91-239, eff. 1-1-00.)

4 Section 9445. The Dietetic and Nutrition Services Practice
5 Act is amended by adding Section 2 as follows:

6 (225 ILCS 30/2 new)

7 Sec. 2. References to Department or Director of
8 Professional Regulation. On and after the effective date of
9 this amendatory Act of the 94th General Assembly:

10 (1) References in this Act to the Department of
11 Professional Regulation or "the Department" mean the
12 Department of Financial and Professional Regulation.

13 (2) References in this Act to the Director of
14 Professional Regulation or "the Director" mean the
15 Secretary of Financial and Professional Regulation.

16 Section 9450. The Environmental Health Practitioner
17 Licensing Act is amended by adding Section 2 as follows:

18 (225 ILCS 37/2 new)

19 Sec. 2. References to Department or Director of
20 Professional Regulation. On and after the effective date of
21 this amendatory Act of the 94th General Assembly:

22 (1) References in this Act to the Department of
23 Professional Regulation or "the Department" mean the
24 Department of Financial and Professional Regulation.

25 (2) References in this Act to the Director of
26 Professional Regulation or "the Director" mean the
27 Secretary of Financial and Professional Regulation.

28 Section 9455. The Funeral Directors and Embalmers
29 Licensing Code is amended by adding Section 1-2 as follows:

30 (225 ILCS 41/1-2 new)

1 Sec. 1-2. References to Department or Director of
2 Professional Regulation. On and after the effective date of
3 this amendatory Act of the 94th General Assembly:

4 (1) References in this Act to the Department of
5 Professional Regulation or "the Department" mean the
6 Department of Financial and Professional Regulation.

7 (2) References in this Act to the Director of
8 Professional Regulation or "the Director" mean the
9 Secretary of Financial and Professional Regulation.

10 Section 9460. The Illinois Funeral or Burial Funds Act is
11 amended by changing Sections 2a and 4a as follows:

12 (225 ILCS 45/2a)

13 Sec. 2a. Purchase of insurance or annuity.

14 (a) If a purchaser selects the purchase of a life insurance
15 policy or tax-deferred annuity contract to fund the pre-need
16 contract, the application and collected premium shall be mailed
17 within 30 days of signing the pre-need contract.

18 (b) If life insurance or an annuity is used to fund a
19 pre-need contract, the seller or provider shall not be named as
20 the owner or beneficiary of the policy or annuity. No person
21 whose only insurable interest in the insured is the receipt of
22 proceeds from the policy or in naming who shall receive the
23 proceeds nor any trust acting on behalf of such person or
24 seller or provider shall be named as owner or beneficiary of
25 the policy or annuity.

26 (c) Nothing shall prohibit the purchaser from irrevocably
27 assigning ownership of the policy or annuity used to fund a
28 guaranteed price pre-need contract to a person or trust for the
29 purpose of obtaining favorable consideration for Medicaid,
30 Supplemental Security Income, or another public assistance
31 program, as permitted under federal law. The seller or contract
32 provider may be named a nominal owner of the life insurance
33 policy only for such time as it takes to immediately transfer
34 the policy into a trust. Except for this purpose, neither the

1 seller nor the contract provider shall be named the owner or
2 the beneficiary of the policy or annuity.

3 (d) If a life insurance policy or annuity contract is used
4 to fund a pre-need contract, except for guaranteed price
5 contracts permitted in Section 4(a) of this Act, the pre-need
6 contract must be revocable, and any assignment provision in the
7 pre-need contract must contain the following disclosure in 12
8 point bold type:

9 THIS ASSIGNMENT MAY BE REVOKED BY THE ASSIGNOR OR
10 ASSIGNOR'S SUCCESSOR OR, IF THE ASSIGNOR IS ALSO THE INSURED
11 AND DECEASED, BY THE REPRESENTATIVE OF THE INSURED'S ESTATE
12 BEFORE THE RENDERING TO THE CEMETERY SERVICES OR GOODS OR
13 FUNERAL SERVICES OR GOODS. IF THE ASSIGNMENT IS REVOKED, THE
14 DEATH BENEFIT UNDER THE LIFE INSURANCE POLICY OR ANNUITY
15 CONTRACT SHALL BE PAID IN ACCORDANCE WITH THE BENEFICIARY
16 DESIGNATION UNDER THE INSURANCE POLICY OR ANNUITY CONTRACT.

17 (e) Sales proceeds shall not be used to purchase life
18 insurance policies or tax-deferred annuities unless the
19 company issuing the life insurance policies or tax-deferred
20 annuities is licensed with the Illinois Department of Insurance
21 or its successor, the Department of Financial and Professional
22 Regulation, and the insurance producer or annuity seller is
23 licensed to do business in the State of Illinois.

24 (Source: P.A. 92-419, eff. 1-1-02.)

25 (225 ILCS 45/4a)

26 Sec. 4a. Investment of funds.

27 (a) A trustee shall, with respect to the investment of
28 trust funds, exercise the judgment and care under the
29 circumstances then prevailing that persons of prudence,
30 discretion, and intelligence exercise in the management of
31 their own affairs, not in regard to speculation, but in regard
32 to the permanent disposition of their funds, considering the
33 probable income as well as the probable safety of their
34 capital.

35 (b) The trust shall be a single-purpose trust fund. In the

1 event of the seller's bankruptcy, insolvency or assignment for
2 the benefit of creditors, or an adverse judgment, the trust
3 funds shall not be available to any creditor as assets of the
4 seller or to pay any expenses of any bankruptcy or similar
5 proceeding, but shall be distributed to the purchasers or
6 managed for their benefit by the trustee holding the funds.
7 Except in an action by the Comptroller to revoke a license
8 issued pursuant to this Act and for creation of a receivership
9 as provided in this Act, the trust shall not be subject to
10 judgment, execution, garnishment, attachment, or other seizure
11 by process in bankruptcy or otherwise, nor to sale, pledge,
12 mortgage, or other alienation, and shall not be assignable
13 except as approved by the Comptroller. The changes made by this
14 amendatory Act of the 91st General Assembly are intended to
15 clarify existing law regarding the inability of licensees to
16 pledge the trust.

17 (c) Because it is not known at the time of deposit or at
18 the time that income is earned on the trust account to whom the
19 principal and the accumulated earnings will be distributed for
20 the purpose of determining the Illinois income tax due on these
21 trust funds, the principal and any accrued earnings or losses
22 related to each individual account shall be held in suspense
23 until the final determination is made as to whom the account
24 shall be paid. The beneficiary's estate shall not be
25 responsible for any funeral and burial purchases listed in a
26 pre-need contract if the pre-need contract is entered into on a
27 guaranteed price basis.

28 If a pre-need contract is not a guaranteed price contract,
29 then to the extent the proceeds of a non-guaranteed price
30 pre-need contract cover the funeral and burial expenses for the
31 beneficiary, no claim may be made against the estate of the
32 beneficiary. A claim may be made against the beneficiary's
33 estate if the charges for the funeral services and merchandise
34 at the time of use exceed the amount of the amount in trust
35 plus the percentage of the sale proceeds initially retained by
36 the seller or the face value of the life insurance policy or

1 tax-deferred annuity.

2 (d) Trust funds shall not be invested by the trustee in
3 life insurance policies or tax-deferred annuities unless the
4 following requirements are met:

5 (1) The company issuing the life insurance policies or
6 tax-deferred annuities is licensed by the Illinois
7 Department of Insurance or its successor, the Department of
8 Financial and Professional Regulation, and the insurance
9 producer or annuity seller is licensed to do business in
10 the State of Illinois;

11 (2) Prior to the investment, the purchaser approves, in
12 writing, the investment in life insurance policies or
13 tax-deferred annuities;

14 (3) Prior to the investment, the purchaser is notified
15 by the seller in writing about the disclosures required for
16 all pre-need contracts under Section 1a-1 of this Act, and
17 the purchase of life insurance or a tax-deferred annuity is
18 subject to the requirements of Section 2a of this Act;

19 (4) Prior to the investment, the trustee informs the
20 Comptroller that trust funds shall be removed from the
21 trust account to purchase life insurance or a tax-deferred
22 annuity upon the written consent of the purchaser;

23 (5) The purchaser retains the right to refund provided
24 for in this Act, unless the pre-need contract is sold on an
25 irrevocable basis as provided in Section 4 of this Act; and

26 (6) Notice must be given in writing that the cash
27 surrender value of a life insurance policy may be less than
28 the amount provided for by the refund provisions of the
29 trust account.

30 (Source: P.A. 91-7, eff. 6-1-99.)

31 Section 9465. The Health Care Worker Background Check Act
32 is amended by changing Sections 20 and 65 as follows:

33 (225 ILCS 46/20)

34 Sec. 20. Exceptions.

1 (1) This Act shall not apply to:

2 (a) an individual who is licensed by the Department of
3 Professional Regulation or its successor, the Department
4 of Financial and Professional Regulation, or the
5 Department of Public Health under another law of this
6 State;

7 (b) an individual employed or retained by a health care
8 employer for whom a criminal background check is required
9 by another law of this State; or

10 (c) a student in a licensed health care field
11 including, but not limited to, a student nurse, a physical
12 therapy student, or a respiratory care student unless he or
13 she is employed by a health care employer in a position
14 with duties involving direct care for clients, patients, or
15 residents.

16 (2) A UCIA criminal history records check need not be
17 redone by the University of Illinois Hospital, Chicago (U of I)
18 or a program funded by the Department on Aging through the
19 Community Care Program (CCP) if the U of I or the CCP: (i) has
20 done a UCIA check on the individual; (ii) has continuously
21 employed the individual since the UCIA criminal records check
22 was done; and (iii) has taken actions with respect to this Act
23 within 12 months after the effective date of this amendatory
24 Act of the 91st General Assembly.

25 (Source: P.A. 91-598, eff. 1-1-00.)

26 (225 ILCS 46/65)

27 Sec. 65. Health Care Worker Task Force. A Health Care
28 Worker Task Force shall be appointed to study and make
29 recommendations on statutory changes to this Act.

30 (a) The Task Force shall monitor the status of the
31 implementation of this Act and monitor complaint
32 investigations relating to this Act by the Department on Aging,
33 Department of Public Health, Department of Financial and
34 Professional Regulation, and the Department of Human Services
35 to determine the criminal background, if any, of health care

1 workers who have had findings of abuse, theft, or exploitation.

2 (b) The Task Force shall make recommendations concerning
3 modifications to the list of offenses enumerated in Section 25,
4 including time limits on all or some of the disqualifying
5 offenses, and any other necessary or desirable changes to the
6 Act.

7 (c) The Task Force shall issue an interim report to the
8 Governor and General Assembly no later than January 1, 2004.
9 The final report shall be issued no later than September 30,
10 2005, and shall include specific statutory changes
11 recommended, if any.

12 (d) The Task Force shall be composed of the following
13 members, who shall serve without pay:

14 (1) a chairman knowledgeable about health care issues,
15 who shall be appointed by the Governor;

16 (2) the Director of Public Health or his or her
17 designee;

18 (3) the Director of State Police or his or her
19 designee;

20 (3.5) the Director of Public Aid or his or her
21 designee;

22 (3.6) the Secretary of Human Services or his or her
23 designee;

24 (3.7) the Director of Aging or his or her designee;

25 (4) 2 representatives of health care providers, who
26 shall be appointed by the Governor;

27 (5) 2 representatives of health care employees, who
28 shall be appointed by the Governor;

29 (5.5) a representative of a Community Care homemaker
30 program, who shall be appointed by the Governor;

31 (6) a representative of the general public who has an
32 interest in health care, who shall be appointed by the
33 Governor; and

34 (7) 4 members of the General Assembly, one appointed by
35 the Speaker of the House, one appointed by the House
36 Minority Leader, one appointed by the President of the

1 Senate, and one appointed by the Senate Minority Leader.
2 (Source: P.A. 93-224, eff. 7-18-03.)

3 Section 9470. The Home Medical Equipment and Services
4 Provider License Act is amended by adding Section 2 as follows:

5 (225 ILCS 51/2 new)

6 Sec. 2. References to Department or Director of
7 Professional Regulation. On and after the effective date of
8 this amendatory Act of the 94th General Assembly:

9 (1) References in this Act to the Department of
10 Professional Regulation or "the Department" mean the
11 Department of Financial and Professional Regulation.

12 (2) References in this Act to the Director of
13 Professional Regulation or "the Director" mean the
14 Secretary of Financial and Professional Regulation.

15 Section 9475. The Marriage and Family Therapy Licensing Act
16 is amended by adding Section 2 as follows:

17 (225 ILCS 55/2 new)

18 Sec. 2. References to Department or Director of
19 Professional Regulation. On and after the effective date of
20 this amendatory Act of the 94th General Assembly:

21 (1) References in this Act to the Department of
22 Professional Regulation or "the Department" mean the
23 Department of Financial and Professional Regulation.

24 (2) References in this Act to the Director of
25 Professional Regulation or "the Director" mean the
26 Secretary of Financial and Professional Regulation.

27 Section 9480. The Massage Licensing Act is amended by
28 adding Section 2 as follows:

29 (225 ILCS 57/2 new)

30 Sec. 2. References to Department or Director of

1 Professional Regulation. On and after the effective date of
2 this amendatory Act of the 94th General Assembly:

3 (1) References in this Act to the Department of
4 Professional Regulation or "the Department" mean the
5 Department of Financial and Professional Regulation.

6 (2) References in this Act to the Director of
7 Professional Regulation or "the Director" mean the
8 Secretary of Financial and Professional Regulation.

9 Section 9485. The Medical Practice Act of 1987 is amended
10 by adding Section 1.5 and changing Section 21 as follows:

11 (225 ILCS 60/1.5 new)

12 Sec. 1.5. References to Department or Director of
13 Professional Regulation. On and after the effective date of
14 this amendatory Act of the 94th General Assembly:

15 (1) References in this Act to the Department of
16 Professional Regulation or "the Department" mean the
17 Department of Financial and Professional Regulation.

18 (2) References in this Act to the Director of
19 Professional Regulation or "the Director" mean the
20 Secretary of Financial and Professional Regulation.

21 (225 ILCS 60/21) (from Ch. 111, par. 4400-21)

22 (Section scheduled to be repealed on January 1, 2007)

23 Sec. 21. License renewal; restoration; inactive status;
24 disposition and collection of fees.

25 (A) Renewal. The expiration date and renewal period for
26 each license issued under this Act shall be set by rule. The
27 holder of a license may renew the license by paying the
28 required fee. The holder of a license may also renew the
29 license within 90 days after its expiration by complying with
30 the requirements for renewal and payment of an additional fee.
31 A license renewal within 90 days after expiration shall be
32 effective retroactively to the expiration date.

33 The Department shall mail to each licensee under this Act,

1 at his or her last known address, at least 60 days in advance
2 of the expiration date of his or her license, a notice of that
3 fact and an application for renewal form. No such license shall
4 be deemed to have lapsed until 90 days after the expiration
5 date and after such notice and application have been mailed by
6 the Department as herein provided.

7 (B) Restoration. Any licensee who has permitted his or her
8 license to lapse or who has had his or her license on inactive
9 status may have his or her license restored by making
10 application to the Department and filing proof acceptable to
11 the Department of his or her fitness to have the license
12 restored, including evidence certifying to active practice in
13 another jurisdiction satisfactory to the Department, proof of
14 meeting the continuing education requirements for one renewal
15 period, and by paying the required restoration fee.

16 If the licensee has not maintained an active practice in
17 another jurisdiction satisfactory to the Department, the
18 Licensing Board shall determine, by an evaluation program
19 established by rule, the applicant's fitness to resume active
20 status and may require the licensee to complete a period of
21 evaluated clinical experience and may require successful
22 completion of the practical examination.

23 However, any registrant whose license has expired while he
24 or she has been engaged (a) in Federal Service on active duty
25 with the Army of the United States, the United States Navy, the
26 Marine Corps, the Air Force, the Coast Guard, the Public Health
27 Service or the State Militia called into the service or
28 training of the United States of America, or (b) in training or
29 education under the supervision of the United States
30 preliminary to induction into the military service, may have
31 his or her license reinstated or restored without paying any
32 lapsed renewal fees, if within 2 years after honorable
33 termination of such service, training, or education, he or she
34 furnishes to the Department with satisfactory evidence to the
35 effect that he or she has been so engaged and that his or her
36 service, training, or education has been so terminated.

1 (C) Inactive licenses. Any licensee who notifies the
2 Department, in writing on forms prescribed by the Department,
3 may elect to place his or her license on an inactive status and
4 shall, subject to rules of the Department, be excused from
5 payment of renewal fees until he or she notifies the Department
6 in writing of his or her desire to resume active status.

7 Any licensee requesting restoration from inactive status
8 shall be required to pay the current renewal fee, provide proof
9 of meeting the continuing education requirements for the period
10 of time the license is inactive not to exceed one renewal
11 period, and shall be required to restore his or her license as
12 provided in subsection (B).

13 Any licensee whose license is in an inactive status shall
14 not practice in the State of Illinois.

15 (D) Disposition of monies collected. All monies collected
16 under this Act by the Department shall be deposited in the
17 Illinois State Medical Disciplinary Fund in the State Treasury,
18 and used only for the following purposes: (a) by the Medical
19 Disciplinary Board in the exercise of its powers and
20 performance of its duties, as such use is made by the
21 Department with full consideration of all recommendations of
22 the Medical Disciplinary Board, (b) for costs directly related
23 to persons licensed under this Act, and (c) for direct and
24 allocable indirect costs related to the public purposes of the
25 Department of Professional Regulation.

26 Moneys in the Fund may be transferred to the Professions
27 Indirect Cost Fund as authorized under Section 70 ~~2105-300~~ of
28 the Department of Financial and Professional Regulation Act ~~Law~~
29 ~~(20 ILCS 2105/2105-300)~~.

30 All earnings received from investment of monies in the
31 Illinois State Medical Disciplinary Fund shall be deposited in
32 the Illinois State Medical Disciplinary Fund and shall be used
33 for the same purposes as fees deposited in such Fund.

34 (E) Fees. The following fees are nonrefundable.

35 (1) Applicants for any examination shall be required to
36 pay, either to the Department or to the designated testing

1 service, a fee covering the cost of determining the
2 applicant's eligibility and providing the examination.
3 Failure to appear for the examination on the scheduled
4 date, at the time and place specified, after the
5 applicant's application for examination has been received
6 and acknowledged by the Department or the designated
7 testing service, shall result in the forfeiture of the
8 examination fee.

9 (2) The fee for a license under Section 9 of this Act
10 is \$300.

11 (3) The fee for a license under Section 19 of this Act
12 is \$300.

13 (4) The fee for the renewal of a license for a resident
14 of Illinois shall be calculated at the rate of \$100 per
15 year, except for licensees who were issued a license within
16 12 months of the expiration date of the license, the fee
17 for the renewal shall be \$100. The fee for the renewal of a
18 license for a nonresident shall be calculated at the rate
19 of \$200 per year, except for licensees who were issued a
20 license within 12 months of the expiration date of the
21 license, the fee for the renewal shall be \$200.

22 (5) The fee for the restoration of a license other than
23 from inactive status, is \$100. In addition, payment of all
24 lapsed renewal fees not to exceed \$600 is required.

25 (6) The fee for a 3-year temporary license under
26 Section 17 is \$100.

27 (7) The fee for the issuance of a duplicate license,
28 for the issuance of a replacement license for a license
29 which has been lost or destroyed, or for the issuance of a
30 license with a change of name or address other than during
31 the renewal period is \$20. No fee is required for name and
32 address changes on Department records when no duplicate
33 license is issued.

34 (8) The fee to be paid for a license record for any
35 purpose is \$20.

36 (9) The fee to be paid to have the scoring of an

1 examination, administered by the Department, reviewed and
2 verified, is \$20 plus any fees charged by the applicable
3 testing service.

4 (10) The fee to be paid by a licensee for a wall
5 certificate showing his or her license shall be the actual
6 cost of producing the certificate.

7 (11) The fee for a roster of persons licensed as
8 physicians in this State shall be the actual cost of
9 producing such a roster.

10 (F) Any person who delivers a check or other payment to the
11 Department that is returned to the Department unpaid by the
12 financial institution upon which it is drawn shall pay to the
13 Department, in addition to the amount already owed to the
14 Department, a fine of \$50. The fines imposed by this Section
15 are in addition to any other discipline provided under this Act
16 for unlicensed practice or practice on a nonrenewed license.
17 The Department shall notify the person that payment of fees and
18 fines shall be paid to the Department by certified check or
19 money order within 30 calendar days of the notification. If,
20 after the expiration of 30 days from the date of the
21 notification, the person has failed to submit the necessary
22 remittance, the Department shall automatically terminate the
23 license or certificate or deny the application, without
24 hearing. If, after termination or denial, the person seeks a
25 license or certificate, he or she shall apply to the Department
26 for restoration or issuance of the license or certificate and
27 pay all fees and fines due to the Department. The Department
28 may establish a fee for the processing of an application for
29 restoration of a license or certificate to pay all expenses of
30 processing this application. The Director may waive the fines
31 due under this Section in individual cases where the Director
32 finds that the fines would be unreasonable or unnecessarily
33 burdensome.

34 (Source: P.A. 91-239, eff. 1-1-00; 91-357, eff. 7-29-99; 92-16,
35 eff. 6-28-01; 92-146, eff. 1-1-02.)

1 Section 9490. The Naprapathic Practice Act is amended by
2 adding Section 2 as follows:

3 (225 ILCS 63/2 new)

4 Sec. 2. References to Department or Director of
5 Professional Regulation. On and after the effective date of
6 this amendatory Act of the 94th General Assembly:

7 (1) References in this Act to the Department of
8 Professional Regulation or "the Department" mean the
9 Department of Financial and Professional Regulation.

10 (2) References in this Act to the Director of
11 Professional Regulation or "the Director" mean the
12 Secretary of Financial and Professional Regulation.

13 Section 9495. The Nursing and Advanced Practice Nursing Act
14 is amended by adding Section 5-2 and changing Section 20-40 as
15 follows:

16 (225 ILCS 65/5-2 new)

17 Sec. 5-2. References to Department or Director of
18 Professional Regulation. On and after the effective date of
19 this amendatory Act of the 94th General Assembly:

20 (1) References in this Act to the Department of
21 Professional Regulation or "the Department" mean the
22 Department of Financial and Professional Regulation.

23 (2) References in this Act to the Director of
24 Professional Regulation or "the Director" mean the
25 Secretary of Financial and Professional Regulation.

26 (225 ILCS 65/20-40)

27 (Section scheduled to be repealed on January 1, 2008)

28 Sec. 20-40. Fund. There is hereby created within the State
29 Treasury the Nursing Dedicated and Professional Fund. The
30 monies in the Fund may be used by and at the direction of the
31 Department for the administration and enforcement of this Act,
32 including but not limited to:

1 (a) Distribution and publication of the Nursing and
2 Advanced Practice Nursing Act and the rules at the time of
3 renewal to all persons licensed by the Department under
4 this Act.

5 (b) Employment of secretarial, nursing,
6 administrative, enforcement, and other staff for the
7 administration of this Act.

8 (c) Conducting a survey, as prescribed by rule of the
9 Department, once every 4 years during the license renewal
10 period.

11 (d) Conducting of training seminars for licensees
12 under this Act relating to the obligations,
13 responsibilities, enforcement and other provisions of the
14 Act and its rules.

15 (e) Disposition of Fees:

16 (i) (Blank).

17 (ii) All of the fees and fines collected pursuant
18 to this Act shall be deposited in the Nursing Dedicated
19 and Professional Fund.

20 (iii) For the fiscal year beginning July 1, 1988,
21 the moneys deposited in the Nursing Dedicated and
22 Professional Fund shall be appropriated to the
23 Department for expenses of the Department and the Board
24 in the administration of this Act. All earnings
25 received from investment of moneys in the Nursing
26 Dedicated and Professional Fund shall be deposited in
27 the Nursing Dedicated and Professional Fund and shall
28 be used for the same purposes as fees deposited in the
29 Fund.

30 (iv) For the fiscal year beginning July 1, 2004 and
31 for each fiscal year thereafter, \$1,200,000 of the
32 moneys deposited in the Nursing Dedicated and
33 Professional Fund each year shall be set aside and
34 appropriated to the Illinois Department of Public
35 Health for nursing scholarships awarded pursuant to
36 the Nursing Education Scholarship Law. Representatives

1 of the Department and the Nursing Education
2 Scholarship Program Advisory Council shall review this
3 requirement and the scholarship awards every 2 years.

4 (v) Moneys in the Fund may be transferred to the
5 Professions Indirect Cost Fund as authorized under
6 Section 70 2105-300 of the Department of Financial and
7 Professional Regulation Act Law ~~(20 ILCS~~
8 ~~2105/2105-300)~~.

9 (f) Moneys set aside for nursing scholarships awarded
10 pursuant to the Nursing Education Scholarship Law as
11 provided in item (iv) of subsection (e) of this Section may
12 not be transferred under Section 8h of the State Finance
13 Act.

14 (Source: P.A. 92-46, eff. 7-1-01; 93-806, eff. 7-24-04;
15 93-1054, eff. 11-18-04; revised 12-1-04.)

16 Section 9500. The Nursing Home Administrators Licensing
17 and Disciplinary Act is amended by adding Section 1.5 as
18 follows:

19 (225 ILCS 70/1.5 new)

20 Sec. 1.5. References to Department or Director of
21 Professional Regulation. On and after the effective date of
22 this amendatory Act of the 94th General Assembly:

23 (1) References in this Act to the Department of
24 Professional Regulation or "the Department" mean the
25 Department of Financial and Professional Regulation.

26 (2) References in this Act to the Director of
27 Professional Regulation or "the Director" mean the
28 Secretary of Financial and Professional Regulation.

29 Section 9505. The Illinois Occupational Therapy Practice
30 Act is amended by adding Section 1.5 as follows:

31 (225 ILCS 75/1.5 new)

32 Sec. 1.5. References to Department or Director of

1 Professional Regulation. On and after the effective date of
2 this amendatory Act of the 94th General Assembly:

3 (1) References in this Act to the Department of
4 Professional Regulation or "the Department" mean the
5 Department of Financial and Professional Regulation.

6 (2) References in this Act to the Director of
7 Professional Regulation or "the Director" mean the
8 Secretary of Financial and Professional Regulation.

9 Section 9510. The Illinois Optometric Practice Act of 1987
10 is amended by adding Section 2.5 and changing Section 20 as
11 follows:

12 (225 ILCS 80/2.5 new)

13 Sec. 2.5. References to Department or Director of
14 Professional Regulation. On and after the effective date of
15 this amendatory Act of the 94th General Assembly:

16 (1) References in this Act to the Department of
17 Professional Regulation or "the Department" mean the
18 Department of Financial and Professional Regulation.

19 (2) References in this Act to the Director of
20 Professional Regulation or "the Director" mean the
21 Secretary of Financial and Professional Regulation.

22 (225 ILCS 80/20) (from Ch. 111, par. 3920)

23 (Section scheduled to be repealed on January 1, 2007)

24 Sec. 20. Fund. All moneys received by the Department
25 pursuant to this Act shall be deposited in the Optometric
26 Licensing and Disciplinary Board Fund, which is hereby created
27 as a special fund in the State Treasury, and shall be used for
28 the administration of this Act, including: (a) by the Board in
29 the exercise of its powers and performance of its duties, as
30 such use is made by the Department with full consideration of
31 all recommendations of the Board; (b) for costs directly
32 related to license renewal of persons licensed under this Act;
33 and (c) for direct and allocable indirect costs related to the

1 public purposes of the Department of Professional Regulation.
2 Subject to appropriation, moneys in the Optometric Licensing
3 and Disciplinary Board Fund may be used for the Optometric
4 Education Scholarship Program administered by the Illinois
5 Student Assistance Commission pursuant to Section 65.70 of the
6 Higher Education Student Assistance Act.

7 Moneys in the Fund may be transferred to the Professions
8 Indirect Cost Fund as authorized under Section 70 ~~2105-300~~ of
9 the Department of Financial and Professional Regulation Act ~~Law~~
10 ~~(20 ILCS 2105/2105-300)~~.

11 Money in the Optometric Licensing and Disciplinary Board
12 Fund may be invested and reinvested, with all earnings received
13 from such investment to be deposited in the Optometric
14 Licensing and Disciplinary Board Fund and used for the same
15 purposes as fees deposited in such fund.

16 Any monies in the Optometric Examining and Disciplinary
17 Board Fund on the effective date of this Act shall be
18 transferred to the Optometric Licensing and Disciplinary Board
19 Fund.

20 Any obligations of the Optometric Examining and
21 Disciplinary Board Fund unpaid on the effective date of this
22 Act shall be paid from the Optometric Licensing and
23 Disciplinary Board Fund.

24 (Source: P.A. 91-239, eff. 1-1-00; 92-569, eff. 6-26-02.)

25 Section 9515. The Mail Order Contact Lens Act is amended by
26 changing Section 5 as follows:

27 (225 ILCS 83/5)

28 Sec. 5. Definitions. As used in this Act:

29 "Contact lens prescription" means a written order bearing
30 the original signature of a duly licensed optometrist or
31 physician or an oral or electronic order issued directly by an
32 optometrist or physician that authorizes the dispensing of
33 contact lenses to a patient.

34 "Department" means the Department of Financial and

1 Professional Regulation.

2 "Mail-order ophthalmic provider" means an entity that
3 dispenses contact lenses through the United States Postal
4 Service or other common carrier to Illinois residents.

5 "Physician" means a person licensed to practice medicine in
6 all its branches under the Medical Practice Act of 1987.

7 (Source: P.A. 91-421, eff. 1-1-00.)

8 Section 9520. The Orthotics, Prosthetics, and Pedorthics
9 Practice Act is amended by adding Section 2 as follows:

10 (225 ILCS 84/2 new)

11 Sec. 2. References to Department or Director of
12 Professional Regulation. On and after the effective date of
13 this amendatory Act of the 94th General Assembly:

14 (1) References in this Act to the Department of
15 Professional Regulation or "the Department" mean the
16 Department of Financial and Professional Regulation.

17 (2) References in this Act to the Director of
18 Professional Regulation or "the Director" mean the
19 Secretary of Financial and Professional Regulation.

20 Section 9525. The Pharmacy Practice Act of 1987 is amended
21 by adding Section 2.5 and changing Section 27 as follows:

22 (225 ILCS 85/2.5 new)

23 Sec. 2.5. References to Department or Director of
24 Professional Regulation. On and after the effective date of
25 this amendatory Act of the 94th General Assembly:

26 (1) References in this Act to the Department of
27 Professional Regulation or "the Department" mean the
28 Department of Financial and Professional Regulation.

29 (2) References in this Act to the Director of
30 Professional Regulation or "the Director" mean the
31 Secretary of Financial and Professional Regulation.

1 (225 ILCS 85/27) (from Ch. 111, par. 4147)

2 (Section scheduled to be repealed on January 1, 2008)

3 Sec. 27. Fees. The following fees are not refundable.

4 (A) Certificate of pharmacy technician.

5 (1) The fee for application for a certificate of
6 registration as a pharmacy technician is \$40.

7 (2) The fee for the renewal of a certificate of
8 registration as a pharmacy technician shall be calculated
9 at the rate of \$25 per year.

10 (B) License as a pharmacist.

11 (1) The fee for application for a license is \$75.

12 (2) In addition, applicants for any examination as a
13 registered pharmacist shall be required to pay, either to
14 the Department or to the designated testing service, a fee
15 covering the cost of determining an applicant's
16 eligibility and providing the examination. Failure to
17 appear for the examination on the scheduled date, at the
18 time and place specified, after the applicant's
19 application for examination has been received and
20 acknowledged by the Department or the designated testing
21 service, shall result in the forfeiture of the examination
22 fee.

23 (3) The fee for a license as a registered pharmacist
24 registered or licensed under the laws of another state or
25 territory of the United States is \$200.

26 (4) The fee upon the renewal of a license shall be
27 calculated at the rate of \$75 per year.

28 (5) The fee for the restoration of a certificate other
29 than from inactive status is \$10 plus all lapsed renewal
30 fees.

31 (6) Applicants for the preliminary diagnostic
32 examination shall be required to pay, either to the
33 Department or to the designated testing service, a fee
34 covering the cost of determining an applicant's
35 eligibility and providing the examination. Failure to
36 appear for the examination on the scheduled date, at the

1 time and place specified, after the application for
2 examination has been received and acknowledged by the
3 Department or the designated testing service, shall result
4 in the forfeiture of the examination fee.

5 (7) The fee to have the scoring of an examination
6 authorized by the Department reviewed and verified is \$20
7 plus any fee charged by the applicable testing service.

8 (C) License as a pharmacy.

9 (1) The fee for application for a license for a
10 pharmacy under this Act is \$100.

11 (2) The fee for the renewal of a license for a pharmacy
12 under this Act shall be calculated at the rate of \$100 per
13 year.

14 (3) The fee for the change of a pharmacist-in-charge is
15 \$25.

16 (D) General Fees.

17 (1) The fee for the issuance of a duplicate license,
18 for the issuance of a replacement license for a license
19 that has been lost or destroyed or for the issuance of a
20 license with a change of name or address other than during
21 the renewal period is \$20. No fee is required for name and
22 address changes on Department records when no duplicate
23 certification is issued.

24 (2) The fee for a certification of a registrant's
25 record for any purpose is \$20.

26 (3) The fee to have the scoring of an examination
27 administered by the Department reviewed and verified is
28 \$20.

29 (4) The fee for a wall certificate showing licensure or
30 registration shall be the actual cost of producing the
31 certificate.

32 (5) The fee for a roster of persons registered as
33 pharmacists or registered pharmacies in this State shall be
34 the actual cost of producing the roster.

35 (6) The fee for pharmacy licensing, disciplinary or
36 investigative records obtained pursuant to a subpoena is \$1

1 per page.

2 (E) Except as provided in subsection (F), all moneys
3 received by the Department under this Act shall be deposited in
4 the Illinois State Pharmacy Disciplinary Fund hereby created in
5 the State Treasury and shall be used only for the following
6 purposes: (a) by the State Board of Pharmacy in the exercise of
7 its powers and performance of its duties, as such use is made
8 by the Department upon the recommendations of the State Board
9 of Pharmacy, (b) for costs directly related to license renewal
10 of persons licensed under this Act, and (c) for direct and
11 allocable indirect costs related to the public purposes of the
12 Department of Professional Regulation.

13 Moneys in the Fund may be transferred to the Professions
14 Indirect Cost Fund as authorized under Section 70 ~~2105-300~~ of
15 the Department of Financial and Professional Regulation Act ~~Law~~
16 ~~(20 ILCS 2105/2105-300)~~.

17 The moneys deposited in the Illinois State Pharmacy
18 Disciplinary Fund shall be invested to earn interest which
19 shall accrue to the Fund. The Department shall present to the
20 Board for its review and comment all appropriation requests
21 from the Illinois State Pharmacy Disciplinary Fund. The
22 Department shall give due consideration to any comments of the
23 Board in making appropriation requests.

24 (F) From the money received for license renewal fees, \$5
25 from each pharmacist fee, and \$2.50 from each pharmacy
26 technician fee, shall be set aside within the Illinois State
27 Pharmacy Disciplinary Fund for the purpose of supporting a
28 substance abuse program for pharmacists and pharmacy
29 technicians. The State Board of Pharmacy shall, pursuant to all
30 provisions of the Illinois Procurement Code, determine how and
31 to whom the money set aside under this subsection is disbursed.

32 (G) (Blank).

33 (Source: P.A. 91-239, eff. 1-1-00; 92-880, eff. 1-1-04.)

34 Section 9530. The Illinois Physical Therapy Act is amended
35 by adding Section 0.06 as follows:

1 (225 ILCS 90/0.06 new)

2 Sec. 0.06. References to Department or Director of
3 Professional Regulation. On and after the effective date of
4 this amendatory Act of the 94th General Assembly:

5 (1) References in this Act to the Department of
6 Professional Regulation or "the Department" mean the
7 Department of Financial and Professional Regulation.

8 (2) References in this Act to the Director of
9 Professional Regulation or "the Director" mean the
10 Secretary of Financial and Professional Regulation.

11 Section 9535. The Physician Assistant Practice Act of 1987
12 is amended by adding Section 2.5 as follows:

13 (225 ILCS 95/2.5 new)

14 Sec. 2.5. References to Department or Director of
15 Professional Regulation. On and after the effective date of
16 this amendatory Act of the 94th General Assembly:

17 (1) References in this Act to the Department of
18 Professional Regulation or "the Department" mean the
19 Department of Financial and Professional Regulation.

20 (2) References in this Act to the Director of
21 Professional Regulation or "the Director" mean the
22 Secretary of Financial and Professional Regulation.

23 Section 9540. The Podiatric Medical Practice Act of 1987 is
24 amended by adding Section 2.5 and changing Section 19 as
25 follows:

26 (225 ILCS 100/2.5 new)

27 Sec. 2.5. References to Department or Director of
28 Professional Regulation. On and after the effective date of
29 this amendatory Act of the 94th General Assembly:

30 (1) References in this Act to the Department of
31 Professional Regulation or "the Department" mean the

1 Department of Financial and Professional Regulation.

2 (2) References in this Act to the Director of
3 Professional Regulation or "the Director" mean the
4 Secretary of Financial and Professional Regulation.

5 (225 ILCS 100/19) (from Ch. 111, par. 4819)

6 (Section scheduled to be repealed on January 1, 2008)

7 Sec. 19. Disciplinary Fund. All fees and fines received by
8 the Department under this Act shall be deposited in the
9 Illinois State Podiatric Disciplinary Fund, a special fund
10 created hereunder in the State Treasury. Of the moneys
11 deposited into the Illinois State Podiatric Disciplinary Fund,
12 15% of the money received from the payment of renewal fees
13 shall be used for podiatric scholarships and residency programs
14 under the Podiatric Scholarship and Residency Act and the
15 remainder shall be appropriated to the Department for expenses
16 of the Department and of the Podiatric Medical Licensing Board
17 and for podiatric scholarships and residency programs under the
18 Podiatric Scholarship and Residency Act.

19 Moneys in the Illinois State Podiatric Disciplinary Fund
20 may be invested and reinvested in investments authorized for
21 the investment of funds of the State Employees' Retirement
22 System of Illinois.

23 All earnings received from such investments shall be
24 deposited in the Illinois State Podiatric Disciplinary Fund and
25 may be used for the same purposes as fees deposited in such
26 fund.

27 Moneys in the Fund may be transferred to the Professions
28 Indirect Cost Fund as authorized under Section 70 ~~2105-300~~ of
29 the Department of Financial and Professional Regulation Act ~~Law~~
30 ~~(20 ILCS 2105/2105-300)~~.

31 Upon the completion of any audit of the Department as
32 prescribed by the Illinois State Auditing Act which includes an
33 audit of the Illinois State Podiatric Disciplinary Fund, the
34 Department shall make the audit open to inspection by any
35 interested person.

1 (Source: P.A. 90-76, eff. 12-30-97; 90-372, eff. 7-1-98;
2 91-239, eff. 1-1-00.)

3 Section 9545. The Professional Boxing Act is amended by
4 adding Section 0.06 as follows:

5 (225 ILCS 105/0.06 new)

6 Sec. 0.06. References to Department or Director of
7 Professional Regulation. On and after the effective date of
8 this amendatory Act of the 94th General Assembly:

9 (1) References in this Act to the Department of
10 Professional Regulation or "the Department" mean the
11 Department of Financial and Professional Regulation.

12 (2) References in this Act to the Director of
13 Professional Regulation or "the Director" mean the
14 Secretary of Financial and Professional Regulation.

15 Section 9550. The Respiratory Care Practice Act is amended
16 by adding Section 2 as follows:

17 (225 ILCS 106/2 new)

18 Sec. 2. References to Department or Director of
19 Professional Regulation. On and after the effective date of
20 this amendatory Act of the 94th General Assembly:

21 (1) References in this Act to the Department of
22 Professional Regulation or "the Department" mean the
23 Department of Financial and Professional Regulation.

24 (2) References in this Act to the Director of
25 Professional Regulation or "the Director" mean the
26 Secretary of Financial and Professional Regulation.

27 Section 9555. The Professional Counselor and Clinical
28 Professional Counselor Licensing Act is amended by adding
29 Section 2 as follows:

30 (225 ILCS 107/2 new)

1 Sec. 2. References to Department or Director of
2 Professional Regulation. On and after the effective date of
3 this amendatory Act of the 94th General Assembly:

4 (1) References in this Act to the Department of
5 Professional Regulation or "the Department" mean the
6 Department of Financial and Professional Regulation.

7 (2) References in this Act to the Director of
8 Professional Regulation or "the Director" mean the
9 Secretary of Financial and Professional Regulation.

10 Section 9560. The Illinois Speech-Language Pathology and
11 Audiology Practice Act is amended by adding Section 1.5 as
12 follows:

13 (225 ILCS 110/1.5 new)

14 Sec. 1.5. References to Department or Director of
15 Professional Regulation. On and after the effective date of
16 this amendatory Act of the 94th General Assembly:

17 (1) References in this Act to the Department of
18 Professional Regulation or "the Department" mean the
19 Department of Financial and Professional Regulation.

20 (2) References in this Act to the Director of
21 Professional Regulation or "the Director" mean the
22 Secretary of Financial and Professional Regulation.

23 Section 9565. The Veterinary Medicine and Surgery Practice
24 Act of 2004 is amended by adding Section 2.5 as follows:

25 (225 ILCS 115/2.5 new)

26 Sec. 2.5. References to Department or Director of
27 Professional Regulation. On and after the effective date of
28 this amendatory Act of the 94th General Assembly:

29 (1) References in this Act to the Department of
30 Professional Regulation or "the Department" mean the
31 Department of Financial and Professional Regulation.

32 (2) References in this Act to the Director of

1 Professional Regulation or "the Director" mean the
2 Secretary of Financial and Professional Regulation.

3 Section 9570. The Wholesale Drug Distribution Licensing
4 Act is amended by adding Section 2 and changing Section 35 as
5 follows:

6 (225 ILCS 120/2 new)

7 Sec. 2. References to Department or Director of
8 Professional Regulation. On and after the effective date of
9 this amendatory Act of the 94th General Assembly:

10 (1) References in this Act to the Department of
11 Professional Regulation or "the Department" mean the
12 Department of Financial and Professional Regulation.

13 (2) References in this Act to the Director of
14 Professional Regulation or "the Director" mean the
15 Secretary of Financial and Professional Regulation.

16 (225 ILCS 120/35) (from Ch. 111, par. 8301-35)

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

18 Sec. 35. Fees; Illinois State Pharmacy Disciplinary Fund.

19 (a) The Department shall provide by rule for a schedule of
20 fees for the administration and enforcement of this Act,
21 including but not limited to original licensure, renewal, and
22 restoration. The fees shall be nonrefundable.

23 (b) All fees collected under this Act shall be deposited
24 into the Illinois State Pharmacy Disciplinary Fund and shall be
25 appropriated to the Department for the ordinary and contingent
26 expenses of the Department in the administration of this Act.
27 Moneys in the Fund may be transferred to the Professions
28 Indirect Cost Fund as authorized by Section ~~70 2105-300~~ of the
29 Department of Financial and Professional Regulation Act Law ~~(20~~
30 ~~ILCS 2105/2105-300)~~.

31 The moneys deposited into the Illinois State Pharmacy
32 Disciplinary Fund shall be invested to earn interest which
33 shall accrue to the Fund.

1 The Department shall present to the Board for its review
2 and comment all appropriation requests from the Illinois State
3 Pharmacy Disciplinary Fund. The Department shall give due
4 consideration to any comments of the Board in making
5 appropriation requests.

6 (c) Any person who delivers a check or other payment to the
7 Department that is returned to the Department unpaid by the
8 financial institution upon which it is drawn shall pay to the
9 Department, in addition to the amount already owed to the
10 Department, a fine of \$50. The fines imposed by this Section
11 are in addition to any other discipline provided under this Act
12 for unlicensed practice or practice on a nonrenewed license.
13 The Department shall notify the person that payment of fees and
14 fines shall be paid to the Department by certified check or
15 money order within 30 calendar days of the notification. If,
16 after the expiration of 30 days from the date of the
17 notification, the person has failed to submit the necessary
18 remittance, the Department shall automatically terminate the
19 license or certificate or deny the application, without
20 hearing. If, after termination or denial, the person seeks a
21 license or certificate, he or she shall apply to the Department
22 for restoration or issuance of the license or certificate and
23 pay all fees and fines due to the Department. The Department
24 may establish a fee for the processing of an application for
25 restoration of a license or certificate to pay all expenses of
26 processing this application. The Director may waive the fines
27 due under this Section in individual cases where the Director
28 finds that the fines would be unreasonable or unnecessarily
29 burdensome.

30 (d) The Department shall maintain a roster of the names and
31 addresses of all registrants and of all persons whose licenses
32 have been suspended or revoked. This roster shall be available
33 upon written request and payment of the required fee.

34 (Source: P.A. 91-239, eff. 1-1-00; 92-146, eff. 1-1-02; 92-586,
35 eff. 6-26-02.)

1 Section 9575. The Perfusionist Practice Act is amended by
2 adding Section 2 as follows:

3 (225 ILCS 125/2 new)

4 Sec. 2. References to Department or Director of
5 Professional Regulation. On and after the effective date of
6 this amendatory Act of the 94th General Assembly:

7 (1) References in this Act to the Department of
8 Professional Regulation or "the Department" mean the
9 Department of Financial and Professional Regulation.

10 (2) References in this Act to the Director of
11 Professional Regulation or "the Director" mean the
12 Secretary of Financial and Professional Regulation.

13 Section 9580. The Registered Surgical Assistant and
14 Registered Surgical Technologist Title Protection Act is
15 amended by adding Section 2 as follows:

16 (225 ILCS 130/2 new)

17 Sec. 2. References to Department or Director of
18 Professional Regulation. On and after the effective date of
19 this amendatory Act of the 94th General Assembly:

20 (1) References in this Act to the Department of
21 Professional Regulation or "the Department" mean the
22 Department of Financial and Professional Regulation.

23 (2) References in this Act to the Director of
24 Professional Regulation or "the Director" mean the
25 Secretary of Financial and Professional Regulation.

26 Section 9585. The Illinois Architecture Practice Act of
27 1989 is amended by adding Section 1.5 and changing Section 38
28 as follows:

29 (225 ILCS 305/1.5 new)

30 Sec. 1.5. References to Department or Director of
31 Professional Regulation. On and after the effective date of

1 this amendatory Act of the 94th General Assembly:

2 (1) References in this Act to the Department of
3 Professional Regulation or "the Department" mean the
4 Department of Financial and Professional Regulation.

5 (2) References in this Act to the Director of
6 Professional Regulation or "the Director" mean the
7 Secretary of Financial and Professional Regulation.

8 (225 ILCS 305/38) (from Ch. 111, par. 1338)

9 (Section scheduled to be repealed on January 1, 2010)

10 Sec. 38. Fund; appropriations; investments; audits. Moneys
11 deposited in the Design Professionals Administration and
12 Investigation Fund shall be appropriated to the Department
13 exclusively for expenses of the Department and the Board in the
14 administration of this Act, the Illinois Professional Land
15 Surveyor Act of 1989, the Professional Engineering Practice Act
16 of 1989, and the Structural Engineering Practice Act of 1989.
17 The expenses of the Department under this Act shall be limited
18 to the ordinary and contingent expenses of the Design
19 Professionals Dedicated Employees within the Department as
20 established under Section 2105-75 of the Department of
21 Professional Regulation Law (20 ILCS 2105/2105-75) and other
22 expenses related to the administration and enforcement of this
23 Act.

24 Moneys from the Fund may also be used for direct and
25 allocable indirect costs related to the public purposes of the
26 Department of Professional Regulation. Moneys in the Fund may
27 be transferred to the Professions Indirect Cost Fund as
28 authorized by Section 70 ~~2105-300~~ of the Department of
29 Financial and Professional Regulation Act Law ~~(20 ILCS~~
30 ~~2105/2105-300)~~.

31 All fines and penalties under Sections 22 and 36 shall be
32 deposited in the Design Professionals Administration and
33 Investigation Fund.

34 Moneys in the Design Professionals Administration and
35 Investigation Fund may be invested and reinvested, with all

1 earnings received from the investments to be deposited in the
2 Design Professionals Administration and Investigation Fund and
3 used for the same purposes as fees deposited in the Fund.

4 Upon the completion of any audit of the Department as
5 prescribed by the Illinois State Auditing Act that includes an
6 audit of the Design Professionals Administration and
7 Investigation Fund, the Department shall make the audit open to
8 inspection by any interested person. The copy of the audit
9 report required to be submitted to the Department by this
10 Section is an addition to copies of audit reports required to
11 be submitted to other State officers and agencies by Section
12 3-14 of the Illinois State Auditing Act.

13 (Source: P.A. 91-91, eff. 1-1-00; 91-133, eff. 1-1-00; 91-239,
14 eff. 1-1-00; 92-16, eff. 6-28-01.)

15 Section 9590. The Interior Design Title Act is amended by
16 adding Section 1.5 and changing Section 30 as follows:

17 (225 ILCS 310/1.5 new)

18 Sec. 1.5. References to Department or Director of
19 Professional Regulation. On and after the effective date of
20 this amendatory Act of the 94th General Assembly:

21 (1) References in this Act to the Department of
22 Professional Regulation or "the Department" mean the
23 Department of Financial and Professional Regulation.

24 (2) References in this Act to the Director of
25 Professional Regulation or "the Director" mean the
26 Secretary of Financial and Professional Regulation.

27 (225 ILCS 310/30) (from Ch. 111, par. 8230)

28 (Section scheduled to be repealed on January 1, 2012)

29 Sec. 30. Interior Design Administration and Investigation
30 Fund. All of the fees collected pursuant to this Act shall be
31 deposited into the General Professions Dedicated Fund.

32 On January 1, 2000 the State Comptroller shall transfer the
33 balance of the monies in the Interior Design Administration and

1 Investigation Fund into the General Professions Dedicated
2 Fund. Amounts appropriated for fiscal year 2000 out of the
3 Interior Design Administration and Investigation Fund may be
4 paid out of the General Professions Dedicated Fund.

5 The monies deposited in the General Professions Dedicated
6 Fund may be used for the expenses of the Department in the
7 administration of this Act.

8 Moneys from the Fund may also be used for direct and
9 allocable indirect costs related to the public purposes of the
10 Department of Professional Regulation. Moneys in the Fund may
11 be transferred to the Professions Indirect Cost Fund as
12 authorized by Section 70 ~~2105-300~~ of the Department of
13 Financial and Professional Regulation Act Law ~~(20 ILCS~~
14 ~~2105/2105-300)~~.

15 Upon the completion of any audit of the Department as
16 prescribed by the Illinois State Auditing Act that includes an
17 audit of the Interior Design Administration and Investigation
18 Fund, the Department shall make the audit open to inspection by
19 any interested person. The copy of the audit report required to
20 be submitted to the Department by this Section is in addition
21 to copies of audit reports required to be submitted to other
22 State officers and agencies by Section 3-14 of the Illinois
23 State Auditing Act.

24 (Source: P.A. 91-239, eff. 1-1-00; 91-454, eff. 1-1-00; 92-16,
25 eff. 6-28-01.)

26 Section 9595. The Elevator Safety and Regulation Act is
27 amended by changing Section 100 as follows:

28 (225 ILCS 312/100)

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

30 Sec. 100. Insurance requirements.

31 (a) Elevator contractors shall submit to the Administrator
32 an insurance policy or certified copy thereof, issued by an
33 insurance company authorized to do business in the State, to
34 provide general liability coverage of at least \$2,000,000 for

1 injury or death of any one person and \$2,000,000 for injury or
2 death of any number of persons in any one occurrence, with
3 coverage of at least \$1,000,000 for property damage in any one
4 occurrence and statutory workers compensation insurance
5 coverage.

6 (b) Private elevator inspectors shall submit to the
7 Administrator an insurance policy or certified copy thereof,
8 issued by an insurance company authorized to do business in the
9 State, to provide general liability coverage of at least
10 \$2,000,000 for injury or death of any one person and \$2,000,000
11 for injury or death of any number of persons in any one
12 occurrence, with coverage of at least \$1,000,000 for property
13 damage in any one occurrence and statutory workers compensation
14 insurance coverage.

15 (c) These policies, or duly certified copies thereof, or an
16 appropriate certificate of insurance, approved as to form by
17 the Department of Financial and Professional Regulation or its
18 predecessor, the Department of Insurance, shall be delivered to
19 the Administrator before or at the time of the issuance of a
20 license. In the event of a material alteration or cancellation
21 of a policy, at least 10 days notice thereof shall be given to
22 the Administrator.

23 (Source: P.A. 92-873, eff. 6-1-03.)

24 Section 9600. The Illinois Landscape Architecture Act of
25 1989 is amended by adding Section 2.5 and changing Section 15
26 as follows:

27 (225 ILCS 315/2.5 new)

28 Sec. 2.5. References to Department or Director of
29 Professional Regulation. On and after the effective date of
30 this amendatory Act of the 94th General Assembly:

31 (1) References in this Act to the Department of
32 Professional Regulation or "the Department" mean the
33 Department of Financial and Professional Regulation.

34 (2) References in this Act to the Director of

1 Professional Regulation or "the Director" mean the
2 Secretary of Financial and Professional Regulation.

3 (225 ILCS 315/15) (from Ch. 111, par. 8115)

4 (Section scheduled to be repealed on January 1, 2010)

5 Sec. 15. Disposition of funds. All of the fees collected
6 pursuant to this Act shall be deposited in the General
7 Professions Dedicated Fund.

8 On January 1, 2000 the State Comptroller shall transfer the
9 balance of the monies in the Landscape Architects'
10 Administration and Investigation Fund into the General
11 Professions Dedicated Fund. Amounts appropriated for fiscal
12 year 2000 out of the Landscape Architects' Administration and
13 Investigation Fund may be paid out of the General Professions
14 Dedicated Fund.

15 The monies deposited in the General Professions Dedicated
16 Fund may be used for the expenses of the Department in the
17 administration of this Act.

18 Moneys from the Fund may also be used for direct and
19 allocable indirect costs related to the public purposes of the
20 Department of Professional Regulation. Moneys in the Fund may
21 be transferred to the Professions Indirect Cost Fund as
22 authorized by Section 70 ~~2105-300~~ of the Department of
23 Financial and Professional Regulation Act ~~Law (20 ILCS~~
24 ~~2105/2105-300)~~.

25 (Source: P.A. 91-239, eff. 1-1-00; 91-255, eff. 12-30-99;
26 92-16, eff. 6-28-01.)

27 Section 9605. The Professional Engineering Practice Act of
28 1989 is amended by adding Section 2.5 and changing Section 44
29 as follows:

30 (225 ILCS 325/2.5 new)

31 Sec. 2.5. References to Department or Director of
32 Professional Regulation. On and after the effective date of
33 this amendatory Act of the 94th General Assembly:

1 (1) References in this Act to the Department of
2 Professional Regulation or "the Department" mean the
3 Department of Financial and Professional Regulation.

4 (2) References in this Act to the Director of
5 Professional Regulation or "the Director" mean the
6 Secretary of Financial and Professional Regulation.

7 (225 ILCS 325/44) (from Ch. 111, par. 5244)

8 (Section scheduled to be repealed on January 1, 2010)

9 Sec. 44. Fund; appropriations; investments; audits. Moneys
10 deposited in the Design Professionals Administration and
11 Investigation Fund shall be appropriated to the Department
12 exclusively for expenses of the Department and the Board in the
13 administration of this Act, the Illinois Professional Land
14 Surveyor Act of 1989, the Illinois Architecture Practice Act,
15 and the Structural Engineering Practice Act of 1989. The
16 expenses of the Department under this Act shall be limited to
17 the ordinary and contingent expenses of the Design
18 Professionals Dedicated Employees within the Department as
19 established under Section 2105-75 of the Department of
20 Professional Regulation Law (20 ILCS 2105/2105-75) and other
21 expenses related to the administration and enforcement of this
22 Act.

23 Moneys from the Fund may also be used for direct and
24 allocable indirect costs related to the public purposes of the
25 Department of Professional Regulation. Moneys in the Fund may
26 be transferred to the Professions Indirect Cost Fund as
27 authorized by Section 70 ~~2105-300~~ of the Department of
28 Financial and Professional Regulation Act Law ~~(20 ILCS~~
29 ~~2105/2105-300)~~.

30 Moneys in the Design Professionals Administration and
31 Investigation Fund may be invested and reinvested with all
32 earnings received from the investments to be deposited in the
33 Design Professionals Administration and Investigation Fund and
34 used for the same purposes as fees deposited in the Fund.

35 All fines and penalties under Section 24, Section 39,

1 Section 42, and Section 43 shall be deposited in the Design
2 Professionals Administration and Investigation Fund.

3 Upon the completion of any audit of the Department as
4 prescribed by the Illinois State Auditing Act that audit
5 includes an audit of the Design Professionals Administration
6 and Investigation Fund, the Department shall make the audit
7 report open to inspection by any interested person. The copy of
8 the audit report required to be submitted to the Department by
9 this Section is in addition to copies of audit reports required
10 to be submitted to other State officers and agencies by Section
11 3-14 of the Illinois State Auditing Act.

12 (Source: P.A. 91-91, eff. 1-1-00; 91-92, eff. 1-1-00; 91-239,
13 eff. 1-1-00; 92-16, eff. 6-28-01.)

14 Section 9610. The Illinois Professional Land Surveyor Act
15 of 1989 is amended by adding Section 2.5 and changing Section
16 48 as follows:

17 (225 ILCS 330/2.5 new)

18 Sec. 2.5. References to Department or Director of
19 Professional Regulation. On and after the effective date of
20 this amendatory Act of the 94th General Assembly:

21 (1) References in this Act to the Department of
22 Professional Regulation or "the Department" mean the
23 Department of Financial and Professional Regulation.

24 (2) References in this Act to the Director of
25 Professional Regulation or "the Director" mean the
26 Secretary of Financial and Professional Regulation.

27 (225 ILCS 330/48) (from Ch. 111, par. 3298)

28 (Section scheduled to be repealed on January 1, 2010)

29 Sec. 48. Fund, appropriations, investments and audits. The
30 moneys deposited in the Design Professionals Administration
31 and Investigation Fund from fines and fees under this Act shall
32 be appropriated to the Department exclusively for expenses of
33 the Department and the Board in the administration of this Act,

1 the Illinois Architecture Practice Act, the Professional
2 Engineering Practice Act of 1989, and the Structural
3 Engineering Practice Act of 1989. The expenses of the
4 Department under this Act shall be limited to the ordinary and
5 contingent expenses of the Design Professionals Dedicated
6 Employees within the Department as established under Section
7 2105-75 of the Department of Professional Regulation Law (20
8 ILCS 2105/2105-75) and other expenses related to the
9 administration and enforcement of this Act.

10 Moneys from the Fund may also be used for direct and
11 allocable indirect costs related to the public purposes of the
12 Department of Professional Regulation. Moneys in the Fund may
13 be transferred to the Professions Indirect Cost Fund as
14 authorized by Section 70 ~~2105-300~~ of the Department of
15 Financial and Professional Regulation Act Law ~~(20 ILCS~~
16 ~~2105/2105-300)~~.

17 Moneys in the Design Professionals Administration and
18 Investigation Fund may be invested and reinvested with all
19 earnings received from the investments to be deposited in the
20 Design Professionals Administration and Investigation Fund and
21 used for the same purposes as fees deposited in that Fund.

22 Upon the completion of any audit of the Department as
23 prescribed by the Illinois State Auditing Act that includes an
24 audit of the Design Professionals Administration and
25 Investigation Fund, the Department shall make the audit open to
26 inspection by any interested person. The copy of the audit
27 report required to be submitted to the Department by this
28 Section is in addition to copies of audit reports required to
29 be submitted to other State officers and agencies by Section
30 3-14 of the Illinois State Auditing Act.

31 (Source: P.A. 91-91, eff. 1-1-00; 91-239, eff. 1-1-00; 92-16,
32 eff. 6-28-01.)

33 Section 9615. The Illinois Roofing Industry Licensing Act
34 is amended by adding Section 1.5 as follows:

1 (225 ILCS 335/1.5 new)

2 Sec. 1.5. References to Department or Director of
3 Professional Regulation. On and after the effective date of
4 this amendatory Act of the 94th General Assembly:

5 (1) References in this Act to the Department of
6 Professional Regulation or "the Department" mean the
7 Department of Financial and Professional Regulation.

8 (2) References in this Act to the Director of
9 Professional Regulation or "the Director" mean the
10 Secretary of Financial and Professional Regulation.

11 Section 9620. The Structural Engineering Practice Act of
12 1989 is amended by adding Section 2.5 and changing Section 36
13 as follows:

14 (225 ILCS 340/2.5 new)

15 Sec. 2.5. References to Department or Director of
16 Professional Regulation. On and after the effective date of
17 this amendatory Act of the 94th General Assembly:

18 (1) References in this Act to the Department of
19 Professional Regulation or "the Department" mean the
20 Department of Financial and Professional Regulation.

21 (2) References in this Act to the Director of
22 Professional Regulation or "the Director" mean the
23 Secretary of Financial and Professional Regulation.

24 (225 ILCS 340/36) (from Ch. 111, par. 6636)

25 (Section scheduled to be repealed on January 1, 2010)

26 Sec. 36. Fund; appropriations; investments; audits. Moneys
27 collected under this Act and deposited in the Design
28 Professionals Administration and Investigation Fund shall be
29 appropriated to the Department exclusively for expenses of the
30 Department and the Board in the administration of this Act, the
31 Illinois Professional Land Surveyor Act of 1989, the
32 Professional Engineering Practice Act of 1989, and the Illinois
33 Architecture Practice Act. The expenses of the Department under

1 this Act shall be limited to the ordinary and contingent
2 expenses of the Design Professionals Dedicated Employees
3 within the Department as established under Section 2105-75 of
4 the Department of Professional Regulation Law (20 ILCS
5 2105/2105-75) and other expenses related to the administration
6 and enforcement of this Act.

7 Moneys from the Fund may also be used for direct and
8 allocable indirect costs related to the public purposes of the
9 Department of Professional Regulation. Moneys in the Fund may
10 be transferred to the Professions Indirect Cost Fund as
11 authorized by Section 70 ~~2105-300~~ of the Department of
12 Financial and Professional Regulation Act ~~Law~~ ~~(20 ILCS~~
13 ~~2105/2105-300)~~.

14 Moneys in the Design Professionals Administration and
15 Investigation Fund may be invested and reinvested, with all
16 earnings received from the investments to be deposited in the
17 Design Professionals Administration and Investigation Fund and
18 used for the same purposes as fees deposited in the Fund.

19 All fines and penalties under Sections 20 and 34 shall be
20 deposited in the Design Professionals Administration and
21 Investigation Fund.

22 Upon the completion of any audit of the Department, as
23 prescribed by the Illinois State Auditing Act, that includes an
24 audit of the Design Professionals Administration and
25 Investigation Fund, the Department shall make the audit open to
26 inspection by any interested person. The copy of the audit
27 report required to be submitted to the Department by this
28 Section is in addition to copies of audit reports required to
29 be submitted to other State officers and agencies by Section
30 3-14 of the Illinois State Auditing Act.

31 (Source: P.A. 91-239, eff. 1-1-00.)

32 Section 9625. The Auction License Act is amended by adding
33 Section 5-2 and by changing Section 30-15 as follows:

34 (225 ILCS 407/5-2 new)

1 Sec. 5-2. References to Office or Commissioner of Banks and
2 Real Estate. On and after the effective date of this amendatory
3 Act of the 94th General Assembly:

4 (1) References in this Act to the Office of Banks and
5 Real Estate, "the Office", or "OBRE" mean the Department of
6 Financial and Professional Regulation.

7 (2) References in this Act to the Commissioner of Banks
8 and Real Estate or "the Commissioner" mean the Secretary of
9 Financial and Professional Regulation.

10 (225 ILCS 407/30-15)

11 (Section scheduled to be repealed on January 1, 2010)

12 Sec. 30-15. Auction Regulation Administration Fund. A
13 special fund to be known as the Auction Regulation
14 Administration Fund is created in the State Treasury. All fees
15 received by the OBRE under this Act shall be deposited into the
16 Auction Regulation Administration Fund. Subject to
17 appropriation, the moneys deposited into the Auction
18 Regulation Administration Fund shall be used by the OBRE for
19 the administration of this Act. Moneys in the Auction
20 Regulation Administration Fund may be invested and reinvested
21 in the same manner as authorized for pension funds in Article
22 14 of the Illinois Pension Code. All earnings, interest, and
23 dividends received from investment of funds in the Auction
24 Regulation Administration Fund shall be deposited into the
25 Auction Regulation Administration Fund and shall be used for
26 the same purposes as other moneys deposited in the Auction
27 Regulation Administration Fund.

28 This fund shall be created on July 1, 1999. The State
29 Treasurer shall cause a transfer of \$300,000 to the Auction
30 Regulation Administration Fund from the Real Estate License
31 Administration Fund on August 1, 1999. The State Treasurer
32 shall cause a transfer of \$200,000 on August 1, 2000 and a
33 transfer of \$100,000 on January 1, 2002 from the Auction
34 Regulation Administration Fund to the Real Estate License
35 Administration Fund, or if there is a sufficient fund balance

1 in the Auction Regulation Administration Fund to properly
2 administer this Act, the OBRE may recommend to the State
3 Treasurer to cause a transfer from the Auction Regulation
4 Administration Fund to the Real Estate License Administration
5 Fund on a date and in an amount which is accelerated, but not
6 less than set forth in this Section. In addition to the license
7 fees required under this Act, each initial applicant for
8 licensure under this Act shall pay to the OBRE an additional
9 \$100 for deposit into the Auction Regulation Administration
10 Fund for a period of 2 years or until such time the original
11 transfer amount to the Auction Regulation Administration Fund
12 from the Real Estate License Administration Fund is repaid.

13 Moneys in the Auction Regulation Administration Fund may be
14 transferred to the Professions Indirect Cost Fund as authorized
15 under Section 70 of the Department of Financial and
16 Professional Regulation Act.

17 Upon completion of any audit of the OBRE as prescribed by
18 the Illinois State Auditing Act, which includes an audit of the
19 Auction Regulation Administration Fund, the OBRE shall make the
20 audit open to inspection by any interested party.

21 (Source: P.A. 91-603, eff. 8-16-99.)

22 Section 9630. The Barber, Cosmetology, Esthetics, and Nail
23 Technology Act of 1985 is amended by adding Section 1-1.5 as
24 follows:

25 (225 ILCS 410/1-1.5 new)

26 Sec. 1-1.5. References to Department or Director of
27 Professional Regulation. On and after the effective date of
28 this amendatory Act of the 94th General Assembly:

29 (1) References in this Act to the Department of
30 Professional Regulation or "the Department" mean the
31 Department of Financial and Professional Regulation.

32 (2) References in this Act to the Director of
33 Professional Regulation or "the Director" mean the
34 Secretary of Financial and Professional Regulation.

1 Section 9635. The Electrologist Licensing Act is amended by
2 adding Section 2 as follows:

3 (225 ILCS 412/2 new)

4 Sec. 2. References to Department or Director of
5 Professional Regulation. On and after the effective date of
6 this amendatory Act of the 94th General Assembly:

7 (1) References in this Act to the Department of
8 Professional Regulation or "the Department" mean the
9 Department of Financial and Professional Regulation.

10 (2) References in this Act to the Director of
11 Professional Regulation or "the Director" mean the
12 Secretary of Financial and Professional Regulation.

13 Section 9640. The Illinois Certified Shorthand Reporters
14 Act of 1984 is amended by adding Section 2.5 as follows:

15 (225 ILCS 415/2.5 new)

16 Sec. 2.5. References to Department or Director of
17 Professional Regulation. On and after the effective date of
18 this amendatory Act of the 94th General Assembly:

19 (1) References in this Act to the Department of
20 Professional Regulation or "the Department" mean the
21 Department of Financial and Professional Regulation.

22 (2) References in this Act to the Director of
23 Professional Regulation or "the Director" mean the
24 Secretary of Financial and Professional Regulation.

25 Section 9645. The Collection Agency Act is amended by
26 adding Section 1.5 as follows:

27 (225 ILCS 425/1.5 new)

28 Sec. 1.5. References to Department or Director of
29 Professional Regulation. On and after the effective date of
30 this amendatory Act of the 94th General Assembly:

1 (1) References in this Act to the Department of
2 Professional Regulation or "the Department" mean the
3 Department of Financial and Professional Regulation.

4 (2) References in this Act to the Director of
5 Professional Regulation or "the Director" mean the
6 Secretary of Financial and Professional Regulation.

7 Section 9650. The Detection of Deception Examiners Act is
8 amended by adding Section 0.02 as follows:

9 (225 ILCS 430/0.02 new)

10 Sec. 0.02. References to Department or Director of
11 Professional Regulation. On and after the effective date of
12 this amendatory Act of the 94th General Assembly:

13 (1) References in this Act to the Department of
14 Professional Regulation or "the Department" mean the
15 Department of Financial and Professional Regulation.

16 (2) References in this Act to the Director of
17 Professional Regulation or "the Director" mean the
18 Secretary of Financial and Professional Regulation.

19 Section 9655. The Home Inspector License Act is amended by
20 adding Section 1-2 and changing Section 25-5 as follows:

21 (225 ILCS 441/1-2 new)

22 Sec. 1-2. References to Office or Commissioner of Banks and
23 Real Estate. On and after the effective date of this amendatory
24 Act of the 94th General Assembly:

25 (1) References in this Act to the Office of Banks and
26 Real Estate, "the Office", or "OBRE" mean the Department of
27 Financial and Professional Regulation.

28 (2) References in this Act to the Commissioner of Banks
29 and Real Estate or "the Commissioner" mean the Secretary of
30 Financial and Professional Regulation.

31 (225 ILCS 441/25-5)

1 (Section scheduled to be repealed on January 1, 2012)

2 Sec. 25-5. Home Inspector Administration Fund; surcharge.

3 (a) The Home Inspector Administration Fund is created as a
4 special fund in the State Treasury. All fees, fines, and
5 penalties received by OBRE under this Act shall be deposited
6 into the Home Inspector Administration Fund. All earnings
7 attributable to investment of funds in the Home Inspector
8 Administration Fund shall be credited to the Home Inspector
9 Administration Fund. Subject to appropriation, the moneys in
10 the Home Inspector Administration Fund shall be appropriated to
11 OBRE for the expenses incurred by OBRE and the Board in the
12 administration of this Act.

13 (b) The State Comptroller and State Treasurer shall
14 transfer \$150,000 from the Real Estate License Administration
15 Fund to the Home Inspector Administration Fund on July 1, 2002.

16 The State Treasurer shall transfer \$50,000 from the Home
17 Inspector Administration Fund to the Real Estate License
18 Administration Fund on July 1, 2003, July 1, 2004, and July 1,
19 2005; except that if there is a sufficient fund balance in the
20 Home Inspector Administration Fund, the Commissioner may
21 recommend the acceleration of any of these repayment transfers
22 to the State Comptroller and State Treasurer, who may, in their
23 discretion, accelerate the transfers in accordance with the
24 Commissioner's recommendation.

25 (c) Until a total of \$150,000 has been transferred to the
26 Real Estate License Administration Fund from the Home Inspector
27 Administration Fund under subsection (b), each initial
28 applicant for a license under this Act shall pay to OBRE a
29 surcharge of \$150 in addition to the license fees otherwise
30 required under this Act.

31 (c-5) Moneys in the Home Inspection Administration Fund may
32 be transferred to the Professions Indirect Cost Fund as
33 authorized under Section 70 of the Department of Financial and
34 Professional Regulation Act.

35 (d) Upon the completion of any audit of OBRE, as prescribed
36 by the Illinois State Auditing Act, that includes an audit of

1 the Home Inspector Administration Fund, OBRE shall make the
2 audit report open to inspection by any interested person.

3 (Source: P.A. 92-239, eff. 8-3-01.)

4 Section 9660. The Private Detective, Private Alarm,
5 Private Security, and Locksmith Act of 2004 is amended by
6 adding Section 5-6 as follows:

7 (225 ILCS 447/5-6 new)

8 Sec. 5-6. References to Department or Director of
9 Professional Regulation. On and after the effective date of
10 this amendatory Act of the 94th General Assembly:

11 (1) References in this Act to the Department of
12 Professional Regulation or "the Department" mean the
13 Department of Financial and Professional Regulation.

14 (2) References in this Act to the Director of
15 Professional Regulation or "the Director" mean the
16 Secretary of Financial and Professional Regulation.

17 Section 9665. The Illinois Public Accounting Act is amended
18 by adding Section 0.01a and changing Section 32 as follows:

19 (225 ILCS 450/0.01a new)

20 Sec. 0.01a. References to Department or Director of
21 Professional Regulation. On and after the effective date of
22 this amendatory Act of the 94th General Assembly:

23 (1) References in this Act to the Department of
24 Professional Regulation or "the Department" mean the
25 Department of Financial and Professional Regulation.

26 (2) References in this Act to the Director of
27 Professional Regulation or "the Director" mean the
28 Secretary of Financial and Professional Regulation.

29 (225 ILCS 450/32) (from Ch. 111, par. 5537)

30 (Section scheduled to be repealed on January 1, 2014)

31 Sec. 32. All moneys received by the Department of

1 Professional Regulation under this Act shall be deposited into
2 the Registered Certified Public Accountants' Administration
3 and Disciplinary Fund, which is hereby created as a special
4 fund in the State Treasury. The funds in the account shall be
5 used by the Department, as appropriated, exclusively for
6 expenses of the Department of Professional Regulation, or the
7 Public Accountants' Registration Committee, in the
8 administration of this Act.

9 Moneys in the Registered Certified Public Accountants'
10 Administration and Disciplinary Fund may be invested and
11 reinvested, with all earnings received from the investments to
12 be deposited into the Registered Certified Public Accountants'
13 Administration and Disciplinary Fund.

14 Moneys from the Fund may also be used for direct and
15 allocable indirect costs related to the public purposes of the
16 Department of Professional Regulation. Moneys in the Fund may
17 be transferred to the Professions Indirect Cost Fund as
18 authorized by Section 70 ~~2105-300~~ of the Department of
19 Financial and Professional Regulation Act ~~Law~~ ~~(20 ILCS~~
20 ~~2105/2105-300)~~.

21 (Source: P.A. 92-457, eff. 8-21-01; 93-683, eff. 7-2-04.)

22 Section 9670. The Real Estate License Act of 2000 is
23 amended by adding Section 1-2 and changing Sections 25-25,
24 25-30, and 25-37 as follows:

25 (225 ILCS 454/1-2 new)

26 Sec. 1-2. References to Office or Commissioner of Banks and
27 Real Estate. On and after the effective date of this amendatory
28 Act of the 94th General Assembly:

29 (1) References in this Act to the Office of Banks and
30 Real Estate, "the Office", or "OBRE" mean the Department of
31 Financial and Professional Regulation.

32 (2) References in this Act to the Commissioner of Banks
33 and Real Estate or "the Commissioner" mean the Secretary of
34 Financial and Professional Regulation.

1 (225 ILCS 454/25-25)

2 (Section scheduled to be repealed on January 1, 2010)

3 Sec. 25-25. Real Estate Research and Education Fund. A
4 special fund to be known as the Real Estate Research and
5 Education Fund is created and shall be held in trust in the
6 State Treasury. Annually, on September 15th, the State
7 Treasurer shall cause a transfer of \$125,000 to the Real Estate
8 Research and Education Fund from the Real Estate License
9 Administration Fund. The Real Estate Research and Education
10 Fund shall be administered by OBRE. Money deposited in the Real
11 Estate Research and Education Fund may be used for research and
12 education at state institutions of higher education or other
13 organizations for research and the advancement of education in
14 the real estate industry. Of the \$125,000 annually transferred
15 into the Real Estate Research and Education Fund, \$15,000 shall
16 be used to fund a scholarship program for persons of minority
17 racial origin who wish to pursue a course of study in the field
18 of real estate. For the purposes of this Section, "course of
19 study" means a course or courses that are part of a program of
20 courses in the field of real estate designed to further an
21 individual's knowledge or expertise in the field of real
22 estate. These courses shall include without limitation courses
23 that a salesperson licensed under this Act must complete to
24 qualify for a real estate broker's license, courses required to
25 obtain the Graduate Realtors Institute designation, and any
26 other courses or programs offered by accredited colleges,
27 universities, or other institutions of higher education in
28 Illinois. The scholarship program shall be administered by OBRE
29 or its designee. Moneys in the Real Estate Research and
30 Education Fund may be invested and reinvested in the same
31 manner as funds in the Real Estate Recovery Fund and all
32 earnings, interest, and dividends received from such
33 investments shall be deposited in the Real Estate Research and
34 Education Fund and may be used for the same purposes as moneys
35 transferred to the Real Estate Research and Education Fund.

1 Moneys in the Real Estate Research and Education Fund may be
2 transferred to the Professions Indirect Cost Fund as authorized
3 under Section 70 of the Department of Financial and
4 Professional Regulation Act.

5 (Source: P.A. 91-245, eff. 12-31-99.)

6 (225 ILCS 454/25-30)

7 (Section scheduled to be repealed on January 1, 2010)

8 Sec. 25-30. Real Estate License Administration Fund;
9 audit. A special fund to be known as the Real Estate License
10 Administration Fund is created in the State Treasury. All fees
11 received by OBRE under this Act shall be deposited in the Real
12 Estate License Administration Fund. The moneys deposited in the
13 Real Estate License Administration Fund shall be appropriated
14 to OBRE for expenses of OBRE and the Board in the
15 administration of this Act and for the administration of any
16 Act administered by OBRE providing revenue to this Fund. Moneys
17 in the Real Estate License Administration Fund may be invested
18 and reinvested in the same manner as funds in the Real Estate
19 Recovery Fund. All earnings received from such investment shall
20 be deposited in the Real Estate License Administration Fund and
21 may be used for the same purposes as fees deposited in the Real
22 Estate License Administration Fund. Moneys in the Real Estate
23 License and Administration Fund may be transferred to the
24 Professions Indirect Cost Fund as authorized under Section 70
25 of the Department of Financial and Professional Regulation Act.

26 Upon the completion of any audit of OBRE, as prescribed by the
27 Illinois State Auditing Act, which includes an audit of the
28 Real Estate License Administration Fund, OBRE shall make the
29 audit open to inspection by any interested person.

30 (Source: P.A. 91-245, eff. 12-31-99.)

31 (225 ILCS 454/25-37)

32 (Section scheduled to be repealed on January 1, 2010)

33 Sec. 25-37. Real Estate Audit Fund; audit of special
34 accounts; audit of fund.

1 (a) A special fund to be known as the Real Estate Audit
2 Fund is created in the State Treasury. The State Treasurer
3 shall cause a transfer of \$200,000 from the Real Estate License
4 Administration Fund to the Real Estate Audit Fund on January 1,
5 2002. If, at any time, the balance in the Real Estate Audit
6 Fund is less than \$25,000, the State Treasurer shall cause a
7 transfer of \$200,000 from the Real Estate License
8 Administration Fund to the Real Estate Audit Fund. The moneys
9 held in the Real Estate Audit Fund shall be used exclusively by
10 OBRE to conduct audits of special accounts of moneys belonging
11 to others held by a broker.

12 (b) Upon receipt of a complaint or evidence by OBRE
13 sufficient to cause OBRE to reasonably believe that funds
14 required to be maintained in a special account by a broker have
15 been misappropriated, the broker shall, within 30 days of
16 written notice, submit to an audit of all special accounts.
17 Such audit shall be performed by a licensed certified public
18 accountant, shall result in a written report by the accountant,
19 and shall specifically refer to the escrow and record-keeping
20 requirements of this Act and the rules adopted under this Act.
21 If it is found, pursuant to an order issued by the
22 Commissioner, that moneys required to be maintained in a
23 special account by a broker were misappropriated, as further
24 defined by rule, the broker shall reimburse OBRE, in addition
25 to any other discipline or civil penalty imposed, for the cost
26 of the audit performed pursuant to this Section. OBRE may file
27 in circuit court for a judgment to enforce the collection of
28 the reimbursement of the cost of such audit. Any reimbursement
29 collected by OBRE shall be deposited into the Real Estate Audit
30 Fund.

31 (c) Moneys in the Real Estate Audit Fund may be invested
32 and reinvested in the same manner as funds in the Real Estate
33 Recovery Fund. All earnings received from such investment shall
34 be deposited in the Real Estate Audit Fund and may be used for
35 the same purpose as other moneys deposited in the Real Estate
36 Audit Fund. Moneys in the Real Estate Audit Fund may be

1 transferred to the Professions Indirect Cost Fund as authorized
2 under Section 70 of the Department of Financial and
3 Professional Regulation Act. Upon completion of any audit of
4 OBRE, prescribed by the Illinois State Auditing Act, which
5 includes an audit of the Real Estate Audit Fund, OBRE shall
6 make the audit open to inspection by any interested person.

7 (Source: P.A. 92-217, eff. 8-2-01.)

8 Section 9675. The Real Estate Appraiser Licensing Act of
9 2002 is amended by adding Section 1-2 and by changing Section
10 25-5 as follows:

11 (225 ILCS 458/1-2 new)

12 Sec. 1-2. References to Office or Commissioner of Banks and
13 Real Estate. On and after the effective date of this amendatory
14 Act of the 94th General Assembly:

15 (1) References in this Act to the Office of Banks and
16 Real Estate, "the Office", or "OBRE" mean the Department of
17 Financial and Professional Regulation.

18 (2) References in this Act to the Commissioner of Banks
19 and Real Estate or "the Commissioner" mean the Secretary of
20 Financial and Professional Regulation.

21 (225 ILCS 458/25-5)

22 (Section scheduled to be repealed on January 1, 2012)

23 Sec. 25-5. Appraisal Administration Fund; surcharge. The
24 Appraisal Administration Fund is created as a special fund in
25 the State Treasury. All fees, fines, and penalties received by
26 OBRE under this Act shall be deposited into the Appraisal
27 Administration Fund. All earnings attributable to investment
28 of funds in the Appraisal Administration Fund shall be credited
29 to the Appraisal Administration Fund. Subject to
30 appropriation, the moneys in the Appraisal Administration Fund
31 shall be paid to OBRE for the expenses incurred by OBRE and the
32 Board in the administration of this Act. Moneys in the
33 Appraisal Administration Fund may be transferred to the

1 Professions Indirect Cost Fund as authorized under Section 70
2 of the Department of Financial and Professional Regulation Act.

3 Upon the completion of any audit of OBRE, as prescribed by
4 the Illinois State Auditing Act, which shall include an audit
5 of the Appraisal Administration Fund, OBRE shall make the audit
6 report open to inspection by any interested person.

7 (Source: P.A. 92-180, eff. 7-1-02.)

8 Section 9680. The Nurse Agency Licensing Act is amended by
9 changing Section 13 as follows:

10 (225 ILCS 510/13) (from Ch. 111, par. 963)

11 Sec. 13. Application for employment.

12 (a) Every nurse agency shall cause each applicant for
13 employment, assignment, or referral, as a nurse to complete an
14 application form including the following information:

15 (1) name and address of the applicant;

16 (2) whether or not such applicant is a nurse currently
17 licensed by the Department of Financial and Professional
18 Regulation or its predecessor, the Department of
19 Professional Regulation;

20 (3) if so licensed, the number and date of such
21 license; and

22 (4) references and dates and places of previous
23 employment.

24 Prior to employing, assigning, or referring a nurse, the
25 agency shall contact the Department of Financial and
26 Professional Regulation to determine whether the nurse's
27 license is valid and in good standing. Written verification
28 shall be sent by the Department of Financial and Professional
29 Regulation within 20 working days. At least biennially
30 thereafter, the agency shall contact the Department of
31 Financial and Professional Regulation to verify this
32 information in writing. The nurse agency shall review the
33 disciplinary report published by the Department of Financial
34 and Professional Regulation on a monthly basis to determine

1 whether the nurse's license is valid and in good standing.

2 (b) Every nurse agency shall cause each applicant for
3 employment, assignment, or referral, as a certified nurse aide
4 to complete an application form including the following
5 information:

6 (1) name and address of the applicant;

7 (2) whether or not the nurse aide is registered as
8 having completed a certified course as approved by the
9 Department of Public Health;

10 (3) references and dates and places of previous
11 employment.

12 Prior to employing, assigning or referring a certified
13 nurse aide, the agency shall contact the Department of Public
14 Health to determine whether the certification is valid and that
15 the certified nurse aide is not listed on the abuse register.
16 Written verification shall be sent by the Department of Public
17 Health within 20 working days.

18 (c) Every nurse agency shall check at least 2 recent
19 references and the dates of employment provided by the
20 applicant, unless the applicant has not had 2 previous
21 employers.

22 (d) Nurses or certified nurses aides employed, assigned, or
23 referred to a health care facility by a nurse agency shall be
24 deemed to be employees of the nurse agency while working for
25 the nurse agency or on nurse agency employment, assignment or
26 referral.

27 (Source: P.A. 86-817; 86-1043.)

28 Section 9685. The Professional Geologist Licensing Act is
29 amended by adding Section 2 as follows:

30 (225 ILCS 745/2 new)

31 Sec. 2. References to Department or Director of
32 Professional Regulation. On and after the effective date of
33 this amendatory Act of the 94th General Assembly:

34 (1) References in this Act to the Department of

1 Professional Regulation or "the Department" mean the
2 Department of Financial and Professional Regulation.

3 (2) References in this Act to the Director of
4 Professional Regulation or "the Director" mean the
5 Secretary of Financial and Professional Regulation.

6 Section 9690. The Safety Deposit License Act is amended by
7 adding Section 0.02 as follows:

8 (240 ILCS 5/0.02 new)

9 Sec. 0.02. References to Department or Director of
10 Financial Institutions. On and after the effective date of this
11 amendatory Act of the 94th General Assembly:

12 (1) References in this Act to the Department of
13 Financial Institutions or "the Department" mean the
14 Department of Financial and Professional Regulation.

15 (2) References in this Act to the Director of Financial
16 Institutions or "the Director" mean the Secretary of
17 Financial and Professional Regulation.

18 Section 9695. The Grain Code is amended by changing Section
19 30-5 as follows:

20 (240 ILCS 40/30-5)

21 Sec. 30-5. Illinois Grain Insurance Corporation.

22 (a) The Corporation is a political subdivision, body
23 politic, and public corporation. The governing powers of the
24 Corporation are vested in the Board of Directors composed of
25 the Director, who shall personally serve as president; the
26 Attorney General or his or her designee, who shall serve as
27 secretary; the State Treasurer or his or her designee, who
28 shall serve as treasurer; the Secretary of Financial and
29 Professional Regulation ~~Director of the Department of~~
30 ~~Insurance~~ or his or her designee; and the chief fiscal officer
31 of the Department. Three members of the Board constitute a
32 quorum at any meeting of the Board, and the affirmative vote of

1 3 members is necessary for any action taken by the Board at a
2 meeting, except that a lesser number may adjourn a meeting from
3 time to time. A vacancy in the membership of the Board does not
4 impair the right of a quorum to exercise all the rights and
5 perform all the duties of the Board and Corporation.

6 (b) The Corporation has the following powers, together with
7 all powers incidental or necessary to the discharge of those
8 powers in corporate form:

9 (1) To have perpetual succession by its corporate name
10 as a corporate body.

11 (2) To adopt, alter, and repeal bylaws, not
12 inconsistent with the provisions of this Code, for the
13 regulation and conduct of its affairs and business.

14 (3) To adopt and make use of a corporate seal and to
15 alter the seal at pleasure.

16 (4) To avail itself of the use of information,
17 services, facilities, and employees of the State of
18 Illinois in carrying out the provisions of this Code.

19 (5) To receive funds, printer registration fees, and
20 penalties assessed by the Department under this Code.

21 (6) To administer the Fund by investing funds of the
22 Corporation that the Board may determine are not presently
23 needed for its corporate purposes.

24 (7) To receive funds from the Trust Account for deposit
25 into the Fund.

26 (8) Upon the request of the Director, to make payment
27 from the Fund and the Reserve Fund to the Trust Account
28 when payment is necessary to compensate claimants in
29 accordance with the provisions of Section 25-20 or for
30 payment of refunds to licensees in accordance with the
31 provisions of this Code.

32 (9) To authorize, receive, and disburse funds by
33 electronic means.

34 (10) To make any inquiry and investigation deemed
35 appropriate with regard to the failure of any licensee,
36 including but not limited to analyzing the causes of and

1 reasons for the failure; determining the adequacy and
2 accuracy of Department examinations and other regulatory
3 measures with regard to the failed licensee; and analyzing
4 whether the handling of the liquidation and payment process
5 by the Department was done in a manner that served the
6 interests of those persons whose interests this Code was
7 designed to protect.

8 (11) To have those powers that are necessary or
9 appropriate for the exercise of the powers specifically
10 conferred upon the Corporation and all incidental powers
11 that are customary in corporations.

12 (c) A committee of advisors shall be created to provide
13 technical assistance and advice and make recommendations to the
14 Board. The advisory committee shall assist the board in
15 understanding pertinent developments in grain production and
16 marketing and the grain industry. The advisory committee shall
17 be composed of one grain producer designated by the Illinois
18 Farm Bureau; one grain producer designated by the Illinois
19 Farmers Union; one grain producer designated by the Illinois
20 Corn Growers Association; one grain producer designated by the
21 Illinois Soybean Association; 2 representatives of the grain
22 industry, designated by the Grain and Feed Association of
23 Illinois; and 2 representatives of the lending industry, one
24 each designated by the Illinois Bankers Association and the
25 Community Bankers of Illinois. Members of the advisory
26 committee shall serve terms of 2 years from the date of their
27 designation. Members of the advisory committee shall have the
28 right to attend all meetings of the Board and participate in
29 Board discussions, but shall not have a vote.

30 (Source: P.A. 93-225, eff. 7-21-03.)

31 Section 9700. The Illinois Public Aid Code is amended by
32 changing Sections 5-11, 8A-7.1, and 12-13.1 as follows:

33 (305 ILCS 5/5-11) (from Ch. 23, par. 5-11)

34 Sec. 5-11. Co-operative arrangements; contracts with other

1 State agencies, health care and rehabilitation organizations,
2 and fiscal intermediaries.

3 (a) The Illinois Department may enter into co-operative
4 arrangements with State agencies responsible for administering
5 or supervising the administration of health services and
6 vocational rehabilitation services to the end that there may be
7 maximum utilization of such services in the provision of
8 medical assistance.

9 The Illinois Department shall, not later than June 30,
10 1993, enter into one or more co-operative arrangements with the
11 Department of Mental Health and Developmental Disabilities
12 providing that the Department of Mental Health and
13 Developmental Disabilities will be responsible for
14 administering or supervising all programs for services to
15 persons in community care facilities for persons with
16 developmental disabilities, including but not limited to
17 intermediate care facilities, that are supported by State funds
18 or by funding under Title XIX of the federal Social Security
19 Act. The responsibilities of the Department of Mental Health
20 and Developmental Disabilities under these agreements are
21 transferred to the Department of Human Services as provided in
22 the Department of Human Services Act.

23 The Department may also contract with such State health and
24 rehabilitation agencies and other public or private health care
25 and rehabilitation organizations to act for it in supplying
26 designated medical services to persons eligible therefor under
27 this Article. Any contracts with health services or health
28 maintenance organizations shall be restricted to organizations
29 which have been certified as being in compliance with standards
30 promulgated pursuant to the laws of this State governing the
31 establishment and operation of health services or health
32 maintenance organizations. The Department may also contract
33 with insurance companies or other corporate entities serving as
34 fiscal intermediaries in this State for the Federal Government
35 in respect to Medicare payments under Title XVIII of the
36 Federal Social Security Act to act for the Department in paying

1 medical care suppliers. The provisions of Section 9 of "An Act
2 in relation to State finance", approved June 10, 1919, as
3 amended, notwithstanding, such contracts with State agencies,
4 other health care and rehabilitation organizations, or fiscal
5 intermediaries may provide for advance payments.

6 (b) For purposes of this subsection (b), "managed care
7 community network" means an entity, other than a health
8 maintenance organization, that is owned, operated, or governed
9 by providers of health care services within this State and that
10 provides or arranges primary, secondary, and tertiary managed
11 health care services under contract with the Illinois
12 Department exclusively to persons participating in programs
13 administered by the Illinois Department.

14 The Illinois Department may certify managed care community
15 networks, including managed care community networks owned,
16 operated, managed, or governed by State-funded medical
17 schools, as risk-bearing entities eligible to contract with the
18 Illinois Department as Medicaid managed care organizations.
19 The Illinois Department may contract with those managed care
20 community networks to furnish health care services to or
21 arrange those services for individuals participating in
22 programs administered by the Illinois Department. The rates for
23 those provider-sponsored organizations may be determined on a
24 prepaid, capitated basis. A managed care community network may
25 choose to contract with the Illinois Department to provide only
26 pediatric health care services. The Illinois Department shall
27 by rule adopt the criteria, standards, and procedures by which
28 a managed care community network may be permitted to contract
29 with the Illinois Department and shall consult with the
30 Department of Financial and Professional Regulation ~~Insurance~~
31 in adopting these rules.

32 A county provider as defined in Section 15-1 of this Code
33 may contract with the Illinois Department to provide primary,
34 secondary, or tertiary managed health care services as a
35 managed care community network without the need to establish a
36 separate entity and shall be deemed a managed care community

1 network for purposes of this Code only to the extent it
2 provides services to participating individuals. A county
3 provider is entitled to contract with the Illinois Department
4 with respect to any contracting region located in whole or in
5 part within the county. A county provider is not required to
6 accept enrollees who do not reside within the county.

7 In order to (i) accelerate and facilitate the development
8 of integrated health care in contracting areas outside counties
9 with populations in excess of 3,000,000 and counties adjacent
10 to those counties and (ii) maintain and sustain the high
11 quality of education and residency programs coordinated and
12 associated with local area hospitals, the Illinois Department
13 may develop and implement a demonstration program from managed
14 care community networks owned, operated, managed, or governed
15 by State-funded medical schools. The Illinois Department shall
16 prescribe by rule the criteria, standards, and procedures for
17 effecting this demonstration program.

18 A managed care community network that contracts with the
19 Illinois Department to furnish health care services to or
20 arrange those services for enrollees participating in programs
21 administered by the Illinois Department shall do all of the
22 following:

23 (1) Provide that any provider affiliated with the
24 managed care community network may also provide services on
25 a fee-for-service basis to Illinois Department clients not
26 enrolled in such managed care entities.

27 (2) Provide client education services as determined
28 and approved by the Illinois Department, including but not
29 limited to (i) education regarding appropriate utilization
30 of health care services in a managed care system, (ii)
31 written disclosure of treatment policies and restrictions
32 or limitations on health services, including, but not
33 limited to, physical services, clinical laboratory tests,
34 hospital and surgical procedures, prescription drugs and
35 biologics, and radiological examinations, and (iii)
36 written notice that the enrollee may receive from another

1 provider those covered services that are not provided by
2 the managed care community network.

3 (3) Provide that enrollees within the system may choose
4 the site for provision of services and the panel of health
5 care providers.

6 (4) Not discriminate in enrollment or disenrollment
7 practices among recipients of medical services or
8 enrollees based on health status.

9 (5) Provide a quality assurance and utilization review
10 program that meets the requirements established by the
11 Illinois Department in rules that incorporate those
12 standards set forth in the Health Maintenance Organization
13 Act.

14 (6) Issue a managed care community network
15 identification card to each enrollee upon enrollment. The
16 card must contain all of the following:

17 (A) The enrollee's health plan.

18 (B) The name and telephone number of the enrollee's
19 primary care physician or the site for receiving
20 primary care services.

21 (C) A telephone number to be used to confirm
22 eligibility for benefits and authorization for
23 services that is available 24 hours per day, 7 days per
24 week.

25 (7) Ensure that every primary care physician and
26 pharmacy in the managed care community network meets the
27 standards established by the Illinois Department for
28 accessibility and quality of care. The Illinois Department
29 shall arrange for and oversee an evaluation of the
30 standards established under this paragraph (7) and may
31 recommend any necessary changes to these standards.

32 (8) Provide a procedure for handling complaints that
33 meets the requirements established by the Illinois
34 Department in rules that incorporate those standards set
35 forth in the Health Maintenance Organization Act.

36 (9) Maintain, retain, and make available to the

1 Illinois Department records, data, and information, in a
2 uniform manner determined by the Illinois Department,
3 sufficient for the Illinois Department to monitor
4 utilization, accessibility, and quality of care.

5 (10) Provide that the pharmacy formulary used by the
6 managed care community network and its contract providers
7 be no more restrictive than the Illinois Department's
8 pharmaceutical program on the effective date of this
9 amendatory Act of 1998 and as amended after that date.

10 The Illinois Department shall contract with an entity or
11 entities to provide external peer-based quality assurance
12 review for the managed health care programs administered by the
13 Illinois Department. The entity shall be representative of
14 Illinois physicians licensed to practice medicine in all its
15 branches and have statewide geographic representation in all
16 specialities of medical care that are provided in managed
17 health care programs administered by the Illinois Department.
18 The entity may not be a third party payer and shall maintain
19 offices in locations around the State in order to provide
20 service and continuing medical education to physician
21 participants within those managed health care programs
22 administered by the Illinois Department. The review process
23 shall be developed and conducted by Illinois physicians
24 licensed to practice medicine in all its branches. In
25 consultation with the entity, the Illinois Department may
26 contract with other entities for professional peer-based
27 quality assurance review of individual categories of services
28 other than services provided, supervised, or coordinated by
29 physicians licensed to practice medicine in all its branches.
30 The Illinois Department shall establish, by rule, criteria to
31 avoid conflicts of interest in the conduct of quality assurance
32 activities consistent with professional peer-review standards.
33 All quality assurance activities shall be coordinated by the
34 Illinois Department.

35 Each managed care community network must demonstrate its
36 ability to bear the financial risk of serving individuals under

1 this program. The Illinois Department shall by rule adopt
2 standards for assessing the solvency and financial soundness of
3 each managed care community network. Any solvency and financial
4 standards adopted for managed care community networks shall be
5 no more restrictive than the solvency and financial standards
6 adopted under Section 1856(a) of the Social Security Act for
7 provider-sponsored organizations under Part C of Title XVIII of
8 the Social Security Act.

9 The Illinois Department may implement the amendatory
10 changes to this Code made by this amendatory Act of 1998
11 through the use of emergency rules in accordance with Section
12 5-45 of the Illinois Administrative Procedure Act. For purposes
13 of that Act, the adoption of rules to implement these changes
14 is deemed an emergency and necessary for the public interest,
15 safety, and welfare.

16 (c) Not later than June 30, 1996, the Illinois Department
17 shall enter into one or more cooperative arrangements with the
18 Department of Public Health for the purpose of developing a
19 single survey for nursing facilities, including but not limited
20 to facilities funded under Title XVIII or Title XIX of the
21 federal Social Security Act or both, which shall be
22 administered and conducted solely by the Department of Public
23 Health. The Departments shall test the single survey process on
24 a pilot basis, with both the Departments of Public Aid and
25 Public Health represented on the consolidated survey team. The
26 pilot will sunset June 30, 1997. After June 30, 1997, unless
27 otherwise determined by the Governor, a single survey shall be
28 implemented by the Department of Public Health which would not
29 preclude staff from the Department of Public Aid from going
30 on-site to nursing facilities to perform necessary audits and
31 reviews which shall not replicate the single State agency
32 survey required by this Act. This Section shall not apply to
33 community or intermediate care facilities for persons with
34 developmental disabilities.

35 (d) Nothing in this Code in any way limits or otherwise
36 impairs the authority or power of the Illinois Department to

1 enter into a negotiated contract pursuant to this Section with
2 a managed care community network or a health maintenance
3 organization, as defined in the Health Maintenance
4 Organization Act, that provides for termination or nonrenewal
5 of the contract without cause, upon notice as provided in the
6 contract, and without a hearing.

7 (Source: P.A. 92-370, eff. 8-15-01.)

8 (305 ILCS 5/8A-7.1) (from Ch. 23, par. 8A-7.1)

9 Sec. 8A-7.1. The Director, upon making a determination
10 based upon information in the possession of the Illinois
11 Department, that continuation in practice of a licensed health
12 care professional would constitute an immediate danger to the
13 public, shall submit a written communication to the Secretary
14 ~~Director~~ of Financial and Professional Regulation indicating
15 such determination and additionally providing a complete
16 summary of the information upon which such determination is
17 based, and recommending that the Secretary ~~Director~~ of
18 ~~Professional Regulation~~ immediately suspend such person's
19 license. All relevant evidence, or copies thereof, in the
20 Illinois Department's possession may also be submitted in
21 conjunction with the written communication. A copy of such
22 written communication, which is exempt from the copying and
23 inspection provisions of the Freedom of Information Act, shall
24 at the time of submittal to the Secretary ~~Director~~ of
25 ~~Professional Regulation~~ be simultaneously mailed to the last
26 known business address of such licensed health care
27 professional by certified or registered postage, United States
28 Mail, return receipt requested. Any evidence, or copies
29 thereof, which is submitted in conjunction with the written
30 communication is also exempt from the copying and inspection
31 provisions of the Freedom of Information Act.

32 The Director, upon making a determination based upon
33 information in the possession of the Illinois Department, that
34 a licensed health care professional is willfully committing
35 fraud upon the Illinois Department's medical assistance

1 program, shall submit a written communication to the Secretary
2 ~~Director~~ of Financial and Professional Regulation indicating
3 such determination and additionally providing a complete
4 summary of the information upon which such determination is
5 based. All relevant evidence, or copies thereof, in the
6 Illinois Department's possession may also be submitted in
7 conjunction with the written communication.

8 Upon receipt of such written communication, the Secretary
9 ~~Director~~ of Financial and Professional Regulation shall
10 promptly investigate the allegations contained in such written
11 communication. A copy of such written communication, which is
12 exempt from the copying and inspection provisions of the
13 Freedom of Information Act, shall at the time of submission to
14 the Secretary ~~Director of Professional Regulation,~~ be
15 simultaneously mailed to the last known address of such
16 licensed health care professional by certified or registered
17 postage, United States Mail, return receipt requested. Any
18 evidence, or copies thereof, which is submitted in conjunction
19 with the written communication is also exempt from the copying
20 and inspection provisions of the Freedom of Information Act.

21 For the purposes of this Section, "licensed health care
22 professional" means any person licensed under the Illinois
23 Dental Practice Act, the Nursing and Advanced Practice Nursing
24 Act, the Medical Practice Act of 1987, the Pharmacy Practice
25 Act of 1987, the Podiatric Medical Practice Act of 1987, or the
26 Illinois Optometric Practice Act of 1987.

27 (Source: P.A. 92-651, eff. 7-11-02.)

28 (305 ILCS 5/12-13.1)

29 Sec. 12-13.1. Inspector General.

30 (a) The Governor shall appoint, and the Senate shall
31 confirm, an Inspector General who shall function within the
32 Illinois Department of Public Aid and report to the Governor.
33 The term of the Inspector General shall expire on the third
34 Monday of January, 1997 and every 4 years thereafter.

35 (b) In order to prevent, detect, and eliminate fraud,

1 waste, abuse, mismanagement, and misconduct, the Inspector
2 General shall oversee the Illinois Department of Public Aid's
3 integrity functions, which include, but are not limited to, the
4 following:

5 (1) Investigation of misconduct by employees, vendors,
6 contractors and medical providers.

7 (2) Audits of medical providers related to ensuring
8 that appropriate payments are made for services rendered
9 and to the recovery of overpayments.

10 (3) Monitoring of quality assurance programs generally
11 related to the medical assistance program and specifically
12 related to any managed care program.

13 (4) Quality control measurements of the programs
14 administered by the Illinois Department of Public Aid.

15 (5) Investigations of fraud or intentional program
16 violations committed by clients of the Illinois Department
17 of Public Aid.

18 (6) Actions initiated against contractors or medical
19 providers for any of the following reasons:

20 (A) Violations of the medical assistance program.

21 (B) Sanctions against providers brought in
22 conjunction with the Department of Public Health or the
23 Department of Human Services (as successor to the
24 Department of Mental Health and Developmental
25 Disabilities).

26 (C) Recoveries of assessments against hospitals
27 and long-term care facilities.

28 (D) Sanctions mandated by the United States
29 Department of Health and Human Services against
30 medical providers.

31 (E) Violations of contracts related to any managed
32 care programs.

33 (7) Representation of the Illinois Department of
34 Public Aid at hearings with the Department of Professional
35 Regulation, as the successor of the Illinois Department of
36 Professional Regulation, in actions taken against

1 professional licenses held by persons who are in violation
2 of orders for child support payments.

3 (b-5) At the request of the Secretary of Human Services,
4 the Inspector General shall, in relation to any function
5 performed by the Department of Human Services as successor to
6 the Department of Public Aid, exercise one or more of the
7 powers provided under this Section as if those powers related
8 to the Department of Human Services; in such matters, the
9 Inspector General shall report his or her findings to the
10 Secretary of Human Services.

11 (c) The Inspector General shall have access to all
12 information, personnel and facilities of the Illinois
13 Department of Public Aid and the Department of Human Services
14 (as successor to the Department of Public Aid), their
15 employees, vendors, contractors and medical providers and any
16 federal, State or local governmental agency that are necessary
17 to perform the duties of the Office as directly related to
18 public assistance programs administered by those departments.
19 No medical provider shall be compelled, however, to provide
20 individual medical records of patients who are not clients of
21 the Medical Assistance Program. State and local governmental
22 agencies are authorized and directed to provide the requested
23 information, assistance or cooperation.

24 (d) The Inspector General shall serve as the Illinois
25 Department of Public Aid's primary liaison with law
26 enforcement, investigatory and prosecutorial agencies,
27 including but not limited to the following:

28 (1) The Department of State Police.

29 (2) The Federal Bureau of Investigation and other
30 federal law enforcement agencies.

31 (3) The various Inspectors General of federal agencies
32 overseeing the programs administered by the Illinois
33 Department of Public Aid.

34 (4) The various Inspectors General of any other State
35 agencies with responsibilities for portions of programs
36 primarily administered by the Illinois Department of

1 Public Aid.

2 (5) The Offices of the several United States Attorneys
3 in Illinois.

4 (6) The several State's Attorneys.

5 The Inspector General shall meet on a regular basis with
6 these entities to share information regarding possible
7 misconduct by any persons or entities involved with the public
8 aid programs administered by the Illinois Department of Public
9 Aid.

10 (e) All investigations conducted by the Inspector General
11 shall be conducted in a manner that ensures the preservation of
12 evidence for use in criminal prosecutions. If the Inspector
13 General determines that a possible criminal act relating to
14 fraud in the provision or administration of the medical
15 assistance program has been committed, the Inspector General
16 shall immediately notify the Medicaid Fraud Control Unit. If
17 the Inspector General determines that a possible criminal act
18 has been committed within the jurisdiction of the Office, the
19 Inspector General may request the special expertise of the
20 Department of State Police. The Inspector General may present
21 for prosecution the findings of any criminal investigation to
22 the Office of the Attorney General, the Offices of the several
23 United State Attorneys in Illinois or the several State's
24 Attorneys.

25 (f) To carry out his or her duties as described in this
26 Section, the Inspector General and his or her designees shall
27 have the power to compel by subpoena the attendance and
28 testimony of witnesses and the production of books, electronic
29 records and papers as directly related to public assistance
30 programs administered by the Illinois Department of Public Aid
31 or the Department of Human Services (as successor to the
32 Department of Public Aid). No medical provider shall be
33 compelled, however, to provide individual medical records of
34 patients who are not clients of the Medical Assistance Program.

35 (g) The Inspector General shall report all convictions,
36 terminations, and suspensions taken against vendors,

1 contractors and medical providers to the Illinois Department of
2 Public Aid and to any agency responsible for licensing or
3 regulating those persons or entities.

4 (h) The Inspector General shall make annual reports,
5 findings, and recommendations regarding the Office's
6 investigations into reports of fraud, waste, abuse,
7 mismanagement, or misconduct relating to any public aid
8 programs administered by the Illinois Department of Public Aid
9 or the Department of Human Services (as successor to the
10 Department of Public Aid) to the General Assembly and the
11 Governor. These reports shall include, but not be limited to,
12 the following information:

13 (1) Aggregate provider billing and payment
14 information, including the number of providers at various
15 Medicaid earning levels.

16 (2) The number of audits of the medical assistance
17 program and the dollar savings resulting from those audits.

18 (3) The number of prescriptions rejected annually
19 under the Illinois Department of Public Aid's Refill Too
20 Soon program and the dollar savings resulting from that
21 program.

22 (4) Provider sanctions, in the aggregate, including
23 terminations and suspensions.

24 (5) A detailed summary of the investigations
25 undertaken in the previous fiscal year. These summaries
26 shall comply with all laws and rules regarding maintaining
27 confidentiality in the public aid programs.

28 (i) Nothing in this Section shall limit investigations by
29 the Illinois Department of Public Aid or the Department of
30 Human Services that may otherwise be required by law or that
31 may be necessary in their capacity as the central
32 administrative authorities responsible for administration of
33 public aid programs in this State.

34 (Source: P.A. 89-507, eff. 7-1-97; 90-725, eff. 8-7-98.)

35 Section 9705. The Elder Abuse and Neglect Act is amended by

1 changing Sections 4 and 8 as follows:

2 (320 ILCS 20/4) (from Ch. 23, par. 6604)

3 Sec. 4. Reports of abuse or neglect.

4 (a) Any person who suspects the abuse, neglect, or
5 financial exploitation of an eligible adult may report this
6 suspicion to an agency designated to receive such reports under
7 this Act or to the Department.

8 (a-5) If any mandated reporter has reason to believe that
9 an eligible adult, who because of dysfunction is unable to seek
10 assistance for himself or herself, has, within the previous 12
11 months, been subjected to abuse, neglect, or financial
12 exploitation, the mandated reporter shall, within 24 hours
13 after developing such belief, report this suspicion to an
14 agency designated to receive such reports under this Act or to
15 the Department. Whenever a mandated reporter is required to
16 report under this Act in his or her capacity as a member of the
17 staff of a medical or other public or private institution,
18 facility, board and care home, or agency, he or she shall make
19 a report to an agency designated to receive such reports under
20 this Act or to the Department in accordance with the provisions
21 of this Act and may also notify the person in charge of the
22 institution, facility, board and care home, or agency or his or
23 her designated agent that the report has been made. Under no
24 circumstances shall any person in charge of such institution,
25 facility, board and care home, or agency, or his or her
26 designated agent to whom the notification has been made,
27 exercise any control, restraint, modification, or other change
28 in the report or the forwarding of the report to an agency
29 designated to receive such reports under this Act or to the
30 Department. The privileged quality of communication between
31 any professional person required to report and his or her
32 patient or client shall not apply to situations involving
33 abused, neglected, or financially exploited eligible adults
34 and shall not constitute grounds for failure to report as
35 required by this Act.

1 (a-7) A person making a report under this Act in the belief
2 that it is in the alleged victim's best interest shall be
3 immune from criminal or civil liability or professional
4 disciplinary action on account of making the report,
5 notwithstanding any requirements concerning the
6 confidentiality of information with respect to such eligible
7 adult which might otherwise be applicable.

8 (a-9) Law enforcement officers shall continue to report
9 incidents of alleged abuse pursuant to the Illinois Domestic
10 Violence Act of 1986, notwithstanding any requirements under
11 this Act.

12 (b) Any person, institution or agency participating in the
13 making of a report, providing information or records related to
14 a report, assessment, or services, or participating in the
15 investigation of a report under this Act in good faith, or
16 taking photographs or x-rays as a result of an authorized
17 assessment, shall have immunity from any civil, criminal or
18 other liability in any civil, criminal or other proceeding
19 brought in consequence of making such report or assessment or
20 on account of submitting or otherwise disclosing such
21 photographs or x-rays to any agency designated to receive
22 reports of alleged or suspected abuse or neglect. Any person,
23 institution or agency authorized by the Department to provide
24 assessment, intervention, or administrative services under
25 this Act shall, in the good faith performance of those
26 services, have immunity from any civil, criminal or other
27 liability in any civil, criminal, or other proceeding brought
28 as a consequence of the performance of those services. For the
29 purposes of any civil, criminal, or other proceeding, the good
30 faith of any person required to report, permitted to report, or
31 participating in an investigation of a report of alleged or
32 suspected abuse, neglect, or financial exploitation shall be
33 presumed.

34 (c) The identity of a person making a report of alleged or
35 suspected abuse or neglect under this Act may be disclosed by
36 the Department or other agency provided for in this Act only

1 with such person's written consent or by court order.

2 (d) The Department shall by rule establish a system for
3 filing and compiling reports made under this Act.

4 (e) Any physician who willfully fails to report as required
5 by this Act shall be referred to the Illinois State Medical
6 Disciplinary Board for action in accordance with subdivision
7 (A) (22) of Section 22 of the Medical Practice Act of 1987. Any
8 dentist or dental hygienist who willfully fails to report as
9 required by this Act shall be referred to the Department of
10 Financial and Professional Regulation for action in accordance
11 with paragraph 19 of Section 23 of the Illinois Dental Practice
12 Act. Any other mandated reporter required by this Act to report
13 suspected abuse, neglect, or financial exploitation who
14 willfully fails to report the same is guilty of a Class A
15 misdemeanor.

16 (Source: P.A. 93-300, eff. 1-1-04; 93-301, eff. 1-1-04.)

17 (320 ILCS 20/8) (from Ch. 23, par. 6608)

18 Sec. 8. Access to records. All records concerning reports
19 of elder abuse, neglect, and financial exploitation and all
20 records generated as a result of such reports shall be
21 confidential and shall not be disclosed except as specifically
22 authorized by this Act or other applicable law. Access to such
23 records, but not access to the identity of the person or
24 persons making a report of alleged abuse, neglect, or financial
25 exploitation as contained in such records, shall be allowed to
26 the following persons and for the following persons:

27 (1) Department staff, provider agency staff, other aging
28 network staff, and regional administrative agency staff in the
29 furtherance of their responsibilities under this Act;

30 (2) A law enforcement agency investigating known or
31 suspected elder abuse, neglect, or financial exploitation.
32 Where a provider agency has reason to believe that the death of
33 an eligible adult may be the result of abuse or neglect, the
34 agency shall immediately provide the appropriate law
35 enforcement agency with all records pertaining to the eligible

1 adult;

2 (3) A physician who has before him or her or who is
3 involved in the treatment of an eligible adult whom he or she
4 reasonably suspects may be abused, neglected, or financially
5 exploited or who has been referred to the Elder Abuse and
6 Neglect Program;

7 (4) An eligible adult reported to be abused, neglected, or
8 financially exploited, or such adult's guardian unless such
9 guardian is the abuser or the alleged abuser;

10 (5) A court or a guardian ad litem, upon its or his or her
11 finding that access to such records may be necessary for the
12 determination of an issue before the court. However, such
13 access shall be limited to an in camera inspection of the
14 records, unless the court determines that disclosure of the
15 information contained therein is necessary for the resolution
16 of an issue then pending before it;

17 (6) A grand jury, upon its determination that access to
18 such records is necessary in the conduct of its official
19 business;

20 (7) Any person authorized by the Director, in writing, for
21 audit or bona fide research purposes;

22 (8) A coroner or medical examiner who has reason to believe
23 that an eligible adult has died as the result of abuse,
24 neglect, or financial exploitation. The provider agency shall
25 immediately provide the coroner or medical examiner with all
26 records pertaining to the eligible adult; and

27 (9) Department of Financial and Professional Regulation
28 staff and members of the Social Work Examining and Disciplinary
29 Board in the course of investigating alleged violations of the
30 Clinical Social Work and Social Work Practice Act by provider
31 agency staff.

32 (Source: P.A. 89-387, eff. 8-20-95; 90-628, eff. 1-1-99.)

33 Section 9710. The Partnership for Long-Term Care Act is
34 amended by changing Sections 15, 20, 30, 40, 50, 55, and 60 as
35 follows:

1 (320 ILCS 35/15) (from Ch. 23, par. 6801-15)

2 Sec. 15. Program.

3 (a) The Department on Aging, in cooperation with the
4 Department of Financial and Professional Regulation ~~Insurance~~,
5 and the Department of Public Aid, shall administer the program.

6 (b) The Departments shall seek any federal waivers and
7 approvals necessary to accomplish the purposes of this Act.

8 (Source: P.A. 88-328; 89-525, eff. 7-19-96.)

9 (320 ILCS 35/20) (from Ch. 23, par. 6801-20)

10 Sec. 20. Program participant eligibility for Medicaid.

11 (a) Individuals who participate in the program and have
12 resources above the eligibility levels for receipt of medical
13 assistance under Title XIX of the Social Security Act
14 (Subchapter XIX (commencing with Section 1396) of Chapter 7 of
15 Title 42 of the United States Code) shall be eligible to
16 receive in-home supportive service benefits and Medicaid
17 benefits through the Department of Public Aid if, before
18 becoming eligible for benefits, they have purchased a long-term
19 care insurance policy covering long-term care that has been
20 certified by the Department of Financial and Professional
21 Regulation or by its predecessor, the Department of Insurance,
22 under Section 30 of this Act.

23 (b) Individuals may purchase certified long-term care
24 insurance policies which cover long-term care services in
25 amounts equal to the resources they wish to protect.

26 (b-5) An individual may purchase a certified long-term care
27 insurance policy which protects an individual's total assets.
28 To be eligible for total asset protection, an amount equal to
29 the average cost of 4 years of long-term care services in a
30 nursing facility must be purchased.

31 (b-7) Although a resource has been protected by the
32 Partnership Policy, income is to be applied to the cost of care
33 when the insured becomes Medicaid eligible.

34 (c) The resource protection provided by this Act shall be

1 effective only for long-term care policies which cover
2 long-term care services, that are delivered, issued for
3 delivery, or renewed on or after July 1, 1992.

4 (d) When an individual purchases a certified long-term care
5 insurance policy, the issuer must notify the purchaser of the
6 benefits of purchasing inflation protection for the long-term
7 care insurance policy.

8 (e) An insurance company may offer for sale a policy as
9 described in paragraph (b) of this Section or paragraph (b-5)
10 of this Section or both types of policies.

11 (Source: P.A. 89-507, eff. 7-1-97; 89-525, eff. 7-19-96; 90-14,
12 eff. 7-1-97.)

13 (320 ILCS 35/30) (from Ch. 23, par. 6801-30)

14 Sec. 30. Certification of policies and contracts. The
15 Department of Financial and Professional Regulation Insurance
16 shall certify only long-term care insurance policies which
17 cover long-term care that provide all of the following:

18 (1) Individual case management by a coordinating
19 entity designated or approved by the Department on Aging.

20 (2) The levels and durations of benefits that meet
21 minimum standards set by the Department of Financial and
22 Professional Regulation Insurance.

23 (3) A record keeping system including an explanation of
24 benefit reports on insurance payments or benefits that
25 count toward Medicaid resource exclusion.

26 (4) Approval of the insurance policy by the Department
27 of Financial and Professional Regulation Insurance.

28 (5) Compliance with any other requirements imposed by
29 the Departments through regulations consistent with the
30 purposes of this Act.

31 (Source: P.A. 89-507, eff. 7-1-97; 89-525, eff. 7-19-96; 90-14,
32 eff. 7-1-97.)

33 (320 ILCS 35/40) (from Ch. 23, par. 6801-40)

34 Sec. 40. Program.

1 (a) The program shall be designed so that the estimated
2 aggregate State expenditures for long-term care services for
3 individuals participating in the program do not exceed the
4 aggregate expenditures that would be made for these services
5 under the Medicaid program in effect prior to the
6 implementation of the program.

7 (b) The Department of Financial and Professional
8 Regulation ~~Insurance~~ shall provide advice and counseling
9 through a Health Insurance Counseling and Advocacy Program to
10 individuals interested in purchasing long-term care insurance
11 that cover long-term care services certified under this Act.

12 (c) Insurers shall make available to the insureds the
13 opportunity to purchase any traditional long-term care policy
14 offered by the insurer which has benefits comparable to the
15 benefits provided by a certified long-term care insurance
16 policy provided for under this amendatory Act of 1996. The
17 insurer shall make these policies available without requiring
18 evidence of insurability in the event of the termination of the
19 program.

20 (Source: P.A. 89-525, eff. 7-19-96.)

21 (320 ILCS 35/50) (from Ch. 23, par. 6801-50)

22 Sec. 50. Task force.

23 (a) An executive and legislative advisory task force shall
24 be created to provide advice and assistance in designing and
25 implementing the Partnership for Long-term Care Program. The
26 task force shall be composed of representatives, designated by
27 the director of each of the following agencies or departments:

28 (1) The Department on Aging.

29 (2) The Department of Public Aid.

30 (3) (Blank).

31 (4) The Department of Financial and Professional
32 Regulation, in its capacity as the successor of the
33 Department of Insurance.

34 (5) The Department of Commerce and Community Affairs
35 (now Department of Commerce and Economic Opportunity).

1 (6) The Legislative Research Unit.

2 (b) The task force shall consult with persons knowledgeable
3 of and concerned with long-term care, including, but not
4 limited to the following:

5 (1) Consumers.

6 (2) Health care providers.

7 (3) Representatives of long-term care insurance
8 companies and administrators of health care service plans
9 that cover long-term care services.

10 (4) Providers of long-term care.

11 (5) Private employers.

12 (6) Academic specialists in long-term care and aging.

13 (7) Representatives of the public employees' and
14 teachers' retirement systems.

15 (c) The task force shall be established, and its members
16 designated, not later than March 1, 1993. The task force shall
17 make recommendations to the Department on Aging concerning the
18 policy components of the program on or before September 1,
19 1993.

20 (Source: P.A. 89-507, eff. 7-1-97; 89-525, eff. 7-19-96; 90-14,
21 eff. 7-1-97; revised 12-6-03.)

22 (320 ILCS 35/55) (from Ch. 23, par. 6801-55)

23 Sec. 55. The Director of Aging shall annually report to the
24 General Assembly regarding the progress of the pilot program
25 established under Public Act 87-163 and the permanent program
26 established under this amendatory Act of 1996. The report
27 regarding the pilot program shall be provided by January 1 of
28 each year, commencing with 1993 and ending with 1996. The
29 report regarding the permanent program shall be provided by
30 January 1 of each year, commencing with 1997. The report shall
31 include the following:

32 (a) The success in implementing the public and private
33 partnership.

34 (b) The number and type of insurers and health care
35 service plans with policies or contracts certified by the

1 Departments.

2 (c) The number, age, and financial circumstances of
3 participants in the pilot or permanent program who have
4 purchased certified long-term care insurance policies
5 which cover long-term care services.

6 (d) The number of individuals seeking consumer
7 information services and advice from the Department on
8 Aging under subsection (b) of Section 40 of this Act.

9 (e) The number of participants actually receiving
10 long-term care services, Medicaid benefits, and in-home
11 supportive services provided by the program, and the type
12 of benefits paid under certified policies which cover
13 long-term care that could count toward Medicaid resource
14 protection.

15 (f) Estimates of the impact on present and future
16 Medicaid expenditures.

17 (g) The cost effectiveness of the program.

18 (h) A recommendation regarding the continuation of the
19 program.

20 The Director of Aging shall report the following
21 information to the General Assembly on or before March 31,
22 1998:

23 (1) For each department or agency set forth in
24 subsection (a) of Section 50, the costs of implementing the
25 program and the savings generated by the program.

26 (2) The details of the program proposed by the
27 Department on Aging and Department of Insurance (or the
28 Department of Insurance's successor, the Department of
29 Financial and Professional Regulation).

30 (3) The nature of any federal waivers or approvals
31 sought by the Department on Aging, including any changes in
32 the Medicaid State Plan proposed to the federal Health Care
33 Finance Administration.

34 (Source: P.A. 88-328; 89-525, eff. 7-19-96.)

35 (320 ILCS 35/60) (from Ch. 23, par. 6801-60)

1 Sec. 60. Administrative costs.

2 (a) The Department on Aging, in conjunction with the
3 Department of Public Aid, the Department of Financial and
4 Professional Regulation Insurance, and the Department of
5 Commerce and Economic Opportunity ~~Community Affairs~~, shall
6 submit applications for State or federal grants or federal
7 waivers, or funding from nationally distributed private
8 foundation grants, or insurance reimbursements to be used to
9 pay the administrative expenses of implementation of the
10 program. The Department on Aging, in conjunction with those
11 other departments, also shall seek moneys from these same
12 sources for the purpose of implementing the program, including
13 moneys appropriated for that purpose.

14 (b) In implementing this Act, the Department on Aging may
15 negotiate contracts, on a nonbid basis, with long-term care
16 insurers, health care insurers, health care service plans, or
17 both, for the provision of coverage for long-term care services
18 that will meet the certification requirements set forth in
19 Section 30 and the other requirements of this Act.

20 (Source: P.A. 89-507, eff. 7-1-97; 89-525, eff. 7-19-96; 90-14,
21 eff. 7-1-97; revised 12-6-03.)

22 Section 9715. The Abused and Neglected Child Reporting Act
23 is amended by changing Sections 4.02 and 11.1 as follows:

24 (325 ILCS 5/4.02) (from Ch. 23, par. 2054.02)

25 Sec. 4.02. Any physician who willfully fails to report
26 suspected child abuse or neglect as required by this Act shall
27 be referred to the Illinois State Medical Disciplinary Board
28 for action in accordance with paragraph 22 of Section 22 of the
29 Medical Practice Act of 1987. Any dentist or dental hygienist
30 who willfully fails to report suspected child abuse or neglect
31 as required by this Act shall be referred to the Department of
32 Financial and Professional Regulation for action in accordance
33 with paragraph 19 of Section 23 of the Illinois Dental Practice
34 Act. Any other person required by this Act to report suspected

1 child abuse and neglect who willfully fails to report such is
2 guilty of a Class A misdemeanor for a first violation and a
3 Class 4 felony for a second or subsequent violation.

4 (Source: P.A. 91-197, eff. 1-1-00; 92-801, eff. 8-16-02.)

5 (325 ILCS 5/11.1) (from Ch. 23, par. 2061.1)

6 Sec. 11.1. Access to records.

7 (a) A person shall have access to the records described in
8 Section 11 only in furtherance of purposes directly connected
9 with the administration of this Act or the Intergovernmental
10 Missing Child Recovery Act of 1984. Those persons and purposes
11 for access include:

12 (1) Department staff in the furtherance of their
13 responsibilities under this Act, or for the purpose of
14 completing background investigations on persons or
15 agencies licensed by the Department or with whom the
16 Department contracts for the provision of child welfare
17 services.

18 (2) A law enforcement agency investigating known or
19 suspected child abuse or neglect, known or suspected
20 involvement with child pornography, known or suspected
21 criminal sexual assault, known or suspected criminal
22 sexual abuse, or any other sexual offense when a child is
23 alleged to be involved.

24 (3) The Department of State Police when administering
25 the provisions of the Intergovernmental Missing Child
26 Recovery Act of 1984.

27 (4) A physician who has before him a child whom he
28 reasonably suspects may be abused or neglected.

29 (5) A person authorized under Section 5 of this Act to
30 place a child in temporary protective custody when such
31 person requires the information in the report or record to
32 determine whether to place the child in temporary
33 protective custody.

34 (6) A person having the legal responsibility or
35 authorization to care for, treat, or supervise a child or a

1 parent, guardian, or other person responsible for the
2 child's welfare who is the subject of a report.

3 (7) Except in regard to harmful or detrimental
4 information as provided in Section 7.19, any subject of the
5 report, and if the subject of the report is a minor, his
6 guardian or guardian ad litem.

7 (8) A court, upon its finding that access to such
8 records may be necessary for the determination of an issue
9 before such court; however, such access shall be limited to
10 in camera inspection, unless the court determines that
11 public disclosure of the information contained therein is
12 necessary for the resolution of an issue then pending
13 before it.

14 (8.1) A probation officer or other authorized
15 representative of a probation or court services department
16 conducting an investigation ordered by a court under the
17 Juvenile Court Act of 1987.

18 (9) A grand jury, upon its determination that access to
19 such records is necessary in the conduct of its official
20 business.

21 (10) Any person authorized by the Director, in writing,
22 for audit or bona fide research purposes.

23 (11) Law enforcement agencies, coroners or medical
24 examiners, physicians, courts, school superintendents and
25 child welfare agencies in other states who are responsible
26 for child abuse or neglect investigations or background
27 investigations.

28 (12) The Department of Financial and Professional
29 Regulation, the State Board of Education and school
30 superintendents in Illinois, who may use or disclose
31 information from the records as they deem necessary to
32 conduct investigations or take disciplinary action, as
33 provided by law.

34 (13) A coroner or medical examiner who has reason to
35 believe that a child has died as the result of abuse or
36 neglect.

1 (14) The Director of a State-operated facility when an
2 employee of that facility is the perpetrator in an
3 indicated report.

4 (15) The operator of a licensed child care facility or
5 a facility licensed by the Department of Human Services (as
6 successor to the Department of Alcoholism and Substance
7 Abuse) in which children reside when a current or
8 prospective employee of that facility is the perpetrator in
9 an indicated child abuse or neglect report, pursuant to
10 Section 4.3 of the Child Care Act of 1969.

11 (16) Members of a multidisciplinary team in the
12 furtherance of its responsibilities under subsection (b)
13 of Section 7.1. All reports concerning child abuse and
14 neglect made available to members of such
15 multidisciplinary teams and all records generated as a
16 result of such reports shall be confidential and shall not
17 be disclosed, except as specifically authorized by this Act
18 or other applicable law. It is a Class A misdemeanor to
19 permit, assist or encourage the unauthorized release of any
20 information contained in such reports or records. Nothing
21 contained in this Section prevents the sharing of reports
22 or records relating or pertaining to the death of a minor
23 under the care of or receiving services from the Department
24 of Children and Family Services and under the jurisdiction
25 of the juvenile court with the juvenile court, the State's
26 Attorney, and the minor's attorney.

27 (17) The Department of Human Services, as provided in
28 Section 17 of the Disabled Persons Rehabilitation Act.

29 (18) Any other agency or investigative body, including
30 the Department of Public Health and a local board of
31 health, authorized by State law to conduct an investigation
32 into the quality of care provided to children in hospitals
33 and other State regulated care facilities. The access to
34 and release of information from such records shall be
35 subject to the approval of the Director of the Department
36 or his designee.

1 (19) The person appointed, under Section 2-17 of the
2 Juvenile Court Act of 1987, as the guardian ad litem of a
3 minor who is the subject of a report or records under this
4 Act.

5 (20) The Department of Human Services, as provided in
6 Section 10 of the Early Intervention Services System Act,
7 and the operator of a facility providing early intervention
8 services pursuant to that Act, for the purpose of
9 determining whether a current or prospective employee who
10 provides or may provide direct services under that Act is
11 the perpetrator in an indicated report of child abuse or
12 neglect filed under this Act.

13 (b) Nothing contained in this Act prevents the sharing or
14 disclosure of information or records relating or pertaining to
15 juveniles subject to the provisions of the Serious Habitual
16 Offender Comprehensive Action Program when that information is
17 used to assist in the early identification and treatment of
18 habitual juvenile offenders.

19 (c) To the extent that persons or agencies are given access
20 to information pursuant to this Section, those persons or
21 agencies may give this information to and receive this
22 information from each other in order to facilitate an
23 investigation conducted by those persons or agencies.

24 (Source: P.A. 93-147, eff. 1-1-04.)

25 Section 9720. The Early Intervention Services System Act is
26 amended by changing Section 4 as follows:

27 (325 ILCS 20/4) (from Ch. 23, par. 4154)

28 Sec. 4. Illinois Interagency Council on Early
29 Intervention.

30 (a) There is established the Illinois Interagency Council
31 on Early Intervention. The Council shall be composed of at
32 least 15 but not more than 25 members. The members of the
33 Council and the designated chairperson of the Council shall be
34 appointed by the Governor. The Council member representing the

1 lead agency may not serve as chairperson of the Council. The
2 Council shall be composed of the following members:

3 (1) The Secretary of Human Services (or his or her
4 designee) and 2 additional representatives of the
5 Department of Human Services designated by the Secretary,
6 plus the Directors (or their designees) of the following
7 State agencies involved in the provision of or payment for
8 early intervention services to eligible infants and
9 toddlers and their families:

10 (A) Illinois State Board of Education;

11 (B) (Blank);

12 (C) (Blank);

13 (D) Illinois Department of Children and Family
14 Services;

15 (E) University of Illinois Division of Specialized
16 Care for Children;

17 (F) Illinois Department of Public Aid;

18 (G) Illinois Department of Public Health;

19 (H) (Blank);

20 (I) Illinois Planning Council on Developmental
21 Disabilities; and

22 (J) Illinois Department of Financial and
23 Professional Regulation Insurance.

24 (2) Other members as follows:

25 (A) At least 20% of the members of the Council
26 shall be parents, including minority parents, of
27 infants or toddlers with disabilities or children with
28 disabilities aged 12 or younger, with knowledge of, or
29 experience with, programs for infants and toddlers
30 with disabilities. At least one such member shall be a
31 parent of an infant or toddler with a disability or a
32 child with a disability aged 6 or younger;

33 (B) At least 20% of the members of the Council
34 shall be public or private providers of early
35 intervention services;

36 (C) One member shall be a representative of the

1 General Assembly; and

2 (D) One member shall be involved in the preparation
3 of professional personnel to serve infants and
4 toddlers similar to those eligible for services under
5 this Act.

6 The Council shall meet at least quarterly and in such
7 places as it deems necessary. Terms of the initial members
8 appointed under paragraph (2) shall be determined by lot at the
9 first Council meeting as follows: of the persons appointed
10 under subparagraphs (A) and (B), one-third shall serve one year
11 terms, one-third shall serve 2 year terms, and one-third shall
12 serve 3 year terms; and of the persons appointed under
13 subparagraphs (C) and (D), one shall serve a 2 year term and
14 one shall serve a 3 year term. Thereafter, successors appointed
15 under paragraph (2) shall serve 3 year terms. Once appointed,
16 members shall continue to serve until their successors are
17 appointed. No member shall be appointed to serve more than 2
18 consecutive terms.

19 Council members shall serve without compensation but shall
20 be reimbursed for reasonable costs incurred in the performance
21 of their duties, including costs related to child care, and
22 parents may be paid a stipend in accordance with applicable
23 requirements.

24 The Council shall prepare and approve a budget using funds
25 appropriated for the purpose to hire staff, and obtain the
26 services of such professional, technical, and clerical
27 personnel as may be necessary to carry out its functions under
28 this Act. This funding support and staff shall be directed by
29 the lead agency.

30 (b) The Council shall:

31 (1) advise and assist the lead agency in the
32 performance of its responsibilities including but not
33 limited to the identification of sources of fiscal and
34 other support services for early intervention programs,
35 and the promotion of interagency agreements which assign
36 financial responsibility to the appropriate agencies;

1 (2) advise and assist the lead agency in the
2 preparation of applications and amendments to
3 applications;

4 (3) review and advise on relevant regulations and
5 standards proposed by the related State agencies;

6 (4) advise and assist the lead agency in the
7 development, implementation and evaluation of the
8 comprehensive early intervention services system; and

9 (5) prepare and submit an annual report to the Governor
10 and to the General Assembly on the status of early
11 intervention programs for eligible infants and toddlers
12 and their families in Illinois. The annual report shall
13 include (i) the estimated number of eligible infants and
14 toddlers in this State, (ii) the number of eligible infants
15 and toddlers who have received services under this Act and
16 the cost of providing those services, (iii) the estimated
17 cost of providing services under this Act to all eligible
18 infants and toddlers in this State, and (iv) data and other
19 information as is requested to be included by the
20 Legislative Advisory Committee established under Section
21 13.50 of this Act. The report shall be posted by the lead
22 agency on the early intervention website as required under
23 paragraph (f) of Section 5 of this Act.

24 No member of the Council shall cast a vote on or
25 participate substantially in any matter which would provide a
26 direct financial benefit to that member or otherwise give the
27 appearance of a conflict of interest under State law. All
28 provisions and reporting requirements of the Illinois
29 Governmental Ethics Act shall apply to Council members.

30 (Source: P.A. 91-357; eff. 7-29-99; 92-307, eff. 8-9-01.)

31 Section 9725. The Mental Health and Developmental
32 Disabilities Code is amended by changing Section 1-103 as
33 follows:

34 (405 ILCS 5/1-103) (from Ch. 91 1/2, par. 1-103)

1 Sec. 1-103. "Clinical psychologist" means a psychologist
2 registered with the Illinois Department of Professional
3 Regulation or its successor, the Department of Financial and
4 Professional Regulation, who meets the following
5 qualifications:

6 (a) has a doctoral degree from a regionally accredited
7 university, college, or professional school, and has two years
8 of supervised experience in health services of which at least
9 one year is postdoctoral and one year is in an organized health
10 service program; or

11 (b) has a graduate degree in psychology from a regionally
12 accredited university or college, and has not less than six
13 years of experience as a psychologist with at least two years
14 of supervised experience in health services.

15 (Source: P.A. 85-1209.)

16 Section 9730. The Medical Patient Rights Act is amended by
17 changing Section 3 as follows:

18 (410 ILCS 50/3) (from Ch. 111 1/2, par. 5403)

19 Sec. 3. The following rights are hereby established:

20 (a) The right of each patient to care consistent with sound
21 nursing and medical practices, to be informed of the name of
22 the physician responsible for coordinating his or her care, to
23 receive information concerning his or her condition and
24 proposed treatment, to refuse any treatment to the extent
25 permitted by law, and to privacy and confidentiality of records
26 except as otherwise provided by law.

27 (b) The right of each patient, regardless of source of
28 payment, to examine and receive a reasonable explanation of his
29 total bill for services rendered by his physician or health
30 care provider, including the itemized charges for specific
31 services received. Each physician or health care provider shall
32 be responsible only for a reasonable explanation of those
33 specific services provided by such physician or health care
34 provider.

1 (c) In the event an insurance company or health services
2 corporation cancels or refuses to renew an individual policy or
3 plan, the insured patient shall be entitled to timely, prior
4 notice of the termination of such policy or plan.

5 An insurance company or health services corporation that
6 requires any insured patient or applicant for new or continued
7 insurance or coverage to be tested for infection with human
8 immunodeficiency virus (HIV) or any other identified causative
9 agent of acquired immunodeficiency syndrome (AIDS) shall (1)
10 give the patient or applicant prior written notice of such
11 requirement, (2) proceed with such testing only upon the
12 written authorization of the applicant or patient, and (3) keep
13 the results of such testing confidential. Notice of an adverse
14 underwriting or coverage decision may be given to any
15 appropriately interested party, but the insurer may only
16 disclose the test result itself to a physician designated by
17 the applicant or patient, and any such disclosure shall be in a
18 manner that assures confidentiality.

19 The Department of Financial and Professional Regulation
20 ~~Insurance~~ shall enforce the provisions of this subsection.

21 (d) The right of each patient to privacy and
22 confidentiality in health care. Each physician, health care
23 provider, health services corporation and insurance company
24 shall refrain from disclosing the nature or details of services
25 provided to patients, except that such information may be
26 disclosed to the patient, the party making treatment decisions
27 if the patient is incapable of making decisions regarding the
28 health services provided, those parties directly involved with
29 providing treatment to the patient or processing the payment
30 for that treatment, those parties responsible for peer review,
31 utilization review and quality assurance, and those parties
32 required to be notified under the Abused and Neglected Child
33 Reporting Act, the Illinois Sexually Transmissible Disease
34 Control Act or where otherwise authorized or required by law.
35 This right may be waived in writing by the patient or the
36 patient's guardian, but a physician or other health care

1 provider may not condition the provision of services on the
2 patient's or guardian's agreement to sign such a waiver.

3 (Source: P.A. 86-895; 86-902; 86-1028; 87-334.)

4 Section 9735. The Head and Spinal Cord Injury Act is
5 amended by changing Section 6 as follows:

6 (410 ILCS 515/6) (from Ch. 111 1/2, par. 7856)

7 Sec. 6. (a) There is hereby created the Advisory Council on
8 Spinal Cord and Head Injuries within the Department of Human
9 Services. The Council shall consist of 29 members, appointed by
10 the Governor with the advice and consent of the Senate. Members
11 shall serve 3-year terms and until their successors are
12 appointed by the Governor with the advice and consent of the
13 Senate. The members appointed by the Governor shall include 2
14 neurosurgeons, 2 orthopedic surgeons, 2 rehabilitation
15 specialists, one of whom shall be a registered nurse, 4 persons
16 with head injuries or family members of persons with head
17 injuries, 4 persons with spinal cord injuries or family members
18 of persons with spinal cord injuries, a representative of an
19 Illinois college or university, and a representative from
20 health institutions or private industry. These members shall
21 not serve more than 2 consecutive 3-year terms. The Governor
22 shall appoint one individual from each of the following
23 entities to the Council as ex-officio members: the unit of the
24 Department of Human Services that is responsible for the
25 administration of the vocational rehabilitation program,
26 another unit within the Department of Human Services that
27 provides services for individuals with disabilities, the State
28 Board of Education, the Department of Public Health, the
29 Department of Financial and Professional Regulation ~~Insurance~~,
30 the Department of Public Aid, the Division of Specialized Care
31 for Children of the University of Illinois, the Statewide
32 Independent Living Council, and the State Rehabilitation
33 Advisory Council. Ex-officio members are not subject to limit
34 of 2 consecutive 3-year terms. The appointment of individuals

1 representing State agencies shall be conditioned on their
2 continued employment with their respective agencies.

3 (b) From funds appropriated for such purpose, the
4 Department of Human Services shall provide to the Council the
5 necessary staff and expenses to carry out the duties and
6 responsibilities assigned by the Council. Such staff shall
7 consist of a director and other support staff.

8 (c) Meetings shall be held at least every 90 days or at the
9 call of the Council chairman, who shall be elected by the
10 Council.

11 (d) Each member shall be reimbursed for reasonable and
12 necessary expenses actually incurred in the performance of his
13 official duties.

14 (e) The Council shall adopt written procedures to govern
15 its activities. Consultants shall be provided for the Council
16 from appropriations made for such purpose.

17 (f) The Council shall make recommendations to the Governor
18 for developing and administering a State plan to provide
19 services for spinal cord and head injured persons.

20 (g) No member of the Council may participate in or seek to
21 influence a decision or vote of the Council if the member would
22 be directly involved with the matter or if he would derive
23 income from it. A violation of this prohibition shall be
24 grounds for a person to be removed as a member of the Council
25 by the Governor.

26 (h) The Council shall:

27 (1) promote meetings and programs for the discussion of
28 reducing the debilitating effects of spinal cord and head
29 injuries and disseminate information in cooperation with
30 any other department, agency or entity on the prevention,
31 evaluation, care, treatment and rehabilitation of persons
32 affected by spinal cord and head injuries;

33 (2) study and review current prevention, evaluation,
34 care, treatment and rehabilitation technologies and
35 recommend appropriate preparation, training, retraining
36 and distribution of manpower and resources in the provision

1 of services to spinal cord and head injured persons through
2 private and public residential facilities, day programs
3 and other specialized services;

4 (3) recommend specific methods, means and procedures
5 which should be adopted to improve and upgrade the State's
6 service delivery system for spinal cord and head injured
7 citizens of this State;

8 (4) participate in developing and disseminating
9 criteria and standards which may be required for future
10 funding or licensing of facilities, day programs and other
11 specialized services for spinal cord and head injured
12 persons in this State;

13 (5) report annually to the Governor and the General
14 Assembly on its activities, and on the results of its
15 studies and the recommendations of the Council; and

16 (6) be the advisory board for purposes of federal
17 programs regarding traumatic brain injury.

18 (i) The Department of Human Services may accept on behalf
19 of the Council federal funds, gifts and donations from
20 individuals, private organizations and foundations, and any
21 other funds that may become available.

22 (Source: P.A. 89-507, eff. 7-1-97; 90-453, eff. 8-16-97.)

23 Section 9740. The Health Care Professional Credentials
24 Data Collection Act is amended by changing Section 5 as
25 follows:

26 (410 ILCS 517/5)

27 Sec. 5. Definitions. As used in this Act:

28 "Council" means the Health Care Credentials Council.

29 "Credentials data" means those data, information, or
30 answers to questions required by a health care entity, health
31 care plan, or hospital to complete the credentialing or
32 recredentialing of a health care professional.

33 "Credentialing" means the process of assessing and
34 validating the qualifications of a health care professional.

1 "Department" means the Department of Public Health.

2 "Director" means the Director of the Department of Public
3 Health.

4 "Health care entity" means any of the following which
5 require the submission of credentials data: (i) a health care
6 facility or other health care organization licensed or
7 certified to provide medical or health services in Illinois,
8 other than a hospital; (ii) a health care professional
9 partnership, corporation, limited liability company,
10 professional services corporation or group practice; or (iii)
11 an independent practice association or physician hospital
12 organization. Nothing in this definition shall be construed to
13 mean that a hospital is a health care entity.

14 "Health care plan" means any entity licensed by the
15 Department of Insurance or its successor, the Department of
16 Financial and Professional Regulation, as a prepaid health care
17 plan or health maintenance organization or as an insurer which
18 requires the submission of credentials data.

19 "Health care professional" means any person licensed under
20 the Medical Practice Act of 1987 or any person licensed under
21 any other Act subsequently made subject to this Act by the
22 Department.

23 "Hospital" means a hospital licensed under the Hospital
24 Licensing Act or any hospital organized under the University of
25 Illinois Hospital Act.

26 "Recredentialing" means the process by which a health care
27 entity, health care plan or hospital ensures that a health care
28 professional who is currently credentialed by the health care
29 entity, health care plan or hospital continues to meet the
30 credentialing criteria used by the health care entity, health
31 care plan, or hospital no more than once every 2 years.

32 "Single credentialing cycle" means a process whereby for
33 purposes of recredentialing each health care professional's
34 credentials data are collected by all health care entities and
35 health care plans that credential the health care professional
36 during the same time period and only once every 2 years.

1 "Site survey" means a process by which a health care entity
2 or health care plan assesses the office locations and medical
3 record keeping practices of a health care professional.

4 "Single site survey" means a process by which, for purposes
5 of recredentialing, each health care professional receives a
6 site visit only once every two years.

7 "Uniform health care credentials form" means the form
8 developed by the Department under Section 15 to collect the
9 credentials data commonly requested by health care entities and
10 health care plans for purposes of credentialing.

11 "Uniform health care recredentials form" means the form
12 developed by the Department under Section 15 to collect the
13 credentials data commonly requested by health care entities and
14 health care plans for purposes of recredentialing.

15 "Uniform hospital credentials form" means the form
16 developed by the Department under Section 15 to collect the
17 credentials data commonly requested by hospitals for purposes
18 of credentialing.

19 "Uniform hospital recredentials form" means the form
20 developed by the Department under Section 15 to collect the
21 credentials data commonly requested by hospitals for purposes
22 of recredentialing.

23 "Uniform site survey instrument" means the instrument
24 developed by the Department under Section 25 to complete a
25 single site survey as part of a credentialing or
26 recredentialing process.

27 "Uniform updating form" means a standardized form for
28 reporting of corrections, updates, and modifications to
29 credentials data to health care entities, health care plans,
30 and hospitals when those data change following credentialing or
31 recredentialing of a health care professional.

32 (Source: P.A. 91-602, eff. 8-16-99.)

33 Section 9745. The Illinois Food, Drug and Cosmetic Act is
34 amended by changing Section 3.22 as follows:

1 (410 ILCS 620/3.22) (from Ch. 56 1/2, par. 503.22)

2 Sec. 3.22. Whoever knowingly distributes, or possesses
3 with intent to distribute, human growth hormone for any use in
4 humans other than the treatment of a disease or other
5 recognized medical condition, where the use has been authorized
6 by the Secretary of Health and Human Services and under the
7 order of a physician, is guilty of a Class 3 felony, and may be
8 fined an amount not to exceed \$50,000.

9 Whoever commits any offense set forth in this Section and
10 the offense involves an individual under 18 years of age is
11 punishable by not more than 10 years imprisonment, and twice
12 the fine authorized above. Any conviction for a violation of
13 this Section shall be considered a violation of the Illinois
14 Controlled Substances Act for the purposes of forfeiture under
15 Section 505 of such Act. As used in this Section the term
16 "human growth hormone" means somatrem, somatropin, or an
17 analogue of either of them. The Department of State Police and
18 Department of Financial and Professional Regulation are
19 authorized to investigate offenses punishable by this Section.

20 (Source: P.A. 87-754.)

21 Section 9750. The Environmental Protection Act is amended
22 by changing Section 21.1 as follows:

23 (415 ILCS 5/21.1) (from Ch. 111 1/2, par. 1021.1)

24 Sec. 21.1. (a) Except as provided in subsection (a.5), no
25 person other than the State of Illinois, its agencies and
26 institutions, or a unit of local government shall conduct any
27 waste disposal operation on or after March 1, 1985, which
28 requires a permit under subsection (d) of Section 21 of this
29 Act, unless such person has posted with the Agency a
30 performance bond or other security for the purpose of insuring
31 closure of the site and post-closure care in accordance with
32 this Act and regulations adopted thereunder.

33 (a.5) On and after the effective date established by the
34 United States Environmental Protection Agency for MSWLF units

1 to provide financial assurance under Subtitle D of the Resource
2 Conservation and Recovery Act, no person, other than the State
3 of Illinois, its agencies and institutions, shall conduct any
4 disposal operation at a MSWLF unit that requires a permit under
5 subsection (d) of Section 21 of this Act, unless that person
6 has posted with the Agency a performance bond or other security
7 for the purposes of:

8 (1) insuring closure of the site and post-closure care
9 in accordance with this Act and its rules; and

10 (2) insuring completion of a corrective action remedy
11 when required by Board rules adopted under Section 22.40 of
12 this Act or when required by Section 22.41 of this Act.

13 The performance bond or other security requirement set
14 forth in this Section may be fulfilled by closure or
15 post-closure insurance, or both, issued by an insurer licensed
16 to transact the business of insurance by the Department of
17 Insurance or its successor, the Department of Financial and
18 Professional Regulation, or at a minimum the insurer must be
19 licensed to transact the business of insurance or approved to
20 provide insurance as an excess or surplus lines insurer by the
21 insurance department in one or more states.

22 (b) On or before January 1, 1985, the Board shall adopt
23 regulations to promote the purposes of this Section. Without
24 limiting the generality of this authority, such regulations
25 may, among other things, prescribe the type and amount of the
26 performance bonds or other securities required under
27 subsections (a) and (a.5) of this Section, and the conditions
28 under which the State is entitled to collect monies from such
29 performance bonds or other securities. The bond amount shall be
30 directly related to the design and volume of the site. The cost
31 estimate for the post-closure care of a MSWLF unit shall be
32 calculated using a 30 year post-closure care period or such
33 other period as may be approved by the Agency under Board or
34 federal rules. On and after the effective date established by
35 the United States Environmental Protection Agency for MSWLF
36 units to provide financial assurance under Subtitle D of the

1 Resource Conservation and Recovery Act, closure, post-closure
2 care, and corrective action cost estimates for MSWLF units
3 shall be in current dollars.

4 (c) There is hereby created within the State Treasury a
5 special fund to be known as the "Landfill Closure and
6 Post-Closure Fund". Any monies forfeited to the State of
7 Illinois from any performance bond or other security required
8 under this Section shall be placed in the "Landfill Closure and
9 Post-Closure Fund" and shall, upon approval by the Governor and
10 the Director, be used by and under the direction of the Agency
11 for the purposes for which such performance bond or other
12 security was issued. The Landfill Closure and Post-Closure Fund
13 is not subject to the provisions of subsection (c) of Section 5
14 of the State Finance Act.

15 (d) The Agency is authorized to enter into such contracts
16 and agreements as it may deem necessary to carry out the
17 purposes of this Section. Neither the State, nor the Director,
18 nor any State employee shall be liable for any damages or
19 injuries arising out of or resulting from any action taken
20 under this Section.

21 (e) The Agency shall have the authority to approve or
22 disapprove any performance bond or other security posted
23 pursuant to subsection (a) or (a.5) of this Section. Any person
24 whose performance bond or other security is disapproved by the
25 Agency may contest the disapproval as a permit denial appeal
26 pursuant to Section 40 of this Act.

27 (f) The Agency may establish such procedures as it may deem
28 necessary for the purpose of implementing and executing its
29 responsibilities under this Section.

30 (g) Nothing in this Section shall bar a cause of action by
31 the State for any other penalty or relief provided by this Act
32 or any other law.

33 (Source: P.A. 88-496; 88-512; 89-200, eff. 1-1-96.)

34 Section 9755. The Response Action Contractor
35 Indemnification Act is amended by changing Section 6 as

1 follows:

2 (415 ILCS 100/6) (from Ch. 111 1/2, par. 7206)

3 Sec. 6. The Secretary of Financial and Professional
4 Regulation ~~Director of Insurance~~ shall monitor and observe the
5 insurance market in this State to determine if the occurrence
6 form of liability insurance becomes available to response
7 action contractors in this State. In the event that the
8 Secretary ~~Director~~ determines that one or more insurers are
9 making such insurance available to response action contractors
10 in this State upon reasonable terms, he shall adopt a rule to
11 that effect. If the Secretary ~~Director~~ determines that such
12 insurance is available only for certain classes of contractors
13 or pollutants, he shall include that determination in the rule.
14 In the event that the Secretary ~~Director~~ determines that such
15 insurance has ceased to be available, he shall modify or
16 rescind such rule.

17 Such determinations shall be subject to review under the
18 Administrative Review Law, and shall be deemed final 30 days
19 after adoption unless such review has been sought within that
20 period.

21 (Source: P.A. 84-1445.)

22 Section 9760. The Fire Investigation Act is amended by
23 changing Sections 6, 12, 13, and 13.1 as follows:

24 (425 ILCS 25/6) (from Ch. 127 1/2, par. 6)

25 Sec. 6. The chief of the fire department of every
26 municipality in which a fire department is established and the
27 fire chief of every legally organized fire protection district
28 shall investigate the cause, origin and circumstances of every
29 fire occurring in such municipality or fire protection
30 district, or in any area or on any property which is furnished
31 fire protection by the fire department of such municipality or
32 fire protection district, by which property has been destroyed
33 or damaged, and shall especially make investigation as to

1 whether such fire was the result of carelessness or design.
2 Such investigation shall be begun within two days, not
3 including Sunday, of the occurrence of such fire, and the
4 Office of the State Fire Marshal shall have the right to
5 supervise and direct such investigation whenever it deems it
6 expedient or necessary. The officer making investigation of
7 fires occurring in cities, villages, towns, fire protection
8 districts or townships shall forthwith notify the Office of the
9 State Fire Marshal and shall by the 15th of the month following
10 the occurrence of the fire, furnish to the Office a statement
11 of all facts relating to the cause and origin of the fire, and
12 such other information as may be called for in a format
13 approved or on forms provided by the Office. The Office of the
14 State Fire Marshal shall keep a record of all fires occurring
15 in the State, together with all facts, statistics and
16 circumstances, including the origin of the fires, which may be
17 determined by the investigations provided by this act; such
18 record shall at all times be open to the public inspection, and
19 such portions of it as the Secretary of Financial and
20 Professional Regulation ~~State Director of Insurance~~ may deem
21 necessary shall be transcribed and forwarded to him within
22 fifteen days from the first of January of each year.

23 (Source: P.A. 82-706.)

24 (425 ILCS 25/12) (from Ch. 127 1/2, par. 16)

25 Sec. 12. Every fire insurance company, whether upon the
26 stock or mutual plan, and every other personal or business
27 entity doing any form of fire insurance business in the State
28 of Illinois, shall pay to the Department of Financial and
29 Professional Regulation ~~Insurance~~ in the month of March, such
30 amount as may be assessed by the Department ~~of Insurance~~, which
31 may not exceed 1% of the gross fire, sprinkler leakage, riot,
32 civil commotion, explosion and motor vehicle fire risk premium
33 receipts of such company or other entity from such business
34 done in the State of Illinois during the preceding year, and
35 shall make an annual report or statement under oath to the

1 Department specifying the amount of such premiums received
2 during the preceding year. The Department ~~of Insurance~~ shall
3 pay the money so received into the Fire Prevention Fund, to be
4 used as specified in Section 13.1 of this Act.

5 (Source: P.A. 85-718.)

6 (425 ILCS 25/13) (from Ch. 127 1/2, par. 17)

7 Sec. 13. Every company, firm, co-partnership, association
8 or aggregation of individuals, or body of persons insuring each
9 other, or their agents, representatives, or attorneys in fact,
10 who shall refuse or neglect to comply with the requirements of
11 Section 12 of this Act, is liable, in addition to the amount
12 due, for such penalty and interest charges as are provided for
13 under Section 412 of the "Illinois Insurance Code". The
14 Secretary of Financial and Professional Regulation ~~Director~~
15 through the Attorney General, may institute an action in the
16 name of the People of the State of Illinois, in any court of
17 competent jurisdiction for the recovery of the amount of such
18 taxes and penalties due, and prosecute the same to final
19 judgment, and take such steps as are necessary to collect the
20 same. If such violation is by a company, association,
21 co-partnership or aggregation of individuals licensed to do
22 business in the State of Illinois, such license may be revoked
23 by the Department of Financial and Professional Regulation
24 ~~Insurance~~.

25 (Source: P.A. 83-43.)

26 (425 ILCS 25/13.1) (from Ch. 127 1/2, par. 17.1)

27 Sec. 13.1. (a) There shall be a special fund in the State
28 Treasury known as the Fire Prevention Fund.

29 (b) The following moneys shall be deposited into the Fund:

30 (1) Moneys received by the Department of Insurance or
31 its successor, the Department of Financial and
32 Professional Regulation, under Section 12 of this Act.

33 (2) All fees and reimbursements received by the Office
34 of the State Fire Marshal.

1 (3) All receipts from boiler and pressure vessel
2 certification, as provided in Section 13 of the Boiler and
3 Pressure Vessel Safety Act.

4 (4) Such other moneys as may be provided by law.

5 (c) The moneys in the Fire Prevention Fund shall be used,
6 subject to appropriation, for the following purposes:

7 (1) Of the moneys deposited into the fund under Section
8 12 of this Act, 12.5% shall be available for the
9 maintenance of the Illinois Fire Service Institute and the
10 expenses, facilities, and structures incident thereto, and
11 for making transfers into the General Obligation Bond
12 Retirement and Interest Fund for debt service requirements
13 on bonds issued by the State of Illinois after January 1,
14 1986 for the purpose of constructing a training facility
15 for use by the Institute.

16 (2) Of the moneys deposited into the Fund under Section
17 12 of this Act, 10% shall be available for the maintenance
18 of the Chicago Fire Department Training Program and the
19 expenses, facilities and structures incident thereto, in
20 addition to any moneys payable from the Fund to the City of
21 Chicago pursuant to the Illinois Fire Protection Training
22 Act.

23 (3) For making payments to local governmental agencies
24 and individuals pursuant to Section 10 of the Illinois Fire
25 Protection Training Act.

26 (4) For the maintenance and operation of the Office of
27 the State Fire Marshal, and the expenses incident thereto.

28 (5) For any other purpose authorized by law.

29 (d) Any portion of the Fire Prevention Fund remaining
30 unexpended at the end of any fiscal year which is not needed
31 for the maintenance and expenses of the Office of the State
32 Fire Marshal or the maintenance and expenses of the Illinois
33 Fire Service Institute, shall remain in the Fire Prevention
34 Fund for the exclusive and restricted uses provided in
35 subsection (c) of this Section.

36 (e) The Office of the State Fire Marshal shall keep on file

1 an itemized statement of all expenses incurred which are
2 payable from the Fund, other than expenses incurred by the
3 Illinois Fire Service Institute, and shall approve all vouchers
4 issued therefor before they are submitted to the State
5 Comptroller for payment. Such vouchers shall be allowed and
6 paid in the same manner as other claims against the State.

7 (Source: P.A. 93-870, eff. 1-1-05.)

8 Section 9765. The Fireworks Regulation Act of Illinois is
9 amended by changing Section 21 as follows:

10 (425 ILCS 30/21) (from Ch. 127 1/2, par. 121)

11 Sec. 21. The manner of conducting hearings provided for in
12 section 20 of this Act shall conform, as nearly as may be, to
13 the provisions governing hearings set forth in Sections
14 2105-100, 2105-105, 2105-110, 2105-115, 2105-120, and 2105-125
15 of the Department of Financial and Professional Regulation
16 (Professional Regulation) Law (20 ILCS 2105/2105-100,
17 2105/2105-105, 2105/2105-110, 2105/2105-115, 2105/2105-120,
18 and 2105/2105-125).

19 (Source: P.A. 91-239, eff. 1-1-00.)

20 Section 9770. The Humane Euthanasia in Animal Shelters Act
21 is amended by adding Section 2 as follows:

22 (510 ILCS 72/2 new)

23 Sec. 2. References to Department or Director of
24 Professional Regulation. On and after the effective date of
25 this amendatory Act of the 94th General Assembly:

26 (1) References in this Act to the Department of
27 Professional Regulation or "the Department" mean the
28 Department of Financial and Professional Regulation.

29 (2) References in this Act to the Director of
30 Professional Regulation or "the Director" mean the
31 Secretary of Financial and Professional Regulation.

1 Section 9775. The Illinois Highway Code is amended by
2 changing Section 6-412.1 as follows:

3 (605 ILCS 5/6-412.1) (from Ch. 121, par. 6-412.1)

4 Sec. 6-412.1. The highway commissioner is authorized to
5 contract for insurance against any loss or liability of any
6 officer, employee or agent of the district resulting from the
7 wrongful or negligent act of any such officer, employee or
8 agent while discharging and engaged in his duties and functions
9 and acting within the scope of his duties and functions as an
10 officer, employee or agent of the district. Such insurance
11 shall be carried with a company authorized by the Department of
12 Insurance or its successor, the Department of Financial and
13 Professional Regulation, to write such coverage in Illinois.
14 Every such policy shall provide, or be endorsed to provide,
15 that the company issuing such policy waives any right to refuse
16 payment or deny coverage or liability thereunder, within the
17 limits of the policy, because of any exemption the district may
18 have from such liability. The expenditure of road funds of the
19 district to purchase such insurance contracts constitutes a
20 road purpose under this Act.

21 (Source: Laws 1961, p. 2724.)

22 Section 9780. The Illinois Vehicle Code is amended by
23 changing Sections 3-816, 3-818, 7-317, 7-501, and 7-502 as
24 follows:

25 (625 ILCS 5/3-816) (from Ch. 95 1/2, par. 3-816)

26 Sec. 3-816. Installment Payments.

27 (a) The flat weight tax required to be paid by Section
28 3-815 for any vehicles on a calendar year basis may be paid if
29 the owner so elects, in equal semi-annual installments due on
30 January 1 and July 1 of each licensing year. Effective with the
31 1984 registration year the owners of semitrailers registered
32 under Section 3-814 shall have the option of paying the
33 designated fees to the Secretary in the following manner:

1 If registered in the first year the owner shall have the
2 option of paying \$30 the first year and the remaining \$30 by
3 the start of the second year;

4 If registered in the second year the owner shall have the
5 option of paying \$24 the first year and the remaining \$24 by
6 the start of the third year;

7 If registered in the third year the owner shall pay \$36 for
8 each semitrailer;

9 If registered in the fourth year the owner shall pay \$24
10 for each semitrailer; and

11 If registered in the fifth year the owner shall pay \$12 for
12 each semitrailer.

13 Every such owner who elects to pay such tax in such
14 installments shall file with the Secretary of State a surety
15 bond or certificate of deposit, as hereinafter provided, in the
16 amount of the sum of the second installment of taxes on his
17 vehicle.

18 Such bond shall be in the form approved by the Secretary of
19 State and with a surety company approved by the Department of
20 Insurance or its successor, the Department of Financial and
21 Professional Regulation, to transact business in this State, as
22 surety, and shall be conditioned upon such owner's paying to
23 the State of Illinois all monies becoming due by reason of his
24 operation of the second division motor vehicle in this State,
25 together with all penalties and interest thereon.

26 The State Treasurer shall issue a certificate of deposit to
27 any such owner who deposits with the State Treasurer securities
28 of the Federal Government or the State of Illinois endorsed in
29 blank by such owner, or a certificate of deposit issued by any
30 bank or savings and loan association authorized to do business
31 in Illinois, payable to the Secretary of State on or after July
32 1 of the year of registration. Such certificate of deposit and
33 securities shall be approved by and deposited with the State
34 Treasurer, and shall have a current market value in the total
35 amount which would cover all monies becoming due and payable to
36 the State of Illinois by reason of his operation of a second

1 division motor vehicle in this State, together with all
2 penalties and interest thereon.

3 The liability of the surety hereunder shall be absolute and
4 upon notice from the Secretary of State that the second
5 installment has not been paid on July 1 of any licensing year
6 the surety shall immediately pay the second installment to the
7 Secretary of State.

8 Upon notice by the Secretary of State that the second
9 installment of such owner's taxes has not been paid on July 1
10 of any licensing year, the State Treasurer shall sell such
11 securities and deliver the proceeds thereof to the Secretary of
12 State to satisfy all monies becoming due by reason of such
13 owner's operation of a second division motor vehicle in this
14 State, together with all penalties and interest thereon.

15 If the owner's liability for the second installment is
16 evidenced by a certificate of deposit payable to the Secretary
17 of State, the Secretary of State shall, upon failure of the
18 owner to pay the second installment by July 1, endorse the
19 certificate of deposit which is in the custody of the State
20 Treasurer, and thereafter the State Treasurer shall present the
21 certificate of deposit for payment to the proper bank or
22 savings and loan association. Upon receipt of payment, the
23 State Treasurer shall forward to the Secretary of State all
24 monies due by reason of such owner's operation of a second
25 division motor vehicle in this State, and return the excess, if
26 any, to the owner on whose behalf the certificate of deposit
27 was previously deposited.

28 The State Treasurer shall return securities or proceeds in
29 excess of that needed to satisfy the Secretary of State for all
30 monies becoming due by reason of such owner's operation of a
31 second division motor vehicle in this State, together with all
32 penalties and interest thereon. Upon notice by the Secretary of
33 State that the second installment has been paid, the State
34 Treasurer shall return such certificate of deposit or
35 securities deposited with him under this Section to the owner
36 thereof.

1 (b) The flat weight tax required by Section 3-815 to be
2 paid on a fiscal year basis may be paid, if the owner so
3 elects, in equal semi-annual installments due on July 1st and
4 January 1st of each registration year. From July 1, 1983
5 through November 30, 1983, the flat weight tax required by
6 Section 3-814 for semitrailers previously registered on a
7 fiscal year basis may be paid, if the owner so elects, by
8 paying the Secretary of State \$33 at the time of registration
9 and the remaining \$25 by January 1, 1985 for each 5 1/2 year
10 semitrailer plate. Every such owner who elects to pay such tax
11 in such installments shall file with the Secretary of State a
12 surety bond or certificate of deposit, as hereinafter provided,
13 in the amount of the sum of the second installment of taxes on
14 his vehicle.

15 Such bond shall be in the form approved by the Secretary of
16 State and with a surety company approved by the Department of
17 Insurance or its successor, the Department of Financial and
18 Professional Regulation, to transact business in this State, as
19 surety, and shall be conditioned upon such owner's paying to
20 the State of Illinois all monies becoming due by reason of his
21 operation of the second division motor vehicle in this State,
22 together with all penalties and interest thereon.

23 The liability of the surety hereunder shall be absolute and
24 upon notice from the Secretary of State that the second
25 installment has not been paid on January 1st of any
26 registration year the surety shall immediately pay the second
27 installment to the Secretary of State.

28 Upon notice by the Secretary of State that the second
29 installment of such owner's taxes has not been paid on January
30 1st of any registration year, the State Treasurer shall sell
31 such securities and deliver the proceeds thereof to the
32 Secretary of State to satisfy all monies becoming due by reason
33 of such owner's operation of a second division motor vehicle in
34 this State, together with all penalties and interest thereon.

35 If the owner's liability for the second installment is
36 evidenced by a certificate of deposit payable to the Secretary

1 of State, the Secretary of State shall, upon failure of the
2 owner to pay the second installment by January 1st, endorse the
3 certificate of deposit which is in the custody of the State
4 Treasurer, and thereafter the State Treasurer shall present the
5 certificate of deposit for payment to the proper bank or
6 savings and loan association. Upon receipt of payment, the
7 State Treasurer shall forward to the Secretary of State all
8 monies due by reason of such owner's operation of a second
9 division motor vehicle in this State, and return the excess, if
10 any, to the owner on whose behalf the certificate of deposit
11 was previously deposited.

12 The State Treasurer shall return securities or proceeds in
13 excess of that needed to satisfy the Secretary of State for all
14 monies becoming due by reason of such owner's operation of a
15 second division motor vehicle in this State, together with all
16 penalties and interest thereon. Upon notice by the Secretary of
17 State that the second installment has been paid, the State
18 Treasurer shall return such certificate of deposit or
19 securities deposited with him under this Section to the owner
20 thereof.

21 (c) The flat weight tax required under Section 3-815 for
22 vehicles registered in accordance with Section 3-402.1 may be
23 paid, if the owner elects, in equal semi-annual installments
24 due on April 1 and October 1 of each licensing year.

25 (d) In the event any surety pays for any second installment
26 under this Section, the surety shall have recourse only against
27 the principal and owner of the vehicles involved and shall have
28 no right or privilege to demand revocation or suspension of the
29 registration plates or registration stickers of the vehicles
30 involved. Such surety may, however, impress a lien as provided
31 in Section 3-828.

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

33 (625 ILCS 5/3-818) (from Ch. 95 1/2, par. 3-818)

34 Sec. 3-818. (a) Mileage weight tax option. Any owner of a
35 vehicle of the second division may elect to pay a mileage

1 weight tax for such vehicle in lieu of the flat weight tax set
 2 out in Section 3-815. Such election shall be binding to the end
 3 of the registration year. Renewal of this election must be
 4 filed with the Secretary of State on or before July 1 of each
 5 registration period. In such event the owner shall, at the time
 6 of making such election, pay the \$10 registration fee and the
 7 minimum guaranteed mileage weight tax, as hereinafter
 8 provided, which payment shall permit the owner to operate that
 9 vehicle the maximum mileage in this State hereinafter set
 10 forth. Any vehicle being operated on mileage plates cannot be
 11 operated outside of this State. In addition thereto, the owner
 12 of that vehicle shall pay a mileage weight tax at the following
 13 rates for each mile traveled in this State in excess of the
 14 maximum mileage provided under the minimum guaranteed basis:

15 BUS, TRUCK OR TRUCK TRACTOR

16			Maximum	Mileage	
17			Minimum	Mileage	Weight Tax
18			Guaranteed	Permitted	for Mileage
19	Gross Weight		Mileage	Under	in excess of
20	Vehicle and		Weight	Guaranteed	Guaranteed
21	Load	Class	Tax	Tax	Mileage
22	12,000 lbs. or less	MD	\$73	5,000	26 Mills
23	12,001 to 16,000 lbs.	MF	120	6,000	34 Mills
24	16,001 to 20,000 lbs.	MG	180	6,000	46 Mills
25	20,001 to 24,000 lbs.	MH	235	6,000	63 Mills
26	24,001 to 28,000 lbs.	MJ	315	7,000	63 Mills
27	28,001 to 32,000 lbs.	MK	385	7,000	83 Mills
28	32,001 to 36,000 lbs.	ML	485	7,000	99 Mills
29	36,001 to 40,000 lbs.	MN	615	7,000	128 Mills
30	40,001 to 45,000 lbs.	MP	695	7,000	139 Mills
31	45,001 to 54,999 lbs.	MR	853	7,000	156 Mills
32	55,000 to 59,500 lbs.	MS	920	7,000	178 Mills
33	59,501 to 64,000 lbs.	MT	985	7,000	195 Mills
34	64,001 to 73,280 lbs.	MV	1,173	7,000	225 Mills
35	73,281 to 77,000 lbs.	MX	1,328	7,000	258 Mills
36	77,001 to 80,000 lbs.	MZ	1,415	7,000	275 Mills

TRAILER					
			Maximum	Mileage	
		Minimum	Mileage	Weight Tax	
		Guaranteed	Permitted	for Mileage	
Gross Weight		Mileage	Under	in excess of	
Vehicle and		Weight	Guaranteed	Guaranteed	
Load	Class	Tax	Tax	Mileage	
14,000 lbs. or less	ME	\$75	5,000	31 Mills	
14,001 to 20,000 lbs.	MF	135	6,000	36 Mills	
20,001 to 36,000 lbs.	ML	540	7,000	103 Mills	
36,001 to 40,000 lbs.	MM	750	7,000	150 Mills	

(a-1) A Special Hauling Vehicle is a vehicle or combination of vehicles of the second division registered under Section 3-813 transporting asphalt or concrete in the plastic state or a vehicle or combination of vehicles that are subject to the gross weight limitations in subsection (b) of Section 15-111 for which the owner of the vehicle or combination of vehicles has elected to pay, in addition to the registration fee in subsection (a), \$125 to the Secretary of State for each registration year. The Secretary shall designate this class of vehicle as a Special Hauling Vehicle.

In preparing rate schedules on registration applications, the Secretary of State shall add to the above rates, the \$10 registration fee. The Secretary may decline to accept any renewal filed after July 1st.

The number of axles necessary to carry the maximum load provided shall be determined from Chapter 15 of this Code.

Every owner of a second division motor vehicle for which he has elected to pay a mileage weight tax shall keep a daily record upon forms prescribed by the Secretary of State, showing the mileage covered by that vehicle in this State. Such record shall contain the license number of the vehicle and the miles traveled by the vehicle in this State for each day of the calendar month. Such owner shall also maintain records of fuel consumed by each such motor vehicle and fuel purchases therefor. On or before the 10th day of January and July the

1 owner shall certify to the Secretary of State upon forms
2 prescribed therefor, summaries of his daily records which shall
3 show the miles traveled by the vehicle in this State during the
4 preceding 6 months and such other information as the Secretary
5 of State may require. The daily record and fuel records shall
6 be filed, preserved and available for audit for a period of 3
7 years. Any owner filing a return hereunder shall certify that
8 such return is a true, correct and complete return. Any person
9 who willfully makes a false return hereunder is guilty of
10 perjury and shall be punished in the same manner and to the
11 same extent as is provided therefor.

12 At the time of filing his return, each owner shall pay to
13 the Secretary of State the proper amount of tax at the rate
14 herein imposed.

15 Every owner of a vehicle of the second division who elects
16 to pay on a mileage weight tax basis and who operates the
17 vehicle within this State, shall file with the Secretary of
18 State a bond in the amount of \$500. The bond shall be in a form
19 approved by the Secretary of State and with a surety company
20 approved by the Illinois Department of Insurance or its
21 successor, the Department of Financial and Professional
22 Regulation, to transact business in this State as surety, and
23 shall be conditioned upon such applicant's paying to the State
24 of Illinois all money becoming due by reason of the operation
25 of the second division vehicle in this State, together with all
26 penalties and interest thereon.

27 Upon notice from the Secretary that the registrant has
28 failed to pay the excess mileage fees, the surety shall
29 immediately pay the fees together with any penalties and
30 interest thereon in an amount not to exceed the limits of the
31 bond.

32 (Source: P.A. 91-37, eff. 7-1-99; 91-499, eff. 8-13-99; 92-16,
33 eff. 6-28-01.)

34 (625 ILCS 5/7-317) (from Ch. 95 1/2, par. 7-317)

35 Sec. 7-317. "Motor vehicle liability policy" defined. (a)

1 Certification. -A "motor vehicle liability policy", as that
2 term is used in this Act, means an "owner's policy" or an
3 "operator's policy" of liability insurance, certified as
4 provided in Section 7-315 or Section 7-316 as proof of
5 financial responsibility for the future, and issued, except as
6 otherwise provided in Section 7-316, by an insurance carrier
7 duly authorized to transact business in this State, to or for
8 the benefit of the person named therein as insured.

9 (b) Owner's Policy. --Such owner's policy of liability
10 insurance:

11 1. Shall designate by explicit description or by
12 appropriate reference, all motor vehicles with respect to which
13 coverage is thereby intended to be granted;

14 2. Shall insure the person named therein and any other
15 person using or responsible for the use of such motor vehicle
16 or vehicles with the express or implied permission of the
17 insured;

18 3. Shall insure every named insured and any other person
19 using or responsible for the use of any motor vehicle owned by
20 the named insured and used by such other person with the
21 express or implied permission of the named insured on account
22 of the maintenance, use or operation of any motor vehicle owned
23 by the named insured, within the continental limits of the
24 United States or the Dominion of Canada against loss from
25 liability imposed by law arising from such maintenance, use or
26 operation, to the extent and aggregate amount, exclusive of
27 interest and cost, with respect to each motor vehicle, of
28 \$20,000 for bodily injury to or death of one person as a result
29 of any one accident and, subject to such limit as to one
30 person, the amount of \$40,000 for bodily injury to or death of
31 all persons as a result of any one accident and the amount of
32 \$15,000 for damage to property of others as a result of any one
33 accident.

34 (c) Operator's Policy. --When an operator's policy is
35 required, it shall insure the person named therein as insured
36 against the liability imposed by law upon the insured for

1 bodily injury to or death of any person or damage to property
2 to the amounts and limits above set forth and growing out of
3 the use or operation by the insured within the continental
4 limits of the United States or the Dominion of Canada of any
5 motor vehicle not owned by him.

6 (d) Required Statements in Policies. --Every motor vehicle
7 liability policy must specify the name and address of the
8 insured, the coverage afforded by the policy, the premium
9 charged therefor, the policy period, and the limits of
10 liability, and shall contain an agreement that the insurance
11 thereunder is provided in accordance with the coverage defined
12 in this Act, as respects bodily injury and death or property
13 damage or both, and is subject to all the provisions of this
14 Act.

15 (e) Policy Need Not Insure Workers' Compensation. --Any
16 liability policy or policies issued hereunder need not cover
17 any liability of the insured assumed by or imposed upon the
18 insured under any workers' compensation law nor any liability
19 for damage to property in charge of the insured or the
20 insured's employees.

21 (f) Provisions Incorporated in Policy. --Every motor
22 vehicle liability policy is subject to the following provisions
23 which need not be contained therein:

24 1. The liability of the insurance carrier under any such
25 policy shall become absolute whenever loss or damage covered by
26 the policy occurs and the satisfaction by the insured of a
27 final judgment for such loss or damage shall not be a condition
28 precedent to the right or obligation of the carrier to make
29 payment on account of such loss or damage.

30 2. No such policy may be cancelled or annulled as respects
31 any loss or damage, by any agreement between the carrier and
32 the insured after the insured has become responsible for such
33 loss or damage, and any such cancellation or annulment shall be
34 void.

35 3. The insurance carrier shall, however, have the right to
36 settle any claim covered by the policy, and if such settlement

1 is made in good faith, the amount thereof shall be deductible
2 from the limits of liability specified in the policy.

3 4. The policy, the written application therefor, if any,
4 and any rider or endorsement which shall not conflict with the
5 provisions of this Act shall constitute the entire contract
6 between the parties.

7 (g) Excess or Additional Coverage. --Any motor vehicle
8 liability policy may, however, grant any lawful coverage in
9 excess of or in addition to the coverage herein specified or
10 contain any agreements, provisions, or stipulations not in
11 conflict with the provisions of this Act and not otherwise
12 contrary to law.

13 (h) Reimbursement Provision Permitted. --The policy may
14 provide that the insured, or any other person covered by the
15 policy shall reimburse the insurance carrier for payment made
16 on account of any loss or damage claim or suit involving a
17 breach of the terms, provisions or conditions of the policy;
18 and further, if the policy shall provide for limits in excess
19 of the limits specified in this Act, the insurance carrier may
20 plead against any plaintiff, with respect to the amount of such
21 excess limits of liability, any defense which it may be
22 entitled to plead against the insured.

23 (i) Proration of Insurance Permitted. --The policy may
24 provide for the pro-rating of the insurance thereunder with
25 other applicable valid and collectible insurance.

26 (j) Binders. --Any binder pending the issuance of any
27 policy, which binder contains or by reference includes the
28 provisions hereunder shall be sufficient proof of ability to
29 respond in damages.

30 (k) Copy of Policy to Be Filed with Department of Financial
31 and Professional Regulation Insurance Approval. --A copy of
32 the form of every motor vehicle liability policy which is to be
33 used to meet the requirements of this Act must be filed, by the
34 company offering such policy, with the Department of Financial
35 and Professional Regulation Insurance, which shall approve or
36 disapprove the policy within 30 days of its filing. If the

1 Department approves the policy in writing within such 30 day
2 period or fails to take action for 30 days, the form of policy
3 shall be deemed approved as filed. If within the 30 days the
4 Department disapproves the form of policy filed upon the ground
5 that it does not comply with the requirements of this Act, the
6 Department shall give written notice of its decision and its
7 reasons therefor to the carrier and the policy shall not be
8 accepted as proof of financial responsibility under this Act.

9 (l) Insurance Carrier Required to File Certificate. --An
10 insurance carrier who has issued a motor vehicle liability
11 policy or policies or an operator's policy meeting the
12 requirements of this Act shall, upon the request of the insured
13 therein, deliver to the insured for filing, or at the request
14 of the insured, shall file direct, with the Secretary of State
15 a certificate, as required by this Act, which shows that such
16 policy or policies have been issued. No insurance carrier may
17 require the payment of any extra fee or surcharge, in addition
18 to the insurance premium, for the execution, delivery or filing
19 of such certificate.

20 (m) Proof When Made By Endorsement. --Any motor vehicle
21 liability policy which by endorsement contains the provisions
22 required hereunder shall be sufficient proof of ability to
23 respond in damages.

24 (Source: P.A. 85-730.)

25 (625 ILCS 5/7-501) (from Ch. 95 1/2, par. 7-501)

26 Sec. 7-501. Assigned Risk Plans. If, on or before January
27 1, 1946, every insurance carrier authorized to write automobile
28 bodily injury liability insurance in this State shall not
29 subscribe to an assigned risk plan approved by the Director of
30 Insurance, providing that no carrier may withdraw therefrom
31 after approval of the Director, the Director of Insurance or
32 the Director's successor, the Secretary of Financial and
33 Professional Regulation, shall, when he finds that an
34 application for bodily injury or property damage insurance by a
35 risk, which may become subject to this Act or is a local public

1 entity subject to the Local Governmental and Governmental
2 Employees Tort Immunity Act, and in good faith is entitled to
3 such insurance, has been rejected by 3 insurance carriers,
4 designate an insurance carrier which shall be obligated to
5 issue forthwith its usual form of policy providing such
6 insurance for such risk. The Director or the Secretary shall
7 make equitable distribution of such assignments among
8 insurance carriers proportionate, so far as practicable, by
9 premiums to the respective net direct automobile bodily injury
10 premium writings of the carriers authorized to do business in
11 this State. The Secretary of Financial and Professional
12 Regulation ~~Director of Insurance~~ shall establish rules and
13 regulations for the administration of the provisions of this
14 Section.

15 If any carrier refuses or neglects to comply with the
16 provisions of this Section or with any lawful order or ruling
17 made by the Secretary of Financial and Professional Regulation
18 ~~Director of Insurance~~ pursuant to this Section, the Secretary
19 ~~Director~~ may, after notice and hearing, suspend the license of
20 such carrier to transact any insurance business in this State
21 until such carrier shall have complied with such order. The
22 provisions of the Administrative Review Law, and all amendments
23 and modifications thereof, and the rules adopted pursuant
24 thereto, shall apply to and govern all proceedings for the
25 judicial review of final administrative decisions of the
26 Secretary of Financial and Professional Regulation ~~Director of~~
27 ~~Insurance~~ hereunder.

28 (Source: P.A. 92-651, eff. 7-11-02.)

29 (625 ILCS 5/7-502) (from Ch. 95 1/2, par. 7-502)

30 Sec. 7-502. Self-insurers. Any person in whose name more
31 than 25 motor vehicles are registered may qualify as a
32 self-insurer by obtaining a certificate of self-insurance
33 issued by the Secretary of Financial and Professional
34 Regulation ~~Director of the Department of Insurance~~ as provided
35 in this Section.

1 The Secretary ~~Director~~ may, in his discretion, upon the
2 application of such a person, issue a certificate of
3 self-insurance when he is satisfied that such person is
4 possessed and will continue to be possessed of ability to pay
5 judgment obtained against such person.

6 Upon not less than 5 days' notice, and a hearing pursuant
7 to such notice, the Secretary ~~Director~~ may upon reasonable
8 grounds cancel a certificate of self-insurance. Failure to pay
9 any judgment against any person covered by such certificate of
10 self-insurance and arising out of any accident in which a motor
11 vehicle covered by such certificate of self-insurance has been
12 involved within 30 days after such judgment shall have become
13 final shall constitute a reasonable ground for the cancellation
14 of a certificate of self-insurance.

15 (Source: P.A. 82-138.)

16 Section 9785. The Criminal Code of 1961 is amended by
17 changing Section 24-2 as follows:

18 (720 ILCS 5/24-2) (from Ch. 38, par. 24-2)

19 Sec. 24-2. Exemptions.

20 (a) Subsections 24-1(a)(3), 24-1(a)(4) and 24-1(a)(10) and
21 Section 24-1.6 do not apply to or affect any of the following:

22 (1) Peace officers, and any person summoned by a peace
23 officer to assist in making arrests or preserving the
24 peace, while actually engaged in assisting such officer.

25 (2) Wardens, superintendents and keepers of prisons,
26 penitentiaries, jails and other institutions for the
27 detention of persons accused or convicted of an offense,
28 while in the performance of their official duty, or while
29 commuting between their homes and places of employment.

30 (3) Members of the Armed Services or Reserve Forces of
31 the United States or the Illinois National Guard or the
32 Reserve Officers Training Corps, while in the performance
33 of their official duty.

34 (4) Special agents employed by a railroad or a public

1 utility to perform police functions, and guards of armored
2 car companies, while actually engaged in the performance of
3 the duties of their employment or commuting between their
4 homes and places of employment; and watchmen while actually
5 engaged in the performance of the duties of their
6 employment.

7 (5) Persons licensed as private security contractors,
8 private detectives, or private alarm contractors, or
9 employed by an agency certified by the Department of
10 Professional Regulation or its successor, the Department
11 of Financial and Professional Regulation, if their duties
12 include the carrying of a weapon under the provisions of
13 the Private Detective, Private Alarm, Private Security,
14 and Locksmith Act of 2004, while actually engaged in the
15 performance of the duties of their employment or commuting
16 between their homes and places of employment, provided that
17 such commuting is accomplished within one hour from
18 departure from home or place of employment, as the case may
19 be. Persons exempted under this subdivision (a) (5) shall be
20 required to have completed a course of study in firearms
21 handling and training approved and supervised by the
22 Department of Professional Regulation or its successor,
23 the Department of Financial and Professional Regulation,
24 as prescribed by Section 28 of the Private Detective,
25 Private Alarm, Private Security, and Locksmith Act of 2004,
26 prior to becoming eligible for this exemption. The
27 Department of Financial and Professional Regulation shall
28 provide suitable documentation demonstrating the
29 successful completion of the prescribed firearms training.
30 Such documentation shall be carried at all times when such
31 persons are in possession of a concealable weapon.

32 (6) Any person regularly employed in a commercial or
33 industrial operation as a security guard for the protection
34 of persons employed and private property related to such
35 commercial or industrial operation, while actually engaged
36 in the performance of his or her duty or traveling between

1 sites or properties belonging to the employer, and who, as
2 a security guard, is a member of a security force of at
3 least 5 persons registered with the Department of
4 Professional Regulation or its successor, the Department
5 of Financial and Professional Regulation; provided that
6 such security guard has successfully completed a course of
7 study, approved by and supervised by the Department of
8 Professional Regulation or its successor, the Department
9 of Financial and Professional Regulation, consisting of
10 not less than 40 hours of training that includes the theory
11 of law enforcement, liability for acts, and the handling of
12 weapons. A person shall be considered eligible for this
13 exemption if he or she has completed the required 20 hours
14 of training for a security officer and 20 hours of required
15 firearm training, and has been issued a firearm
16 authorization card by the Department of Professional
17 Regulation or its successor, the Department of Financial
18 and Professional Regulation. Conditions for the renewal of
19 firearm authorization cards issued under the provisions of
20 this Section shall be the same as for those cards issued
21 under the provisions of the Private Detective, Private
22 Alarm, Private Security, and Locksmith Act of 2004. Such
23 firearm authorization card shall be carried by the security
24 guard at all times when he or she is in possession of a
25 concealable weapon.

26 (7) Agents and investigators of the Illinois
27 Legislative Investigating Commission authorized by the
28 Commission to carry the weapons specified in subsections
29 24-1(a)(3) and 24-1(a)(4), while on duty in the course of
30 any investigation for the Commission.

31 (8) Persons employed by a financial institution for the
32 protection of other employees and property related to such
33 financial institution, while actually engaged in the
34 performance of their duties, commuting between their homes
35 and places of employment, or traveling between sites or
36 properties owned or operated by such financial

1 institution, provided that any person so employed has
2 successfully completed a course of study, approved by and
3 supervised by the Department of Professional Regulation or
4 its successor, the Department of Financial and
5 Professional Regulation, consisting of not less than 40
6 hours of training which includes theory of law enforcement,
7 liability for acts, and the handling of weapons. A person
8 shall be considered to be eligible for this exemption if he
9 or she has completed the required 20 hours of training for
10 a security officer and 20 hours of required firearm
11 training, and has been issued a firearm authorization card
12 by the Department of Professional Regulation or its
13 successor, the Department of Financial and Professional
14 Regulation. Conditions for renewal of firearm
15 authorization cards issued under the provisions of this
16 Section shall be the same as for those issued under the
17 provisions of the Private Detective, Private Alarm,
18 Private Security, and Locksmith Act of 2004. Such firearm
19 authorization card shall be carried by the person so
20 trained at all times when such person is in possession of a
21 concealable weapon. For purposes of this subsection,
22 "financial institution" means a bank, savings and loan
23 association, credit union or company providing armored car
24 services.

25 (9) Any person employed by an armored car company to
26 drive an armored car, while actually engaged in the
27 performance of his duties.

28 (10) Persons who have been classified as peace officers
29 pursuant to the Peace Officer Fire Investigation Act.

30 (11) Investigators of the Office of the State's
31 Attorneys Appellate Prosecutor authorized by the board of
32 governors of the Office of the State's Attorneys Appellate
33 Prosecutor to carry weapons pursuant to Section 7.06 of the
34 State's Attorneys Appellate Prosecutor's Act.

35 (12) Special investigators appointed by a State's
36 Attorney under Section 3-9005 of the Counties Code.

1 (12.5) Probation officers while in the performance of
2 their duties, or while commuting between their homes,
3 places of employment or specific locations that are part of
4 their assigned duties, with the consent of the chief judge
5 of the circuit for which they are employed.

6 (13) Court Security Officers while in the performance
7 of their official duties, or while commuting between their
8 homes and places of employment, with the consent of the
9 Sheriff.

10 (13.5) A person employed as an armed security guard at
11 a nuclear energy, storage, weapons or development site or
12 facility regulated by the Nuclear Regulatory Commission
13 who has completed the background screening and training
14 mandated by the rules and regulations of the Nuclear
15 Regulatory Commission.

16 (14) Manufacture, transportation, or sale of weapons
17 to persons authorized under subdivisions (1) through
18 (13.5) of this subsection to possess those weapons.

19 (b) Subsections 24-1(a)(4) and 24-1(a)(10) and Section
20 24-1.6 do not apply to or affect any of the following:

21 (1) Members of any club or organization organized for
22 the purpose of practicing shooting at targets upon
23 established target ranges, whether public or private, and
24 patrons of such ranges, while such members or patrons are
25 using their firearms on those target ranges.

26 (2) Duly authorized military or civil organizations
27 while parading, with the special permission of the
28 Governor.

29 (3) Hunters, trappers or fishermen with a license or
30 permit while engaged in hunting, trapping or fishing.

31 (4) Transportation of weapons that are broken down in a
32 non-functioning state or are not immediately accessible.

33 (c) Subsection 24-1(a)(7) does not apply to or affect any
34 of the following:

35 (1) Peace officers while in performance of their
36 official duties.

1 (2) Wardens, superintendents and keepers of prisons,
2 penitentiaries, jails and other institutions for the
3 detention of persons accused or convicted of an offense.

4 (3) Members of the Armed Services or Reserve Forces of
5 the United States or the Illinois National Guard, while in
6 the performance of their official duty.

7 (4) Manufacture, transportation, or sale of machine
8 guns to persons authorized under subdivisions (1) through
9 (3) of this subsection to possess machine guns, if the
10 machine guns are broken down in a non-functioning state or
11 are not immediately accessible.

12 (5) Persons licensed under federal law to manufacture
13 any weapon from which 8 or more shots or bullets can be
14 discharged by a single function of the firing device, or
15 ammunition for such weapons, and actually engaged in the
16 business of manufacturing such weapons or ammunition, but
17 only with respect to activities which are within the lawful
18 scope of such business, such as the manufacture,
19 transportation, or testing of such weapons or ammunition.
20 This exemption does not authorize the general private
21 possession of any weapon from which 8 or more shots or
22 bullets can be discharged by a single function of the
23 firing device, but only such possession and activities as
24 are within the lawful scope of a licensed manufacturing
25 business described in this paragraph.

26 During transportation, such weapons shall be broken
27 down in a non-functioning state or not immediately
28 accessible.

29 (6) The manufacture, transport, testing, delivery,
30 transfer or sale, and all lawful commercial or experimental
31 activities necessary thereto, of rifles, shotguns, and
32 weapons made from rifles or shotguns, or ammunition for
33 such rifles, shotguns or weapons, where engaged in by a
34 person operating as a contractor or subcontractor pursuant
35 to a contract or subcontract for the development and supply
36 of such rifles, shotguns, weapons or ammunition to the

1 United States government or any branch of the Armed Forces
2 of the United States, when such activities are necessary
3 and incident to fulfilling the terms of such contract.

4 The exemption granted under this subdivision (c)(6)
5 shall also apply to any authorized agent of any such
6 contractor or subcontractor who is operating within the
7 scope of his employment, where such activities involving
8 such weapon, weapons or ammunition are necessary and
9 incident to fulfilling the terms of such contract.

10 During transportation, any such weapon shall be broken
11 down in a non-functioning state, or not immediately
12 accessible.

13 (d) Subsection 24-1(a)(1) does not apply to the purchase,
14 possession or carrying of a black-jack or slung-shot by a peace
15 officer.

16 (e) Subsection 24-1(a)(8) does not apply to any owner,
17 manager or authorized employee of any place specified in that
18 subsection nor to any law enforcement officer.

19 (f) Subsection 24-1(a)(4) and subsection 24-1(a)(10) and
20 Section 24-1.6 do not apply to members of any club or
21 organization organized for the purpose of practicing shooting
22 at targets upon established target ranges, whether public or
23 private, while using their firearms on those target ranges.

24 (g) Subsections 24-1(a)(11) and 24-3.1(a)(6) do not apply
25 to:

26 (1) Members of the Armed Services or Reserve Forces of
27 the United States or the Illinois National Guard, while in
28 the performance of their official duty.

29 (2) Bonafide collectors of antique or surplus military
30 ordinance.

31 (3) Laboratories having a department of forensic
32 ballistics, or specializing in the development of
33 ammunition or explosive ordinance.

34 (4) Commerce, preparation, assembly or possession of
35 explosive bullets by manufacturers of ammunition licensed
36 by the federal government, in connection with the supply of

1 those organizations and persons exempted by subdivision
2 (g)(1) of this Section, or like organizations and persons
3 outside this State, or the transportation of explosive
4 bullets to any organization or person exempted in this
5 Section by a common carrier or by a vehicle owned or leased
6 by an exempted manufacturer.

7 (g-5) Subsection 24-1(a)(6) does not apply to or affect
8 persons licensed under federal law to manufacture any device or
9 attachment of any kind designed, used, or intended for use in
10 silencing the report of any firearm, firearms, or ammunition
11 for those firearms equipped with those devices, and actually
12 engaged in the business of manufacturing those devices,
13 firearms, or ammunition, but only with respect to activities
14 that are within the lawful scope of that business, such as the
15 manufacture, transportation, or testing of those devices,
16 firearms, or ammunition. This exemption does not authorize the
17 general private possession of any device or attachment of any
18 kind designed, used, or intended for use in silencing the
19 report of any firearm, but only such possession and activities
20 as are within the lawful scope of a licensed manufacturing
21 business described in this subsection (g-5). During
22 transportation, those devices shall be detached from any weapon
23 or not immediately accessible.

24 (h) An information or indictment based upon a violation of
25 any subsection of this Article need not negative any exemptions
26 contained in this Article. The defendant shall have the burden
27 of proving such an exemption.

28 (i) Nothing in this Article shall prohibit, apply to, or
29 affect the transportation, carrying, or possession, of any
30 pistol or revolver, stun gun, taser, or other firearm consigned
31 to a common carrier operating under license of the State of
32 Illinois or the federal government, where such transportation,
33 carrying, or possession is incident to the lawful
34 transportation in which such common carrier is engaged; and
35 nothing in this Article shall prohibit, apply to, or affect the
36 transportation, carrying, or possession of any pistol,

1 revolver, stun gun, taser, or other firearm, not the subject of
2 and regulated by subsection 24-1(a)(7) or subsection 24-2(c) of
3 this Article, which is unloaded and enclosed in a case, firearm
4 carrying box, shipping box, or other container, by the
5 possessor of a valid Firearm Owners Identification Card.

6 (Source: P.A. 92-325, eff. 8-9-01; 93-438, eff. 8-5-03; 93-439,
7 eff. 8-5-03; 93-576, eff. 1-1-04; revised 9-15-03.)

8 Section 9790. The Illinois Controlled Substances Act is
9 amended by changing Sections 102, 301, 302, 303, 303.05, 303.1,
10 304, 305, 306, 312, 313, 317, 501, 501.1, 505, and 507 as
11 follows:

12 (720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

13 Sec. 102. Definitions. As used in this Act, unless the
14 context otherwise requires:

15 (a) "Addict" means any person who habitually uses any drug,
16 chemical, substance or dangerous drug other than alcohol so as
17 to endanger the public morals, health, safety or welfare or who
18 is so far addicted to the use of a dangerous drug or controlled
19 substance other than alcohol as to have lost the power of self
20 control with reference to his addiction.

21 (b) "Administer" means the direct application of a
22 controlled substance, whether by injection, inhalation,
23 ingestion, or any other means, to the body of a patient,
24 research subject, or animal (as defined by the Humane
25 Euthanasia in Animal Shelters Act) by:

26 (1) a practitioner (or, in his presence, by his
27 authorized agent),

28 (2) the patient or research subject at the lawful
29 direction of the practitioner, or

30 (3) a euthanasia technician as defined by the Humane
31 Euthanasia in Animal Shelters Act.

32 (c) "Agent" means an authorized person who acts on behalf
33 of or at the direction of a manufacturer, distributor, or
34 dispenser. It does not include a common or contract carrier,

1 public warehouseman or employee of the carrier or warehouseman.

2 (c-1) "Anabolic Steroids" means any drug or hormonal
3 substance, chemically and pharmacologically related to
4 testosterone (other than estrogens, progestins, and
5 corticosteroids) that promotes muscle growth, and includes:

6 (i) boldenone,

7 (ii) chlorotestosterone,

8 (iii) chostebol,

9 (iv) dehydrochlormethyltestosterone,

10 (v) dihydrotestosterone,

11 (vi) drostanolone,

12 (vii) ethylestrenol,

13 (viii) fluoxymesterone,

14 (ix) formebulone,

15 (x) mesterolone,

16 (xi) methandienone,

17 (xii) methandranone,

18 (xiii) methandriol,

19 (xiv) methandrostenolone,

20 (xv) methenolone,

21 (xvi) methyltestosterone,

22 (xvii) mibolerone,

23 (xviii) nandrolone,

24 (xix) norethandrolone,

25 (xx) oxandrolone,

26 (xxi) oxymesterone,

27 (xxii) oxymetholone,

28 (xxiii) stanolone,

29 (xxiv) stanozolol,

30 (xxv) testolactone,

31 (xxvi) testosterone,

32 (xxvii) trenbolone, and

33 (xxviii) any salt, ester, or isomer of a drug or
34 substance described or listed in this paragraph, if
35 that salt, ester, or isomer promotes muscle growth.

36 Any person who is otherwise lawfully in possession of an

1 anabolic steroid, or who otherwise lawfully manufactures,
2 distributes, dispenses, delivers, or possesses with intent to
3 deliver an anabolic steroid, which anabolic steroid is
4 expressly intended for and lawfully allowed to be administered
5 through implants to livestock or other nonhuman species, and
6 which is approved by the Secretary of Health and Human Services
7 for such administration, and which the person intends to
8 administer or have administered through such implants, shall
9 not be considered to be in unauthorized possession or to
10 unlawfully manufacture, distribute, dispense, deliver, or
11 possess with intent to deliver such anabolic steroid for
12 purposes of this Act.

13 (d) "Administration" means the Drug Enforcement
14 Administration, United States Department of Justice, or its
15 successor agency.

16 (e) "Control" means to add a drug or other substance, or
17 immediate precursor, to a Schedule under Article II of this Act
18 whether by transfer from another Schedule or otherwise.

19 (f) "Controlled Substance" means a drug, substance, or
20 immediate precursor in the Schedules of Article II of this Act.

21 (g) "Counterfeit substance" means a controlled substance,
22 which, or the container or labeling of which, without
23 authorization bears the trademark, trade name, or other
24 identifying mark, imprint, number or device, or any likeness
25 thereof, of a manufacturer, distributor, or dispenser other
26 than the person who in fact manufactured, distributed, or
27 dispensed the substance.

28 (h) "Deliver" or "delivery" means the actual, constructive
29 or attempted transfer of possession of a controlled substance,
30 with or without consideration, whether or not there is an
31 agency relationship.

32 (i) "Department" means the Illinois Department of Human
33 Services (as successor to the Department of Alcoholism and
34 Substance Abuse) or its successor agency.

35 (j) "Department of State Police" means the Department of
36 State Police of the State of Illinois or its successor agency.

1 (k) "Department of Corrections" means the Department of
2 Corrections of the State of Illinois or its successor agency.

3 (l) "Department of Financial and Professional Regulation"
4 means the Department of Financial and Professional Regulation
5 of the State of Illinois or its successor agency.

6 (m) "Depressant" or "stimulant substance" means:

7 (1) a drug which contains any quantity of (i)
8 barbituric acid or any of the salts of barbituric acid
9 which has been designated as habit forming under section
10 502 (d) of the Federal Food, Drug, and Cosmetic Act (21
11 U.S.C. 352 (d)); or

12 (2) a drug which contains any quantity of (i)
13 amphetamine or methamphetamine and any of their optical
14 isomers; (ii) any salt of amphetamine or methamphetamine or
15 any salt of an optical isomer of amphetamine; or (iii) any
16 substance which the Department, after investigation, has
17 found to be, and by rule designated as, habit forming
18 because of its depressant or stimulant effect on the
19 central nervous system; or

20 (3) lysergic acid diethylamide; or

21 (4) any drug which contains any quantity of a substance
22 which the Department, after investigation, has found to
23 have, and by rule designated as having, a potential for
24 abuse because of its depressant or stimulant effect on the
25 central nervous system or its hallucinogenic effect.

26 (n) (Blank).

27 (o) "Director" means the Director of the Department of
28 State Police or the Secretary of Financial and ~~Department of~~
29 Professional Regulation or his designated agents.

30 (p) "Dispense" means to deliver a controlled substance to
31 an ultimate user or research subject by or pursuant to the
32 lawful order of a prescriber, including the prescribing,
33 administering, packaging, labeling, or compounding necessary
34 to prepare the substance for that delivery.

35 (q) "Dispenser" means a practitioner who dispenses.

36 (r) "Distribute" means to deliver, other than by

1 administering or dispensing, a controlled substance.

2 (s) "Distributor" means a person who distributes.

3 (t) "Drug" means (1) substances recognized as drugs in the
4 official United States Pharmacopoeia, Official Homeopathic
5 Pharmacopoeia of the United States, or official National
6 Formulary, or any supplement to any of them; (2) substances
7 intended for use in diagnosis, cure, mitigation, treatment, or
8 prevention of disease in man or animals; (3) substances (other
9 than food) intended to affect the structure of any function of
10 the body of man or animals and (4) substances intended for use
11 as a component of any article specified in clause (1), (2), or
12 (3) of this subsection. It does not include devices or their
13 components, parts, or accessories.

14 (t-5) "Euthanasia agency" means an entity certified by the
15 Department of Professional Regulation or its successor, the
16 Department of Financial and Professional Regulation, for the
17 purpose of animal euthanasia that holds an animal control
18 facility license or animal shelter license under the Animal
19 Welfare Act. A euthanasia agency is authorized to purchase,
20 store, possess, and utilize Schedule II nonnarcotic and
21 Schedule III nonnarcotic drugs for the sole purpose of animal
22 euthanasia.

23 (t-10) "Euthanasia drugs" means Schedule II or Schedule III
24 substances (nonnarcotic controlled substances) that are used
25 by a euthanasia agency for the purpose of animal euthanasia.

26 (u) "Good faith" means the prescribing or dispensing of a
27 controlled substance by a practitioner in the regular course of
28 professional treatment to or for any person who is under his
29 treatment for a pathology or condition other than that
30 individual's physical or psychological dependence upon or
31 addiction to a controlled substance, except as provided herein:
32 and application of the term to a pharmacist shall mean the
33 dispensing of a controlled substance pursuant to the
34 prescriber's order which in the professional judgment of the
35 pharmacist is lawful. The pharmacist shall be guided by
36 accepted professional standards including, but not limited to

1 the following, in making the judgment:

2 (1) lack of consistency of doctor-patient
3 relationship,

4 (2) frequency of prescriptions for same drug by one
5 prescriber for large numbers of patients,

6 (3) quantities beyond those normally prescribed,

7 (4) unusual dosages,

8 (5) unusual geographic distances between patient,
9 pharmacist and prescriber,

10 (6) consistent prescribing of habit-forming drugs.

11 (u-1) "Home infusion services" means services provided by a
12 pharmacy in compounding solutions for direct administration to
13 a patient in a private residence, long-term care facility, or
14 hospice setting by means of parenteral, intravenous,
15 intramuscular, subcutaneous, or intraspinal infusion.

16 (v) "Immediate precursor" means a substance:

17 (1) which the Department has found to be and by rule
18 designated as being a principal compound used, or produced
19 primarily for use, in the manufacture of a controlled
20 substance;

21 (2) which is an immediate chemical intermediary used or
22 likely to be used in the manufacture of such controlled
23 substance; and

24 (3) the control of which is necessary to prevent,
25 curtail or limit the manufacture of such controlled
26 substance.

27 (w) "Instructional activities" means the acts of teaching,
28 educating or instructing by practitioners using controlled
29 substances within educational facilities approved by the State
30 Board of Education or its successor agency.

31 (x) "Local authorities" means a duly organized State,
32 County or Municipal peace unit or police force.

33 (y) "Look-alike substance" means a substance, other than a
34 controlled substance which (1) by overall dosage unit
35 appearance, including shape, color, size, markings or lack
36 thereof, taste, consistency, or any other identifying physical

1 characteristic of the substance, would lead a reasonable person
2 to believe that the substance is a controlled substance, or (2)
3 is expressly or impliedly represented to be a controlled
4 substance or is distributed under circumstances which would
5 lead a reasonable person to believe that the substance is a
6 controlled substance. For the purpose of determining whether
7 the representations made or the circumstances of the
8 distribution would lead a reasonable person to believe the
9 substance to be a controlled substance under this clause (2) of
10 subsection (y), the court or other authority may consider the
11 following factors in addition to any other factor that may be
12 relevant:

13 (a) statements made by the owner or person in control
14 of the substance concerning its nature, use or effect;

15 (b) statements made to the buyer or recipient that the
16 substance may be resold for profit;

17 (c) whether the substance is packaged in a manner
18 normally used for the illegal distribution of controlled
19 substances;

20 (d) whether the distribution or attempted distribution
21 included an exchange of or demand for money or other
22 property as consideration, and whether the amount of the
23 consideration was substantially greater than the
24 reasonable retail market value of the substance.

25 Clause (1) of this subsection (y) shall not apply to a
26 noncontrolled substance in its finished dosage form that was
27 initially introduced into commerce prior to the initial
28 introduction into commerce of a controlled substance in its
29 finished dosage form which it may substantially resemble.

30 Nothing in this subsection (y) prohibits the dispensing or
31 distributing of noncontrolled substances by persons authorized
32 to dispense and distribute controlled substances under this
33 Act, provided that such action would be deemed to be carried
34 out in good faith under subsection (u) if the substances
35 involved were controlled substances.

36 Nothing in this subsection (y) or in this Act prohibits the

1 manufacture, preparation, propagation, compounding,
2 processing, packaging, advertising or distribution of a drug or
3 drugs by any person registered pursuant to Section 510 of the
4 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

5 (y-1) "Mail-order pharmacy" means a pharmacy that is
6 located in a state of the United States, other than Illinois,
7 that delivers, dispenses or distributes, through the United
8 States Postal Service or other common carrier, to Illinois
9 residents, any substance which requires a prescription.

10 (z) "Manufacture" means the production, preparation,
11 propagation, compounding, conversion or processing of a
12 controlled substance, either directly or indirectly, by
13 extraction from substances of natural origin, or independently
14 by means of chemical synthesis, or by a combination of
15 extraction and chemical synthesis, and includes any packaging
16 or repackaging of the substance or labeling of its container,
17 except that this term does not include:

18 (1) by an ultimate user, the preparation or compounding
19 of a controlled substance for his own use; or

20 (2) by a practitioner, or his authorized agent under
21 his supervision, the preparation, compounding, packaging,
22 or labeling of a controlled substance:

23 (a) as an incident to his administering or
24 dispensing of a controlled substance in the course of
25 his professional practice; or

26 (b) as an incident to lawful research, teaching or
27 chemical analysis and not for sale.

28 (z-1) "Methamphetamine manufacturing chemical" means any
29 of the following chemicals or substances containing any of the
30 following chemicals: benzyl methyl ketone, ephedrine, methyl
31 benzyl ketone, phenylacetone, phenyl-2-propanone,
32 pseudoephedrine, or red phosphorous or any of the salts,
33 optical isomers, or salts of optical isomers of the
34 above-listed chemicals.

35 (aa) "Narcotic drug" means any of the following, whether
36 produced directly or indirectly by extraction from substances

1 of natural origin, or independently by means of chemical
2 synthesis, or by a combination of extraction and chemical
3 synthesis:

4 (1) opium and opiate, and any salt, compound,
5 derivative, or preparation of opium or opiate;

6 (2) any salt, compound, isomer, derivative, or
7 preparation thereof which is chemically equivalent or
8 identical with any of the substances referred to in clause
9 (1), but not including the isoquinoline alkaloids of opium;

10 (3) opium poppy and poppy straw;

11 (4) coca leaves and any salts, compound, isomer, salt
12 of an isomer, derivative, or preparation of coca leaves
13 including cocaine or ecgonine, and any salt, compound,
14 isomer, derivative, or preparation thereof which is
15 chemically equivalent or identical with any of these
16 substances, but not including decocainized coca leaves or
17 extractions of coca leaves which do not contain cocaine or
18 ecgonine (for the purpose of this paragraph, the term
19 "isomer" includes optical, positional and geometric
20 isomers).

21 (bb) "Nurse" means a registered nurse licensed under the
22 Nursing and Advanced Practice Nursing Act.

23 (cc) (Blank).

24 (dd) "Opiate" means any substance having an addiction
25 forming or addiction sustaining liability similar to morphine
26 or being capable of conversion into a drug having addiction
27 forming or addiction sustaining liability.

28 (ee) "Opium poppy" means the plant of the species *Papaver*
29 *somniferum* L., except its seeds.

30 (ff) "Parole and Pardon Board" means the Parole and Pardon
31 Board of the State of Illinois or its successor agency.

32 (gg) "Person" means any individual, corporation,
33 mail-order pharmacy, government or governmental subdivision or
34 agency, business trust, estate, trust, partnership or
35 association, or any other entity.

36 (hh) "Pharmacist" means any person who holds a certificate

1 of registration as a registered pharmacist, a local registered
2 pharmacist or a registered assistant pharmacist under the
3 Pharmacy Practice Act of 1987.

4 (ii) "Pharmacy" means any store, ship or other place in
5 which pharmacy is authorized to be practiced under the Pharmacy
6 Practice Act of 1987.

7 (jj) "Poppy straw" means all parts, except the seeds, of
8 the opium poppy, after mowing.

9 (kk) "Practitioner" means a physician licensed to practice
10 medicine in all its branches, dentist, podiatrist,
11 veterinarian, scientific investigator, pharmacist, physician
12 assistant, advanced practice nurse, licensed practical nurse,
13 registered nurse, hospital, laboratory, or pharmacy, or other
14 person licensed, registered, or otherwise lawfully permitted
15 by the United States or this State to distribute, dispense,
16 conduct research with respect to, administer or use in teaching
17 or chemical analysis, a controlled substance in the course of
18 professional practice or research.

19 (ll) "Pre-printed prescription" means a written
20 prescription upon which the designated drug has been indicated
21 prior to the time of issuance.

22 (mm) "Prescriber" means a physician licensed to practice
23 medicine in all its branches, dentist, podiatrist or
24 veterinarian who issues a prescription, a physician assistant
25 who issues a prescription for a Schedule III, IV, or V
26 controlled substance in accordance with Section 303.05 and the
27 written guidelines required under Section 7.5 of the Physician
28 Assistant Practice Act of 1987, or an advanced practice nurse
29 with prescriptive authority in accordance with Section 303.05
30 and a written collaborative agreement under Sections 15-15 and
31 15-20 of the Nursing and Advanced Practice Nursing Act.

32 (nn) "Prescription" means a lawful written, facsimile, or
33 verbal order of a physician licensed to practice medicine in
34 all its branches, dentist, podiatrist or veterinarian for any
35 controlled substance, of a physician assistant for a Schedule
36 III, IV, or V controlled substance in accordance with Section

1 303.05 and the written guidelines required under Section 7.5 of
2 the Physician Assistant Practice Act of 1987, or of an advanced
3 practice nurse who issues a prescription for a Schedule III,
4 IV, or V controlled substance in accordance with Section 303.05
5 and a written collaborative agreement under Sections 15-15 and
6 15-20 of the Nursing and Advanced Practice Nursing Act.

7 (oo) "Production" or "produce" means manufacture,
8 planting, cultivating, growing, or harvesting of a controlled
9 substance.

10 (pp) "Registrant" means every person who is required to
11 register under Section 302 of this Act.

12 (qq) "Registry number" means the number assigned to each
13 person authorized to handle controlled substances under the
14 laws of the United States and of this State.

15 (rr) "State" includes the State of Illinois and any state,
16 district, commonwealth, territory, insular possession thereof,
17 and any area subject to the legal authority of the United
18 States of America.

19 (ss) "Ultimate user" means a person who lawfully possesses
20 a controlled substance for his own use or for the use of a
21 member of his household or for administering to an animal owned
22 by him or by a member of his household.

23 (Source: P.A. 92-449, eff. 1-1-02; 93-596, eff. 8-26-03;
24 93-626, eff. 12-23-03.)

25 (720 ILCS 570/301) (from Ch. 56 1/2, par. 1301)

26 Sec. 301. The Department of Financial and Professional
27 Regulation shall promulgate rules and charge reasonable fees
28 and fines relating to the registration and control of the
29 manufacture, distribution, and dispensing of controlled
30 substances within this State. All moneys received by the
31 Department of Financial and Professional Regulation or its
32 predecessor, the Department of Professional Regulation, under
33 this Act shall be deposited into the respective professional
34 dedicated funds in like manner as the primary professional
35 licenses.

1 (Source: P.A. 89-204, eff. 1-1-96.)

2 (720 ILCS 570/302) (from Ch. 56 1/2, par. 1302)

3 Sec. 302. (a) Every person who manufactures, distributes,
4 or dispenses any controlled substances, or engages in chemical
5 analysis, and instructional activities which utilize
6 controlled substances, or who purchases, stores, or
7 administers euthanasia drugs, within this State or who proposes
8 to engage in the manufacture, distribution, or dispensing of
9 any controlled substance, or to engage in chemical analysis,
10 and instructional activities which utilize controlled
11 substances, or to engage in purchasing, storing, or
12 administering euthanasia drugs, within this State, must obtain
13 a registration issued by the Department of Financial and
14 Professional Regulation in accordance with its rules. The rules
15 shall include, but not be limited to, setting the expiration
16 date and renewal period for each registration under this Act.
17 The Department, and any facility or service licensed by the
18 Department, shall be exempt from the regulation requirements of
19 this Section.

20 (b) Persons registered by the Department of Financial and
21 Professional Regulation or its predecessor, the Department of
22 Professional Regulation, under this Act to manufacture,
23 distribute, or dispense controlled substances, or purchase,
24 store, or administer euthanasia drugs, may possess,
25 manufacture, distribute, or dispense those substances, or
26 purchase, store, or administer euthanasia drugs, to the extent
27 authorized by their registration and in conformity with the
28 other provisions of this Article.

29 (c) The following persons need not register and may
30 lawfully possess controlled substances under this Act:

31 (1) an agent or employee of any registered
32 manufacturer, distributor, or dispenser of any controlled
33 substance if he is acting in the usual course of his
34 employer's lawful business or employment;

35 (2) a common or contract carrier or warehouseman, or an

1 agent or employee thereof, whose possession of any
2 controlled substance is in the usual lawful course of such
3 business or employment;

4 (3) an ultimate user or a person in possession of any
5 controlled substance pursuant to a lawful prescription of a
6 practitioner or in lawful possession of a Schedule V
7 substance;

8 (4) officers and employees of this State or of the
9 United States while acting in the lawful course of their
10 official duties which requires possession of controlled
11 substances;

12 (5) a registered pharmacist who is employed in, or the
13 owner of, a pharmacy licensed under this Act and the
14 Federal Controlled Substances Act, at the licensed
15 location, or if he is acting in the usual course of his
16 lawful profession, business, or employment.

17 (d) A separate registration is required at each place of
18 business or professional practice where the applicant
19 manufactures, distributes, or dispenses controlled substances,
20 or purchases, stores, or administers euthanasia drugs. Persons
21 are required to obtain a separate registration for each place
22 of business or professional practice where controlled
23 substances are located or stored. A separate registration is
24 not required for every location at which a controlled substance
25 may be prescribed.

26 (e) The Department of Financial and Professional
27 Regulation or the Department of State Police may inspect the
28 controlled premises, as defined in Section 502 of this Act, of
29 a registrant or applicant for registration in accordance with
30 this Act and the rules promulgated hereunder and with regard to
31 persons licensed by the Department, in accordance with
32 subsection (bb) of Section 30-5 of the Alcoholism and Other
33 Drug Abuse and Dependency Act and the rules and regulations
34 promulgated thereunder.

35 (Source: P.A. 93-626, eff. 12-23-03.)

1 (720 ILCS 570/303) (from Ch. 56 1/2, par. 1303)

2 Sec. 303. (a) The Department of Financial and Professional
3 Regulation shall license an applicant to manufacture,
4 distribute or dispense controlled substances included in
5 Sections 204, 206, 208, 210 and 212 of this Act or purchase,
6 store, or administer euthanasia drugs unless it determines that
7 the issuance of that license would be inconsistent with the
8 public interest. In determining the public interest, the
9 Department of Financial and Professional Regulation shall
10 consider the following:

11 (1) maintenance of effective controls against
12 diversion of controlled substances into other than lawful
13 medical, scientific, or industrial channels;

14 (2) compliance with applicable Federal, State and
15 local law;

16 (3) any convictions of the applicant under any law of
17 the United States or of any State relating to any
18 controlled substance;

19 (4) past experience in the manufacture or distribution
20 of controlled substances, and the existence in the
21 applicant's establishment of effective controls against
22 diversion;

23 (5) furnishing by the applicant of false or fraudulent
24 material in any application filed under this Act;

25 (6) suspension or revocation of the applicant's
26 Federal registration to manufacture, distribute, or
27 dispense controlled substances, or purchase, store, or
28 administer euthanasia drugs, as authorized by Federal law;

29 (7) whether the applicant is suitably equipped with the
30 facilities appropriate to carry on the operation described
31 in his application;

32 (8) whether the applicant is of good moral character
33 or, if the applicant is a partnership, association,
34 corporation or other organization, whether the partners,
35 directors, governing committee and managing officers are
36 of good moral character;

1 (9) any other factors relevant to and consistent with
2 the public health and safety; and

3 (10) evidence from court, medical disciplinary and
4 pharmacy board records and those of State and Federal
5 investigatory bodies that the applicant has not or does not
6 prescribe controlled substances within the provisions of
7 this Act.

8 (b) No license shall be granted to or renewed for any
9 person who has within 5 years been convicted of a wilful
10 violation of any law of the United States or any law of any
11 State relating to controlled substances, or who is found to be
12 deficient in any of the matters enumerated in subsections
13 (a) (1) through (a) (8).

14 (c) Licensure under subsection (a) does not entitle a
15 registrant to manufacture, distribute or dispense controlled
16 substances in Schedules I or II other than those specified in
17 the registration.

18 (d) Practitioners who are licensed to dispense any
19 controlled substances in Schedules II through V are authorized
20 to conduct instructional activities with controlled substances
21 in Schedules II through V under the law of this State.

22 (e) If an applicant for registration is registered under
23 the Federal law to manufacture, distribute or dispense
24 controlled substances, or purchase, store, or administer
25 euthanasia drugs, upon filing a completed application for
26 licensure in this State and payment of all fees due hereunder,
27 he shall be licensed in this State to the same extent as his
28 Federal registration, unless, within 30 days after completing
29 his application in this State, the Department of Financial and
30 Professional Regulation notifies the applicant that his
31 application has not been granted. A practitioner who is in
32 compliance with the Federal law with respect to registration to
33 dispense controlled substances in Schedules II through V need
34 only send a current copy of that Federal registration to the
35 Department of Financial and Professional Regulation and he
36 shall be deemed in compliance with the registration provisions

1 of this State.

2 (e-5) Beginning July 1, 2003, all of the fees and fines
3 collected under this Section 303 shall be deposited into the
4 Illinois State Pharmacy Disciplinary Fund.

5 (f) The fee for registration as a manufacturer or wholesale
6 distributor of controlled substances shall be \$50.00 per year,
7 except that the fee for registration as a manufacturer or
8 wholesale distributor of controlled substances that may be
9 dispensed without a prescription under this Act shall be \$15.00
10 per year. The expiration date and renewal period for each
11 controlled substance license issued under this Act shall be set
12 by rule.

13 (Source: P.A. 93-32, eff. 7-1-03; 93-626, eff. 12-23-03.)

14 (720 ILCS 570/303.05)

15 Sec. 303.05. Mid-level practitioner registration.

16 (a) The Department of Financial and Professional
17 Regulation shall register licensed physician assistants and
18 licensed advanced practice nurses to prescribe and dispense
19 Schedule III, IV, or V controlled substances under Section 303
20 and euthanasia agencies to purchase, store, or administer
21 euthanasia drugs under the following circumstances:

22 (1) with respect to physician assistants or advanced
23 practice nurses,

24 (A) the physician assistant or advanced practice
25 nurse has been delegated prescriptive authority by a
26 physician licensed to practice medicine in all its
27 branches in accordance with Section 7.5 of the
28 Physician Assistant Practice Act of 1987 or Section
29 15-20 of the Nursing and Advanced Practice Nursing Act;
30 and

31 (B) the physician assistant or advanced practice
32 nurse has completed the appropriate application forms
33 and has paid the required fees as set by rule; or

34 (2) with respect to euthanasia agencies, the
35 euthanasia agency has obtained a license from the

1 Department of Professional Regulation or its successor,
2 the Department of Financial and Professional Regulation,
3 and obtained a registration number from the Department.

4 (b) The mid-level practitioner shall only be licensed to
5 prescribe those schedules of controlled substances for which a
6 licensed physician has delegated prescriptive authority,
7 except that a euthanasia agency does not have any prescriptive
8 authority.

9 (c) Upon completion of all registration requirements,
10 physician assistants, advanced practice nurses, and euthanasia
11 agencies shall be issued a mid-level practitioner controlled
12 substances license for Illinois.

13 (Source: P.A. 93-626, eff. 12-23-03.)

14 (720 ILCS 570/303.1) (from Ch. 56 1/2, par. 1303.1)

15 Sec. 303.1. Any person who delivers a check or other
16 payment to the Department of Financial and Professional
17 Regulation that is returned to the Department unpaid by the
18 financial institution upon which it is drawn shall pay to the
19 Department, in addition to the amount already owed to the
20 Department, a fine of \$50. If the check or other payment was
21 for a renewal or issuance fee and that person practices without
22 paying the renewal fee or issuance fee and the fine due, an
23 additional fine of \$100 shall be imposed. The fines imposed by
24 this Section are in addition to any other discipline provided
25 under this Act for unlicensed practice or practice on a
26 nonrenewed license. The Department of Financial and
27 Professional Regulation shall notify the person that payment of
28 fees and fines shall be paid to the Department by certified
29 check or money order within 30 calendar days of the
30 notification. If, after the expiration of 30 days from the date
31 of the notification, the person has failed to submit the
32 necessary remittance, the Department of Financial and
33 Professional Regulation shall automatically terminate the
34 license or certificate or deny the application, without
35 hearing. If, after termination or denial, the person seeks a

1 license or certificate, he or she shall apply to the Department
2 for restoration or issuance of the license or certificate and
3 pay all fees and fines due to the Department. The Department of
4 Financial and Professional Regulation may establish a fee for
5 the processing of an application for restoration of a license
6 or certificate to pay all expenses of processing this
7 application. The Director may waive the fines due under this
8 Section in individual cases where the Director finds that the
9 fines would be unreasonable or unnecessarily burdensome.

10 (Source: P.A. 89-507, eff. 7-1-97.)

11 (720 ILCS 570/304) (from Ch. 56 1/2, par. 1304)

12 Sec. 304. (a) A registration under Section 303 to
13 manufacture, distribute, or dispense a controlled substance or
14 purchase, store, or administer euthanasia drugs may be
15 suspended or revoked by the Department of Financial and
16 Professional Regulation upon a finding that the registrant:

17 (1) has furnished any false or fraudulent material
18 information in any application filed under this Act; or

19 (2) has been convicted of a felony under any law of the
20 United States or any State relating to any controlled
21 substance; or

22 (3) has had suspended or revoked his Federal
23 registration to manufacture, distribute, or dispense
24 controlled substances or purchase, store, or administer
25 euthanasia drugs; or

26 (4) has been convicted of bribery, perjury, or other
27 infamous crime under the laws of the United States or of
28 any State; or

29 (5) has violated any provision of this Act or any rules
30 promulgated hereunder, whether or not he has been convicted
31 of such violation; or

32 (6) has failed to provide effective controls against
33 the diversion of controlled substances in other than
34 legitimate medical, scientific or industrial channels.

35 (b) The Department of Financial and Professional

1 Regulation may limit revocation or suspension of a registration
2 to the particular controlled substance with respect to which
3 grounds for revocation or suspension exist.

4 (c) The Department of Financial and Professional
5 Regulation shall promptly notify the Administration, the
6 Department and the Department of State Police or their
7 successor agencies, of all orders denying, suspending or
8 revoking registration, all forfeitures of controlled
9 substances, and all final court dispositions, if any, of such
10 denials, suspensions, revocations or forfeitures.

11 (d) If Federal registration of any registrant is suspended,
12 revoked, refused renewal or refused issuance, then the
13 Department of Financial and Professional Regulation shall
14 issue a notice and conduct a hearing in accordance with Section
15 305 of this Act.

16 (Source: P.A. 93-626, eff. 12-23-03.)

17 (720 ILCS 570/305) (from Ch. 56 1/2, par. 1305)

18 Sec. 305. (a) Before denying, refusing renewal of,
19 suspending or revoking a registration, the Department of
20 Financial and Professional Regulation shall serve upon the
21 applicant or registrant, by registered mail at the address in
22 the application or registration or by any other means
23 authorized under the Civil Practice Law or Rules of the
24 Illinois Supreme Court for the service of summons or subpoenas,
25 a notice of hearing to determine why registration should not be
26 denied, refused renewal, suspended or revoked. The notice shall
27 contain a statement of the basis therefor and shall call upon
28 the applicant or registrant to appear before the Department of
29 Financial and Professional Regulation at a reasonable time and
30 place. These proceedings shall be conducted in accordance with
31 Sections 2105-5, 2105-15, 2105-100, 2105-105, 2105-110,
32 2105-115, 2105-120, 2105-125, 2105-175, and 2105-325 of the
33 Department of Financial and Professional Regulation
34 (Professional Regulation) Law (20 ILCS 2105/2105-5,
35 2105/2105-15, 2105/2105-100, 2105/2105-105, 2105/2105-110,

1 2105/2105-115, 2105/2105-120, 2105/2105-125, 2105/2105-175,
2 and 2105/2105-325), without regard to any criminal prosecution
3 or other proceeding. Except as authorized in subsection (c),
4 proceedings to refuse renewal or suspend or revoke registration
5 shall not abate the existing registration, which shall remain
6 in effect until the Department of Financial and Professional
7 Regulation has held the hearing called for in the notice and
8 found, with input from the appropriate licensure or
9 disciplinary board, that the registration shall no longer
10 remain in effect.

11 (b) The Director may appoint an attorney duly licensed to
12 practice law in the State of Illinois to serve as the hearing
13 officer in any action to deny, refuse to renew, suspend, or
14 revoke, or take any other disciplinary action with regard to a
15 registration. The hearing officer shall have full authority to
16 conduct the hearing. The hearing officer shall report his or
17 her findings and recommendations to the appropriate licensure
18 or disciplinary board within 30 days after receiving the
19 record. The Disciplinary Board shall have 60 days from receipt
20 of the report to review the report of the hearing officer and
21 present its findings of fact, conclusions of law, and
22 recommendations to the Director.

23 (c) If the Department of Financial and Professional
24 Regulation finds that there is an imminent danger to the public
25 health or safety by the continued manufacture, distribution or
26 dispensing of controlled substances by the registrant, the
27 Department of Financial and Professional Regulation may, upon
28 the issuance of a written ruling stating the reasons for such
29 finding and without notice or hearing, suspend such registrant.
30 The suspension shall continue in effect for not more than 14
31 days during which time the registrant shall be given a hearing
32 on the issues involved in the suspension. If after the hearing,
33 and after input from the appropriate licensure or disciplinary
34 board, the Department of Financial and Professional Regulation
35 finds that the public health or safety requires the suspension
36 to remain in effect it shall so remain until the ruling is

1 terminated by its own terms or subsequent ruling or is
2 dissolved by a circuit court upon determination that the
3 suspension was wholly without basis in fact and law.

4 (d) If, after a hearing as provided in subsection (a), the
5 Department of Financial and Professional Regulation finds that
6 a registration should be refused renewal, suspended or revoked,
7 a written ruling to that effect shall be entered. The
8 Department of Financial and Professional Regulation's ruling
9 shall remain in effect until the ruling is terminated by its
10 own terms or subsequent ruling or is dissolved by a circuit
11 court upon a determination that the refusal to renew suspension
12 or revocation was wholly without basis in fact and law.

13 (Source: P.A. 91-239, eff. 1-1-00.)

14 (720 ILCS 570/306) (from Ch. 56 1/2, par. 1306)

15 Sec. 306. Every practitioner and person who is required
16 under this Act to be registered to manufacture, distribute or
17 dispense controlled substances or purchase, store, or
18 administer euthanasia drugs under this Act shall keep records
19 and maintain inventories in conformance with the recordkeeping
20 and inventory requirements of the laws of the United States and
21 with any additional rules and forms issued by the Department of
22 Financial and Professional Regulation.

23 (Source: P.A. 93-626, eff. 12-23-03.)

24 (720 ILCS 570/312) (from Ch. 56 1/2, par. 1312)

25 Sec. 312. Requirements for dispensing controlled
26 substances.

27 (a) A practitioner, in good faith, may dispense a Schedule
28 II controlled substance, which is a narcotic drug listed in
29 Section 206 of this Act; or which contains any quantity of
30 amphetamine or methamphetamine, their salts, optical isomers
31 or salts of optical isomers; phenmetrazine and its salts; or
32 pentazocine; and Schedule III, IV, or V controlled substances
33 to any person upon a written prescription of any prescriber,
34 dated and signed by the person prescribing on the day when

1 issued and bearing the name and address of the patient for
2 whom, or the owner of the animal for which the controlled
3 substance is dispensed, and the full name, address and registry
4 number under the laws of the United States relating to
5 controlled substances of the prescriber, if he is required by
6 those laws to be registered. If the prescription is for an
7 animal it shall state the species of animal for which it is
8 ordered. The practitioner filling the prescription shall write
9 the date of filling and his own signature on the face of the
10 written prescription. The written prescription shall be
11 retained on file by the practitioner who filled it or pharmacy
12 in which the prescription was filled for a period of 2 years,
13 so as to be readily accessible for inspection or removal by any
14 officer or employee engaged in the enforcement of this Act.
15 Whenever the practitioner's or pharmacy's copy of any
16 prescription is removed by an officer or employee engaged in
17 the enforcement of this Act, for the purpose of investigation
18 or as evidence, such officer or employee shall give to the
19 practitioner or pharmacy a receipt in lieu thereof. A
20 prescription for a Schedule II controlled substance shall not
21 be filled more than 7 days after the date of issuance. A
22 written prescription for Schedule III, IV or V controlled
23 substances shall not be filled or refilled more than 6 months
24 after the date thereof or refilled more than 5 times unless
25 renewed, in writing, by the prescriber.

26 (b) In lieu of a written prescription required by this
27 Section, a pharmacist, in good faith, may dispense Schedule
28 III, IV, or V substances to any person either upon receiving a
29 facsimile of a written, signed prescription transmitted by the
30 prescriber or the prescriber's agent or upon a lawful oral
31 prescription of a prescriber which oral prescription shall be
32 reduced promptly to writing by the pharmacist and such written
33 memorandum thereof shall be dated on the day when such oral
34 prescription is received by the pharmacist and shall bear the
35 full name and address of the ultimate user for whom, or of the
36 owner of the animal for which the controlled substance is

1 dispensed, and the full name, address, and registry number
2 under the law of the United States relating to controlled
3 substances of the prescriber prescribing if he is required by
4 those laws to be so registered, and the pharmacist filling such
5 oral prescription shall write the date of filling and his own
6 signature on the face of such written memorandum thereof. The
7 facsimile copy of the prescription or written memorandum of the
8 oral prescription shall be retained on file by the proprietor
9 of the pharmacy in which it is filled for a period of not less
10 than two years, so as to be readily accessible for inspection
11 by any officer or employee engaged in the enforcement of this
12 Act in the same manner as a written prescription. The facsimile
13 copy of the prescription or oral prescription and the written
14 memorandum thereof shall not be filled or refilled more than 6
15 months after the date thereof or be refilled more than 5 times,
16 unless renewed, in writing, by the prescriber.

17 (c) A controlled substance included in Schedule V shall not
18 be distributed or dispensed other than for a medical purpose
19 and not for the purpose of evading this Act, and then:

20 (1) only personally by a person registered to dispense
21 a Schedule V controlled substance and then only to his
22 patients, or

23 (2) only personally by a pharmacist, and then only to a
24 person over 21 years of age who has identified himself to
25 the pharmacist by means of 2 positive documents of
26 identification.

27 (3) the dispenser shall record the name and address of
28 the purchaser, the name and quantity of the product, the
29 date and time of the sale, and the dispenser's signature.

30 (4) no person shall purchase or be dispensed more than
31 120 milliliters or more than 120 grams of any Schedule V
32 substance which contains codeine, dihydrocodeine, or any
33 salts thereof, or ethylmorphine, or any salts thereof, in
34 any 96 hour period. The purchaser shall sign a form,
35 approved by the Department of Financial and Professional
36 Regulation, attesting that he has not purchased any

1 Schedule V controlled substances within the immediately
2 preceding 96 hours.

3 (5) a copy of the records of sale, including all
4 information required by paragraph (3), shall be forwarded
5 to the Department of Financial and Professional Regulation
6 at its principal office by the 15th day of the following
7 month.

8 (6) all records of purchases and sales shall be
9 maintained for not less than 2 years.

10 (7) no person shall obtain or attempt to obtain within
11 any consecutive 96 hour period any Schedule V substances of
12 more than 120 milliliters or more than 120 grams containing
13 codeine, dihydrocodeine or any of its salts, or
14 ethylmorphine or any of its salts. Any person obtaining any
15 such preparations or combination of preparations in excess
16 of this limitation shall be in unlawful possession of such
17 controlled substance.

18 (8) a person qualified to dispense controlled
19 substances under this Act and registered thereunder shall
20 at no time maintain or keep in stock a quantity of Schedule
21 V controlled substances defined and listed in Section 212
22 (b) (1), (2) or (3) in excess of 4.5 liters for each
23 substance; a pharmacy shall at no time maintain or keep in
24 stock a quantity of Schedule V controlled substances as
25 defined in excess of 4.5 liters for each substance, plus
26 the additional quantity of controlled substances necessary
27 to fill the largest number of prescription orders filled by
28 that pharmacy for such controlled substances in any one
29 week in the previous year. These limitations shall not
30 apply to Schedule V controlled substances which Federal law
31 prohibits from being dispensed without a prescription.

32 (9) no person shall distribute or dispense butyl
33 nitrite for inhalation or other introduction into the human
34 body for euphoric or physical effect.

35 (d) Every practitioner shall keep a record of controlled
36 substances received by him and a record of all such controlled

1 substances administered, dispensed or professionally used by
2 him otherwise than by prescription. It shall, however, be
3 sufficient compliance with this paragraph if any practitioner
4 utilizing controlled substances listed in Schedules III, IV and
5 V shall keep a record of all those substances dispensed and
6 distributed by him other than those controlled substances which
7 are administered by the direct application of a controlled
8 substance, whether by injection, inhalation, ingestion, or any
9 other means to the body of a patient or research subject. A
10 practitioner who dispenses, other than by administering, a
11 controlled substance in Schedule II, which is a narcotic drug
12 listed in Section 206 of this Act, or which contains any
13 quantity of amphetamine or methamphetamine, their salts,
14 optical isomers or salts of optical isomers, pentazocine, or
15 methaqualone shall do so only upon the issuance of a written
16 prescription blank by a prescriber.

17 (e) Whenever a manufacturer distributes a controlled
18 substance in a package prepared by him, and whenever a
19 wholesale distributor distributes a controlled substance in a
20 package prepared by him or the manufacturer, he shall securely
21 affix to each package in which that substance is contained a
22 label showing in legible English the name and address of the
23 manufacturer, the distributor and the quantity, kind and form
24 of controlled substance contained therein. No person except a
25 pharmacist and only for the purposes of filling a prescription
26 under this Act, shall alter, deface or remove any label so
27 affixed.

28 (f) Whenever a practitioner dispenses any controlled
29 substance, he shall affix to the container in which such
30 substance is sold or dispensed, a label indicating the date of
31 initial filling, the practitioner's name and address, the name
32 of the patient, the name of the prescriber, the directions for
33 use and cautionary statements, if any, contained in any
34 prescription or required by law, the proprietary name or names
35 or the established name of the controlled substance, and the
36 dosage and quantity, except as otherwise authorized by

1 regulation by the Department of Financial and Professional
2 Regulation. No person shall alter, deface or remove any label
3 so affixed.

4 (g) A person to whom or for whose use any controlled
5 substance has been prescribed or dispensed by a practitioner,
6 or other persons authorized under this Act, and the owner of
7 any animal for which such substance has been prescribed or
8 dispensed by a veterinarian, may lawfully possess such
9 substance only in the container in which it was delivered to
10 him by the person dispensing such substance.

11 (h) The responsibility for the proper prescribing or
12 dispensing of controlled substances is upon the prescriber and
13 the responsibility for the proper filling of a prescription for
14 controlled substance drugs rests with the pharmacist. An order
15 purporting to be a prescription issued to any individual, which
16 is not in the regular course of professional treatment nor part
17 of an authorized methadone maintenance program, nor in
18 legitimate and authorized research instituted by any
19 accredited hospital, educational institution, charitable
20 foundation, or federal, state or local governmental agency, and
21 which is intended to provide that individual with controlled
22 substances sufficient to maintain that individual's or any
23 other individual's physical or psychological addiction,
24 habitual or customary use, dependence, or diversion of that
25 controlled substance is not a prescription within the meaning
26 and intent of this Act; and the person issuing it, shall be
27 subject to the penalties provided for violations of the law
28 relating to controlled substances.

29 (i) A prescriber shall not preprint or cause to be
30 preprinted a prescription for any controlled substance; nor
31 shall any practitioner issue, fill or cause to be issued or
32 filled, a preprinted prescription for any controlled
33 substance.

34 (j) No person shall manufacture, dispense, deliver,
35 possess with intent to deliver, prescribe, or administer or
36 cause to be administered under his direction any anabolic

1 steroid, for any use in humans other than the treatment of
2 disease in accordance with the order of a physician licensed to
3 practice medicine in all its branches for a valid medical
4 purpose in the course of professional practice. The use of
5 anabolic steroids for the purpose of hormonal manipulation that
6 is intended to increase muscle mass, strength or weight without
7 a medical necessity to do so, or for the intended purpose of
8 improving physical appearance or performance in any form of
9 exercise, sport, or game, is not a valid medical purpose or in
10 the course of professional practice.

11 (Source: P.A. 90-253, eff. 7-29-97; 91-576, eff. 4-1-00;
12 91-714, eff. 6-2-00.)

13 (720 ILCS 570/313) (from Ch. 56 1/2, par. 1313)

14 Sec. 313. (a) Controlled substances which are lawfully
15 administered in hospitals or institutions licensed under the
16 "Hospital Licensing Act" shall be exempt from the requirements
17 of Sections 312 and 316 except that the prescription for the
18 controlled substance shall be in writing on the patient's
19 record, signed by the prescriber, dated, and shall state the
20 name, and quantity of controlled substances ordered and the
21 quantity actually administered. The records of such
22 prescriptions shall be maintained for two years and shall be
23 available for inspection by officers and employees of the
24 Department of State Police, and the Department of Financial and
25 Professional Regulation.

26 (b) Controlled substances that can lawfully be
27 administered or dispensed directly to a patient in a long-term
28 care facility licensed by the Department of Public Health as a
29 skilled nursing facility, intermediate care facility, or
30 long-term care facility for residents under 22 years of age,
31 are exempt from the requirements of Section 312 except that a
32 prescription for a Schedule II controlled substance must be
33 either a written prescription signed by the prescriber or a
34 written prescription transmitted by the prescriber or
35 prescriber's agent to the dispensing pharmacy by facsimile. The

1 facsimile serves as the original prescription and must be
2 maintained for 2 years from the date of issue in the same
3 manner as a written prescription signed by the prescriber.

4 (c) A prescription that is written for a Schedule II
5 controlled substance to be compounded for direct
6 administration by parenteral, intravenous, intramuscular,
7 subcutaneous, or intraspinal infusion to a patient in a private
8 residence, long-term care facility, or hospice setting may be
9 transmitted by facsimile by the prescriber or the prescriber's
10 agent to the pharmacy providing the home infusion services. The
11 facsimile serves as the original written prescription for
12 purposes of this paragraph (c) and it shall be maintained in
13 the same manner as the original written prescription.

14 (c-1) A prescription written for a Schedule II controlled
15 substance for a patient residing in a hospice certified by
16 Medicare under Title XVIII of the Social Security Act or
17 licensed by the State may be transmitted by the practitioner or
18 the practitioner's agent to the dispensing pharmacy by
19 facsimile. The practitioner or practitioner's agent must note
20 on the prescription that the patient is a hospice patient. The
21 facsimile serves as the original written prescription for
22 purposes of this paragraph (c-1) and it shall be maintained in
23 the same manner as the original written prescription.

24 (d) Controlled substances which are lawfully administered
25 and/or dispensed in drug abuse treatment programs licensed by
26 the Department shall be exempt from the requirements of
27 Sections 312 and 316, except that the prescription for such
28 controlled substances shall be issued and authenticated on
29 official prescription logs prepared and supplied by the
30 Department. The official prescription logs issued by the
31 Department shall be printed in triplicate on distinctively
32 marked paper and furnished to programs at reasonable cost. The
33 official prescription logs furnished to the programs shall
34 contain, in preprinted form, such information as the Department
35 may require. The official prescription logs shall be properly
36 endorsed by a physician licensed to practice medicine in all

1 its branches issuing the order, with his own signature and the
2 date of ordering, and further endorsed by the practitioner
3 actually administering or dispensing the dosage at the time of
4 such administering or dispensing in accordance with
5 requirements issued by the Department. The duplicate copy shall
6 be retained by the program for a period of not less than three
7 years nor more than seven years; the original and triplicate
8 copy shall be returned to the Department at its principal
9 office in accordance with requirements set forth by the
10 Department.

11 (Source: P.A. 91-576, eff. 4-1-00; 91-714, eff. 6-2-00.)

12 (720 ILCS 570/317)

13 Sec. 317. Central repository for collection of
14 information.

15 (a) The Department must designate a central repository for
16 the collection of information transmitted under Section 316.

17 (b) The central repository must do the following:

18 (1) Create a database for information required to be
19 transmitted under Section 316 in the form required under
20 rules adopted by the Department, including search
21 capability for the following:

22 (A) A recipient's name.

23 (B) A recipient's address.

24 (C) The national drug code number of a controlled
25 substance dispensed.

26 (D) The dates a Schedule II controlled substance is
27 dispensed.

28 (E) The quantities of a Schedule II controlled
29 substance dispensed.

30 (F) A dispenser's United States Drug Enforcement
31 Agency registration number.

32 (G) A prescriber's United States Drug Enforcement
33 Agency registration number.

34 (2) Provide the Department with continuing 24 hour a
35 day on-line access to the database maintained by the

1 central repository. The Department of Financial and
2 Professional Regulation must provide the Department with
3 electronic access to the license information of a
4 prescriber or dispenser. The Department of Financial and
5 Professional Regulation may charge a fee for this access
6 not to exceed the actual cost of furnishing the
7 information.

8 (3) Secure the information collected by the central
9 repository and the database maintained by the central
10 repository against access by unauthorized persons.

11 (Source: P.A. 91-576, eff. 4-1-00.)

12 (720 ILCS 570/501) (from Ch. 56 1/2, par. 1501)

13 Sec. 501. (a) It is hereby made the duty of the Department
14 of Financial and Professional Regulation and the Department of
15 State Police, and their agents, officers, and investigators, to
16 enforce all provisions of this Act, except those specifically
17 delegated, and to cooperate with all agencies charged with the
18 enforcement of the laws of the United States, or of any State,
19 relating to controlled substances. Only an agent, officer, or
20 investigator designated by the Director may: (1) for the
21 purpose of inspecting, copying, and verifying the correctness
22 of records, reports or other documents required to be kept or
23 made under this Act and otherwise facilitating the execution of
24 the functions of the Department of Financial and Professional
25 Regulation or the Department of State Police, be authorized in
26 accordance with this Section to enter controlled premises and
27 to conduct administrative inspections thereof and of the things
28 specified; or (2) execute and serve administrative inspection
29 notices, warrants, subpoenas, and summonses under the
30 authority of this State. Any inspection or administrative entry
31 of persons licensed by the Department shall be made in
32 accordance with subsection (bb) of Section 30-5 of the
33 Alcoholism and Other Drug Abuse and Dependency Act and the
34 rules and regulations promulgated thereunder.

35 (b) Administrative entries and inspections designated in

1 clause (1) of subsection (a) shall be carried out through
2 agents, officers, investigators and peace officers
3 (hereinafter referred to as "inspectors") designated by the
4 Director. Any inspector, upon stating his or her purpose and
5 presenting to the owner, operator, or agent in charge of the
6 premises (1) appropriate credentials and (2) a written notice
7 of his or her inspection authority (which notice, in the case
8 of an inspection requiring or in fact supported by an
9 administrative inspection warrant, shall consist of that
10 warrant), shall have the right to enter the premises and
11 conduct the inspection at reasonable times.

12 Inspectors appointed by the Director under this Section 501
13 are conservators of the peace and as such have all the powers
14 possessed by policemen in cities and by sheriffs, except that
15 they may exercise such powers anywhere in the State.

16 (c) Except as may otherwise be indicated in an applicable
17 inspection warrant, the inspector shall have the right:

18 (1) to inspect and copy records, reports and other
19 documents required to be kept or made under this Act;

20 (2) to inspect, within reasonable limits and in a
21 reasonable manner, controlled premises and all pertinent
22 equipment, finished and unfinished drugs and other
23 substances or materials, containers and labeling found
24 therein, and all other things therein (including records,
25 files, papers, processes, controls and facilities)
26 appropriate for verification of the records, reports and
27 documents referred to in item (1) or otherwise bearing on
28 the provisions of this Act; and

29 (3) to inventory any stock of any controlled substance.

30 (d) Except when the owner, operator, or agent in charge of
31 the controlled premises so consents in writing, no inspection
32 authorized by this Section shall extend to:

33 (1) financial data;

34 (2) sales data other than shipment data; or

35 (3) pricing data.

36 Any inspection or administrative entry of persons licensed

1 by the Department shall be made in accordance with subsection
2 (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and
3 Dependency Act and the rules and regulations promulgated
4 thereunder.

5 (e) Any agent, officer, investigator or peace officer
6 designated by the Director may (1) make seizure of property
7 pursuant to the provisions of this Act; and (2) perform such
8 other law enforcement duties as the Director shall designate.
9 It is hereby made the duty of all State's Attorneys to
10 prosecute violations of this Act and institute legal
11 proceedings as authorized under this Act.

12 (Source: P.A. 88-670, eff. 12-2-94; 89-202, eff. 10-1-95.)

13 (720 ILCS 570/501.1) (from Ch. 56 1/2, par. 1501.1)

14 Sec. 501.1. Administrative Procedure Act. The Illinois
15 Administrative Procedure Act is hereby expressly adopted and
16 incorporated herein, but shall apply only to the Department of
17 Financial and Professional Regulation, as if all of the
18 provisions of that Act were included in this Act, except that
19 the provision of subsection (d) of Section 10-65 of the
20 Illinois Administrative Procedure Act which provides that at
21 hearings the licensee has the right to show compliance with all
22 lawful requirements for retention, continuation or renewal of
23 the license is specifically excluded. For the purposes of this
24 Act the notice required under Section 10-25 of the Illinois
25 Administrative Procedure Act is deemed sufficient when mailed
26 to the last known address of a party.

27 (Source: P.A. 88-45.)

28 (720 ILCS 570/505) (from Ch. 56 1/2, par. 1505)

29 Sec. 505. (a) The following are subject to forfeiture:

30 (1) all substances which have been manufactured,
31 distributed, dispensed, or possessed in violation of this
32 Act;

33 (2) all raw materials, products and equipment of any
34 kind which are used, or intended for use in manufacturing,

1 distributing, dispensing, administering or possessing any
2 substance in violation of this Act;

3 (3) all conveyances, including aircraft, vehicles or
4 vessels, which are used, or intended for use, to transport,
5 or in any manner to facilitate the transportation, sale,
6 receipt, possession, or concealment of property described
7 in paragraphs (1) and (2), but:

8 (i) no conveyance used by any person as a common
9 carrier in the transaction of business as a common
10 carrier is subject to forfeiture under this Section
11 unless it appears that the owner or other person in
12 charge of the conveyance is a consenting party or privy
13 to a violation of this Act;

14 (ii) no conveyance is subject to forfeiture under
15 this Section by reason of any act or omission which the
16 owner proves to have been committed or omitted without
17 his knowledge or consent;

18 (iii) a forfeiture of a conveyance encumbered by a
19 bona fide security interest is subject to the interest
20 of the secured party if he neither had knowledge of nor
21 consented to the act or omission;

22 (4) all money, things of value, books, records, and
23 research products and materials including formulas,
24 microfilm, tapes, and data which are used, or intended to
25 be used in violation of this Act;

26 (5) everything of value furnished, or intended to be
27 furnished, in exchange for a substance in violation of this
28 Act, all proceeds traceable to such an exchange, and all
29 moneys, negotiable instruments, and securities used, or
30 intended to be used, to commit or in any manner to
31 facilitate any violation of this Act;

32 (6) all real property, including any right, title, and
33 interest (including, but not limited to, any leasehold
34 interest or the beneficial interest in a land trust) in the
35 whole of any lot or tract of land and any appurtenances or
36 improvements, which is used or intended to be used, in any

1 manner or part, to commit, or in any manner to facilitate
2 the commission of, any violation or act that constitutes a
3 violation of Section 401 or 405 of this Act or that is the
4 proceeds of any violation or act that constitutes a
5 violation of Section 401 or 405 of this Act.

6 (b) Property subject to forfeiture under this Act may be
7 seized by the Director or any peace officer upon process or
8 seizure warrant issued by any court having jurisdiction over
9 the property. Seizure by the Director or any peace officer
10 without process may be made:

11 (1) if the seizure is incident to inspection under an
12 administrative inspection warrant;

13 (2) if the property subject to seizure has been the
14 subject of a prior judgment in favor of the State in a
15 criminal proceeding, or in an injunction or forfeiture
16 proceeding based upon this Act or the Drug Asset Forfeiture
17 Procedure Act;

18 (3) if there is probable cause to believe that the
19 property is directly or indirectly dangerous to health or
20 safety;

21 (4) if there is probable cause to believe that the
22 property is subject to forfeiture under this Act and the
23 property is seized under circumstances in which a
24 warrantless seizure or arrest would be reasonable; or

25 (5) in accordance with the Code of Criminal Procedure
26 of 1963.

27 (c) In the event of seizure pursuant to subsection (b),
28 forfeiture proceedings shall be instituted in accordance with
29 the Drug Asset Forfeiture Procedure Act.

30 (d) Property taken or detained under this Section shall not
31 be subject to replevin, but is deemed to be in the custody of
32 the Director subject only to the order and judgments of the
33 circuit court having jurisdiction over the forfeiture
34 proceedings and the decisions of the State's Attorney under the
35 Drug Asset Forfeiture Procedure Act. When property is seized
36 under this Act, the seizing agency shall promptly conduct an

1 inventory of the seized property and estimate the property's
2 value, and shall forward a copy of the inventory of seized
3 property and the estimate of the property's value to the
4 Director. Upon receiving notice of seizure, the Director may:

5 (1) place the property under seal;

6 (2) remove the property to a place designated by the
7 Director;

8 (3) keep the property in the possession of the seizing
9 agency;

10 (4) remove the property to a storage area for
11 safekeeping or, if the property is a negotiable instrument
12 or money and is not needed for evidentiary purposes,
13 deposit it in an interest bearing account;

14 (5) place the property under constructive seizure by
15 posting notice of pending forfeiture on it, by giving
16 notice of pending forfeiture to its owners and interest
17 holders, or by filing notice of pending forfeiture in any
18 appropriate public record relating to the property; or

19 (6) provide for another agency or custodian, including
20 an owner, secured party, or lienholder, to take custody of
21 the property upon the terms and conditions set by the
22 Director.

23 (e) If the Department of Financial and Professional
24 Regulation suspends or revokes a registration, all controlled
25 substances owned or possessed by the registrant at the time of
26 suspension or the effective date of the revocation order may be
27 placed under seal. No disposition may be made of substances
28 under seal until the time for taking an appeal has elapsed or
29 until all appeals have been concluded unless a court, upon
30 application therefor, orders the sale of perishable substances
31 and the deposit of the proceeds of the sale with the court.
32 Upon a revocation rule becoming final, all substances may be
33 forfeited to the Department of Financial and Professional
34 Regulation.

35 (f) When property is forfeited under this Act the Director
36 shall sell all such property unless such property is required

1 by law to be destroyed or is harmful to the public, and shall
2 distribute the proceeds of the sale, together with any moneys
3 forfeited or seized, in accordance with subsection (g).
4 However, upon the application of the seizing agency or
5 prosecutor who was responsible for the investigation, arrest or
6 arrests and prosecution which lead to the forfeiture, the
7 Director may return any item of forfeited property to the
8 seizing agency or prosecutor for official use in the
9 enforcement of laws relating to cannabis or controlled
10 substances, if the agency or prosecutor can demonstrate that
11 the item requested would be useful to the agency or prosecutor
12 in their enforcement efforts. When any real property returned
13 to the seizing agency is sold by the agency or its unit of
14 government, the proceeds of the sale shall be delivered to the
15 Director and distributed in accordance with subsection (g).

16 (g) All monies and the sale proceeds of all other property
17 forfeited and seized under this Act shall be distributed as
18 follows:

19 (1) 65% shall be distributed to the metropolitan
20 enforcement group, local, municipal, county, or state law
21 enforcement agency or agencies which conducted or
22 participated in the investigation resulting in the
23 forfeiture. The distribution shall bear a reasonable
24 relationship to the degree of direct participation of the
25 law enforcement agency in the effort resulting in the
26 forfeiture, taking into account the total value of the
27 property forfeited and the total law enforcement effort
28 with respect to the violation of the law upon which the
29 forfeiture is based. Amounts distributed to the agency or
30 agencies shall be used for the enforcement of laws
31 governing cannabis and controlled substances, except that
32 amounts distributed to the Secretary of State shall be
33 deposited into the Secretary of State Evidence Fund to be
34 used as provided in Section 2-115 of the Illinois Vehicle
35 Code.

36 (2) (i) 12.5% shall be distributed to the Office of the

1 State's Attorney of the county in which the prosecution
2 resulting in the forfeiture was instituted, deposited in a
3 special fund in the county treasury and appropriated to the
4 State's Attorney for use in the enforcement of laws
5 governing cannabis and controlled substances. In counties
6 over 3,000,000 population, 25% will be distributed to the
7 Office of the State's Attorney for use in the enforcement
8 of laws governing cannabis and controlled substances. If
9 the prosecution is undertaken solely by the Attorney
10 General, the portion provided hereunder shall be
11 distributed to the Attorney General for use in the
12 enforcement of laws governing cannabis and controlled
13 substances.

14 (ii) 12.5% shall be distributed to the Office of the
15 State's Attorneys Appellate Prosecutor and deposited in
16 the Narcotics Profit Forfeiture Fund of that office to be
17 used for additional expenses incurred in the
18 investigation, prosecution and appeal of cases arising
19 under laws governing cannabis and controlled substances.
20 The Office of the State's Attorneys Appellate Prosecutor
21 shall not receive distribution from cases brought in
22 counties with over 3,000,000 population.

23 (3) 10% shall be retained by the Department of State
24 Police for expenses related to the administration and sale
25 of seized and forfeited property.

26 (h) Species of plants from which controlled substances in
27 Schedules I and II may be derived which have been planted or
28 cultivated in violation of this Act, or of which the owners or
29 cultivators are unknown, or which are wild growths, may be
30 seized and summarily forfeited to the State. The failure, upon
31 demand by the Director or any peace officer, of the person in
32 occupancy or in control of land or premises upon which the
33 species of plants are growing or being stored, to produce
34 registration, or proof that he is the holder thereof,
35 constitutes authority for the seizure and forfeiture of the
36 plants.

1 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

2 (720 ILCS 570/507) (from Ch. 56 1/2, par. 1507)

3 Sec. 507. All rulings, final determinations, findings, and
4 conclusions of the Department of State Police, the Department
5 of Financial and Professional Regulation, and the Department of
6 Human Services of the State of Illinois under this Act are
7 final and conclusive decisions of the matters involved. Any
8 person aggrieved by the decision may obtain review of the
9 decision pursuant to the provisions of the Administrative
10 Review Law, as amended and the rules adopted pursuant thereto.
11 Pending final decision on such review, the acts, orders and
12 rulings of the Department shall remain in full force and effect
13 unless modified or suspended by order of court pending final
14 judicial decision. Pending final decision on such review, the
15 acts, orders, sanctions and rulings of the Department of
16 Financial and Professional Regulation or its predecessor, the
17 Department of Professional Regulation, regarding any
18 registration shall remain in full force and effect, unless
19 stayed by order of court. However, no stay of any decision of
20 the administrative agency shall issue unless the person
21 aggrieved by the decision establishes by a preponderance of the
22 evidence that good cause exists therefor. In determining good
23 cause, the court shall find that the aggrieved party has
24 established a substantial likelihood of prevailing on the
25 merits and that granting the stay will not have an injurious
26 effect on the general public. Good cause shall not be
27 established solely on the basis of hardships resulting from an
28 inability to engage in the registered activity pending a final
29 judicial decision.

30 (Source: P.A. 89-507, eff. 7-1-97.)

31 Section 9795. The Discrimination in Sale of Real Estate Act
32 is amended by changing Section 3 as follows:

33 (720 ILCS 590/3) (from Ch. 38, par. 70-53)

1 Sec. 3. Whenever a person is convicted of any violation of
2 this Act, the clerk of the court shall report such conviction
3 to the Department of Financial and Professional Regulation,
4 which shall thereupon revoke any certificate of registration as
5 a real estate broker or real estate salesman held by such
6 person.

7 (Source: P.A. 85-1209.)

8 Section 9800. The Code of Criminal Procedure of 1963 is
9 amended by changing Section 119-5 as follows:

10 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

11 Sec. 119-5. Execution of Death Sentence.

12 (a) (1) A defendant sentenced to death shall be executed by
13 an intravenous administration of a lethal quantity of an
14 ultrashort-acting barbiturate in combination with a
15 chemical paralytic agent and potassium chloride or other
16 equally effective substances sufficient to cause death
17 until death is pronounced by a coroner who is not a
18 licensed physician.

19 (2) If the execution of the sentence of death as
20 provided in paragraph (1) is held illegal or
21 unconstitutional by a reviewing court of competent
22 jurisdiction, the sentence of death shall be carried out by
23 electrocution.

24 (b) In pronouncing the sentence of death the court shall
25 set the date of the execution which shall be not less than 60
26 nor more than 90 days from the date sentence is pronounced.

27 (c) A sentence of death shall be executed at a Department
28 of Corrections facility.

29 (d) The warden of the penitentiary shall supervise such
30 execution, which shall be conducted in the presence of 6
31 witnesses who shall certify the execution of the sentence. The
32 certification shall be filed with the clerk of the court that
33 imposed the sentence.

34 (d-5) The Department of Corrections shall not request,

1 require, or allow a health care practitioner licensed in
2 Illinois, including but not limited to physicians and nurses,
3 regardless of employment, to participate in an execution.

4 (e) Except as otherwise provided in this subsection (e),
5 the identity of executioners and other persons who participate
6 or perform ancillary functions in an execution and information
7 contained in records that would identify those persons shall
8 remain confidential, shall not be subject to disclosure, and
9 shall not be admissible as evidence or be discoverable in any
10 action of any kind in any court or before any tribunal, board,
11 agency, or person. In order to protect the confidentiality of
12 persons participating in an execution, the Director of
13 Corrections may direct that the Department make payments in
14 cash for such services. In confidential investigations by the
15 Department of Financial and Professional Regulation, the
16 Department of Corrections shall disclose the names and license
17 numbers of health care practitioners participating or
18 performing ancillary functions in an execution to the
19 Department of Financial and Professional Regulation and the
20 Department of Financial and Professional Regulation shall
21 forward those names and license numbers to the appropriate
22 disciplinary boards.

23 (f) The amendatory changes to this Section made by this
24 amendatory Act of 1991 are severable under Section 1.31 of the
25 Statute on Statutes.

26 (g) (Blank).

27 (h) Notwithstanding any other provision of law, any
28 pharmaceutical supplier is authorized to dispense drugs to the
29 Director of Corrections or his or her designee, without
30 prescription, in order to carry out the provisions of this
31 Section.

32 (i) The amendatory changes to this Section made by this
33 amendatory Act of the 93rd General Assembly are severable under
34 Section 1.31 of the Statute on Statutes.

35 (Source: P.A. 93-379, eff. 7-24-03.)

1 Section 9805. The Unified Code of Corrections is amended by
2 changing Section 5-5.5-50 as follows:

3 (730 ILCS 5/5-5.5-50)

4 Sec. 5-5.5-50. Report. The Department of Financial and
5 Professional Regulation shall report to the General Assembly by
6 November 30 of each year, for each occupational licensure
7 category, the number of licensure applicants with felony
8 convictions, the number of applicants with certificates of
9 relief from disabilities, the number of licenses awarded to
10 applicants with felony convictions, the number of licenses
11 awarded to applicants with certificates of relief from
12 disabilities, the number of applicants with felony convictions
13 denied licenses, and the number of applicants with certificates
14 of relief from disabilities denied licenses.

15 (Source: P.A. 93-207, eff. 1-1-04.)

16 Section 9810. The Code of Civil Procedure is amended by
17 changing Sections 2-202 and 2-1719 as follows:

18 (735 ILCS 5/2-202) (from Ch. 110, par. 2-202)

19 Sec. 2-202. Persons authorized to serve process; Place of
20 service; Failure to make return.

21 (a) Process shall be served by a sheriff, or if the sheriff
22 is disqualified, by a coroner of some county of the State. A
23 sheriff of a county with a population of less than 1,000,000
24 may employ civilian personnel to serve process. In counties
25 with a population of less than 1,000,000, process may be
26 served, without special appointment, by a person who is
27 licensed or registered as a private detective under the Private
28 Detective, Private Alarm, Private Security, and Locksmith Act
29 of 2004 or by a registered employee of a private detective
30 agency certified under that Act. A private detective or
31 licensed employee must supply the sheriff of any county in
32 which he serves process with a copy of his license or
33 certificate; however, the failure of a person to supply the

1 copy shall not in any way impair the validity of process served
2 by the person. The court may, in its discretion upon motion,
3 order service to be made by a private person over 18 years of
4 age and not a party to the action. It is not necessary that
5 service be made by a sheriff or coroner of the county in which
6 service is made. If served or sought to be served by a sheriff
7 or coroner, he or she shall endorse his or her return thereon,
8 and if by a private person the return shall be by affidavit.

9 (a-5) Upon motion and in its discretion, the court may
10 appoint as a special process server a private detective agency
11 certified under the Private Detective, Private Alarm, Private
12 Security, and Locksmith Act of 2004. Under the appointment, any
13 employee of the private detective agency who is registered
14 under that Act may serve the process. The motion and the order
15 of appointment must contain the number of the certificate
16 issued to the private detective agency by the Department of
17 Professional Regulation or its successor, the Department of
18 Financial and Professional Regulation, under the Private
19 Detective, Private Alarm, Private Security, and Locksmith Act
20 of 2004.

21 (b) Summons may be served upon the defendants wherever they
22 may be found in the State, by any person authorized to serve
23 process. An officer may serve summons in his or her official
24 capacity outside his or her county, but fees for mileage
25 outside the county of the officer cannot be taxed as costs. The
26 person serving the process in a foreign county may make return
27 by mail.

28 (c) If any sheriff, coroner, or other person to whom any
29 process is delivered, neglects or refuses to make return of the
30 same, the plaintiff may petition the court to enter a rule
31 requiring the sheriff, coroner, or other person, to make return
32 of the process on a day to be fixed by the court, or to show
33 cause on that day why that person should not be attached for
34 contempt of the court. The plaintiff shall then cause a written
35 notice of the rule to be served on the sheriff, coroner, or
36 other person. If good and sufficient cause be not shown to

1 excuse the officer or other person, the court shall adjudge him
2 or her guilty of a contempt, and shall impose punishment as in
3 other cases of contempt.

4 (d) If process is served by a sheriff or coroner, the court
5 may tax the fee of the sheriff or coroner as costs in the
6 proceeding. If process is served by a private person or entity,
7 the court may establish a fee therefor and tax such fee as
8 costs in the proceedings.

9 (e) In addition to the powers stated in Section 8.1a of the
10 Housing Authorities Act, in counties with a population of
11 3,000,000 or more inhabitants, members of a housing authority
12 police force may serve process for forcible entry and detainer
13 actions commenced by that housing authority and may execute
14 orders of possession for that housing authority.

15 (f) In counties with a population of 3,000,000 or more,
16 process may be served, with special appointment by the court,
17 by a private process server or a law enforcement agency other
18 than the county sheriff in proceedings instituted under the
19 Forcible Entry and Detainer Article of this Code as a result of
20 a lessor or lessor's assignee declaring a lease void pursuant
21 to Section 11 of the Controlled Substance and Cannabis Nuisance
22 Act.

23 (Source: P.A. 93-438, eff. 8-5-03.)

24 (735 ILCS 5/2-1719) (from Ch. 110, par. 2-1719)

25 Sec. 2-1719. Duties of Secretary of Financial and
26 Professional Regulation ~~Director of Insurance~~. The Secretary
27 of Financial and Professional Regulation ~~Director of Insurance~~
28 shall establish rules and procedures:

29 (1) for determining which insurers, self-insurers, plans,
30 arrangements, reciprocals or other entities under his or her
31 regulation are financially qualified to provide the security
32 required under Section 2-1711 and to be designated as qualified
33 insurers;

34 (2) to require insurers to post security under Section
35 2-1711 if found by the court to be obligated and capable of

1 posting security; and

2 (3) for publishing prior to January 1 of each year the rate
3 of discount per annum set out in subsection (c) of Section
4 2-1709.

5 (Source: P.A. 84-7.)

6 Section 9815. The Illinois Antitrust Act is amended by
7 changing Section 5 as follows:

8 (740 ILCS 10/5) (from Ch. 38, par. 60-5)

9 Sec. 5. No provisions of this Act shall be construed to
10 make illegal:

11 (1) the activities of any labor organization or of
12 individual members thereof which are directed solely to labor
13 objectives which are legitimate under the laws of either the
14 State of Illinois or the United States;

15 (2) the activities of any agricultural or horticultural
16 cooperative organization, whether incorporated or
17 unincorporated, or of individual members thereof, which are
18 directed solely to objectives of such cooperative
19 organizations which are legitimate under the laws of either the
20 State of Illinois or the United States;

21 (3) the activities of any public utility, as defined in
22 Section 3-105 of the Public Utilities Act to the extent that
23 such activities are subject to a clearly articulated and
24 affirmatively expressed State policy to replace competition
25 with regulation, where the conduct to be exempted is actively
26 supervised by the State itself;

27 (4) The activities of a telecommunications carrier, as
28 defined in Section 13-202 of the Public Utilities Act, to the
29 extent those activities relate to the provision of
30 noncompetitive telecommunications services under the Public
31 Utilities Act and are subject to the jurisdiction of the
32 Illinois Commerce Commission or to the activities of telephone
33 mutual concerns referred to in Section 13-202 of the Public
34 Utilities Act to the extent those activities relate to the

1 provision and maintenance of telephone service to owners and
2 customers;

3 (5) the activities (including, but not limited to, the
4 making of or participating in joint underwriting or joint
5 reinsurance arrangement) of any insurer, insurance agent,
6 insurance broker, independent insurance adjuster or rating
7 organization to the extent that such activities are subject to
8 regulation by the Secretary of Financial and Professional
9 Regulation ~~Director of Insurance~~ of this State under, or are
10 permitted or are authorized by, the Insurance Code or any other
11 law of this State;

12 (6) the religious and charitable activities of any
13 not-for-profit corporation, trust or organization established
14 exclusively for religious or charitable purposes, or for both
15 purposes;

16 (7) the activities of any not-for-profit corporation
17 organized to provide telephone service on a mutual or
18 co-operative basis or electrification on a co-operative basis,
19 to the extent such activities relate to the marketing and
20 distribution of telephone or electrical service to owners and
21 customers;

22 (8) the activities engaged in by securities dealers who are
23 (i) licensed by the State of Illinois or (ii) members of the
24 National Association of Securities Dealers or (iii) members of
25 any National Securities Exchange registered with the
26 Securities and Exchange Commission under the Securities
27 Exchange Act of 1934, as amended, in the course of their
28 business of offering, selling, buying and selling, or otherwise
29 trading in or underwriting securities, as agent, broker, or
30 principal, and activities of any National Securities Exchange
31 so registered, including the establishment of commission rates
32 and schedules of charges;

33 (9) the activities of any board of trade designated as a
34 "contract market" by the Secretary of Agriculture of the United
35 States pursuant to Section 5 of the Commodity Exchange Act, as
36 amended;

1 (10) the activities of any motor carrier, rail carrier, or
2 common carrier by pipeline, as defined in the Common Carrier by
3 Pipeline Law of the Public Utilities Act, to the extent that
4 such activities are permitted or authorized by the Act or are
5 subject to regulation by the Illinois Commerce Commission;

6 (11) the activities of any state or national bank to the
7 extent that such activities are regulated or supervised by
8 officers of the state or federal government under the banking
9 laws of this State or the United States;

10 (12) the activities of any state or federal savings and
11 loan association to the extent that such activities are
12 regulated or supervised by officers of the state or federal
13 government under the savings and loan laws of this State or the
14 United States;

15 (13) the activities of any bona fide not-for-profit
16 association, society or board, of attorneys, practitioners of
17 medicine, architects, engineers, land surveyors or real estate
18 brokers licensed and regulated by an agency of the State of
19 Illinois, in recommending schedules of suggested fees, rates or
20 commissions for use solely as guidelines in determining charges
21 for professional and technical services;

22 (14) Conduct involving trade or commerce (other than import
23 trade or import commerce) with foreign nations unless:

24 (a) such conduct has a direct, substantial, and
25 reasonably foreseeable effect:

26 (i) on trade or commerce which is not trade or
27 commerce with foreign nations, or on import trade or
28 import commerce with foreign nations; or

29 (ii) on export trade or export commerce with
30 foreign nations of a person engaged in such trade or
31 commerce in the United States; and

32 (b) such effect gives rise to a claim under the
33 provisions of this Act, other than this subsection (14).

34 (c) If this Act applies to conduct referred to in this
35 subsection (14) only because of the provisions of paragraph
36 (a) (ii), then this Act shall apply to such conduct only for

1 injury to export business in the United States which
2 affects this State; or

3 (15) the activities of a unit of local government or school
4 district and the activities of the employees, agents and
5 officers of a unit of local government or school district.

6 (Source: P.A. 90-185, eff. 7-23-97; 90-561, eff. 12-16-97.)

7 Section 9820. The Sexual Exploitation in Psychotherapy,
8 Professional Health Services, and Professional Mental Health
9 Services Act is amended by changing Section 1 as follows:

10 (740 ILCS 140/1) (from Ch. 70, par. 801)

11 Sec. 1. Definitions. In this Act:

12 (a) "Emotionally dependent" means that the nature of the
13 patient's or former patient's emotional condition and the
14 nature of the treatment provided by the psychotherapist,
15 unlicensed health professional, or unlicensed mental health
16 professional are such that the psychotherapist, unlicensed
17 health professional, or unlicensed mental health professional
18 knows or has reason to believe that the patient or former
19 patient is unable to withhold consent to sexual contact by the
20 psychotherapist, unlicensed health professional, or unlicensed
21 mental health professional.

22 (b) "Former patient" means a person who was given
23 psychotherapy within 1 year prior to sexual contact with the
24 psychotherapist or who obtained a professional consultation or
25 diagnostic or therapeutic service from an unlicensed health
26 professional or unlicensed mental health professional within
27 one year prior to sexual contact with the unlicensed health
28 professional or unlicensed mental health professional.

29 (c) "Patient" means a person who seeks or obtains
30 psychotherapy or who obtains a professional consultation or
31 diagnostic or therapeutic service from an unlicensed health
32 professional or unlicensed mental health professional.

33 (d) "Psychotherapist" means a physician, psychologist,
34 nurse, chemical dependency counselor, social worker, or other

1 person, whether or not licensed by the State, who performs or
2 purports to perform psychotherapy.

3 (e) "Psychotherapy" means the professional treatment,
4 assessment, or counseling of a mental or emotional illness,
5 symptom, or condition. "Psychotherapy" does not include
6 counseling of a spiritual or religious nature, social work, or
7 casual advice given by a friend or family member.

8 (f) "Sexual contact" means any of the following, whether or
9 not occurring with the consent of a patient or former patient:

10 (1) sexual intercourse, cunnilingus, fellatio, anal
11 intercourse or any intrusion, however slight, into the
12 genital or anal openings of the patient's or former
13 patient's body by any part of the psychotherapist's,
14 unlicensed health professional's, or unlicensed mental
15 health professional's body or by any object used by the
16 psychotherapist, unlicensed health professional, or
17 unlicensed mental health professional for that purpose, or
18 any intrusion, however slight, into the genital or anal
19 openings of the psychotherapist's, unlicensed health
20 professional's, or unlicensed mental health professional's
21 body by any part of the patient's or former patient's body
22 or by any object used by the patient or former patient for
23 that purpose, if agreed to by the psychotherapist,
24 unlicensed health professional, or unlicensed mental
25 health professional;

26 (2) kissing or intentional touching by the
27 psychotherapist, unlicensed health professional, or
28 unlicensed mental health professional of the patient's or
29 former patient's genital area, groin, inner thigh,
30 buttocks, or breast or the clothing covering any of these
31 body parts;

32 (3) kissing or intentional touching by the patient or
33 former patient of the psychotherapist's, unlicensed health
34 professional's, or unlicensed mental health professional's
35 genital area, groin, inner thigh, buttocks, or breast or
36 the clothing covering any of these body parts if the

1 psychotherapist, unlicensed health professional, or
2 unlicensed mental health professional agrees to the
3 kissing or intentional touching.

4 "Sexual contact" includes a request by the
5 psychotherapist, unlicensed health professional, or unlicensed
6 mental health professional for conduct described in paragraphs
7 (1) through (3).

8 "Sexual contact" does not include conduct described in
9 paragraph (1) or (2) that is a part of standard medical
10 treatment of a patient, casual social contact not intended to
11 be sexual in character, or inadvertent touching.

12 (g) "Therapeutic deception" means a representation by a
13 psychotherapist, unlicensed health professional, or unlicensed
14 mental health professional that sexual contact with the
15 psychotherapist, unlicensed health professional, or unlicensed
16 mental health professional is consistent with or part of the
17 patient's or former patient's treatment.

18 (h) "Unlicensed health professional" means a person who is
19 not licensed or registered to provide health services by the
20 Department of Financial and Professional Regulation or its
21 predecessor, the Department of Professional Regulation, or a
22 board of registration duly authorized to grant licenses or
23 registration to persons engaged in the practice of providing
24 health services or whose license or registration to provide
25 health services has been returned or revoked by the Department
26 or that board.

27 (i) "Unlicensed mental health professional" means a person
28 who is not licensed or registered to provide mental health
29 services by the Department of Financial and Professional
30 Regulation or its predecessor, the Department of Professional
31 Regulation, or a board of registration duly authorized to grant
32 licenses or registration to persons engaged in the practice of
33 providing mental health services or whose license or
34 registration to provide mental health services has been
35 returned or revoked by the Department or that board.

36 (Source: P.A. 90-538, eff. 12-1-97.)

1 Section 9825. The Local Governmental and Governmental
2 Employees Tort Immunity Act is amended by changing Section
3 9-103 as follows:

4 (745 ILCS 10/9-103) (from Ch. 85, par. 9-103)

5 Sec. 9-103. (a) A local public entity may protect itself
6 against any property damage or against any liability or loss
7 which may be imposed upon it or one of its employees for a
8 tortious act under Federal or State common or statutory law, or
9 imposed upon it under the Workers' Compensation Act, the
10 Workers' Occupational Diseases Act, or the Unemployment
11 Insurance Act by means including, but not limited to,
12 insurance, individual or joint self-insurance, including all
13 operating and administrative costs and expenses directly
14 associated therewith, claims services and risk management
15 directly attributable to loss prevention and loss reduction,
16 legal services directly attributable to the insurance,
17 self-insurance, or joint self-insurance program, educational,
18 inspectional, and supervisory services directly relating to
19 loss prevention and loss reduction, or participation in a
20 reciprocal insurer as provided in Sections 72, 76 and 81 of the
21 Illinois Insurance Code. Insurance shall be carried with a
22 company authorized by the Department of Insurance or its
23 successor, the Department of Financial and Professional
24 Regulation, to write such insurance coverage in Illinois.

25 (a-5) A local public entity may individually or jointly
26 self-insure provided it complies with any other statutory
27 requirements specifically related to individual or joint
28 self-insurance by local public entities. Whenever the terms
29 "self-insure" or "self-insurance" are utilized within this
30 Act, such term shall apply to both individual and joint
31 self-insurance. The expenditure of funds of a local public
32 entity to protect itself or its employees against liability is
33 proper for any local public entity. A local public entity that
34 has individually self-insured may establish reserves for

1 expected losses for any liability or loss for which the local
2 public entity is authorized to purchase insurance under this
3 Act. The decision of the local public entity to establish a
4 reserve and the amount of the reserve shall be based on
5 reasonable actuarial or insurance underwriting evidence.
6 Property taxes shall not be levied or extended if the effect is
7 to increase the reserve beyond 125% of the actuary's or
8 insurance underwriter's estimated ultimate losses at the 95%
9 confidence level. Certification of the amount of the reserve
10 shall be made by the independent auditor, actuary, or insurance
11 underwriter and included in an annual report. The annual report
12 shall also list all expenditures from the reserve or from
13 property taxes levied or extended for tort immunity purposes.
14 Total claims payments and total reserves must be listed in
15 aggregate amounts. All other expenditures must be identified
16 individually. A local public entity that maintains a
17 self-insurance reserve or that levies and extends a property
18 tax for tort immunity purposes must include in its audit or
19 annual report any expenditures made from the property tax levy
20 or self-insurance reserve within the scope of the audit or
21 annual report.

22 (b) A local public entity may contract for or purchase any
23 of the guaranteed fund certificates or shares of guaranteed
24 capital as provided for in Section 56 of the Illinois Insurance
25 Code. The expenditure of funds of the local public entity for
26 said contract or purchase is proper for any local public
27 entity.

28 (c) Any insurance company that provides insurance coverage
29 to a local public entity shall utilize any immunities or may
30 assert any defenses to which the insured local public entity or
31 its employees are entitled. Public entities which are
32 individually or jointly self-insured shall be entitled to
33 assert all of the immunities provided by this Act or by common
34 law or statute on behalf of themselves or their employees
35 unless the local public entities shall elect by action of their
36 corporate authorities or specifically contract to waive in

1 whole or in part such immunities.

2 (d) Within 30 days after January 1, 1991, and within 30
3 days after each January 1 thereafter, local public entities
4 that are individually or jointly self-insured to protect
5 against liability under the Workers' Compensation Act and the
6 Workers' Occupational Diseases Act shall file with the Illinois
7 Workers' Compensation Commission a report indicating an
8 election to self-insure.

9 (Source: P.A. 93-721, eff. 1-1-05.)

10 Section 9830. The Non-Support Punishment Act is amended by
11 changing Section 50 as follows:

12 (750 ILCS 16/50)

13 Sec. 50. Community service; work alternative program.

14 (a) In addition to any other penalties imposed against an
15 offender under this Act, the court may order the offender to
16 perform community service for not less than 30 and not more
17 than 120 hours per month, if community service is available in
18 the jurisdiction and is funded and approved by the county board
19 of the county where the offense was committed. In addition,
20 whenever any person is placed on supervision for committing an
21 offense under this Act, the supervision shall be conditioned on
22 the performance of the community service.

23 (b) In addition to any other penalties imposed against an
24 offender under this Act, the court may sentence the offender to
25 service in a work alternative program administered by the
26 sheriff. The conditions of the program are that the offender
27 obtain or retain employment and participate in a work
28 alternative program administered by the sheriff during
29 non-working hours. A person may not be required to participate
30 in a work alternative program under this subsection if the
31 person is currently participating in a work program pursuant to
32 another provision of this Act, Section 10-11.1 of the Illinois
33 Public Aid Code, Section 505.1 of the Illinois Marriage and
34 Dissolution of Marriage Act, or Section 15.1 of the Illinois

1 Parentage Act of 1984.

2 (c) In addition to any other penalties imposed against an
3 offender under this Act, the court may order, in cases where
4 the offender has been in violation of this Act for 90 days or
5 more, that the offender's Illinois driving privileges be
6 suspended until the court determines that the offender is in
7 compliance with this Act.

8 The court may determine that the offender is in compliance
9 with this Act if the offender has agreed (i) to pay all
10 required amounts of support and maintenance as determined by
11 the court or (ii) to the garnishment of his or her income for
12 the purpose of paying those amounts.

13 The court may also order that the offender be issued a
14 family financial responsibility driving permit that would
15 allow limited driving privileges for employment and medical
16 purposes in accordance with Section 7-702.1 of the Illinois
17 Vehicle Code. The clerk of the circuit court shall certify the
18 order suspending the driving privileges of the offender or
19 granting the issuance of a family financial responsibility
20 driving permit to the Secretary of State on forms prescribed by
21 the Secretary. Upon receipt of the authenticated documents, the
22 Secretary of State shall suspend the offender's driving
23 privileges until further order of the court and shall, if
24 ordered by the court, subject to the provisions of Section
25 7-702.1 of the Illinois Vehicle Code, issue a family financial
26 responsibility driving permit to the offender.

27 (d) If the court determines that the offender has been in
28 violation of this Act for more than 60 days, the court may
29 determine whether the offender has applied for or been issued a
30 professional license by the Department of Financial and
31 Professional Regulation or its predecessor, the Department of
32 Professional Regulation, or another licensing agency. If the
33 court determines that the offender has applied for or been
34 issued such a license, the court may certify to the Department
35 of Financial and Professional Regulation or other licensing
36 agency that the offender has been in violation of this Act for

1 more than 60 days so that the Department or other agency may
2 take appropriate steps with respect to the license or
3 application as provided in Section 10-65 of the Illinois
4 Administrative Procedure Act and Section 2105-15 of the
5 Department of Financial and Professional Regulation
6 (Professional Regulation) Law of the Civil Administrative Code
7 of Illinois. The court may take the actions required under this
8 subsection in addition to imposing any other penalty authorized
9 under this Act.

10 (Source: P.A. 91-613, eff. 10-1-99; 92-651, eff. 7-11-02.)

11 Section 9835. The Trusts and Trustees Act is amended by
12 changing Section 21 as follows:

13 (760 ILCS 5/21)

14 Sec. 21. Reliance on Secretary of Financial and
15 Professional Regulation or predecessor ~~Commissioner of Banks~~
16 ~~and Real Estate~~. No trustee or other person shall be liable
17 under this Act for any act done or omitted in good faith in
18 conformity with any rule, interpretation, or opinion issued by
19 the Secretary of Financial and Professional Regulation or the
20 Secretary's predecessor, the Commissioner of Banks and Real
21 Estate, notwithstanding that after the act or omission has
22 occurred, the rule, opinion, or interpretation upon which
23 reliance is placed is amended, rescinded, or determined by
24 judicial or other authority to be invalid for any reason.

25 (Source: P.A. 90-161, eff. 7-23-97.)

26 Section 9840. The Common Trust Fund Act is amended by
27 changing Section 8 as follows:

28 (760 ILCS 45/8)

29 Sec. 8. Reliance on Secretary of Financial and Professional
30 Regulation or predecessor ~~Commissioner of Banks and Real~~
31 ~~Estate~~. No fiduciary or other person shall be liable under this
32 Act for any act done or omitted in good faith in conformity

1 with any rule, interpretation, or opinion issued by the
2 Secretary of Financial and Professional Regulation or the
3 Secretary's predecessor, the Commissioner of Banks and Real
4 Estate, notwithstanding that after the act or omission has
5 occurred, the rule, opinion, or interpretation upon which
6 reliance is placed is amended, rescinded, or determined by
7 judicial or other authority to be invalid for any reason.

8 (Source: P.A. 90-161, eff. 7-23-97.)

9 Section 9850. The Land Sales Registration Act of 1999 is
10 amended by adding Section 1-3 as follows:

11 (765 ILCS 86/1-3 new)

12 Sec. 1-3. References to Office or Commissioner of Banks and
13 Real Estate. On and after the effective date of this amendatory
14 Act of the 94th General Assembly:

15 (1) References in this Act to the Office of Banks and
16 Real Estate or "the Office" mean the Department of
17 Financial and Professional Regulation.

18 (2) References in this Act to the Commissioner of Banks
19 and Real Estate or "the Commissioner" mean the Secretary of
20 Financial and Professional Regulation.

21 Section 9855. The Real Estate Timeshare Act of 1999 is
22 amended by adding Section 1-2 as follows:

23 (765 ILCS 101/1-2 new)

24 Sec. 1-2. References to Office or Commissioner of Banks and
25 Real Estate. On and after the effective date of this amendatory
26 Act of the 94th General Assembly:

27 (1) References in this Act to the Office of Banks and
28 Real Estate or "the Office" mean the Department of
29 Financial and Professional Regulation.

30 (2) References in this Act to the Commissioner of Banks
31 and Real Estate or "the Commissioner" mean the Secretary of
32 Financial and Professional Regulation.

1 Section 9860. The Condominium Property Act is amended by
2 changing Section 12.1 as follows:

3 (765 ILCS 605/12.1) (from Ch. 30, par. 312.1)

4 Sec. 12.1. Insurance risk pooling trusts.

5 (a) This Section shall be known and may be cited as the
6 Condominium and Common Interest Community Risk Pooling Trust
7 Act.

8 (b) The boards of managers or boards of directors, as the
9 case may be, of two or more condominium associations or common
10 interest community associations, are authorized to establish,
11 with the unit owners and the condominium or common interest
12 community associations as the beneficiaries thereof, a trust
13 fund for the purpose of providing protection of the
14 participating condominium and common interest community
15 associations against the risk of financial loss due to damage
16 to, destruction of or loss of property, or the imposition of
17 legal liability as required or authorized under this Act or the
18 declaration of the condominium or common interest community
19 association.

20 (c) The trust fund shall be established and amended only by
21 a written instrument which shall be filed with and approved by
22 the Secretary of Financial and Professional Regulation
23 ~~Director of Insurance~~ prior to its becoming effective.

24 (d) No association shall be a beneficiary of the trust fund
25 unless it shall be incorporated under the laws of this State.

26 (e) The trust fund is authorized to indemnify the
27 condominium and common interest community association
28 beneficiaries thereof against the risk of loss due to damage,
29 destruction or loss to property or imposition of legal
30 liability as required or authorized under this Act or the
31 declaration of the condominium or common interest community
32 association.

33 (f) Risks assumed by the trust fund may be pooled and
34 shared with other trust funds established under this Section.

1 (g) (Blank).

2 (h) (Blank).

3 (i) No trustee of the trust fund shall be paid a salary or
4 receive other compensation, except that the written trust
5 instrument may provide for reimbursement for actual expenses
6 incurred on behalf of the trust fund.

7 (j) (Blank).

8 (k) (Blank).

9 (l) (Blank).

10 (m) Each trust fund shall file annually with the Secretary
11 of Financial and Professional Regulation ~~Director of Insurance~~
12 a full independently audited financial statement.

13 (n) (Blank).

14 (o) (Blank).

15 (p) (Blank).

16 (q) (Blank).

17 (r) (Blank).

18 (s) The Secretary of Financial and Professional Regulation
19 ~~Director of Insurance~~ shall have with respect to trust funds
20 established under this Section the powers of examination
21 conferred upon him relative to insurance companies by Section
22 132 of the Illinois Insurance Code.

23 (t) (Blank).

24 (u) (Blank).

25 (v) Trust funds established under and which fully comply
26 with this Section shall not be considered member insurance
27 companies or to be in the business of insurance nor shall the
28 provision of Article XXXIV of the Illinois Insurance Code apply
29 to any such trust fund established under this Section.

30 (w) (Blank).

31 (x) The Secretary of Financial and Professional Regulation
32 ~~Director of Insurance~~ shall adopt reasonable rules pertaining
33 to the standards of coverage and administration of trust funds
34 authorized under this Section.

35 (Source: P.A. 92-518, eff. 6-1-02.)

1 Section 9865. The Uniform Disposition of Unclaimed
2 Property Act is amended by changing Sections 0.05, 11, 23, and
3 26 as follows:

4 (765 ILCS 1025/0.05)

5 Sec. 0.05. Transfer of powers.

6 (a) The rights, powers, duties, and functions vested in the
7 Department of Financial Institutions to administer this Act are
8 transferred to the State Treasurer on July 1, 1999 in
9 accordance with Sections 0.02 through 0.06 of the State
10 Treasurer Act; provided, however, that the rights, powers,
11 duties, and functions involving the examination of the records
12 of any person that the State Treasurer has reason to believe
13 has failed to report properly under this Act shall be
14 transferred to the Office of Banks and Real Estate if the
15 person is regulated by the Office of Banks and Real Estate
16 under the Illinois Banking Act, the Corporate Fiduciary Act,
17 the Foreign Banking Office Act, the Illinois Savings and Loan
18 Act of 1985, or the Savings Bank Act and shall be retained by
19 the Department of Financial Institutions if the person is doing
20 business in the State under the supervision of the Department
21 of Financial Institutions, the National Credit Union
22 Administration, the Office of Thrift Supervision, or the
23 Comptroller of the Currency.

24 (b) The rights, powers, duties, and functions transferred
25 to the Office of Banks and Real Estate or retained by the
26 Department of Financial Institutions under this Section are
27 subject to the Department of Financial and Professional
28 Regulation Act.

29 (Source: P.A. 91-16, eff. 6-4-99.)

30 (765 ILCS 1025/11) (from Ch. 141, par. 111)

31 Sec. 11. Report of holder.

32 (a) Except as otherwise provided in subsection (c) of
33 Section 4, every person holding funds or other property,
34 tangible or intangible, presumed abandoned under this Act shall

1 report and remit all abandoned property specified in the report
2 to the State Treasurer with respect to the property as
3 hereinafter provided. The State Treasurer may exempt any
4 businesses from the reporting requirement if he deems such
5 businesses unlikely to be holding unclaimed property.

6 (b) The information shall be obtained in one or more
7 reports as required by the State Treasurer. The information
8 shall be verified and shall include:

9 (1) the name, social security or federal tax
10 identification number, if known, and last known address,
11 including zip code, of each person appearing from the
12 records of the holder to be the owner of any property of
13 the value of \$25 or more presumed abandoned under this Act;

14 (2) in case of unclaimed funds of life insurance
15 corporations the full name of the insured and any
16 beneficiary or annuitant and the last known address
17 according to the life insurance corporation's records;

18 (3) the date when the property became payable,
19 demandable, or returnable, and the date of the last
20 transaction with the owner with respect to the property;
21 and

22 (4) other information which the State Treasurer
23 prescribes by rule as necessary for the administration of
24 this Act.

25 (c) If the person holding property presumed abandoned is a
26 successor to other persons who previously held the property for
27 the owner, or if the holder has changed his name while holding
28 the property, he shall file with his report all prior known
29 names and addresses of each holder of the property.

30 (d) The report and remittance of the property specified in
31 the report shall be filed by banking organizations, financial
32 organizations, insurance companies other than life insurance
33 corporations, and governmental entities before November 1 of
34 each year as of June 30 next preceding. The report and
35 remittance of the property specified in the report shall be
36 filed by business associations, utilities, and life insurance

1 corporations before May 1 of each year as of December 31 next
2 preceding. The Director may postpone the reporting date upon
3 written request by any person required to file a report.

4 (d-5) Notwithstanding the foregoing, currency exchanges
5 shall be required to report and remit property specified in the
6 report within 30 days after the conclusion of its annual
7 examination by the Department of Financial and Professional
8 Regulation Institutions. As part of the examination of a
9 currency exchange, the Department of Financial and
10 Professional Regulation Institutions shall instruct the
11 currency exchange to submit a complete unclaimed property
12 report using the State Treasurer's formatted diskette
13 reporting program or an alternative reporting format approved
14 by the State Treasurer. The Department of Financial and
15 Professional Regulation Institutions shall provide the State
16 Treasurer with an accounting of the money orders located in the
17 course of the annual examination including, where available,
18 the amount of service fees deducted and the date of the
19 conclusion of the examination.

20 (e) Before filing the annual report, the holder of property
21 presumed abandoned under this Act shall communicate with the
22 owner at his last known address if any address is known to the
23 holder, setting forth the provisions hereof necessary to occur
24 in order to prevent abandonment from being presumed. If the
25 holder has not communicated with the owner at his last known
26 address at least 120 days before the deadline for filing the
27 annual report, the holder shall mail, at least 60 days before
28 that deadline, a letter by first class mail to the owner at his
29 last known address unless any address is shown to be
30 inaccurate, setting forth the provisions hereof necessary to
31 prevent abandonment from being presumed.

32 (f) Verification, if made by a partnership, shall be
33 executed by a partner; if made by an unincorporated association
34 or private corporation, by an officer; and if made by a public
35 corporation, by its chief fiscal officer.

36 (g) Any person who has possession of property which he has

1 reason to believe will be reportable in the future as unclaimed
2 property, may report and deliver it prior to the date required
3 for such reporting in accordance with this Section and is then
4 relieved of responsibility as provided in Section 14.

5 (h) (1) Records pertaining to presumptively abandoned
6 property held by a trust division or trust department or by a
7 trust company, or affiliate of any of the foregoing that
8 provides nondealer corporate custodial services for securities
9 or securities transactions, organized under the laws of this or
10 another state or the United States shall be retained until the
11 property is delivered to the State Treasurer.

12 As of January 1, 1998, this subdivision (h) (1) shall not be
13 applicable unless the Department of Financial Institutions has
14 commenced, but not finalized, an examination of the holder as
15 of that date and the property is included in a final
16 examination report for the period covered by the examination.

17 (2) In the case of all other holders commencing on the
18 effective date of this amendatory Act of 1993, property records
19 for the period required for presumptive abandonment plus the 9
20 years immediately preceding the beginning of that period shall
21 be retained for 5 years after the property was reportable.

22 (i) The State Treasurer may promulgate rules establishing
23 the format and media to be used by a holder in submitting
24 reports required under this Act.

25 (j) Other than the Notice to Owners required by Section 12
26 and other discretionary means employed by the State Treasurer
27 for notifying owners of the existence of abandoned property,
28 the State Treasurer shall not disclose any information provided
29 in reports filed with the State Treasurer or any information
30 obtained in the course of an examination by the State Treasurer
31 to any person other than governmental agencies for the purposes
32 of returning abandoned property to its owners or to those
33 individuals who appear to be the owner of the property or
34 otherwise have a valid claim to the property, unless written
35 consent from the person entitled to the property is obtained by
36 the State Treasurer.

1 (Source: P.A. 92-271, eff. 8-7-01; 93-531, eff. 8-14-03.)

2 (765 ILCS 1025/23) (from Ch. 141, par. 123)

3 Sec. 23. (a) If the State Treasurer has reason to believe
4 that any person has failed to report property in accordance
5 with this Act, he may make a demand by certified mail, return
6 receipt requested, that such report be made and filed with the
7 State Treasurer. The report of abandoned property or any other
8 report required shall be made and filed with the State
9 Treasurer within 30 days after receipt of the demand.

10 (b) The State may at reasonable times and upon reasonable
11 notice examine the records of any person if the State Treasurer
12 has reason to believe that such person has failed to report
13 property that should have been reported pursuant to this Act.
14 Upon the direction of the State Treasurer to do so, the
15 Department of Financial and Professional Regulation ~~Office of~~
16 ~~Banks and Real Estate~~ shall, on behalf of the State, conduct
17 the examination of the records of any person who is regulated
18 by the Department of Financial and Professional Regulation
19 ~~Office of Banks and Real Estate~~ under the Illinois Banking Act,
20 the Corporate Fiduciary Act, the Foreign Banking Office Act,
21 the Illinois Savings and Loan Act of 1985, or the Savings Bank
22 Act. Upon direction of the State Treasurer to do so, the
23 Department of Financial and Professional Regulation
24 ~~Institutions~~ shall, on behalf of the State, conduct the
25 examination of the records of any person doing business in the
26 State under the supervision of the Department of Financial and
27 Professional Regulation ~~Institutions~~, the National Credit
28 Union Administration, the Office of Thrift Supervision, or the
29 Comptroller of the Currency. The ~~Office of Banks and Real~~
30 ~~Estate and the~~ Department of Financial and Professional
31 Regulation ~~Institutions~~ shall conduct all examinations during
32 the next regular examination of the person, unless the State
33 Treasurer has reason to believe that an accelerated examination
34 schedule is required to protect the State's interest, in which
35 case the examination must be conducted within 90 days of the

1 State Treasurer's direction to do so. The ~~Office of Banks and~~
2 ~~Real Estate and the~~ Department of Financial and Professional
3 Regulation Institutions may contract with third parties to
4 ensure that the examinations are commenced in a timely manner.
5 The Department of Financial and Professional Regulation
6 ~~Institutions and the Office of Banks and Real Estate~~ shall
7 report the results of all examinations that are undertaken at
8 the direction of the State Treasurer under this Act, which may
9 include confidential information, to the State Treasurer in a
10 timely manner and, upon the request of the Treasurer, shall
11 assist in the evaluation of the examinations. All examinations
12 that are not performed by the ~~Office of Banks and Real Estate~~
13 ~~or the~~ Department of Financial and Professional Regulation
14 ~~Institutions~~ shall be performed by the State Treasurer.

15 (c) The actual cost of any examination or investigation
16 incurred by the State in administering any provision of this
17 Act shall be borne by the holder examined or investigated if:

18 (1) a written demand for a report has been made and the
19 report has not been properly filed within the time period
20 specified in this Section, or

21 (2) a report has been received and additional property
22 reportable under the Act is discovered by such examination
23 or investigation.

24 No holder shall be liable to pay more than an amount equal
25 to the amount of reportable property discovered by such
26 investigation as a cost of examination or investigation.

27 (d) For all holders other than a trust division, a trust
28 department, a trust company, or an affiliate of any of them,
29 subsection (c) does not apply to any examination commenced
30 after the effective date of this amendatory Act of 1993. As of
31 January 1, 1998, subsection (c) does not apply to an
32 examination of a trust division or trust department or a trust
33 company, or affiliate of any of the foregoing that provides
34 nondealer corporate custodial services for securities or
35 securities transactions, organized under the laws of this or
36 another state or the United States unless the Department of

1 Financial Institutions has commenced, but not finalized, an
2 examination of the holder as of that date and the property is
3 included in a final examination report for the period covered
4 by the examination.

5 (Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

6 (765 ILCS 1025/26) (from Ch. 141, par. 126)

7 Sec. 26. The State Treasurer and the Secretary of Financial
8 and Professional Regulation, ~~Director of Financial~~
9 ~~Institutions, and the Commissioner of Banks and Real Estate~~ are
10 hereby authorized to make necessary rules and regulations to
11 carry out the provisions of this Act.

12 (Source: P.A. 91-16, eff. 7-1-99.)

13 Section 9870. The Business Corporation Act of 1983 is
14 amended by changing Sections 1.70, 1.80, 3.05, 4.05, and 11.32
15 as follows:

16 (805 ILCS 5/1.70) (from Ch. 32, par. 1.70)

17 Sec. 1.70. Miscellaneous applications.

18 (a) Application to existing corporations organized under
19 general laws. The provisions of this Act shall apply to all
20 existing corporations, including public utility corporations,
21 organized under any general law of this State providing for the
22 organization of corporations for a purpose or purposes for
23 which a corporation might be organized under this Act.

24 (b) Application to existing corporations organized under
25 special Acts. All corporations, including public utility
26 corporations, heretofore organized for profit under any
27 special law of this State, for a purpose or purposes for which
28 a corporation might be organized under this Act, shall be
29 entitled to the rights, privileges, immunities, and franchises
30 provided by this Act.

31 (c) Application of Act to domestic railroad corporations.
32 Corporations organized under the laws of this State for the
33 purpose of operating any railroad in this State shall be

1 subject to the following provisions of this Act regardless of
2 whether or not such corporations have been reincorporated under
3 provisions of this Act:

4 (1) Section 3.10(m), relating to the donations for the
5 public welfare or for charitable, scientific, religious or
6 educational purposes.

7 (2) Sections 12.05, 12.10, 12.15, 12.20, 12.25 and
8 12.30, relating to voluntary dissolution.

9 (3) Sections 12.35, 12.40, 12.45 and 12.50(a),
10 relating to administrative or judicial dissolution.

11 (4) Section 12.80 relating to survival of remedy after
12 dissolution.

13 (5) Sections 14.05 and 14.10 relating to annual report
14 of domestic corporations.

15 (6) Section 14.20 relating to reports of domestic
16 corporations with respect to issuance of shares.

17 (7) Sections 16.50 and 16.10 relating to penalties for
18 failure to file reports.

19 (8) Sections 1.05, 1.10, 1.20, 1.25, 1.35, 1.40, 1.45,
20 7.10, 7.20, 8.45, 15.05, 15.10, 15.15, 15.20, 15.25, 15.30,
21 15.35, 15.40, 15.45, 15.50, 15.80 and 15.85 relating to
22 fees for filing documents and issuing certificates,
23 license fees, franchise taxes, and miscellaneous charges
24 payable by domestic corporations, recording documents,
25 waiver of notice, action by shareholders, and or informal
26 action by directors, appeal from Secretary of State,
27 receipt in evidence of certificates and certified copies of
28 certain document forms, and powers of Secretary of State.

29 Corporations organized under the provisions of this Act, or
30 which were organized under the provisions of any other general
31 or special laws of this State and later reincorporated under
32 the provisions of this Act, for the purpose of operating any
33 railroad in this State, shall be entitled to the rights,
34 privileges, immunities, and franchises provided by this Act and
35 shall be in all respects governed by this Act unless otherwise
36 specified herein.

1 (d) Application to co-operative associations. Any
2 corporation organized under any general or special law of this
3 State as a co-operative association shall be entitled to the
4 benefits of this Act and shall be subject to all the provisions
5 hereof, in so far as they are not in conflict with the general
6 law or special Act under which it was organized, upon the
7 holders of two-thirds of its outstanding shares having voted to
8 accept the benefits of this Act and to be subject to all the
9 provisions hereof, except in so far as they may be in conflict
10 with the general or special law under which it was organized,
11 and the filing in the office of the Secretary of State of a
12 certificate setting forth such fact. Such certificate shall be
13 executed by such co-operative association by its president or
14 vice-president, and verified by him or her, attested by its
15 secretary or an assistant secretary. The notice of the meeting
16 at which such vote is taken, which may be either an annual or a
17 special meeting of shareholders, shall set forth that a vote
18 will be taken at such meeting on the acceptance by such
19 co-operative association of the provisions of this Act.

20 (e) Application of Act in certain cases. Nothing contained
21 in this Act shall be held or construed to:

22 (1) Authorize or permit the Illinois Central Railroad
23 Company to sell the railway constructed under its charter
24 approved February 10, 1851, or to mortgage the same except
25 subject to the rights of the State under its contract with
26 said company, contained in its said charter, or to dissolve
27 its corporate existence, or to relieve itself or its
28 corporate property from its obligations to the State, under
29 the provisions of said charter; nor shall anything herein
30 contained be so construed as to in any manner relieve or
31 discharge any railroad company, organized under the laws of
32 this State, from the duties or obligations imposed by
33 virtue of any statute now in force or hereafter enacted.

34 (2) Alter, modify, release, or impair the rights of
35 this State as now reserved to it in any railroad charter
36 heretofore granted, or to affect in any way the rights or

1 obligations of any railroad company derived from or imposed
2 by such charter.

3 (3) Alter, modify, or repeal any of the provisions of
4 the Public Utilities Act. The term "public utility" or
5 "public utilities" as used in this Act shall be the same as
6 defined in the Public Utilities Act.

7 (f) Application of Act to foreign and interstate commerce.
8 The provisions of this Act shall apply to commerce with foreign
9 nations and among the several states only in so far as the same
10 may be permitted under the provisions of the Constitution of
11 the United States.

12 (g) Requirement before incorporation of trust company.
13 Articles of incorporation for the organization of a corporation
14 for the purpose of accepting and executing trusts shall not be
15 filed by the Secretary of State until there is delivered to him
16 or her a statement executed by the Secretary of Financial and
17 Professional Regulation or the Secretary's predecessor, the
18 Commissioner of Banks and Real Estate, that the incorporators
19 of the corporation have made arrangements with the Secretary of
20 Financial and Professional Regulation or the Commissioner of
21 Banks and Real Estate to comply with the Corporate Fiduciary
22 Act.

23 (h) Application of certain existing acts. Corporations
24 organized under the laws of this State for the purpose of
25 accepting and executing trusts shall be subject to the
26 provisions of the Corporate Fiduciary Act.

27 Corporations organized for the purpose of building,
28 operating, and maintaining within this State any levee, canal,
29 or tunnel for agricultural, mining, or sanitary purposes, shall
30 be subject to the provisions of the Corporation Canal
31 Construction Act.

32 In any profession or occupation licensed by the Illinois
33 Department of Agriculture, the Department may, in determining
34 financial ratios and allowable assets, disregard notes and
35 accounts receivable to the corporate licensee from its officers
36 or directors or a parent or subsidiary corporation of such

1 licensee or any receivable owing to a licensee corporation from
2 an unincorporated division of the licensee or any share
3 subscription right owing to a corporation from its
4 shareholders.

5 (Source: P.A. 88-151; 89-508, eff. 7-3-96.)

6 (805 ILCS 5/1.80) (from Ch. 32, par. 1.80)

7 Sec. 1.80. Definitions. As used in this Act, unless the
8 context otherwise requires, the words and phrases defined in
9 this Section shall have the meanings set forth herein.

10 (a) "Corporation" or "domestic corporation" means a
11 corporation subject to the provisions of this Act, except a
12 foreign corporation.

13 (b) "Foreign corporation" means a corporation for profit
14 organized under laws other than the laws of this State, but
15 shall not include a banking corporation organized under the
16 laws of another state or of the United States, a foreign
17 banking corporation organized under the laws of a country other
18 than the United States and holding a certificate of authority
19 from the Secretary of Financial and Professional Regulation or
20 the Secretary's predecessor, the Commissioner of Banks and Real
21 Estate, issued pursuant to the Foreign Banking Office Act, or a
22 banking corporation holding a license from the Secretary of
23 Financial and Professional Regulation or the Secretary's
24 predecessor, the Commissioner of Banks and Real Estate, issued
25 pursuant to the Foreign Bank Representative Office Act.

26 (c) "Articles of incorporation" means the original
27 articles of incorporation, including the articles of
28 incorporation of a new corporation set forth in the articles of
29 consolidation, and all amendments thereto, whether evidenced
30 by articles of amendment, articles of merger, articles of
31 exchange, statement of correction affecting articles,
32 resolution establishing series of shares or a statement of
33 cancellation under Section 9.05. Restated articles of
34 incorporation shall supersede the original articles of
35 incorporation and all amendments thereto prior to the effective

1 date of filing the articles of amendment incorporating the
2 restated articles of incorporation.

3 (d) "Subscriber" means one who subscribes for shares in a
4 corporation, whether before or after incorporation.

5 (e) "Incorporator" means one of the signers of the original
6 articles of incorporation.

7 (f) "Shares" means the units into which the proprietary
8 interests in a corporation are divided.

9 (g) "Shareholder" means one who is a holder of record of
10 shares in a corporation.

11 (h) "Certificate" representing shares means a written
12 instrument executed by the proper corporate officers, as
13 required by Section 6.35 of this Act, evidencing the fact that
14 the person therein named is the holder of record of the share
15 or shares therein described. If the corporation is authorized
16 to issue uncertificated shares in accordance with Section 6.35
17 of this Act, any reference in this Act to shares represented by
18 a certificate shall also refer to uncertificated shares and any
19 reference to a certificate representing shares shall also refer
20 to the written notice in lieu of a certificate provided for in
21 Section 6.35.

22 (i) "Authorized shares" means the aggregate number of
23 shares of all classes which the corporation is authorized to
24 issue.

25 (j) "Paid-in capital" means the sum of the cash and other
26 consideration received, less expenses, including commissions,
27 paid or incurred by the corporation, in connection with the
28 issuance of shares, plus any cash and other consideration
29 contributed to the corporation by or on behalf of its
30 shareholders, plus amounts added or transferred to paid-in
31 capital by action of the board of directors or shareholders
32 pursuant to a share dividend, share split, or otherwise, minus
33 reductions as provided elsewhere in this Act. Irrespective of
34 the manner of designation thereof by the laws under which a
35 foreign corporation is or may be organized, paid-in capital of
36 a foreign corporation shall be determined on the same basis and

1 in the same manner as paid-in capital of a domestic
2 corporation, for the purpose of computing license fees,
3 franchise taxes and other charges imposed by this Act.

4 (k) "Net assets", for the purpose of determining the right
5 of a corporation to purchase its own shares and of determining
6 the right of a corporation to declare and pay dividends and
7 make other distributions to shareholders is equal to the
8 difference between the assets of the corporation and the
9 liabilities of the corporation.

10 (l) "Registered office" means that office maintained by the
11 corporation in this State, the address of which is on file in
12 the office of the Secretary of State, at which any process,
13 notice or demand required or permitted by law may be served
14 upon the registered agent of the corporation.

15 (m) "Insolvent" means that a corporation is unable to pay
16 its debts as they become due in the usual course of its
17 business.

18 (n) "Anniversary" means that day each year exactly one or
19 more years after:

20 (1) the date of filing the articles of incorporation
21 prescribed by Section 2.10 of this Act, in the case of a
22 domestic corporation;

23 (2) the date of filing the application for authority
24 prescribed by Section 13.15 of this Act, in the case of a
25 foreign corporation; or

26 (3) the date of filing the articles of consolidation
27 prescribed by Section 11.25 of this Act in the case of a
28 consolidation, unless the plan of consolidation provides
29 for a delayed effective date, pursuant to Section 11.40.

30 (o) "Anniversary month" means the month in which the
31 anniversary of the corporation occurs.

32 (p) "Extended filing month" means the month (if any) which
33 shall have been established in lieu of the corporation's
34 anniversary month in accordance with Section 14.01.

35 (q) "Taxable year" means that 12 month period commencing
36 with the first day of the anniversary month of a corporation

1 through the last day of the month immediately preceding the
2 next occurrence of the anniversary month of the corporation,
3 except that in the case of a corporation that has established
4 an extended filing month "taxable year" means that 12 month
5 period commencing with the first day of the extended filing
6 month through the last day of the month immediately preceding
7 the next occurrence of the extended filing month.

8 (r) "Fiscal year" means the 12 month period with respect to
9 which a corporation ordinarily files its federal income tax
10 return.

11 (s) "Close corporation" means a corporation organized
12 under or electing to be subject to Article 2A of this Act, the
13 articles of incorporation of which contain the provisions
14 required by Section 2.10, and either the corporation's articles
15 of incorporation or an agreement entered into by all of its
16 shareholders provide that all of the issued shares of each
17 class shall be subject to one or more of the restrictions on
18 transfer set forth in Section 6.55 of this Act.

19 (t) "Common shares" means shares which have no preference
20 over any other shares with respect to distribution of assets on
21 liquidation or with respect to payment of dividends.

22 (u) "Delivered", for the purpose of determining if any
23 notice required by this Act is effective, means:

24 (1) transferred or presented to someone in person; or

25 (2) deposited in the United States Mail addressed to
26 the person at his, her or its address as it appears on the
27 records of the corporation, with sufficient first-class
28 postage prepaid thereon.

29 (v) "Property" means gross assets including, without
30 limitation, all real, personal, tangible, and intangible
31 property.

32 (w) "Taxable period" means that 12-month period commencing
33 with the first day of the second month preceding the
34 corporation's anniversary month in the preceding year and prior
35 to the first day of the second month immediately preceding its
36 anniversary month in the current year, except that, in the case

1 of a corporation that has established an extended filing month,
2 "taxable period" means that 12-month period ending with the
3 last day of its fiscal year immediately preceding the extended
4 filing month. In the case of a newly formed domestic
5 corporation or a newly registered foreign corporation that had
6 not commenced transacting business in this State prior to
7 obtaining authority, "taxable period" means that period
8 commencing with the filing of the articles of incorporation or,
9 in the case of a foreign corporation, of filing of the
10 application for authority, and prior to the first day of the
11 second month immediately preceding its anniversary month in the
12 next succeeding year.

13 (x) "Treasury shares" mean (1) shares of a corporation that
14 have been issued, have been subsequently acquired by and belong
15 to the corporation, and have not been cancelled or restored to
16 the status of authorized but unissued shares and (2) shares (i)
17 declared and paid as a share dividend on the shares referred to
18 in clause (1) or this clause (2), or (ii) issued in a share
19 split of the shares referred to in clause (1) or this clause
20 (2). Treasury shares shall be deemed to be "issued" shares but
21 not "outstanding" shares. Treasury shares may not be voted,
22 directly or indirectly, at any meeting or otherwise. Shares
23 converted into or exchanged for other shares of the corporation
24 shall not be deemed to be treasury shares.

25 (Source: P.A. 92-33, eff. 7-1-01.)

26 (805 ILCS 5/3.05) (from Ch. 32, par. 3.05)

27 Sec. 3.05. Purposes. Corporations for profit may be
28 organized under this Act for any lawful purpose or purposes,
29 except for the purpose of banking or insurance; provided,
30 however, that corporations may be organized under this Act for
31 the purpose of buying, selling, or otherwise dealing in notes
32 (not including the discounting of bills and notes and not
33 including the buying and selling of bills of exchange), open
34 accounts, and other similar evidences of debt, for the purpose
35 of carrying on the business of a syndicate or limited syndicate

1 under Article V-1/2 of the Illinois Insurance Code, or for the
2 purpose of carrying on business as a member of a group
3 including incorporated and individual unincorporated
4 underwriters when the Secretary of Financial and Professional
5 Regulation ~~Director of Insurance~~ finds that the group meets the
6 requirements of subsection (3) of Section 86 of the Illinois
7 Insurance Code and the corporations, if insolvent, are subject
8 to liquidation by the Secretary of Financial and Professional
9 Regulation ~~Director of Insurance~~ under Article XIII of the
10 Illinois Insurance Code.

11 Medical corporations, as authorized by the Medical
12 Corporation Act, may be organized under this Act.

13 Professional Service Corporations, as authorized by the
14 Professional Service Corporation Act, may be organized under
15 this Act.

16 (Source: P.A. 88-535.)

17 (805 ILCS 5/4.05) (from Ch. 32, par. 4.05)

18 Sec. 4.05. Corporate name of domestic or foreign
19 corporation.

20 (a) The corporate name of a domestic corporation or of a
21 foreign corporation organized, existing or subject to the
22 provisions of this Act:

23 (1) Shall contain, separate and apart from any other
24 word or abbreviation in such name, the word "corporation",
25 "company", "incorporated", or "limited", or an
26 abbreviation of one of such words, and if the name of a
27 foreign corporation does not contain, separate and apart
28 from any other word or abbreviation, one of such words or
29 abbreviations, the corporation shall add at the end of its
30 name, as a separate word or abbreviation, one of such words
31 or an abbreviation of one of such words.

32 (2) Shall not contain any word or phrase which
33 indicates or implies that the corporation (i) is authorized
34 or empowered to conduct the business of insurance,
35 assurance, indemnity, or the acceptance of savings

1 deposits; (ii) is authorized or empowered to conduct the
2 business of banking unless otherwise permitted by the
3 Secretary of Financial and Professional Regulation
4 ~~Commissioner of Banks and Real Estate~~ pursuant to Section
5 46 of the Illinois Banking Act; or (iii) is authorized or
6 empowered to be in the business of a corporate fiduciary
7 unless otherwise permitted by the Secretary of Financial
8 and Professional Regulation ~~Commissioner of Banks and Real~~
9 ~~Estate~~ under Section 1-9 of the Corporate Fiduciary Act.
10 The word "trust", "trustee", or "fiduciary" may be used by
11 a corporation only if it has first complied with Section
12 1-9 of the Corporate Fiduciary Act. The word "bank",
13 "banker" or "banking" may only be used by a corporation if
14 it has first complied with Section 46 of the Illinois
15 Banking Act.

16 (3) Shall be distinguishable upon the records in the
17 office of the Secretary of State from the name or assumed
18 name of any domestic corporation or limited liability
19 company organized under the Limited Liability Company Act,
20 whether profit or not for profit, existing under any Act of
21 this State or of the name or assumed name of any foreign
22 corporation or foreign limited liability company
23 registered under the Limited Liability Company Act,
24 whether profit or not for profit, authorized to transact
25 business in this State, or a name the exclusive right to
26 which is, at the time, reserved or registered in the manner
27 provided in this Act or Section 1-15 of the Limited
28 Liability Company Act, except that, subject to the
29 discretion of the Secretary of State, a foreign corporation
30 that has a name prohibited by this paragraph may be issued
31 a certificate of authority to transact business in this
32 State, if the foreign corporation:

33 (i) Elects to adopt an assumed corporate name or
34 names in accordance with Section 4.15 of this Act; and

35 (ii) Agrees in its application for a certificate of
36 authority to transact business in this State only under

1 such assumed corporate name or names.

2 (4) Shall contain the word "trust", if it be a domestic
3 corporation organized for the purpose of accepting and
4 executing trusts, shall contain the word "pawners", if it
5 be a domestic corporation organized as a pawners' society,
6 and shall contain the word "cooperative", if it be a
7 domestic corporation organized as a cooperative
8 association for pecuniary profit.

9 (5) Shall not contain a word or phrase, or an
10 abbreviation or derivation thereof, the use of which is
11 prohibited or restricted by any other statute of this State
12 unless such restriction has been complied with.

13 (6) Shall consist of letters of the English alphabet,
14 Arabic or Roman numerals, or symbols capable of being
15 readily reproduced by the office of the Secretary of State.

16 (7) Shall be the name under which the corporation shall
17 transact business in this State unless the corporation
18 shall also elect to adopt an assumed corporate name or
19 names as provided in this Act; provided, however, that the
20 corporation may use any divisional designation or trade
21 name without complying with the requirements of this Act,
22 provided the corporation also clearly discloses its
23 corporate name.

24 (8) (Blank).

25 (b) The Secretary of State shall determine whether a name
26 is "distinguishable" from another name for purposes of this
27 Act. Without excluding other names which may not constitute
28 distinguishable names in this State, a name is not considered
29 distinguishable, for purposes of this Act, solely because it
30 contains one or more of the following:

31 (1) the word "corporation", "company", "incorporated",
32 or "limited", "limited liability" or an abbreviation of one
33 of such words;

34 (2) articles, conjunctions, contractions,
35 abbreviations, different tenses or number of the same word;

36 (c) Nothing in this Section or Sections 4.15 or 4.20 shall:

1 (1) Require any domestic corporation existing or any
2 foreign corporation having a certificate of authority on
3 the effective date of this Act, to modify or otherwise
4 change its corporate name or assumed corporate name, if
5 any.

6 (2) Abrogate or limit the common law or statutory law
7 of unfair competition or unfair trade practices, nor
8 derogate from the common law or principles of equity or the
9 statutes of this State or of the United States with respect
10 to the right to acquire and protect copyrights, trade
11 names, trade marks, service names, service marks, or any
12 other right to the exclusive use of names or symbols.

13 (Source: P.A. 92-33, eff. 7-1-01.)

14 (805 ILCS 5/11.32)

15 Sec. 11.32. Merger or conversion of trust company into a
16 State bank.

17 (a) A trust company may merge into a State bank in the
18 following manner:

19 (1) The trust company shall comply with the provisions
20 of this Act with respect to the merger of domestic
21 corporations, and the surviving State bank shall comply
22 with the provisions of Section 30 of the Illinois Banking
23 Act.

24 (2) Section 11.50 of this Act shall, insofar as it is
25 applicable, apply to mergers between trust companies and
26 State banks.

27 (b) Whenever a trust company shall effect a conversion into
28 a State bank pursuant to Section 30 of the Illinois Banking
29 Act, it shall forthwith file with the Secretary of State a copy
30 of the certificate of conversion duly authenticated by the
31 Secretary of Financial and Professional Regulation
32 ~~Commissioner of Banks and Real Estate~~. The filing fee shall be
33 the same as for filing articles of merger.

34 (c) For the purpose of this Section 11.32, a "trust
35 company" means a corporation organized under this Act for the

1 purpose of accepting and executing trusts.

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

3 Section 9875. The Professional Service Corporation Act is
4 amended by changing Section 12.1 as follows:

5 (805 ILCS 10/12.1) (from Ch. 32, par. 415-12.1)

6 Sec. 12.1. Any corporation which on 2 occasions issues or
7 delivers a check or other order to the Department of
8 Professional Regulation or its successor, the Department of
9 Financial and Professional Regulation, which is not honored by
10 the financial institution upon which it is drawn because of
11 insufficient funds on account, shall pay to the Department of
12 Financial and Professional Regulation, in addition to the
13 amount owing upon such check or other order, a fee of \$50. If
14 such check or other order was issued or delivered in payment of
15 a renewal fee and the corporation whose certificate of
16 registration has lapsed continues to practice as a corporation
17 without paying the renewal fee and the \$50 fee required under
18 this Section, an additional fee of \$100 shall be imposed for
19 practicing without a current license. The Department shall
20 notify the corporation whose certificate of registration has
21 lapsed, within 30 days after the discovery by the Department
22 that such corporation is operating without a current
23 certificate, that the corporation is operating without a
24 certificate, and of the amount due to the Department, which
25 shall include the lapsed renewal fee and all other fees
26 required by this Section. If after the expiration of 30 days
27 from the date of such notification, the corporation whose
28 certificate has lapsed seeks a current certificate, it shall
29 thereafter apply to the Department for reinstatement of the
30 certificate and pay all fees due to the Department. The
31 Department may establish a fee for the processing of an
32 application for reinstatement of a certificate which allows the
33 Department to pay all costs and expenses incident to the
34 processing of this application. The Secretary of Financial and

1 Professional Regulation Director may waive the fees due under
2 this Section in individual cases where he finds that in the
3 particular case such fees would be unreasonable or
4 unnecessarily burdensome.

5 (Source: P.A. 85-1209.)

6 Section 9877. The Medical Corporation Act is amended by
7 changing Section 5 as follows:

8 (805 ILCS 15/5) (from Ch. 32, par. 635)

9 Sec. 5. No corporation shall open, operate or maintain an
10 establishment for any of the purposes set forth in Section 2 of
11 this Act without a certificate of registration from the
12 Department of Financial and Professional Regulation or its
13 predecessor, the Department of Professional Regulation,
14 hereinafter called the Department. Application for such
15 registration shall be made to the Department in writing and
16 shall contain the name and address of the corporation and such
17 other information as may be required by the Department. Upon
18 receipt of such application, the Department shall make an
19 investigation of the corporation. If the Department finds that
20 the incorporators, officers, directors and shareholders are
21 all licensed pursuant to the Medical Practice Act of 1987 and
22 if no disciplinary action is pending before the Department
23 against any of them, and if it appears that the corporation
24 will be conducted in compliance with law and the regulations of
25 the Department, the Department shall issue, upon payment of a
26 registration fee of \$50, a certificate of registration.

27 (Source: P.A. 85-1209.)

28 Section 9880. The Illinois Development Credit Corporation
29 Act is amended by adding Section 1.5 as follows:

30 (805 ILCS 35/1.5 new)

31 Sec. 1.5. References to Department or Director of Financial
32 Institutions. On and after the effective date of this

1 amendatory Act of the 94th General Assembly:

2 (1) References in this Act to the Department of
3 Financial Institutions or "the Department" mean the
4 Department of Financial and Professional Regulation.

5 (2) References in this Act to the Director of Financial
6 Institutions or "the Director" mean the Secretary of
7 Financial and Professional Regulation.

8 Section 9885. The Limited Liability Company Act is amended
9 by changing Sections 1-10, 1-25, 5-5, and 5-55 as follows:

10 (805 ILCS 180/1-10)

11 Sec. 1-10. Limited liability company name.

12 (a) The name of each limited liability company as set forth
13 in its articles of organization:

14 (1) shall contain the terms "limited liability
15 company", "L.L.C.", or "LLC";

16 (2) may not contain a word or phrase, or an
17 abbreviation or derivation thereof, the use of which is
18 prohibited or restricted by any other statute of this State
19 unless the restriction has been complied with;

20 (3) shall consist of letters of the English alphabet,
21 Arabic or Roman numerals, or symbols capable of being
22 readily reproduced by the Office of the Secretary of State;

23 (4) shall not contain any of the following terms:
24 "Corporation," "Corp.," "Incorporated," "Inc.," "Ltd.,"
25 "Co.," "Limited Partnership" or "L.P.";

26 (5) shall be the name under which the limited liability
27 company transacts business in this State unless the limited
28 liability company also elects to adopt an assumed name or
29 names as provided in this Act; provided, however, that the
30 limited liability company may use any divisional
31 designation or trade name without complying with the
32 requirements of this Act, provided the limited liability
33 company also clearly discloses its name;

34 (6) shall not contain any word or phrase that indicates

1 or implies that the limited liability company is authorized
2 or empowered to be in the business of a corporate fiduciary
3 unless otherwise permitted by the Secretary of Financial
4 and Professional Regulation ~~Commissioner of the Office of~~
5 ~~Banks and Real Estate~~ under Section 1-9 of the Corporate
6 Fiduciary Act. The word "trust", "trustee", or "fiduciary"
7 may be used by a limited liability company only if it has
8 first complied with Section 1-9 of the Corporate Fiduciary
9 Act; and

10 (7) shall contain the word "trust", if it is a limited
11 liability company organized for the purpose of accepting
12 and executing trusts.

13 (b) Nothing in this Section or Section 1-20 shall abrogate
14 or limit the common law or statutory law of unfair competition
15 or unfair trade practices, nor derogate from the common law or
16 principles of equity or the statutes of this State or of the
17 United States of America with respect to the right to acquire
18 and protect copyrights, trade names, trademarks, service
19 marks, service names, or any other right to the exclusive use
20 of names or symbols.

21 (c) (Blank).

22 (d) The name shall be distinguishable upon the records in
23 the Office of the Secretary of State from all of the following:

24 (1) Any limited liability company that has articles of
25 organization filed with the Secretary of State under
26 Section 5-5.

27 (2) Any foreign limited liability company admitted to
28 transact business in this State.

29 (3) Any name for which an exclusive right has been
30 reserved in the Office of the Secretary of State under
31 Section 1-15.

32 (4) Any assumed name that is registered with the
33 Secretary of State under Section 1-20.

34 (5) Any corporate name or assumed corporate name of a
35 domestic or foreign corporation subject to the provisions
36 of Section 4.05 of the Business Corporation Act of 1983 or

1 Section 104.05 of the General Not For Profit Corporation
2 Act of 1986.

3 (e) The provisions of subsection (d) of this Section shall
4 not apply if the organizer files with the Secretary of State a
5 certified copy of a final decree of a court of competent
6 jurisdiction establishing the prior right of the applicant to
7 the use of that name in this State.

8 (f) The Secretary of State shall determine whether a name
9 is "distinguishable" from another name for the purposes of this
10 Act. Without excluding other names that may not constitute
11 distinguishable names in this State, a name is not considered
12 distinguishable, for purposes of this Act, solely because it
13 contains one or more of the following:

14 (1) The word "limited", "liability" or "company" or an
15 abbreviation of one of those words.

16 (2) Articles, conjunctions, contractions,
17 abbreviations, or different tenses or number of the same
18 word.

19 (Source: P.A. 92-33, eff. 7-1-01; 93-59, eff. 7-1-03.)

20 (805 ILCS 180/1-25)

21 Sec. 1-25. Nature of business. A limited liability company
22 may be formed for any lawful purpose or business except:

23 (1) (blank);

24 (2) insurance unless, for the purpose of carrying on
25 business as a member of a group including incorporated and
26 individual unincorporated underwriters, the Secretary of
27 Financial and Professional Regulation ~~Director of~~
28 ~~Insurance~~ finds that the group meets the requirements of
29 subsection (3) of Section 86 of the Illinois Insurance Code
30 and the limited liability company, if insolvent, is subject
31 to liquidation by the Secretary of Financial and
32 Professional Regulation ~~Director of Insurance~~ under
33 Article XIII of the Illinois Insurance Code;

34 (3) the practice of dentistry unless all the members
35 and managers are licensed as dentists under the Illinois

1 Dental Practice Act; or

2 (4) the practice of medicine unless all the managers,
3 if any, are licensed to practice medicine under the Medical
4 Practice Act of 1987 and each member is either:

5 (A) licensed to practice medicine under the
6 Medical Practice Act of 1987; or

7 (B) a registered medical corporation or
8 corporations organized pursuant to the Medical
9 Corporation Act; or

10 (C) a professional corporation organized pursuant
11 to the Professional Service Corporation Act of
12 physicians licensed to practice medicine in all its
13 branches; or

14 (D) a limited liability company that satisfies the
15 requirements of subparagraph (A), (B), or (C).

16 (Source: P.A. 92-144, eff. 7-24-01; 93-59, eff. 7-1-03; 93-561,
17 eff. 1-1-04; revised 9-5-03.)

18 (805 ILCS 180/5-5)

19 Sec. 5-5. Articles of organization.

20 (a) The articles of organization shall set forth all of the
21 following:

22 (1) The name of the limited liability company and the
23 address of its principal place of business which may, but
24 need not be a place of business in this State.

25 (2) The purposes for which the limited liability
26 company is organized, which may be stated to be, or to
27 include, the transaction of any or all lawful businesses
28 for which limited liability companies may be organized
29 under this Act.

30 (3) The name of its registered agent and the address of
31 its registered office.

32 (4) If the limited liability company is to be managed
33 by a manager or managers, the names and business addresses
34 of the initial manager or managers.

35 (5) If management of the limited liability company is

1 to be vested in the members under Section 15-1, then the
2 names and addresses of the initial member or members.

3 (6) The latest date, if any, upon which the limited
4 liability company is to dissolve and other events of
5 dissolution, if any, that may be agreed upon by the members
6 under Section 35-1 hereof.

7 (7) The name and address of each organizer.

8 (8) Any other provision, not inconsistent with law,
9 that the members elect to set out in the articles of
10 organization for the regulation of the internal affairs of
11 the limited liability company, including any provisions
12 that, under this Act, are required or permitted to be set
13 out in the operating agreement of the limited liability
14 company.

15 (b) A limited liability company is organized at the time
16 articles of organization are filed by the Secretary of State or
17 at any later time, not more than 60 days after the filing of
18 the articles of organization, specified in the articles of
19 organization.

20 (c) Articles of organization for the organization of a
21 limited liability company for the purpose of accepting and
22 executing trusts shall not be filed by the Secretary of State
23 until there is delivered to him or her a statement executed by
24 the Secretary of Financial and Professional Regulation or the
25 Secretary's predecessor, the Commissioner of the Office of
26 Banks and Real Estate, that the organizers of the limited
27 liability company have made arrangements with the Secretary of
28 Financial and Professional Regulation or the Commissioner of
29 the Office of Banks and Real Estate to comply with the
30 Corporate Fiduciary Act.

31 (d) Articles of organization for the organization of a
32 limited liability company as a bank or a savings bank must be
33 filed with the Secretary of Financial and Professional
34 Regulation ~~Commissioner of Banks and Real Estate~~ or, if the
35 bank or savings bank will be organized under federal law, with
36 the appropriate federal banking regulator.

1 (Source: P.A. 93-561, eff. 1-1-04.)

2 (805 ILCS 180/5-55)

3 Sec. 5-55. Filing in Office of Secretary of State.

4 (a) Whenever any provision of this Act requires a limited
5 liability company to file any document with the Office of the
6 Secretary of State, the requirement means that:

7 (1) the original document, executed as described in
8 Section 5-45, and, if required by this Act to be filed in
9 duplicate, one copy (which may be a signed carbon or
10 photocopy) shall be delivered to the Office of the
11 Secretary of State;

12 (2) all fees and charges authorized by law to be
13 collected by the Secretary of State in connection with the
14 filing of the document shall be tendered to the Secretary
15 of State; and

16 (3) unless the Secretary of State finds that the
17 document does not conform to law, he or she shall, when all
18 fees have been paid:

19 (A) endorse on the original and on the copy the
20 word "Filed" and the month, day, and year of the filing
21 thereof;

22 (B) file in his or her office the original of the
23 document; and

24 (C) return the copy to the person who filed it or
25 to that person's representative.

26 (b) If another Section of this Act specifically prescribes
27 a manner of filing or signing a specified document that differs
28 from the corresponding provisions of this Section, then the
29 provisions of the other Section shall govern.

30 (c) Whenever any provision of this Act requires a limited
31 liability company that is a bank or a savings bank to file any
32 document, that requirement means that the filing shall be made
33 exclusively with the Secretary of Financial and Professional
34 Regulation ~~Commissioner of Banks and Real Estate~~ or, if the
35 bank or savings bank is organized under federal law, with the

1 appropriate federal banking regulator at such times and in such
2 manner as required by the Secretary ~~Commissioner~~ or federal
3 regulator.

4 (Source: P.A. 92-33, eff. 7-1-01; 93-561, eff. 1-1-04.)

5 Section 9890. The Revised Uniform Limited Partnership Act
6 is amended by changing Section 105 as follows:

7 (805 ILCS 210/105) (from Ch. 106 1/2, par. 151-6)

8 (Section scheduled to be repealed on January 1, 2008)

9 Sec. 105. Nature of Business. A limited partnership may
10 carry on any business that a partnership without limited
11 partners may carry on except banking, the operation of
12 railroads, and insurance unless carried on as a business of a
13 limited syndicate authorized and regulated by the Secretary of
14 Financial and Professional Regulation ~~Director of Insurance~~
15 under Article V 1/2 of the Illinois Insurance Code or for the
16 purpose of carrying on business as a member of a group
17 including incorporated and individual unincorporated
18 underwriters when the Secretary of Financial and Professional
19 Regulation ~~Director of Insurance~~ finds that the group meets the
20 requirements of subsection (3) of Section 86 of the Illinois
21 Insurance Code and the limited partnership, if insolvent, is
22 subject to liquidation by the Secretary of Financial and
23 Professional Regulation ~~Director of Insurance~~ under Article
24 XIII of the Illinois Insurance Code.

25 (Source: P.A. 91-593, eff. 8-14-99; 93-967, eff. 1-1-05.
26 Repealed on 1-1-2008 by 805 ILCS 215/1401.)

27 Section 9895. The High Risk Home Loan Act is amended by
28 adding Section 2 as follows:

29 (815 ILCS 137/2 new)

30 Sec. 2. References to Office or Commissioner of Banks and
31 Real Estate. On and after the effective date of this amendatory
32 Act of the 93rd General Assembly, unless the context requires

1 otherwise:

2 (1) References in this Act to the Office of Banks and
3 Real Estate or "the Office" mean the Department of
4 Financial and Professional Regulation.

5 (2) References in this Act to the Commissioner of Banks
6 and Real Estate or "the Commissioner" mean the Secretary of
7 Financial and Professional Regulation.

8 Section 9900. The Illinois Loan Brokers Act of 1995 is
9 amended by changing Sections 15-5.15 and 15-80 as follows:

10 (815 ILCS 175/15-5.15)

11 Sec. 15-5.15. Loan broker.

12 (a) "Loan Broker" means any person who, in return for a
13 fee, commission, or other compensation from any person,
14 promises to procure a loan for any person or assist any person
15 in procuring a loan from any third party, or who promises to
16 consider whether or not to make a loan to any person.

17 (b) Loan broker does not include any of the following:

18 (1) Any bank, savings bank, trust company, savings and
19 loan association, credit union or any other financial
20 institution regulated by any agency of the United States or
21 authorized to do business in this State.

22 (2) Any person authorized to sell and service loans for
23 the federal National Mortgage Association or the federal
24 Home Loan Mortgage Corporation, issue securities backed by
25 the Government National Mortgage Association, make loans
26 insured by the federal Department of Housing and Urban
27 Development, make loans guaranteed by the federal Veterans
28 Administration, or act as a correspondent of loans insured
29 by the federal Department of Housing and Urban Development
30 or guaranteed by the federal Veterans Administration.

31 (3) Any insurance producer or company authorized to do
32 business in this State.

33 (4) Any person arranging financing for the sale of the
34 person's product.

1 (5) Any person authorized to conduct business under the
2 Residential Mortgage License Act of 1987.

3 (6) Any person authorized to do business in this State
4 and regulated by the Department of Financial and
5 Professional Regulation as the successor of the Department
6 of Financial Institutions or the Office of Banks and Real
7 Estate.

8 (Source: P.A. 92-308, eff. 1-1-02.)

9 (815 ILCS 175/15-80)

10 Sec. 15-80. Persons exempt from registration and other
11 duties; burden of proof thereof.

12 (a) The following persons are exempt from the requirements
13 of Sections 15-10, 15-15, 15-20, 15-25, 15-30, 15-35, 15-40,
14 and 15-75 of this Act:

15 (1) Any attorney while engaging in the practice of law.

16 (2) Any certified public accountant licensed to
17 practice in Illinois, while engaged in practice as a
18 certified public accountant and whose service in relation
19 to procurement of a loan is incidental to his or her
20 practice.

21 (3) Any person licensed to engage in business as a real
22 estate broker or salesperson in Illinois while rendering
23 services in the ordinary course of a transaction in which a
24 license as a real estate broker or salesperson is required.

25 (4) Any dealer, salesperson or investment adviser
26 registered under the Illinois Securities Law of 1953, or an
27 investment advisor, representative, or any person who is
28 regularly engaged in the business of offering or selling
29 securities in a transaction exempted under subsection C, H,
30 M, R, Q, or S of Section 4 of the Illinois Securities Law
31 of 1953 or subsection G of Section 4 of the Illinois
32 Securities Law of 1953 provided that such person is
33 registered under the federal securities law.

34 (4.1) An associated person described in subdivision
35 (h) (2) of Section 15 of the Federal 1934 Act.

1 (4.2) An investment adviser registered pursuant to
2 Section 203 of the Federal 1940 Investment Advisors Act.

3 (4.3) A person described in subdivision (a)(11) of
4 Section 202 of the Federal 1940 Investment Advisors Act.

5 (5) Any person whose fee is wholly contingent on the
6 successful procurement of a loan from a third party and to
7 whom no fee, other than a bona fide third party fee, is
8 paid before the procurement.

9 (6) Any person who is a creditor, or proposed to be a
10 creditor, for any loan.

11 (7) (Blank).

12 (8) Any person regulated by the Department of Financial
13 and Professional Regulation as the successor of the
14 Department of Financial Institutions or the Office of Banks
15 and Real Estate, or any insurance producer or company
16 authorized to do business in this State.

17 (b) As used in this Section, "bona fide third party fee"
18 includes fees for:

19 (1) Credit reports, appraisals and investigations.

20 (2) If the loan is to be secured by real property,
21 title examinations, an abstract of title, title insurance,
22 a property survey and similar purposes.

23 (c) As used in this Section, "successful procurement of a
24 loan" means that a binding commitment from a creditor to
25 advance money has been received and accepted by the borrower.

26 (d) The burden of proof of any exemption provided in this
27 Act shall be on the party claiming the exemption.

28 (Source: P.A. 90-70, eff. 7-8-97; 91-435, eff. 8-6-99.)

29 Section 9905. The Collateral Protection Act is amended by
30 changing Section 35 as follows:

31 (815 ILCS 180/35)

32 Sec. 35. Selection of insurance carrier. Collateral
33 protection insurance may be placed with any insurance carrier
34 selected by the creditor that is licensed to underwrite the

1 insurance by the Department of Financial and Professional
2 Regulation ~~Insurance~~. The insurance shall be evidenced by an
3 individual policy or a certificate of insurance.

4 (Source: P.A. 89-623, eff. 8-9-96.)

5 Section 9910. The Interest Act is amended by changing
6 Sections 4.2, 4a, 6, and 11 as follows:

7 (815 ILCS 205/4.2) (from Ch. 17, par. 6407)

8 Sec. 4.2. Revolving credit; billing statements;
9 disclosures. On a revolving credit which complies with
10 subparagraphs (a), (b), (c), (d) and (e) of this Section 4.2,
11 it is lawful for any bank that has its main office or, after
12 May 31, 1997, a branch in this State, a state or federal
13 savings and loan association with its main office in this
14 State, a state or federal credit union with its main office in
15 this State, or a lender licensed under the Consumer Finance
16 Act, the Consumer Installment Loan Act or the Sales Finance
17 Agency Act, as such Acts are now and hereafter amended, to
18 receive or contract to receive and collect interest in any
19 amount or at any rate agreed upon by the parties to the
20 revolving credit arrangement. It is lawful for any other lender
21 to receive or contract to receive and collect interest in an
22 amount not in excess of 1 1/2% per month of either the average
23 daily unpaid balance of the principal of the debt during the
24 billing cycle, or of the unpaid balance of the debt on
25 approximately the same day of the billing cycle. If a lender
26 under a revolving credit arrangement notifies the debtor at
27 least 30 days in advance of any lawful increase in the amount
28 or rate of interest to be charged under the revolving credit
29 arrangement, and the debtor, after the effective date of such
30 notice, incurs new debt pursuant to the revolving credit
31 arrangement, the increased interest amount or rate may be
32 applied only to any such new debt incurred under the revolving
33 credit arrangement. For purposes of determining the balances to
34 which the increased interest rate applies, all payments and

1 other credits may be deemed to be applied to the balance
2 existing prior to the change in rate until that balance is paid
3 in full. The face amount of the drafts, items, orders for the
4 payment of money, evidences of debt, or similar written
5 instruments received by the lender in connection with the
6 revolving credit, less the amounts applicable to principal from
7 time to time paid thereon by the debtor, are the unpaid balance
8 of the debt upon which the interest is computed. If the billing
9 cycle is not monthly, the maximum interest rate for the billing
10 cycle is the percentage which bears the same relation to the
11 monthly percentage provided for in the preceding sentence as
12 the number of days in the billing cycle bears to 30. For the
13 purposes of the foregoing computation, a "month" is deemed to
14 be any time of 30 consecutive days. In addition to the interest
15 charge provided for, it is lawful to receive, contract for or
16 collect a charge not exceeding 25 cents for each transaction in
17 which a loan or advance is made under the revolving credit or
18 in lieu of this additional charge an annual fee for the
19 privilege of receiving and using the revolving credit in an
20 amount not exceeding \$20. In addition, with respect to
21 revolving credit secured by an interest in real estate, it is
22 also lawful to receive, contract for or collect fees lawfully
23 paid to any public officer or agency to record, file or release
24 the security, and costs and disbursements actually incurred for
25 any title insurance, title examination, abstract of title,
26 survey, appraisal, escrow fees, and fees paid to a trustee in
27 connection with a trust deed.

28 (a) At or before the date a bill or statement is first
29 rendered to the debtor under a revolving credit arrangement,
30 the lender must mail or deliver to the debtor a written
31 description of the conditions under which a charge for interest
32 may be made and the method, including the rate, of computing
33 these interest charges. The rate of interest must be expressed
34 as an annual percentage rate.

35 (b) If during any billing cycle any debit or credit entry
36 is made to a debtor's revolving credit account, and if at the

1 end of that billing cycle there is an unpaid balance owing to
2 the lender from the debtor, the lender must give to the debtor
3 the following information within a reasonable time after the
4 end of the billing cycle:

5 (i) the unpaid balance at the beginning of the billing
6 cycle;

7 (ii) the date and amount of all loans or advances made
8 during the billing cycle, which information may be supplied
9 by enclosing a copy of the drafts, items, orders for the
10 payment of money, evidences of debt or similar written
11 instruments presented to the lender during the billing
12 cycle;

13 (iii) the payments by the debtor to the lender and any
14 other credits to the debtor during the billing cycle;

15 (iv) the amount of interest and other charges, if any,
16 charged to the debtor's account during the billing cycle;

17 (v) the amount which must be currently paid by the
18 debtor and the date on which that amount must be paid in
19 order to avoid delinquency;

20 (vi) the total amount remaining unpaid at the end of
21 the billing cycle and the right of the debtor to prepay
22 that amount in full without penalty; and

23 (vii) information required by (iv), (v) and (vi) must
24 be set forth in type of equal size and equal
25 conspicuousness.

26 (c) The revolving credit arrangement may provide for the
27 payment by the debtor and receipt by the lender of all costs
28 and disbursements, including reasonable attorney's fees,
29 incurred by the lender in legal proceedings to collect or
30 enforce the debt in the event of delinquency by the debtor or
31 in the event of a breach of any obligation of the debtor under
32 the arrangement.

33 (d) The lender under a revolving credit arrangement may
34 provide credit life insurance or credit accident and health
35 insurance, or both, with respect to the debtor and may charge
36 the debtor therefor. Credit life insurance and credit accident

1 and health insurance, and any charge therefor made to the
2 debtor, shall comply with Article IX 1/2 of the Illinois
3 Insurance Code, as now or hereafter amended, and all lawful
4 requirements of the Secretary of Financial and Professional
5 Regulation ~~Director of Insurance~~ related thereto. This
6 insurance is in force with respect to each loan or advance made
7 under a revolving credit arrangement as soon as the loan or
8 advance is made. The purchase of this insurance from an agent,
9 broker or insurer specified by the lender may not be a
10 condition precedent to the revolving credit arrangement or to
11 the making of any loan or advance thereunder.

12 (e) Whenever interest is contracted for or received under
13 this Section, no amount in addition to the charges authorized
14 by this Act may be directly or indirectly charged, contracted
15 for or received whether as interest, service charges, costs of
16 investigations or enforcements or otherwise.

17 (f) The lender under a revolving credit arrangement must
18 compute at year end the total amount charged to the debtor's
19 account during the year, including service charges, finance
20 charges, late charges and any other charges authorized by this
21 Act, and upon request must furnish such information to the
22 debtor within 30 days after the end of the year, or if the
23 account has been terminated during such year, may give such
24 requested information within 30 days after such termination.
25 The lender shall annually inform the debtor of his right to
26 obtain such information.

27 (g) A lender who complies with the federal Truth in Lending
28 Act, amendments thereto, and any regulations issued or which
29 may be issued thereunder, shall be deemed to be in compliance
30 with the provisions of subparagraphs (a) and (b) of this
31 Section.

32 (h) Anything in this Section 4.2 to the contrary
33 notwithstanding, if the Congress of the United States or any
34 federal agency authorizes any class of lenders to enter, within
35 limitations, into a revolving credit arrangement secured by a
36 mortgage or deed of trust on residential real property, any

1 person, firm, corporation or other entity, not otherwise
2 prohibited by the Congress of the United States or any federal
3 agency from entering into revolving credit arrangements
4 secured by a mortgage or deed of trust on residential real
5 property, may enter into such arrangements within the same
6 limitations.

7 (Source: P.A. 89-208, eff. 9-29-95.)

8 (815 ILCS 205/4a) (from Ch. 17, par. 6410)

9 Sec. 4a. Installment loan rate.

10 (a) On money loaned to or in any manner owing from any
11 person, whether secured or unsecured, except where the money
12 loaned or in any manner owing is directly or indirectly for the
13 purchase price of real estate or an interest therein and is
14 secured by a lien on or retention of title to that real estate
15 or interest therein, to an amount not more than \$25,000
16 (excluding interest) which is evidenced by a written instrument
17 providing for the payment thereof in 2 or more periodic
18 installments over a period of not more than 181 months from the
19 date of the execution of the written instrument, it is lawful
20 to receive or to contract to receive and collect either:

21 (i) interest in an amount equivalent to interest
22 computed at a rate not exceeding 9% per year on the entire
23 principal amount of the money loaned or in any manner owing
24 for the period from the date of the making of the loan or
25 the incurring of the obligation for the amount owing
26 evidenced by the written instrument until the date of the
27 maturity of the last installment thereof, and to add that
28 amount to the principal, except that there shall be no
29 limit on the rate of interest which may be received or
30 contracted to be received and collected by (1) any bank
31 that has its main office or, after May 31, 1997, a branch
32 in this State; (2) a savings and loan association chartered
33 under the Illinois Savings and Loan Act of 1985, a savings
34 bank chartered under the Savings Bank Act, or a federal
35 savings and loan association established under the laws of

1 the United States and having its main office in this State;
2 or (3) any lender licensed under either the Consumer
3 Finance Act or the Consumer Installment Loan Act, but in
4 any case in which interest is received, contracted for or
5 collected on the basis of this clause (i), the debtor may
6 satisfy in full at any time before maturity the debt
7 evidenced by the written instrument, and in so satisfying
8 must receive a refund credit against the total amount of
9 interest added to the principal computed in the manner
10 provided under Section 15(f)(3) of the Consumer
11 Installment Loan Act for refunds or credits of applicable
12 interest on payment in full of precomputed loans before the
13 final installment due date; or

14 (ii) interest accrued on the principal balance from
15 time to time remaining unpaid, from the date of making of
16 the loan or the incurring of the obligation to the date of
17 the payment of the debt in full, at a rate not exceeding
18 the annual percentage rate equivalent of the rate permitted
19 to be charged under clause (i) above, but in any such case
20 the debtor may, provided that the debtor shall have paid in
21 full all interest and other charges accrued to the date of
22 such prepayment, prepay the principal balance in full or in
23 part at any time, and interest shall, upon any such
24 prepayment, cease to accrue on the principal amount which
25 has been prepaid.

26 (b) Whenever the principal amount of an installment loan is
27 \$300 or more and the repayment period is 6 months or more, a
28 minimum charge of \$15 may be collected instead of interest, but
29 only one minimum charge may be collected from the same person
30 during one year. When the principal amount of the loan
31 (excluding interest) is \$800 or less, the lender or creditor
32 may contract for and receive a service charge not to exceed \$5
33 in addition to interest; and that service charge may be
34 collected when the loan is made, but only one service charge
35 may be contracted for, received, or collected from the same
36 person during one year.

1 (c) Credit life insurance and credit accident and health
2 insurance, and any charge therefor which is deducted from the
3 loan or paid by the obligor, must comply with Article IX 1/2 of
4 the Illinois Insurance Code and all lawful requirements of the
5 Secretary of Financial and Professional Regulation ~~Director of~~
6 ~~Insurance~~ related thereto. When there are 2 or more obligors on
7 the loan contract, only one charge for credit life insurance
8 and credit accident and health insurance may be made and only
9 one of the obligors may be required to be insured. Insurance
10 obtained from, by or through the lender or creditor must be in
11 effect when the loan is transacted. The purchase of that
12 insurance from an agent, broker or insurer specified by the
13 lender or creditor may not be a condition precedent to the
14 granting of the loan.

15 (d) The lender or creditor may require the obligor to
16 provide property insurance on security other than household
17 goods, furniture and personal effects. The amount and term of
18 the insurance must be reasonable in relation to the amount and
19 term of the loan contract and the type and value of the
20 security, and the insurance must be procured in accordance with
21 the insurance laws of this State. The purchase of that
22 insurance from an agent, broker or insurer specified by the
23 lender or creditor may not be a condition precedent to the
24 granting of the loan.

25 (e) The lender or creditor may, if the contract provides,
26 collect a delinquency and collection charge on each installment
27 in default for a period of not less than 10 days in an amount
28 not exceeding 5% of the installment on installments in excess
29 of \$200 or \$10 on installments of \$200 or less, but only one
30 delinquency and collection charge may be collected on any
31 installment regardless of the period during which it remains in
32 default. In addition, the contract may provide for the payment
33 by the borrower or debtor of attorney's fees incurred by the
34 lender or creditor. The lender or creditor may enforce such a
35 provision to the extent of the reasonable attorney's fees
36 incurred by him in the collection or enforcement of the

1 contract or obligation. Whenever interest is contracted for or
2 received under this Section, no amount in addition to the
3 charges authorized by this Section may be directly or
4 indirectly charged, contracted for or received, except lawful
5 fees paid to a public officer or agency to record, file or
6 release security, and except costs and disbursements including
7 reasonable attorney's fees, incurred in legal proceedings to
8 collect a loan or to realize on a security after default. This
9 Section does not prohibit the receipt of any commission,
10 dividend or other benefit by the creditor or an employee,
11 affiliate or associate of the creditor from the insurance
12 authorized by this Section.

13 (f) When interest is contracted for or received under this
14 Section, the lender must disclose the following items to the
15 obligor in a written statement before the loan is consummated:

16 (1) the amount and date of the loan contract;

17 (2) the amount of loan credit using the term "amount
18 financed";

19 (3) every deduction from the amount financed or payment
20 made by the obligor for insurance and the type of insurance
21 for which each deduction or payment was made;

22 (4) every other deduction from the loan or payment made
23 by the obligor in connection with obtaining the loan;

24 (5) the date on which the finance charge begins to
25 accrue if different from the date of the transaction;

26 (6) the total amount of the loan charge for the
27 scheduled term of the loan contract with a description of
28 each amount included using the term "finance charge";

29 (7) the finance charge expressed as an annual
30 percentage rate using the term "annual percentage rate".
31 "Annual percentage rate" means the nominal annual
32 percentage rate of finance charge determined in accordance
33 with the actuarial method of computation with an accuracy
34 at least to the nearest 1/4 of 1%; or at the option of the
35 lender by application of the United States rule so that it
36 may be disclosed with an accuracy at least to the nearest

1 1/4 of 1%;

2 (8) the number, amount and due dates or periods of
3 payments scheduled to repay the loan and the sum of such
4 payments using the term "total of payments";

5 (9) the amount, or method of computing the amount of
6 any default, delinquency or similar charges payable in the
7 event of late payments;

8 (10) the right of the obligor to prepay the loan and
9 the fact that such prepayment will reduce the charge for
10 the loan;

11 (11) a description or identification of the type of any
12 security interest held or to be retained or acquired by the
13 lender in connection with the loan and a clear
14 identification of the property to which the security
15 interest relates. If after-acquired property will be
16 subject to the security interest, or if other or future
17 indebtedness is or may be secured by any such property,
18 this fact shall be clearly set forth in conjunction with
19 the description or identification of the type of security
20 interest held, retained or acquired;

21 (12) a description of any penalty charge that may be
22 imposed by the lender for prepayment of the principal of
23 the obligation with an explanation of the method of
24 computation of such penalty and the conditions under which
25 it may be imposed;

26 (13) unless the contract provides for the accrual and
27 payment of the finance charge on the balance of the amount
28 financed from time to time remaining unpaid, an
29 identification of the method of computing any unearned
30 portion of the finance charge in the event of prepayment of
31 the loan.

32 The terms "finance charge" and "annual percentage rate"
33 shall be printed more conspicuously than other terminology
34 required by this Section.

35 (g) At the time disclosures are made, the lender shall
36 deliver to the obligor a duplicate of the instrument or

1 statement by which the required disclosures are made and on
2 which the lender and obligor are identified and their addresses
3 stated. All of the disclosures shall be made clearly,
4 conspicuously and in meaningful sequence and made together on
5 either:

6 (i) the note or other instrument evidencing the
7 obligation on the same side of the page and above or
8 adjacent to the place for the obligor's signature; however,
9 where a creditor elects to combine disclosures with the
10 contract, security agreement, and evidence of a
11 transaction in a single document, the disclosures required
12 under this Section shall be made on the face of the
13 document, on the reverse side, or on both sides, provided
14 that the amount of the finance charge and the annual
15 percentage rate shall appear on the face of the document,
16 and, if the reverse side is used, the printing on both
17 sides of the document shall be equally clear and
18 conspicuous, both sides shall contain the statement,
19 "NOTICE: See other side for important information", and the
20 place for the customer's signature shall be provided
21 following the full content of the document; or

22 (ii) one side of a separate statement which identifies
23 the transaction.

24 The amount of the finance charge shall be determined as the
25 sum of all charges, payable directly or indirectly by the
26 obligor and imposed directly or indirectly by the lender as an
27 incident to or as a condition to the extension of credit,
28 whether paid or payable by the obligor, any other person on
29 behalf of the obligor, to the lender or to a third party,
30 including any of the following types of charges:

31 (1) Interest, time price differential, and any amount
32 payable under a discount or other system of additional
33 charges.

34 (2) Service, transaction, activity, or carrying
35 charge.

36 (3) Loan fee, points, finder's fee, or similar charge.

1 (4) Fee for an appraisal, investigation, or credit
2 report.

3 (5) Charges or premiums for credit life, accident,
4 health, or loss of income insurance, written in connection
5 with any credit transaction unless (a) the insurance
6 coverage is not required by the lender and this fact is
7 clearly and conspicuously disclosed in writing to the
8 obligor; and (b) any obligor desiring such insurance
9 coverage gives specific dated and separately signed
10 affirmative written indication of such desire after
11 receiving written disclosure to him of the cost of such
12 insurance.

13 (6) Charges or premiums for insurance, written in
14 connection with any credit transaction, against loss of or
15 damage to property or against liability arising out of the
16 ownership or use of property, unless a clear, conspicuous,
17 and specific statement in writing is furnished by the
18 lender to the obligor setting forth the cost of the
19 insurance if obtained from or through the lender and
20 stating that the obligor may choose the person through
21 which the insurance is to be obtained.

22 (7) Premium or other charges for any other guarantee or
23 insurance protecting the lender against the obligor's
24 default or other credit loss.

25 (8) Any charge imposed by a lender upon another lender
26 for purchasing or accepting an obligation of an obligor if
27 the obligor is required to pay any part of that charge in
28 cash, as an addition to the obligation, or as a deduction
29 from the proceeds of the obligation.

30 A late payment, delinquency, default, reinstatement or
31 other such charge is not a finance charge if imposed for actual
32 unanticipated late payment, delinquency, default or other
33 occurrence.

34 (h) Advertising for loans transacted under this Section may
35 not be false, misleading, or deceptive. That advertising, if it
36 states a rate or amount of interest, must state that rate as an

1 annual percentage rate of interest charged. In addition, if
2 charges other than for interest are made in connection with
3 those loans, those charges must be separately stated. No
4 advertising may indicate or imply that the rates or charges for
5 loans are in any way "recommended", "approved", "set" or
6 "established" by the State government or by this Act.

7 (i) A lender or creditor who complies with the federal
8 Truth in Lending Act, amendments thereto, and any regulations
9 issued or which may be issued thereunder, shall be deemed to be
10 in compliance with the provisions of subsections (f), (g) and
11 (h) of this Section.

12 (Source: P.A. 92-483, eff. 8-23-01.)

13 (815 ILCS 205/6) (from Ch. 17, par. 6413)

14 Sec. 6. If any person or corporation knowingly contracts
15 for or receives, directly or indirectly, by any device,
16 subterfuge or other means, unlawful interest, discount or
17 charges for or in connection with any loan of money, the
18 obligor may, recover by means of an action or defense an amount
19 equal to twice the total of all interest, discount and charges
20 determined by the loan contract or paid by the obligor,
21 whichever is greater, plus such reasonable attorney's fees and
22 court costs as may be assessed by a court against the lender.
23 The payments due and to become due including all interest,
24 discount and charges included therein under the terms of the
25 loan contract, shall be reduced by the amount which the obligor
26 is thus entitled to recover. Recovery by means of a defense may
27 be had at any time after the loan is transacted. Recovery by
28 means of an action may be had at any time after the loan is
29 transacted and prior to the expiration of 2 years after the
30 earlier of (1) the date of the last scheduled payment of the
31 loan after giving effect to all renewals or extensions thereof,
32 if any, or (2) the date on which the total amount due under the
33 terms of the loan contract is fully paid. A bona fide error in
34 connection with a loan shall not be a violation under this
35 section if the lender corrects the error within a reasonable

1 time.

2 No person shall be liable under this Act for any act done
3 or omitted in good faith in conformity with any rule,
4 regulation, interpretation, or opinion issued by the Secretary
5 of Financial and Professional Regulation or the Department of
6 Financial and Professional Regulation or their respective
7 predecessors, the Commissioner of Banks and Real Estate or the
8 Department of Financial Institutions, or any other department
9 or agency of the State, notwithstanding that after such act or
10 omission has occurred, such rule, regulation, interpretation,
11 or opinion is amended, rescinded, or determined by judicial or
12 other authority to be invalid for any reason.

13 (Source: P.A. 90-161, eff. 7-23-97.)

14 (815 ILCS 205/11) (from Ch. 17, par. 6419)

15 Sec. 11. Whenever the Department of Financial and
16 Professional Regulation Institutions has reason to believe
17 that any person or corporation engaged in the business of
18 lending money is contracting for, receiving, or collecting
19 unlawful interest for any loan not exceeding \$5,000 (in
20 violation of this Act, or the Consumer Finance Act, or the
21 Consumer Installment Loan Act, or any other Act regulating
22 interest for loans of money), it may after notice and hearing
23 enter an order requiring such person or corporation to cease
24 and desist from contracting for, receiving, and collecting
25 unlawful interest. At least 5 days' notice shall be given
26 setting forth the time and place of the hearing and the nature
27 of the violations charged (including the means by which said
28 Department alleges that unlawful interest has been contracted
29 for, received, or collected). The order shall specify in
30 writing the violations found and shall become effective not
31 less than 5 days after delivery thereof to the person or
32 corporation named in the order. If the person or corporation
33 named in said order continues said violation for more than 15
34 days after receiving a certified copy thereof by registered or
35 certified mail, the Department of Financial and Professional

1 Regulation Institutions may bring an action in the circuit
2 court to enjoin such person or corporation from engaging in or
3 continuing such violation. Such action shall be conducted under
4 the direction and supervision of the Attorney General. The
5 practice and the powers of the court in such proceedings shall
6 be as in other such civil proceedings.

7 (Source: P.A. 79-1362.)

8 Section 9915. The Motor Vehicle Retail Installment Sales
9 Act is amended by changing Sections 8 and 9.01 as follows:

10 (815 ILCS 375/8) (from Ch. 121 1/2, par. 568)

11 Sec. 8. (a) A seller under a retail installment contract
12 may require insurance against substantial risk of loss of or
13 damage to the motor vehicle, protecting the seller or holder as
14 well as the buyer, and may, if the buyer elects, include
15 therefor in the contract an amount not exceeding the premiums
16 chargeable for such insurance in accordance with rate filings
17 made with the Secretary of Financial and Professional
18 Regulation Director of Insurance. No seller or holder may
19 require as a condition precedent to, or as a part of, a retail
20 installment transaction that such insurance be purchased from
21 or through the seller or holder, or any employee, affiliate, or
22 associate of seller or holder. A seller under a retail
23 installment contract may not require other insurance; but if
24 the buyer voluntarily contracts therefor, the seller may then
25 include in the contract an amount for that other insurance not
26 exceeding the premiums paid or payable by the seller or holder.
27 In those transactions where the buyer elects to select the
28 insurance company, broker or agent for the purpose of obtaining
29 insurance required by the holder under this Section, the buyer
30 must, on or before the date when buyer takes possession of the
31 motor vehicle, furnish the holder with satisfactory evidence of
32 insurance in a company acceptable to the seller or holder.

33 (b) If the obligor fails to furnish evidence that he has
34 procured insurance on the property, the licensee may purchase

1 substitute insurance that may be substantially equivalent to or
2 more limited than coverage the obligor is required to maintain.
3 Such insurance must comply with the Collateral Protection Act.
4 (Source: P.A. 90-437, eff. 1-1-98.)

5 (815 ILCS 375/9.01) (from Ch. 121 1/2, par. 569.01)

6 Sec. 9.01. Credit life insurance and credit accident and
7 health insurance issued in connection with a retail installment
8 contract or retail charge agreement and any charge therefor
9 made to the buyer, must comply with Article IX 1/2 of the
10 "Illinois Insurance Code", approved June 29, 1937, as now or
11 hereafter amended, and all lawful requirements of the Secretary
12 of Financial and Professional Regulation ~~Director of Insurance~~
13 related thereto.

14 (Source: Laws 1967, p. 2163.)

15 Section 9920. The Ophthalmic Advertising Act is amended by
16 changing Section 8 as follows:

17 (815 ILCS 385/8) (from Ch. 121 1/2, par. 349.8)

18 Sec. 8. Enforcement. The duty to institute actions for
19 violations of this Act, including proceedings to restrain and
20 enjoin such violations, is hereby vested in the Attorney
21 General. The Attorney General may prosecute business offenses
22 or institute proceedings or both, but the power to refuse,
23 suspend or revoke a license for a violation of this Act is
24 vested solely in the Department of Financial and Professional
25 Regulation.

26 This Section shall not be deemed to prohibit the
27 enforcement by any person of any right provided by this or any
28 other law.

29 (Source: P.A. 85-1209.)

30 Section 9925. The Retail Installment Sales Act is amended
31 by changing Sections 4, 8, and 10 as follows:

1 (815 ILCS 405/4) (from Ch. 121 1/2, par. 504)

2 Sec. 4. Every retail installment contract must contain the
3 names of the seller and of the buyer, the place of business of
4 the seller, the residence of the buyer as specified by the
5 buyer, and a description or identification of the goods sold or
6 to be sold or services furnished or rendered or to be furnished
7 or rendered. The contract must clearly state and describe any
8 security taken or retained by the seller. No charge may be made
9 to a buyer under an installment contract or charge agreement
10 for insurance against loss or damage to the goods, for
11 insurance against liability for personal injury or property
12 damage caused to others by reason of ownership or operation of
13 the goods, for credit life insurance, for credit health and
14 accident insurance or for any other kind of insurance, unless
15 the installment contract or charge agreement separately
16 specifies for each kind of insurance the type of coverage, the
17 term of coverage and the separate, identified charge made
18 therefor. However, a single charge may be made for credit life,
19 credit health and accident insurance whose issuance in a single
20 form or package has been authorized by the Secretary of
21 Financial and Professional Regulation ~~Director of Insurance~~
22 and whose charges for its various parts can not be separately
23 stated, and, in the case of contracts or charge agreements
24 negotiated and entered into by mail or telephone, in which the
25 kind of insurance, type of coverage, the term of coverage and
26 the charge to be made therefor is clearly set forth in a
27 catalog or other printed solicitation of the seller, disclosure
28 shall be made in the manner required by Section 24 or Section
29 25 of this Act, whichever one is applicable.

30 (Source: Laws 1967, p. 2149.)

31 (815 ILCS 405/8) (from Ch. 121 1/2, par. 508)

32 Sec. 8. (a) A seller under a retail installment contract or
33 retail charge agreement may require insurance against
34 substantial risk of loss of or damage to the goods protecting
35 the seller or holder, as well as the buyer, and may, if the

1 buyer elects, include therefor in the contract an amount not
2 exceeding the premiums chargeable for similar insurance in
3 accordance with rate filings made with the Secretary of
4 Financial and Professional Regulation ~~Director of Insurance~~.
5 No seller or holder may require, as a condition precedent to or
6 as a part of a retail installment transaction, that such
7 insurance be purchased from or through the seller or holder, or
8 any employee, affiliate, or associate of seller or holder. A
9 seller under a retail installment contract may not require
10 other insurance; but if the buyer voluntarily contracts
11 therefor, the seller may then include in the contract an amount
12 for that other insurance not exceeding the premiums paid or
13 payable by the seller or holder. In those transactions where
14 the buyer elects to select the insurance company, broker or
15 agent for the purpose of obtaining insurance required by the
16 holder under this Section, the buyer must furnish the holder
17 with satisfactory evidence of insurance on or before the date
18 when the buyer takes possession of the goods.

19 (b) If the obligor fails to furnish evidence that he has
20 procured insurance on the property, the licensee may purchase
21 substitute insurance that may be substantially equivalent to or
22 more limited than coverage the obligor is required to maintain.
23 Such insurance must comply with the Collateral Protection Act.
24 (Source: P.A. 90-437, eff. 1-1-98.)

25 (815 ILCS 405/10) (from Ch. 121 1/2, par. 510)

26 Sec. 10. Credit life insurance and credit accident and
27 health insurance issued in connection with a retail installment
28 contract or retail charge agreement and any charge therefor
29 made to the buyer, must comply with Article IX 1/2 of the
30 "Illinois Insurance Code," approved June 29, 1937, as now or
31 hereafter amended, and all lawful requirements of the Secretary
32 of Financial and Professional Regulation ~~Director of Insurance~~
33 related thereto.

34 (Source: Laws 1967, p. 2149.)

1 Section 9930. The Workers' Compensation Act is amended by
2 changing Sections 4 and 7 as follows:

3 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

4 Sec. 4. (a) Any employer, including but not limited to
5 general contractors and their subcontractors, who shall come
6 within the provisions of Section 3 of this Act, and any other
7 employer who shall elect to provide and pay the compensation
8 provided for in this Act shall:

9 (1) File with the Commission annually an application
10 for approval as a self-insurer which shall include a
11 current financial statement, and annually, thereafter, an
12 application for renewal of self-insurance, which shall
13 include a current financial statement. Said application
14 and financial statement shall be signed and sworn to by the
15 president or vice president and secretary or assistant
16 secretary of the employer if it be a corporation, or by all
17 of the partners, if it be a copartnership, or by the owner
18 if it be neither a copartnership nor a corporation. All
19 initial applications and all applications for renewal of
20 self-insurance must be submitted at least 60 days prior to
21 the requested effective date of self-insurance. An
22 employer may elect to provide and pay compensation as
23 provided for in this Act as a member of a group workers'
24 compensation pool under Article V 3/4 of the Illinois
25 Insurance Code. If an employer becomes a member of a group
26 workers' compensation pool, the employer shall not be
27 relieved of any obligations imposed by this Act.

28 If the sworn application and financial statement of any
29 such employer does not satisfy the Commission of the
30 financial ability of the employer who has filed it, the
31 Commission shall require such employer to,

32 (2) Furnish security, indemnity or a bond guaranteeing
33 the payment by the employer of the compensation provided
34 for in this Act, provided that any such employer whose
35 application and financial statement shall not have

1 satisfied the commission of his or her financial ability
2 and who shall have secured his liability in part by excess
3 liability insurance shall be required to furnish to the
4 Commission security, indemnity or bond guaranteeing his or
5 her payment up to the effective limits of the excess
6 coverage, or

7 (3) Insure his entire liability to pay such
8 compensation in some insurance carrier authorized,
9 licensed, or permitted to do such insurance business in
10 this State. Every policy of an insurance carrier, insuring
11 the payment of compensation under this Act shall cover all
12 the employees and the entire compensation liability of the
13 insured: Provided, however, that any employer may insure
14 his or her compensation liability with 2 or more insurance
15 carriers or may insure a part and qualify under subsection
16 1, 2, or 4 for the remainder of his or her liability to pay
17 such compensation, subject to the following two
18 provisions:

19 Firstly, the entire compensation liability of the
20 employer to employees working at or from one location
21 shall be insured in one such insurance carrier or shall
22 be self-insured, and

23 Secondly, the employer shall submit evidence
24 satisfactorily to the Commission that his or her entire
25 liability for the compensation provided for in this Act
26 will be secured. Any provisions in any policy, or in
27 any endorsement attached thereto, attempting to limit
28 or modify in any way, the liability of the insurance
29 carriers issuing the same except as otherwise provided
30 herein shall be wholly void.

31 Nothing herein contained shall apply to policies of
32 excess liability carriage secured by employers who have
33 been approved by the Commission as self-insurers, or

34 (4) Make some other provision, satisfactory to the
35 Commission, for the securing of the payment of compensation
36 provided for in this Act, and

1 (5) Upon becoming subject to this Act and thereafter as
2 often as the Commission may in writing demand, file with
3 the Commission in form prescribed by it evidence of his or
4 her compliance with the provision of this Section.

5 (a-1) Regardless of its state of domicile or its principal
6 place of business, an employer shall make payments to its
7 insurance carrier or group self-insurance fund, where
8 applicable, based upon the premium rates of the situs where the
9 work or project is located in Illinois if:

10 (A) the employer is engaged primarily in the building
11 and construction industry; and

12 (B) subdivision (a)(3) of this Section applies to the
13 employer or the employer is a member of a group
14 self-insurance plan as defined in subsection (1) of Section
15 4a.

16 The Illinois Workers' Compensation Commission shall impose
17 a penalty upon an employer for violation of this subsection
18 (a-1) if:

19 (i) the employer is given an opportunity at a hearing
20 to present evidence of its compliance with this subsection
21 (a-1); and

22 (ii) after the hearing, the Commission finds that the
23 employer failed to make payments upon the premium rates of
24 the situs where the work or project is located in Illinois.

25 The penalty shall not exceed \$1,000 for each day of work
26 for which the employer failed to make payments upon the premium
27 rates of the situs where the work or project is located in
28 Illinois, but the total penalty shall not exceed \$50,000 for
29 each project or each contract under which the work was
30 performed.

31 Any penalty under this subsection (a-1) must be imposed not
32 later than one year after the expiration of the applicable
33 limitation period specified in subsection (d) of Section 6 of
34 this Act. Penalties imposed under this subsection (a-1) shall
35 be deposited into the Illinois Workers' Compensation
36 Commission Operations Fund, a special fund that is created in

1 the State treasury. Subject to appropriation, moneys in the
2 Fund shall be used solely for the operations of the Illinois
3 Workers' Compensation Commission.

4 (b) The sworn application and financial statement, or
5 security, indemnity or bond, or amount of insurance, or other
6 provisions, filed, furnished, carried, or made by the employer,
7 as the case may be, shall be subject to the approval of the
8 Commission.

9 Deposits under escrow agreements shall be cash, negotiable
10 United States government bonds or negotiable general
11 obligation bonds of the State of Illinois. Such cash or bonds
12 shall be deposited in escrow with any State or National Bank or
13 Trust Company having trust authority in the State of Illinois.

14 Upon the approval of the sworn application and financial
15 statement, security, indemnity or bond or amount of insurance,
16 filed, furnished or carried, as the case may be, the Commission
17 shall send to the employer written notice of its approval
18 thereof. The certificate of compliance by the employer with the
19 provisions of subparagraphs (2) and (3) of paragraph (a) of
20 this Section shall be delivered by the insurance carrier to the
21 Illinois Workers' Compensation Commission within five days
22 after the effective date of the policy so certified. The
23 insurance so certified shall cover all compensation liability
24 occurring during the time that the insurance is in effect and
25 no further certificate need be filed in case such insurance is
26 renewed, extended or otherwise continued by such carrier. The
27 insurance so certified shall not be cancelled or in the event
28 that such insurance is not renewed, extended or otherwise
29 continued, such insurance shall not be terminated until at
30 least 10 days after receipt by the Illinois Workers'
31 Compensation Commission of notice of the cancellation or
32 termination of said insurance; provided, however, that if the
33 employer has secured insurance from another insurance carrier,
34 or has otherwise secured the payment of compensation in
35 accordance with this Section, and such insurance or other
36 security becomes effective prior to the expiration of the 10

1 days, cancellation or termination may, at the option of the
2 insurance carrier indicated in such notice, be effective as of
3 the effective date of such other insurance or security.

4 (c) Whenever the Commission shall find that any
5 corporation, company, association, aggregation of individuals,
6 reciprocal or interinsurers exchange, or other insurer
7 effecting workers' compensation insurance in this State shall
8 be insolvent, financially unsound, or unable to fully meet all
9 payments and liabilities assumed or to be assumed for
10 compensation insurance in this State, or shall practice a
11 policy of delay or unfairness toward employees in the
12 adjustment, settlement, or payment of benefits due such
13 employees, the Commission may after reasonable notice and
14 hearing order and direct that such corporation, company,
15 association, aggregation of individuals, reciprocal or
16 interinsurers exchange, or insurer, shall from and after a date
17 fixed in such order discontinue the writing of any such
18 workers' compensation insurance in this State. Subject to such
19 modification of the order as the Commission may later make on
20 review of the order, as herein provided, it shall thereupon be
21 unlawful for any such corporation, company, association,
22 aggregation of individuals, reciprocal or interinsurers
23 exchange, or insurer to effect any workers' compensation
24 insurance in this State. A copy of the order shall be served
25 upon the Secretary of Financial and Professional Regulation
26 ~~Director of Insurance~~ by registered mail. Whenever the
27 Commission finds that any service or adjustment company used or
28 employed by a self-insured employer or by an insurance carrier
29 to process, adjust, investigate, compromise or otherwise
30 handle claims under this Act, has practiced or is practicing a
31 policy of delay or unfairness toward employees in the
32 adjustment, settlement or payment of benefits due such
33 employees, the Commission may after reasonable notice and
34 hearing order and direct that such service or adjustment
35 company shall from and after a date fixed in such order be
36 prohibited from processing, adjusting, investigating,

1 compromising or otherwise handling claims under this Act.

2 Whenever the Commission finds that any self-insured
3 employer has practiced or is practicing delay or unfairness
4 toward employees in the adjustment, settlement or payment of
5 benefits due such employees, the Commission may, after
6 reasonable notice and hearing, order and direct that after a
7 date fixed in the order such self-insured employer shall be
8 disqualified to operate as a self-insurer and shall be required
9 to insure his entire liability to pay compensation in some
10 insurance carrier authorized, licensed and permitted to do such
11 insurance business in this State, as provided in subparagraph 3
12 of paragraph (a) of this Section.

13 All orders made by the Commission under this Section shall
14 be subject to review by the courts, said review to be taken in
15 the same manner and within the same time as provided by Section
16 19 of this Act for review of awards and decisions of the
17 Commission, upon the party seeking the review filing with the
18 clerk of the court to which said review is taken a bond in an
19 amount to be fixed and approved by the court to which the
20 review is taken, conditioned upon the payment of all
21 compensation awarded against the person taking said review
22 pending a decision thereof and further conditioned upon such
23 other obligations as the court may impose. Upon the review the
24 Circuit Court shall have power to review all questions of fact
25 as well as of law. The penalty hereinafter provided for in this
26 paragraph shall not attach and shall not begin to run until the
27 final determination of the order of the Commission.

28 (d) Upon a finding by the Commission, after reasonable
29 notice and hearing, of the knowing and wilful failure or
30 refusal of an employer to comply with any of the provisions of
31 paragraph (a) of this Section or the failure or refusal of an
32 employer, service or adjustment company, or an insurance
33 carrier to comply with any order of the Illinois Workers'
34 Compensation Commission pursuant to paragraph (c) of this
35 Section disqualifying him or her to operate as a self insurer
36 and requiring him or her to insure his or her liability, the

1 Commission may assess a civil penalty of up to \$500 per day for
2 each day of such failure or refusal after the effective date of
3 this amendatory Act of 1989. The minimum penalty under this
4 Section shall be the sum of \$10,000. Each day of such failure
5 or refusal shall constitute a separate offense. The Commission
6 may assess the civil penalty personally and individually
7 against the corporate officers and directors of a corporate
8 employer, the partners of an employer partnership, and the
9 members of an employer limited liability company, after a
10 finding of a knowing and willful refusal or failure of each
11 such named corporate officer, director, partner, or member to
12 comply with this Section. The liability for the assessed
13 penalty shall be against the named employer first, and if the
14 named employer fails or refuses to pay the penalty to the
15 Commission within 30 days after the final order of the
16 Commission, then the named corporate officers, directors,
17 partners, or members who have been found to have knowingly and
18 willfully refused or failed to comply with this Section shall
19 be liable for the unpaid penalty or any unpaid portion of the
20 penalty. All penalties collected under this Section shall be
21 deposited in the Illinois Workers' Compensation Commission
22 Operations Fund.

23 Upon the failure or refusal of any employer, service or
24 adjustment company or insurance carrier to comply with the
25 provisions of this Section and with the orders of the
26 Commission under this Section, or the order of the court on
27 review after final adjudication, the Commission may bring a
28 civil action to recover the amount of the penalty in Cook
29 County or in Sangamon County in which litigation the Commission
30 shall be represented by the Attorney General. The Commission
31 shall send notice of its finding of non-compliance and
32 assessment of the civil penalty to the Attorney General. It
33 shall be the duty of the Attorney General within 30 days after
34 receipt of the notice, to institute prosecutions and promptly
35 prosecute all reported violations of this Section.

36 (e) This Act shall not affect or disturb the continuance of

1 any existing insurance, mutual aid, benefit, or relief
2 association or department, whether maintained in whole or in
3 part by the employer or whether maintained by the employees,
4 the payment of benefits of such association or department being
5 guaranteed by the employer or by some person, firm or
6 corporation for him or her: Provided, the employer contributes
7 to such association or department an amount not less than the
8 full compensation herein provided, exclusive of the cost of the
9 maintenance of such association or department and without any
10 expense to the employee. This Act shall not prevent the
11 organization and maintaining under the insurance laws of this
12 State of any benefit or insurance company for the purpose of
13 insuring against the compensation provided for in this Act, the
14 expense of which is maintained by the employer. This Act shall
15 not prevent the organization or maintaining under the insurance
16 laws of this State of any voluntary mutual aid, benefit or
17 relief association among employees for the payment of
18 additional accident or sick benefits.

19 (f) No existing insurance, mutual aid, benefit or relief
20 association or department shall, by reason of anything herein
21 contained, be authorized to discontinue its operation without
22 first discharging its obligations to any and all persons
23 carrying insurance in the same or entitled to relief or
24 benefits therein.

25 (g) Any contract, oral, written or implied, of employment
26 providing for relief benefit, or insurance or any other device
27 whereby the employee is required to pay any premium or premiums
28 for insurance against the compensation provided for in this Act
29 shall be null and void. Any employer withholding from the wages
30 of any employee any amount for the purpose of paying any such
31 premium shall be guilty of a Class B misdemeanor.

32 In the event the employer does not pay the compensation for
33 which he or she is liable, then an insurance company,
34 association or insurer which may have insured such employer
35 against such liability shall become primarily liable to pay to
36 the employee, his or her personal representative or beneficiary

1 the compensation required by the provisions of this Act to be
2 paid by such employer. The insurance carrier may be made a
3 party to the proceedings in which the employer is a party and
4 an award may be entered jointly against the employer and the
5 insurance carrier.

6 (h) It shall be unlawful for any employer, insurance
7 company or service or adjustment company to interfere with,
8 restrain or coerce an employee in any manner whatsoever in the
9 exercise of the rights or remedies granted to him or her by
10 this Act or to discriminate, attempt to discriminate, or
11 threaten to discriminate against an employee in any way because
12 of his or her exercise of the rights or remedies granted to him
13 or her by this Act.

14 It shall be unlawful for any employer, individually or
15 through any insurance company or service or adjustment company,
16 to discharge or to threaten to discharge, or to refuse to
17 rehire or recall to active service in a suitable capacity an
18 employee because of the exercise of his or her rights or
19 remedies granted to him or her by this Act.

20 (i) If an employer elects to obtain a life insurance policy
21 on his employees, he may also elect to apply such benefits in
22 satisfaction of all or a portion of the death benefits payable
23 under this Act, in which case, the employer's compensation
24 premium shall be reduced accordingly.

25 (j) Within 45 days of receipt of an initial application or
26 application to renew self-insurance privileges the
27 Self-Insurers Advisory Board shall review and submit for
28 approval by the Chairman of the Commission recommendations of
29 disposition of all initial applications to self-insure and all
30 applications to renew self-insurance privileges filed by
31 private self-insurers pursuant to the provisions of this
32 Section and Section 4a-9 of this Act. Each private self-insurer
33 shall submit with its initial and renewal applications the
34 application fee required by Section 4a-4 of this Act.

35 The Chairman of the Commission shall promptly act upon all
36 initial applications and applications for renewal in full

1 accordance with the recommendations of the Board or, should the
2 Chairman disagree with any recommendation of disposition of the
3 Self-Insurer's Advisory Board, he shall within 30 days of
4 receipt of such recommendation provide to the Board in writing
5 the reasons supporting his decision. The Chairman shall also
6 promptly notify the employer of his decision within 15 days of
7 receipt of the recommendation of the Board.

8 If an employer is denied a renewal of self-insurance
9 privileges pursuant to application it shall retain said
10 privilege for 120 days after receipt of a notice of
11 cancellation of the privilege from the Chairman of the
12 Commission.

13 All orders made by the Chairman under this Section shall be
14 subject to review by the courts, such review to be taken in the
15 same manner and within the same time as provided by subsection
16 (f) of Section 19 of this Act for review of awards and
17 decisions of the Commission, upon the party seeking the review
18 filing with the clerk of the court to which such review is
19 taken a bond in an amount to be fixed and approved by the court
20 to which the review is taken, conditioned upon the payment of
21 all compensation awarded against the person taking such review
22 pending a decision thereof and further conditioned upon such
23 other obligations as the court may impose. Upon the review the
24 Circuit Court shall have power to review all questions of fact
25 as well as of law.

26 (Source: P.A. 92-324, eff. 8-9-01; 93-721, eff. 1-1-05.)

27 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

28 Sec. 7. The amount of compensation which shall be paid for
29 an accidental injury to the employee resulting in death is:

30 (a) If the employee leaves surviving a widow, widower,
31 child or children, the applicable weekly compensation rate
32 computed in accordance with subparagraph 2 of paragraph (b) of
33 Section 8, shall be payable during the life of the widow or
34 widower and if any surviving child or children shall not be
35 physically or mentally incapacitated then until the death of

1 the widow or widower or until the youngest child shall reach
2 the age of 18, whichever shall come later; provided that if
3 such child or children shall be enrolled as a full time student
4 in any accredited educational institution, the payments shall
5 continue until such child has attained the age of 25. In the
6 event any surviving child or children shall be physically or
7 mentally incapacitated, the payments shall continue for the
8 duration of such incapacity.

9 The term "child" means a child whom the deceased employee
10 left surviving, including a posthumous child, a child legally
11 adopted, a child whom the deceased employee was legally
12 obligated to support or a child to whom the deceased employee
13 stood in loco parentis. The term "children" means the plural of
14 "child".

15 The term "physically or mentally incapacitated child or
16 children" means a child or children incapable of engaging in
17 regular and substantial gainful employment.

18 In the event of the remarriage of a widow or widower, where
19 the decedent did not leave surviving any child or children who,
20 at the time of such remarriage, are entitled to compensation
21 benefits under this Act, the surviving spouse shall be paid a
22 lump sum equal to 2 years compensation benefits and all further
23 rights of such widow or widower shall be extinguished.

24 If the employee leaves surviving any child or children
25 under 18 years of age who at the time of death shall be
26 entitled to compensation under this paragraph (a) of this
27 Section, the weekly compensation payments herein provided for
28 such child or children shall in any event continue for a period
29 of not less than 6 years.

30 Any beneficiary entitled to compensation under this
31 paragraph (a) of this Section shall receive from the special
32 fund provided in paragraph (f) of this Section, in addition to
33 the compensation herein provided, supplemental benefits in
34 accordance with paragraph (g) of Section 8.

35 (b) If no compensation is payable under paragraph (a) of
36 this Section and the employee leaves surviving a parent or

1 parents who at the time of the accident were totally dependent
2 upon the earnings of the employee then weekly payments equal to
3 the compensation rate payable in the case where the employee
4 leaves surviving a widow or widower, shall be paid to such
5 parent or parents for the duration of their lives, and in the
6 event of the death of either, for the life of the survivor.

7 (c) If no compensation is payable under paragraphs (a) or
8 (b) of this Section and the employee leaves surviving any child
9 or children who are not entitled to compensation under the
10 foregoing paragraph (a) but who at the time of the accident
11 were nevertheless in any manner dependent upon the earnings of
12 the employee, or leaves surviving a parent or parents who at
13 the time of the accident were partially dependent upon the
14 earnings of the employee, then there shall be paid to such
15 dependent or dependents for a period of 8 years weekly
16 compensation payments at such proportion of the applicable rate
17 if the employee had left surviving a widow or widower as such
18 dependency bears to total dependency. In the event of the death
19 of any such beneficiary the share of such beneficiary shall be
20 divided equally among the surviving beneficiaries and in the
21 event of the death of the last such beneficiary all the rights
22 under this paragraph shall be extinguished.

23 (d) If no compensation is payable under paragraphs (a), (b)
24 or (c) of this Section and the employee leaves surviving any
25 grandparent, grandparents, grandchild or grandchildren or
26 collateral heirs dependent upon the employee's earnings to the
27 extent of 50% or more of total dependency, then there shall be
28 paid to such dependent or dependents for a period of 5 years
29 weekly compensation payments at such proportion of the
30 applicable rate if the employee had left surviving a widow or
31 widower as such dependency bears to total dependency. In the
32 event of the death of any such beneficiary the share of such
33 beneficiary shall be divided equally among the surviving
34 beneficiaries and in the event of the death of the last such
35 beneficiary all rights hereunder shall be extinguished.

36 (e) The compensation to be paid for accidental injury which

1 results in death, as provided in this Section, shall be paid to
2 the persons who form the basis for determining the amount of
3 compensation to be paid by the employer, the respective shares
4 to be in the proportion of their respective dependency at the
5 time of the accident on the earnings of the deceased. The
6 Commission or an Arbitrator thereof may, in its or his
7 discretion, order or award the payment to the parent or
8 grandparent of a child for the latter's support the amount of
9 compensation which but for such order or award would have been
10 paid to such child as its share of the compensation payable,
11 which order or award may be modified from time to time by the
12 Commission in its discretion with respect to the person to whom
13 shall be paid the amount of the order or award remaining unpaid
14 at the time of the modification.

15 The payments of compensation by the employer in accordance
16 with the order or award of the Commission discharges such
17 employer from all further obligation as to such compensation.

18 (f) The sum of \$4200 for burial expenses shall be paid by
19 the employer to the widow or widower, other dependent, next of
20 kin or to the person or persons incurring the expense of
21 burial.

22 In the event the employer failed to provide necessary first
23 aid, medical, surgical or hospital service, he shall pay the
24 cost thereof to the person or persons entitled to compensation
25 under paragraphs (a), (b), (c) or (d) of this Section, or to
26 the person or persons incurring the obligation therefore, or
27 providing the same.

28 On January 15 and July 15, 1981, and on January 15 and July
29 15 of each year thereafter the employer shall within 60 days
30 pay a sum equal to 1/8 of 1% of all compensation payments made
31 by him after July 1, 1980, either under this Act or the
32 Workers' Occupational Diseases Act, whether by lump sum
33 settlement or weekly compensation payments, but not including
34 hospital, surgical or rehabilitation payments, made during the
35 first 6 months and during the second 6 months respectively of
36 the fiscal year next preceding the date of the payments, into a

1 special fund which shall be designated the "Second Injury
2 Fund", of which the State Treasurer is ex-officio custodian,
3 such special fund to be held and disbursed for the purposes
4 hereinafter stated in paragraphs (f) and (g) of Section 8,
5 either upon the order of the Commission or of a competent
6 court. Said special fund shall be deposited the same as are
7 State funds and any interest accruing thereon shall be added
8 thereto every 6 months. It is subject to audit the same as
9 State funds and accounts and is protected by the General bond
10 given by the State Treasurer. It is considered always
11 appropriated for the purposes of disbursements as provided in
12 Section 8, paragraph (f), of this Act, and shall be paid out
13 and disbursed as therein provided and shall not at any time be
14 appropriated or diverted to any other use or purpose.

15 On January 15, 1991, the employer shall further pay a sum
16 equal to one half of 1% of all compensation payments made by
17 him from January 1, 1990 through June 30, 1990 either under
18 this Act or under the Workers' Occupational Diseases Act,
19 whether by lump sum settlement or weekly compensation payments,
20 but not including hospital, surgical or rehabilitation
21 payments, into an additional Special Fund which shall be
22 designated as the "Rate Adjustment Fund". On March 15, 1991,
23 the employer shall pay into the Rate Adjustment Fund a sum
24 equal to one half of 1% of all such compensation payments made
25 from July 1, 1990 through December 31, 1990. Within 60 days
26 after July 15, 1991, the employer shall pay into the Rate
27 Adjustment Fund a sum equal to one half of 1% of all such
28 compensation payments made from January 1, 1991 through June
29 30, 1991. Within 60 days after January 15 of 1992 and each
30 subsequent year through 1996, the employer shall pay into the
31 Rate Adjustment Fund a sum equal to one half of 1% of all such
32 compensation payments made in the last 6 months of the
33 preceding calendar year. Within 60 days after July 15 of 1992
34 and each subsequent year through 1995, the employer shall pay
35 into the Rate Adjustment Fund a sum equal to one half of 1% of
36 all such compensation payments made in the first 6 months of

1 the same calendar year. Within 60 days after January 15 of 1997
2 and each subsequent year, the employer shall pay into the Rate
3 Adjustment Fund a sum equal to three-fourths of 1% of all such
4 compensation payments made in the last 6 months of the
5 preceding calendar year. Within 60 days after July 15 of 1996
6 and each subsequent year, the employer shall pay into the Rate
7 Adjustment Fund a sum equal to three-fourths of 1% of all such
8 compensation payments made in the first 6 months of the same
9 calendar year. The administrative costs of collecting
10 assessments from employers for the Rate Adjustment Fund shall
11 be paid from the Rate Adjustment Fund. The cost of an actuarial
12 audit of the Fund shall be paid from the Rate Adjustment Fund
13 and the audit shall be completed no later than July 1, 1997.
14 The State Treasurer is ex officio custodian of such Special
15 Fund and the same shall be held and disbursed for the purposes
16 hereinafter stated in paragraphs (f) and (g) of Section 8 upon
17 the order of the Commission or of a competent court. The Rate
18 Adjustment Fund shall be deposited the same as are State funds
19 and any interest accruing thereon shall be added thereto every
20 6 months. It shall be subject to audit the same as State funds
21 and accounts and shall be protected by the general bond given
22 by the State Treasurer. It is considered always appropriated
23 for the purposes of disbursements as provided in paragraphs (f)
24 and (g) of Section 8 of this Act and shall be paid out and
25 disbursed as therein provided and shall not at any time be
26 appropriated or diverted to any other use or purpose. Within 5
27 days after the effective date of this amendatory Act of 1990,
28 the Comptroller and the State Treasurer shall transfer
29 \$1,000,000 from the General Revenue Fund to the Rate Adjustment
30 Fund. By February 15, 1991, the Comptroller and the State
31 Treasurer shall transfer \$1,000,000 from the Rate Adjustment
32 Fund to the General Revenue Fund. The Comptroller and Treasurer
33 are authorized to make transfers at the request of the Chairman
34 up to a total of \$15,000,000 from the Second Injury Fund, the
35 General Revenue Fund, and the Workers' Compensation Benefit
36 Trust Fund to the Rate Adjustment Fund to the extent that there

1 is insufficient money in the Rate Adjustment Fund to pay claims
2 and obligations. Amounts may be transferred from the General
3 Revenue Fund only if the funds in the Second Injury Fund or the
4 Workers' Compensation Benefit Trust Fund are insufficient to
5 pay claims and obligations of the Rate Adjustment Fund. All
6 amounts transferred from the Second Injury Fund, the General
7 Revenue Fund, and the Workers' Compensation Benefit Trust Fund
8 shall be repaid from the Rate Adjustment Fund within 270 days
9 of a transfer, together with interest at the rate earned by
10 moneys on deposit in the Fund or Funds from which the moneys
11 were transferred.

12 Upon a finding by the Commission, after reasonable notice
13 and hearing, that any employer has willfully and knowingly
14 failed to pay the proper amounts into the Second Injury Fund or
15 the Rate Adjustment Fund required by this Section or if such
16 payments are not made within the time periods prescribed by
17 this Section, the employer shall, in addition to such payments,
18 pay a penalty of 20% of the amount required to be paid or
19 \$2,500, whichever is greater, for each year or part thereof of
20 such failure to pay. This penalty shall only apply to
21 obligations of an employer to the Second Injury Fund or the
22 Rate Adjustment Fund accruing after the effective date of this
23 amendatory Act of 1989. All or part of such a penalty may be
24 waived by the Commission for good cause shown.

25 Any obligations of an employer to the Second Injury Fund
26 and Rate Adjustment Fund accruing prior to the effective date
27 of this amendatory Act of 1989 shall be paid in full by such
28 employer within 5 years of the effective date of this
29 amendatory Act of 1989, with at least one-fifth of such
30 obligation to be paid during each year following the effective
31 date of this amendatory Act of 1989. If the Commission finds,
32 following reasonable notice and hearing, that an employer has
33 failed to make timely payment of any obligation accruing under
34 the preceding sentence, the employer shall, in addition to all
35 other payments required by this Section, be liable for a
36 penalty equal to 20% of the overdue obligation or \$2,500,

1 whichever is greater, for each year or part thereof that
2 obligation is overdue. All or part of such a penalty may be
3 waived by the Commission for good cause shown.

4 The Chairman of the Illinois Workers' Compensation
5 Commission shall, annually, furnish to the Secretary of
6 Financial and Professional Regulation ~~Director of the~~
7 ~~Department of Insurance~~ a list of the amounts paid into the
8 Second Injury Fund and the Rate Adjustment Fund by each
9 insurance company on behalf of their insured employers. The
10 Secretary ~~Director~~ shall verify to the Chairman that the
11 amounts paid by each insurance company are accurate as best as
12 the Secretary ~~Director~~ can determine from the records available
13 to the Secretary ~~Director~~. The Chairman shall verify that the
14 amounts paid by each self-insurer are accurate as best as the
15 Chairman can determine from records available to the Chairman.
16 The Chairman may require each self-insurer to provide
17 information concerning the total compensation payments made
18 upon which contributions to the Second Injury Fund and the Rate
19 Adjustment Fund are predicated and any additional information
20 establishing that such payments have been made into these
21 funds. Any deficiencies in payments noted by the Director or
22 Chairman shall be subject to the penalty provisions of this
23 Act.

24 The State Treasurer, or his duly authorized
25 representative, shall be named as a party to all proceedings in
26 all cases involving claim for the loss of, or the permanent and
27 complete loss of the use of one eye, one foot, one leg, one arm
28 or one hand.

29 The State Treasurer or his duly authorized agent shall have
30 the same rights as any other party to the proceeding, including
31 the right to petition for review of any award. The reasonable
32 expenses of litigation, such as medical examinations,
33 testimony, and transcript of evidence, incurred by the State
34 Treasurer or his duly authorized representative, shall be borne
35 by the Second Injury Fund.

36 If the award is not paid within 30 days after the date the

1 award has become final, the Commission shall proceed to take
2 judgment thereon in its own name as is provided for other
3 awards by paragraph (g) of Section 19 of this Act and take the
4 necessary steps to collect the award.

5 Any person, corporation or organization who has paid or
6 become liable for the payment of burial expenses of the
7 deceased employee may in his or its own name institute
8 proceedings before the Commission for the collection thereof.

9 For the purpose of administration, receipts and
10 disbursements, the Special Fund provided for in paragraph (f)
11 of this Section shall be administered jointly with the Special
12 Fund provided for in Section 7, paragraph (f) of the Workers'
13 Occupational Diseases Act.

14 (g) All compensation, except for burial expenses provided
15 in this Section to be paid in case accident results in death,
16 shall be paid in installments equal to the percentage of the
17 average earnings as provided for in Section 8, paragraph (b) of
18 this Act, at the same intervals at which the wages or earnings
19 of the employees were paid. If this is not feasible, then the
20 installments shall be paid weekly. Such compensation may be
21 paid in a lump sum upon petition as provided in Section 9 of
22 this Act. However, in addition to the benefits provided by
23 Section 9 of this Act where compensation for death is payable
24 to the deceased's widow, widower or to the deceased's widow,
25 widower and one or more children, and where a partial lump sum
26 is applied for by such beneficiary or beneficiaries within 18
27 months after the deceased's death, the Commission may, in its
28 discretion, grant a partial lump sum of not to exceed 100 weeks
29 of the compensation capitalized at their present value upon the
30 basis of interest calculated at 3% per annum with annual rests,
31 upon a showing that such partial lump sum is for the best
32 interest of such beneficiary or beneficiaries.

33 (h) In case the injured employee is under 16 years of age
34 at the time of the accident and is illegally employed, the
35 amount of compensation payable under paragraphs (a), (b), (c),
36 (d) and (f) of this Section shall be increased 50%.

1 Nothing herein contained repeals or amends the provisions
2 of the Child Labor Law relating to the employment of minors
3 under the age of 16 years.

4 However, where an employer has on file an employment
5 certificate issued pursuant to the Child Labor Law or work
6 permit issued pursuant to the Federal Fair Labor Standards Act,
7 as amended, or a birth certificate properly and duly issued,
8 such certificate, permit or birth certificate is conclusive
9 evidence as to the age of the injured minor employee for the
10 purposes of this Section only.

11 (i) Whenever the dependents of a deceased employee are
12 aliens not residing in the United States, Mexico or Canada, the
13 amount of compensation payable is limited to the beneficiaries
14 described in paragraphs (a), (b) and (c) of this Section and is
15 50% of the compensation provided in paragraphs (a), (b) and (c)
16 of this Section, except as otherwise provided by treaty.

17 In a case where any of the persons who would be entitled to
18 compensation is living at any place outside of the United
19 States, then payment shall be made to the personal
20 representative of the deceased employee. The distribution by
21 such personal representative to the persons entitled shall be
22 made to such persons and in such manner as the Commission
23 orders.

24 (Source: P.A. 92-714, eff. 1-1-03; 93-721, eff. 1-1-05.)

25 Section 9935. The Workers' Occupational Diseases Act is
26 amended by changing Section 4 as follows:

27 (820 ILCS 310/4) (from Ch. 48, par. 172.39)

28 Sec. 4. (a) Any employer, including but not limited to
29 general contractors and their subcontractors, required by the
30 terms of this Act or by election to pay the compensation
31 provided for in this Act shall:

32 (1) File with the Commission an application for
33 approval as a self-insurer which shall include a current
34 financial statement. The application and financial

1 statement shall be signed and sworn to by the president or
2 vice-president and secretary or assistant secretary of the
3 employer if it be a corporation, or by all of the partners
4 if it be a copartnership, or by the owner if it be neither
5 a copartnership nor a corporation. An employer may elect to
6 provide and pay compensation as provided for in this Act as
7 a member of a group workers' compensation pool under
8 Article V 3/4 of the Illinois Insurance Code. If an
9 employer becomes a member of a group workers' compensation
10 pool, the employer shall not be relieved of any obligations
11 imposed by this Act.

12 If the sworn application and financial statement of any
13 such employer does not satisfy the Commission of the
14 financial ability of the employer who has filed it, the
15 Commission shall require such employer to:

16 (2) Furnish security, indemnity or a bond guaranteeing
17 the payment by the employer of the compensation provided
18 for in this Act, provided that any such employer who shall
19 have secured his or her liability in part by excess
20 liability coverage shall be required to furnish to the
21 Commission security, indemnity or bond guaranteeing his or
22 her payment up to the amount of the effective limits of the
23 excess coverage in accordance with the provisions of this
24 paragraph, or

25 (3) Insure his or her entire liability to pay such
26 compensation in some insurance carrier authorized,
27 licensed or permitted to do such insurance business in this
28 State. All policies of such insurance carriers insuring the
29 payment of compensation under this Act shall cover all the
30 employees and all such employer's compensation liability
31 in all cases in which the last day of the last exposure to
32 the occupational disease involved is within the effective
33 period of the policy, anything to the contrary in the
34 policy notwithstanding. Provided, however, that any
35 employer may insure his or her compensation liability under
36 this Act with 2 or more insurance carriers or may insure a

1 part and qualify under Subsection 1, 2, or 4 for the
2 remainder of his liability to pay such compensation,
3 subject to the following two provisions:

4 Firstly, the entire liability of the employer to
5 employees working at or from one location shall be
6 insured in one such insurance carrier or shall be
7 self-insured.

8 Secondly, the employer shall submit evidence
9 satisfactory to the Commission that his or her entire
10 liability for the compensation provided for in this Act
11 will be secured.

12 Any provision in a policy or in any endorsement
13 attached thereto attempting to limit or modify in any way
14 the liability of the insurance carrier issuing the same,
15 except as otherwise provided herein, shall be wholly void.

16 The insurance or security in force to cover
17 compensation liability under this Act shall be separate and
18 distinct from the insurance or security under the "Workers'
19 Compensation Act" and any insurance contract covering
20 liability under either Act need not cover any liability
21 under the other. Nothing herein contained shall apply to
22 policies of excess liability carriage secured by employers
23 who have been approved by the Commission as self-insurers,
24 or

25 (4) Make some other provision, satisfactory to the
26 Commission, for the securing of the payment of compensation
27 provided for in this Act, and

28 (5) Upon becoming subject to this Act and thereafter as
29 often as the Commission may in writing demand, file with
30 the Commission in form prescribed by it evidence of his or
31 her compliance with the provision of this Section.

32 (a-1) Regardless of its state of domicile or its principal
33 place of business, an employer shall make payments to its
34 insurance carrier or group self-insurance fund, where
35 applicable, based upon the premium rates of the situs where the
36 work or project is located in Illinois if:

1 (A) the employer is engaged primarily in the building
2 and construction industry; and

3 (B) subdivision (a)(3) of this Section applies to the
4 employer or the employer is a member of a group
5 self-insurance plan as defined in subsection (1) of Section
6 4a.

7 The Illinois Workers' Compensation Commission shall impose
8 a penalty upon an employer for violation of this subsection
9 (a-1) if:

10 (i) the employer is given an opportunity at a hearing
11 to present evidence of its compliance with this subsection
12 (a-1); and

13 (ii) after the hearing, the Commission finds that the
14 employer failed to make payments upon the premium rates of
15 the situs where the work or project is located in Illinois.

16 The penalty shall not exceed \$1,000 for each day of work
17 for which the employer failed to make payments upon the premium
18 rates of the situs where the work or project is located in
19 Illinois, but the total penalty shall not exceed \$50,000 for
20 each project or each contract under which the work was
21 performed.

22 Any penalty under this subsection (a-1) must be imposed not
23 later than one year after the expiration of the applicable
24 limitation period specified in subsection (c) of Section 6 of
25 this Act. Penalties imposed under this subsection (a-1) shall
26 be deposited into the Illinois Workers' Compensation
27 Commission Operations Fund created under Section 4 of the
28 Workers' Compensation Act.

29 (b) The sworn application and financial statement, or
30 security, indemnity or bond, or amount of insurance, or other
31 provisions, filed, furnished, carried, or made by the employer,
32 as the case may be, shall be subject to the approval of the
33 Commission.

34 Deposits under escrow agreements shall be cash, negotiable
35 United States government bonds or negotiable general
36 obligation bonds of the State of Illinois. Such cash or bonds

1 shall be deposited in escrow with any State or National Bank or
2 Trust Company having trust authority in the State of Illinois.

3 Upon the approval of the sworn application and financial
4 statement, security, indemnity or bond or amount of insurance,
5 filed, furnished, or carried, as the case may be, the
6 Commission shall send to the employer written notice of its
7 approval thereof. Said certificate of compliance by the
8 employer with the provisions of subparagraphs (2) and (3) of
9 paragraph (a) of this Section shall be delivered by the
10 insurance carrier to the Illinois Workers' Compensation
11 Commission within 5 days after the effective date of the policy
12 so certified. The insurance so certified shall cover all
13 compensation liability occurring during the time that the
14 insurance is in effect and no further certificate need be filed
15 in case such insurance is renewed, extended or otherwise
16 continued by such carrier. The insurance so certified shall not
17 be cancelled or in the event that such insurance is not
18 renewed, extended or otherwise continued, such insurance shall
19 not be terminated until at least 10 days after receipt by the
20 Illinois Workers' Compensation Commission of notice of the
21 cancellation or termination of said insurance; provided,
22 however, that if the employer has secured insurance from
23 another insurance carrier, or has otherwise secured the payment
24 of compensation in accordance with this Section, and such
25 insurance or other security becomes effective prior to the
26 expiration of said 10 days, cancellation or termination may, at
27 the option of the insurance carrier indicated in such notice,
28 be effective as of the effective date of such other insurance
29 or security.

30 (c) Whenever the Commission shall find that any
31 corporation, company, association, aggregation of individuals,
32 reciprocal or interinsurers exchange, or other insurer
33 effecting workers' occupational disease compensation insurance
34 in this State shall be insolvent, financially unsound, or
35 unable to fully meet all payments and liabilities assumed or to
36 be assumed for compensation insurance in this State, or shall

1 practice a policy of delay or unfairness toward employees in
2 the adjustment, settlement, or payment of benefits due such
3 employees, the Commission may after reasonable notice and
4 hearing order and direct that such corporation, company,
5 association, aggregation of individuals, reciprocal or
6 interinsurers exchange, or insurer, shall from and after a date
7 fixed in such order discontinue the writing of any such
8 workers' occupational disease compensation insurance in this
9 State. It shall thereupon be unlawful for any such corporation,
10 company, association, aggregation of individuals, reciprocal
11 or interinsurers exchange, or insurer to effect any workers'
12 occupational disease compensation insurance in this State. A
13 copy of the order shall be served upon the Secretary of
14 Financial and Professional Regulation ~~Director of Insurance~~ by
15 registered mail. Whenever the Commission finds that any service
16 or adjustment company used or employed by a self-insured
17 employer or by an insurance carrier to process, adjust,
18 investigate, compromise or otherwise handle claims under this
19 Act, has practiced or is practicing a policy of delay or
20 unfairness toward employees in the adjustment, settlement or
21 payment of benefits due such employees, the Commission may
22 after reasonable notice and hearing order and direct that such
23 service or adjustment company shall from and after a date fixed
24 in such order be prohibited from processing, adjusting,
25 investigating, compromising or otherwise handling claims under
26 this Act.

27 Whenever the Commission finds that any self-insured
28 employer has practiced or is practicing delay or unfairness
29 toward employees in the adjustment, settlement or payment of
30 benefits due such employees, the Commission may after
31 reasonable notice and hearing order and direct that after a
32 date fixed in the order such self-insured employer shall be
33 disqualified to operate as a self-insurer and shall be required
34 to insure his entire liability to pay compensation in some
35 insurance carrier authorized, licensed and permitted to do such
36 insurance business in this State as provided in subparagraph

1 (3) of paragraph (a) of this Section.

2 All orders made by the Commission under this Section shall
3 be subject to review by the courts, the review to be taken in
4 the same manner and within the same time as provided by Section
5 19 of this Act for review of awards and decisions of the
6 Commission, upon the party seeking the review filing with the
7 clerk of the court to which said review is taken a bond in an
8 amount to be fixed and approved by the court to which said
9 review is taken, conditioned upon the payment of all
10 compensation awarded against the person taking the review
11 pending a decision thereof and further conditioned upon such
12 other obligations as the court may impose. Upon the review the
13 Circuit Court shall have power to review all questions of fact
14 as well as of law. The penalty hereinafter provided for in this
15 paragraph shall not attach and shall not begin to run until the
16 final determination of the order of the Commission.

17 (d) Upon a finding by the Commission, after reasonable
18 notice and hearing, of the knowing and wilful failure of an
19 employer to comply with any of the provisions of paragraph (a)
20 of this Section or the failure or refusal of an employer,
21 service or adjustment company, or insurance carrier to comply
22 with any order of the Illinois Workers' Compensation Commission
23 pursuant to paragraph (c) of this Section the Commission may
24 assess a civil penalty of up to \$500 per day for each day of
25 such failure or refusal after the effective date of this
26 amendatory Act of 1989. Each day of such failure or refusal
27 shall constitute a separate offense.

28 Upon the failure or refusal of any employer, service or
29 adjustment company or insurance carrier to comply with the
30 provisions of this Section and orders of the Commission under
31 this Section, or the order of the court on review after final
32 adjudication, the Commission may bring a civil action to
33 recover the amount of the penalty in Cook County or in Sangamon
34 County in which litigation the Commission shall be represented
35 by the Attorney General. The Commission shall send notice of
36 its finding of non-compliance and assessment of the civil

1 penalty to the Attorney General. It shall be the duty of the
2 Attorney General within 30 days after receipt of the notice, to
3 institute prosecutions and promptly prosecute all reported
4 violations of this Section.

5 (e) This Act shall not affect or disturb the continuance of
6 any existing insurance, mutual aid, benefit, or relief
7 association or department, whether maintained in whole or in
8 part by the employer or whether maintained by the employees,
9 the payment of benefits of such association or department being
10 guaranteed by the employer or by some person, firm or
11 corporation for him or her: Provided, the employer contributes
12 to such association or department an amount not less than the
13 full compensation herein provided, exclusive of the cost of the
14 maintenance of such association or department and without any
15 expense to the employee. This Act shall not prevent the
16 organization and maintaining under the insurance laws of this
17 State of any benefit or insurance company for the purpose of
18 insuring against the compensation provided for in this Act, the
19 expense of which is maintained by the employer. This Act shall
20 not prevent the organization or maintaining under the insurance
21 laws of this State of any voluntary mutual aid, benefit or
22 relief association among employees for the payment of
23 additional accident or sick benefits.

24 (f) No existing insurance, mutual aid, benefit or relief
25 association or department shall, by reason of anything herein
26 contained, be authorized to discontinue its operation without
27 first discharging its obligations to any and all persons
28 carrying insurance in the same or entitled to relief or
29 benefits therein.

30 (g) Any contract, oral, written or implied, of employment
31 providing for relief benefit, or insurance or any other device
32 whereby the employee is required to pay any premium or premiums
33 for insurance against the compensation provided for in this Act
34 shall be null and void. Any employer withholding from the wages
35 of any employee any amount for the purpose of paying any such
36 premium shall be guilty of a Class B misdemeanor.

1 In the event the employer does not pay the compensation for
2 which he or she is liable, then an insurance company,
3 association or insurer which may have insured such employer
4 against such liability shall become primarily liable to pay to
5 the employee, his personal representative or beneficiary the
6 compensation required by the provisions of this Act to be paid
7 by such employer. The insurance carrier may be made a party to
8 the proceedings in which the employer is a party and an award
9 may be entered jointly against the employer and the insurance
10 carrier.

11 (h) It shall be unlawful for any employer, insurance
12 company or service or adjustment company to interfere with,
13 restrain or coerce an employee in any manner whatsoever in the
14 exercise of the rights or remedies granted to him or her by
15 this Act or to discriminate, attempt to discriminate, or
16 threaten to discriminate against an employee in any way because
17 of his exercise of the rights or remedies granted to him by
18 this Act.

19 It shall be unlawful for any employer, individually or
20 through any insurance company or service or adjustment company,
21 to discharge or to threaten to discharge, or to refuse to
22 rehire or recall to active service in a suitable capacity an
23 employee because of the exercise of his or her rights or
24 remedies granted to him or her by this Act.

25 (i) If an employer elects to obtain a life insurance policy
26 on his employees, he may also elect to apply such benefits in
27 satisfaction of all or a portion of the death benefits payable
28 under this Act, in which case, the employer's premium for
29 coverage for benefits under this Act shall be reduced
30 accordingly.

31 (Source: P.A. 93-721, eff. 1-1-05.)

32 Section 9940. The Unemployment Insurance Act is amended by
33 changing Section 1900 as follows:

34 (820 ILCS 405/1900) (from Ch. 48, par. 640)

1 Sec. 1900. Disclosure of information.

2 A. Except as provided in this Section, information obtained
3 from any individual or employing unit during the administration
4 of this Act shall:

5 1. be confidential,

6 2. not be published or open to public inspection,

7 3. not be used in any court in any pending action or
8 proceeding,

9 4. not be admissible in evidence in any action or
10 proceeding other than one arising out of this Act.

11 B. No finding, determination, decision, ruling or order
12 (including any finding of fact, statement or conclusion made
13 therein) issued pursuant to this Act shall be admissible or
14 used in evidence in any action other than one arising out of
15 this Act, nor shall it be binding or conclusive except as
16 provided in this Act, nor shall it constitute res judicata,
17 regardless of whether the actions were between the same or
18 related parties or involved the same facts.

19 C. Any officer or employee of this State, any officer or
20 employee of any entity authorized to obtain information
21 pursuant to this Section, and any agent of this State or of
22 such entity who, except with authority of the Director under
23 this Section, shall disclose information shall be guilty of a
24 Class B misdemeanor and shall be disqualified from holding any
25 appointment or employment by the State.

26 D. An individual or his duly authorized agent may be
27 supplied with information from records only to the extent
28 necessary for the proper presentation of his claim for benefits
29 or with his existing or prospective rights to benefits.
30 Discretion to disclose this information belongs solely to the
31 Director and is not subject to a release or waiver by the
32 individual. Notwithstanding any other provision to the
33 contrary, an individual or his or her duly authorized agent may
34 be supplied with a statement of the amount of benefits paid to
35 the individual during the 18 months preceding the date of his
36 or her request.

1 E. An employing unit may be furnished with information,
2 only if deemed by the Director as necessary to enable it to
3 fully discharge its obligations or safeguard its rights under
4 the Act. Discretion to disclose this information belongs solely
5 to the Director and is not subject to a release or waiver by
6 the employing unit.

7 F. The Director may furnish any information that he may
8 deem proper to any public officer or public agency of this or
9 any other State or of the federal government dealing with:

- 10 1. the administration of relief,
- 11 2. public assistance,
- 12 3. unemployment compensation,
- 13 4. a system of public employment offices,
- 14 5. wages and hours of employment, or
- 15 6. a public works program.

16 The Director may make available to the Illinois Workers'
17 Compensation Commission information regarding employers for
18 the purpose of verifying the insurance coverage required under
19 the Workers' Compensation Act and Workers' Occupational
20 Diseases Act.

21 G. The Director may disclose information submitted by the
22 State or any of its political subdivisions, municipal
23 corporations, instrumentalities, or school or community
24 college districts, except for information which specifically
25 identifies an individual claimant.

26 H. The Director shall disclose only that information
27 required to be disclosed under Section 303 of the Social
28 Security Act, as amended, including:

- 29 1. any information required to be given the United
30 States Department of Labor under Section 303(a)(6); and
- 31 2. the making available upon request to any agency of
32 the United States charged with the administration of public
33 works or assistance through public employment, the name,
34 address, ordinary occupation and employment status of each
35 recipient of unemployment compensation, and a statement of
36 such recipient's right to further compensation under such

1 law as required by Section 303(a) (7); and

2 3. records to make available to the Railroad Retirement
3 Board as required by Section 303(c) (1); and

4 4. information that will assure reasonable cooperation
5 with every agency of the United States charged with the
6 administration of any unemployment compensation law as
7 required by Section 303(c) (2); and

8 5. information upon request and on a reimbursable basis
9 to the United States Department of Agriculture and to any
10 State food stamp agency concerning any information
11 required to be furnished by Section 303(d); and

12 6. any wage information upon request and on a
13 reimbursable basis to any State or local child support
14 enforcement agency required by Section 303(e); and

15 7. any information required under the income
16 eligibility and verification system as required by Section
17 303(f); and

18 8. information that might be useful in locating an
19 absent parent or that parent's employer, establishing
20 paternity or establishing, modifying, or enforcing child
21 support orders for the purpose of a child support
22 enforcement program under Title IV of the Social Security
23 Act upon the request of and on a reimbursable basis to the
24 public agency administering the Federal Parent Locator
25 Service as required by Section 303(h); and

26 9. information, upon request, to representatives of
27 any federal, State or local governmental public housing
28 agency with respect to individuals who have signed the
29 appropriate consent form approved by the Secretary of
30 Housing and Urban Development and who are applying for or
31 participating in any housing assistance program
32 administered by the United States Department of Housing and
33 Urban Development as required by Section 303(i).

34 I. The Director, upon the request of a public agency of
35 Illinois, of the federal government or of any other state
36 charged with the investigation or enforcement of Section 10-5

1 of the Criminal Code of 1961 (or a similar federal law or
2 similar law of another State), may furnish the public agency
3 information regarding the individual specified in the request
4 as to:

5 1. the current or most recent home address of the
6 individual, and

7 2. the names and addresses of the individual's
8 employers.

9 J. Nothing in this Section shall be deemed to interfere
10 with the disclosure of certain records as provided for in
11 Section 1706 or with the right to make available to the
12 Internal Revenue Service of the United States Department of the
13 Treasury, or the Department of Revenue of the State of
14 Illinois, information obtained under this Act.

15 K. The Department shall make available to the Illinois
16 Student Assistance Commission, upon request, information in
17 the possession of the Department that may be necessary or
18 useful to the Commission in the collection of defaulted or
19 delinquent student loans which the Commission administers.

20 L. The Department shall make available to the State
21 Employees' Retirement System, the State Universities
22 Retirement System, and the Teachers' Retirement System of the
23 State of Illinois, upon request, information in the possession
24 of the Department that may be necessary or useful to the System
25 for the purpose of determining whether any recipient of a
26 disability benefit from the System is gainfully employed.

27 M. This Section shall be applicable to the information
28 obtained in the administration of the State employment service,
29 except that the Director may publish or release general labor
30 market information and may furnish information that he may deem
31 proper to an individual, public officer or public agency of
32 this or any other State or the federal government (in addition
33 to those public officers or public agencies specified in this
34 Section) as he prescribes by Rule.

35 N. The Director may require such safeguards as he deems
36 proper to insure that information disclosed pursuant to this

1 Section is used only for the purposes set forth in this
2 Section.

3 O. (Blank).

4 P. Within 30 days after the effective date of this
5 amendatory Act of 1993 and annually thereafter, the Department
6 shall provide to the Department of Financial and Professional
7 Regulation Institutions a list of individuals or entities that,
8 for the most recently completed calendar year, report to the
9 Department as paying wages to workers. The lists shall be
10 deemed confidential and may not be disclosed to any other
11 person.

12 Q. The Director shall make available to an elected federal
13 official the name and address of an individual or entity that
14 is located within the jurisdiction from which the official was
15 elected and that, for the most recently completed calendar
16 year, has reported to the Department as paying wages to
17 workers, where the information will be used in connection with
18 the official duties of the official and the official requests
19 the information in writing, specifying the purposes for which
20 it will be used. For purposes of this subsection, the use of
21 information in connection with the official duties of an
22 official does not include use of the information in connection
23 with the solicitation of contributions or expenditures, in
24 money or in kind, to or on behalf of a candidate for public or
25 political office or a political party or with respect to a
26 public question, as defined in Section 1-3 of the Election
27 Code, or in connection with any commercial solicitation. Any
28 elected federal official who, in submitting a request for
29 information covered by this subsection, knowingly makes a false
30 statement or fails to disclose a material fact, with the intent
31 to obtain the information for a purpose not authorized by this
32 subsection, shall be guilty of a Class B misdemeanor.

33 R. The Director may provide to any State or local child
34 support agency, upon request and on a reimbursable basis,
35 information that might be useful in locating an absent parent
36 or that parent's employer, establishing paternity, or

1 establishing, modifying, or enforcing child support orders.

2 S. The Department shall make available to a State's
3 Attorney of this State or a State's Attorney's investigator,
4 upon request, the current address or, if the current address is
5 unavailable, current employer information, if available, of a
6 victim of a felony or a witness to a felony or a person against
7 whom an arrest warrant is outstanding.

8 (Source: P.A. 93-311, eff. 1-1-04; 93-721, eff. 1-1-05.)

9 Section 9995. Severability. If any provision of this Act or
10 its application to any person or circumstance is held invalid
11 by any court of competent jurisdiction, this invalidity does
12 not affect any other provision or application of this Act that
13 can be given effect without the invalid provision or
14 application. To achieve this purpose, the provisions of this
15 Act are declared to be severable.

16 Section 9999. Effective date. This Act takes effect upon
17 becoming law.

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