

1 AN ACT concerning health facilities.

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

4 ARTICLE I. SHORT TITLE, PRIOR LAW, AND DEFINITIONS

5 Section 1-101. Short title. This Act may be cited as the  
6 Specialized Mental Health Rehabilitation Act.

7 Section 1-101.01. Legislative findings. Illinois is  
8 committed to providing behavioral health services in the most  
9 community-integrated settings possible, based on the needs of  
10 residents who qualify for State support. This goal is  
11 consistent with federal law and regulations and recent court  
12 decrees. A variety of services and settings are necessary to  
13 ensure that people with serious mental illness receive high  
14 quality care that is oriented towards their safety,  
15 rehabilitation, and recovery.

16 Residential settings are an important component of the  
17 system of behavioral health care that Illinois is developing.  
18 When residential treatment is necessary these facilities must  
19 offer high quality rehabilitation and recover care, help  
20 residents achieve and maintain their highest level of  
21 independent functioning, and prepare them to live in permanent  
22 supportive housing and other community-integrated settings.

1 Facilities licensed under the Specialized Mental Health  
2 Rehabilitation Act will be models of such residential care,  
3 demonstrating the elements essential to help people with  
4 serious mental illness transition to more independent living  
5 and return to healthy, productive lives.

6 Section 1-101.05. Prior law.

7 (a) This Act provides for licensure of long-term care  
8 facilities that specialize in services to individuals with a  
9 severe mental illness under this Act instead of under the  
10 Nursing Home Care Act. On and after the effective date of this  
11 Act, those facilities shall be governed by this Act instead of  
12 the Nursing Home Care Act.

13 (b) If any other Act of the 97th General Assembly changes,  
14 adds, or repeals a provision of the Nursing Home Care Act that  
15 is the same as or substantially similar to a provision of this  
16 Act, then that change, addition, or repeal in the Nursing Home  
17 Care Act shall be construed together with this Act.

18 (c) Nothing in this Act affects the validity or effect of  
19 any finding, decision, or action made or taken by the  
20 Department or the Director under the Nursing Home Care Act  
21 before the effective date of this Act with respect to a  
22 facility subject to licensure under this Act. That finding,  
23 decision, or action shall continue to apply to the facility on  
24 and after the effective date of this Act. Any finding,  
25 decision, or action with respect to the facility made or taken

1 on or after the effective date of this Act shall be made or  
2 taken as provided in this Act. All consent decrees that apply  
3 to facilities federally designated as Institutions for the  
4 Mentally Diseased shall also apply to facilities licensed under  
5 the Specialized Mental Health Facilities Act.

6 Section 1-102. Definitions. For the purposes of this Act,  
7 unless the context otherwise requires, the terms defined in  
8 this Article have the meanings ascribed to them herein.

9 Section 1-103. Abuse. "Abuse" means any physical or mental  
10 injury or sexual assault inflicted on a resident other than by  
11 accidental means in a facility.

12 Section 1-104. Access. "Access" means the right to:

13 (1) Enter any facility;

14 (2) Communicate privately and without restriction with  
15 any resident who consents to the communication;

16 (3) Seek consent to communicate privately and without  
17 restriction with any resident;

18 (4) Inspect the clinical and other records of a  
19 resident with the express written consent of the resident;

20 or

21 (5) Observe all areas of the facility except the living  
22 area of any resident who protests the observation.

1           Section 1-105. Administrator.       "Administrator" means a  
2 person who is charged with the general administration and  
3 supervision of a facility and licensed, if required, under the  
4 Nursing Home Administrators Licensing and Disciplinary Act, as  
5 now or hereafter amended.

6           Section 1-106. Affiliate. "Affiliate" means:

7           (1) With respect to a partnership, each partner  
8 thereof.

9           (2) With respect to a corporation, each officer,  
10 director and stockholder thereof.

11           (3) With respect to a natural person: any person  
12 related in the first degree of kinship to that person; each  
13 partnership and each partner thereof of which that person  
14 or any affiliate of that person is a partner; and each  
15 corporation in which that person or any affiliate of that  
16 person is an officer, director or stockholder.

17           Section 1-107. Applicant. "Applicant" means any person  
18 making application for a license.

19           Section 1-108.1. Complaint classification. "Complaint  
20 classification" means the Department shall categorize reports  
21 about conditions, care or services in a facility into one of  
22 three groups after an investigation:

23           (1) "An invalid report" means any report made under

1           this Act for which it is determined after an investigation  
2           that no credible evidence of abuse, neglect or other  
3           deficiency relating to the complaint exists;

4           (2) "A valid report" means a report made under this Act  
5           if an investigation determines that some credible evidence  
6           of the alleged abuse, neglect or other deficiency relating  
7           to the complaint exists; and

8           (3) "An undetermined report" means a report made under  
9           this Act in which it was not possible to initiate or  
10          complete an investigation on the basis of information  
11          provided to the Department.

12          Section 1-109. Department. "Department" means the  
13          Department of Public Health.

14          Section 1-110. Director. "Director" means the Director of  
15          Public Health or his or her designee.

16          Section 1-111. Discharge. "Discharge" means the full  
17          release of any resident from a facility.

18          Section 1-112. Emergency. "Emergency" means a situation,  
19          physical condition or one or more practices, methods or  
20          operations which present imminent danger of death or serious  
21          physical or mental harm to residents of a facility.

1           Section 1-113. Facility. "Facility" means a specialized  
2 mental health rehabilitation facility, whether operated for  
3 profit or not, which provides, through its ownership or  
4 management, personal care or nursing for 3 or more persons not  
5 related to the applicant or owner by blood or marriage. It  
6 includes facilities that meet the following criteria:

7           (i) 100% of the resident population of the facility has  
8 a diagnosis of serious mental illness;

9           (ii) no more than 15% of the resident population of the  
10 facility is 65 years of age or older;

11           (iii) none of the residents have a primary diagnosis of  
12 moderate, severe, or profound mental retardation;

13           (iv) meet standards established in Subpart T of Section  
14 300 of Title 77 of the Illinois Administrative Code as it  
15 existed on June 30, 2011. Facilities licensed under this  
16 Act shall continue to meet standards established under this  
17 portion of the Illinois Administrative Code until such time  
18 as new rules are adopted pursuant to this Act; and

19           (v) must participate in the Demonstration Project for  
20 Mental Health Services in Nursing Facilities established  
21 under Department of Healthcare and Family Services rules at  
22 89 Ill. Adm. Code 145.10 and its successor; to be  
23 considered for participation in this Demonstration Project  
24 for Mental Health Services in Nursing Facilities, a  
25 facility must meet all standards established in this  
26 rulemaking (89 Ill. Adm. Code) or its successor; this

1 demonstration project shall be extended through June 30,  
2 2014.

3 "Facility" does not include the following:

4 (1) a home, institution, or other place operated by the  
5 federal government or agency thereof, or by the State of  
6 Illinois, other than homes, institutions, or other places  
7 operated by or under the authority of the Illinois  
8 Department of Veterans' Affairs;

9 (2) a hospital, sanitarium, or other institution whose  
10 principal activity or business is the diagnosis, care, and  
11 treatment of human illness through the maintenance and  
12 operation as organized facilities therefore, which is  
13 required to be licensed under the Hospital Licensing Act;

14 (3) any "facility for child care" as defined in the  
15 Child Care Act of 1969;

16 (4) any "community living facility" as defined in the  
17 Community Living Facilities Licensing Act;

18 (5) any "community residential alternative" as defined  
19 in the Community Residential Alternatives Licensing Act;

20 (6) any nursing home or sanatorium operated solely by  
21 and for persons who rely exclusively upon treatment by  
22 spiritual means through prayer, in accordance with the  
23 creed or tenets of any well-recognized church or religious  
24 denomination. However, such nursing home or sanatorium  
25 shall comply with all local laws and rules relating to  
26 sanitation and safety;

1           (7) any facility licensed by the Department of Human  
2 Services as a community integrated living arrangement as  
3 defined in the Community Integrated Living Arrangements  
4 Licensure and Certification Act;

5           (8) any "supportive residence" licensed under the  
6 Supportive Residences Licensing Act;

7           (9) any "supportive living facility" in good standing  
8 with the program established under Section 5-5.01a of the  
9 Illinois Public Aid Code, except only for purposes of the  
10 employment of persons in accordance with Section 3-206.01;

11           (10) any assisted living or shared housing  
12 establishment licensed under the Assisted Living and  
13 Shared Housing Act, except only for purposes of the  
14 employment of persons in accordance with Section 3-206.01;

15           (11) an Alzheimer's disease management center  
16 alternative health care model licensed under the  
17 Alternative Health Care Delivery Act;

18           (12) a home, institution, or other place operated by or  
19 under the authority of the Illinois Department of Veterans'  
20 Affairs;

21           (13) any facility licensed under the MR/DD Community  
22 Care Act; or

23           (14) any facility licensed under the Nursing Home Care  
24 Act.

25           Section 1-114. Guardian. "Guardian" means a person

1 appointed as a guardian of the person or guardian of the  
2 estate, or both, of a resident under the Probate Act of 1975,  
3 as now or hereafter amended.

4 Section 1-114.005. High-risk designation. "High-risk  
5 designation" means a violation of a provision of the Illinois  
6 Administrative Code that has been identified by the Department  
7 through rulemaking to be inherently necessary to protect the  
8 health, safety, and welfare of a resident.

9 Section 1-114.01. Identified offender. "Identified  
10 offender" means a person who meets any of the following  
11 criteria:

12 (1) Has been convicted of, found guilty of, adjudicated  
13 delinquent for, found not guilty by reason of insanity for,  
14 or found unfit to stand trial for any felony offense listed  
15 in Section 25 of the Health Care Worker Background Check  
16 Act, except for the following: (i) a felony offense  
17 described in Section 10-5 of the Nurse Practice Act; (ii) a  
18 felony offense described in Section 4, 5, 6, 8, or 17.02 of  
19 the Illinois Credit Card and Debit Card Act; (iii) a felony  
20 offense described in Section 5, 5.1, 5.2, 7, or 9 of the  
21 Cannabis Control Act; (iv) a felony offense described in  
22 Section 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the  
23 Illinois Controlled Substances Act; and (v) a felony  
24 offense described in the Methamphetamine Control and

1 Community Protection Act.

2 (2) Has been convicted of, adjudicated delinquent for,  
3 found not guilty by reason of insanity for, or found unfit  
4 to stand trial for, any sex offense as defined in  
5 subsection (c) of Section 10 of the Sex Offender Management  
6 Board Act.

7 (3) Is any other resident as determined by the  
8 Department of State Police.

9 Section 1-114.1. Immediate family. "Immediate family"  
10 means the spouse, an adult child, a parent, an adult brother or  
11 sister, or an adult grandchild of a person.

12 Section 1-115. Licensee. "Licensee" means the individual  
13 or entity licensed by the Department to operate the facility.

14 Section 1-116. Maintenance. "Maintenance" means food,  
15 shelter, and laundry services.

16 Section 1-116.5. Misappropriation of a resident's  
17 property. "Misappropriation of a resident's property" means  
18 the deliberate misplacement, exploitation, or wrongful  
19 temporary or permanent use of a resident's belongings or money  
20 without the resident's consent.

21 Section 1-117. Neglect. "Neglect" means a facility's

1 failure to provide, or willful withholding of, adequate medical  
2 care, mental health treatment, psychiatric rehabilitation,  
3 personal care, or assistance with activities of daily living  
4 that is necessary to avoid physical harm, mental anguish, or  
5 mental illness of a resident.

6 Section 1-118. Nurse. "Nurse" means a registered nurse or a  
7 licensed practical nurse as defined in the Nurse Practice Act.

8 Section 1-119. Owner. "Owner" means the individual,  
9 partnership, corporation, association, or other person who  
10 owns a facility. In the event a facility is operated by a  
11 person who leases the physical plant, which is owned by another  
12 person, "owner" means the person who operates the facility,  
13 except that if the person who owns the physical plant is an  
14 affiliate of the person who operates the facility and has  
15 significant control over the day-to-day operations of the  
16 facility, the person who owns the physical plant shall incur  
17 jointly and severally with the owner all liabilities imposed on  
18 an owner under this Act.

19 Section 1-120. Personal care. "Personal care" means  
20 assistance with meals, dressing, movement, bathing or other  
21 personal needs, maintenance, or general supervision and  
22 oversight of the physical and mental well-being of an  
23 individual, who is incapable of maintaining a private,

1 independent residence or who is incapable of managing his or  
2 her person whether or not a guardian has been appointed for  
3 such individual.

4 Section 1-120.3. Provisional admission period.  
5 "Provisional admission period" means the time between the  
6 admission of an identified offender as defined in Section  
7 1-114.01 and 3 days following the admitting facility's receipt  
8 of an Identified Offender Report and Recommendation in  
9 accordance with Section 2-201.6.

10 Section 1-120.7. Psychiatric services rehabilitation aide.  
11 "Psychiatric services rehabilitation aide" means an individual  
12 employed by a long-term care facility to provide, for mentally  
13 ill residents, at a minimum, crisis intervention,  
14 rehabilitation, and assistance with activities of daily  
15 living.

16 Section 1-121. Reasonable hour. "Reasonable hour" means  
17 any time between the hours of 10 a.m. and 8 p.m. daily.

18 Section 1-122. Resident. "Resident" means a person  
19 residing in and receiving personal care, mental health  
20 treatment, or psychiatric rehabilitation from a facility.

21 Section 1-123. Resident's representative. "Resident's

1 representative" means a person other than the owner, or an  
2 agent or employee of a facility not related to the resident,  
3 designated in writing by a resident to be his or her  
4 representative, or the resident's guardian, or the parent of a  
5 minor resident for whom no guardian has been appointed.

6 Section 1-124. Sheltered care. "Sheltered care" means  
7 maintenance and personal care.

8 Section 1-125. Stockholder. "Stockholder" of a corporation  
9 means any person who, directly or indirectly, beneficially  
10 owns, holds or has the power to vote, at least 5% of any class  
11 of securities issued by the corporation.

12 Section 1-125.1. Student intern. "Student intern" means  
13 any person whose total term of employment in any facility  
14 during any 12-month period is equal to or less than 90  
15 continuous days, and whose term of employment is either:

16 (1) an academic credit requirement in a high school or  
17 undergraduate institution, or

18 (2) immediately succeeds a full quarter, semester, or  
19 trimester of academic enrollment in either a high school or  
20 undergraduate institution, provided that such person is  
21 registered for another full quarter, semester, or  
22 trimester of academic enrollment in either a high school or  
23 undergraduate institution which quarter, semester, or

1           trimester shall commence immediately following the term of  
2           employment.

3           Section 1-126. Title XVIII. "Title XVIII" means Title XVIII  
4           of the federal Social Security Act as now or hereafter amended.

5           Section 1-127. Title XIX. "Title XIX" means Title XIX of  
6           the federal Social Security Act as now or hereafter amended.

7           Section 1-128. Transfer. "Transfer" means a change in  
8           status of a resident's living arrangements from one facility to  
9           another facility.

10          Section 1-128.5. Type "AA" violation. A "Type "AA"  
11          violation" means a violation of this Act or of the rules  
12          promulgated thereunder that creates a condition or occurrence  
13          relating to the operation and maintenance of a facility that  
14          proximately caused a resident's death.

15          Section 1-129. Type 'A' violation. A "Type 'A' violation"  
16          means a violation of this Act or of the rules promulgated  
17          thereunder which creates a condition or occurrence relating to  
18          the operation and maintenance of a facility that (i) creates a  
19          substantial probability that the risk of death or serious  
20          mental or physical harm to a resident may result therefrom or  
21          (ii) has resulted in actual physical or mental harm to a

1 resident.

2 Section 1-130. Type 'B' violation. A "Type 'B' violation"  
3 means a violation of this Act or of the rules promulgated  
4 thereunder which creates a condition or occurrence relating to  
5 the operation and maintenance of a facility directly  
6 threatening to the health, safety, or welfare of a resident.

7 Section 1-132. Type "C" violation. A "Type 'C' violation"  
8 means a violation of this Act or of the rules promulgated  
9 thereunder that creates a condition or occurrence relating to  
10 the operation and maintenance of a facility that creates a  
11 substantial probability that less than minimal physical or  
12 mental harm to a resident will result therefrom.

13 ARTICLE II. RIGHTS AND RESPONSIBILITIES

14 PART 1. RESIDENT RIGHTS

15 Section 2-101. Constitutional and legal rights. No  
16 resident shall be deprived of any rights, benefits, or  
17 privileges guaranteed by law, the Constitution of the State of  
18 Illinois, or the Constitution of the United States solely on  
19 account of his or her status as a resident of a facility.

20 Section 2-101.1. Spousal impoverishment. All new residents

1 and their spouses shall be informed on admittance of their  
2 spousal impoverishment rights as defined at Section 5-4 of the  
3 Illinois Public Aid Code, as now or hereafter amended and at  
4 Section 303 of Title III of the Medicare Catastrophic Coverage  
5 Act of 1988 (P.L. 100-360).

6 Section 2-102. Financial affairs. A resident shall be  
7 permitted to manage his or her own financial affairs unless he  
8 or she or his or her guardian or if the resident is a minor, his  
9 or her parent, authorizes the administrator of the facility in  
10 writing to manage such resident's financial affairs under  
11 Section 2-201 of this Act.

12 Section 2-103. Personal property. A resident shall be  
13 permitted to retain and use or wear his or her personal  
14 property in his or her immediate living quarters, unless deemed  
15 medically inappropriate by a physician and so documented in the  
16 resident's clinical record. If clothing is provided to the  
17 resident by the facility, it shall be of a proper fit.

18 The facility shall provide adequate storage space for the  
19 personal property of the resident. The facility shall provide a  
20 means of safeguarding small items of value for its residents in  
21 their rooms or in any other part of the facility so long as the  
22 residents have daily access to such valuables. The facility  
23 shall make reasonable efforts to prevent loss and theft of  
24 residents' property. Those efforts shall be appropriate to the

1 particular facility and may include, but are not limited to,  
2 staff training and monitoring, labeling property, and frequent  
3 property inventories. The facility shall develop procedures  
4 for investigating complaints concerning theft of residents'  
5 property and shall promptly investigate all such complaints.

6 Section 2-104. Medical treatment; records.

7 (a) A resident shall be permitted to retain the services of  
8 his or her own personal physician at his or her own expense or  
9 under an individual or group plan of health insurance, or under  
10 any public or private assistance program providing such  
11 coverage. However, the facility is not liable for the  
12 negligence of any such personal physician. Every resident shall  
13 be permitted to obtain from his or her own physician or the  
14 physician attached to the facility complete and current  
15 information concerning his or her medical diagnosis, treatment  
16 and prognosis in terms and language the resident can reasonably  
17 be expected to understand. Every resident shall be permitted to  
18 participate in the planning of his or her total care and  
19 medical treatment to the extent that his or her condition  
20 permits. No resident shall be subjected to experimental  
21 research or treatment without first obtaining his or her  
22 informed, written consent. The conduct of any experimental  
23 research or treatment shall be authorized and monitored by an  
24 institutional review board appointed by the Director. The  
25 membership, operating procedures, and review criteria for the

1 institutional review board shall be prescribed under rules and  
2 regulations of the Department and shall comply with the  
3 requirements for institutional review boards established by  
4 the federal Food and Drug Administration. No person who has  
5 received compensation in the prior 3 years from an entity that  
6 manufactures, distributes, or sells pharmaceuticals,  
7 biologics, or medical devices may serve on the institutional  
8 review board.

9 The institutional review board may approve only research or  
10 treatment that meets the standards of the federal Food and Drug  
11 Administration with respect to (i) the protection of human  
12 subjects and (ii) financial disclosure by clinical  
13 investigators. The Office of State Long Term Care Ombudsman and  
14 the State Protection and Advocacy organization shall be given  
15 an opportunity to comment on any request for approval before  
16 the board makes a decision. Those entities shall not be  
17 provided information that would allow a potential human subject  
18 to be individually identified, unless the board asks the  
19 Ombudsman for help in securing information from or about the  
20 resident. The board shall require frequent reporting of the  
21 progress of the approved research or treatment and its impact  
22 on residents, including immediate reporting of any adverse  
23 impact to the resident, the resident's representative, the  
24 Office of the State Long Term Care Ombudsman, and the State  
25 Protection and Advocacy organization. The board may not approve  
26 any retrospective study of the records of any resident about

1 the safety or efficacy of any care or treatment if the resident  
2 was under the care of the proposed researcher or a business  
3 associate when the care or treatment was given, unless the  
4 study is under the control of a researcher without any business  
5 relationship to any person or entity who could benefit from the  
6 findings of the study.

7 No facility shall permit experimental research or  
8 treatment to be conducted on a resident, or give access to any  
9 person or person's records for a retrospective study about the  
10 safety or efficacy of any care or treatment, without the prior  
11 written approval of the institutional review board. No nursing  
12 home administrator, or person licensed by the State to provide  
13 medical care or treatment to any person, may assist or  
14 participate in any experimental research on or treatment of a  
15 resident, including a retrospective study, that does not have  
16 the prior written approval of the board. Such conduct shall be  
17 grounds for professional discipline by the Department of  
18 Financial and Professional Regulation.

19 The institutional review board may exempt from ongoing  
20 review research or treatment initiated on a resident before the  
21 individual's admission to a facility and for which the board  
22 determines there is adequate ongoing oversight by another  
23 institutional review board. Nothing in this Section shall  
24 prevent a facility, any facility employee, or any other person  
25 from assisting or participating in any experimental research on  
26 or treatment of a resident, if the research or treatment began

1 before the person's admission to a facility, until the board  
2 has reviewed the research or treatment and decided to grant or  
3 deny approval or to exempt the research or treatment from  
4 ongoing review.

5 (b) All medical treatment and procedures shall be  
6 administered as ordered by a physician. All new physician  
7 orders shall be reviewed by the facility's director of nursing  
8 or charge nurse designee within 24 hours after such orders have  
9 been issued to assure facility compliance with such orders.

10 According to rules adopted by the Department, every woman  
11 resident of child bearing age shall receive routine obstetrical  
12 and gynecological evaluations as well as necessary prenatal  
13 care.

14 (c) Every resident shall be permitted to refuse medical  
15 treatment and to know the consequences of such action, unless  
16 such refusal would be harmful to the health and safety of  
17 others and such harm is documented by a physician in the  
18 resident's clinical record. The resident's refusal shall free  
19 the facility from the obligation to provide the treatment.

20 (d) Every resident, resident's guardian, or parent if the  
21 resident is a minor shall be permitted to inspect and copy all  
22 his or her clinical and other records concerning his or her  
23 care and maintenance kept by the facility or by his or her  
24 physician. The facility may charge a reasonable fee for  
25 duplication of a record.

1           Section 2-104.1. Transfer of facility ownership after  
2 license suspension or revocation. Whenever ownership of a  
3 private facility is transferred to another private owner  
4 following a final order for a suspension or revocation of the  
5 facility's license, the new owner, if the Department so  
6 determines, shall thoroughly evaluate the condition and needs  
7 of each resident as if each resident were being newly admitted  
8 to the facility. The evaluation shall include a review of the  
9 medical record and the conduct of a physical examination of  
10 each resident which shall be performed within 30 days after the  
11 transfer of ownership.

12           Section 2-104.2. Do-Not-Resuscitate Orders.

13           (a) Every facility licensed under this Act shall establish  
14 a policy for the implementation of physician orders limiting  
15 resuscitation such as those commonly referred to as  
16 "Do-Not-Resuscitate" orders. This policy may only prescribe  
17 the format, method of documentation and duration of any  
18 physician orders limiting resuscitation. Any orders under this  
19 policy shall be honored by the facility. The Department of  
20 Public Health Uniform DNR Advance Directive or a copy of that  
21 Advance Directive shall be honored by the facility.

22           (b) Within 30 days after admission, new residents who do  
23 not have a guardian of the person or an executed power of  
24 attorney for health care shall be provided with written notice,  
25 in a form and manner provided by rule of the Department, of

1 their right to provide the name of one or more potential health  
2 care surrogates that a treating physician should consider in  
3 selecting a surrogate to act on the resident's behalf should  
4 the resident lose decision-making capacity. The notice shall  
5 include a form of declaration that may be utilized by the  
6 resident to identify potential health care surrogates or by the  
7 facility to document any inability or refusal to make such a  
8 declaration. A signed copy of the resident's declaration of a  
9 potential health care surrogate or decision to decline to make  
10 such a declaration, or documentation by the facility of the  
11 resident's inability to make such a declaration, shall be  
12 placed in the resident's clinical record and shall satisfy the  
13 facility's obligation under this Section. Such a declaration  
14 shall be used only for informational purposes in the selection  
15 of a surrogate pursuant to the Health Care Surrogate Act. A  
16 facility that complies with this Section is not liable to any  
17 healthcare provider, resident, or resident's representative or  
18 any other person relating to the identification or selection of  
19 a surrogate or potential health care surrogate.

20 Section 2-104.3. Serious mental illness; rescreening.

21 (a) All persons admitted to a facility with a diagnosis of  
22 serious mental illness who remain in the facility for a period  
23 of 90 days shall be re-screened by the Department of Human  
24 Services or its designee at the end of the 90-day period, at 6  
25 months, and annually thereafter to assess their continuing need

1 for facility care and shall be advised of all other available  
2 care options.

3 (b) The Department of Human Services, by rule, shall  
4 provide for a prohibition on conflicts of interest for  
5 pre-admission screeners. The rule shall provide for waiver of  
6 those conflicts by the Department of Human Services if the  
7 Department of Human Services determines that a scarcity of  
8 qualified pre-admission screeners exists in a given community  
9 and that, absent a waiver of conflict, an insufficient number  
10 of pre-admission screeners should be available. If a conflict  
11 is waived, the pre-admission screener shall disclose the  
12 conflict of interest to the screened individual in the manner  
13 provided for by rule of the Department of Human Services. For  
14 the purposes of this subsection, a "conflict of interest"  
15 includes, but is not limited to, the existence of a  
16 professional or financial relationship between (i) a PAS-MH  
17 corporate or a PAS-MH agent performing the rescreening and (ii)  
18 a community provider or long-term care facility.

19 Section 2-105. Privacy. A resident shall be permitted  
20 respect and privacy in his or her medical and personal care  
21 program. Every resident's case discussion, consultation,  
22 examination and treatment shall be confidential and shall be  
23 conducted discreetly, and those persons not directly involved  
24 in the resident's care must have the resident's permission to  
25 be present.

1 Section 2-106. Restraints and confinements.

2 (a) For purposes of this Act:

3 (i) A physical restraint is any manual method or  
4 physical or mechanical device, material, or equipment  
5 attached or adjacent to a resident's body that the resident  
6 cannot remove easily and restricts freedom of movement or  
7 normal access to one's body. Devices used for positioning,  
8 including but not limited to bed rails, gait belts, and  
9 cushions, shall not be considered to be restraints for  
10 purposes of this Section.

11 (ii) A chemical restraint is any drug used for  
12 discipline or convenience and not required to treat medical  
13 symptoms. The Department shall by rule, designate certain  
14 devices as restraints, including at least all those devices  
15 which have been determined to be restraints by the United  
16 States Department of Health and Human Services in  
17 interpretive guidelines issued for the purposes of  
18 administering Titles XVIII and XIX of the Social Security  
19 Act.

20 (b) Neither restraints nor confinements shall be employed  
21 for the purpose of punishment or for the convenience of any  
22 facility personnel. No restraints or confinements shall be  
23 employed except as ordered by a physician who documents the  
24 need for such restraints or confinements in the resident's  
25 clinical record. Each facility licensed under this Act must

1 have a written policy to address the use of restraints and  
2 seclusion. The Department shall establish by rule the  
3 provisions that the policy must include, which, to the extent  
4 practicable, should be consistent with the requirements for  
5 participation in the federal Medicare program. Each policy  
6 shall include periodic review of the use of restraints.

7 (c) A restraint may be used only with the informed consent  
8 of the resident, the resident's guardian, or other authorized  
9 representative. A restraint may be used only for specific  
10 periods, if it is the least restrictive means necessary to  
11 attain and maintain the resident's highest practicable  
12 physical, mental or psychosocial well-being, including brief  
13 periods of time to provide necessary life-saving treatment. A  
14 restraint may be used only after consultation with appropriate  
15 health professionals, such as occupational or physical  
16 therapists, and a trial of less restrictive measures has led to  
17 the determination that the use of less restrictive measures  
18 would not attain or maintain the resident's highest practicable  
19 physical, mental or psychosocial well-being. However, if the  
20 resident needs emergency care, restraints may be used for brief  
21 periods to permit medical treatment to proceed unless the  
22 facility has notice that the resident has previously made a  
23 valid refusal of the treatment in question.

24 (d) A restraint may be applied only by a person trained in  
25 the application of the particular type of restraint.

26 (e) Whenever a period of use of a restraint is initiated,

1 the resident shall be advised of his or her right to have a  
2 person or organization of his or her choosing, including the  
3 Guardianship and Advocacy Commission, notified of the use of  
4 the restraint. A recipient who is under guardianship may  
5 request that a person or organization of his or her choosing be  
6 notified of the restraint, whether or not the guardian approves  
7 the notice. If the resident so chooses, the facility shall make  
8 the notification within 24 hours, including any information  
9 about the period of time that the restraint is to be used.  
10 Whenever the Guardianship and Advocacy Commission is notified  
11 that a resident has been restrained, it shall contact the  
12 resident to determine the circumstances of the restraint and  
13 whether further action is warranted.

14 (f) Whenever a restraint is used on a resident whose  
15 primary mode of communication is sign language, the resident  
16 shall be permitted to have his or her hands free from restraint  
17 for brief periods each hour, except when this freedom may  
18 result in physical harm to the resident or others.

19 (g) The requirements of this Section are intended to  
20 control in any conflict with the requirements of Sections 1-126  
21 and 2-108 of the Mental Health and Developmental Disabilities  
22 Code.

23 Section 2-106.1. Drug treatment.

24 (a) A resident shall not be given unnecessary drugs. An  
25 unnecessary drug is any drug used in an excessive dose,

1 including in duplicative therapy; for excessive duration;  
2 without adequate monitoring; without adequate indications for  
3 its use; or in the presence of adverse consequences that  
4 indicate the drug should be reduced or discontinued. The  
5 Department shall adopt, by rule, the standards for unnecessary  
6 drugs contained in interpretive guidelines issued by the United  
7 States Department of Health and Human Services for the purposes  
8 of administering Titles XVIII and XIX of the Social Security  
9 Act.

10 (b) Psychotropic medication shall not be prescribed  
11 without the informed consent of the resident, the resident's  
12 guardian, or other authorized representative. "Psychotropic  
13 medication" means medication that is used for or listed as used  
14 for antipsychotic, antidepressant, antimanic, or antianxiety  
15 behavior modification or behavior management purposes in the  
16 latest editions of the AMA Drug Evaluations or the Physician's  
17 Desk Reference. The Department shall adopt, by rule, a protocol  
18 specifying how informed consent for psychotropic medication  
19 may be obtained or refused. The protocol shall require, at a  
20 minimum, a discussion between (i) the resident or the  
21 resident's authorized representative and (ii) the resident's  
22 physician, a registered pharmacist (who is not a dispensing  
23 pharmacist for the facility where the resident lives), or a  
24 licensed nurse about the possible risks and benefits of a  
25 recommended medication and the use of standardized consent  
26 forms designated by the Department. Each form developed by the

1 Department (i) shall be written in plain language, (ii) shall  
2 be able to be downloaded from the Department's official  
3 website, (iii) shall include information specific to the  
4 psychotropic medication for which consent is being sought, and  
5 (iv) shall be used for every resident for whom psychotropic  
6 drugs are prescribed. In addition to creating those forms, the  
7 Department shall approve the use of any other informed consent  
8 forms that meet criteria developed by the Department.

9 In addition to any other penalty prescribed by law, a  
10 facility that is found to have violated this subsection, or the  
11 federal certification requirement that informed consent be  
12 obtained before administering a psychotropic medication, shall  
13 thereafter be required to obtain the signatures of 2 licensed  
14 health care professionals on every form purporting to give  
15 informed consent for the administration of a psychotropic  
16 medication, certifying the personal knowledge of each health  
17 care professional that the consent was obtained in compliance  
18 with the requirements of this subsection.

19 (c) The requirements of this Section are intended to  
20 control in a conflict with the requirements of Sections 2-102  
21 and 2-107.2 of the Mental Health and Developmental Disabilities  
22 Code with respect to the administration of psychotropic  
23 medication.

24 Section 2-106.2. Resident identification wristlet. No  
25 identification wristlets shall be employed except as ordered by

1 a physician who documents the need for such mandatory  
2 identification in the resident's clinical record. When  
3 identification bracelets are required, they must identify the  
4 resident's name, and the name and address of the facility  
5 issuing the identification wristlet.

6 Section 2-107. Abuse or neglect; duty to report. An owner,  
7 licensee, administrator, employee or agent of a facility shall  
8 not abuse or neglect a resident. It is the duty of any facility  
9 employee or agent who becomes aware of such abuse or neglect to  
10 report it as provided in the Abused and Neglected Long Term  
11 Care Facility Residents Reporting Act.

12 Section 2-108. Communications; visits; married residents.  
13 Every resident shall be permitted unimpeded, private, and  
14 uncensored communication of his or her choice by mail, public  
15 telephone, or visitation.

16 (a) The administrator shall ensure that correspondence is  
17 conveniently received and mailed, and that telephones are  
18 reasonably accessible.

19 (b) The administrator shall ensure that residents may have  
20 private visits at any reasonable hour unless such visits are  
21 not medically advisable for the resident as documented in the  
22 resident's clinical record by the resident's physician.

23 (c) The administrator shall ensure that space for visits is  
24 available and that facility personnel knock, except in an

1 emergency, before entering any resident's room.

2 (d) Unimpeded, private, and uncensored communication by  
3 mail, public telephone, and visitation may be reasonably  
4 restricted by a physician only in order to protect the resident  
5 or others from harm, harassment, or intimidation, provided that  
6 the reason for any such restriction is placed in the resident's  
7 clinical record by the physician and that notice of such  
8 restriction shall be given to all residents upon admission.  
9 However, all letters addressed by a resident to the Governor,  
10 members of the General Assembly, Attorney General, judges,  
11 State's attorneys, officers of the Department, or licensed  
12 attorneys at law shall be forwarded at once to the persons to  
13 whom they are addressed without examination by facility  
14 personnel. Letters in reply from the officials and attorneys  
15 mentioned above shall be delivered to the recipient without  
16 examination by facility personnel.

17 (e) The administrator shall ensure that married residents  
18 residing in the same facility be allowed to reside in the same  
19 room within the facility unless there is no room available in  
20 the facility or it is deemed medically inadvisable by the  
21 residents' attending physician and so documented in the  
22 residents' medical records.

23 Section 2-109. Religion. A resident shall be permitted the  
24 free exercise of religion. Upon a resident's request, and if  
25 necessary at the resident's expense, the administrator shall

1 make arrangements for a resident's attendance at religious  
2 services of the resident's choice. However, no religious  
3 beliefs or practices, or attendance at religious services, may  
4 be imposed upon any resident.

5 Section 2-110. Access to residents.

6 (a) Any employee or agent of a public agency, any  
7 representative of a community legal services program or any  
8 other member of the general public shall be permitted access at  
9 reasonable hours to any individual resident of any facility,  
10 but only if there is neither a commercial purpose nor effect to  
11 such access and if the purpose is to do any of the following:

12 (1) Visit, talk with and make personal, social and  
13 legal services available to all residents;

14 (2) Inform residents of their rights and entitlements  
15 and their corresponding obligations, under federal and  
16 State laws, by means of educational materials and  
17 discussions in groups and with individual residents;

18 (3) Assist residents in asserting their legal rights  
19 regarding claims for public assistance, medical assistance  
20 and social security benefits, as well as in all other  
21 matters in which residents are aggrieved. Assistance may  
22 include counseling and litigation; or

23 (4) Engage in other methods of asserting, advising and  
24 representing residents so as to extend to them full  
25 enjoyment of their rights.

1 (a-5) If a resident of a licensed facility is an identified  
2 offender, any federal, State, or local law enforcement officer  
3 or county probation officer shall be permitted reasonable  
4 access to the individual resident to verify compliance with the  
5 requirements of the Sex Offender Registration Act or to verify  
6 compliance with applicable terms of probation, parole, or  
7 mandatory supervised release.

8 (b) All persons entering a facility under this Section  
9 shall promptly notify appropriate facility personnel of their  
10 presence. They shall, upon request, produce identification to  
11 establish their identity. No such person shall enter the  
12 immediate living area of any resident without first identifying  
13 himself or herself and then receiving permission from the  
14 resident to enter. The rights of other residents present in the  
15 room shall be respected. A resident may terminate at any time a  
16 visit by a person having access to the resident's living area  
17 under this Section.

18 (c) This Section shall not limit the power of the  
19 Department or other public agency otherwise permitted or  
20 required by law to enter and inspect a facility.

21 (d) Notwithstanding paragraph (a) of this Section, the  
22 administrator of a facility may refuse access to the facility  
23 to any person if the presence of that person in the facility  
24 would be injurious to the health and safety of a resident or  
25 would threaten the security of the property of a resident or  
26 the facility, or if the person seeks access to the facility for

1 commercial purposes. Any person refused access to a facility  
2 may within 10 days request a hearing under Section 3-703. In  
3 that proceeding, the burden of proof as to the right of the  
4 facility to refuse access under this Section shall be on the  
5 facility.

6 Section 2-111. Discharge. A resident may be discharged from  
7 a facility after he or she gives the administrator, a  
8 physician, or a nurse of the facility written notice of his or  
9 her desire to be discharged. If a guardian has been appointed  
10 for a resident or if the resident is a minor, the resident  
11 shall be discharged upon written consent of his or her guardian  
12 or if the resident is a minor, his or her parent unless there  
13 is a court order to the contrary. In such cases, upon the  
14 resident's discharge, the facility is relieved from any  
15 responsibility for the resident's care, safety or well being.

16 Section 2-112. Grievances. A resident shall be permitted to  
17 present grievances on behalf of himself or herself or others to  
18 the administrator, the Long Term Care Facility Advisory Board,  
19 the residents' advisory council, State governmental agencies  
20 or other persons without threat of discharge or reprisal in any  
21 form or manner whatsoever. The administrator shall provide all  
22 residents or their representatives with the name, address, and  
23 telephone number of the appropriate State governmental office  
24 where complaints may be lodged.

1 Section 2-113. Labor. A resident may refuse to perform  
2 labor for a facility.

3 Section 2-114. Unlawful discrimination. No resident shall  
4 be subjected to unlawful discrimination as defined in Section  
5 1-103 of the Illinois Human Rights Act by any owner, licensee,  
6 administrator, employee, or agent of a facility. Unlawful  
7 discrimination does not include an action by any owner,  
8 licensee, administrator, employee, or agent of a facility that  
9 is required by this Act or rules adopted under this Act.

10 PART 2. RESPONSIBILITIES

11 Section 2-201. Residents' funds. To protect the residents'  
12 funds, the facility:

13 (1) Shall at the time of admission provide, in order of  
14 priority, each resident, or the resident's guardian, if any, or  
15 the resident's representative, if any, or the resident's  
16 immediate family member, if any, with a written statement  
17 explaining to the resident and to the resident's spouse (a)  
18 their spousal impoverishment rights, as defined at Section 5-4  
19 of the Illinois Public Aid Code, and at Section 303 of Title  
20 III of the Medicare Catastrophic Coverage Act of 1988 (P.L.  
21 100-360), and (b) the resident's rights regarding personal  
22 funds and listing the services for which the resident will be

1 charged. The facility shall obtain a signed acknowledgment from  
2 each resident or the resident's guardian, if any, or the  
3 resident's representative, if any, or the resident's immediate  
4 family member, if any, that such person has received the  
5 statement.

6 (2) May accept funds from a resident for safekeeping and  
7 managing, if it receives written authorization from, in order  
8 of priority, the resident or the resident's guardian, if any,  
9 or the resident's representative, if any, or the resident's  
10 immediate family member, if any; such authorization shall be  
11 attested to by a witness who has no pecuniary interest in the  
12 facility or its operations, and who is not connected in any way  
13 to facility personnel or the administrator in any manner  
14 whatsoever.

15 (3) Shall maintain and allow, in order of priority, each  
16 resident or the resident's guardian, if any, or the resident's  
17 representative, if any, or the resident's immediate family  
18 member, if any, access to a written record of all financial  
19 arrangements and transactions involving the individual  
20 resident's funds.

21 (4) Shall provide, in order of priority, each resident, or  
22 the resident's guardian, if any, or the resident's  
23 representative, if any, or the resident's immediate family  
24 member, if any, with a written itemized statement at least  
25 quarterly, of all financial transactions involving the  
26 resident's funds.

1           (5) Shall purchase a surety bond, or otherwise provide  
2 assurance satisfactory to the Departments of Public Health and  
3 Financial and Professional Regulation that all residents'  
4 personal funds deposited with the facility are secure against  
5 loss, theft, and insolvency.

6           (6) Shall keep any funds received from a resident for  
7 safekeeping in an account separate from the facility's funds,  
8 and shall at no time withdraw any part or all of such funds for  
9 any purpose other than to return the funds to the resident upon  
10 the request of the resident or any other person entitled to  
11 make such request, to pay the resident his or her allowance, or  
12 to make any other payment authorized by the resident or any  
13 other person entitled to make such authorization.

14           (7) Shall deposit any funds received from a resident in  
15 excess of \$100 in an interest bearing account insured by  
16 agencies of, or corporations chartered by, the State or federal  
17 government. The account shall be in a form which clearly  
18 indicates that the facility has only a fiduciary interest in  
19 the funds and any interest from the account shall accrue to the  
20 resident. The facility may keep up to \$100 of a resident's  
21 money in a non-interest-bearing account or petty cash fund, to  
22 be readily available for the resident's current expenditures.

23           (8) Shall return to the resident, or the person who  
24 executed the written authorization required in subsection (2)  
25 of this Section, upon written request, all or any part of the  
26 resident's funds given the facility for safekeeping, including

1 the interest accrued from deposits.

2 (9) Shall (a) place any monthly allowance to which a  
3 resident is entitled in that resident's personal account, or  
4 give it to the resident, unless the facility has written  
5 authorization from the resident or the resident's guardian or  
6 if the resident is a minor, his parent, to handle it  
7 differently, (b) take all steps necessary to ensure that a  
8 personal needs allowance that is placed in a resident's  
9 personal account is used exclusively by the resident or for the  
10 benefit of the resident, and (c) where such funds are withdrawn  
11 from the resident's personal account by any person other than  
12 the resident, require such person to whom funds constituting  
13 any part of a resident's personal needs allowance are released,  
14 to execute an affidavit that such funds shall be used  
15 exclusively for the benefit of the resident.

16 (10) Unless otherwise provided by State law, upon the death  
17 of a resident, shall provide the executor or administrator of  
18 the resident's estate with a complete accounting of all the  
19 resident's personal property, including any funds of the  
20 resident being held by the facility.

21 (11) If an adult resident is incapable of managing his or  
22 her funds and does not have a resident's representative,  
23 guardian, or an immediate family member, shall notify the  
24 Office of the State Guardian of the Guardianship and Advocacy  
25 Commission.

26 (12) If the facility is sold, shall provide the buyer with

1 a written verification by a public accountant of all residents'  
2 monies and properties being transferred, and obtain a signed  
3 receipt from the new owner.

4 Section 2-201.5. Screening prior to admission.

5 (a) All persons age 18 or older seeking admission to a  
6 facility must be screened to determine the need for facility  
7 services prior to being admitted, regardless of income, assets,  
8 or funding source. In addition, any person who seeks to become  
9 eligible for medical assistance from the Medical Assistance  
10 Program under the Illinois Public Aid Code to pay for long term  
11 care services while residing in a facility must be screened  
12 prior to receiving those benefits. Screening for facility  
13 services shall be administered through procedures established  
14 by administrative rule. Screening may be done by agencies other  
15 than the Department as established by administrative rule. The  
16 Department of Healthcare and Family Services, in collaboration  
17 with the Department on Aging, the Department of Human Services,  
18 and the Department of Public Health, shall by rules provide for  
19 the gathering, during the screening process, of information  
20 relevant to determining each person's potential for placing  
21 other residents, employees, and visitors at risk of harm.

22 (a-1) For a person who needs mental health services, the  
23 screening shall also include an evaluation of whether there is  
24 permanent supportive housing, or an array of community mental  
25 health services, including but not limited to supportive

1 housing, assertive community treatment, and peer support  
2 services, that would enable the person to live in the  
3 community. The person shall be told about the existence of any  
4 such services that would enable the person to live safely and  
5 humanely and about available appropriate facility services  
6 that would enable the person to live safely and humanely, and  
7 the person shall be given the assistance necessary to avail  
8 himself or herself of any available services.

9 (a-2) Pre-screening for persons with a serious mental  
10 illness shall be performed by a psychiatrist, a psychologist, a  
11 registered nurse certified in psychiatric nursing, a licensed  
12 clinical professional counselor, or a licensed clinical social  
13 worker, who is competent to (i) perform a clinical assessment  
14 of the individual, (ii) certify a diagnosis, (iii) make a  
15 determination about the individual's current need for  
16 treatment, including substance abuse treatment, and recommend  
17 specific treatment, and (iv) determine whether a facility or a  
18 community-based program is able to meet the needs of the  
19 individual.

20 For any person entering a facility, the pre-screening agent  
21 shall make specific recommendations about what care and  
22 services the individual needs to receive, beginning at  
23 admission, to attain or maintain the individual's highest level  
24 of independent functioning and to live in the most integrated  
25 setting appropriate for his or her physical and personal care  
26 and developmental and mental health needs. These

1 recommendations shall be revised as appropriate by the  
2 pre-screening or re-screening agent based on the results of  
3 resident review and in response to changes in the resident's  
4 wishes, needs, and interest in transition.

5 Upon the person entering the facility, the Department of  
6 Human Services or its designee shall assist the person in  
7 establishing a relationship with a community mental health  
8 agency or other appropriate agencies in order to (i) promote  
9 the person's transition to independent living and (ii) support  
10 the person's progress in meeting individual goals.

11 (a-3) The Department of Human Services, by rule, shall  
12 provide for a prohibition on conflicts of interest for  
13 pre-admission screeners. The rule shall provide for waiver of  
14 those conflicts by the Department of Human Services if the  
15 Department of Human Services determines that a scarcity of  
16 qualified pre-admission screeners exists in a given community  
17 and that, absent a waiver of conflicts, an insufficient number  
18 of pre-admission screeners would be available. If a conflict is  
19 waived, the pre-admission screener shall disclose the conflict  
20 of interest to the screened individual in the manner provided  
21 for by rule of the Department of Human Services. For the  
22 purposes of this subsection, a "conflict of interest" includes,  
23 but is not limited to, the existence of a professional or  
24 financial relationship between (i) a PAS-MH corporate or a  
25 PAS-MH agent and (ii) a community provider or long-term care  
26 facility.

1           (b) In addition to the screening required by subsection  
2           (a), a facility, shall, within 24 hours after admission,  
3           request a criminal history background check pursuant to the  
4           Uniform Conviction Information Act for all persons age 18 or  
5           older seeking admission to the facility, unless a background  
6           check was initiated by a hospital pursuant to subsection (d) of  
7           Section 6.09 of the Hospital Licensing Act. Background checks  
8           conducted pursuant to this Section shall be based on the  
9           resident's name, date of birth, and other identifiers as  
10          required by the Department of State Police. If the results of  
11          the background check are inconclusive, the facility shall  
12          initiate a fingerprint-based check, unless the fingerprint  
13          check is waived by the Director of Public Health based on  
14          verification by the facility that the resident is completely  
15          immobile or that the resident meets other criteria related to  
16          the resident's health or lack of potential risk which may be  
17          established by Departmental rule. A waiver issued pursuant to  
18          this Section shall be valid only while the resident is immobile  
19          or while the criteria supporting the waiver exist. The facility  
20          shall provide for or arrange for any required fingerprint-based  
21          checks to be taken on the premises of the facility. If a  
22          fingerprint-based check is required, the facility shall  
23          arrange for it to be conducted in a manner that is respectful  
24          of the resident's dignity and that minimizes any emotional or  
25          physical hardship to the resident.

26          (c) If the results of a resident's criminal history

1 background check reveal that the resident is an identified  
2 offender as defined in Section 1-114.01, the facility shall do  
3 the following:

4 (1) Immediately notify the Department of State Police,  
5 in the form and manner required by the Department of State  
6 Police, in collaboration with the Department of Public  
7 Health, that the resident is an identified offender.

8 (2) Within 72 hours, arrange for a fingerprint-based  
9 criminal history record inquiry to be requested on the  
10 identified offender resident. The inquiry shall be based on  
11 the subject's name, sex, race, date of birth, fingerprint  
12 images, and other identifiers required by the Department of  
13 State Police. The inquiry shall be processed through the  
14 files of the Department of State Police and the Federal  
15 Bureau of Investigation to locate any criminal history  
16 record information that may exist regarding the subject.  
17 The Federal Bureau of Investigation shall furnish to the  
18 Department of State Police, pursuant to an inquiry under  
19 this paragraph (2), any criminal history record  
20 information contained in its files.

21 The facility shall comply with all applicable provisions  
22 contained in the Uniform Conviction Information Act.

23 All name-based and fingerprint-based criminal history  
24 record inquiries shall be submitted to the Department of State  
25 Police electronically in the form and manner prescribed by the  
26 Department of State Police. The Department of State Police may

1 charge the facility a fee for processing name-based and  
2 fingerprint-based criminal history record inquiries. The fee  
3 shall be deposited into the State Police Services Fund. The fee  
4 shall not exceed the actual cost of processing the inquiry.

5 (d) (Blank).

6 (e) The Department shall develop and maintain a  
7 de-identified database of residents who have injured facility  
8 staff, facility visitors, or other residents, and the attendant  
9 circumstances, solely for the purposes of evaluating and  
10 improving resident pre-screening and assessment procedures  
11 (including the Criminal History Report prepared under Section  
12 2-201.6) and the adequacy of Department requirements  
13 concerning the provision of care and services to residents. A  
14 resident shall not be listed in the database until a Department  
15 survey confirms the accuracy of the listing. The names of  
16 persons listed in the database and information that would allow  
17 them to be individually identified shall not be made public.  
18 Neither the Department nor any other agency of State government  
19 may use information in the database to take any action against  
20 any individual, licensee, or other entity, unless the  
21 Department or agency receives the information independent of  
22 this subsection (e). All information collected, maintained, or  
23 developed under the authority of this subsection (e) for the  
24 purposes of the database maintained under this subsection (e)  
25 shall be treated in the same manner as information that is  
26 subject to Part 21 of Article VIII of the Code of Civil

1 Procedure.

2 Section 2-201.6. Criminal History Report.

3 (a) The Department of State Police shall prepare a Criminal  
4 History Report when it receives information, through the  
5 criminal history background check required pursuant to  
6 subsection (d) of Section 6.09 of the Hospital Licensing Act or  
7 subsection (c) of Section 2-201.5, or through any other means,  
8 that a resident of a facility is an identified offender.

9 (b) The Department of State Police shall complete the  
10 Criminal History Report within 10 business days after receiving  
11 information under subsection (a) that a resident is an  
12 identified offender.

13 (c) The Criminal History Report shall include, but not be  
14 limited to, the following:

15 (1) (Blank).

16 (2) (Blank).

17 (3) (Blank).

18 (3.5) Copies of the identified offender's parole,  
19 mandatory supervised release, or probation orders.

20 (4) An interview with the identified offender.

21 (5) (Blank).

22 (6) A detailed summary of the entire criminal history  
23 of the offender, including arrests, convictions, and the  
24 date of the identified offender's last conviction relative  
25 to the date of admission to a long-term care facility.

1           (7) If the identified offender is a convicted or  
2 registered sex offender, a review of any and all sex  
3 offender evaluations conducted on that offender. If there  
4 is no sex offender evaluation available, the Department of  
5 State Police shall arrange, through the Department of  
6 Public Health, for a sex offender evaluation to be  
7 conducted on the identified offender. If the convicted or  
8 registered sex offender is under supervision by the  
9 Illinois Department of Corrections or a county probation  
10 department, the sex offender evaluation shall be arranged  
11 by and at the expense of the supervising agency. All  
12 evaluations conducted on convicted or registered sex  
13 offenders under this Act shall be conducted by sex offender  
14 evaluators approved by the Sex Offender Management Board.

15           (d) The Department of State Police shall provide the  
16 Criminal History Report to a licensed forensic psychologist.  
17 After (i) consideration of the Criminal History Report, (ii)  
18 consultation with the facility administrator or the facility  
19 medical director, or both, regarding the mental and physical  
20 condition of the identified offender, and (iii) reviewing the  
21 facility's file on the identified offender, including all  
22 incident reports, all information regarding medication and  
23 medication compliance, and all information regarding previous  
24 discharges or transfers from other facilities, the licensed  
25 forensic psychologist shall prepare an Identified Offender  
26 Report and Recommendation. The Identified Offender Report and

1 Recommendation shall detail whether and to what extent the  
2 identified offender's criminal history necessitates the  
3 implementation of security measures within the long-term care  
4 facility. If the identified offender is a convicted or  
5 registered sex offender or if the Identified Offender Report  
6 and Recommendation reveals that the identified offender poses a  
7 significant risk of harm to others within the facility, the  
8 offender shall be required to have his or her own room within  
9 the facility.

10 (e) The licensed forensic psychologist shall complete the  
11 Identified Offender Report and Recommendation within 14  
12 business days after receiving the Criminal History Report and  
13 shall promptly provide the Identified Offender Report and  
14 Recommendation to the Department of State Police, which shall  
15 provide the Identified Offender Report and Recommendation to  
16 the following:

17 (1) The long-term care facility within which the  
18 identified offender resides.

19 (2) The Chief of Police of the municipality in which  
20 the facility is located.

21 (3) The State of Illinois Long Term Care Ombudsman.

22 (4) The Department of Public Health.

23 (e-5) The Department of Public Health shall keep a  
24 continuing record of all residents determined to be identified  
25 offenders as defined in Section 1-114.01 and shall report the  
26 number of identified offender residents annually to the General

1 Assembly.

2 (f) The facility shall incorporate the Identified Offender  
3 Report and Recommendation into the identified offender's care  
4 plan created pursuant to 42 CFR 483.20.

5 (g) If, based on the Identified Offender Report and  
6 Recommendation, a facility determines that it cannot manage the  
7 identified offender resident safely within the facility, it  
8 shall commence involuntary transfer or discharge proceedings  
9 pursuant to Section 3-402.

10 (h) Except for willful and wanton misconduct, any person  
11 authorized to participate in the development of a Criminal  
12 History Report or Identified Offender Report and  
13 Recommendation is immune from criminal or civil liability for  
14 any acts or omissions as the result of his or her good faith  
15 effort to comply with this Section.

16 Section 2-202. Contract required.

17 (a) Before a person is admitted to a facility, or at the  
18 expiration of the period of previous contract, or when the  
19 source of payment for the resident's care changes from private  
20 to public funds or from public to private funds, a written  
21 contract shall be executed between a licensee and the following  
22 in order of priority:

23 (1) the person, or if the person is a minor, his parent  
24 or guardian; or

25 (2) the person's guardian, if any, or agent, if any, as

1 defined in Section 2-3 of the Illinois Power of Attorney  
2 Act; or

3 (3) a member of the person's immediate family.

4 An adult person shall be presumed to have the capacity to  
5 contract for admission to a long term care facility unless he  
6 or she has been adjudicated a "disabled person" within the  
7 meaning of Section 11a-2 of the Probate Act of 1975, or unless  
8 a petition for such an adjudication is pending in a circuit  
9 court of Illinois.

10 If there is no guardian, agent or member of the person's  
11 immediate family available, able or willing to execute the  
12 contract required by this Section and a physician determines  
13 that a person is so disabled as to be unable to consent to  
14 placement in a facility, or if a person has already been found  
15 to be a "disabled person", but no order has been entered  
16 allowing residential placement of the person, that person may  
17 be admitted to a facility before the execution of a contract  
18 required by this Section; provided that a petition for  
19 guardianship or for modification of guardianship is filed  
20 within 15 days of the person's admission to a facility, and  
21 provided further that such a contract is executed within 10  
22 days of the disposition of the petition.

23 No adult shall be admitted to a facility if he or she  
24 objects, orally or in writing, to such admission, except as  
25 otherwise provided in Chapters III and IV of the Mental Health  
26 and Developmental Disabilities Code or Section 11a-14.1 of the

1 Probate Act of 1975.

2 Before a licensee enters a contract under this Section, it  
3 shall provide the prospective resident and his or her guardian,  
4 if any, with written notice of the licensee's policy regarding  
5 discharge of a resident whose private funds for payment of care  
6 are exhausted.

7 (b) A resident shall not be discharged or transferred at  
8 the expiration of the term of a contract, except as provided in  
9 Sections 3-401 through 3-423.

10 (c) At the time of the resident's admission to the  
11 facility, a copy of the contract shall be given to the  
12 resident, his or her guardian, if any, and any other person who  
13 executed the contract.

14 (d) A copy of the contract for a resident who is supported  
15 by nonpublic funds other than the resident's own funds shall be  
16 made available to the person providing the funds for the  
17 resident's support.

18 (e) The original or a copy of the contract shall be  
19 maintained in the facility and be made available upon request  
20 to representatives of the Department and the Department of  
21 Healthcare and Family Services.

22 (f) The contract shall be written in clear and unambiguous  
23 language and shall be printed in not less than 12-point type.  
24 The general form of the contract shall be prescribed by the  
25 Department.

26 (g) The contract shall specify:

- 1 (1) the term of the contract;
- 2 (2) the services to be provided under the contract and  
3 the charges for the services;
- 4 (3) the services that may be provided to supplement the  
5 contract and the charges for the services;
- 6 (4) the sources liable for payments due under the  
7 contract;
- 8 (5) the amount of deposit paid; and
- 9 (6) the rights, duties and obligations of the resident,  
10 except that the specification of a resident's rights may be  
11 furnished on a separate document which complies with the  
12 requirements of Section 2-211.

13 (h) The contract shall designate the name of the resident's  
14 representative, if any. The resident shall provide the facility  
15 with a copy of the written agreement between the resident and  
16 the resident's representative which authorizes the resident's  
17 representative to inspect and copy the resident's records and  
18 authorizes the resident's representative to execute the  
19 contract on behalf of the resident required by this Section.

20 (i) The contract shall provide that if the resident is  
21 compelled by a change in physical or mental health to leave the  
22 facility, the contract and all obligations under it shall  
23 terminate on 7 days' notice. No prior notice of termination of  
24 the contract shall be required, however, in the case of a  
25 resident's death. The contract shall also provide that in all  
26 other situations, a resident may terminate the contract and all

1 obligations under it with 30 days' notice. All charges shall be  
2 prorated as of the date on which the contract terminates, and,  
3 if any payments have been made in advance, the excess shall be  
4 refunded to the resident. This provision shall not apply to  
5 life care contracts through which a facility agrees to provide  
6 maintenance and care for a resident throughout the remainder of  
7 his life nor to continuing care contracts through which a  
8 facility agrees to supplement all available forms of financial  
9 support in providing maintenance and care for a resident  
10 throughout the remainder of his or her life.

11 (j) In addition to all other contract specifications  
12 contained in this Section, admission contracts shall also  
13 specify:

14 (1) whether the facility accepts Medicaid clients;

15 (2) whether the facility requires a deposit of the  
16 resident or his or her family prior to the establishment of  
17 Medicaid eligibility;

18 (3) in the event that a deposit is required, a clear  
19 and concise statement of the procedure to be followed for  
20 the return of such deposit to the resident or the  
21 appropriate family member or guardian of the person;

22 (4) that all deposits made to a facility by a resident,  
23 or on behalf of a resident, shall be returned by the  
24 facility within 30 days of the establishment of Medicaid  
25 eligibility, unless such deposits must be drawn upon or  
26 encumbered in accordance with Medicaid eligibility

1 requirements established by the Department of Healthcare  
2 and Family Services.

3 (k) It shall be a business offense for a facility to  
4 knowingly and intentionally both retain a resident's deposit  
5 and accept Medicaid payments on behalf of that resident.

6 Section 2-203. Residents' advisory council. Each facility  
7 shall establish a residents' advisory council. The  
8 administrator shall designate a member of the facility staff to  
9 coordinate the establishment of, and render assistance to, the  
10 council.

11 (a) The composition of the residents' advisory council  
12 shall be specified by Department regulation, but no employee or  
13 affiliate of a facility shall be a member of any council.

14 (b) The council shall meet at least once each month with  
15 the staff coordinator who shall provide assistance to the  
16 council in preparing and disseminating a report of each meeting  
17 to all residents, the administrator, and the staff.

18 (c) Records of the council meetings will be maintained in  
19 the office of the administrator.

20 (d) The residents' advisory council may communicate to the  
21 administrator the opinions and concerns of the residents. The  
22 council shall review procedures for implementing resident  
23 rights, facility responsibilities and make recommendations for  
24 changes or additions which will strengthen the facility's  
25 policies and procedures as they affect residents' rights and

1 facility responsibilities.

2 (e) The council shall be a forum for:

3 (1) Obtaining and disseminating information;

4 (2) Soliciting and adopting recommendations for  
5 facility programming and improvements;

6 (3) Early identification and for recommending orderly  
7 resolution of problems.

8 (f) The council may present complaints as provided in  
9 Section 3-702 on behalf of a resident to the Department or to  
10 any other person it considers appropriate.

11 Section 2-205. Disclosure of information to public. The  
12 following information is subject to disclosure to the public  
13 from the Department or the Department of Healthcare and Family  
14 Services:

15 (1) Information submitted under Sections 3-103 and  
16 3-207 except information concerning the remuneration of  
17 personnel licensed, registered, or certified by the  
18 Department of Financial and Professional Regulation (as  
19 successor to the Department of Professional Regulation)  
20 and monthly charges for an individual private resident;

21 (2) Records of license and certification inspections,  
22 surveys, and evaluations of facilities, other reports of  
23 inspections, surveys, and evaluations of resident care,  
24 whether a facility has been designated a distressed  
25 facility and the basis for the designation, and reports

1 concerning a facility prepared pursuant to Titles XVIII and  
2 XIX of the Social Security Act, subject to the provisions  
3 of the Social Security Act;

4 (3) Cost and reimbursement reports submitted by a  
5 facility under Section 3-208, reports of audits of  
6 facilities, and other public records concerning costs  
7 incurred by, revenues received by, and reimbursement of  
8 facilities; and

9 (4) Complaints filed against a facility and complaint  
10 investigation reports, except that a complaint or  
11 complaint investigation report shall not be disclosed to a  
12 person other than the complainant or complainant's  
13 representative before it is disclosed to a facility under  
14 Section 3-702, and, further, except that a complainant or  
15 resident's name shall not be disclosed except under Section  
16 3-702.

17 The Department shall disclose information under this  
18 Section in accordance with provisions for inspection and  
19 copying of public records required by the Freedom of  
20 Information Act.

21 However, the disclosure of information described in  
22 subsection (1) shall not be restricted by any provision of the  
23 Freedom of Information Act.

24 Section 2-206. Confidentiality of records.

25 (a) The Department shall respect the confidentiality of a

1 resident's record and shall not divulge or disclose the  
2 contents of a record in a manner which identifies a resident,  
3 except upon a resident's death to a relative or guardian, or  
4 under judicial proceedings. This Section shall not be construed  
5 to limit the right of a resident to inspect or copy the  
6 resident's records.

7 (b) Confidential medical, social, personal, or financial  
8 information identifying a resident shall not be available for  
9 public inspection in a manner which identifies a resident.

10 Section 2-207. Directories for public health regions;  
11 information concerning facility costs and policies.

12 (a) Each year the Department shall publish a Directory for  
13 each public health region listing facilities to be made  
14 available to the public and be available at all Department  
15 offices. The Department may charge a fee for the Directory. The  
16 Directory shall contain, at a minimum, the following  
17 information:

- 18 (1) The name and address of the facility;
- 19 (2) The number and type of licensed beds;
- 20 (3) The name of the cooperating hospital, if any;
- 21 (4) The name of the administrator;
- 22 (5) The facility telephone number; and
- 23 (6) Membership in a provider association and  
24 accreditation by any such organization.

25 (b) Detailed information concerning basic costs for care

1 and operating policies shall be available to the public upon  
2 request at each facility. However, a facility may refuse to  
3 make available any proprietary operating policies to the extent  
4 such facility reasonably believes such policies may be revealed  
5 to a competitor.

6 Section 2-208. Notice of imminent death. A facility shall  
7 immediately notify the resident's next of kin, representative  
8 and physician of the resident's death or when the resident's  
9 death appears to be imminent.

10 Section 2-209. Number of residents. A facility shall admit  
11 only that number of residents for which it is licensed.

12 Section 2-210. Policies and procedures. A facility shall  
13 establish written policies and procedures to implement the  
14 responsibilities and rights provided in this Article. The  
15 policies shall include the procedure for the investigation and  
16 resolution of resident complaints as set forth under Section  
17 3-702. The policies and procedures shall be clear and  
18 unambiguous and shall be available for inspection by any  
19 person. A summary of the policies and procedures, printed in  
20 not less than 12-point type, shall be distributed to each  
21 resident and representative.

22 Section 2-211. Explanation of rights. Each resident and

1 resident's guardian or other person acting for the resident  
2 shall be given a written explanation, prepared by the Office of  
3 the State Long Term Care Ombudsman, of all the rights  
4 enumerated in Part 1 of this Article and in Part 4 of Article  
5 III. For residents of facilities participating in Title XVIII  
6 or XIX of the Social Security Act, the explanation shall  
7 include an explanation of residents' rights enumerated in that  
8 Act. The explanation shall be given at the time of admission to  
9 a facility or as soon thereafter as the condition of the  
10 resident permits, but in no event later than 48 hours after  
11 admission, and again at least annually thereafter. At the time  
12 of the implementation of this Act each resident shall be given  
13 a written summary of all the rights enumerated in Part 1 of  
14 this Article.

15 If a resident is unable to read such written explanation,  
16 it shall be read to the resident in a language the resident  
17 understands. In the case of a minor or a person having a  
18 guardian or other person acting for him or her, both the  
19 resident and the parent, guardian or other person acting for  
20 the resident shall be fully informed of these rights.

21 Section 2-212. Staff familiarity with rights and  
22 responsibilities. The facility shall ensure that its staff is  
23 familiar with and observes the rights and responsibilities  
24 enumerated in this Article.

1 Section 2-213. Vaccinations.

2 (a) A facility shall annually administer or arrange for  
3 administration of a vaccination against influenza to each  
4 resident, in accordance with the recommendations of the  
5 Advisory Committee on Immunization Practices of the Centers for  
6 Disease Control and Prevention that are most recent to the time  
7 of vaccination, unless the vaccination is medically  
8 contraindicated or the resident has refused the vaccine.  
9 Influenza vaccinations for all residents age 65 and over shall  
10 be completed by November 30 of each year or as soon as  
11 practicable if vaccine supplies are not available before  
12 November 1. Residents admitted after November 30, during the  
13 flu season, and until February 1 shall, as medically  
14 appropriate, receive an influenza vaccination prior to or upon  
15 admission or as soon as practicable if vaccine supplies are not  
16 available at the time of the admission, unless the vaccine is  
17 medically contraindicated or the resident has refused the  
18 vaccine. In the event that the Advisory Committee on  
19 Immunization Practices of the Centers for Disease Control and  
20 Prevention determines that dates of administration other than  
21 those stated in this Act are optimal to protect the health of  
22 residents, the Department is authorized to develop rules to  
23 mandate vaccinations at those times rather than the times  
24 stated in this Act. A facility shall document in the resident's  
25 medical record that an annual vaccination against influenza was  
26 administered, arranged, refused or medically contraindicated.

1 (b) A facility shall administer or arrange for  
2 administration of a pneumococcal vaccination to each resident  
3 who is age 65 and over, in accordance with the recommendations  
4 of the Advisory Committee on Immunization Practices of the  
5 Centers for Disease Control and Prevention, who has not  
6 received this immunization prior to or upon admission to the  
7 facility, unless the resident refuses the offer for vaccination  
8 or the vaccination is medically contraindicated. A facility  
9 shall document in each resident's medical record that a  
10 vaccination against pneumococcal pneumonia was offered and  
11 administered, arranged, refused, or medically contraindicated.

12 (c) All persons seeking admission to a nursing facility  
13 shall be verbally screened for risk factors associated with  
14 hepatitis B, hepatitis C, and the Human Immunodeficiency Virus  
15 (HIV) according to guidelines established by the U.S. Centers  
16 for Disease Control and Prevention. Persons who are identified  
17 as being at high risk for hepatitis B, hepatitis C, or HIV  
18 shall be offered an opportunity to undergo laboratory testing  
19 in order to determine infection status if they will be admitted  
20 to the nursing facility for at least 7 days and are not known  
21 to be infected with any of the listed viruses. All HIV testing  
22 shall be conducted in compliance with the AIDS Confidentiality  
23 Act. All persons determined to be susceptible to the hepatitis  
24 B virus shall be offered immunization within 10 days of  
25 admission to any nursing facility. A facility shall document in  
26 the resident's medical record that he or she was verbally

1 screened for risk factors associated with hepatitis B,  
2 hepatitis C, and HIV, and whether or not the resident was  
3 immunized against hepatitis B. Nothing in this subsection (c)  
4 shall apply to a nursing facility licensed or regulated by the  
5 Illinois Department of Veterans' Affairs.

6 Section 2-214. Consumer Choice Information Reports.

7 (a) Every facility shall complete a Consumer Choice  
8 Information Report and shall file it with the Office of State  
9 Long Term Care Ombudsman electronically as prescribed by the  
10 Office. The Report shall be filed annually and upon request of  
11 the Office of State Long Term Care Ombudsman. The Consumer  
12 Choice Information Report must be completed by the facility in  
13 full.

14 (b) A violation of any of the provisions of this Section  
15 constitutes an unlawful practice under the Consumer Fraud and  
16 Deceptive Business Practices Act. All remedies, penalties, and  
17 authority granted to the Attorney General by the Consumer Fraud  
18 and Deceptive Business Practices Act shall be available to him  
19 or her for the enforcement of this Section.

20 (c) The Department of Public Health shall include  
21 verification of the submission of a facility's current Consumer  
22 Choice Information Report when conducting an inspection  
23 pursuant to Section 3-212.

24 Section 2-216. Notification of identified offenders. Every

1 licensed facility shall provide to every prospective and  
2 current resident and resident's guardian, and to every facility  
3 employee, a written notice, prescribed by the Illinois  
4 Department of Public Health, advising the resident, guardian,  
5 or employee of his or her right to ask whether any residents of  
6 the facility are identified offenders. The notice shall also be  
7 prominently posted within every licensed facility. The notice  
8 shall include a statement that information regarding  
9 registered sex offenders may be obtained from the Illinois  
10 State Police website and that information regarding persons  
11 serving terms of parole or mandatory supervised release may be  
12 obtained from the Illinois Department of Corrections website.

13 Section 2-217. Order for transportation of resident by  
14 ambulance. If a facility orders transportation of a resident of  
15 the facility by ambulance, the facility must maintain a written  
16 record that shows (i) the name of the person who placed the  
17 order for that transportation and (ii) the medical reason for  
18 that transportation. The facility must maintain the record for  
19 a period of at least 6 years after the date of the order for  
20 transportation by ambulance.

21 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND  
22 REMEDIES

23 PART 1. LICENSING

1           Section 3-101. Licensure system. The Department shall  
2 establish a comprehensive system of licensure for facilities in  
3 accordance with this Act for the purposes of:

4           (1) Protecting the health, welfare, and safety of  
5 residents; and

6           (2) Assuring the accountability for reimbursed care  
7 provided in certified facilities participating in a  
8 federal or State health program.

9           Section 3-102. Necessity of license. No person may  
10 establish, operate, maintain, offer or advertise a facility  
11 within this State unless and until he or she obtains a valid  
12 license therefor as hereinafter provided, which license  
13 remains unsuspended, unrevoked, and unexpired. No public  
14 official or employee may place any person in, or recommend that  
15 any person be placed in, or directly or indirectly cause any  
16 person to be placed in any facility which is being operated  
17 without a valid license. All licenses and licensing procedures  
18 established under the Nursing Home Care Act shall be deemed  
19 valid under this Act until the Department establishes licenses  
20 and licensing procedures and initiates the licenses and  
21 licensing procedures under this Act.

22           Section 3-102.1. Denial of Department access to facility.  
23 If the Department is denied access to a facility or any other

1 place which it reasonably believes is required to be licensed  
2 as a facility under this Act, it shall request intervention of  
3 local, county or State law enforcement agencies to seek an  
4 appropriate court order or warrant to examine or interview the  
5 residents of such facility. Any person or entity preventing the  
6 Department from carrying out its duties under this Section  
7 shall be guilty of a violation of this Act and shall be subject  
8 to such penalties related thereto.

9 Section 3-103. Application for license; financial  
10 statement. The procedure for obtaining a valid license shall be  
11 as follows:

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

14 (2) All license applications shall be accompanied with  
15 an application fee. The fee for an annual license shall be  
16 \$1,990. The fee for a 2-year license shall be double the  
17 fee for the annual license. The fees collected shall be  
18 deposited with the State Treasurer into the Long Term Care  
19 Monitor/Receiver Fund. The application shall be under oath  
20 and the submission of false or misleading information shall  
21 be a Class A misdemeanor. The application shall contain the  
22 following information:

23 (a) The name and address of the applicant if an  
24 individual, and if a firm, partnership, or  
25 association, of every member thereof, and in the case

1 of a corporation, the name and address thereof and of  
2 its officers and its registered agent, and in the case  
3 of a unit of local government, the name and address of  
4 its chief executive officer;

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

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

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

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

19 (3) Each initial application shall be accompanied by a  
20 financial statement setting forth the financial condition  
21 of the applicant and by a statement from the unit of local  
22 government having zoning jurisdiction over the facility's  
23 location stating that the location of the facility is not  
24 in violation of a zoning ordinance. An initial application  
25 for a new facility shall be accompanied by a permit as  
26 required by the Illinois Health Facilities Planning Act.

1 After the application is approved, the applicant shall  
2 advise the Department every 6 months of any changes in the  
3 information originally provided in the application.

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

9 Section 3-104. Licensing and regulation by municipality.  
10 Any city, village, or incorporated town may by ordinance  
11 provide for the licensing and regulation of a facility or any  
12 classification of such facility, as defined herein, within such  
13 municipality, provided that the ordinance requires compliance  
14 with at least the minimum requirements established by the  
15 Department under this Act. The licensing and enforcement  
16 provisions of the municipality shall fully comply with this  
17 Act, and the municipality shall make available information as  
18 required by this Act. Such compliance shall be determined by  
19 the Department subject to review as provided in Section 3-703.  
20 Section 3-703 shall also be applicable to the judicial review  
21 of final administrative decisions of the municipality under  
22 this Act.

23 Section 3-105. Reports by municipality. Any city, village,  
24 or incorporated town which has or may have ordinances requiring

1 the licensing and regulation of facilities with at least the  
2 minimum standards established by the Department under this Act,  
3 shall make such periodic reports to the Department as the  
4 Department deems necessary. This report shall include a list of  
5 those facilities licensed by such municipality, the number of  
6 beds of each facility, and the date the license of each  
7 facility is effective.

8 Section 3-106. Issuance of license to holder of municipal  
9 license.

10 (a) Upon receipt of notice and proof from an applicant or  
11 licensee that he has received a license or renewal thereof from  
12 a city, village or incorporated town, accompanied by the  
13 required license or renewal fees, the Department shall issue a  
14 license or renewal license to such person. The Department shall  
15 not issue a license hereunder to any person who has failed to  
16 qualify for a municipal license. If the issuance of a license  
17 by the Department antedates regulatory action by a  
18 municipality, the municipality shall issue a local license  
19 unless the standards and requirements under its ordinance or  
20 resolution are greater than those prescribed under this Act.

21 (b) In the event that the standards and requirements under  
22 the ordinance or resolution of the municipality are greater  
23 than those prescribed under this Act, the license issued by the  
24 Department shall remain in effect pending reasonable  
25 opportunity provided by the municipality, which shall be not

1 less than 60 days, for the licensee to comply with the local  
2 requirements. Upon notice by the municipality, or upon the  
3 Department's own determination that the licensee has failed to  
4 qualify for a local license, the Department shall revoke such  
5 license.

6 Section 3-107. Inspection; fees. The Department and the  
7 city, village, or incorporated town shall have the right at any  
8 time to visit and inspect the premises and personnel of any  
9 facility for the purpose of determining whether the applicant  
10 or licensee is in compliance with this Act or with the local  
11 ordinances which govern the regulation of the facility. The  
12 Department may survey any former facility which once held a  
13 license to ensure that the facility is not again operating  
14 without a license. Municipalities may charge a reasonable  
15 license or renewal fee for the regulation of facilities, which  
16 fees shall be in addition to the fees paid to the Department.

17 Section 3-107.1. Access by law enforcement officials and  
18 agencies. Notwithstanding any other provision of this Act, the  
19 Attorney General, the State's Attorneys, and various law  
20 enforcement agencies of this State and its political  
21 subdivisions shall have full and open access to any facility  
22 pursuant to Article 108 of the Code of Criminal Procedure of  
23 1963 in the exercise of their investigatory and prosecutorial  
24 powers in the enforcement of the criminal laws of this State.

1 Furthermore, the Attorney General, the State's Attorneys and  
2 law enforcement agencies of this State shall inform the  
3 Department of any violations of this Act of which they have  
4 knowledge. Disclosure of matters before a grand jury shall be  
5 made in accordance with Section 112-6 of the Code of Criminal  
6 Procedure of 1963.

7 Section 3-108. Cooperation with State agencies. The  
8 Department shall coordinate the functions within State  
9 government affecting facilities licensed under this Act and  
10 shall cooperate with other State agencies which establish  
11 standards or requirements for facilities to assure necessary,  
12 equitable, and consistent State supervision of licensees  
13 without unnecessary duplication of survey, evaluation, and  
14 consultation services or complaint investigations. The  
15 Department shall cooperate with the Department of Human  
16 Services in regard to facilities containing more than 20% of  
17 residents for whom the Department of Human Services has  
18 mandated follow up responsibilities under the Mental Health and  
19 Developmental Disabilities Administrative Act. The Department  
20 shall cooperate with the Department of Healthcare and Family  
21 Services in regard to facilities where recipients of public aid  
22 are residents. The Department shall immediately refer to the  
23 Department of Financial and Professional Regulation (as  
24 successor to the Department of Professional Regulation) for  
25 investigation any credible evidence of which it has knowledge

1 that an individual licensed by that Department has violated  
2 this Act or any rule issued under this Act. The Department  
3 shall enter into agreements with other State Departments,  
4 agencies or commissions to effectuate the purpose of this  
5 Section.

6 Section 3-109. Issuance of license based on Director's  
7 findings. Upon receipt and review of an application for a  
8 license made under this Article and inspection of the applicant  
9 facility under this Article, the Director shall issue a license  
10 if he or she finds:

11 (1) That the individual applicant, or the corporation,  
12 partnership or other entity if the applicant is not an  
13 individual, is a person responsible and suitable to operate  
14 or to direct or participate in the operation of a facility  
15 by virtue of financial capacity, appropriate business or  
16 professional experience, a record of compliance with  
17 lawful orders of the Department and lack of revocation of a  
18 license during the previous 5 years;

19 (2) That the facility is under the supervision of an  
20 administrator who is licensed, if required, under the  
21 Nursing Home Administrators Licensing and Disciplinary  
22 Act, as now or hereafter amended; and

23 (3) That the facility is in substantial compliance with  
24 this Act, and such other requirements for a license as the  
25 Department by rule may establish under this Act.

1 Section 3-110. Contents and period of license.

2 (a) Any license granted by the Director shall state the  
3 maximum bed capacity for which it is granted, the date the  
4 license was issued, and the expiration date. Except as provided  
5 in subsection (b), such licenses shall normally be issued for a  
6 period of one year. However, the Director may issue licenses or  
7 renewals for periods of not less than 6 months nor more than 18  
8 months for facilities with annual licenses and not less than 18  
9 months nor more than 30 months for facilities with 2-year  
10 licenses in order to distribute the expiration dates of such  
11 licenses throughout the calendar year, and fees for such  
12 licenses shall be prorated on the basis of the portion of a  
13 year for which they are issued. Each license shall be issued  
14 only for the premises and persons named in the application and  
15 shall not be transferable or assignable.

16 The Department shall require the licensee to comply with  
17 the requirements of a court order issued under Section 3-515,  
18 as a condition of licensing.

19 (b) A license for a period of 2 years shall be issued to a  
20 facility if the facility:

21 (1) has not received a Type "A" violation within the  
22 last 24 months;

23 (2) has not received a Type "B" violation within the  
24 last 24 months;

25 (3) has not had an inspection, survey, or evaluation

1 that resulted in the issuance of 10 or more administrative  
2 warnings in the last 24 months;

3 (4) has not had an inspection, survey, or evaluation  
4 that resulted in an administrative warning issued for a  
5 violation of Sections 3-401 through 3-413 in the last 24  
6 months;

7 (5) has not been issued an order to reimburse a  
8 resident for a violation of Article II under subsection (6)  
9 of Section 3-305 in the last 24 months; and

10 (6) has not been subject to sanctions or  
11 decertification for violations in relation to patient care  
12 of a facility under Titles XVIII and XIX of the federal  
13 Social Security Act within the last 24 months.

14 If a facility with a 2-year license fails to meet the  
15 conditions in items (1) through (6) of this subsection, in  
16 addition to any other sanctions that may be applied by the  
17 Department under this Act, the facility's 2-year license shall  
18 be replaced by a one-year license until such time as the  
19 facility again meets the conditions in items (1) through (6) of  
20 this subsection.

21 Section 3-111. Issuance or renewal of license after notice  
22 of violation. The issuance or renewal of a license after notice  
23 of a violation has been sent shall not constitute a waiver by  
24 the Department of its power to rely on the violation as the  
25 basis for subsequent license revocation or other enforcement

1 action under this Act arising out of the notice of violation.

2 Section 3-112. Transfer of ownership; license.

3 (a) Whenever ownership of a facility is transferred from  
4 the person named in the license to any other person, the  
5 transferee must obtain a new probationary license. The  
6 transferee shall notify the Department of the transfer and  
7 apply for a new license at least 30 days prior to final  
8 transfer.

9 (b) The transferor shall notify the Department at least 30  
10 days prior to final transfer. The transferor shall remain  
11 responsible for the operation of the facility until such time  
12 as a license is issued to the transferee.

13 Section 3-113. Transferee; conditional license. The  
14 license granted to the transferee shall be subject to the plan  
15 of correction submitted by the previous owner and approved by  
16 the Department and any conditions contained in a conditional  
17 license issued to the previous owner. If there are outstanding  
18 violations and no approved plan of correction has been  
19 implemented, the Department may issue a conditional license and  
20 plan of correction as provided in Sections 3-311 through 3-317.  
21 The license granted to a transferee for a facility that is in  
22 receivership shall be subject to any contractual obligations  
23 assumed by a grantee under the Equity in Long-term Care Quality  
24 Act and to the plan submitted by the receiver for continuing

1 and increasing adherence to best practices in providing  
2 high-quality nursing home care, unless the grant is repaid,  
3 under conditions to be determined by rule by the Department in  
4 its administration of the Equity in Long-term Care Quality Act.

5 Section 3-114. Transferor liable for penalties. The  
6 transferor shall remain liable for all penalties assessed  
7 against the facility which are imposed for violations occurring  
8 prior to transfer of ownership.

9 Section 3-115. License renewal application. At least 120  
10 days but not more than 150 days prior to license expiration,  
11 the licensee shall submit an application for renewal of the  
12 license in such form and containing such information as the  
13 Department requires. If the application is approved, the  
14 license shall be renewed in accordance with Section 3-110 at  
15 the request of the licensee. If application for renewal is not  
16 timely filed, the Department shall so inform the licensee.

17 Section 3-116. Probationary license. If the applicant has  
18 not been previously licensed or if the facility is not in  
19 operation at the time application is made, the Department shall  
20 issue only a probationary license. A probationary license shall  
21 be valid for 120 days unless sooner suspended or revoked under  
22 Section 3-119. Within 30 days prior to the termination of a  
23 probationary license, the Department shall fully and

1 completely inspect the facility and, if the facility meets the  
2 applicable requirements for licensure, shall issue a license  
3 under Section 3-109. If the Department finds that the facility  
4 does not meet the requirements for licensure but has made  
5 substantial progress toward meeting those requirements, the  
6 license may be renewed once for a period not to exceed 120 days  
7 from the expiration date of the initial probationary license.

8 Section 3-117. Denial of license; grounds. An application  
9 for a license may be denied for any of the following reasons:

10 (1) Failure to meet any of the minimum standards set  
11 forth by this Act or by rules and regulations promulgated  
12 by the Department under this Act.

13 (2) Conviction of the applicant, or if the applicant is  
14 a firm, partnership or association, of any of its members,  
15 or if a corporation, the conviction of the corporation or  
16 any of its officers or stockholders, or of the person  
17 designated to manage or supervise the facility, of a  
18 felony, or of 2 or more misdemeanors involving moral  
19 turpitude, during the previous 5 years as shown by a  
20 certified copy of the record of the court of conviction.

21 (3) Personnel insufficient in number or unqualified by  
22 training or experience to properly care for the proposed  
23 number and type of residents.

24 (4) Insufficient financial or other resources to  
25 operate and conduct the facility in accordance with

1 standards promulgated by the Department under this Act and  
2 with contractual obligations assumed by a recipient of a  
3 grant under the Equity in Long-term Care Quality Act and  
4 the plan (if applicable) submitted by a grantee for  
5 continuing and increasing adherence to best practices in  
6 providing high-quality nursing home care.

7 (5) Revocation of a facility license during the  
8 previous 5 years, if such prior license was issued to the  
9 individual applicant, a controlling owner or controlling  
10 combination of owners of the applicant; or any affiliate of  
11 the individual applicant or controlling owner of the  
12 applicant and such individual applicant, controlling owner  
13 of the applicant or affiliate of the applicant was a  
14 controlling owner of the prior license; provided, however,  
15 that the denial of an application for a license pursuant to  
16 this subsection must be supported by evidence that such  
17 prior revocation renders the applicant unqualified or  
18 incapable of meeting or maintaining a facility in  
19 accordance with the standards and rules promulgated by the  
20 Department under this Act.

21 (6) That the facility is not under the direct  
22 supervision of a full-time administrator, as defined by  
23 regulation, who is licensed, if required, under the Nursing  
24 Home Administrators Licensing and Disciplinary Act.

25 (7) That the facility is in receivership and the  
26 proposed licensee has not submitted a specific detailed

1 plan to bring the facility into compliance with the  
2 requirements of this Act and with federal certification  
3 requirements, if the facility is certified, and to keep the  
4 facility in such compliance.

5 Section 3-118. Notice of denial; request for hearing.  
6 Immediately upon the denial of any application or reapplication  
7 for a license under this Article, the Department shall notify  
8 the applicant in writing. Notice of denial shall include a  
9 clear and concise statement of the violations of Section 3-117  
10 on which denial is based and notice of the opportunity for a  
11 hearing under Section 3-703. If the applicant desires to  
12 contest the denial of a license, it shall provide written  
13 notice to the Department of a request for a hearing within 10  
14 days after receipt of the notice of denial. The Department  
15 shall commence the hearing under Section 3-703.

16 Section 3-119. Suspension, revocation, or refusal to renew  
17 license.

18 (a) The Department, after notice to the applicant or  
19 licensee, may suspend, revoke, or refuse to renew a license in  
20 any case in which the Department finds any of the following:

21 (1) There has been a substantial failure to comply with  
22 this Act or the rules and regulations promulgated by the  
23 Department under this Act. A substantial failure by a  
24 facility shall include, but not be limited to, any of the

1 following:

2 (A) termination of Medicare or Medicaid  
3 certification by the Centers for Medicare and Medicaid  
4 Services; or

5 (B) a failure by the facility to pay any fine  
6 assessed under this Act after the Department has sent  
7 to the facility at least 2 notices of assessment that  
8 include a schedule of payments as determined by the  
9 Department, taking into account extenuating  
10 circumstances and financial hardships of the facility.

11 (2) Conviction of the licensee, or of the person  
12 designated to manage or supervise the facility, of a  
13 felony, or of 2 or more misdemeanors involving moral  
14 turpitude, during the previous 5 years as shown by a  
15 certified copy of the record of the court of conviction.

16 (3) Personnel are insufficient in number or  
17 unqualified by training or experience to properly care for  
18 the number and type of residents served by the facility.

19 (4) Financial or other resources are insufficient to  
20 conduct and operate the facility in accordance with  
21 standards promulgated by the Department under this Act.

22 (5) The facility is not under the direct supervision of  
23 a full-time administrator, as defined by regulation, who is  
24 licensed, if required, under the Nursing Home  
25 Administrators Licensing and Disciplinary Act.

26 (6) The facility has committed 2 Type "AA" violations

1           within a 2-year period.

2           (b) Notice under this Section shall include a clear and  
3 concise statement of the violations on which the nonrenewal or  
4 revocation is based, the statute or rule violated and notice of  
5 the opportunity for a hearing under Section 3-703.

6           (c) If a facility desires to contest the nonrenewal or  
7 revocation of a license, the facility shall, within 10 days  
8 after receipt of notice under subsection (b) of this Section,  
9 notify the Department in writing of its request for a hearing  
10 under Section 3-703. Upon receipt of the request, the  
11 Department shall send notice to the facility and hold a hearing  
12 as provided under Section 3-703.

13           (d) The effective date of nonrenewal or revocation of a  
14 license by the Department shall be any of the following:

15           (1) Until otherwise ordered by the circuit court,  
16 revocation is effective on the date set by the Department  
17 in the notice of revocation, or upon final action after  
18 hearing under Section 3-703, whichever is later.

19           (2) Until otherwise ordered by the circuit court,  
20 nonrenewal is effective on the date of expiration of any  
21 existing license, or upon final action after hearing under  
22 Section 3-703, whichever is later; however, a license shall  
23 not be deemed to have expired if the Department fails to  
24 timely respond to a timely request for renewal under this  
25 Act or for a hearing to contest nonrenewal under paragraph

26           (c).

1           (3) The Department may extend the effective date of  
2           license revocation or expiration in any case in order to  
3           permit orderly removal and relocation of residents.

4           The Department may refuse to issue or may suspend the  
5           license of any person who fails to file a return, or to pay the  
6           tax, penalty or interest shown in a filed return, or to pay any  
7           final assessment of tax, penalty or interest, as required by  
8           any tax Act administered by the Illinois Department of Revenue,  
9           until such time as the requirements of any such tax Act are  
10          satisfied.

11   PART 2. GENERAL PROVISIONS

12          Section 3-201. Medical treatment; no prescription by  
13          Department. The Department shall not prescribe the course of  
14          medical treatment provided to an individual resident by the  
15          resident's physician in a facility.

16          Section 3-202. Standards for facilities. The Department  
17          shall prescribe minimum standards for facilities. These  
18          standards shall regulate:

19                 (1) Location and construction of the facility,  
20                 including plumbing, heating, lighting, ventilation, and  
21                 other physical conditions which shall ensure the health,  
22                 safety, and comfort of residents and their protection from  
23                 fire hazard;

1           (2) Number and qualifications of all personnel,  
2 including management and nursing personnel, having  
3 responsibility for any part of the care given to residents;  
4 specifically, the Department shall establish staffing  
5 ratios for facilities which shall specify the number of  
6 staff hours per resident of care that are needed for  
7 professional nursing care for various types of facilities  
8 or areas within facilities;

9           (3) All sanitary conditions within the facility and its  
10 surroundings, including water supply, sewage disposal,  
11 food handling, and general hygiene, which shall ensure the  
12 health and comfort of residents;

13           (4) Diet related to the needs of each resident based on  
14 good nutritional practice and on recommendations which may  
15 be made by the physicians attending the resident;

16           (5) Equipment essential to the health and welfare of  
17 the residents;

18           (6) A program of habilitation and rehabilitation for  
19 those residents who would benefit from such programs;

20           (7) A program for adequate maintenance of physical  
21 plant and equipment;

22           (8) Adequate accommodations, staff and services for  
23 the number and types of residents for whom the facility is  
24 licensed to care, including standards for temperature and  
25 relative humidity within comfort zones determined by the  
26 Department based upon a combination of air temperature,

1 relative humidity and air movement. Such standards shall  
2 also require facility plans that provide for health and  
3 comfort of residents at medical risk as determined by the  
4 attending physician whenever the temperature and relative  
5 humidity are outside such comfort zones established by the  
6 Department. The standards must include a requirement that  
7 areas of a facility used by residents of the facility be  
8 air-conditioned and heated by means of operable  
9 air-conditioning and heating equipment. The areas subject  
10 to this air-conditioning and heating requirement include,  
11 without limitation, bedrooms or common areas such as  
12 sitting rooms, activity rooms, living rooms, community  
13 rooms, and dining rooms;

14 (9) Development of evacuation and other appropriate  
15 safety plans for use during weather, health, fire, physical  
16 plant, environmental and national defense emergencies; and

17 (10) Maintenance of minimum financial or other  
18 resources necessary to meet the standards established  
19 under this Section, and to operate and conduct the facility  
20 in accordance with this Act.

21 Section 3-202.05. Staffing ratios. The Department shall  
22 establish rules governing the minimum staffing level and  
23 staffing qualifications for facilities. In crafting the  
24 staffing ratios, the Department shall take into account the  
25 ambulatory nature and mental health of the resident population

1 in the facilities. The rules shall be substantially similar to  
2 the staffing ratios contained in Section 3-202.05 of the  
3 Nursing Home Care Act.

4 Section 3-202.1. Weather or hazard alert system. The  
5 Department shall develop and implement a system of alerting and  
6 educating facilities and their personnel as to the existence or  
7 possibility of weather or other hazardous circumstances which  
8 may endanger resident health or safety and designating any  
9 precautions to prevent or minimize such danger. The Department  
10 may assist any facility experiencing difficulty in dealing with  
11 such emergencies. The Department may provide for announcement  
12 to the public of the dangers posed to facility residents by  
13 such existing or potential weather or hazardous circumstances.

14 Section 3-202.2a. Comprehensive resident care plan. A  
15 facility, with the participation of the resident and the  
16 resident's guardian or representative, as applicable, must  
17 develop and implement a comprehensive care plan for each  
18 resident that includes measurable objectives and timetables to  
19 meet the resident's medical, mental and psychosocial needs that  
20 are identified in the resident's comprehensive assessment,  
21 that allow the resident to attain or maintain the highest  
22 practicable level of independent functioning, and that provide  
23 for discharge planning to the least restrictive setting based  
24 on the resident's care needs. The assessment shall be developed

1 with the active participation of the resident and the  
2 resident's guardian or representative, as applicable.

3 Section 3-202.2b. Certification of specialized mental  
4 health rehabilitation facilities.

5 (a) The Department shall file with the Joint Committee on  
6 Administrative Rules, pursuant to the Illinois Administrative  
7 Procedure Act, proposed rules or proposed amendments to  
8 existing rules to establish a special certification program  
9 that provides for psychiatric rehabilitation services that are  
10 required to be offered by a facility licensed under this Act  
11 that serves residents with serious mental illness. Compliance  
12 with standards promulgated pursuant to this Section must be  
13 demonstrated before a facility licensed under this Act is  
14 eligible to become certified under this Section and annually  
15 thereafter.

16 (b) No facility shall establish, operate, maintain, or  
17 offer psychiatric rehabilitation services, or admit, retain,  
18 or seek referrals of a resident with a serious mental illness  
19 diagnosis, unless and until a valid certification, which  
20 remains unsuspending, unrevoked, and unexpired, has been  
21 issued.

22 (c) A facility that currently serves a resident with  
23 serious mental illness may continue to admit such residents  
24 until the Department performs a certification review and  
25 determines that the facility does not meet the requirements for

1 certification. The Department, at its discretion, may provide  
2 an additional 90-day period for the facility to meet the  
3 requirements for certification if it finds that the facility  
4 has made a good faith effort to comply with all certification  
5 requirements and will achieve total compliance with the  
6 requirements before the end of the 90-day period. The facility  
7 shall be prohibited from admitting residents with serious  
8 mental illness until the Department certifies the facility to  
9 be in compliance with the requirements of this Section.

10 (d) A facility currently serving residents with serious  
11 mental illness that elects to terminate provision of services  
12 to this population must immediately notify the Department of  
13 its intent, cease to admit new residents with serious mental  
14 illness, and give notice to all existing residents with serious  
15 mental illness of their impending discharge. These residents  
16 shall be accorded all rights and assistance provided to a  
17 resident being involuntarily discharged and those provided  
18 under Section 2-201.5 of this Act. The facility shall continue  
19 to adhere to all requirements of this Act until all residents  
20 with serious mental illness have been discharged.

21 (e) A facility found to be out of compliance with the  
22 certification requirements under this Section may be subject to  
23 denial, revocation, or suspension of the psychiatric  
24 rehabilitation services certification or the imposition of  
25 sanctions and penalties, including the immediate suspension of  
26 new admissions. Hearings shall be conducted pursuant to Part 7

1 of Article III of this Act.

2 (f) The Department shall indicate on its list of licensed  
3 facilities which facilities are certified under this Section  
4 and shall distribute this list to the appropriate State  
5 agencies charged with administering and implementing the  
6 State's program of pre-admission screening and resident  
7 review, hospital discharge planners, and others upon request.

8 (g) No public official, agent, or employee of the State, or  
9 any subcontractor of the State, may refer or arrange for the  
10 placement of a person with serious mental illness in a facility  
11 that is not certified under this Section. No public official,  
12 agent, or employee of the State, or any subcontractor of the  
13 State, may place the name of a facility on a list of facilities  
14 serving the seriously mentally ill for distribution to the  
15 general public or to professionals arranging for placements or  
16 making referrals unless the facility is certified under this  
17 Section.

18 (h) The Department shall establish requirements for  
19 certification that augment current quality of care standards  
20 for facilities serving residents with serious mental illness,  
21 which shall include admission, discharge planning, psychiatric  
22 rehabilitation services, development of age group appropriate  
23 treatment plan goals and services, behavior management  
24 services, coordination with community mental health services,  
25 staff qualifications and training, clinical consultation,  
26 resident access to the outside community, and appropriate

1 environment and space for resident programs, recreation,  
2 privacy, and any other issue deemed appropriate by the  
3 Department. The augmented standards shall at a minimum include,  
4 but need not be limited to, the following:

5 (1) Staff sufficient in number and qualifications  
6 necessary to meet the scheduled and unscheduled needs of  
7 the residents on a 24-hour basis. The Department shall  
8 establish by rule the minimum number of psychiatric  
9 services rehabilitation coordinators in relation to the  
10 number of residents with serious mental illness residing in  
11 the facility.

12 (2) The number and qualifications of consultants  
13 required to be contracted with to provide continuing  
14 education and training and to assist with program  
15 development.

16 (3) Training for all new employees specific to the care  
17 needs of residents with a serious mental illness diagnosis  
18 during their orientation period and annually thereafter.  
19 Training shall be independent of the Department and  
20 overseen by an agency designated by the Governor to  
21 determine the content of all facility employee training and  
22 to provide training for all trainers of facility employees.  
23 Training of employees shall at minimum include, but need  
24 not be limited to, (i) the impact of a serious mental  
25 illness diagnosis, (ii) the recovery paradigm and the role  
26 of psychiatric rehabilitation, (iii) preventive strategies

1 for managing aggression and crisis prevention, (iv) basic  
2 psychiatric rehabilitation techniques and service  
3 delivery, (v) resident rights, (vi) abuse prevention,  
4 (vii) appropriate interaction between staff and residents,  
5 and (viii) any other topic deemed by the Department to be  
6 important to ensuring quality of care.

7 (4) Quality assessment and improvement requirements  
8 specific to a facility's residential psychiatric  
9 rehabilitation services, which shall be made available to  
10 the Department upon request. A facility shall be required  
11 at a minimum to develop and maintain policies and  
12 procedures that include, but need not be limited to,  
13 evaluation of the appropriateness of resident admissions  
14 based on the facility's capacity to meet specific needs,  
15 resident assessments, development and implementation of  
16 care plans, and discharge planning.

17 (5) Room selection and appropriateness of roommate  
18 assignment.

19 (6) Comprehensive quarterly review of all treatment  
20 plans for residents with serious mental illness by the  
21 resident's interdisciplinary team, which takes into  
22 account, at a minimum, the resident's progress, prior  
23 assessments, and treatment plan.

24 (7) Substance abuse screening and management and  
25 documented referral relationships with certified substance  
26 abuse treatment providers.

1           (8) Administration of psychotropic medications to a  
2           resident with serious mental illness who is incapable of  
3           giving informed consent, in compliance with the applicable  
4           provisions of the Mental Health and Developmental  
5           Disabilities Code.

6           (i) The Department shall establish a certification fee  
7           schedule by rule, in consultation with advocates, nursing  
8           homes, and representatives of associations representing long  
9           term care facilities. Rules proposed under this Section shall  
10          take effect 180 days after being approved by the Joint  
11          Committee on Administrative Rules.

12          Section 3-202.5. Facility plan review; fees.

13          (a) Before commencing construction of a new facility or  
14          specified types of alteration or additions to an existing long  
15          term care facility involving major construction, as defined by  
16          rule by the Department, with an estimated cost greater than  
17          \$100,000, architectural drawings and specifications for the  
18          facility shall be submitted to the Department for review and  
19          approval. A facility may submit architectural drawings and  
20          specifications for other construction projects for Department  
21          review according to subsection (b) that shall not be subject to  
22          fees under subsection (d). Review of drawings and  
23          specifications shall be conducted by an employee of the  
24          Department meeting the qualifications established by the  
25          Department of Central Management Services class specifications

1 for such an individual's position or by a person contracting  
2 with the Department who meets those class specifications. Final  
3 approval of the drawings and specifications for compliance with  
4 design and construction standards shall be obtained from the  
5 Department before the alteration, addition, or new  
6 construction is begun.

7 (b) The Department shall inform an applicant in writing  
8 within 10 working days after receiving drawings and  
9 specifications and the required fee, if any, from the applicant  
10 whether the applicant's submission is complete or incomplete.  
11 Failure to provide the applicant with this notice within 10  
12 working days shall result in the submission being deemed  
13 complete for purposes of initiating the 60-day review period  
14 under this Section. If the submission is incomplete, the  
15 Department shall inform the applicant of the deficiencies with  
16 the submission in writing. If the submission is complete the  
17 required fee, if any, has been paid, the Department shall  
18 approve or disapprove drawings and specifications submitted to  
19 the Department no later than 60 days following receipt by the  
20 Department. The drawings and specifications shall be of  
21 sufficient detail, as provided by Department rule, to enable  
22 the Department to render a determination of compliance with  
23 design and construction standards under this Act. If the  
24 Department finds that the drawings are not of sufficient detail  
25 for it to render a determination of compliance, the plans shall  
26 be determined to be incomplete and shall not be considered for

1 purposes of initiating the 60-day review period. If a  
2 submission of drawings and specifications is incomplete, the  
3 applicant may submit additional information. The 60-day review  
4 period shall not commence until the Department determines that  
5 a submission of drawings and specifications is complete or the  
6 submission is deemed complete. If the Department has not  
7 approved or disapproved the drawings and specifications within  
8 60 days, the construction, major alteration, or addition shall  
9 be deemed approved. If the drawings and specifications are  
10 disapproved, the Department shall state in writing, with  
11 specificity, the reasons for the disapproval. The entity  
12 submitting the drawings and specifications may submit  
13 additional information in response to the written comments from  
14 the Department or request a reconsideration of the disapproval.  
15 A final decision of approval or disapproval shall be made  
16 within 45 days of the receipt of the additional information or  
17 reconsideration request. If denied, the Department shall state  
18 the specific reasons for the denial.

19 (c) The Department shall provide written approval for  
20 occupancy pursuant to subsection (g) and shall not issue a  
21 violation to a facility as a result of a licensure or complaint  
22 survey based upon the facility's physical structure if:

23 (1) the Department reviewed and approved or deemed  
24 approved the drawings and specifications for compliance  
25 with design and construction standards;

26 (2) the construction, major alteration, or addition

1 was built as submitted;

2 (3) the law or rules have not been amended since the  
3 original approval; and

4 (4) the conditions at the facility indicate that there  
5 is a reasonable degree of safety provided for the  
6 residents.

7 (d) The Department shall charge the following fees in  
8 connection with its reviews conducted before June 30, 2004  
9 under this Section:

10 (1) (Blank).

11 (2) (Blank).

12 (3) If the estimated dollar value of the alteration,  
13 addition, or new construction is \$100,000 or more but less  
14 than \$500,000, the fee shall be the greater of \$2,400 or  
15 1.2% of that value.

16 (4) If the estimated dollar value of the alteration,  
17 addition, or new construction is \$500,000 or more but less  
18 than \$1,000,000, the fee shall be the greater of \$6,000 or  
19 0.96% of that value.

20 (5) If the estimated dollar value of the alteration,  
21 addition, or new construction is \$1,000,000 or more but  
22 less than \$5,000,000, the fee shall be the greater of  
23 \$9,600 or 0.22% of that value.

24 (6) If the estimated dollar value of the alteration,  
25 addition, or new construction is \$5,000,000 or more, the  
26 fee shall be the greater of \$11,000 or 0.11% of that value,

1 but shall not exceed \$40,000. The fees provided in this  
2 subsection (d) shall not apply to major construction  
3 projects involving facility changes that are required by  
4 Department rule amendments. The fees provided in this  
5 subsection (d) shall also not apply to major construction  
6 projects if 51% or more of the estimated cost of the  
7 project is attributed to capital equipment. For major  
8 construction projects where 51% or more of the estimated  
9 cost of the project is attributed to capital equipment, the  
10 Department shall by rule establish a fee that is reasonably  
11 related to the cost of reviewing the project. The  
12 Department shall not commence the facility plan review  
13 process under this Section until the applicable fee has  
14 been paid.

15 (e) All fees received by the Department under this Section  
16 shall be deposited into the Health Facility Plan Review Fund, a  
17 special fund created in the State Treasury. All fees paid by  
18 long term care facilities under subsection (d) shall be used  
19 only to cover the costs relating to the Department's review of  
20 long term care facility projects under this Section. Moneys  
21 shall be appropriated from that Fund to the Department only to  
22 pay the costs of conducting reviews under this Section or under  
23 Section 3-202.5 of the Nursing Home Care Act. None of the  
24 moneys in the Health Facility Plan Review Fund shall be used to  
25 reduce the amount of General Revenue Fund moneys appropriated  
26 to the Department for facility plan reviews conducted pursuant

1 to this Section.

2 (f) (Blank).

3 (g) The Department shall conduct an on-site inspection of  
4 the completed project no later than 30 days after notification  
5 from the applicant that the project has been completed and all  
6 certifications required by the Department have been received  
7 and accepted by the Department. The Department shall provide  
8 written approval for occupancy to the applicant within 5  
9 working days of the Department's final inspection, provided the  
10 applicant has demonstrated substantial compliance as defined  
11 by Department rule. Occupancy of new major construction is  
12 prohibited until Department approval is received, unless the  
13 Department has not acted within the time frames provided in  
14 this subsection (g), in which case the construction shall be  
15 deemed approved. Occupancy shall be authorized after any  
16 required health inspection by the Department has been  
17 conducted.

18 (h) The Department shall establish, by rule, a procedure to  
19 conduct interim on-site review of large or complex construction  
20 projects.

21 (i) The Department shall establish, by rule, an expedited  
22 process for emergency repairs or replacement of like equipment.

23 (j) Nothing in this Section shall be construed to apply to  
24 maintenance, upkeep, or renovation that does not affect the  
25 structural integrity of the building, does not add beds or  
26 services over the number for which the long term care facility

1 is licensed, and provides a reasonable degree of safety for the  
2 residents.

3 Section 3-203. Standards for persons with mental illness.  
4 In licensing any facility for persons with a mental illness,  
5 the Department shall consult with the Department of Human  
6 Services in developing minimum standards for such persons.

7 Section 3-204. License classifications. In addition to the  
8 authority to prescribe minimum standards, the Department may  
9 adopt license classifications of facilities according to the  
10 levels of service, and if license classification is adopted,  
11 the applicable minimum standards shall define the  
12 classification. In adopting classification of the license of  
13 facilities, the Department may give recognition to the  
14 classification of services defined or prescribed by federal  
15 statute or federal rule or regulation. More than one  
16 classification of the license may be issued to the same  
17 facility when the prescribed minimum standards and regulations  
18 are met.

19 Section 3-205. Municipalities; license classifications.  
20 Where licensing responsibilities are performed by a city,  
21 village or incorporated town, the municipality shall use the  
22 same classifications as the Department; and a facility may not  
23 be licensed for a different classification by the Department

1 than by the municipality.

2 Section 3-206. Nursing assistants, habilitation aids, and  
3 child care aides. The Department shall prescribe a curriculum  
4 for training nursing assistants, habilitation aides, and child  
5 care aides.

6 (a) No person, except a volunteer who receives no  
7 compensation from a facility and is not included for the  
8 purpose of meeting any staffing requirements set forth by the  
9 Department, shall act as a nursing assistant, habilitation  
10 aide, or child care aide in a facility, nor shall any person,  
11 under any other title, not licensed, certified, or registered  
12 to render medical care by the Department of Professional  
13 Regulation, assist with the personal, medical, or nursing care  
14 of residents in a facility, unless such person meets the  
15 following requirements:

16 (1) Be at least 16 years of age, of temperate habits  
17 and good moral character, honest, reliable, and  
18 trustworthy.

19 (2) Be able to speak and understand the English  
20 language or a language understood by a substantial  
21 percentage of the facility's residents.

22 (3) Provide evidence of employment or occupation, if  
23 any, and residence for 2 years prior to his or her present  
24 employment.

25 (4) Have completed at least 8 years of grade school or

1 provide proof of equivalent knowledge.

2 (5) Begin a current course of training for nursing  
3 assistants, habilitation aides, or child care aides,  
4 approved by the Department, within 45 days of initial  
5 employment in the capacity of a nursing assistant,  
6 habilitation aide, or child care aide at any facility. Such  
7 courses of training shall be successfully completed within  
8 120 days of initial employment in the capacity of nursing  
9 assistant, habilitation aide, or child care aide at a  
10 facility. Nursing assistants, habilitation aides, and  
11 child care aides who are enrolled in approved courses in  
12 community colleges or other educational institutions on a  
13 term, semester, or trimester basis shall be exempt from the  
14 120-day completion time limit. The Department shall adopt  
15 rules for such courses of training. These rules shall  
16 include procedures for facilities to carry on an approved  
17 course of training within the facility.

18 The Department may accept comparable training in lieu  
19 of the 120-hour course for student nurses, foreign nurses,  
20 military personnel, or employes of the Department of Human  
21 Services.

22 The facility shall develop and implement procedures,  
23 which shall be approved by the Department, for an ongoing  
24 review process, which shall take place within the facility,  
25 for nursing assistants, habilitation aides, and child care  
26 aides.

1           At the time of each regularly scheduled licensure  
2           survey, or at the time of a complaint investigation, the  
3           Department may require any nursing assistant, habilitation  
4           aide, or child care aide to demonstrate, either through  
5           written examination or action, or both, sufficient  
6           knowledge in all areas of required training. If such  
7           knowledge is inadequate, the Department shall require the  
8           nursing assistant, habilitation aide, or child care aide to  
9           complete inservice training and review in the facility  
10          until the nursing assistant, habilitation aide, or child  
11          care aide demonstrates to the Department, either through  
12          written examination or action, or both, sufficient  
13          knowledge in all areas of required training.

14           (6) Be familiar with and have general skills related to  
15          resident care.

16          (a-0.5) An educational entity, other than a secondary  
17          school, conducting a nursing assistant, habilitation aide, or  
18          child care aide training program shall initiate a criminal  
19          history record check in accordance with the Health Care Worker  
20          Background Check Act prior to entry of an individual into the  
21          training program. A secondary school may initiate a criminal  
22          history record check in accordance with the Health Care Worker  
23          Background Check Act at any time during or after a training  
24          program.

25          (a-1) Nursing assistants, habilitation aides, or child  
26          care aides seeking to be included on the registry maintained

1 under Section 3-206.01 must authorize the Department of Public  
2 Health or its designee to request a criminal history record  
3 check in accordance with the Health Care Worker Background  
4 Check Act and submit all necessary information. An individual  
5 may not newly be included on the registry unless a criminal  
6 history record check has been conducted with respect to the  
7 individual.

8 (b) Persons subject to this Section shall perform their  
9 duties under the supervision of a licensed nurse.

10 (c) It is unlawful for any facility to employ any person in  
11 the capacity of nursing assistant, habilitation aide, or child  
12 care aide, or under any other title, not licensed by the State  
13 of Illinois to assist in the personal, medical, or nursing care  
14 of residents in such facility unless such person has complied  
15 with this Section.

16 (d) Proof of compliance by each employee with the  
17 requirements set out in this Section shall be maintained for  
18 each such employee by each facility in the individual personnel  
19 folder of the employee. Proof of training shall be obtained  
20 only from the health care worker registry.

21 (e) Each facility shall obtain access to the health care  
22 worker registry's web application, maintain the employment and  
23 demographic information relating to each employee, and verify  
24 by the category and type of employment that each employee  
25 subject to this Section meets all the requirements of this  
26 Section.

1 (f) Any facility that is operated under Section 3-803 shall  
2 be exempt from the requirements of this Section.

3 (g) Each facility that admits persons who are diagnosed as  
4 having Alzheimer's disease or related dementias shall require  
5 all nursing assistants, habilitation aides, or child care  
6 aides, who did not receive 12 hours of training in the care and  
7 treatment of such residents during the training required under  
8 paragraph (5) of subsection (a), to obtain 12 hours of in-house  
9 training in the care and treatment of such residents. If the  
10 facility does not provide the training in-house, the training  
11 shall be obtained from other facilities, community colleges, or  
12 other educational institutions that have a recognized course  
13 for such training. The Department shall, by rule, establish a  
14 recognized course for such training. The Department's rules  
15 shall provide that such training may be conducted in-house at  
16 each facility subject to the requirements of this subsection,  
17 in which case such training shall be monitored by the  
18 Department.

19 The Department's rules shall also provide for  
20 circumstances and procedures whereby any person who has  
21 received training that meets the requirements of this  
22 subsection shall not be required to undergo additional training  
23 if he or she is transferred to or obtains employment at a  
24 different facility or a facility other than a long-term care  
25 facility but remains continuously employed for pay as a nursing  
26 assistant, habilitation aide, or child care aide. Individuals

1 who have performed no nursing or nursing-related services for a  
2 period of 24 consecutive months shall be listed as "inactive"  
3 and, as such, do not meet the requirements of this Section.  
4 Licensed sheltered care facilities shall be exempt from the  
5 requirements of this Section.

6 Section 3-206.01. Health care worker registry.

7 (a) The Department shall include in the registry  
8 established under Section 3-206.01 of the Nursing Home Care Act  
9 all individuals who (i) have satisfactorily completed the  
10 training required by Section 3-206 of this Act, (ii) have begun  
11 a current course of training as set forth in Section 3-206 of  
12 this Act, or (iii) are otherwise acting as a nursing assistant,  
13 habilitation aide, home health aide, psychiatric services  
14 rehabilitation aide, or child care aide. The registry shall  
15 include the individual's name, his or her current address,  
16 Social Security number, and the date and location of the  
17 training course completed by the individual and whether the  
18 individual has any of the disqualifying convictions listed in  
19 Section 25 of the Health Care Worker Background Check Act from  
20 the date of the individual's last criminal records check. Any  
21 individual placed on the registry is required to inform the  
22 Department of any change of address within 30 days. A facility  
23 shall not employ an individual as a nursing assistant,  
24 habilitation aide, home health aide, psychiatric services  
25 rehabilitation aide, or child care aide, or newly hired as an

1 individual who may have access to a resident, a resident's  
2 living quarters, or a resident's personal, financial, or  
3 medical records, unless the facility has inquired of the  
4 Department's health care worker registry as to information in  
5 the registry concerning the individual. The facility shall not  
6 employ an individual as a nursing assistant, habilitation aide,  
7 or child care aide if that individual is not on the registry  
8 unless the individual is enrolled in a training program under  
9 paragraph (5) of subsection (a) of Section 3-206 of this Act.

10 If the Department finds that a nursing assistant,  
11 habilitation aide, home health aide, psychiatric services  
12 rehabilitation aide, or child care aide, or an unlicensed  
13 individual, has abused or neglected a resident or an individual  
14 under his or her care or misappropriated property of a resident  
15 or an individual under his or her care, the Department shall  
16 notify the individual of this finding by certified mail sent to  
17 the address contained in the registry. The notice shall give  
18 the individual an opportunity to contest the finding in a  
19 hearing before the Department or to submit a written response  
20 to the findings in lieu of requesting a hearing. If, after a  
21 hearing or if the individual does not request a hearing, the  
22 Department finds that the individual abused a resident,  
23 neglected a resident, or misappropriated resident property in a  
24 facility, the finding shall be included as part of the registry  
25 as well as a clear and accurate summary from the individual, if  
26 he or she chooses to make such a statement. The Department

1 shall make the following information in the registry available  
2 to the public: an individual's full name; the date an  
3 individual successfully completed a nurse aide training or  
4 competency evaluation; and whether the Department has made a  
5 finding that an individual has been guilty of abuse or neglect  
6 of a resident or misappropriation of resident property. In the  
7 case of inquiries to the registry concerning an individual  
8 listed in the registry, any information disclosed concerning  
9 such a finding shall also include disclosure of the  
10 individual's statement in the registry relating to the finding  
11 or a clear and accurate summary of the statement.

12 (b) The Department shall add to the health care worker  
13 registry records of findings as reported by the Inspector  
14 General or remove from the health care worker registry records  
15 of findings as reported by the Department of Human Services,  
16 under subsection (g-5) of Section 1-17 of the Department of  
17 Human Services Act.

18 Section 3-206.02. Designation on registry for offense.

19 (a) The Department, after notice to the nursing assistant,  
20 habilitation aide, home health aide, psychiatric services  
21 rehabilitation aide, or child care aide, may designate that the  
22 Department has found any of the following:

23 (1) The nursing assistant, habilitation aide, home  
24 health aide, psychiatric services rehabilitation aide, or  
25 child care aide has abused a resident.

1           (2) The nursing assistant, habilitation aide, home  
2 health aide, psychiatric services rehabilitation aide, or  
3 child care aide has neglected a resident.

4           (3) The nursing assistant, habilitation aide, home  
5 health aide, psychiatric services rehabilitation aide, or  
6 child care aide has misappropriated resident property.

7           (4) The nursing assistant, habilitation aide, home  
8 health aide, psychiatric services rehabilitation aide, or  
9 child care aide has been convicted of (i) a felony, (ii) a  
10 misdemeanor, an essential element of which is dishonesty,  
11 or (iii) any crime that is directly related to the duties  
12 of a nursing assistant, habilitation aide, or child care  
13 aide.

14           (b) Notice under this Section shall include a clear and  
15 concise statement of the grounds denoting abuse, neglect, or  
16 theft and notice of the opportunity for a hearing to contest  
17 the designation.

18           (c) The Department may denote any nursing assistant,  
19 habilitation aide, home health aide, psychiatric services  
20 rehabilitation aide, or child care aide on the registry who  
21 fails (i) to file a return, (ii) to pay the tax, penalty or  
22 interest shown in a filed return, or (iii) to pay any final  
23 assessment of tax, penalty or interest, as required by any tax  
24 Act administered by the Illinois Department of Revenue, until  
25 the time the requirements of the tax Act are satisfied.

26           (c-1) The Department shall document criminal background

1 check results pursuant to the requirements of the Health Care  
2 Worker Background Check Act.

3 (d) At any time after the designation on the registry  
4 pursuant to subsection (a), (b), or (c) of this Section, a  
5 nursing assistant, habilitation aide, home health aide,  
6 psychiatric services rehabilitation aide, or child care aide  
7 may petition the Department for removal of a designation of  
8 neglect on the registry. The Department may remove the  
9 designation of neglect of the nursing assistant, habilitation  
10 aide, home health aide, psychiatric services rehabilitation  
11 aide, or child care aide on the registry unless, after an  
12 investigation and a hearing, the Department determines that  
13 removal of designation is not in the public interest.

14 Section 3-206.03. Resident attendants.

15 (a) As used in this Section, "resident attendant" means an  
16 individual who assists residents in a facility with the  
17 following activities:

18 (1) eating and drinking; and

19 (2) personal hygiene limited to washing a resident's  
20 hands and face, brushing and combing a resident's hair,  
21 oral hygiene, shaving residents with an electric razor, and  
22 applying makeup.

23 The term "resident attendant" does not include an  
24 individual who:

25 (1) is a licensed health professional or a registered

1 dietitian;

2 (2) volunteers without monetary compensation;

3 (3) is a nurse assistant; or

4 (4) performs any nursing or nursing-related services  
5 for residents of a facility.

6 (b) A facility may employ resident attendants to assist the  
7 nurse aides with the activities authorized under subsection  
8 (a). The resident attendants shall not count in the minimum  
9 staffing requirements under rules implementing this Act.

10 (c) A facility may not use on a full-time or other paid  
11 basis any individual as a resident attendant in the facility  
12 unless the individual:

13 (1) has completed a training and competency evaluation  
14 program encompassing the tasks the individual provides;  
15 and

16 (2) is competent to provide feeding, hydration, and  
17 personal hygiene services.

18 (d) The training and competency evaluation program may be  
19 facility based. It may include one or more of the following  
20 units:

21 (1) A feeding unit that is a maximum of 5 hours in  
22 length.

23 (2) A hydration unit that is a maximum of 3 hours in  
24 length.

25 (3) A personal hygiene unit that is a maximum of 5  
26 hours in length. These programs must be reviewed and

1 approved by the Department every 2 years.

2 (f) A person seeking employment as a resident attendant is  
3 subject to the Health Care Worker Background Check Act.

4 Section 3-206.05. Safe resident handling policy.

5 (a) In this Section:

6 "Health care worker" means an individual providing  
7 direct resident care services who may be required to lift,  
8 transfer, reposition, or move a resident.

9 "Nurse" means an advanced practice nurse, a registered  
10 nurse, or a licensed practical nurse licensed under the  
11 Nurse Practice Act.

12 (b) A facility must adopt and ensure implementation of a  
13 policy to identify, assess, and develop strategies to control  
14 risk of injury to residents and nurses and other health care  
15 workers associated with the lifting, transferring,  
16 repositioning, or movement of a resident. The policy shall  
17 establish a process that, at a minimum, includes all of the  
18 following:

19 (1) Analysis of the risk of injury to residents and  
20 nurses and other health care workers taking into account  
21 the resident handling needs of the resident populations  
22 served by the facility and the physical environment in  
23 which the resident handling and movement occurs.

24 (2) Education of nurses in the identification,  
25 assessment, and control of risks of injury to residents and

1 nurses and other health care workers during resident  
2 handling.

3 (3) Evaluation of alternative ways to reduce risks  
4 associated with resident handling, including evaluation of  
5 equipment and the environment.

6 (4) Restriction, to the extent feasible with existing  
7 equipment and aids, of manual resident handling or movement  
8 of all or most of a resident's weight except for emergency,  
9 life-threatening, or otherwise exceptional circumstances.

10 (5) Procedures for a nurse to refuse to perform or be  
11 involved in resident handling or movement that the nurse in  
12 good faith believes will expose a resident or nurse or  
13 other health care worker to an unacceptable risk of injury.

14 (6) Development of strategies to control risk of injury  
15 to residents and nurses and other health care workers  
16 associated with the lifting, transferring, repositioning,  
17 or movement of a resident.

18 (7) In developing architectural plans for construction  
19 or remodeling of a facility or unit of a facility in which  
20 resident handling and movement occurs, consideration of  
21 the feasibility of incorporating resident handling  
22 equipment or the physical space and construction design  
23 needed to incorporate that equipment.

24 Section 3-206.1. Transfer of ownership following  
25 suspension or revocation; discussion with new owner. Whenever

1 ownership of a private facility is transferred to another  
2 private owner following a final order for a suspension or  
3 revocation of the facility's license, the Department shall  
4 discuss with the new owner all noted problems associated with  
5 the facility and shall determine what additional training, if  
6 any, is needed for the direct care staff.

7 Section 3-207. Statement of ownership.

8 (a) As a condition of the issuance or renewal of the  
9 license of any facility, the applicant shall file a statement  
10 of ownership. The applicant shall update the information  
11 required in the statement of ownership within 10 days of any  
12 change.

13 (b) The statement of ownership shall include the following:

14 (1) The name, address, telephone number, occupation or  
15 business activity, business address and business telephone  
16 number of the person who is the owner of the facility and  
17 every person who owns the building in which the facility is  
18 located, if other than the owner of the facility, which is  
19 the subject of the application or license; and if the owner  
20 is a partnership or corporation, the name of every partner  
21 and stockholder of the owner;

22 (2) The name and address of any facility, wherever  
23 located, any financial interest in which is owned by the  
24 applicant, if the facility were required to be licensed if  
25 it were located in this State;

1           (3) Other information necessary to determine the  
2           identity and qualifications of an applicant or licensee to  
3           operate a facility in accordance with this Act as required  
4           by the Department in regulations.

5           (c) The information in the statement of ownership shall be  
6           public information and shall be available from the Department.

7           Section 3-208. Annual financial statement.

8           (a) Each licensee shall file annually, or more often as the  
9           Director shall by rule prescribe, an attested financial  
10          statement. The Director may order an audited financial  
11          statement of a particular facility by an auditor of the  
12          Director's choice, provided the cost of such audit is paid by  
13          the Department.

14          (b) No public funds shall be expended for the maintenance  
15          of any resident in a facility which has failed to file the  
16          financial statement required under this Section and no public  
17          funds shall be paid to or on behalf of a facility which has  
18          failed to file a statement.

19          (c) The Director of Public Health and the Director of  
20          Healthcare and Family Services shall promulgate under Sections  
21          3-801 and 3-802, one set of regulations for the filing of these  
22          financial statements, and shall provide in these regulations  
23          for forms, required information, intervals and dates of filing  
24          and such other provisions as they may deem necessary.

25          (d) The Director of Public Health and the Director of

1 Healthcare and Family Services shall seek the advice and  
2 comments of other State and federal agencies which require the  
3 submission of financial data from facilities licensed under  
4 this Act and shall incorporate the information requirements of  
5 these agencies so as to impose the least possible burden on  
6 licensees. No other State agency may require submission of  
7 financial data except as expressly authorized by law or as  
8 necessary to meet requirements of federal statutes or  
9 regulations. Information obtained under this Section shall be  
10 made available, upon request, by the Department to any other  
11 State agency or legislative commission to which such  
12 information is necessary for investigations or required for the  
13 purposes of State or federal law or regulation.

14 Section 3-209. Posting of information. Every facility  
15 shall conspicuously post for display in an area of its offices  
16 accessible to residents, employees, and visitors the  
17 following:

18 (1) Its current license;

19 (2) A description, provided by the Department, of  
20 complaint procedures established under this Act and the  
21 name, address, and telephone number of a person authorized  
22 by the Department to receive complaints;

23 (3) A copy of any order pertaining to the facility  
24 issued by the Department or a court; and

25 (4) A list of the material available for public

1 inspection under Section 3-210.

2 Section 3-210. Materials for public inspection.

3 A facility shall retain the following for public  
4 inspection:

5 (1) A complete copy of every inspection report of the  
6 facility received from the Department during the past 5  
7 years;

8 (2) A copy of every order pertaining to the facility  
9 issued by the Department or a court during the past 5  
10 years;

11 (3) A description of the services provided by the  
12 facility and the rates charged for those services and items  
13 for which a resident may be separately charged;

14 (4) A copy of the statement of ownership required by  
15 Section 3-207;

16 (5) A record of personnel employed or retained by the  
17 facility who are licensed, certified or registered by the  
18 Department of Financial and Professional Regulation (as  
19 successor to the Department of Professional Regulation);

20 (6) A complete copy of the most recent inspection  
21 report of the facility received from the Department; and

22 (7) A copy of the current Consumer Choice Information  
23 Report required by Section 2-214.

24 Section 3-211. No State or federal funds to unlicensed

1 facility. No State or federal funds which are appropriated by  
2 the General Assembly or which pass through the General Revenue  
3 Fund or any special fund in the State Treasury shall be paid to  
4 a facility not having a license issued under this Act.

5 Section 3-212. Inspection of facility by Department;  
6 report.

7 (a) The Department, whenever it deems necessary in  
8 accordance with subsection (b), shall inspect, survey and  
9 evaluate every facility to determine compliance with  
10 applicable licensure requirements and standards. Submission of  
11 a facility's current Consumer Choice Information Report  
12 required by Section 2-214 shall be verified at the time of  
13 inspection. An inspection should occur within 120 days prior to  
14 license renewal. The Department may periodically visit a  
15 facility for the purpose of consultation. An inspection,  
16 survey, or evaluation, other than an inspection of financial  
17 records, shall be conducted without prior notice to the  
18 facility. A visit for the sole purpose of consultation may be  
19 announced. The Department shall provide training to surveyors  
20 about the appropriate assessment, care planning, and care of  
21 persons with mental illness (other than Alzheimer's disease or  
22 related disorders) to enable its surveyors to determine whether  
23 a facility is complying with State and federal requirements  
24 about the assessment, care planning, and care of those persons.

25 (a-1) An employee of a State or unit of local government

1 agency charged with inspecting, surveying, and evaluating  
2 facilities who directly or indirectly gives prior notice of an  
3 inspection, survey, or evaluation, other than an inspection of  
4 financial records, to a facility or to an employee of a  
5 facility is guilty of a Class A misdemeanor. An inspector or an  
6 employee of the Department who intentionally prenotifies a  
7 facility, orally or in writing, of a pending complaint  
8 investigation or inspection shall be guilty of a Class A  
9 misdemeanor. Superiors of persons who have prenotified a  
10 facility shall be subject to the same penalties, if they have  
11 knowingly allowed the prenotification. A person found guilty of  
12 prenotifying a facility shall be subject to disciplinary action  
13 by his or her employer. If the Department has a good faith  
14 belief, based upon information that comes to its attention,  
15 that a violation of this subsection has occurred, it must file  
16 a complaint with the Attorney General or the State's Attorney  
17 in the county where the violation took place within 30 days  
18 after discovery of the information.

19 (a-2) An employee of a State or unit of local government  
20 agency charged with inspecting, surveying, or evaluating  
21 facilities who willfully profits from violating the  
22 confidentiality of the inspection, survey, or evaluation  
23 process shall be guilty of a Class 4 felony and that conduct  
24 shall be deemed unprofessional conduct that may subject a  
25 person to loss of his or her professional license. An action to  
26 prosecute a person for violating this subsection (a-2) may be

1 brought by either the Attorney General or the State's Attorney  
2 in the county where the violation took place.

3 (b) In determining whether to make more than the required  
4 number of unannounced inspections, surveys and evaluations of a  
5 facility, the Department shall consider one or more of the  
6 following: previous inspection reports; the facility's history  
7 of compliance with standards, rules and regulations  
8 promulgated under this Act and correction of violations,  
9 penalties or other enforcement actions; the number and severity  
10 of complaints received about the facility; any allegations of  
11 resident abuse or neglect; weather conditions; health  
12 emergencies; other reasonable belief that deficiencies exist.

13 (b-1) The Department shall not be required to determine  
14 whether a facility certified to participate in the Medicare  
15 program under Title XVIII of the Social Security Act, or the  
16 Medicaid program under Title XIX of the Social Security Act,  
17 and which the Department determines by inspection under this  
18 Section or under Section 3-702 of this Act to be in compliance  
19 with the certification requirements of Title XVIII or XIX, is  
20 in compliance with any requirement of this Act that is less  
21 stringent than or duplicates a federal certification  
22 requirement. In accordance with subsection (a) of this Section  
23 or subsection (d) of Section 3-702, the Department shall  
24 determine whether a certified facility is in compliance with  
25 requirements of this Act that exceed federal certification  
26 requirements. If a certified facility is found to be out of

1 compliance with federal certification requirements, the  
2 results of an inspection conducted pursuant to Title XVIII or  
3 XIX of the Social Security Act may be used as the basis for  
4 enforcement remedies authorized and commenced, with the  
5 Department's discretion to evaluate whether penalties are  
6 warranted, under this Act. Enforcement of this Act against a  
7 certified facility shall be commenced pursuant to the  
8 requirements of this Act, unless enforcement remedies sought  
9 pursuant to Title XVIII or XIX of the Social Security Act  
10 exceed those authorized by this Act. As used in this  
11 subsection, "enforcement remedy" means a sanction for  
12 violating a federal certification requirement or this Act.

13 (c) Upon completion of each inspection, survey and  
14 evaluation, the appropriate Department personnel who conducted  
15 the inspection, survey or evaluation shall submit a copy of  
16 their report to the licensee upon exiting the facility, and  
17 shall submit the actual report to the appropriate regional  
18 office of the Department. Such report and any recommendations  
19 for action by the Department under this Act shall be  
20 transmitted to the appropriate offices of the associate  
21 director of the Department, together with related comments or  
22 documentation provided by the licensee which may refute  
23 findings in the report, which explain extenuating  
24 circumstances that the facility could not reasonably have  
25 prevented, or which indicate methods and timetables for  
26 correction of deficiencies described in the report. Without

1 affecting the application of subsection (a) of Section 3-303,  
2 any documentation or comments of the licensee shall be provided  
3 within 10 days of receipt of the copy of the report. Such  
4 report shall recommend to the Director appropriate action under  
5 this Act with respect to findings against a facility. The  
6 Director shall then determine whether the report's findings  
7 constitute a violation or violations of which the facility must  
8 be given notice. Such determination shall be based upon the  
9 severity of the finding, the danger posed to resident health  
10 and safety, the comments and documentation provided by the  
11 facility, the diligence and efforts to correct deficiencies,  
12 correction of the reported deficiencies, the frequency and  
13 duration of similar findings in previous reports and the  
14 facility's general inspection history. Violations shall be  
15 determined under this subsection no later than 90 days after  
16 completion of each inspection, survey and evaluation.

17 (d) The Department shall maintain all inspection, survey  
18 and evaluation reports for at least 5 years in a manner  
19 accessible to and understandable by the public.

20 (e) The Department shall conduct a revisit to its licensure  
21 and certification surveys, consistent with federal regulations  
22 and guidelines.

23 Section 3-213. Periodic reports to Department. The  
24 Department shall require periodic reports and shall have access  
25 to and may reproduce or photocopy at its cost any books,

1 records, and other documents maintained by the facility to the  
2 extent necessary to carry out this Act and the rules  
3 promulgated under this Act. The Department shall not divulge or  
4 disclose the contents of a record under this Section in  
5 violation of Section 2-206 or as otherwise prohibited by this  
6 Act.

7 Section 3-214. Consent to Department inspection. Any  
8 holder of a license or applicant for a license shall be deemed  
9 to have given consent to any authorized officer, employee or  
10 agent of the Department to enter and inspect the facility in  
11 accordance with this Article. Refusal to permit such entry or  
12 inspection shall constitute grounds for denial, nonrenewal or  
13 revocation of a license as provided in Section 3-117 or 3-119  
14 of this Act.

15 Section 3-215. Annual report on facility by Department. The  
16 Department shall make at least one report on each facility in  
17 the State annually, unless the facility has been issued a  
18 2-year license under subsection (b) of Section 3-110 for which  
19 the report shall be made every 2 years. All conditions and  
20 practices not in compliance with applicable standards within  
21 the report period shall be specifically stated. If a violation  
22 is corrected or is subject to an approved plan of correction,  
23 the same shall be specified in the report. The Department shall  
24 send a copy to any person on receiving a written request. The

1 Department may charge a reasonable fee to cover copying costs.

2 PART 3. VIOLATIONS AND PENALTIES

3 Section 3-301. Notice of violation of Act or rules. If  
4 after receiving the report specified in subsection (c) of  
5 Section 3-212 the Director or his or her designee determines  
6 that a facility is in violation of this Act or of any rule  
7 promulgated thereunder, the Director or his or her designee  
8 shall serve a notice of violation upon the licensee within 10  
9 days thereafter. Each notice of violation shall be prepared in  
10 writing and shall specify the nature of the violation, and the  
11 statutory provision or rule alleged to have been violated. The  
12 notice shall inform the licensee of any action the Department  
13 may take under the Act, including the requirement of a facility  
14 plan of correction under Section 3-303; placement of the  
15 facility on a list prepared under Section 3-304; assessment of  
16 a penalty under Section 3-305; a conditional license under  
17 Sections 3-311 through 3-317; or license suspension or  
18 revocation under Section 3-119. The Director or his or her  
19 designee shall also inform the licensee of rights to a hearing  
20 under Section 3-703.

21 Section 3-302. Each day a separate violation. Each day the  
22 violation exists after the date upon which a notice of  
23 violation is served under Section 3-301 shall constitute a

1 separate violation for purposes of assessing penalties or fines  
2 under Section 3-305. The submission of a plan of correction  
3 pursuant to subsection (b) of Section 3-303 does not prohibit  
4 or preclude the Department from assessing penalties or fines  
5 pursuant to Section 3-305 for those violations found to be  
6 valid except as provided under Section 3-308 in relation to  
7 Type "B" violations. No penalty or fine may be assessed for a  
8 condition for which the facility has received a variance or  
9 waiver of a standard.

10 Section 3-303. Correction of violations; hearing.

11 (a) The situation, condition or practice constituting a  
12 Type "AA" violation or a Type "A" violation shall be abated or  
13 eliminated immediately unless a fixed period of time, not  
14 exceeding 15 days, as determined by the Department and  
15 specified in the notice of violation, is required for  
16 correction.

17 (b) At the time of issuance of a notice of a Type "B"  
18 violation, the Department shall request a plan of correction  
19 which is subject to the Department's approval. The facility  
20 shall have 10 days after receipt of notice of violation in  
21 which to prepare and submit a plan of correction. The  
22 Department may extend this period up to 30 days where  
23 correction involves substantial capital improvement. The plan  
24 shall include a fixed time period not in excess of 90 days  
25 within which violations are to be corrected. If the Department

1 rejects a plan of correction, it shall send notice of the  
2 rejection and the reason for the rejection to the facility. The  
3 facility shall have 10 days after receipt of the notice of  
4 rejection in which to submit a modified plan. If the modified  
5 plan is not timely submitted, or if the modified plan is  
6 rejected, the facility shall follow an approved plan of  
7 correction imposed by the Department.

8 (c) If the violation has been corrected prior to submission  
9 and approval of a plan of correction, the facility may submit a  
10 report of correction in place of a plan of correction. Such  
11 report shall be signed by the administrator under oath.

12 (d) Upon a licensee's petition, the Department shall  
13 determine whether to grant a licensee's request for an extended  
14 correction time. Such petition shall be served on the  
15 Department prior to expiration of the correction time  
16 originally approved. The burden of proof is on the petitioning  
17 facility to show good cause for not being able to comply with  
18 the original correction time approved.

19 (e) If a facility desires to contest any Department action  
20 under this Section, it shall send a written request for a  
21 hearing under Section 3-703 to the Department within 10 days of  
22 receipt of notice of the contested action. The Department shall  
23 commence the hearing as provided under Section 3-703. Whenever  
24 possible, all action of the Department under this Section  
25 arising out of a violation shall be contested and determined at  
26 a single hearing. Issues decided after a hearing may not be

1 reheard at subsequent hearings under this Section.

2 Section 3-303.1. Waiver of facility's compliance with rule  
3 or standard. Upon application by a facility, the Director may  
4 grant or renew the waiver of the facility's compliance with a  
5 rule or standard for a period not to exceed the duration of the  
6 current license or, in the case of an application for license  
7 renewal, the duration of the renewal period. The waiver may be  
8 conditioned upon the facility taking action prescribed by the  
9 Director as a measure equivalent to compliance. In determining  
10 whether to grant or renew a waiver, the Director shall consider  
11 the duration and basis for any current waiver with respect to  
12 the same rule or standard and the validity and effect upon  
13 patient health and safety of extending it on the same basis,  
14 the effect upon the health and safety of residents, the quality  
15 of resident care, the facility's history of compliance with the  
16 rules and standards of this Act and the facility's attempts to  
17 comply with the particular rule or standard in question. The  
18 Department may provide, by rule, for the automatic renewal of  
19 waivers concerning physical plant requirements upon the  
20 renewal of a license. The Department shall renew waivers  
21 relating to physical plant standards issued pursuant to this  
22 Section at the time of the indicated reviews, unless it can  
23 show why such waivers should not be extended for the following  
24 reasons:

25 (a) the condition of the physical plant has deteriorated or

1 its use substantially changed so that the basis upon which the  
2 waiver was issued is materially different; or

3 (b) the facility is renovated or substantially remodeled in  
4 such a way as to permit compliance with the applicable rules  
5 and standards without substantial increase in cost. A copy of  
6 each waiver application and each waiver granted or renewed  
7 shall be on file with the Department and available for public  
8 inspection. The Director shall annually review such file and  
9 recommend any modification in rules or standards suggested by  
10 the number and nature of waivers requested and granted and the  
11 difficulties faced in compliance by similarly situated  
12 facilities.

13 Section 3-303.2. Administrative warning.

14 (a) If the Department finds a situation, condition or  
15 practice which violates this Act or any rule promulgated  
16 thereunder that does not constitute a Type "AA", Type "A", Type  
17 "B", or Type "C" violation, the Department shall issue an  
18 administrative warning. Any administrative warning shall be  
19 served upon the facility in the same manner as the notice of  
20 violation under Section 3-301. The facility shall be  
21 responsible for correcting the situation, condition or  
22 practice; however, no written plan of correction need be  
23 submitted for an administrative warning, except for violations  
24 of Sections 3-401 through 3-413 or the rules promulgated  
25 thereunder. A written plan of correction is required to be

1 filed for an administrative warning issued for violations of  
2 Sections 3-401 through 3-413 or the rules promulgated  
3 thereunder.

4 (b) If, however, the situation, condition or practice which  
5 resulted in the issuance of an administrative warning, with the  
6 exception of administrative warnings issued pursuant to  
7 Sections 3-401 through 3-413 or the rules promulgated  
8 thereunder, is not corrected by the next on-site inspection by  
9 the Department which occurs no earlier than 90 days from the  
10 issuance of the administrative warning, a written plan of  
11 correction must be submitted in the same manner as provided in  
12 subsection (b) of Section 3-303.

13 Section 3-304. Quarterly list of facilities against which  
14 Department has taken action.

15 (a) The Department shall prepare on a quarterly basis a  
16 list containing the names and addresses of all facilities  
17 against which the Department during the previous quarter has:

18 (1) sent a notice under Section 3-307 regarding a  
19 penalty assessment under subsection (1) of Section 3-305;

20 (2) sent a notice of license revocation under Section  
21 3-119;

22 (3) sent a notice refusing renewal of a license under  
23 Section 3-119;

24 (4) sent a notice to suspend a license under Section  
25 3-119;

1           (5) issued a conditional license for violations that  
2           have not been corrected under Section 3-303 or penalties or  
3           fines described under Section 3-305 have been assessed  
4           under Section 3-307 or 3-308;

5           (6) placed a monitor under subsections (a), (b) and (c)  
6           of Section 3-501 and under subsection (d) of such Section  
7           where license revocation or nonrenewal notices have also  
8           been issued;

9           (7) initiated an action to appoint a receiver;

10          (8) recommended to the Director of Healthcare and  
11          Family Services, or the Secretary of the United States  
12          Department of Health and Human Services, the  
13          decertification for violations in relation to patient care  
14          of a facility pursuant to Titles XVIII and XIX of the  
15          federal Social Security Act.

16          (b) In addition to the name and address of the facility,  
17          the list shall include the name and address of the person or  
18          licensee against whom the action has been initiated, a  
19          self-explanatory summary of the facts which warranted the  
20          initiation of each action, the type of action initiated, the  
21          date of the initiation of the action, the amount of the penalty  
22          sought to be assessed, if any, and the final disposition of the  
23          action, if completed.

24          (c) The list shall be available to any member of the public  
25          upon oral or written request without charge.

1 Section 3-304.1. Public computer access to information.

2 (a) The Department must make information regarding nursing  
3 homes in the State available to the public in electronic form  
4 on the World Wide Web, including all of the following  
5 information:

6 (1) who regulates facilities licensed under this Act;

7 (2) information in the possession of the Department  
8 that is listed in Sections 3-210 and 3-304;

9 (3) deficiencies and plans of correction;

10 (4) enforcement remedies;

11 (5) penalty letters;

12 (6) designation of penalty monies;

13 (7) the U.S. Department of Health and Human Services'  
14 special projects or federally required inspections;

15 (8) advisory standards;

16 (9) deficiency free surveys;

17 (10) enforcement actions and enforcement summaries;

18 and

19 (11) distressed facilities.

20 (b) No fee or other charge may be imposed by the Department  
21 as a condition of accessing the information.

22 (c) The electronic public access provided through the World  
23 Wide Web shall be in addition to any other electronic or print  
24 distribution of the information.

25 (d) The information shall be made available as provided in  
26 this Section in the shortest practicable time after it is

1 publicly available in any other form.

2 Section 3-304.2. Designation of distressed facilities.

3 (a) By August 1, 2011, and quarterly thereafter, the  
4 Department shall generate and publish quarterly a list of  
5 distressed facilities. Criteria for inclusion of certified  
6 facilities on the list shall be those used by the U.S. General  
7 Accounting Office in report 9-689, until such time as the  
8 Department by rule modifies the criteria.

9 (b) In deciding whether and how to modify the criteria used  
10 by the General Accounting Office, the Department shall complete  
11 a test run of any substitute criteria to determine their  
12 reliability by comparing the number of facilities identified as  
13 distressed against the number of distressed facilities  
14 generated using the criteria contained in the General  
15 Accounting Office report. The Department may not adopt  
16 substitute criteria that generate fewer facilities with a  
17 distressed designation than are produced by the General  
18 Accounting Office criteria during the test run.

19 (c) The Department shall, by rule, adopt criteria to  
20 identify non-Medicaid-certified facilities that are distressed  
21 and shall publish this list quarterly beginning October 1,  
22 2011.

23 (d) The Department shall notify each facility of its  
24 distressed designation, and of the calculation on which it is  
25 based.

1           (e) A distressed facility may contract with an independent  
2 consultant meeting criteria established by the Department. If  
3 the distressed facility does not seek the assistance of an  
4 independent consultant, the Department shall place a monitor or  
5 a temporary manager in the facility, depending on the  
6 Department's assessment of the condition of the facility.

7           (f) A facility that has been designated a distressed  
8 facility may contract with an independent consultant to develop  
9 and assist in the implementation of a plan of improvement to  
10 bring and keep the facility in compliance with this Act and, if  
11 applicable, with federal certification requirements. A  
12 facility that contracts with an independent consultant shall  
13 have 90 days to develop a plan of improvement and demonstrate a  
14 good faith effort at implementation, and another 90 days to  
15 achieve compliance and take whatever additional actions are  
16 called for in the improvement plan to maintain compliance. A  
17 facility that the Department determines has a plan of  
18 improvement likely to bring and keep the facility in compliance  
19 and that has demonstrated good faith efforts at implementation  
20 within the first 90 days may be eligible to receive a grant  
21 under the Equity in Long-term Care Quality Act to assist it in  
22 achieving and maintaining compliance. In this subsection,  
23 "independent" consultant means an individual who has no  
24 professional or financial relationship with the facility, any  
25 person with a reportable ownership interest in the facility, or  
26 any related parties. In this subsection, "related parties" has

1 the meaning attributed to it in the instructions for completing  
2 Medicaid cost reports.

3 (g) Monitor and temporary managers. A distressed facility  
4 that does not contract with a consultant shall be assigned a  
5 monitor or a temporary manager at the Department's discretion.  
6 The cost of the temporary manager shall be paid by the  
7 facility. The temporary manager shall have the authority  
8 determined by the Department, which may grant the temporary  
9 manager any or all of the authority a court may grant a  
10 receiver. The temporary manager may apply to the Equity in  
11 Long-term Care Quality Fund for grant funds to implement the  
12 plan of improvement.

13 (h) The Department shall by rule establish a mentor program  
14 for owners of distressed facilities.

15 (i) The Department shall by rule establish sanctions (in  
16 addition to those authorized elsewhere in this Article) against  
17 distressed facilities that are not in compliance with this Act  
18 and (if applicable) with federal certification requirements.  
19 Criteria for imposing sanctions shall take into account a  
20 facility's actions to address the violations and deficiencies  
21 that caused its designation as a distressed facility, and its  
22 compliance with this Act and with federal certification  
23 requirements (if applicable), subsequent to its designation as  
24 a distressed facility, including mandatory revocations if  
25 criteria can be agreed upon by the Department, resident  
26 advocates, and representatives of the nursing home profession.

1 The Department shall report to the General Assembly on the  
2 results of negotiations about creating criteria for mandatory  
3 license revocations of distressed facilities and make  
4 recommendations about any statutory changes it believes are  
5 appropriate to protect the health, safety, and welfare of  
6 nursing home residents.

7 (j) The Department may establish by rule criteria for  
8 restricting the owner of a facility on the distressed list from  
9 acquiring additional skilled nursing facilities.

10 Section 3-305. Licensee subject to penalties; fines. The  
11 license of a facility that is in violation of this Act or any  
12 rule adopted under this Act may be subject to the penalties or  
13 fines levied by the Department as specified in this Section.

14 (1) A licensee who commits a Type "AA" violation as defined  
15 in Section 1-128.5 is automatically issued a conditional  
16 license for a period of 6 months to coincide with an acceptable  
17 plan of correction and assessed a fine up to \$25,000 per  
18 violation.

19 (1.5) A licensee who commits a Type "A" violation as  
20 defined in Section 1-129 is automatically issued a conditional  
21 license for a period of 6 months to coincide with an acceptable  
22 plan of correction and assessed a fine of up to \$12,500 per  
23 violation.

24 (2) A licensee who commits a Type "B" violation as defined  
25 in Section 1-130 shall be assessed a fine of up to \$1,100 per

1 violation.

2 (2.5) A licensee who commits 10 or more Type "C"  
3 violations, as defined in Section 1-132, in a single survey  
4 shall be assessed a fine of up to \$250 per violation. A  
5 licensee who commits one or more Type "C" violations with a  
6 high-risk designation, as defined by rule, shall be assessed a  
7 fine of up to \$500 per violation.

8 (3) A licensee who commits a Type "AA" or Type "A"  
9 violation as defined in Section 1-128.5 or 1-129 that continues  
10 beyond the time specified in paragraph (a) of Section 3-303  
11 which is cited as a repeat violation shall have its license  
12 revoked and shall be assessed a fine of 3 times the fine  
13 computed per resident per day under subsection (1).

14 (4) A licensee who fails to satisfactorily comply with an  
15 accepted plan of correction for a Type "B" violation or an  
16 administrative warning issued pursuant to Sections 3-401  
17 through 3-413 or the rules promulgated thereunder shall be  
18 automatically issued a conditional license for a period of not  
19 less than 6 months. A second or subsequent acceptable plan of  
20 correction shall be filed. A fine shall be assessed in  
21 accordance with subsection (2) when cited for the repeat  
22 violation. This fine shall be computed for all days of the  
23 violation, including the duration of the first plan of  
24 correction compliance time.

25 (5) For the purpose of computing a penalty under  
26 subsections (2) through (4), the number of residents per day

1 shall be based on the average number of residents in the  
2 facility during the 30 days preceding the discovery of the  
3 violation.

4 (6) When the Department finds that a provision of Article  
5 II has been violated with regard to a particular resident, the  
6 Department shall issue an order requiring the facility to  
7 reimburse the resident for injuries incurred, or \$100,  
8 whichever is greater. In the case of a violation involving any  
9 action other than theft of money belonging to a resident,  
10 reimbursement shall be ordered only if a provision of Article  
11 II has been violated with regard to that or any other resident  
12 of the facility within the 2 years immediately preceding the  
13 violation in question.

14 (7) For purposes of assessing fines under this Section, a  
15 repeat violation shall be a violation which has been cited  
16 during one inspection of the facility for which an accepted  
17 plan of correction was not complied with or a new citation of  
18 the same rule if the licensee is not substantially addressing  
19 the issue routinely throughout the facility. Violations of the  
20 Nursing Home Care Act and the MR/DD Community Care Act shall be  
21 deemed violations of this Act.

22 (7.5) If an occurrence results in more than one type of  
23 violation as defined in this Act, the Nursing Home Care Act, or  
24 the MR/DD Community Care Act (that is, a Type "AA", Type "A",  
25 Type "B", or Type "C" violation), the maximum fine that may be  
26 assessed for that occurrence is the maximum fine that may be

1 assessed for the most serious type of violation charged. For  
2 purposes of the preceding sentence, a Type "AA" violation is  
3 the most serious type of violation that may be charged,  
4 followed by a Type "A", Type "B", or Type "C" violation, in  
5 that order.

6 (8) The minimum and maximum fines that may be assessed  
7 pursuant to this Section shall be twice those otherwise  
8 specified for any facility that willfully makes a misstatement  
9 of fact to the Department, or willfully fails to make a  
10 required notification to the Department, if that misstatement  
11 or failure delays the start of a surveyor or impedes a survey.

12 (9) If the Department finds that a facility has violated a  
13 provision of the Illinois Administrative Code that has a  
14 high-risk designation, or that a facility has violated the same  
15 provision of the Illinois Administrative Code 3 or more times  
16 in the previous 12 months, the Department may assess a fine of  
17 up to 2 times the maximum fine otherwise allowed.

18 (10) If a licensee has paid a civil monetary penalty  
19 imposed pursuant to the Medicare and Medicaid Certification  
20 Program for the equivalent federal violation giving rise to a  
21 fine under this Section, the Department shall offset the fine  
22 by the amount of the civil monetary penalty. The offset may not  
23 reduce the fine by more than 75% of the original fine, however.

24 Section 3-306. Factors to be considered in determining  
25 penalty. In determining whether a penalty is to be imposed and

1 in determining the amount of the penalty to be imposed, if any,  
2 for a violation, the Director shall consider the following  
3 factors:

4 (1) The gravity of the violation, including the  
5 probability that death or serious physical or mental harm  
6 to a resident will result or has resulted; the severity of  
7 the actual or potential harm, and the extent to which the  
8 provisions of the applicable statutes or regulations were  
9 violated;

10 (2) The reasonable diligence exercised by the licensee  
11 and efforts to correct violations;

12 (3) Any previous violations committed by the licensee;  
13 and

14 (4) The financial benefit to the facility of committing  
15 or continuing the violation.

16 Section 3-307. Assessment of penalties; notice. The  
17 Director may directly assess penalties provided for under  
18 Section 3-305 of this Act. If the Director determines that a  
19 penalty should be assessed for a particular violation or for  
20 failure to correct it, the Director shall send a notice to the  
21 facility. The notice shall specify the amount of the penalty  
22 assessed, the violation, and the statute or rule alleged to  
23 have been violated, and shall inform the licensee of the right  
24 to hearing under Section 3-703 of this Act. The notice must  
25 contain a detailed computation showing how the amount of the

1 penalty was derived, including the number of days and the  
2 number of residents on which the penalty was based. If the  
3 violation is continuing, the notice shall specify the amount of  
4 additional assessment per day for the continuing violation.

5 Section 3-308. Time of assessment; plan of correction. In  
6 the case of a Type "A" violation, a penalty may be assessed  
7 from the date on which the violation is discovered. In the case  
8 of a Type "B" or Type "C" violation or an administrative  
9 warning issued pursuant to Sections 3-401 through 3-413 or the  
10 rules promulgated thereunder, the facility shall submit a plan  
11 of correction as provided in Section 3-303.

12 In the case of a Type "B" violation or an administrative  
13 warning issued pursuant to Sections 3-401 through 3-413 or the  
14 rules promulgated thereunder, a penalty shall be assessed on  
15 the date of notice of the violation, but the Director may  
16 reduce the amount or waive such payment for any of the  
17 following reasons:

18 (a) The facility submits a true report of correction  
19 within 10 days;

20 (b) The facility submits a plan of correction within 10  
21 days and subsequently submits a true report of correction  
22 within 15 days thereafter;

23 (c) The facility submits a plan of correction within 10  
24 days which provides for a correction time that is less than  
25 or equal to 30 days and the Department approves such plan;

1 or

2 (d) The facility submits a plan of correction for  
3 violations involving substantial capital improvements  
4 which provides for correction within the initial 90-day  
5 limit provided under Section 3-303.

6 The Director or his or her designee may reallocate the  
7 amount of a penalty assessed pursuant to Section 3-305. A  
8 facility shall submit to the Director a written request for a  
9 penalty reduction, in a form prescribed by the Department,  
10 which includes an accounting of all costs for goods and  
11 services purchased in correcting the violation. The amount by  
12 which a penalty is reduced may not be greater than the amount  
13 of the costs reported by the facility. A facility that accepts  
14 a penalty reallocation under this Section waives its right to  
15 dispute a notice of violation and any remaining fine or penalty  
16 in an administrative hearing. The Director shall consider the  
17 following factors:

18 (1) The violation has not caused actual harm to a  
19 resident.

20 (2) The facility has made a diligent effort to correct  
21 the violation and to prevent its recurrence.

22 (3) The facility has no record of a pervasive pattern  
23 of the same or similar violations.

24 (4) The facility did not benefit financially from  
25 committing or continuing the violation.

26 At least annually, and upon request, the Department shall

1 provide a list of all reallocations and the reasons for those  
2 reallocations.

3 If a plan of correction is approved and carried out for a  
4 Type "C" violation, the fine provided under Section 3-305 shall  
5 be suspended for the time period specified in the approved plan  
6 of correction. If a plan of correction is approved and carried  
7 out for a Type "B" violation or an administrative warning  
8 issued pursuant to Sections 3-401 through 3-413 or the rules  
9 promulgated thereunder, with respect to a violation that  
10 continues after the date of notice of violation, the fine  
11 provided under Section 3-305 shall be suspended for the time  
12 period specified in the approved plan of correction.

13 If a good faith plan of correction is not received within  
14 the time provided by Section 3-303, a penalty may be assessed  
15 from the date of the notice of the Type "B" or "C" violation or  
16 an administrative warning issued pursuant to Sections 3-401  
17 through 3-413 or the rules promulgated thereunder served under  
18 Section 3-301 until the date of the receipt of a good faith  
19 plan of correction, or until the date the violation is  
20 corrected, whichever is earlier. If a violation is not  
21 corrected within the time specified by an approved plan of  
22 correction or any lawful extension thereof, a penalty may be  
23 assessed from the date of notice of the violation until the  
24 date the violation is corrected.

25 Section 3-309. Contesting assessment of penalty. A

1 facility may contest an assessment of a penalty by sending a  
2 written request to the Department for hearing under Section  
3 3-703. Upon receipt of the request, the Department shall hold a  
4 hearing as provided under Section 3-703. Instead of requesting  
5 a hearing pursuant to Section 3-703, a facility may, within 10  
6 business days after receipt of the notice of violation and fine  
7 assessment, transmit to the Department (i) 65% of the amount  
8 assessed for each violation specified in the penalty assessment  
9 or (ii) in the case of a fine subject to offset under paragraph  
10 (10) of Section 3-305, up to 75% of the amount assessed.

11 Section 3-310. Collection of penalties. All penalties  
12 shall be paid to the Department within 10 days of receipt of  
13 notice of assessment or, if the penalty is contested under  
14 Section 3-309, within 10 days of receipt of the final decision,  
15 unless the decision is appealed and the order is stayed by  
16 court order under Section 3-713. A facility choosing to waive  
17 the right to a hearing under Section 3-309 shall submit a  
18 payment totaling 65% of the original fine amount along with the  
19 written waiver. A penalty assessed under this Act shall be  
20 collected by the Department and shall be deposited with the  
21 State Treasurer into the Long Term Care Monitor/Receiver Fund.  
22 If the person or facility against whom a penalty has been  
23 assessed does not comply with a written demand for payment  
24 within 30 days, the Director shall issue an order to do any of  
25 the following:

1           (1) Direct the State Treasurer or Comptroller to deduct  
2           the amount of the fine from amounts otherwise due from the  
3           State for the penalty, including any payments to be made  
4           from the Medicaid Long Term Care Provider Participation Fee  
5           Trust Fund established under Section 5-4.31 of the Illinois  
6           Public Aid Code, and remit that amount to the Department;

7           (2) Add the amount of the penalty to the facility's  
8           licensing fee; if the licensee refuses to make the payment  
9           at the time of application for renewal of its license, the  
10          license shall not be renewed; or

11          (3) Bring an action in circuit court to recover the  
12          amount of the penalty.

13          With the approval of the federal centers for Medicaid and  
14          Medicare services, the Director of Public Health shall set  
15          aside 50% of the federal civil monetary penalties collected  
16          each year to be used to award grants under the Equity in  
17          Long-term Care Quality Act.

18          Section 3-311. Issuance of conditional license in addition  
19          to penalties. In addition to the right to assess penalties  
20          under this Act, the Director may issue a conditional license  
21          under Section 3-305 to any facility if the Director finds that  
22          either a Type "A" or Type "B" violation exists in such  
23          facility. The issuance of a conditional license shall revoke  
24          any license held by the facility.

1           Section 3-312. Plan of correction required before issuance  
2 of conditional license. Prior to the issuance of a conditional  
3 license, the Department shall review and approve a written plan  
4 of correction. The Department shall specify the violations  
5 which prevent full licensure and shall establish a time  
6 schedule for correction of the deficiencies. Retention of the  
7 license shall be conditional on the timely correction of the  
8 deficiencies in accordance with the plan of correction.

9           Section 3-313. Notice of issuance of conditional license.  
10 Written notice of the decision to issue a conditional license  
11 shall be sent to the applicant or licensee together with the  
12 specification of all violations of this Act and the rules  
13 promulgated thereunder which prevent full licensure and which  
14 form the basis for the Department's decision to issue a  
15 conditional license and the required plan of correction. The  
16 notice shall inform the applicant or licensee of its right to a  
17 full hearing under Section 3-315 to contest the issuance of the  
18 conditional license.

19           Section 3-315. Hearing on conditional license or plan of  
20 correction. If the applicant or licensee desires to contest the  
21 basis for issuance of a conditional license, or the terms of  
22 the plan of correction, the applicant or licensee shall send a  
23 written request for hearing to the Department within 10 days  
24 after receipt by the applicant or licensee of the Department's

1 notice and decision to issue a conditional license. The  
2 Department shall hold the hearing as provided under Section  
3 3-703.

4 Section 3-316. Period of conditional license. A  
5 conditional license shall be issued for a period specified by  
6 the Department, but in no event for more than one year. The  
7 Department shall periodically inspect any facility operating  
8 under a conditional license. If the Department finds  
9 substantial failure by the facility to timely correct the  
10 violations which prevented full licensure and formed the basis  
11 for the Department's decision to issue a conditional license in  
12 accordance with the required plan of correction, the  
13 conditional license may be revoked as provided under Section  
14 3-119.

15 Section 3-318. Business offenses.

16 (a) No person shall:

17 (1) Intentionally fail to correct or interfere with the  
18 correction of a Type "AA", Type "A", or Type "B" violation  
19 within the time specified on the notice or approved plan of  
20 correction under this Act as the maximum period given for  
21 correction, unless an extension is granted and the  
22 corrections are made before expiration of extension;

23 (2) Intentionally prevent, interfere with, or attempt  
24 to impede in any way any duly authorized investigation and

1 enforcement of this Act;

2 (3) Intentionally prevent or attempt to prevent any  
3 examination of any relevant books or records pertinent to  
4 investigations and enforcement of this Act;

5 (4) Intentionally prevent or interfere with the  
6 preservation of evidence pertaining to any violation of  
7 this Act or the rules promulgated under this Act;

8 (5) Intentionally retaliate or discriminate against  
9 any resident or employee for contacting or providing  
10 information to any state official, or for initiating,  
11 participating in, or testifying in an action for any remedy  
12 authorized under this Act;

13 (6) Willfully file any false, incomplete or  
14 intentionally misleading information required to be filed  
15 under this Act, or willfully fail or refuse to file any  
16 required information; or

17 (7) Open or operate a facility without a license.

18 (b) A violation of this Section is a business offense,  
19 punishable by a fine not to exceed \$10,000, except as otherwise  
20 provided in subsection (2) of Section 3-103 as to submission of  
21 false or misleading information in a license application.

22 (c) The State's Attorney of the county in which the  
23 facility is located, or the Attorney General, shall be notified  
24 by the Director of any violations of this Section.

25 Section 3-320. Review under Administrative Review Law. All

1 final administrative decisions of the Department under this Act  
2 are subject to judicial review under the Administrative Review  
3 Law, as now or hereafter amended, and the rules adopted  
4 pursuant thereto. The term "administrative decision" is  
5 defined as in Section 3-101 of the Code of Civil Procedure.

6 PART 4. DISCHARGE AND TRANSFER

7 Section 3-401. Involuntary transfer or discharge of  
8 resident. A facility may involuntarily transfer or discharge a  
9 resident only for one or more of the following reasons:

10 (a) for medical reasons;

11 (b) for the resident's physical safety;

12 (c) for the physical safety of other residents, the  
13 facility staff or facility visitors; or

14 (d) for either late payment or nonpayment for the  
15 resident's stay, except as prohibited by Titles XVIII and XIX  
16 of the federal Social Security Act. For purposes of this  
17 Section, "late payment" means nonreceipt of payment after  
18 submission of a bill. If payment is not received within 45 days  
19 after submission of a bill, a facility may send a notice to the  
20 resident and responsible party requesting payment within 30  
21 days. If payment is not received within such 30 days, the  
22 facility may thereupon institute transfer or discharge  
23 proceedings by sending a notice of transfer or discharge to the  
24 resident and responsible party by registered or certified mail.

1 The notice shall state, in addition to the requirements of  
2 Section 3-403 of this Act, that the responsible party has the  
3 right to pay the amount of the bill in full up to the date the  
4 transfer or discharge is to be made and then the resident shall  
5 have the right to remain in the facility. Such payment shall  
6 terminate the transfer or discharge proceedings. This  
7 subsection does not apply to those residents whose care is  
8 provided for under the Illinois Public Aid Code. The Department  
9 shall adopt rules setting forth the criteria and procedures to  
10 be applied in cases of involuntary transfer or discharge  
11 permitted under this Section.

12 Section 3-401.1. Medical assistance recipients.

13 (a) A facility participating in the Medical Assistance  
14 Program is prohibited from failing or refusing to retain as a  
15 resident any person because he or she is a recipient of or an  
16 applicant for the Medical Assistance Program under Article V of  
17 the Illinois Public Aid Code.

18 (a-5) A facility of which only a distinct part is certified  
19 to participate in the Medical Assistance Program may refuse to  
20 retain as a resident any person who resides in a part of the  
21 facility that does not participate in the Medical Assistance  
22 Program and who is unable to pay for his or her care in the  
23 facility without Medical Assistance only if:

24 (1) the facility, no later than at the time of  
25 admission and at the time of the resident's contract

1 renewal, explains to the resident (unless he or she is  
2 incompetent), and to the resident's representative, and to  
3 the person making payment on behalf of the resident for the  
4 resident's stay, in writing, that the facility may  
5 discharge the resident if the resident is no longer able to  
6 pay for his or her care in the facility without Medical  
7 Assistance;

8 (2) the resident (unless he or she is incompetent), the  
9 resident's representative, and the person making payment  
10 on behalf of the resident for the resident's stay,  
11 acknowledge in writing that they have received the written  
12 explanation.

13 (a-10) For the purposes of this Section, a recipient or  
14 applicant shall be considered a resident in the facility during  
15 any hospital stay totaling 10 days or less following a hospital  
16 admission. The Department of Healthcare and Family Services  
17 shall recoup funds from a facility when, as a result of the  
18 facility's refusal to readmit a recipient after  
19 hospitalization for 10 days or less, the recipient incurs  
20 hospital bills in an amount greater than the amount that would  
21 have been paid by that Department for care of the recipient in  
22 the facility. The amount of the recoupment shall be the  
23 difference between the Department of Healthcare and Family  
24 Services' payment for hospital care and the amount that  
25 Department would have paid for care in the facility.

26 (b) A facility which violates this Section shall be guilty

1 of a business offense and fined not less than \$500 nor more  
2 than \$1,000 for the first offense and not less than \$1,000 nor  
3 more than \$5,000 for each subsequent offense.

4 Section 3-402. Notice of involuntary transfer or  
5 discharge. Involuntary transfer or discharge of a resident from  
6 a facility shall be preceded by the discussion required under  
7 Section 3-408 and by a minimum written notice of 21 days,  
8 except in one of the following instances:

9 (a) When an emergency transfer or discharge is ordered by  
10 the resident's attending physician because of the resident's  
11 health care needs.

12 (b) When the transfer or discharge is mandated by the  
13 physical safety of other residents, the facility staff, or  
14 facility visitors, as documented in the clinical record. The  
15 Department shall be notified prior to any such involuntary  
16 transfer or discharge. The Department shall immediately offer  
17 transfer, or discharge and relocation assistance to residents  
18 transferred or discharged under this subparagraph (b), and the  
19 Department may place relocation teams as provided in Section  
20 3-419 of this Act.

21 (c) When an identified offender is within the provisional  
22 admission period defined in Section 1-120.3. If the Identified  
23 Offender Report and Recommendation prepared under Section  
24 2-201.6 shows that the identified offender poses a serious  
25 threat or danger to the physical safety of other residents, the

1 facility staff, or facility visitors in the admitting facility  
2 and the facility determines that it is unable to provide a safe  
3 environment for the other residents, the facility staff, or  
4 facility visitors, the facility shall transfer or discharge the  
5 identified offender within 3 days after its receipt of the  
6 Identified Offender Report and Recommendation.

7 Section 3-403. Contents of notice; right to hearing. The  
8 notice required by Section 3-402 shall be on a form prescribed  
9 by the Department and shall contain all of the following:

10 (a) The stated reason for the proposed transfer or  
11 discharge;

12 (b) The effective date of the proposed transfer or  
13 discharge;

14 (c) A statement in not less than 12 point type, which  
15 reads: "You have a right to appeal the facility's decision to  
16 transfer or discharge you. If you think you should not have to  
17 leave this facility, you may file a request for a hearing with  
18 the Department of Public Health within 10 days after receiving  
19 this notice. If you request a hearing, it will be held not  
20 later than 10 days after your request, and you generally will  
21 not be transferred or discharged during that time. If the  
22 decision following the hearing is not in your favor, you  
23 generally will not be transferred or discharged prior to the  
24 expiration of 30 days following receipt of the original notice  
25 of the transfer or discharge. A form to appeal the facility's

1 decision and to request a hearing is attached. If you have any  
2 questions, call the Department of Public Health at the  
3 telephone number listed below.";

4 (d) A hearing request form, together with a postage-paid,  
5 preaddressed envelope to the Department; and

6 (e) The name, address, and telephone number of the person  
7 charged with the responsibility of supervising the transfer or  
8 discharge.

9 Section 3-404. Request for hearing; effect on transfer. A  
10 request for a hearing made under Section 3-403 shall stay a  
11 transfer pending a hearing or appeal of the decision, unless a  
12 condition which would have allowed transfer or discharge in  
13 less than 21 days as described under paragraphs (a) and (b) of  
14 Section 3-402 develops in the interim.

15 Section 3-405. Copy of notice in resident's record; copy to  
16 Department. A copy of the notice required by Section 3-402  
17 shall be placed in the resident's clinical record and a copy  
18 shall be transmitted to the Department, the resident, the  
19 resident's representative, and, if the resident's care is paid  
20 for in whole or part through Title XIX, the Department of  
21 Healthcare and Family Services.

22 Section 3-406. Medical assistance recipient; transfer or  
23 discharge as result of action by Department of Healthcare and

1 Family Services. When the basis for an involuntary transfer or  
2 discharge is the result of an action by the Department of  
3 Healthcare and Family Services with respect to a recipient of  
4 assistance under Title XIX of the Social Security Act and a  
5 hearing request is filed with the Department of Healthcare and  
6 Family Services, the 21-day written notice period shall not  
7 begin until a final decision in the matter is rendered by the  
8 Department of Healthcare and Family Services or a court of  
9 competent jurisdiction and notice of that final decision is  
10 received by the resident and the facility.

11 Section 3-407. Nonpayment as basis for transfer or  
12 discharge. When nonpayment is the basis for involuntary  
13 transfer or discharge, the resident shall have the right to  
14 redeem up to the date that the discharge or transfer is to be  
15 made and then shall have the right to remain in the facility.

16 Section 3-408. Discussion of planned transfer or  
17 discharge. The planned involuntary transfer or discharge shall  
18 be discussed with the resident, the resident's representative  
19 and person or agency responsible for the resident's placement,  
20 maintenance, and care in the facility. The explanation and  
21 discussion of the reasons for involuntary transfer or discharge  
22 shall include the facility administrator or other appropriate  
23 facility representative as the administrator's designee. The  
24 content of the discussion and explanation shall be summarized

1 in writing and shall include the names of the individuals  
2 involved in the discussions and made a part of the resident's  
3 clinical record.

4 Section 3-409. Counseling services. The facility shall  
5 offer the resident counseling services before the transfer or  
6 discharge of the resident.

7 Section 3-410. Request for hearing on transfer or  
8 discharge. A resident subject to involuntary transfer or  
9 discharge from a facility, the resident's guardian or if the  
10 resident is a minor, his or her parent shall have the  
11 opportunity to file a request for a hearing with the Department  
12 within 10 days following receipt of the written notice of the  
13 involuntary transfer or discharge by the facility.

14 Section 3-411. Hearing; time. The Department of Public  
15 Health, when the basis for involuntary transfer or discharge is  
16 other than action by the Department of Healthcare and Family  
17 Services with respect to the Title XIX Medicaid recipient,  
18 shall hold a hearing at the resident's facility not later than  
19 10 days after a hearing request is filed, and render a decision  
20 within 14 days after the filing of the hearing request.

21 Section 3-412. Conduct of hearing. The hearing before the  
22 Department provided under Section 3-411 shall be conducted as

1 prescribed under Section 3-703. In determining whether a  
2 transfer or discharge is authorized, the burden of proof in  
3 this hearing rests on the person requesting the transfer or  
4 discharge.

5 Section 3-413. Time for leaving facility. If the Department  
6 determines that a transfer or discharge is authorized under  
7 Section 3-401, the resident shall not be required to leave the  
8 facility before the 34th day following receipt of the notice  
9 required under Section 3-402, or the 10th day following receipt  
10 of the Department's decision, whichever is later, unless a  
11 condition which would have allowed transfer or discharge in  
12 less than 21 days as described under paragraphs (a) and (b) of  
13 Section 3-402 develops in the interim.

14 Section 3-414. Continuation of medical assistance funding.  
15 The Department of Healthcare and Family Services shall continue  
16 Title XIX Medicaid funding during the appeal, transfer, or  
17 discharge period for those residents who are recipients of  
18 assistance under Title XIX of the Social Security Act affected  
19 by Section 3-401.

20 Section 3-415. Transfer or discharge by Department;  
21 grounds. The Department may transfer or discharge any resident  
22 from any facility required to be licensed under this Act when  
23 any of the following conditions exist:

1 (a) Such facility is operating without a license;

2 (b) The Department has suspended, revoked or refused to  
3 renew the license of the facility as provided under Section  
4 3-119;

5 (c) The facility has requested the aid of the Department in  
6 the transfer or discharge of the resident and the Department  
7 finds that the resident consents to transfer or discharge;

8 (d) The facility is closing or intends to close and  
9 adequate arrangement for relocation of the resident has not  
10 been made at least 30 days prior to closure; or

11 (e) The Department determines that an emergency exists  
12 which requires immediate transfer or discharge of the resident.

13 Section 3-416. Transfer or discharge by Department;  
14 likelihood of serious harm. In deciding to transfer or  
15 discharge a resident from a facility under Section 3-415, the  
16 Department shall consider the likelihood of serious harm which  
17 may result if the resident remains in the facility.

18 Section 3-417. Transfer or discharge; alternative  
19 placements. The Department shall offer transfer or discharge  
20 and relocation assistance to residents transferred or  
21 discharged under Sections 3-401 through 3-415, including  
22 information on available alternative placements. Residents  
23 shall be involved in planning the transfer or discharge and  
24 shall choose among the available alternative placements,

1     except that where an emergency makes prior resident involvement  
2     impossible the Department may make a temporary placement until  
3     a final placement can be arranged. Residents may choose their  
4     final alternative placement and shall be given assistance in  
5     transferring to such place. No resident may be forced to remain  
6     in a temporary or permanent placement. Where the Department  
7     makes or participates in making the relocation decision,  
8     consideration shall be given to proximity to the resident's  
9     relatives and friends. The resident shall be allowed 3 visits  
10    to potential alternative placements prior to removal, except  
11    where medically contraindicated or where the need for immediate  
12    transfer or discharge requires reduction in the number of  
13    visits.

14         When the Department provides information on available  
15    alternative placements in community-based settings for  
16    individuals being discharged or transferred from facilities  
17    licensed under this Act, the information must include a  
18    comprehensive list of a range of appropriate, client-oriented  
19    services and the name of and contact information for the ADA  
20    coordinator in the relocation locale. The comprehensive list  
21    must include the name and contact information for each agency  
22    or organization providing those services and a summary of the  
23    services provided by each agency or organization. A hotline or  
24    similar crisis telephone number must also be provided to  
25    individuals relocating into the community.

1           Section 3-418. Transfer or discharge plans. The Department  
2 shall prepare resident transfer or discharge plans to assure  
3 safe and orderly removals and protect residents' health,  
4 safety, welfare and rights. In nonemergencies, and where  
5 possible in emergencies, the Department shall design and  
6 implement such plans in advance of transfer or discharge.

7           Section 3-419. Relocation teams. The Department may place  
8 relocation teams in any facility from which residents are being  
9 discharged or transferred for any reason, for the purpose of  
10 implementing transfer or discharge plans.

11           Section 3-420. Transfer or discharge by Department;  
12 notice. In any transfer or discharge conducted under Sections  
13 3-415 through 3-418, the Department shall do the following:

14           (a) Provide written notice to the facility prior to the  
15 transfer or discharge. The notice shall state the basis for the  
16 order of transfer or discharge and shall inform the facility of  
17 its right to an informal conference prior to transfer or  
18 discharge under this Section, and its right to a subsequent  
19 hearing under Section 3-422. If a facility desires to contest a  
20 nonemergency transfer or discharge, prior to transfer or  
21 discharge it shall, within 4 working days after receipt of the  
22 notice, send a written request for an informal conference to  
23 the Department. The Department shall, within 4 working days  
24 from the receipt of the request, hold an informal conference in

1 the county in which the facility is located. Following this  
2 conference, the Department may affirm, modify or overrule its  
3 previous decision. Except in an emergency, transfer or  
4 discharge may not begin until the period for requesting a  
5 conference has passed or, if a conference is requested, until  
6 after a conference has been held.

7 (b) Provide written notice to any resident to be removed,  
8 to the resident's representative, if any, and to a member of  
9 the resident's family, where practicable, prior to the removal.  
10 The notice shall state the reason for which transfer or  
11 discharge is ordered and shall inform the resident of the  
12 resident's right to challenge the transfer or discharge under  
13 Section 3-422. The Department shall hold an informal conference  
14 with the resident or the resident's representative prior to  
15 transfer or discharge at which the resident or the  
16 representative may present any objections to the proposed  
17 transfer or discharge plan or alternative placement.

18 Section 3-421. Notice of emergency. In any transfer or  
19 discharge conducted under subsection (e) of Section 3-415, the  
20 Department shall notify the facility and any resident to be  
21 removed that an emergency has been found to exist and removal  
22 has been ordered, and shall involve the residents in removal  
23 planning if possible. Following emergency removal, the  
24 Department shall provide written notice to the facility, to the  
25 resident, to the resident's representative, if any, and to a

1 member of the resident's family, where practicable, of the  
2 basis for the finding that an emergency existed and of the  
3 right to challenge removal under Section 3-422.

4 Section 3-422. Hearing to challenge transfer or discharge.  
5 Within 10 days following transfer or discharge, the facility or  
6 any resident transferred or discharged may send a written  
7 request to the Department for a hearing under Section 3-703 to  
8 challenge the transfer or discharge. The Department shall hold  
9 the hearing within 30 days of receipt of the request. The  
10 hearing shall be held at the facility from which the resident  
11 is being transferred or discharged, unless the resident or  
12 resident's representative, requests an alternative hearing  
13 site. If the facility prevails, it may file a claim against the  
14 State under the Court of Claims Act for payments lost less  
15 expenses saved as a result of the transfer or discharge. No  
16 resident transferred or discharged may be held liable for the  
17 charge for care which would have been made had the resident  
18 remained in the facility. If a resident prevails, the resident  
19 may file a claim against the State under the Court of Claims  
20 Act for any excess expenses directly caused by the order to  
21 transfer or discharge. The Department shall assist the resident  
22 in returning to the facility if assistance is requested.

23 Section 3-423. Closure of facility; notice. Any owner of a  
24 facility licensed under this Act shall give 90 days' notice

1 prior to voluntarily closing a facility or closing any part of  
2 a facility, or prior to closing any part of a facility if  
3 closing such part will require the transfer or discharge of  
4 more than 10% of the residents. Such notice shall be given to  
5 the Department, to any resident who must be transferred or  
6 discharged, to the resident's representative, and to a member  
7 of the resident's family, where practicable. Notice shall state  
8 the proposed date of closing and the reason for closing. The  
9 facility shall offer to assist the resident in securing an  
10 alternative placement and shall advise the resident on  
11 available alternatives. Where the resident is unable to choose  
12 an alternate placement and is not under guardianship, the  
13 Department shall be notified of the need for relocation  
14 assistance. The facility shall comply with all applicable laws  
15 and regulations until the date of closing, including those  
16 related to transfer or discharge of residents. The Department  
17 may place a relocation team in the facility as provided under  
18 Section 3-419.

19 PART 5. MONITORS AND RECEIVERSHIP

20 Section 3-501. Monitor or receiver for facility; grounds.  
21 The Department may place an employee or agent to serve as a  
22 monitor in a facility or may petition the circuit court for  
23 appointment of a receiver for a facility, or both, when any of  
24 the following conditions exist:

1 (a) The facility is operating without a license.

2 (b) The Department has suspended, revoked, or refused  
3 to renew the existing license of the facility.

4 (c) The facility is closing or has informed the  
5 Department that it intends to close and adequate  
6 arrangements for relocation of residents have not been made  
7 at least 30 days prior to closure.

8 (d) The Department determines that an emergency  
9 exists, whether or not it has initiated revocation or  
10 nonrenewal procedures, if because of the unwillingness or  
11 inability of the licensee to remedy the emergency the  
12 Department believes a monitor or receiver is necessary.

13 (e) The Department is notified that the facility is  
14 terminated or will not be renewed for participation in the  
15 federal reimbursement program under either Title XVIII or  
16 Title XIX of the Social Security Act.

17 (f) The facility has been designated a distressed  
18 facility by the Department and does not have a consultant  
19 employed pursuant to paragraph (f) of Section 3-304.2 and  
20 an acceptable plan of improvement, or the Department has  
21 reason to believe the facility is not complying with the  
22 plan of improvement. Nothing in this paragraph (f) shall  
23 preclude the Department from placing a monitor in a  
24 facility if otherwise justified by law.

25 As used in subsection (d) and Section 3-503, "emergency"  
26 means a threat to the health, safety, or welfare of a resident

1 that the facility is unwilling or unable to correct.

2 Section 3-502. Placement of monitor by Department. In any  
3 situation described in Section 3-501, the Department may place  
4 a qualified person to act as monitor in the facility. The  
5 monitor shall observe operation of the facility, assist the  
6 facility by advising it on how to comply with the State  
7 regulations, and shall report periodically to the Department on  
8 the operation of the facility.

9 Section 3-503. Emergency; petition for receiver. Where a  
10 resident, a resident's representative or a resident's next of  
11 kin believes that an emergency exists each of them,  
12 collectively or separately, may file a verified petition to the  
13 circuit court for the county in which the facility is located  
14 for an order placing the facility under the control of a  
15 receiver.

16 Section 3-504. Hearing on petition for receiver; grounds  
17 for appointment of receiver. The court shall hold a hearing  
18 within 5 days of the filing of the petition. The petition and  
19 notice of the hearing shall be served on the owner,  
20 administrator or designated agent of the facility as provided  
21 under the Civil Practice Law, or the petition and notice of  
22 hearing shall be posted in a conspicuous place in the facility  
23 not later than 3 days before the time specified for the

1 hearing, unless a different period is fixed by order of the  
2 court. The court shall appoint a receiver if it finds that:

3 (a) The facility is operating without a license;

4 (b) The Department has suspended, revoked or refused to  
5 renew the existing license of a facility;

6 (c) The facility is closing or has informed the Department  
7 that it intends to close and adequate arrangements for  
8 relocation of residents have not been made at least 30 days  
9 prior to closure; or

10 (d) An emergency exists, whether or not the Department has  
11 initiated revocation or nonrenewal procedures, if because of  
12 the unwillingness or inability of the licensee to remedy the  
13 emergency the appointment of a receiver is necessary.

14 Section 3-505. Emergency; time for hearing. If a petition  
15 filed under Section 3-503 alleges that the conditions set out  
16 in subsection 3-504 (d) exist within a facility, the court may  
17 set the matter for hearing at the earliest possible time. The  
18 petitioner shall notify the licensee, administrator of the  
19 facility, or registered agent of the licensee prior to the  
20 hearing. Any form of written notice may be used. A receivership  
21 shall not be established ex parte unless the court determines  
22 that the conditions set out in subsection 3-504(d) exist in a  
23 facility; that the licensee cannot be found; and that the  
24 petitioner has exhausted all reasonable means of locating and  
25 notifying the licensee, administrator or registered agent.

1           Section 3-506. Appointment of receiver. The court may  
2 appoint any qualified person as a receiver, except it shall not  
3 appoint any owner or affiliate of the facility which is in  
4 receivership as its receiver. The Department shall maintain a  
5 list of such persons to operate facilities which the court may  
6 consider. The court shall give preference to licensed nursing  
7 home administrators in appointing a receiver.

8           Section 3-507. Health, safety, and welfare of residents.  
9 The receiver shall make provisions for the continued health,  
10 safety and welfare of all residents of the facility.

11           Section 3-508. Receiver's powers and duties. A receiver  
12 appointed under this Act:

13           (a) Shall exercise those powers and shall perform those  
14 duties set out by the court.

15           (b) Shall operate the facility in such a manner as to  
16 assure safety and adequate health care for the residents.

17           (c) Shall have the same rights to possession of the  
18 building in which the facility is located and of all goods and  
19 fixtures in the building at the time the petition for  
20 receivership is filed as the owner would have had if the  
21 receiver had not been appointed, and of all assets of the  
22 facility. The receiver shall take such action as is reasonably  
23 necessary to protect or conserve the assets or property of

1 which the receiver takes possession, or the proceeds from any  
2 transfer thereof, and may use them only in the performance of  
3 the powers and duties set forth in this Section and by order of  
4 the court.

5 (d) May use the building, fixtures, furnishings and any  
6 accompanying consumable goods in the provision of care and  
7 services to residents and to any other persons receiving  
8 services from the facility at the time the petition for  
9 receivership was filed. The receiver shall collect payments for  
10 all goods and services provided to residents or others during  
11 the period of the receivership at the same rate of payment  
12 charged by the owners at the time the petition for receivership  
13 was filed.

14 (e) May correct or eliminate any deficiency in the  
15 structure or furnishings of the facility which endangers the  
16 safety or health of residents while they remain in the  
17 facility, provided the total cost of correction does not exceed  
18 \$3,000. The court may order expenditures for this purpose in  
19 excess of \$3,000 on application from the receiver after notice  
20 to the owner and hearing.

21 (f) May let contracts and hire agents and employees to  
22 carry out the powers and duties of the receiver under this  
23 Section.

24 (g) Except as specified in Section 3-510, shall honor all  
25 leases, mortgages and secured transactions governing the  
26 building in which the facility is located and all goods and

1 fixtures in the building of which the receiver has taken  
2 possession, but only to the extent of payments which, in the  
3 case of a rental agreement, are for the use of the property  
4 during the period of the receivership, or which, in the case of  
5 a purchase agreement, come due during the period of the  
6 receivership.

7 (h) Shall have full power to direct and manage and to  
8 discharge employees of the facility, subject to any contract  
9 rights they may have. The receiver shall pay employees at the  
10 same rate of compensation, including benefits, that the  
11 employees would have received from the owner. Receivership does  
12 not relieve the owner of any obligation to employees not  
13 carried out by the receiver.

14 (i) Shall, if any resident is transferred or discharged,  
15 follow the procedures set forth in Part 4 of this Article.

16 (j) Shall be entitled to and shall take possession of all  
17 property or assets of residents which are in the possession of  
18 a facility or its owner. The receiver shall preserve all  
19 property, assets and records of residents of which the receiver  
20 takes possession and shall provide for the prompt transfer of  
21 the property, assets and records to the new placement of any  
22 transferred resident.

23 (k) Shall report to the court on any actions he has taken  
24 to bring the facility into compliance with this Act or with  
25 Title XVIII or XIX of the Social Security Act that he believes  
26 should be continued when the receivership is terminated in

1 order to protect the health, safety or welfare of the  
2 residents.

3 Section 3-509. Payment for goods or services provided by  
4 receiver.

5 (a) A person who is served with notice of an order of the  
6 court appointing a receiver and of the receiver's name and  
7 address shall be liable to pay the receiver for any goods or  
8 services provided by the receiver after the date of the order  
9 if the person would have been liable for the goods or services  
10 as supplied by the owner. The receiver shall give a receipt for  
11 each payment and shall keep a copy of each receipt on file. The  
12 receiver shall deposit amounts received in a separate account  
13 and shall use this account for all disbursements.

14 (b) The receiver may bring an action to enforce the  
15 liability created by subsection (a) of this Section.

16 (c) A payment to the receiver of any sum owing to the  
17 facility or its owner shall discharge any obligation to the  
18 facility to the extent of the payment.

19 Section 3-510. Receiver's avoidance of obligations;  
20 reasonable rental, price, or rate of interest to be paid by  
21 receiver.

22 (a) A receiver may petition the court that he or she not be  
23 required to honor any lease, mortgage, secured transaction or  
24 other wholly or partially executory contract entered into by

1 the owner of the facility if the rent, price or rate of  
2 interest required to be paid under the agreement was  
3 substantially in excess of a reasonable rent, price or rate of  
4 interest at the time the contract was entered into, or if any  
5 material provision of the agreement was unreasonable.

6 (b) If the receiver is in possession of real estate or  
7 goods subject to a lease, mortgage or security interest which  
8 the receiver has obtained a court order to avoid under  
9 subsection (a) of this Section, and if the real estate or goods  
10 are necessary for the continued operation of the facility under  
11 this Section, the receiver may apply to the court to set a  
12 reasonable rental, price or rate of interest to be paid by the  
13 receiver during the duration of the receivership. The court  
14 shall hold a hearing on the application within 15 days. The  
15 receiver shall send notice of the application to any known  
16 persons who own the property involved at least 10 days prior to  
17 the hearing. Payment by the receiver of the amount determined  
18 by the court to be reasonable is a defense to any action  
19 against the receiver for payment or for possession of the goods  
20 or real estate subject to the lease, security interest or  
21 mortgage involved by any person who received such notice, but  
22 the payment does not relieve the owner of the facility of any  
23 liability for the difference between the amount paid by the  
24 receiver and the amount due under the original lease, security  
25 interest or mortgage involved.

1           Section 3-511. Insufficient funds collected; reimbursement  
2 of receiver by Department. If funds collected under Sections  
3 3-508 and 3-509 are insufficient to meet the expenses of  
4 performing the powers and duties conferred on the receiver, or  
5 if there are insufficient funds on hand to meet those expenses,  
6 the Department may reimburse the receiver for those expenses  
7 from funds appropriated for its ordinary and contingent  
8 expenses by the General Assembly after funds contained in the  
9 Long Term Care Monitor/Receiver Fund have been exhausted.

10           Section 3-512. Receiver's compensation. The court shall  
11 set the compensation of the receiver, which will be considered  
12 a necessary expense of a receivership under Section 3-516.

13           Section 3-513. Action against receiver.

14           (a) In any action or special proceeding brought against a  
15 receiver in the receiver's official capacity for acts committed  
16 while carrying out powers and duties under this Article, the  
17 receiver shall be considered a public employee under the Local  
18 Governmental and Governmental Employees Tort Immunity Act, as  
19 now or hereafter amended.

20           (b) A receiver may be held liable in a personal capacity  
21 only for the receiver's own gross negligence, intentional acts  
22 or breach of fiduciary duty.

23           (c) The court may require a receiver to post a bond.

1           Section 3-514. License to facility in receivership. Other  
2 provisions of this Act notwithstanding, the Department may  
3 issue a license to a facility placed in receivership. The  
4 duration of a license issued under this Section is limited to  
5 the duration of the receivership.

6           Section 3-515. Termination of receivership. The court may  
7 terminate a receivership:

8           (a) If the time period specified in the order appointing  
9 the receiver elapses and is not extended;

10           (b) If the court determines that the receivership is no  
11 longer necessary because the conditions which gave rise to the  
12 receivership no longer exist; or the Department grants the  
13 facility a new license, whether the structure of the facility,  
14 the right to operate the facility, or the land on which it is  
15 located is under the same or different ownership; or

16           (c) If all of the residents in the facility have been  
17 transferred or discharged. Before terminating a receivership,  
18 the court may order the Department to require any licensee to  
19 comply with the recommendations of the receiver made under  
20 subsection (k) of Section 3-508. A licensee may petition the  
21 court to be relieved of this requirement.

22           Section 3-516. Accounting by receiver; Department's lien.

23           (a) Within 30 days after termination, the receiver shall  
24 give the court a complete accounting of all property of which

1 the receiver has taken possession, of all funds collected, and  
2 of the expenses of the receivership.

3 (b) If the operating funds collected by the receiver under  
4 Sections 3-508 and 3-509 exceed the reasonable expenses of the  
5 receivership, the court shall order payment of the surplus to  
6 the owner, after reimbursement of funds drawn from the  
7 contingency fund under Section 3-511. If the operating funds  
8 are insufficient to cover the reasonable expenses of the  
9 receivership, the owner shall be liable for the deficiency.  
10 Payment recovered from the owner shall be used to reimburse the  
11 contingency fund for amounts drawn by the receiver under  
12 Section 3-511.

13 (c) The Department shall have a lien for any payment made  
14 under Section 3-511 upon any beneficial interest, direct or  
15 indirect, of any owner in the following property:

- 16 (1) The building in which the facility is located;
- 17 (2) Any fixtures, equipment or goods used in the  
18 operation of the facility;
- 19 (3) The land on which the facility is located; or
- 20 (4) The proceeds from any conveyance of property  
21 described in subparagraphs (1), (2) or (3) above, made by  
22 the owner within one year prior to the filing of the  
23 petition for receivership.

24 (d) The lien provided by this Section is prior to any lien  
25 or other interest which originates subsequent to the filing of  
26 a petition for receivership under this Article, except for a

1 construction or mechanic's lien arising out of work performed  
2 with the express consent of the receiver.

3 (e) The receiver shall, within 60 days after termination of  
4 the receivership, file a notice of any lien created under this  
5 Section. If the lien is on real property, the notice shall be  
6 filed with the recorder. If the lien is on personal property,  
7 the lien shall be filed with the Secretary of State. The notice  
8 shall specify the name of the person against whom the lien is  
9 claimed, the name of the receiver, the dates of the petition  
10 for receivership and the termination of receivership, a  
11 description of the property involved and the amount claimed. No  
12 lien shall exist under this Article against any person, on any  
13 property, or for any amount not specified in the notice filed  
14 under this subsection (e).

15 Section 3-517. Civil and criminal liability during  
16 receivership. Nothing in this Act shall be deemed to relieve  
17 any owner, administrator or employee of a facility placed in  
18 receivership of any civil or criminal liability incurred, or  
19 any duty imposed by law, by reason of acts or omissions of the  
20 owner, administrator, or employee prior to the appointment of a  
21 receiver; nor shall anything contained in this Act be construed  
22 to suspend during the receivership any obligation of the owner,  
23 administrator, or employee for payment of taxes or other  
24 operating and maintenance expenses of the facility nor of the  
25 owner, administrator, employee or any other person for the

1 payment of mortgages or liens. The owner shall retain the right  
2 to sell or mortgage any facility under receivership, subject to  
3 approval of the court which ordered the receivership.

4 PART 6. DUTIES

5 Section 3-601. Liability for injury to resident. The owner  
6 and licensee are liable to a resident for any intentional or  
7 negligent act or omission of their agents or employees which  
8 injures the resident.

9 Section 3-602. Damages for violation of resident's rights.  
10 The licensee shall pay the actual damages and costs and  
11 attorney's fees to a facility resident whose rights, as  
12 specified in Part 1 of Article II of this Act, are violated.

13 Section 3-603. Action by resident. A resident may maintain  
14 an action under this Act for any other type of relief,  
15 including injunctive and declaratory relief, permitted by law.

16 Section 3-604. Class action; remedies cumulative. Any  
17 damages recoverable under Sections 3-601 through 3-607,  
18 including minimum damages as provided by these Sections, may be  
19 recovered in any action which a court may authorize to be  
20 brought as a class action pursuant to the Civil Practice Law.  
21 The remedies provided in Sections 3-601 through 3-607, are in

1 addition to and cumulative with any other legal remedies  
2 available to a resident. Exhaustion of any available  
3 administrative remedies shall not be required prior to  
4 commencement of suit hereunder.

5 Section 3-605. Amount of damages; no effect on medical  
6 assistance eligibility. The amount of damages recovered by a  
7 resident in an action brought under Sections 3-601 through  
8 3-607 shall be exempt for purposes of determining initial or  
9 continuing eligibility for medical assistance under the  
10 Illinois Public Aid Code, as now or hereafter amended, and  
11 shall neither be taken into consideration nor required to be  
12 applied toward the payment or partial payment of the cost of  
13 medical care or services available under the Illinois Public  
14 Aid Code.

15 Section 3-606. Waiver of resident's right to bring action  
16 prohibited. Any waiver by a resident or his or her legal  
17 representative of the right to commence an action under  
18 Sections 3-601 through 3-607, whether oral or in writing, shall  
19 be null and void, and without legal force or effect.

20 Section 3-607. Trial by jury. Any party to an action  
21 brought under Sections 3-601 through 3-607 shall be entitled to  
22 a trial by jury and any waiver of the right to a trial by a  
23 jury, whether oral or in writing, prior to the commencement of

1 an action, shall be null and void, and without legal force or  
2 effect.

3 Section 3-608. Retaliation against resident prohibited. A  
4 licensee or its agents or employees shall not transfer,  
5 discharge, evict, harass, dismiss, or retaliate against a  
6 resident, a resident's representative, or an employee or agent  
7 who makes a report under Section 2-107, brings or testifies in  
8 an action under Sections 3-601 through 3-607, or files a  
9 complaint under Section 3-702, because of the report,  
10 testimony, or complaint.

11 Section 3-609. Immunity from liability for making report.  
12 Any person, institution or agency, under this Act,  
13 participating in good faith in the making of a report, or in  
14 the investigation of such a report shall not be deemed to have  
15 violated any privileged communication and shall have immunity  
16 from any liability, civil, criminal or any other proceedings,  
17 civil or criminal as a consequence of making such report. The  
18 good faith of any persons required to report, or permitted to  
19 report, cases of suspected resident abuse or neglect under this  
20 Act, shall be presumed.

21 Section 3-610. Duty to report violations.

22 (a) A facility employee or agent who becomes aware of abuse  
23 or neglect of a resident prohibited by Section 2-107 shall

1 immediately report the matter to the Department and to the  
2 facility administrator. A facility administrator who becomes  
3 aware of abuse or neglect of a resident prohibited by Section  
4 2-107 shall immediately report the matter by telephone and in  
5 writing to the resident's representative, and to the  
6 Department. Any person may report a violation of Section 2-107  
7 to the Department.

8 (b) A facility employee or agent who becomes aware of  
9 another facility employee or agent's theft or misappropriation  
10 of a resident's property must immediately report the matter to  
11 the facility administrator. A facility administrator who  
12 becomes aware of a facility employee or agent's theft or  
13 misappropriation of a resident's property must immediately  
14 report the matter by telephone and in writing to the resident's  
15 representative, to the Department, and to the local law  
16 enforcement agency. Neither a licensee nor its employees or  
17 agents may dismiss or otherwise retaliate against a facility  
18 employee or agent who reports the theft or misappropriation of  
19 a resident's property under this subsection.

20 Section 3-611. Employee as perpetrator of abuse. When an  
21 investigation of a report of suspected abuse of a recipient  
22 indicates, based upon credible evidence, that an employee of a  
23 long term care facility is the perpetrator of the abuse, that  
24 employee shall immediately be barred from any further contact  
25 with residents of the facility, pending the outcome of any

1 further investigation, prosecution or disciplinary action  
2 against the employee.

3 Section 3-612. Resident as perpetrator of abuse. When an  
4 investigation of a report of suspected abuse of a resident  
5 indicates, based upon credible evidence, that another resident  
6 of the long term care facility is the perpetrator of the abuse,  
7 that resident's condition shall be immediately evaluated to  
8 determine the most suitable therapy and placement for the  
9 resident, considering the safety of that resident as well as  
10 the safety of other residents and employees of the facility.

11 PART 7. COMPLAINT, HEARING, AND APPEAL

12 Section 3-701. Public nuisance; action for injunction. The  
13 operation or maintenance of a facility in violation of this  
14 Act, or of the rules and regulations promulgated by the  
15 Department, is declared a public nuisance inimical to the  
16 public welfare. The Director in the name of the people of the  
17 State, through the Attorney General, or the State's Attorney of  
18 the county in which the facility is located, or in respect to  
19 any city, village or incorporated town which provides for the  
20 licensing and regulation of any or all such facilities, the  
21 Director or the mayor or president of the Board of Trustees, as  
22 the case may require, of the city, village or incorporated  
23 town, in the name of the people of the State, through the

1 Attorney General or State's attorney of the county in which the  
2 facility is located, may, in addition to other remedies herein  
3 provided, bring action for an injunction to restrain such  
4 violation or to enjoin the future operation or maintenance of  
5 any such facility.

6 Section 3-702. Request for investigation of violation.

7 (a) A person who believes that this Act or a rule  
8 promulgated under this Act may have been violated may request  
9 an investigation. The request may be submitted to the  
10 Department in writing, by telephone, or by personal visit. An  
11 oral complaint shall be reduced to writing by the Department.  
12 The Department shall request information identifying the  
13 complainant, including the name, address and telephone number,  
14 to help enable appropriate follow up. The Department shall act  
15 on such complaints via on-site visits or other methods deemed  
16 appropriate to handle the complaints with or without such  
17 identifying information, as otherwise provided under this  
18 Section. The complainant shall be informed that compliance with  
19 such request is not required to satisfy the procedures for  
20 filing a complaint under this Act.

21 (b) The substance of the complaint shall be provided in  
22 writing to the licensee, owner or administrator no earlier than  
23 at the commencement of an on-site inspection of the facility  
24 which takes place pursuant to the complaint.

25 (c) The Department shall not disclose the name of the

1 complainant unless the complainant consents in writing to the  
2 disclosure or the investigation results in a judicial  
3 proceeding, or unless disclosure is essential to the  
4 investigation. The complainant shall be given the opportunity  
5 to withdraw the complaint before disclosure. Upon the request  
6 of the complainant, the Department may permit the complainant  
7 or a representative of the complainant to accompany the person  
8 making the on-site inspection of the facility.

9 (d) Upon receipt of a complaint, the Department shall  
10 determine whether this Act or a rule promulgated under this Act  
11 has been or is being violated. The Department shall investigate  
12 all complaints alleging abuse or neglect within 7 days after  
13 the receipt of the complaint except that complaints of abuse or  
14 neglect which indicate that a resident's life or safety is in  
15 imminent danger shall be investigated within 24 hours after  
16 receipt of the complaint. All other complaints shall be  
17 investigated within 30 days after the receipt of the complaint.  
18 The Department employees investigating a complaint shall  
19 conduct a brief, informal exit conference with the facility to  
20 alert its administration of any suspected serious deficiency  
21 that poses a direct threat to the health, safety or welfare of  
22 a resident to enable an immediate correction for the  
23 alleviation or elimination of such threat. Such information and  
24 findings discussed in the brief exit conference shall become a  
25 part of the investigating record but shall not in any way  
26 constitute an official or final notice of violation as provided

1 under Section 3-301. All complaints shall be classified as "an  
2 invalid report", "a valid report", or "an undetermined report".  
3 For any complaint classified as "a valid report", the  
4 Department must determine within 30 working days if any rule or  
5 provision of this Act has been or is being violated.

6 (d-1) The Department shall, whenever possible, combine an  
7 on-site investigation of a complaint in a facility with other  
8 inspections in order to avoid duplication of inspections.

9 (e) In all cases, the Department shall inform the  
10 complainant of its findings within 10 days of its determination  
11 unless otherwise indicated by the complainant, and the  
12 complainant may direct the Department to send a copy of such  
13 findings to another person. The Department's findings may  
14 include comments or documentation provided by either the  
15 complainant or the licensee pertaining to the complaint. The  
16 Department shall also notify the facility of such findings  
17 within 10 days of the determination, but the name of the  
18 complainant or residents shall not be disclosed in this notice  
19 to the facility. The notice of such findings shall include a  
20 copy of the written determination; the correction order, if  
21 any; the warning notice, if any; the inspection report; or the  
22 State licensure form on which the violation is listed.

23 (f) A written determination, correction order, or warning  
24 notice concerning a complaint, together with the facility's  
25 response, shall be available for public inspection, but the  
26 name of the complainant or resident shall not be disclosed

1 without his or her consent.

2 (g) A complainant who is dissatisfied with the  
3 determination or investigation by the Department may request a  
4 hearing under Section 3-703. The facility shall be given notice  
5 of any such hearing and may participate in the hearing as a  
6 party. If a facility requests a hearing under Section 3-703  
7 which concerns a matter covered by a complaint, the complainant  
8 shall be given notice and may participate in the hearing as a  
9 party. A request for a hearing by either a complainant or a  
10 facility shall be submitted in writing to the Department within  
11 30 days after the mailing of the Department's findings as  
12 described in subsection (e) of this Section. Upon receipt of  
13 the request, the Department shall conduct a hearing as provided  
14 under Section 3-703.

15 (h) Any person who knowingly transmits a false report to  
16 the Department commits the offense of disorderly conduct under  
17 subsection (a) (8) of Section 26-1 of the Criminal Code of 1961.

18 Section 3-703. Hearing to contest decision; applicable  
19 provisions. Any person requesting a hearing pursuant to  
20 Sections 2-110, 3-115, 3-118, 3-119, 3-301, 3-303, 3-309,  
21 3-410, 3-422 or 3-702 to contest a decision rendered in a  
22 particular case may have such decision reviewed in accordance  
23 with Sections 3-703 through 3-712.

24 Section 3-704. Hearing; notice; commencement. A request

1 for a hearing by aggrieved persons shall be taken to the  
2 Department as follows:

3 (a) Upon the receipt of a request in writing for a hearing,  
4 the Director or a person designated in writing by the Director  
5 to act as a hearing officer shall conduct a hearing to review  
6 the decision.

7 (b) Before the hearing is held, notice of the hearing shall  
8 be sent by the Department to the person making the request for  
9 the hearing and to the person making the decision which is  
10 being reviewed. In the notice, the Department shall specify the  
11 date, time and place of the hearing which shall be held not  
12 less than 10 days after the notice is mailed or delivered. The  
13 notice shall designate the decision being reviewed. The notice  
14 may be served by delivering it personally to the parties or  
15 their representatives or by mailing it by certified mail to the  
16 parties' addresses.

17 (c) The Department shall commence the hearing within 30  
18 days of the receipt of request for hearing. The hearing shall  
19 proceed as expeditiously as practicable, but in all cases shall  
20 conclude within 90 days of commencement.

21 Section 3-705. Subpoenas. The Director or hearing officer  
22 may compel by subpoena or subpoena duces tecum the attendance  
23 and testimony of witnesses and the production of books and  
24 papers, and administer oaths to witnesses.

1           Section 3-706. Appearance at hearing; depositions; record.  
2           The Director or hearing officer shall permit any party to  
3           appear in person and to be represented by counsel at the  
4           hearing, at which time the applicant or licensee shall be  
5           afforded an opportunity to present all relevant matter in  
6           support of his position. In the event of the inability of any  
7           party or the Department to procure the attendance of witnesses  
8           to give testimony or produce books and papers, any party or the  
9           Department may take the deposition of witnesses in accordance  
10          with the provisions of the laws of this State. All testimony  
11          taken at a hearing shall be reduced to writing, and all such  
12          testimony and other evidence introduced at the hearing shall be  
13          a part of the record of the hearing.

14          Section 3-707. Findings of fact; decision. The Director or  
15          hearing officer shall make findings of fact in such hearing,  
16          and the Director shall render his or her decision within 30  
17          days after the termination of the hearing, unless additional  
18          time not to exceed 90 days is required by him or her for a  
19          proper disposition of the matter. When the hearing has been  
20          conducted by a hearing officer, the Director shall review the  
21          record and findings of fact before rendering a decision. All  
22          decisions rendered by the Director shall be binding upon and  
23          complied with by the Department, the facility or the persons  
24          involved in the hearing, as appropriate to each case.

1           Section 3-708. Rules of evidence and procedure. The  
2 Director or hearing officer shall not be bound by common law or  
3 statutory rules of evidence, or by technical or formal rules of  
4 procedure, but shall conduct hearings in the manner best  
5 calculated to result in substantial justice.

6           Section 3-709. Service of subpoenas; witness fees. All  
7 subpoenas issued by the Director or hearing officer may be  
8 served as provided for in civil actions. The fees of witnesses  
9 for attendance and travel shall be the same as the fees for  
10 witnesses before the circuit court and shall be paid by the  
11 party to such proceeding at whose request the subpoena is  
12 issued. If such subpoena is issued at the request of the  
13 Department or by a person proceeding in forma pauperis, the  
14 witness fee shall be paid by the Department as an  
15 administrative expense.

16           Section 3-710. Compelling obedience to subpoena. In cases  
17 of refusal of a witness to attend or testify or to produce  
18 books or papers, concerning any matter upon which he might be  
19 lawfully examined, the circuit court of the county wherein the  
20 hearing is held, upon application of any party to the  
21 proceeding, may compel obedience by a proceeding for contempt  
22 as in cases of a like refusal to obey a similar order of the  
23 court.

1           Section 3-711. Record of hearing; transcript. The  
2 Department, at its expense, shall provide a stenographer to  
3 take the testimony, or otherwise record the testimony, and  
4 preserve a record of all proceedings under this Section. The  
5 notice of hearing, the complaint and all other documents in the  
6 nature of pleadings and written motions filed in the  
7 proceedings, the transcript of testimony, and the findings and  
8 decision shall be the record of the proceedings. The Department  
9 shall furnish a transcript of such record to any person  
10 interested in such hearing upon payment therefor of 70 cents  
11 per page for each original transcript and 25 cents per page for  
12 each certified copy thereof. However, the charge for any part  
13 of such transcript ordered and paid for previous to the writing  
14 of the original record shall be 25 cents per page.

15           Section 3-712. Certification of record; fee. The  
16 Department shall not be required to certify any record or file  
17 any answer or otherwise appear in any proceeding for judicial  
18 review under Section 3-713 of this Act unless the party filing  
19 the complaint deposits with the clerk of the court the sum of  
20 95 cents per page, representing the costs of such  
21 certification. Failure on the part of the plaintiff to make  
22 such deposit shall be grounds for dismissal of the action;  
23 provided, however, that persons proceeding in forma pauperis  
24 with the approval of the circuit court shall not be required to  
25 pay these fees.

1           Section 3-713. Judicial review; stay of enforcement of  
2 Department's decision.

3           (a) Final administrative decisions after hearing shall be  
4 subject to judicial review exclusively as provided in the  
5 Administrative Review Law, as now or hereafter amended, except  
6 that any petition for judicial review of Department action  
7 under this Act shall be filed within 15 days after receipt of  
8 notice of the final agency determination. The term  
9 "administrative decision" has the meaning ascribed to it in  
10 Section 3-101 of the Code of Civil Procedure.

11           (b) The court may stay enforcement of the Department's  
12 final decision or toll the continuing accrual of a penalty  
13 under Section 3-305 if a showing is made that there is a  
14 substantial probability that the party seeking review will  
15 prevail on the merits and will suffer irreparable harm if a  
16 stay is not granted, and that the facility will meet the  
17 requirements of this Act and the rules promulgated under this  
18 Act during such stay. Where a stay is granted, the court may  
19 impose such conditions on the granting of the stay as may be  
20 necessary to safeguard the lives, health, rights, safety and  
21 welfare of residents, and to assure compliance by the facility  
22 with the requirements of this Act, including an order for  
23 transfer or discharge of residents under Sections 3-401 through  
24 3-423 or for appointment of a receiver under Sections 3-501  
25 through 3-517.

1 (c) Actions brought under this Act shall be set for trial  
2 at the earliest possible date and shall take precedence on the  
3 court calendar over all other cases except matters to which  
4 equal or superior precedence is specifically granted by law.

5 Section 3-714. Remedies cumulative. The remedies provided  
6 by this Act are cumulative and shall not be construed as  
7 restricting any party from seeking any remedy, provisional or  
8 otherwise, provided by law for the benefit of the party, from  
9 obtaining additional relief based upon the same facts.

10 PART 8. MISCELLANEOUS PROVISIONS

11 Section 3-801. Rules and regulations. The Department shall  
12 have the power to adopt rules and regulations to carry out the  
13 purpose of this Act.

14 Section 3-801.05. Rules adopted under prior law. The  
15 Department shall adopt rules to implement the changes  
16 concerning licensure of facilities under this Act instead of  
17 under the Nursing Home Care Act. Until the Department adopts  
18 those rules, the rules adopted under the Nursing Home Care Act  
19 and the Public Aid Code that apply to facilities subject to  
20 licensure under this Act shall continue to apply to those  
21 facilities.

1           Section 3-802. Illinois Administrative Procedure Act. The  
2 provisions of the Illinois Administrative Procedure Act are  
3 hereby expressly adopted and shall apply to all administrative  
4 rules and procedures of the Department under this Act.

5           Section 3-803. Treatment by prayer or spiritual means.  
6 Nothing in this Act or the rules and regulations adopted  
7 pursuant thereto shall be construed as authorizing the medical  
8 supervision, regulation, or control of the remedial care or  
9 treatment of residents in any facility conducted for those who  
10 rely upon treatment by prayer or spiritual means in accordance  
11 with the creed or tenets of any well-recognized church or  
12 religious denomination.

13           Section 3-804. Report to General Assembly. The Department  
14 shall report to the General Assembly by April 1 of each year  
15 upon the performance of its inspection, survey and evaluation  
16 duties under this Act, including the number and needs of the  
17 Department personnel engaged in such activities. The report  
18 shall also describe the Department's actions in enforcement of  
19 this Act, including the number and needs of personnel so  
20 engaged. The report shall also include the number of valid and  
21 invalid complaints filed with the Department within the last  
22 calendar year.

23           Section 3-808. Protocol for sexual assault victims;

1 nursing home. The Department shall develop a protocol for the  
2 care and treatment of residents who have been sexually  
3 assaulted in a long term care facility or elsewhere.

4 Section 3-808.5. Nursing home fraud, abuse, and neglect  
5 prevention and reporting.

6 (a) Every licensed long-term care facility that receives  
7 Medicaid funding shall prominently display in its lobby, in its  
8 dining areas, and on each floor of the facility information  
9 approved by the Illinois Medicaid Fraud Control Unit on how to  
10 report fraud, abuse, and neglect. In addition, information  
11 regarding the reporting of fraud, abuse, and neglect shall be  
12 provided to each resident at the time of admission and to the  
13 resident's family members or emergency contacts, or to both the  
14 resident's family members and his or her emergency contacts.

15 (b) Any owner or licensee of a long-term care facility  
16 licensed under this Act shall be responsible for the collection  
17 and maintenance of any and all records required to be  
18 maintained under this Section and any other applicable  
19 provisions of this Act, and as a provider under the Illinois  
20 Public Aid Code, and shall be responsible for compliance with  
21 all of the disclosure requirements under this Section. All  
22 books and records and other papers and documents that are  
23 required to be kept, and all records showing compliance with  
24 all of the disclosure requirements to be made pursuant to this  
25 Section, shall be kept at the facility and shall, at all times

1 during business hours, be subject to inspection by any law  
2 enforcement or health oversight agency or its duly authorized  
3 agents or employees.

4 (c) Any report of abuse and neglect of residents made by  
5 any individual in whatever manner, including, but not limited  
6 to, reports made under Sections 2-107 and 3-610 of this Act, or  
7 as provided under the Abused and Neglected Long Term Care  
8 Facility Residents Reporting Act, that is made to an  
9 administrator, a director of nursing, or any other person with  
10 management responsibility at a long-term care facility must be  
11 disclosed to the owners and licensee of the facility within 24  
12 hours of the report. The owners and licensee of a long-term  
13 care facility shall maintain all records necessary to show  
14 compliance with this disclosure requirement.

15 (d) Any person with an ownership interest in a long-term  
16 care facility licensed by the Department must, within 30 days  
17 of the effective date of this Act, disclose the existence of  
18 any ownership interest in any vendor who does business with the  
19 facility. The disclosures required by this subsection shall be  
20 made in the form and manner prescribed by the Department.  
21 Licensed long-term care facilities who receive Medicaid  
22 funding shall submit a copy of the disclosures required by this  
23 subsection to the Illinois Medicaid Fraud Control Unit. The  
24 owners and licensee of a long-term care facility shall maintain  
25 all records necessary to show compliance with this disclosure  
26 requirement.

1 (e) Notwithstanding the provisions of Section 3-318 of this  
2 Act, and in addition thereto, any person, owner, or licensee  
3 who willfully fails to keep and maintain, or willfully fails to  
4 produce for inspection, books and records, or willfully fails  
5 to make the disclosures required by this Section, is guilty of  
6 a Class A misdemeanor. A second or subsequent violation of this  
7 Section shall be punishable as a Class 4 felony.

8 (f) Any owner or licensee who willfully files or willfully  
9 causes to be filed a document with false information with the  
10 Department, the Department of Healthcare and Family Services,  
11 or the Illinois Medicaid Fraud Control Unit or any other law  
12 enforcement agency, is guilty of a Class A misdemeanor.

13 Section 3-809. Rules to implement changes. In developing  
14 rules and regulations to implement this Act, the Department  
15 shall seek the input of advocates for long term care facility  
16 residents, representatives of associations representing  
17 long-term care facilities, and representatives of associations  
18 representing employees of long-term care facilities.

19 Section 3-810. Whistleblower protection.

20 (a) In this Section, "retaliatory action" means the  
21 reprimand, discharge, suspension, demotion, denial of  
22 promotion or transfer, or change in the terms and conditions of  
23 employment of any employee of a facility that is taken in  
24 retaliation for the employee's involvement in a protected

1 activity as set forth in paragraphs (1) through (3) of  
2 subsection (b).

3 (b) A facility shall not take any retaliatory action  
4 against an employee of the facility, including a nursing home  
5 administrator, because the employee does any of the following:

6 (1) Discloses or threatens to disclose to a supervisor  
7 or to a public body an activity, inaction, policy, or  
8 practice implemented by a facility that the employee  
9 reasonably believes is in violation of a law, rule, or  
10 regulation.

11 (2) Provides information to or testifies before any  
12 public body conducting an investigation, hearing, or  
13 inquiry into any violation of a law, rule, or regulation by  
14 a nursing home administrator.

15 (3) Assists or participates in a proceeding to enforce  
16 the provisions of this Act.

17 (c) A violation of this Section may be established only  
18 upon a finding that (i) the employee of the facility engaged in  
19 conduct described in subsection (b) of this Section and (ii)  
20 this conduct was a contributing factor in the retaliatory  
21 action alleged by the employee. There is no violation of this  
22 Section, however, if the facility demonstrates by clear and  
23 convincing evidence that it would have taken the same  
24 unfavorable personnel action in the absence of that conduct.

25 (d) The employee of the facility may be awarded all  
26 remedies necessary to make the employee whole and to prevent

1 future violations of this Section. Remedies imposed by the  
2 court may include, but are not limited to, all of the  
3 following:

4 (1) Reinstatement of the employee to either the same  
5 position held before the retaliatory action or to an  
6 equivalent position.

7 (2) Two times the amount of back pay.

8 (3) Interest on the back pay.

9 (4) Reinstatement of full fringe benefits and  
10 seniority rights.

11 (5) Payment of reasonable costs and attorney's fees.

12 (e) Nothing in this Section shall be deemed to diminish the  
13 rights, privileges, or remedies of an employee of a facility  
14 under any other federal or State law, rule, or regulation or  
15 under any employment contract.

16 ARTICLE IV. FACILITY PAYMENTS

17 Section 4-101. Payments. For facilities licensed by the  
18 Department of Public Health under the Specialized Mental Health  
19 Rehabilitation Facilities Act, the payment methodology in  
20 effect on June 30, 2011, shall be \$1 less than the rate that  
21 would have been paid pursuant to Article V of the Illinois  
22 Public Aid Code for that same facility, had the facility been  
23 licensed under a different Act and been participating in the  
24 Demonstration Program pursuant to Department rules. Any

1 adjustment in the support component or the capital component  
2 for facilities licensed by the Department of Public Health  
3 under the Nursing Home Care Act shall apply equally to  
4 facilities licensed by the Department of Public Health under  
5 the Specialized Mental Health Rehabilitation Facilities Act.  
6 Any change in rate methodology shall be made in statute.

7 ARTICLE 90. AMENDATORY PROVISIONS

8 Section 90-5. The Election Code is amended by changing  
9 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,  
10 19-12.1, and 19-12.2 as follows:

11 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

12 Sec. 3-3. Every honorably discharged soldier or sailor who  
13 is an inmate of any soldiers' and sailors' home within the  
14 State of Illinois, any person who is a resident of a facility  
15 licensed or certified pursuant to the Nursing Home Care Act,  
16 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
17 Community Care Act, or any person who is a resident of a  
18 community-integrated living arrangement, as defined in Section  
19 3 of the Community-Integrated Living Arrangements Licensure  
20 and Certification Act, for 30 days or longer, and who is a  
21 citizen of the United States and has resided in this State and  
22 in the election district 30 days next preceding any election  
23 shall be entitled to vote in the election district in which any

1 such home or community-integrated living arrangement in which  
2 he is an inmate or resident is located, for all officers that  
3 now are or hereafter may be elected by the people, and upon all  
4 questions that may be submitted to the vote of the people:  
5 Provided, that he shall declare upon oath, that it was his bona  
6 fide intention at the time he entered said home or  
7 community-integrated living arrangement to become a resident  
8 thereof.

9 (Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10;  
10 96-1000, eff. 7-2-10.)

11 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

12 Sec. 4-6.3. The county clerk may establish a temporary  
13 place of registration for such times and at such locations  
14 within the county as the county clerk may select. However, no  
15 temporary place of registration may be in operation during the  
16 27 days preceding an election. Notice of the time and place of  
17 registration under this Section shall be published by the  
18 county clerk in a newspaper having a general circulation in the  
19 county not less than 3 nor more than 15 days before the holding  
20 of such registration.

21 Temporary places of registration shall be established so  
22 that the areas of concentration of population or use by the  
23 public are served, whether by facilities provided in places of  
24 private business or in public buildings or in mobile units.  
25 Areas which may be designated as temporary places of

1 registration include, but are not limited to, facilities  
2 licensed or certified pursuant to the Nursing Home Care Act,  
3 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
4 Community Care Act, Soldiers' and Sailors' Homes, shopping  
5 centers, business districts, public buildings and county  
6 fairs.

7 Temporary places of registration shall be available to the  
8 public not less than 2 hours per year for each 1,000 population  
9 or fraction thereof in the county.

10 All temporary places of registration shall be manned by  
11 deputy county clerks or deputy registrars appointed pursuant to  
12 Section 4-6.2.

13 (Source: P.A. 96-339, eff. 7-1-10.)

14 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

15 Sec. 4-10. Except as herein provided, no person shall be  
16 registered, unless he applies in person to a registration  
17 officer, answers such relevant questions as may be asked of him  
18 by the registration officer, and executes the affidavit of  
19 registration. The registration officer shall require the  
20 applicant to furnish two forms of identification, and except in  
21 the case of a homeless individual, one of which must include  
22 his or her residence address. These forms of identification  
23 shall include, but not be limited to, any of the following:  
24 driver's license, social security card, public aid  
25 identification card, utility bill, employee or student

1 identification card, lease or contract for a residence, credit  
2 card, or a civic, union or professional association membership  
3 card. The registration officer shall require a homeless  
4 individual to furnish evidence of his or her use of the mailing  
5 address stated. This use may be demonstrated by a piece of mail  
6 addressed to that individual and received at that address or by  
7 a statement from a person authorizing use of the mailing  
8 address. The registration officer shall require each applicant  
9 for registration to read or have read to him the affidavit of  
10 registration before permitting him to execute the affidavit.

11 One of the registration officers or a deputy registration  
12 officer, county clerk, or clerk in the office of the county  
13 clerk, shall administer to all persons who shall personally  
14 apply to register the following oath or affirmation:

15 "You do solemnly swear (or affirm) that you will fully and  
16 truly answer all such questions as shall be put to you touching  
17 your name, place of residence, place of birth, your  
18 qualifications as an elector and your right as such to register  
19 and vote under the laws of the State of Illinois."

20 The registration officer shall satisfy himself that each  
21 applicant for registration is qualified to register before  
22 registering him. If the registration officer has reason to  
23 believe that the applicant is a resident of a Soldiers' and  
24 Sailors' Home or any facility which is licensed or certified  
25 pursuant to the Nursing Home Care Act, the Specialized Mental  
26 Health Rehabilitation Act, or the MR/DD Community Care Act, the

1 following question shall be put, "When you entered the home  
2 which is your present address, was it your bona fide intention  
3 to become a resident thereof?" Any voter of a township, city,  
4 village or incorporated town in which such applicant resides,  
5 shall be permitted to be present at the place of any precinct  
6 registration and shall have the right to challenge any  
7 applicant who applies to be registered.

8 In case the officer is not satisfied that the applicant is  
9 qualified he shall forthwith notify such applicant in writing  
10 to appear before the county clerk to complete his registration.  
11 Upon the card of such applicant shall be written the word  
12 "incomplete" and no such applicant shall be permitted to vote  
13 unless such registration is satisfactorily completed as  
14 hereinafter provided. No registration shall be taken and marked  
15 as incomplete if information to complete it can be furnished on  
16 the date of the original application.

17 Any person claiming to be an elector in any election  
18 precinct and whose registration card is marked "Incomplete" may  
19 make and sign an application in writing, under oath, to the  
20 county clerk in substance in the following form:

21 "I do solemnly swear that I, ....., did on (insert date)  
22 make application to the board of registry of the .... precinct  
23 of the township of .... (or to the county clerk of .... county)  
24 and that said board or clerk refused to complete my  
25 registration as a qualified voter in said precinct. That I  
26 reside in said precinct, that I intend to reside in said

1 precinct, and am a duly qualified voter of said precinct and am  
2 entitled to be registered to vote in said precinct at the next  
3 election.

4 (Signature of applicant) ....."

5 All such applications shall be presented to the county  
6 clerk or to his duly authorized representative by the  
7 applicant, in person between the hours of 9:00 a.m. and 5:00  
8 p.m. on any day after the days on which the 1969 and 1970  
9 precinct re-registrations are held but not on any day within 27  
10 days preceding the ensuing general election and thereafter for  
11 the registration provided in Section 4-7 all such applications  
12 shall be presented to the county clerk or his duly authorized  
13 representative by the applicant in person between the hours of  
14 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding  
15 the ensuing general election. Such application shall be heard  
16 by the county clerk or his duly authorized representative at  
17 the time the application is presented. If the applicant for  
18 registration has registered with the county clerk, such  
19 application may be presented to and heard by the county clerk  
20 or by his duly authorized representative upon the dates  
21 specified above or at any time prior thereto designated by the  
22 county clerk.

23 Any otherwise qualified person who is absent from his  
24 county of residence either due to business of the United States  
25 or because he is temporarily outside the territorial limits of

1 the United States may become registered by mailing an  
2 application to the county clerk within the periods of  
3 registration provided for in this Article, or by simultaneous  
4 application for absentee registration and absentee ballot as  
5 provided in Article 20 of this Code.

6 Upon receipt of such application the county clerk shall  
7 immediately mail an affidavit of registration in duplicate,  
8 which affidavit shall contain the following and such other  
9 information as the State Board of Elections may think it proper  
10 to require for the identification of the applicant:

11 Name. The name of the applicant, giving surname and first  
12 or Christian name in full, and the middle name or the initial  
13 for such middle name, if any.

14 Sex.

15 Residence. The name and number of the street, avenue or  
16 other location of the dwelling, and such additional clear and  
17 definite description as may be necessary to determine the exact  
18 location of the dwelling of the applicant. Where the location  
19 cannot be determined by street and number, then the Section,  
20 congressional township and range number may be used, or such  
21 other information as may be necessary, including post office  
22 mailing address.

23 Term of residence in the State of Illinois and the  
24 precinct.

25 Nativity. The State or country in which the applicant was  
26 born.



1 in Section 4-8 of this Article and shall attach thereto a copy  
2 of each of the duplicate affidavit of registration and  
3 thereafter such registration card and affidavit shall  
4 constitute the registration of such person the same as if he  
5 had applied for registration in person.

6 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
7 96-1000, eff. 7-2-10.)

8 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

9 Sec. 5-9. Except as herein provided, no person shall be  
10 registered unless he applies in person to registration officer,  
11 answers such relevant questions as may be asked of him by the  
12 registration officer, and executes the affidavit of  
13 registration. The registration officer shall require the  
14 applicant to furnish two forms of identification, and except in  
15 the case of a homeless individual, one of which must include  
16 his or her residence address. These forms of identification  
17 shall include, but not be limited to, any of the following:  
18 driver's license, social security card, public aid  
19 identification card, utility bill, employee or student  
20 identification card, lease or contract for a residence, credit  
21 card, or a civic, union or professional association membership  
22 card. The registration officer shall require a homeless  
23 individual to furnish evidence of his or her use of the mailing  
24 address stated. This use may be demonstrated by a piece of mail  
25 addressed to that individual and received at that address or by

1 a statement from a person authorizing use of the mailing  
2 address. The registration officer shall require each applicant  
3 for registration to read or have read to him the affidavit of  
4 registration before permitting him to execute the affidavit.

5 One of the Deputy Registrars, the Judge of Registration, or  
6 an Officer of Registration, County Clerk, or clerk in the  
7 office of the County Clerk, shall administer to all persons who  
8 shall personally apply to register the following oath or  
9 affirmation:

10 "You do solemnly swear (or affirm) that you will fully and  
11 truly answer all such questions as shall be put to you touching  
12 your place of residence, name, place of birth, your  
13 qualifications as an elector and your right as such to register  
14 and vote under the laws of the State of Illinois."

15 The Registration Officer shall satisfy himself that each  
16 applicant for registration is qualified to register before  
17 registering him. If the registration officer has reason to  
18 believe that the applicant is a resident of a Soldiers' and  
19 Sailors' Home or any facility which is licensed or certified  
20 pursuant to the Nursing Home Care Act, the Specialized Mental  
21 Health Rehabilitation Act, or the MR/DD Community Care Act, the  
22 following question shall be put, "When you entered the home  
23 which is your present address, was it your bona fide intention  
24 to become a resident thereof?" Any voter of a township, city,  
25 village or incorporated town in which such applicant resides,  
26 shall be permitted to be present at the place of precinct

1 registration, and shall have the right to challenge any  
2 applicant who applies to be registered.

3 In case the officer is not satisfied that the applicant is  
4 qualified, he shall forthwith in writing notify such applicant  
5 to appear before the County Clerk to furnish further proof of  
6 his qualifications. Upon the card of such applicant shall be  
7 written the word "Incomplete" and no such applicant shall be  
8 permitted to vote unless such registration is satisfactorily  
9 completed as hereinafter provided. No registration shall be  
10 taken and marked as "incomplete" if information to complete it  
11 can be furnished on the date of the original application.

12 Any person claiming to be an elector in any election  
13 precinct in such township, city, village or incorporated town  
14 and whose registration is marked "Incomplete" may make and sign  
15 an application in writing, under oath, to the County Clerk in  
16 substance in the following form:

17 "I do solemnly swear that I, ....., did on (insert  
18 date) make application to the Board of Registry of the .....  
19 precinct of ..... ward of the City of .... or of the  
20 ..... District ..... Town of ..... (or to the  
21 County Clerk of ..... ) and ..... County; that  
22 said Board or Clerk refused to complete my registration as a  
23 qualified voter in said precinct, that I reside in said  
24 precinct (or that I intend to reside in said precinct), am a  
25 duly qualified voter and entitled to vote in said precinct at  
26 the next election.

1 .....  
2

(Signature of Applicant)"

3 All such applications shall be presented to the County  
4 Clerk by the applicant, in person between the hours of nine  
5 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of  
6 the third week subsequent to the weeks in which the 1961 and  
7 1962 precinct re-registrations are to be held, and thereafter  
8 for the registration provided in Section 5-17 of this Article,  
9 all such applications shall be presented to the County Clerk by  
10 the applicant in person between the hours of nine o'clock a.m.  
11 and nine o'clock p.m. on Monday and Tuesday of the third week  
12 prior to the date on which such election is to be held.

13 Any otherwise qualified person who is absent from his  
14 county of residence either due to business of the United States  
15 or because he is temporarily outside the territorial limits of  
16 the United States may become registered by mailing an  
17 application to the county clerk within the periods of  
18 registration provided for in this Article or by simultaneous  
19 application for absentee registration and absentee ballot as  
20 provided in Article 20 of this Code.

21 Upon receipt of such application the county clerk shall  
22 immediately mail an affidavit of registration in duplicate,  
23 which affidavit shall contain the following and such other  
24 information as the State Board of Elections may think it proper  
25 to require for the identification of the applicant:

26 Name. The name of the applicant, giving surname and first

1 or Christian name in full, and the middle name or the initial  
2 for such middle name, if any.

3 Sex.

4 Residence. The name and number of the street, avenue or  
5 other location of the dwelling, and such additional clear and  
6 definite description as may be necessary to determine the exact  
7 location of the dwelling of the applicant. Where the location  
8 cannot be determined by street and number, then the Section,  
9 congressional township and range number may be used, or such  
10 other information as may be necessary, including post office  
11 mailing address.

12 Term of residence in the State of Illinois and the  
13 precinct.

14 Nativity. The State or country in which the applicant was  
15 born.

16 Citizenship. Whether the applicant is native born or  
17 naturalized. If naturalized, the court, place and date of  
18 naturalization.

19 Age. Date of birth, by month, day and year.

20 Out of State address of .....

21 AFFIDAVIT OF REGISTRATION

22 State of .....)

23 )ss

24 County of .....)

25 I hereby swear (or affirm) that I am a citizen of the  
26 United States; that on the day of the next election I shall

1 have resided in the State of Illinois for 6 months and in the  
 2 election precinct 30 days; that I am fully qualified to vote,  
 3 that I am not registered to vote anywhere else in the United  
 4 States, that I intend to remain a resident of the State of  
 5 Illinois and of the election precinct, that I intend to return  
 6 to the State of Illinois, and that the above statements are  
 7 true.

8 .....  
 9

(His or her signature or mark)

10 Subscribed and sworn to before me, an officer qualified to  
 11 administer oaths, on (insert date).

12 .....

13 Signature of officer administering oath.

14

15 Upon receipt of the executed duplicate affidavit of  
 16 Registration, the county clerk shall transfer the information  
 17 contained thereon to duplicate Registration Cards provided for  
 18 in Section 5-7 of this Article and shall attach thereto a copy  
 19 of each of the duplicate affidavit of registration and  
 20 thereafter such registration card and affidavit shall  
 21 constitute the registration of such person the same as if he  
 22 had applied for registration in person.

23 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
 24 96-1000, eff. 7-2-10.)

1 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

2 Sec. 5-16.3. The county clerk may establish temporary  
3 places of registration for such times and at such locations  
4 within the county as the county clerk may select. However, no  
5 temporary place of registration may be in operation during the  
6 27 days preceding an election. Notice of time and place of  
7 registration at any such temporary place of registration under  
8 this Section shall be published by the county clerk in a  
9 newspaper having a general circulation in the county not less  
10 than 3 nor more than 15 days before the holding of such  
11 registration.

12 Temporary places of registration shall be established so  
13 that the areas of concentration of population or use by the  
14 public are served, whether by facilities provided in places of  
15 private business or in public buildings or in mobile units.  
16 Areas which may be designated as temporary places of  
17 registration include, but are not limited to, facilities  
18 licensed or certified pursuant to the Nursing Home Care Act,  
19 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
20 Community Care Act, Soldiers' and Sailors' Homes, shopping  
21 centers, business districts, public buildings and county  
22 fairs.

23 Temporary places of registration shall be available to the  
24 public not less than 2 hours per year for each 1,000 population  
25 or fraction thereof in the county.

26 All temporary places of registration shall be manned by

1 deputy county clerks or deputy registrars appointed pursuant to  
2 Section 5-16.2.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

5 Sec. 6-50.3. The board of election commissioners may  
6 establish temporary places of registration for such times and  
7 at such locations as the board may select. However, no  
8 temporary place of registration may be in operation during the  
9 27 days preceding an election. Notice of the time and place of  
10 registration at any such temporary place of registration under  
11 this Section shall be published by the board of election  
12 commissioners in a newspaper having a general circulation in  
13 the city, village or incorporated town not less than 3 nor more  
14 than 15 days before the holding of such registration.

15 Temporary places of registration shall be established so  
16 that the areas of concentration of population or use by the  
17 public are served, whether by facilities provided in places of  
18 private business or in public buildings or in mobile units.  
19 Areas which may be designated as temporary places of  
20 registration include, but are not limited to facilities  
21 licensed or certified pursuant to the Nursing Home Care Act,  
22 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
23 Community Care Act, Soldiers' and Sailors' Homes, shopping  
24 centers, business districts, public buildings and county  
25 fairs.

1 Temporary places of registration shall be available to the  
2 public not less than 2 hours per year for each 1,000 population  
3 or fraction thereof in the county.

4 All temporary places of registration shall be manned by  
5 employees of the board of election commissioners or deputy  
6 registrars appointed pursuant to Section 6-50.2.

7 (Source: P.A. 96-339, eff. 7-1-10.)

8 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

9 Sec. 6-56. Not more than 30 nor less than 28 days before  
10 any election under this Article, all owners, managers,  
11 administrators or operators of hotels, lodging houses, rooming  
12 houses, furnished apartments or facilities licensed or  
13 certified under the Nursing Home Care Act, which house 4 or  
14 more persons, outside the members of the family of such owner,  
15 manager, administrator or operator, shall file with the board  
16 of election commissioners a report, under oath, together with  
17 one copy thereof, in such form as may be required by the board  
18 of election commissioners, of the names and descriptions of all  
19 lodgers, guests or residents claiming a voting residence at the  
20 hotels, lodging houses, rooming houses, furnished apartments,  
21 or facility licensed or certified under the Nursing Home Care  
22 Act, the Specialized Mental Health Rehabilitation Act, or the  
23 MR/DD Community Care Act under their control. In counties  
24 having a population of 500,000 or more such report shall be  
25 made on forms mailed to them by the board of election

1 commissioners. The board of election commissioners shall sort  
2 and assemble the sworn copies of the reports in numerical order  
3 according to ward and according to precincts within each ward  
4 and shall, not later than 5 days after the last day allowed by  
5 this Article for the filing of the reports, maintain one  
6 assembled set of sworn duplicate reports available for public  
7 inspection until 60 days after election days. Except as is  
8 otherwise expressly provided in this Article, the board shall  
9 not be required to perform any duties with respect to the sworn  
10 reports other than to mail, sort, assemble, post and file them  
11 as hereinabove provided.

12 Except in such cases where a precinct canvass is being  
13 conducted by the Board of Election Commissioners prior to a  
14 Primary or Election, the board of election commissioners shall  
15 compare the original copy of each such report with the list of  
16 registered voters from such addresses. Every person registered  
17 from such address and not listed in such report or whose name  
18 is different from any name so listed, shall immediately after  
19 the last day of registration be sent a notice through the  
20 United States mail, at the address appearing upon his  
21 registration record card, requiring him to appear before the  
22 board of election commissioners on one of the days specified in  
23 Section 6-45 of this Article and show cause why his  
24 registration should not be cancelled. The provisions of  
25 Sections 6-45, 6-46 and 6-47 of this Article shall apply to  
26 such hearing and proceedings subsequent thereto.

1 Any owner, manager or operator of any such hotel, lodging  
2 house, rooming house or furnished apartment who shall fail or  
3 neglect to file such statement and copy thereof as in this  
4 Article provided, may, upon written information of the attorney  
5 for the election commissioners, be cited by the election  
6 commissioners or upon the complaint of any voter of such city,  
7 village or incorporated town, to appear before them and furnish  
8 such sworn statement and copy thereof and make such oral  
9 statements under oath regarding such hotel, lodging house,  
10 rooming house or furnished apartment, as the election  
11 commissioners may require. The election commissioners shall  
12 sit to hear such citations on the Friday of the fourth week  
13 preceding the week in which such election is to be held. Such  
14 citation shall be served not later than the day preceding the  
15 day on which it is returnable.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

18 Sec. 19-4. Mailing or delivery of ballots - Time.)  
19 Immediately upon the receipt of such application either by  
20 mail, not more than 40 days nor less than 5 days prior to such  
21 election, or by personal delivery not more than 40 days nor  
22 less than one day prior to such election, at the office of such  
23 election authority, it shall be the duty of such election  
24 authority to examine the records to ascertain whether or not  
25 such applicant is lawfully entitled to vote as requested,

1 including a verification of the applicant's signature by  
2 comparison with the signature on the official registration  
3 record card, and if found so to be entitled to vote, to post  
4 within one business day thereafter the name, street address,  
5 ward and precinct number or township and district number, as  
6 the case may be, of such applicant given on a list, the pages  
7 of which are to be numbered consecutively to be kept by such  
8 election authority for such purpose in a conspicuous, open and  
9 public place accessible to the public at the entrance of the  
10 office of such election authority, and in such a manner that  
11 such list may be viewed without necessity of requesting  
12 permission therefor. Within one day after posting the name and  
13 other information of an applicant for an absentee ballot, the  
14 election authority shall transmit that name and other posted  
15 information to the State Board of Elections, which shall  
16 maintain those names and other information in an electronic  
17 format on its website, arranged by county and accessible to  
18 State and local political committees. Within 2 business days  
19 after posting a name and other information on the list within  
20 its office, the election authority shall mail, postage prepaid,  
21 or deliver in person in such office an official ballot or  
22 ballots if more than one are to be voted at said election. Mail  
23 delivery of Temporarily Absent Student ballot applications  
24 pursuant to Section 19-12.3 shall be by nonforwardable mail.  
25 However, for the consolidated election, absentee ballots for  
26 certain precincts may be delivered to applicants not less than

1 25 days before the election if so much time is required to have  
2 prepared and printed the ballots containing the names of  
3 persons nominated for offices at the consolidated primary. The  
4 election authority shall enclose with each absentee ballot or  
5 application written instructions on how voting assistance  
6 shall be provided pursuant to Section 17-14 and a document,  
7 written and approved by the State Board of Elections,  
8 enumerating the circumstances under which a person is  
9 authorized to vote by absentee ballot pursuant to this Article;  
10 such document shall also include a statement informing the  
11 applicant that if he or she falsifies or is solicited by  
12 another to falsify his or her eligibility to cast an absentee  
13 ballot, such applicant or other is subject to penalties  
14 pursuant to Section 29-10 and Section 29-20 of the Election  
15 Code. Each election authority shall maintain a list of the  
16 name, street address, ward and precinct, or township and  
17 district number, as the case may be, of all applicants who have  
18 returned absentee ballots to such authority, and the name of  
19 such absent voter shall be added to such list within one  
20 business day from receipt of such ballot. If the absentee  
21 ballot envelope indicates that the voter was assisted in  
22 casting the ballot, the name of the person so assisting shall  
23 be included on the list. The list, the pages of which are to be  
24 numbered consecutively, shall be kept by each election  
25 authority in a conspicuous, open, and public place accessible  
26 to the public at the entrance of the office of the election

1 authority and in a manner that the list may be viewed without  
2 necessity of requesting permission for viewing.

3 Each election authority shall maintain a list for each  
4 election of the voters to whom it has issued absentee ballots.  
5 The list shall be maintained for each precinct within the  
6 jurisdiction of the election authority. Prior to the opening of  
7 the polls on election day, the election authority shall deliver  
8 to the judges of election in each precinct the list of  
9 registered voters in that precinct to whom absentee ballots  
10 have been issued by mail.

11 Each election authority shall maintain a list for each  
12 election of voters to whom it has issued temporarily absent  
13 student ballots. The list shall be maintained for each election  
14 jurisdiction within which such voters temporarily abide.  
15 Immediately after the close of the period during which  
16 application may be made by mail for absentee ballots, each  
17 election authority shall mail to each other election authority  
18 within the State a certified list of all such voters  
19 temporarily abiding within the jurisdiction of the other  
20 election authority.

21 In the event that the return address of an application for  
22 ballot by a physically incapacitated elector is that of a  
23 facility licensed or certified under the Nursing Home Care Act,  
24 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
25 Community Care Act, within the jurisdiction of the election  
26 authority, and the applicant is a registered voter in the

1 precinct in which such facility is located, the ballots shall  
2 be prepared and transmitted to a responsible judge of election  
3 no later than 9 a.m. on the Saturday, Sunday or Monday  
4 immediately preceding the election as designated by the  
5 election authority under Section 19-12.2. Such judge shall  
6 deliver in person on the designated day the ballot to the  
7 applicant on the premises of the facility from which  
8 application was made. The election authority shall by mail  
9 notify the applicant in such facility that the ballot will be  
10 delivered by a judge of election on the designated day.

11 All applications for absentee ballots shall be available at  
12 the office of the election authority for public inspection upon  
13 request from the time of receipt thereof by the election  
14 authority until 30 days after the election, except during the  
15 time such applications are kept in the office of the election  
16 authority pursuant to Section 19-7, and except during the time  
17 such applications are in the possession of the judges of  
18 election.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

21 Sec. 19-12.1. Any qualified elector who has secured an  
22 Illinois Disabled Person Identification Card in accordance  
23 with The Illinois Identification Card Act, indicating that the  
24 person named thereon has a Class 1A or Class 2 disability or  
25 any qualified voter who has a permanent physical incapacity of

1 such a nature as to make it improbable that he will be able to  
2 be present at the polls at any future election, or any voter  
3 who is a resident of a facility licensed or certified pursuant  
4 to the Nursing Home Care Act, the Specialized Mental Health  
5 Rehabilitation Act, or the MR/DD Community Care Act and has a  
6 condition or disability of such a nature as to make it  
7 improbable that he will be able to be present at the polls at  
8 any future election, may secure a disabled voter's or nursing  
9 home resident's identification card, which will enable him to  
10 vote under this Article as a physically incapacitated or  
11 nursing home voter.

12 Application for a disabled voter's or nursing home  
13 resident's identification card shall be made either: (a) in  
14 writing, with voter's sworn affidavit, to the county clerk or  
15 board of election commissioners, as the case may be, and shall  
16 be accompanied by the affidavit of the attending physician  
17 specifically describing the nature of the physical incapacity  
18 or the fact that the voter is a nursing home resident and is  
19 physically unable to be present at the polls on election days;  
20 or (b) by presenting, in writing or otherwise, to the county  
21 clerk or board of election commissioners, as the case may be,  
22 proof that the applicant has secured an Illinois Disabled  
23 Person Identification Card indicating that the person named  
24 thereon has a Class 1A or Class 2 disability. Upon the receipt  
25 of either the sworn-to application and the physician's  
26 affidavit or proof that the applicant has secured an Illinois

1 Disabled Person Identification Card indicating that the person  
2 named thereon has a Class 1A or Class 2 disability, the county  
3 clerk or board of election commissioners shall issue a disabled  
4 voter's or nursing home resident's identification card. Such  
5 identification cards shall be issued for a period of 5 years,  
6 upon the expiration of which time the voter may secure a new  
7 card by making application in the same manner as is prescribed  
8 for the issuance of an original card, accompanied by a new  
9 affidavit of the attending physician. The date of expiration of  
10 such five-year period shall be made known to any interested  
11 person by the election authority upon the request of such  
12 person. Applications for the renewal of the identification  
13 cards shall be mailed to the voters holding such cards not less  
14 than 3 months prior to the date of expiration of the cards.

15 Each disabled voter's or nursing home resident's  
16 identification card shall bear an identification number, which  
17 shall be clearly noted on the voter's original and duplicate  
18 registration record cards. In the event the holder becomes  
19 physically capable of resuming normal voting, he must surrender  
20 his disabled voter's or nursing home resident's identification  
21 card to the county clerk or board of election commissioners  
22 before the next election.

23 The holder of a disabled voter's or nursing home resident's  
24 identification card may make application by mail for an  
25 official ballot within the time prescribed by Section 19-2.  
26 Such application shall contain the same information as is

1 included in the form of application for ballot by a physically  
2 incapacitated elector prescribed in Section 19-3 except that it  
3 shall also include the applicant's disabled voter's  
4 identification card number and except that it need not be sworn  
5 to. If an examination of the records discloses that the  
6 applicant is lawfully entitled to vote, he shall be mailed a  
7 ballot as provided in Section 19-4. The ballot envelope shall  
8 be the same as that prescribed in Section 19-5 for physically  
9 disabled voters, and the manner of voting and returning the  
10 ballot shall be the same as that provided in this Article for  
11 other absentee ballots, except that a statement to be  
12 subscribed to by the voter but which need not be sworn to shall  
13 be placed on the ballot envelope in lieu of the affidavit  
14 prescribed by Section 19-5.

15 Any person who knowingly subscribes to a false statement in  
16 connection with voting under this Section shall be guilty of a  
17 Class A misdemeanor.

18 For the purposes of this Section, "nursing home resident"  
19 includes a resident of a facility licensed under the MR/DD  
20 Community Care Act or the Specialized Mental Health  
21 Rehabilitation Act.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

24 Sec. 19-12.2. Voting by physically incapacitated electors  
25 who have made proper application to the election authority not

1 later than 5 days before the regular primary and general  
2 election of 1980 and before each election thereafter shall be  
3 conducted on the premises of facilities licensed or certified  
4 pursuant to the Nursing Home Care Act, the Specialized Mental  
5 Health Rehabilitation Act, or the MR/DD Community Care Act for  
6 the sole benefit of residents of such facilities. Such voting  
7 shall be conducted during any continuous period sufficient to  
8 allow all applicants to cast their ballots between the hours of  
9 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or  
10 Monday immediately preceding the regular election. This  
11 absentee voting on one of said days designated by the election  
12 authority shall be supervised by two election judges who must  
13 be selected by the election authority in the following order of  
14 priority: (1) from the panel of judges appointed for the  
15 precinct in which such facility is located, or from a panel of  
16 judges appointed for any other precinct within the jurisdiction  
17 of the election authority in the same ward or township, as the  
18 case may be, in which the facility is located or, only in the  
19 case where a judge or judges from the precinct, township or  
20 ward are unavailable to serve, (3) from a panel of judges  
21 appointed for any other precinct within the jurisdiction of the  
22 election authority. The two judges shall be from different  
23 political parties. Not less than 30 days before each regular  
24 election, the election authority shall have arranged with the  
25 chief administrative officer of each facility in his or its  
26 election jurisdiction a mutually convenient time period on the

1 Friday, Saturday, Sunday or Monday immediately preceding the  
2 election for such voting on the premises of the facility and  
3 shall post in a prominent place in his or its office a notice  
4 of the agreed day and time period for conducting such voting at  
5 each facility; provided that the election authority shall not  
6 later than noon on the Thursday before the election also post  
7 the names and addresses of those facilities from which no  
8 applications were received and in which no supervised absentee  
9 voting will be conducted. All provisions of this Code  
10 applicable to pollwatchers shall be applicable herein. To the  
11 maximum extent feasible, voting booths or screens shall be  
12 provided to insure the privacy of the voter. Voting procedures  
13 shall be as described in Article 17 of this Code, except that  
14 ballots shall be treated as absentee ballots and shall not be  
15 counted until the close of the polls on the following day.  
16 After the last voter has concluded voting, the judges shall  
17 seal the ballots in an envelope and affix their signatures  
18 across the flap of the envelope. Immediately thereafter, the  
19 judges shall bring the sealed envelope to the office of the  
20 election authority who shall deliver such ballots to the  
21 election authority's central ballot counting location prior to  
22 the closing of the polls on the day of election. The judges of  
23 election shall also report to the election authority the name  
24 of any applicant in the facility who, due to unforeseen  
25 circumstance or condition or because of a religious holiday,  
26 was unable to vote. In this event, the election authority may

1 appoint a qualified person from his or its staff to deliver the  
2 ballot to such applicant on the day of election. This staff  
3 person shall follow the same procedures prescribed for judges  
4 conducting absentee voting in such facilities and shall return  
5 the ballot to the central ballot counting location before the  
6 polls close. However, if the facility from which the  
7 application was made is also used as a regular precinct polling  
8 place for that voter, voting procedures heretofore prescribed  
9 may be implemented by 2 of the election judges of opposite  
10 party affiliation assigned to that polling place during the  
11 hours of voting on the day of the election. Judges of election  
12 shall be compensated not less than \$25.00 for conducting  
13 absentee voting in such facilities.

14 Not less than 120 days before each regular election, the  
15 Department of Public Health shall certify to the State Board of  
16 Elections a list of the facilities licensed or certified  
17 pursuant to the Nursing Home Care Act, the Specialized Mental  
18 Health Rehabilitation Act, or the MR/DD Community Care Act, and  
19 shall indicate the approved bed capacity and the name of the  
20 chief administrative officer of each such facility, and the  
21 State Board of Elections shall certify the same to the  
22 appropriate election authority within 20 days thereafter.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 Section 90-10. The Illinois Act on the Aging is amended by  
25 changing Section 4.04 as follows:

1 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

2 Sec. 4.04. Long Term Care Ombudsman Program.

3 (a) Long Term Care Ombudsman Program. The Department shall  
4 establish a Long Term Care Ombudsman Program, through the  
5 Office of State Long Term Care Ombudsman ("the Office"), in  
6 accordance with the provisions of the Older Americans Act of  
7 1965, as now or hereafter amended.

8 (b) Definitions. As used in this Section, unless the  
9 context requires otherwise:

10 (1) "Access" has the same meaning as in Section 1-104  
11 of the Nursing Home Care Act, as now or hereafter amended;  
12 that is, it means the right to:

13 (i) Enter any long term care facility or assisted  
14 living or shared housing establishment or supportive  
15 living facility;

16 (ii) Communicate privately and without restriction  
17 with any resident, regardless of age, who consents to  
18 the communication;

19 (iii) Seek consent to communicate privately and  
20 without restriction with any resident, regardless of  
21 age;

22 (iv) Inspect the clinical and other records of a  
23 resident, regardless of age, with the express written  
24 consent of the resident;

25 (v) Observe all areas of the long term care

1 facility or supportive living facilities, assisted  
2 living or shared housing establishment except the  
3 living area of any resident who protests the  
4 observation.

5 (2) "Long Term Care Facility" means (i) any facility as  
6 defined by Section 1-113 of the Nursing Home Care Act, as  
7 now or hereafter amended; and (ii) any skilled nursing  
8 facility or a nursing facility which meets the requirements  
9 of Section 1819(a), (b), (c), and (d) or Section 1919(a),  
10 (b), (c), and (d) of the Social Security Act, as now or  
11 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)  
12 and 42 U.S.C. 1396r(a), (b), (c), and (d)); and any  
13 facility as defined by Section 1-113 of the MR/DD Community  
14 Care Act, as now or hereafter amended.

15 (2.5) "Assisted living establishment" and "shared  
16 housing establishment" have the meanings given those terms  
17 in Section 10 of the Assisted Living and Shared Housing  
18 Act.

19 (2.7) "Supportive living facility" means a facility  
20 established under Section 5-5.01a of the Illinois Public  
21 Aid Code.

22 (3) "State Long Term Care Ombudsman" means any person  
23 employed by the Department to fulfill the requirements of  
24 the Office of State Long Term Care Ombudsman as required  
25 under the Older Americans Act of 1965, as now or hereafter  
26 amended, and Departmental policy.

1           (3.1) "Ombudsman" means any designated representative  
2           of a regional long term care ombudsman program; provided  
3           that the representative, whether he is paid for or  
4           volunteers his ombudsman services, shall be qualified and  
5           designated by the Office to perform the duties of an  
6           ombudsman as specified by the Department in rules and in  
7           accordance with the provisions of the Older Americans Act  
8           of 1965, as now or hereafter amended.

9           (c) Ombudsman; rules. The Office of State Long Term Care  
10          Ombudsman shall be composed of at least one full-time ombudsman  
11          and shall include a system of designated regional long term  
12          care ombudsman programs. Each regional program shall be  
13          designated by the State Long Term Care Ombudsman as a  
14          subdivision of the Office and any representative of a regional  
15          program shall be treated as a representative of the Office.

16          The Department, in consultation with the Office, shall  
17          promulgate administrative rules in accordance with the  
18          provisions of the Older Americans Act of 1965, as now or  
19          hereafter amended, to establish the responsibilities of the  
20          Department and the Office of State Long Term Care Ombudsman and  
21          the designated regional Ombudsman programs. The administrative  
22          rules shall include the responsibility of the Office and  
23          designated regional programs to investigate and resolve  
24          complaints made by or on behalf of residents of long term care  
25          facilities, supportive living facilities, and assisted living  
26          and shared housing establishments, including the option to

1 serve residents under the age of 60, relating to actions,  
2 inaction, or decisions of providers, or their representatives,  
3 of long term care facilities, of supported living facilities,  
4 of assisted living and shared housing establishments, of public  
5 agencies, or of social services agencies, which may adversely  
6 affect the health, safety, welfare, or rights of such  
7 residents. The Office and designated regional programs may  
8 represent all residents, but are not required by this Act to  
9 represent persons under 60 years of age, except to the extent  
10 required by federal law. When necessary and appropriate,  
11 representatives of the Office shall refer complaints to the  
12 appropriate regulatory State agency. The Department, in  
13 consultation with the Office, shall cooperate with the  
14 Department of Human Services and other State agencies in  
15 providing information and training to designated regional long  
16 term care ombudsman programs about the appropriate assessment  
17 and treatment (including information about appropriate  
18 supportive services, treatment options, and assessment of  
19 rehabilitation potential) of the residents they serve,  
20 including children, persons with mental illness (other than  
21 Alzheimer's disease and related disorders), and persons with  
22 developmental disabilities.

23 The State Long Term Care Ombudsman and all other ombudsmen,  
24 as defined in paragraph (3.1) of subsection (b) must submit to  
25 background checks under the Health Care Worker Background Check  
26 Act and receive training, as prescribed by the Illinois

1 Department on Aging, before visiting facilities. The training  
2 must include information specific to assisted living  
3 establishments, supportive living facilities, and shared  
4 housing establishments and to the rights of residents  
5 guaranteed under the corresponding Acts and administrative  
6 rules.

7 (c-5) Consumer Choice Information Reports. The Office  
8 shall:

9 (1) In collaboration with the Attorney General, create  
10 a Consumer Choice Information Report form to be completed  
11 by all licensed long term care facilities to aid  
12 Illinoisans and their families in making informed choices  
13 about long term care. The Office shall create a Consumer  
14 Choice Information Report for each type of licensed long  
15 term care facility. The Office shall collaborate with the  
16 Attorney General and the Department of Human Services to  
17 create a Consumer Choice Information Report form for  
18 facilities licensed under the MR/DD Community Care Act.

19 (2) Develop a database of Consumer Choice Information  
20 Reports completed by licensed long term care facilities  
21 that includes information in the following consumer  
22 categories:

23 (A) Medical Care, Services, and Treatment.

24 (B) Special Services and Amenities.

25 (C) Staffing.

26 (D) Facility Statistics and Resident Demographics.

1 (E) Ownership and Administration.

2 (F) Safety and Security.

3 (G) Meals and Nutrition.

4 (H) Rooms, Furnishings, and Equipment.

5 (I) Family, Volunteer, and Visitation Provisions.

6 (3) Make this information accessible to the public,  
7 including on the Internet by means of a hyperlink labeled  
8 "Resident's Right to Know" on the Office's World Wide Web  
9 home page. Information about facilities licensed under the  
10 MR/DD Community Care Act shall be made accessible to the  
11 public by the Department of Human Services, including on  
12 the Internet by means of a hyperlink labeled "Resident's  
13 and Families' Right to Know" on the Department of Human  
14 Services' "For Customers" website.

15 (4) Have the authority, with the Attorney General, to  
16 verify that information provided by a facility is accurate.

17 (5) Request a new report from any licensed facility  
18 whenever it deems necessary.

19 (6) Include in the Office's Consumer Choice  
20 Information Report for each type of licensed long term care  
21 facility additional information on each licensed long term  
22 care facility in the State of Illinois, including  
23 information regarding each facility's compliance with the  
24 relevant State and federal statutes, rules, and standards;  
25 customer satisfaction surveys; and information generated  
26 from quality measures developed by the Centers for Medicare

1 and Medicaid Services.

2 (d) Access and visitation rights.

3 (1) In accordance with subparagraphs (A) and (E) of  
4 paragraph (3) of subsection (c) of Section 1819 and  
5 subparagraphs (A) and (E) of paragraph (3) of subsection  
6 (c) of Section 1919 of the Social Security Act, as now or  
7 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and  
8 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the  
9 Older Americans Act of 1965, as now or hereafter amended  
10 (42 U.S.C. 3058f), a long term care facility, supportive  
11 living facility, assisted living establishment, and shared  
12 housing establishment must:

13 (i) permit immediate access to any resident,  
14 regardless of age, by a designated ombudsman; and

15 (ii) permit representatives of the Office, with  
16 the permission of the resident's legal representative  
17 or legal guardian, to examine a resident's clinical and  
18 other records, regardless of the age of the resident,  
19 and if a resident is unable to consent to such review,  
20 and has no legal guardian, permit representatives of  
21 the Office appropriate access, as defined by the  
22 Department, in consultation with the Office, in  
23 administrative rules, to the resident's records.

24 (2) Each long term care facility, supportive living  
25 facility, assisted living establishment, and shared  
26 housing establishment shall display, in multiple,

1 conspicuous public places within the facility accessible  
2 to both visitors and residents and in an easily readable  
3 format, the address and phone number of the Office of the  
4 Long Term Care Ombudsman, in a manner prescribed by the  
5 Office.

6 (e) Immunity. An ombudsman or any representative of the  
7 Office participating in the good faith performance of his or  
8 her official duties shall have immunity from any liability  
9 (civil, criminal or otherwise) in any proceedings (civil,  
10 criminal or otherwise) brought as a consequence of the  
11 performance of his official duties.

12 (f) Business offenses.

13 (1) No person shall:

14 (i) Intentionally prevent, interfere with, or  
15 attempt to impede in any way any representative of the  
16 Office in the performance of his official duties under  
17 this Act and the Older Americans Act of 1965; or

18 (ii) Intentionally retaliate, discriminate  
19 against, or effect reprisals against any long term care  
20 facility resident or employee for contacting or  
21 providing information to any representative of the  
22 Office.

23 (2) A violation of this Section is a business offense,  
24 punishable by a fine not to exceed \$501.

25 (3) The Director of Aging, in consultation with the  
26 Office, shall notify the State's Attorney of the county in

1           which the long term care facility, supportive living  
2           facility, or assisted living or shared housing  
3           establishment is located, or the Attorney General, of any  
4           violations of this Section.

5           (g) Confidentiality of records and identities. The  
6           Department shall establish procedures for the disclosure by the  
7           State Ombudsman or the regional ombudsmen entities of files  
8           maintained by the program. The procedures shall provide that  
9           the files and records may be disclosed only at the discretion  
10          of the State Long Term Care Ombudsman or the person designated  
11          by the State Ombudsman to disclose the files and records, and  
12          the procedures shall prohibit the disclosure of the identity of  
13          any complainant, resident, witness, or employee of a long term  
14          care provider unless:

15                 (1) the complainant, resident, witness, or employee of  
16                 a long term care provider or his or her legal  
17                 representative consents to the disclosure and the consent  
18                 is in writing;

19                 (2) the complainant, resident, witness, or employee of  
20                 a long term care provider gives consent orally; and the  
21                 consent is documented contemporaneously in writing in  
22                 accordance with such requirements as the Department shall  
23                 establish; or

24                 (3) the disclosure is required by court order.

25           (h) Legal representation. The Attorney General shall  
26           provide legal representation to any representative of the

1 Office against whom suit or other legal action is brought in  
2 connection with the performance of the representative's  
3 official duties, in accordance with the State Employee  
4 Indemnification Act.

5 (i) Treatment by prayer and spiritual means. Nothing in  
6 this Act shall be construed to authorize or require the medical  
7 supervision, regulation or control of remedial care or  
8 treatment of any resident in a long term care facility operated  
9 exclusively by and for members or adherents of any church or  
10 religious denomination the tenets and practices of which  
11 include reliance solely upon spiritual means through prayer for  
12 healing.

13 (j) The Long Term Care Ombudsman Fund is created as a  
14 special fund in the State treasury to receive moneys for the  
15 express purposes of this Section. All interest earned on moneys  
16 in the fund shall be credited to the fund. Moneys contained in  
17 the fund shall be used to support the purposes of this Section.

18 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;  
19 96-328, eff. 8-11-09; 96-758, eff. 8-25-09; 96-1372, eff.  
20 7-29-10.)

21 Section 90-15. The Mental Health and Developmental  
22 Disabilities Administrative Act is amended by changing Section  
23 15 as follows:

24 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

1           Sec. 15. Before any person is released from a facility  
2 operated by the State pursuant to an absolute discharge or a  
3 conditional discharge from hospitalization under this Act, the  
4 facility director of the facility in which such person is  
5 hospitalized shall determine that such person is not currently  
6 in need of hospitalization and:

7           (a) is able to live independently in the community; or

8           (b) requires further oversight and supervisory care  
9 for which arrangements have been made with responsible  
10 relatives or supervised residential program approved by  
11 the Department; or

12           (c) requires further personal care or general  
13 oversight as defined by the MR/DD Community Care Act or the  
14 Specialized Mental Health Rehabilitation Act, for which  
15 placement arrangements have been made with a suitable  
16 family home or other licensed facility approved by the  
17 Department under this Section; or

18           (d) requires community mental health services for  
19 which arrangements have been made with a community mental  
20 health provider in accordance with criteria, standards,  
21 and procedures promulgated by rule.

22           Such determination shall be made in writing and shall  
23 become a part of the facility record of such absolutely or  
24 conditionally discharged person. When the determination  
25 indicates that the condition of the person to be granted an  
26 absolute discharge or a conditional discharge is described

1 under subparagraph (c) or (d) of this Section, the name and  
2 address of the continuing care facility or home to which such  
3 person is to be released shall be entered in the facility  
4 record. Where a discharge from a mental health facility is made  
5 under subparagraph (c), the Department shall assign the person  
6 so discharged to an existing community based not-for-profit  
7 agency for participation in day activities suitable to the  
8 person's needs, such as but not limited to social and  
9 vocational rehabilitation, and other recreational, educational  
10 and financial activities unless the community based  
11 not-for-profit agency is unqualified to accept such  
12 assignment. Where the clientele of any not-for-profit agency  
13 increases as a result of assignments under this amendatory Act  
14 of 1977 by more than 3% over the prior year, the Department  
15 shall fully reimburse such agency for the costs of providing  
16 services to such persons in excess of such 3% increase. The  
17 Department shall keep written records detailing how many  
18 persons have been assigned to a community based not-for-profit  
19 agency and how many persons were not so assigned because the  
20 community based agency was unable to accept the assignments, in  
21 accordance with criteria, standards, and procedures  
22 promulgated by rule. Whenever a community based agency is found  
23 to be unable to accept the assignments, the name of the agency  
24 and the reason for the finding shall be included in the report.

25 Insofar as desirable in the interests of the former  
26 recipient, the facility, program or home in which the

1 discharged person is to be placed shall be located in or near  
2 the community in which the person resided prior to  
3 hospitalization or in the community in which the person's  
4 family or nearest next of kin presently reside. Placement of  
5 the discharged person in facilities, programs or homes located  
6 outside of this State shall not be made by the Department  
7 unless there are no appropriate facilities, programs or homes  
8 available within this State. Out-of-state placements shall be  
9 subject to return of recipients so placed upon the availability  
10 of facilities, programs or homes within this State to  
11 accommodate these recipients, except where placement in a  
12 contiguous state results in locating a recipient in a facility  
13 or program closer to the recipient's home or family. If an  
14 appropriate facility or program becomes available equal to or  
15 closer to the recipient's home or family, the recipient shall  
16 be returned to and placed at the appropriate facility or  
17 program within this State.

18 To place any person who is under a program of the  
19 Department at board in a suitable family home or in such other  
20 facility or program as the Department may consider desirable.  
21 The Department may place in licensed nursing homes, sheltered  
22 care homes, or homes for the aged those persons whose  
23 behavioral manifestations and medical and nursing care needs  
24 are such as to be substantially indistinguishable from persons  
25 already living in such facilities. Prior to any placement by  
26 the Department under this Section, a determination shall be

1 made by the personnel of the Department, as to the capability  
2 and suitability of such facility to adequately meet the needs  
3 of the person to be discharged. When specialized programs are  
4 necessary in order to enable persons in need of supervised  
5 living to develop and improve in the community, the Department  
6 shall place such persons only in specialized residential care  
7 facilities which shall meet Department standards including  
8 restricted admission policy, special staffing and programming  
9 for social and vocational rehabilitation, in addition to the  
10 requirements of the appropriate State licensing agency. The  
11 Department shall not place any new person in a facility the  
12 license of which has been revoked or not renewed on grounds of  
13 inadequate programming, staffing, or medical or adjunctive  
14 services, regardless of the pendency of an action for  
15 administrative review regarding such revocation or failure to  
16 renew. Before the Department may transfer any person to a  
17 licensed nursing home, sheltered care home or home for the aged  
18 or place any person in a specialized residential care facility  
19 the Department shall notify the person to be transferred, or a  
20 responsible relative of such person, in writing, at least 30  
21 days before the proposed transfer, with respect to all the  
22 relevant facts concerning such transfer, except in cases of  
23 emergency when such notice is not required. If either the  
24 person to be transferred or a responsible relative of such  
25 person objects to such transfer, in writing to the Department,  
26 at any time after receipt of notice and before the transfer,

1 the facility director of the facility in which the person was a  
2 recipient shall immediately schedule a hearing at the facility  
3 with the presence of the facility director, the person who  
4 objected to such proposed transfer, and a psychiatrist who is  
5 familiar with the record of the person to be transferred. Such  
6 person to be transferred or a responsible relative may be  
7 represented by such counsel or interested party as he may  
8 appoint, who may present such testimony with respect to the  
9 proposed transfer. Testimony presented at such hearing shall  
10 become a part of the facility record of the  
11 person-to-be-transferred. The record of testimony shall be  
12 held in the person-to-be-transferred's record in the central  
13 files of the facility. If such hearing is held a transfer may  
14 only be implemented, if at all, in accordance with the results  
15 of such hearing. Within 15 days after such hearing the facility  
16 director shall deliver his findings based on the record of the  
17 case and the testimony presented at the hearing, by registered  
18 or certified mail, to the parties to such hearing. The findings  
19 of the facility director shall be deemed a final administrative  
20 decision of the Department. For purposes of this Section, "case  
21 of emergency" means those instances in which the health of the  
22 person to be transferred is imperiled and the most appropriate  
23 mental health care or medical care is available at a licensed  
24 nursing home, sheltered care home or home for the aged or a  
25 specialized residential care facility.

26 Prior to placement of any person in a facility under this

1 Section the Department shall ensure that an appropriate  
2 training plan for staff is provided by the facility. Said  
3 training may include instruction and demonstration by  
4 Department personnel qualified in the area of mental illness or  
5 mental retardation, as applicable to the person to be placed.  
6 Training may be given both at the facility from which the  
7 recipient is transferred and at the facility receiving the  
8 recipient, and may be available on a continuing basis  
9 subsequent to placement. In a facility providing services to  
10 former Department recipients, training shall be available as  
11 necessary for facility staff. Such training will be on a  
12 continuing basis as the needs of the facility and recipients  
13 change and further training is required.

14 The Department shall not place any person in a facility  
15 which does not have appropriately trained staff in sufficient  
16 numbers to accommodate the recipient population already at the  
17 facility. As a condition of further or future placements of  
18 persons, the Department shall require the employment of  
19 additional trained staff members at the facility where said  
20 persons are to be placed. The Secretary, or his or her  
21 designate, shall establish written guidelines for placement of  
22 persons in facilities under this Act. The Department shall keep  
23 written records detailing which facilities have been  
24 determined to have staff who have been appropriately trained by  
25 the Department and all training which it has provided or  
26 required under this Section.

1 Bills for the support for a person boarded out shall be  
2 payable monthly out of the proper maintenance funds and shall  
3 be audited as any other accounts of the Department. If a person  
4 is placed in a facility or program outside the Department, the  
5 Department may pay the actual costs of residence, treatment or  
6 maintenance in such facility and may collect such actual costs  
7 or a portion thereof from the recipient or the estate of a  
8 person placed in accordance with this Section.

9 Other than those placed in a family home the Department  
10 shall cause all persons who are placed in a facility, as  
11 defined by the MR/DD Community Care Act or the Specialized  
12 Mental Health Rehabilitation Act, or in designated community  
13 living situations or programs, to be visited at least once  
14 during the first month following placement, and once every  
15 month thereafter for the first year following placement when  
16 indicated, but at least quarterly. After the first year, the  
17 Department shall determine at what point the appropriate  
18 licensing entity for the facility or designated community  
19 living situation or program will assume the responsibility of  
20 ensuring that appropriate services are being provided to the  
21 resident. Once that responsibility is assumed, the Department  
22 may discontinue such visits. If a long term care facility has  
23 periodic care plan conferences, the visitor may participate in  
24 those conferences, if such participation is approved by the  
25 resident or the resident's guardian. Visits shall be made by  
26 qualified and trained Department personnel, or their designee,

1 in the area of mental health or developmental disabilities  
2 applicable to the person visited, and shall be made on a more  
3 frequent basis when indicated. The Department may not use as  
4 designee any personnel connected with or responsible to the  
5 representatives of any facility in which persons who have been  
6 transferred under this Section are placed. In the course of  
7 such visit there shall be consideration of the following areas,  
8 but not limited thereto: effects of transfer on physical and  
9 mental health of the person, sufficiency of nursing care and  
10 medical coverage required by the person, sufficiency of staff  
11 personnel and ability to provide basic care for the person,  
12 social, recreational and programmatic activities available for  
13 the person, and other appropriate aspects of the person's  
14 environment.

15 A report containing the above observations shall be made to  
16 the Department, to the licensing agency, and to any other  
17 appropriate agency subsequent to each visitation. The report  
18 shall contain recommendations to improve the care and treatment  
19 of the resident, as necessary, which shall be reviewed by the  
20 facility's interdisciplinary team and the resident or the  
21 resident's legal guardian.

22 Upon the complaint of any person placed in accordance with  
23 this Section or any responsible citizen or upon discovery that  
24 such person has been abused, neglected, or improperly cared  
25 for, or that the placement does not provide the type of care  
26 required by the recipient's current condition, the Department

1 immediately shall investigate, and determine if the  
2 well-being, health, care, or safety of any person is affected  
3 by any of the above occurrences, and if any one of the above  
4 occurrences is verified, the Department shall remove such  
5 person at once to a facility of the Department or to another  
6 facility outside the Department, provided such person's needs  
7 can be met at said facility. The Department may also provide  
8 any person placed in accordance with this Section who is  
9 without available funds, and who is permitted to engage in  
10 employment outside the facility, such sums for the  
11 transportation, and other expenses as may be needed by him  
12 until he receives his wages for such employment.

13 The Department shall promulgate rules and regulations  
14 governing the purchase of care for persons who are wards of or  
15 who are receiving services from the Department. Such rules and  
16 regulations shall apply to all monies expended by any agency of  
17 the State of Illinois for services rendered by any person,  
18 corporate entity, agency, governmental agency or political  
19 subdivision whether public or private outside of the Department  
20 whether payment is made through a contractual, per-diem or  
21 other arrangement. No funds shall be paid to any person,  
22 corporation, agency, governmental entity or political  
23 subdivision without compliance with such rules and  
24 regulations.

25 The rules and regulations governing purchase of care shall  
26 describe categories and types of service deemed appropriate for

1 purchase by the Department.

2 Any provider of services under this Act may elect to  
3 receive payment for those services, and the Department is  
4 authorized to arrange for that payment, by means of direct  
5 deposit transmittals to the service provider's account  
6 maintained at a bank, savings and loan association, or other  
7 financial institution. The financial institution shall be  
8 approved by the Department, and the deposits shall be in  
9 accordance with rules and regulations adopted by the  
10 Department.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 Section 90-20. The Department of Public Health Powers and  
13 Duties Law of the Civil Administrative Code of Illinois is  
14 amended by changing Sections 2310-550, 2310-560, 2310-565, and  
15 2310-625 as follows:

16 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

17 Sec. 2310-550. Long-term care facilities. The Department  
18 may perform, in all long-term care facilities as defined in the  
19 Nursing Home Care Act, all facilities as defined in the  
20 Specialized Mental Health Rehabilitation Act, and all  
21 facilities as defined in the MR/DD Community Care Act, all  
22 inspection, evaluation, certification, and inspection of care  
23 duties that the federal government may require the State of  
24 Illinois to perform or have performed as a condition of

1 participation in any programs under Title XVIII or Title XIX of  
2 the federal Social Security Act.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

5 Sec. 2310-560. Advisory committees concerning construction  
6 of facilities.

7 (a) The Director shall appoint an advisory committee. The  
8 committee shall be established by the Department by rule. The  
9 Director and the Department shall consult with the advisory  
10 committee concerning the application of building codes and  
11 Department rules related to those building codes to facilities  
12 under the Ambulatory Surgical Treatment Center Act, the Nursing  
13 Home Care Act, the Specialized Mental Health Rehabilitation  
14 Act, and the MR/DD Community Care Act.

15 (b) The Director shall appoint an advisory committee to  
16 advise the Department and to conduct informal dispute  
17 resolution concerning the application of building codes for new  
18 and existing construction and related Department rules and  
19 standards under the Hospital Licensing Act, including without  
20 limitation rules and standards for (i) design and construction,  
21 (ii) engineering and maintenance of the physical plant, site,  
22 equipment, and systems (heating, cooling, electrical,  
23 ventilation, plumbing, water, sewer, and solid waste  
24 disposal), and (iii) fire and safety. The advisory committee  
25 shall be composed of all of the following members:

1           (1) The chairperson or an elected representative from  
2           the Hospital Licensing Board under the Hospital Licensing  
3           Act.

4           (2) Two health care architects with a minimum of 10  
5           years of experience in institutional design and building  
6           code analysis.

7           (3) Two engineering professionals (one mechanical and  
8           one electrical) with a minimum of 10 years of experience in  
9           institutional design and building code analysis.

10          (4) One commercial interior design professional with a  
11          minimum of 10 years of experience.

12          (5) Two representatives from provider associations.

13          (6) The Director or his or her designee, who shall  
14          serve as the committee moderator.

15          Appointments shall be made with the concurrence of the  
16          Hospital Licensing Board. The committee shall submit  
17          recommendations concerning the application of building codes  
18          and related Department rules and standards to the Hospital  
19          Licensing Board for review and comment prior to submission to  
20          the Department. The committee shall submit recommendations  
21          concerning informal dispute resolution to the Director. The  
22          Department shall provide per diem and travel expenses to the  
23          committee members.

24          (Source: P.A. 96-339, eff. 7-1-10.)

25                 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

1           Sec. 2310-565. Facility construction training program. The  
2 Department shall conduct, at least annually, a joint in-service  
3 training program for architects, engineers, interior  
4 designers, and other persons involved in the construction of a  
5 facility under the Ambulatory Surgical Treatment Center Act,  
6 the Nursing Home Care Act, the Specialized Mental Health  
7 Rehabilitation Act, the MR/DD Community Care Act, or the  
8 Hospital Licensing Act on problems and issues relating to the  
9 construction of facilities under any of those Acts.

10         (Source: P.A. 96-339, eff. 7-1-10.)

11           (20 ILCS 2310/2310-625)

12           Sec. 2310-625. Emergency Powers.

13           (a) Upon proclamation of a disaster by the Governor, as  
14 provided for in the Illinois Emergency Management Agency Act,  
15 the Director of Public Health shall have the following powers,  
16 which shall be exercised only in coordination with the Illinois  
17 Emergency Management Agency and the Department of Financial and  
18 Professional Regulation:

19                 (1) The power to suspend the requirements for temporary  
20 or permanent licensure or certification of persons who are  
21 licensed or certified in another state and are working  
22 under the direction of the Illinois Emergency Management  
23 Agency and the Illinois Department of Public Health  
24 pursuant to the declared disaster.

25                 (2) The power to modify the scope of practice

1 restrictions under the Emergency Medical Services (EMS)  
2 Systems Act for any persons who are licensed under that Act  
3 for any person working under the direction of the Illinois  
4 Emergency Management Agency and the Illinois Department of  
5 Public Health pursuant to the declared disaster.

6 (3) The power to modify the scope of practice  
7 restrictions under the Nursing Home Care Act, the  
8 Specialized Mental Health Rehabilitation Act, or the MR/DD  
9 Community Care Act for Certified Nursing Assistants for any  
10 person working under the direction of the Illinois  
11 Emergency Management Agency and the Illinois Department of  
12 Public Health pursuant to the declared disaster.

13 (b) Persons exempt from licensure or certification under  
14 paragraph (1) of subsection (a) and persons operating under  
15 modified scope of practice provisions under paragraph (2) of  
16 subsection (a) and paragraph (3) of subsection (a) shall be  
17 exempt from licensure or certification or subject to modified  
18 scope of practice only until the declared disaster has ended as  
19 provided by law. For purposes of this Section, persons working  
20 under the direction of an emergency services and disaster  
21 agency accredited by the Illinois Emergency Management Agency  
22 and a local public health department, pursuant to a declared  
23 disaster, shall be deemed to be working under the direction of  
24 the Illinois Emergency Management Agency and the Department of  
25 Public Health.

26 (c) The Director shall exercise these powers by way of

1 proclamation.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 Section 90-25. The Abuse of Adults with Disabilities  
4 Intervention Act is amended by changing Section 15 as follows:

5 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

6 Sec. 15. Definitions. As used in this Act:

7 "Abuse" means causing any physical, sexual, or mental  
8 injury to an adult with disabilities, including exploitation of  
9 the adult's financial resources. Nothing in this Act shall be  
10 construed to mean that an adult with disabilities is a victim  
11 of abuse or neglect for the sole reason that he or she is being  
12 furnished with or relies upon treatment by spiritual means  
13 through prayer alone, in accordance with the tenets and  
14 practices of a recognized church or religious denomination.  
15 Nothing in this Act shall be construed to mean that an adult  
16 with disabilities is a victim of abuse because of health care  
17 services provided or not provided by licensed health care  
18 professionals.

19 "Adult with disabilities" means a person aged 18 through 59  
20 who resides in a domestic living situation and whose physical  
21 or mental disability impairs his or her ability to seek or  
22 obtain protection from abuse, neglect, or exploitation.

23 "Department" means the Department of Human Services.

24 "Adults with Disabilities Abuse Project" or "project"

1 means that program within the Office of Inspector General  
2 designated by the Department of Human Services to receive and  
3 assess reports of alleged or suspected abuse, neglect, or  
4 exploitation of adults with disabilities.

5 "Domestic living situation" means a residence where the  
6 adult with disabilities lives alone or with his or her family  
7 or household members, a care giver, or others or at a board and  
8 care home or other community-based unlicensed facility, but is  
9 not:

10 (1) A licensed facility as defined in Section 1-113 of  
11 the Nursing Home Care Act or Section 1-113 of the MR/DD  
12 Community Care Act or Section 1-113 of the Specialized  
13 Mental Health Rehabilitation Act.

14 (2) A life care facility as defined in the Life Care  
15 Facilities Act.

16 (3) A home, institution, or other place operated by the  
17 federal government, a federal agency, or the State.

18 (4) A hospital, sanitarium, or other institution, the  
19 principal activity or business of which is the diagnosis,  
20 care, and treatment of human illness through the  
21 maintenance and operation of organized facilities and that  
22 is required to be licensed under the Hospital Licensing  
23 Act.

24 (5) A community living facility as defined in the  
25 Community Living Facilities Licensing Act.

26 (6) A community-integrated living arrangement as

1 defined in the Community-Integrated Living Arrangements  
2 Licensure and Certification Act or community residential  
3 alternative as licensed under that Act.

4 "Emergency" means a situation in which an adult with  
5 disabilities is in danger of death or great bodily harm.

6 "Exploitation" means the illegal, including tortious, use  
7 of the assets or resources of an adult with disabilities.  
8 Exploitation includes, but is not limited to, the  
9 misappropriation of assets or resources of an adult with  
10 disabilities by undue influence, by breach of a fiduciary  
11 relationship, by fraud, deception, or extortion, or by the use  
12 of the assets or resources in a manner contrary to law.

13 "Family or household members" means a person who as a  
14 family member, volunteer, or paid care provider has assumed  
15 responsibility for all or a portion of the care of an adult  
16 with disabilities who needs assistance with activities of daily  
17 living.

18 "Neglect" means the failure of another individual to  
19 provide an adult with disabilities with or the willful  
20 withholding from an adult with disabilities the necessities of  
21 life, including, but not limited to, food, clothing, shelter,  
22 or medical care.

23 Nothing in the definition of "neglect" shall be construed to  
24 impose a requirement that assistance be provided to an adult  
25 with disabilities over his or her objection in the absence of a  
26 court order, nor to create any new affirmative duty to provide

1 support, assistance, or intervention to an adult with  
2 disabilities. Nothing in this Act shall be construed to mean  
3 that an adult with disabilities is a victim of neglect because  
4 of health care services provided or not provided by licensed  
5 health care professionals.

6 "Physical abuse" includes sexual abuse and means any of the  
7 following:

8 (1) knowing or reckless use of physical force,  
9 confinement, or restraint;

10 (2) knowing, repeated, and unnecessary sleep  
11 deprivation; or

12 (3) knowing or reckless conduct which creates an  
13 immediate risk of physical harm.

14 "Secretary" means the Secretary of Human Services.

15 "Sexual abuse" means touching, fondling, sexual threats,  
16 sexually inappropriate remarks, or any other sexual activity  
17 with an adult with disabilities when the adult with  
18 disabilities is unable to understand, unwilling to consent,  
19 threatened, or physically forced to engage in sexual behavior.

20 "Substantiated case" means a reported case of alleged or  
21 suspected abuse, neglect, or exploitation in which the Adults  
22 with Disabilities Abuse Project staff, after assessment,  
23 determines that there is reason to believe abuse, neglect, or  
24 exploitation has occurred.

25 (Source: P.A. 96-339, eff. 7-1-10.)

1 Section 90-30. The Criminal Identification Act is amended  
2 by changing Section 7.5 as follows:

3 (20 ILCS 2630/7.5)

4 Sec. 7.5. Notification of outstanding warrant. If the  
5 existence of an outstanding arrest warrant is identified by the  
6 Department of State Police in connection with the criminal  
7 history background checks conducted pursuant to subsection (b)  
8 of Section 2-201.5 of the Nursing Home Care Act and Section  
9 2-201.5 of the MR/DD Community Care Act or subsection (d) of  
10 Section 6.09 of the Hospital Licensing Act, the Department  
11 shall notify the jurisdiction issuing the warrant of the  
12 following:

13 (1) Existence of the warrant.

14 (2) The name, address, and telephone number of the  
15 licensed long term care facility in which the wanted person  
16 resides.

17 Local issuing jurisdictions shall be aware that nursing  
18 facilities have residents who may be fragile or vulnerable or  
19 who may have a mental illness. When serving a warrant, law  
20 enforcement shall make every attempt to mitigate the adverse  
21 impact on other facility residents.

22 (Source: P.A. 96-1372, eff. 7-29-10.)

23 Section 90-35. The Illinois Finance Authority Act is  
24 amended by changing Section 801-10 as follows:

1 (20 ILCS 3501/801-10)

2 Sec. 801-10. Definitions. The following terms, whenever  
3 used or referred to in this Act, shall have the following  
4 meanings, except in such instances where the context may  
5 clearly indicate otherwise:

6 (a) The term "Authority" means the Illinois Finance  
7 Authority created by this Act.

8 (b) The term "project" means an industrial project,  
9 conservation project, housing project, public purpose project,  
10 higher education project, health facility project, cultural  
11 institution project, agricultural facility or agribusiness,  
12 and "project" may include any combination of one or more of the  
13 foregoing undertaken jointly by any person with one or more  
14 other persons.

15 (c) The term "public purpose project" means any project or  
16 facility including without limitation land, buildings,  
17 structures, machinery, equipment and all other real and  
18 personal property, which is authorized or required by law to be  
19 acquired, constructed, improved, rehabilitated, reconstructed,  
20 replaced or maintained by any unit of government or any other  
21 lawful public purpose which is authorized or required by law to  
22 be undertaken by any unit of government.

23 (d) The term "industrial project" means the acquisition,  
24 construction, refurbishment, creation, development or  
25 redevelopment of any facility, equipment, machinery, real

1 property or personal property for use by any instrumentality of  
2 the State or its political subdivisions, for use by any person  
3 or institution, public or private, for profit or not for  
4 profit, or for use in any trade or business including, but not  
5 limited to, any industrial, manufacturing or commercial  
6 enterprise and which is (1) a capital project including but not  
7 limited to: (i) land and any rights therein, one or more  
8 buildings, structures or other improvements, machinery and  
9 equipment, whether now existing or hereafter acquired, and  
10 whether or not located on the same site or sites; (ii) all  
11 appurtenances and facilities incidental to the foregoing,  
12 including, but not limited to utilities, access roads, railroad  
13 sidings, track, docking and similar facilities, parking  
14 facilities, dockage, wharfage, railroad roadbed, track,  
15 trestle, depot, terminal, switching and signaling or related  
16 equipment, site preparation and landscaping; and (iii) all  
17 non-capital costs and expenses relating thereto or (2) any  
18 addition to, renovation, rehabilitation or improvement of a  
19 capital project or (3) any activity or undertaking which the  
20 Authority determines will aid, assist or encourage economic  
21 growth, development or redevelopment within the State or any  
22 area thereof, will promote the expansion, retention or  
23 diversification of employment opportunities within the State  
24 or any area thereof or will aid in stabilizing or developing  
25 any industry or economic sector of the State economy. The term  
26 "industrial project" also means the production of motion

1 pictures.

2 (e) The term "bond" or "bonds" shall include bonds, notes  
3 (including bond, grant or revenue anticipation notes),  
4 certificates and/or other evidences of indebtedness  
5 representing an obligation to pay money, including refunding  
6 bonds.

7 (f) The terms "lease agreement" and "loan agreement" shall  
8 mean: (i) an agreement whereby a project acquired by the  
9 Authority by purchase, gift or lease is leased to any person,  
10 corporation or unit of local government which will use or cause  
11 the project to be used as a project as heretofore defined upon  
12 terms providing for lease rental payments at least sufficient  
13 to pay when due all principal of, interest and premium, if any,  
14 on any bonds of the Authority issued with respect to such  
15 project, providing for the maintenance, insuring and operation  
16 of the project on terms satisfactory to the Authority,  
17 providing for disposition of the project upon termination of  
18 the lease term, including purchase options or abandonment of  
19 the premises, and such other terms as may be deemed desirable  
20 by the Authority, or (ii) any agreement pursuant to which the  
21 Authority agrees to loan the proceeds of its bonds issued with  
22 respect to a project or other funds of the Authority to any  
23 person which will use or cause the project to be used as a  
24 project as heretofore defined upon terms providing for loan  
25 repayment installments at least sufficient to pay when due all  
26 principal of, interest and premium, if any, on any bonds of the

1 Authority, if any, issued with respect to the project, and  
2 providing for maintenance, insurance and other matters as may  
3 be deemed desirable by the Authority.

4 (g) The term "financial aid" means the expenditure of  
5 Authority funds or funds provided by the Authority through the  
6 issuance of its bonds, notes or other evidences of indebtedness  
7 or from other sources for the development, construction,  
8 acquisition or improvement of a project.

9 (h) The term "person" means an individual, corporation,  
10 unit of government, business trust, estate, trust, partnership  
11 or association, 2 or more persons having a joint or common  
12 interest, or any other legal entity.

13 (i) The term "unit of government" means the federal  
14 government, the State or unit of local government, a school  
15 district, or any agency or instrumentality, office, officer,  
16 department, division, bureau, commission, college or  
17 university thereof.

18 (j) The term "health facility" means: (a) any public or  
19 private institution, place, building, or agency required to be  
20 licensed under the Hospital Licensing Act; (b) any public or  
21 private institution, place, building, or agency required to be  
22 licensed under the Nursing Home Care Act, the Specialized  
23 Mental Health Rehabilitation Act, or the MR/DD Community Care  
24 Act; (c) any public or licensed private hospital as defined in  
25 the Mental Health and Developmental Disabilities Code; (d) any  
26 such facility exempted from such licensure when the Director of

1 Public Health attests that such exempted facility meets the  
2 statutory definition of a facility subject to licensure; (e)  
3 any other public or private health service institution, place,  
4 building, or agency which the Director of Public Health attests  
5 is subject to certification by the Secretary, U.S. Department  
6 of Health and Human Services under the Social Security Act, as  
7 now or hereafter amended, or which the Director of Public  
8 Health attests is subject to standard-setting by a recognized  
9 public or voluntary accrediting or standard-setting agency;  
10 (f) any public or private institution, place, building or  
11 agency engaged in providing one or more supporting services to  
12 a health facility; (g) any public or private institution,  
13 place, building or agency engaged in providing training in the  
14 healing arts, including but not limited to schools of medicine,  
15 dentistry, osteopathy, optometry, podiatry, pharmacy or  
16 nursing, schools for the training of x-ray, laboratory or other  
17 health care technicians and schools for the training of  
18 para-professionals in the health care field; (h) any public or  
19 private congregate, life or extended care or elderly housing  
20 facility or any public or private home for the aged or infirm,  
21 including, without limitation, any Facility as defined in the  
22 Life Care Facilities Act; (i) any public or private mental,  
23 emotional or physical rehabilitation facility or any public or  
24 private educational, counseling, or rehabilitation facility or  
25 home, for those persons with a developmental disability, those  
26 who are physically ill or disabled, the emotionally disturbed,

1 those persons with a mental illness or persons with learning or  
2 similar disabilities or problems; (j) any public or private  
3 alcohol, drug or substance abuse diagnosis, counseling  
4 treatment or rehabilitation facility, (k) any public or private  
5 institution, place, building or agency licensed by the  
6 Department of Children and Family Services or which is not so  
7 licensed but which the Director of Children and Family Services  
8 attests provides child care, child welfare or other services of  
9 the type provided by facilities subject to such licensure; (l)  
10 any public or private adoption agency or facility; and (m) any  
11 public or private blood bank or blood center. "Health facility"  
12 also means a public or private structure or structures suitable  
13 primarily for use as a laboratory, laundry, nurses or interns  
14 residence or other housing or hotel facility used in whole or  
15 in part for staff, employees or students and their families,  
16 patients or relatives of patients admitted for treatment or  
17 care in a health facility, or persons conducting business with  
18 a health facility, physician's facility, surgicenter,  
19 administration building, research facility, maintenance,  
20 storage or utility facility and all structures or facilities  
21 related to any of the foregoing or required or useful for the  
22 operation of a health facility, including parking or other  
23 facilities or other supporting service structures required or  
24 useful for the orderly conduct of such health facility. "Health  
25 facility" also means, with respect to a project located outside  
26 the State, any public or private institution, place, building,

1 or agency which provides services similar to those described  
2 above, provided that such project is owned, operated, leased or  
3 managed by a participating health institution located within  
4 the State, or a participating health institution affiliated  
5 with an entity located within the State.

6 (k) The term "participating health institution" means (i) a  
7 private corporation or association or (ii) a public entity of  
8 this State, in either case authorized by the laws of this State  
9 or the applicable state to provide or operate a health facility  
10 as defined in this Act and which, pursuant to the provisions of  
11 this Act, undertakes the financing, construction or  
12 acquisition of a project or undertakes the refunding or  
13 refinancing of obligations, loans, indebtedness or advances as  
14 provided in this Act.

15 (l) The term "health facility project", means a specific  
16 health facility work or improvement to be financed or  
17 refinanced (including without limitation through reimbursement  
18 of prior expenditures), acquired, constructed, enlarged,  
19 remodeled, renovated, improved, furnished, or equipped, with  
20 funds provided in whole or in part hereunder, any accounts  
21 receivable, working capital, liability or insurance cost or  
22 operating expense financing or refinancing program of a health  
23 facility with or involving funds provided in whole or in part  
24 hereunder, or any combination thereof.

25 (m) The term "bond resolution" means the resolution or  
26 resolutions authorizing the issuance of, or providing terms and

1 conditions related to, bonds issued under this Act and  
2 includes, where appropriate, any trust agreement, trust  
3 indenture, indenture of mortgage or deed of trust providing  
4 terms and conditions for such bonds.

5 (n) The term "property" means any real, personal or mixed  
6 property, whether tangible or intangible, or any interest  
7 therein, including, without limitation, any real estate,  
8 leasehold interests, appurtenances, buildings, easements,  
9 equipment, furnishings, furniture, improvements, machinery,  
10 rights of way, structures, accounts, contract rights or any  
11 interest therein.

12 (o) The term "revenues" means, with respect to any project,  
13 the rents, fees, charges, interest, principal repayments,  
14 collections and other income or profit derived therefrom.

15 (p) The term "higher education project" means, in the case  
16 of a private institution of higher education, an educational  
17 facility to be acquired, constructed, enlarged, remodeled,  
18 renovated, improved, furnished, or equipped, or any  
19 combination thereof.

20 (q) The term "cultural institution project" means, in the  
21 case of a cultural institution, a cultural facility to be  
22 acquired, constructed, enlarged, remodeled, renovated,  
23 improved, furnished, or equipped, or any combination thereof.

24 (r) The term "educational facility" means any property  
25 located within the State, or any property located outside the  
26 State, provided that, if the property is located outside the

1 State, it must be owned, operated, leased or managed by an  
2 entity located within the State or an entity affiliated with an  
3 entity located within the State, in each case constructed or  
4 acquired before or after the effective date of this Act, which  
5 is or will be, in whole or in part, suitable for the  
6 instruction, feeding, recreation or housing of students, the  
7 conducting of research or other work of a private institution  
8 of higher education, the use by a private institution of higher  
9 education in connection with any educational, research or  
10 related or incidental activities then being or to be conducted  
11 by it, or any combination of the foregoing, including, without  
12 limitation, any such property suitable for use as or in  
13 connection with any one or more of the following: an academic  
14 facility, administrative facility, agricultural facility,  
15 assembly hall, athletic facility, auditorium, boating  
16 facility, campus, communication facility, computer facility,  
17 continuing education facility, classroom, dining hall,  
18 dormitory, exhibition hall, fire fighting facility, fire  
19 prevention facility, food service and preparation facility,  
20 gymnasium, greenhouse, health care facility, hospital,  
21 housing, instructional facility, laboratory, library,  
22 maintenance facility, medical facility, museum, offices,  
23 parking area, physical education facility, recreational  
24 facility, research facility, stadium, storage facility,  
25 student union, study facility, theatre or utility.

26 (s) The term "cultural facility" means any property located

1 within the State, or any property located outside the State,  
2 provided that, if the property is located outside the State, it  
3 must be owned, operated, leased or managed by an entity located  
4 within the State or an entity affiliated with an entity located  
5 within the State, in each case constructed or acquired before  
6 or after the effective date of this Act, which is or will be,  
7 in whole or in part, suitable for the particular purposes or  
8 needs of a cultural institution, including, without  
9 limitation, any such property suitable for use as or in  
10 connection with any one or more of the following: an  
11 administrative facility, aquarium, assembly hall, auditorium,  
12 botanical garden, exhibition hall, gallery, greenhouse,  
13 library, museum, scientific laboratory, theater or zoological  
14 facility, and shall also include, without limitation, books,  
15 works of art or music, animal, plant or aquatic life or other  
16 items for display, exhibition or performance. The term  
17 "cultural facility" includes buildings on the National  
18 Register of Historic Places which are owned or operated by  
19 nonprofit entities.

20 (t) "Private institution of higher education" means a  
21 not-for-profit educational institution which is not owned by  
22 the State or any political subdivision, agency,  
23 instrumentality, district or municipality thereof, which is  
24 authorized by law to provide a program of education beyond the  
25 high school level and which:

26 (1) Admits as regular students only individuals having

1 a certificate of graduation from a high school, or the  
2 recognized equivalent of such a certificate;

3 (2) Provides an educational program for which it awards  
4 a bachelor's degree, or provides an educational program,  
5 admission into which is conditioned upon the prior  
6 attainment of a bachelor's degree or its equivalent, for  
7 which it awards a postgraduate degree, or provides not less  
8 than a 2-year program which is acceptable for full credit  
9 toward such a degree, or offers a 2-year program in  
10 engineering, mathematics, or the physical or biological  
11 sciences which is designed to prepare the student to work  
12 as a technician and at a semiprofessional level in  
13 engineering, scientific, or other technological fields  
14 which require the understanding and application of basic  
15 engineering, scientific, or mathematical principles or  
16 knowledge;

17 (3) Is accredited by a nationally recognized  
18 accrediting agency or association or, if not so accredited,  
19 is an institution whose credits are accepted, on transfer,  
20 by not less than 3 institutions which are so accredited,  
21 for credit on the same basis as if transferred from an  
22 institution so accredited, and holds an unrevoked  
23 certificate of approval under the Private College Act from  
24 the Board of Higher Education, or is qualified as a "degree  
25 granting institution" under the Academic Degree Act; and

26 (4) Does not discriminate in the admission of students

1 on the basis of race or color. "Private institution of  
2 higher education" also includes any "academic  
3 institution".

4 (u) The term "academic institution" means any  
5 not-for-profit institution which is not owned by the State or  
6 any political subdivision, agency, instrumentality, district  
7 or municipality thereof, which institution engages in, or  
8 facilitates academic, scientific, educational or professional  
9 research or learning in a field or fields of study taught at a  
10 private institution of higher education. Academic institutions  
11 include, without limitation, libraries, archives, academic,  
12 scientific, educational or professional societies,  
13 institutions, associations or foundations having such  
14 purposes.

15 (v) The term "cultural institution" means any  
16 not-for-profit institution which is not owned by the State or  
17 any political subdivision, agency, instrumentality, district  
18 or municipality thereof, which institution engages in the  
19 cultural, intellectual, scientific, educational or artistic  
20 enrichment of the people of the State. Cultural institutions  
21 include, without limitation, aquaria, botanical societies,  
22 historical societies, libraries, museums, performing arts  
23 associations or societies, scientific societies and zoological  
24 societies.

25 (w) The term "affiliate" means, with respect to financing  
26 of an agricultural facility or an agribusiness, any lender, any

1 person, firm or corporation controlled by, or under common  
2 control with, such lender, and any person, firm or corporation  
3 controlling such lender.

4 (x) The term "agricultural facility" means land, any  
5 building or other improvement thereon or thereto, and any  
6 personal properties deemed necessary or suitable for use,  
7 whether or not now in existence, in farming, ranching, the  
8 production of agricultural commodities (including, without  
9 limitation, the products of aquaculture, hydroponics and  
10 silviculture) or the treating, processing or storing of such  
11 agricultural commodities when such activities are customarily  
12 engaged in by farmers as a part of farming.

13 (y) The term "lender" with respect to financing of an  
14 agricultural facility or an agribusiness, means any federal or  
15 State chartered bank, Federal Land Bank, Production Credit  
16 Association, Bank for Cooperatives, federal or State chartered  
17 savings and loan association or building and loan association,  
18 Small Business Investment Company or any other institution  
19 qualified within this State to originate and service loans,  
20 including, but without limitation to, insurance companies,  
21 credit unions and mortgage loan companies. "Lender" also means  
22 a wholly owned subsidiary of a manufacturer, seller or  
23 distributor of goods or services that makes loans to businesses  
24 or individuals, commonly known as a "captive finance company".

25 (z) The term "agribusiness" means any sole proprietorship,  
26 limited partnership, co-partnership, joint venture,

1 corporation or cooperative which operates or will operate a  
2 facility located within the State of Illinois that is related  
3 to the processing of agricultural commodities (including,  
4 without limitation, the products of aquaculture, hydroponics  
5 and silviculture) or the manufacturing, production or  
6 construction of agricultural buildings, structures, equipment,  
7 implements, and supplies, or any other facilities or processes  
8 used in agricultural production. Agribusiness includes but is  
9 not limited to the following:

10 (1) grain handling and processing, including grain  
11 storage, drying, treatment, conditioning, mailing and  
12 packaging;

13 (2) seed and feed grain development and processing;

14 (3) fruit and vegetable processing, including  
15 preparation, canning and packaging;

16 (4) processing of livestock and livestock products,  
17 dairy products, poultry and poultry products, fish or  
18 apiarian products, including slaughter, shearing,  
19 collecting, preparation, canning and packaging;

20 (5) fertilizer and agricultural chemical  
21 manufacturing, processing, application and supplying;

22 (6) farm machinery, equipment and implement  
23 manufacturing and supplying;

24 (7) manufacturing and supplying of agricultural  
25 commodity processing machinery and equipment, including  
26 machinery and equipment used in slaughter, treatment,

1 handling, collecting, preparation, canning or packaging of  
2 agricultural commodities;

3 (8) farm building and farm structure manufacturing,  
4 construction and supplying;

5 (9) construction, manufacturing, implementation,  
6 supplying or servicing of irrigation, drainage and soil and  
7 water conservation devices or equipment;

8 (10) fuel processing and development facilities that  
9 produce fuel from agricultural commodities or byproducts;

10 (11) facilities and equipment for processing and  
11 packaging agricultural commodities specifically for  
12 export;

13 (12) facilities and equipment for forestry product  
14 processing and supplying, including sawmilling operations,  
15 wood chip operations, timber harvesting operations, and  
16 manufacturing of prefabricated buildings, paper, furniture  
17 or other goods from forestry products;

18 (13) facilities and equipment for research and  
19 development of products, processes and equipment for the  
20 production, processing, preparation or packaging of  
21 agricultural commodities and byproducts.

22 (aa) The term "asset" with respect to financing of any  
23 agricultural facility or any agribusiness, means, but is not  
24 limited to the following: cash crops or feed on hand; livestock  
25 held for sale; breeding stock; marketable bonds and securities;  
26 securities not readily marketable; accounts receivable; notes

1 receivable; cash invested in growing crops; net cash value of  
2 life insurance; machinery and equipment; cars and trucks; farm  
3 and other real estate including life estates and personal  
4 residence; value of beneficial interests in trusts; government  
5 payments or grants; and any other assets.

6 (bb) The term "liability" with respect to financing of any  
7 agricultural facility or any agribusiness shall include, but  
8 not be limited to the following: accounts payable; notes or  
9 other indebtedness owed to any source; taxes; rent; amounts  
10 owed on real estate contracts or real estate mortgages;  
11 judgments; accrued interest payable; and any other liability.

12 (cc) The term "Predecessor Authorities" means those  
13 authorities as described in Section 845-75.

14 (dd) The term "housing project" means a specific work or  
15 improvement undertaken to provide residential dwelling  
16 accommodations, including the acquisition, construction or  
17 rehabilitation of lands, buildings and community facilities  
18 and in connection therewith to provide nonhousing facilities  
19 which are part of the housing project, including land,  
20 buildings, improvements, equipment and all ancillary  
21 facilities for use for offices, stores, retirement homes,  
22 hotels, financial institutions, service, health care,  
23 education, recreation or research establishments, or any other  
24 commercial purpose which are or are to be related to a housing  
25 development.

26 (ee) The term "conservation project" means any project

1 including the acquisition, construction, rehabilitation,  
2 maintenance, operation, or upgrade that is intended to create  
3 or expand open space or to reduce energy usage through  
4 efficiency measures. For the purpose of this definition, "open  
5 space" has the definition set forth under Section 10 of the  
6 Illinois Open Land Trust Act.

7 (ff) The term "significant presence" means the existence  
8 within the State of the national or regional headquarters of an  
9 entity or group or such other facility of an entity or group of  
10 entities where a significant amount of the business functions  
11 are performed for such entity or group of entities.

12 (Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10;  
13 96-1021, eff. 7-12-10.)

14 Section 90-40. The Illinois Health Facilities Planning Act  
15 is amended by changing Sections 3, 12, 13, and 14.1 as follows:

16 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

17 (Section scheduled to be repealed on December 31, 2019)

18 Sec. 3. Definitions. As used in this Act:

19 "Health care facilities" means and includes the following  
20 facilities and organizations:

21 1. An ambulatory surgical treatment center required to  
22 be licensed pursuant to the Ambulatory Surgical Treatment  
23 Center Act;

24 2. An institution, place, building, or agency required

1 to be licensed pursuant to the Hospital Licensing Act;

2 3. Skilled and intermediate long term care facilities  
3 licensed under the Nursing Home Care Act;

4 3.5. Skilled and intermediate care facilities licensed  
5 under the MR/DD Community Care Act;

6 3.7. Facilities licensed under the Specialized Mental  
7 Health Rehabilitation Act;

8 4. Hospitals, nursing homes, ambulatory surgical  
9 treatment centers, or kidney disease treatment centers  
10 maintained by the State or any department or agency  
11 thereof;

12 5. Kidney disease treatment centers, including a  
13 free-standing hemodialysis unit required to be licensed  
14 under the End Stage Renal Disease Facility Act;

15 6. An institution, place, building, or room used for  
16 the performance of outpatient surgical procedures that is  
17 leased, owned, or operated by or on behalf of an  
18 out-of-state facility;

19 7. An institution, place, building, or room used for  
20 provision of a health care category of service as defined  
21 by the Board, including, but not limited to, cardiac  
22 catheterization and open heart surgery; and

23 8. An institution, place, building, or room used for  
24 provision of major medical equipment used in the direct  
25 clinical diagnosis or treatment of patients, and whose  
26 project cost is in excess of the capital expenditure

1 minimum.

2 This Act shall not apply to the construction of any new  
3 facility or the renovation of any existing facility located on  
4 any campus facility as defined in Section 5-5.8b of the  
5 Illinois Public Aid Code, provided that the campus facility  
6 encompasses 30 or more contiguous acres and that the new or  
7 renovated facility is intended for use by a licensed  
8 residential facility.

9 No federally owned facility shall be subject to the  
10 provisions of this Act, nor facilities used solely for healing  
11 by prayer or spiritual means.

12 No facility licensed under the Supportive Residences  
13 Licensing Act or the Assisted Living and Shared Housing Act  
14 shall be subject to the provisions of this Act.

15 No facility established and operating under the  
16 Alternative Health Care Delivery Act as a children's respite  
17 care center alternative health care model demonstration  
18 program or as an Alzheimer's Disease Management Center  
19 alternative health care model demonstration program shall be  
20 subject to the provisions of this Act.

21 A facility designated as a supportive living facility that  
22 is in good standing with the program established under Section  
23 5-5.01a of the Illinois Public Aid Code shall not be subject to  
24 the provisions of this Act.

25 This Act does not apply to facilities granted waivers under  
26 Section 3-102.2 of the Nursing Home Care Act. However, if a

1 demonstration project under that Act applies for a certificate  
2 of need to convert to a nursing facility, it shall meet the  
3 licensure and certificate of need requirements in effect as of  
4 the date of application.

5 This Act does not apply to a dialysis facility that  
6 provides only dialysis training, support, and related services  
7 to individuals with end stage renal disease who have elected to  
8 receive home dialysis. This Act does not apply to a dialysis  
9 unit located in a licensed nursing home that offers or provides  
10 dialysis-related services to residents with end stage renal  
11 disease who have elected to receive home dialysis within the  
12 nursing home. The Board, however, may require these dialysis  
13 facilities and licensed nursing homes to report statistical  
14 information on a quarterly basis to the Board to be used by the  
15 Board to conduct analyses on the need for proposed kidney  
16 disease treatment centers.

17 This Act shall not apply to the closure of an entity or a  
18 portion of an entity licensed under the Nursing Home Care Act,  
19 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
20 Community Care Act, with the exceptions of facilities operated  
21 by a county or Illinois Veterans Homes, that elects to convert,  
22 in whole or in part, to an assisted living or shared housing  
23 establishment licensed under the Assisted Living and Shared  
24 Housing Act.

25 This Act does not apply to any change of ownership of a  
26 healthcare facility that is licensed under the Nursing Home

1 Care Act, the Specialized Mental Health Rehabilitation Act, or  
2 the MR/DD Community Care Act, with the exceptions of facilities  
3 operated by a county or Illinois Veterans Homes. Changes of  
4 ownership of facilities licensed under the Nursing Home Care  
5 Act must meet the requirements set forth in Sections 3-101  
6 through 3-119 of the Nursing Home Care Act.

7 With the exception of those health care facilities  
8 specifically included in this Section, nothing in this Act  
9 shall be intended to include facilities operated as a part of  
10 the practice of a physician or other licensed health care  
11 professional, whether practicing in his individual capacity or  
12 within the legal structure of any partnership, medical or  
13 professional corporation, or unincorporated medical or  
14 professional group. Further, this Act shall not apply to  
15 physicians or other licensed health care professional's  
16 practices where such practices are carried out in a portion of  
17 a health care facility under contract with such health care  
18 facility by a physician or by other licensed health care  
19 professionals, whether practicing in his individual capacity  
20 or within the legal structure of any partnership, medical or  
21 professional corporation, or unincorporated medical or  
22 professional groups. This Act shall apply to construction or  
23 modification and to establishment by such health care facility  
24 of such contracted portion which is subject to facility  
25 licensing requirements, irrespective of the party responsible  
26 for such action or attendant financial obligation.

1 "Person" means any one or more natural persons, legal  
2 entities, governmental bodies other than federal, or any  
3 combination thereof.

4 "Consumer" means any person other than a person (a) whose  
5 major occupation currently involves or whose official capacity  
6 within the last 12 months has involved the providing,  
7 administering or financing of any type of health care facility,  
8 (b) who is engaged in health research or the teaching of  
9 health, (c) who has a material financial interest in any  
10 activity which involves the providing, administering or  
11 financing of any type of health care facility, or (d) who is or  
12 ever has been a member of the immediate family of the person  
13 defined by (a), (b), or (c).

14 "State Board" or "Board" means the Health Facilities and  
15 Services Review Board.

16 "Construction or modification" means the establishment,  
17 erection, building, alteration, reconstruction, modernization,  
18 improvement, extension, discontinuation, change of ownership,  
19 of or by a health care facility, or the purchase or acquisition  
20 by or through a health care facility of equipment or service  
21 for diagnostic or therapeutic purposes or for facility  
22 administration or operation, or any capital expenditure made by  
23 or on behalf of a health care facility which exceeds the  
24 capital expenditure minimum; however, any capital expenditure  
25 made by or on behalf of a health care facility for (i) the  
26 construction or modification of a facility licensed under the

1 Assisted Living and Shared Housing Act or (ii) a conversion  
2 project undertaken in accordance with Section 30 of the Older  
3 Adult Services Act shall be excluded from any obligations under  
4 this Act.

5 "Establish" means the construction of a health care  
6 facility or the replacement of an existing facility on another  
7 site or the initiation of a category of service as defined by  
8 the Board.

9 "Major medical equipment" means medical equipment which is  
10 used for the provision of medical and other health services and  
11 which costs in excess of the capital expenditure minimum,  
12 except that such term does not include medical equipment  
13 acquired by or on behalf of a clinical laboratory to provide  
14 clinical laboratory services if the clinical laboratory is  
15 independent of a physician's office and a hospital and it has  
16 been determined under Title XVIII of the Social Security Act to  
17 meet the requirements of paragraphs (10) and (11) of Section  
18 1861(s) of such Act. In determining whether medical equipment  
19 has a value in excess of the capital expenditure minimum, the  
20 value of studies, surveys, designs, plans, working drawings,  
21 specifications, and other activities essential to the  
22 acquisition of such equipment shall be included.

23 "Capital Expenditure" means an expenditure: (A) made by or  
24 on behalf of a health care facility (as such a facility is  
25 defined in this Act); and (B) which under generally accepted  
26 accounting principles is not properly chargeable as an expense

1 of operation and maintenance, or is made to obtain by lease or  
2 comparable arrangement any facility or part thereof or any  
3 equipment for a facility or part; and which exceeds the capital  
4 expenditure minimum.

5 For the purpose of this paragraph, the cost of any studies,  
6 surveys, designs, plans, working drawings, specifications, and  
7 other activities essential to the acquisition, improvement,  
8 expansion, or replacement of any plant or equipment with  
9 respect to which an expenditure is made shall be included in  
10 determining if such expenditure exceeds the capital  
11 expenditures minimum. Unless otherwise interdependent, or  
12 submitted as one project by the applicant, components of  
13 construction or modification undertaken by means of a single  
14 construction contract or financed through the issuance of a  
15 single debt instrument shall not be grouped together as one  
16 project. Donations of equipment or facilities to a health care  
17 facility which if acquired directly by such facility would be  
18 subject to review under this Act shall be considered capital  
19 expenditures, and a transfer of equipment or facilities for  
20 less than fair market value shall be considered a capital  
21 expenditure for purposes of this Act if a transfer of the  
22 equipment or facilities at fair market value would be subject  
23 to review.

24 "Capital expenditure minimum" means \$11,500,000 for  
25 projects by hospital applicants, \$6,500,000 for applicants for  
26 projects related to skilled and intermediate care long-term

1 care facilities licensed under the Nursing Home Care Act, and  
2 \$3,000,000 for projects by all other applicants, which shall be  
3 annually adjusted to reflect the increase in construction costs  
4 due to inflation, for major medical equipment and for all other  
5 capital expenditures.

6 "Non-clinical service area" means an area (i) for the  
7 benefit of the patients, visitors, staff, or employees of a  
8 health care facility and (ii) not directly related to the  
9 diagnosis, treatment, or rehabilitation of persons receiving  
10 services from the health care facility. "Non-clinical service  
11 areas" include, but are not limited to, chapels; gift shops;  
12 news stands; computer systems; tunnels, walkways, and  
13 elevators; telephone systems; projects to comply with life  
14 safety codes; educational facilities; student housing;  
15 patient, employee, staff, and visitor dining areas;  
16 administration and volunteer offices; modernization of  
17 structural components (such as roof replacement and masonry  
18 work); boiler repair or replacement; vehicle maintenance and  
19 storage facilities; parking facilities; mechanical systems for  
20 heating, ventilation, and air conditioning; loading docks; and  
21 repair or replacement of carpeting, tile, wall coverings,  
22 window coverings or treatments, or furniture. Solely for the  
23 purpose of this definition, "non-clinical service area" does  
24 not include health and fitness centers.

25 "Areawide" means a major area of the State delineated on a  
26 geographic, demographic, and functional basis for health

1 planning and for health service and having within it one or  
2 more local areas for health planning and health service. The  
3 term "region", as contrasted with the term "subregion", and the  
4 word "area" may be used synonymously with the term "areawide".

5 "Local" means a subarea of a delineated major area that on  
6 a geographic, demographic, and functional basis may be  
7 considered to be part of such major area. The term "subregion"  
8 may be used synonymously with the term "local".

9 "Physician" means a person licensed to practice in  
10 accordance with the Medical Practice Act of 1987, as amended.

11 "Licensed health care professional" means a person  
12 licensed to practice a health profession under pertinent  
13 licensing statutes of the State of Illinois.

14 "Director" means the Director of the Illinois Department of  
15 Public Health.

16 "Agency" means the Illinois Department of Public Health.

17 "Alternative health care model" means a facility or program  
18 authorized under the Alternative Health Care Delivery Act.

19 "Out-of-state facility" means a person that is both (i)  
20 licensed as a hospital or as an ambulatory surgery center under  
21 the laws of another state or that qualifies as a hospital or an  
22 ambulatory surgery center under regulations adopted pursuant  
23 to the Social Security Act and (ii) not licensed under the  
24 Ambulatory Surgical Treatment Center Act, the Hospital  
25 Licensing Act, or the Nursing Home Care Act. Affiliates of  
26 out-of-state facilities shall be considered out-of-state

1 facilities. Affiliates of Illinois licensed health care  
2 facilities 100% owned by an Illinois licensed health care  
3 facility, its parent, or Illinois physicians licensed to  
4 practice medicine in all its branches shall not be considered  
5 out-of-state facilities. Nothing in this definition shall be  
6 construed to include an office or any part of an office of a  
7 physician licensed to practice medicine in all its branches in  
8 Illinois that is not required to be licensed under the  
9 Ambulatory Surgical Treatment Center Act.

10 "Change of ownership of a health care facility" means a  
11 change in the person who has ownership or control of a health  
12 care facility's physical plant and capital assets. A change in  
13 ownership is indicated by the following transactions: sale,  
14 transfer, acquisition, lease, change of sponsorship, or other  
15 means of transferring control.

16 "Related person" means any person that: (i) is at least 50%  
17 owned, directly or indirectly, by either the health care  
18 facility or a person owning, directly or indirectly, at least  
19 50% of the health care facility; or (ii) owns, directly or  
20 indirectly, at least 50% of the health care facility.

21 "Charity care" means care provided by a health care  
22 facility for which the provider does not expect to receive  
23 payment from the patient or a third-party payer.

24 "Freestanding emergency center" means a facility subject  
25 to licensure under Section 32.5 of the Emergency Medical  
26 Services (EMS) Systems Act.

1 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;  
2 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.  
3 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,  
4 eff. 7-2-10.)

5 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

6 (Section scheduled to be repealed on December 31, 2019)

7 Sec. 12. Powers and duties of State Board. For purposes of  
8 this Act, the State Board shall exercise the following powers  
9 and duties:

10 (1) Prescribe rules, regulations, standards, criteria,  
11 procedures or reviews which may vary according to the purpose  
12 for which a particular review is being conducted or the type of  
13 project reviewed and which are required to carry out the  
14 provisions and purposes of this Act. Policies and procedures of  
15 the State Board shall take into consideration the priorities  
16 and needs of medically underserved areas and other health care  
17 services identified through the comprehensive health planning  
18 process, giving special consideration to the impact of projects  
19 on access to safety net services.

20 (2) Adopt procedures for public notice and hearing on all  
21 proposed rules, regulations, standards, criteria, and plans  
22 required to carry out the provisions of this Act.

23 (3) (Blank).

24 (4) Develop criteria and standards for health care  
25 facilities planning, conduct statewide inventories of health

1 care facilities, maintain an updated inventory on the Board's  
2 web site reflecting the most recent bed and service changes and  
3 updated need determinations when new census data become  
4 available or new need formulae are adopted, and develop health  
5 care facility plans which shall be utilized in the review of  
6 applications for permit under this Act. Such health facility  
7 plans shall be coordinated by the Board with pertinent State  
8 Plans. Inventories pursuant to this Section of skilled or  
9 intermediate care facilities licensed under the Nursing Home  
10 Care Act, skilled or intermediate care facilities licensed  
11 under the MR/DD Community Care Act, facilities licensed under  
12 the Specialized Mental Health Rehabilitation Act, or nursing  
13 homes licensed under the Hospital Licensing Act shall be  
14 conducted on an annual basis no later than July 1 of each year  
15 and shall include among the information requested a list of all  
16 services provided by a facility to its residents and to the  
17 community at large and differentiate between active and  
18 inactive beds.

19 In developing health care facility plans, the State Board  
20 shall consider, but shall not be limited to, the following:

21 (a) The size, composition and growth of the population  
22 of the area to be served;

23 (b) The number of existing and planned facilities  
24 offering similar programs;

25 (c) The extent of utilization of existing facilities;

26 (d) The availability of facilities which may serve as

1 alternatives or substitutes;

2 (e) The availability of personnel necessary to the  
3 operation of the facility;

4 (f) Multi-institutional planning and the establishment  
5 of multi-institutional systems where feasible;

6 (g) The financial and economic feasibility of proposed  
7 construction or modification; and

8 (h) In the case of health care facilities established  
9 by a religious body or denomination, the needs of the  
10 members of such religious body or denomination may be  
11 considered to be public need.

12 The health care facility plans which are developed and  
13 adopted in accordance with this Section shall form the basis  
14 for the plan of the State to deal most effectively with  
15 statewide health needs in regard to health care facilities.

16 (5) Coordinate with the Center for Comprehensive Health  
17 Planning and other state agencies having responsibilities  
18 affecting health care facilities, including those of licensure  
19 and cost reporting.

20 (6) Solicit, accept, hold and administer on behalf of the  
21 State any grants or bequests of money, securities or property  
22 for use by the State Board or Center for Comprehensive Health  
23 Planning in the administration of this Act; and enter into  
24 contracts consistent with the appropriations for purposes  
25 enumerated in this Act.

26 (7) The State Board shall prescribe procedures for review,

1 standards, and criteria which shall be utilized to make  
2 periodic reviews and determinations of the appropriateness of  
3 any existing health services being rendered by health care  
4 facilities subject to the Act. The State Board shall consider  
5 recommendations of the Board in making its determinations.

6 (8) Prescribe, in consultation with the Center for  
7 Comprehensive Health Planning, rules, regulations, standards,  
8 and criteria for the conduct of an expeditious review of  
9 applications for permits for projects of construction or  
10 modification of a health care facility, which projects are  
11 classified as emergency, substantive, or non-substantive in  
12 nature.

13 Six months after June 30, 2009 (the effective date of  
14 Public Act 96-31), substantive projects shall include no more  
15 than the following:

16 (a) Projects to construct (1) a new or replacement  
17 facility located on a new site or (2) a replacement  
18 facility located on the same site as the original facility  
19 and the cost of the replacement facility exceeds the  
20 capital expenditure minimum;

21 (b) Projects proposing a (1) new service or (2)  
22 discontinuation of a service, which shall be reviewed by  
23 the Board within 60 days; or

24 (c) Projects proposing a change in the bed capacity of  
25 a health care facility by an increase in the total number  
26 of beds or by a redistribution of beds among various

1 categories of service or by a relocation of beds from one  
2 physical facility or site to another by more than 20 beds  
3 or more than 10% of total bed capacity, as defined by the  
4 State Board, whichever is less, over a 2-year period.

5 The Chairman may approve applications for exemption that  
6 meet the criteria set forth in rules or refer them to the full  
7 Board. The Chairman may approve any unopposed application that  
8 meets all of the review criteria or refer them to the full  
9 Board.

10 Such rules shall not abridge the right of the Center for  
11 Comprehensive Health Planning to make recommendations on the  
12 classification and approval of projects, nor shall such rules  
13 prevent the conduct of a public hearing upon the timely request  
14 of an interested party. Such reviews shall not exceed 60 days  
15 from the date the application is declared to be complete.

16 (9) Prescribe rules, regulations, standards, and criteria  
17 pertaining to the granting of permits for construction and  
18 modifications which are emergent in nature and must be  
19 undertaken immediately to prevent or correct structural  
20 deficiencies or hazardous conditions that may harm or injure  
21 persons using the facility, as defined in the rules and  
22 regulations of the State Board. This procedure is exempt from  
23 public hearing requirements of this Act.

24 (10) Prescribe rules, regulations, standards and criteria  
25 for the conduct of an expeditious review, not exceeding 60  
26 days, of applications for permits for projects to construct or

1 modify health care facilities which are needed for the care and  
2 treatment of persons who have acquired immunodeficiency  
3 syndrome (AIDS) or related conditions.

4 (11) Issue written decisions upon request of the applicant  
5 or an adversely affected party to the Board within 30 days of  
6 the meeting in which a final decision has been made. A "final  
7 decision" for purposes of this Act is the decision to approve  
8 or deny an application, or take other actions permitted under  
9 this Act, at the time and date of the meeting that such action  
10 is scheduled by the Board. The staff of the State Board shall  
11 prepare a written copy of the final decision and the State  
12 Board shall approve a final copy for inclusion in the formal  
13 record.

14 (12) Require at least one of its members to participate in  
15 any public hearing, after the appointment of the 9 members to  
16 the Board.

17 (13) Provide a mechanism for the public to comment on, and  
18 request changes to, draft rules and standards.

19 (14) Implement public information campaigns to regularly  
20 inform the general public about the opportunity for public  
21 hearings and public hearing procedures.

22 (15) Establish a separate set of rules and guidelines for  
23 long-term care that recognizes that nursing homes are a  
24 different business line and service model from other regulated  
25 facilities. An open and transparent process shall be developed  
26 that considers the following: how skilled nursing fits in the

1 continuum of care with other care providers, modernization of  
2 nursing homes, establishment of more private rooms,  
3 development of alternative services, and current trends in  
4 long-term care services. The Chairman of the Board shall  
5 appoint a permanent Health Services Review Board Long-term Care  
6 Facility Advisory Subcommittee that shall develop and  
7 recommend to the Board the rules to be established by the Board  
8 under this paragraph (15). The Subcommittee shall also provide  
9 continuous review and commentary on policies and procedures  
10 relative to long-term care and the review of related projects.  
11 In consultation with other experts from the health field of  
12 long-term care, the Board and the Subcommittee shall study new  
13 approaches to the current bed need formula and Health Service  
14 Area boundaries to encourage flexibility and innovation in  
15 design models reflective of the changing long-term care  
16 marketplace and consumer preferences. The Board shall file the  
17 proposed related administrative rules for the separate rules  
18 and guidelines for long-term care required by this paragraph  
19 (15) by September 1, 2010. The Subcommittee shall be provided a  
20 reasonable and timely opportunity to review and comment on any  
21 review, revision, or updating of the criteria, standards,  
22 procedures, and rules used to evaluate project applications as  
23 provided under Section 12.3 of this Act prior to approval by  
24 the Board and promulgation of related rules.

25 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
26 96-1000, eff. 7-2-10.)

1 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

2 (Section scheduled to be repealed on December 31, 2019)

3 Sec. 13. Investigation of applications for permits and  
4 certificates of recognition. The Agency or the State Board  
5 shall make or cause to be made such investigations as it or the  
6 State Board deems necessary in connection with an application  
7 for a permit or an application for a certificate of  
8 recognition, or in connection with a determination of whether  
9 or not construction or modification which has been commenced is  
10 in accord with the permit issued by the State Board or whether  
11 construction or modification has been commenced without a  
12 permit having been obtained. The State Board may issue  
13 subpoenas duces tecum requiring the production of records and  
14 may administer oaths to such witnesses.

15 Any circuit court of this State, upon the application of  
16 the State Board or upon the application of any party to such  
17 proceedings, may, in its discretion, compel the attendance of  
18 witnesses, the production of books, papers, records, or  
19 memoranda and the giving of testimony before the State Board,  
20 by a proceeding as for contempt, or otherwise, in the same  
21 manner as production of evidence may be compelled before the  
22 court.

23 The State Board shall require all health facilities  
24 operating in this State to provide such reasonable reports at  
25 such times and containing such information as is needed by it

1 to carry out the purposes and provisions of this Act. Prior to  
2 collecting information from health facilities, the State Board  
3 shall make reasonable efforts through a public process to  
4 consult with health facilities and associations that represent  
5 them to determine whether data and information requests will  
6 result in useful information for health planning, whether  
7 sufficient information is available from other sources, and  
8 whether data requested is routinely collected by health  
9 facilities and is available without retrospective record  
10 review. Data and information requests shall not impose undue  
11 paperwork burdens on health care facilities and personnel.  
12 Health facilities not complying with this requirement shall be  
13 reported to licensing, accrediting, certifying, or payment  
14 agencies as being in violation of State law. Health care  
15 facilities and other parties at interest shall have reasonable  
16 access, under rules established by the State Board, to all  
17 planning information submitted in accord with this Act  
18 pertaining to their area.

19 Among the reports to be required by the State Board are  
20 facility questionnaires for health care facilities licensed  
21 under the Ambulatory Surgical Treatment Center Act, the  
22 Hospital Licensing Act, the Nursing Home Care Act, the MR/DD  
23 Community Care Act, the Specialized Mental Health  
24 Rehabilitation Act, or the End Stage Renal Disease Facility  
25 Act. These questionnaires shall be conducted on an annual basis  
26 and compiled by the Agency. For health care facilities licensed

1 under the Nursing Home Care Act, the Specialized Mental Health  
2 Rehabilitation Act, or the MR/DD Community Care Act, these  
3 reports shall include, but not be limited to, the  
4 identification of specialty services provided by the facility  
5 to patients, residents, and the community at large. For health  
6 care facilities that contain long term care beds, the reports  
7 shall also include the number of staffed long term care beds,  
8 physical capacity for long term care beds at the facility, and  
9 long term care beds available for immediate occupancy. For  
10 purposes of this paragraph, "long term care beds" means beds  
11 (i) licensed under the Nursing Home Care Act, (ii) licensed  
12 under the MR/DD Community Care Act, ~~or~~ (iii) licensed under the  
13 Hospital Licensing Act, or (iv) licensed under the Specialized  
14 Mental Health Rehabilitation Act and certified as skilled  
15 nursing or nursing facility beds under Medicaid or Medicare.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (20 ILCS 3960/14.1)

18 Sec. 14.1. Denial of permit; other sanctions.

19 (a) The State Board may deny an application for a permit or  
20 may revoke or take other action as permitted by this Act with  
21 regard to a permit as the State Board deems appropriate,  
22 including the imposition of fines as set forth in this Section,  
23 for any one or a combination of the following:

24 (1) The acquisition of major medical equipment without  
25 a permit or in violation of the terms of a permit.

1           (2) The establishment, construction, or modification  
2 of a health care facility without a permit or in violation  
3 of the terms of a permit.

4           (3) The violation of any provision of this Act or any  
5 rule adopted under this Act.

6           (4) The failure, by any person subject to this Act, to  
7 provide information requested by the State Board or Agency  
8 within 30 days after a formal written request for the  
9 information.

10          (5) The failure to pay any fine imposed under this  
11 Section within 30 days of its imposition.

12          (a-5) For facilities licensed under the MR/DD Community  
13 Care Act, no permit shall be denied on the basis of prior  
14 operator history, other than for actions specified under item  
15 (2), (4), or (5) of Section 3-117 of the MR/DD Community Care  
16 Act. For facilities licensed under the Specialized Mental  
17 Health Rehabilitation Act, no permit shall be denied on the  
18 basis of prior operator history, other than for actions  
19 specified under item (2), (4), or (5) of Section 3-117 of the  
20 Specialized Mental Health Rehabilitation Act. For facilities  
21 licensed under the Nursing Home Care Act, no permit shall be  
22 denied on the basis of prior operator history, other than for:  
23 (i) actions specified under item (2), (3), (4), (5), or (6) of  
24 Section 3-117 of the Nursing Home Care Act; (ii) actions  
25 specified under item (a)(6) of Section 3-119 of the Nursing  
26 Home Care Act; or (iii) actions within the preceding 5 years

1 constituting a substantial and repeated failure to comply with  
2 the Nursing Home Care Act or the rules and regulations adopted  
3 by the Department under that Act. The State Board shall not  
4 deny a permit on account of any action described in this  
5 subsection (a-5) without also considering all such actions in  
6 the light of all relevant information available to the State  
7 Board, including whether the permit is sought to substantially  
8 comply with a mandatory or voluntary plan of correction  
9 associated with any action described in this subsection (a-5).

10 (b) Persons shall be subject to fines as follows:

11 (1) A permit holder who fails to comply with the  
12 requirements of maintaining a valid permit shall be fined  
13 an amount not to exceed 1% of the approved permit amount  
14 plus an additional 1% of the approved permit amount for  
15 each 30-day period, or fraction thereof, that the violation  
16 continues.

17 (2) A permit holder who alters the scope of an approved  
18 project or whose project costs exceed the allowable permit  
19 amount without first obtaining approval from the State  
20 Board shall be fined an amount not to exceed the sum of (i)  
21 the lesser of \$25,000 or 2% of the approved permit amount  
22 and (ii) in those cases where the approved permit amount is  
23 exceeded by more than \$1,000,000, an additional \$20,000 for  
24 each \$1,000,000, or fraction thereof, in excess of the  
25 approved permit amount.

26 (3) A person who acquires major medical equipment or

1 who establishes a category of service without first  
2 obtaining a permit or exemption, as the case may be, shall  
3 be fined an amount not to exceed \$10,000 for each such  
4 acquisition or category of service established plus an  
5 additional \$10,000 for each 30-day period, or fraction  
6 thereof, that the violation continues.

7 (4) A person who constructs, modifies, or establishes a  
8 health care facility without first obtaining a permit shall  
9 be fined an amount not to exceed \$25,000 plus an additional  
10 \$25,000 for each 30-day period, or fraction thereof, that  
11 the violation continues.

12 (5) A person who discontinues a health care facility or  
13 a category of service without first obtaining a permit  
14 shall be fined an amount not to exceed \$10,000 plus an  
15 additional \$10,000 for each 30-day period, or fraction  
16 thereof, that the violation continues. For purposes of this  
17 subparagraph (5), facilities licensed under the Nursing  
18 Home Care Act or the MR/DD Community Care Act, with the  
19 exceptions of facilities operated by a county or Illinois  
20 Veterans Homes, are exempt from this permit requirement.  
21 However, facilities licensed under the Nursing Home Care  
22 Act or the MR/DD Community Care Act must comply with  
23 Section 3-423 of the Nursing Home Care Act or Section 3-423  
24 of the MR/DD Community Care Act and must provide the Board  
25 with 30-days' written notice of its intent to close.

26 (6) A person subject to this Act who fails to provide

1 information requested by the State Board or Agency within  
2 30 days of a formal written request shall be fined an  
3 amount not to exceed \$1,000 plus an additional \$1,000 for  
4 each 30-day period, or fraction thereof, that the  
5 information is not received by the State Board or Agency.

6 (c) Before imposing any fine authorized under this Section,  
7 the State Board shall afford the person or permit holder, as  
8 the case may be, an appearance before the State Board and an  
9 opportunity for a hearing before a hearing officer appointed by  
10 the State Board. The hearing shall be conducted in accordance  
11 with Section 10.

12 (d) All fines collected under this Act shall be transmitted  
13 to the State Treasurer, who shall deposit them into the  
14 Illinois Health Facilities Planning Fund.

15 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;  
16 96-1372, eff. 7-29-10.)

17 Section 90-45. The Illinois Income Tax Act is amended by  
18 changing Section 806 as follows:

19 (35 ILCS 5/806)

20 Sec. 806. Exemption from penalty. An individual taxpayer  
21 shall not be subject to a penalty for failing to pay estimated  
22 tax as required by Section 803 if the taxpayer is 65 years of  
23 age or older and is a permanent resident of a nursing home. For  
24 purposes of this Section, "nursing home" means a skilled

1 nursing or intermediate long term care facility that is subject  
2 to licensure by the Illinois Department of Public Health under  
3 the Nursing Home Care Act, the Specialized Mental Health  
4 Rehabilitation Act, or the MR/DD Community Care Act.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 Section 90-50. The Use Tax Act is amended by changing  
7 Section 3-5 as follows:

8 (35 ILCS 105/3-5)

9 Sec. 3-5. Exemptions. Use of the following tangible  
10 personal property is exempt from the tax imposed by this Act:

11 (1) Personal property purchased from a corporation,  
12 society, association, foundation, institution, or  
13 organization, other than a limited liability company, that is  
14 organized and operated as a not-for-profit service enterprise  
15 for the benefit of persons 65 years of age or older if the  
16 personal property was not purchased by the enterprise for the  
17 purpose of resale by the enterprise.

18 (2) Personal property purchased by a not-for-profit  
19 Illinois county fair association for use in conducting,  
20 operating, or promoting the county fair.

21 (3) Personal property purchased by a not-for-profit arts or  
22 cultural organization that establishes, by proof required by  
23 the Department by rule, that it has received an exemption under  
24 Section 501(c)(3) of the Internal Revenue Code and that is

1 organized and operated primarily for the presentation or  
2 support of arts or cultural programming, activities, or  
3 services. These organizations include, but are not limited to,  
4 music and dramatic arts organizations such as symphony  
5 orchestras and theatrical groups, arts and cultural service  
6 organizations, local arts councils, visual arts organizations,  
7 and media arts organizations. On and after the effective date  
8 of this amendatory Act of the 92nd General Assembly, however,  
9 an entity otherwise eligible for this exemption shall not make  
10 tax-free purchases unless it has an active identification  
11 number issued by the Department.

12 (4) Personal property purchased by a governmental body, by  
13 a corporation, society, association, foundation, or  
14 institution organized and operated exclusively for charitable,  
15 religious, or educational purposes, or by a not-for-profit  
16 corporation, society, association, foundation, institution, or  
17 organization that has no compensated officers or employees and  
18 that is organized and operated primarily for the recreation of  
19 persons 55 years of age or older. A limited liability company  
20 may qualify for the exemption under this paragraph only if the  
21 limited liability company is organized and operated  
22 exclusively for educational purposes. On and after July 1,  
23 1987, however, no entity otherwise eligible for this exemption  
24 shall make tax-free purchases unless it has an active exemption  
25 identification number issued by the Department.

26 (5) Until July 1, 2003, a passenger car that is a

1 replacement vehicle to the extent that the purchase price of  
2 the car is subject to the Replacement Vehicle Tax.

3 (6) Until July 1, 2003 and beginning again on September 1,  
4 2004 through August 30, 2014, graphic arts machinery and  
5 equipment, including repair and replacement parts, both new and  
6 used, and including that manufactured on special order,  
7 certified by the purchaser to be used primarily for graphic  
8 arts production, and including machinery and equipment  
9 purchased for lease. Equipment includes chemicals or chemicals  
10 acting as catalysts but only if the chemicals or chemicals  
11 acting as catalysts effect a direct and immediate change upon a  
12 graphic arts product.

13 (7) Farm chemicals.

14 (8) Legal tender, currency, medallions, or gold or silver  
15 coinage issued by the State of Illinois, the government of the  
16 United States of America, or the government of any foreign  
17 country, and bullion.

18 (9) Personal property purchased from a teacher-sponsored  
19 student organization affiliated with an elementary or  
20 secondary school located in Illinois.

21 (10) A motor vehicle of the first division, a motor vehicle  
22 of the second division that is a self-contained motor vehicle  
23 designed or permanently converted to provide living quarters  
24 for recreational, camping, or travel use, with direct walk  
25 through to the living quarters from the driver's seat, or a  
26 motor vehicle of the second division that is of the van

1 configuration designed for the transportation of not less than  
2 7 nor more than 16 passengers, as defined in Section 1-146 of  
3 the Illinois Vehicle Code, that is used for automobile renting,  
4 as defined in the Automobile Renting Occupation and Use Tax  
5 Act.

6 (11) Farm machinery and equipment, both new and used,  
7 including that manufactured on special order, certified by the  
8 purchaser to be used primarily for production agriculture or  
9 State or federal agricultural programs, including individual  
10 replacement parts for the machinery and equipment, including  
11 machinery and equipment purchased for lease, and including  
12 implements of husbandry defined in Section 1-130 of the  
13 Illinois Vehicle Code, farm machinery and agricultural  
14 chemical and fertilizer spreaders, and nurse wagons required to  
15 be registered under Section 3-809 of the Illinois Vehicle Code,  
16 but excluding other motor vehicles required to be registered  
17 under the Illinois Vehicle Code. Horticultural polyhouses or  
18 hoop houses used for propagating, growing, or overwintering  
19 plants shall be considered farm machinery and equipment under  
20 this item (11). Agricultural chemical tender tanks and dry  
21 boxes shall include units sold separately from a motor vehicle  
22 required to be licensed and units sold mounted on a motor  
23 vehicle required to be licensed if the selling price of the  
24 tender is separately stated.

25 Farm machinery and equipment shall include precision  
26 farming equipment that is installed or purchased to be

1 installed on farm machinery and equipment including, but not  
2 limited to, tractors, harvesters, sprayers, planters, seeders,  
3 or spreaders. Precision farming equipment includes, but is not  
4 limited to, soil testing sensors, computers, monitors,  
5 software, global positioning and mapping systems, and other  
6 such equipment.

7 Farm machinery and equipment also includes computers,  
8 sensors, software, and related equipment used primarily in the  
9 computer-assisted operation of production agriculture  
10 facilities, equipment, and activities such as, but not limited  
11 to, the collection, monitoring, and correlation of animal and  
12 crop data for the purpose of formulating animal diets and  
13 agricultural chemicals. This item (11) is exempt from the  
14 provisions of Section 3-90.

15 (12) Fuel and petroleum products sold to or used by an air  
16 common carrier, certified by the carrier to be used for  
17 consumption, shipment, or storage in the conduct of its  
18 business as an air common carrier, for a flight destined for or  
19 returning from a location or locations outside the United  
20 States without regard to previous or subsequent domestic  
21 stopovers.

22 (13) Proceeds of mandatory service charges separately  
23 stated on customers' bills for the purchase and consumption of  
24 food and beverages purchased at retail from a retailer, to the  
25 extent that the proceeds of the service charge are in fact  
26 turned over as tips or as a substitute for tips to the

1 employees who participate directly in preparing, serving,  
2 hosting or cleaning up the food or beverage function with  
3 respect to which the service charge is imposed.

4 (14) Until July 1, 2003, oil field exploration, drilling,  
5 and production equipment, including (i) rigs and parts of rigs,  
6 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
7 tubular goods, including casing and drill strings, (iii) pumps  
8 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
9 individual replacement part for oil field exploration,  
10 drilling, and production equipment, and (vi) machinery and  
11 equipment purchased for lease; but excluding motor vehicles  
12 required to be registered under the Illinois Vehicle Code.

13 (15) Photoprocessing machinery and equipment, including  
14 repair and replacement parts, both new and used, including that  
15 manufactured on special order, certified by the purchaser to be  
16 used primarily for photoprocessing, and including  
17 photoprocessing machinery and equipment purchased for lease.

18 (16) Until July 1, 2003, coal exploration, mining,  
19 offhighway hauling, processing, maintenance, and reclamation  
20 equipment, including replacement parts and equipment, and  
21 including equipment purchased for lease, but excluding motor  
22 vehicles required to be registered under the Illinois Vehicle  
23 Code.

24 (17) Until July 1, 2003, distillation machinery and  
25 equipment, sold as a unit or kit, assembled or installed by the  
26 retailer, certified by the user to be used only for the

1 production of ethyl alcohol that will be used for consumption  
2 as motor fuel or as a component of motor fuel for the personal  
3 use of the user, and not subject to sale or resale.

4 (18) Manufacturing and assembling machinery and equipment  
5 used primarily in the process of manufacturing or assembling  
6 tangible personal property for wholesale or retail sale or  
7 lease, whether that sale or lease is made directly by the  
8 manufacturer or by some other person, whether the materials  
9 used in the process are owned by the manufacturer or some other  
10 person, or whether that sale or lease is made apart from or as  
11 an incident to the seller's engaging in the service occupation  
12 of producing machines, tools, dies, jigs, patterns, gauges, or  
13 other similar items of no commercial value on special order for  
14 a particular purchaser.

15 (19) Personal property delivered to a purchaser or  
16 purchaser's donee inside Illinois when the purchase order for  
17 that personal property was received by a florist located  
18 outside Illinois who has a florist located inside Illinois  
19 deliver the personal property.

20 (20) Semen used for artificial insemination of livestock  
21 for direct agricultural production.

22 (21) Horses, or interests in horses, registered with and  
23 meeting the requirements of any of the Arabian Horse Club  
24 Registry of America, Appaloosa Horse Club, American Quarter  
25 Horse Association, United States Trotting Association, or  
26 Jockey Club, as appropriate, used for purposes of breeding or

1 racing for prizes. This item (21) is exempt from the provisions  
2 of Section 3-90, and the exemption provided for under this item  
3 (21) applies for all periods beginning May 30, 1995, but no  
4 claim for credit or refund is allowed on or after January 1,  
5 2008 for such taxes paid during the period beginning May 30,  
6 2000 and ending on January 1, 2008.

7 (22) Computers and communications equipment utilized for  
8 any hospital purpose and equipment used in the diagnosis,  
9 analysis, or treatment of hospital patients purchased by a  
10 lessor who leases the equipment, under a lease of one year or  
11 longer executed or in effect at the time the lessor would  
12 otherwise be subject to the tax imposed by this Act, to a  
13 hospital that has been issued an active tax exemption  
14 identification number by the Department under Section 1g of the  
15 Retailers' Occupation Tax Act. If the equipment is leased in a  
16 manner that does not qualify for this exemption or is used in  
17 any other non-exempt manner, the lessor shall be liable for the  
18 tax imposed under this Act or the Service Use Tax Act, as the  
19 case may be, based on the fair market value of the property at  
20 the time the non-qualifying use occurs. No lessor shall collect  
21 or attempt to collect an amount (however designated) that  
22 purports to reimburse that lessor for the tax imposed by this  
23 Act or the Service Use Tax Act, as the case may be, if the tax  
24 has not been paid by the lessor. If a lessor improperly  
25 collects any such amount from the lessee, the lessee shall have  
26 a legal right to claim a refund of that amount from the lessor.

1 If, however, that amount is not refunded to the lessee for any  
2 reason, the lessor is liable to pay that amount to the  
3 Department.

4 (23) Personal property purchased by a lessor who leases the  
5 property, under a lease of one year or longer executed or in  
6 effect at the time the lessor would otherwise be subject to the  
7 tax imposed by this Act, to a governmental body that has been  
8 issued an active sales tax exemption identification number by  
9 the Department under Section 1g of the Retailers' Occupation  
10 Tax Act. If the property is leased in a manner that does not  
11 qualify for this exemption or used in any other non-exempt  
12 manner, the lessor shall be liable for the tax imposed under  
13 this Act or the Service Use Tax Act, as the case may be, based  
14 on the fair market value of the property at the time the  
15 non-qualifying use occurs. No lessor shall collect or attempt  
16 to collect an amount (however designated) that purports to  
17 reimburse that lessor for the tax imposed by this Act or the  
18 Service Use Tax Act, as the case may be, if the tax has not been  
19 paid by the lessor. If a lessor improperly collects any such  
20 amount from the lessee, the lessee shall have a legal right to  
21 claim a refund of that amount from the lessor. If, however,  
22 that amount is not refunded to the lessee for any reason, the  
23 lessor is liable to pay that amount to the Department.

24 (24) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is donated for

1 disaster relief to be used in a State or federally declared  
2 disaster area in Illinois or bordering Illinois by a  
3 manufacturer or retailer that is registered in this State to a  
4 corporation, society, association, foundation, or institution  
5 that has been issued a sales tax exemption identification  
6 number by the Department that assists victims of the disaster  
7 who reside within the declared disaster area.

8 (25) Beginning with taxable years ending on or after  
9 December 31, 1995 and ending with taxable years ending on or  
10 before December 31, 2004, personal property that is used in the  
11 performance of infrastructure repairs in this State, including  
12 but not limited to municipal roads and streets, access roads,  
13 bridges, sidewalks, waste disposal systems, water and sewer  
14 line extensions, water distribution and purification  
15 facilities, storm water drainage and retention facilities, and  
16 sewage treatment facilities, resulting from a State or  
17 federally declared disaster in Illinois or bordering Illinois  
18 when such repairs are initiated on facilities located in the  
19 declared disaster area within 6 months after the disaster.

20 (26) Beginning July 1, 1999, game or game birds purchased  
21 at a "game breeding and hunting preserve area" or an "exotic  
22 game hunting area" as those terms are used in the Wildlife Code  
23 or at a hunting enclosure approved through rules adopted by the  
24 Department of Natural Resources. This paragraph is exempt from  
25 the provisions of Section 3-90.

26 (27) A motor vehicle, as that term is defined in Section

1 1-146 of the Illinois Vehicle Code, that is donated to a  
2 corporation, limited liability company, society, association,  
3 foundation, or institution that is determined by the Department  
4 to be organized and operated exclusively for educational  
5 purposes. For purposes of this exemption, "a corporation,  
6 limited liability company, society, association, foundation,  
7 or institution organized and operated exclusively for  
8 educational purposes" means all tax-supported public schools,  
9 private schools that offer systematic instruction in useful  
10 branches of learning by methods common to public schools and  
11 that compare favorably in their scope and intensity with the  
12 course of study presented in tax-supported schools, and  
13 vocational or technical schools or institutes organized and  
14 operated exclusively to provide a course of study of not less  
15 than 6 weeks duration and designed to prepare individuals to  
16 follow a trade or to pursue a manual, technical, mechanical,  
17 industrial, business, or commercial occupation.

18 (28) Beginning January 1, 2000, personal property,  
19 including food, purchased through fundraising events for the  
20 benefit of a public or private elementary or secondary school,  
21 a group of those schools, or one or more school districts if  
22 the events are sponsored by an entity recognized by the school  
23 district that consists primarily of volunteers and includes  
24 parents and teachers of the school children. This paragraph  
25 does not apply to fundraising events (i) for the benefit of  
26 private home instruction or (ii) for which the fundraising

1 entity purchases the personal property sold at the events from  
2 another individual or entity that sold the property for the  
3 purpose of resale by the fundraising entity and that profits  
4 from the sale to the fundraising entity. This paragraph is  
5 exempt from the provisions of Section 3-90.

6 (29) Beginning January 1, 2000 and through December 31,  
7 2001, new or used automatic vending machines that prepare and  
8 serve hot food and beverages, including coffee, soup, and other  
9 items, and replacement parts for these machines. Beginning  
10 January 1, 2002 and through June 30, 2003, machines and parts  
11 for machines used in commercial, coin-operated amusement and  
12 vending business if a use or occupation tax is paid on the  
13 gross receipts derived from the use of the commercial,  
14 coin-operated amusement and vending machines. This paragraph  
15 is exempt from the provisions of Section 3-90.

16 (30) Beginning January 1, 2001 and through June 30, 2011,  
17 food for human consumption that is to be consumed off the  
18 premises where it is sold (other than alcoholic beverages, soft  
19 drinks, and food that has been prepared for immediate  
20 consumption) and prescription and nonprescription medicines,  
21 drugs, medical appliances, and insulin, urine testing  
22 materials, syringes, and needles used by diabetics, for human  
23 use, when purchased for use by a person receiving medical  
24 assistance under Article V of the Illinois Public Aid Code who  
25 resides in a licensed long-term care facility, as defined in  
26 the Nursing Home Care Act, or in a licensed facility as defined

1 in the MR/DD Community Care Act or the Specialized Mental  
2 Health Rehabilitation Act.

3 (31) Beginning on the effective date of this amendatory Act  
4 of the 92nd General Assembly, computers and communications  
5 equipment utilized for any hospital purpose and equipment used  
6 in the diagnosis, analysis, or treatment of hospital patients  
7 purchased by a lessor who leases the equipment, under a lease  
8 of one year or longer executed or in effect at the time the  
9 lessor would otherwise be subject to the tax imposed by this  
10 Act, to a hospital that has been issued an active tax exemption  
11 identification number by the Department under Section 1g of the  
12 Retailers' Occupation Tax Act. If the equipment is leased in a  
13 manner that does not qualify for this exemption or is used in  
14 any other nonexempt manner, the lessor shall be liable for the  
15 tax imposed under this Act or the Service Use Tax Act, as the  
16 case may be, based on the fair market value of the property at  
17 the time the nonqualifying use occurs. No lessor shall collect  
18 or attempt to collect an amount (however designated) that  
19 purports to reimburse that lessor for the tax imposed by this  
20 Act or the Service Use Tax Act, as the case may be, if the tax  
21 has not been paid by the lessor. If a lessor improperly  
22 collects any such amount from the lessee, the lessee shall have  
23 a legal right to claim a refund of that amount from the lessor.  
24 If, however, that amount is not refunded to the lessee for any  
25 reason, the lessor is liable to pay that amount to the  
26 Department. This paragraph is exempt from the provisions of

1 Section 3-90.

2 (32) Beginning on the effective date of this amendatory Act  
3 of the 92nd General Assembly, personal property purchased by a  
4 lessor who leases the property, under a lease of one year or  
5 longer executed or in effect at the time the lessor would  
6 otherwise be subject to the tax imposed by this Act, to a  
7 governmental body that has been issued an active sales tax  
8 exemption identification number by the Department under  
9 Section 1g of the Retailers' Occupation Tax Act. If the  
10 property is leased in a manner that does not qualify for this  
11 exemption or used in any other nonexempt manner, the lessor  
12 shall be liable for the tax imposed under this Act or the  
13 Service Use Tax Act, as the case may be, based on the fair  
14 market value of the property at the time the nonqualifying use  
15 occurs. No lessor shall collect or attempt to collect an amount  
16 (however designated) that purports to reimburse that lessor for  
17 the tax imposed by this Act or the Service Use Tax Act, as the  
18 case may be, if the tax has not been paid by the lessor. If a  
19 lessor improperly collects any such amount from the lessee, the  
20 lessee shall have a legal right to claim a refund of that  
21 amount from the lessor. If, however, that amount is not  
22 refunded to the lessee for any reason, the lessor is liable to  
23 pay that amount to the Department. This paragraph is exempt  
24 from the provisions of Section 3-90.

25 (33) On and after July 1, 2003 and through June 30, 2004,  
26 the use in this State of motor vehicles of the second division

1 with a gross vehicle weight in excess of 8,000 pounds and that  
2 are subject to the commercial distribution fee imposed under  
3 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
4 1, 2004 and through June 30, 2005, the use in this State of  
5 motor vehicles of the second division: (i) with a gross vehicle  
6 weight rating in excess of 8,000 pounds; (ii) that are subject  
7 to the commercial distribution fee imposed under Section  
8 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
9 primarily used for commercial purposes. Through June 30, 2005,  
10 this exemption applies to repair and replacement parts added  
11 after the initial purchase of such a motor vehicle if that  
12 motor vehicle is used in a manner that would qualify for the  
13 rolling stock exemption otherwise provided for in this Act. For  
14 purposes of this paragraph, the term "used for commercial  
15 purposes" means the transportation of persons or property in  
16 furtherance of any commercial or industrial enterprise,  
17 whether for-hire or not.

18 (34) Beginning January 1, 2008, tangible personal property  
19 used in the construction or maintenance of a community water  
20 supply, as defined under Section 3.145 of the Environmental  
21 Protection Act, that is operated by a not-for-profit  
22 corporation that holds a valid water supply permit issued under  
23 Title IV of the Environmental Protection Act. This paragraph is  
24 exempt from the provisions of Section 3-90.

25 (35) Beginning January 1, 2010, materials, parts,  
26 equipment, components, and furnishings incorporated into or

1 upon an aircraft as part of the modification, refurbishment,  
2 completion, replacement, repair, or maintenance of the  
3 aircraft. This exemption includes consumable supplies used in  
4 the modification, refurbishment, completion, replacement,  
5 repair, and maintenance of aircraft, but excludes any  
6 materials, parts, equipment, components, and consumable  
7 supplies used in the modification, replacement, repair, and  
8 maintenance of aircraft engines or power plants, whether such  
9 engines or power plants are installed or uninstalled upon any  
10 such aircraft. "Consumable supplies" include, but are not  
11 limited to, adhesive, tape, sandpaper, general purpose  
12 lubricants, cleaning solution, latex gloves, and protective  
13 films. This exemption applies only to those organizations that  
14 (i) hold an Air Agency Certificate and are empowered to operate  
15 an approved repair station by the Federal Aviation  
16 Administration, (ii) have a Class IV Rating, and (iii) conduct  
17 operations in accordance with Part 145 of the Federal Aviation  
18 Regulations. The exemption does not include aircraft operated  
19 by a commercial air carrier providing scheduled passenger air  
20 service pursuant to authority issued under Part 121 or Part 129  
21 of the Federal Aviation Regulations.

22 (36) Tangible personal property purchased by a  
23 public-facilities corporation, as described in Section  
24 11-65-10 of the Illinois Municipal Code, for purposes of  
25 constructing or furnishing a municipal convention hall, but  
26 only if the legal title to the municipal convention hall is

1 transferred to the municipality without any further  
2 consideration by or on behalf of the municipality at the time  
3 of the completion of the municipal convention hall or upon the  
4 retirement or redemption of any bonds or other debt instruments  
5 issued by the public-facilities corporation in connection with  
6 the development of the municipal convention hall. This  
7 exemption includes existing public-facilities corporations as  
8 provided in Section 11-65-25 of the Illinois Municipal Code.  
9 This paragraph is exempt from the provisions of Section 3-90.

10 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
11 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
12 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
13 7-2-10.)

14 Section 90-55. The Service Use Tax Act is amended by  
15 changing Sections 3-5 and 3-10 as follows:

16 (35 ILCS 110/3-5)

17 Sec. 3-5. Exemptions. Use of the following tangible  
18 personal property is exempt from the tax imposed by this Act:

19 (1) Personal property purchased from a corporation,  
20 society, association, foundation, institution, or  
21 organization, other than a limited liability company, that is  
22 organized and operated as a not-for-profit service enterprise  
23 for the benefit of persons 65 years of age or older if the  
24 personal property was not purchased by the enterprise for the

1 purpose of resale by the enterprise.

2 (2) Personal property purchased by a non-profit Illinois  
3 county fair association for use in conducting, operating, or  
4 promoting the county fair.

5 (3) Personal property purchased by a not-for-profit arts or  
6 cultural organization that establishes, by proof required by  
7 the Department by rule, that it has received an exemption under  
8 Section 501(c)(3) of the Internal Revenue Code and that is  
9 organized and operated primarily for the presentation or  
10 support of arts or cultural programming, activities, or  
11 services. These organizations include, but are not limited to,  
12 music and dramatic arts organizations such as symphony  
13 orchestras and theatrical groups, arts and cultural service  
14 organizations, local arts councils, visual arts organizations,  
15 and media arts organizations. On and after the effective date  
16 of this amendatory Act of the 92nd General Assembly, however,  
17 an entity otherwise eligible for this exemption shall not make  
18 tax-free purchases unless it has an active identification  
19 number issued by the Department.

20 (4) Legal tender, currency, medallions, or gold or silver  
21 coinage issued by the State of Illinois, the government of the  
22 United States of America, or the government of any foreign  
23 country, and bullion.

24 (5) Until July 1, 2003 and beginning again on September 1,  
25 2004 through August 30, 2014, graphic arts machinery and  
26 equipment, including repair and replacement parts, both new and

1 used, and including that manufactured on special order or  
2 purchased for lease, certified by the purchaser to be used  
3 primarily for graphic arts production. Equipment includes  
4 chemicals or chemicals acting as catalysts but only if the  
5 chemicals or chemicals acting as catalysts effect a direct and  
6 immediate change upon a graphic arts product.

7 (6) Personal property purchased from a teacher-sponsored  
8 student organization affiliated with an elementary or  
9 secondary school located in Illinois.

10 (7) Farm machinery and equipment, both new and used,  
11 including that manufactured on special order, certified by the  
12 purchaser to be used primarily for production agriculture or  
13 State or federal agricultural programs, including individual  
14 replacement parts for the machinery and equipment, including  
15 machinery and equipment purchased for lease, and including  
16 implements of husbandry defined in Section 1-130 of the  
17 Illinois Vehicle Code, farm machinery and agricultural  
18 chemical and fertilizer spreaders, and nurse wagons required to  
19 be registered under Section 3-809 of the Illinois Vehicle Code,  
20 but excluding other motor vehicles required to be registered  
21 under the Illinois Vehicle Code. Horticultural polyhouses or  
22 hoop houses used for propagating, growing, or overwintering  
23 plants shall be considered farm machinery and equipment under  
24 this item (7). Agricultural chemical tender tanks and dry boxes  
25 shall include units sold separately from a motor vehicle  
26 required to be licensed and units sold mounted on a motor

1 vehicle required to be licensed if the selling price of the  
2 tender is separately stated.

3 Farm machinery and equipment shall include precision  
4 farming equipment that is installed or purchased to be  
5 installed on farm machinery and equipment including, but not  
6 limited to, tractors, harvesters, sprayers, planters, seeders,  
7 or spreaders. Precision farming equipment includes, but is not  
8 limited to, soil testing sensors, computers, monitors,  
9 software, global positioning and mapping systems, and other  
10 such equipment.

11 Farm machinery and equipment also includes computers,  
12 sensors, software, and related equipment used primarily in the  
13 computer-assisted operation of production agriculture  
14 facilities, equipment, and activities such as, but not limited  
15 to, the collection, monitoring, and correlation of animal and  
16 crop data for the purpose of formulating animal diets and  
17 agricultural chemicals. This item (7) is exempt from the  
18 provisions of Section 3-75.

19 (8) Fuel and petroleum products sold to or used by an air  
20 common carrier, certified by the carrier to be used for  
21 consumption, shipment, or storage in the conduct of its  
22 business as an air common carrier, for a flight destined for or  
23 returning from a location or locations outside the United  
24 States without regard to previous or subsequent domestic  
25 stopovers.

26 (9) Proceeds of mandatory service charges separately

1 stated on customers' bills for the purchase and consumption of  
2 food and beverages acquired as an incident to the purchase of a  
3 service from a serviceman, to the extent that the proceeds of  
4 the service charge are in fact turned over as tips or as a  
5 substitute for tips to the employees who participate directly  
6 in preparing, serving, hosting or cleaning up the food or  
7 beverage function with respect to which the service charge is  
8 imposed.

9 (10) Until July 1, 2003, oil field exploration, drilling,  
10 and production equipment, including (i) rigs and parts of rigs,  
11 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
12 tubular goods, including casing and drill strings, (iii) pumps  
13 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
14 individual replacement part for oil field exploration,  
15 drilling, and production equipment, and (vi) machinery and  
16 equipment purchased for lease; but excluding motor vehicles  
17 required to be registered under the Illinois Vehicle Code.

18 (11) Proceeds from the sale of photoprocessing machinery  
19 and equipment, including repair and replacement parts, both new  
20 and used, including that manufactured on special order,  
21 certified by the purchaser to be used primarily for  
22 photoprocessing, and including photoprocessing machinery and  
23 equipment purchased for lease.

24 (12) Until July 1, 2003, coal exploration, mining,  
25 offhighway hauling, processing, maintenance, and reclamation  
26 equipment, including replacement parts and equipment, and

1 including equipment purchased for lease, but excluding motor  
2 vehicles required to be registered under the Illinois Vehicle  
3 Code.

4 (13) Semen used for artificial insemination of livestock  
5 for direct agricultural production.

6 (14) Horses, or interests in horses, registered with and  
7 meeting the requirements of any of the Arabian Horse Club  
8 Registry of America, Appaloosa Horse Club, American Quarter  
9 Horse Association, United States Trotting Association, or  
10 Jockey Club, as appropriate, used for purposes of breeding or  
11 racing for prizes. This item (14) is exempt from the provisions  
12 of Section 3-75, and the exemption provided for under this item  
13 (14) applies for all periods beginning May 30, 1995, but no  
14 claim for credit or refund is allowed on or after the effective  
15 date of this amendatory Act of the 95th General Assembly for  
16 such taxes paid during the period beginning May 30, 2000 and  
17 ending on the effective date of this amendatory Act of the 95th  
18 General Assembly.

19 (15) Computers and communications equipment utilized for  
20 any hospital purpose and equipment used in the diagnosis,  
21 analysis, or treatment of hospital patients purchased by a  
22 lessor who leases the equipment, under a lease of one year or  
23 longer executed or in effect at the time the lessor would  
24 otherwise be subject to the tax imposed by this Act, to a  
25 hospital that has been issued an active tax exemption  
26 identification number by the Department under Section 1g of the

1 Retailers' Occupation Tax Act. If the equipment is leased in a  
2 manner that does not qualify for this exemption or is used in  
3 any other non-exempt manner, the lessor shall be liable for the  
4 tax imposed under this Act or the Use Tax Act, as the case may  
5 be, based on the fair market value of the property at the time  
6 the non-qualifying use occurs. No lessor shall collect or  
7 attempt to collect an amount (however designated) that purports  
8 to reimburse that lessor for the tax imposed by this Act or the  
9 Use Tax Act, as the case may be, if the tax has not been paid by  
10 the lessor. If a lessor improperly collects any such amount  
11 from the lessee, the lessee shall have a legal right to claim a  
12 refund of that amount from the lessor. If, however, that amount  
13 is not refunded to the lessee for any reason, the lessor is  
14 liable to pay that amount to the Department.

15 (16) Personal property purchased by a lessor who leases the  
16 property, under a lease of one year or longer executed or in  
17 effect at the time the lessor would otherwise be subject to the  
18 tax imposed by this Act, to a governmental body that has been  
19 issued an active tax exemption identification number by the  
20 Department under Section 1g of the Retailers' Occupation Tax  
21 Act. If the property is leased in a manner that does not  
22 qualify for this exemption or is used in any other non-exempt  
23 manner, the lessor shall be liable for the tax imposed under  
24 this Act or the Use Tax Act, as the case may be, based on the  
25 fair market value of the property at the time the  
26 non-qualifying use occurs. No lessor shall collect or attempt

1 to collect an amount (however designated) that purports to  
2 reimburse that lessor for the tax imposed by this Act or the  
3 Use Tax Act, as the case may be, if the tax has not been paid by  
4 the lessor. If a lessor improperly collects any such amount  
5 from the lessee, the lessee shall have a legal right to claim a  
6 refund of that amount from the lessor. If, however, that amount  
7 is not refunded to the lessee for any reason, the lessor is  
8 liable to pay that amount to the Department.

9 (17) Beginning with taxable years ending on or after  
10 December 31, 1995 and ending with taxable years ending on or  
11 before December 31, 2004, personal property that is donated for  
12 disaster relief to be used in a State or federally declared  
13 disaster area in Illinois or bordering Illinois by a  
14 manufacturer or retailer that is registered in this State to a  
15 corporation, society, association, foundation, or institution  
16 that has been issued a sales tax exemption identification  
17 number by the Department that assists victims of the disaster  
18 who reside within the declared disaster area.

19 (18) Beginning with taxable years ending on or after  
20 December 31, 1995 and ending with taxable years ending on or  
21 before December 31, 2004, personal property that is used in the  
22 performance of infrastructure repairs in this State, including  
23 but not limited to municipal roads and streets, access roads,  
24 bridges, sidewalks, waste disposal systems, water and sewer  
25 line extensions, water distribution and purification  
26 facilities, storm water drainage and retention facilities, and

1 sewage treatment facilities, resulting from a State or  
2 federally declared disaster in Illinois or bordering Illinois  
3 when such repairs are initiated on facilities located in the  
4 declared disaster area within 6 months after the disaster.

5 (19) Beginning July 1, 1999, game or game birds purchased  
6 at a "game breeding and hunting preserve area" or an "exotic  
7 game hunting area" as those terms are used in the Wildlife Code  
8 or at a hunting enclosure approved through rules adopted by the  
9 Department of Natural Resources. This paragraph is exempt from  
10 the provisions of Section 3-75.

11 (20) A motor vehicle, as that term is defined in Section  
12 1-146 of the Illinois Vehicle Code, that is donated to a  
13 corporation, limited liability company, society, association,  
14 foundation, or institution that is determined by the Department  
15 to be organized and operated exclusively for educational  
16 purposes. For purposes of this exemption, "a corporation,  
17 limited liability company, society, association, foundation,  
18 or institution organized and operated exclusively for  
19 educational purposes" means all tax-supported public schools,  
20 private schools that offer systematic instruction in useful  
21 branches of learning by methods common to public schools and  
22 that compare favorably in their scope and intensity with the  
23 course of study presented in tax-supported schools, and  
24 vocational or technical schools or institutes organized and  
25 operated exclusively to provide a course of study of not less  
26 than 6 weeks duration and designed to prepare individuals to

1 follow a trade or to pursue a manual, technical, mechanical,  
2 industrial, business, or commercial occupation.

3 (21) Beginning January 1, 2000, personal property,  
4 including food, purchased through fundraising events for the  
5 benefit of a public or private elementary or secondary school,  
6 a group of those schools, or one or more school districts if  
7 the events are sponsored by an entity recognized by the school  
8 district that consists primarily of volunteers and includes  
9 parents and teachers of the school children. This paragraph  
10 does not apply to fundraising events (i) for the benefit of  
11 private home instruction or (ii) for which the fundraising  
12 entity purchases the personal property sold at the events from  
13 another individual or entity that sold the property for the  
14 purpose of resale by the fundraising entity and that profits  
15 from the sale to the fundraising entity. This paragraph is  
16 exempt from the provisions of Section 3-75.

17 (22) Beginning January 1, 2000 and through December 31,  
18 2001, new or used automatic vending machines that prepare and  
19 serve hot food and beverages, including coffee, soup, and other  
20 items, and replacement parts for these machines. Beginning  
21 January 1, 2002 and through June 30, 2003, machines and parts  
22 for machines used in commercial, coin-operated amusement and  
23 vending business if a use or occupation tax is paid on the  
24 gross receipts derived from the use of the commercial,  
25 coin-operated amusement and vending machines. This paragraph  
26 is exempt from the provisions of Section 3-75.

1           (23) Beginning August 23, 2001 and through June 30, 2011,  
2 food for human consumption that is to be consumed off the  
3 premises where it is sold (other than alcoholic beverages, soft  
4 drinks, and food that has been prepared for immediate  
5 consumption) and prescription and nonprescription medicines,  
6 drugs, medical appliances, and insulin, urine testing  
7 materials, syringes, and needles used by diabetics, for human  
8 use, when purchased for use by a person receiving medical  
9 assistance under Article V of the Illinois Public Aid Code who  
10 resides in a licensed long-term care facility, as defined in  
11 the Nursing Home Care Act, or in a licensed facility as defined  
12 in the MR/DD Community Care Act or the Specialized Mental  
13 Health Rehabilitation Act.

14           (24) Beginning on the effective date of this amendatory Act  
15 of the 92nd General Assembly, computers and communications  
16 equipment utilized for any hospital purpose and equipment used  
17 in the diagnosis, analysis, or treatment of hospital patients  
18 purchased by a lessor who leases the equipment, under a lease  
19 of one year or longer executed or in effect at the time the  
20 lessor would otherwise be subject to the tax imposed by this  
21 Act, to a hospital that has been issued an active tax exemption  
22 identification number by the Department under Section 1g of the  
23 Retailers' Occupation Tax Act. If the equipment is leased in a  
24 manner that does not qualify for this exemption or is used in  
25 any other nonexempt manner, the lessor shall be liable for the  
26 tax imposed under this Act or the Use Tax Act, as the case may

1 be, based on the fair market value of the property at the time  
2 the nonqualifying use occurs. No lessor shall collect or  
3 attempt to collect an amount (however designated) that purports  
4 to reimburse that lessor for the tax imposed by this Act or the  
5 Use Tax Act, as the case may be, if the tax has not been paid by  
6 the lessor. If a lessor improperly collects any such amount  
7 from the lessee, the lessee shall have a legal right to claim a  
8 refund of that amount from the lessor. If, however, that amount  
9 is not refunded to the lessee for any reason, the lessor is  
10 liable to pay that amount to the Department. This paragraph is  
11 exempt from the provisions of Section 3-75.

12 (25) Beginning on the effective date of this amendatory Act  
13 of the 92nd General Assembly, personal property purchased by a  
14 lessor who leases the property, under a lease of one year or  
15 longer executed or in effect at the time the lessor would  
16 otherwise be subject to the tax imposed by this Act, to a  
17 governmental body that has been issued an active tax exemption  
18 identification number by the Department under Section 1g of the  
19 Retailers' Occupation Tax Act. If the property is leased in a  
20 manner that does not qualify for this exemption or is used in  
21 any other nonexempt manner, the lessor shall be liable for the  
22 tax imposed under this Act or the Use Tax Act, as the case may  
23 be, based on the fair market value of the property at the time  
24 the nonqualifying use occurs. No lessor shall collect or  
25 attempt to collect an amount (however designated) that purports  
26 to reimburse that lessor for the tax imposed by this Act or the

1 Use Tax Act, as the case may be, if the tax has not been paid by  
2 the lessor. If a lessor improperly collects any such amount  
3 from the lessee, the lessee shall have a legal right to claim a  
4 refund of that amount from the lessor. If, however, that amount  
5 is not refunded to the lessee for any reason, the lessor is  
6 liable to pay that amount to the Department. This paragraph is  
7 exempt from the provisions of Section 3-75.

8 (26) Beginning January 1, 2008, tangible personal property  
9 used in the construction or maintenance of a community water  
10 supply, as defined under Section 3.145 of the Environmental  
11 Protection Act, that is operated by a not-for-profit  
12 corporation that holds a valid water supply permit issued under  
13 Title IV of the Environmental Protection Act. This paragraph is  
14 exempt from the provisions of Section 3-75.

15 (27) Beginning January 1, 2010, materials, parts,  
16 equipment, components, and furnishings incorporated into or  
17 upon an aircraft as part of the modification, refurbishment,  
18 completion, replacement, repair, or maintenance of the  
19 aircraft. This exemption includes consumable supplies used in  
20 the modification, refurbishment, completion, replacement,  
21 repair, and maintenance of aircraft, but excludes any  
22 materials, parts, equipment, components, and consumable  
23 supplies used in the modification, replacement, repair, and  
24 maintenance of aircraft engines or power plants, whether such  
25 engines or power plants are installed or uninstalled upon any  
26 such aircraft. "Consumable supplies" include, but are not

1 limited to, adhesive, tape, sandpaper, general purpose  
2 lubricants, cleaning solution, latex gloves, and protective  
3 films. This exemption applies only to those organizations that  
4 (i) hold an Air Agency Certificate and are empowered to operate  
5 an approved repair station by the Federal Aviation  
6 Administration, (ii) have a Class IV Rating, and (iii) conduct  
7 operations in accordance with Part 145 of the Federal Aviation  
8 Regulations. The exemption does not include aircraft operated  
9 by a commercial air carrier providing scheduled passenger air  
10 service pursuant to authority issued under Part 121 or Part 129  
11 of the Federal Aviation Regulations.

12 (28) Tangible personal property purchased by a  
13 public-facilities corporation, as described in Section  
14 11-65-10 of the Illinois Municipal Code, for purposes of  
15 constructing or furnishing a municipal convention hall, but  
16 only if the legal title to the municipal convention hall is  
17 transferred to the municipality without any further  
18 consideration by or on behalf of the municipality at the time  
19 of the completion of the municipal convention hall or upon the  
20 retirement or redemption of any bonds or other debt instruments  
21 issued by the public-facilities corporation in connection with  
22 the development of the municipal convention hall. This  
23 exemption includes existing public-facilities corporations as  
24 provided in Section 11-65-25 of the Illinois Municipal Code.  
25 This paragraph is exempt from the provisions of Section 3-75.

26 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,

1 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
2 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
3 7-2-10.)

4 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

5 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
6 Section, the tax imposed by this Act is at the rate of 6.25% of  
7 the selling price of tangible personal property transferred as  
8 an incident to the sale of service, but, for the purpose of  
9 computing this tax, in no event shall the selling price be less  
10 than the cost price of the property to the serviceman.

11 Beginning on July 1, 2000 and through December 31, 2000,  
12 with respect to motor fuel, as defined in Section 1.1 of the  
13 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
14 the Use Tax Act, the tax is imposed at the rate of 1.25%.

15 With respect to gasohol, as defined in the Use Tax Act, the  
16 tax imposed by this Act applies to (i) 70% of the selling price  
17 of property transferred as an incident to the sale of service  
18 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
19 of the selling price of property transferred as an incident to  
20 the sale of service on or after July 1, 2003 and on or before  
21 December 31, 2013, and (iii) 100% of the selling price  
22 thereafter. If, at any time, however, the tax under this Act on  
23 sales of gasohol, as defined in the Use Tax Act, is imposed at  
24 the rate of 1.25%, then the tax imposed by this Act applies to  
25 100% of the proceeds of sales of gasohol made during that time.

1           With respect to majority blended ethanol fuel, as defined  
2 in the Use Tax Act, the tax imposed by this Act does not apply  
3 to the selling price of property transferred as an incident to  
4 the sale of service on or after July 1, 2003 and on or before  
5 December 31, 2013 but applies to 100% of the selling price  
6 thereafter.

7           With respect to biodiesel blends, as defined in the Use Tax  
8 Act, with no less than 1% and no more than 10% biodiesel, the  
9 tax imposed by this Act applies to (i) 80% of the selling price  
10 of property transferred as an incident to the sale of service  
11 on or after July 1, 2003 and on or before December 31, 2013 and  
12 (ii) 100% of the proceeds of the selling price thereafter. If,  
13 at any time, however, the tax under this Act on sales of  
14 biodiesel blends, as defined in the Use Tax Act, with no less  
15 than 1% and no more than 10% biodiesel is imposed at the rate  
16 of 1.25%, then the tax imposed by this Act applies to 100% of  
17 the proceeds of sales of biodiesel blends with no less than 1%  
18 and no more than 10% biodiesel made during that time.

19           With respect to 100% biodiesel, as defined in the Use Tax  
20 Act, and biodiesel blends, as defined in the Use Tax Act, with  
21 more than 10% but no more than 99% biodiesel, the tax imposed  
22 by this Act does not apply to the proceeds of the selling price  
23 of property transferred as an incident to the sale of service  
24 on or after July 1, 2003 and on or before December 31, 2013 but  
25 applies to 100% of the selling price thereafter.

26           At the election of any registered serviceman made for each

1 fiscal year, sales of service in which the aggregate annual  
2 cost price of tangible personal property transferred as an  
3 incident to the sales of service is less than 35%, or 75% in  
4 the case of servicemen transferring prescription drugs or  
5 servicemen engaged in graphic arts production, of the aggregate  
6 annual total gross receipts from all sales of service, the tax  
7 imposed by this Act shall be based on the serviceman's cost  
8 price of the tangible personal property transferred as an  
9 incident to the sale of those services.

10 The tax shall be imposed at the rate of 1% on food prepared  
11 for immediate consumption and transferred incident to a sale of  
12 service subject to this Act or the Service Occupation Tax Act  
13 by an entity licensed under the Hospital Licensing Act, the  
14 Nursing Home Care Act, the MR/DD Community Care Act, the  
15 Specialized Mental Health Rehabilitation Act, or the Child Care  
16 Act of 1969. The tax shall also be imposed at the rate of 1% on  
17 food for human consumption that is to be consumed off the  
18 premises where it is sold (other than alcoholic beverages, soft  
19 drinks, and food that has been prepared for immediate  
20 consumption and is not otherwise included in this paragraph)  
21 and prescription and nonprescription medicines, drugs, medical  
22 appliances, modifications to a motor vehicle for the purpose of  
23 rendering it usable by a disabled person, and insulin, urine  
24 testing materials, syringes, and needles used by diabetics, for  
25 human use. For the purposes of this Section, until September 1,  
26 2009: the term "soft drinks" means any complete, finished,

1 ready-to-use, non-alcoholic drink, whether carbonated or not,  
2 including but not limited to soda water, cola, fruit juice,  
3 vegetable juice, carbonated water, and all other preparations  
4 commonly known as soft drinks of whatever kind or description  
5 that are contained in any closed or sealed bottle, can, carton,  
6 or container, regardless of size; but "soft drinks" does not  
7 include coffee, tea, non-carbonated water, infant formula,  
8 milk or milk products as defined in the Grade A Pasteurized  
9 Milk and Milk Products Act, or drinks containing 50% or more  
10 natural fruit or vegetable juice.

11 Notwithstanding any other provisions of this Act,  
12 beginning September 1, 2009, "soft drinks" means non-alcoholic  
13 beverages that contain natural or artificial sweeteners. "Soft  
14 drinks" do not include beverages that contain milk or milk  
15 products, soy, rice or similar milk substitutes, or greater  
16 than 50% of vegetable or fruit juice by volume.

17 Until August 1, 2009, and notwithstanding any other  
18 provisions of this Act, "food for human consumption that is to  
19 be consumed off the premises where it is sold" includes all  
20 food sold through a vending machine, except soft drinks and  
21 food products that are dispensed hot from a vending machine,  
22 regardless of the location of the vending machine. Beginning  
23 August 1, 2009, and notwithstanding any other provisions of  
24 this Act, "food for human consumption that is to be consumed  
25 off the premises where it is sold" includes all food sold  
26 through a vending machine, except soft drinks, candy, and food

1 products that are dispensed hot from a vending machine,  
2 regardless of the location of the vending machine.

3 Notwithstanding any other provisions of this Act,  
4 beginning September 1, 2009, "food for human consumption that  
5 is to be consumed off the premises where it is sold" does not  
6 include candy. For purposes of this Section, "candy" means a  
7 preparation of sugar, honey, or other natural or artificial  
8 sweeteners in combination with chocolate, fruits, nuts or other  
9 ingredients or flavorings in the form of bars, drops, or  
10 pieces. "Candy" does not include any preparation that contains  
11 flour or requires refrigeration.

12 Notwithstanding any other provisions of this Act,  
13 beginning September 1, 2009, "nonprescription medicines and  
14 drugs" does not include grooming and hygiene products. For  
15 purposes of this Section, "grooming and hygiene products"  
16 includes, but is not limited to, soaps and cleaning solutions,  
17 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
18 lotions and screens, unless those products are available by  
19 prescription only, regardless of whether the products meet the  
20 definition of "over-the-counter-drugs". For the purposes of  
21 this paragraph, "over-the-counter-drug" means a drug for human  
22 use that contains a label that identifies the product as a drug  
23 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
24 label includes:

25 (A) A "Drug Facts" panel; or

26 (B) A statement of the "active ingredient(s)" with a

1 list of those ingredients contained in the compound,  
2 substance or preparation.

3 If the property that is acquired from a serviceman is  
4 acquired outside Illinois and used outside Illinois before  
5 being brought to Illinois for use here and is taxable under  
6 this Act, the "selling price" on which the tax is computed  
7 shall be reduced by an amount that represents a reasonable  
8 allowance for depreciation for the period of prior out-of-state  
9 use.

10 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
11 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

12 Section 90-60. The Service Occupation Tax Act is amended by  
13 changing Sections 3-5 and 3-10 as follows:

14 (35 ILCS 115/3-5)

15 Sec. 3-5. Exemptions. The following tangible personal  
16 property is exempt from the tax imposed by this Act:

17 (1) Personal property sold by a corporation, society,  
18 association, foundation, institution, or organization, other  
19 than a limited liability company, that is organized and  
20 operated as a not-for-profit service enterprise for the benefit  
21 of persons 65 years of age or older if the personal property  
22 was not purchased by the enterprise for the purpose of resale  
23 by the enterprise.

24 (2) Personal property purchased by a not-for-profit

1 Illinois county fair association for use in conducting,  
2 operating, or promoting the county fair.

3 (3) Personal property purchased by any not-for-profit arts  
4 or cultural organization that establishes, by proof required by  
5 the Department by rule, that it has received an exemption under  
6 Section 501(c)(3) of the Internal Revenue Code and that is  
7 organized and operated primarily for the presentation or  
8 support of arts or cultural programming, activities, or  
9 services. These organizations include, but are not limited to,  
10 music and dramatic arts organizations such as symphony  
11 orchestras and theatrical groups, arts and cultural service  
12 organizations, local arts councils, visual arts organizations,  
13 and media arts organizations. On and after the effective date  
14 of this amendatory Act of the 92nd General Assembly, however,  
15 an entity otherwise eligible for this exemption shall not make  
16 tax-free purchases unless it has an active identification  
17 number issued by the Department.

18 (4) Legal tender, currency, medallions, or gold or silver  
19 coinage issued by the State of Illinois, the government of the  
20 United States of America, or the government of any foreign  
21 country, and bullion.

22 (5) Until July 1, 2003 and beginning again on September 1,  
23 2004 through August 30, 2014, graphic arts machinery and  
24 equipment, including repair and replacement parts, both new and  
25 used, and including that manufactured on special order or  
26 purchased for lease, certified by the purchaser to be used

1 primarily for graphic arts production. Equipment includes  
2 chemicals or chemicals acting as catalysts but only if the  
3 chemicals or chemicals acting as catalysts effect a direct and  
4 immediate change upon a graphic arts product.

5 (6) Personal property sold by a teacher-sponsored student  
6 organization affiliated with an elementary or secondary school  
7 located in Illinois.

8 (7) Farm machinery and equipment, both new and used,  
9 including that manufactured on special order, certified by the  
10 purchaser to be used primarily for production agriculture or  
11 State or federal agricultural programs, including individual  
12 replacement parts for the machinery and equipment, including  
13 machinery and equipment purchased for lease, and including  
14 implements of husbandry defined in Section 1-130 of the  
15 Illinois Vehicle Code, farm machinery and agricultural  
16 chemical and fertilizer spreaders, and nurse wagons required to  
17 be registered under Section 3-809 of the Illinois Vehicle Code,  
18 but excluding other motor vehicles required to be registered  
19 under the Illinois Vehicle Code. Horticultural polyhouses or  
20 hoop houses used for propagating, growing, or overwintering  
21 plants shall be considered farm machinery and equipment under  
22 this item (7). Agricultural chemical tender tanks and dry boxes  
23 shall include units sold separately from a motor vehicle  
24 required to be licensed and units sold mounted on a motor  
25 vehicle required to be licensed if the selling price of the  
26 tender is separately stated.

1 Farm machinery and equipment shall include precision  
2 farming equipment that is installed or purchased to be  
3 installed on farm machinery and equipment including, but not  
4 limited to, tractors, harvesters, sprayers, planters, seeders,  
5 or spreaders. Precision farming equipment includes, but is not  
6 limited to, soil testing sensors, computers, monitors,  
7 software, global positioning and mapping systems, and other  
8 such equipment.

9 Farm machinery and equipment also includes computers,  
10 sensors, software, and related equipment used primarily in the  
11 computer-assisted operation of production agriculture  
12 facilities, equipment, and activities such as, but not limited  
13 to, the collection, monitoring, and correlation of animal and  
14 crop data for the purpose of formulating animal diets and  
15 agricultural chemicals. This item (7) is exempt from the  
16 provisions of Section 3-55.

17 (8) Fuel and petroleum products sold to or used by an air  
18 common carrier, certified by the carrier to be used for  
19 consumption, shipment, or storage in the conduct of its  
20 business as an air common carrier, for a flight destined for or  
21 returning from a location or locations outside the United  
22 States without regard to previous or subsequent domestic  
23 stopovers.

24 (9) Proceeds of mandatory service charges separately  
25 stated on customers' bills for the purchase and consumption of  
26 food and beverages, to the extent that the proceeds of the

1 service charge are in fact turned over as tips or as a  
2 substitute for tips to the employees who participate directly  
3 in preparing, serving, hosting or cleaning up the food or  
4 beverage function with respect to which the service charge is  
5 imposed.

6 (10) Until July 1, 2003, oil field exploration, drilling,  
7 and production equipment, including (i) rigs and parts of rigs,  
8 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
9 tubular goods, including casing and drill strings, (iii) pumps  
10 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
11 individual replacement part for oil field exploration,  
12 drilling, and production equipment, and (vi) machinery and  
13 equipment purchased for lease; but excluding motor vehicles  
14 required to be registered under the Illinois Vehicle Code.

15 (11) Photoprocessing machinery and equipment, including  
16 repair and replacement parts, both new and used, including that  
17 manufactured on special order, certified by the purchaser to be  
18 used primarily for photoprocessing, and including  
19 photoprocessing machinery and equipment purchased for lease.

20 (12) Until July 1, 2003, coal exploration, mining,  
21 offhighway hauling, processing, maintenance, and reclamation  
22 equipment, including replacement parts and equipment, and  
23 including equipment purchased for lease, but excluding motor  
24 vehicles required to be registered under the Illinois Vehicle  
25 Code.

26 (13) Beginning January 1, 1992 and through June 30, 2011,

1 food for human consumption that is to be consumed off the  
2 premises where it is sold (other than alcoholic beverages, soft  
3 drinks and food that has been prepared for immediate  
4 consumption) and prescription and non-prescription medicines,  
5 drugs, medical appliances, and insulin, urine testing  
6 materials, syringes, and needles used by diabetics, for human  
7 use, when purchased for use by a person receiving medical  
8 assistance under Article V of the Illinois Public Aid Code who  
9 resides in a licensed long-term care facility, as defined in  
10 the Nursing Home Care Act, or in a licensed facility as defined  
11 in the MR/DD Community Care Act or the Specialized Mental  
12 Health Rehabilitation Act.

13 (14) Semen used for artificial insemination of livestock  
14 for direct agricultural production.

15 (15) Horses, or interests in horses, registered with and  
16 meeting the requirements of any of the Arabian Horse Club  
17 Registry of America, Appaloosa Horse Club, American Quarter  
18 Horse Association, United States Trotting Association, or  
19 Jockey Club, as appropriate, used for purposes of breeding or  
20 racing for prizes. This item (15) is exempt from the provisions  
21 of Section 3-55, and the exemption provided for under this item  
22 (15) applies for all periods beginning May 30, 1995, but no  
23 claim for credit or refund is allowed on or after January 1,  
24 2008 (the effective date of Public Act 95-88) for such taxes  
25 paid during the period beginning May 30, 2000 and ending on  
26 January 1, 2008 (the effective date of Public Act 95-88).

1           (16) Computers and communications equipment utilized for  
2 any hospital purpose and equipment used in the diagnosis,  
3 analysis, or treatment of hospital patients sold to a lessor  
4 who leases the equipment, under a lease of one year or longer  
5 executed or in effect at the time of the purchase, to a  
6 hospital that has been issued an active tax exemption  
7 identification number by the Department under Section 1g of the  
8 Retailers' Occupation Tax Act.

9           (17) Personal property sold to a lessor who leases the  
10 property, under a lease of one year or longer executed or in  
11 effect at the time of the purchase, to a governmental body that  
12 has been issued an active tax exemption identification number  
13 by the Department under Section 1g of the Retailers' Occupation  
14 Tax Act.

15           (18) Beginning with taxable years ending on or after  
16 December 31, 1995 and ending with taxable years ending on or  
17 before December 31, 2004, personal property that is donated for  
18 disaster relief to be used in a State or federally declared  
19 disaster area in Illinois or bordering Illinois by a  
20 manufacturer or retailer that is registered in this State to a  
21 corporation, society, association, foundation, or institution  
22 that has been issued a sales tax exemption identification  
23 number by the Department that assists victims of the disaster  
24 who reside within the declared disaster area.

25           (19) Beginning with taxable years ending on or after  
26 December 31, 1995 and ending with taxable years ending on or

1 before December 31, 2004, personal property that is used in the  
2 performance of infrastructure repairs in this State, including  
3 but not limited to municipal roads and streets, access roads,  
4 bridges, sidewalks, waste disposal systems, water and sewer  
5 line extensions, water distribution and purification  
6 facilities, storm water drainage and retention facilities, and  
7 sewage treatment facilities, resulting from a State or  
8 federally declared disaster in Illinois or bordering Illinois  
9 when such repairs are initiated on facilities located in the  
10 declared disaster area within 6 months after the disaster.

11 (20) Beginning July 1, 1999, game or game birds sold at a  
12 "game breeding and hunting preserve area" or an "exotic game  
13 hunting area" as those terms are used in the Wildlife Code or  
14 at a hunting enclosure approved through rules adopted by the  
15 Department of Natural Resources. This paragraph is exempt from  
16 the provisions of Section 3-55.

17 (21) A motor vehicle, as that term is defined in Section  
18 1-146 of the Illinois Vehicle Code, that is donated to a  
19 corporation, limited liability company, society, association,  
20 foundation, or institution that is determined by the Department  
21 to be organized and operated exclusively for educational  
22 purposes. For purposes of this exemption, "a corporation,  
23 limited liability company, society, association, foundation,  
24 or institution organized and operated exclusively for  
25 educational purposes" means all tax-supported public schools,  
26 private schools that offer systematic instruction in useful

1 branches of learning by methods common to public schools and  
2 that compare favorably in their scope and intensity with the  
3 course of study presented in tax-supported schools, and  
4 vocational or technical schools or institutes organized and  
5 operated exclusively to provide a course of study of not less  
6 than 6 weeks duration and designed to prepare individuals to  
7 follow a trade or to pursue a manual, technical, mechanical,  
8 industrial, business, or commercial occupation.

9 (22) Beginning January 1, 2000, personal property,  
10 including food, purchased through fundraising events for the  
11 benefit of a public or private elementary or secondary school,  
12 a group of those schools, or one or more school districts if  
13 the events are sponsored by an entity recognized by the school  
14 district that consists primarily of volunteers and includes  
15 parents and teachers of the school children. This paragraph  
16 does not apply to fundraising events (i) for the benefit of  
17 private home instruction or (ii) for which the fundraising  
18 entity purchases the personal property sold at the events from  
19 another individual or entity that sold the property for the  
20 purpose of resale by the fundraising entity and that profits  
21 from the sale to the fundraising entity. This paragraph is  
22 exempt from the provisions of Section 3-55.

23 (23) Beginning January 1, 2000 and through December 31,  
24 2001, new or used automatic vending machines that prepare and  
25 serve hot food and beverages, including coffee, soup, and other  
26 items, and replacement parts for these machines. Beginning

1 January 1, 2002 and through June 30, 2003, machines and parts  
2 for machines used in commercial, coin-operated amusement and  
3 vending business if a use or occupation tax is paid on the  
4 gross receipts derived from the use of the commercial,  
5 coin-operated amusement and vending machines. This paragraph  
6 is exempt from the provisions of Section 3-55.

7 (24) Beginning on the effective date of this amendatory Act  
8 of the 92nd General Assembly, computers and communications  
9 equipment utilized for any hospital purpose and equipment used  
10 in the diagnosis, analysis, or treatment of hospital patients  
11 sold to a lessor who leases the equipment, under a lease of one  
12 year or longer executed or in effect at the time of the  
13 purchase, to a hospital that has been issued an active tax  
14 exemption identification number by the Department under  
15 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
16 is exempt from the provisions of Section 3-55.

17 (25) Beginning on the effective date of this amendatory Act  
18 of the 92nd General Assembly, personal property sold to a  
19 lessor who leases the property, under a lease of one year or  
20 longer executed or in effect at the time of the purchase, to a  
21 governmental body that has been issued an active tax exemption  
22 identification number by the Department under Section 1g of the  
23 Retailers' Occupation Tax Act. This paragraph is exempt from  
24 the provisions of Section 3-55.

25 (26) Beginning on January 1, 2002 and through June 30,  
26 2011, tangible personal property purchased from an Illinois

1 retailer by a taxpayer engaged in centralized purchasing  
2 activities in Illinois who will, upon receipt of the property  
3 in Illinois, temporarily store the property in Illinois (i) for  
4 the purpose of subsequently transporting it outside this State  
5 for use or consumption thereafter solely outside this State or  
6 (ii) for the purpose of being processed, fabricated, or  
7 manufactured into, attached to, or incorporated into other  
8 tangible personal property to be transported outside this State  
9 and thereafter used or consumed solely outside this State. The  
10 Director of Revenue shall, pursuant to rules adopted in  
11 accordance with the Illinois Administrative Procedure Act,  
12 issue a permit to any taxpayer in good standing with the  
13 Department who is eligible for the exemption under this  
14 paragraph (26). The permit issued under this paragraph (26)  
15 shall authorize the holder, to the extent and in the manner  
16 specified in the rules adopted under this Act, to purchase  
17 tangible personal property from a retailer exempt from the  
18 taxes imposed by this Act. Taxpayers shall maintain all  
19 necessary books and records to substantiate the use and  
20 consumption of all such tangible personal property outside of  
21 the State of Illinois.

22 (27) Beginning January 1, 2008, tangible personal property  
23 used in the construction or maintenance of a community water  
24 supply, as defined under Section 3.145 of the Environmental  
25 Protection Act, that is operated by a not-for-profit  
26 corporation that holds a valid water supply permit issued under

1 Title IV of the Environmental Protection Act. This paragraph is  
2 exempt from the provisions of Section 3-55.

3 (28) Tangible personal property sold to a  
4 public-facilities corporation, as described in Section  
5 11-65-10 of the Illinois Municipal Code, for purposes of  
6 constructing or furnishing a municipal convention hall, but  
7 only if the legal title to the municipal convention hall is  
8 transferred to the municipality without any further  
9 consideration by or on behalf of the municipality at the time  
10 of the completion of the municipal convention hall or upon the  
11 retirement or redemption of any bonds or other debt instruments  
12 issued by the public-facilities corporation in connection with  
13 the development of the municipal convention hall. This  
14 exemption includes existing public-facilities corporations as  
15 provided in Section 11-65-25 of the Illinois Municipal Code.  
16 This paragraph is exempt from the provisions of Section 3-55.

17 (29) Beginning January 1, 2010, materials, parts,  
18 equipment, components, and furnishings incorporated into or  
19 upon an aircraft as part of the modification, refurbishment,  
20 completion, replacement, repair, or maintenance of the  
21 aircraft. This exemption includes consumable supplies used in  
22 the modification, refurbishment, completion, replacement,  
23 repair, and maintenance of aircraft, but excludes any  
24 materials, parts, equipment, components, and consumable  
25 supplies used in the modification, replacement, repair, and  
26 maintenance of aircraft engines or power plants, whether such

1 engines or power plants are installed or uninstalled upon any  
2 such aircraft. "Consumable supplies" include, but are not  
3 limited to, adhesive, tape, sandpaper, general purpose  
4 lubricants, cleaning solution, latex gloves, and protective  
5 films. This exemption applies only to those organizations that  
6 (i) hold an Air Agency Certificate and are empowered to operate  
7 an approved repair station by the Federal Aviation  
8 Administration, (ii) have a Class IV Rating, and (iii) conduct  
9 operations in accordance with Part 145 of the Federal Aviation  
10 Regulations. The exemption does not include aircraft operated  
11 by a commercial air carrier providing scheduled passenger air  
12 service pursuant to authority issued under Part 121 or Part 129  
13 of the Federal Aviation Regulations.

14 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
15 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
16 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
17 7-2-10.)

18 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

19 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
20 Section, the tax imposed by this Act is at the rate of 6.25% of  
21 the "selling price", as defined in Section 2 of the Service Use  
22 Tax Act, of the tangible personal property. For the purpose of  
23 computing this tax, in no event shall the "selling price" be  
24 less than the cost price to the serviceman of the tangible  
25 personal property transferred. The selling price of each item

1 of tangible personal property transferred as an incident of a  
2 sale of service may be shown as a distinct and separate item on  
3 the serviceman's billing to the service customer. If the  
4 selling price is not so shown, the selling price of the  
5 tangible personal property is deemed to be 50% of the  
6 serviceman's entire billing to the service customer. When,  
7 however, a serviceman contracts to design, develop, and produce  
8 special order machinery or equipment, the tax imposed by this  
9 Act shall be based on the serviceman's cost price of the  
10 tangible personal property transferred incident to the  
11 completion of the contract.

12 Beginning on July 1, 2000 and through December 31, 2000,  
13 with respect to motor fuel, as defined in Section 1.1 of the  
14 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
15 the Use Tax Act, the tax is imposed at the rate of 1.25%.

16 With respect to gasohol, as defined in the Use Tax Act, the  
17 tax imposed by this Act shall apply to (i) 70% of the cost  
18 price of property transferred as an incident to the sale of  
19 service on or after January 1, 1990, and before July 1, 2003,  
20 (ii) 80% of the selling price of property transferred as an  
21 incident to the sale of service on or after July 1, 2003 and on  
22 or before December 31, 2013, and (iii) 100% of the cost price  
23 thereafter. If, at any time, however, the tax under this Act on  
24 sales of gasohol, as defined in the Use Tax Act, is imposed at  
25 the rate of 1.25%, then the tax imposed by this Act applies to  
26 100% of the proceeds of sales of gasohol made during that time.

1           With respect to majority blended ethanol fuel, as defined  
2 in the Use Tax Act, the tax imposed by this Act does not apply  
3 to the selling price of property transferred as an incident to  
4 the sale of service on or after July 1, 2003 and on or before  
5 December 31, 2013 but applies to 100% of the selling price  
6 thereafter.

7           With respect to biodiesel blends, as defined in the Use Tax  
8 Act, with no less than 1% and no more than 10% biodiesel, the  
9 tax imposed by this Act applies to (i) 80% of the selling price  
10 of property transferred as an incident to the sale of service  
11 on or after July 1, 2003 and on or before December 31, 2013 and  
12 (ii) 100% of the proceeds of the selling price thereafter. If,  
13 at any time, however, the tax under this Act on sales of  
14 biodiesel blends, as defined in the Use Tax Act, with no less  
15 than 1% and no more than 10% biodiesel is imposed at the rate  
16 of 1.25%, then the tax imposed by this Act applies to 100% of  
17 the proceeds of sales of biodiesel blends with no less than 1%  
18 and no more than 10% biodiesel made during that time.

19           With respect to 100% biodiesel, as defined in the Use Tax  
20 Act, and biodiesel blends, as defined in the Use Tax Act, with  
21 more than 10% but no more than 99% biodiesel material, the tax  
22 imposed by this Act does not apply to the proceeds of the  
23 selling price of property transferred as an incident to the  
24 sale of service on or after July 1, 2003 and on or before  
25 December 31, 2013 but applies to 100% of the selling price  
26 thereafter.

1           At the election of any registered serviceman made for each  
2 fiscal year, sales of service in which the aggregate annual  
3 cost price of tangible personal property transferred as an  
4 incident to the sales of service is less than 35%, or 75% in  
5 the case of servicemen transferring prescription drugs or  
6 servicemen engaged in graphic arts production, of the aggregate  
7 annual total gross receipts from all sales of service, the tax  
8 imposed by this Act shall be based on the serviceman's cost  
9 price of the tangible personal property transferred incident to  
10 the sale of those services.

11           The tax shall be imposed at the rate of 1% on food prepared  
12 for immediate consumption and transferred incident to a sale of  
13 service subject to this Act or the Service Occupation Tax Act  
14 by an entity licensed under the Hospital Licensing Act, the  
15 Nursing Home Care Act, the MR/DD Community Care Act, the  
16 Specialized Mental Health Rehabilitation Act, or the Child Care  
17 Act of 1969. The tax shall also be imposed at the rate of 1% on  
18 food for human consumption that is to be consumed off the  
19 premises where it is sold (other than alcoholic beverages, soft  
20 drinks, and food that has been prepared for immediate  
21 consumption and is not otherwise included in this paragraph)  
22 and prescription and nonprescription medicines, drugs, medical  
23 appliances, modifications to a motor vehicle for the purpose of  
24 rendering it usable by a disabled person, and insulin, urine  
25 testing materials, syringes, and needles used by diabetics, for  
26 human use. For the purposes of this Section, until September 1,

1 2009: the term "soft drinks" means any complete, finished,  
2 ready-to-use, non-alcoholic drink, whether carbonated or not,  
3 including but not limited to soda water, cola, fruit juice,  
4 vegetable juice, carbonated water, and all other preparations  
5 commonly known as soft drinks of whatever kind or description  
6 that are contained in any closed or sealed can, carton, or  
7 container, regardless of size; but "soft drinks" does not  
8 include coffee, tea, non-carbonated water, infant formula,  
9 milk or milk products as defined in the Grade A Pasteurized  
10 Milk and Milk Products Act, or drinks containing 50% or more  
11 natural fruit or vegetable juice.

12 Notwithstanding any other provisions of this Act,  
13 beginning September 1, 2009, "soft drinks" means non-alcoholic  
14 beverages that contain natural or artificial sweeteners. "Soft  
15 drinks" do not include beverages that contain milk or milk  
16 products, soy, rice or similar milk substitutes, or greater  
17 than 50% of vegetable or fruit juice by volume.

18 Until August 1, 2009, and notwithstanding any other  
19 provisions of this Act, "food for human consumption that is to  
20 be consumed off the premises where it is sold" includes all  
21 food sold through a vending machine, except soft drinks and  
22 food products that are dispensed hot from a vending machine,  
23 regardless of the location of the vending machine. Beginning  
24 August 1, 2009, and notwithstanding any other provisions of  
25 this Act, "food for human consumption that is to be consumed  
26 off the premises where it is sold" includes all food sold

1 through a vending machine, except soft drinks, candy, and food  
2 products that are dispensed hot from a vending machine,  
3 regardless of the location of the vending machine.

4 Notwithstanding any other provisions of this Act,  
5 beginning September 1, 2009, "food for human consumption that  
6 is to be consumed off the premises where it is sold" does not  
7 include candy. For purposes of this Section, "candy" means a  
8 preparation of sugar, honey, or other natural or artificial  
9 sweeteners in combination with chocolate, fruits, nuts or other  
10 ingredients or flavorings in the form of bars, drops, or  
11 pieces. "Candy" does not include any preparation that contains  
12 flour or requires refrigeration.

13 Notwithstanding any other provisions of this Act,  
14 beginning September 1, 2009, "nonprescription medicines and  
15 drugs" does not include grooming and hygiene products. For  
16 purposes of this Section, "grooming and hygiene products"  
17 includes, but is not limited to, soaps and cleaning solutions,  
18 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
19 lotions and screens, unless those products are available by  
20 prescription only, regardless of whether the products meet the  
21 definition of "over-the-counter-drugs". For the purposes of  
22 this paragraph, "over-the-counter-drug" means a drug for human  
23 use that contains a label that identifies the product as a drug  
24 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
25 label includes:

26 (A) A "Drug Facts" panel; or

1 (B) A statement of the "active ingredient(s)" with a  
2 list of those ingredients contained in the compound,  
3 substance or preparation.

4 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
5 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

6 Section 90-65. The Retailers' Occupation Tax Act is amended  
7 by changing Section 2-5 as follows:

8 (35 ILCS 120/2-5)

9 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
10 sale of the following tangible personal property are exempt  
11 from the tax imposed by this Act:

12 (1) Farm chemicals.

13 (2) Farm machinery and equipment, both new and used,  
14 including that manufactured on special order, certified by the  
15 purchaser to be used primarily for production agriculture or  
16 State or federal agricultural programs, including individual  
17 replacement parts for the machinery and equipment, including  
18 machinery and equipment purchased for lease, and including  
19 implements of husbandry defined in Section 1-130 of the  
20 Illinois Vehicle Code, farm machinery and agricultural  
21 chemical and fertilizer spreaders, and nurse wagons required to  
22 be registered under Section 3-809 of the Illinois Vehicle Code,  
23 but excluding other motor vehicles required to be registered  
24 under the Illinois Vehicle Code. Horticultural polyhouses or

1 hoop houses used for propagating, growing, or overwintering  
2 plants shall be considered farm machinery and equipment under  
3 this item (2). Agricultural chemical tender tanks and dry boxes  
4 shall include units sold separately from a motor vehicle  
5 required to be licensed and units sold mounted on a motor  
6 vehicle required to be licensed, if the selling price of the  
7 tender is separately stated.

8 Farm machinery and equipment shall include precision  
9 farming equipment that is installed or purchased to be  
10 installed on farm machinery and equipment including, but not  
11 limited to, tractors, harvesters, sprayers, planters, seeders,  
12 or spreaders. Precision farming equipment includes, but is not  
13 limited to, soil testing sensors, computers, monitors,  
14 software, global positioning and mapping systems, and other  
15 such equipment.

16 Farm machinery and equipment also includes computers,  
17 sensors, software, and related equipment used primarily in the  
18 computer-assisted operation of production agriculture  
19 facilities, equipment, and activities such as, but not limited  
20 to, the collection, monitoring, and correlation of animal and  
21 crop data for the purpose of formulating animal diets and  
22 agricultural chemicals. This item (7) is exempt from the  
23 provisions of Section 2-70.

24 (3) Until July 1, 2003, distillation machinery and  
25 equipment, sold as a unit or kit, assembled or installed by the  
26 retailer, certified by the user to be used only for the

1 production of ethyl alcohol that will be used for consumption  
2 as motor fuel or as a component of motor fuel for the personal  
3 use of the user, and not subject to sale or resale.

4 (4) Until July 1, 2003 and beginning again September 1,  
5 2004 through August 30, 2014, graphic arts machinery and  
6 equipment, including repair and replacement parts, both new and  
7 used, and including that manufactured on special order or  
8 purchased for lease, certified by the purchaser to be used  
9 primarily for graphic arts production. Equipment includes  
10 chemicals or chemicals acting as catalysts but only if the  
11 chemicals or chemicals acting as catalysts effect a direct and  
12 immediate change upon a graphic arts product.

13 (5) A motor vehicle of the first division, a motor vehicle  
14 of the second division that is a self contained motor vehicle  
15 designed or permanently converted to provide living quarters  
16 for recreational, camping, or travel use, with direct walk  
17 through access to the living quarters from the driver's seat,  
18 or a motor vehicle of the second division that is of the van  
19 configuration designed for the transportation of not less than  
20 7 nor more than 16 passengers, as defined in Section 1-146 of  
21 the Illinois Vehicle Code, that is used for automobile renting,  
22 as defined in the Automobile Renting Occupation and Use Tax  
23 Act. This paragraph is exempt from the provisions of Section  
24 2-70.

25 (6) Personal property sold by a teacher-sponsored student  
26 organization affiliated with an elementary or secondary school

1 located in Illinois.

2 (7) Until July 1, 2003, proceeds of that portion of the  
3 selling price of a passenger car the sale of which is subject  
4 to the Replacement Vehicle Tax.

5 (8) Personal property sold to an Illinois county fair  
6 association for use in conducting, operating, or promoting the  
7 county fair.

8 (9) Personal property sold to a not-for-profit arts or  
9 cultural organization that establishes, by proof required by  
10 the Department by rule, that it has received an exemption under  
11 Section 501(c)(3) of the Internal Revenue Code and that is  
12 organized and operated primarily for the presentation or  
13 support of arts or cultural programming, activities, or  
14 services. These organizations include, but are not limited to,  
15 music and dramatic arts organizations such as symphony  
16 orchestras and theatrical groups, arts and cultural service  
17 organizations, local arts councils, visual arts organizations,  
18 and media arts organizations. On and after the effective date  
19 of this amendatory Act of the 92nd General Assembly, however,  
20 an entity otherwise eligible for this exemption shall not make  
21 tax-free purchases unless it has an active identification  
22 number issued by the Department.

23 (10) Personal property sold by a corporation, society,  
24 association, foundation, institution, or organization, other  
25 than a limited liability company, that is organized and  
26 operated as a not-for-profit service enterprise for the benefit

1 of persons 65 years of age or older if the personal property  
2 was not purchased by the enterprise for the purpose of resale  
3 by the enterprise.

4 (11) Personal property sold to a governmental body, to a  
5 corporation, society, association, foundation, or institution  
6 organized and operated exclusively for charitable, religious,  
7 or educational purposes, or to a not-for-profit corporation,  
8 society, association, foundation, institution, or organization  
9 that has no compensated officers or employees and that is  
10 organized and operated primarily for the recreation of persons  
11 55 years of age or older. A limited liability company may  
12 qualify for the exemption under this paragraph only if the  
13 limited liability company is organized and operated  
14 exclusively for educational purposes. On and after July 1,  
15 1987, however, no entity otherwise eligible for this exemption  
16 shall make tax-free purchases unless it has an active  
17 identification number issued by the Department.

18 (12) Tangible personal property sold to interstate  
19 carriers for hire for use as rolling stock moving in interstate  
20 commerce or to lessors under leases of one year or longer  
21 executed or in effect at the time of purchase by interstate  
22 carriers for hire for use as rolling stock moving in interstate  
23 commerce and equipment operated by a telecommunications  
24 provider, licensed as a common carrier by the Federal  
25 Communications Commission, which is permanently installed in  
26 or affixed to aircraft moving in interstate commerce.

1           (12-5) On and after July 1, 2003 and through June 30, 2004,  
2 motor vehicles of the second division with a gross vehicle  
3 weight in excess of 8,000 pounds that are subject to the  
4 commercial distribution fee imposed under Section 3-815.1 of  
5 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
6 through June 30, 2005, the use in this State of motor vehicles  
7 of the second division: (i) with a gross vehicle weight rating  
8 in excess of 8,000 pounds; (ii) that are subject to the  
9 commercial distribution fee imposed under Section 3-815.1 of  
10 the Illinois Vehicle Code; and (iii) that are primarily used  
11 for commercial purposes. Through June 30, 2005, this exemption  
12 applies to repair and replacement parts added after the initial  
13 purchase of such a motor vehicle if that motor vehicle is used  
14 in a manner that would qualify for the rolling stock exemption  
15 otherwise provided for in this Act. For purposes of this  
16 paragraph, "used for commercial purposes" means the  
17 transportation of persons or property in furtherance of any  
18 commercial or industrial enterprise whether for-hire or not.

19           (13) Proceeds from sales to owners, lessors, or shippers of  
20 tangible personal property that is utilized by interstate  
21 carriers for hire for use as rolling stock moving in interstate  
22 commerce and equipment operated by a telecommunications  
23 provider, licensed as a common carrier by the Federal  
24 Communications Commission, which is permanently installed in  
25 or affixed to aircraft moving in interstate commerce.

26           (14) Machinery and equipment that will be used by the

1 purchaser, or a lessee of the purchaser, primarily in the  
2 process of manufacturing or assembling tangible personal  
3 property for wholesale or retail sale or lease, whether the  
4 sale or lease is made directly by the manufacturer or by some  
5 other person, whether the materials used in the process are  
6 owned by the manufacturer or some other person, or whether the  
7 sale or lease is made apart from or as an incident to the  
8 seller's engaging in the service occupation of producing  
9 machines, tools, dies, jigs, patterns, gauges, or other similar  
10 items of no commercial value on special order for a particular  
11 purchaser.

12 (15) Proceeds of mandatory service charges separately  
13 stated on customers' bills for purchase and consumption of food  
14 and beverages, to the extent that the proceeds of the service  
15 charge are in fact turned over as tips or as a substitute for  
16 tips to the employees who participate directly in preparing,  
17 serving, hosting or cleaning up the food or beverage function  
18 with respect to which the service charge is imposed.

19 (16) Petroleum products sold to a purchaser if the seller  
20 is prohibited by federal law from charging tax to the  
21 purchaser.

22 (17) Tangible personal property sold to a common carrier by  
23 rail or motor that receives the physical possession of the  
24 property in Illinois and that transports the property, or  
25 shares with another common carrier in the transportation of the  
26 property, out of Illinois on a standard uniform bill of lading

1 showing the seller of the property as the shipper or consignor  
2 of the property to a destination outside Illinois, for use  
3 outside Illinois.

4 (18) Legal tender, currency, medallions, or gold or silver  
5 coinage issued by the State of Illinois, the government of the  
6 United States of America, or the government of any foreign  
7 country, and bullion.

8 (19) Until July 1 2003, oil field exploration, drilling,  
9 and production equipment, including (i) rigs and parts of rigs,  
10 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
11 tubular goods, including casing and drill strings, (iii) pumps  
12 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
13 individual replacement part for oil field exploration,  
14 drilling, and production equipment, and (vi) machinery and  
15 equipment purchased for lease; but excluding motor vehicles  
16 required to be registered under the Illinois Vehicle Code.

17 (20) Photoprocessing machinery and equipment, including  
18 repair and replacement parts, both new and used, including that  
19 manufactured on special order, certified by the purchaser to be  
20 used primarily for photoprocessing, and including  
21 photoprocessing machinery and equipment purchased for lease.

22 (21) Until July 1, 2003, coal exploration, mining,  
23 offhighway hauling, processing, maintenance, and reclamation  
24 equipment, including replacement parts and equipment, and  
25 including equipment purchased for lease, but excluding motor  
26 vehicles required to be registered under the Illinois Vehicle

1 Code.

2 (22) Fuel and petroleum products sold to or used by an air  
3 carrier, certified by the carrier to be used for consumption,  
4 shipment, or storage in the conduct of its business as an air  
5 common carrier, for a flight destined for or returning from a  
6 location or locations outside the United States without regard  
7 to previous or subsequent domestic stopovers.

8 (23) A transaction in which the purchase order is received  
9 by a florist who is located outside Illinois, but who has a  
10 florist located in Illinois deliver the property to the  
11 purchaser or the purchaser's donee in Illinois.

12 (24) Fuel consumed or used in the operation of ships,  
13 barges, or vessels that are used primarily in or for the  
14 transportation of property or the conveyance of persons for  
15 hire on rivers bordering on this State if the fuel is delivered  
16 by the seller to the purchaser's barge, ship, or vessel while  
17 it is afloat upon that bordering river.

18 (25) Except as provided in item (25-5) of this Section, a  
19 motor vehicle sold in this State to a nonresident even though  
20 the motor vehicle is delivered to the nonresident in this  
21 State, if the motor vehicle is not to be titled in this State,  
22 and if a drive-away permit is issued to the motor vehicle as  
23 provided in Section 3-603 of the Illinois Vehicle Code or if  
24 the nonresident purchaser has vehicle registration plates to  
25 transfer to the motor vehicle upon returning to his or her home  
26 state. The issuance of the drive-away permit or having the

1 out-of-state registration plates to be transferred is prima  
2 facie evidence that the motor vehicle will not be titled in  
3 this State.

4 (25-5) The exemption under item (25) does not apply if the  
5 state in which the motor vehicle will be titled does not allow  
6 a reciprocal exemption for a motor vehicle sold and delivered  
7 in that state to an Illinois resident but titled in Illinois.  
8 The tax collected under this Act on the sale of a motor vehicle  
9 in this State to a resident of another state that does not  
10 allow a reciprocal exemption shall be imposed at a rate equal  
11 to the state's rate of tax on taxable property in the state in  
12 which the purchaser is a resident, except that the tax shall  
13 not exceed the tax that would otherwise be imposed under this  
14 Act. At the time of the sale, the purchaser shall execute a  
15 statement, signed under penalty of perjury, of his or her  
16 intent to title the vehicle in the state in which the purchaser  
17 is a resident within 30 days after the sale and of the fact of  
18 the payment to the State of Illinois of tax in an amount  
19 equivalent to the state's rate of tax on taxable property in  
20 his or her state of residence and shall submit the statement to  
21 the appropriate tax collection agency in his or her state of  
22 residence. In addition, the retailer must retain a signed copy  
23 of the statement in his or her records. Nothing in this item  
24 shall be construed to require the removal of the vehicle from  
25 this state following the filing of an intent to title the  
26 vehicle in the purchaser's state of residence if the purchaser

1 titles the vehicle in his or her state of residence within 30  
2 days after the date of sale. The tax collected under this Act  
3 in accordance with this item (25-5) shall be proportionately  
4 distributed as if the tax were collected at the 6.25% general  
5 rate imposed under this Act.

6 (25-7) Beginning on July 1, 2007, no tax is imposed under  
7 this Act on the sale of an aircraft, as defined in Section 3 of  
8 the Illinois Aeronautics Act, if all of the following  
9 conditions are met:

10 (1) the aircraft leaves this State within 15 days after  
11 the later of either the issuance of the final billing for  
12 the sale of the aircraft, or the authorized approval for  
13 return to service, completion of the maintenance record  
14 entry, and completion of the test flight and ground test  
15 for inspection, as required by 14 C.F.R. 91.407;

16 (2) the aircraft is not based or registered in this  
17 State after the sale of the aircraft; and

18 (3) the seller retains in his or her books and records  
19 and provides to the Department a signed and dated  
20 certification from the purchaser, on a form prescribed by  
21 the Department, certifying that the requirements of this  
22 item (25-7) are met. The certificate must also include the  
23 name and address of the purchaser, the address of the  
24 location where the aircraft is to be titled or registered,  
25 the address of the primary physical location of the  
26 aircraft, and other information that the Department may

1 reasonably require.

2 For purposes of this item (25-7):

3 "Based in this State" means hangared, stored, or otherwise  
4 used, excluding post-sale customizations as defined in this  
5 Section, for 10 or more days in each 12-month period  
6 immediately following the date of the sale of the aircraft.

7 "Registered in this State" means an aircraft registered  
8 with the Department of Transportation, Aeronautics Division,  
9 or titled or registered with the Federal Aviation  
10 Administration to an address located in this State.

11 This paragraph (25-7) is exempt from the provisions of  
12 Section 2-70.

13 (26) Semen used for artificial insemination of livestock  
14 for direct agricultural production.

15 (27) Horses, or interests in horses, registered with and  
16 meeting the requirements of any of the Arabian Horse Club  
17 Registry of America, Appaloosa Horse Club, American Quarter  
18 Horse Association, United States Trotting Association, or  
19 Jockey Club, as appropriate, used for purposes of breeding or  
20 racing for prizes. This item (27) is exempt from the provisions  
21 of Section 2-70, and the exemption provided for under this item  
22 (27) applies for all periods beginning May 30, 1995, but no  
23 claim for credit or refund is allowed on or after January 1,  
24 2008 (the effective date of Public Act 95-88) for such taxes  
25 paid during the period beginning May 30, 2000 and ending on  
26 January 1, 2008 (the effective date of Public Act 95-88).

1           (28) Computers and communications equipment utilized for  
2 any hospital purpose and equipment used in the diagnosis,  
3 analysis, or treatment of hospital patients sold to a lessor  
4 who leases the equipment, under a lease of one year or longer  
5 executed or in effect at the time of the purchase, to a  
6 hospital that has been issued an active tax exemption  
7 identification number by the Department under Section 1g of  
8 this Act.

9           (29) Personal property sold to a lessor who leases the  
10 property, under a lease of one year or longer executed or in  
11 effect at the time of the purchase, to a governmental body that  
12 has been issued an active tax exemption identification number  
13 by the Department under Section 1g of this Act.

14           (30) Beginning with taxable years ending on or after  
15 December 31, 1995 and ending with taxable years ending on or  
16 before December 31, 2004, personal property that is donated for  
17 disaster relief to be used in a State or federally declared  
18 disaster area in Illinois or bordering Illinois by a  
19 manufacturer or retailer that is registered in this State to a  
20 corporation, society, association, foundation, or institution  
21 that has been issued a sales tax exemption identification  
22 number by the Department that assists victims of the disaster  
23 who reside within the declared disaster area.

24           (31) Beginning with taxable years ending on or after  
25 December 31, 1995 and ending with taxable years ending on or  
26 before December 31, 2004, personal property that is used in the

1 performance of infrastructure repairs in this State, including  
2 but not limited to municipal roads and streets, access roads,  
3 bridges, sidewalks, waste disposal systems, water and sewer  
4 line extensions, water distribution and purification  
5 facilities, storm water drainage and retention facilities, and  
6 sewage treatment facilities, resulting from a State or  
7 federally declared disaster in Illinois or bordering Illinois  
8 when such repairs are initiated on facilities located in the  
9 declared disaster area within 6 months after the disaster.

10 (32) Beginning July 1, 1999, game or game birds sold at a  
11 "game breeding and hunting preserve area" or an "exotic game  
12 hunting area" as those terms are used in the Wildlife Code or  
13 at a hunting enclosure approved through rules adopted by the  
14 Department of Natural Resources. This paragraph is exempt from  
15 the provisions of Section 2-70.

16 (33) A motor vehicle, as that term is defined in Section  
17 1-146 of the Illinois Vehicle Code, that is donated to a  
18 corporation, limited liability company, society, association,  
19 foundation, or institution that is determined by the Department  
20 to be organized and operated exclusively for educational  
21 purposes. For purposes of this exemption, "a corporation,  
22 limited liability company, society, association, foundation,  
23 or institution organized and operated exclusively for  
24 educational purposes" means all tax-supported public schools,  
25 private schools that offer systematic instruction in useful  
26 branches of learning by methods common to public schools and

1 that compare favorably in their scope and intensity with the  
2 course of study presented in tax-supported schools, and  
3 vocational or technical schools or institutes organized and  
4 operated exclusively to provide a course of study of not less  
5 than 6 weeks duration and designed to prepare individuals to  
6 follow a trade or to pursue a manual, technical, mechanical,  
7 industrial, business, or commercial occupation.

8 (34) Beginning January 1, 2000, personal property,  
9 including food, purchased through fundraising events for the  
10 benefit of a public or private elementary or secondary school,  
11 a group of those schools, or one or more school districts if  
12 the events are sponsored by an entity recognized by the school  
13 district that consists primarily of volunteers and includes  
14 parents and teachers of the school children. This paragraph  
15 does not apply to fundraising events (i) for the benefit of  
16 private home instruction or (ii) for which the fundraising  
17 entity purchases the personal property sold at the events from  
18 another individual or entity that sold the property for the  
19 purpose of resale by the fundraising entity and that profits  
20 from the sale to the fundraising entity. This paragraph is  
21 exempt from the provisions of Section 2-70.

22 (35) Beginning January 1, 2000 and through December 31,  
23 2001, new or used automatic vending machines that prepare and  
24 serve hot food and beverages, including coffee, soup, and other  
25 items, and replacement parts for these machines. Beginning  
26 January 1, 2002 and through June 30, 2003, machines and parts

1 for machines used in commercial, coin-operated amusement and  
2 vending business if a use or occupation tax is paid on the  
3 gross receipts derived from the use of the commercial,  
4 coin-operated amusement and vending machines. This paragraph  
5 is exempt from the provisions of Section 2-70.

6 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
7 food for human consumption that is to be consumed off the  
8 premises where it is sold (other than alcoholic beverages, soft  
9 drinks, and food that has been prepared for immediate  
10 consumption) and prescription and nonprescription medicines,  
11 drugs, medical appliances, and insulin, urine testing  
12 materials, syringes, and needles used by diabetics, for human  
13 use, when purchased for use by a person receiving medical  
14 assistance under Article V of the Illinois Public Aid Code who  
15 resides in a licensed long-term care facility, as defined in  
16 the Nursing Home Care Act, or a licensed facility as defined in  
17 the MR/DD Community Care Act or the Specialized Mental Health  
18 Rehabilitation Act.

19 (36) Beginning August 2, 2001, computers and  
20 communications equipment utilized for any hospital purpose and  
21 equipment used in the diagnosis, analysis, or treatment of  
22 hospital patients sold to a lessor who leases the equipment,  
23 under a lease of one year or longer executed or in effect at  
24 the time of the purchase, to a hospital that has been issued an  
25 active tax exemption identification number by the Department  
26 under Section 1g of this Act. This paragraph is exempt from the

1 provisions of Section 2-70.

2 (37) Beginning August 2, 2001, personal property sold to a  
3 lessor who leases the property, under a lease of one year or  
4 longer executed or in effect at the time of the purchase, to a  
5 governmental body that has been issued an active tax exemption  
6 identification number by the Department under Section 1g of  
7 this Act. This paragraph is exempt from the provisions of  
8 Section 2-70.

9 (38) Beginning on January 1, 2002 and through June 30,  
10 2011, tangible personal property purchased from an Illinois  
11 retailer by a taxpayer engaged in centralized purchasing  
12 activities in Illinois who will, upon receipt of the property  
13 in Illinois, temporarily store the property in Illinois (i) for  
14 the purpose of subsequently transporting it outside this State  
15 for use or consumption thereafter solely outside this State or  
16 (ii) for the purpose of being processed, fabricated, or  
17 manufactured into, attached to, or incorporated into other  
18 tangible personal property to be transported outside this State  
19 and thereafter used or consumed solely outside this State. The  
20 Director of Revenue shall, pursuant to rules adopted in  
21 accordance with the Illinois Administrative Procedure Act,  
22 issue a permit to any taxpayer in good standing with the  
23 Department who is eligible for the exemption under this  
24 paragraph (38). The permit issued under this paragraph (38)  
25 shall authorize the holder, to the extent and in the manner  
26 specified in the rules adopted under this Act, to purchase

1 tangible personal property from a retailer exempt from the  
2 taxes imposed by this Act. Taxpayers shall maintain all  
3 necessary books and records to substantiate the use and  
4 consumption of all such tangible personal property outside of  
5 the State of Illinois.

6 (39) Beginning January 1, 2008, tangible personal property  
7 used in the construction or maintenance of a community water  
8 supply, as defined under Section 3.145 of the Environmental  
9 Protection Act, that is operated by a not-for-profit  
10 corporation that holds a valid water supply permit issued under  
11 Title IV of the Environmental Protection Act. This paragraph is  
12 exempt from the provisions of Section 2-70.

13 (40) Beginning January 1, 2010, materials, parts,  
14 equipment, components, and furnishings incorporated into or  
15 upon an aircraft as part of the modification, refurbishment,  
16 completion, replacement, repair, or maintenance of the  
17 aircraft. This exemption includes consumable supplies used in  
18 the modification, refurbishment, completion, replacement,  
19 repair, and maintenance of aircraft, but excludes any  
20 materials, parts, equipment, components, and consumable  
21 supplies used in the modification, replacement, repair, and  
22 maintenance of aircraft engines or power plants, whether such  
23 engines or power plants are installed or uninstalled upon any  
24 such aircraft. "Consumable supplies" include, but are not  
25 limited to, adhesive, tape, sandpaper, general purpose  
26 lubricants, cleaning solution, latex gloves, and protective

1 films. This exemption applies only to those organizations that  
2 (i) hold an Air Agency Certificate and are empowered to operate  
3 an approved repair station by the Federal Aviation  
4 Administration, (ii) have a Class IV Rating, and (iii) conduct  
5 operations in accordance with Part 145 of the Federal Aviation  
6 Regulations. The exemption does not include aircraft operated  
7 by a commercial air carrier providing scheduled passenger air  
8 service pursuant to authority issued under Part 121 or Part 129  
9 of the Federal Aviation Regulations.

10 (41) Tangible personal property sold to a  
11 public-facilities corporation, as described in Section  
12 11-65-10 of the Illinois Municipal Code, for purposes of  
13 constructing or furnishing a municipal convention hall, but  
14 only if the legal title to the municipal convention hall is  
15 transferred to the municipality without any further  
16 consideration by or on behalf of the municipality at the time  
17 of the completion of the municipal convention hall or upon the  
18 retirement or redemption of any bonds or other debt instruments  
19 issued by the public-facilities corporation in connection with  
20 the development of the municipal convention hall. This  
21 exemption includes existing public-facilities corporations as  
22 provided in Section 11-65-25 of the Illinois Municipal Code.  
23 This paragraph is exempt from the provisions of Section 2-70.

24 (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304,  
25 eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08;  
26 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.

1 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000,  
2 eff. 7-2-10.)

3 Section 90-70. The Property Tax Code is amended by changing  
4 Sections 15-168, 15-170, and 15-172 as follows:

5 (35 ILCS 200/15-168)

6 Sec. 15-168. Disabled persons' homestead exemption.

7 (a) Beginning with taxable year 2007, an annual homestead  
8 exemption is granted to disabled persons in the amount of  
9 \$2,000, except as provided in subsection (c), to be deducted  
10 from the property's value as equalized or assessed by the  
11 Department of Revenue. The disabled person shall receive the  
12 homestead exemption upon meeting the following requirements:

13 (1) The property must be occupied as the primary  
14 residence by the disabled person.

15 (2) The disabled person must be liable for paying the  
16 real estate taxes on the property.

17 (3) The disabled person must be an owner of record of  
18 the property or have a legal or equitable interest in the  
19 property as evidenced by a written instrument. In the case  
20 of a leasehold interest in property, the lease must be for  
21 a single family residence.

22 A person who is disabled during the taxable year is  
23 eligible to apply for this homestead exemption during that  
24 taxable year. Application must be made during the application

1 period in effect for the county of residence. If a homestead  
2 exemption has been granted under this Section and the person  
3 awarded the exemption subsequently becomes a resident of a  
4 facility licensed under the Nursing Home Care Act, the  
5 Specialized Mental Health Rehabilitation Act, or the MR/DD  
6 Community Care Act, then the exemption shall continue (i) so  
7 long as the residence continues to be occupied by the  
8 qualifying person's spouse or (ii) if the residence remains  
9 unoccupied but is still owned by the person qualified for the  
10 homestead exemption.

11 (b) For the purposes of this Section, "disabled person"  
12 means a person unable to engage in any substantial gainful  
13 activity by reason of a medically determinable physical or  
14 mental impairment which can be expected to result in death or  
15 has lasted or can be expected to last for a continuous period  
16 of not less than 12 months. Disabled persons filing claims  
17 under this Act shall submit proof of disability in such form  
18 and manner as the Department shall by rule and regulation  
19 prescribe. Proof that a claimant is eligible to receive  
20 disability benefits under the Federal Social Security Act shall  
21 constitute proof of disability for purposes of this Act.  
22 Issuance of an Illinois Disabled Person Identification Card  
23 stating that the claimant is under a Class 2 disability, as  
24 defined in Section 4A of The Illinois Identification Card Act,  
25 shall constitute proof that the person named thereon is a  
26 disabled person for purposes of this Act. A disabled person not

1 covered under the Federal Social Security Act and not  
2 presenting a Disabled Person Identification Card stating that  
3 the claimant is under a Class 2 disability shall be examined by  
4 a physician designated by the Department, and his status as a  
5 disabled person determined using the same standards as used by  
6 the Social Security Administration. The costs of any required  
7 examination shall be borne by the claimant.

8 (c) For land improved with (i) an apartment building owned  
9 and operated as a cooperative or (ii) a life care facility as  
10 defined under Section 2 of the Life Care Facilities Act that is  
11 considered to be a cooperative, the maximum reduction from the  
12 value of the property, as equalized or assessed by the  
13 Department, shall be multiplied by the number of apartments or  
14 units occupied by a disabled person. The disabled person shall  
15 receive the homestead exemption upon meeting the following  
16 requirements:

17 (1) The property must be occupied as the primary  
18 residence by the disabled person.

19 (2) The disabled person must be liable by contract with  
20 the owner or owners of record for paying the apportioned  
21 property taxes on the property of the cooperative or life  
22 care facility. In the case of a life care facility, the  
23 disabled person must be liable for paying the apportioned  
24 property taxes under a life care contract as defined in  
25 Section 2 of the Life Care Facilities Act.

26 (3) The disabled person must be an owner of record of a

1           legal or equitable interest in the cooperative apartment  
2           building. A leasehold interest does not meet this  
3           requirement.

4           If a homestead exemption is granted under this subsection, the  
5           cooperative association or management firm shall credit the  
6           savings resulting from the exemption to the apportioned tax  
7           liability of the qualifying disabled person. The chief county  
8           assessment officer may request reasonable proof that the  
9           association or firm has properly credited the exemption. A  
10          person who willfully refuses to credit an exemption to the  
11          qualified disabled person is guilty of a Class B misdemeanor.

12          (d) The chief county assessment officer shall determine the  
13          eligibility of property to receive the homestead exemption  
14          according to guidelines established by the Department. After a  
15          person has received an exemption under this Section, an annual  
16          verification of eligibility for the exemption shall be mailed  
17          to the taxpayer.

18          In counties with fewer than 3,000,000 inhabitants, the  
19          chief county assessment officer shall provide to each person  
20          granted a homestead exemption under this Section a form to  
21          designate any other person to receive a duplicate of any notice  
22          of delinquency in the payment of taxes assessed and levied  
23          under this Code on the person's qualifying property. The  
24          duplicate notice shall be in addition to the notice required to  
25          be provided to the person receiving the exemption and shall be  
26          given in the manner required by this Code. The person filing

1 the request for the duplicate notice shall pay an  
2 administrative fee of \$5 to the chief county assessment  
3 officer. The assessment officer shall then file the executed  
4 designation with the county collector, who shall issue the  
5 duplicate notices as indicated by the designation. A  
6 designation may be rescinded by the disabled person in the  
7 manner required by the chief county assessment officer.

8 (e) A taxpayer who claims an exemption under Section 15-165  
9 or 15-169 may not claim an exemption under this Section.

10 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

11 (35 ILCS 200/15-170)

12 Sec. 15-170. Senior Citizens Homestead Exemption. An  
13 annual homestead exemption limited, except as described here  
14 with relation to cooperatives or life care facilities, to a  
15 maximum reduction set forth below from the property's value, as  
16 equalized or assessed by the Department, is granted for  
17 property that is occupied as a residence by a person 65 years  
18 of age or older who is liable for paying real estate taxes on  
19 the property and is an owner of record of the property or has a  
20 legal or equitable interest therein as evidenced by a written  
21 instrument, except for a leasehold interest, other than a  
22 leasehold interest of land on which a single family residence  
23 is located, which is occupied as a residence by a person 65  
24 years or older who has an ownership interest therein, legal,  
25 equitable or as a lessee, and on which he or she is liable for

1 the payment of property taxes. Before taxable year 2004, the  
2 maximum reduction shall be \$2,500 in counties with 3,000,000 or  
3 more inhabitants and \$2,000 in all other counties. For taxable  
4 years 2004 through 2005, the maximum reduction shall be \$3,000  
5 in all counties. For taxable years 2006 and 2007, the maximum  
6 reduction shall be \$3,500 and, for taxable years 2008 and  
7 thereafter, the maximum reduction is \$4,000 in all counties.

8 For land improved with an apartment building owned and  
9 operated as a cooperative, the maximum reduction from the value  
10 of the property, as equalized by the Department, shall be  
11 multiplied by the number of apartments or units occupied by a  
12 person 65 years of age or older who is liable, by contract with  
13 the owner or owners of record, for paying property taxes on the  
14 property and is an owner of record of a legal or equitable  
15 interest in the cooperative apartment building, other than a  
16 leasehold interest. For land improved with a life care  
17 facility, the maximum reduction from the value of the property,  
18 as equalized by the Department, shall be multiplied by the  
19 number of apartments or units occupied by persons 65 years of  
20 age or older, irrespective of any legal, equitable, or  
21 leasehold interest in the facility, who are liable, under a  
22 contract with the owner or owners of record of the facility,  
23 for paying property taxes on the property. In a cooperative or  
24 a life care facility where a homestead exemption has been  
25 granted, the cooperative association or the management firm of  
26 the cooperative or facility shall credit the savings resulting

1 from that exemption only to the apportioned tax liability of  
2 the owner or resident who qualified for the exemption. Any  
3 person who willfully refuses to so credit the savings shall be  
4 guilty of a Class B misdemeanor. Under this Section and  
5 Sections 15-175, 15-176, and 15-177, "life care facility" means  
6 a facility, as defined in Section 2 of the Life Care Facilities  
7 Act, with which the applicant for the homestead exemption has a  
8 life care contract as defined in that Act.

9 When a homestead exemption has been granted under this  
10 Section and the person qualifying subsequently becomes a  
11 resident of a facility licensed under the Assisted Living and  
12 Shared Housing Act, the Nursing Home Care Act, the Specialized  
13 Mental Health Rehabilitation Act, or the MR/DD Community Care  
14 Act, the exemption shall continue so long as the residence  
15 continues to be occupied by the qualifying person's spouse if  
16 the spouse is 65 years of age or older, or if the residence  
17 remains unoccupied but is still owned by the person qualified  
18 for the homestead exemption.

19 A person who will be 65 years of age during the current  
20 assessment year shall be eligible to apply for the homestead  
21 exemption during that assessment year. Application shall be  
22 made during the application period in effect for the county of  
23 his residence.

24 Beginning with assessment year 2003, for taxes payable in  
25 2004, property that is first occupied as a residence after  
26 January 1 of any assessment year by a person who is eligible

1 for the senior citizens homestead exemption under this Section  
2 must be granted a pro-rata exemption for the assessment year.  
3 The amount of the pro-rata exemption is the exemption allowed  
4 in the county under this Section divided by 365 and multiplied  
5 by the number of days during the assessment year the property  
6 is occupied as a residence by a person eligible for the  
7 exemption under this Section. The chief county assessment  
8 officer must adopt reasonable procedures to establish  
9 eligibility for this pro-rata exemption.

10 The assessor or chief county assessment officer may  
11 determine the eligibility of a life care facility to receive  
12 the benefits provided by this Section, by affidavit,  
13 application, visual inspection, questionnaire or other  
14 reasonable methods in order to insure that the tax savings  
15 resulting from the exemption are credited by the management  
16 firm to the apportioned tax liability of each qualifying  
17 resident. The assessor may request reasonable proof that the  
18 management firm has so credited the exemption.

19 The chief county assessment officer of each county with  
20 less than 3,000,000 inhabitants shall provide to each person  
21 allowed a homestead exemption under this Section a form to  
22 designate any other person to receive a duplicate of any notice  
23 of delinquency in the payment of taxes assessed and levied  
24 under this Code on the property of the person receiving the  
25 exemption. The duplicate notice shall be in addition to the  
26 notice required to be provided to the person receiving the

1 exemption, and shall be given in the manner required by this  
2 Code. The person filing the request for the duplicate notice  
3 shall pay a fee of \$5 to cover administrative costs to the  
4 supervisor of assessments, who shall then file the executed  
5 designation with the county collector. Notwithstanding any  
6 other provision of this Code to the contrary, the filing of  
7 such an executed designation requires the county collector to  
8 provide duplicate notices as indicated by the designation. A  
9 designation may be rescinded by the person who executed such  
10 designation at any time, in the manner and form required by the  
11 chief county assessment officer.

12 The assessor or chief county assessment officer may  
13 determine the eligibility of residential property to receive  
14 the homestead exemption provided by this Section by  
15 application, visual inspection, questionnaire or other  
16 reasonable methods. The determination shall be made in  
17 accordance with guidelines established by the Department.

18 In counties with 3,000,000 or more inhabitants, beginning  
19 in taxable year 2010, each taxpayer who has been granted an  
20 exemption under this Section must reapply on an annual basis.  
21 The chief county assessment officer shall mail the application  
22 to the taxpayer. In counties with less than 3,000,000  
23 inhabitants, the county board may by resolution provide that if  
24 a person has been granted a homestead exemption under this  
25 Section, the person qualifying need not reapply for the  
26 exemption.

1           In counties with less than 3,000,000 inhabitants, if the  
2           assessor or chief county assessment officer requires annual  
3           application for verification of eligibility for an exemption  
4           once granted under this Section, the application shall be  
5           mailed to the taxpayer.

6           The assessor or chief county assessment officer shall  
7           notify each person who qualifies for an exemption under this  
8           Section that the person may also qualify for deferral of real  
9           estate taxes under the Senior Citizens Real Estate Tax Deferral  
10          Act. The notice shall set forth the qualifications needed for  
11          deferral of real estate taxes, the address and telephone number  
12          of county collector, and a statement that applications for  
13          deferral of real estate taxes may be obtained from the county  
14          collector.

15          Notwithstanding Sections 6 and 8 of the State Mandates Act,  
16          no reimbursement by the State is required for the  
17          implementation of any mandate created by this Section.

18          (Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08;  
19          96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10;  
20          96-1418, eff. 8-2-10.)

21                   (35 ILCS 200/15-172)

22           Sec. 15-172. Senior Citizens Assessment Freeze Homestead  
23           Exemption.

24           (a) This Section may be cited as the Senior Citizens  
25           Assessment Freeze Homestead Exemption.

1 (b) As used in this Section:

2 "Applicant" means an individual who has filed an  
3 application under this Section.

4 "Base amount" means the base year equalized assessed value  
5 of the residence plus the first year's equalized assessed value  
6 of any added improvements which increased the assessed value of  
7 the residence after the base year.

8 "Base year" means the taxable year prior to the taxable  
9 year for which the applicant first qualifies and applies for  
10 the exemption provided that in the prior taxable year the  
11 property was improved with a permanent structure that was  
12 occupied as a residence by the applicant who was liable for  
13 paying real property taxes on the property and who was either  
14 (i) an owner of record of the property or had legal or  
15 equitable interest in the property as evidenced by a written  
16 instrument or (ii) had a legal or equitable interest as a  
17 lessee in the parcel of property that was single family  
18 residence. If in any subsequent taxable year for which the  
19 applicant applies and qualifies for the exemption the equalized  
20 assessed value of the residence is less than the equalized  
21 assessed value in the existing base year (provided that such  
22 equalized assessed value is not based on an assessed value that  
23 results from a temporary irregularity in the property that  
24 reduces the assessed value for one or more taxable years), then  
25 that subsequent taxable year shall become the base year until a  
26 new base year is established under the terms of this paragraph.

1 For taxable year 1999 only, the Chief County Assessment Officer  
2 shall review (i) all taxable years for which the applicant  
3 applied and qualified for the exemption and (ii) the existing  
4 base year. The assessment officer shall select as the new base  
5 year the year with the lowest equalized assessed value. An  
6 equalized assessed value that is based on an assessed value  
7 that results from a temporary irregularity in the property that  
8 reduces the assessed value for one or more taxable years shall  
9 not be considered the lowest equalized assessed value. The  
10 selected year shall be the base year for taxable year 1999 and  
11 thereafter until a new base year is established under the terms  
12 of this paragraph.

13 "Chief County Assessment Officer" means the County  
14 Assessor or Supervisor of Assessments of the county in which  
15 the property is located.

16 "Equalized assessed value" means the assessed value as  
17 equalized by the Illinois Department of Revenue.

18 "Household" means the applicant, the spouse of the  
19 applicant, and all persons using the residence of the applicant  
20 as their principal place of residence.

21 "Household income" means the combined income of the members  
22 of a household for the calendar year preceding the taxable  
23 year.

24 "Income" has the same meaning as provided in Section 3.07  
25 of the Senior Citizens and Disabled Persons Property Tax Relief  
26 and Pharmaceutical Assistance Act, except that, beginning in

1 assessment year 2001, "income" does not include veteran's  
2 benefits.

3 "Internal Revenue Code of 1986" means the United States  
4 Internal Revenue Code of 1986 or any successor law or laws  
5 relating to federal income taxes in effect for the year  
6 preceding the taxable year.

7 "Life care facility that qualifies as a cooperative" means  
8 a facility as defined in Section 2 of the Life Care Facilities  
9 Act.

10 "Maximum income limitation" means:

- 11 (1) \$35,000 prior to taxable year 1999;
- 12 (2) \$40,000 in taxable years 1999 through 2003;
- 13 (3) \$45,000 in taxable years 2004 through 2005;
- 14 (4) \$50,000 in taxable years 2006 and 2007; and
- 15 (5) \$55,000 in taxable year 2008 and thereafter.

16 "Residence" means the principal dwelling place and  
17 appurtenant structures used for residential purposes in this  
18 State occupied on January 1 of the taxable year by a household  
19 and so much of the surrounding land, constituting the parcel  
20 upon which the dwelling place is situated, as is used for  
21 residential purposes. If the Chief County Assessment Officer  
22 has established a specific legal description for a portion of  
23 property constituting the residence, then that portion of  
24 property shall be deemed the residence for the purposes of this  
25 Section.

26 "Taxable year" means the calendar year during which ad

1 valorem property taxes payable in the next succeeding year are  
2 levied.

3 (c) Beginning in taxable year 1994, a senior citizens  
4 assessment freeze homestead exemption is granted for real  
5 property that is improved with a permanent structure that is  
6 occupied as a residence by an applicant who (i) is 65 years of  
7 age or older during the taxable year, (ii) has a household  
8 income that does not exceed the maximum income limitation,  
9 (iii) is liable for paying real property taxes on the property,  
10 and (iv) is an owner of record of the property or has a legal or  
11 equitable interest in the property as evidenced by a written  
12 instrument. This homestead exemption shall also apply to a  
13 leasehold interest in a parcel of property improved with a  
14 permanent structure that is a single family residence that is  
15 occupied as a residence by a person who (i) is 65 years of age  
16 or older during the taxable year, (ii) has a household income  
17 that does not exceed the maximum income limitation, (iii) has a  
18 legal or equitable ownership interest in the property as  
19 lessee, and (iv) is liable for the payment of real property  
20 taxes on that property.

21 In counties of 3,000,000 or more inhabitants, the amount of  
22 the exemption for all taxable years is the equalized assessed  
23 value of the residence in the taxable year for which  
24 application is made minus the base amount. In all other  
25 counties, the amount of the exemption is as follows: (i)  
26 through taxable year 2005 and for taxable year 2007 and

1 thereafter, the amount of this exemption shall be the equalized  
2 assessed value of the residence in the taxable year for which  
3 application is made minus the base amount; and (ii) for taxable  
4 year 2006, the amount of the exemption is as follows:

5 (1) For an applicant who has a household income of  
6 \$45,000 or less, the amount of the exemption is the  
7 equalized assessed value of the residence in the taxable  
8 year for which application is made minus the base amount.

9 (2) For an applicant who has a household income  
10 exceeding \$45,000 but not exceeding \$46,250, the amount of  
11 the exemption is (i) the equalized assessed value of the  
12 residence in the taxable year for which application is made  
13 minus the base amount (ii) multiplied by 0.8.

14 (3) For an applicant who has a household income  
15 exceeding \$46,250 but not exceeding \$47,500, the amount of  
16 the exemption is (i) the equalized assessed value of the  
17 residence in the taxable year for which application is made  
18 minus the base amount (ii) multiplied by 0.6.

19 (4) For an applicant who has a household income  
20 exceeding \$47,500 but not exceeding \$48,750, the amount of  
21 the exemption is (i) the equalized assessed value of the  
22 residence in the taxable year for which application is made  
23 minus the base amount (ii) multiplied by 0.4.

24 (5) For an applicant who has a household income  
25 exceeding \$48,750 but not exceeding \$50,000, the amount of  
26 the exemption is (i) the equalized assessed value of the

1 residence in the taxable year for which application is made  
2 minus the base amount (ii) multiplied by 0.2.

3 When the applicant is a surviving spouse of an applicant  
4 for a prior year for the same residence for which an exemption  
5 under this Section has been granted, the base year and base  
6 amount for that residence are the same as for the applicant for  
7 the prior year.

8 Each year at the time the assessment books are certified to  
9 the County Clerk, the Board of Review or Board of Appeals shall  
10 give to the County Clerk a list of the assessed values of  
11 improvements on each parcel qualifying for this exemption that  
12 were added after the base year for this parcel and that  
13 increased the assessed value of the property.

14 In the case of land improved with an apartment building  
15 owned and operated as a cooperative or a building that is a  
16 life care facility that qualifies as a cooperative, the maximum  
17 reduction from the equalized assessed value of the property is  
18 limited to the sum of the reductions calculated for each unit  
19 occupied as a residence by a person or persons (i) 65 years of  
20 age or older, (ii) with a household income that does not exceed  
21 the maximum income limitation, (iii) who is liable, by contract  
22 with the owner or owners of record, for paying real property  
23 taxes on the property, and (iv) who is an owner of record of a  
24 legal or equitable interest in the cooperative apartment  
25 building, other than a leasehold interest. In the instance of a  
26 cooperative where a homestead exemption has been granted under

1 this Section, the cooperative association or its management  
2 firm shall credit the savings resulting from that exemption  
3 only to the apportioned tax liability of the owner who  
4 qualified for the exemption. Any person who willfully refuses  
5 to credit that savings to an owner who qualifies for the  
6 exemption is guilty of a Class B misdemeanor.

7 When a homestead exemption has been granted under this  
8 Section and an applicant then becomes a resident of a facility  
9 licensed under the Assisted Living and Shared Housing Act, the  
10 Nursing Home Care Act, the Specialized Mental Health  
11 Rehabilitation Act, or the MR/DD Community Care Act, the  
12 exemption shall be granted in subsequent years so long as the  
13 residence (i) continues to be occupied by the qualified  
14 applicant's spouse or (ii) if remaining unoccupied, is still  
15 owned by the qualified applicant for the homestead exemption.

16 Beginning January 1, 1997, when an individual dies who  
17 would have qualified for an exemption under this Section, and  
18 the surviving spouse does not independently qualify for this  
19 exemption because of age, the exemption under this Section  
20 shall be granted to the surviving spouse for the taxable year  
21 preceding and the taxable year of the death, provided that,  
22 except for age, the surviving spouse meets all other  
23 qualifications for the granting of this exemption for those  
24 years.

25 When married persons maintain separate residences, the  
26 exemption provided for in this Section may be claimed by only

1 one of such persons and for only one residence.

2 For taxable year 1994 only, in counties having less than  
3 3,000,000 inhabitants, to receive the exemption, a person shall  
4 submit an application by February 15, 1995 to the Chief County  
5 Assessment Officer of the county in which the property is  
6 located. In counties having 3,000,000 or more inhabitants, for  
7 taxable year 1994 and all subsequent taxable years, to receive  
8 the exemption, a person may submit an application to the Chief  
9 County Assessment Officer of the county in which the property  
10 is located during such period as may be specified by the Chief  
11 County Assessment Officer. The Chief County Assessment Officer  
12 in counties of 3,000,000 or more inhabitants shall annually  
13 give notice of the application period by mail or by  
14 publication. In counties having less than 3,000,000  
15 inhabitants, beginning with taxable year 1995 and thereafter,  
16 to receive the exemption, a person shall submit an application  
17 by July 1 of each taxable year to the Chief County Assessment  
18 Officer of the county in which the property is located. A  
19 county may, by ordinance, establish a date for submission of  
20 applications that is different than July 1. The applicant shall  
21 submit with the application an affidavit of the applicant's  
22 total household income, age, marital status (and if married the  
23 name and address of the applicant's spouse, if known), and  
24 principal dwelling place of members of the household on January  
25 1 of the taxable year. The Department shall establish, by rule,  
26 a method for verifying the accuracy of affidavits filed by

1 applicants under this Section, and the Chief County Assessment  
2 Officer may conduct audits of any taxpayer claiming an  
3 exemption under this Section to verify that the taxpayer is  
4 eligible to receive the exemption. Each application shall  
5 contain or be verified by a written declaration that it is made  
6 under the penalties of perjury. A taxpayer's signing a  
7 fraudulent application under this Act is perjury, as defined in  
8 Section 32-2 of the Criminal Code of 1961. The applications  
9 shall be clearly marked as applications for the Senior Citizens  
10 Assessment Freeze Homestead Exemption and must contain a notice  
11 that any taxpayer who receives the exemption is subject to an  
12 audit by the Chief County Assessment Officer.

13 Notwithstanding any other provision to the contrary, in  
14 counties having fewer than 3,000,000 inhabitants, if an  
15 applicant fails to file the application required by this  
16 Section in a timely manner and this failure to file is due to a  
17 mental or physical condition sufficiently severe so as to  
18 render the applicant incapable of filing the application in a  
19 timely manner, the Chief County Assessment Officer may extend  
20 the filing deadline for a period of 30 days after the applicant  
21 regains the capability to file the application, but in no case  
22 may the filing deadline be extended beyond 3 months of the  
23 original filing deadline. In order to receive the extension  
24 provided in this paragraph, the applicant shall provide the  
25 Chief County Assessment Officer with a signed statement from  
26 the applicant's physician stating the nature and extent of the

1 condition, that, in the physician's opinion, the condition was  
2 so severe that it rendered the applicant incapable of filing  
3 the application in a timely manner, and the date on which the  
4 applicant regained the capability to file the application.

5 Beginning January 1, 1998, notwithstanding any other  
6 provision to the contrary, in counties having fewer than  
7 3,000,000 inhabitants, if an applicant fails to file the  
8 application required by this Section in a timely manner and  
9 this failure to file is due to a mental or physical condition  
10 sufficiently severe so as to render the applicant incapable of  
11 filing the application in a timely manner, the Chief County  
12 Assessment Officer may extend the filing deadline for a period  
13 of 3 months. In order to receive the extension provided in this  
14 paragraph, the applicant shall provide the Chief County  
15 Assessment Officer with a signed statement from the applicant's  
16 physician stating the nature and extent of the condition, and  
17 that, in the physician's opinion, the condition was so severe  
18 that it rendered the applicant incapable of filing the  
19 application in a timely manner.

20 In counties having less than 3,000,000 inhabitants, if an  
21 applicant was denied an exemption in taxable year 1994 and the  
22 denial occurred due to an error on the part of an assessment  
23 official, or his or her agent or employee, then beginning in  
24 taxable year 1997 the applicant's base year, for purposes of  
25 determining the amount of the exemption, shall be 1993 rather  
26 than 1994. In addition, in taxable year 1997, the applicant's

1 exemption shall also include an amount equal to (i) the amount  
2 of any exemption denied to the applicant in taxable year 1995  
3 as a result of using 1994, rather than 1993, as the base year,  
4 (ii) the amount of any exemption denied to the applicant in  
5 taxable year 1996 as a result of using 1994, rather than 1993,  
6 as the base year, and (iii) the amount of the exemption  
7 erroneously denied for taxable year 1994.

8 For purposes of this Section, a person who will be 65 years  
9 of age during the current taxable year shall be eligible to  
10 apply for the homestead exemption during that taxable year.  
11 Application shall be made during the application period in  
12 effect for the county of his or her residence.

13 The Chief County Assessment Officer may determine the  
14 eligibility of a life care facility that qualifies as a  
15 cooperative to receive the benefits provided by this Section by  
16 use of an affidavit, application, visual inspection,  
17 questionnaire, or other reasonable method in order to insure  
18 that the tax savings resulting from the exemption are credited  
19 by the management firm to the apportioned tax liability of each  
20 qualifying resident. The Chief County Assessment Officer may  
21 request reasonable proof that the management firm has so  
22 credited that exemption.

23 Except as provided in this Section, all information  
24 received by the chief county assessment officer or the  
25 Department from applications filed under this Section, or from  
26 any investigation conducted under the provisions of this

1 Section, shall be confidential, except for official purposes or  
2 pursuant to official procedures for collection of any State or  
3 local tax or enforcement of any civil or criminal penalty or  
4 sanction imposed by this Act or by any statute or ordinance  
5 imposing a State or local tax. Any person who divulges any such  
6 information in any manner, except in accordance with a proper  
7 judicial order, is guilty of a Class A misdemeanor.

8 Nothing contained in this Section shall prevent the  
9 Director or chief county assessment officer from publishing or  
10 making available reasonable statistics concerning the  
11 operation of the exemption contained in this Section in which  
12 the contents of claims are grouped into aggregates in such a  
13 way that information contained in any individual claim shall  
14 not be disclosed.

15 (d) Each Chief County Assessment Officer shall annually  
16 publish a notice of availability of the exemption provided  
17 under this Section. The notice shall be published at least 60  
18 days but no more than 75 days prior to the date on which the  
19 application must be submitted to the Chief County Assessment  
20 Officer of the county in which the property is located. The  
21 notice shall appear in a newspaper of general circulation in  
22 the county.

23 Notwithstanding Sections 6 and 8 of the State Mandates Act,  
24 no reimbursement by the State is required for the  
25 implementation of any mandate created by this Section.

26 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;

1 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

2 Section 90-75. The Regional Transportation Authority Act  
3 is amended by changing Section 4.03 as follows:

4 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

5 Sec. 4.03. Taxes.

6 (a) In order to carry out any of the powers or purposes of  
7 the Authority, the Board may by ordinance adopted with the  
8 concurrence of 12 of the then Directors, impose throughout the  
9 metropolitan region any or all of the taxes provided in this  
10 Section. Except as otherwise provided in this Act, taxes  
11 imposed under this Section and civil penalties imposed incident  
12 thereto shall be collected and enforced by the State Department  
13 of Revenue. The Department shall have the power to administer  
14 and enforce the taxes and to determine all rights for refunds  
15 for erroneous payments of the taxes. Nothing in this amendatory  
16 Act of the 95th General Assembly is intended to invalidate any  
17 taxes currently imposed by the Authority. The increased vote  
18 requirements to impose a tax shall only apply to actions taken  
19 after the effective date of this amendatory Act of the 95th  
20 General Assembly.

21 (b) The Board may impose a public transportation tax upon  
22 all persons engaged in the metropolitan region in the business  
23 of selling at retail motor fuel for operation of motor vehicles  
24 upon public highways. The tax shall be at a rate not to exceed

1 5% of the gross receipts from the sales of motor fuel in the  
2 course of the business. As used in this Act, the term "motor  
3 fuel" shall have the same meaning as in the Motor Fuel Tax Law.  
4 The Board may provide for details of the tax. The provisions of  
5 any tax shall conform, as closely as may be practicable, to the  
6 provisions of the Municipal Retailers Occupation Tax Act,  
7 including without limitation, conformity to penalties with  
8 respect to the tax imposed and as to the powers of the State  
9 Department of Revenue to promulgate and enforce rules and  
10 regulations relating to the administration and enforcement of  
11 the provisions of the tax imposed, except that reference in the  
12 Act to any municipality shall refer to the Authority and the  
13 tax shall be imposed only with regard to receipts from sales of  
14 motor fuel in the metropolitan region, at rates as limited by  
15 this Section.

16 (c) In connection with the tax imposed under paragraph (b)  
17 of this Section the Board may impose a tax upon the privilege  
18 of using in the metropolitan region motor fuel for the  
19 operation of a motor vehicle upon public highways, the tax to  
20 be at a rate not in excess of the rate of tax imposed under  
21 paragraph (b) of this Section. The Board may provide for  
22 details of the tax.

23 (d) The Board may impose a motor vehicle parking tax upon  
24 the privilege of parking motor vehicles at off-street parking  
25 facilities in the metropolitan region at which a fee is  
26 charged, and may provide for reasonable classifications in and

1 exemptions to the tax, for administration and enforcement  
2 thereof and for civil penalties and refunds thereunder and may  
3 provide criminal penalties thereunder, the maximum penalties  
4 not to exceed the maximum criminal penalties provided in the  
5 Retailers' Occupation Tax Act. The Authority may collect and  
6 enforce the tax itself or by contract with any unit of local  
7 government. The State Department of Revenue shall have no  
8 responsibility for the collection and enforcement unless the  
9 Department agrees with the Authority to undertake the  
10 collection and enforcement. As used in this paragraph, the term  
11 "parking facility" means a parking area or structure having  
12 parking spaces for more than 2 vehicles at which motor vehicles  
13 are permitted to park in return for an hourly, daily, or other  
14 periodic fee, whether publicly or privately owned, but does not  
15 include parking spaces on a public street, the use of which is  
16 regulated by parking meters.

17 (e) The Board may impose a Regional Transportation  
18 Authority Retailers' Occupation Tax upon all persons engaged in  
19 the business of selling tangible personal property at retail in  
20 the metropolitan region. In Cook County the tax rate shall be  
21 1.25% of the gross receipts from sales of food for human  
22 consumption that is to be consumed off the premises where it is  
23 sold (other than alcoholic beverages, soft drinks and food that  
24 has been prepared for immediate consumption) and prescription  
25 and nonprescription medicines, drugs, medical appliances and  
26 insulin, urine testing materials, syringes and needles used by

1     diabetics, and 1% of the gross receipts from other taxable  
2     sales made in the course of that business. In DuPage, Kane,  
3     Lake, McHenry, and Will Counties, the tax rate shall be 0.75%  
4     of the gross receipts from all taxable sales made in the course  
5     of that business. The tax imposed under this Section and all  
6     civil penalties that may be assessed as an incident thereof  
7     shall be collected and enforced by the State Department of  
8     Revenue. The Department shall have full power to administer and  
9     enforce this Section; to collect all taxes and penalties so  
10    collected in the manner hereinafter provided; and to determine  
11    all rights to credit memoranda arising on account of the  
12    erroneous payment of tax or penalty hereunder. In the  
13    administration of, and compliance with this Section, the  
14    Department and persons who are subject to this Section shall  
15    have the same rights, remedies, privileges, immunities, powers  
16    and duties, and be subject to the same conditions,  
17    restrictions, limitations, penalties, exclusions, exemptions  
18    and definitions of terms, and employ the same modes of  
19    procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
20    1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
21    therein other than the State rate of tax), 2c, 3 (except as to  
22    the disposition of taxes and penalties collected), 4, 5, 5a,  
23    5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
24    9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
25    Section 3-7 of the Uniform Penalty and Interest Act, as fully  
26    as if those provisions were set forth herein.

1           Persons subject to any tax imposed under the authority  
2 granted in this Section may reimburse themselves for their  
3 seller's tax liability hereunder by separately stating the tax  
4 as an additional charge, which charge may be stated in  
5 combination in a single amount with State taxes that sellers  
6 are required to collect under the Use Tax Act, under any  
7 bracket schedules the Department may prescribe.

8           Whenever the Department determines that a refund should be  
9 made under this Section to a claimant instead of issuing a  
10 credit memorandum, the Department shall notify the State  
11 Comptroller, who shall cause the warrant to be drawn for the  
12 amount specified, and to the person named, in the notification  
13 from the Department. The refund shall be paid by the State  
14 Treasurer out of the Regional Transportation Authority tax fund  
15 established under paragraph (n) of this Section.

16           If a tax is imposed under this subsection (e), a tax shall  
17 also be imposed under subsections (f) and (g) of this Section.

18           For the purpose of determining whether a tax authorized  
19 under this Section is applicable, a retail sale by a producer  
20 of coal or other mineral mined in Illinois, is a sale at retail  
21 at the place where the coal or other mineral mined in Illinois  
22 is extracted from the earth. This paragraph does not apply to  
23 coal or other mineral when it is delivered or shipped by the  
24 seller to the purchaser at a point outside Illinois so that the  
25 sale is exempt under the Federal Constitution as a sale in  
26 interstate or foreign commerce.

1 No tax shall be imposed or collected under this subsection  
2 on the sale of a motor vehicle in this State to a resident of  
3 another state if that motor vehicle will not be titled in this  
4 State.

5 Nothing in this Section shall be construed to authorize the  
6 Regional Transportation Authority to impose a tax upon the  
7 privilege of engaging in any business that under the  
8 Constitution of the United States may not be made the subject  
9 of taxation by this State.

10 (f) If a tax has been imposed under paragraph (e), a  
11 Regional Transportation Authority Service Occupation Tax shall  
12 also be imposed upon all persons engaged, in the metropolitan  
13 region in the business of making sales of service, who as an  
14 incident to making the sales of service, transfer tangible  
15 personal property within the metropolitan region, either in the  
16 form of tangible personal property or in the form of real  
17 estate as an incident to a sale of service. In Cook County, the  
18 tax rate shall be: (1) 1.25% of the serviceman's cost price of  
19 food prepared for immediate consumption and transferred  
20 incident to a sale of service subject to the service occupation  
21 tax by an entity licensed under the Hospital Licensing Act, the  
22 Nursing Home Care Act, the Specialized Mental Health  
23 Rehabilitation Act, or the MR/DD Community Care Act that is  
24 located in the metropolitan region; (2) 1.25% of the selling  
25 price of food for human consumption that is to be consumed off  
26 the premises where it is sold (other than alcoholic beverages,

1 soft drinks and food that has been prepared for immediate  
2 consumption) and prescription and nonprescription medicines,  
3 drugs, medical appliances and insulin, urine testing  
4 materials, syringes and needles used by diabetics; and (3) 1%  
5 of the selling price from other taxable sales of tangible  
6 personal property transferred. In DuPage, Kane, Lake, McHenry  
7 and Will Counties the rate shall be 0.75% of the selling price  
8 of all tangible personal property transferred.

9 The tax imposed under this paragraph and all civil  
10 penalties that may be assessed as an incident thereof shall be  
11 collected and enforced by the State Department of Revenue. The  
12 Department shall have full power to administer and enforce this  
13 paragraph; to collect all taxes and penalties due hereunder; to  
14 dispose of taxes and penalties collected in the manner  
15 hereinafter provided; and to determine all rights to credit  
16 memoranda arising on account of the erroneous payment of tax or  
17 penalty hereunder. In the administration of and compliance with  
18 this paragraph, the Department and persons who are subject to  
19 this paragraph shall have the same rights, remedies,  
20 privileges, immunities, powers and duties, and be subject to  
21 the same conditions, restrictions, limitations, penalties,  
22 exclusions, exemptions and definitions of terms, and employ the  
23 same modes of procedure, as are prescribed in Sections 1a-1, 2,  
24 2a, 3 through 3-50 (in respect to all provisions therein other  
25 than the State rate of tax), 4 (except that the reference to  
26 the State shall be to the Authority), 5, 7, 8 (except that the

1 jurisdiction to which the tax shall be a debt to the extent  
2 indicated in that Section 8 shall be the Authority), 9 (except  
3 as to the disposition of taxes and penalties collected, and  
4 except that the returned merchandise credit for this tax may  
5 not be taken against any State tax), 10, 11, 12 (except the  
6 reference therein to Section 2b of the Retailers' Occupation  
7 Tax Act), 13 (except that any reference to the State shall mean  
8 the Authority), the first paragraph of Section 15, 16, 17, 18,  
9 19 and 20 of the Service Occupation Tax Act and Section 3-7 of  
10 the Uniform Penalty and Interest Act, as fully as if those  
11 provisions were set forth herein.

12 Persons subject to any tax imposed under the authority  
13 granted in this paragraph may reimburse themselves for their  
14 serviceman's tax liability hereunder by separately stating the  
15 tax as an additional charge, that charge may be stated in  
16 combination in a single amount with State tax that servicemen  
17 are authorized to collect under the Service Use Tax Act, under  
18 any bracket schedules the Department may prescribe.

19 Whenever the Department determines that a refund should be  
20 made under this paragraph to a claimant instead of issuing a  
21 credit memorandum, the Department shall notify the State  
22 Comptroller, who shall cause the warrant to be drawn for the  
23 amount specified, and to the person named in the notification  
24 from the Department. The refund shall be paid by the State  
25 Treasurer out of the Regional Transportation Authority tax fund  
26 established under paragraph (n) of this Section.

1           Nothing in this paragraph shall be construed to authorize  
2 the Authority to impose a tax upon the privilege of engaging in  
3 any business that under the Constitution of the United States  
4 may not be made the subject of taxation by the State.

5           (g) If a tax has been imposed under paragraph (e), a tax  
6 shall also be imposed upon the privilege of using in the  
7 metropolitan region, any item of tangible personal property  
8 that is purchased outside the metropolitan region at retail  
9 from a retailer, and that is titled or registered with an  
10 agency of this State's government. In Cook County the tax rate  
11 shall be 1% of the selling price of the tangible personal  
12 property, as "selling price" is defined in the Use Tax Act. In  
13 DuPage, Kane, Lake, McHenry and Will counties the tax rate  
14 shall be 0.75% of the selling price of the tangible personal  
15 property, as "selling price" is defined in the Use Tax Act. The  
16 tax shall be collected from persons whose Illinois address for  
17 titling or registration purposes is given as being in the  
18 metropolitan region. The tax shall be collected by the  
19 Department of Revenue for the Regional Transportation  
20 Authority. The tax must be paid to the State, or an exemption  
21 determination must be obtained from the Department of Revenue,  
22 before the title or certificate of registration for the  
23 property may be issued. The tax or proof of exemption may be  
24 transmitted to the Department by way of the State agency with  
25 which, or the State officer with whom, the tangible personal  
26 property must be titled or registered if the Department and the

1 State agency or State officer determine that this procedure  
2 will expedite the processing of applications for title or  
3 registration.

4 The Department shall have full power to administer and  
5 enforce this paragraph; to collect all taxes, penalties and  
6 interest due hereunder; to dispose of taxes, penalties and  
7 interest collected in the manner hereinafter provided; and to  
8 determine all rights to credit memoranda or refunds arising on  
9 account of the erroneous payment of tax, penalty or interest  
10 hereunder. In the administration of and compliance with this  
11 paragraph, the Department and persons who are subject to this  
12 paragraph shall have the same rights, remedies, privileges,  
13 immunities, powers and duties, and be subject to the same  
14 conditions, restrictions, limitations, penalties, exclusions,  
15 exemptions and definitions of terms and employ the same modes  
16 of procedure, as are prescribed in Sections 2 (except the  
17 definition of "retailer maintaining a place of business in this  
18 State"), 3 through 3-80 (except provisions pertaining to the  
19 State rate of tax, and except provisions concerning collection  
20 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,  
21 19 (except the portions pertaining to claims by retailers and  
22 except the last paragraph concerning refunds), 20, 21 and 22 of  
23 the Use Tax Act, and are not inconsistent with this paragraph,  
24 as fully as if those provisions were set forth herein.

25 Whenever the Department determines that a refund should be  
26 made under this paragraph to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State  
2 Comptroller, who shall cause the order to be drawn for the  
3 amount specified, and to the person named in the notification  
4 from the Department. The refund shall be paid by the State  
5 Treasurer out of the Regional Transportation Authority tax fund  
6 established under paragraph (n) of this Section.

7 (h) The Authority may impose a replacement vehicle tax of  
8 \$50 on any passenger car as defined in Section 1-157 of the  
9 Illinois Vehicle Code purchased within the metropolitan region  
10 by or on behalf of an insurance company to replace a passenger  
11 car of an insured person in settlement of a total loss claim.  
12 The tax imposed may not become effective before the first day  
13 of the month following the passage of the ordinance imposing  
14 the tax and receipt of a certified copy of the ordinance by the  
15 Department of Revenue. The Department of Revenue shall collect  
16 the tax for the Authority in accordance with Sections 3-2002  
17 and 3-2003 of the Illinois Vehicle Code.

18 The Department shall immediately pay over to the State  
19 Treasurer, ex officio, as trustee, all taxes collected  
20 hereunder.

21 As soon as possible after the first day of each month,  
22 beginning January 1, 2011, upon certification of the Department  
23 of Revenue, the Comptroller shall order transferred, and the  
24 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
25 local sales tax increment, as defined in the Innovation  
26 Development and Economy Act, collected under this Section

1 during the second preceding calendar month for sales within a  
2 STAR bond district.

3 After the monthly transfer to the STAR Bonds Revenue Fund,  
4 on or before the 25th day of each calendar month, the  
5 Department shall prepare and certify to the Comptroller the  
6 disbursement of stated sums of money to the Authority. The  
7 amount to be paid to the Authority shall be the amount  
8 collected hereunder during the second preceding calendar month  
9 by the Department, less any amount determined by the Department  
10 to be necessary for the payment of refunds, and less any  
11 amounts that are transferred to the STAR Bonds Revenue Fund.  
12 Within 10 days after receipt by the Comptroller of the  
13 disbursement certification to the Authority provided for in  
14 this Section to be given to the Comptroller by the Department,  
15 the Comptroller shall cause the orders to be drawn for that  
16 amount in accordance with the directions contained in the  
17 certification.

18 (i) The Board may not impose any other taxes except as it  
19 may from time to time be authorized by law to impose.

20 (j) A certificate of registration issued by the State  
21 Department of Revenue to a retailer under the Retailers'  
22 Occupation Tax Act or under the Service Occupation Tax Act  
23 shall permit the registrant to engage in a business that is  
24 taxed under the tax imposed under paragraphs (b), (e), (f) or  
25 (g) of this Section and no additional registration shall be  
26 required under the tax. A certificate issued under the Use Tax

1 Act or the Service Use Tax Act shall be applicable with regard  
2 to any tax imposed under paragraph (c) of this Section.

3 (k) The provisions of any tax imposed under paragraph (c)  
4 of this Section shall conform as closely as may be practicable  
5 to the provisions of the Use Tax Act, including without  
6 limitation conformity as to penalties with respect to the tax  
7 imposed and as to the powers of the State Department of Revenue  
8 to promulgate and enforce rules and regulations relating to the  
9 administration and enforcement of the provisions of the tax  
10 imposed. The taxes shall be imposed only on use within the  
11 metropolitan region and at rates as provided in the paragraph.

12 (l) The Board in imposing any tax as provided in paragraphs  
13 (b) and (c) of this Section, shall, after seeking the advice of  
14 the State Department of Revenue, provide means for retailers,  
15 users or purchasers of motor fuel for purposes other than those  
16 with regard to which the taxes may be imposed as provided in  
17 those paragraphs to receive refunds of taxes improperly paid,  
18 which provisions may be at variance with the refund provisions  
19 as applicable under the Municipal Retailers Occupation Tax Act.  
20 The State Department of Revenue may provide for certificates of  
21 registration for users or purchasers of motor fuel for purposes  
22 other than those with regard to which taxes may be imposed as  
23 provided in paragraphs (b) and (c) of this Section to  
24 facilitate the reporting and nontaxability of the exempt sales  
25 or uses.

26 (m) Any ordinance imposing or discontinuing any tax under

1 this Section shall be adopted and a certified copy thereof  
2 filed with the Department on or before June 1, whereupon the  
3 Department of Revenue shall proceed to administer and enforce  
4 this Section on behalf of the Regional Transportation Authority  
5 as of September 1 next following such adoption and filing.  
6 Beginning January 1, 1992, an ordinance or resolution imposing  
7 or discontinuing the tax hereunder shall be adopted and a  
8 certified copy thereof filed with the Department on or before  
9 the first day of July, whereupon the Department shall proceed  
10 to administer and enforce this Section as of the first day of  
11 October next following such adoption and filing. Beginning  
12 January 1, 1993, an ordinance or resolution imposing,  
13 increasing, decreasing, or discontinuing the tax hereunder  
14 shall be adopted and a certified copy thereof filed with the  
15 Department, whereupon the Department shall proceed to  
16 administer and enforce this Section as of the first day of the  
17 first month to occur not less than 60 days following such  
18 adoption and filing. Any ordinance or resolution of the  
19 Authority imposing a tax under this Section and in effect on  
20 August 1, 2007 shall remain in full force and effect and shall  
21 be administered by the Department of Revenue under the terms  
22 and conditions and rates of tax established by such ordinance  
23 or resolution until the Department begins administering and  
24 enforcing an increased tax under this Section as authorized by  
25 this amendatory Act of the 95th General Assembly. The tax rates  
26 authorized by this amendatory Act of the 95th General Assembly

1 are effective only if imposed by ordinance of the Authority.

2 (n) The State Department of Revenue shall, upon collecting  
3 any taxes as provided in this Section, pay the taxes over to  
4 the State Treasurer as trustee for the Authority. The taxes  
5 shall be held in a trust fund outside the State Treasury. On or  
6 before the 25th day of each calendar month, the State  
7 Department of Revenue shall prepare and certify to the  
8 Comptroller of the State of Illinois and to the Authority (i)  
9 the amount of taxes collected in each County other than Cook  
10 County in the metropolitan region, (ii) the amount of taxes  
11 collected within the City of Chicago, and (iii) the amount  
12 collected in that portion of Cook County outside of Chicago,  
13 each amount less the amount necessary for the payment of  
14 refunds to taxpayers located in those areas described in items  
15 (i), (ii), and (iii). Within 10 days after receipt by the  
16 Comptroller of the certification of the amounts, the  
17 Comptroller shall cause an order to be drawn for the payment of  
18 two-thirds of the amounts certified in item (i) of this  
19 subsection to the Authority and one-third of the amounts  
20 certified in item (i) of this subsection to the respective  
21 counties other than Cook County and the amount certified in  
22 items (ii) and (iii) of this subsection to the Authority.

23 In addition to the disbursement required by the preceding  
24 paragraph, an allocation shall be made in July 1991 and each  
25 year thereafter to the Regional Transportation Authority. The  
26 allocation shall be made in an amount equal to the average

1 monthly distribution during the preceding calendar year  
2 (excluding the 2 months of lowest receipts) and the allocation  
3 shall include the amount of average monthly distribution from  
4 the Regional Transportation Authority Occupation and Use Tax  
5 Replacement Fund. The distribution made in July 1992 and each  
6 year thereafter under this paragraph and the preceding  
7 paragraph shall be reduced by the amount allocated and  
8 disbursed under this paragraph in the preceding calendar year.  
9 The Department of Revenue shall prepare and certify to the  
10 Comptroller for disbursement the allocations made in  
11 accordance with this paragraph.

12 (o) Failure to adopt a budget ordinance or otherwise to  
13 comply with Section 4.01 of this Act or to adopt a Five-year  
14 Capital Program or otherwise to comply with paragraph (b) of  
15 Section 2.01 of this Act shall not affect the validity of any  
16 tax imposed by the Authority otherwise in conformity with law.

17 (p) At no time shall a public transportation tax or motor  
18 vehicle parking tax authorized under paragraphs (b), (c) and  
19 (d) of this Section be in effect at the same time as any  
20 retailers' occupation, use or service occupation tax  
21 authorized under paragraphs (e), (f) and (g) of this Section is  
22 in effect.

23 Any taxes imposed under the authority provided in  
24 paragraphs (b), (c) and (d) shall remain in effect only until  
25 the time as any tax authorized by paragraphs (e), (f) or (g) of  
26 this Section are imposed and becomes effective. Once any tax

1 authorized by paragraphs (e), (f) or (g) is imposed the Board  
2 may not reimpose taxes as authorized in paragraphs (b), (c) and  
3 (d) of the Section unless any tax authorized by paragraphs (e),  
4 (f) or (g) of this Section becomes ineffective by means other  
5 than an ordinance of the Board.

6 (q) Any existing rights, remedies and obligations  
7 (including enforcement by the Regional Transportation  
8 Authority) arising under any tax imposed under paragraphs (b),  
9 (c) or (d) of this Section shall not be affected by the  
10 imposition of a tax under paragraphs (e), (f) or (g) of this  
11 Section.

12 (Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10;  
13 96-939, eff. 6-24-10.)

14 Section 90-80. The Alternative Health Care Delivery Act is  
15 amended by changing Section 15 as follows:

16 (210 ILCS 3/15)

17 Sec. 15. License required. No health care facility or  
18 program that meets the definition and scope of an alternative  
19 health care model shall operate as such unless it is a  
20 participant in a demonstration program under this Act and  
21 licensed by the Department as an alternative health care model.  
22 The provisions of this Section as they relate to subacute care  
23 hospitals shall not apply to hospitals licensed under the  
24 Illinois Hospital Licensing Act or ~~skilled nursing~~ facilities

1 licensed under the Illinois Nursing Home Care Act, the  
2 Specialized Mental Health Rehabilitation Act, or the MR/DD  
3 Community Care Act; provided, however, that the facilities  
4 shall not hold themselves out to the public as subacute care  
5 hospitals. The provisions of this Act concerning children's  
6 respite care centers shall not apply to any facility licensed  
7 under the Hospital Licensing Act, the Nursing Home Care Act,  
8 the Specialized Mental Health Rehabilitation Act, the MR/DD  
9 Community Care Act, or the University of Illinois Hospital Act  
10 that provides respite care services to children.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

12 Section 90-85. The Ambulatory Surgical Treatment Center  
13 Act is amended by changing Section 3 as follows:

14 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

15 Sec. 3. As used in this Act, unless the context otherwise  
16 requires, the following words and phrases shall have the  
17 meanings ascribed to them:

18 (A) "Ambulatory surgical treatment center" means any  
19 institution, place or building devoted primarily to the  
20 maintenance and operation of facilities for the performance of  
21 surgical procedures or any facility in which a medical or  
22 surgical procedure is utilized to terminate a pregnancy,  
23 irrespective of whether the facility is devoted primarily to  
24 this purpose. Such facility shall not provide beds or other

1 accommodations for the overnight stay of patients; however,  
2 facilities devoted exclusively to the treatment of children may  
3 provide accommodations and beds for their patients for up to 23  
4 hours following admission. Individual patients shall be  
5 discharged in an ambulatory condition without danger to the  
6 continued well being of the patients or shall be transferred to  
7 a hospital.

8 The term "ambulatory surgical treatment center" does not  
9 include any of the following:

10 (1) Any institution, place, building or agency  
11 required to be licensed pursuant to the "Hospital Licensing  
12 Act", approved July 1, 1953, as amended.

13 (2) Any person or institution required to be licensed  
14 pursuant to the Nursing Home Care Act, the Specialized  
15 Mental Health Rehabilitation Act, or the MR/DD Community  
16 Care Act.

17 (3) Hospitals or ambulatory surgical treatment centers  
18 maintained by the State or any department or agency  
19 thereof, where such department or agency has authority  
20 under law to establish and enforce standards for the  
21 hospitals or ambulatory surgical treatment centers under  
22 its management and control.

23 (4) Hospitals or ambulatory surgical treatment centers  
24 maintained by the Federal Government or agencies thereof.

25 (5) Any place, agency, clinic, or practice, public or  
26 private, whether organized for profit or not, devoted

1 exclusively to the performance of dental or oral surgical  
2 procedures.

3 (B) "Person" means any individual, firm, partnership,  
4 corporation, company, association, or joint stock association,  
5 or the legal successor thereof.

6 (C) "Department" means the Department of Public Health of  
7 the State of Illinois.

8 (D) "Director" means the Director of the Department of  
9 Public Health of the State of Illinois.

10 (E) "Physician" means a person licensed to practice  
11 medicine in all of its branches in the State of Illinois.

12 (F) "Dentist" means a person licensed to practice dentistry  
13 under the Illinois Dental Practice Act.

14 (G) "Podiatrist" means a person licensed to practice  
15 podiatry under the Podiatric Medical Practice Act of 1987.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 Section 90-90. The Assisted Living and Shared Housing Act  
18 is amended by changing Sections 10, 35, 55, and 145 as follows:

19 (210 ILCS 9/10)

20 Sec. 10. Definitions. For purposes of this Act:

21 "Activities of daily living" means eating, dressing,  
22 bathing, toileting, transferring, or personal hygiene.

23 "Assisted living establishment" or "establishment" means a  
24 home, building, residence, or any other place where sleeping

1 accommodations are provided for at least 3 unrelated adults, at  
2 least 80% of whom are 55 years of age or older and where the  
3 following are provided consistent with the purposes of this  
4 Act:

5 (1) services consistent with a social model that is  
6 based on the premise that the resident's unit in assisted  
7 living and shared housing is his or her own home;

8 (2) community-based residential care for persons who  
9 need assistance with activities of daily living, including  
10 personal, supportive, and intermittent health-related  
11 services available 24 hours per day, if needed, to meet the  
12 scheduled and unscheduled needs of a resident;

13 (3) mandatory services, whether provided directly by  
14 the establishment or by another entity arranged for by the  
15 establishment, with the consent of the resident or  
16 resident's representative; and

17 (4) a physical environment that is a homelike setting  
18 that includes the following and such other elements as  
19 established by the Department: individual living units  
20 each of which shall accommodate small kitchen appliances  
21 and contain private bathing, washing, and toilet  
22 facilities, or private washing and toilet facilities with a  
23 common bathing room readily accessible to each resident.  
24 Units shall be maintained for single occupancy except in  
25 cases in which 2 residents choose to share a unit.  
26 Sufficient common space shall exist to permit individual

1 and group activities.

2 "Assisted living establishment" or "establishment" does  
3 not mean any of the following:

4 (1) A home, institution, or similar place operated by  
5 the federal government or the State of Illinois.

6 (2) A long term care facility licensed under the  
7 Nursing Home Care Act, a facility licensed under the  
8 Specialized Mental Health Rehabilitation Act, or a  
9 facility licensed under the MR/DD Community Care Act.  
10 However, a facility licensed under either of those Acts may  
11 convert distinct parts of the facility to assisted living.  
12 If the facility elects to do so, the facility shall retain  
13 the Certificate of Need for its nursing and sheltered care  
14 beds that were converted.

15 (3) A hospital, sanitarium, or other institution, the  
16 principal activity or business of which is the diagnosis,  
17 care, and treatment of human illness and that is required  
18 to be licensed under the Hospital Licensing Act.

19 (4) A facility for child care as defined in the Child  
20 Care Act of 1969.

21 (5) A community living facility as defined in the  
22 Community Living Facilities Licensing Act.

23 (6) A nursing home or sanitarium operated solely by and  
24 for persons who rely exclusively upon treatment by  
25 spiritual means through prayer in accordance with the creed  
26 or tenants of a well-recognized church or religious

1 denomination.

2 (7) A facility licensed by the Department of Human  
3 Services as a community-integrated living arrangement as  
4 defined in the Community-Integrated Living Arrangements  
5 Licensure and Certification Act.

6 (8) A supportive residence licensed under the  
7 Supportive Residences Licensing Act.

8 (9) The portion of a life care facility as defined in  
9 the Life Care Facilities Act not licensed as an assisted  
10 living establishment under this Act; a life care facility  
11 may apply under this Act to convert sections of the  
12 community to assisted living.

13 (10) A free-standing hospice facility licensed under  
14 the Hospice Program Licensing Act.

15 (11) A shared housing establishment.

16 (12) A supportive living facility as described in  
17 Section 5-5.01a of the Illinois Public Aid Code.

18 "Department" means the Department of Public Health.

19 "Director" means the Director of Public Health.

20 "Emergency situation" means imminent danger of death or  
21 serious physical harm to a resident of an establishment.

22 "License" means any of the following types of licenses  
23 issued to an applicant or licensee by the Department:

24 (1) "Probationary license" means a license issued to an  
25 applicant or licensee that has not held a license under  
26 this Act prior to its application or pursuant to a license

1 transfer in accordance with Section 50 of this Act.

2 (2) "Regular license" means a license issued by the  
3 Department to an applicant or licensee that is in  
4 substantial compliance with this Act and any rules  
5 promulgated under this Act.

6 "Licensee" means a person, agency, association,  
7 corporation, partnership, or organization that has been issued  
8 a license to operate an assisted living or shared housing  
9 establishment.

10 "Licensed health care professional" means a registered  
11 professional nurse, an advanced practice nurse, a physician  
12 assistant, and a licensed practical nurse.

13 "Mandatory services" include the following:

14 (1) 3 meals per day available to the residents prepared  
15 by the establishment or an outside contractor;

16 (2) housekeeping services including, but not limited  
17 to, vacuuming, dusting, and cleaning the resident's unit;

18 (3) personal laundry and linen services available to  
19 the residents provided or arranged for by the  
20 establishment;

21 (4) security provided 24 hours each day including, but  
22 not limited to, locked entrances or building or contract  
23 security personnel;

24 (5) an emergency communication response system, which  
25 is a procedure in place 24 hours each day by which a  
26 resident can notify building management, an emergency

1 response vendor, or others able to respond to his or her  
2 need for assistance; and

3 (6) assistance with activities of daily living as  
4 required by each resident.

5 "Negotiated risk" is the process by which a resident, or  
6 his or her representative, may formally negotiate with  
7 providers what risks each are willing and unwilling to assume  
8 in service provision and the resident's living environment. The  
9 provider assures that the resident and the resident's  
10 representative, if any, are informed of the risks of these  
11 decisions and of the potential consequences of assuming these  
12 risks.

13 "Owner" means the individual, partnership, corporation,  
14 association, or other person who owns an assisted living or  
15 shared housing establishment. In the event an assisted living  
16 or shared housing establishment is operated by a person who  
17 leases or manages the physical plant, which is owned by another  
18 person, "owner" means the person who operates the assisted  
19 living or shared housing establishment, except that if the  
20 person who owns the physical plant is an affiliate of the  
21 person who operates the assisted living or shared housing  
22 establishment and has significant control over the day to day  
23 operations of the assisted living or shared housing  
24 establishment, the person who owns the physical plant shall  
25 incur jointly and severally with the owner all liabilities  
26 imposed on an owner under this Act.

1 "Physician" means a person licensed under the Medical  
2 Practice Act of 1987 to practice medicine in all of its  
3 branches.

4 "Resident" means a person residing in an assisted living or  
5 shared housing establishment.

6 "Resident's representative" means a person, other than the  
7 owner, agent, or employee of an establishment or of the health  
8 care provider unless related to the resident, designated in  
9 writing by a resident to be his or her representative. This  
10 designation may be accomplished through the Illinois Power of  
11 Attorney Act, pursuant to the guardianship process under the  
12 Probate Act of 1975, or pursuant to an executed designation of  
13 representative form specified by the Department.

14 "Self" means the individual or the individual's designated  
15 representative.

16 "Shared housing establishment" or "establishment" means a  
17 publicly or privately operated free-standing residence for 16  
18 or fewer persons, at least 80% of whom are 55 years of age or  
19 older and who are unrelated to the owners and one manager of  
20 the residence, where the following are provided:

21 (1) services consistent with a social model that is  
22 based on the premise that the resident's unit is his or her  
23 own home;

24 (2) community-based residential care for persons who  
25 need assistance with activities of daily living, including  
26 housing and personal, supportive, and intermittent

1 health-related services available 24 hours per day, if  
2 needed, to meet the scheduled and unscheduled needs of a  
3 resident; and

4 (3) mandatory services, whether provided directly by  
5 the establishment or by another entity arranged for by the  
6 establishment, with the consent of the resident or the  
7 resident's representative.

8 "Shared housing establishment" or "establishment" does not  
9 mean any of the following:

10 (1) A home, institution, or similar place operated by  
11 the federal government or the State of Illinois.

12 (2) A long term care facility licensed under the  
13 Nursing Home Care Act, a facility licensed under the  
14 Specialized Mental Health Rehabilitation Act, or a  
15 facility licensed under the MR/DD Community Care Act. A  
16 facility licensed under either of those Acts may, however,  
17 convert sections of the facility to assisted living. If the  
18 facility elects to do so, the facility shall retain the  
19 Certificate of Need for its nursing beds that were  
20 converted.

21 (3) A hospital, sanitarium, or other institution, the  
22 principal activity or business of which is the diagnosis,  
23 care, and treatment of human illness and that is required  
24 to be licensed under the Hospital Licensing Act.

25 (4) A facility for child care as defined in the Child  
26 Care Act of 1969.

1           (5) A community living facility as defined in the  
2 Community Living Facilities Licensing Act.

3           (6) A nursing home or sanitarium operated solely by and  
4 for persons who rely exclusively upon treatment by  
5 spiritual means through prayer in accordance with the creed  
6 or tenants of a well-recognized church or religious  
7 denomination.

8           (7) A facility licensed by the Department of Human  
9 Services as a community-integrated living arrangement as  
10 defined in the Community-Integrated Living Arrangements  
11 Licensure and Certification Act.

12           (8) A supportive residence licensed under the  
13 Supportive Residences Licensing Act.

14           (9) A life care facility as defined in the Life Care  
15 Facilities Act; a life care facility may apply under this  
16 Act to convert sections of the community to assisted  
17 living.

18           (10) A free-standing hospice facility licensed under  
19 the Hospice Program Licensing Act.

20           (11) An assisted living establishment.

21           (12) A supportive living facility as described in  
22 Section 5-5.01a of the Illinois Public Aid Code.

23           "Total assistance" means that staff or another individual  
24 performs the entire activity of daily living without  
25 participation by the resident.

26           (Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;

1 96-975, eff. 7-2-10.)

2 (210 ILCS 9/35)

3 Sec. 35. Issuance of license.

4 (a) Upon receipt and review of an application for a license  
5 and review of the applicant establishment, the Director may  
6 issue a license if he or she finds:

7 (1) that the individual applicant, or the corporation,  
8 partnership, or other entity if the applicant is not an  
9 individual, is a person responsible and suitable to operate  
10 or to direct or participate in the operation of an  
11 establishment by virtue of financial capacity, appropriate  
12 business or professional experience, a record of lawful  
13 compliance with lawful orders of the Department and lack of  
14 revocation of a license issued under this Act, the Nursing  
15 Home Care Act, the Specialized Mental Health  
16 Rehabilitation Act, or the MR/DD Community Care Act during  
17 the previous 5 years;

18 (2) that the establishment is under the supervision of  
19 a full-time director who is at least 21 years of age and  
20 has a high school diploma or equivalent plus either:

21 (A) 2 years of management experience or 2 years of  
22 experience in positions of progressive responsibility  
23 in health care, housing with services, or adult day  
24 care or providing similar services to the elderly; or

25 (B) 2 years of management experience or 2 years of

1           experience in positions of progressive responsibility  
2           in hospitality and training in health care and housing  
3           with services management as defined by rule;

4           (3) that the establishment has staff sufficient in  
5           number with qualifications, adequate skills, education,  
6           and experience to meet the 24 hour scheduled and  
7           unscheduled needs of residents and who participate in  
8           ongoing training to serve the resident population;

9           (4) that all employees who are subject to the Health  
10          Care Worker Background Check Act meet the requirements of  
11          that Act;

12          (5) that the applicant is in substantial compliance  
13          with this Act and such other requirements for a license as  
14          the Department by rule may establish under this Act;

15          (6) that the applicant pays all required fees;

16          (7) that the applicant has provided to the Department  
17          an accurate disclosure document in accordance with the  
18          Alzheimer's Disease and Related Dementias Special Care  
19          Disclosure Act and in substantial compliance with Section  
20          150 of this Act.

21          In addition to any other requirements set forth in this  
22          Act, as a condition of licensure under this Act, the director  
23          of an establishment must participate in at least 20 hours of  
24          training every 2 years to assist him or her in better meeting  
25          the needs of the residents of the establishment and managing  
26          the operation of the establishment.

1 Any license issued by the Director shall state the physical  
2 location of the establishment, the date the license was issued,  
3 and the expiration date. All licenses shall be valid for one  
4 year, except as provided in Sections 40 and 45. Each license  
5 shall be issued only for the premises and persons named in the  
6 application, and shall not be transferable or assignable.

7 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;  
8 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.  
9 7-1-10; 96-990, eff. 7-2-10.)

10 (210 ILCS 9/55)

11 Sec. 55. Grounds for denial of a license. An application  
12 for a license may be denied for any of the following reasons:

13 (1) failure to meet any of the standards set forth in  
14 this Act or by rules adopted by the Department under this  
15 Act;

16 (2) conviction of the applicant, or if the applicant is  
17 a firm, partnership, or association, of any of its members,  
18 or if a corporation, the conviction of the corporation or  
19 any of its officers or stockholders, or of the person  
20 designated to manage or supervise the establishment, of a  
21 felony or of 2 or more misdemeanors involving moral  
22 turpitude during the previous 5 years as shown by a  
23 certified copy of the record of the court of conviction;

24 (3) personnel insufficient in number or unqualified by  
25 training or experience to properly care for the residents;

1           (4) insufficient financial or other resources to  
2 operate and conduct the establishment in accordance with  
3 standards adopted by the Department under this Act;

4           (5) revocation of a license during the previous 5  
5 years, if such prior license was issued to the individual  
6 applicant, a controlling owner or controlling combination  
7 of owners of the applicant; or any affiliate of the  
8 individual applicant or controlling owner of the applicant  
9 and such individual applicant, controlling owner of the  
10 applicant or affiliate of the applicant was a controlling  
11 owner of the prior license; provided, however, that the  
12 denial of an application for a license pursuant to this  
13 Section must be supported by evidence that the prior  
14 revocation renders the applicant unqualified or incapable  
15 of meeting or maintaining an establishment in accordance  
16 with the standards and rules adopted by the Department  
17 under this Act; or

18           (6) the establishment is not under the direct  
19 supervision of a full-time director, as defined by rule.

20           The Department shall deny an application for a license if 6  
21 months after submitting its initial application the applicant  
22 has not provided the Department with all of the information  
23 required for review and approval or the applicant is not  
24 actively pursuing the processing of its application. In  
25 addition, the Department shall determine whether the applicant  
26 has violated any provision of the Nursing Home Care Act, the

1 Specialized Mental Health Rehabilitation Act, or the MR/DD  
2 Community Care Act.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (210 ILCS 9/145)

5 Sec. 145. Conversion of facilities. Entities licensed as  
6 facilities under the Nursing Home Care Act, the Specialized  
7 Mental Health Rehabilitation Act, or the MR/DD Community Care  
8 Act may elect to convert to a license under this Act. Any  
9 facility that chooses to convert, in whole or in part, shall  
10 follow the requirements in the Nursing Home Care Act, the  
11 Specialized Mental Health Rehabilitation Act, or the MR/DD  
12 Community Care Act, as applicable, and rules promulgated under  
13 those Acts regarding voluntary closure and notice to residents.  
14 Any conversion of existing beds licensed under the Nursing Home  
15 Care Act, the Specialized Mental Health Rehabilitation Act, or  
16 the MR/DD Community Care Act to licensure under this Act is  
17 exempt from review by the Health Facilities and Services Review  
18 Board.

19 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
20 96-1000, eff. 7-2-10.)

21 Section 90-95. The Abuse Prevention Review Team Act is  
22 amended by changing Sections 10 and 50 as follows:

23 (210 ILCS 28/10)

1           Sec. 10. Definitions. As used in this Act, unless the  
2 context requires otherwise:

3           "Department" means the Department of Public Health.

4           "Director" means the Director of Public Health.

5           "Executive Council" means the Illinois Residential Health  
6 Care Facility Resident Sexual Assault and Death Review Teams  
7 Executive Council.

8           "Resident" means a person residing in and receiving  
9 personal care from a facility licensed under the Nursing Home  
10 Care Act, the Specialized Mental Health Rehabilitation Act, or  
11 the MR/DD Community Care Act.

12           "Review team" means a residential health care facility  
13 resident sexual assault and death review team appointed under  
14 this Act.

15           (Source: P.A. 96-339, eff. 7-1-10.)

16           (210 ILCS 28/50)

17           Sec. 50. Funding. Notwithstanding any other provision of  
18 law, to the extent permitted by federal law, the Department  
19 shall use moneys from fines paid by facilities licensed under  
20 the Nursing Home Care Act, the Specialized Mental Health  
21 Rehabilitation Act, or the MR/DD Community Care Act for  
22 violating requirements for certification under Titles XVIII  
23 and XIX of the Social Security Act to implement the provisions  
24 of this Act. The Department shall use moneys deposited in the  
25 Long Term Care Monitor/Receiver Fund to pay the costs of

1 implementing this Act that cannot be met by the use of federal  
2 civil monetary penalties.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 Section 90-100. The Abused and Neglected Long Term Care  
5 Facility Residents Reporting Act is amended by changing  
6 Sections 3, 4, and 6 as follows:

7 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

8 Sec. 3. As used in this Act unless the context otherwise  
9 requires:

10 a. "Department" means the Department of Public Health of  
11 the State of Illinois.

12 b. "Resident" means a person residing in and receiving  
13 personal care from a long term care facility, or residing in a  
14 mental health facility or developmental disability facility as  
15 defined in the Mental Health and Developmental Disabilities  
16 Code.

17 c. "Long term care facility" has the same meaning ascribed  
18 to such term in the Nursing Home Care Act, except that the term  
19 as used in this Act shall include any mental health facility or  
20 developmental disability facility as defined in the Mental  
21 Health and Developmental Disabilities Code. The term also  
22 includes any facility licensed under the MR/DD Community Care  
23 Act or the Specialized Mental Health Rehabilitation Act.

24 d. "Abuse" means any physical injury, sexual abuse or

1 mental injury inflicted on a resident other than by accidental  
2 means.

3 e. "Neglect" means a failure in a long term care facility  
4 to provide adequate medical or personal care or maintenance,  
5 which failure results in physical or mental injury to a  
6 resident or in the deterioration of a resident's physical or  
7 mental condition.

8 f. "Protective services" means services provided to a  
9 resident who has been abused or neglected, which may include,  
10 but are not limited to alternative temporary institutional  
11 placement, nursing care, counseling, other social services  
12 provided at the nursing home where the resident resides or at  
13 some other facility, personal care and such protective services  
14 of voluntary agencies as are available.

15 g. Unless the context otherwise requires, direct or  
16 indirect references in this Act to the programs, personnel,  
17 facilities, services, service providers, or service recipients  
18 of the Department of Human Services shall be construed to refer  
19 only to those programs, personnel, facilities, services,  
20 service providers, or service recipients that pertain to the  
21 Department of Human Services' mental health and developmental  
22 disabilities functions.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

25 Sec. 4. Any long term care facility administrator, agent or

1 employee or any physician, hospital, surgeon, dentist,  
2 osteopath, chiropractor, podiatrist, accredited religious  
3 practitioner who provides treatment by spiritual means alone  
4 through prayer in accordance with the tenets and practices of  
5 the accrediting church, coroner, social worker, social  
6 services administrator, registered nurse, law enforcement  
7 officer, field personnel of the Department of Healthcare and  
8 Family Services, field personnel of the Illinois Department of  
9 Public Health and County or Municipal Health Departments,  
10 personnel of the Department of Human Services (acting as the  
11 successor to the Department of Mental Health and Developmental  
12 Disabilities or the Department of Public Aid), personnel of the  
13 Guardianship and Advocacy Commission, personnel of the State  
14 Fire Marshal, local fire department inspectors or other  
15 personnel, or personnel of the Illinois Department on Aging, or  
16 its subsidiary Agencies on Aging, or employee of a facility  
17 licensed under the Assisted Living and Shared Housing Act,  
18 having reasonable cause to believe any resident with whom they  
19 have direct contact has been subjected to abuse or neglect  
20 shall immediately report or cause a report to be made to the  
21 Department. Persons required to make reports or cause reports  
22 to be made under this Section include all employees of the  
23 State of Illinois who are involved in providing services to  
24 residents, including professionals providing medical or  
25 rehabilitation services and all other persons having direct  
26 contact with residents; and further include all employees of

1 community service agencies who provide services to a resident  
2 of a public or private long term care facility outside of that  
3 facility. Any long term care surveyor of the Illinois  
4 Department of Public Health who has reasonable cause to believe  
5 in the course of a survey that a resident has been abused or  
6 neglected and initiates an investigation while on site at the  
7 facility shall be exempt from making a report under this  
8 Section but the results of any such investigation shall be  
9 forwarded to the central register in a manner and form  
10 described by the Department.

11 The requirement of this Act shall not relieve any long term  
12 care facility administrator, agent or employee of  
13 responsibility to report the abuse or neglect of a resident  
14 under Section 3-610 of the Nursing Home Care Act or under  
15 Section 3-610 of the MR/DD Community Care Act or under Section  
16 3-610 of the Specialized Mental Health Rehabilitation Act.

17 In addition to the above persons required to report  
18 suspected resident abuse and neglect, any other person may make  
19 a report to the Department, or to any law enforcement officer,  
20 if such person has reasonable cause to suspect a resident has  
21 been abused or neglected.

22 This Section also applies to residents whose death occurs  
23 from suspected abuse or neglect before being found or brought  
24 to a hospital.

25 A person required to make reports or cause reports to be  
26 made under this Section who fails to comply with the

1 requirements of this Section is guilty of a Class A  
2 misdemeanor.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

5 Sec. 6. All reports of suspected abuse or neglect made  
6 under this Act shall be made immediately by telephone to the  
7 Department's central register established under Section 14 on  
8 the single, State-wide, toll-free telephone number established  
9 under Section 13, or in person or by telephone through the  
10 nearest Department office. No long term care facility  
11 administrator, agent or employee, or any other person, shall  
12 screen reports or otherwise withhold any reports from the  
13 Department, and no long term care facility, department of State  
14 government, or other agency shall establish any rules,  
15 criteria, standards or guidelines to the contrary. Every long  
16 term care facility, department of State government and other  
17 agency whose employees are required to make or cause to be made  
18 reports under Section 4 shall notify its employees of the  
19 provisions of that Section and of this Section, and provide to  
20 the Department documentation that such notification has been  
21 given. The Department of Human Services shall train all of its  
22 mental health and developmental disabilities employees in the  
23 detection and reporting of suspected abuse and neglect of  
24 residents. Reports made to the central register through the  
25 State-wide, toll-free telephone number shall be transmitted to

1 appropriate Department offices and municipal health  
2 departments that have responsibility for licensing long term  
3 care facilities under the Nursing Home Care Act, the  
4 Specialized Mental Health Rehabilitation Act, or the MR/DD  
5 Community Care Act. All reports received through offices of the  
6 Department shall be forwarded to the central register, in a  
7 manner and form described by the Department. The Department  
8 shall be capable of receiving reports of suspected abuse and  
9 neglect 24 hours a day, 7 days a week. Reports shall also be  
10 made in writing deposited in the U.S. mail, postage prepaid,  
11 within 24 hours after having reasonable cause to believe that  
12 the condition of the resident resulted from abuse or neglect.  
13 Such reports may in addition be made to the local law  
14 enforcement agency in the same manner. However, in the event a  
15 report is made to the local law enforcement agency, the  
16 reporter also shall immediately so inform the Department. The  
17 Department shall initiate an investigation of each report of  
18 resident abuse and neglect under this Act, whether oral or  
19 written, as provided for in Section 3-702 of the Nursing Home  
20 Care Act, Section 3-702 of the Specialized Mental Health  
21 Rehabilitation Act, or Section 3-702 of the MR/DD Community  
22 Care Act, except that reports of abuse which indicate that a  
23 resident's life or safety is in imminent danger shall be  
24 investigated within 24 hours of such report. The Department may  
25 delegate to law enforcement officials or other public agencies  
26 the duty to perform such investigation.

1           With respect to investigations of reports of suspected  
2 abuse or neglect of residents of mental health and  
3 developmental disabilities institutions under the jurisdiction  
4 of the Department of Human Services, the Department shall  
5 transmit copies of such reports to the Department of State  
6 Police, the Department of Human Services, and the Inspector  
7 General appointed under Section 1-17 of the Department of Human  
8 Services Act. If the Department receives a report of suspected  
9 abuse or neglect of a recipient of services as defined in  
10 Section 1-123 of the Mental Health and Developmental  
11 Disabilities Code, the Department shall transmit copies of such  
12 report to the Inspector General and the Directors of the  
13 Guardianship and Advocacy Commission and the agency designated  
14 by the Governor pursuant to the Protection and Advocacy for  
15 Developmentally Disabled Persons Act. When requested by the  
16 Director of the Guardianship and Advocacy Commission, the  
17 agency designated by the Governor pursuant to the Protection  
18 and Advocacy for Developmentally Disabled Persons Act, or the  
19 Department of Financial and Professional Regulation, the  
20 Department, the Department of Human Services and the Department  
21 of State Police shall make available a copy of the final  
22 investigative report regarding investigations conducted by  
23 their respective agencies on incidents of suspected abuse or  
24 neglect of residents of mental health and developmental  
25 disabilities institutions or individuals receiving services at  
26 community agencies under the jurisdiction of the Department of

1 Human Services. Such final investigative report shall not  
2 contain witness statements, investigation notes, draft  
3 summaries, results of lie detector tests, investigative files  
4 or other raw data which was used to compile the final  
5 investigative report. Specifically, the final investigative  
6 report of the Department of State Police shall mean the  
7 Director's final transmittal letter. The Department of Human  
8 Services shall also make available a copy of the results of  
9 disciplinary proceedings of employees involved in incidents of  
10 abuse or neglect to the Directors. All identifiable information  
11 in reports provided shall not be further disclosed except as  
12 provided by the Mental Health and Developmental Disabilities  
13 Confidentiality Act. Nothing in this Section is intended to  
14 limit or construe the power or authority granted to the agency  
15 designated by the Governor pursuant to the Protection and  
16 Advocacy for Developmentally Disabled Persons Act, pursuant to  
17 any other State or federal statute.

18 With respect to investigations of reported resident abuse  
19 or neglect, the Department shall effect with appropriate law  
20 enforcement agencies formal agreements concerning methods and  
21 procedures for the conduct of investigations into the criminal  
22 histories of any administrator, staff assistant or employee of  
23 the nursing home or other person responsible for the residents  
24 care, as well as for other residents in the nursing home who  
25 may be in a position to abuse, neglect or exploit the patient.  
26 Pursuant to the formal agreements entered into with appropriate

1 law enforcement agencies, the Department may request  
2 information with respect to whether the person or persons set  
3 forth in this paragraph have ever been charged with a crime and  
4 if so, the disposition of those charges. Unless the criminal  
5 histories of the subjects involved crimes of violence or  
6 resident abuse or neglect, the Department shall be entitled  
7 only to information limited in scope to charges and their  
8 dispositions. In cases where prior crimes of violence or  
9 resident abuse or neglect are involved, a more detailed report  
10 can be made available to authorized representatives of the  
11 Department, pursuant to the agreements entered into with  
12 appropriate law enforcement agencies. Any criminal charges and  
13 their disposition information obtained by the Department shall  
14 be confidential and may not be transmitted outside the  
15 Department, except as required herein, to authorized  
16 representatives or delegates of the Department, and may not be  
17 transmitted to anyone within the Department who is not duly  
18 authorized to handle resident abuse or neglect investigations.

19 The Department shall effect formal agreements with  
20 appropriate law enforcement agencies in the various counties  
21 and communities to encourage cooperation and coordination in  
22 the handling of resident abuse or neglect cases pursuant to  
23 this Act. The Department shall adopt and implement methods and  
24 procedures to promote statewide uniformity in the handling of  
25 reports of abuse and neglect under this Act, and those methods  
26 and procedures shall be adhered to by personnel of the

1 Department involved in such investigations and reporting. The  
2 Department shall also make information required by this Act  
3 available to authorized personnel within the Department, as  
4 well as its authorized representatives.

5 The Department shall keep a continuing record of all  
6 reports made pursuant to this Act, including indications of the  
7 final determination of any investigation and the final  
8 disposition of all reports.

9 The Department shall report annually to the General  
10 Assembly on the incidence of abuse and neglect of long term  
11 care facility residents, with special attention to residents  
12 who are mentally disabled. The report shall include but not be  
13 limited to data on the number and source of reports of  
14 suspected abuse or neglect filed under this Act, the nature of  
15 any injuries to residents, the final determination of  
16 investigations, the type and number of cases where abuse or  
17 neglect is determined to exist, and the final disposition of  
18 cases.

19 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

20 Section 90-105. The Nursing Home Care Act is amended by  
21 changing Sections 1-113, 2-204, 3-202.5, and 3-206.01 as  
22 follows:

23 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

24 Sec. 1-113. "Facility" or "long-term care facility" means a

1 private home, institution, building, residence, or any other  
2 place, whether operated for profit or not, or a county home for  
3 the infirm and chronically ill operated pursuant to Division  
4 5-21 or 5-22 of the Counties Code, or any similar institution  
5 operated by a political subdivision of the State of Illinois,  
6 which provides, through its ownership or management, personal  
7 care, sheltered care or nursing for 3 or more persons, not  
8 related to the applicant or owner by blood or marriage. It  
9 includes skilled nursing facilities and intermediate care  
10 facilities as those terms are defined in Title XVIII and Title  
11 XIX of the Federal Social Security Act. It also includes homes,  
12 institutions, or other places operated by or under the  
13 authority of the Illinois Department of Veterans' Affairs.

14 "Facility" does not include the following:

15 (1) A home, institution, or other place operated by the  
16 federal government or agency thereof, or by the State of  
17 Illinois, other than homes, institutions, or other places  
18 operated by or under the authority of the Illinois  
19 Department of Veterans' Affairs;

20 (2) A hospital, sanitarium, or other institution whose  
21 principal activity or business is the diagnosis, care, and  
22 treatment of human illness through the maintenance and  
23 operation as organized facilities therefor, which is  
24 required to be licensed under the Hospital Licensing Act;

25 (3) Any "facility for child care" as defined in the  
26 Child Care Act of 1969;

1           (4) Any "Community Living Facility" as defined in the  
2 Community Living Facilities Licensing Act;

3           (5) Any "community residential alternative" as defined  
4 in the Community Residential Alternatives Licensing Act;

5           (6) Any nursing home or sanatorium operated solely by  
6 and for persons who rely exclusively upon treatment by  
7 spiritual means through prayer, in accordance with the  
8 creed or tenets of any well-recognized church or religious  
9 denomination. However, such nursing home or sanatorium  
10 shall comply with all local laws and rules relating to  
11 sanitation and safety;

12           (7) Any facility licensed by the Department of Human  
13 Services as a community-integrated living arrangement as  
14 defined in the Community-Integrated Living Arrangements  
15 Licensure and Certification Act;

16           (8) Any "Supportive Residence" licensed under the  
17 Supportive Residences Licensing Act;

18           (9) Any "supportive living facility" in good standing  
19 with the program established under Section 5-5.01a of the  
20 Illinois Public Aid Code, except only for purposes of the  
21 employment of persons in accordance with Section 3-206.01;

22           (10) Any assisted living or shared housing  
23 establishment licensed under the Assisted Living and  
24 Shared Housing Act, except only for purposes of the  
25 employment of persons in accordance with Section 3-206.01;

26           (11) An Alzheimer's disease management center

1 alternative health care model licensed under the  
2 Alternative Health Care Delivery Act; ~~or~~

3 (12) A facility licensed under the MR/DD Community Care  
4 Act; or

5 (13) A facility licensed under the Specialized Mental  
6 Health Rehabilitation Act.

7 (Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

8 (210 ILCS 45/2-204) (from Ch. 111 1/2, par. 4152-204)

9 Sec. 2-204. The Director shall appoint a Long-Term Care  
10 Facility Advisory Board to consult with the Department and the  
11 residents' advisory councils created under Section 2-203.

12 (a) The Board shall be comprised of the following persons:

13 (1) The Director who shall serve as chairman, ex  
14 officio and nonvoting; and

15 (2) One representative each of the Department of  
16 Healthcare and Family Services, the Department of Human  
17 Services, the Department on Aging, and the Office of the  
18 State Fire Marshal, all nonvoting members;

19 (3) One member who shall be a physician licensed to  
20 practice medicine in all its branches;

21 (4) One member who shall be a registered nurse selected  
22 from the recommendations of professional nursing  
23 associations;

24 (5) Four members who shall be selected from the  
25 recommendations by organizations whose membership consists

1 of facilities;

2 (6) Two members who shall represent the general public  
3 who are not members of a residents' advisory council  
4 established under Section 2-203 and who have no  
5 responsibility for management or formation of policy or  
6 financial interest in a facility;

7 (7) One member who is a member of a residents' advisory  
8 council established under Section 2-203 and is capable of  
9 actively participating on the Board; and

10 (8) One member who shall be selected from the  
11 recommendations of consumer organizations which engage  
12 solely in advocacy or legal representation on behalf of  
13 residents and their immediate families.

14 (b) The terms of those members of the Board appointed prior  
15 to the effective date of this amendatory Act of 1988 shall  
16 expire on December 31, 1988. Members of the Board created by  
17 this amendatory Act of 1988 shall be appointed to serve for  
18 terms as follows: 3 for 2 years, 3 for 3 years and 3 for 4  
19 years. The member of the Board added by this amendatory Act of  
20 1989 shall be appointed to serve for a term of 4 years. Each  
21 successor member shall be appointed for a term of 4 years. Any  
22 member appointed to fill a vacancy occurring prior to the  
23 expiration of the term for which his predecessor was appointed  
24 shall be appointed for the remainder of such term. The Board  
25 shall meet as frequently as the chairman deems necessary, but  
26 not less than 4 times each year. Upon request by 4 or more

1 members the chairman shall call a meeting of the Board. The  
2 affirmative vote of 6 members of the Board shall be necessary  
3 for Board action. A member of the Board can designate a  
4 replacement to serve at the Board meeting and vote in place of  
5 the member by submitting a letter of designation to the  
6 chairman prior to or at the Board meeting. The Board members  
7 shall be reimbursed for their actual expenses incurred in the  
8 performance of their duties.

9 (c) The Advisory Board shall advise the Department of  
10 Public Health on all aspects of its responsibilities under this  
11 Act and the Specialized Mental Health Rehabilitation  
12 Facilities Act, including the format and content of any rules  
13 promulgated by the Department of Public Health. Any such rules,  
14 except emergency rules promulgated pursuant to Section 5-45 of  
15 the Illinois Administrative Procedure Act, promulgated without  
16 obtaining the advice of the Advisory Board are null and void.  
17 In the event that the Department fails to follow the advice of  
18 the Board, the Department shall, prior to the promulgation of  
19 such rules, transmit a written explanation of the reason  
20 thereof to the Board. During its review of rules, the Board  
21 shall analyze the economic and regulatory impact of those  
22 rules. If the Advisory Board, having been asked for its advice,  
23 fails to advise the Department within 90 days, the rules shall  
24 be considered acted upon.

25 (Source: P.A. 95-331, eff. 8-21-07.)

1 (210 ILCS 45/3-202.5)

2 Sec. 3-202.5. Facility plan review; fees.

3 (a) Before commencing construction of a new facility or  
4 specified types of alteration or additions to an existing long  
5 term care facility involving major construction, as defined by  
6 rule by the Department, with an estimated cost greater than  
7 \$100,000, architectural drawings and specifications for the  
8 facility shall be submitted to the Department for review and  
9 approval. A facility may submit architectural drawings and  
10 specifications for other construction projects for Department  
11 review according to subsection (b) that shall not be subject to  
12 fees under subsection (d). Review of drawings and  
13 specifications shall be conducted by an employee of the  
14 Department meeting the qualifications established by the  
15 Department of Central Management Services class specifications  
16 for such an individual's position or by a person contracting  
17 with the Department who meets those class specifications. Final  
18 approval of the drawings and specifications for compliance with  
19 design and construction standards shall be obtained from the  
20 Department before the alteration, addition, or new  
21 construction is begun.

22 (b) The Department shall inform an applicant in writing  
23 within 10 working days after receiving drawings and  
24 specifications and the required fee, if any, from the applicant  
25 whether the applicant's submission is complete or incomplete.  
26 Failure to provide the applicant with this notice within 10

1 working days shall result in the submission being deemed  
2 complete for purposes of initiating the 60-day review period  
3 under this Section. If the submission is incomplete, the  
4 Department shall inform the applicant of the deficiencies with  
5 the submission in writing. If the submission is complete the  
6 required fee, if any, has been paid, the Department shall  
7 approve or disapprove drawings and specifications submitted to  
8 the Department no later than 60 days following receipt by the  
9 Department. The drawings and specifications shall be of  
10 sufficient detail, as provided by Department rule, to enable  
11 the Department to render a determination of compliance with  
12 design and construction standards under this Act. If the  
13 Department finds that the drawings are not of sufficient detail  
14 for it to render a determination of compliance, the plans shall  
15 be determined to be incomplete and shall not be considered for  
16 purposes of initiating the 60 day review period. If a  
17 submission of drawings and specifications is incomplete, the  
18 applicant may submit additional information. The 60-day review  
19 period shall not commence until the Department determines that  
20 a submission of drawings and specifications is complete or the  
21 submission is deemed complete. If the Department has not  
22 approved or disapproved the drawings and specifications within  
23 60 days, the construction, major alteration, or addition shall  
24 be deemed approved. If the drawings and specifications are  
25 disapproved, the Department shall state in writing, with  
26 specificity, the reasons for the disapproval. The entity

1 submitting the drawings and specifications may submit  
2 additional information in response to the written comments from  
3 the Department or request a reconsideration of the disapproval.  
4 A final decision of approval or disapproval shall be made  
5 within 45 days of the receipt of the additional information or  
6 reconsideration request. If denied, the Department shall state  
7 the specific reasons for the denial.

8 (c) The Department shall provide written approval for  
9 occupancy pursuant to subsection (g) and shall not issue a  
10 violation to a facility as a result of a licensure or complaint  
11 survey based upon the facility's physical structure if:

12 (1) the Department reviewed and approved or deemed  
13 approved the drawings and specifications for compliance  
14 with design and construction standards;

15 (2) the construction, major alteration, or addition  
16 was built as submitted;

17 (3) the law or rules have not been amended since the  
18 original approval; and

19 (4) the conditions at the facility indicate that there  
20 is a reasonable degree of safety provided for the  
21 residents.

22 (d) The Department shall charge the following fees in  
23 connection with its reviews conducted before June 30, 2004  
24 under this Section:

25 (1) (Blank).

26 (2) (Blank).

1           (3) If the estimated dollar value of the alteration,  
2           addition, or new construction is \$100,000 or more but less  
3           than \$500,000, the fee shall be the greater of \$2,400 or  
4           1.2% of that value.

5           (4) If the estimated dollar value of the alteration,  
6           addition, or new construction is \$500,000 or more but less  
7           than \$1,000,000, the fee shall be the greater of \$6,000 or  
8           0.96% of that value.

9           (5) If the estimated dollar value of the alteration,  
10          addition, or new construction is \$1,000,000 or more but  
11          less than \$5,000,000, the fee shall be the greater of  
12          \$9,600 or 0.22% of that value.

13          (6) If the estimated dollar value of the alteration,  
14          addition, or new construction is \$5,000,000 or more, the  
15          fee shall be the greater of \$11,000 or 0.11% of that value,  
16          but shall not exceed \$40,000.

17          The fees provided in this subsection (d) shall not apply to  
18          major construction projects involving facility changes that  
19          are required by Department rule amendments.

20          The fees provided in this subsection (d) shall also not  
21          apply to major construction projects if 51% or more of the  
22          estimated cost of the project is attributed to capital  
23          equipment. For major construction projects where 51% or more of  
24          the estimated cost of the project is attributed to capital  
25          equipment, the Department shall by rule establish a fee that is  
26          reasonably related to the cost of reviewing the project.

1           The Department shall not commence the facility plan review  
2 process under this Section until the applicable fee has been  
3 paid.

4           (e) All fees received by the Department under this Section  
5 shall be deposited into the Health Facility Plan Review Fund, a  
6 special fund created in the State Treasury. All fees paid by  
7 long-term care facilities under subsection (d) shall be used  
8 only to cover the costs relating to the Department's review of  
9 long-term care facility projects under this Section. Moneys  
10 shall be appropriated from that Fund to the Department only to  
11 pay the costs of conducting reviews under this Section or under  
12 Section 3-202.5 of the MR/DD Community Care Act or under  
13 Section 3-202.5 of the Specialized Mental Health  
14 Rehabilitation Act. None of the moneys in the Health Facility  
15 Plan Review Fund shall be used to reduce the amount of General  
16 Revenue Fund moneys appropriated to the Department for facility  
17 plan reviews conducted pursuant to this Section.

18           (f) (1) The provisions of this amendatory Act of 1997  
19 concerning drawings and specifications shall apply only to  
20 drawings and specifications submitted to the Department on  
21 or after October 1, 1997.

22           (2) On and after the effective date of this amendatory  
23 Act of 1997 and before October 1, 1997, an applicant may  
24 submit or resubmit drawings and specifications to the  
25 Department and pay the fees provided in subsection (d). If  
26 an applicant pays the fees provided in subsection (d) under

1           this paragraph (2), the provisions of subsection (b) shall  
2           apply with regard to those drawings and specifications.

3           (g) The Department shall conduct an on-site inspection of  
4           the completed project no later than 30 days after notification  
5           from the applicant that the project has been completed and all  
6           certifications required by the Department have been received  
7           and accepted by the Department. The Department shall provide  
8           written approval for occupancy to the applicant within 5  
9           working days of the Department's final inspection, provided the  
10          applicant has demonstrated substantial compliance as defined  
11          by Department rule. Occupancy of new major construction is  
12          prohibited until Department approval is received, unless the  
13          Department has not acted within the time frames provided in  
14          this subsection (g), in which case the construction shall be  
15          deemed approved. Occupancy shall be authorized after any  
16          required health inspection by the Department has been  
17          conducted.

18          (h) The Department shall establish, by rule, a procedure to  
19          conduct interim on-site review of large or complex construction  
20          projects.

21          (i) The Department shall establish, by rule, an expedited  
22          process for emergency repairs or replacement of like equipment.

23          (j) Nothing in this Section shall be construed to apply to  
24          maintenance, upkeep, or renovation that does not affect the  
25          structural integrity of the building, does not add beds or  
26          services over the number for which the long-term care facility

1 is licensed, and provides a reasonable degree of safety for the  
2 residents.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 Section 90-110. The MR/DD Community Care Act is amended by  
5 changing Sections 1-114.01, 1-122, 1-129, 1-130, 2-104,  
6 2-106.1, 2-201.5, 2-205, 2-208, 3-109, 3-110, 3-112, 3-117,  
7 3-119, 3-202, 3-206, 3-206.01, 3-206.02, 3-212, 3-303,  
8 3-303.2, 3-304.1, 3-304.2, 3-305, 3-306, 3-308, 3-309, 3-310,  
9 3-318, 3-402, 3-501, 3-502, 3-504, 3-703, and 3-712 and by  
10 adding Sections 1-111.05, 1-114.001, 1-114.005, 1-120.3,  
11 1-128.5, 1-132, 2-114, 2-115, 2-201.6, 2-217, 2-218, 3-119.1,  
12 3-202.2a, 3-206.04, 3-808, 3-808.5, 3-809, and 3-810 as  
13 follows:

14 (210 ILCS 47/1-111.05 new)

15 Sec. 1-111.05. Distressed facility. "Distressed facility"  
16 means a facility determined by the Department to be a  
17 distressed facility pursuant to Section 3-304.2 of this Act.

18 (210 ILCS 47/1-114.001 new)

19 Sec. 1-114.001. Habilitation. "Habilitation" means an  
20 effort directed toward increasing a person's level of physical,  
21 mental, social, or economic functioning. Habilitation may  
22 include, but is not limited to, diagnosis, evaluation, medical  
23 services, residential care, day care, special living

1 arrangements, training, education, employment services,  
2 protective services, and counseling.

3 (210 ILCS 47/1-114.005 new)

4 Sec. 1-114.005. High-risk designation. "High-risk  
5 designation" means a violation of a provision of the Illinois  
6 Administrative Code that has been identified by the Department  
7 through rulemaking to be inherently necessary to protect the  
8 health, safety, and welfare of a resident.

9 (210 ILCS 47/1-114.01)

10 Sec. 1-114.01. Identified offender. "Identified offender"  
11 means a person who meets any of the following criteria:

12 (1) Has been convicted of, found guilty of, adjudicated  
13 delinquent for, found not guilty by reason of insanity for,  
14 or found unfit to stand trial for any felony offense listed  
15 in Section 25 of the Health Care Worker Background Check  
16 Act, except for the following:

17 (i) a felony offense described in Section 10-5 of  
18 the Nurse Practice Act;

19 (ii) a felony offense described in Section 4, 5, 6,  
20 8, or 17.02 of the Illinois Credit Card and Debit Card  
21 Act;

22 (iii) a felony offense described in Section 5, 5.1,  
23 5.2, 7, or 9 of the Cannabis Control Act;

24 (iv) a felony offense described in Section 401,

1           401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois  
2           Controlled Substances Act; and

3           (v) a felony offense described in the  
4           Methamphetamine Control and Community Protection Act.

5           (2) Has been convicted of, adjudicated delinquent for,  
6           found not guilty by reason of insanity for, or found unfit  
7           to stand trial for, any sex offense as defined in  
8           subsection (c) of Section 10 of the Sex Offender Management  
9           Board Act.

10           (3) Is any other resident as determined by the  
11           Department of State Police. ~~has been convicted of any~~  
12           ~~felony offense listed in Section 25 of the Health Care~~  
13           ~~Worker Background Check Act, is a registered sex offender,~~  
14           ~~or is serving a term of parole, mandatory supervised~~  
15           ~~release, or probation for a felony offense.~~

16           (Source: P.A. 96-339, eff. 7-1-10.)

17           (210 ILCS 47/1-120.3 new)

18           Sec. 1-120.3. Provisional admission period. "Provisional  
19           admission period" means the time between the admission of an  
20           identified offender as defined in Section 1-114.01 of this Act  
21           and 3 days following the admitting facility's receipt of an  
22           Identified Offender Report and Recommendation in accordance  
23           with Section 2-201.6 of this Act.

24           (210 ILCS 47/1-122)

1           Sec. 1-122. Resident. "Resident" means a person receiving  
2 personal or medical care, including, but not limited to,  
3 habilitation, psychiatric services, therapeutic services, and  
4 assistance with activities of daily living from a facility  
5 ~~residing in and receiving personal care from a facility.~~

6           (Source: P.A. 96-339, eff. 7-1-10.)

7           (210 ILCS 47/1-128.5 new)

8           Sec. 1-128.5. Type "AA" violation. A "Type 'AA' violation"  
9 means a violation of this Act or of the rules promulgated  
10 thereunder that creates a condition or occurrence relating to  
11 the operation and maintenance of a facility that proximately  
12 caused a resident's death.

13           (210 ILCS 47/1-129)

14           Sec. 1-129. Type 'A' violation. A "Type 'A' violation"  
15 means a violation of this Act or of the rules promulgated  
16 thereunder which creates a condition or occurrence relating to  
17 the operation and maintenance of a facility that (i) creates a  
18 substantial probability that the risk of death or serious  
19 mental or physical harm to a resident will result therefrom or  
20 (ii) has resulted in actual physical or mental harm to a  
21 resident ~~presenting a substantial probability that death or~~  
22 ~~serious mental or physical harm to a resident will result~~  
23 ~~therefrom.~~

24           (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/1-130)

2 Sec. 1-130. Type 'B' violation. A "Type 'B' violation"  
3 means a violation of this Act or of the rules promulgated  
4 thereunder which (i) creates a condition or occurrence relating  
5 to the operation and maintenance of a facility that is more  
6 likely than not to cause more than minimal physical or mental  
7 harm to a resident or (ii) is specifically designated as a Type  
8 "B" violation in this Act ~~directly threatening to the health,~~  
9 ~~safety or welfare of a resident.~~

10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (210 ILCS 47/1-132 new)

12 Sec. 1-132. Type "C" violation. A "Type 'C' violation"  
13 means a violation of this Act or of the rules promulgated  
14 thereunder that creates a condition or occurrence relating to  
15 the operation and maintenance of a facility that creates a  
16 substantial probability that less than minimal physical or  
17 mental harm to a resident will result therefrom.

18 (210 ILCS 47/2-104)

19 Sec. 2-104. Medical treatment; records.

20 (a) A resident shall be permitted to retain the services of  
21 his or her own personal physician at his or her own expense or  
22 under an individual or group plan of health insurance, or under  
23 any public or private assistance program providing such

1 coverage. However, the facility is not liable for the  
2 negligence of any such personal physician. Every resident shall  
3 be permitted to obtain from his or her own physician or the  
4 physician attached to the facility complete and current  
5 information concerning his or her medical diagnosis, treatment  
6 and prognosis in terms and language the resident can reasonably  
7 be expected to understand. Every resident shall be permitted to  
8 participate in the planning of his or her total care and  
9 medical treatment to the extent that his or her condition  
10 permits. No resident shall be subjected to experimental  
11 research or treatment without first obtaining his or her  
12 informed, written consent. The conduct of any experimental  
13 research or treatment shall be authorized and monitored by an  
14 institutional review board ~~committee~~ appointed by the Director  
15 ~~administrator of the facility where such research and treatment~~  
16 ~~is conducted~~. The membership, operating procedures and review  
17 criteria for the institutional review board ~~committees~~ shall be  
18 prescribed under rules and regulations of the Department and  
19 shall comply with the requirements for institutional review  
20 boards established by the federal Food and Drug Administration.  
21 No person who has received compensation in the prior 3 years  
22 from an entity that manufactures, distributes, or sells  
23 pharmaceuticals, biologics, or medical devices may serve on the  
24 institutional review board.

25 The institutional review board may approve only research or  
26 treatment that meets the standards of the federal Food and Drug

1 Administration with respect to (i) the protection of human  
2 subjects and (ii) financial disclosure by clinical  
3 investigators. The Office of State Long Term Care Ombudsman and  
4 the State Protection and Advocacy organization shall be given  
5 an opportunity to comment on any request for approval before  
6 the board makes a decision. Those entities shall not be  
7 provided information that would allow a potential human subject  
8 to be individually identified, unless the board asks the  
9 Ombudsman for help in securing information from or about the  
10 resident. The board shall require frequent reporting of the  
11 progress of the approved research or treatment and its impact  
12 on residents, including immediate reporting of any adverse  
13 impact to the resident, the resident's representative, the  
14 Office of the State Long Term Care Ombudsman, and the State  
15 Protection and Advocacy organization. The board may not approve  
16 any retrospective study of the records of any resident about  
17 the safety or efficacy of any care or treatment if the resident  
18 was under the care of the proposed researcher or a business  
19 associate when the care or treatment was given, unless the  
20 study is under the control of a researcher without any business  
21 relationship to any person or entity who could benefit from the  
22 findings of the study.

23 No facility shall permit experimental research or  
24 treatment to be conducted on a resident or give access to any  
25 person or person's records for a retrospective study about the  
26 safety or efficacy of any care or treatment without the prior

1 written approval of the institutional review board. No  
2 administrator, or person licensed by the State to provide  
3 medical care or treatment to any person may assist or  
4 participate in any experimental research on or treatment of a  
5 resident, including a retrospective study, that does not have  
6 the prior written approval of the board. Such conduct shall be  
7 grounds for professional discipline by the Department of  
8 Financial and Professional Regulation.

9 The institutional review board may exempt from ongoing  
10 review research or treatment initiated on a resident before the  
11 individual's admission to a facility and for which the board  
12 determines there is adequate ongoing oversight by another  
13 institutional review board. Nothing in this Section shall  
14 prevent a facility, any facility employee, or any other person  
15 from assisting or participating in any experimental research on  
16 or treatment of a resident if the research or treatment began  
17 before the person's admission to a facility, until the board  
18 has reviewed the research or treatment and decided to grant or  
19 deny approval or to exempt the research or treatment from  
20 ongoing review.

21 (b) All medical treatment and procedures shall be  
22 administered as ordered by a physician. All new physician  
23 orders shall be reviewed by the facility's director of nursing  
24 or charge nurse designee within 24 hours after such orders have  
25 been issued to assure facility compliance with such orders.

26 According to rules adopted by the Department, every woman

1 resident of child bearing age shall receive routine obstetrical  
2 and gynecological evaluations as well as necessary prenatal  
3 care.

4 (c) Every resident shall be permitted to refuse medical  
5 treatment and to know the consequences of such action, unless  
6 such refusal would be harmful to the health and safety of  
7 others and such harm is documented by a physician in the  
8 resident's clinical record. The resident's refusal shall free  
9 the facility from the obligation to provide the treatment.

10 (d) Every resident, resident's guardian, or parent if the  
11 resident is a minor shall be permitted to inspect and copy all  
12 his or her clinical and other records concerning his or her  
13 care and maintenance kept by the facility or by his or her  
14 physician. The facility may charge a reasonable fee for  
15 duplication of a record.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 47/2-106.1)

18 Sec. 2-106.1. Drug treatment.

19 (a) A resident shall not be given unnecessary drugs. An  
20 unnecessary drug is any drug used in an excessive dose,  
21 including in duplicative therapy; for excessive duration;  
22 without adequate monitoring; without adequate indications for  
23 its use; or in the presence of adverse consequences that  
24 indicate the drugs should be reduced or discontinued. The  
25 Department shall adopt, by rule, the standards for unnecessary

1 drugs contained in interpretive guidelines issued by the United  
2 States Department of Health and Human Services for the purposes  
3 of administering Titles XVIII and XIX of the Social Security  
4 Act.

5 (b) Psychotropic medication shall not be administered  
6 ~~prescribed~~ without the informed consent of the resident, the  
7 resident's guardian, or other authorized representative.  
8 "Psychotropic medication" means medication that is used for or  
9 listed as used for antipsychotic, antidepressant, antimanic,  
10 or antianxiety behavior modification or behavior management  
11 purposes in the latest editions of the AMA Drug Evaluations or  
12 the Physician's Desk Reference. The Department shall adopt, by  
13 rule, a protocol specifying how informed consent for  
14 psychotropic medication may be obtained or refused. The  
15 protocol shall require, at a minimum, a discussion between (1)  
16 the resident or the resident's authorized representative and  
17 (2) the resident's physician, a registered pharmacist who is  
18 not a dispensing pharmacist for the facility where the resident  
19 lives, or a licensed nurse about the possible risks and  
20 benefits of a recommended medication and the use of  
21 standardized consent forms designated by the Department. Each  
22 form developed by the Department (i) shall be written in plain  
23 language, (ii) shall be able to be downloaded from the  
24 Department's official website, (iii) shall include information  
25 specific to the psychotropic medication for which consent is  
26 being sought, and (iv) shall be used for every resident for

1 whom psychotropic drugs are prescribed. In addition to creating  
2 those forms, the Department shall approve the use of any other  
3 informed consent forms that meet criteria developed by the  
4 Department.

5 In addition to any other requirement prescribed by law, a  
6 facility that is found to have violated this subsection or the  
7 federal certification requirement that informed consent be  
8 obtained before administering a psychotropic medication shall  
9 for 3 years after the notice of violation be required to (A)  
10 obtain the signatures of 2 licensed health care professionals  
11 on every form purporting to give informed consent for the  
12 administration of a psychotropic medication, certifying the  
13 personal knowledge of each health care professional that the  
14 consent was obtained in compliance with the requirements of  
15 this subsection or (B) videotape or make a digital video record  
16 of the procedures followed by the facility to comply with the  
17 requirements of this subsection.

18 (c) The requirements of this Section are intended to  
19 control in a conflict with the requirements of Sections 2-102  
20 and 2-107.2 of the Mental Health and Developmental Disabilities  
21 Code with respect to the administration of psychotropic  
22 medication.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (210 ILCS 47/2-114 new)

25 Sec. 2-114. Unlawful discrimination. No resident shall be

1 subjected to unlawful discrimination as defined in Section  
2 1-103 of the Illinois Human Rights Act by any owner, licensee,  
3 administrator, employee, or agent of a facility. Unlawful  
4 discrimination does not include an action by any owner,  
5 licensee, administrator, employee, or agent of a facility that  
6 is required by this Act or rules adopted under this Act.

7 (210 ILCS 47/2-115 new)

8 Sec. 2-115. Right to notification of violations. Residents  
9 and their guardians or other resident representatives, if any,  
10 shall be notified of any violation of this Act or the rules  
11 promulgated thereunder pursuant to Section 2-217 of this Act,  
12 or of violations of the requirements of Titles XVIII or XIX of  
13 the Social Security Act or rules promulgated thereunder, with  
14 respect to the health, safety, or welfare of the resident.

15 (210 ILCS 47/2-201.5)

16 Sec. 2-201.5. Screening prior to admission.

17 (a) All persons age 18 or older seeking admission to a  
18 facility must be screened to determine the need for facility  
19 services prior to being admitted, regardless of income, assets,  
20 or funding source. In addition, any person who seeks to become  
21 eligible for medical assistance from the Medical Assistance  
22 Program under the Illinois Public Aid Code to pay for services  
23 while residing in a facility must be screened prior to  
24 receiving those benefits. Screening for facility services

1 shall be administered through procedures established by  
2 administrative rule. Screening may be done by agencies other  
3 than the Department as established by administrative rule.

4 (a-1) Any screening shall also include an evaluation of  
5 whether there are residential supports and services or an array  
6 of community services that would enable the person to live in  
7 the community. The person shall be told about the existence of  
8 any such services that would enable the person to live safely  
9 and humanely in the least restrictive environment, that is  
10 appropriate, that the individual or guardian chooses, and the  
11 person shall be given the assistance necessary to avail himself  
12 or herself of any available services.

13 (b) In addition to the screening required by subsection  
14 (a), a facility shall, within 24 hours after admission, request  
15 a criminal history background check pursuant to the Uniform  
16 Conviction Information Act for all persons age 18 or older  
17 seeking admission to the facility. Background checks conducted  
18 pursuant to this Section shall be based on the resident's name,  
19 date of birth, and other identifiers as required by the  
20 Department of State Police. If the results of the background  
21 check are inconclusive, the facility shall initiate a  
22 fingerprint-based check, unless the fingerprint-based check is  
23 waived by the Director of Public Health based on verification  
24 by the facility that the resident is completely immobile or  
25 that the resident meets other criteria related to the  
26 resident's health or lack of potential risk which may be

1 established by Departmental rule. A waiver issued pursuant to  
2 this Section shall be valid only while the resident is immobile  
3 or while the criteria supporting the waiver exist. The facility  
4 shall provide for or arrange for any required fingerprint-based  
5 checks. If a fingerprint-based check is required, the facility  
6 shall arrange for it to be conducted in a manner that is  
7 respectful of the resident's dignity and that minimizes any  
8 emotional or physical hardship to the resident.

9 (c) If the results of a resident's criminal history  
10 background check reveal that the resident is an identified  
11 offender as defined in Section 1-114.01 of this Act, the  
12 facility shall do the following:

13 (1) Immediately notify the Department of State Police,  
14 in the form and manner required by the Department of State  
15 Police, in collaboration with the Department of Public  
16 Health, that the resident is an identified offender.

17 (2) Within 72 hours, arrange for a fingerprint-based  
18 criminal history record inquiry to be requested on the  
19 identified offender resident. The inquiry shall be based on  
20 the subject's name, sex, race, date of birth, fingerprint  
21 images, and other identifiers required by the Department of  
22 State Police. The inquiry shall be processed through the  
23 files of the Department of State Police and the Federal  
24 Bureau of Investigation to locate any criminal history  
25 record information that may exist regarding the subject.  
26 The Federal Bureau of Investigation shall furnish to the

1 Department of State Police, pursuant to an inquiry under  
2 this paragraph (2), any criminal history record  
3 information contained in its files. The facility shall  
4 comply with all applicable provisions contained in the  
5 Uniform Conviction Information Act. All name-based and  
6 fingerprint-based criminal history record inquiries shall  
7 be submitted to the Department of State Police  
8 electronically in the form and manner prescribed by the  
9 Department of State Police. The Department of State Police  
10 may charge the facility a fee for processing name-based and  
11 fingerprint-based criminal history record inquiries. The  
12 fee shall be deposited into the State Police Services Fund.  
13 The fee shall not exceed the actual cost of processing the  
14 inquiry.

15 ~~identified offenders who seek admission to a licensed facility~~  
16 ~~shall not be admitted unless the licensed facility complies~~  
17 ~~with the requirements of the Department's administrative rules~~  
18 ~~adopted pursuant to Section 3-202.3.~~

19 (d) The Department shall develop and maintain a  
20 de-identified database of residents who have injured facility  
21 staff, facility visitors, or other residents, and the attendant  
22 circumstances, solely for the purposes of evaluating and  
23 improving resident pre-screening and assessment procedures  
24 (including the Criminal History Report prepared under Section  
25 2-201.6 of this Act) and the adequacy of Department  
26 requirements concerning the provision of care and services to

1 residents. A resident shall not be listed in the database until  
2 a Department survey confirms the accuracy of the listing. The  
3 names of persons listed in the database and information that  
4 would allow them to be individually identified shall not be  
5 made public. Neither the Department nor any other agency of  
6 State government may use information in the database to take  
7 any action against any individual, licensee, or other entity  
8 unless the Department or agency receives the information  
9 independent of this subsection (d). All information collected,  
10 maintained, or developed under the authority of this subsection  
11 (d) for the purposes of the database maintained under this  
12 subsection (d) shall be treated in the same manner as  
13 information that is subject to Part 21 of Article VIII of the  
14 Code of Civil Procedure.

15 (Source: P.A. 96-339, eff. 7-1-10.)

16 (210 ILCS 47/2-201.6 new)

17 Sec. 2-201.6. Criminal History Report.

18 (a) The Department of State Police shall prepare a Criminal  
19 History Report when it receives information, through the  
20 criminal history background check required pursuant to  
21 subsection (c) of Section 2-201.5 or through any other means,  
22 that a resident of a facility is an identified offender.

23 (b) The Department of State Police shall complete the  
24 Criminal History Report within 10 business days after receiving  
25 any information described under subsection (a) of this Act that

1 a resident is an identified offender.

2 (c) The Criminal History Report shall include, but not be  
3 limited to, all of the following:

4 (1) Copies of the identified offender's parole,  
5 mandatory supervised release, or probation orders.

6 (2) An interview with the identified offender.

7 (3) A detailed summary of the entire criminal history  
8 of the offender, including arrests, convictions, and the  
9 date of the identified offender's last conviction relative  
10 to the date of admission to a long-term care facility.

11 (4) If the identified offender is a convicted or  
12 registered sex offender, then a review of any and all sex  
13 offender evaluations conducted on that offender. If there  
14 is no sex offender evaluation available, then the  
15 Department of State Police shall arrange, through the  
16 Department of Public Health, for a sex offender evaluation  
17 to be conducted on the identified offender. If the  
18 convicted or registered sex offender is under supervision  
19 by the Illinois Department of Corrections or a county  
20 probation department, then the sex offender evaluation  
21 shall be arranged by and at the expense of the supervising  
22 agency. All evaluations conducted on convicted or  
23 registered sex offenders under this Act shall be conducted  
24 by sex offender evaluators approved by the Sex Offender  
25 Management Board.

26 (d) The Department of State Police shall provide the

1 Criminal History Report to a licensed forensic psychologist.  
2 The licensed forensic psychologist shall prepare an Identified  
3 Offender Report and Recommendation after (i) consideration of  
4 the Criminal History Report, (ii) consultation with the  
5 facility administrator or the facility medical director, or  
6 both, regarding the mental and physical condition of the  
7 identified offender, and (iii) reviewing the facility's file on  
8 the identified offender, including all incident reports, all  
9 information regarding medication and medication compliance,  
10 and all information regarding previous discharges or transfers  
11 from other facilities. The Identified Offender Report and  
12 Recommendation shall detail whether and to what extent the  
13 identified offender's criminal history necessitates the  
14 implementation of security measures within the facility. If the  
15 identified offender is a convicted or registered sex offender,  
16 or if the Identified Offender Report and Recommendation reveals  
17 that the identified offender poses a significant risk of harm  
18 to others within the facility, then the offender shall be  
19 required to have his or her own room within the facility.

20 (e) The licensed forensic psychologist shall complete the  
21 Identified Offender Report and Recommendation within 14  
22 business days after receiving the Criminal History Report and  
23 shall promptly provide the Identified Offender Report and  
24 Recommendation to the Department of State Police, which shall  
25 provide the Identified Offender Report and Recommendation to  
26 the following:

1           (1) The facility within which the identified offender  
2           resides.

3           (2) The Chief of Police of the municipality in which  
4           the facility is located.

5           (3) The State of Illinois Long Term Care Ombudsman.

6           (4) The Department of Public Health.

7           (f) The Department of Public Health shall keep a continuing  
8           record of all residents determined to be identified offenders  
9           as defined in Section 1-114.01 and shall report the number of  
10           identified offender residents annually to the General  
11           Assembly.

12           (g) The facility shall incorporate the Identified Offender  
13           Report and Recommendation into the identified offender's  
14           individual program plan created pursuant to 42 CFR 483.440(c).

15           (h) If, based on the Identified Offender Report and  
16           Recommendation, a facility determines that it cannot manage the  
17           identified offender resident safely within the facility, then  
18           it shall commence involuntary transfer or discharge  
19           proceedings pursuant to Section 3-402.

20           (i) Except for willful and wanton misconduct, any person  
21           authorized to participate in the development of a Criminal  
22           History Report or Identified Offender Report and  
23           Recommendation is immune from criminal or civil liability for  
24           any acts or omissions as the result of his or her good faith  
25           effort to comply with this Section.

1 (210 ILCS 47/2-205)

2 Sec. 2-205. Disclosure of information to public. The  
3 following information is subject to disclosure to the public  
4 from the Department or the Department of Healthcare and Family  
5 Services:

6 (1) Information submitted under Sections 3-103 and  
7 3-207 except information concerning the remuneration of  
8 personnel licensed, registered, or certified by the  
9 Department of Financial and Professional Regulation (as  
10 successor to the Department of Professional Regulation)  
11 and monthly charges for an individual private resident;

12 (2) Records of license and certification inspections,  
13 surveys, and evaluations of facilities, other reports of  
14 inspections, surveys, and evaluations of resident care,  
15 whether a facility is designated a distressed facility and  
16 the basis for the designation, and reports concerning a  
17 facility prepared pursuant to Titles XVIII and XIX of the  
18 Social Security Act, subject to the provisions of the  
19 Social Security Act;

20 (3) Cost and reimbursement reports submitted by a  
21 facility under Section 3-208, reports of audits of  
22 facilities, and other public records concerning costs  
23 incurred by, revenues received by, and reimbursement of  
24 facilities; and

25 (4) Complaints filed against a facility and complaint  
26 investigation reports, except that a complaint or

1 complaint investigation report shall not be disclosed to a  
2 person other than the complainant or complainant's  
3 representative before it is disclosed to a facility under  
4 Section 3-702, and, further, except that a complainant or  
5 resident's name shall not be disclosed except under Section  
6 3-702. The Department shall disclose information under  
7 this Section in accordance with provisions for inspection  
8 and copying of public records required by the Freedom of  
9 Information Act. However, the disclosure of information  
10 described in subsection (1) shall not be restricted by any  
11 provision of the Freedom of Information Act.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 (210 ILCS 47/2-208)

14 Sec. 2-208. Notice of imminent death, unusual incident,  
15 abuse, or neglect.

16 (a) A facility shall immediately notify the identified  
17 resident's next of kin, guardian, resident's representative,  
18 and physician of the resident's death or when the resident's  
19 death appears to be imminent. A facility shall immediately  
20 notify the Department by telephone of a resident's death within  
21 24 hours after the resident's death. The facility shall notify  
22 the Department of the death of a facility's resident that does  
23 not occur in the facility immediately upon learning of the  
24 death. A facility shall promptly notify the coroner or medical  
25 examiner of a resident's death in a manner and form to be

1 determined by the Department after consultation with the  
2 coroner or medical examiner of the county in which the facility  
3 is located. In addition to notice to the Department by  
4 telephone, the Department shall require the facility to submit  
5 written notification of the death of a resident within 72 hours  
6 after the death, including a report of any medication errors or  
7 other incidents that occurred within 30 days of the resident's  
8 death. A facility's failure to comply with this Section shall  
9 constitute a Type "B" violation.

10 (b) A facility shall immediately notify the resident's next  
11 of kin, guardian, or resident representative of any unusual  
12 incident, abuse, or neglect involving the resident. A facility  
13 shall immediately notify the Department by telephone of any  
14 unusual incident, abuse, or neglect required to be reported  
15 pursuant to State law or administrative rule. In addition to  
16 notice to the Department by telephone, the Department shall  
17 require the facility to submit written notification of any  
18 unusual incident, abuse, or neglect within one day after the  
19 unusual incident, abuse, or neglect occurring. A facility's  
20 failure to comply with this Section shall constitute a Type "B"  
21 violation. For purposes of this Section, "unusual incident"  
22 means serious injury; unscheduled hospital visit for treatment  
23 of serious injury; 9-1-1 calls for emergency services directly  
24 relating to a resident threat; or stalking of staff or person  
25 served that raises health or safety concerns.

26 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/2-217 new)

2 Sec. 2-217. Notification of violations. When the  
3 Department issues any notice pursuant to Section 3-119,  
4 3-119.1, 3-301, 3-303, 3-307, or 3-702 of this Act or a notice  
5 of federal Medicaid certification deficiencies, the facility  
6 shall provide notification of the violations and deficiencies  
7 within 10 days after receiving a notice described within this  
8 Section to every resident and the resident's representative or  
9 guardian identified or referred to anywhere within the  
10 Department notice or the CMS 2567 as having received care or  
11 services that violated State or federal standards. The  
12 notification shall include a Department-prescribed  
13 notification letter as determined by rule and a copy of the  
14 notice and CMS 2567, if any, issued by the Department. A  
15 facility's failure to provide notification pursuant to this  
16 Section to a resident and the resident's representative or  
17 guardian, if any, shall constitute a Type "B" violation.

18 (210 ILCS 47/2-218 new)

19 Sec. 2-218. Minimum staffing in long-term care facilities  
20 for under age 22 residents. Facility staffing shall be based  
21 on all the needs of the residents and comply with Department  
22 rules as set forth under Section 3-202 of this Act. Facilities  
23 for under age 22 residents shall provide each resident,  
24 regardless of age, no less than 4.0 hours of nursing and

1 personal care time each day. The Department shall establish by  
2 rule the amount of registered or other licensed nurse and  
3 professional care time from the total 4.0 nursing and personal  
4 care time that shall be provided each day. A facility's failure  
5 to comply with this Section shall constitute a Type "B"  
6 violation.

7 (210 ILCS 47/3-109)

8 Sec. 3-109. Issuance of license based on Director's  
9 findings. Upon receipt and review of an application for a  
10 license made under this Article and inspection of the applicant  
11 facility under this Article, the Director shall issue a license  
12 if he or she finds:

13 (1) That the individual applicant, or the corporation,  
14 partnership or other entity if the applicant is not an  
15 individual, is a person responsible and suitable to operate  
16 or to direct or participate in the operation of a facility  
17 by virtue of financial capacity, appropriate business or  
18 professional experience, a record of compliance with  
19 lawful orders of the Department and lack of revocation of a  
20 license during the previous 5 years and is not the owner of  
21 a facility designated pursuant to Section 3-304.2 as a  
22 distressed facility;

23 (2) That the facility is under the supervision of an  
24 administrator who is licensed, if required, under the  
25 Nursing Home Administrators Licensing and Disciplinary

1 Act, as now or hereafter amended; and

2 (3) That the facility is in substantial compliance with  
3 this Act, and such other requirements for a license as the  
4 Department by rule may establish under this Act.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/3-110)

7 Sec. 3-110. Contents and period of license.

8 (a) Any license granted by the Director shall state the  
9 maximum bed capacity for which it is granted, the date the  
10 license was issued, and the expiration date. Except as provided  
11 in subsection (b), such licenses shall normally be issued for a  
12 period of one year. However, the Director may issue licenses or  
13 renewals for periods of not less than 6 months nor more than 18  
14 months for facilities with annual licenses and not less than 18  
15 months nor more than 30 months for facilities with 2-year  
16 licenses in order to distribute the expiration dates of such  
17 licenses throughout the calendar year, and fees for such  
18 licenses shall be prorated on the basis of the portion of a  
19 year for which they are issued. Each license shall be issued  
20 only for the premises and persons named in the application and  
21 shall not be transferable or assignable.

22 The Department shall require the licensee to comply with  
23 the requirements of a court order issued under Section 3-515,  
24 as a condition of licensing.

25 (b) A license for a period of 2 years shall be issued to a

1 facility if the facility:

2 (1) has not received a Type "AA" violation within the  
3 last 12 months;

4 (1.5) ~~(1)~~ has not received a Type "A" violation within  
5 the last 24 months;

6 (2) has not received a Type "B" violation within the  
7 last 24 months;

8 (3) has not had an inspection, survey, or evaluation  
9 that resulted in the issuance of 10 or more administrative  
10 warnings in the last 24 months;

11 (4) has not had an inspection, survey, or evaluation  
12 that resulted in an administrative warning issued for a  
13 violation of Sections 3-401 through 3-413 in the last 24  
14 months;

15 (5) has not been issued an order to reimburse a  
16 resident for a violation of Article II under subsection (6)  
17 of Section 3-305 in the last 24 months; and

18 (6) has not been subject to sanctions or  
19 decertification for violations in relation to patient care  
20 of a facility under Titles XVIII and XIX of the federal  
21 Social Security Act within the last 24 months.

22 If a facility with a 2-year license fails to meet the  
23 conditions in items (1) through (6) of this subsection, in  
24 addition to any other sanctions that may be applied by the  
25 Department under this Act, the facility's 2-year license shall  
26 be replaced by a one year license until such time as the

1 facility again meets the conditions in items (1) through (6) of  
2 this subsection.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (210 ILCS 47/3-112)

5 Sec. 3-112. Transfer of ownership; license.

6 (a) Whenever ownership of a facility is transferred from  
7 the person named in the license to any other person, the  
8 transferee must obtain a new probationary license. The  
9 transferee shall notify the Department of the transfer and  
10 apply for a new license at least 30 days prior to final  
11 transfer. The Department may not approve the transfer of  
12 ownership to an owner of a facility designated pursuant to  
13 Section 3-304.2 of this Act as a distressed facility.

14 (b) The transferor shall notify the Department at least 30  
15 days prior to final transfer. The transferor shall remain  
16 responsible for the operation of the facility until such time  
17 as a license is issued to the transferee.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/3-117)

20 Sec. 3-117. Denial of license; grounds. An application for  
21 a license may be denied for any of the following reasons:

22 (1) Failure to meet any of the minimum standards set  
23 forth by this Act or by rules and regulations promulgated  
24 by the Department under this Act.

1           (2) Conviction of the applicant, or if the applicant is  
2 a firm, partnership or association, of any of its members,  
3 or if a corporation, the conviction of the corporation or  
4 any of its officers or stockholders, or of the person  
5 designated to manage or supervise the facility, of a  
6 felony, or of 2 or more misdemeanors involving moral  
7 turpitude, during the previous 5 years as shown by a  
8 certified copy of the record of the court of conviction.

9           (3) Personnel insufficient in number or unqualified by  
10 training or experience to properly care for the proposed  
11 number and type of residents.

12           (4) Insufficient financial or other resources to  
13 operate and conduct the facility in accordance with  
14 standards promulgated by the Department under this Act.

15           (5) Revocation of a facility license during the  
16 previous 5 years, if such prior license was issued to the  
17 individual applicant, a controlling owner or controlling  
18 combination of owners of the applicant; or any affiliate of  
19 the individual applicant or controlling owner of the  
20 applicant and such individual applicant, controlling owner  
21 of the applicant or affiliate of the applicant was a  
22 controlling owner of the prior license; provided, however,  
23 that the denial of an application for a license pursuant to  
24 this subsection must be supported by evidence that such  
25 prior revocation renders the applicant unqualified or  
26 incapable of meeting or maintaining a facility in

1           accordance with the standards and rules promulgated by the  
2           Department under this Act.

3           (6) That the facility is not under the direct  
4           supervision of a full time administrator, as defined by  
5           regulation, who is licensed, if required, under the Nursing  
6           Home Administrators Licensing and Disciplinary Act.

7           (7) That the facility is in receivership and the  
8           proposed licensee has not submitted a specific detailed  
9           plan to bring the facility into compliance with the  
10           requirements of this Act and with federal certification  
11           requirements, if the facility is certified, and to keep the  
12           facility in such compliance.

13           (8) The applicant is the owner of a facility designated  
14           pursuant to Section 3-304.2 of this Act as a distressed  
15           facility.

16           (Source: P.A. 96-339, eff. 7-1-10.)

17           (210 ILCS 47/3-119)

18           Sec. 3-119. Suspension, revocation, or refusal to renew  
19           license.

20           (a) The Department, after notice to the applicant or  
21           licensee, may suspend, revoke or refuse to renew a license in  
22           any case in which the Department finds any of the following:

23           (1) There has been a substantial failure to comply with  
24           this Act or the rules and regulations promulgated by the  
25           Department under this Act. A substantial failure by a

1 facility shall include, but not be limited to, any of the  
2 following:

3 (A) termination of Medicare or Medicaid  
4 certification by the Centers for Medicare and Medicaid  
5 Services; or

6 (B) a failure by the facility to pay any fine  
7 assessed under this Act after the Department has sent  
8 to the facility and licensee at least 2 notices of  
9 assessment that include a schedule of payments as  
10 determined by the Department, taking into account  
11 extenuating circumstances and financial hardships of  
12 the facility.

13 (2) Conviction of the licensee, or of the person  
14 designated to manage or supervise the facility, of a  
15 felony, or of 2 or more misdemeanors involving moral  
16 turpitude, during the previous 5 years as shown by a  
17 certified copy of the record of the court of conviction.

18 (3) Personnel is insufficient in number or unqualified  
19 by training or experience to properly care for the number  
20 and type of residents served by the facility.

21 (4) Financial or other resources are insufficient to  
22 conduct and operate the facility in accordance with  
23 standards promulgated by the Department under this Act.

24 (5) The facility is not under the direct supervision of  
25 a full time administrator, as defined by regulation, who is  
26 licensed, if required, under the Nursing Home

1 Administrators Licensing and Disciplinary Act.

2 (6) The facility has committed 2 Type "AA" violations  
3 within a 2-year period.

4 (7) The facility has committed a Type "AA" violation  
5 while the facility is listed as a "distressed facility".

6 (b) Notice under this Section shall include a clear and  
7 concise statement of the violations on which the nonrenewal or  
8 revocation is based, the statute or rule violated and notice of  
9 the opportunity for a hearing under Section 3-703.

10 (c) If a facility desires to contest the nonrenewal or  
11 revocation of a license, the facility shall, within 10 days  
12 after receipt of notice under subsection (b) of this Section,  
13 notify the Department in writing of its request for a hearing  
14 under Section 3-703. Upon receipt of the request the Department  
15 shall send notice to the facility and hold a hearing as  
16 provided under Section 3-703.

17 (d) The effective date of nonrenewal or revocation of a  
18 license by the Department shall be any of the following:

19 (1) Until otherwise ordered by the circuit court,  
20 revocation is effective on the date set by the Department  
21 in the notice of revocation, or upon final action after  
22 hearing under Section 3-703, whichever is later.

23 (2) Until otherwise ordered by the circuit court,  
24 nonrenewal is effective on the date of expiration of any  
25 existing license, or upon final action after hearing under  
26 Section 3-703, whichever is later; however, a license shall

1 not be deemed to have expired if the Department fails to  
2 timely respond to a timely request for renewal under this  
3 Act or for a hearing to contest nonrenewal under paragraph  
4 (c).

5 (3) The Department may extend the effective date of  
6 license revocation or expiration in any case in order to  
7 permit orderly removal and relocation of residents.

8 The Department may refuse to issue or may suspend the  
9 license of any person who fails to file a return, or to pay the  
10 tax, penalty or interest shown in a filed return, or to pay any  
11 final assessment of tax, penalty or interest, as required by  
12 any tax Act administered by the Illinois Department of Revenue,  
13 until such time as the requirements of any such tax Act are  
14 satisfied.

15 (Source: P.A. 96-339, eff. 7-1-10.)

16 (210 ILCS 47/3-119.1 new)

17 Sec. 3-119.1. Ban on new admissions.

18 (a) Upon a finding by the Department that there has been a  
19 substantial failure to comply with this Act or the rules and  
20 regulations promulgated by the Department under this Act,  
21 including, without limitation, the circumstances set forth in  
22 subsection (a) of Section 3-119 of this Act, or if the  
23 Department otherwise finds that it would be in the public  
24 interest or the interest of the health, safety, and welfare of  
25 facility residents, the Department may impose a ban on new

1 admissions to any facility licensed under this Act. The ban  
2 shall continue until such time as the Department determines  
3 that the circumstances giving rise to the ban no longer exist.

4 (b) The Department shall provide notice to the facility and  
5 licensee of any ban imposed pursuant to subsection (a) of this  
6 Section. The notice shall provide a clear and concise statement  
7 of the circumstances on which the ban on new admissions is  
8 based and notice of the opportunity for a hearing. If the  
9 Department finds that the public interest or the health,  
10 safety, or welfare of facility residents imperatively requires  
11 immediate action and if the Department incorporates a finding  
12 to that effect in its notice, then the ban on new admissions  
13 may be ordered pending any hearing requested by the facility.  
14 Those proceedings shall be promptly instituted and determined.  
15 The Department shall promulgate rules defining the  
16 circumstances under which a ban on new admissions may be  
17 imposed.

18 (210 ILCS 47/3-202)

19 Sec. 3-202. Standards for facilities. The Department shall  
20 prescribe minimum standards for facilities. These standards  
21 shall regulate:

22 (1) Location and construction of the facility,  
23 including plumbing, heating, lighting, ventilation, and  
24 other physical conditions which shall ensure the health,  
25 safety, and comfort of residents and their protection from

1 fire hazard;

2 (2) To the extent this Act has not established minimum  
3 staffing requirements within this Act, the numbers ~~Number~~  
4 and qualifications of all personnel, including management  
5 and nursing personnel, having responsibility for any part  
6 of the care given to residents; specifically, the  
7 Department shall establish staffing ratios for facilities  
8 which shall specify the number of staff hours per resident  
9 of care that are needed for professional nursing care for  
10 various types of facilities or areas within facilities;

11 (3) All sanitary conditions within the facility and its  
12 surroundings, including water supply, sewage disposal,  
13 food handling, and general hygiene, which shall ensure the  
14 health and comfort of residents;

15 (4) Diet related to the needs of each resident based on  
16 good nutritional practice and on recommendations which may  
17 be made by the physicians attending the resident;

18 (5) Equipment essential to the health and welfare of  
19 the residents;

20 (6) A program of habilitation and rehabilitation for  
21 those residents who would benefit from such programs;

22 (7) A program for adequate maintenance of physical  
23 plant and equipment;

24 (8) Adequate accommodations, staff and services for  
25 the number and types of residents for whom the facility is  
26 licensed to care, including standards for temperature and

1 relative humidity within comfort zones determined by the  
2 Department based upon a combination of air temperature,  
3 relative humidity and air movement. Such standards shall  
4 also require facility plans that provide for health and  
5 comfort of residents at medical risk as determined by the  
6 attending physician whenever the temperature and relative  
7 humidity are outside such comfort zones established by the  
8 Department. The standards must include a requirement that  
9 areas of a facility used by residents of the facility be  
10 air-conditioned and heated by means of operable  
11 air-conditioning and heating equipment. The areas subject  
12 to this air-conditioning and heating requirement include,  
13 without limitation, bedrooms or common areas such as  
14 sitting rooms, activity rooms, living rooms, community  
15 rooms, and dining rooms;

16 (9) Development of evacuation and other appropriate  
17 safety plans for use during weather, health, fire, physical  
18 plant, environmental and national defense emergencies; and

19 (10) Maintenance of minimum financial or other  
20 resources necessary to meet the standards established  
21 under this Section, and to operate and conduct the facility  
22 in accordance with this Act.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (210 ILCS 47/3-202.2a new)

25 Sec. 3-202.2a. Comprehensive resident care plan. A

1 facility, with the participation of the resident and the  
2 resident's guardian or resident's representative, as  
3 applicable, must develop and implement a comprehensive care  
4 plan for each resident that includes measurable objectives and  
5 timetables to meet the resident's medical, nursing, mental  
6 health, psychosocial, and habilitation needs that are  
7 identified in the resident's comprehensive assessment that  
8 allows the resident to attain or maintain the highest  
9 practicable level of independent functioning and provide for  
10 discharge planning to the least restrictive setting based on  
11 the resident's care needs. The assessment shall be developed  
12 with the active participation of the resident and the  
13 resident's guardian or resident's representative, as  
14 applicable.

15 (210 ILCS 47/3-206)

16 Sec. 3-206. Curriculum for training nursing assistants and  
17 aides. The Department shall prescribe a curriculum for training  
18 nursing assistants, habilitation aides, and child care aides.

19 (a) No person, except a volunteer who receives no  
20 compensation from a facility and is not included for the  
21 purpose of meeting any staffing requirements set forth by the  
22 Department, shall act as a nursing assistant, habilitation  
23 aide, or child care aide in a facility, nor shall any person,  
24 under any other title, not licensed, certified, or registered  
25 to render medical care by the Department of Financial and

1 Professional Regulation, assist with the personal, medical, or  
2 nursing care of residents in a facility, unless such person  
3 meets the following requirements:

4 (1) Be at least 16 years of age, of temperate habits  
5 and good moral character, honest, reliable and  
6 trustworthy.

7 (2) Be able to speak and understand the English  
8 language or a language understood by a substantial  
9 percentage of the facility's residents.

10 (3) Provide evidence of employment or occupation, if  
11 any, and residence for 2 years prior to his or her present  
12 employment.

13 (4) Have completed at least 8 years of grade school or  
14 provide proof of equivalent knowledge.

15 (5) Begin a current course of training for nursing  
16 assistants, habilitation aides, or child care aides,  
17 approved by the Department, within 45 days of initial  
18 employment in the capacity of a nursing assistant,  
19 habilitation aide, or child care aide at any facility. Such  
20 courses of training shall be successfully completed within  
21 120 days of initial employment in the capacity of nursing  
22 assistant, habilitation aide, or child care aide at a  
23 facility. Nursing assistants, habilitation aides, and  
24 child care aides who are enrolled in approved courses in  
25 community colleges or other educational institutions on a  
26 term, semester or trimester basis, shall be exempt from the

1 120-day completion time limit. The Department shall adopt  
2 rules for such courses of training. These rules shall  
3 include procedures for facilities to carry on an approved  
4 course of training within the facility.

5 The Department may accept comparable training in lieu  
6 of the 120-hour course for student nurses, foreign nurses,  
7 military personnel, or employees of the Department of Human  
8 Services.

9 The facility shall develop and implement procedures,  
10 which shall be approved by the Department, for an ongoing  
11 review process, which shall take place within the facility,  
12 for nursing assistants, habilitation aides, and child care  
13 aides.

14 At the time of each regularly scheduled licensure  
15 survey, or at the time of a complaint investigation, the  
16 Department may require any nursing assistant, habilitation  
17 aide, or child care aide to demonstrate, either through  
18 written examination or action, or both, sufficient  
19 knowledge in all areas of required training. If such  
20 knowledge is inadequate the Department shall require the  
21 nursing assistant, habilitation aide, or child care aide to  
22 complete inservice training and review in the facility  
23 until the nursing assistant, habilitation aide, or child  
24 care aide demonstrates to the Department, either through  
25 written examination or action, or both, sufficient  
26 knowledge in all areas of required training; and

1           (6) Be familiar with and have general skills related to  
2           resident care.

3           (a-0.5) An educational entity, other than a secondary  
4           school, conducting a nursing assistant, habilitation aide, or  
5           child care aide training program shall initiate a ~~UCIA~~ criminal  
6           history record check in accordance with the Health Care Worker  
7           Background Check Act prior to entry of an individual into the  
8           training program. A secondary school may initiate a ~~UCIA~~  
9           criminal history record check in accordance with the Health  
10           Care Worker Background Check Act at any time during or after  
11           ~~prior to the entry of an individual into a training program.~~

12           (a-1) Nursing assistants, habilitation aides, or child  
13           care aides seeking to be included on the registry maintained  
14           under Section 3-206.01 of this Act must authorize the  
15           Department of Public Health or its designee ~~that tests nursing~~  
16           ~~assistants~~ to request a ~~UCIA~~ criminal history record check in  
17           accordance with the Health Care Worker Background Check Act and  
18           submit all necessary information. An individual may not newly  
19           be included on the registry unless a criminal history record  
20           check has been conducted with respect to the individual.

21           (b) Persons subject to this Section shall perform their  
22           duties under the supervision of a licensed nurse or other  
23           appropriately trained, licensed, or certified personnel.

24           (c) It is unlawful for any facility to employ any person in  
25           the capacity of nursing assistant, habilitation aide, or child  
26           care aide, or under any other title, not licensed by the State

1 of Illinois to assist in the personal, medical, or nursing care  
2 of residents in such facility unless such person has complied  
3 with this Section.

4 (d) Proof of compliance by each employee with the  
5 requirements set out in this Section shall be maintained for  
6 each such employee by each facility in the individual personnel  
7 folder of the employee. Proof of training shall be obtained  
8 only from the health care worker registry.

9 (e) Each facility shall obtain access to the health care  
10 worker registry's web application, maintain the employment and  
11 demographic information relating to ~~certify to the Department~~  
12 ~~on a form provided by the Department the name and residence~~  
13 ~~address of~~ each employee, and verify by the category and type  
14 of employment that each employee subject to this Section meets  
15 all the requirements of this Section.

16 (f) Any facility that is operated under Section 3-803 shall  
17 be exempt from the requirements of this Section.

18 (g) Each skilled nursing and intermediate care facility  
19 that admits persons who are diagnosed as having Alzheimer's  
20 disease or related dementias shall require all nursing  
21 assistants, habilitation aides, or child care aides, who did  
22 not receive 12 hours of training in the care and treatment of  
23 such residents during the training required under paragraph (5)  
24 of subsection (a), to obtain 12 hours of in house training in  
25 the care and treatment of such residents. If the facility does  
26 not provide the training in house, the training shall be

1 obtained from other facilities, community colleges or other  
2 educational institutions that have a recognized course for such  
3 training. The Department shall, by rule, establish a recognized  
4 course for such training.

5 The Department's rules shall provide that such training may  
6 be conducted in house at each facility subject to the  
7 requirements of this subsection, in which case such training  
8 shall be monitored by the Department. The Department's rules  
9 shall also provide for circumstances and procedures whereby any  
10 person who has received training that meets the requirements of  
11 this subsection shall not be required to undergo additional  
12 training if he or she is transferred to or obtains employment  
13 at a different facility or a facility other than those licensed  
14 under this Act but remains continuously employed as a nursing  
15 assistant, habilitation aide, or child care aide. Individuals  
16 who have performed no nursing, nursing-related services, or  
17 habilitation services for a period of 24 consecutive months  
18 shall be listed as inactive and as such do not meet the  
19 requirements of this Section. Licensed sheltered care  
20 facilities shall be exempt from the requirements of this  
21 Section.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (210 ILCS 47/3-206.01)

24 Sec. 3-206.01. Health care worker registry.

25 (a) The Department shall establish and maintain a registry

1 of all individuals who (i) have satisfactorily completed the  
2 training required by Section 3-206, (ii) have begun a current  
3 course of training as set forth in Section 3-206, or (iii) are  
4 otherwise acting as a nursing assistant, habilitation aide,  
5 home health aide, or child care aide. The registry shall  
6 include the individual's name ~~of the nursing assistant,~~  
7 ~~habilitation aide, or child care aide,~~ his or her current  
8 address, Social Security number, and whether the individual has  
9 any of the disqualifying convictions listed in Section 25 of  
10 the Health Care Worker Background Check Act from the date and  
11 location of the training course completed by the individual,  
12 and the date of the individual's last criminal records check.  
13 Any individual placed on the registry is required to inform the  
14 Department of any change of address within 30 days. A facility  
15 shall not employ an individual as a nursing assistant,  
16 habilitation aide, home health aide, or child care aide, or  
17 newly hired as an individual who may have access to a resident,  
18 a resident's living quarters, or a resident's personal,  
19 financial, or medical records, unless the facility has inquired  
20 of the Department's health care worker registry ~~Department~~ as  
21 to information in the registry concerning the individual. The  
22 facility ~~and~~ shall not employ an individual as a nursing  
23 assistant, habilitation aide, or child care aide if that  
24 individual is anyone not on the registry unless the individual  
25 is enrolled in a training program under paragraph (5) of  
26 subsection (a) of Section 3-206 of this Act.

1           If the Department finds that a nursing assistant,  
2           habilitation aide, home health aide, ~~or~~ child care aide, or an  
3           unlicensed individual, has abused or neglected a resident or an  
4           individual under his or her care, ~~neglected a resident~~, or  
5           misappropriated ~~resident~~ property of a resident or an  
6           individual under his or her care in a facility, the Department  
7           shall notify the individual of this finding by certified mail  
8           sent to the address contained in the registry. The notice shall  
9           give the individual an opportunity to contest the finding in a  
10          hearing before the Department or to submit a written response  
11          to the findings in lieu of requesting a hearing. If, after a  
12          hearing or if the individual does not request a hearing, the  
13          Department finds that the individual abused a resident,  
14          neglected a resident, or misappropriated resident property in a  
15          facility, the finding shall be included as part of the registry  
16          as well as a clear and accurate summary ~~brief~~ statement from  
17          the individual, if he or she chooses to make such a statement.  
18          The Department shall make the following information in the  
19          registry available to the public: an individual's full name;  
20          the date an individual successfully completed a nurse aide  
21          training or competency evaluation; and whether the Department  
22          has made a finding that an individual has been guilty of abuse  
23          or neglect of a resident or misappropriation of resident's  
24          property. In the case of inquiries to the registry concerning  
25          an individual listed in the registry, any information disclosed  
26          concerning such a finding shall also include disclosure of the

1 individual's ~~any~~ statement in the registry relating to the  
2 finding or a clear and accurate summary of the statement.

3 (b) The Department shall add to the health care worker  
4 registry records of findings as reported by the Inspector  
5 General or remove from the health care worker registry records  
6 of findings as reported by the Department of Human Services,  
7 under subsection (g-5) of Section 1-17 of the Department of  
8 Human Services Act.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/3-206.02)

11 Sec. 3-206.02. Designation on registry for offense.

12 (a) The Department, after notice to the nursing assistant,  
13 habilitation aide, home health aide, or child care aide, may  
14 designate that the Department has found any of the following:

15 (1) The nursing assistant, habilitation aide, home  
16 health aide, or child care aide has abused a resident.

17 (2) The nursing assistant, habilitation aide, home  
18 health aide, or child care aide has neglected a resident.

19 (3) The nursing assistant, habilitation aide, home  
20 health aide, or child care aide has misappropriated  
21 resident property.

22 (4) The nursing assistant, habilitation aide, home  
23 health aide, or child care aide has been convicted of (i) a  
24 felony, (ii) a misdemeanor, an essential element of which  
25 is dishonesty, or (iii) any crime that is directly related

1 to the duties of a nursing assistant, habilitation aide, or  
2 child care aide.

3 (b) Notice under this Section shall include a clear and  
4 concise statement of the grounds denoting abuse, neglect, or  
5 theft and notice of the opportunity for a hearing to contest  
6 the designation.

7 (c) The Department may designate any nursing assistant,  
8 habilitation aide, home health aide, or child care aide on the  
9 registry who fails (i) to file a return, (ii) to pay the tax,  
10 penalty or interest shown in a filed return, or (iii) to pay  
11 any final assessment of tax, penalty or interest, as required  
12 by any tax Act administered by the Illinois Department of  
13 Revenue, until the time the requirements of the tax Act are  
14 satisfied.

15 (c-1) The Department shall document criminal background  
16 check results pursuant to the requirements of the Health Care  
17 Worker Background Check Act.

18 (d) At any time after the designation on the registry  
19 pursuant to subsection (a), (b), or (c) of this Section, a  
20 nursing assistant, habilitation aide, home health aide, or  
21 child care aide may petition the Department for removal of a  
22 designation of neglect on the registry. The Department may  
23 remove the designation of neglect of the nursing assistant,  
24 habilitation aide, home health aide, or child care aide on the  
25 registry unless, after an investigation and a hearing, the  
26 Department determines that removal of designation is not in the

1 public interest.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (210 ILCS 47/3-206.04 new)

4 Sec. 3-206.04. Registry checks for employees.

5 (a) Within 60 days after the effective date of this  
6 amendatory Act of the 97th General Assembly, the Department  
7 shall require all facilities to conduct required registry  
8 checks on employees at the time of hire and annually thereafter  
9 during employment. The required registries to be checked are  
10 the Health Care Worker Registry, the Department of Children and  
11 Family Services' State Central Register, and the Illinois Sex  
12 Offender Registry. A person may not be employed if he or she is  
13 found to have disqualifying convictions or substantiated cases  
14 of abuse or neglect. At the time of the annual registry checks,  
15 if a current employee's name has been placed on a registry with  
16 disqualifying convictions or disqualifying substantiated cases  
17 of abuse or neglect, then the employee must be terminated.  
18 Disqualifying convictions or disqualifying substantiated cases  
19 of abuse or neglect are defined for the Department of Children  
20 and Family Services Central Register by the Department of  
21 Children and Family Services' standards for background checks  
22 in Part 385 of Title 89 of the Illinois Administrative Code.  
23 Disqualifying convictions or disqualifying substantiated cases  
24 of abuse or neglect are defined for the Health Care Worker  
25 Registry by the Health Care Worker Background Check Act and

1 within this Act. A facility's failure to conduct the required  
2 registry checks will constitute a Type "B" violation.

3 (b) In collaboration with the Department of Children and  
4 Family Services and the Department of Human Services, the  
5 Department shall establish a waiver process from the  
6 prohibition of employment or termination of employment  
7 requirements in subsection (a) of this Section for any  
8 applicant or employee listed under the Department of Children  
9 and Family Services' State Central Register seeking to be hired  
10 or maintain his or her employment with a facility under this  
11 Act. The waiver process for applicants and employees outlined  
12 under Section 40 of the Health Care Worker Background Check Act  
13 shall remain in effect for individuals listed on the Health  
14 Care Worker Registry.

15 (210 ILCS 47/3-212)

16 Sec. 3-212. Inspection of facility by Department; report.

17 (a) The Department, whenever it deems necessary in  
18 accordance with subsection (b), shall inspect, survey and  
19 evaluate every facility to determine compliance with  
20 applicable licensure requirements and standards. Submission of  
21 a facility's current Consumer Choice Information Report  
22 required by Section 2-214 shall be verified at the time of  
23 inspection. An inspection should occur within 120 days prior to  
24 license renewal. The Department may periodically visit a  
25 facility for the purpose of consultation. An inspection,

1 survey, or evaluation, other than an inspection of financial  
2 records, shall be conducted without prior notice to the  
3 facility. A visit for the sole purpose of consultation may be  
4 announced. The Department shall provide training to surveyors  
5 about the appropriate assessment, care planning, and care of  
6 persons with mental illness (other than Alzheimer's disease or  
7 related disorders) to enable its surveyors to determine whether  
8 a facility is complying with State and federal requirements  
9 about the assessment, care planning, and care of those persons.

10 (a-1) An employee of a State or unit of local government  
11 agency charged with inspecting, surveying, and evaluating  
12 facilities who directly or indirectly gives prior notice of an  
13 inspection, survey, or evaluation, other than an inspection of  
14 financial records, to a facility or to an employee of a  
15 facility is guilty of a Class A misdemeanor. An inspector or an  
16 employee of the Department who intentionally prenotifies a  
17 facility, orally or in writing, of a pending complaint  
18 investigation or inspection shall be guilty of a Class A  
19 misdemeanor. Superiors of persons who have prenotified a  
20 facility shall be subject to the same penalties, if they have  
21 knowingly allowed the prenotification. A person found guilty of  
22 prenotifying a facility shall be subject to disciplinary action  
23 by his or her employer. If the Department has a good faith  
24 belief, based upon information that comes to its attention,  
25 that a violation of this subsection has occurred, it must file  
26 a complaint with the Attorney General or the State's Attorney

1 in the county where the violation took place within 30 days  
2 after discovery of the information.

3 (a-2) An employee of a State or unit of local government  
4 agency charged with inspecting, surveying, or evaluating  
5 facilities who willfully profits from violating the  
6 confidentiality of the inspection, survey, or evaluation  
7 process shall be guilty of a Class 4 felony and that conduct  
8 shall be deemed unprofessional conduct that may subject a  
9 person to loss of his or her professional license. An action to  
10 prosecute a person for violating this subsection (a-2) may be  
11 brought by either the Attorney General or the State's Attorney  
12 in the county where the violation took place.

13 (b) In determining whether to make more than the required  
14 number of unannounced inspections, surveys and evaluations of a  
15 facility the Department shall consider one or more of the  
16 following: previous inspection reports; the facility's history  
17 of compliance with standards, rules and regulations  
18 promulgated under this Act and correction of violations,  
19 penalties or other enforcement actions; the number and severity  
20 of complaints received about the facility; any allegations of  
21 resident abuse or neglect; weather conditions; health  
22 emergencies; other reasonable belief that deficiencies exist.

23 (b-1) The Department shall not be required to determine  
24 whether a facility certified to participate in the Medicare  
25 program under Title XVIII of the Social Security Act, or the  
26 Medicaid program under Title XIX of the Social Security Act,

1 and which the Department determines by inspection under this  
2 Section or under Section 3-702 of this Act to be in compliance  
3 with the certification requirements of Title XVIII or XIX, is  
4 in compliance with any requirement of this Act that is less  
5 stringent than or duplicates a federal certification  
6 requirement. In accordance with subsection (a) of this Section  
7 or subsection (d) of Section 3-702, the Department shall  
8 determine whether a certified facility is in compliance with  
9 requirements of this Act that exceed federal certification  
10 requirements. If a certified facility is found to be out of  
11 compliance with federal certification requirements, the  
12 results of an inspection conducted pursuant to Title XVIII or  
13 XIX of the Social Security Act may be used as the basis for  
14 enforcement remedies authorized and commenced, with the  
15 Department's discretion to evaluate whether penalties are  
16 warranted, under this Act. Enforcement of this Act against a  
17 certified facility shall be commenced pursuant to the  
18 requirements of this Act, unless enforcement remedies sought  
19 pursuant to Title XVIII or XIX of the Social Security Act  
20 exceed those authorized by this Act. As used in this  
21 subsection, "enforcement remedy" means a sanction for  
22 violating a federal certification requirement or this Act.

23 (c) Upon completion of each inspection, survey and  
24 evaluation, the appropriate Department personnel who conducted  
25 the inspection, survey or evaluation shall submit a copy of  
26 their report to the licensee upon exiting the facility, and

1 shall submit the actual report to the appropriate regional  
2 office of the Department. Such report and any recommendations  
3 for action by the Department under this Act shall be  
4 transmitted to the appropriate offices of the associate  
5 director of the Department, together with related comments or  
6 documentation provided by the licensee which may refute  
7 findings in the report, which explain extenuating  
8 circumstances that the facility could not reasonably have  
9 prevented, or which indicate methods and timetables for  
10 correction of deficiencies described in the report. Without  
11 affecting the application of subsection (a) of Section 3-303,  
12 any documentation or comments of the licensee shall be provided  
13 within 10 days of receipt of the copy of the report. Such  
14 report shall recommend to the Director appropriate action under  
15 this Act with respect to findings against a facility. The  
16 Director shall then determine whether the report's findings  
17 constitute a violation or violations of which the facility must  
18 be given notice. Such determination shall be based upon the  
19 severity of the finding, the danger posed to resident health  
20 and safety, the comments and documentation provided by the  
21 facility, the diligence and efforts to correct deficiencies,  
22 correction of the reported deficiencies, the frequency and  
23 duration of similar findings in previous reports and the  
24 facility's general inspection history. The Department  
25 ~~Violations~~ shall determine violations ~~be determined~~ under this  
26 subsection no later than 90 ~~60~~ days after completion of each

1 inspection, survey and evaluation.

2 (d) The Department shall maintain all inspection, survey  
3 and evaluation reports for at least 5 years in a manner  
4 accessible to and understandable by the public.

5 (e) The Department shall conduct a revisit to its licensure  
6 and certification surveys, consistent with federal regulations  
7 and guidelines.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (210 ILCS 47/3-303)

10 Sec. 3-303. Correction of violations; hearing.

11 (a) The situation, condition or practice constituting a  
12 Type "AA" violation or a Type "A" violation shall be abated or  
13 eliminated immediately unless a fixed period of time, not  
14 exceeding 15 days, as determined by the Department and  
15 specified in the notice of violation, is required for  
16 correction.

17 (b) At the time of issuance of a notice of a Type "B"  
18 violation, the Department shall request a plan of correction  
19 which is subject to the Department's approval. The facility  
20 shall have 10 days after receipt of notice of violation in  
21 which to prepare and submit a plan of correction. The  
22 Department may extend this period up to 30 days where  
23 correction involves substantial capital improvement. The plan  
24 shall include a fixed time period not in excess of 90 days  
25 within which violations are to be corrected. If the Department

1 rejects a plan of correction, it shall send notice of the  
2 rejection and the reason for the rejection to the facility. The  
3 facility shall have 10 days after receipt of the notice of  
4 rejection in which to submit a modified plan. If the modified  
5 plan is not timely submitted, or if the modified plan is  
6 rejected, the facility shall follow an approved plan of  
7 correction imposed by the Department.

8 (c) If the violation has been corrected prior to submission  
9 and approval of a plan of correction, the facility may submit a  
10 report of correction in place of a plan of correction. Such  
11 report shall be signed by the administrator under oath.

12 (d) Upon a licensee's petition, the Department shall  
13 determine whether to grant a licensee's request for an extended  
14 correction time. Such petition shall be served on the  
15 Department prior to expiration of the correction time  
16 originally approved. The burden of proof is on the petitioning  
17 facility to show good cause for not being able to comply with  
18 the original correction time approved.

19 (e) If a facility desires to contest any Department action  
20 under this Section it shall send a written request for a  
21 hearing under Section 3-703 to the Department within 10 days of  
22 receipt of notice of the contested action. The Department shall  
23 commence the hearing as provided under Section 3-703. Whenever  
24 possible, all action of the Department under this Section  
25 arising out of a violation shall be contested and determined at  
26 a single hearing. Issues decided after a hearing may not be

1 reheard at subsequent hearings under this Section.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (210 ILCS 47/3-303.2)

4 Sec. 3-303.2. Administrative warning.

5 (a) If the Department finds a situation, condition or  
6 practice which violates this Act or any rule promulgated  
7 thereunder which does not constitute a Type "AA", Type "A",  
8 Type "B", or Type "C" violation ~~directly threaten the health,~~  
9 ~~safety or welfare of a resident,~~ the Department shall issue an  
10 administrative warning. Any administrative warning shall be  
11 served upon the facility in the same manner as the notice of  
12 violation under Section 3-301. The facility shall be  
13 responsible for correcting the situation, condition or  
14 practice; however, no written plan of correction need be  
15 submitted for an administrative warning, except for violations  
16 of Sections 3-401 through 3-413 or the rules promulgated  
17 thereunder. A written plan of correction is required to be  
18 filed for an administrative warning issued for violations of  
19 Sections 3-401 through 3-413 or the rules promulgated  
20 thereunder.

21 (b) If, however, the situation, condition or practice which  
22 resulted in the issuance of an administrative warning, with the  
23 exception of administrative warnings issued pursuant to  
24 Sections 3-401 through 3-413 or the rules promulgated  
25 thereunder, is not corrected by the next on site inspection by

1 the Department which occurs no earlier than 90 days from the  
2 issuance of the administrative warning, a written plan of  
3 correction must be submitted in the same manner as provided in  
4 subsection (b) of Section 3-303.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (210 ILCS 47/3-304.1)

7 Sec. 3-304.1. Public computer access to information.

8 (a) The Department must make information regarding nursing  
9 homes in the State available to the public in electronic form  
10 on the World Wide Web, including all of the following  
11 information:

12 (1) who regulates facilities licensed under this Act;

13 (2) information in the possession of the Department  
14 that is listed in Sections 3-210 and 3-304;

15 (3) deficiencies and plans of correction;

16 (4) enforcement remedies;

17 (5) penalty letters;

18 (6) designation of penalty monies;

19 (7) the U.S. Department of Health and Human Services'  
20 Health Care Financing Administration special projects or  
21 federally required inspections;

22 (8) advisory standards;

23 (9) deficiency free surveys; ~~and~~

24 (10) enforcement actions and enforcement summaries;

25 and.

1           (11) distressed facilities.

2           (b) No fee or other charge may be imposed by the Department  
3 as a condition of accessing the information.

4           (c) The electronic public access provided through the World  
5 Wide Web shall be in addition to any other electronic or print  
6 distribution of the information.

7           (d) The information shall be made available as provided in  
8 this Section in the shortest practicable time after it is  
9 publicly available in any other form.

10        (Source: P.A. 96-339, eff. 7-1-10.)

11           (210 ILCS 47/3-304.2 new)

12           Sec. 3-304.2. Designation of distressed facilities.

13           (a) The Department shall, by rule, adopt criteria to  
14 identify facilities that are distressed and shall publish this  
15 list quarterly. No facility shall be identified as a distressed  
16 facility unless it has committed violations or deficiencies  
17 that have actually harmed residents.

18           (b) The Department shall notify each facility and licensee  
19 of its distressed designation and of the calculation on which  
20 it is based.

21           (c) A distressed facility may contract with an independent  
22 consultant meeting criteria established by the Department. If  
23 the distressed facility does not seek the assistance of an  
24 independent consultant, then the Department shall place a  
25 monitor or a temporary manager in the facility, depending on

1 the Department's assessment of the condition of the facility.

2 (d) A facility that has been designated a distressed  
3 facility may contract with an independent consultant to develop  
4 and assist in the implementation of a plan of improvement to  
5 bring and keep the facility in compliance with this Act and, if  
6 applicable, with federal certification requirements. A  
7 facility that contracts with an independent consultant shall  
8 have 90 days to develop a plan of improvement and demonstrate a  
9 good faith effort at implementation, and another 90 days to  
10 achieve compliance and take whatever additional actions are  
11 called for in the improvement plan to maintain compliance in  
12 this subsection (d). "Independent" consultant means an  
13 individual who has no professional or financial relationship  
14 with the facility, any person with a reportable ownership  
15 interest in the facility, or any related parties. In this  
16 subsection (d), "related parties" has the meaning attributed to  
17 it in the instructions for completing Medicaid cost reports.

18 (e) A distressed facility that does not contract with a  
19 consultant shall be assigned a monitor or a temporary manager  
20 at the Department's discretion. The cost of the temporary  
21 manager shall be paid by the Department. The authority afforded  
22 the temporary manager shall be determined through rulemaking.

23 If a distressed facility that contracts with an independent  
24 consultant but does not, in a timely manner, develop an  
25 adequate plan of improvement or comply with the plan of  
26 improvement, then the Department may place a monitor in the

1 facility.

2 Nothing in this Section shall limit the authority of the  
3 Department to place a monitor in a distressed facility if  
4 otherwise justified by law.

5 (f) The Department shall by rule establish a mentor program  
6 for owners of distressed facilities. That a mentor program does  
7 not exist, or that a mentor is not available to assist a  
8 distressed facility, shall not delay or prevent the imposition  
9 of any penalties on a distressed facility, authorized by this  
10 Act.

11 (210 ILCS 47/3-305)

12 Sec. 3-305. Penalties or fines. The license of a facility  
13 which is in violation of this Act or any rule adopted  
14 thereunder may be subject to the penalties or fines levied by  
15 the Department as specified in this Section.

16 (1) ~~A Unless a greater penalty or fine is allowed under~~  
17 ~~subsection (3),~~ a licensee who commits a Type "AA" "A"  
18 violation as defined in Section 1-128.5 ~~1-129~~ is  
19 automatically issued a conditional license for a period of  
20 6 months to coincide with an acceptable plan of correction  
21 and assessed a fine of up to \$25,000 per violation. For a  
22 facility licensed to provide care to fewer than 100  
23 residents, but no less than 17 residents, the fine shall be  
24 up to \$18,500 per violation. For a facility licensed to  
25 provide care to fewer than 17 residents, the fine shall be

1 ~~up to \$12,500 per violation. computed at a rate of \$5.00~~  
2 ~~per resident in the facility plus 20 cents per resident for~~  
3 ~~each day of the violation, commencing on the date a notice~~  
4 ~~of the violation is served under Section 3-301 and ending~~  
5 ~~on the date the violation is corrected, or a fine of not~~  
6 ~~less than \$5,000, or when death, serious mental or physical~~  
7 ~~harm, permanent disability, or disfigurement results, a~~  
8 ~~fine of not less than \$10,000, whichever is greater.~~

9 (1.5) A licensee who commits a Type "A" violation as  
10 defined in Section 1-129 is automatically issued a  
11 conditional license for a period of 6 months to coincide  
12 with an acceptable plan of correction and assessed a fine  
13 of up to \$12,500 per violation. For a facility licensed to  
14 provide care to fewer than 100 residents, but no less than  
15 17 residents, the fine shall be up to \$10,000 per  
16 violation. For a facility licensed to provide care to fewer  
17 than 17 residents, the fine shall be up to \$6,250 per  
18 violation.

19 (2) A licensee who commits a Type "B" violation as  
20 defined in Section 1-130 shall be assessed a fine of up to  
21 \$1,100 per violation. For a facility licensed to provide  
22 care to fewer than 100 residents, but no less than 17  
23 residents, the fine shall be up to \$750 per violation. For  
24 a facility licensed to provide care to fewer than 17  
25 residents, the fine shall be up to \$550 per violation. ~~or~~  
26 ~~who is issued an administrative warning for a violation of~~

~~Sections 3-401 through 3-413 or the rules promulgated thereunder is subject to a penalty computed at a rate of \$3 per resident in the facility, plus 15 cents per resident for each day of the violation, commencing on the date a notice of the violation is served under Section 3-301 and ending on the date the violation is corrected, or a fine not less than \$500, whichever is greater. Such fine shall be assessed on the date of notice of the violation and shall be suspended for violations that continue after such date upon completion of a plan of correction in accordance with Section 3-308 in relation to the assessment of fines and correction. Failure to correct such violation within the time period approved under a plan of correction shall result in a fine and conditional license as provided under subsection (5).~~

(2.5) A licensee who commits 8 or more Type "C" violations as defined in Section 1-132 in a single survey shall be assessed a fine of up to \$250 per violation. A facility licensed to provide care to fewer than 100 residents, but no less than 17 residents, that commits 8 or more Type "C" violations in a single survey, shall be assessed a fine of up to \$200 per violation. A facility licensed to provide care to fewer than 17 residents, that commits 8 or more Type "C" violations in a single survey, shall be assessed a fine of up to \$175 per violation.

(3) A licensee who commits a Type "AA" or Type "A"

1 violation as defined in Section 1-128.5 or 1-129 which  
2 continues beyond the time specified in paragraph (a) of  
3 Section 3-303 which is cited as a repeat violation shall  
4 have its license revoked and shall be assessed a fine of 3  
5 times the fine computed ~~per resident per day~~ under  
6 subsection (1).

7 (4) A licensee who fails to satisfactorily comply with  
8 an accepted plan of correction for a Type "B" violation or  
9 an administrative warning issued pursuant to Sections  
10 3-401 through 3-413 or the rules promulgated thereunder  
11 shall be automatically issued a conditional license for a  
12 period of not less than 6 months. A second or subsequent  
13 acceptable plan of correction shall be filed. A fine shall  
14 be assessed in accordance with subsection (2) when cited  
15 for the repeat violation. This fine shall be computed for  
16 all days of the violation, including the duration of the  
17 first plan of correction compliance time.

18 (5) (Blank). ~~For the purpose of computing a penalty~~  
19 ~~under subsections (2) through (4), the number of residents~~  
20 ~~per day shall be based on the average number of residents~~  
21 ~~in the facility during the 30 days preceding the discovery~~  
22 ~~of the violation.~~

23 (6) When the Department finds that a provision of  
24 Article II has been violated with regard to a particular  
25 resident, the Department shall issue an order requiring the  
26 facility to reimburse the resident for injuries incurred,

1 or \$100, whichever is greater. In the case of a violation  
2 involving any action other than theft of money belonging to  
3 a resident, reimbursement shall be ordered only if a  
4 provision of Article II has been violated with regard to  
5 that or any other resident of the facility within the 2  
6 years immediately preceding the violation in question.

7 (7) For purposes of assessing fines under this Section,  
8 a repeat violation shall be a violation which has been  
9 cited during one inspection of the facility for which an  
10 accepted plan of correction was not complied with or. ~~A~~  
11 ~~repeat violation shall not be~~ a new citation of the same  
12 rule if, ~~unless~~ the licensee is not substantially  
13 addressing the issue routinely throughout the facility.

14 (8) If an occurrence results in more than one type of  
15 violation as defined in this Act (that is, a Type "AA",  
16 Type "A", Type "B", or Type "C" violation), then the  
17 maximum fine that may be assessed for that occurrence is  
18 the maximum fine that may be assessed for the most serious  
19 type of violation charged. For purposes of the preceding  
20 sentence, a Type "AA" violation is the most serious type of  
21 violation that may be charged, followed by a Type "A", Type  
22 "B", or Type "C" violation, in that order.

23 (9) If any facility willfully makes a misstatement of  
24 fact to the Department or willfully fails to make a  
25 required notification to the Department and that  
26 misstatement or failure delays the start of a survey or

1 impedes a survey, then it will constitute a Type "B"  
2 violation. The minimum and maximum fines that may be  
3 assessed pursuant to this subsection (9) shall be 3 times  
4 those otherwise specified for any facility.

5 (10) If the Department finds that a facility has  
6 violated a provision of the Illinois Administrative Code  
7 that has a high-risk designation or that a facility has  
8 violated the same provision of the Illinois Administrative  
9 Code 3 or more times in the previous 12 months, then the  
10 Department may assess a fine of up to 2 times the maximum  
11 fine otherwise allowed.

12 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

13 (210 ILCS 47/3-306)

14 Sec. 3-306. Factors to be considered in determining  
15 penalty. In determining whether a penalty is to be imposed and  
16 in determining ~~fixing~~ the amount of the penalty to be imposed,  
17 if any, for a violation, the Director shall consider the  
18 following factors:

19 (1) The gravity of the violation, including the  
20 probability that death or serious physical or mental harm  
21 to a resident will result or has resulted; the severity of  
22 the actual or potential harm, and the extent to which the  
23 provisions of the applicable statutes or regulations were  
24 violated;

25 (2) The reasonable diligence exercised by the licensee

1 and efforts to correct violations;

2 (3) Any previous violations committed by the licensee;

3 and

4 (4) The financial benefit to the facility of committing  
5 or continuing the violation.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (210 ILCS 47/3-308)

8 Sec. 3-308. Time of assessment; plan of correction. In the  
9 case of a Type "AA" or Type "A" violation, a penalty may be  
10 assessed from the date on which the violation is discovered. In  
11 the case of a Type "B" or Type "C" violation or an  
12 administrative warning issued pursuant to Sections 3-401  
13 through 3-413 or the rules promulgated thereunder, the facility  
14 shall submit a plan of correction as provided in Section 3-303.  
15 In the case of a Type "B" violation or an administrative  
16 warning issued pursuant to Sections 3-401 through 3-413 or the  
17 rules promulgated thereunder, a penalty shall be assessed on  
18 the date of notice of the violation, but the Director may  
19 reduce the amount or waive such payment for any of the  
20 following reasons:

21 (a) The facility submits a true report of correction within  
22 10 days;

23 (b) The facility submits a plan of correction within 10  
24 days and subsequently submits a true report of correction  
25 within 15 days thereafter;

1 (c) The facility submits a plan of correction within 10  
2 days which provides for a correction time that is less than or  
3 equal to 30 days and the Department approves such plan; or

4 (d) The facility submits a plan of correction for  
5 violations involving substantial capital improvements which  
6 provides for correction within the initial 90 day limit  
7 provided under Section 3-303. The Director shall consider the  
8 following factors in determinations to reduce or waive such  
9 penalties:

10 (1) The violation has not caused actual harm to a  
11 resident;

12 (2) The facility has made a diligent effort to correct  
13 the violation and to prevent its recurrence;

14 (3) The facility has no record of a pervasive pattern  
15 of the same or similar violations; and

16 (4) The facility has a record of substantial compliance  
17 with this Act and the regulations promulgated hereunder.

18 If a plan of correction is approved and carried out for a  
19 Type "C" violation, the fine provided under Section 3-305 shall  
20 be suspended for the time period specified in the approved plan  
21 of correction. If a plan of correction is approved and carried  
22 out for a Type "B" violation or an administrative warning  
23 issued pursuant to Sections 3-401 through 3-413 or the rules  
24 promulgated thereunder, with respect to a violation that  
25 continues after the date of notice of violation, the fine  
26 provided under Section 3-305 shall be suspended for the time

1 period specified in the approved plan of correction.

2 If a good faith plan of correction is not received within  
3 the time provided by Section 3-303, a penalty may be assessed  
4 from the date of the notice of the Type "B" or "C" violation or  
5 an administrative warning issued pursuant to Sections 3-401  
6 through 3-413 or the rules promulgated thereunder served under  
7 Section 3-301 until the date of the receipt of a good faith  
8 plan of correction, or until the date the violation is  
9 corrected, whichever is earlier. If a violation is not  
10 corrected within the time specified by an approved plan of  
11 correction or any lawful extension thereof, a penalty may be  
12 assessed from the date of notice of the violation, until the  
13 date the violation is corrected.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-309)

16 Sec. 3-309. Contesting assessment of penalty. A facility  
17 may contest an assessment of a penalty by sending a written  
18 request to the Department for hearing under Section 3-703. Upon  
19 receipt of the request the Department shall hold a hearing as  
20 provided under Section 3-703. Instead of requesting a hearing  
21 pursuant to Section 3-703, a facility may, within 10 business  
22 days after receipt of the notice of violation and fine  
23 assessment, transmit to the Department 65% of the amount  
24 assessed for each violation specified in the penalty  
25 assessment.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 (210 ILCS 47/3-310)

3 Sec. 3-310. Collection of penalties. All penalties shall be  
4 paid to the Department within 10 days of receipt of notice of  
5 assessment or, if the penalty is contested under Section 3-309,  
6 within 10 days of receipt of the final decision, unless the  
7 decision is appealed and the order is stayed by court order  
8 under Section 3-713. A facility choosing to waive the right to  
9 a hearing under Section 3-309 shall submit a payment totaling  
10 65% of the original fine amount along with the written waiver.

11 A penalty assessed under this Act shall be collected by the  
12 Department and shall be deposited with the State Treasurer into  
13 the Long Term Care Monitor/Receiver Fund. If the person or  
14 facility against whom a penalty has been assessed does not  
15 comply with a written demand for payment within 30 days, the  
16 Director shall issue an order to do any of the following:

17 (1) Direct the State Treasurer or Comptroller to deduct  
18 the amount of the fine from amounts otherwise due from the  
19 State for the penalty, including any payments to be made  
20 from the Developmentally Disabled Care Provider Fund  
21 established under Section 5C-7 of the Illinois Public Aid  
22 Code, and remit that amount to the Department;

23 (2) Add the amount of the penalty to the facility's  
24 licensing fee; if the licensee refuses to make the payment  
25 at the time of application for renewal of its license, the

1 license shall not be renewed; or

2 (3) Bring an action in circuit court to recover the  
3 amount of the penalty.

4 ~~With the approval of the federal centers for Medicaid and~~  
5 ~~Medicare services, the Director of Public Health shall set~~  
6 ~~aside 50% of the federal civil monetary penalties collected~~  
7 ~~each year to be used to award grants under the Innovations in~~  
8 ~~Long term Care Quality Grants Act.~~

9 (Source: P.A. 96-339, eff. 7-1-10; revised 10-19-10.)

10 (210 ILCS 47/3-318)

11 Sec. 3-318. Business offenses.

12 (a) No person shall:

13 (1) Intentionally fail to correct or interfere with the  
14 correction of a Type "AA", Type "A", or Type "B" violation  
15 within the time specified on the notice or approved plan of  
16 correction under this Act as the maximum period given for  
17 correction, unless an extension is granted and the  
18 corrections are made before expiration of extension;

19 (2) Intentionally prevent, interfere with, or attempt  
20 to impede in any way any duly authorized investigation and  
21 enforcement of this Act;

22 (3) Intentionally prevent or attempt to prevent any  
23 examination of any relevant books or records pertinent to  
24 investigations and enforcement of this Act;

25 (4) Intentionally prevent or interfere with the

1 preservation of evidence pertaining to any violation of  
2 this Act or the rules promulgated under this Act;

3 (5) Intentionally retaliate or discriminate against  
4 any resident or employee for contacting or providing  
5 information to any state official, or for initiating,  
6 participating in, or testifying in an action for any remedy  
7 authorized under this Act;

8 (6) Willfully ~~Wilfully~~ file any false, incomplete or  
9 intentionally misleading information required to be filed  
10 under this Act, or willfully ~~wilfully~~ fail or refuse to  
11 file any required information; or

12 (7) Open or operate a facility without a license.

13 (b) A violation of this Section is a business offense,  
14 punishable by a fine not to exceed \$10,000, except as otherwise  
15 provided in subsection (2) of Section 3-103 as to submission of  
16 false or misleading information in a license application.

17 (c) The State's Attorney of the county in which the  
18 facility is located, or the Attorney General, shall be notified  
19 by the Director of any violations of this Section.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 (210 ILCS 47/3-402)

22 Sec. 3-402. Notice of involuntary transfer or discharge.  
23 Involuntary transfer or discharge of a resident from a facility  
24 shall be preceded by the discussion required under Section  
25 3-408 and by a minimum written notice of 21 days, except in one

1 of the following instances:

2 (a) When ~~when~~ an emergency transfer or discharge is ordered  
3 by the resident's attending physician because of the resident's  
4 health care needs. ~~or~~

5 (b) When ~~when~~ the transfer or discharge is mandated by the  
6 physical safety of other residents, the facility staff, or  
7 facility visitors, as documented in the clinical record. The  
8 Department shall be notified prior to any such involuntary  
9 transfer or discharge. The Department shall immediately offer  
10 transfer, or discharge and relocation assistance to residents  
11 transferred or discharged under this subparagraph (b), and the  
12 Department may place relocation teams as provided in Section  
13 3-419 of this Act.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-501)

16 Sec. 3-501. Monitor or receiver for facility; grounds. The  
17 Department may place an employee or agent to serve as a monitor  
18 in a facility or may petition the circuit court for appointment  
19 of a receiver for a facility, or both, when any of the  
20 following conditions exist:

21 (a) The facility is operating without a license;

22 (b) The Department has suspended, revoked or refused to  
23 renew the existing license of the facility;

24 (c) The facility is closing or has informed the Department  
25 that it intends to close and adequate arrangements for

1 relocation of residents have not been made at least 30 days  
2 prior to closure;

3 (d) The Department determines that an emergency exists,  
4 whether or not it has initiated revocation or nonrenewal  
5 procedures, if because of the unwillingness or inability of the  
6 licensee to remedy the emergency the Department believes a  
7 monitor or receiver is necessary; ~~or~~

8 (e) The Department is notified that the facility is  
9 terminated or will not be renewed for participation in the  
10 federal reimbursement program under either Title XVIII or Title  
11 XIX of the Social Security Act. As used in subsection (d) and  
12 Section 3-503, "emergency" means a threat to the health, safety  
13 or welfare of a resident that the facility is unwilling or  
14 unable to correct;~~or~~

15 (f) The facility has been designated a distressed facility  
16 by the Department and does not have a consultant employed  
17 pursuant to subsection (f) of Section 3-304.2 of this Act and  
18 an acceptable plan of improvement, or the Department has reason  
19 to believe the facility is not complying with the plan of  
20 improvement. Nothing in this paragraph (f) shall preclude the  
21 Department from placing a monitor in a facility if otherwise  
22 justified by law; or

23 (g) At the discretion of the Department when a review of  
24 facility compliance history, incident reports, or reports of  
25 financial problems raises a concern that a threat to resident  
26 health, safety, or welfare exists.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 (210 ILCS 47/3-502)

3 Sec. 3-502. Placement of monitor by Department. In any  
4 situation described in Section 3-501, the Department may place  
5 a qualified person to act as monitor in the facility. The  
6 monitor shall observe operation of the facility, assist the  
7 facility by advising it on how to comply with the State  
8 regulations, and shall report periodically to the Department on  
9 the operation of the facility. Once a monitor has been placed,  
10 the Department may retain the monitor until it is satisfied  
11 that the basis for the placement is resolved and the threat to  
12 the health, safety, or welfare of a resident is not likely to  
13 recur.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-504)

16 Sec. 3-504. Hearing on petition for receiver; grounds for  
17 appointment of receiver. The court shall hold a hearing within  
18 5 days of the filing of the petition. The petition and notice  
19 of the hearing shall be served on the owner, administrator or  
20 designated agent of the facility as provided under the Civil  
21 Practice Law, or the petition and notice of hearing shall be  
22 posted in a conspicuous place in the facility not later than 3  
23 days before the time specified for the hearing, unless a  
24 different period is fixed by order of the court. The court

1 shall appoint a receiver ~~for a limited time period, not to~~  
2 ~~exceed 180 days,~~ if it finds that:

3 (a) The facility is operating without a license;

4 (b) The Department has suspended, revoked or refused to  
5 renew the existing license of a facility;

6 (c) The facility is closing or has informed the Department  
7 that it intends to close and adequate arrangements for  
8 relocation of residents have not been made at least 30 days  
9 prior to closure; or

10 (d) An emergency exists, whether or not the Department has  
11 initiated revocation or nonrenewal procedures, if because of  
12 the unwillingness or inability of the licensee to remedy the  
13 emergency the appointment of a receiver is necessary.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-703)

16 Sec. 3-703. Hearing to contest decision; applicable  
17 provisions. Any person requesting a hearing pursuant to  
18 Sections 2-110, 3-115, 3-118, 3-119, 3-119.1, 3-301, 3-303,  
19 3-309, 3-410, 3-422 or 3-702 to contest a decision rendered in  
20 a particular case may have such decision reviewed in accordance  
21 with Sections 3-703 through 3-712.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (210 ILCS 47/3-712)

24 Sec. 3-712. Certification of record; fee. The Department

1 shall not be required to certify any record or file any answer  
2 or otherwise appear in any proceeding for judicial review under  
3 Section 3-713 of this Act unless there is filed with the party  
4 filing the complaint a receipt from the Department  
5 acknowledging payment of the costs of furnishing and certifying  
6 the record, which cost shall be computed at the rate of 95  
7 cents per page of such record ~~deposits with the clerk of the~~  
8 ~~court the sum of 95 cents per page, representing the costs of~~  
9 ~~such certification.~~ Failure on the part of the plaintiff to  
10 file such receipt in Court ~~make such deposit~~ shall be grounds  
11 for dismissal of the action; provided, however, that persons  
12 proceeding in forma pauperis with the approval of the circuit  
13 court shall not be required to pay these fees.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-808 new)

16 Sec. 3-808. Protocol for sexual assault victims; MR/DD  
17 facility. The Department shall develop a protocol for the care  
18 and treatment of residents who have been sexually assaulted in  
19 a MR/DD facility or elsewhere.

20 (210 ILCS 47/3-808.5 new)

21 Sec. 3-808.5. Facility fraud, abuse, or neglect prevention  
22 and reporting.

23 (a) A facility licensed to provide care to 17 or more  
24 residents that receives Medicaid funding shall prominently

1 display in its lobby, in its dining areas, and on each floor of  
2 the facility information approved by the Illinois Medicaid  
3 Fraud Control Unit on how to report fraud, abuse, and neglect.  
4 A facility licensed to provide care to fewer than 17 residents  
5 that receives Medicaid funding shall prominently display in the  
6 facility so as to be easily seen by all residents, visitors,  
7 and employees information approved by the Illinois Medicaid  
8 Fraud Control Unit on how to report fraud, abuse, and neglect.  
9 In addition, information regarding the reporting of fraud,  
10 abuse, and neglect shall be provided to each resident at the  
11 time of admission and to the resident's guardian or resident's  
12 representative.

13 (b) Any owner or licensee of a facility licensed under this  
14 Act shall be responsible for the collection and maintenance of  
15 any and all records required to be maintained under this  
16 Section and any other applicable provisions of this Act and as  
17 a provider under the Illinois Public Aid Code, and shall be  
18 responsible for compliance with all of the disclosure  
19 requirements under this Section. All books and records and  
20 other papers and documents that are required to be kept, and  
21 all records showing compliance with all of the disclosure  
22 requirements to be made pursuant to this Section, shall be kept  
23 by the licensee and available at the facility and shall, at all  
24 times during business hours, be subject to inspection by any  
25 law enforcement or health oversight agency or its duly  
26 authorized agents or employees.

1       (c) Any report of abuse and neglect of residents made by  
2 any individual in whatever manner, including, but not limited  
3 to, reports made under Sections 2-107 and 3-610 of this Act, or  
4 as provided under the Abused and Neglected Long Term Care  
5 Facility Residents Reporting Act, that is made to an  
6 administrator, a director of nursing, or any other person with  
7 management responsibility at a facility must be disclosed to  
8 the owners and licensee of the facility within 24 hours of the  
9 report. The owners and licensee of a facility shall maintain  
10 all records necessary to show compliance with this disclosure  
11 requirement.

12       (d) Any person with an ownership interest in a facility  
13 licensed by the Department must, within 30 days after the  
14 effective date of this amendatory Act of the 97th General  
15 Assembly, disclose the existence of any ownership interest in  
16 any vendor who does business with the facility. The disclosures  
17 required by this subsection (d) shall be made in the form and  
18 manner prescribed by the Department. Licensed facilities that  
19 receive Medicaid funding shall submit a copy of the disclosures  
20 required by this subsection (d) to the Illinois Medicaid Fraud  
21 Control Unit. The owners and licensee of a facility shall  
22 maintain all records necessary to show compliance with this  
23 disclosure requirement.

24       (e) Notwithstanding the provisions of Section 3-318 of this  
25 Act and in addition thereto, any person, owner, or licensee who  
26 willfully fails to keep and maintain, or willfully fails to

1 produce for inspection, books and records, or willfully fails  
2 to make the disclosures required by this Section, is guilty of  
3 a Class A misdemeanor. A second or subsequent violation of this  
4 Section shall be punishable as a Class 4 felony.

5 (f) Any owner or licensee who willfully files or willfully  
6 causes to be filed a document with false information with the  
7 Department, the Department of Healthcare and Family Services,  
8 or the Illinois Medicaid Fraud Control Unit or any other law  
9 enforcement agency is guilty of a Class A misdemeanor.

10 (210 ILCS 47/3-809 new)

11 Sec. 3-809. Rules to implement changes. In developing rules  
12 and regulations to implement changes made by this amendatory  
13 Act of the 97th General Assembly, the Department shall seek the  
14 input of advocates for facility residents, representatives of  
15 associations representing facilities, and representatives of  
16 associations representing employees of facilities.

17 (210 ILCS 47/3-810 new)

18 Sec. 3-810. Whistleblower protection.

19 (a) In this Section, "retaliatory action" means the  
20 reprimand, discharge, suspension, demotion, denial of  
21 promotion or transfer, or change in the terms and conditions of  
22 employment of any employee of a facility that is taken in  
23 retaliation for the employee's involvement in a protected  
24 activity as set forth in paragraphs (1), (2), and (3) of

1 subsection (b) of this Section.

2 (b) A facility shall not take any retaliatory action  
3 against an employee of the facility, including a nursing home  
4 administrator, because the employee does any of the following:

5 (1) Discloses or threatens to disclose to a supervisor  
6 or to a public body an activity, inaction, policy, or  
7 practice implemented by a facility that the employee  
8 reasonably believes is in violation of a law, rule, or  
9 regulation.

10 (2) Provides information to or testifies before any  
11 public body conducting an investigation, hearing, or  
12 inquiry into any violation of a law, rule, or regulation by  
13 a nursing home administrator.

14 (3) Assists or participates in a proceeding to enforce  
15 the provisions of this Act.

16 (c) A violation of this Section may be established only  
17 upon a finding that (1) the employee of the facility engaged in  
18 conduct described in subsection (b) of this Section and (2)  
19 this conduct was a contributing factor in the retaliatory  
20 action alleged by the employee. There is no violation of this  
21 Section, however, if the facility demonstrates by clear and  
22 convincing evidence that it would have taken the same  
23 unfavorable personnel action in the absence of that conduct.

24 (d) The employee of the facility may be awarded all  
25 remedies necessary to make the employee whole and to prevent  
26 future violations of this Section. Remedies imposed by the

1 court may include, but are not limited to, all of the  
2 following:

3 (1) Reinstatement of the employee to either the same  
4 position held before the retaliatory action or to an  
5 equivalent position.

6 (2) Two times the amount of back pay.

7 (3) Interest on the back pay.

8 (4) Reinstatement of full fringe benefits and  
9 seniority rights.

10 (5) Payment of reasonable costs and attorney's fees.

11 (e) Nothing in this Section shall be deemed to diminish the  
12 rights, privileges, or remedies of an employee of a facility  
13 under any other federal or State law, rule, or regulation or  
14 under any employment contract.

15 Section 90-115. The Home Health, Home Services, and Home  
16 Nursing Agency Licensing Act is amended by changing Section  
17 2.08 as follows:

18 (210 ILCS 55/2.08)

19 Sec. 2.08. "Home services agency" means an agency that  
20 provides services directly, or acts as a placement agency, for  
21 the purpose of placing individuals as workers providing home  
22 services for consumers in their personal residences. "Home  
23 services agency" does not include agencies licensed under the  
24 Nurse Agency Licensing Act, the Hospital Licensing Act, the

1 Nursing Home Care Act, the MR/DD Community Care Act, the  
2 Specialized Mental Health Rehabilitation Act, or the Assisted  
3 Living and Shared Housing Act and does not include an agency  
4 that limits its business exclusively to providing  
5 housecleaning services. Programs providing services  
6 exclusively through the Community Care Program of the Illinois  
7 Department on Aging, the Department of Human Services Office of  
8 Rehabilitation Services, or the United States Department of  
9 Veterans Affairs are not considered to be a home services  
10 agency under this Act.

11 (Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09;  
12 96-1000, eff. 7-2-10.)

13 Section 90-120. The Hospice Program Licensing Act is  
14 amended by changing Sections 3 and 4 as follows:

15 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

16 Sec. 3. Definitions. As used in this Act, unless the  
17 context otherwise requires:

18 (a) "Bereavement" means the period of time during which the  
19 hospice patient's family experiences and adjusts to the death  
20 of the hospice patient.

21 (a-5) "Bereavement services" means counseling services  
22 provided to an individual's family after the individual's  
23 death.

24 (a-10) "Attending physician" means a physician who:

1           (1) is a doctor of medicine or osteopathy; and

2           (2) is identified by an individual, at the time the  
3 individual elects to receive hospice care, as having the  
4 most significant role in the determination and delivery of  
5 the individual's medical care.

6           (b) "Department" means the Illinois Department of Public  
7 Health.

8           (c) "Director" means the Director of the Illinois  
9 Department of Public Health.

10          (d) "Hospice care" means a program of palliative care that  
11 provides for the physical, emotional, and spiritual care needs  
12 of a terminally ill patient and his or her family. The goal of  
13 such care is to achieve the highest quality of life as defined  
14 by the patient and his or her family through the relief of  
15 suffering and control of symptoms.

16          (e) "Hospice care team" means an interdisciplinary group or  
17 groups composed of individuals who provide or supervise the  
18 care and services offered by the hospice.

19          (f) "Hospice patient" means a terminally ill person  
20 receiving hospice services.

21          (g) "Hospice patient's family" means a hospice patient's  
22 immediate family consisting of a spouse, sibling, child, parent  
23 and those individuals designated as such by the patient for the  
24 purposes of this Act.

25          (g-1) "Hospice residence" means a separately licensed  
26 home, apartment building, or similar building providing living

1 quarters:

2 (1) that is owned or operated by a person licensed to  
3 operate as a comprehensive hospice; and

4 (2) at which hospice services are provided to facility  
5 residents.

6 A building that is licensed under the Hospital Licensing  
7 Act, the Nursing Home Care Act, the Specialized Mental Health  
8 Rehabilitation Act, or the MR/DD Community Care Act is not a  
9 hospice residence.

10 (h) "Hospice services" means a range of professional and  
11 other supportive services provided to a hospice patient and his  
12 or her family. These services may include, but are not limited  
13 to, physician services, nursing services, medical social work  
14 services, spiritual counseling services, bereavement services,  
15 and volunteer services.

16 (h-5) "Hospice program" means a licensed public agency or  
17 private organization, or a subdivision of either of those, that  
18 is primarily engaged in providing care to terminally ill  
19 individuals through a program of home care or inpatient care,  
20 or both home care and inpatient care, utilizing a medically  
21 directed interdisciplinary hospice care team of professionals  
22 or volunteers, or both professionals and volunteers. A hospice  
23 program may be licensed as a comprehensive hospice program or a  
24 volunteer hospice program.

25 (h-10) "Comprehensive hospice" means a program that  
26 provides hospice services and meets the minimum standards for

1 certification under the Medicare program set forth in the  
2 Conditions of Participation in 42 CFR Part 418 but is not  
3 required to be Medicare-certified.

4 (i) "Palliative care" means the management of pain and  
5 other distressing symptoms that incorporates medical, nursing,  
6 psychosocial, and spiritual care according to the needs,  
7 values, beliefs, and culture or cultures of the patient and his  
8 or her family. The evaluation and treatment is  
9 patient-centered, with a focus on the central role of the  
10 family unit in decision-making.

11 (j) "Hospice service plan" means a plan detailing the  
12 specific hospice services offered by a comprehensive or  
13 volunteer hospice program, and the administrative and direct  
14 care personnel responsible for those services. The plan shall  
15 include but not be limited to:

16 (1) Identification of the person or persons  
17 administratively responsible for the program.

18 (2) The estimated average monthly patient census.

19 (3) The proposed geographic area the hospice will  
20 serve.

21 (4) A listing of those hospice services provided  
22 directly by the hospice, and those hospice services  
23 provided indirectly through a contractual agreement.

24 (5) The name and qualifications of those persons or  
25 entities under contract to provide indirect hospice  
26 services.

1           (6) The name and qualifications of those persons  
2 providing direct hospice services, with the exception of  
3 volunteers.

4           (7) A description of how the hospice plans to utilize  
5 volunteers in the provision of hospice services.

6           (8) A description of the program's record keeping  
7 system.

8           (k) "Terminally ill" means a medical prognosis by a  
9 physician licensed to practice medicine in all of its branches  
10 that a patient has an anticipated life expectancy of one year  
11 or less.

12           (l) "Volunteer" means a person who offers his or her  
13 services to a hospice without compensation. Reimbursement for a  
14 volunteer's expenses in providing hospice service shall not be  
15 considered compensation.

16           (l-5) "Employee" means a paid or unpaid member of the staff  
17 of a hospice program, or, if the hospice program is a  
18 subdivision of an agency or organization, of the agency or  
19 organization, who is appropriately trained and assigned to the  
20 hospice program. "Employee" also means a volunteer whose duties  
21 are prescribed by the hospice program and whose performance of  
22 those duties is supervised by the hospice program.

23           (l-10) "Representative" means an individual who has been  
24 authorized under State law to terminate an individual's medical  
25 care or to elect or revoke the election of hospice care on  
26 behalf of a terminally ill individual who is mentally or

1 physically incapacitated.

2 (m) "Volunteer hospice" means a program which provides  
3 hospice services to patients regardless of their ability to  
4 pay, with emphasis on the utilization of volunteers to provide  
5 services, under the administration of a not-for-profit agency.  
6 This definition does not prohibit the employment of staff.

7 (Source: P.A. 96-339, eff. 7-1-10.)

8 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

9 Sec. 4. License.

10 (a) No person shall establish, conduct or maintain a  
11 comprehensive or volunteer hospice program without first  
12 obtaining a license from the Department. A hospice residence  
13 may be operated only at the locations listed on the license. A  
14 comprehensive hospice program owning or operating a hospice  
15 residence is not subject to the provisions of the Nursing Home  
16 Care Act, the Specialized Mental Health Rehabilitation Act, or  
17 the MR/DD Community Care Act in owning or operating a hospice  
18 residence.

19 (b) No public or private agency shall advertise or present  
20 itself to the public as a comprehensive or volunteer hospice  
21 program which provides hospice services without meeting the  
22 provisions of subsection (a).

23 (c) The license shall be valid only in the possession of  
24 the hospice to which it was originally issued and shall not be  
25 transferred or assigned to any other person, agency, or

1 corporation.

2 (d) The license shall be renewed annually.

3 (e) The license shall be displayed in a conspicuous place  
4 inside the hospice program office.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 Section 90-125. The Hospital Licensing Act is amended by  
7 changing Sections 3, 7, and 6.09 and by adding Section 6.09a as  
8 follows:

9 (210 ILCS 85/3)

10 Sec. 3. As used in this Act:

11 (A) "Hospital" means any institution, place, building,  
12 buildings on a campus, or agency, public or private, whether  
13 organized for profit or not, devoted primarily to the  
14 maintenance and operation of facilities for the diagnosis and  
15 treatment or care of 2 or more unrelated persons admitted for  
16 overnight stay or longer in order to obtain medical, including  
17 obstetric, psychiatric and nursing, care of illness, disease,  
18 injury, infirmity, or deformity.

19 The term "hospital", without regard to length of stay,  
20 shall also include:

21 (a) any facility which is devoted primarily to  
22 providing psychiatric and related services and programs  
23 for the diagnosis and treatment or care of 2 or more  
24 unrelated persons suffering from emotional or nervous

1 diseases;

2 (b) all places where pregnant females are received,  
3 cared for, or treated during delivery irrespective of the  
4 number of patients received.

5 The term "hospital" includes general and specialized  
6 hospitals, tuberculosis sanitarium, mental or psychiatric  
7 hospitals and sanitarium, and includes maternity homes,  
8 lying-in homes, and homes for unwed mothers in which care is  
9 given during delivery.

10 The term "hospital" does not include:

11 (1) any person or institution required to be licensed  
12 pursuant to the Nursing Home Care Act, the Specialized  
13 Mental Health Rehabilitation Act, or the MR/DD Community  
14 Care Act;

15 (2) hospitalization or care facilities maintained by  
16 the State or any department or agency thereof, where such  
17 department or agency has authority under law to establish  
18 and enforce standards for the hospitalization or care  
19 facilities under its management and control;

20 (3) hospitalization or care facilities maintained by  
21 the federal government or agencies thereof;

22 (4) hospitalization or care facilities maintained by  
23 any university or college established under the laws of  
24 this State and supported principally by public funds raised  
25 by taxation;

26 (5) any person or facility required to be licensed

1           pursuant to the Alcoholism and Other Drug Abuse and  
2           Dependency Act;

3           (6) any facility operated solely by and for persons who  
4           rely exclusively upon treatment by spiritual means through  
5           prayer, in accordance with the creed or tenets of any  
6           well-recognized church or religious denomination;

7           (7) an Alzheimer's disease management center  
8           alternative health care model licensed under the  
9           Alternative Health Care Delivery Act; or

10          (8) any veterinary hospital or clinic operated by a  
11          veterinarian or veterinarians licensed under the  
12          Veterinary Medicine and Surgery Practice Act of 2004 or  
13          maintained by a State-supported or publicly funded  
14          university or college.

15          (B) "Person" means the State, and any political subdivision  
16          or municipal corporation, individual, firm, partnership,  
17          corporation, company, association, or joint stock association,  
18          or the legal successor thereof.

19          (C) "Department" means the Department of Public Health of  
20          the State of Illinois.

21          (D) "Director" means the Director of Public Health of the  
22          State of Illinois.

23          (E) "Perinatal" means the period of time between the  
24          conception of an infant and the end of the first month after  
25          birth.

26          (F) "Federally designated organ procurement agency" means

1 the organ procurement agency designated by the Secretary of the  
2 U.S. Department of Health and Human Services for the service  
3 area in which a hospital is located; except that in the case of  
4 a hospital located in a county adjacent to Wisconsin which  
5 currently contracts with an organ procurement agency located in  
6 Wisconsin that is not the organ procurement agency designated  
7 by the U.S. Secretary of Health and Human Services for the  
8 service area in which the hospital is located, if the hospital  
9 applies for a waiver pursuant to 42 USC 1320b-8(a), it may  
10 designate an organ procurement agency located in Wisconsin to  
11 be thereafter deemed its federally designated organ  
12 procurement agency for the purposes of this Act.

13 (G) "Tissue bank" means any facility or program operating  
14 in Illinois that is certified by the American Association of  
15 Tissue Banks or the Eye Bank Association of America and is  
16 involved in procuring, furnishing, donating, or distributing  
17 corneas, bones, or other human tissue for the purpose of  
18 injecting, transfusing, or transplanting any of them into the  
19 human body. "Tissue bank" does not include a licensed blood  
20 bank. For the purposes of this Act, "tissue" does not include  
21 organs.

22 (H) "Campus", as this terms applies to operations, has the  
23 same meaning as the term "campus" as set forth in federal  
24 Medicare regulations, 42 CFR 413.65.

25 (Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10;  
26 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

1 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

2 Sec. 6.09. (a) In order to facilitate the orderly  
3 transition of aged and disabled patients from hospitals to  
4 post-hospital care, whenever a patient who qualifies for the  
5 federal Medicare program is hospitalized, the patient shall be  
6 notified of discharge at least 24 hours prior to discharge from  
7 the hospital. With regard to pending discharges to a skilled  
8 nursing facility, the hospital must notify the case  
9 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at  
10 least 24 hours prior to discharge or, if home health services  
11 are ordered, the hospital must inform its designated case  
12 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of  
13 the pending discharge and must provide the patient with the  
14 case coordination unit's telephone number and other contact  
15 information.

16 (b) Every hospital shall develop procedures for a physician  
17 with medical staff privileges at the hospital or any  
18 appropriate medical staff member to provide the discharge  
19 notice prescribed in subsection (a) of this Section. The  
20 procedures must include prohibitions against discharging or  
21 referring a patient to any of the following if unlicensed,  
22 uncertified, or unregistered: (i) a board and care facility, as  
23 defined in the Board and Care Home Act; (ii) an assisted living  
24 and shared housing establishment, as defined in the Assisted  
25 Living and Shared Housing Act; (iii) a facility licensed under

1 the Nursing Home Care Act, the Specialized Mental Health  
2 Rehabilitation Act, or the MR/DD Community Care Act; (iv) a  
3 supportive living facility, as defined in Section 5-5.01a of  
4 the Illinois Public Aid Code; or (v) a free-standing hospice  
5 facility licensed under the Hospice Program Licensing Act if  
6 licensure, certification, or registration is required. The  
7 Department of Public Health shall annually provide hospitals  
8 with a list of licensed, certified, or registered board and  
9 care facilities, assisted living and shared housing  
10 establishments, nursing homes, supportive living facilities,  
11 facilities licensed under the MR/DD Community Care Act or the  
12 Specialized Mental Health Rehabilitation Act, and hospice  
13 facilities. Reliance upon this list by a hospital shall satisfy  
14 compliance with this requirement. The procedure may also  
15 include a waiver for any case in which a discharge notice is  
16 not feasible due to a short length of stay in the hospital by  
17 the patient, or for any case in which the patient voluntarily  
18 desires to leave the hospital before the expiration of the 24  
19 hour period.

20 (c) At least 24 hours prior to discharge from the hospital,  
21 the patient shall receive written information on the patient's  
22 right to appeal the discharge pursuant to the federal Medicare  
23 program, including the steps to follow to appeal the discharge  
24 and the appropriate telephone number to call in case the  
25 patient intends to appeal the discharge.

26 (d) Before transfer of a patient to a long term care

1 facility licensed under the Nursing Home Care Act where elderly  
2 persons reside, a hospital shall as soon as practicable  
3 initiate a name-based criminal history background check by  
4 electronic submission to the Department of State Police for all  
5 persons between the ages of 18 and 70 years; provided, however,  
6 that a hospital shall be required to initiate such a background  
7 check only with respect to patients who:

8 (1) are transferring to a long term care facility for  
9 the first time;

10 (2) have been in the hospital more than 5 days;

11 (3) are reasonably expected to remain at the long term  
12 care facility for more than 30 days;

13 (4) have a known history of serious mental illness or  
14 substance abuse; and

15 (5) are independently ambulatory or mobile for more  
16 than a temporary period of time.

17 A hospital may also request a criminal history background  
18 check for a patient who does not meet any of the criteria set  
19 forth in items (1) through (5).

20 A hospital shall notify a long term care facility if the  
21 hospital has initiated a criminal history background check on a  
22 patient being discharged to that facility. In all circumstances  
23 in which the hospital is required by this subsection to  
24 initiate the criminal history background check, the transfer to  
25 the long term care facility may proceed regardless of the  
26 availability of criminal history results. Upon receipt of the

1 results, the hospital shall promptly forward the results to the  
2 appropriate long term care facility. If the results of the  
3 background check are inconclusive, the hospital shall have no  
4 additional duty or obligation to seek additional information  
5 from, or about, the patient.

6 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;  
7 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff.  
8 7-29-10.)

9 (210 ILCS 85/6.09a new)

10 Sec. 6.09a. Report of Death. Every hospital shall promptly  
11 report the death of a person readily known to be, without an  
12 investigation by the hospital, a resident of a facility  
13 licensed under the MR/DD Community Care Act, to the coroner or  
14 medical examiner. The coroner or medical examiner shall  
15 promptly respond to the report by accepting or not accepting  
16 the body for investigation.

17 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

18 Sec. 7. (a) The Director after notice and opportunity for  
19 hearing to the applicant or licensee may deny, suspend, or  
20 revoke a permit to establish a hospital or deny, suspend, or  
21 revoke a license to open, conduct, operate, and maintain a  
22 hospital in any case in which he finds that there has been a  
23 substantial failure to comply with the provisions of this Act,  
24 the Hospital Report Card Act, or the Illinois Adverse Health

1 Care Events Reporting Law of 2005 or the standards, rules, and  
2 regulations established by virtue of any of those Acts. The  
3 Department may impose fines on hospitals, not to exceed \$500  
4 per occurrence, for failing to (1) initiate a criminal  
5 background check on a patient that meets the criteria for  
6 hospital-initiated background checks or (2) report the death of  
7 a person known to be a resident of a facility licensed under  
8 the MR/DD Community Care Act to the coroner or medical examiner  
9 within 24 hours as required by Section 6.09a of this Act. In  
10 assessing whether to impose such a fine for failure to initiate  
11 a criminal background check, the Department shall consider  
12 various factors including, but not limited to, whether the  
13 hospital has engaged in a pattern or practice of failing to  
14 initiate criminal background checks. Money from fines shall be  
15 deposited into the Long Term Care Provider Fund.

16 (b) Such notice shall be effected by registered mail or by  
17 personal service setting forth the particular reasons for the  
18 proposed action and fixing a date, not less than 15 days from  
19 the date of such mailing or service, at which time the  
20 applicant or licensee shall be given an opportunity for a  
21 hearing. Such hearing shall be conducted by the Director or by  
22 an employee of the Department designated in writing by the  
23 Director as Hearing Officer to conduct the hearing. On the  
24 basis of any such hearing, or upon default of the applicant or  
25 licensee, the Director shall make a determination specifying  
26 his findings and conclusions. In case of a denial to an

1 applicant of a permit to establish a hospital, such  
2 determination shall specify the subsection of Section 6 under  
3 which the permit was denied and shall contain findings of fact  
4 forming the basis of such denial. A copy of such determination  
5 shall be sent by registered mail or served personally upon the  
6 applicant or licensee. The decision denying, suspending, or  
7 revoking a permit or a license shall become final 35 days after  
8 it is so mailed or served, unless the applicant or licensee,  
9 within such 35 day period, petitions for review pursuant to  
10 Section 13.

11 (c) The procedure governing hearings authorized by this  
12 Section shall be in accordance with rules promulgated by the  
13 Department and approved by the Hospital Licensing Board. A full  
14 and complete record shall be kept of all proceedings, including  
15 the notice of hearing, complaint, and all other documents in  
16 the nature of pleadings, written motions filed in the  
17 proceedings, and the report and orders of the Director and  
18 Hearing Officer. All testimony shall be reported but need not  
19 be transcribed unless the decision is appealed pursuant to  
20 Section 13. A copy or copies of the transcript may be obtained  
21 by any interested party on payment of the cost of preparing  
22 such copy or copies.

23 (d) The Director or Hearing Officer shall upon his own  
24 motion, or on the written request of any party to the  
25 proceeding, issue subpoenas requiring the attendance and the  
26 giving of testimony by witnesses, and subpoenas duces tecum

1 requiring the production of books, papers, records, or  
2 memoranda. All subpoenas and subpoenas duces tecum issued under  
3 the terms of this Act may be served by any person of full age.  
4 The fees of witnesses for attendance and travel shall be the  
5 same as the fees of witnesses before the Circuit Court of this  
6 State, such fees to be paid when the witness is excused from  
7 further attendance. When the witness is subpoenaed at the  
8 instance of the Director, or Hearing Officer, such fees shall  
9 be paid in the same manner as other expenses of the Department,  
10 and when the witness is subpoenaed at the instance of any other  
11 party to any such proceeding the Department may require that  
12 the cost of service of the subpoena or subpoena duces tecum and  
13 the fee of the witness be borne by the party at whose instance  
14 the witness is summoned. In such case, the Department in its  
15 discretion, may require a deposit to cover the cost of such  
16 service and witness fees. A subpoena or subpoena duces tecum  
17 issued as aforesaid shall be served in the same manner as a  
18 subpoena issued out of a court.

19 (e) Any Circuit Court of this State upon the application of  
20 the Director, or upon the application of any other party to the  
21 proceeding, may, in its discretion, compel the attendance of  
22 witnesses, the production of books, papers, records, or  
23 memoranda and the giving of testimony before the Director or  
24 Hearing Officer conducting an investigation or holding a  
25 hearing authorized by this Act, by an attachment for contempt,  
26 or otherwise, in the same manner as production of evidence may

1 be compelled before the court.

2 (f) The Director or Hearing Officer, or any party in an  
3 investigation or hearing before the Department, may cause the  
4 depositions of witnesses within the State to be taken in the  
5 manner prescribed by law for like depositions in civil actions  
6 in courts of this State, and to that end compel the attendance  
7 of witnesses and the production of books, papers, records, or  
8 memoranda.

9 (Source: P.A. 96-1372, eff. 7-29-10.)

10 Section 90-130. The Language Assistance Services Act is  
11 amended by changing Section 10 as follows:

12 (210 ILCS 87/10)

13 Sec. 10. Definitions. As used in this Act:

14 "Department" means the Department of Public Health.

15 "Interpreter" means a person fluent in English and in the  
16 necessary language of the patient who can accurately speak,  
17 read, and readily interpret the necessary second language, or a  
18 person who can accurately sign and read sign language.  
19 Interpreters shall have the ability to translate the names of  
20 body parts and to describe completely symptoms and injuries in  
21 both languages. Interpreters may include members of the medical  
22 or professional staff.

23 "Language or communication barriers" means either of the  
24 following:

1           (1) With respect to spoken language, barriers that are  
2           experienced       by       limited-English-speaking       or  
3           non-English-speaking individuals who speak the same  
4           primary language, if those individuals constitute at least  
5           5% of the patients served by the health facility annually.

6           (2) With respect to sign language, barriers that are  
7           experienced by individuals who are deaf and whose primary  
8           language is sign language.

9           "Health facility" means a hospital licensed under the  
10          Hospital Licensing Act, a long-term care facility licensed  
11          under the Nursing Home Care Act, or a facility licensed under  
12          the MR/DD Community Care Act or the Specialized Mental Health  
13          Rehabilitation Act.

14          (Source: P.A. 96-339, eff. 7-1-10.)

15          Section 90-135. The Community-Integrated Living  
16          Arrangements Licensure and Certification Act is amended by  
17          changing Section 4 as follows:

18               (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

19          Sec. 4. (a) Any community mental health or developmental  
20          services agency who wishes to develop and support a variety of  
21          community-integrated living arrangements may do so pursuant to  
22          a license issued by the Department under this Act. However,  
23          programs established under or otherwise subject to the Child  
24          Care Act of 1969, the Nursing Home Care Act, the Specialized

1 Mental Health Rehabilitation Act, or the MR/DD Community Care  
2 Act, as now or hereafter amended, shall remain subject thereto,  
3 and this Act shall not be construed to limit the application of  
4 those Acts.

5 (b) The system of licensure established under this Act  
6 shall be for the purposes of:

7 (1) Insuring that all recipients residing in  
8 community-integrated living arrangements are receiving  
9 appropriate community-based services, including treatment,  
10 training and habilitation or rehabilitation;

11 (2) Insuring that recipients' rights are protected and  
12 that all programs provided to and placements arranged for  
13 recipients comply with this Act, the Mental Health and  
14 Developmental Disabilities Code, and applicable Department  
15 rules and regulations;

16 (3) Maintaining the integrity of communities by  
17 requiring regular monitoring and inspection of placements  
18 and other services provided in community-integrated living  
19 arrangements.

20 The licensure system shall be administered by a quality  
21 assurance unit within the Department which shall be  
22 administratively independent of units responsible for funding  
23 of agencies or community services.

24 (c) As a condition of being licensed by the Department as a  
25 community mental health or developmental services agency under  
26 this Act, the agency shall certify to the Department that:

1           (1) All recipients residing in community-integrated  
2           living arrangements are receiving appropriate  
3           community-based services, including treatment, training  
4           and habilitation or rehabilitation;

5           (2) All programs provided to and placements arranged  
6           for recipients are supervised by the agency; and

7           (3) All programs provided to and placements arranged  
8           for recipients comply with this Act, the Mental Health and  
9           Developmental Disabilities Code, and applicable Department  
10          rules and regulations.

11          (d) An applicant for licensure as a community mental health  
12          or developmental services agency under this Act shall submit an  
13          application pursuant to the application process established by  
14          the Department by rule and shall pay an application fee in an  
15          amount established by the Department, which amount shall not be  
16          more than \$200.

17          (e) If an applicant meets the requirements established by  
18          the Department to be licensed as a community mental health or  
19          developmental services agency under this Act, after payment of  
20          the licensing fee, the Department shall issue a license valid  
21          for 3 years from the date thereof unless suspended or revoked  
22          by the Department or voluntarily surrendered by the agency.

23          (f) Upon application to the Department, the Department may  
24          issue a temporary permit to an applicant for a 6-month period  
25          to allow the holder of such permit reasonable time to become  
26          eligible for a license under this Act.

1           (g) (1) The Department may conduct site visits to an agency  
2 licensed under this Act, or to any program or placement  
3 certified by the agency, and inspect the records or premises,  
4 or both, of such agency, program or placement as it deems  
5 appropriate, for the purpose of determining compliance with  
6 this Act, the Mental Health and Developmental Disabilities  
7 Code, and applicable Department rules and regulations.

8           (2) If the Department determines that an agency licensed  
9 under this Act is not in compliance with this Act or the rules  
10 and regulations promulgated under this Act, the Department  
11 shall serve a notice of violation upon the licensee. Each  
12 notice of violation shall be prepared in writing and shall  
13 specify the nature of the violation, the statutory provision or  
14 rule alleged to have been violated, and that the licensee  
15 submit a plan of correction to the Department if required. The  
16 notice shall also inform the licensee of any other action which  
17 the Department might take pursuant to this Act and of the right  
18 to a hearing.

19           (h) Upon the expiration of any license issued under this  
20 Act, a license renewal application shall be required of and a  
21 license renewal fee in an amount established by the Department  
22 shall be charged to a community mental health or developmental  
23 services agency, provided that such fee shall not be more than  
24 \$200.

25           (Source: P.A. 96-339, eff. 7-1-10.)

1 Section 90-140. The Child Care Act of 1969 is amended by  
2 changing Section 2.06 as follows:

3 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

4 Sec. 2.06. "Child care institution" means a child care  
5 facility where more than 7 children are received and maintained  
6 for the purpose of providing them with care or training or  
7 both. The term "child care institution" includes residential  
8 schools, primarily serving ambulatory handicapped children,  
9 and those operating a full calendar year, but does not include:

10 (a) Any State-operated institution for child care  
11 established by legislative action;

12 (b) Any juvenile detention or shelter care home established  
13 and operated by any county or child protection district  
14 established under the "Child Protection Act";

15 (c) Any institution, home, place or facility operating  
16 under a license pursuant to the Nursing Home Care Act, the  
17 Specialized Mental Health Rehabilitation Act, or the MR/DD  
18 Community Care Act;

19 (d) Any bona fide boarding school in which children are  
20 primarily taught branches of education corresponding to those  
21 taught in public schools, grades one through 12, or taught in  
22 public elementary schools, high schools, or both elementary and  
23 high schools, and which operates on a regular academic school  
24 year basis; or

25 (e) Any facility licensed as a "group home" as defined in

1 this Act.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 Section 90-145. The Health Care Worker Background Check Act  
4 is amended by changing Section 15 as follows:

5 (225 ILCS 46/15)

6 Sec. 15. Definitions. In this Act:

7 "Applicant" means an individual seeking employment with a  
8 health care employer who has received a bona fide conditional  
9 offer of employment.

10 "Conditional offer of employment" means a bona fide offer  
11 of employment by a health care employer to an applicant, which  
12 is contingent upon the receipt of a report from the Department  
13 of Public Health indicating that the applicant does not have a  
14 record of conviction of any of the criminal offenses enumerated  
15 in Section 25.

16 "Direct care" means the provision of nursing care or  
17 assistance with feeding, dressing, movement, bathing,  
18 toileting, or other personal needs, including home services as  
19 defined in the Home Health, Home Services, and Home Nursing  
20 Agency Licensing Act. The entity responsible for inspecting and  
21 licensing, certifying, or registering the health care employer  
22 may, by administrative rule, prescribe guidelines for  
23 interpreting this definition with regard to the health care  
24 employers that it licenses.

1 "Disqualifying offenses" means those offenses set forth in  
2 Section 25 of this Act.

3 "Employee" means any individual hired, employed, or  
4 retained to which this Act applies.

5 "Fingerprint-based criminal history records check" means a  
6 livescan fingerprint-based criminal history records check  
7 submitted as a fee applicant inquiry in the form and manner  
8 prescribed by the Department of State Police.

9 "Health care employer" means:

10 (1) the owner or licensee of any of the following:

11 (i) a community living facility, as defined in the  
12 Community Living Facilities Act;

13 (ii) a life care facility, as defined in the Life  
14 Care Facilities Act;

15 (iii) a long-term care facility;

16 (iv) a home health agency, home services agency, or  
17 home nursing agency as defined in the Home Health, Home  
18 Services, and Home Nursing Agency Licensing Act;

19 (v) a hospice care program or volunteer hospice  
20 program, as defined in the Hospice Program Licensing  
21 Act;

22 (vi) a hospital, as defined in the Hospital  
23 Licensing Act;

24 (vii) (blank);

25 (viii) a nurse agency, as defined in the Nurse  
26 Agency Licensing Act;

1 (ix) a respite care provider, as defined in the  
2 Respite Program Act;

3 (ix-a) an establishment licensed under the  
4 Assisted Living and Shared Housing Act;

5 (x) a supportive living program, as defined in the  
6 Illinois Public Aid Code;

7 (xi) early childhood intervention programs as  
8 described in 59 Ill. Adm. Code 121;

9 (xii) the University of Illinois Hospital,  
10 Chicago;

11 (xiii) programs funded by the Department on Aging  
12 through the Community Care Program;

13 (xiv) programs certified to participate in the  
14 Supportive Living Program authorized pursuant to  
15 Section 5-5.01a of the Illinois Public Aid Code;

16 (xv) programs listed by the Emergency Medical  
17 Services (EMS) Systems Act as Freestanding Emergency  
18 Centers;

19 (xvi) locations licensed under the Alternative  
20 Health Care Delivery Act;

21 (2) a day training program certified by the Department  
22 of Human Services;

23 (3) a community integrated living arrangement operated  
24 by a community mental health and developmental service  
25 agency, as defined in the Community-Integrated Living  
26 Arrangements Licensing and Certification Act; or

1           (4) the State Long Term Care Ombudsman Program,  
2 including any regional long term care ombudsman programs  
3 under Section 4.04 of the Illinois Act on the Aging, only  
4 for the purpose of securing background checks.

5           "Initiate" means obtaining from a student, applicant, or  
6 employee his or her social security number, demographics, a  
7 disclosure statement, and an authorization for the Department  
8 of Public Health or its designee to request a fingerprint-based  
9 criminal history records check; transmitting this information  
10 electronically to the Department of Public Health; conducting  
11 Internet searches on certain web sites, including without  
12 limitation the Illinois Sex Offender Registry, the Department  
13 of Corrections' Sex Offender Search Engine, the Department of  
14 Corrections' Inmate Search Engine, the Department of  
15 Corrections Wanted Fugitives Search Engine, the National Sex  
16 Offender Public Registry, and the website of the Health and  
17 Human Services Office of Inspector General to determine if the  
18 applicant has been adjudicated a sex offender, has been a  
19 prison inmate, or has committed Medicare or Medicaid fraud, or  
20 conducting similar searches as defined by rule; and having the  
21 student, applicant, or employee's fingerprints collected and  
22 transmitted electronically to the Department of State Police.

23           "Livescan vendor" means an entity whose equipment has been  
24 certified by the Department of State Police to collect an  
25 individual's demographics and inkless fingerprints and, in a  
26 manner prescribed by the Department of State Police and the

1 Department of Public Health, electronically transmit the  
2 fingerprints and required data to the Department of State  
3 Police and a daily file of required data to the Department of  
4 Public Health. The Department of Public Health shall negotiate  
5 a contract with one or more vendors that effectively  
6 demonstrate that the vendor has 2 or more years of experience  
7 transmitting fingerprints electronically to the Department of  
8 State Police and that the vendor can successfully transmit the  
9 required data in a manner prescribed by the Department of  
10 Public Health. Vendor authorization may be further defined by  
11 administrative rule.

12 "Long-term care facility" means a facility licensed by the  
13 State or certified under federal law as a long-term care  
14 facility, including without limitation facilities licensed  
15 under the Nursing Home Care Act, the Specialized Mental Health  
16 Rehabilitation Act, or the MR/DD Community Care Act, a  
17 supportive living facility, an assisted living establishment,  
18 or a shared housing establishment or registered as a board and  
19 care home.

20 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;  
21 96-339, eff. 7-1-10.)

22 Section 90-150. The Nursing Home Administrators Licensing  
23 and Disciplinary Act is amended by changing Sections 4 and 17  
24 as follows:

1 (225 ILCS 70/4) (from Ch. 111, par. 3654)

2 (Section scheduled to be repealed on January 1, 2018)

3 Sec. 4. Definitions. For purposes of this Act, the  
4 following definitions shall have the following meanings,  
5 except where the context requires otherwise:

6 (1) "Act" means the Nursing Home Administrators  
7 Licensing and Disciplinary Act.

8 (2) "Department" means the Department of Financial and  
9 Professional Regulation.

10 (3) "Secretary" means the Secretary of Financial and  
11 Professional Regulation.

12 (4) "Board" means the Nursing Home Administrators  
13 Licensing and Disciplinary Board appointed by the  
14 Governor.

15 (5) "Nursing home administrator" means the individual  
16 licensed under this Act and directly responsible for  
17 planning, organizing, directing and supervising the  
18 operation of a nursing home, or who in fact performs such  
19 functions, whether or not such functions are delegated to  
20 one or more other persons.

21 (6) "Nursing home" or "facility" means any entity that  
22 is required to be licensed by the Department of Public  
23 Health under the Nursing Home Care Act, as amended, other  
24 than a sheltered care home as defined thereunder, and  
25 includes private homes, institutions, buildings,  
26 residences, or other places, whether operated for profit or

1 not, irrespective of the names attributed to them, county  
2 homes for the infirm and chronically ill operated pursuant  
3 to the County Nursing Home Act, as amended, and any similar  
4 institutions operated by a political subdivision of the  
5 State of Illinois that provide, though their ownership or  
6 management, maintenance, personal care, and nursing for 3  
7 or more persons, not related to the owner by blood or  
8 marriage, or any similar facilities in which maintenance is  
9 provided to 3 or more persons who by reason of illness of  
10 physical infirmity require personal care and nursing. The  
11 term also means any facility licensed under the MR/DD  
12 Community Care Act or the Specialized Mental Health  
13 Rehabilitation Act.

14 (7) "Maintenance" means food, shelter and laundry.

15 (8) "Personal care" means assistance with meals,  
16 dressing, movement, bathing, or other personal needs, or  
17 general supervision of the physical and mental well-being  
18 of an individual who because of age, physical, or mental  
19 disability, emotion or behavior disorder, or mental  
20 retardation is incapable of managing his or her person,  
21 whether or not a guardian has been appointed for such  
22 individual. For the purposes of this Act, this definition  
23 does not include the professional services of a nurse.

24 (9) "Nursing" means professional nursing or practical  
25 nursing, as those terms are defined in the Nurse Practice  
26 Act, for sick or infirm persons who are under the care and

1 supervision of licensed physicians or dentists.

2 (10) "Disciplinary action" means revocation,  
3 suspension, probation, supervision, reprimand, required  
4 education, fines or any other action taken by the  
5 Department against a person holding a license.

6 (11) "Impaired" means the inability to practice with  
7 reasonable skill and safety due to physical or mental  
8 disabilities as evidenced by a written determination or  
9 written consent based on clinical evidence including  
10 deterioration through the aging process or loss of motor  
11 skill, or abuse of drugs or alcohol, of sufficient degree  
12 to diminish a person's ability to administer a nursing  
13 home.

14 (12) "Address of record" means the designated address  
15 recorded by the Department in the applicant's or licensee's  
16 application file or license file maintained by the  
17 Department's licensure maintenance unit. It is the duty of  
18 the applicant or licensee to inform the Department of any  
19 change of address, and such changes must be made either  
20 through the Department's website or by contacting the  
21 Department's licensure maintenance unit.

22 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;  
23 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

24 (225 ILCS 70/17) (from Ch. 111, par. 3667)

25 (Text of Section before amendment by P.A. 96-1551)

1 (Section scheduled to be repealed on January 1, 2018)

2 Sec. 17. Grounds for disciplinary action.

3 (a) The Department may impose fines not to exceed \$10,000  
4 or may refuse to issue or to renew, or may revoke, suspend,  
5 place on probation, censure, reprimand or take other  
6 disciplinary or non-disciplinary action with regard to the  
7 license of any person, for any one or combination of the  
8 following causes:

9 (1) Intentional material misstatement in furnishing  
10 information to the Department.

11 (2) Conviction of or entry of a plea of guilty or nolo  
12 contendere to any crime that is a felony under the laws of  
13 the United States or any state or territory thereof or a  
14 misdemeanor of which an essential element is dishonesty or  
15 that is directly related to the practice of the profession  
16 of nursing home administration.

17 (3) Making any misrepresentation for the purpose of  
18 obtaining a license, or violating any provision of this  
19 Act.

20 (4) Immoral conduct in the commission of any act, such  
21 as sexual abuse or sexual misconduct, related to the  
22 licensee's practice.

23 (5) Failing to respond within 30 days, to a written  
24 request made by the Department for information.

25 (6) Engaging in dishonorable, unethical or  
26 unprofessional conduct of a character likely to deceive,

1 defraud or harm the public.

2 (7) Habitual use or addiction to alcohol, narcotics,  
3 stimulants, or any other chemical agent or drug which  
4 results in the inability to practice with reasonable  
5 judgment, skill or safety.

6 (8) Discipline by another U.S. jurisdiction if at least  
7 one of the grounds for the discipline is the same or  
8 substantially equivalent to those set forth herein.

9 (9) A finding by the Department that the licensee,  
10 after having his or her license placed on probationary  
11 status has violated the terms of probation.

12 (10) Willfully making or filing false records or  
13 reports in his or her practice, including but not limited  
14 to false records filed with State agencies or departments.

15 (11) Physical illness, mental illness, or other  
16 impairment or disability, including, but not limited to,  
17 deterioration through the aging process, or loss of motor  
18 skill that results in the inability to practice the  
19 profession with reasonable judgment, skill or safety.

20 (12) Disregard or violation of this Act or of any rule  
21 issued pursuant to this Act.

22 (13) Aiding or abetting another in the violation of  
23 this Act or any rule or regulation issued pursuant to this  
24 Act.

25 (14) Allowing one's license to be used by an unlicensed  
26 person.

1 (15) (Blank).

2 (16) Professional incompetence in the practice of  
3 nursing home administration.

4 (17) Conviction of a violation of Section 12-19 of the  
5 Criminal Code of 1961 for the abuse and gross neglect of a  
6 long term care facility resident.

7 (18) Violation of the Nursing Home Care Act or the  
8 MR/DD Community Care Act or of any rule issued under the  
9 Nursing Home Care Act or the MR/DD Community Care Act. A  
10 final adjudication of a Type "AA" violation of the Nursing  
11 Home Care Act or MR/DD Community Care Act made by the  
12 Illinois Department of Public Health, as identified by  
13 rule, relating to the hiring, training, planning,  
14 organizing, directing, or supervising the operation of a  
15 nursing home and a licensee's failure to comply with this  
16 Act or the rules adopted under this Act, shall create a  
17 rebuttable presumption of a violation of this subsection.

18 (19) Failure to report to the Department any adverse  
19 final action taken against the licensee by a licensing  
20 authority of another state, territory of the United States,  
21 or foreign country; or by any governmental or law  
22 enforcement agency; or by any court for acts or conduct  
23 similar to acts or conduct that would constitute grounds  
24 for disciplinary action under this Section.

25 (20) Failure to report to the Department the surrender  
26 of a license or authorization to practice as a nursing home

1 administrator in another state or jurisdiction for acts or  
2 conduct similar to acts or conduct that would constitute  
3 grounds for disciplinary action under this Section.

4 (21) Failure to report to the Department any adverse  
5 judgment, settlement, or award arising from a liability  
6 claim related to acts or conduct similar to acts or conduct  
7 that would constitute grounds for disciplinary action  
8 under this Section.

9 All proceedings to suspend, revoke, place on probationary  
10 status, or take any other disciplinary action as the Department  
11 may deem proper, with regard to a license on any of the  
12 foregoing grounds, must be commenced within 5 years next after  
13 receipt by the Department of (i) a complaint alleging the  
14 commission of or notice of the conviction order for any of the  
15 acts described herein or (ii) a referral for investigation  
16 under Section 3-108 of the Nursing Home Care Act.

17 The entry of an order or judgment by any circuit court  
18 establishing that any person holding a license under this Act  
19 is a person in need of mental treatment operates as a  
20 suspension of that license. That person may resume their  
21 practice only upon the entry of a Department order based upon a  
22 finding by the Board that they have been determined to be  
23 recovered from mental illness by the court and upon the Board's  
24 recommendation that they be permitted to resume their practice.

25 The Department, upon the recommendation of the Board, may  
26 adopt rules which set forth standards to be used in determining

1 what constitutes:

2 (i) when a person will be deemed sufficiently  
3 rehabilitated to warrant the public trust;

4 (ii) dishonorable, unethical or unprofessional conduct  
5 of a character likely to deceive, defraud, or harm the  
6 public;

7 (iii) immoral conduct in the commission of any act  
8 related to the licensee's practice; and

9 (iv) professional incompetence in the practice of  
10 nursing home administration.

11 However, no such rule shall be admissible into evidence in  
12 any civil action except for review of a licensing or other  
13 disciplinary action under this Act.

14 In enforcing this Section, the Department or Board, upon a  
15 showing of a possible violation, may compel any individual  
16 licensed to practice under this Act, or who has applied for  
17 licensure pursuant to this Act, to submit to a mental or  
18 physical examination, or both, as required by and at the  
19 expense of the Department. The examining physician or  
20 physicians shall be those specifically designated by the  
21 Department or Board. The Department or Board may order the  
22 examining physician to present testimony concerning this  
23 mental or physical examination of the licensee or applicant. No  
24 information shall be excluded by reason of any common law or  
25 statutory privilege relating to communications between the  
26 licensee or applicant and the examining physician. The

1 individual to be examined may have, at his or her own expense,  
2 another physician of his or her choice present during all  
3 aspects of the examination. Failure of any individual to submit  
4 to mental or physical examination, when directed, shall be  
5 grounds for suspension of his or her license until such time as  
6 the individual submits to the examination if the Department  
7 finds, after notice and hearing, that the refusal to submit to  
8 the examination was without reasonable cause.

9 If the Department or Board finds an individual unable to  
10 practice because of the reasons set forth in this Section, the  
11 Department or Board shall require such individual to submit to  
12 care, counseling, or treatment by physicians approved or  
13 designated by the Department or Board, as a condition, term, or  
14 restriction for continued, reinstated, or renewed licensure to  
15 practice; or in lieu of care, counseling, or treatment, the  
16 Department may file, or the Board may recommend to the  
17 Department to file, a complaint to immediately suspend, revoke,  
18 or otherwise discipline the license of the individual. Any  
19 individual whose license was granted pursuant to this Act or  
20 continued, reinstated, renewed, disciplined or supervised,  
21 subject to such terms, conditions or restrictions who shall  
22 fail to comply with such terms, conditions or restrictions  
23 shall be referred to the Secretary for a determination as to  
24 whether the licensee shall have his or her license suspended  
25 immediately, pending a hearing by the Department. In instances  
26 in which the Secretary immediately suspends a license under

1 this Section, a hearing upon such person's license must be  
2 convened by the Board within 30 days after such suspension and  
3 completed without appreciable delay. The Department and Board  
4 shall have the authority to review the subject administrator's  
5 record of treatment and counseling regarding the impairment, to  
6 the extent permitted by applicable federal statutes and  
7 regulations safeguarding the confidentiality of medical  
8 records.

9 An individual licensed under this Act, affected under this  
10 Section, shall be afforded an opportunity to demonstrate to the  
11 Department or Board that he or she can resume practice in  
12 compliance with acceptable and prevailing standards under the  
13 provisions of his or her license.

14 (b) Any individual or organization acting in good faith,  
15 and not in a wilful and wanton manner, in complying with this  
16 Act by providing any report or other information to the  
17 Department, or assisting in the investigation or preparation of  
18 such information, or by participating in proceedings of the  
19 Department, or by serving as a member of the Board, shall not,  
20 as a result of such actions, be subject to criminal prosecution  
21 or civil damages.

22 (c) Members of the Board, and persons retained under  
23 contract to assist and advise in an investigation, shall be  
24 indemnified by the State for any actions occurring within the  
25 scope of services on or for the Board, done in good faith and  
26 not wilful and wanton in nature. The Attorney General shall

1 defend all such actions unless he or she determines either that  
2 there would be a conflict of interest in such representation or  
3 that the actions complained of were not in good faith or were  
4 wilful and wanton.

5 Should the Attorney General decline representation, a  
6 person entitled to indemnification under this Section shall  
7 have the right to employ counsel of his or her choice, whose  
8 fees shall be provided by the State, after approval by the  
9 Attorney General, unless there is a determination by a court  
10 that the member's actions were not in good faith or were wilful  
11 and wanton.

12 A person entitled to indemnification under this Section  
13 must notify the Attorney General within 7 days of receipt of  
14 notice of the initiation of any action involving services of  
15 the Board. Failure to so notify the Attorney General shall  
16 constitute an absolute waiver of the right to a defense and  
17 indemnification.

18 The Attorney General shall determine within 7 days after  
19 receiving such notice, whether he or she will undertake to  
20 represent a person entitled to indemnification under this  
21 Section.

22 (d) The determination by a circuit court that a licensee is  
23 subject to involuntary admission or judicial admission as  
24 provided in the Mental Health and Developmental Disabilities  
25 Code, as amended, operates as an automatic suspension. Such  
26 suspension will end only upon a finding by a court that the

1 patient is no longer subject to involuntary admission or  
2 judicial admission and issues an order so finding and  
3 discharging the patient; and upon the recommendation of the  
4 Board to the Secretary that the licensee be allowed to resume  
5 his or her practice.

6 (e) The Department may refuse to issue or may suspend the  
7 license of any person who fails to file a return, or to pay the  
8 tax, penalty or interest shown in a filed return, or to pay any  
9 final assessment of tax, penalty or interest, as required by  
10 any tax Act administered by the Department of Revenue, until  
11 such time as the requirements of any such tax Act are  
12 satisfied.

13 (f) The Department of Public Health shall transmit to the  
14 Department a list of those facilities which receive an "A"  
15 violation as defined in Section 1-129 of the Nursing Home Care  
16 Act.

17 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;  
18 96-1372, eff. 7-29-10.)

19 (Text of Section after amendment by P.A. 96-1551)

20 (Section scheduled to be repealed on January 1, 2018)

21 Sec. 17. Grounds for disciplinary action.

22 (a) The Department may impose fines not to exceed \$10,000  
23 or may refuse to issue or to renew, or may revoke, suspend,  
24 place on probation, censure, reprimand or take other  
25 disciplinary or non-disciplinary action with regard to the

1 license of any person, for any one or combination of the  
2 following causes:

3 (1) Intentional material misstatement in furnishing  
4 information to the Department.

5 (2) Conviction of or entry of a plea of guilty or nolo  
6 contendere to any crime that is a felony under the laws of  
7 the United States or any state or territory thereof or a  
8 misdemeanor of which an essential element is dishonesty or  
9 that is directly related to the practice of the profession  
10 of nursing home administration.

11 (3) Making any misrepresentation for the purpose of  
12 obtaining a license, or violating any provision of this  
13 Act.

14 (4) Immoral conduct in the commission of any act, such  
15 as sexual abuse or sexual misconduct, related to the  
16 licensee's practice.

17 (5) Failing to respond within 30 days, to a written  
18 request made by the Department for information.

19 (6) Engaging in dishonorable, unethical or  
20 unprofessional conduct of a character likely to deceive,  
21 defraud or harm the public.

22 (7) Habitual use or addiction to alcohol, narcotics,  
23 stimulants, or any other chemical agent or drug which  
24 results in the inability to practice with reasonable  
25 judgment, skill or safety.

26 (8) Discipline by another U.S. jurisdiction if at least

1 one of the grounds for the discipline is the same or  
2 substantially equivalent to those set forth herein.

3 (9) A finding by the Department that the licensee,  
4 after having his or her license placed on probationary  
5 status has violated the terms of probation.

6 (10) Willfully making or filing false records or  
7 reports in his or her practice, including but not limited  
8 to false records filed with State agencies or departments.

9 (11) Physical illness, mental illness, or other  
10 impairment or disability, including, but not limited to,  
11 deterioration through the aging process, or loss of motor  
12 skill that results in the inability to practice the  
13 profession with reasonable judgment, skill or safety.

14 (12) Disregard or violation of this Act or of any rule  
15 issued pursuant to this Act.

16 (13) Aiding or abetting another in the violation of  
17 this Act or any rule or regulation issued pursuant to this  
18 Act.

19 (14) Allowing one's license to be used by an unlicensed  
20 person.

21 (15) (Blank).

22 (16) Professional incompetence in the practice of  
23 nursing home administration.

24 (17) Conviction of a violation of Section 12-19 or  
25 subsection (a) of Section 12-4.4a of the Criminal Code of  
26 1961 for the abuse and criminal neglect of a long term care

1 facility resident.

2 (18) Violation of the Nursing Home Care Act, the  
3 Specialized Mental Health Rehabilitation Act, or the MR/DD  
4 Community Care Act or of any rule issued under the Nursing  
5 Home Care Act, the Specialized Mental Health  
6 Rehabilitation Act, or the MR/DD Community Care Act. A  
7 final adjudication of a Type "AA" violation of the Nursing  
8 Home Care Act made by the Illinois Department of Public  
9 Health, as identified by rule, relating to the hiring,  
10 training, planning, organizing, directing, or supervising  
11 the operation of a nursing home and a licensee's failure to  
12 comply with this Act or the rules adopted under this Act,  
13 shall create a rebuttable presumption of a violation of  
14 this subsection.

15 (19) Failure to report to the Department any adverse  
16 final action taken against the licensee by a licensing  
17 authority of another state, territory of the United States,  
18 or foreign country; or by any governmental or law  
19 enforcement agency; or by any court for acts or conduct  
20 similar to acts or conduct that would constitute grounds  
21 for disciplinary action under this Section.

22 (20) Failure to report to the Department the surrender  
23 of a license or authorization to practice as a nursing home  
24 administrator in another state or jurisdiction for acts or  
25 conduct similar to acts or conduct that would constitute  
26 grounds for disciplinary action under this Section.

1           (21) Failure to report to the Department any adverse  
2 judgment, settlement, or award arising from a liability  
3 claim related to acts or conduct similar to acts or conduct  
4 that would constitute grounds for disciplinary action  
5 under this Section.

6           All proceedings to suspend, revoke, place on probationary  
7 status, or take any other disciplinary action as the Department  
8 may deem proper, with regard to a license on any of the  
9 foregoing grounds, must be commenced within 5 years next after  
10 receipt by the Department of (i) a complaint alleging the  
11 commission of or notice of the conviction order for any of the  
12 acts described herein or (ii) a referral for investigation  
13 under Section 3-108 of the Nursing Home Care Act.

14           The entry of an order or judgment by any circuit court  
15 establishing that any person holding a license under this Act  
16 is a person in need of mental treatment operates as a  
17 suspension of that license. That person may resume their  
18 practice only upon the entry of a Department order based upon a  
19 finding by the Board that they have been determined to be  
20 recovered from mental illness by the court and upon the Board's  
21 recommendation that they be permitted to resume their practice.

22           The Department, upon the recommendation of the Board, may  
23 adopt rules which set forth standards to be used in determining  
24 what constitutes:

25           (i) when a person will be deemed sufficiently  
26 rehabilitated to warrant the public trust;

1           (ii) dishonorable, unethical or unprofessional conduct  
2           of a character likely to deceive, defraud, or harm the  
3           public;

4           (iii) immoral conduct in the commission of any act  
5           related to the licensee's practice; and

6           (iv) professional incompetence in the practice of  
7           nursing home administration.

8           However, no such rule shall be admissible into evidence in  
9           any civil action except for review of a licensing or other  
10          disciplinary action under this Act.

11          In enforcing this Section, the Department or Board, upon a  
12          showing of a possible violation, may compel any individual  
13          licensed to practice under this Act, or who has applied for  
14          licensure pursuant to this Act, to submit to a mental or  
15          physical examination, or both, as required by and at the  
16          expense of the Department. The examining physician or  
17          physicians shall be those specifically designated by the  
18          Department or Board. The Department or Board may order the  
19          examining physician to present testimony concerning this  
20          mental or physical examination of the licensee or applicant. No  
21          information shall be excluded by reason of any common law or  
22          statutory privilege relating to communications between the  
23          licensee or applicant and the examining physician. The  
24          individual to be examined may have, at his or her own expense,  
25          another physician of his or her choice present during all  
26          aspects of the examination. Failure of any individual to submit

1 to mental or physical examination, when directed, shall be  
2 grounds for suspension of his or her license until such time as  
3 the individual submits to the examination if the Department  
4 finds, after notice and hearing, that the refusal to submit to  
5 the examination was without reasonable cause.

6 If the Department or Board finds an individual unable to  
7 practice because of the reasons set forth in this Section, the  
8 Department or Board shall require such individual to submit to  
9 care, counseling, or treatment by physicians approved or  
10 designated by the Department or Board, as a condition, term, or  
11 restriction for continued, reinstated, or renewed licensure to  
12 practice; or in lieu of care, counseling, or treatment, the  
13 Department may file, or the Board may recommend to the  
14 Department to file, a complaint to immediately suspend, revoke,  
15 or otherwise discipline the license of the individual. Any  
16 individual whose license was granted pursuant to this Act or  
17 continued, reinstated, renewed, disciplined or supervised,  
18 subject to such terms, conditions or restrictions who shall  
19 fail to comply with such terms, conditions or restrictions  
20 shall be referred to the Secretary for a determination as to  
21 whether the licensee shall have his or her license suspended  
22 immediately, pending a hearing by the Department. In instances  
23 in which the Secretary immediately suspends a license under  
24 this Section, a hearing upon such person's license must be  
25 convened by the Board within 30 days after such suspension and  
26 completed without appreciable delay. The Department and Board

1 shall have the authority to review the subject administrator's  
2 record of treatment and counseling regarding the impairment, to  
3 the extent permitted by applicable federal statutes and  
4 regulations safeguarding the confidentiality of medical  
5 records.

6 An individual licensed under this Act, affected under this  
7 Section, shall be afforded an opportunity to demonstrate to the  
8 Department or Board that he or she can resume practice in  
9 compliance with acceptable and prevailing standards under the  
10 provisions of his or her license.

11 (b) Any individual or organization acting in good faith,  
12 and not in a wilful and wanton manner, in complying with this  
13 Act by providing any report or other information to the  
14 Department, or assisting in the investigation or preparation of  
15 such information, or by participating in proceedings of the  
16 Department, or by serving as a member of the Board, shall not,  
17 as a result of such actions, be subject to criminal prosecution  
18 or civil damages.

19 (c) Members of the Board, and persons retained under  
20 contract to assist and advise in an investigation, shall be  
21 indemnified by the State for any actions occurring within the  
22 scope of services on or for the Board, done in good faith and  
23 not wilful and wanton in nature. The Attorney General shall  
24 defend all such actions unless he or she determines either that  
25 there would be a conflict of interest in such representation or  
26 that the actions complained of were not in good faith or were

1 wilful and wanton.

2 Should the Attorney General decline representation, a  
3 person entitled to indemnification under this Section shall  
4 have the right to employ counsel of his or her choice, whose  
5 fees shall be provided by the State, after approval by the  
6 Attorney General, unless there is a determination by a court  
7 that the member's actions were not in good faith or were wilful  
8 and wanton.

9 A person entitled to indemnification under this Section  
10 must notify the Attorney General within 7 days of receipt of  
11 notice of the initiation of any action involving services of  
12 the Board. Failure to so notify the Attorney General shall  
13 constitute an absolute waiver of the right to a defense and  
14 indemnification.

15 The Attorney General shall determine within 7 days after  
16 receiving such notice, whether he or she will undertake to  
17 represent a person entitled to indemnification under this  
18 Section.

19 (d) The determination by a circuit court that a licensee is  
20 subject to involuntary admission or judicial admission as  
21 provided in the Mental Health and Developmental Disabilities  
22 Code, as amended, operates as an automatic suspension. Such  
23 suspension will end only upon a finding by a court that the  
24 patient is no longer subject to involuntary admission or  
25 judicial admission and issues an order so finding and  
26 discharging the patient; and upon the recommendation of the

1 Board to the Secretary that the licensee be allowed to resume  
2 his or her practice.

3 (e) The Department may refuse to issue or may suspend the  
4 license of any person who fails to file a return, or to pay the  
5 tax, penalty or interest shown in a filed return, or to pay any  
6 final assessment of tax, penalty or interest, as required by  
7 any tax Act administered by the Department of Revenue, until  
8 such time as the requirements of any such tax Act are  
9 satisfied.

10 (f) The Department of Public Health shall transmit to the  
11 Department a list of those facilities which receive an "A"  
12 violation as defined in Section 1-129 of the Nursing Home Care  
13 Act.

14 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;  
15 96-1372, eff. 7-29-10; 96-1551, eff. 7-1-11.)

16 Section 90-155. The Pharmacy Practice Act is amended by  
17 changing Section 3 as follows:

18 (225 ILCS 85/3)

19 (Section scheduled to be repealed on January 1, 2018)

20 Sec. 3. Definitions. For the purpose of this Act, except  
21 where otherwise limited therein:

22 (a) "Pharmacy" or "drugstore" means and includes every  
23 store, shop, pharmacy department, or other place where  
24 pharmacist care is provided by a pharmacist (1) where drugs,

1 medicines, or poisons are dispensed, sold or offered for sale  
2 at retail, or displayed for sale at retail; or (2) where  
3 prescriptions of physicians, dentists, advanced practice  
4 nurses, physician assistants, veterinarians, podiatrists, or  
5 optometrists, within the limits of their licenses, are  
6 compounded, filled, or dispensed; or (3) which has upon it or  
7 displayed within it, or affixed to or used in connection with  
8 it, a sign bearing the word or words "Pharmacist", "Druggist",  
9 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
10 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
11 "Medicines", or any word or words of similar or like import,  
12 either in the English language or any other language; or (4)  
13 where the characteristic prescription sign (Rx) or similar  
14 design is exhibited; or (5) any store, or shop, or other place  
15 with respect to which any of the above words, objects, signs or  
16 designs are used in any advertisement.

17 (b) "Drugs" means and includes (1) articles recognized in  
18 the official United States Pharmacopoeia/National Formulary  
19 (USP/NF), or any supplement thereto and being intended for and  
20 having for their main use the diagnosis, cure, mitigation,  
21 treatment or prevention of disease in man or other animals, as  
22 approved by the United States Food and Drug Administration, but  
23 does not include devices or their components, parts, or  
24 accessories; and (2) all other articles intended for and having  
25 for their main use the diagnosis, cure, mitigation, treatment  
26 or prevention of disease in man or other animals, as approved

1 by the United States Food and Drug Administration, but does not  
2 include devices or their components, parts, or accessories; and  
3 (3) articles (other than food) having for their main use and  
4 intended to affect the structure or any function of the body of  
5 man or other animals; and (4) articles having for their main  
6 use and intended for use as a component or any articles  
7 specified in clause (1), (2) or (3); but does not include  
8 devices or their components, parts or accessories.

9 (c) "Medicines" means and includes all drugs intended for  
10 human or veterinary use approved by the United States Food and  
11 Drug Administration.

12 (d) "Practice of pharmacy" means (1) the interpretation and  
13 the provision of assistance in the monitoring, evaluation, and  
14 implementation of prescription drug orders; (2) the dispensing  
15 of prescription drug orders; (3) participation in drug and  
16 device selection; (4) drug administration limited to the  
17 administration of oral, topical, injectable, and inhalation as  
18 follows: in the context of patient education on the proper use  
19 or delivery of medications; vaccination of patients 14 years of  
20 age and older pursuant to a valid prescription or standing  
21 order, by a physician licensed to practice medicine in all its  
22 branches, upon completion of appropriate training, including  
23 how to address contraindications and adverse reactions set  
24 forth by rule, with notification to the patient's physician and  
25 appropriate record retention, or pursuant to hospital pharmacy  
26 and therapeutics committee policies and procedures; (5) drug

1 regimen review; (6) drug or drug-related research; (7) the  
2 provision of patient counseling; (8) the practice of  
3 telepharmacy; (9) the provision of those acts or services  
4 necessary to provide pharmacist care; (10) medication therapy  
5 management; and (11) the responsibility for compounding and  
6 labeling of drugs and devices (except labeling by a  
7 manufacturer, repackager, or distributor of non-prescription  
8 drugs and commercially packaged legend drugs and devices),  
9 proper and safe storage of drugs and devices, and maintenance  
10 of required records. A pharmacist who performs any of the acts  
11 defined as the practice of pharmacy in this State must be  
12 actively licensed as a pharmacist under this Act.

13 (e) "Prescription" means and includes any written, oral,  
14 facsimile, or electronically transmitted order for drugs or  
15 medical devices, issued by a physician licensed to practice  
16 medicine in all its branches, dentist, veterinarian, or  
17 podiatrist, or optometrist, within the limits of their  
18 licenses, by a physician assistant in accordance with  
19 subsection (f) of Section 4, or by an advanced practice nurse  
20 in accordance with subsection (g) of Section 4, containing the  
21 following: (1) name of the patient; (2) date when prescription  
22 was issued; (3) name and strength of drug or description of the  
23 medical device prescribed; and (4) quantity; (5) directions for  
24 use; (6) prescriber's name, address, and signature; and (7) DEA  
25 number where required, for controlled substances. The  
26 prescription may, but is not required to, list the illness,

1 disease, or condition for which the drug or device is being  
2 prescribed. DEA numbers shall not be required on inpatient drug  
3 orders.

4 (f) "Person" means and includes a natural person,  
5 copartnership, association, corporation, government entity, or  
6 any other legal entity.

7 (g) "Department" means the Department of Financial and  
8 Professional Regulation.

9 (h) "Board of Pharmacy" or "Board" means the State Board of  
10 Pharmacy of the Department of Financial and Professional  
11 Regulation.

12 (i) "Secretary" means the Secretary of Financial and  
13 Professional Regulation.

14 (j) "Drug product selection" means the interchange for a  
15 prescribed pharmaceutical product in accordance with Section  
16 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
17 Cosmetic Act.

18 (k) "Inpatient drug order" means an order issued by an  
19 authorized prescriber for a resident or patient of a facility  
20 licensed under the Nursing Home Care Act, the MR/DD Community  
21 Care Act, the Specialized Mental Health Rehabilitation Act, or  
22 the Hospital Licensing Act, or "An Act in relation to the  
23 founding and operation of the University of Illinois Hospital  
24 and the conduct of University of Illinois health care  
25 programs", approved July 3, 1931, as amended, or a facility  
26 which is operated by the Department of Human Services (as

1 successor to the Department of Mental Health and Developmental  
2 Disabilities) or the Department of Corrections.

3 (k-5) "Pharmacist" means an individual health care  
4 professional and provider currently licensed by this State to  
5 engage in the practice of pharmacy.

6 (l) "Pharmacist in charge" means the licensed pharmacist  
7 whose name appears on a pharmacy license and who is responsible  
8 for all aspects of the operation related to the practice of  
9 pharmacy.

10 (m) "Dispense" or "dispensing" means the interpretation,  
11 evaluation, and implementation of a prescription drug order,  
12 including the preparation and delivery of a drug or device to a  
13 patient or patient's agent in a suitable container  
14 appropriately labeled for subsequent administration to or use  
15 by a patient in accordance with applicable State and federal  
16 laws and regulations. "Dispense" or "dispensing" does not mean  
17 the physical delivery to a patient or a patient's  
18 representative in a home or institution by a designee of a  
19 pharmacist or by common carrier. "Dispense" or "dispensing"  
20 also does not mean the physical delivery of a drug or medical  
21 device to a patient or patient's representative by a  
22 pharmacist's designee within a pharmacy or drugstore while the  
23 pharmacist is on duty and the pharmacy is open.

24 (n) "Nonresident pharmacy" means a pharmacy that is located  
25 in a state, commonwealth, or territory of the United States,  
26 other than Illinois, that delivers, dispenses, or distributes,

1 through the United States Postal Service, commercially  
2 acceptable parcel delivery service, or other common carrier, to  
3 Illinois residents, any substance which requires a  
4 prescription.

5 (o) "Compounding" means the preparation and mixing of  
6 components, excluding flavorings, (1) as the result of a  
7 prescriber's prescription drug order or initiative based on the  
8 prescriber-patient-pharmacist relationship in the course of  
9 professional practice or (2) for the purpose of, or incident  
10 to, research, teaching, or chemical analysis and not for sale  
11 or dispensing. "Compounding" includes the preparation of drugs  
12 or devices in anticipation of receiving prescription drug  
13 orders based on routine, regularly observed dispensing  
14 patterns. Commercially available products may be compounded  
15 for dispensing to individual patients only if all of the  
16 following conditions are met: (i) the commercial product is not  
17 reasonably available from normal distribution channels in a  
18 timely manner to meet the patient's needs and (ii) the  
19 prescribing practitioner has requested that the drug be  
20 compounded.

21 (p) (Blank).

22 (q) (Blank).

23 (r) "Patient counseling" means the communication between a  
24 pharmacist or a student pharmacist under the supervision of a  
25 pharmacist and a patient or the patient's representative about  
26 the patient's medication or device for the purpose of

1 optimizing proper use of prescription medications or devices.  
2 "Patient counseling" may include without limitation (1)  
3 obtaining a medication history; (2) acquiring a patient's  
4 allergies and health conditions; (3) facilitation of the  
5 patient's understanding of the intended use of the medication;  
6 (4) proper directions for use; (5) significant potential  
7 adverse events; (6) potential food-drug interactions; and (7)  
8 the need to be compliant with the medication therapy. A  
9 pharmacy technician may only participate in the following  
10 aspects of patient counseling under the supervision of a  
11 pharmacist: (1) obtaining medication history; (2) providing  
12 the offer for counseling by a pharmacist or student pharmacist;  
13 and (3) acquiring a patient's allergies and health conditions.

14 (s) "Patient profiles" or "patient drug therapy record"  
15 means the obtaining, recording, and maintenance of patient  
16 prescription information, including prescriptions for  
17 controlled substances, and personal information.

18 (t) (Blank).

19 (u) "Medical device" means an instrument, apparatus,  
20 implement, machine, contrivance, implant, in vitro reagent, or  
21 other similar or related article, including any component part  
22 or accessory, required under federal law to bear the label  
23 "Caution: Federal law requires dispensing by or on the order of  
24 a physician". A seller of goods and services who, only for the  
25 purpose of retail sales, compounds, sells, rents, or leases  
26 medical devices shall not, by reasons thereof, be required to

1 be a licensed pharmacy.

2 (v) "Unique identifier" means an electronic signature,  
3 handwritten signature or initials, thumb print, or other  
4 acceptable biometric or electronic identification process as  
5 approved by the Department.

6 (w) "Current usual and customary retail price" means the  
7 price that a pharmacy charges to a non-third-party payor.

8 (x) "Automated pharmacy system" means a mechanical system  
9 located within the confines of the pharmacy or remote location  
10 that performs operations or activities, other than compounding  
11 or administration, relative to storage, packaging, dispensing,  
12 or distribution of medication, and which collects, controls,  
13 and maintains all transaction information.

14 (y) "Drug regimen review" means and includes the evaluation  
15 of prescription drug orders and patient records for (1) known  
16 allergies; (2) drug or potential therapy contraindications;  
17 (3) reasonable dose, duration of use, and route of  
18 administration, taking into consideration factors such as age,  
19 gender, and contraindications; (4) reasonable directions for  
20 use; (5) potential or actual adverse drug reactions; (6)  
21 drug-drug interactions; (7) drug-food interactions; (8)  
22 drug-disease contraindications; (9) therapeutic duplication;  
23 (10) patient laboratory values when authorized and available;  
24 (11) proper utilization (including over or under utilization)  
25 and optimum therapeutic outcomes; and (12) abuse and misuse.

26 (z) "Electronic transmission prescription" means any

1 prescription order for which a facsimile or electronic image of  
2 the order is electronically transmitted from a licensed  
3 prescriber to a pharmacy. "Electronic transmission  
4 prescription" includes both data and image prescriptions.

5 (aa) "Medication therapy management services" means a  
6 distinct service or group of services offered by licensed  
7 pharmacists, physicians licensed to practice medicine in all  
8 its branches, advanced practice nurses authorized in a written  
9 agreement with a physician licensed to practice medicine in all  
10 its branches, or physician assistants authorized in guidelines  
11 by a supervising physician that optimize therapeutic outcomes  
12 for individual patients through improved medication use. In a  
13 retail or other non-hospital pharmacy, medication therapy  
14 management services shall consist of the evaluation of  
15 prescription drug orders and patient medication records to  
16 resolve conflicts with the following:

17 (1) known allergies;

18 (2) drug or potential therapy contraindications;

19 (3) reasonable dose, duration of use, and route of  
20 administration, taking into consideration factors such as  
21 age, gender, and contraindications;

22 (4) reasonable directions for use;

23 (5) potential or actual adverse drug reactions;

24 (6) drug-drug interactions;

25 (7) drug-food interactions;

26 (8) drug-disease contraindications;

- 1 (9) identification of therapeutic duplication;
- 2 (10) patient laboratory values when authorized and
- 3 available;
- 4 (11) proper utilization (including over or under
- 5 utilization) and optimum therapeutic outcomes; and
- 6 (12) drug abuse and misuse.

7 "Medication therapy management services" includes the  
8 following:

- 9 (1) documenting the services delivered and
- 10 communicating the information provided to patients'
- 11 prescribers within an appropriate time frame, not to exceed
- 12 48 hours;
- 13 (2) providing patient counseling designed to enhance a
- 14 patient's understanding and the appropriate use of his or
- 15 her medications; and
- 16 (3) providing information, support services, and
- 17 resources designed to enhance a patient's adherence with
- 18 his or her prescribed therapeutic regimens.

19 "Medication therapy management services" may also include  
20 patient care functions authorized by a physician licensed to  
21 practice medicine in all its branches for his or her identified  
22 patient or groups of patients under specified conditions or  
23 limitations in a standing order from the physician.

24 "Medication therapy management services" in a licensed  
25 hospital may also include the following:

- 26 (1) reviewing assessments of the patient's health

1 status; and

2 (2) following protocols of a hospital pharmacy and  
3 therapeutics committee with respect to the fulfillment of  
4 medication orders.

5 (bb) "Pharmacist care" means the provision by a pharmacist  
6 of medication therapy management services, with or without the  
7 dispensing of drugs or devices, intended to achieve outcomes  
8 that improve patient health, quality of life, and comfort and  
9 enhance patient safety.

10 (cc) "Protected health information" means individually  
11 identifiable health information that, except as otherwise  
12 provided, is:

13 (1) transmitted by electronic media;

14 (2) maintained in any medium set forth in the  
15 definition of "electronic media" in the federal Health  
16 Insurance Portability and Accountability Act; or

17 (3) transmitted or maintained in any other form or  
18 medium.

19 "Protected health information" does not include individually  
20 identifiable health information found in:

21 (1) education records covered by the federal Family  
22 Educational Right and Privacy Act; or

23 (2) employment records held by a licensee in its role  
24 as an employer.

25 (dd) "Standing order" means a specific order for a patient  
26 or group of patients issued by a physician licensed to practice

1 medicine in all its branches in Illinois.

2 (ee) "Address of record" means the address recorded by the  
3 Department in the applicant's or licensee's application file or  
4 license file, as maintained by the Department's licensure  
5 maintenance unit.

6 (ff) "Home pharmacy" means the location of a pharmacy's  
7 primary operations.

8 (Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10;  
9 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff.  
10 7-28-10.)

11 Section 90-160. The Nurse Agency Licensing Act is amended  
12 by changing Section 3 as follows:

13 (225 ILCS 510/3) (from Ch. 111, par. 953)

14 Sec. 3. Definitions. As used in this Act:

15 (a) "Certified nurse aide" means an individual certified as  
16 defined in Section 3-206 of the Nursing Home Care Act, Section  
17 3-206 of the Specialized Mental Health Rehabilitation Act, or  
18 Section 3-206 of the MR/DD Community Care Act, as now or  
19 hereafter amended.

20 (b) "Department" means the Department of Labor.

21 (c) "Director" means the Director of Labor.

22 (d) "Health care facility" is defined as in Section 3 of  
23 the Illinois Health Facilities Planning Act, as now or  
24 hereafter amended.

1 (e) "Licensee" means any nursing agency which is properly  
2 licensed under this Act.

3 (f) "Nurse" means a registered nurse or a licensed  
4 practical nurse as defined in the Nurse Practice Act.

5 (g) "Nurse agency" means any individual, firm,  
6 corporation, partnership or other legal entity that employs,  
7 assigns or refers nurses or certified nurse aides to a health  
8 care facility for a fee. The term "nurse agency" includes  
9 nurses registries. The term "nurse agency" does not include  
10 services provided by home health agencies licensed and operated  
11 under the Home Health, Home Services, and Home Nursing Agency  
12 Licensing Act or a licensed or certified individual who  
13 provides his or her own services as a regular employee of a  
14 health care facility, nor does it apply to a health care  
15 facility's organizing nonsalaried employees to provide  
16 services only in that facility.

17 (Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

18 Section 90-165. The Illinois Public Aid Code is amended by  
19 changing Sections 5-5.4, 5-5.7, 5-6, 5-5.12, 5B-1, 5E-5, and  
20 8A-11 as follows:

21 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

22 Sec. 5-5.4. Standards of Payment - Department of Healthcare  
23 and Family Services. The Department of Healthcare and Family  
24 Services shall develop standards of payment of nursing facility

1 and ICF/DD services in facilities providing such services under  
2 this Article which:

3 (1) Provide for the determination of a facility's payment  
4 for nursing facility or ICF/DD services on a prospective basis.  
5 The amount of the payment rate for all nursing facilities  
6 certified by the Department of Public Health under the MR/DD  
7 Community Care Act or the Nursing Home Care Act as Intermediate  
8 Care for the Developmentally Disabled facilities, Long Term  
9 Care for Under Age 22 facilities, Skilled Nursing facilities,  
10 or Intermediate Care facilities under the medical assistance  
11 program shall be prospectively established annually on the  
12 basis of historical, financial, and statistical data  
13 reflecting actual costs from prior years, which shall be  
14 applied to the current rate year and updated for inflation,  
15 except that the capital cost element for newly constructed  
16 facilities shall be based upon projected budgets. The annually  
17 established payment rate shall take effect on July 1 in 1984  
18 and subsequent years. No rate increase and no update for  
19 inflation shall be provided on or after July 1, 1994 and before  
20 July 1, 2012, unless specifically provided for in this Section.  
21 The changes made by Public Act 93-841 extending the duration of  
22 the prohibition against a rate increase or update for inflation  
23 are effective retroactive to July 1, 2004.

24 For facilities licensed by the Department of Public Health  
25 under the Nursing Home Care Act as Intermediate Care for the  
26 Developmentally Disabled facilities or Long Term Care for Under

1 Age 22 facilities, the rates taking effect on July 1, 1998  
2 shall include an increase of 3%. For facilities licensed by the  
3 Department of Public Health under the Nursing Home Care Act as  
4 Skilled Nursing facilities or Intermediate Care facilities,  
5 the rates taking effect on July 1, 1998 shall include an  
6 increase of 3% plus \$1.10 per resident-day, as defined by the  
7 Department. For facilities licensed by the Department of Public  
8 Health under the Nursing Home Care Act as Intermediate Care  
9 Facilities for the Developmentally Disabled or Long Term Care  
10 for Under Age 22 facilities, the rates taking effect on January  
11 1, 2006 shall include an increase of 3%. For facilities  
12 licensed by the Department of Public Health under the Nursing  
13 Home Care Act as Intermediate Care Facilities for the  
14 Developmentally Disabled or Long Term Care for Under Age 22  
15 facilities, the rates taking effect on January 1, 2009 shall  
16 include an increase sufficient to provide a \$0.50 per hour wage  
17 increase for non-executive staff.

18 For facilities licensed by the Department of Public Health  
19 under the Nursing Home Care Act as Intermediate Care for the  
20 Developmentally Disabled facilities or Long Term Care for Under  
21 Age 22 facilities, the rates taking effect on July 1, 1999  
22 shall include an increase of 1.6% plus \$3.00 per resident-day,  
23 as defined by the Department. For facilities licensed by the  
24 Department of Public Health under the Nursing Home Care Act as  
25 Skilled Nursing facilities or Intermediate Care facilities,  
26 the rates taking effect on July 1, 1999 shall include an

1 increase of 1.6% and, for services provided on or after October  
2 1, 1999, shall be increased by \$4.00 per resident-day, as  
3 defined by the Department.

4 For facilities licensed by the Department of Public Health  
5 under the Nursing Home Care Act as Intermediate Care for the  
6 Developmentally Disabled facilities or Long Term Care for Under  
7 Age 22 facilities, the rates taking effect on July 1, 2000  
8 shall include an increase of 2.5% per resident-day, as defined  
9 by the Department. For facilities licensed by the Department of  
10 Public Health under the Nursing Home Care Act as Skilled  
11 Nursing facilities or Intermediate Care facilities, the rates  
12 taking effect on July 1, 2000 shall include an increase of 2.5%  
13 per resident-day, as defined by the Department.

14 For facilities licensed by the Department of Public Health  
15 under the Nursing Home Care Act as skilled nursing facilities  
16 or intermediate care facilities, a new payment methodology must  
17 be implemented for the nursing component of the rate effective  
18 July 1, 2003. The Department of Public Aid (now Healthcare and  
19 Family Services) shall develop the new payment methodology  
20 using the Minimum Data Set (MDS) as the instrument to collect  
21 information concerning nursing home resident condition  
22 necessary to compute the rate. The Department shall develop the  
23 new payment methodology to meet the unique needs of Illinois  
24 nursing home residents while remaining subject to the  
25 appropriations provided by the General Assembly. A transition  
26 period from the payment methodology in effect on June 30, 2003

1 to the payment methodology in effect on July 1, 2003 shall be  
2 provided for a period not exceeding 3 years and 184 days after  
3 implementation of the new payment methodology as follows:

4 (A) For a facility that would receive a lower nursing  
5 component rate per patient day under the new system than  
6 the facility received effective on the date immediately  
7 preceding the date that the Department implements the new  
8 payment methodology, the nursing component rate per  
9 patient day for the facility shall be held at the level in  
10 effect on the date immediately preceding the date that the  
11 Department implements the new payment methodology until a  
12 higher nursing component rate of reimbursement is achieved  
13 by that facility.

14 (B) For a facility that would receive a higher nursing  
15 component rate per patient day under the payment  
16 methodology in effect on July 1, 2003 than the facility  
17 received effective on the date immediately preceding the  
18 date that the Department implements the new payment  
19 methodology, the nursing component rate per patient day for  
20 the facility shall be adjusted.

21 (C) Notwithstanding paragraphs (A) and (B), the  
22 nursing component rate per patient day for the facility  
23 shall be adjusted subject to appropriations provided by the  
24 General Assembly.

25 For facilities licensed by the Department of Public Health  
26 under the Nursing Home Care Act as Intermediate Care for the

1 Developmentally Disabled facilities or Long Term Care for Under  
2 Age 22 facilities, the rates taking effect on March 1, 2001  
3 shall include a statewide increase of 7.85%, as defined by the  
4 Department.

5 Notwithstanding any other provision of this Section, for  
6 facilities licensed by the Department of Public Health under  
7 the Nursing Home Care Act as skilled nursing facilities or  
8 intermediate care facilities, except facilities participating  
9 in the Department's demonstration program pursuant to the  
10 provisions of Title 77, Part 300, Subpart T of the Illinois  
11 Administrative Code, the numerator of the ratio used by the  
12 Department of Healthcare and Family Services to compute the  
13 rate payable under this Section using the Minimum Data Set  
14 (MDS) methodology shall incorporate the following annual  
15 amounts as the additional funds appropriated to the Department  
16 specifically to pay for rates based on the MDS nursing  
17 component methodology in excess of the funding in effect on  
18 December 31, 2006:

19 (i) For rates taking effect January 1, 2007,  
20 \$60,000,000.

21 (ii) For rates taking effect January 1, 2008,  
22 \$110,000,000.

23 (iii) For rates taking effect January 1, 2009,  
24 \$194,000,000.

25 (iv) For rates taking effect April 1, 2011, or the  
26 first day of the month that begins at least 45 days after

1 the effective date of this amendatory Act of the 96th  
2 General Assembly, \$416,500,000 or an amount as may be  
3 necessary to complete the transition to the MDS methodology  
4 for the nursing component of the rate.

5 Notwithstanding any other provision of this Section, for  
6 facilities licensed by the Department of Public Health under  
7 the Nursing Home Care Act as skilled nursing facilities or  
8 intermediate care facilities, the support component of the  
9 rates taking effect on January 1, 2008 shall be computed using  
10 the most recent cost reports on file with the Department of  
11 Healthcare and Family Services no later than April 1, 2005,  
12 updated for inflation to January 1, 2006.

13 For facilities licensed by the Department of Public Health  
14 under the Nursing Home Care Act as Intermediate Care for the  
15 Developmentally Disabled facilities or Long Term Care for Under  
16 Age 22 facilities, the rates taking effect on April 1, 2002  
17 shall include a statewide increase of 2.0%, as defined by the  
18 Department. This increase terminates on July 1, 2002; beginning  
19 July 1, 2002 these rates are reduced to the level of the rates  
20 in effect on March 31, 2002, as defined by the Department.

21 For facilities licensed by the Department of Public Health  
22 under the Nursing Home Care Act as skilled nursing facilities  
23 or intermediate care facilities, the rates taking effect on  
24 July 1, 2001 shall be computed using the most recent cost  
25 reports on file with the Department of Public Aid no later than  
26 April 1, 2000, updated for inflation to January 1, 2001. For

1 rates effective July 1, 2001 only, rates shall be the greater  
2 of the rate computed for July 1, 2001 or the rate effective on  
3 June 30, 2001.

4 Notwithstanding any other provision of this Section, for  
5 facilities licensed by the Department of Public Health under  
6 the Nursing Home Care Act as skilled nursing facilities or  
7 intermediate care facilities, the Illinois Department shall  
8 determine by rule the rates taking effect on July 1, 2002,  
9 which shall be 5.9% less than the rates in effect on June 30,  
10 2002.

11 Notwithstanding any other provision of this Section, for  
12 facilities licensed by the Department of Public Health under  
13 the Nursing Home Care Act as skilled nursing facilities or  
14 intermediate care facilities, if the payment methodologies  
15 required under Section 5A-12 and the waiver granted under 42  
16 CFR 433.68 are approved by the United States Centers for  
17 Medicare and Medicaid Services, the rates taking effect on July  
18 1, 2004 shall be 3.0% greater than the rates in effect on June  
19 30, 2004. These rates shall take effect only upon approval and  
20 implementation of the payment methodologies required under  
21 Section 5A-12.

22 Notwithstanding any other provisions of this Section, for  
23 facilities licensed by the Department of Public Health under  
24 the Nursing Home Care Act as skilled nursing facilities or  
25 intermediate care facilities, the rates taking effect on  
26 January 1, 2005 shall be 3% more than the rates in effect on

1 December 31, 2004.

2 Notwithstanding any other provision of this Section, for  
3 facilities licensed by the Department of Public Health under  
4 the Nursing Home Care Act as skilled nursing facilities or  
5 intermediate care facilities, effective January 1, 2009, the  
6 per diem support component of the rates effective on January 1,  
7 2008, computed using the most recent cost reports on file with  
8 the Department of Healthcare and Family Services no later than  
9 April 1, 2005, updated for inflation to January 1, 2006, shall  
10 be increased to the amount that would have been derived using  
11 standard Department of Healthcare and Family Services methods,  
12 procedures, and inflators.

13 Notwithstanding any other provisions of this Section, for  
14 facilities licensed by the Department of Public Health under  
15 the Nursing Home Care Act as intermediate care facilities that  
16 are federally defined as Institutions for Mental Disease, or  
17 facilities licensed by the Department of Public Health under  
18 the Specialized Mental Health Rehabilitation Facilities Act, a  
19 socio-development component rate equal to 6.6% of the  
20 facility's nursing component rate as of January 1, 2006 shall  
21 be established and paid effective July 1, 2006. The  
22 socio-development component of the rate shall be increased by a  
23 factor of 2.53 on the first day of the month that begins at  
24 least 45 days after January 11, 2008 (the effective date of  
25 Public Act 95-707). As of August 1, 2008, the socio-development  
26 component rate shall be equal to 6.6% of the facility's nursing

1 component rate as of January 1, 2006, multiplied by a factor of  
2 3.53. For services provided on or after April 1, 2011, or the  
3 first day of the month that begins at least 45 days after the  
4 effective date of this amendatory Act of the 96th General  
5 Assembly, whichever is later, the Illinois Department may by  
6 rule adjust these socio-development component rates, and may  
7 use different adjustment methodologies for those facilities  
8 participating, and those not participating, in the Illinois  
9 Department's demonstration program pursuant to the provisions  
10 of Title 77, Part 300, Subpart T of the Illinois Administrative  
11 Code, but in no case may such rates be diminished below those  
12 in effect on August 1, 2008.

13 For facilities licensed by the Department of Public Health  
14 under the Nursing Home Care Act as Intermediate Care for the  
15 Developmentally Disabled facilities or as long-term care  
16 facilities for residents under 22 years of age, the rates  
17 taking effect on July 1, 2003 shall include a statewide  
18 increase of 4%, as defined by the Department.

19 For facilities licensed by the Department of Public Health  
20 under the Nursing Home Care Act as Intermediate Care for the  
21 Developmentally Disabled facilities or Long Term Care for Under  
22 Age 22 facilities, the rates taking effect on the first day of  
23 the month that begins at least 45 days after the effective date  
24 of this amendatory Act of the 95th General Assembly shall  
25 include a statewide increase of 2.5%, as defined by the  
26 Department.

1           Notwithstanding any other provision of this Section, for  
2 facilities licensed by the Department of Public Health under  
3 the Nursing Home Care Act as skilled nursing facilities or  
4 intermediate care facilities, effective January 1, 2005,  
5 facility rates shall be increased by the difference between (i)  
6 a facility's per diem property, liability, and malpractice  
7 insurance costs as reported in the cost report filed with the  
8 Department of Public Aid and used to establish rates effective  
9 July 1, 2001 and (ii) those same costs as reported in the  
10 facility's 2002 cost report. These costs shall be passed  
11 through to the facility without caps or limitations, except for  
12 adjustments required under normal auditing procedures.

13           Rates established effective each July 1 shall govern  
14 payment for services rendered throughout that fiscal year,  
15 except that rates established on July 1, 1996 shall be  
16 increased by 6.8% for services provided on or after January 1,  
17 1997. Such rates will be based upon the rates calculated for  
18 the year beginning July 1, 1990, and for subsequent years  
19 thereafter until June 30, 2001 shall be based on the facility  
20 cost reports for the facility fiscal year ending at any point  
21 in time during the previous calendar year, updated to the  
22 midpoint of the rate year. The cost report shall be on file  
23 with the Department no later than April 1 of the current rate  
24 year. Should the cost report not be on file by April 1, the  
25 Department shall base the rate on the latest cost report filed  
26 by each skilled care facility and intermediate care facility,

1 updated to the midpoint of the current rate year. In  
2 determining rates for services rendered on and after July 1,  
3 1985, fixed time shall not be computed at less than zero. The  
4 Department shall not make any alterations of regulations which  
5 would reduce any component of the Medicaid rate to a level  
6 below what that component would have been utilizing in the rate  
7 effective on July 1, 1984.

8 (2) Shall take into account the actual costs incurred by  
9 facilities in providing services for recipients of skilled  
10 nursing and intermediate care services under the medical  
11 assistance program.

12 (3) Shall take into account the medical and psycho-social  
13 characteristics and needs of the patients.

14 (4) Shall take into account the actual costs incurred by  
15 facilities in meeting licensing and certification standards  
16 imposed and prescribed by the State of Illinois, any of its  
17 political subdivisions or municipalities and by the U.S.  
18 Department of Health and Human Services pursuant to Title XIX  
19 of the Social Security Act.

20 The Department of Healthcare and Family Services shall  
21 develop precise standards for payments to reimburse nursing  
22 facilities for any utilization of appropriate rehabilitative  
23 personnel for the provision of rehabilitative services which is  
24 authorized by federal regulations, including reimbursement for  
25 services provided by qualified therapists or qualified  
26 assistants, and which is in accordance with accepted

1 professional practices. Reimbursement also may be made for  
2 utilization of other supportive personnel under appropriate  
3 supervision.

4 The Department shall develop enhanced payments to offset  
5 the additional costs incurred by a facility serving exceptional  
6 need residents and shall allocate at least \$8,000,000 of the  
7 funds collected from the assessment established by Section 5B-2  
8 of this Code for such payments. For the purpose of this  
9 Section, "exceptional needs" means, but need not be limited to,  
10 ventilator care, tracheotomy care, bariatric care, complex  
11 wound care, and traumatic brain injury care.

12 (5) Beginning July 1, 2012 the methodologies for  
13 reimbursement of nursing facility services as provided under  
14 this Section 5-5.4 shall no longer be applicable for bills  
15 payable for State fiscal years 2012 and thereafter.

16 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,  
17 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;  
18 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;  
19 96-1530, eff. 2-16-11.)

20 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

21 Sec. 5-5.7. Cost Reports - Audits. The Department of  
22 Healthcare and Family Services shall work with the Department  
23 of Public Health to use cost report information currently being  
24 collected under provisions of the Nursing Home Care Act, the  
25 Specialized Mental Health Rehabilitation Act, and the MR/DD

1 Community Care Act. The Department of Healthcare and Family  
2 Services may, in conjunction with the Department of Public  
3 Health, develop in accordance with generally accepted  
4 accounting principles a uniform chart of accounts which each  
5 facility providing services under the medical assistance  
6 program shall adopt, after a reasonable period.

7 Facilities ~~Nursing homes~~ licensed under the Nursing Home  
8 Care, the Specialized Mental Health Rehabilitation Act, Act or  
9 the MR/DD Community Care Act and providers of adult  
10 developmental training services certified by the Department of  
11 Human Services pursuant to Section 15.2 of the Mental Health  
12 and Developmental Disabilities Administrative Act which  
13 provide services to clients eligible for medical assistance  
14 under this Article are responsible for submitting the required  
15 annual cost report to the Department of Healthcare and Family  
16 Services.

17 The Department of Healthcare and Family Services shall  
18 audit the financial and statistical records of each provider  
19 participating in the medical assistance program as a nursing  
20 facility, a specialized mental health rehabilitation facility,  
21 or an ICF/DD over a 3 year period, beginning with the close of  
22 the first cost reporting year. Following the end of this 3-year  
23 term, audits of the financial and statistical records will be  
24 performed each year in at least 20% of the facilities  
25 participating in the medical assistance program with at least  
26 10% being selected on a random sample basis, and the remainder

1 selected on the basis of exceptional profiles. All audits shall  
2 be conducted in accordance with generally accepted auditing  
3 standards.

4 The Department of Healthcare and Family Services shall  
5 establish prospective payment rates for categories or of  
6 ~~service needed within the nursing facility or ICF/DD~~ levels of  
7 services within each licensure class, in order to more  
8 appropriately recognize the individual needs of patients in  
9 nursing facilities.

10 The Department of Healthcare and Family Services shall  
11 provide, during the process of establishing the payment rate  
12 for nursing facility, specialized mental health rehabilitation  
13 facility, or ICF/DD services, or when a substantial change in  
14 rates is proposed, an opportunity for public review and comment  
15 on the proposed rates prior to their becoming effective.

16 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10;  
17 96-1530, eff. 2-16-11.)

18 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

19 Sec. 5-5.12. Pharmacy payments.

20 (a) Every request submitted by a pharmacy for reimbursement  
21 under this Article for prescription drugs provided to a  
22 recipient of aid under this Article shall include the name of  
23 the prescriber or an acceptable identification number as  
24 established by the Department.

25 (b) Pharmacies providing prescription drugs under this

1 Article shall be reimbursed at a rate which shall include a  
2 professional dispensing fee as determined by the Illinois  
3 Department, plus the current acquisition cost of the  
4 prescription drug dispensed. The Illinois Department shall  
5 update its information on the acquisition costs of all  
6 prescription drugs no less frequently than every 30 days.  
7 However, the Illinois Department may set the rate of  
8 reimbursement for the acquisition cost, by rule, at a  
9 percentage of the current average wholesale acquisition cost.

10 (c) (Blank).

11 (d) The Department shall not impose requirements for prior  
12 approval based on a preferred drug list for anti-retroviral,  
13 anti-hemophilic factor concentrates, or any atypical  
14 antipsychotics, conventional antipsychotics, or  
15 anticonvulsants used for the treatment of serious mental  
16 illnesses until 30 days after it has conducted a study of the  
17 impact of such requirements on patient care and submitted a  
18 report to the Speaker of the House of Representatives and the  
19 President of the Senate. The Department shall review  
20 utilization of narcotic medications in the medical assistance  
21 program and impose utilization controls that protect against  
22 abuse.

23 (e) When making determinations as to which drugs shall be  
24 on a prior approval list, the Department shall include as part  
25 of the analysis for this determination, the degree to which a  
26 drug may affect individuals in different ways based on factors

1 including the gender of the person taking the medication.

2 (f) The Department shall cooperate with the Department of  
3 Public Health and the Department of Human Services Division of  
4 Mental Health in identifying psychotropic medications that,  
5 when given in a particular form, manner, duration, or frequency  
6 (including "as needed") in a dosage, or in conjunction with  
7 other psychotropic medications to a nursing home resident or to  
8 a resident of a facility licensed under the MR/DD Community  
9 Care Act, may constitute a chemical restraint or an  
10 "unnecessary drug" as defined by the Nursing Home Care Act or  
11 Titles XVIII and XIX of the Social Security Act and the  
12 implementing rules and regulations. The Department shall  
13 require prior approval for any such medication prescribed for a  
14 nursing home resident or to a resident of a facility licensed  
15 under the MR/DD Community Care Act, that appears to be a  
16 chemical restraint or an unnecessary drug. The Department shall  
17 consult with the Department of Human Services Division of  
18 Mental Health in developing a protocol and criteria for  
19 deciding whether to grant such prior approval.

20 (g) The Department may by rule provide for reimbursement of  
21 the dispensing of a 90-day supply of a generic, non-narcotic  
22 maintenance medication in circumstances where it is cost  
23 effective.

24 (Source: P.A. 96-1269, eff. 7-26-10; 96-1372, eff. 7-29-10;  
25 96-1501, eff. 1-25-11.)

1 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

2 Sec. 5-6. Obligations incurred prior to death of a  
3 recipient. Obligations incurred but not paid for at the time of  
4 a recipient's death for services authorized under Section 5-5,  
5 including medical and other care in ~~group care~~ facilities as  
6 defined in the Nursing Home Care Act, the Specialized Mental  
7 Health Rehabilitation Act, or the MR/DD Community Care Act, or  
8 in like facilities not required to be licensed under that Act,  
9 may be paid, subject to the rules and regulations of the  
10 Illinois Department, after the death of the recipient.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

13 Sec. 5B-1. Definitions. As used in this Article, unless the  
14 context requires otherwise:

15 "Fund" means the Long-Term Care Provider Fund.

16 "Long-term care facility" means (i) a nursing facility,  
17 whether public or private and whether organized for profit or  
18 not-for-profit, that is subject to licensure by the Illinois  
19 Department of Public Health under the Nursing Home Care Act or  
20 the MR/DD Community Care Act, including a county nursing home  
21 directed and maintained under Section 5-1005 of the Counties  
22 Code, and (ii) a part of a hospital in which skilled or  
23 intermediate long-term care services within the meaning of  
24 Title XVIII or XIX of the Social Security Act are provided;  
25 except that the term "long-term care facility" does not include

1 a facility operated by a State agency,~~a facility participating~~  
2 ~~in the Illinois Department's demonstration program pursuant to~~  
3 ~~the provisions of Title 77, Part 300, Subpart T of the Illinois~~  
4 ~~Administrative Code,~~ or operated solely as an intermediate care  
5 facility for the mentally retarded within the meaning of Title  
6 XIX of the Social Security Act.

7 "Long-term care provider" means (i) a person licensed by  
8 the Department of Public Health to operate and maintain a  
9 skilled nursing or intermediate long-term care facility or (ii)  
10 a hospital provider that provides skilled or intermediate  
11 long-term care services within the meaning of Title XVIII or  
12 XIX of the Social Security Act. For purposes of this paragraph,  
13 "person" means any political subdivision of the State,  
14 municipal corporation, individual, firm, partnership,  
15 corporation, company, limited liability company, association,  
16 joint stock association, or trust, or a receiver, executor,  
17 trustee, guardian, or other representative appointed by order  
18 of any court. "Hospital provider" means a person licensed by  
19 the Department of Public Health to conduct, operate, or  
20 maintain a hospital.

21 "Occupied bed days" shall be computed separately for each  
22 long-term care facility operated or maintained by a long-term  
23 care provider, and means the sum for all beds of the number of  
24 days during the month on which each bed was occupied by a  
25 resident, other than a resident for whom Medicare Part A is the  
26 primary payer.

1 (Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

2 (305 ILCS 5/5E-5)

3 Sec. 5E-5. Definitions. As used in this Article, unless the  
4 context requires otherwise:

5 "Nursing home" means (i) a skilled nursing or intermediate  
6 long-term care facility, whether public or private and whether  
7 organized for profit or not-for-profit, that is subject to  
8 licensure by the Illinois Department of Public Health under the  
9 Nursing Home Care Act or the MR/DD Community Care Act,  
10 including a county nursing home directed and maintained under  
11 Section 5-1005 of the Counties Code, and (ii) a part of a  
12 hospital in which skilled or intermediate long-term care  
13 services within the meaning of Title XVIII or XIX of the Social  
14 Security Act are provided; except that the term "nursing home"  
15 does not include a facility operated solely as an intermediate  
16 care facility for the mentally retarded within the meaning of  
17 Title XIX of the Social Security Act or a specialized mental  
18 health rehabilitation facility.

19 "Nursing home provider" means (i) a person licensed by the  
20 Department of Public Health to operate and maintain a skilled  
21 nursing or intermediate long-term care facility which charges  
22 its residents, a third party payor, Medicaid, or Medicare for  
23 skilled nursing or intermediate long-term care services, or  
24 (ii) a hospital provider that provides skilled or intermediate  
25 long-term care services within the meaning of Title XVIII or

1 XIX of the Social Security Act. "Nursing home provider" does  
2 not include a person who operates or a provider who provides  
3 services within a specialized mental health rehabilitation  
4 facility. For purposes of this paragraph, "person" means any  
5 political subdivision of the State, municipal corporation,  
6 individual, firm, partnership, corporation, company, limited  
7 liability company, association, joint stock association, or  
8 trust, or a receiver, executor, trustee, guardian, or other  
9 representative appointed by order of any court. "Hospital  
10 provider" means a person licensed by the Department of Public  
11 Health to conduct, operate, or maintain a hospital.

12 "Licensed bed days" shall be computed separately for each  
13 nursing home operated or maintained by a nursing home provider  
14 and means, with respect to a nursing home provider, the sum for  
15 all nursing home beds of the number of days during a calendar  
16 quarter on which each bed is covered by a license issued to  
17 that provider under the Nursing Home Care Act or the Hospital  
18 Licensing Act.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

21 Sec. 8A-11. (a) No person shall:

22 (1) Knowingly charge a resident of a nursing home for  
23 any services provided pursuant to Article V of the Illinois  
24 Public Aid Code, money or other consideration at a rate in  
25 excess of the rates established for covered services by the

1 Illinois Department pursuant to Article V of The Illinois  
2 Public Aid Code; or

3 (2) Knowingly charge, solicit, accept or receive, in  
4 addition to any amount otherwise authorized or required to  
5 be paid pursuant to Article V of The Illinois Public Aid  
6 Code, any gift, money, donation or other consideration:

7 (i) As a precondition to admitting or expediting  
8 the admission of a recipient or applicant, pursuant to  
9 Article V of The Illinois Public Aid Code, to a  
10 long-term care facility as defined in Section 1-113 of  
11 the Nursing Home Care Act or a facility as defined in  
12 Section 1-113 of the MR/DD Community Care Act or  
13 Section 1-113 of the Specialized Mental Health  
14 Rehabilitation Act; and

15 (ii) As a requirement for the recipient's or  
16 applicant's continued stay in such facility when the  
17 cost of the services provided therein to the recipient  
18 is paid for, in whole or in part, pursuant to Article V  
19 of The Illinois Public Aid Code.

20 (b) Nothing herein shall prohibit a person from making a  
21 voluntary contribution, gift or donation to a long-term care  
22 facility.

23 (c) This paragraph shall not apply to agreements to provide  
24 continuing care or life care between a life care facility as  
25 defined by the Life Care Facilities Act, and a person  
26 financially eligible for benefits pursuant to Article V of The

1 Illinois Public Aid Code.

2 (d) Any person who violates this Section shall be guilty of  
3 a business offense and fined not less than \$5,000 nor more than  
4 \$25,000.

5 (e) "Person", as used in this Section, means an individual,  
6 corporation, partnership, or unincorporated association.

7 (f) The State's Attorney of the county in which the  
8 facility is located and the Attorney General shall be notified  
9 by the Illinois Department of any alleged violations of this  
10 Section known to the Department.

11 (g) The Illinois Department shall adopt rules and  
12 regulations to carry out the provisions of this Section.

13 (Source: P.A. 96-339, eff. 7-1-10.)

14 Section 90-170. The Elder Abuse and Neglect Act is amended  
15 by changing Section 2 as follows:

16 (320 ILCS 20/2) (from Ch. 23, par. 6602)

17 Sec. 2. Definitions. As used in this Act, unless the  
18 context requires otherwise:

19 (a) "Abuse" means causing any physical, mental or sexual  
20 injury to an eligible adult, including exploitation of such  
21 adult's financial resources.

22 Nothing in this Act shall be construed to mean that an  
23 eligible adult is a victim of abuse, neglect, or self-neglect  
24 for the sole reason that he or she is being furnished with or

1 relies upon treatment by spiritual means through prayer alone,  
2 in accordance with the tenets and practices of a recognized  
3 church or religious denomination.

4 Nothing in this Act shall be construed to mean that an  
5 eligible adult is a victim of abuse because of health care  
6 services provided or not provided by licensed health care  
7 professionals.

8 (a-5) "Abuser" means a person who abuses, neglects, or  
9 financially exploits an eligible adult.

10 (a-7) "Caregiver" means a person who either as a result of  
11 a family relationship, voluntarily, or in exchange for  
12 compensation has assumed responsibility for all or a portion of  
13 the care of an eligible adult who needs assistance with  
14 activities of daily living.

15 (b) "Department" means the Department on Aging of the State  
16 of Illinois.

17 (c) "Director" means the Director of the Department.

18 (d) "Domestic living situation" means a residence where the  
19 eligible adult lives alone or with his or her family or a  
20 caregiver, or others, or a board and care home or other  
21 community-based unlicensed facility, but is not:

22 (1) A licensed facility as defined in Section 1-113 of  
23 the Nursing Home Care Act;

24 (1.5) A facility licensed under the MR/DD Community  
25 Care Act;

26 (1.7) A facility licensed under the Specialized Mental

1       Health Rehabilitation Act;

2           (2) A "life care facility" as defined in the Life Care  
3       Facilities Act;

4           (3) A home, institution, or other place operated by the  
5       federal government or agency thereof or by the State of  
6       Illinois;

7           (4) A hospital, sanitarium, or other institution, the  
8       principal activity or business of which is the diagnosis,  
9       care, and treatment of human illness through the  
10      maintenance and operation of organized facilities  
11      therefor, which is required to be licensed under the  
12      Hospital Licensing Act;

13          (5) A "community living facility" as defined in the  
14      Community Living Facilities Licensing Act;

15          (6) (Blank);

16          (7) A "community-integrated living arrangement" as  
17      defined in the Community-Integrated Living Arrangements  
18      Licensure and Certification Act;

19          (8) An assisted living or shared housing establishment  
20      as defined in the Assisted Living and Shared Housing Act;  
21      or

22          (9) A supportive living facility as described in  
23      Section 5-5.01a of the Illinois Public Aid Code.

24          (e) "Eligible adult" means a person 60 years of age or  
25      older who resides in a domestic living situation and is, or is  
26      alleged to be, abused, neglected, or financially exploited by

1 another individual or who neglects himself or herself.

2 (f) "Emergency" means a situation in which an eligible  
3 adult is living in conditions presenting a risk of death or  
4 physical, mental or sexual injury and the provider agency has  
5 reason to believe the eligible adult is unable to consent to  
6 services which would alleviate that risk.

7 (f-5) "Mandated reporter" means any of the following  
8 persons while engaged in carrying out their professional  
9 duties:

10 (1) a professional or professional's delegate while  
11 engaged in: (i) social services, (ii) law enforcement,  
12 (iii) education, (iv) the care of an eligible adult or  
13 eligible adults, or (v) any of the occupations required to  
14 be licensed under the Clinical Psychologist Licensing Act,  
15 the Clinical Social Work and Social Work Practice Act, the  
16 Illinois Dental Practice Act, the Dietetic and Nutrition  
17 Services Practice Act, the Marriage and Family Therapy  
18 Licensing Act, the Medical Practice Act of 1987, the  
19 Naprapathic Practice Act, the Nurse Practice Act, the  
20 Nursing Home Administrators Licensing and Disciplinary  
21 Act, the Illinois Occupational Therapy Practice Act, the  
22 Illinois Optometric Practice Act of 1987, the Pharmacy  
23 Practice Act, the Illinois Physical Therapy Act, the  
24 Physician Assistant Practice Act of 1987, the Podiatric  
25 Medical Practice Act of 1987, the Respiratory Care Practice  
26 Act, the Professional Counselor and Clinical Professional

1 Counselor Licensing Act, the Illinois Speech-Language  
2 Pathology and Audiology Practice Act, the Veterinary  
3 Medicine and Surgery Practice Act of 2004, and the Illinois  
4 Public Accounting Act;

5 (2) an employee of a vocational rehabilitation  
6 facility prescribed or supervised by the Department of  
7 Human Services;

8 (3) an administrator, employee, or person providing  
9 services in or through an unlicensed community based  
10 facility;

11 (4) any religious practitioner who provides treatment  
12 by prayer or spiritual means alone in accordance with the  
13 tenets and practices of a recognized church or religious  
14 denomination, except as to information received in any  
15 confession or sacred communication enjoined by the  
16 discipline of the religious denomination to be held  
17 confidential;

18 (5) field personnel of the Department of Healthcare and  
19 Family Services, Department of Public Health, and  
20 Department of Human Services, and any county or municipal  
21 health department;

22 (6) personnel of the Department of Human Services, the  
23 Guardianship and Advocacy Commission, the State Fire  
24 Marshal, local fire departments, the Department on Aging  
25 and its subsidiary Area Agencies on Aging and provider  
26 agencies, and the Office of State Long Term Care Ombudsman;

1           (7) any employee of the State of Illinois not otherwise  
2           specified herein who is involved in providing services to  
3           eligible adults, including professionals providing medical  
4           or rehabilitation services and all other persons having  
5           direct contact with eligible adults;

6           (8) a person who performs the duties of a coroner or  
7           medical examiner; or

8           (9) a person who performs the duties of a paramedic or  
9           an emergency medical technician.

10          (g) "Neglect" means another individual's failure to  
11          provide an eligible adult with or willful withholding from an  
12          eligible adult the necessities of life including, but not  
13          limited to, food, clothing, shelter or health care. This  
14          subsection does not create any new affirmative duty to provide  
15          support to eligible adults. Nothing in this Act shall be  
16          construed to mean that an eligible adult is a victim of neglect  
17          because of health care services provided or not provided by  
18          licensed health care professionals.

19          (h) "Provider agency" means any public or nonprofit agency  
20          in a planning and service area appointed by the regional  
21          administrative agency with prior approval by the Department on  
22          Aging to receive and assess reports of alleged or suspected  
23          abuse, neglect, or financial exploitation.

24          (i) "Regional administrative agency" means any public or  
25          nonprofit agency in a planning and service area so designated  
26          by the Department, provided that the designated Area Agency on

1 Aging shall be designated the regional administrative agency if  
2 it so requests. The Department shall assume the functions of  
3 the regional administrative agency for any planning and service  
4 area where another agency is not so designated.

5 (i-5) "Self-neglect" means a condition that is the result  
6 of an eligible adult's inability, due to physical or mental  
7 impairments, or both, or a diminished capacity, to perform  
8 essential self-care tasks that substantially threaten his or  
9 her own health, including: providing essential food, clothing,  
10 shelter, and health care; and obtaining goods and services  
11 necessary to maintain physical health, mental health,  
12 emotional well-being, and general safety. The term includes  
13 compulsive hoarding, which is characterized by the acquisition  
14 and retention of large quantities of items and materials that  
15 produce an extensively cluttered living space, which  
16 significantly impairs the performance of essential self-care  
17 tasks or otherwise substantially threatens life or safety.

18 (j) "Substantiated case" means a reported case of alleged  
19 or suspected abuse, neglect, financial exploitation, or  
20 self-neglect in which a provider agency, after assessment,  
21 determines that there is reason to believe abuse, neglect, or  
22 financial exploitation has occurred.

23 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;  
24 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;  
25 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

1           Section 90-175. The Mental Health and Developmental  
2           Disabilities Code is amended by changing Section 2-107 as  
3           follows:

4           (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

5           Sec. 2-107. Refusal of services; informing of risks.

6           (a) An adult recipient of services or the recipient's  
7           guardian, if the recipient is under guardianship, and the  
8           recipient's substitute decision maker, if any, must be informed  
9           of the recipient's right to refuse medication or  
10          electroconvulsive therapy. The recipient and the recipient's  
11          guardian or substitute decision maker shall be given the  
12          opportunity to refuse generally accepted mental health or  
13          developmental disability services, including but not limited  
14          to medication or electroconvulsive therapy. If such services  
15          are refused, they shall not be given unless such services are  
16          necessary to prevent the recipient from causing serious and  
17          imminent physical harm to the recipient or others and no less  
18          restrictive alternative is available. The facility director  
19          shall inform a recipient, guardian, or substitute decision  
20          maker, if any, who refuses such services of alternate services  
21          available and the risks of such alternate services, as well as  
22          the possible consequences to the recipient of refusal of such  
23          services.

24          (b) Psychotropic medication or electroconvulsive therapy  
25          may be administered under this Section for up to 24 hours only

1 if the circumstances leading up to the need for emergency  
2 treatment are set forth in writing in the recipient's record.

3 (c) Administration of medication or electroconvulsive  
4 therapy may not be continued unless the need for such treatment  
5 is redetermined at least every 24 hours based upon a personal  
6 examination of the recipient by a physician or a nurse under  
7 the supervision of a physician and the circumstances  
8 demonstrating that need are set forth in writing in the  
9 recipient's record.

10 (d) Neither psychotropic medication nor electroconvulsive  
11 therapy may be administered under this Section for a period in  
12 excess of 72 hours, excluding Saturdays, Sundays, and holidays,  
13 unless a petition is filed under Section 2-107.1 and the  
14 treatment continues to be necessary under subsection (a) of  
15 this Section. Once the petition has been filed, treatment may  
16 continue in compliance with subsections (a), (b), and (c) of  
17 this Section until the final outcome of the hearing on the  
18 petition.

19 (e) The Department shall issue rules designed to insure  
20 that in State-operated mental health facilities psychotropic  
21 medication and electroconvulsive therapy are administered in  
22 accordance with this Section and only when appropriately  
23 authorized and monitored by a physician or a nurse under the  
24 supervision of a physician in accordance with accepted medical  
25 practice. The facility director of each mental health facility  
26 not operated by the State shall issue rules designed to insure

1 that in that facility psychotropic medication and  
2 electroconvulsive therapy are administered in accordance with  
3 this Section and only when appropriately authorized and  
4 monitored by a physician or a nurse under the supervision of a  
5 physician in accordance with accepted medical practice. Such  
6 rules shall be available for public inspection and copying  
7 during normal business hours.

8 (f) The provisions of this Section with respect to the  
9 emergency administration of psychotropic medication and  
10 electroconvulsive therapy do not apply to facilities licensed  
11 under the Nursing Home Care Act, the Specialized Mental Health  
12 Rehabilitation Act, or the MR/DD Community Care Act.

13 (g) Under no circumstances may long-acting psychotropic  
14 medications be administered under this Section.

15 (h) Whenever psychotropic medication or electroconvulsive  
16 therapy is refused pursuant to subsection (a) of this Section  
17 at least once that day, the physician shall determine and state  
18 in writing the reasons why the recipient did not meet the  
19 criteria for administration of medication or electroconvulsive  
20 therapy under subsection (a) and whether the recipient meets  
21 the standard for administration of psychotropic medication or  
22 electroconvulsive therapy under Section 2-107.1 of this Code.  
23 If the physician determines that the recipient meets the  
24 standard for administration of psychotropic medication or  
25 electroconvulsive therapy under Section 2-107.1, the facility  
26 director or his or her designee shall petition the court for

1 administration of psychotropic medication or electroconvulsive  
2 therapy pursuant to that Section unless the facility director  
3 or his or her designee states in writing in the recipient's  
4 record why the filing of such a petition is not warranted. This  
5 subsection (h) applies only to State-operated mental health  
6 facilities.

7 (i) The Department shall conduct annual trainings for all  
8 physicians and registered nurses working in State-operated  
9 mental health facilities on the appropriate use of emergency  
10 administration of psychotropic medication and  
11 electroconvulsive therapy, standards for their use, and the  
12 methods of authorization under this Section.

13 (Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

14 Section 90-180. The Protection and Advocacy for Mentally  
15 Ill Persons Act is amended by changing Section 3 as follows:

16 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

17 Sec. 3. Powers and Duties.

18 (A) In order to properly exercise its powers and duties,  
19 the agency shall have the authority to:

20 (1) Investigate incidents of abuse and neglect of  
21 mentally ill persons if the incidents are reported to the  
22 agency or if there is probable cause to believe that the  
23 incidents occurred. In case of conflict with provisions of  
24 the Abused and Neglected Child Reporting Act or the Nursing

1 Home Care Act, the provisions of those Acts shall apply.

2 (2) Pursue administrative, legal and other appropriate  
3 remedies to ensure the protection of the rights of mentally  
4 ill persons who are receiving care and treatment in this  
5 State.

6 (3) Pursue administrative, legal and other remedies on  
7 behalf of an individual who:

8 (a) was a mentally ill individual; and

9 (b) is a resident of this State, but only with  
10 respect to matters which occur within 90 days after the  
11 date of the discharge of such individual from a  
12 facility providing care and treatment.

13 (4) Establish a board which shall:

14 (a) advise the protection and advocacy system on  
15 policies and priorities to be carried out in protecting  
16 and advocating the rights of mentally ill individuals;  
17 and

18 (b) include attorneys, mental health  
19 professionals, individuals from the public who are  
20 knowledgeable about mental illness, a provider of  
21 mental health services, individuals who have received  
22 or are receiving mental health services and family  
23 members of such individuals. At least one-half the  
24 members of the board shall be individuals who have  
25 received or are receiving mental health services or who  
26 are family members of such individuals.

1           (5) On January 1, 1988, and on January 1 of each  
2           succeeding year, prepare and transmit to the Secretary of  
3           the United States Department of Health and Human Services  
4           and to the Illinois Secretary of Human Services a report  
5           describing the activities, accomplishments and  
6           expenditures of the protection and advocacy system during  
7           the most recently completed fiscal year.

8           (B) The agency shall have access to all mental health  
9           facilities as defined in Sections 1-107 and 1-114 of the Mental  
10          Health and Developmental Disabilities Code, all facilities as  
11          defined in Section 1-113 of the Nursing Home Care Act, all  
12          facilities as defined in Section 1-113 of the Specialized  
13          Mental Health Rehabilitation Act, all facilities as defined in  
14          Section 1-113 of the MR/DD Community Care Act, all facilities  
15          as defined in Section 2.06 of the Child Care Act of 1969, as  
16          now or hereafter amended, and all other facilities providing  
17          care or treatment to mentally ill persons. Such access shall be  
18          granted for the purposes of meeting with residents and staff,  
19          informing them of services available from the agency,  
20          distributing written information about the agency and the  
21          rights of persons who are mentally ill, conducting scheduled  
22          and unscheduled visits, and performing other activities  
23          designed to protect the rights of mentally ill persons.

24          (C) The agency shall have access to all records of mentally  
25          ill persons who are receiving care or treatment from a  
26          facility, subject to the limitations of this Act, the Mental

1 Health and Developmental Disabilities Confidentiality Act, the  
2 Nursing Home Care Act and the Child Care Act of 1969, as now or  
3 hereafter amended. If the mentally ill person has a legal  
4 guardian other than the State or a designee of the State, the  
5 facility director shall disclose the guardian's name, address  
6 and telephone number to the agency upon its request. In cases  
7 of conflict with provisions of the Abused and Neglected Child  
8 Reporting Act and the Nursing Home Care Act, the provisions of  
9 the Abused and Neglected Child Reporting Act and the Nursing  
10 Home Care Act shall apply. The agency shall also have access,  
11 for the purpose of inspection and copying, to the records of a  
12 mentally ill person (i) who by reason of his or her mental or  
13 physical condition is unable to authorize the agency to have  
14 such access; (ii) who does not have a legal guardian or for  
15 whom the State or a designee of the State is the legal  
16 guardian; and (iii) with respect to whom a complaint has been  
17 received by the agency or with respect to whom there is  
18 probable cause to believe that such person has been subjected  
19 to abuse or neglect.

20 The agency shall provide written notice to the mentally ill  
21 person and the State guardian of the nature of the complaint  
22 based upon which the agency has gained access to the records.  
23 No record or the contents of the record shall be redisclosed by  
24 the agency unless the person who is mentally ill and the State  
25 guardian are provided 7 days advance written notice, except in  
26 emergency situations, of the agency's intent to redisclose such

1 record. Within such 7-day period, the mentally ill person or  
2 the State guardian may seek an injunction prohibiting the  
3 agency's redisclosure of such record on the grounds that such  
4 redisclosure is contrary to the interests of the mentally ill  
5 person.

6 Upon request, the authorized agency shall be entitled to  
7 inspect and copy any clinical or trust fund records of mentally  
8 ill persons which may further the agency's investigation of  
9 alleged problems affecting numbers of mentally ill persons.  
10 When required by law, any personally identifiable information  
11 of mentally ill persons shall be removed from the records.  
12 However, the agency may not inspect or copy any records or  
13 other materials when the removal of personally identifiable  
14 information imposes an unreasonable burden on any facility as  
15 defined by the Mental Health and Developmental Disabilities  
16 Code, the Nursing Home Care Act, the Specialized Mental Health  
17 Rehabilitation Act, or the Child Care Act of 1969, or any other  
18 facility providing care or treatment to mentally ill persons.

19 (D) Prior to instituting any legal action in a federal or  
20 State court on behalf of a mentally ill individual, an eligible  
21 protection and advocacy system, or a State agency or nonprofit  
22 organization which entered into a contract with such an  
23 eligible system under Section 104(a) of the federal Protection  
24 and Advocacy for Mentally Ill Individuals Act of 1986, shall  
25 exhaust in a timely manner all administrative remedies where  
26 appropriate. If, in pursuing administrative remedies, the

1 system, State agency or organization determines that any matter  
2 with respect to such individual will not be resolved within a  
3 reasonable time, the system, State agency or organization may  
4 pursue alternative remedies, including the initiation of  
5 appropriate legal action.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 Section 90-285. The Developmental Disability and Mental  
8 Disability Services Act is amended by changing Sections 2-3 and  
9 5-1 as follows:

10 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

11 Sec. 2-3. As used in this Article, unless the context  
12 requires otherwise:

13 (a) "Agency" means an agency or entity licensed by the  
14 Department pursuant to this Article or pursuant to the  
15 Community Residential Alternatives Licensing Act.

16 (b) "Department" means the Department of Human Services, as  
17 successor to the Department of Mental Health and Developmental  
18 Disabilities.

19 (c) "Home-based services" means services provided to a  
20 mentally disabled adult who lives in his or her own home. These  
21 services include but are not limited to:

22 (1) home health services;

23 (2) case management;

24 (3) crisis management;

- 1 (4) training and assistance in self-care;
- 2 (5) personal care services;
- 3 (6) habilitation and rehabilitation services;
- 4 (7) employment-related services;
- 5 (8) respite care; and
- 6 (9) other skill training that enables a person to
- 7 become self-supporting.

8 (d) "Legal guardian" means a person appointed by a court of  
9 competent jurisdiction to exercise certain powers on behalf of  
10 a mentally disabled adult.

11 (e) "Mentally disabled adult" means a person over the age  
12 of 18 years who lives in his or her own home; who needs  
13 home-based services, but does not require 24-hour-a-day  
14 supervision; and who has one of the following conditions:  
15 severe autism, severe mental illness, severe or profound mental  
16 retardation, or severe and multiple impairments.

17 (f) In one's "own home" means that a mentally disabled  
18 adult lives alone; or that a mentally disabled adult is in  
19 full-time residence with his or her parents, legal guardian, or  
20 other relatives; or that a mentally disabled adult is in  
21 full-time residence in a setting not subject to licensure under  
22 the Nursing Home Care Act, the Specialized Mental Health  
23 Rehabilitation Act, the MR/DD Community Care Act, or the Child  
24 Care Act of 1969, as now or hereafter amended, with 3 or fewer  
25 other adults unrelated to the mentally disabled adult who do  
26 not provide home-based services to the mentally disabled adult.

1 (g) "Parent" means the biological or adoptive parent of a  
2 mentally disabled adult, or a person licensed as a foster  
3 parent under the laws of this State who acts as a mentally  
4 disabled adult's foster parent.

5 (h) "Relative" means any of the following relationships by  
6 blood, marriage or adoption: parent, son, daughter, brother,  
7 sister, grandparent, uncle, aunt, nephew, niece, great  
8 grandparent, great uncle, great aunt, stepbrother, stepsister,  
9 stepson, stepdaughter, stepparent or first cousin.

10 (i) "Severe autism" means a lifelong developmental  
11 disability which is typically manifested before 30 months of  
12 age and is characterized by severe disturbances in reciprocal  
13 social interactions; verbal and nonverbal communication and  
14 imaginative activity; and repertoire of activities and  
15 interests. A person shall be determined severely autistic, for  
16 purposes of this Article, if both of the following are present:

17 (1) Diagnosis consistent with the criteria for  
18 autistic disorder in the current edition of the Diagnostic  
19 and Statistical Manual of Mental Disorders.

20 (2) Severe disturbances in reciprocal social  
21 interactions; verbal and nonverbal communication and  
22 imaginative activity; repertoire of activities and  
23 interests. A determination of severe autism shall be based  
24 upon a comprehensive, documented assessment with an  
25 evaluation by a licensed clinical psychologist or  
26 psychiatrist. A determination of severe autism shall not be

1 based solely on behaviors relating to environmental,  
2 cultural or economic differences.

3 (j) "Severe mental illness" means the manifestation of all  
4 of the following characteristics:

5 (1) A primary diagnosis of one of the major mental  
6 disorders in the current edition of the Diagnostic and  
7 Statistical Manual of Mental Disorders listed below:

8 (A) Schizophrenia disorder.

9 (B) Delusional disorder.

10 (C) Schizo-affective disorder.

11 (D) Bipolar affective disorder.

12 (E) Atypical psychosis.

13 (F) Major depression, recurrent.

14 (2) The individual's mental illness must substantially  
15 impair his or her functioning in at least 2 of the  
16 following areas:

17 (A) Self-maintenance.

18 (B) Social functioning.

19 (C) Activities of community living.

20 (D) Work skills.

21 (3) Disability must be present or expected to be  
22 present for at least one year.

23 A determination of severe mental illness shall be based  
24 upon a comprehensive, documented assessment with an evaluation  
25 by a licensed clinical psychologist or psychiatrist, and shall  
26 not be based solely on behaviors relating to environmental,

1 cultural or economic differences.

2 (k) "Severe or profound mental retardation" means a  
3 manifestation of all of the following characteristics:

4 (1) A diagnosis which meets Classification in Mental  
5 Retardation or criteria in the current edition of the  
6 Diagnostic and Statistical Manual of Mental Disorders for  
7 severe or profound mental retardation (an IQ of 40 or  
8 below). This must be measured by a standardized instrument  
9 for general intellectual functioning.

10 (2) A severe or profound level of disturbed adaptive  
11 behavior. This must be measured by a standardized adaptive  
12 behavior scale or informal appraisal by the professional in  
13 keeping with illustrations in Classification in Mental  
14 Retardation, 1983.

15 (3) Disability diagnosed before age of 18.

16 A determination of severe or profound mental retardation  
17 shall be based upon a comprehensive, documented assessment with  
18 an evaluation by a licensed clinical psychologist or certified  
19 school psychologist or a psychiatrist, and shall not be based  
20 solely on behaviors relating to environmental, cultural or  
21 economic differences.

22 (l) "Severe and multiple impairments" means the  
23 manifestation of all of the following characteristics:

24 (1) The evaluation determines the presence of a  
25 developmental disability which is expected to continue  
26 indefinitely, constitutes a substantial handicap and is

1           attributable to any of the following:

2                   (A) Mental retardation, which is defined as  
3           general intellectual functioning that is 2 or more  
4           standard deviations below the mean concurrent with  
5           impairment of adaptive behavior which is 2 or more  
6           standard deviations below the mean. Assessment of the  
7           individual's intellectual functioning must be measured  
8           by a standardized instrument for general intellectual  
9           functioning.

10                   (B) Cerebral palsy.

11                   (C) Epilepsy.

12                   (D) Autism.

13                   (E) Any other condition which results in  
14           impairment similar to that caused by mental  
15           retardation and which requires services similar to  
16           those required by mentally retarded persons.

17           (2) The evaluation determines multiple handicaps in  
18           physical, sensory, behavioral or cognitive functioning  
19           which constitute a severe or profound impairment  
20           attributable to one or more of the following:

21                   (A) Physical functioning, which severely impairs  
22           the individual's motor performance that may be due to:

23                           (i) Neurological, psychological or physical  
24                           involvement resulting in a variety of disabling  
25                           conditions such as hemiplegia, quadriplegia or  
26                           ataxia,

1           (ii) Severe organ systems involvement such as  
2           congenital heart defect,

3           (iii) Physical abnormalities resulting in the  
4           individual being non-mobile and non-ambulatory or  
5           confined to bed and receiving assistance in  
6           transferring, or

7           (iv) The need for regular medical or nursing  
8           supervision such as gastrostomy care and feeding.

9           Assessment of physical functioning must be based  
10          on clinical medical assessment by a physician licensed  
11          to practice medicine in all its branches, using the  
12          appropriate instruments, techniques and standards of  
13          measurement required by the professional.

14          (B) Sensory, which involves severe restriction due  
15          to hearing or visual impairment limiting the  
16          individual's movement and creating dependence in  
17          completing most daily activities. Hearing impairment  
18          is defined as a loss of 70 decibels aided or speech  
19          discrimination of less than 50% aided. Visual  
20          impairment is defined as 20/200 corrected in the better  
21          eye or a visual field of 20 degrees or less. Sensory  
22          functioning must be based on clinical medical  
23          assessment by a physician licensed to practice  
24          medicine in all its branches using the appropriate  
25          instruments, techniques and standards of measurement  
26          required by the professional.

1 (C) Behavioral, which involves behavior that is  
2 maladaptive and presents a danger to self or others, is  
3 destructive to property by deliberately breaking,  
4 destroying or defacing objects, is disruptive by  
5 fighting, or has other socially offensive behaviors in  
6 sufficient frequency or severity to seriously limit  
7 social integration. Assessment of behavioral  
8 functioning may be measured by a standardized scale or  
9 informal appraisal by a clinical psychologist or  
10 psychiatrist.

11 (D) Cognitive, which involves intellectual  
12 functioning at a measured IQ of 70 or below. Assessment  
13 of cognitive functioning must be measured by a  
14 standardized instrument for general intelligence.

15 (3) The evaluation determines that development is  
16 substantially less than expected for the age in cognitive,  
17 affective or psychomotor behavior as follows:

18 (A) Cognitive, which involves intellectual  
19 functioning at a measured IQ of 70 or below. Assessment  
20 of cognitive functioning must be measured by a  
21 standardized instrument for general intelligence.

22 (B) Affective behavior, which involves over and  
23 under responding to stimuli in the environment and may  
24 be observed in mood, attention to awareness, or in  
25 behaviors such as euphoria, anger or sadness that  
26 seriously limit integration into society. Affective

1 behavior must be based on clinical assessment using the  
2 appropriate instruments, techniques and standards of  
3 measurement required by the professional.

4 (C) Psychomotor, which includes a severe  
5 developmental delay in fine or gross motor skills so  
6 that development in self-care, social interaction,  
7 communication or physical activity will be greatly  
8 delayed or restricted.

9 (4) A determination that the disability originated  
10 before the age of 18 years.

11 A determination of severe and multiple impairments shall be  
12 based upon a comprehensive, documented assessment with an  
13 evaluation by a licensed clinical psychologist or  
14 psychiatrist.

15 If the examiner is a licensed clinical psychologist,  
16 ancillary evaluation of physical impairment, cerebral palsy or  
17 epilepsy must be made by a physician licensed to practice  
18 medicine in all its branches.

19 Regardless of the discipline of the examiner, ancillary  
20 evaluation of visual impairment must be made by an  
21 ophthalmologist or a licensed optometrist.

22 Regardless of the discipline of the examiner, ancillary  
23 evaluation of hearing impairment must be made by an  
24 otolaryngologist or an audiologist with a certificate of  
25 clinical competency.

26 The only exception to the above is in the case of a person

1 with cerebral palsy or epilepsy who, according to the  
2 eligibility criteria listed below, has multiple impairments  
3 which are only physical and sensory. In such a case, a  
4 physician licensed to practice medicine in all its branches may  
5 serve as the examiner.

6 (m) "Twenty-four-hour-a-day supervision" means  
7 24-hour-a-day care by a trained mental health or developmental  
8 disability professional on an ongoing basis.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

11 Sec. 5-1. As the mental health and developmental  
12 disabilities or mental retardation authority for the State of  
13 Illinois, the Department of Human Services shall have the  
14 authority to license, certify and prescribe standards  
15 governing the programs and services provided under this Act, as  
16 well as all other agencies or programs which provide home-based  
17 or community-based services to the mentally disabled, except  
18 those services, programs or agencies established under or  
19 otherwise subject to the Child Care Act of 1969, the  
20 Specialized Mental Health Rehabilitation Act, or the MR/DD  
21 Community Care Act, as now or hereafter amended, and this Act  
22 shall not be construed to limit the application of those Acts.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 Section 90-190. The Facilities Requiring Smoke Detectors

1 Act is amended by changing Section 1 as follows:

2 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

3 Sec. 1. For purposes of this Act, unless the context  
4 requires otherwise:

5 (a) "Facility" means:

6 (1) Any long-term care facility as defined in Section  
7 1-113 of the Nursing Home Care Act or any facility as  
8 defined in Section 1-113 of the MR/DD Community Care Act or  
9 the Specialized Mental Health Rehabilitation Act, as  
10 amended;

11 (2) Any community residential alternative as defined  
12 in paragraph (4) of Section 3 of the Community Residential  
13 Alternatives Licensing Act, as amended; and

14 (3) Any child care facility as defined in Section 2.05  
15 of the Child Care Act of 1969, as amended.

16 (b) "Approved smoke detector" or "detector" means a smoke  
17 detector of the ionization or photoelectric type which complies  
18 with all the requirements of the rules and regulations of the  
19 Illinois State Fire Marshal.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 Section 90-195. The Criminal Code of 1961 is amended by  
22 changing Sections 12-19, 12-21, and 26-1 as follows:

23 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

1 (Section scheduled to be repealed on July 1, 2011)

2 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care  
3 Facility Resident.

4 (a) Any person or any owner or licensee of a long term care  
5 facility who abuses a long term care facility resident is  
6 guilty of a Class 3 felony. Any person or any owner or licensee  
7 of a long term care facility who criminally neglects a long  
8 term care facility resident is guilty of a Class 4 felony. A  
9 person whose criminal neglect of a long term care facility  
10 resident results in the resident's death is guilty of a Class 3  
11 felony. However, nothing herein shall be deemed to apply to a  
12 physician licensed to practice medicine in all its branches or  
13 a duly licensed nurse providing care within the scope of his or  
14 her professional judgment and within the accepted standards of  
15 care within the community.

16 (b) Notwithstanding the penalties in subsections (a) and  
17 (c) and in addition thereto, if a licensee or owner of a long  
18 term care facility or his or her employee has caused neglect of  
19 a resident, the licensee or owner is guilty of a petty offense.  
20 An owner or licensee is guilty under this subsection (b) only  
21 if the owner or licensee failed to exercise reasonable care in  
22 the hiring, training, supervising or providing of staff or  
23 other related routine administrative responsibilities.

24 (c) Notwithstanding the penalties in subsections (a) and  
25 (b) and in addition thereto, if a licensee or owner of a long  
26 term care facility or his or her employee has caused gross

1 neglect of a resident, the licensee or owner is guilty of a  
2 business offense for which a fine of not more than \$10,000 may  
3 be imposed. An owner or licensee is guilty under this  
4 subsection (c) only if the owner or licensee failed to exercise  
5 reasonable care in the hiring, training, supervising or  
6 providing of staff or other related routine administrative  
7 responsibilities.

8 (d) For the purpose of this Section:

9 (1) "Abuse" means intentionally or knowingly causing  
10 any physical or mental injury or committing any sexual  
11 offense set forth in this Code.

12 (2) "Criminal neglect" means an act whereby a person  
13 recklessly (i) performs acts that cause an elderly person's  
14 or person with a disability's life to be endangered, health  
15 to be injured, or pre-existing physical or mental condition  
16 to deteriorate or that create the substantial likelihood  
17 that an elderly person's or person with a disability's life  
18 will be endangered, health will be injured, or pre-existing  
19 physical or mental condition will deteriorate, or (ii)  
20 fails to perform acts that he or she knows or reasonably  
21 should know are necessary to maintain or preserve the life  
22 or health of an elderly person or person with a disability,  
23 and that failure causes the elderly person's or person with  
24 a disability's life to be endangered, health to be injured,  
25 or pre-existing physical or mental condition to  
26 deteriorate or that create the substantial likelihood that

1 an elderly person's or person with a disability's life will  
2 be endangered, health will be injured, or pre-existing  
3 physical or mental condition will deteriorate, or (iii)  
4 abandons an elderly person or person with a disability.

5 (3) "Neglect" means negligently failing to provide  
6 adequate medical or personal care or maintenance, which  
7 failure results in physical or mental injury or the  
8 deterioration of a physical or mental condition.

9 (4) "Resident" means a person residing in a long term  
10 care facility.

11 (5) "Owner" means the person who owns a long term care  
12 facility as provided under the Nursing Home Care Act, a  
13 facility as provided under the Specialized Mental Health  
14 Rehabilitation Act, a facility as provided under the MR/DD  
15 Community Care Act, or an assisted living or shared housing  
16 establishment under the Assisted Living and Shared Housing  
17 Act.

18 (6) "Licensee" means the individual or entity licensed  
19 to operate a facility under the Nursing Home Care Act, the  
20 Specialized Mental Health Rehabilitation Act, the MR/DD  
21 Community Care Act, or the Assisted Living and Shared  
22 Housing Act.

23 (7) "Facility" or "long term care facility" means a  
24 private home, institution, building, residence, or any  
25 other place, whether operated for profit or not, or a  
26 county home for the infirm and chronically ill operated

1           pursuant to Division 5-21 or 5-22 of the Counties Code, or  
2           any similar institution operated by the State of Illinois  
3           or a political subdivision thereof, which provides,  
4           through its ownership or management, personal care,  
5           sheltered care or nursing for 3 or more persons not related  
6           to the owner by blood or marriage. The term also includes  
7           skilled nursing facilities and intermediate care  
8           facilities as defined in Title XVIII and Title XIX of the  
9           federal Social Security Act and assisted living  
10          establishments and shared housing establishments licensed  
11          under the Assisted Living and Shared Housing Act.

12          (e) Nothing contained in this Section shall be deemed to  
13          apply to the medical supervision, regulation or control of the  
14          remedial care or treatment of residents in a facility conducted  
15          for those who rely upon treatment by prayer or spiritual means  
16          in accordance with the creed or tenets of any well recognized  
17          church or religious denomination and which is licensed in  
18          accordance with Section 3-803 of the Nursing Home Care Act,  
19          Section 3-803 of the Specialized Mental Health Rehabilitation  
20          Act, or Section 3-803 of the MR/DD Community Care Act.

21          (Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.  
22          Repealed by P.A. 96-1551, eff. 7-1-11.)

23                 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

24                 Sec. 12-21. Criminal abuse or neglect of an elderly person  
25                 or person with a disability.

1 (a) A person commits the offense of criminal abuse or  
2 neglect of an elderly person or person with a disability when  
3 he or she is a caregiver and he or she knowingly:

4 (1) performs acts that cause the elderly person or  
5 person with a disability's life to be endangered, health to  
6 be injured, or pre-existing physical or mental condition to  
7 deteriorate; or

8 (2) fails to perform acts that he or she knows or  
9 reasonably should know are necessary to maintain or  
10 preserve the life or health of the elderly person or person  
11 with a disability and such failure causes the elderly  
12 person or person with a disability's life to be endangered,  
13 health to be injured or pre-existing physical or mental  
14 condition to deteriorate; or

15 (3) abandons the elderly person or person with a  
16 disability; or

17 (4) physically abuses, harasses, intimidates, or  
18 interferes with the personal liberty of the elderly person  
19 or person with a disability or exposes the elderly person  
20 or person with a disability to willful deprivation.

21 Criminal abuse or neglect of an elderly person or person  
22 with a disability is a Class 3 felony. Criminal neglect of an  
23 elderly person or person with a disability is a Class 2 felony  
24 if the criminal neglect results in the death of the person  
25 neglected for which the defendant, if sentenced to a term of  
26 imprisonment, shall be sentenced to a term of not less than 3

1 years and not more than 14 years.

2 (b) For purposes of this Section:

3 (1) "Elderly person" means a person 60 years of age or  
4 older who is incapable of adequately providing for his own  
5 health and personal care.

6 (2) "Person with a disability" means a person who  
7 suffers from a permanent physical or mental impairment,  
8 resulting from disease, injury, functional disorder or  
9 congenital condition which renders such person incapable  
10 of adequately providing for his own health and personal  
11 care.

12 (3) "Caregiver" means a person who has a duty to  
13 provide for an elderly person or person with a disability's  
14 health and personal care, at such person's place of  
15 residence, including but not limited to, food and  
16 nutrition, shelter, hygiene, prescribed medication and  
17 medical care and treatment.

18 "Caregiver" shall include:

19 (A) a parent, spouse, adult child or other relative  
20 by blood or marriage who resides with or resides in the  
21 same building with or regularly visits the elderly  
22 person or person with a disability, knows or reasonably  
23 should know of such person's physical or mental  
24 impairment and knows or reasonably should know that  
25 such person is unable to adequately provide for his own  
26 health and personal care;

1 (B) a person who is employed by the elderly person  
2 or person with a disability or by another to reside  
3 with or regularly visit the elderly person or person  
4 with a disability and provide for such person's health  
5 and personal care;

6 (C) a person who has agreed for consideration to  
7 reside with or regularly visit the elderly person or  
8 person with a disability and provide for such person's  
9 health and personal care; and

10 (D) a person who has been appointed by a private or  
11 public agency or by a court of competent jurisdiction  
12 to provide for the elderly person or person with a  
13 disability's health and personal care.

14 "Caregiver" shall not include a long-term care  
15 facility licensed or certified under the Nursing Home Care  
16 Act or a facility licensed or certified under the MR/DD  
17 Community Care Act or the Specialized Mental Health  
18 Rehabilitation Act, or any administrative, medical or  
19 other personnel of such a facility, or a health care  
20 provider who is licensed under the Medical Practice Act of  
21 1987 and renders care in the ordinary course of his  
22 profession.

23 (4) "Abandon" means to desert or knowingly forsake an  
24 elderly person or person with a disability under  
25 circumstances in which a reasonable person would continue  
26 to provide care and custody.

1           (5) "Willful deprivation" has the meaning ascribed to  
2           it in paragraph (15) of Section 103 of the Illinois  
3           Domestic Violence Act of 1986.

4           (c) Nothing in this Section shall be construed to limit the  
5           remedies available to the victim under the Illinois Domestic  
6           Violence Act.

7           (d) Nothing in this Section shall be construed to impose  
8           criminal liability on a person who has made a good faith effort  
9           to provide for the health and personal care of an elderly  
10          person or person with a disability, but through no fault of his  
11          own has been unable to provide such care.

12          (e) Nothing in this Section shall be construed as  
13          prohibiting a person from providing treatment by spiritual  
14          means through prayer alone and care consistent therewith in  
15          lieu of medical care and treatment in accordance with the  
16          tenets and practices of any church or religious denomination of  
17          which the elderly person or person with a disability is a  
18          member.

19          (f) It is not a defense to criminal abuse or neglect of an  
20          elderly person or person with a disability that the accused  
21          reasonably believed that the victim was not an elderly person  
22          or person with a disability.

23          (Source: P.A. 96-339, eff. 7-1-10.)

24                 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

25                 Sec. 26-1. Elements of the Offense.

1 (a) A person commits disorderly conduct when he knowingly:

2 (1) Does any act in such unreasonable manner as to  
3 alarm or disturb another and to provoke a breach of the  
4 peace; or

5 (2) Transmits or causes to be transmitted in any manner  
6 to the fire department of any city, town, village or fire  
7 protection district a false alarm of fire, knowing at the  
8 time of such transmission that there is no reasonable  
9 ground for believing that such fire exists; or

10 (3) Transmits or causes to be transmitted in any manner  
11 to another a false alarm to the effect that a bomb or other  
12 explosive of any nature or a container holding poison gas,  
13 a deadly biological or chemical contaminant, or  
14 radioactive substance is concealed in such place that its  
15 explosion or release would endanger human life, knowing at  
16 the time of such transmission that there is no reasonable  
17 ground for believing that such bomb, explosive or a  
18 container holding poison gas, a deadly biological or  
19 chemical contaminant, or radioactive substance is  
20 concealed in such place; or

21 (4) Transmits or causes to be transmitted in any manner  
22 to any peace officer, public officer or public employee a  
23 report to the effect that an offense will be committed, is  
24 being committed, or has been committed, knowing at the time  
25 of such transmission that there is no reasonable ground for  
26 believing that such an offense will be committed, is being

1 committed, or has been committed; or

2 (5) Enters upon the property of another and for a lewd  
3 or unlawful purpose deliberately looks into a dwelling on  
4 the property through any window or other opening in it; or

5 (6) While acting as a collection agency as defined in  
6 the "Collection Agency Act" or as an employee of such  
7 collection agency, and while attempting to collect an  
8 alleged debt, makes a telephone call to the alleged debtor  
9 which is designed to harass, annoy or intimidate the  
10 alleged debtor; or

11 (7) Transmits or causes to be transmitted a false  
12 report to the Department of Children and Family Services  
13 under Section 4 of the "Abused and Neglected Child  
14 Reporting Act"; or

15 (8) Transmits or causes to be transmitted a false  
16 report to the Department of Public Health under the Nursing  
17 Home Care Act, the Specialized Mental Health  
18 Rehabilitation Act, or the MR/DD Community Care Act; or

19 (9) Transmits or causes to be transmitted in any manner  
20 to the police department or fire department of any  
21 municipality or fire protection district, or any privately  
22 owned and operated ambulance service, a false request for  
23 an ambulance, emergency medical technician-ambulance or  
24 emergency medical technician-paramedic knowing at the time  
25 there is no reasonable ground for believing that such  
26 assistance is required; or

1           (10) Transmits or causes to be transmitted a false  
2           report under Article II of "An Act in relation to victims  
3           of violence and abuse", approved September 16, 1984, as  
4           amended; or

5           (11) Transmits or causes to be transmitted a false  
6           report to any public safety agency without the reasonable  
7           grounds necessary to believe that transmitting such a  
8           report is necessary for the safety and welfare of the  
9           public; or

10          (12) Calls the number "911" for the purpose of making  
11          or transmitting a false alarm or complaint and reporting  
12          information when, at the time the call or transmission is  
13          made, the person knows there is no reasonable ground for  
14          making the call or transmission and further knows that the  
15          call or transmission could result in the emergency response  
16          of any public safety agency; or

17          (13) Transmits or causes to be transmitted a threat of  
18          destruction of a school building or school property, or a  
19          threat of violence, death, or bodily harm directed against  
20          persons at a school, school function, or school event,  
21          whether or not school is in session.

22          (b) Sentence. A violation of subsection (a)(1) of this  
23          Section is a Class C misdemeanor. A violation of subsection  
24          (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A  
25          violation of subsection (a)(8) or (a)(10) of this Section is a  
26          Class B misdemeanor. A violation of subsection (a)(2), (a)(4),

1 (a) (7), (a) (9), (a) (12), or (a) (13) of this Section is a Class  
2 4 felony. A violation of subsection (a) (3) of this Section is a  
3 Class 3 felony, for which a fine of not less than \$3,000 and no  
4 more than \$10,000 shall be assessed in addition to any other  
5 penalty imposed.

6 A violation of subsection (a) (6) of this Section is a  
7 Business Offense and shall be punished by a fine not to exceed  
8 \$3,000. A second or subsequent violation of subsection (a) (7)  
9 or (a) (11) of this Section is a Class 4 felony. A third or  
10 subsequent violation of subsection (a) (5) of this Section is a  
11 Class 4 felony.

12 (c) In addition to any other sentence that may be imposed,  
13 a court shall order any person convicted of disorderly conduct  
14 to perform community service for not less than 30 and not more  
15 than 120 hours, if community service is available in the  
16 jurisdiction and is funded and approved by the county board of  
17 the county where the offense was committed. In addition,  
18 whenever any person is placed on supervision for an alleged  
19 offense under this Section, the supervision shall be  
20 conditioned upon the performance of the community service.

21 This subsection does not apply when the court imposes a  
22 sentence of incarceration.

23 (d) In addition to any other sentence that may be imposed,  
24 the court shall order any person convicted of disorderly  
25 conduct under paragraph (3) of subsection (a) involving a false  
26 alarm of a threat that a bomb or explosive device has been

1 placed in a school to reimburse the unit of government that  
2 employs the emergency response officer or officers that were  
3 dispatched to the school for the cost of the search for a bomb  
4 or explosive device. For the purposes of this Section,  
5 "emergency response" means any incident requiring a response by  
6 a police officer, a firefighter, a State Fire Marshal employee,  
7 or an ambulance.

8 (Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09;  
9 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff.  
10 1-1-11.)

11 Section 90-200. The Unified Code of Corrections is amended  
12 by changing Section 5-5-3.2 as follows:

13 (730 ILCS 5/5-5-3.2)

14 (Text of Section before amendment by P.A. 96-1551)

15 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
16 Sentencing.

17 (a) The following factors shall be accorded weight in favor  
18 of imposing a term of imprisonment or may be considered by the  
19 court as reasons to impose a more severe sentence under Section  
20 5-8-1 or Article 4.5 of Chapter V:

21 (1) the defendant's conduct caused or threatened  
22 serious harm;

23 (2) the defendant received compensation for committing  
24 the offense;

1           (3) the defendant has a history of prior delinquency or  
2 criminal activity;

3           (4) the defendant, by the duties of his office or by  
4 his position, was obliged to prevent the particular offense  
5 committed or to bring the offenders committing it to  
6 justice;

7           (5) the defendant held public office at the time of the  
8 offense, and the offense related to the conduct of that  
9 office;

10          (6) the defendant utilized his professional reputation  
11 or position in the community to commit the offense, or to  
12 afford him an easier means of committing it;

13          (7) the sentence is necessary to deter others from  
14 committing the same crime;

15          (8) the defendant committed the offense against a  
16 person 60 years of age or older or such person's property;

17          (9) the defendant committed the offense against a  
18 person who is physically handicapped or such person's  
19 property;

20          (10) by reason of another individual's actual or  
21 perceived race, color, creed, religion, ancestry, gender,  
22 sexual orientation, physical or mental disability, or  
23 national origin, the defendant committed the offense  
24 against (i) the person or property of that individual; (ii)  
25 the person or property of a person who has an association  
26 with, is married to, or has a friendship with the other

1 individual; or (iii) the person or property of a relative  
2 (by blood or marriage) of a person described in clause (i)  
3 or (ii). For the purposes of this Section, "sexual  
4 orientation" means heterosexuality, homosexuality, or  
5 bisexuality;

6 (11) the offense took place in a place of worship or on  
7 the grounds of a place of worship, immediately prior to,  
8 during or immediately following worship services. For  
9 purposes of this subparagraph, "place of worship" shall  
10 mean any church, synagogue or other building, structure or  
11 place used primarily for religious worship;

12 (12) the defendant was convicted of a felony committed  
13 while he was released on bail or his own recognizance  
14 pending trial for a prior felony and was convicted of such  
15 prior felony, or the defendant was convicted of a felony  
16 committed while he was serving a period of probation,  
17 conditional discharge, or mandatory supervised release  
18 under subsection (d) of Section 5-8-1 for a prior felony;

19 (13) the defendant committed or attempted to commit a  
20 felony while he was wearing a bulletproof vest. For the  
21 purposes of this paragraph (13), a bulletproof vest is any  
22 device which is designed for the purpose of protecting the  
23 wearer from bullets, shot or other lethal projectiles;

24 (14) the defendant held a position of trust or  
25 supervision such as, but not limited to, family member as  
26 defined in Section 12-12 of the Criminal Code of 1961,

1 teacher, scout leader, baby sitter, or day care worker, in  
2 relation to a victim under 18 years of age, and the  
3 defendant committed an offense in violation of Section  
4 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
5 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
6 against that victim;

7 (15) the defendant committed an offense related to the  
8 activities of an organized gang. For the purposes of this  
9 factor, "organized gang" has the meaning ascribed to it in  
10 Section 10 of the Streetgang Terrorism Omnibus Prevention  
11 Act;

12 (16) the defendant committed an offense in violation of  
13 one of the following Sections while in a school, regardless  
14 of the time of day or time of year; on any conveyance  
15 owned, leased, or contracted by a school to transport  
16 students to or from school or a school related activity; on  
17 the real property of a school; or on a public way within  
18 1,000 feet of the real property comprising any school:  
19 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
20 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
21 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
22 33A-2 of the Criminal Code of 1961;

23 (16.5) the defendant committed an offense in violation  
24 of one of the following Sections while in a day care  
25 center, regardless of the time of day or time of year; on  
26 the real property of a day care center, regardless of the

1 time of day or time of year; or on a public way within  
2 1,000 feet of the real property comprising any day care  
3 center, regardless of the time of day or time of year:  
4 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
5 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
6 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
7 33A-2 of the Criminal Code of 1961;

8 (17) the defendant committed the offense by reason of  
9 any person's activity as a community policing volunteer or  
10 to prevent any person from engaging in activity as a  
11 community policing volunteer. For the purpose of this  
12 Section, "community policing volunteer" has the meaning  
13 ascribed to it in Section 2-3.5 of the Criminal Code of  
14 1961;

15 (18) the defendant committed the offense in a nursing  
16 home or on the real property comprising a nursing home. For  
17 the purposes of this paragraph (18), "nursing home" means a  
18 skilled nursing or intermediate long term care facility  
19 that is subject to license by the Illinois Department of  
20 Public Health under the Nursing Home Care Act, the  
21 Specialized Mental Health Rehabilitation Act, or the MR/DD  
22 Community Care Act;

23 (19) the defendant was a federally licensed firearm  
24 dealer and was previously convicted of a violation of  
25 subsection (a) of Section 3 of the Firearm Owners  
26 Identification Card Act and has now committed either a

1 felony violation of the Firearm Owners Identification Card  
2 Act or an act of armed violence while armed with a firearm;

3 (20) the defendant (i) committed the offense of  
4 reckless homicide under Section 9-3 of the Criminal Code of  
5 1961 or the offense of driving under the influence of  
6 alcohol, other drug or drugs, intoxicating compound or  
7 compounds or any combination thereof under Section 11-501  
8 of the Illinois Vehicle Code or a similar provision of a  
9 local ordinance and (ii) was operating a motor vehicle in  
10 excess of 20 miles per hour over the posted speed limit as  
11 provided in Article VI of Chapter 11 of the Illinois  
12 Vehicle Code;

13 (21) the defendant (i) committed the offense of  
14 reckless driving or aggravated reckless driving under  
15 Section 11-503 of the Illinois Vehicle Code and (ii) was  
16 operating a motor vehicle in excess of 20 miles per hour  
17 over the posted speed limit as provided in Article VI of  
18 Chapter 11 of the Illinois Vehicle Code;

19 (22) the defendant committed the offense against a  
20 person that the defendant knew, or reasonably should have  
21 known, was a member of the Armed Forces of the United  
22 States serving on active duty. For purposes of this clause  
23 (22), the term "Armed Forces" means any of the Armed Forces  
24 of the United States, including a member of any reserve  
25 component thereof or National Guard unit called to active  
26 duty;

1           (23) the defendant committed the offense against a  
2 person who was elderly, disabled, or infirm by taking  
3 advantage of a family or fiduciary relationship with the  
4 elderly, disabled, or infirm person;

5           (24) the defendant committed any offense under Section  
6 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
7 more images;

8           (25) the defendant committed the offense while the  
9 defendant or the victim was in a train, bus, or other  
10 vehicle used for public transportation; ~~or~~

11           (26) the defendant committed the offense of child  
12 pornography or aggravated child pornography, specifically  
13 including paragraph (1), (2), (3), (4), (5), or (7) of  
14 subsection (a) of Section 11-20.1 of the Criminal Code of  
15 1961 where a child engaged in, solicited for, depicted in,  
16 or posed in any act of sexual penetration or bound,  
17 fettered, or subject to sadistic, masochistic, or  
18 sadomasochistic abuse in a sexual context and specifically  
19 including paragraph (1), (2), (3), (4), (5), or (7) of  
20 subsection (a) of Section 11-20.3 of the Criminal Code of  
21 1961 where a child engaged in, solicited for, depicted in,  
22 or posed in any act of sexual penetration or bound,  
23 fettered, or subject to sadistic, masochistic, or  
24 sadomasochistic abuse in a sexual context; or

25           (27) the defendant committed the offense of first  
26 degree murder, assault, aggravated assault, battery,

1 aggravated battery, robbery, armed robbery, or aggravated  
2 robbery against a person who was a veteran and the  
3 defendant knew, or reasonably should have known, that the  
4 person was a veteran performing duties as a representative  
5 of a veterans' organization. For the purposes of this  
6 paragraph (27), "veteran" means an Illinois resident who  
7 has served as a member of the United States Armed Forces, a  
8 member of the Illinois National Guard, or a member of the  
9 United States Reserve Forces; and "veterans' organization"  
10 means an organization comprised of members of which  
11 substantially all are individuals who are veterans or  
12 spouses, widows, or widowers of veterans, the primary  
13 purpose of which is to promote the welfare of its members  
14 and to provide assistance to the general public in such a  
15 way as to confer a public benefit.

16 For the purposes of this Section:

17 "School" is defined as a public or private elementary or  
18 secondary school, community college, college, or university.

19 "Day care center" means a public or private State certified  
20 and licensed day care center as defined in Section 2.09 of the  
21 Child Care Act of 1969 that displays a sign in plain view  
22 stating that the property is a day care center.

23 "Public transportation" means the transportation or  
24 conveyance of persons by means available to the general public,  
25 and includes paratransit services.

26 (b) The following factors, related to all felonies, may be

1 considered by the court as reasons to impose an extended term  
2 sentence under Section 5-8-2 upon any offender:

3 (1) When a defendant is convicted of any felony, after  
4 having been previously convicted in Illinois or any other  
5 jurisdiction of the same or similar class felony or greater  
6 class felony, when such conviction has occurred within 10  
7 years after the previous conviction, excluding time spent  
8 in custody, and such charges are separately brought and  
9 tried and arise out of different series of acts; or

10 (2) When a defendant is convicted of any felony and the  
11 court finds that the offense was accompanied by  
12 exceptionally brutal or heinous behavior indicative of  
13 wanton cruelty; or

14 (3) When a defendant is convicted of any felony  
15 committed against:

16 (i) a person under 12 years of age at the time of  
17 the offense or such person's property;

18 (ii) a person 60 years of age or older at the time  
19 of the offense or such person's property; or

20 (iii) a person physically handicapped at the time  
21 of the offense or such person's property; or

22 (4) When a defendant is convicted of any felony and the  
23 offense involved any of the following types of specific  
24 misconduct committed as part of a ceremony, rite,  
25 initiation, observance, performance, practice or activity  
26 of any actual or ostensible religious, fraternal, or social

1 group:

2 (i) the brutalizing or torturing of humans or  
3 animals;

4 (ii) the theft of human corpses;

5 (iii) the kidnapping of humans;

6 (iv) the desecration of any cemetery, religious,  
7 fraternal, business, governmental, educational, or  
8 other building or property; or

9 (v) ritualized abuse of a child; or

10 (5) When a defendant is convicted of a felony other  
11 than conspiracy and the court finds that the felony was  
12 committed under an agreement with 2 or more other persons  
13 to commit that offense and the defendant, with respect to  
14 the other individuals, occupied a position of organizer,  
15 supervisor, financier, or any other position of management  
16 or leadership, and the court further finds that the felony  
17 committed was related to or in furtherance of the criminal  
18 activities of an organized gang or was motivated by the  
19 defendant's leadership in an organized gang; or

20 (6) When a defendant is convicted of an offense  
21 committed while using a firearm with a laser sight attached  
22 to it. For purposes of this paragraph, "laser sight" has  
23 the meaning ascribed to it in Section 24.6-5 of the  
24 Criminal Code of 1961; or

25 (7) When a defendant who was at least 17 years of age  
26 at the time of the commission of the offense is convicted

1 of a felony and has been previously adjudicated a  
2 delinquent minor under the Juvenile Court Act of 1987 for  
3 an act that if committed by an adult would be a Class X or  
4 Class 1 felony when the conviction has occurred within 10  
5 years after the previous adjudication, excluding time  
6 spent in custody; or

7 (8) When a defendant commits any felony and the  
8 defendant used, possessed, exercised control over, or  
9 otherwise directed an animal to assault a law enforcement  
10 officer engaged in the execution of his or her official  
11 duties or in furtherance of the criminal activities of an  
12 organized gang in which the defendant is engaged.

13 (c) The following factors may be considered by the court as  
14 reasons to impose an extended term sentence under Section 5-8-2  
15 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

16 (1) When a defendant is convicted of first degree  
17 murder, after having been previously convicted in Illinois  
18 of any offense listed under paragraph (c)(2) of Section  
19 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
20 within 10 years after the previous conviction, excluding  
21 time spent in custody, and the charges are separately  
22 brought and tried and arise out of different series of  
23 acts.

24 (1.5) When a defendant is convicted of first degree  
25 murder, after having been previously convicted of domestic  
26 battery (720 ILCS 5/12-3.2) or aggravated domestic battery

1 (720 ILCS 5/12-3.3) committed on the same victim or after  
2 having been previously convicted of violation of an order  
3 of protection (720 ILCS 5/12-30) in which the same victim  
4 was the protected person.

5 (2) When a defendant is convicted of voluntary  
6 manslaughter, second degree murder, involuntary  
7 manslaughter, or reckless homicide in which the defendant  
8 has been convicted of causing the death of more than one  
9 individual.

10 (3) When a defendant is convicted of aggravated  
11 criminal sexual assault or criminal sexual assault, when  
12 there is a finding that aggravated criminal sexual assault  
13 or criminal sexual assault was also committed on the same  
14 victim by one or more other individuals, and the defendant  
15 voluntarily participated in the crime with the knowledge of  
16 the participation of the others in the crime, and the  
17 commission of the crime was part of a single course of  
18 conduct during which there was no substantial change in the  
19 nature of the criminal objective.

20 (4) If the victim was under 18 years of age at the time  
21 of the commission of the offense, when a defendant is  
22 convicted of aggravated criminal sexual assault or  
23 predatory criminal sexual assault of a child under  
24 subsection (a)(1) of Section 12-14.1 of the Criminal Code  
25 of 1961 (720 ILCS 5/12-14.1).

26 (5) When a defendant is convicted of a felony violation

1 of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
2 5/24-1) and there is a finding that the defendant is a  
3 member of an organized gang.

4 (6) When a defendant was convicted of unlawful use of  
5 weapons under Section 24-1 of the Criminal Code of 1961  
6 (720 ILCS 5/24-1) for possessing a weapon that is not  
7 readily distinguishable as one of the weapons enumerated in  
8 Section 24-1 of the Criminal Code of 1961 (720 ILCS  
9 5/24-1).

10 (7) When a defendant is convicted of an offense  
11 involving the illegal manufacture of a controlled  
12 substance under Section 401 of the Illinois Controlled  
13 Substances Act (720 ILCS 570/401), the illegal manufacture  
14 of methamphetamine under Section 25 of the Methamphetamine  
15 Control and Community Protection Act (720 ILCS 646/25), or  
16 the illegal possession of explosives and an emergency  
17 response officer in the performance of his or her duties is  
18 killed or injured at the scene of the offense while  
19 responding to the emergency caused by the commission of the  
20 offense. In this paragraph, "emergency" means a situation  
21 in which a person's life, health, or safety is in jeopardy;  
22 and "emergency response officer" means a peace officer,  
23 community policing volunteer, fireman, emergency medical  
24 technician-ambulance, emergency medical  
25 technician-intermediate, emergency medical  
26 technician-paramedic, ambulance driver, other medical

1 assistance or first aid personnel, or hospital emergency  
2 room personnel.

3 (d) For the purposes of this Section, "organized gang" has  
4 the meaning ascribed to it in Section 10 of the Illinois  
5 Streetgang Terrorism Omnibus Prevention Act.

6 (e) The court may impose an extended term sentence under  
7 Article 4.5 of Chapter V upon an offender who has been  
8 convicted of a felony violation of Section 12-13, 12-14,  
9 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the  
10 victim of the offense is under 18 years of age at the time of  
11 the commission of the offense and, during the commission of the  
12 offense, the victim was under the influence of alcohol,  
13 regardless of whether or not the alcohol was supplied by the  
14 offender; and the offender, at the time of the commission of  
15 the offense, knew or should have known that the victim had  
16 consumed alcohol.

17 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,  
18 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;  
19 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;  
20 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.  
21 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,  
22 eff. 1-1-11; revised 9-16-10.)

23 (Text of Section after amendment by P.A. 96-1551)

24 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
25 Sentencing.

1 (a) The following factors shall be accorded weight in favor  
2 of imposing a term of imprisonment or may be considered by the  
3 court as reasons to impose a more severe sentence under Section  
4 5-8-1 or Article 4.5 of Chapter V:

5 (1) the defendant's conduct caused or threatened  
6 serious harm;

7 (2) the defendant received compensation for committing  
8 the offense;

9 (3) the defendant has a history of prior delinquency or  
10 criminal activity;

11 (4) the defendant, by the duties of his office or by  
12 his position, was obliged to prevent the particular offense  
13 committed or to bring the offenders committing it to  
14 justice;

15 (5) the defendant held public office at the time of the  
16 offense, and the offense related to the conduct of that  
17 office;

18 (6) the defendant utilized his professional reputation  
19 or position in the community to commit the offense, or to  
20 afford him an easier means of committing it;

21 (7) the sentence is necessary to deter others from  
22 committing the same crime;

23 (8) the defendant committed the offense against a  
24 person 60 years of age or older or such person's property;

25 (9) the defendant committed the offense against a  
26 person who is physically handicapped or such person's

1 property;

2 (10) by reason of another individual's actual or  
3 perceived race, color, creed, religion, ancestry, gender,  
4 sexual orientation, physical or mental disability, or  
5 national origin, the defendant committed the offense  
6 against (i) the person or property of that individual; (ii)  
7 the person or property of a person who has an association  
8 with, is married to, or has a friendship with the other  
9 individual; or (iii) the person or property of a relative  
10 (by blood or marriage) of a person described in clause (i)  
11 or (ii). For the purposes of this Section, "sexual  
12 orientation" means heterosexuality, homosexuality, or  
13 bisexuality;

14 (11) the offense took place in a place of worship or on  
15 the grounds of a place of worship, immediately prior to,  
16 during or immediately following worship services. For  
17 purposes of this subparagraph, "place of worship" shall  
18 mean any church, synagogue or other building, structure or  
19 place used primarily for religious worship;

20 (12) the defendant was convicted of a felony committed  
21 while he was released on bail or his own recognizance  
22 pending trial for a prior felony and was convicted of such  
23 prior felony, or the defendant was convicted of a felony  
24 committed while he was serving a period of probation,  
25 conditional discharge, or mandatory supervised release  
26 under subsection (d) of Section 5-8-1 for a prior felony;

1           (13) the defendant committed or attempted to commit a  
2 felony while he was wearing a bulletproof vest. For the  
3 purposes of this paragraph (13), a bulletproof vest is any  
4 device which is designed for the purpose of protecting the  
5 wearer from bullets, shot or other lethal projectiles;

6           (14) the defendant held a position of trust or  
7 supervision such as, but not limited to, family member as  
8 defined in Section 11-0.1 of the Criminal Code of 1961,  
9 teacher, scout leader, baby sitter, or day care worker, in  
10 relation to a victim under 18 years of age, and the  
11 defendant committed an offense in violation of Section  
12 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,  
13 11-14.4 except for an offense that involves keeping a place  
14 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,  
15 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15  
16 or 12-16 of the Criminal Code of 1961 against that victim;

17           (15) the defendant committed an offense related to the  
18 activities of an organized gang. For the purposes of this  
19 factor, "organized gang" has the meaning ascribed to it in  
20 Section 10 of the Streetgang Terrorism Omnibus Prevention  
21 Act;

22           (16) the defendant committed an offense in violation of  
23 one of the following Sections while in a school, regardless  
24 of the time of day or time of year; on any conveyance  
25 owned, leased, or contracted by a school to transport  
26 students to or from school or a school related activity; on

1 the real property of a school; or on a public way within  
2 1,000 feet of the real property comprising any school:  
3 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
4 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
5 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
6 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
7 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
8 (a) (4) or (g) (1), of the Criminal Code of 1961;

9 (16.5) the defendant committed an offense in violation  
10 of one of the following Sections while in a day care  
11 center, regardless of the time of day or time of year; on  
12 the real property of a day care center, regardless of the  
13 time of day or time of year; or on a public way within  
14 1,000 feet of the real property comprising any day care  
15 center, regardless of the time of day or time of year:  
16 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
17 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
18 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
19 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
20 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
21 (a) (4) or (g) (1), of the Criminal Code of 1961;

22 (17) the defendant committed the offense by reason of  
23 any person's activity as a community policing volunteer or  
24 to prevent any person from engaging in activity as a  
25 community policing volunteer. For the purpose of this  
26 Section, "community policing volunteer" has the meaning

1 ascribed to it in Section 2-3.5 of the Criminal Code of  
2 1961;

3 (18) the defendant committed the offense in a nursing  
4 home or on the real property comprising a nursing home. For  
5 the purposes of this paragraph (18), "nursing home" means a  
6 skilled nursing or intermediate long term care facility  
7 that is subject to license by the Illinois Department of  
8 Public Health under the Nursing Home Care Act, the  
9 Specialized Mental Health Rehabilitation Act, or the MR/DD  
10 Community Care Act;

11 (19) the defendant was a federally licensed firearm  
12 dealer and was previously convicted of a violation of  
13 subsection (a) of Section 3 of the Firearm Owners  
14 Identification Card Act and has now committed either a  
15 felony violation of the Firearm Owners Identification Card  
16 Act or an act of armed violence while armed with a firearm;

17 (20) the defendant (i) committed the offense of  
18 reckless homicide under Section 9-3 of the Criminal Code of  
19 1961 or the offense of driving under the influence of  
20 alcohol, other drug or drugs, intoxicating compound or  
21 compounds or any combination thereof under Section 11-501  
22 of the Illinois Vehicle Code or a similar provision of a  
23 local ordinance and (ii) was operating a motor vehicle in  
24 excess of 20 miles per hour over the posted speed limit as  
25 provided in Article VI of Chapter 11 of the Illinois  
26 Vehicle Code;

1           (21) the defendant (i) committed the offense of  
2 reckless driving or aggravated reckless driving under  
3 Section 11-503 of the Illinois Vehicle Code and (ii) was  
4 operating a motor vehicle in excess of 20 miles per hour  
5 over the posted speed limit as provided in Article VI of  
6 Chapter 11 of the Illinois Vehicle Code;

7           (22) the defendant committed the offense against a  
8 person that the defendant knew, or reasonably should have  
9 known, was a member of the Armed Forces of the United  
10 States serving on active duty. For purposes of this clause  
11 (22), the term "Armed Forces" means any of the Armed Forces  
12 of the United States, including a member of any reserve  
13 component thereof or National Guard unit called to active  
14 duty;

15           (23) the defendant committed the offense against a  
16 person who was elderly, disabled, or infirm by taking  
17 advantage of a family or fiduciary relationship with the  
18 elderly, disabled, or infirm person;

19           (24) the defendant committed any offense under Section  
20 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
21 more images;

22           (25) the defendant committed the offense while the  
23 defendant or the victim was in a train, bus, or other  
24 vehicle used for public transportation;

25           (26) the defendant committed the offense of child  
26 pornography or aggravated child pornography, specifically

1 including paragraph (1), (2), (3), (4), (5), or (7) of  
2 subsection (a) of Section 11-20.1 of the Criminal Code of  
3 1961 where a child engaged in, solicited for, depicted in,  
4 or posed in any act of sexual penetration or bound,  
5 fettered, or subject to sadistic, masochistic, or  
6 sadomasochistic abuse in a sexual context and specifically  
7 including paragraph (1), (2), (3), (4), (5), or (7) of  
8 subsection (a) of Section 11-20.3 of the Criminal Code of  
9 1961 where a child engaged in, solicited for, depicted in,  
10 or posed in any act of sexual penetration or bound,  
11 fettered, or subject to sadistic, masochistic, or  
12 sadomasochistic abuse in a sexual context; or

13 (27) the defendant committed the offense of first  
14 degree murder, assault, aggravated assault, battery,  
15 aggravated battery, robbery, armed robbery, or aggravated  
16 robbery against a person who was a veteran and the  
17 defendant knew, or reasonably should have known, that the  
18 person was a veteran performing duties as a representative  
19 of a veterans' organization. For the purposes of this  
20 paragraph (27), "veteran" means an Illinois resident who  
21 has served as a member of the United States Armed Forces, a  
22 member of the Illinois National Guard, or a member of the  
23 United States Reserve Forces; and "veterans' organization"  
24 means an organization comprised of members of which  
25 substantially all are individuals who are veterans or  
26 spouses, widows, or widowers of veterans, the primary

1           purpose of which is to promote the welfare of its members  
2           and to provide assistance to the general public in such a  
3           way as to confer a public benefit.

4           For the purposes of this Section:

5           "School" is defined as a public or private elementary or  
6           secondary school, community college, college, or university.

7           "Day care center" means a public or private State certified  
8           and licensed day care center as defined in Section 2.09 of the  
9           Child Care Act of 1969 that displays a sign in plain view  
10          stating that the property is a day care center.

11          "Public transportation" means the transportation or  
12          conveyance of persons by means available to the general public,  
13          and includes paratransit services.

14          (b) The following factors, related to all felonies, may be  
15          considered by the court as reasons to impose an extended term  
16          sentence under Section 5-8-2 upon any offender:

17                 (1) When a defendant is convicted of any felony, after  
18                 having been previously convicted in Illinois or any other  
19                 jurisdiction of the same or similar class felony or greater  
20                 class felony, when such conviction has occurred within 10  
21                 years after the previous conviction, excluding time spent  
22                 in custody, and such charges are separately brought and  
23                 tried and arise out of different series of acts; or

24                 (2) When a defendant is convicted of any felony and the  
25                 court finds that the offense was accompanied by  
26                 exceptionally brutal or heinous behavior indicative of

1           wanton cruelty; or

2           (3) When a defendant is convicted of any felony  
3 committed against:

4           (i) a person under 12 years of age at the time of  
5 the offense or such person's property;

6           (ii) a person 60 years of age or older at the time  
7 of the offense or such person's property; or

8           (iii) a person physically handicapped at the time  
9 of the offense or such person's property; or

10          (4) When a defendant is convicted of any felony and the  
11 offense involved any of the following types of specific  
12 misconduct committed as part of a ceremony, rite,  
13 initiation, observance, performance, practice or activity  
14 of any actual or ostensible religious, fraternal, or social  
15 group:

16           (i) the brutalizing or torturing of humans or  
17 animals;

18           (ii) the theft of human corpses;

19           (iii) the kidnapping of humans;

20           (iv) the desecration of any cemetery, religious,  
21 fraternal, business, governmental, educational, or  
22 other building or property; or

23           (v) ritualized abuse of a child; or

24          (5) When a defendant is convicted of a felony other  
25 than conspiracy and the court finds that the felony was  
26 committed under an agreement with 2 or more other persons

1 to commit that offense and the defendant, with respect to  
2 the other individuals, occupied a position of organizer,  
3 supervisor, financier, or any other position of management  
4 or leadership, and the court further finds that the felony  
5 committed was related to or in furtherance of the criminal  
6 activities of an organized gang or was motivated by the  
7 defendant's leadership in an organized gang; or

8 (6) When a defendant is convicted of an offense  
9 committed while using a firearm with a laser sight attached  
10 to it. For purposes of this paragraph, "laser sight" has  
11 the meaning ascribed to it in Section 24.6-5 of the  
12 Criminal Code of 1961; or

13 (7) When a defendant who was at least 17 years of age  
14 at the time of the commission of the offense is convicted  
15 of a felony and has been previously adjudicated a  
16 delinquent minor under the Juvenile Court Act of 1987 for  
17 an act that if committed by an adult would be a Class X or  
18 Class 1 felony when the conviction has occurred within 10  
19 years after the previous adjudication, excluding time  
20 spent in custody; or

21 (8) When a defendant commits any felony and the  
22 defendant used, possessed, exercised control over, or  
23 otherwise directed an animal to assault a law enforcement  
24 officer engaged in the execution of his or her official  
25 duties or in furtherance of the criminal activities of an  
26 organized gang in which the defendant is engaged.

1 (c) The following factors may be considered by the court as  
2 reasons to impose an extended term sentence under Section 5-8-2  
3 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

4 (1) When a defendant is convicted of first degree  
5 murder, after having been previously convicted in Illinois  
6 of any offense listed under paragraph (c)(2) of Section  
7 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
8 within 10 years after the previous conviction, excluding  
9 time spent in custody, and the charges are separately  
10 brought and tried and arise out of different series of  
11 acts.

12 (1.5) When a defendant is convicted of first degree  
13 murder, after having been previously convicted of domestic  
14 battery (720 ILCS 5/12-3.2) or aggravated domestic battery  
15 (720 ILCS 5/12-3.3) committed on the same victim or after  
16 having been previously convicted of violation of an order  
17 of protection (720 ILCS 5/12-30) in which the same victim  
18 was the protected person.

19 (2) When a defendant is convicted of voluntary  
20 manslaughter, second degree murder, involuntary  
21 manslaughter, or reckless homicide in which the defendant  
22 has been convicted of causing the death of more than one  
23 individual.

24 (3) When a defendant is convicted of aggravated  
25 criminal sexual assault or criminal sexual assault, when  
26 there is a finding that aggravated criminal sexual assault

1 or criminal sexual assault was also committed on the same  
2 victim by one or more other individuals, and the defendant  
3 voluntarily participated in the crime with the knowledge of  
4 the participation of the others in the crime, and the  
5 commission of the crime was part of a single course of  
6 conduct during which there was no substantial change in the  
7 nature of the criminal objective.

8 (4) If the victim was under 18 years of age at the time  
9 of the commission of the offense, when a defendant is  
10 convicted of aggravated criminal sexual assault or  
11 predatory criminal sexual assault of a child under  
12 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)  
13 of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS  
14 5/11-1.40 or 5/12-14.1).

15 (5) When a defendant is convicted of a felony violation  
16 of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
17 5/24-1) and there is a finding that the defendant is a  
18 member of an organized gang.

19 (6) When a defendant was convicted of unlawful use of  
20 weapons under Section 24-1 of the Criminal Code of 1961  
21 (720 ILCS 5/24-1) for possessing a weapon that is not  
22 readily distinguishable as one of the weapons enumerated in  
23 Section 24-1 of the Criminal Code of 1961 (720 ILCS  
24 5/24-1).

25 (7) When a defendant is convicted of an offense  
26 involving the illegal manufacture of a controlled

1 substance under Section 401 of the Illinois Controlled  
2 Substances Act (720 ILCS 570/401), the illegal manufacture  
3 of methamphetamine under Section 25 of the Methamphetamine  
4 Control and Community Protection Act (720 ILCS 646/25), or  
5 the illegal possession of explosives and an emergency  
6 response officer in the performance of his or her duties is  
7 killed or injured at the scene of the offense while  
8 responding to the emergency caused by the commission of the  
9 offense. In this paragraph, "emergency" means a situation  
10 in which a person's life, health, or safety is in jeopardy;  
11 and "emergency response officer" means a peace officer,  
12 community policing volunteer, fireman, emergency medical  
13 technician-ambulance, emergency medical  
14 technician-intermediate, emergency medical  
15 technician-paramedic, ambulance driver, other medical  
16 assistance or first aid personnel, or hospital emergency  
17 room personnel.

18 (d) For the purposes of this Section, "organized gang" has  
19 the meaning ascribed to it in Section 10 of the Illinois  
20 Streetgang Terrorism Omnibus Prevention Act.

21 (e) The court may impose an extended term sentence under  
22 Article 4.5 of Chapter V upon an offender who has been  
23 convicted of a felony violation of Section 12-13, 12-14,  
24 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the  
25 victim of the offense is under 18 years of age at the time of  
26 the commission of the offense and, during the commission of the

1 offense, the victim was under the influence of alcohol,  
2 regardless of whether or not the alcohol was supplied by the  
3 offender; and the offender, at the time of the commission of  
4 the offense, knew or should have known that the victim had  
5 consumed alcohol.

6 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,  
7 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;  
8 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;  
9 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.  
10 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,  
11 eff. 1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11;  
12 96-1551, Article 2, Section 1065, eff. 7-1-11; revised  
13 4-18-11.)

14 Section 90-205. The Secure Residential Youth Care Facility  
15 Licensing Act is amended by changing Section 45-10 as follows:

16 (730 ILCS 175/45-10)

17 Sec. 45-10. Definitions. As used in this Act:

18 "Department" means the Illinois Department of Corrections.

19 "Director" means the Director of Corrections.

20 "Secure residential youth care facility" means a facility  
21 (1) where youth are placed and reside for care, treatment, and  
22 custody; (2) that is designed and operated so as to ensure that  
23 all entrances and exits from the facility, or from a building  
24 or distinct part of a building within the facility, are under

1 the exclusive control of the staff of the facility, whether or  
2 not the youth has freedom of movement within the perimeter of  
3 the facility or within the perimeter of a building or distinct  
4 part of a building within the facility; and (3) that uses  
5 physically restrictive construction including, but not limited  
6 to, locks, bolts, gates, doors, bars, fences, and screen  
7 barriers. This definition does not include jails, prisons,  
8 detention centers, or other such correctional facilities;  
9 State operated mental health facilities; or facilities  
10 operating as psychiatric hospitals under a license pursuant to  
11 the MR/DD Community Care Act, the Nursing Home Care Act, the  
12 Specialized Mental Health Rehabilitation Act, or the Hospital  
13 Licensing Act.

14 "Youth" means an adjudicated delinquent who is 18 years of  
15 age or under and is transferred to the Department pursuant to  
16 Section 3-10-11 of the Unified Code of Corrections.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 Section 90-210. The Code of Civil Procedure is amended by  
19 changing Section 2-203 as follows:

20 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

21 Sec. 2-203. Service on individuals.

22 (a) Except as otherwise expressly provided, service of  
23 summons upon an individual defendant shall be made (1) by  
24 leaving a copy of the summons with the defendant personally,

1 (2) by leaving a copy at the defendant's usual place of abode,  
2 with some person of the family or a person residing there, of  
3 the age of 13 years or upwards, and informing that person of  
4 the contents of the summons, provided the officer or other  
5 person making service shall also send a copy of the summons in  
6 a sealed envelope with postage fully prepaid, addressed to the  
7 defendant at his or her usual place of abode, or (3) as  
8 provided in Section 1-2-9.2 of the Illinois Municipal Code with  
9 respect to violation of an ordinance governing parking or  
10 standing of vehicles in cities with a population over 500,000.  
11 The certificate of the officer or affidavit of the person that  
12 he or she has sent the copy in pursuance of this Section is  
13 evidence that he or she has done so. No employee of a facility  
14 licensed under the Nursing Home Care Act, the Specialized  
15 Mental Health Rehabilitation Act, or the MR/DD Community Care  
16 Act shall obstruct an officer or other person making service in  
17 compliance with this Section.

18 (b) The officer, in his or her certificate or in a record  
19 filed and maintained in the Sheriff's office, or other person  
20 making service, in his or her affidavit or in a record filed  
21 and maintained in his or her employer's office, shall (1)  
22 identify as to sex, race, and approximate age the defendant or  
23 other person with whom the summons was left and (2) state the  
24 place where (whenever possible in terms of an exact street  
25 address) and the date and time of the day when the summons was  
26 left with the defendant or other person.

1 (c) Any person who knowingly sets forth in the certificate  
2 or affidavit any false statement, shall be liable in civil  
3 contempt. When the court holds a person in civil contempt under  
4 this Section, it shall award such damages as it determines to  
5 be just and, when the contempt is prosecuted by a private  
6 attorney, may award reasonable attorney's fees.

7 (Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

8 Section 90-215. The Consumer Fraud and Deceptive Business  
9 Practices Act is amended by changing Section 2BBB as follows:

10 (815 ILCS 505/2BBB)

11 Sec. 2BBB. Long term care facility, ~~or~~ MR/DD facility, or  
12 specialized mental health rehabilitation facility; Consumer  
13 Choice Information Report. A long term care facility that fails  
14 to comply with Section 2-214 of the Nursing Home Care Act or a  
15 facility that fails to comply with Section 2-214 of the MR/DD  
16 Community Care Act or Section 2-214 of the Specialized Mental  
17 Health Rehabilitation Act commits an unlawful practice within  
18 the meaning of this Act.

19 (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09;  
20 96-339, eff. 7-1-10.)

21 ARTICLE 95. NONACCELERATION

22 Section 95-95. No acceleration or delay. Where this Act

1 makes changes in a statute that is represented in this Act by  
2 text that is not yet or no longer in effect (for example, a  
3 Section represented by multiple versions), the use of that text  
4 does not accelerate or delay the taking effect of (i) the  
5 changes made by this Act or (ii) provisions derived from any  
6 other Public Act.

7 ARTICLE 99. EFFECTIVE DATE

8 Section 99-99. Effective date. This Act takes effect upon  
9 becoming law.