



Rep. Sara Feigenholtz

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1 AMENDMENT TO SENATE BILL 145

2 AMENDMENT NO. _____. Amend Senate Bill 145 by replacing
3 everything after the enacting clause with the following:

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.

1 Residential settings are an important component of the
2 system of behavioral health care that Illinois is developing.
3 When residential treatment is necessary these facilities must
4 offer high quality rehabilitation and recover care, help
5 residents achieve and maintain their highest level of
6 independent functioning, and prepare them to live in permanent
7 supportive housing and other community-integrated settings.
8 Facilities licensed under the Specialized Mental Health
9 Rehabilitation Act will be models of such residential care,
10 demonstrating the elements essential to help people with serious
11 mental illness transition to more independent living and return
12 to healthy, productive lives.

13 Section 1-101.05. Prior law.

14 (a) This Act provides for licensure of long-term care
15 facilities that specialize in services to individuals with a
16 severe mental illness under this Act instead of under the
17 Nursing Home Care Act. On and after the effective date of this
18 Act, those facilities shall be governed by this Act instead of
19 the Nursing Home Care Act.

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

25 (c) Nothing in this Act affects the validity or effect of

1 any finding, decision, or action made or taken by the
2 Department or the Director under the Nursing Home Care Act
3 before the effective date of this Act with respect to a
4 facility subject to licensure under this Act. That finding,
5 decision, or action shall continue to apply to the facility on
6 and after the effective date of this Act. Any finding,
7 decision, or action with respect to the facility made or taken
8 on or after the effective date of this Act shall be made or
9 taken as provided in this Act. All consent decrees that apply
10 to facilities federally designated as Institutions for the
11 Mentally Diseased shall also apply to facilities licensed under
12 the Specialized Mental Health Facilities Act.

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

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

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

- 20 (1) Enter any facility;
- 21 (2) Communicate privately and without restriction with
22 any resident who consents to the communication;
- 23 (3) Seek consent to communicate privately and without

1 restriction with any resident;

2 (4) Inspect the clinical and other records of a
3 resident with the express written consent of the resident;
4 or

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

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

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

13 (1) With respect to a partnership, each partner
14 thereof.

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

17 (3) With respect to a natural person: any person
18 related in the first degree of kinship to that person; each
19 partnership and each partner thereof of which that person
20 or any affiliate of that person is a partner; and each
21 corporation in which that person or any affiliate of that
22 person is an officer, director or stockholder.

23 Section 1-107. Applicant. "Applicant" means any person

1 making application for a license.

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

6 (1) "An invalid report" means any report made under
7 this Act for which it is determined after an investigation
8 that no credible evidence of abuse, neglect or other
9 deficiency relating to the complaint exists;

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

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

18 Section 1-109. Department. "Department" means the
19 Department of Public Health.

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

22 Section 1-111. Discharge. "Discharge" means the full

1 release of any resident from a facility.

2 Section 1-112. Emergency. "Emergency" means a situation,
3 physical condition or one or more practices, methods or
4 operations which present imminent danger of death or serious
5 physical or mental harm to residents of a facility.

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

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

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

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

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

1 (v) must participate in the Demonstration Project for
2 Mental Health Services in Nursing Facilities established
3 under Department of Healthcare and Family Services rules at
4 89 Ill. Adm. Code 145.10 and its successor; to be
5 considered for participation in this Demonstration Project
6 for Mental Health Services in Nursing Facilities, a
7 facility must meet all standards established in this
8 rulemaking (89 Ill. Adm. Code) or its successor; this
9 demonstration project shall be extended through June 30,
10 2014.

11 "Facility" does not include the following:

12 (1) a home, institution, or other place operated by the
13 federal government or agency thereof, or by the State of
14 Illinois, other than homes, institutions, or other places
15 operated by or under the authority of the Illinois
16 Department of Veterans' Affairs;

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

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

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

26 (5) any "community residential alternative" as defined

1 in the Community Residential Alternatives Licensing Act;

2 (6) any nursing home or sanatorium operated solely by
3 and for persons who rely exclusively upon treatment by
4 spiritual means through prayer, in accordance with the
5 creed or tenets of any well recognized church or religious
6 denomination. However, such nursing home or sanatorium
7 shall comply with all local laws and rules relating to
8 sanitation and safety;

9 (7) any facility licensed by the Department of Human
10 Services as a community integrated living arrangement as
11 defined in the Community Integrated Living Arrangements
12 Licensure and Certification Act;

13 (8) any "supportive residence" licensed under the
14 Supportive Residences Licensing Act;

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

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

23 (11) an Alzheimer's disease management center
24 alternative health care model licensed under the
25 Alternative Health Care Delivery Act;

26 (12) a home, institution, or other place operated by or

1 under the authority of the Illinois Department of Veterans'
2 Affairs;

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

5 (14) any facility licensed under the Nursing Home Care
6 Act.

7 Section 1-114. Guardian. "Guardian" means a person
8 appointed as a guardian of the person or guardian of the
9 estate, or both, of a resident under the Probate Act of 1975,
10 as now or hereafter amended.

11 Section 1-114.005. High risk designation. "High risk
12 designation" means a violation of a provision of the Illinois
13 Administrative Code that has been identified by the Department
14 through rulemaking to be inherently necessary to protect the
15 health, safety, and welfare of a resident.

16 Section 1-114.01. Identified offender. "Identified
17 offender" means a person who meets any of the following
18 criteria:

19 (1) Has been convicted of, found guilty of, adjudicated
20 delinquent for, found not guilty by reason of insanity for,
21 or found unfit to stand trial for any felony offense listed
22 in Section 25 of the Health Care Worker Background Check
23 Act, except for the following: (i) a felony offense

1 described in Section 10-5 of the Nurse Practice Act; (ii) a
2 felony offense described in Section 4, 5, 6, 8, or 17.02 of
3 the Illinois Credit Card and Debit Card Act; (iii) a felony
4 offense described in Section 5, 5.1, 5.2, 7, or 9 of the
5 Cannabis Control Act; (iv) a felony offense described in
6 Section 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the
7 Illinois Controlled substances Act; and (v) a felony
8 offense described in the Methamphetamine Control and
9 Community Protection Act.

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

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

17 Section 1-114.1. Immediate family. "Immediate family"
18 means the spouse, an adult child, a parent, an adult brother or
19 sister, or an adult grandchild of a person.

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

22 Section 1-116. Maintenance. "Maintenance" means food,
23 shelter, and laundry services.

1 Section 1-116.5. Misappropriation of a resident's
2 property. "Misappropriation of a resident's property" means
3 the deliberate misplacement, exploitation, or wrongful
4 temporary or permanent use of a resident's belongings or money
5 without the resident's consent.

6 Section 1-117. Neglect. "Neglect" means a facility's
7 failure to provide, or willful withholding of, adequate medical
8 care, mental health treatment, psychiatric rehabilitation,
9 personal care, or assistance with activities of daily living
10 that is necessary to avoid physical harm, mental anguish, or
11 mental illness of a resident.

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

14 Section 1-119. Owner. "Owner" means the individual,
15 partnership, corporation, association, or other person who
16 owns a facility. In the event a facility is operated by a
17 person who leases the physical plant, which is owned by another
18 person, "owner" means the person who operates the facility,
19 except that if the person who owns the physical plant is an
20 affiliate of the person who operates the facility and has
21 significant control over the day to day operations of the
22 facility, the person who owns the physical plant shall incur

1 jointly and severally with the owner all liabilities imposed on
2 an owner under this Act.

3 Section 1-120. Personal care. "Personal care" means
4 assistance with meals, dressing, movement, bathing or other
5 personal needs, maintenance, or general supervision and
6 oversight of the physical and mental well-being of an
7 individual, who is incapable of maintaining a private,
8 independent residence or who is incapable of managing his or
9 her person whether or not a guardian has been appointed for
10 such individual.

11 Section 1-120.3. Provisional admission period.
12 "Provisional admission period" means the time between the
13 admission of an identified offender as defined in Section
14 1-114.01 and 3 days following the admitting facility's receipt
15 of an Identified Offender Report and Recommendation in
16 accordance with Section 2-201.6.

17 Section 1-120.7. Psychiatric services rehabilitation aide.
18 "Psychiatric services rehabilitation aide" means an individual
19 employed by a long-term care facility to provide, for mentally
20 ill residents, at a minimum, crisis intervention,
21 rehabilitation, and assistance with activities of daily
22 living.

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

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

6 Section 1-123. Resident's representative. "Resident's
7 representative" means a person other than the owner, or an
8 agent or employee of a facility not related to the resident,
9 designated in writing by a resident to be his or her
10 representative, or the resident's guardian, or the parent of a
11 minor resident for whom no guardian has been appointed.

12 Section 1-124. Sheltered care. "Sheltered care" means
13 maintenance and personal care.

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

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

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

3 (2) immediately succeeds a full quarter, semester, or
4 trimester of academic enrollment in either a high school or
5 undergraduate institution, provided that such person is
6 registered for another full quarter, semester, or
7 trimester of academic enrollment in either a high school or
8 undergraduate institution which quarter, semester, or
9 trimester shall commence immediately following the term of
10 employment.

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

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

15 Section 1-128. Transfer. "Transfer" means a change in
16 status of a resident's living arrangements from one facility to
17 another facility.

18 Section 1-128.5. Type "AA" violation. A "Type "AA"
19 violation" means a violation of this Act or of the rules
20 promulgated thereunder that creates a condition or occurrence
21 relating to the operation and maintenance of a facility that
22 proximately caused a resident's death.

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

6 Section 2-101.1. Spousal impoverishment. All new residents
7 and their spouses shall be informed on admittance of their
8 spousal impoverishment rights as defined at Section 5-4 of the
9 Illinois Public Aid Code, as now or hereafter amended and at
10 Section 303 of Title III of the Medicare Catastrophic Coverage
11 Act of 1988 (P.L. 100 360).

12 Section 2-102. Financial affairs. A resident shall be
13 permitted to manage his or her own financial affairs unless he
14 or she or his or her guardian or if the resident is a minor, his
15 or her parent, authorizes the administrator of the facility in
16 writing to manage such resident's financial affairs under
17 Section 2-201 of this Act.

18 Section 2-103. Personal property. A resident shall be
19 permitted to retain and use or wear his or her personal
20 property in his or her immediate living quarters, unless deemed
21 medically inappropriate by a physician and so documented in the
22 resident's clinical record. If clothing is provided to the

1 resident by the facility, it shall be of a proper fit.

2 The facility shall provide adequate storage space for the
3 personal property of the resident. The facility shall provide a
4 means of safeguarding small items of value for its residents in
5 their rooms or in any other part of the facility so long as the
6 residents have daily access to such valuables. The facility
7 shall make reasonable efforts to prevent loss and theft of
8 residents' property. Those efforts shall be appropriate to the
9 particular facility and may include, but are not limited to,
10 staff training and monitoring, labeling property, and frequent
11 property inventories. The facility shall develop procedures
12 for investigating complaints concerning theft of residents'
13 property and shall promptly investigate all such complaints.

14 Section 2-104. Medical treatment; records.

15 (a) A resident shall be permitted to retain the services of
16 his or her own personal physician at his or her own expense or
17 under an individual or group plan of health insurance, or under
18 any public or private assistance program providing such
19 coverage. However, the facility is not liable for the
20 negligence of any such personal physician. Every resident shall
21 be permitted to obtain from his or her own physician or the
22 physician attached to the facility complete and current
23 information concerning his or her medical diagnosis, treatment
24 and prognosis in terms and language the resident can reasonably
25 be expected to understand. Every resident shall be permitted to

1 participate in the planning of his or her total care and
2 medical treatment to the extent that his or her condition
3 permits. No resident shall be subjected to experimental
4 research or treatment without first obtaining his or her
5 informed, written consent. The conduct of any experimental
6 research or treatment shall be authorized and monitored by an
7 institutional review board appointed by the Director. The
8 membership, operating procedures, and review criteria for the
9 institutional review board shall be prescribed under rules and
10 regulations of the Department and shall comply with the
11 requirements for institutional review boards established by
12 the federal Food and Drug Administration. No person who has
13 received compensation in the prior 3 years from an entity that
14 manufactures, distributes, or sells pharmaceuticals,
15 biologics, or medical devices may serve on the institutional
16 review board.

17 The institutional review board may approve only research or
18 treatment that meets the standards of the federal Food and Drug
19 Administration with respect to (i) the protection of human
20 subjects and (ii) financial disclosure by clinical
21 investigators. The Office of State Long Term Care Ombudsman and
22 the State Protection and Advocacy organization shall be given
23 an opportunity to comment on any request for approval before
24 the board makes a decision. Those entities shall not be
25 provided information that would allow a potential human subject
26 to be individually identified, unless the board asks the

1 Ombudsman for help in securing information from or about the
2 resident. The board shall require frequent reporting of the
3 progress of the approved research or treatment and its impact
4 on residents, including immediate reporting of any adverse
5 impact to the resident, the resident's representative, the
6 Office of the State Long Term Care Ombudsman, and the State
7 Protection and Advocacy organization. The board may not approve
8 any retrospective study of the records of any resident about
9 the safety or efficacy of any care or treatment if the resident
10 was under the care of the proposed researcher or a business
11 associate when the care or treatment was given, unless the
12 study is under the control of a researcher without any business
13 relationship to any person or entity who could benefit from the
14 findings of the study.

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

1 The institutional review board may exempt from ongoing
2 review research or treatment initiated on a resident before the
3 individual's admission to a facility and for which the board
4 determines there is adequate ongoing oversight by another
5 institutional review board. Nothing in this Section shall
6 prevent a facility, any facility employee, or any other person
7 from assisting or participating in any experimental research on
8 or treatment of a resident, if the research or treatment began
9 before the person's admission to a facility, until the board
10 has reviewed the research or treatment and decided to grant or
11 deny approval or to exempt the research or treatment from
12 ongoing review.

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

18 According to rules adopted by the Department, every woman
19 resident of child bearing age shall receive routine obstetrical
20 and gynecological evaluations as well as necessary prenatal
21 care.

22 (c) Every resident shall be permitted to refuse medical
23 treatment and to know the consequences of such action, unless
24 such refusal would be harmful to the health and safety of
25 others and such harm is documented by a physician in the
26 resident's clinical record. The resident's refusal shall free

1 the facility from the obligation to provide the treatment.

2 (d) Every resident, resident's guardian, or parent if the
3 resident is a minor shall be permitted to inspect and copy all
4 his or her clinical and other records concerning his or her
5 care and maintenance kept by the facility or by his or her
6 physician. The facility may charge a reasonable fee for
7 duplication of a record.

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

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

20 (a) Every facility licensed under this Act shall establish
21 a policy for the implementation of physician orders limiting
22 resuscitation such as those commonly referred to as
23 "Do-Not-Resuscitate" orders. This policy may only prescribe
24 the format, method of documentation and duration of any

1 physician orders limiting resuscitation. Any orders under this
2 policy shall be honored by the facility. The Department of
3 Public Health Uniform DNR Advance Directive or a copy of that
4 Advance Directive shall be honored by the facility.

5 (b) Within 30 days after admission, new residents who do
6 not have a guardian of the person or an executed power of
7 attorney for health care shall be provided with written notice,
8 in a form and manner provided by rule of the Department, of
9 their right to provide the name of one or more potential health
10 care surrogates that a treating physician should consider in
11 selecting a surrogate to act on the resident's behalf should
12 the resident lose decision-making capacity. The notice shall
13 include a form of declaration that may be utilized by the
14 resident to identify potential health care surrogates or by the
15 facility to document any inability or refusal to make such a
16 declaration. A signed copy of the resident's declaration of a
17 potential health care surrogate or decision to decline to make
18 such a declaration, or documentation by the facility of the
19 resident's inability to make such a declaration, shall be
20 placed in the resident's clinical record and shall satisfy the
21 facility's obligation under this Section. Such a declaration
22 shall be used only for informational purposes in the selection
23 of a surrogate pursuant to the Health Care Surrogate Act. A
24 facility that complies with this Section is not liable to any
25 healthcare provider, resident, or resident's representative or
26 any other person relating to the identification or selection of

1 a surrogate or potential health care surrogate.

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

3 (a) All persons admitted to a facility with a diagnosis of
4 serious mental illness who remain in the facility for a period
5 of 90 days shall be re-screened by the Department of Human
6 Services or its designee at the end of the 90-day period, at 6
7 months, and annually thereafter to assess their continuing need
8 for facility care and shall be advised of all other available
9 care options.

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

1 Section 2-105. Privacy. A resident shall be permitted
2 respect and privacy in his or her medical and personal care
3 program. Every resident's case discussion, consultation,
4 examination and treatment shall be confidential and shall be
5 conducted discreetly, and those persons not directly involved
6 in the resident's care must have the resident's permission to
7 be present.

8 Section 2-106. Restraints and confinements.

9 (a) For purposes of this Act:

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

18 (ii) A chemical restraint is any drug used for
19 discipline or convenience and not required to treat medical
20 symptoms. The Department shall by rule, designate certain
21 devices as restraints, including at least all those devices
22 which have been determined to be restraints by the United
23 States Department of Health and Human Services in
24 interpretive guidelines issued for the purposes of

1 administering Titles XVIII and XIX of the Social Security
2 Act.

3 (b) Neither restraints nor confinements shall be employed
4 for the purpose of punishment or for the convenience of any
5 facility personnel. No restraints or confinements shall be
6 employed except as ordered by a physician who documents the
7 need for such restraints or confinements in the resident's
8 clinical record. Each facility licensed under this Act must
9 have a written policy to address the use of restraints and
10 seclusion. The Department shall establish by rule the
11 provisions that the policy must include, which, to the extent
12 practicable, should be consistent with the requirements for
13 participation in the federal Medicare program. Each policy
14 shall include periodic review of the use of restraints.

15 (c) A restraint may be used only with the informed consent
16 of the resident, the resident's guardian, or other authorized
17 representative. A restraint may be used only for specific
18 periods, if it is the least restrictive means necessary to
19 attain and maintain the resident's highest practicable
20 physical, mental or psychosocial well being, including brief
21 periods of time to provide necessary life saving treatment. A
22 restraint may be used only after consultation with appropriate
23 health professionals, such as occupational or physical
24 therapists, and a trial of less restrictive measures has led to
25 the determination that the use of less restrictive measures
26 would not attain or maintain the resident's highest practicable

1 physical, mental or psychosocial well being. However, if the
2 resident needs emergency care, restraints may be used for brief
3 periods to permit medical treatment to proceed unless the
4 facility has notice that the resident has previously made a
5 valid refusal of the treatment in question.

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

8 (e) Whenever a period of use of a restraint is initiated,
9 the resident shall be advised of his or her right to have a
10 person or organization of his or her choosing, including the
11 Guardianship and Advocacy Commission, notified of the use of
12 the restraint. A recipient who is under guardianship may
13 request that a person or organization of his or her choosing be
14 notified of the restraint, whether or not the guardian approves
15 the notice. If the resident so chooses, the facility shall make
16 the notification within 24 hours, including any information
17 about the period of time that the restraint is to be used.
18 Whenever the Guardianship and Advocacy Commission is notified
19 that a resident has been restrained, it shall contact the
20 resident to determine the circumstances of the restraint and
21 whether further action is warranted.

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

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

5 Section 2-106.1. Drug treatment.

6 (a) A resident shall not be given unnecessary drugs. An
7 unnecessary drug is any drug used in an excessive dose,
8 including in duplicative therapy; for excessive duration;
9 without adequate monitoring; without adequate indications for
10 its use; or in the presence of adverse consequences that
11 indicate the drug should be reduced or discontinued. The
12 Department shall adopt, by rule, the standards for unnecessary
13 drugs contained in interpretive guidelines issued by the United
14 States Department of Health and Human Services for the purposes
15 of administering Titles XVIII and XIX of the Social Security
16 Act.

17 (b) Psychotropic medication shall not be prescribed
18 without the informed consent of the resident, the resident's
19 guardian, or other authorized representative. "Psychotropic
20 medication" means medication that is used for or listed as used
21 for antipsychotic, antidepressant, antimanic, or antianxiety
22 behavior modification or behavior management purposes in the
23 latest editions of the AMA Drug Evaluations or the Physician's
24 Desk Reference. The Department shall adopt, by rule, a protocol
25 specifying how informed consent for psychotropic medication

1 may be obtained or refused. The protocol shall require, at a
2 minimum, a discussion between (i) the resident or the
3 resident's authorized representative and (ii) the resident's
4 physician, a registered pharmacist (who is not a dispensing
5 pharmacist for the facility where the resident lives), or a
6 licensed nurse about the possible risks and benefits of a
7 recommended medication and the use of standardized consent
8 forms designated by the Department. Each form developed by the
9 Department (i) shall be written in plain language, (ii) shall
10 be able to be downloaded from the Department's official
11 website, (iii) shall include information specific to the
12 psychotropic medication for which consent is being sought, and
13 (iv) shall be used for every resident for whom psychotropic
14 drugs are prescribed. In addition to creating those forms, the
15 Department shall approve the use of any other informed consent
16 forms that meet criteria developed by the Department.

17 In addition to any other penalty prescribed by law, a
18 facility that is found to have violated this subsection, or the
19 federal certification requirement that informed consent be
20 obtained before administering a psychotropic medication, shall
21 thereafter be required to obtain the signatures of 2 licensed
22 health care professionals on every form purporting to give
23 informed consent for the administration of a psychotropic
24 medication, certifying the personal knowledge of each health
25 care professional that the consent was obtained in compliance
26 with the requirements of this subsection.

1 (c) The requirements of this Section are intended to
2 control in a conflict with the requirements of Sections 2-102
3 and 2-107.2 of the Mental Health and Developmental Disabilities
4 Code with respect to the administration of psychotropic
5 medication.

6 Section 2-106.2 Resident identification wristlet. No
7 identification wristlets shall be employed except as ordered by
8 a physician who documents the need for such mandatory
9 identification in the resident's clinical record. When
10 identification bracelets are required, they must identify the
11 resident's name, and the name and address of the facility
12 issuing the identification wristlet.

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

19 Section 2-108. Communications; visits; married residents.
20 Every resident shall be permitted unimpeded, private, and
21 uncensored communication of his or her choice by mail, public
22 telephone, or visitation.

23 (a) The administrator shall ensure that correspondence is

1 conveniently received and mailed, and that telephones are
2 reasonably accessible.

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

7 (c) The administrator shall ensure that space for visits is
8 available and that facility personnel knock, except in an
9 emergency, before entering any resident's room.

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

25 (e) The administrator shall ensure that married residents
26 residing in the same facility be allowed to reside in the same

1 room within the facility unless there is no room available in
2 the facility or it is deemed medically inadvisable by the
3 residents' attending physician and so documented in the
4 residents' medical records.

5 Section 2-109. Religion. A resident shall be permitted the
6 free exercise of religion. Upon a resident's request, and if
7 necessary at the resident's expense, the administrator shall
8 make arrangements for a resident's attendance at religious
9 services of the resident's choice. However, no religious
10 beliefs or practices, or attendance at religious services, may
11 be imposed upon any resident.

12 Section 2-110. Access to residents.

13 (a) Any employee or agent of a public agency, any
14 representative of a community legal services program or any
15 other member of the general public shall be permitted access at
16 reasonable hours to any individual resident of any facility,
17 but only if there is neither a commercial purpose nor effect to
18 such access and if the purpose is to do any of the following:

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

21 (2) Inform residents of their rights and entitlements
22 and their corresponding obligations, under federal and
23 State laws, by means of educational materials and
24 discussions in groups and with individual residents;

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

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

9 (a-5) If a resident of a licensed facility is an identified
10 offender, any federal, State, or local law enforcement officer
11 or county probation officer shall be permitted reasonable
12 access to the individual resident to verify compliance with the
13 requirements of the Sex Offender Registration Act or to verify
14 compliance with applicable terms of probation, parole, or
15 mandatory supervised release.

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

26 (c) This Section shall not limit the power of the

1 Department or other public agency otherwise permitted or
2 required by law to enter and inspect a facility.

3 (d) Notwithstanding paragraph (a) of this Section, the
4 administrator of a facility may refuse access to the facility
5 to any person if the presence of that person in the facility
6 would be injurious to the health and safety of a resident or
7 would threaten the security of the property of a resident or
8 the facility, or if the person seeks access to the facility for
9 commercial purposes. Any person refused access to a facility
10 may within 10 days request a hearing under Section 3-703. In
11 that proceeding, the burden of proof as to the right of the
12 facility to refuse access under this Section shall be on the
13 facility.

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

24 Section 2-112. Grievances. A resident shall be permitted to

1 present grievances on behalf of himself or herself or others to
2 the administrator, the Long Term Care Facility Advisory Board,
3 the residents' advisory council, State governmental agencies
4 or other persons without threat of discharge or reprisal in any
5 form or manner whatsoever. The administrator shall provide all
6 residents or their representatives with the name, address, and
7 telephone number of the appropriate State governmental office
8 where complaints may be lodged.

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

11 Section 2-114. Unlawful discrimination. No resident shall
12 be subjected to unlawful discrimination as defined in Section
13 1-103 of the Illinois Human Rights Act by any owner, licensee,
14 administrator, employee, or agent of a facility. Unlawful
15 discrimination does not include an action by any owner,
16 licensee, administrator, employee, or agent of a facility that
17 is required by this Act or rules adopted under this Act.

18 PART 2. RESPONSIBILITIES

19 Section 2-201. Residents' funds. To protect the residents'
20 funds, the facility:

21 (1) Shall at the time of admission provide, in order of
22 priority, each resident, or the resident's guardian, if any, or

1 the resident's representative, if any, or the resident's
2 immediate family member, if any, with a written statement
3 explaining to the resident and to the resident's spouse (a)
4 their spousal impoverishment rights, as defined at Section 5-4
5 of the Illinois Public Aid Code, and at Section 303 of Title
6 III of the Medicare Catastrophic Coverage Act of 1988 (P.L. 100
7 360), and (b) the resident's rights regarding personal funds
8 and listing the services for which the resident will be
9 charged. The facility shall obtain a signed acknowledgment from
10 each resident or the resident's guardian, if any, or the
11 resident's representative, if any, or the resident's immediate
12 family member, if any, that such person has received the
13 statement.

14 (2) May accept funds from a resident for safekeeping and
15 managing, if it receives written authorization from, in order
16 of priority, the resident or the resident's guardian, if any,
17 or the resident's representative, if any, or the resident's
18 immediate family member, if any; such authorization shall be
19 attested to by a witness who has no pecuniary interest in the
20 facility or its operations, and who is not connected in any way
21 to facility personnel or the administrator in any manner
22 whatsoever.

23 (3) Shall maintain and allow, in order of priority, each
24 resident or the resident's guardian, if any, or the resident's
25 representative, if any, or the resident's immediate family
26 member, if any, access to a written record of all financial

1 arrangements and transactions involving the individual
2 resident's funds.

3 (4) Shall provide, in order of priority, each resident, or
4 the resident's guardian, if any, or the resident's
5 representative, if any, or the resident's immediate family
6 member, if any, with a written itemized statement at least
7 quarterly, of all financial transactions involving the
8 resident's funds.

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

14 (6) Shall keep any funds received from a resident for
15 safekeeping in an account separate from the facility's funds,
16 and shall at no time withdraw any part or all of such funds for
17 any purpose other than to return the funds to the resident upon
18 the request of the resident or any other person entitled to
19 make such request, to pay the resident his or her allowance, or
20 to make any other payment authorized by the resident or any
21 other person entitled to make such authorization.

22 (7) Shall deposit any funds received from a resident in
23 excess of \$100 in an interest bearing account insured by
24 agencies of, or corporations chartered by, the State or federal
25 government. The account shall be in a form which clearly
26 indicates that the facility has only a fiduciary interest in

1 the funds and any interest from the account shall accrue to the
2 resident. The facility may keep up to \$100 of a resident's
3 money in a non-interest-bearing account or petty cash fund, to
4 be readily available for the resident's current expenditures.

5 (8) Shall return to the resident, or the person who
6 executed the written authorization required in subsection (2)
7 of this Section, upon written request, all or any part of the
8 resident's funds given the facility for safekeeping, including
9 the interest accrued from deposits.

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

24 (10) Unless otherwise provided by State law, upon the death
25 of a resident, shall provide the executor or administrator of
26 the resident's estate with a complete accounting of all the

1 resident's personal property, including any funds of the
2 resident being held by the facility.

3 (11) If an adult resident is incapable of managing his or
4 her funds and does not have a resident's representative,
5 guardian, or an immediate family member, shall notify the
6 Office of the State Guardian of the Guardianship and Advocacy
7 Commission.

8 (12) If the facility is sold, shall provide the buyer with
9 a written verification by a public accountant of all residents'
10 monies and properties being transferred, and obtain a signed
11 receipt from the new owner.

12 Section 2-201.5. Screening prior to admission.

13 (a) All persons age 18 or older seeking admission to a
14 facility must be screened to determine the need for facility
15 services prior to being admitted, regardless of income, assets,
16 or funding source. In addition, any person who seeks to become
17 eligible for medical assistance from the Medical Assistance
18 Program under the Illinois Public Aid Code to pay for long term
19 care services while residing in a facility must be screened
20 prior to receiving those benefits. Screening for facility
21 services shall be administered through procedures established
22 by administrative rule. Screening may be done by agencies other
23 than the Department as established by administrative rule. The
24 Department of Healthcare and Family Services, in collaboration
25 with the Department on Aging, the Department of Human Services,

1 and the Department of Public Health, shall by rules provide for
2 the gathering, during the screening process, of information
3 relevant to determining each person's potential for placing
4 other residents, employees, and visitors at risk of harm.

5 (a-1) For a person who needs mental health services, the
6 screening shall also include an evaluation of whether there is
7 permanent supportive housing, or an array of community mental
8 health services, including but not limited to supported
9 housing, assertive community treatment, and peer support
10 services, that would enable the person to live in the
11 community. The person shall be told about the existence of any
12 such services that would enable the person to live safely and
13 humanely and about available appropriate facility services
14 that would enable the person to live safely and humanely, and
15 the person shall be given the assistance necessary to avail
16 himself or herself of any available services.

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

1 individual.

2 For any person entering a facility, the pre-screening agent
3 shall make specific recommendations about what care and
4 services the individual needs to receive, beginning at
5 admission, to attain or maintain the individual's highest level
6 of independent functioning and to live in the most integrated
7 setting appropriate for his or her physical and personal care
8 and developmental and mental health needs. These
9 recommendations shall be revised as appropriate by the
10 pre-screening or re-screening agent based on the results of
11 resident review and in response to changes in the resident's
12 wishes, needs, and interest in transition.

13 Upon the person entering the facility, the Department of
14 Human Services or its designee shall assist the person in
15 establishing a relationship with a community mental health
16 agency or other appropriate agencies in order to (i) promote
17 the person's transition to independent living and (ii) support
18 the person's progress in meeting individual goals.

19 (a-3) The Department of Human Services, by rule, shall
20 provide for a prohibition on conflicts of interest for
21 pre-admission screeners. The rule shall provide for waiver of
22 those conflicts by the Department of Human Services if the
23 Department of Human Services determines that a scarcity of
24 qualified pre-admission screeners exists in a given community
25 and that, absent a waiver of conflicts, an insufficient number
26 of pre-admission screeners would be available. If a conflict is

1 waived, the pre-admission screener shall disclose the conflict
2 of interest to the screened individual in the manner provided
3 for by rule of the Department of Human Services. For the
4 purposes of this subsection, a "conflict of interest" includes,
5 but is not limited to, the existence of a professional or
6 financial relationship between (i) a PAS-MH corporate or a
7 PAS-MH agent and (ii) a community provider or long-term care
8 facility.

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

1 or while the criteria supporting the waiver exist. The facility
2 shall provide for or arrange for any required fingerprint-based
3 checks to be taken on the premises of the facility. If a
4 fingerprint-based check is required, the facility shall
5 arrange for it to be conducted in a manner that is respectful
6 of the resident's dignity and that minimizes any emotional or
7 physical hardship to the resident.

8 (c) If the results of a resident's criminal history
9 background check reveal that the resident is an identified
10 offender as defined in Section 1-114.01, the facility shall do
11 the following:

12 (1) Immediately notify the Department of State Police,
13 in the form and manner required by the Department of State
14 Police, in collaboration with the Department of Public
15 Health, that the resident is an identified offender.

16 (2) Within 72 hours, arrange for a fingerprint-based
17 criminal history record inquiry to be requested on the
18 identified offender resident. The inquiry shall be based on
19 the subject's name, sex, race, date of birth, fingerprint
20 images, and other identifiers required by the Department of
21 State Police. The inquiry shall be processed through the
22 files of the Department of State Police and the Federal
23 Bureau of Investigation to locate any criminal history
24 record information that may exist regarding the subject.
25 The Federal Bureau of Investigation shall furnish to the
26 Department of State Police, pursuant to an inquiry under

1 this paragraph (2), any criminal history record
2 information contained in its files.

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

5 All name-based and fingerprint-based criminal history
6 record inquiries shall be submitted to the Department of State
7 Police electronically in the form and manner prescribed by the
8 Department of State Police. The Department of State Police may
9 charge the facility a fee for processing name-based and
10 fingerprint-based criminal history record inquiries. The fee
11 shall be deposited into the State Police Services Fund. The fee
12 shall not exceed the actual cost of processing the inquiry.

13 (d) (Blank).

14 (e) The Department shall develop and maintain a
15 de-identified database of residents who have injured facility
16 staff, facility visitors, or other residents, and the attendant
17 circumstances, solely for the purposes of evaluating and
18 improving resident pre-screening and assessment procedures
19 (including the Criminal History Report prepared under Section
20 2-201.6) and the adequacy of Department requirements
21 concerning the provision of care and services to residents. A
22 resident shall not be listed in the database until a Department
23 survey confirms the accuracy of the listing. The names of
24 persons listed in the database and information that would allow
25 them to be individually identified shall not be made public.
26 Neither the Department nor any other agency of State government

1 may use information in the database to take any action against
2 any individual, licensee, or other entity, unless the
3 Department or agency receives the information independent of
4 this subsection (e). All information collected, maintained, or
5 developed under the authority of this subsection (e) for the
6 purposes of the database maintained under this subsection (e)
7 shall be treated in the same manner as information that is
8 subject to Part 21 of Article VIII of the Code of Civil
9 Procedure.

10 Section 2-201.6. Criminal History Report.

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

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

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

23 (1) (Blank).

24 (2) (Blank).

25 (3) (Blank).

1 (3.5) Copies of the identified offender's parole,
2 mandatory supervised release, or probation orders.

3 (4) An interview with the identified offender.

4 (5) (Blank).

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

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

23 (d) The Department of State Police shall provide the
24 Criminal History Report to a licensed forensic psychologist.
25 After (i) consideration of the Criminal History Report, (ii)
26 consultation with the facility administrator or the facility

1 medical director, or both, regarding the mental and physical
2 condition of the identified offender, and (iii) reviewing the
3 facility's file on the identified offender, including all
4 incident reports, all information regarding medication and
5 medication compliance, and all information regarding previous
6 discharges or transfers from other facilities, the licensed
7 forensic psychologist shall prepare an Identified Offender
8 Report and Recommendation. The Identified Offender Report and
9 Recommendation shall detail whether and to what extent the
10 identified offender's criminal history necessitates the
11 implementation of security measures within the long-term care
12 facility. If the identified offender is a convicted or
13 registered sex offender or if the Identified Offender Report
14 and Recommendation reveals that the identified offender poses a
15 significant risk of harm to others within the facility, the
16 offender shall be required to have his or her own room within
17 the facility.

18 (e) The licensed forensic psychologist shall complete the
19 Identified Offender Report and Recommendation within 14
20 business days after receiving the Criminal History Report and
21 shall promptly provide the Identified Offender Report and
22 Recommendation to the Department of State Police, which shall
23 provide the Identified Offender Report and Recommendation to
24 the following:

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

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

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

4 (4) The Department of Public Health.

5 (e-5) The Department of Public Health shall keep a
6 continuing record of all residents determined to be identified
7 offenders as defined in Section 1-114.01 and shall report the
8 number of identified offender residents annually to the General
9 Assembly.

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

13 (g) If, based on the Identified Offender Report and
14 Recommendation, a facility determines that it cannot manage the
15 identified offender resident safely within the facility, it
16 shall commence involuntary transfer or discharge proceedings
17 pursuant to Section 3-402.

18 (h) Except for willful and wanton misconduct, any person
19 authorized to participate in the development of a Criminal
20 History Report or Identified Offender Report and
21 Recommendation is immune from criminal or civil liability for
22 any acts or omissions as the result of his or her good faith
23 effort to comply with this Section.

24 Section 2-202. Contract required.

25 (a) Before a person is admitted to a facility, or at the

1 expiration of the period of previous contract, or when the
2 source of payment for the resident's care changes from private
3 to public funds or from public to private funds, a written
4 contract shall be executed between a licensee and the following
5 in order of priority:

6 (1) the person, or if the person is a minor, his parent
7 or guardian; or

8 (2) the person's guardian, if any, or agent, if any, as
9 defined in Section 2-3 of the Illinois Power of Attorney
10 Act; or

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

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

18 If there is no guardian, agent or member of the person's
19 immediate family available, able or willing to execute the
20 contract required by this Section and a physician determines
21 that a person is so disabled as to be unable to consent to
22 placement in a facility, or if a person has already been found
23 to be a "disabled person", but no order has been entered
24 allowing residential placement of the person, that person may
25 be admitted to a facility before the execution of a contract
26 required by this Section; provided that a petition for

1 guardianship or for modification of guardianship is filed
2 within 15 days of the person's admission to a facility, and
3 provided further that such a contract is executed within 10
4 days of the disposition of the petition.

5 No adult shall be admitted to a facility if he or she
6 objects, orally or in writing, to such admission, except as
7 otherwise provided in Chapters III and IV of the Mental Health
8 and Developmental Disabilities Code or Section 11a-14.1 of the
9 Probate Act of 1975.

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

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

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

22 (d) A copy of the contract for a resident who is supported
23 by nonpublic funds other than the resident's own funds shall be
24 made available to the person providing the funds for the
25 resident's support.

26 (e) The original or a copy of the contract shall be

1 maintained in the facility and be made available upon request
2 to representatives of the Department and the Department of
3 Healthcare and Family Services.

4 (f) The contract shall be written in clear and unambiguous
5 language and shall be printed in not less than 12-point type.
6 The general form of the contract shall be prescribed by the
7 Department.

8 (g) The contract shall specify:

9 (1) the term of the contract;

10 (2) the services to be provided under the contract and
11 the charges for the services;

12 (3) the services that may be provided to supplement the
13 contract and the charges for the services;

14 (4) the sources liable for payments due under the
15 contract;

16 (5) the amount of deposit paid; and

17 (6) the rights, duties and obligations of the resident,
18 except that the specification of a resident's rights may be
19 furnished on a separate document which complies with the
20 requirements of Section 2-211.

21 (h) The contract shall designate the name of the resident's
22 representative, if any. The resident shall provide the facility
23 with a copy of the written agreement between the resident and
24 the resident's representative which authorizes the resident's
25 representative to inspect and copy the resident's records and
26 authorizes the resident's representative to execute the

1 contract on behalf of the resident required by this Section.

2 (i) The contract shall provide that if the resident is
3 compelled by a change in physical or mental health to leave the
4 facility, the contract and all obligations under it shall
5 terminate on 7 days' notice. No prior notice of termination of
6 the contract shall be required, however, in the case of a
7 resident's death. The contract shall also provide that in all
8 other situations, a resident may terminate the contract and all
9 obligations under it with 30 days' notice. All charges shall be
10 prorated as of the date on which the contract terminates, and,
11 if any payments have been made in advance, the excess shall be
12 refunded to the resident. This provision shall not apply to
13 life care contracts through which a facility agrees to provide
14 maintenance and care for a resident throughout the remainder of
15 his life nor to continuing care contracts through which a
16 facility agrees to supplement all available forms of financial
17 support in providing maintenance and care for a resident
18 throughout the remainder of his or her life.

19 (j) In addition to all other contract specifications
20 contained in this Section admission contracts shall also
21 specify:

22 (1) whether the facility accepts Medicaid clients;

23 (2) whether the facility requires a deposit of the
24 resident or his or her family prior to the establishment of
25 Medicaid eligibility;

26 (3) in the event that a deposit is required, a clear

1 and concise statement of the procedure to be followed for
2 the return of such deposit to the resident or the
3 appropriate family member or guardian of the person;

4 (4) that all deposits made to a facility by a resident,
5 or on behalf of a resident, shall be returned by the
6 facility within 30 days of the establishment of Medicaid
7 eligibility, unless such deposits must be drawn upon or
8 encumbered in accordance with Medicaid eligibility
9 requirements established by the Department of Healthcare
10 and Family Services.

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

14 Section 2-203. Residents' advisory council. Each facility
15 shall establish a residents' advisory council. The
16 administrator shall designate a member of the facility staff to
17 coordinate the establishment of, and render assistance to, the
18 council.

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

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

1 (c) Records of the council meetings will be maintained in
2 the office of the administrator.

3 (d) The residents' advisory council may communicate to the
4 administrator the opinions and concerns of the residents. The
5 council shall review procedures for implementing resident
6 rights, facility responsibilities and make recommendations for
7 changes or additions which will strengthen the facility's
8 policies and procedures as they affect residents' rights and
9 facility responsibilities.

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

11 (1) Obtaining and disseminating information;

12 (2) Soliciting and adopting recommendations for
13 facility programing and improvements;

14 (3) Early identification and for recommending orderly
15 resolution of problems.

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

19 Section 2-205. Disclosure of information to public. The
20 following information is subject to disclosure to the public
21 from the Department or the Department of Healthcare and Family
22 Services:

23 (1) Information submitted under Sections 3-103 and
24 3-207 except information concerning the remuneration of
25 personnel licensed, registered, or certified by the

1 Department of Financial and Professional Regulation (as
2 successor to the Department of Professional Regulation)
3 and monthly charges for an individual private resident;

4 (2) Records of license and certification inspections,
5 surveys, and evaluations of facilities, other reports of
6 inspections, surveys, and evaluations of resident care,
7 whether a facility has been designated a distressed
8 facility and the basis for the designation, and reports
9 concerning a facility prepared pursuant to Titles XVIII and
10 XIX of the Social Security Act, subject to the provisions
11 of the Social Security Act;

12 (3) Cost and reimbursement reports submitted by a
13 facility under Section 3-208, reports of audits of
14 facilities, and other public records concerning costs
15 incurred by, revenues received by, and reimbursement of
16 facilities; and

17 (4) Complaints filed against a facility and complaint
18 investigation reports, except that a complaint or
19 complaint investigation report shall not be disclosed to a
20 person other than the complainant or complainant's
21 representative before it is disclosed to a facility under
22 Section 3-702, and, further, except that a complainant or
23 resident's name shall not be disclosed except under Section
24 3-702.

25 The Department shall disclose information under this
26 Section in accordance with provisions for inspection and

1 copying of public records required by the Freedom of
2 Information Act.

3 However, the disclosure of information described in
4 subsection (1) shall not be restricted by any provision of the
5 Freedom of Information Act.

6 Section 2-206. Confidentiality of records.

7 (a) The Department shall respect the confidentiality of a
8 resident's record and shall not divulge or disclose the
9 contents of a record in a manner which identifies a resident,
10 except upon a resident's death to a relative or guardian, or
11 under judicial proceedings. This Section shall not be construed
12 to limit the right of a resident to inspect or copy the
13 resident's records.

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

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

19 (a) Each year the Department shall publish a Directory for
20 each public health region listing facilities to be made
21 available to the public and be available at all Department
22 offices. The Department may charge a fee for the Directory. The
23 Directory shall contain, at a minimum, the following
24 information:

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

8 (b) Detailed information concerning basic costs for care
9 and operating policies shall be available to the public upon
10 request at each facility. However, a facility may refuse to
11 make available any proprietary operating policies to the extent
12 such facility reasonably believes such policies may be revealed
13 to a competitor.

14 Section 2-208. Notice of imminent death. A facility shall
15 immediately notify the resident's next of kin, representative
16 and physician of the resident's death or when the resident's
17 death appears to be imminent.

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

20 Section 2-210. Policies and procedures. A facility shall
21 establish written policies and procedures to implement the
22 responsibilities and rights provided in this Article. The
23 policies shall include the procedure for the investigation and

1 resolution of resident complaints as set forth under Section
2 3-702. The policies and procedures shall be clear and
3 unambiguous and shall be available for inspection by any
4 person. A summary of the policies and procedures, printed in
5 not less than 12-point type, shall be distributed to each
6 resident and representative.

7 Section 2-211. Explanation of rights. Each resident and
8 resident's guardian or other person acting for the resident
9 shall be given a written explanation, prepared by the Office of
10 the State Long Term Care Ombudsman, of all the rights
11 enumerated in Part 1 of this Article and in Part 4 of Article
12 III. For residents of facilities participating in Title XVIII
13 or XIX of the Social Security Act, the explanation shall
14 include an explanation of residents' rights enumerated in that
15 Act. The explanation shall be given at the time of admission to
16 a facility or as soon thereafter as the condition of the
17 resident permits, but in no event later than 48 hours after
18 admission, and again at least annually thereafter. At the time
19 of the implementation of this Act each resident shall be given
20 a written summary of all the rights enumerated in Part 1 of
21 this Article.

22 If a resident is unable to read such written explanation,
23 it shall be read to the resident in a language the resident
24 understands. In the case of a minor or a person having a
25 guardian or other person acting for him or her, both the

1 resident and the parent, guardian or other person acting for
2 the resident shall be fully informed of these rights.

3 Section 2-212. Staff familiarity with rights and
4 responsibilities. The facility shall ensure that its staff is
5 familiar with and observes the rights and responsibilities
6 enumerated in this Article.

7 Section 2-213. Vaccinations.

8 (a) A facility shall annually administer or arrange for
9 administration of a vaccination against influenza to each
10 resident, in accordance with the recommendations of the
11 Advisory Committee on Immunization Practices of the Centers for
12 Disease Control and Prevention that are most recent to the time
13 of vaccination, unless the vaccination is medically
14 contraindicated or the resident has refused the vaccine.
15 Influenza vaccinations for all residents age 65 and over shall
16 be completed by November 30 of each year or as soon as
17 practicable if vaccine supplies are not available before
18 November 1. Residents admitted after November 30, during the
19 flu season, and until February 1 shall, as medically
20 appropriate, receive an influenza vaccination prior to or upon
21 admission or as soon as practicable if vaccine supplies are not
22 available at the time of the admission, unless the vaccine is
23 medically contraindicated or the resident has refused the
24 vaccine. In the event that the Advisory Committee on

1 Immunization Practices of the Centers for Disease Control and
2 Prevention determines that dates of administration other than
3 those stated in this Act are optimal to protect the health of
4 residents, the Department is authorized to develop rules to
5 mandate vaccinations at those times rather than the times
6 stated in this Act. A facility shall document in the resident's
7 medical record that an annual vaccination against influenza was
8 administered, arranged, refused or medically contraindicated.

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

20 (c) All persons seeking admission to a nursing facility
21 shall be verbally screened for risk factors associated with
22 hepatitis B, hepatitis C, and the Human Immunodeficiency Virus
23 (HIV) according to guidelines established by the U.S. Centers
24 for Disease Control and Prevention. Persons who are identified
25 as being at high risk for hepatitis B, hepatitis C, or HIV
26 shall be offered an opportunity to undergo laboratory testing

1 in order to determine infection status if they will be admitted
2 to the nursing facility for at least 7 days and are not known
3 to be infected with any of the listed viruses. All HIV testing
4 shall be conducted in compliance with the AIDS Confidentiality
5 Act. All persons determined to be susceptible to the hepatitis
6 B virus shall be offered immunization within 10 days of
7 admission to any nursing facility. A facility shall document in
8 the resident's medical record that he or she was verbally
9 screened for risk factors associated with hepatitis B,
10 hepatitis C, and HIV, and whether or not the resident was
11 immunized against hepatitis B. Nothing in this subsection (c)
12 shall apply to a nursing facility licensed or regulated by the
13 Illinois Department of Veterans' Affairs.

14 Section 2-214. Consumer Choice Information Reports.

15 (a) Every facility shall complete a Consumer Choice
16 Information Report and shall file it with the Office of State
17 Long Term Care Ombudsman electronically as prescribed by the
18 Office. The Report shall be filed annually and upon request of
19 the Office of State Long Term Care Ombudsman. The Consumer
20 Choice Information Report must be completed by the facility in
21 full.

22 (b) A violation of any of the provisions of this Section
23 constitutes an unlawful practice under the Consumer Fraud and
24 Deceptive Business Practices Act. All remedies, penalties, and
25 authority granted to the Attorney General by the Consumer Fraud

1 and Deceptive Business Practices Act shall be available to him
2 or her for the enforcement of this Section.

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

7 Section 2-216. Notification of identified offenders. Every
8 licensed facility shall provide to every prospective and
9 current resident and resident's guardian, and to every facility
10 employee, a written notice, prescribed by the Illinois
11 Department of Public Health, advising the resident, guardian,
12 or employee of his or her right to ask whether any residents of
13 the facility are identified offenders. The notice shall also be
14 prominently posted within every licensed facility. The notice
15 shall include a statement that information regarding
16 registered sex offenders may be obtained from the Illinois
17 State Police website and that information regarding persons
18 serving terms of parole or mandatory supervised release may be
19 obtained from the Illinois Department of Corrections website.

20 Section 2-217. Order for transportation of resident by
21 ambulance. If a facility orders transportation of a resident of
22 the facility by ambulance, the facility must maintain a written
23 record that shows (i) the name of the person who placed the
24 order for that transportation and (ii) the medical reason for

1 that transportation. The facility must maintain the record for
2 a period of at least 6 years after the date of the order for
3 transportation by ambulance.

4 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND
5 REMEDIES

6 PART 1. LICENSING

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

10 (1) Protecting the health, welfare, and safety of
11 residents; and

12 (2) Assuring the accountability for reimbursed care
13 provided in certified facilities participating in a
14 federal or State health program.

15 Section 3-102. Necessity of license. No person may
16 establish, operate, maintain, offer or advertise a facility
17 within this State unless and until he or she obtains a valid
18 license therefor as hereinafter provided, which license
19 remains unsuspended, unrevoked, and unexpired. No public
20 official or employee may place any person in, or recommend that
21 any person be placed in, or directly or indirectly cause any
22 person to be placed in any facility which is being operated

1 without a valid license. All licenses and licensing procedures
2 established under the Nursing Home Care Act shall be deemed
3 valid under this Act until the Department establishes licenses
4 and licensing procedures and initiates the licenses and
5 licensing procedures under this Act.

6 Section 3-102.1. Denial of Department access to facility.
7 If the Department is denied access to a facility or any other
8 place which it reasonably believes is required to be licensed
9 as a facility under this Act, it shall request intervention of
10 local, county or State law enforcement agencies to seek an
11 appropriate court order or warrant to examine or interview the
12 residents of such facility. Any person or entity preventing the
13 Department from carrying out its duties under this Section
14 shall be guilty of a violation of this Act and shall be subject
15 to such penalties related thereto.

16 Section 3-103. Application for license; financial
17 statement. The procedure for obtaining a valid license shall be
18 as follows:

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

21 (2) All license applications shall be accompanied with
22 an application fee. The fee for an annual license shall be
23 \$1,990. The fee for a 2-year license shall be double the
24 fee for the annual license. The fees collected shall be

1 deposited with the State Treasurer into the Long Term Care
2 Monitor/Receiver Fund. The application shall be under oath
3 and the submission of false or misleading information shall
4 be a Class A misdemeanor. The application shall contain the
5 following information:

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

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

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

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

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

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

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

17 Section 3-104. Licensing and regulation by municipality.
18 Any city, village, or incorporated town may by ordinance
19 provide for the licensing and regulation of a facility or any
20 classification of such facility, as defined herein, within such
21 municipality, provided that the ordinance requires compliance
22 with at least the minimum requirements established by the
23 Department under this Act. The licensing and enforcement
24 provisions of the municipality shall fully comply with this
25 Act, and the municipality shall make available information as

1 required by this Act. Such compliance shall be determined by
2 the Department subject to review as provided in Section 3-703.
3 Section 3-703 shall also be applicable to the judicial review
4 of final administrative decisions of the municipality under
5 this Act.

6 Section 3-105. Reports by municipality. Any city, village,
7 or incorporated town which has or may have ordinances requiring
8 the licensing and regulation of facilities with at least the
9 minimum standards established by the Department under this Act,
10 shall make such periodic reports to the Department as the
11 Department deems necessary. This report shall include a list of
12 those facilities licensed by such municipality, the number of
13 beds of each facility, and the date the license of each
14 facility is effective.

15 Section 3-106. Issuance of license to holder of municipal
16 license.

17 (a) Upon receipt of notice and proof from an applicant or
18 licensee that he has received a license or renewal thereof from
19 a city, village or incorporated town, accompanied by the
20 required license or renewal fees, the Department shall issue a
21 license or renewal license to such person. The Department shall
22 not issue a license hereunder to any person who has failed to
23 qualify for a municipal license. If the issuance of a license
24 by the Department antedates regulatory action by a

1 municipality, the municipality shall issue a local license
2 unless the standards and requirements under its ordinance or
3 resolution are greater than those prescribed under this Act.

4 (b) In the event that the standards and requirements under
5 the ordinance or resolution of the municipality are greater
6 than those prescribed under this Act, the license issued by the
7 Department shall remain in effect pending reasonable
8 opportunity provided by the municipality, which shall be not
9 less than 60 days, for the licensee to comply with the local
10 requirements. Upon notice by the municipality, or upon the
11 Department's own determination that the licensee has failed to
12 qualify for a local license, the Department shall revoke such
13 license.

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

1 Section 3-107.1. Access by law enforcement officials and
2 agencies. Notwithstanding any other provision of this Act, the
3 Attorney General, the State's Attorneys, and various law
4 enforcement agencies of this State and its political
5 subdivisions shall have full and open access to any facility
6 pursuant to Article 108 of the Code of Criminal Procedure of
7 1963 in the exercise of their investigatory and prosecutorial
8 powers in the enforcement of the criminal laws of this State.
9 Furthermore, the Attorney General, the State's Attorneys and
10 law enforcement agencies of this State shall inform the
11 Department of any violations of this Act of which they have
12 knowledge. Disclosure of matters before a grand jury shall be
13 made in accordance with Section 112-6 of the Code of Criminal
14 Procedure of 1963.

15 Section 3-108. Cooperation with State agencies. The
16 Department shall coordinate the functions within State
17 government affecting facilities licensed under this Act and
18 shall cooperate with other State agencies which establish
19 standards or requirements for facilities to assure necessary,
20 equitable, and consistent State supervision of licensees
21 without unnecessary duplication of survey, evaluation, and
22 consultation services or complaint investigations. The
23 Department shall cooperate with the Department of Human
24 Services in regard to facilities containing more than 20% of
25 residents for whom the Department of Human Services has

1 mandated follow up responsibilities under the Mental Health and
2 Developmental Disabilities Administrative Act. The Department
3 shall cooperate with the Department of Healthcare and Family
4 Services in regard to facilities where recipients of public aid
5 are residents. The Department shall immediately refer to the
6 Department of Financial and Professional Regulation (as
7 successor to the Department of Professional Regulation) for
8 investigation any credible evidence of which it has knowledge
9 that an individual licensed by that Department has violated
10 this Act or any rule issued under this Act. The Department
11 shall enter into agreements with other State Departments,
12 agencies or commissions to effectuate the purpose of this
13 Section.

14 Section 3-109. Issuance of license based on Director's
15 findings. Upon receipt and review of an application for a
16 license made under this Article and inspection of the applicant
17 facility under this Article, the Director shall issue a license
18 if he or she finds:

19 (1) That the individual applicant, or the corporation,
20 partnership or other entity if the applicant is not an
21 individual, is a person responsible and suitable to operate
22 or to direct or participate in the operation of a facility
23 by virtue of financial capacity, appropriate business or
24 professional experience, a record of compliance with
25 lawful orders of the Department and lack of revocation of a

1 license during the previous 5 years;

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

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

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

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

24 The Department shall require the licensee to comply with
25 the requirements of a court order issued under Section 3-515,

1 as a condition of licensing.

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

4 (1) has not received a Type "A" violation within the
5 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 Section 3-111. Issuance or renewal of license after notice
4 of violation. The issuance or renewal of a license after notice
5 of a violation has been sent shall not constitute a waiver by
6 the Department of its power to rely on the violation as the
7 basis for subsequent license revocation or other enforcement
8 action under this Act arising out of the notice of violation.

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

10 (a) Whenever ownership of a facility is transferred from
11 the person named in the license to any other person, the
12 transferee must obtain a new probationary license. The
13 transferee shall notify the Department of the transfer and
14 apply for a new license at least 30 days prior to final
15 transfer.

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

20 Section 3-113. Transferee; conditional license. The
21 license granted to the transferee shall be subject to the plan
22 of correction submitted by the previous owner and approved by
23 the Department and any conditions contained in a conditional

1 license issued to the previous owner. If there are outstanding
2 violations and no approved plan of correction has been
3 implemented, the Department may issue a conditional license and
4 plan of correction as provided in Sections 3-311 through 3-317.
5 The license granted to a transferee for a facility that is in
6 receivership shall be subject to any contractual obligations
7 assumed by a grantee under the Equity in Long-term Care Quality
8 Act and to the plan submitted by the receiver for continuing
9 and increasing adherence to best practices in providing
10 high-quality nursing home care, unless the grant is repaid,
11 under conditions to be determined by rule by the Department in
12 its administration of the Equity in Long-term Care Quality Act.

13 Section 3-114. Transferor liable for penalties. The
14 transferor shall remain liable for all penalties assessed
15 against the facility which are imposed for violations occurring
16 prior to transfer of ownership.

17 Section 3-115. License renewal application. At least 120
18 days but not more than 150 days prior to license expiration,
19 the licensee shall submit an application for renewal of the
20 license in such form and containing such information as the
21 Department requires. If the application is approved, the
22 license shall be renewed in accordance with Section 3-110 at
23 the request of the licensee. If application for renewal is not
24 timely filed, the Department shall so inform the licensee.

1 Section 3-116. Probationary license. If the applicant has
2 not been previously licensed or if the facility is not in
3 operation at the time application is made, the Department shall
4 issue only a probationary license. A probationary license shall
5 be valid for 120 days unless sooner suspended or revoked under
6 Section 3-119. Within 30 days prior to the termination of a
7 probationary license, the Department shall fully and
8 completely inspect the facility and, if the facility meets the
9 applicable requirements for licensure, shall issue a license
10 under Section 3-109. If the Department finds that the facility
11 does not meet the requirements for licensure but has made
12 substantial progress toward meeting those requirements, the
13 license may be renewed once for a period not to exceed 120 days
14 from the expiration date of the initial probationary license.

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

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

20 (2) Conviction of the applicant, or if the applicant is
21 a firm, partnership or association, of any of its members,
22 or if a corporation, the conviction of the corporation or
23 any of its officers or stockholders, or of the person
24 designated to manage or supervise the facility, of a

1 felony, or of 2 or more misdemeanors involving moral
2 turpitude, during the previous 5 years as shown by a
3 certified copy of the record of the court of conviction.

4 (3) Personnel insufficient in number or unqualified by
5 training or experience to properly care for the proposed
6 number and type of residents.

7 (4) Insufficient financial or other resources to
8 operate and conduct the facility in accordance with
9 standards promulgated by the Department under this Act and
10 with contractual obligations assumed by a recipient of a
11 grant under the Equity in Long-term Care Quality Act and
12 the plan (if applicable) submitted by a grantee for
13 continuing and increasing adherence to best practices in
14 providing high-quality nursing home care.

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 Section 3-118. Notice of denial; request for hearing.
14 Immediately upon the denial of any application or reapplication
15 for a license under this Article, the Department shall notify
16 the applicant in writing. Notice of denial shall include a
17 clear and concise statement of the violations of Section 3-117
18 on which denial is based and notice of the opportunity for a
19 hearing under Section 3-703. If the applicant desires to
20 contest the denial of a license, it shall provide written
21 notice to the Department of a request for a hearing within 10
22 days after receipt of the notice of denial. The Department
23 shall commence the hearing under Section 3-703.

24 Section 3-119. Suspension, revocation, or refusal to renew

1 license.

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

5 (1) There has been a substantial failure to comply with
6 this Act or the rules and regulations promulgated by the
7 Department under this Act. A substantial failure by a
8 facility shall include, but not be limited to, any of the
9 following:

10 (A) termination of Medicare or Medicaid
11 certification by the Centers for Medicare and Medicaid
12 Services; or

13 (B) a failure by the facility to pay any fine
14 assessed under this Act after the Department has sent
15 to the facility at least 2 notices of assessment that
16 include a schedule of payments as determined by the
17 Department, taking into account extenuating
18 circumstances and financial hardships of the facility.

19 (2) Conviction of the licensee, or of the person
20 designated to manage or supervise the facility, 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 are insufficient in number or
25 unqualified by training or experience to properly care for
26 the number and type of residents served by the facility.

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

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

8 (6) The facility has committed 2 Type "AA" violations
9 within a 2-year period.

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

14 (c) If a facility desires to contest the nonrenewal or
15 revocation of a license, the facility shall, within 10 days
16 after receipt of notice under subsection (b) of this Section,
17 notify the Department in writing of its request for a hearing
18 under Section 3-703. Upon receipt of the request the Department
19 shall send notice to the facility and hold a hearing as
20 provided under Section 3-703.

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

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

1 Section 3-202. Standards for facilities. The Department
2 shall prescribe minimum standards for facilities. These
3 standards shall regulate:

4 (1) Location and construction of the facility,
5 including plumbing, heating, lighting, ventilation, and
6 other physical conditions which shall ensure the health,
7 safety, and comfort of residents and their protection from
8 fire hazard;

9 (2) Number and qualifications of all personnel,
10 including management and nursing personnel, having
11 responsibility for any part of the care given to residents;
12 specifically, the Department shall establish staffing
13 ratios for facilities which shall specify the number of
14 staff hours per resident of care that are needed for
15 professional nursing care for various types of facilities
16 or areas within facilities;

17 (3) All sanitary conditions within the facility and its
18 surroundings, including water supply, sewage disposal,
19 food handling, and general hygiene, which shall ensure the
20 health and comfort of residents;

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

24 (5) Equipment essential to the health and welfare of
25 the residents;

26 (6) A program of habilitation and rehabilitation for

1 those residents who would benefit from such programs;

2 (7) A program for adequate maintenance of physical
3 plant and equipment;

4 (8) Adequate accommodations, staff and services for
5 the number and types of residents for whom the facility is
6 licensed to care, including standards for temperature and
7 relative humidity within comfort zones determined by the
8 Department based upon a combination of air temperature,
9 relative humidity and air movement. Such standards shall
10 also require facility plans that provide for health and
11 comfort of residents at medical risk as determined by the
12 attending physician whenever the temperature and relative
13 humidity are outside such comfort zones established by the
14 Department. The standards must include a requirement that
15 areas of a facility used by residents of the facility be
16 air-conditioned and heated by means of operable
17 air-conditioning and heating equipment. The areas subject
18 to this air-conditioning and heating requirement include,
19 without limitation, bedrooms or common areas such as
20 sitting rooms, activity rooms, living rooms, community
21 rooms, and dining rooms;

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

25 (10) Maintenance of minimum financial or other
26 resources necessary to meet the standards established

1 under this Section, and to operate and conduct the facility
2 in accordance with this Act.

3 Section 3-202.05. Staffing ratios. The Department shall
4 establish rules governing the minimum staffing level and
5 staffing qualifications for facilities. In crafting the
6 staffing ratios the Department shall take into account the
7 ambulatory nature and mental health of the resident population
8 in the facilities. The rules shall be substantially similar to
9 the staffing ratios contained in Section 3-202.05 of the
10 Nursing Home Care Act.

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

21 Section 3-202.2a. Comprehensive resident care plan. A
22 facility, with the participation of the resident and the
23 resident's guardian or representative, as applicable, must

1 develop and implement a comprehensive care plan for each
2 resident that includes measurable objectives and timetables to
3 meet the resident's medical, mental and psychosocial needs that
4 are identified in the resident's comprehensive assessment,
5 that allow the resident to attain or maintain the highest
6 practicable level of independent functioning, and that provide
7 for discharge planning to the least restrictive setting based
8 on the resident's care needs. The assessment shall be developed
9 with the active participation of the resident and the
10 resident's guardian or representative, as applicable.

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

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

24 (b) No facility shall establish, operate, maintain, or
25 offer psychiatric rehabilitation services, or admit, retain,

1 or seek referrals of a resident with a serious mental illness
2 diagnosis, unless and until a valid certification, which
3 remains unsuspended, unrevoked, and unexpired, has been
4 issued.

5 (c) A facility that currently serves a resident with
6 serious mental illness may continue to admit such residents
7 until the Department performs a certification review and
8 determines that the facility does not meet the requirements for
9 certification. The Department, at its discretion, may provide
10 an additional 90-day period for the facility to meet the
11 requirements for certification if it finds that the facility
12 has made a good faith effort to comply with all certification
13 requirements and will achieve total compliance with the
14 requirements before the end of the 90-day period. The facility
15 shall be prohibited from admitting residents with serious
16 mental illness until the Department certifies the facility to
17 be in compliance with the requirements of this Section.

18 (d) A facility currently serving residents with serious
19 mental illness that elects to terminate provision of services
20 to this population must immediately notify the Department of
21 its intent, cease to admit new residents with serious mental
22 illness, and give notice to all existing residents with serious
23 mental illness of their impending discharge. These residents
24 shall be accorded all rights and assistance provided to a
25 resident being involuntarily discharged and those provided
26 under Section 2-201.5 of this Act. The facility shall continue

1 to adhere to all requirements of this Act until all residents
2 with serious mental illness have been discharged.

3 (e) A facility found to be out of compliance with the
4 certification requirements under this Section may be subject to
5 denial, revocation, or suspension of the psychiatric
6 rehabilitation services certification or the imposition of
7 sanctions and penalties, including the immediate suspension of
8 new admissions. Hearings shall be conducted pursuant to Part 7
9 of Article III of this Act.

10 (f) The Department shall indicate on its list of licensed
11 facilities which facilities are certified under this Section
12 and shall distribute this list to the appropriate State
13 agencies charged with administering and implementing the
14 State's program of pre-admission screening and resident
15 review, hospital discharge planners, and others upon request.

16 (g) No public official, agent, or employee of the State, or
17 any subcontractor of the State, may refer or arrange for the
18 placement of a person with serious mental illness in a facility
19 that is not certified under this Section. No public official,
20 agent, or employee of the State, or any subcontractor of the
21 State, may place the name of a facility on a list of facilities
22 serving the seriously mentally ill for distribution to the
23 general public or to professionals arranging for placements or
24 making referrals unless the facility is certified under this
25 Section.

26 (h) The Department shall establish requirements for

1 certification that augment current quality of care standards
2 for facilities serving residents with serious mental illness,
3 which shall include admission, discharge planning, psychiatric
4 rehabilitation services, development of age group appropriate
5 treatment plan goals and services, behavior management
6 services, coordination with community mental health services,
7 staff qualifications and training, clinical consultation,
8 resident access to the outside community, and appropriate
9 environment and space for resident programs, recreation,
10 privacy, and any other issue deemed appropriate by the
11 Department. The augmented standards shall at a minimum include,
12 but need not be limited to, the following:

13 (1) Staff sufficient in number and qualifications
14 necessary to meet the scheduled and unscheduled needs of
15 the residents on a 24 hour basis. The Department shall
16 establish by rule the minimum number of psychiatric
17 services rehabilitation coordinators in relation to the
18 number of residents with serious mental illness residing in
19 the facility.

20 (2) The number and qualifications of consultants
21 required to be contracted with to provide continuing
22 education and training and to assist with program
23 development.

24 (3) Training for all new employees specific to the care
25 needs of residents with a serious mental illness diagnosis
26 during their orientation period and annually thereafter.

1 Training shall be independent of the Department and
2 overseen by an agency designated by the Governor to
3 determine the content of all facility employee training and
4 to provide training for all trainers of facility employees.
5 Training of employees shall at minimum include, but need
6 not be limited to, (i) the impact of a serious mental
7 illness diagnosis, (ii) the recovery paradigm and the role
8 of psychiatric rehabilitation, (iii) preventive strategies
9 for managing aggression and crisis prevention, (iv) basic
10 psychiatric rehabilitation techniques and service
11 delivery, (v) resident rights, (vi) abuse prevention,
12 (vii) appropriate interaction between staff and residents,
13 and (viii) any other topic deemed by the Department to be
14 important to ensuring quality of care.

15 (4) Quality assessment and improvement requirements
16 specific to a facility's residential psychiatric
17 rehabilitation services, which shall be made available to
18 the Department upon request. A facility shall be required
19 at a minimum to develop and maintain policies and
20 procedures that include, but need not be limited to,
21 evaluation of the appropriateness of resident admissions
22 based on the facility's capacity to meet specific needs,
23 resident assessments, development and implementation of
24 care plans, and discharge planning.

25 (5) Room selection and appropriateness of roommate
26 assignment.

1 (6) Comprehensive quarterly review of all treatment
2 plans for residents with serious mental illness by the
3 resident's interdisciplinary team, which takes into
4 account, at a minimum, the resident's progress, prior
5 assessments, and treatment plan.

6 (7) Substance abuse screening and management and
7 documented referral relationships with certified substance
8 abuse treatment providers.

9 (8) Administration of psychotropic medications to a
10 resident with serious mental illness who is incapable of
11 giving informed consent, in compliance with the applicable
12 provisions of the Mental Health and Developmental
13 Disabilities Code.

14 (i) The Department shall establish a certification fee
15 schedule by rule, in consultation with advocates, nursing
16 homes, and representatives of associations representing long
17 term care facilities. Rules proposed under this Section shall
18 take effect 180 days after being approved by the Joint
19 Committee on Administrative Rules.

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

21 (a) Before commencing construction of a new facility or
22 specified types of alteration or additions to an existing long
23 term care facility involving major construction, as defined by
24 rule by the Department, with an estimated cost greater than
25 \$100,000, architectural drawings and specifications for the

1 facility shall be submitted to the Department for review and
2 approval. A facility may submit architectural drawings and
3 specifications for other construction projects for Department
4 review according to subsection (b) that shall not be subject to
5 fees under subsection (d). Review of drawings and
6 specifications shall be conducted by an employee of the
7 Department meeting the qualifications established by the
8 Department of Central Management Services class specifications
9 for such an individual's position or by a person contracting
10 with the Department who meets those class specifications. Final
11 approval of the drawings and specifications for compliance with
12 design and construction standards shall be obtained from the
13 Department before the alteration, addition, or new
14 construction is begun.

15 (b) The Department shall inform an applicant in writing
16 within 10 working days after receiving drawings and
17 specifications and the required fee, if any, from the applicant
18 whether the applicant's submission is complete or incomplete.
19 Failure to provide the applicant with this notice within 10
20 working days shall result in the submission being deemed
21 complete for purposes of initiating the 60 day review period
22 under this Section. If the submission is incomplete, the
23 Department shall inform the applicant of the deficiencies with
24 the submission in writing. If the submission is complete the
25 required fee, if any, has been paid, the Department shall
26 approve or disapprove drawings and specifications submitted to

1 the Department no later than 60 days following receipt by the
2 Department. The drawings and specifications shall be of
3 sufficient detail, as provided by Department rule, to enable
4 the Department to render a determination of compliance with
5 design and construction standards under this Act. If the
6 Department finds that the drawings are not of sufficient detail
7 for it to render a determination of compliance, the plans shall
8 be determined to be incomplete and shall not be considered for
9 purposes of initiating the 60 day review period. If a
10 submission of drawings and specifications is incomplete, the
11 applicant may submit additional information. The 60 day review
12 period shall not commence until the Department determines that
13 a submission of drawings and specifications is complete or the
14 submission is deemed complete. If the Department has not
15 approved or disapproved the drawings and specifications within
16 60 days, the construction, major alteration, or addition shall
17 be deemed approved. If the drawings and specifications are
18 disapproved, the Department shall state in writing, with
19 specificity, the reasons for the disapproval. The entity
20 submitting the drawings and specifications may submit
21 additional information in response to the written comments from
22 the Department or request a reconsideration of the disapproval.
23 A final decision of approval or disapproval shall be made
24 within 45 days of the receipt of the additional information or
25 reconsideration request. If denied, the Department shall state
26 the specific reasons for the denial.

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

5 (1) the Department reviewed and approved or deemed
6 approved the drawings and specifications for compliance
7 with design and construction standards;

8 (2) the construction, major alteration, or addition
9 was built as submitted;

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

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

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

18 (1) (Blank).

19 (2) (Blank).

20 (3) If the estimated dollar value of the alteration,
21 addition, or new construction is \$100,000 or more but less
22 than \$500,000, the fee shall be the greater of \$2,400 or
23 1.2% of that value.

24 (4) If the estimated dollar value of the alteration,
25 addition, or new construction is \$500,000 or more but less
26 than \$1,000,000, the fee shall be the greater of \$6,000 or

1 0.96% of that value.

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

6 (6) If the estimated dollar value of the alteration,
7 addition, or new construction is \$5,000,000 or more, the
8 fee shall be the greater of \$11,000 or 0.11% of that value,
9 but shall not exceed \$40,000. The fees provided in this
10 subsection (d) shall not apply to major construction
11 projects involving facility changes that are required by
12 Department rule amendments. The fees provided in this
13 subsection (d) shall also not apply to major construction
14 projects if 51% or more of the estimated cost of the
15 project is attributed to capital equipment. For major
16 construction projects where 51% or more of the estimated
17 cost of the project is attributed to capital equipment, the
18 Department shall by rule establish a fee that is reasonably
19 related to the cost of reviewing the project. The
20 Department shall not commence the facility plan review
21 process under this Section until the applicable fee has
22 been paid.

23 (e) All fees received by the Department under this Section
24 shall be deposited into the Health Facility Plan Review Fund, a
25 special fund created in the State Treasury. All fees paid by
26 long term care facilities under subsection (d) shall be used

1 only to cover the costs relating to the Department's review of
2 long term care facility projects under this Section. Moneys
3 shall be appropriated from that Fund to the Department only to
4 pay the costs of conducting reviews under this Section or under
5 Section 3-202.5 of the Nursing Home Care Act. None of the
6 moneys in the Health Facility Plan Review Fund shall be used to
7 reduce the amount of General Revenue Fund moneys appropriated
8 to the Department for facility plan reviews conducted pursuant
9 to this Section.

10 (f) (Blank).

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

26 (h) The Department shall establish, by rule, a procedure to

1 conduct interim on site review of large or complex construction
2 projects.

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

5 (j) Nothing in this Section shall be construed to apply to
6 maintenance, upkeep, or renovation that does not affect the
7 structural integrity of the building, does not add beds or
8 services over the number for which the long term care facility
9 is licensed, and provides a reasonable degree of safety for the
10 residents.

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

15 Section 3-204. License classifications. In addition to the
16 authority to prescribe minimum standards, the Department may
17 adopt license classifications of facilities according to the
18 levels of service, and if license classification is adopted the
19 applicable minimum standards shall define the classification.
20 In adopting classification of the license of facilities, the
21 Department may give recognition to the classification of
22 services defined or prescribed by federal statute or federal
23 rule or regulation. More than one classification of the license
24 may be issued to the same facility when the prescribed minimum

1 standards and regulations are met.

2 Section 3-205. Municipalities; license classifications.
3 Where licensing responsibilities are performed by a city,
4 village or incorporated town, the municipality shall use the
5 same classifications as the Department; and a facility may not
6 be licensed for a different classification by the Department
7 than by the municipality.

8 Section 3-206. Nursing assistants, habilitation aids, and
9 child care aides. The Department shall prescribe a curriculum
10 for training nursing assistants, habilitation aides, and child
11 care aides.

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

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

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

4 (3) Provide evidence of employment or occupation, if
5 any, and residence for 2 years prior to his or her present
6 employment.

7 (4) Have completed at least 8 years of grade school or
8 provide proof of equivalent knowledge.

9 (5) Begin a current course of training for nursing
10 assistants, habilitation aides, or child care aides,
11 approved by the Department, within 45 days of initial
12 employment in the capacity of a nursing assistant,
13 habilitation aide, or child care aide at any facility. Such
14 courses of training shall be successfully completed within
15 120 days of initial employment in the capacity of nursing
16 assistant, habilitation aide, or child care aide at a
17 facility. Nursing assistants, habilitation aides, and
18 child care aides who are enrolled in approved courses in
19 community colleges or other educational institutions on a
20 term, semester, or trimester basis shall be exempt from the
21 120-day completion time limit. The Department shall adopt
22 rules for such courses of training. These rules shall
23 include procedures for facilities to carry on an approved
24 course of training within the facility.

25 The Department may accept comparable training in lieu
26 of the 120-hour course for student nurses, foreign nurses,

1 military personnel, or employes of the Department of Human
2 Services.

3 The facility shall develop and implement procedures,
4 which shall be approved by the Department, for an ongoing
5 review process, which shall take place within the facility,
6 for nursing assistants, habilitation aides, and child care
7 aides.

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

21 (6) Be familiar with and have general skills related to
22 resident care.

23 (a-0.5) An educational entity, other than a secondary
24 school, conducting a nursing assistant, habilitation aide, or
25 child care aide training program shall initiate a criminal
26 history record check in accordance with the Health Care Worker

1 Background Check Act prior to entry of an individual into the
2 training program. A secondary school may initiate a criminal
3 history record check in accordance with the Health Care Worker
4 Background Check Act at any time during or after a training
5 program.

6 (a-1) Nursing assistants, habilitation aides, or child
7 care aides seeking to be included on the registry maintained
8 under Section 3-206.01 must authorize the Department of Public
9 Health or its designee to request a criminal history record
10 check in accordance with the Health Care Worker Background
11 Check Act and submit all necessary information. An individual
12 may not newly be included on the registry unless a criminal
13 history record check has been conducted with respect to the
14 individual.

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

17 (c) It is unlawful for any facility to employ any person in
18 the capacity of nursing assistant, habilitation aide, or child
19 care aide, or under any other title, not licensed by the State
20 of Illinois to assist in the personal, medical, or nursing care
21 of residents in such facility unless such person has complied
22 with this Section.

23 (d) Proof of compliance by each employee with the
24 requirements set out in this Section shall be maintained for
25 each such employee by each facility in the individual personnel
26 folder of the employee. Proof of training shall be obtained

1 only from the health care worker registry.

2 (e) Each facility shall obtain access to the health care
3 worker registry's web application, maintain the employment and
4 demographic information relating to each employee, and verify
5 by the category and type of employment that each employee
6 subject to this Section meets all the requirements of this
7 Section.

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

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

26 The Department's rules shall also provide for

1 circumstances and procedures whereby any person who has
2 received training that meets the requirements of this
3 subsection shall not be required to undergo additional training
4 if he or she is transferred to or obtains employment at a
5 different facility or a facility other than a long-term care
6 facility but remains continuously employed for pay as a nursing
7 assistant, habilitation aide, or child care aide. Individuals
8 who have performed no nursing or nursing-related services for a
9 period of 24 consecutive months shall be listed as "inactive"
10 and, as such, do not meet the requirements of this Section.
11 Licensed sheltered care facilities shall be exempt from the
12 requirements of this Section.

13 Section 3-206.01. Health care worker registry.

14 (a) The Department shall include in the registry
15 established under Section 3-206.01 of the Nursing Home Care Act
16 all individuals who (i) have satisfactorily completed the
17 training required by Section 3-206 of this Act, (ii) have begun
18 a current course of training as set forth in Section 3-206 of
19 this Act, or (iii) are otherwise acting as a nursing assistant,
20 habilitation aide, home health aide, psychiatric services
21 rehabilitation aide, or child care aide. The registry shall
22 include the individual's name, his or her current address,
23 Social Security number, and the date and location of the
24 training course completed by the individual and whether the
25 individual has any of the disqualifying convictions listed in

1 Section 25 of the Health Care Worker Background Check Act from
2 the date of the individual's last criminal records check. Any
3 individual placed on the registry is required to inform the
4 Department of any change of address within 30 days. A facility
5 shall not employ an individual as a nursing assistant,
6 habilitation aide, home health aide, psychiatric services
7 rehabilitation aide, or child care aide, or newly hired as an
8 individual who may have access to a resident, a resident's
9 living quarters, or a resident's personal, financial, or
10 medical records, unless the facility has inquired of the
11 Department's health care worker registry as to information in
12 the registry concerning the individual. The facility shall not
13 employ an individual as a nursing assistant, habilitation aide,
14 or child care aide if that individual is not on the registry
15 unless the individual is enrolled in a training program under
16 paragraph (5) of subsection (a) of Section 3-206 of this Act.

17 If the Department finds that a nursing assistant,
18 habilitation aide, home health aide, psychiatric services
19 rehabilitation aide, or child care aide, or an unlicensed
20 individual, has abused or neglected a resident or an individual
21 under his or her care or misappropriated property of a resident
22 or an individual under his or her care, the Department shall
23 notify the individual of this finding by certified mail sent to
24 the address contained in the registry. The notice shall give
25 the individual an opportunity to contest the finding in a
26 hearing before the Department or to submit a written response

1 to the findings in lieu of requesting a hearing. If, after a
2 hearing or if the individual does not request a hearing, the
3 Department finds that the individual abused a resident,
4 neglected a resident, or misappropriated resident property in a
5 facility, the finding shall be included as part of the registry
6 as well as a clear and accurate summary from the individual, if
7 he or she chooses to make such a statement. The Department
8 shall make the following information in the registry available
9 to the public: an individual's full name; the date an
10 individual successfully completed a nurse aide training or
11 competency evaluation; and whether the Department has made a
12 finding that an individual has been guilty of abuse or neglect
13 of a resident or misappropriation of resident property. In the
14 case of inquiries to the registry concerning an individual
15 listed in the registry, any information disclosed concerning
16 such a finding shall also include disclosure of the
17 individual's statement in the registry relating to the finding
18 or a clear and accurate summary of the statement.

19 (b) The Department shall add to the health care worker
20 registry records of findings as reported by the Inspector
21 General or remove from the health care worker registry records
22 of findings as reported by the Department of Human Services,
23 under subsection (g-5) of Section 1-17 of the Department of
24 Human Services Act.

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

1 (a) The Department, after notice to the nursing assistant,
2 habilitation aide, home health aide, psychiatric services
3 rehabilitation aide, or child care aide, may designate that the
4 Department has found any of the following:

5 (1) The nursing assistant, habilitation aide, home
6 health aide, psychiatric services rehabilitation aide, or
7 child care aide has abused a resident.

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

11 (3) The nursing assistant, habilitation aide, home
12 health aide, psychiatric services rehabilitation aide, or
13 child care aide has misappropriated resident property.

14 (4) The nursing assistant, habilitation aide, home
15 health aide, psychiatric services rehabilitation aide, or
16 child care aide has been convicted of (i) a felony, (ii) a
17 misdemeanor, an essential element of which is dishonesty,
18 or (iii) any crime that is directly related to the duties
19 of a nursing assistant, habilitation aide, or child care
20 aide.

21 (b) Notice under this Section shall include a clear and
22 concise statement of the grounds denoting abuse, neglect, or
23 theft and notice of the opportunity for a hearing to contest
24 the designation.

25 (c) The Department may denote any nursing assistant,
26 habilitation aide, home health aide, psychiatric services

1 rehabilitation aide, or child care aide on the registry who
2 fails (i) to file a return, (ii) to pay the tax, penalty or
3 interest shown in a filed return, or (iii) to pay any final
4 assessment of tax, penalty or interest, as required by any tax
5 Act administered by the Illinois Department of Revenue, until
6 the time the requirements of the tax Act are satisfied.

7 (c-1) The Department shall document criminal background
8 check results pursuant to the requirements of the Health Care
9 Worker Background Check Act.

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

21 Section 3-206.03. Resident attendants.

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

25 (1) eating and drinking; and

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

5 The term "resident attendant" does not include an
6 individual who:

7 (1) is a licensed health professional or a registered
8 dietitian;

9 (2) volunteers without monetary compensation;

10 (3) is a nurse assistant; or

11 (4) performs any nursing or nursing related services
12 for residents of a facility.

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

17 (c) A facility may not use on a full time or other paid
18 basis any individual as a resident attendant in the facility
19 unless the individual:

20 (1) has completed a training and competency evaluation
21 program encompassing the tasks the individual provides;
22 and

23 (2) is competent to provide feeding, hydration, and
24 personal hygiene services.

25 (d) The training and competency evaluation program may be
26 facility based. It may include one or more of the following

1 units:

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

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

6 (3) A personal hygiene unit that is a maximum of 5
7 hours in length. These programs must be reviewed and
8 approved by the Department every 2 years.

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

11 Section 3-206.05. Safe resident handling policy.

12 (a) In this Section:

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

16 "Nurse" means an advanced practice nurse, a registered
17 nurse, or a licensed practical nurse licensed under the
18 Nurse Practice Act.

19 (b) A facility must adopt and ensure implementation of a
20 policy to identify, assess, and develop strategies to control
21 risk of injury to residents and nurses and other health care
22 workers associated with the lifting, transferring,
23 repositioning, or movement of a resident. The policy shall
24 establish a process that, at a minimum, includes all of the
25 following:

1 (1) Analysis of the risk of injury to residents and
2 nurses and other health care workers taking into account
3 the resident handling needs of the resident populations
4 served by the facility and the physical environment in
5 which the resident handling and movement occurs.

6 (2) Education of nurses in the identification,
7 assessment, and control of risks of injury to residents and
8 nurses and other health care workers during resident
9 handling.

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

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

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

21 (6) Development of strategies to control risk of injury
22 to residents and nurses and other health care workers
23 associated with the lifting, transferring, repositioning,
24 or movement of a resident.

25 (7) In developing architectural plans for construction
26 or remodeling of a facility or unit of a facility in which

1 resident handling and movement occurs, consideration of
2 the feasibility of incorporating resident handling
3 equipment or the physical space and construction design
4 needed to incorporate that equipment.

5 Section 3-206.1. Transfer of ownership following
6 suspension or revocation; discussion with new owner. Whenever
7 ownership of a private facility is transferred to another
8 private owner following a final order for a suspension or
9 revocation of the facility's license, the Department shall
10 discuss with the new owner all noted problems associated with
11 the facility and shall determine what additional training, if
12 any, is needed for the direct care staff.

13 Section 3-207. Statement of ownership.

14 (a) As a condition of the issuance or renewal of the
15 license of any facility, the applicant shall file a statement
16 of ownership. The applicant shall update the information
17 required in the statement of ownership within 10 days of any
18 change.

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

20 (1) The name, address, telephone number, occupation or
21 business activity, business address and business telephone
22 number of the person who is the owner of the facility and
23 every person who owns the building in which the facility is
24 located, if other than the owner of the facility, which is

1 the subject of the application or license; and if the owner
2 is a partnership or corporation, the name of every partner
3 and stockholder of the owner;

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

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

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

14 Section 3-208. Annual financial statement.

15 (a) Each licensee shall file annually, or more often as the
16 Director shall by rule prescribe an attested financial
17 statement. The Director may order an audited financial
18 statement of a particular facility by an auditor of the
19 Director's choice, provided the cost of such audit is paid by
20 the Department.

21 (b) No public funds shall be expended for the maintenance
22 of any resident in a facility which has failed to file the
23 financial statement required under this Section and no public
24 funds shall be paid to or on behalf of a facility which has
25 failed to file a statement.

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

7 (d) The Director of Public Health and the Director of
8 Healthcare and Family Services shall seek the advice and
9 comments of other State and federal agencies which require the
10 submission of financial data from facilities licensed under
11 this Act and shall incorporate the information requirements of
12 these agencies so as to impose the least possible burden on
13 licensees. No other State agency may require submission of
14 financial data except as expressly authorized by law or as
15 necessary to meet requirements of federal statutes or
16 regulations. Information obtained under this Section shall be
17 made available, upon request, by the Department to any other
18 State agency or legislative commission to which such
19 information is necessary for investigations or required for the
20 purposes of State or federal law or regulation.

21 Section 3-209. Posting of information. Every facility
22 shall conspicuously post for display in an area of its offices
23 accessible to residents, employees, and visitors the
24 following:

- 25 (1) Its current license;

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

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

7 (4) A list of the material available for public
8 inspection under Section 3-210.

9 Section 3-210. Materials for public inspection.

10 A facility shall retain the following for public
11 inspection:

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

15 (2) A copy of every order pertaining to the facility
16 issued by the Department or a court during the past 5
17 years;

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

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

23 (5) A record of personnel employed or retained by the
24 facility who are licensed, certified or registered by the
25 Department of Financial and Professional Regulation (as

1 successor to the Department of Professional Regulation);

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

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

6 Section 3-211. No State or federal funds to unlicensed
7 facility. No State or federal funds which are appropriated by
8 the General Assembly or which pass through the General Revenue
9 Fund or any special fund in the State Treasury shall be paid to
10 a facility not having a license issued under this Act.

11 Section 3-212. Inspection of facility by Department;
12 report.

13 (a) The Department, whenever it deems necessary in
14 accordance with subsection (b), shall inspect, survey and
15 evaluate every facility to determine compliance with
16 applicable licensure requirements and standards. Submission of
17 a facility's current Consumer Choice Information Report
18 required by Section 2-214 shall be verified at the time of
19 inspection. An inspection should occur within 120 days prior to
20 license renewal. The Department may periodically visit a
21 facility for the purpose of consultation. An inspection,
22 survey, or evaluation, other than an inspection of financial
23 records, shall be conducted without prior notice to the
24 facility. A visit for the sole purpose of consultation may be

1 announced. The Department shall provide training to surveyors
2 about the appropriate assessment, care planning, and care of
3 persons with mental illness (other than Alzheimer's disease or
4 related disorders) to enable its surveyors to determine whether
5 a facility is complying with State and federal requirements
6 about the assessment, care planning, and care of those persons.

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

26 (a-2) An employee of a State or unit of local government

1 agency charged with inspecting, surveying, or evaluating
2 facilities who willfully profits from violating the
3 confidentiality of the inspection, survey, or evaluation
4 process shall be guilty of a Class 4 felony and that conduct
5 shall be deemed unprofessional conduct that may subject a
6 person to loss of his or her professional license. An action to
7 prosecute a person for violating this subsection (a-2) may be
8 brought by either the Attorney General or the State's Attorney
9 in the county where the violation took place.

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

20 (b-1) The Department shall not be required to determine
21 whether a facility certified to participate in the Medicare
22 program under Title XVIII of the Social Security Act, or the
23 Medicaid program under Title XIX of the Social Security Act,
24 and which the Department determines by inspection under this
25 Section or under Section 3-702 of this Act to be in compliance
26 with the certification requirements of Title XVIII or XIX, is

1 in compliance with any requirement of this Act that is less
2 stringent than or duplicates a federal certification
3 requirement. In accordance with subsection (a) of this Section
4 or subsection (d) of Section 3-702, the Department shall
5 determine whether a certified facility is in compliance with
6 requirements of this Act that exceed federal certification
7 requirements. If a certified facility is found to be out of
8 compliance with federal certification requirements, the
9 results of an inspection conducted pursuant to Title XVIII or
10 XIX of the Social Security Act may be used as the basis for
11 enforcement remedies authorized and commenced, with the
12 Department's discretion to evaluate whether penalties are
13 warranted, under this Act. Enforcement of this Act against a
14 certified facility shall be commenced pursuant to the
15 requirements of this Act, unless enforcement remedies sought
16 pursuant to Title XVIII or XIX of the Social Security Act
17 exceed those authorized by this Act. As used in this
18 subsection, "enforcement remedy" means a sanction for
19 violating a federal certification requirement or this Act.

20 (c) Upon completion of each inspection, survey and
21 evaluation, the appropriate Department personnel who conducted
22 the inspection, survey or evaluation shall submit a copy of
23 their report to the licensee upon exiting the facility, and
24 shall submit the actual report to the appropriate regional
25 office of the Department. Such report and any recommendations
26 for action by the Department under this Act shall be

1 transmitted to the appropriate offices of the associate
2 director of the Department, together with related comments or
3 documentation provided by the licensee which may refute
4 findings in the report, which explain extenuating
5 circumstances that the facility could not reasonably have
6 prevented, or which indicate methods and timetables for
7 correction of deficiencies described in the report. Without
8 affecting the application of subsection (a) of Section 3-303,
9 any documentation or comments of the licensee shall be provided
10 within 10 days of receipt of the copy of the report. Such
11 report shall recommend to the Director appropriate action under
12 this Act with respect to findings against a facility. The
13 Director shall then determine whether the report's findings
14 constitute a violation or violations of which the facility must
15 be given notice. Such determination shall be based upon the
16 severity of the finding, the danger posed to resident health
17 and safety, the comments and documentation provided by the
18 facility, the diligence and efforts to correct deficiencies,
19 correction of the reported deficiencies, the frequency and
20 duration of similar findings in previous reports and the
21 facility's general inspection history. Violations shall be
22 determined under this subsection no later than 90 days after
23 completion of each inspection, survey and evaluation.

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

1 (e) The Department shall conduct a revisit to its licensure
2 and certification surveys, consistent with federal regulations
3 and guidelines.

4 Section 3-213. Periodic reports to Department. The
5 Department shall require periodic reports and shall have access
6 to and may reproduce or photocopy at its cost any books,
7 records, and other documents maintained by the facility to the
8 extent necessary to carry out this Act and the rules
9 promulgated under this Act. The Department shall not divulge or
10 disclose the contents of a record under this Section in
11 violation of Section 2-206 or as otherwise prohibited by this
12 Act.

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

21 Section 3-215. Annual report on facility by Department. The
22 Department shall make at least one report on each facility in
23 the State annually, unless the facility has been issued a

1 2-year license under subsection (b) of Section 3-110 for which
2 the report shall be made every 2-years. All conditions and
3 practices not in compliance with applicable standards within
4 the report period shall be specifically stated. If a violation
5 is corrected or is subject to an approved plan of correction,
6 the same shall be specified in the report. The Department shall
7 send a copy to any person on receiving a written request. The
8 Department may charge a reasonable fee to cover copying costs.

9 PART 3. VIOLATIONS AND PENALTIES

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

1 revocation under Section 3-119. The Director or his or her
2 designee shall also inform the licensee of rights to a hearing
3 under Section 3-703.

4 Section 3-302. Each day a separate violation. Each day the
5 violation exists after the date upon which a notice of
6 violation is served under Section 3-301 shall constitute a
7 separate violation for purposes of assessing penalties or fines
8 under Section 3-305. The submission of a plan of correction
9 pursuant to subsection (b) of Section 3-303 does not prohibit
10 or preclude the Department from assessing penalties or fines
11 pursuant to Section 3-305 for those violations found to be
12 valid except as provided under Section 3-308 in relation to
13 Type "B" violations. No penalty or fine may be assessed for a
14 condition for which the facility has received a variance or
15 waiver of a standard.

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

17 (a) The situation, condition or practice constituting a
18 Type "AA" violation or a Type "A" violation shall be abated or
19 eliminated immediately unless a fixed period of time, not
20 exceeding 15 days, as determined by the Department and
21 specified in the notice of violation, is required for
22 correction.

23 (b) At the time of issuance of a notice of a Type "B"
24 violation, the Department shall request a plan of correction

1 which is subject to the Department's approval. The facility
2 shall have 10 days after receipt of notice of violation in
3 which to prepare and submit a plan of correction. The
4 Department may extend this period up to 30 days where
5 correction involves substantial capital improvement. The plan
6 shall include a fixed time period not in excess of 90 days
7 within which violations are to be corrected. If the Department
8 rejects a plan of correction, it shall send notice of the
9 rejection and the reason for the rejection to the facility. The
10 facility shall have 10 days after receipt of the notice of
11 rejection in which to submit a modified plan. If the modified
12 plan is not timely submitted, or if the modified plan is
13 rejected, the facility shall follow an approved plan of
14 correction imposed by the Department.

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

19 (d) Upon a licensee's petition, the Department shall
20 determine whether to grant a licensee's request for an extended
21 correction time. Such petition shall be served on the
22 Department prior to expiration of the correction time
23 originally approved. The burden of proof is on the petitioning
24 facility to show good cause for not being able to comply with
25 the original correction time approved.

26 (e) If a facility desires to contest any Department action

1 under this Section it shall send a written request for a
2 hearing under Section 3-703 to the Department within 10 days of
3 receipt of notice of the contested action. The Department shall
4 commence the hearing as provided under Section 3-703. Whenever
5 possible, all action of the Department under this Section
6 arising out of a violation shall be contested and determined at
7 a single hearing. Issues decided after a hearing may not be
8 reheard at subsequent hearings under this Section.

9 Section 3-303.1. Waiver of facility's compliance with rule
10 or standard. Upon application by a facility, the Director may
11 grant or renew the waiver of the facility's compliance with a
12 rule or standard for a period not to exceed the duration of the
13 current license or, in the case of an application for license
14 renewal, the duration of the renewal period. The waiver may be
15 conditioned upon the facility taking action prescribed by the
16 Director as a measure equivalent to compliance. In determining
17 whether to grant or renew a waiver, the Director shall consider
18 the duration and basis for any current waiver with respect to
19 the same rule or standard and the validity and effect upon
20 patient health and safety of extending it on the same basis,
21 the effect upon the health and safety of residents, the quality
22 of resident care, the facility's history of compliance with the
23 rules and standards of this Act and the facility's attempts to
24 comply with the particular rule or standard in question. The
25 Department may provide, by rule, for the automatic renewal of

1 waivers concerning physical plant requirements upon the
2 renewal of a license. The Department shall renew waivers
3 relating to physical plant standards issued pursuant to this
4 Section at the time of the indicated reviews, unless it can
5 show why such waivers should not be extended for the following
6 reasons:

7 (a) the condition of the physical plant has deteriorated or
8 its use substantially changed so that the basis upon which the
9 waiver was issued is materially different; or

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

20 Section 3-303.2. Administrative warning.

21 (a) If the Department finds a situation, condition or
22 practice which violates this Act or any rule promulgated
23 thereunder that does not constitute a Type "AA", Type "A", Type
24 "B", or Type "C" violation, the Department shall issue an
25 administrative warning. Any administrative warning shall be

1 served upon the facility in the same manner as the notice of
2 violation under Section 3-301. The facility shall be
3 responsible for correcting the situation, condition or
4 practice; however, no written plan of correction need be
5 submitted for an administrative warning, except for violations
6 of Sections 3-401 through 3-413 or the rules promulgated
7 thereunder. A written plan of correction is required to be
8 filed for an administrative warning issued for violations of
9 Sections 3-401 through 3-413 or the rules promulgated
10 thereunder.

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

20 Section 3-304. Quarterly list of facilities against which
21 Department has taken action.

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

25 (1) sent a notice under Section 3-307 regarding a

1 penalty assessment under subsection (1) of Section 3-305;

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

4 (3) sent a notice refusing renewal of a license under
5 Section 3-119;

6 (4) sent a notice to suspend a license under Section
7 3-119;

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

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

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

17 (8) recommended to the Director of Healthcare and
18 Family Services, or the Secretary of the United States
19 Department of Health and Human Services, the
20 decertification for violations in relation to patient care
21 of a facility pursuant to Titles XVIII and XIX of the
22 federal Social Security Act.

23 (b) In addition to the name and address of the facility,
24 the list shall include the name and address of the person or
25 licensee against whom the action has been initiated, a self
26 explanatory summary of the facts which warranted the initiation

1 of each action, the type of action initiated, the date of the
2 initiation of the action, the amount of the penalty sought to
3 be assessed, if any, and the final disposition of the action,
4 if completed.

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

7 Section 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 special projects or federally required inspections;

21 (8) advisory standards;

22 (9) deficiency free surveys;

23 (10) enforcement actions and enforcement summaries;

24 and

25 (11) distressed facilities.

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

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

6 (d) The information shall be made available as provided in
7 this Section in the shortest practicable time after it is
8 publicly available in any other form.

9 Section 3-304.2. Designation of distressed facilities.

10 (a) By August 1, 2011, and quarterly thereafter, the
11 Department shall generate and publish quarterly a list of
12 distressed facilities. Criteria for inclusion of certified
13 facilities on the list shall be those used by the U.S. General
14 Accounting Office in report 9-689, until such time as the
15 Department by rule modifies the criteria.

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

1 (c) The Department shall, by rule, adopt criteria to
2 identify non-Medicaid-certified facilities that are distressed
3 and shall publish this list quarterly beginning October 1,
4 2011.

5 (d) The Department shall notify each facility of its
6 distressed designation, and of the calculation on which it is
7 based.

8 (e) A distressed facility may contract with an independent
9 consultant meeting criteria established by the Department. If
10 the distressed facility does not seek the assistance of an
11 independent consultant, the Department shall place a monitor or
12 a temporary manager in the facility, depending on the
13 Department's assessment of the condition of the facility.

14 (f) A facility that has been designated a distressed
15 facility may contract with an independent consultant to develop
16 and assist in the implementation of a plan of improvement to
17 bring and keep the facility in compliance with this Act and, if
18 applicable, with federal certification requirements. A
19 facility that contracts with an independent consultant shall
20 have 90 days to develop a plan of improvement and demonstrate a
21 good faith effort at implementation, and another 90 days to
22 achieve compliance and take whatever additional actions are
23 called for in the improvement plan to maintain compliance. A
24 facility that the Department determines has a plan of
25 improvement likely to bring and keep the facility in compliance
26 and that has demonstrated good faith efforts at implementation

1 within the first 90 days may be eligible to receive a grant
2 under the Equity in Long-term Care Quality Act to assist it in
3 achieving and maintaining compliance. In this subsection,
4 "independent" consultant means an individual who has no
5 professional or financial relationship with the facility, any
6 person with a reportable ownership interest in the facility, or
7 any related parties. In this subsection, "related parties" has
8 the meaning attributed to it in the instructions for completing
9 Medicaid cost reports.

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

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

22 (i) The Department shall by rule establish sanctions (in
23 addition to those authorized elsewhere in this Article) against
24 distressed facilities that are not in compliance with this Act
25 and (if applicable) with federal certification requirements.
26 Criteria for imposing sanctions shall take into account a

1 facility's actions to address the violations and deficiencies
2 that caused its designation as a distressed facility, and its
3 compliance with this Act and with federal certification
4 requirements (if applicable), subsequent to its designation as
5 a distressed facility, including mandatory revocations if
6 criteria can be agreed upon by the Department, resident
7 advocates, and representatives of the nursing home profession.
8 The Department shall report to the General Assembly on the
9 results of negotiations about creating criteria for mandatory
10 license revocations of distressed facilities and make
11 recommendations about any statutory changes it believes are
12 appropriate to protect the health, safety, and welfare of
13 nursing home residents.

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

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

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

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

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

9 (2.5) A licensee who commits 10 or more Type "C"
10 violations, as defined in Section 1-132, in a single survey
11 shall be assessed a fine of up to \$250 per violation. A
12 licensee who commits one or more Type "C" violations with a
13 high risk designation, as defined by rule, shall be assessed a
14 fine of up to \$500 per violation.

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

21 (4) A licensee who fails to satisfactorily comply with an
22 accepted plan of correction for a Type "B" violation or an
23 administrative warning issued pursuant to Sections 3-401
24 through 3-413 or the rules promulgated thereunder shall be
25 automatically issued a conditional license for a period of not
26 less than 6 months. A second or subsequent acceptable plan of

1 correction shall be filed. A fine shall be assessed in
2 accordance with subsection (2) when cited for the repeat
3 violation. This fine shall be computed for all days of the
4 violation, including the duration of the first plan of
5 correction compliance time.

6 (5) For the purpose of computing a penalty under
7 subsections (2) through (4), the number of residents per day
8 shall be based on the average number of residents in the
9 facility during the 30 days preceding the discovery of the
10 violation.

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

21 (7) For purposes of assessing fines under this Section, a
22 repeat violation shall be a violation which has been cited
23 during one inspection of the facility for which an accepted
24 plan of correction was not complied with or a new citation of
25 the same rule if the licensee is not substantially addressing
26 the issue routinely throughout the facility. Violations of the

1 Nursing Home Care Act and the MR/DD Community Care Act shall be
2 deemed violations of this Act.

3 (7.5) If an occurrence results in more than one type of
4 violation as defined in this Act, the Nursing Home Care Act, or
5 the MR/DD Community Care Act (that is, a Type "AA", Type "A",
6 Type "B", or Type "C" violation), the maximum fine that may be
7 assessed for that occurrence is the maximum fine that may be
8 assessed for the most serious type of violation charged. For
9 purposes of the preceding sentence, a Type "AA" violation is
10 the most serious type of violation that may be charged,
11 followed by a Type "A", Type "B", or Type "C" violation, in
12 that order.

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

19 (9) If the Department finds that a facility has violated a
20 provision of the Illinois Administrative Code that has a high
21 risk designation, or that a facility has violated the same
22 provision of the Illinois Administrative Code 3 or more times
23 in the previous 12 months, the Department may assess a fine of
24 up to 2 times the maximum fine otherwise allowed.

25 (10) If a licensee has paid a civil monetary penalty
26 imposed pursuant to the Medicare and Medicaid Certification

1 Program for the equivalent federal violation giving rise to a
2 fine under this Section, the Department shall offset the fine
3 by the amount of the civil monetary penalty. The offset may not
4 reduce the fine by more than 75% of the original fine, however.

5 Section 3-306. Factors to be considered in determining
6 penalty. In determining whether a penalty is to be imposed and
7 in determining the amount of the penalty to be imposed, if any,
8 for a violation, the Director shall consider the following
9 factors:

10 (1) The gravity of the violation, including the
11 probability that death or serious physical or mental harm
12 to a resident will result or has resulted; the severity of
13 the actual or potential harm, and the extent to which the
14 provisions of the applicable statutes or regulations were
15 violated;

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

18 (3) Any previous violations committed by the licensee;
19 and

20 (4) The financial benefit to the facility of committing
21 or continuing the violation.

22 Section 3-307. Assessment of penalties; notice. The
23 Director may directly assess penalties provided for under
24 Section 3-305 of this Act. If the Director determines that a

1 penalty should be assessed for a particular violation or for
2 failure to correct it, the Director shall send a notice to the
3 facility. The notice shall specify the amount of the penalty
4 assessed, the violation, and the statute or rule alleged to
5 have been violated, and shall inform the licensee of the right
6 to hearing under Section 3-703 of this Act. The notice must
7 contain a detailed computation showing how the amount of the
8 penalty was derived, including the number of days and the
9 number of residents on which the penalty was based. If the
10 violation is continuing, the notice shall specify the amount of
11 additional assessment per day for the continuing violation.

12 Section 3-308. Time of assessment; plan of correction. In
13 the case of a Type "A" violation, a penalty may be assessed
14 from the date on which the violation is discovered. In the case
15 of a Type "B" or Type "C" violation or an administrative
16 warning issued pursuant to Sections 3-401 through 3-413 or the
17 rules promulgated thereunder, the facility shall submit a plan
18 of correction as provided in Section 3-303.

19 In the case of a Type "B" violation or an administrative
20 warning issued pursuant to Sections 3-401 through 3-413 or the
21 rules promulgated thereunder, a penalty shall be assessed on
22 the date of notice of the violation, but the Director may
23 reduce the amount or waive such payment for any of the
24 following reasons:

25 (a) The facility submits a true report of correction

1 within 10 days;

2 (b) The facility submits a plan of correction within 10
3 days and subsequently submits a true report of correction
4 within 15 days thereafter;

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

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

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

25 (1) The violation has not caused actual harm to a
26 resident.

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

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

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

7 At least annually, and upon request, the Department shall
8 provide a list of all reallocations and the reasons for those
9 reallocations.

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

20 If a good faith plan of correction is not received within
21 the time provided by Section 3-303, a penalty may be assessed
22 from the date of the notice of the Type "B" or "C" violation or
23 an administrative warning issued pursuant to Sections 3-401
24 through 3-413 or the rules promulgated thereunder served under
25 Section 3-301 until the date of the receipt of a good faith
26 plan of correction, or until the date the violation is

1 corrected, whichever is earlier. If a violation is not
2 corrected within the time specified by an approved plan of
3 correction or any lawful extension thereof, a penalty may be
4 assessed from the date of notice of the violation, until the
5 date the violation is corrected.

6 Section 3-309. Contesting assessment of penalty. A
7 facility may contest an assessment of a penalty by sending a
8 written request to the Department for hearing under Section
9 3-703. Upon receipt of the request the Department shall hold a
10 hearing as provided under Section 3-703. Instead of requesting
11 a hearing pursuant to Section 3-703, a facility may, within 10
12 business days after receipt of the notice of violation and fine
13 assessment, transmit to the Department (i) 65% of the amount
14 assessed for each violation specified in the penalty assessment
15 or (ii) in the case of a fine subject to offset under paragraph
16 (10) of Section 3-305, up to 75% of the amount assessed.

17 Section 3-310. Collection of penalties. All penalties
18 shall be paid to the Department within 10 days of receipt of
19 notice of assessment or, if the penalty is contested under
20 Section 3-309, within 10 days of receipt of the final decision,
21 unless the decision is appealed and the order is stayed by
22 court order under Section 3-713. A facility choosing to waive
23 the right to a hearing under Section 3-309 shall submit a
24 payment totaling 65% of the original fine amount along with the

1 written waiver. A penalty assessed under this Act shall be
2 collected by the Department and shall be deposited with the
3 State Treasurer into the Long Term Care Monitor/Receiver Fund.
4 If the person or facility against whom a penalty has been
5 assessed does not comply with a written demand for payment
6 within 30 days, the Director shall issue an order to do any of
7 the following:

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

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

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

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

25 Section 3-311. Issuance of conditional license in addition

1 to penalties. In addition to the right to assess penalties
2 under this Act, the Director may issue a conditional license
3 under Section 3-305 to any facility if the Director finds that
4 either a Type "A" or Type "B" violation exists in such
5 facility. The issuance of a conditional license shall revoke
6 any license held by the facility.

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

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

1 Section 3-315. Hearing on conditional license or plan of
2 correction. If the applicant or licensee desires to contest the
3 basis for issuance of a conditional license, or the terms of
4 the plan of correction, the applicant or licensee shall send a
5 written request for hearing to the Department within 10 days
6 after receipt by the applicant or licensee of the Department's
7 notice and decision to issue a conditional license. The
8 Department shall hold the hearing as provided under Section
9 3-703.

10 Section 3-316. Period of conditional license. A
11 conditional license shall be issued for a period specified by
12 the Department, but in no event for more than one year. The
13 Department shall periodically inspect any facility operating
14 under a conditional license. If the Department finds
15 substantial failure by the facility to timely correct the
16 violations which prevented full licensure and formed the basis
17 for the Department's decision to issue a conditional license in
18 accordance with the required plan of correction, the
19 conditional license may be revoked as provided under Section
20 3-119.

21 Section 3-318. Business offenses.

22 (a) No person shall:

23 (1) Intentionally fail to correct or interfere with the

1 correction of a Type "AA", Type "A", or Type "B" violation
2 within the time specified on the notice or approved plan of
3 correction under this Act as the maximum period given for
4 correction, unless an extension is granted and the
5 corrections are made before expiration of extension;

6 (2) Intentionally prevent, interfere with, or attempt
7 to impede in any way any duly authorized investigation and
8 enforcement of this Act;

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

12 (4) Intentionally prevent or interfere with the
13 preservation of evidence pertaining to any violation of
14 this Act or the rules promulgated under this Act;

15 (5) Intentionally retaliate or discriminate against
16 any resident or employee for contacting or providing
17 information to any state official, or for initiating,
18 participating in, or testifying in an action for any remedy
19 authorized under this Act;

20 (6) Wilfully file any false, incomplete or
21 intentionally misleading information required to be filed
22 under this Act, or wilfully fail or refuse to file any
23 required information; or

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

25 (b) A violation of this Section is a business offense,
26 punishable by a fine not to exceed \$10,000, except as otherwise

1 provided in subsection (2) of Section 3-103 as to submission of
2 false or misleading information in a license application.

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

6 Section 3-320. Review under Administrative Review Law. All
7 final administrative decisions of the Department under this Act
8 are subject to judicial review under the Administrative Review
9 Law, as now or hereafter amended, and the rules adopted
10 pursuant thereto. The term "administrative decision" is
11 defined as in Section 3-101 of the Code of Civil Procedure.

12 PART 4. DISCHARGE AND TRANSFER

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

16 (a) for medical reasons;

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

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

20 (d) for either late payment or nonpayment for the
21 resident's stay, except as prohibited by Titles XVIII and XIX
22 of the federal Social Security Act. For purposes of this
23 Section, "late payment" means non receipt of payment after

1 submission of a bill. If payment is not received within 45 days
2 after submission of a bill, a facility may send a notice to the
3 resident and responsible party requesting payment within 30
4 days. If payment is not received within such 30 days, the
5 facility may thereupon institute transfer or discharge
6 proceedings by sending a notice of transfer or discharge to the
7 resident and responsible party by registered or certified mail.
8 The notice shall state, in addition to the requirements of
9 Section 3-403 of this Act, that the responsible party has the
10 right to pay the amount of the bill in full up to the date the
11 transfer or discharge is to be made and then the resident shall
12 have the right to remain in the facility. Such payment shall
13 terminate the transfer or discharge proceedings. This
14 subsection does not apply to those residents whose care is
15 provided for under the Illinois Public Aid Code. The Department
16 shall adopt rules setting forth the criteria and procedures to
17 be applied in cases of involuntary transfer or discharge
18 permitted under this Section.

19 Section 3-401.1. Medical assistance recipients.

20 (a) A facility participating in the Medical Assistance
21 Program is prohibited from failing or refusing to retain as a
22 resident any person because he or she is a recipient of or an
23 applicant for the Medical Assistance Program under Article V of
24 the Illinois Public Aid Code.

25 (a-5) A facility of which only a distinct part is certified

1 to participate in the Medical Assistance Program may refuse to
2 retain as a resident any person who resides in a part of the
3 facility that does not participate in the Medical Assistance
4 Program and who is unable to pay for his or her care in the
5 facility without Medical Assistance only if:

6 (1) the facility, no later than at the time of
7 admission and at the time of the resident's contract
8 renewal, explains to the resident (unless he or she is
9 incompetent), and to the resident's representative, and to
10 the person making payment on behalf of the resident for the
11 resident's stay, in writing, that the facility may
12 discharge the resident if the resident is no longer able to
13 pay for his or her care in the facility without Medical
14 Assistance;

15 (2) the resident (unless he or she is incompetent), the
16 resident's representative, and the person making payment
17 on behalf of the resident for the resident's stay,
18 acknowledge in writing that they have received the written
19 explanation.

20 (a-10) For the purposes of this Section, a recipient or
21 applicant shall be considered a resident in the facility during
22 any hospital stay totaling 10 days or less following a hospital
23 admission. The Department of Healthcare and Family Services
24 shall recoup funds from a facility when, as a result of the
25 facility's refusal to readmit a recipient after
26 hospitalization for 10 days or less, the recipient incurs

1 hospital bills in an amount greater than the amount that would
2 have been paid by that Department for care of the recipient in
3 the facility. The amount of the recoupment shall be the
4 difference between the Department of Healthcare and Family
5 Services' payment for hospital care and the amount that
6 Department would have paid for care in the facility.

7 (b) A facility which violates this Section shall be guilty
8 of a business offense and fined not less than \$500 nor more
9 than \$1,000 for the first offense and not less than \$1,000 nor
10 more than \$5,000 for each subsequent offense.

11 Section 3-402. Notice of involuntary transfer or
12 discharge. Involuntary transfer or discharge of a resident from
13 a facility shall be preceded by the discussion required under
14 Section 3-408 and by a minimum written notice of 21 days,
15 except in one of the following instances:

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

19 (b) When the transfer or discharge is mandated by the
20 physical safety of other residents, the facility staff, or
21 facility visitors, as documented in the clinical record. The
22 Department shall be notified prior to any such involuntary
23 transfer or discharge. The Department shall immediately offer
24 transfer, or discharge and relocation assistance to residents
25 transferred or discharged under this subparagraph (b), and the

1 Department may place relocation teams as provided in Section
2 3-419 of this Act.

3 (c) When an identified offender is within the provisional
4 admission period defined in Section 1-120.3. If the Identified
5 Offender Report and Recommendation prepared under Section
6 2-201.6 shows that the identified offender poses a serious
7 threat or danger to the physical safety of other residents, the
8 facility staff, or facility visitors in the admitting facility
9 and the facility determines that it is unable to provide a safe
10 environment for the other residents, the facility staff, or
11 facility visitors, the facility shall transfer or discharge the
12 identified offender within 3 days after its receipt of the
13 Identified Offender Report and Recommendation.

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

17 (a) The stated reason for the proposed transfer or
18 discharge;

19 (b) The effective date of the proposed transfer or
20 discharge;

21 (c) A statement in not less than 12 point type, which
22 reads: "You have a right to appeal the facility's decision to
23 transfer or discharge you. If you think you should not have to
24 leave this facility, you may file a request for a hearing with
25 the Department of Public Health within 10 days after receiving

1 this notice. If you request a hearing, it will be held not
2 later than 10 days after your request, and you generally will
3 not be transferred or discharged during that time. If the
4 decision following the hearing is not in your favor, you
5 generally will not be transferred or discharged prior to the
6 expiration of 30 days following receipt of the original notice
7 of the transfer or discharge. A form to appeal the facility's
8 decision and to request a hearing is attached. If you have any
9 questions, call the Department of Public Health at the
10 telephone number listed below.";

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

13 (e) The name, address, and telephone number of the person
14 charged with the responsibility of supervising the transfer or
15 discharge.

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

22 Section 3-405. Copy of notice in resident's record; copy to
23 Department. A copy of the notice required by Section 3-402
24 shall be placed in the resident's clinical record and a copy

1 shall be transmitted to the Department, the resident, the
2 resident's representative, and, if the resident's care is paid
3 for in whole or part through Title XIX, the Department of
4 Healthcare and Family Services.

5 Section 3-406. Medical assistance recipient; transfer or
6 discharge as result of action by Department of Healthcare and
7 Family Services. When the basis for an involuntary transfer or
8 discharge is the result of an action by the Department of
9 Healthcare and Family Services with respect to a recipient of
10 assistance under Title XIX of the Social Security Act and a
11 hearing request is filed with the Department of Healthcare and
12 Family Services, the 21-day written notice period shall not
13 begin until a final decision in the matter is rendered by the
14 Department of Healthcare and Family Services or a court of
15 competent jurisdiction and notice of that final decision is
16 received by the resident and the facility.

17 Section 3-407. Nonpayment as basis for transfer or
18 discharge. When nonpayment is the basis for involuntary
19 transfer or discharge, the resident shall have the right to
20 redeem up to the date that the discharge or transfer is to be
21 made and then shall have the right to remain in the facility.

22 Section 3-408. Discussion of planned transfer or
23 discharge. The planned involuntary transfer or discharge shall

1 be discussed with the resident, the resident's representative
2 and person or agency responsible for the resident's placement,
3 maintenance, and care in the facility. The explanation and
4 discussion of the reasons for involuntary transfer or discharge
5 shall include the facility administrator or other appropriate
6 facility representative as the administrator's designee. The
7 content of the discussion and explanation shall be summarized
8 in writing and shall include the names of the individuals
9 involved in the discussions and made a part of the resident's
10 clinical record.

11 Section 3-409. Counseling services. The facility shall
12 offer the resident counseling services before the transfer or
13 discharge of the resident.

14 Section 3-410. Request for hearing on transfer or
15 discharge. A resident subject to involuntary transfer or
16 discharge from a facility, the resident's guardian or if the
17 resident is a minor, his or her parent shall have the
18 opportunity to file a request for a hearing with the Department
19 within 10 days following receipt of the written notice of the
20 involuntary transfer or discharge by the facility.

21 Section 3-411. Hearing; time. The Department of Public
22 Health, when the basis for involuntary transfer or discharge is
23 other than action by the Department of Healthcare and Family

1 Services with respect to the Title XIX Medicaid recipient,
2 shall hold a hearing at the resident's facility not later than
3 10 days after a hearing request is filed, and render a decision
4 within 14 days after the filing of the hearing request.

5 Section 3-412. Conduct of hearing. The hearing before the
6 Department provided under Section 3-411 shall be conducted as
7 prescribed under Section 3-703. In determining whether a
8 transfer or discharge is authorized, the burden of proof in
9 this hearing rests on the person requesting the transfer or
10 discharge.

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

20 Section 3-414. Continuation of medical assistance funding.
21 The Department of Healthcare and Family Services shall continue
22 Title XIX Medicaid funding during the appeal, transfer, or
23 discharge period for those residents who are recipients of

1 assistance under Title XIX of the Social Security Act affected
2 by Section 3-401.

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

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

8 (b) The Department has suspended, revoked or refused to
9 renew the license of the facility as provided under Section
10 3-119;

11 (c) The facility has requested the aid of the Department in
12 the transfer or discharge of the resident and the Department
13 finds that the resident consents to transfer or discharge;

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

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

19 Section 3-416. Transfer or discharge by Department;
20 likelihood of serious harm. In deciding to transfer or
21 discharge a resident from a facility under Section 3-415, the
22 Department shall consider the likelihood of serious harm which
23 may result if the resident remains in the facility.

1 Section 3-417. Transfer or discharge; alternative
2 placements. The Department shall offer transfer or discharge
3 and relocation assistance to residents transferred or
4 discharged under Sections 3-401 through 3-415, including
5 information on available alternative placements. Residents
6 shall be involved in planning the transfer or discharge and
7 shall choose among the available alternative placements,
8 except that where an emergency makes prior resident involvement
9 impossible the Department may make a temporary placement until
10 a final placement can be arranged. Residents may choose their
11 final alternative placement and shall be given assistance in
12 transferring to such place. No resident may be forced to remain
13 in a temporary or permanent placement. Where the Department
14 makes or participates in making the relocation decision,
15 consideration shall be given to proximity to the resident's
16 relatives and friends. The resident shall be allowed 3 visits
17 to potential alternative placements prior to removal, except
18 where medically contraindicated or where the need for immediate
19 transfer or discharge requires reduction in the number of
20 visits.

21 When the Department provides information on available
22 alternative placements in community-based settings for
23 individuals being discharged or transferred from facilities
24 licensed under this Act, the information must include a
25 comprehensive list of a range of appropriate, client-oriented
26 services and the name of and contact information for the ADA

1 coordinator in the relocation locale. The comprehensive list
2 must include the name and contact information for each agency
3 or organization providing those services and a summary of the
4 services provided by each agency or organization. A hotline or
5 similar crisis telephone number must also be provided to
6 individuals relocating into the community.

7 Section 3-418. Transfer or discharge plans. The Department
8 shall prepare resident transfer or discharge plans to assure
9 safe and orderly removals and protect residents' health,
10 safety, welfare and rights. In nonemergencies, and where
11 possible in emergencies, the Department shall design and
12 implement such plans in advance of transfer or discharge.

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

17 Section 3-420. Transfer or discharge by Department;
18 notice. In any transfer or discharge conducted under Sections
19 3-415 through 3-418 the Department shall do the following:

20 (a) Provide written notice to the facility prior to the
21 transfer or discharge. The notice shall state the basis for the
22 order of transfer or discharge and shall inform the facility of
23 its right to an informal conference prior to transfer or

1 discharge under this Section, and its right to a subsequent
2 hearing under Section 3-422. If a facility desires to contest a
3 nonemergency transfer or discharge, prior to transfer or
4 discharge it shall, within 4 working days after receipt of the
5 notice, send a written request for an informal conference to
6 the Department. The Department shall, within 4 working days
7 from the receipt of the request, hold an informal conference in
8 the county in which the facility is located. Following this
9 conference, the Department may affirm, modify or overrule its
10 previous decision. Except in an emergency, transfer or
11 discharge may not begin until the period for requesting a
12 conference has passed or, if a conference is requested, until
13 after a conference has been held.

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

25 Section 3-421. Notice of emergency. In any transfer or

1 discharge conducted under subsection (e) of Section 3-415, the
2 Department shall notify the facility and any resident to be
3 removed that an emergency has been found to exist and removal
4 has been ordered, and shall involve the residents in removal
5 planning if possible. Following emergency removal, the
6 Department shall provide written notice to the facility, to the
7 resident, to the resident's representative, if any, and to a
8 member of the resident's family, where practicable, of the
9 basis for the finding that an emergency existed and of the
10 right to challenge removal under Section 3-422.

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

1 may file a claim against the State under the Court of Claims
2 Act for any excess expenses directly caused by the order to
3 transfer or discharge. The Department shall assist the resident
4 in returning to the facility if assistance is requested.

5 Section 3-423. Closure of facility; notice. Any owner of a
6 facility licensed under this Act shall give 90 days' notice
7 prior to voluntarily closing a facility or closing any part of
8 a facility, or prior to closing any part of a facility if
9 closing such part will require the transfer or discharge of
10 more than 10% of the residents. Such notice shall be given to
11 the Department, to any resident who must be transferred or
12 discharged, to the resident's representative, and to a member
13 of the resident's family, where practicable. Notice shall state
14 the proposed date of closing and the reason for closing. The
15 facility shall offer to assist the resident in securing an
16 alternative placement and shall advise the resident on
17 available alternatives. Where the resident is unable to choose
18 an alternate placement and is not under guardianship, the
19 Department shall be notified of the need for relocation
20 assistance. The facility shall comply with all applicable laws
21 and regulations until the date of closing, including those
22 related to transfer or discharge of residents. The Department
23 may place a relocation team in the facility as provided under
24 Section 3-419.

1 PART 5. MONITORS AND RECEIVERSHIP

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

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

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

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

14 (d) The Department determines that an emergency
15 exists, whether or not it has initiated revocation or
16 nonrenewal procedures, if because of the unwillingness or
17 inability of the licensee to remedy the emergency the
18 Department believes a monitor or receiver is necessary.

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

23 (f) The facility has been designated a distressed
24 facility by the Department and does not have a consultant
25 employed pursuant to paragraph (f) of Section 3-304.2 and

1 an acceptable plan of improvement, or the Department has
2 reason to believe the facility is not complying with the
3 plan of improvement. Nothing in this paragraph (f) shall
4 preclude the Department from placing a monitor in a
5 facility if otherwise justified by law.

6 As used in subsection (d) and Section 3-503, "emergency"
7 means a threat to the health, safety, or welfare of a resident
8 that the facility is unwilling or unable to correct.

9 Section 3-502. Placement of monitor by Department. In any
10 situation described in Section 3-501, the Department may place
11 a qualified person to act as monitor in the facility. The
12 monitor shall observe operation of the facility, assist the
13 facility by advising it on how to comply with the State
14 regulations, and shall report periodically to the Department on
15 the operation of the facility.

16 Section 3-503. Emergency; petition for receiver. Where a
17 resident, a resident's representative or a resident's next of
18 kin believes that an emergency exists each of them,
19 collectively or separately, may file a verified petition to the
20 circuit court for the county in which the facility is located
21 for an order placing the facility under the control of a
22 receiver.

23 Section 3-504. Hearing on petition for receiver; grounds

1 for appointment of receiver. The court shall hold a hearing
2 within 5 days of the filing of the petition. The petition and
3 notice of the hearing shall be served on the owner,
4 administrator or designated agent of the facility as provided
5 under the Civil Practice Law, or the petition and notice of
6 hearing shall be posted in a conspicuous place in the facility
7 not later than 3 days before the time specified for the
8 hearing, unless a different period is fixed by order of the
9 court. The court shall appoint a receiver if it finds that:

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

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

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

17 (d) An emergency exists, whether or not the Department has
18 initiated revocation or nonrenewal procedures, if because of
19 the unwillingness or inability of the licensee to remedy the
20 emergency the appointment of a receiver is necessary.

21 Section 3-505. Emergency; time for hearing. If a petition
22 filed under Section 3-503 alleges that the conditions set out
23 in subsection 3-504 (d) exist within a facility, the court may
24 set the matter for hearing at the earliest possible time. The
25 petitioner shall notify the licensee, administrator of the

1 facility, or registered agent of the licensee prior to the
2 hearing. Any form of written notice may be used. A receivership
3 shall not be established ex parte unless the court determines
4 that the conditions set out in subsection 3-504(d) exist in a
5 facility; that the licensee cannot be found; and that the
6 petitioner has exhausted all reasonable means of locating and
7 notifying the licensee, administrator or registered agent.

8 Section 3-506. Appointment of receiver. The court may
9 appoint any qualified person as a receiver, except it shall not
10 appoint any owner or affiliate of the facility which is in
11 receivership as its receiver. The Department shall maintain a
12 list of such persons to operate facilities which the court may
13 consider. The court shall give preference to licensed nursing
14 home administrators in appointing a receiver.

15 Section 3-507. Health, safety, and welfare of residents.
16 The receiver shall make provisions for the continued health,
17 safety and welfare of all residents of the facility.

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

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

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

1 (c) Shall have the same rights to possession of the
2 building in which the facility is located and of all goods and
3 fixtures in the building at the time the petition for
4 receivership is filed as the owner would have had if the
5 receiver had not been appointed, and of all assets of the
6 facility. The receiver shall take such action as is reasonably
7 necessary to protect or conserve the assets or property of
8 which the receiver takes possession, or the proceeds from any
9 transfer thereof, and may use them only in the performance of
10 the powers and duties set forth in this Section and by order of
11 the court.

12 (d) May use the building, fixtures, furnishings and any
13 accompanying consumable goods in the provision of care and
14 services to residents and to any other persons receiving
15 services from the facility at the time the petition for
16 receivership was filed. The receiver shall collect payments for
17 all goods and services provided to residents or others during
18 the period of the receivership at the same rate of payment
19 charged by the owners at the time the petition for receivership
20 was filed.

21 (e) May correct or eliminate any deficiency in the
22 structure or furnishings of the facility which endangers the
23 safety or health of residents while they remain in the
24 facility, provided the total cost of correction does not exceed
25 \$3,000. The court may order expenditures for this purpose in
26 excess of \$3,000 on application from the receiver after notice

1 to the owner and hearing.

2 (f) May let contracts and hire agents and employees to
3 carry out the powers and duties of the receiver under this
4 Section.

5 (g) Except as specified in Section 3-510, shall honor all
6 leases, mortgages and secured transactions governing the
7 building in which the facility is located and all goods and
8 fixtures in the building of which the receiver has taken
9 possession, but only to the extent of payments which, in the
10 case of a rental agreement, are for the use of the property
11 during the period of the receivership, or which, in the case of
12 a purchase agreement, come due during the period of the
13 receivership.

14 (h) Shall have full power to direct and manage and to
15 discharge employees of the facility, subject to any contract
16 rights they may have. The receiver shall pay employees at the
17 same rate of compensation, including benefits, that the
18 employees would have received from the owner. Receivership does
19 not relieve the owner of any obligation to employees not
20 carried out by the receiver.

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

23 (j) Shall be entitled to and shall take possession of all
24 property or assets of residents which are in the possession of
25 a facility or its owner. The receiver shall preserve all
26 property, assets and records of residents of which the receiver

1 takes possession and shall provide for the prompt transfer of
2 the property, assets and records to the new placement of any
3 transferred resident.

4 (k) Shall report to the court on any actions he has taken
5 to bring the facility into compliance with this Act or with
6 Title XVIII or XIX of the Social Security Act that he believes
7 should be continued when the receivership is terminated in
8 order to protect the health, safety or welfare of the
9 residents.

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

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

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

23 (c) A payment to the receiver of any sum owing to the
24 facility or its owner shall discharge any obligation to the
25 facility to the extent of the payment.

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

4 (a) A receiver may petition the court that he or she not be
5 required to honor any lease, mortgage, secured transaction or
6 other wholly or partially executory contract entered into by
7 the owner of the facility if the rent, price or rate of
8 interest required to be paid under the agreement was
9 substantially in excess of a reasonable rent, price or rate of
10 interest at the time the contract was entered into, or if any
11 material provision of the agreement was unreasonable.

12 (b) If the receiver is in possession of real estate or
13 goods subject to a lease, mortgage or security interest which
14 the receiver has obtained a court order to avoid under
15 subsection (a) of this Section, and if the real estate or goods
16 are necessary for the continued operation of the facility under
17 this Section, the receiver may apply to the court to set a
18 reasonable rental, price or rate of interest to be paid by the
19 receiver during the duration of the receivership. The court
20 shall hold a hearing on the application within 15 days. The
21 receiver shall send notice of the application to any known
22 persons who own the property involved at least 10 days prior to
23 the hearing. Payment by the receiver of the amount determined
24 by the court to be reasonable is a defense to any action
25 against the receiver for payment or for possession of the goods

1 or real estate subject to the lease, security interest or
2 mortgage involved by any person who received such notice, but
3 the payment does not relieve the owner of the facility of any
4 liability for the difference between the amount paid by the
5 receiver and the amount due under the original lease, security
6 interest or mortgage involved.

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

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

19 Section 3-513. Action against receiver.

20 (a) In any action or special proceeding brought against a
21 receiver in the receiver's official capacity for acts committed
22 while carrying out powers and duties under this Article, the
23 receiver shall be considered a public employee under the Local

1 Governmental and Governmental Employees Tort Immunity Act, as
2 now or hereafter amended.

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

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

7 Section 3-514. License to facility in receivership. Other
8 provisions of this Act notwithstanding, the Department may
9 issue a license to a facility placed in receivership. The
10 duration of a license issued under this Section is limited to
11 the duration of the receivership.

12 Section 3-515. Termination of receivership. The court may
13 terminate a receivership:

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

16 (b) If the court determines that the receivership is no
17 longer necessary because the conditions which gave rise to the
18 receivership no longer exist; or the Department grants the
19 facility a new license, whether the structure of the facility,
20 the right to operate the facility, or the land on which it is
21 located is under the same or different ownership; or

22 (c) If all of the residents in the facility have been
23 transferred or discharged. Before terminating a receivership,
24 the court may order the Department to require any licensee to

1 comply with the recommendations of the receiver made under
2 subsection (k) of Section 3-508. A licensee may petition the
3 court to be relieved of this requirement.

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

5 (a) Within 30 days after termination, the receiver shall
6 give the court a complete accounting of all property of which
7 the receiver has taken possession, of all funds collected, and
8 of the expenses of the receivership.

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

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

22 (1) The building in which the facility is located;

23 (2) Any fixtures, equipment or goods used in the
24 operation of the facility;

25 (3) The land on which the facility is located; or

1 (4) The proceeds from any conveyance of property
2 described in subparagraphs (1), (2) or (3) above, made by
3 the owner within one year prior to the filing of the
4 petition for receivership.

5 (d) The lien provided by this Section is prior to any lien
6 or other interest which originates subsequent to the filing of
7 a petition for receivership under this Article, except for a
8 construction or mechanic's lien arising out of work performed
9 with the express consent of the receiver.

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

22 Section 3-517. Civil and criminal liability during
23 receivership. Nothing in this Act shall be deemed to relieve
24 any owner, administrator or employee of a facility placed in
25 receivership of any civil or criminal liability incurred, or

1 any duty imposed by law, by reason of acts or omissions of the
2 owner, administrator, or employee prior to the appointment of a
3 receiver; nor shall anything contained in this Act be construed
4 to suspend during the receivership any obligation of the owner,
5 administrator, or employee for payment of taxes or other
6 operating and maintenance expenses of the facility nor of the
7 owner, administrator, employee or any other person for the
8 payment of mortgages or liens. The owner shall retain the right
9 to sell or mortgage any facility under receivership, subject to
10 approval of the court which ordered the receivership

11 PART 6. DUTIES

12 Section 3-601. Liability for injury to resident. The owner
13 and licensee are liable to a resident for any intentional or
14 negligent act or omission of their agents or employees which
15 injures the resident.

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

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

1 Section 3-604. Class action; remedies cumulative. Any
2 damages recoverable under Sections 3-601 through 3-607,
3 including minimum damages as provided by these Sections, may be
4 recovered in any action which a court may authorize to be
5 brought as a class action pursuant to the Civil Practice Law.
6 The remedies provided in Sections 3-601 through 3-607, are in
7 addition to and cumulative with any other legal remedies
8 available to a resident. Exhaustion of any available
9 administrative remedies shall not be required prior to
10 commencement of suit hereunder.

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

21 Section 3-606. Waiver of resident's right to bring action
22 prohibited. Any waiver by a resident or his or her legal
23 representative of the right to commence an action under

1 Sections 3-601 through 3-607, whether oral or in writing, shall
2 be null and void, and without legal force or effect.

3 Section 3-607. Trial by jury. Any party to an action
4 brought under Sections 3-601 through 3-607 shall be entitled to
5 a trial by jury and any waiver of the right to a trial by a
6 jury, whether oral or in writing, prior to the commencement of
7 an action, shall be null and void, and without legal force or
8 effect.

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

17 Section 3-609. Immunity from liability for making report.
18 Any person, institution or agency, under this Act,
19 participating in good faith in the making of a report, or in
20 the investigation of such a report shall not be deemed to have
21 violated any privileged communication and shall have immunity
22 from any liability, civil, criminal or any other proceedings,
23 civil or criminal as a consequence of making such report. The

1 good faith of any persons required to report, or permitted to
2 report, cases of suspected resident abuse or neglect under this
3 Act, shall be presumed.

4 Section 3-610. Duty to report violations.

5 (a) A facility employee or agent who becomes aware of abuse
6 or neglect of a resident prohibited by Section 2-107 shall
7 immediately report the matter to the Department and to the
8 facility administrator. A facility administrator who becomes
9 aware of abuse or neglect of a resident prohibited by Section
10 2-107 shall immediately report the matter by telephone and in
11 writing to the resident's representative, and to the
12 Department. Any person may report a violation of Section 2-107
13 to the Department.

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

1 Section 3-611. Employee as perpetrator of abuse. When an
2 investigation of a report of suspected abuse of a recipient
3 indicates, based upon credible evidence, that an employee of a
4 long term care facility is the perpetrator of the abuse, that
5 employee shall immediately be barred from any further contact
6 with residents of the facility, pending the outcome of any
7 further investigation, prosecution or disciplinary action
8 against the employee.

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

17 PART 7. COMPLAINT, HEARING, AND APPEAL

18 Section 3-701. Public nuisance; action for injunction. The
19 operation or maintenance of a facility in violation of this
20 Act, or of the rules and regulations promulgated by the
21 Department, is declared a public nuisance inimical to the
22 public welfare. The Director in the name of the people of the

1 State, through the Attorney General, or the State's Attorney of
2 the county in which the facility is located, or in respect to
3 any city, village or incorporated town which provides for the
4 licensing and regulation of any or all such facilities, the
5 Director or the mayor or president of the Board of Trustees, as
6 the case may require, of the city, village or incorporated
7 town, in the name of the people of the State, through the
8 Attorney General or State's attorney of the county in which the
9 facility is located, may, in addition to other remedies herein
10 provided, bring action for an injunction to restrain such
11 violation or to enjoin the future operation or maintenance of
12 any such facility.

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

14 (a) A person who believes that this Act or a rule
15 promulgated under this Act may have been violated may request
16 an investigation. The request may be submitted to the
17 Department in writing, by telephone, or by personal visit. An
18 oral complaint shall be reduced to writing by the Department.
19 The Department shall request information identifying the
20 complainant, including the name, address and telephone number,
21 to help enable appropriate follow up. The Department shall act
22 on such complaints via on-site visits or other methods deemed
23 appropriate to handle the complaints with or without such
24 identifying information, as otherwise provided under this
25 Section. The complainant shall be informed that compliance with

1 such request is not required to satisfy the procedures for
2 filing a complaint under this Act.

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

7 (c) The Department shall not disclose the name of the
8 complainant unless the complainant consents in writing to the
9 disclosure or the investigation results in a judicial
10 proceeding, or unless disclosure is essential to the
11 investigation. The complainant shall be given the opportunity
12 to withdraw the complaint before disclosure. Upon the request
13 of the complainant, the Department may permit the complainant
14 or a representative of the complainant to accompany the person
15 making the on-site inspection of the facility.

16 (d) Upon receipt of a complaint, the Department shall
17 determine whether this Act or a rule promulgated under this Act
18 has been or is being violated. The Department shall investigate
19 all complaints alleging abuse or neglect within 7 days after
20 the receipt of the complaint except that complaints of abuse or
21 neglect which indicate that a resident's life or safety is in
22 imminent danger shall be investigated within 24 hours after
23 receipt of the complaint. All other complaints shall be
24 investigated within 30 days after the receipt of the complaint.
25 The Department employees investigating a complaint shall
26 conduct a brief, informal exit conference with the facility to

1 alert its administration of any suspected serious deficiency
2 that poses a direct threat to the health, safety or welfare of
3 a resident to enable an immediate correction for the
4 alleviation or elimination of such threat. Such information and
5 findings discussed in the brief exit conference shall become a
6 part of the investigating record but shall not in any way
7 constitute an official or final notice of violation as provided
8 under Section 3-301. All complaints shall be classified as "an
9 invalid report", "a valid report", or "an undetermined report".
10 For any complaint classified as "a valid report", the
11 Department must determine within 30 working days if any rule or
12 provision of this Act has been or is being violated.

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

16 (e) In all cases, the Department shall inform the
17 complainant of its findings within 10 days of its determination
18 unless otherwise indicated by the complainant, and the
19 complainant may direct the Department to send a copy of such
20 findings to another person. The Department's findings may
21 include comments or documentation provided by either the
22 complainant or the licensee pertaining to the complaint. The
23 Department shall also notify the facility of such findings
24 within 10 days of the determination, but the name of the
25 complainant or residents shall not be disclosed in this notice
26 to the facility. The notice of such findings shall include a

1 copy of the written determination; the correction order, if
2 any; the warning notice, if any; the inspection report; or the
3 State licensure form on which the violation is listed.

4 (f) A written determination, correction order, or warning
5 notice concerning a complaint, together with the facility's
6 response, shall be available for public inspection, but the
7 name of the complainant or resident shall not be disclosed
8 without his or her consent.

9 (g) A complainant who is dissatisfied with the
10 determination or investigation by the Department may request a
11 hearing under Section 3-703. The facility shall be given notice
12 of any such hearing and may participate in the hearing as a
13 party. If a facility requests a hearing under Section 3-703
14 which concerns a matter covered by a complaint, the complainant
15 shall be given notice and may participate in the hearing as a
16 party. A request for a hearing by either a complainant or a
17 facility shall be submitted in writing to the Department within
18 30 days after the mailing of the Department's findings as
19 described in subsection (e) of this Section. Upon receipt of
20 the request the Department shall conduct a hearing as provided
21 under Section 3-703.

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

25 Section 3-703. Hearing to contest decision; applicable

1 provisions. Any person requesting a hearing pursuant to
2 Sections 2-110, 3-115, 3-118, 3-119, 3-301, 3-303, 3-309,
3 3-410, 3-422 or 3-702 to contest a decision rendered in a
4 particular case may have such decision reviewed in accordance
5 with Sections 3-703 through 3-712.

6 Section 3-704. Hearing; notice; commencement. A request
7 for a hearing by aggrieved persons shall be taken to the
8 Department as follows:

9 (a) Upon the receipt of a request in writing for a hearing,
10 the Director or a person designated in writing by the Director
11 to act as a hearing officer shall conduct a hearing to review
12 the decision.

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

23 (c) The Department shall commence the hearing within 30
24 days of the receipt of request for hearing. The hearing shall
25 proceed as expeditiously as practicable, but in all cases shall

1 conclude within 90 days of commencement.

2 Section 3-705. Subpoenas. The Director or hearing officer
3 may compel by subpoena or subpoena duces tecum the attendance
4 and testimony of witnesses and the production of books and
5 papers, and administer oaths to witnesses.

6 Section 3-706. Appearance at hearing; depositions; record.
7 The Director or hearing officer shall permit any party to
8 appear in person and to be represented by counsel at the
9 hearing, at which time the applicant or licensee shall be
10 afforded an opportunity to present all relevant matter in
11 support of his position. In the event of the inability of any
12 party or the Department to procure the attendance of witnesses
13 to give testimony or produce books and papers, any party or the
14 Department may take the deposition of witnesses in accordance
15 with the provisions of the laws of this State. All testimony
16 taken at a hearing shall be reduced to writing, and all such
17 testimony and other evidence introduced at the hearing shall be
18 a part of the record of the hearing.

19 Section 3-707. Findings of fact; decision. The Director or
20 hearing officer shall make findings of fact in such hearing,
21 and the Director shall render his or her decision within 30
22 days after the termination of the hearing, unless additional
23 time not to exceed 90 days is required by him or her for a

1 proper disposition of the matter. When the hearing has been
2 conducted by a hearing officer, the Director shall review the
3 record and findings of fact before rendering a decision. All
4 decisions rendered by the Director shall be binding upon and
5 complied with by the Department, the facility or the persons
6 involved in the hearing, as appropriate to each case.

7 Section 3-708. Rules of evidence and procedure. The
8 Director or hearing officer shall not be bound by common law or
9 statutory rules of evidence, or by technical or formal rules of
10 procedure, but shall conduct hearings in the manner best
11 calculated to result in substantial justice.

12 Section 3-709. Service of subpoenas; witness fees. All
13 subpoenas issued by the Director or hearing officer may be
14 served as provided for in civil actions. The fees of witnesses
15 for attendance and travel shall be the same as the fees for
16 witnesses before the circuit court and shall be paid by the
17 party to such proceeding at whose request the subpoena is
18 issued. If such subpoena is issued at the request of the
19 Department or by a person proceeding in forma pauperis the
20 witness fee shall be paid by the Department as an
21 administrative expense.

22 Section 3-710. Compelling obedience to subpoena. In cases
23 of refusal of a witness to attend or testify or to produce

1 books or papers, concerning any matter upon which he might be
2 lawfully examined, the circuit court of the county wherein the
3 hearing is held, upon application of any party to the
4 proceeding, may compel obedience by a proceeding for contempt
5 as in cases of a like refusal to obey a similar order of the
6 court.

7 Section 3-711. Record of hearing; transcript. The
8 Department, at its expense, shall provide a stenographer to
9 take the testimony, or otherwise record the testimony, and
10 preserve a record of all proceedings under this Section. The
11 notice of hearing, the complaint and all other documents in the
12 nature of pleadings and written motions filed in the
13 proceedings, the transcript of testimony, and the findings and
14 decision shall be the record of the proceedings. The Department
15 shall furnish a transcript of such record to any person
16 interested in such hearing upon payment therefor of 70 cents
17 per page for each original transcript and 25 cents per page for
18 each certified copy thereof. However, the charge for any part
19 of such transcript ordered and paid for previous to the writing
20 of the original record shall be 25 cents per page.

21 Section 3-712. Certification of record; fee. The
22 Department shall not be required to certify any record or file
23 any answer or otherwise appear in any proceeding for judicial
24 review under Section 3-713 of this Act unless the party filing

1 the complaint deposits with the clerk of the court the sum of
2 95 cents per page, representing the costs of such
3 certification. Failure on the part of the plaintiff to make
4 such deposit shall be grounds for dismissal of the action;
5 provided, however, that persons proceeding in forma pauperis
6 with the approval of the circuit court shall not be required to
7 pay these fees.

8 Section 3-713. Judicial review; stay of enforcement of
9 Department's decision.

10 (a) Final administrative decisions after hearing shall be
11 subject to judicial review exclusively as provided in the
12 Administrative Review Law, as now or hereafter amended, except
13 that any petition for judicial review of Department action
14 under this Act shall be filed within 15 days after receipt of
15 notice of the final agency determination. The term
16 "administrative decision" has the meaning ascribed to it in
17 Section 3-101 of the Code of Civil Procedure.

18 (b) The court may stay enforcement of the Department's
19 final decision or toll the continuing accrual of a penalty
20 under Section 3-305 if a showing is made that there is a
21 substantial probability that the party seeking review will
22 prevail on the merits and will suffer irreparable harm if a
23 stay is not granted, and that the facility will meet the
24 requirements of this Act and the rules promulgated under this
25 Act during such stay. Where a stay is granted the court may

1 impose such conditions on the granting of the stay as may be
2 necessary to safeguard the lives, health, rights, safety and
3 welfare of residents, and to assure compliance by the facility
4 with the requirements of this Act, including an order for
5 transfer or discharge of residents under Sections 3-401 through
6 3-423 or for appointment of a receiver under Sections 3-501
7 through 3-517.

8 (c) Actions brought under this Act shall be set for trial
9 at the earliest possible date and shall take precedence on the
10 court calendar over all other cases except matters to which
11 equal or superior precedence is specifically granted by law.

12 Section 3-714. Remedies cumulative. The remedies provided
13 by this Act are cumulative and shall not be construed as
14 restricting any party from seeking any remedy, provisional or
15 otherwise, provided by law for the benefit of the party, from
16 obtaining additional relief based upon the same facts.

17 PART 8. MISCELLANEOUS PROVISIONS

18 Section 3-801. Rules and regulations. The Department shall
19 have the power to adopt rules and regulations to carry out the
20 purpose of this Act.

21 Section 3-801.05. Rules adopted under prior law. The
22 Department shall adopt rules to implement the changes

1 concerning licensure of facilities under this Act instead of
2 under the Nursing Home Care Act. Until the Department adopts
3 those rules, the rules adopted under the Nursing Home Care Act
4 and the Public Aid Code that apply to facilities subject to
5 licensure under this Act shall continue to apply to those
6 facilities.

7 Section 3-802. Illinois Administrative Procedure Act. The
8 provisions of the Illinois Administrative Procedure Act are
9 hereby expressly adopted and shall apply to all administrative
10 rules and procedures of the Department under this Act.

11 Section 3-803. Treatment by prayer or spiritual means.
12 Nothing in this Act or the rules and regulations adopted
13 pursuant thereto shall be construed as authorizing the medical
14 supervision, regulation, or control of the remedial care or
15 treatment of residents in any facility conducted for those who
16 rely upon treatment by prayer or spiritual means in accordance
17 with the creed or tenets of any well recognized church or
18 religious denomination.

19 Section 3-804. Report to General Assembly. The Department
20 shall report to the General Assembly by April 1 of each year
21 upon the performance of its inspection, survey and evaluation
22 duties under this Act, including the number and needs of the
23 Department personnel engaged in such activities. The report

1 shall also describe the Department's actions in enforcement of
2 this Act, including the number and needs of personnel so
3 engaged. The report shall also include the number of valid and
4 invalid complaints filed with the Department within the last
5 calendar year.

6 Section 3-808. Protocol for sexual assault victims;
7 nursing home. The Department shall develop a protocol for the
8 care and treatment of residents who have been sexually
9 assaulted in a long term care facility or elsewhere.

10 Section 3-808.5. Nursing home fraud, abuse, and neglect
11 prevention and reporting.

12 (a) Every licensed long-term care facility that receives
13 Medicaid funding shall prominently display in its lobby, in its
14 dining areas, and on each floor of the facility information
15 approved by the Illinois Medicaid Fraud Control Unit on how to
16 report fraud, abuse, and neglect. In addition, information
17 regarding the reporting of fraud, abuse, and neglect shall be
18 provided to each resident at the time of admission and to the
19 resident's family members or emergency contacts, or to both the
20 resident's family members and his or her emergency contacts.

21 (b) Any owner or licensee of a long-term care facility
22 licensed under this Act shall be responsible for the collection
23 and maintenance of any and all records required to be
24 maintained under this Section and any other applicable

1 provisions of this Act, and as a provider under the Illinois
2 Public Aid Code, and shall be responsible for compliance with
3 all of the disclosure requirements under this Section. All
4 books and records and other papers and documents that are
5 required to be kept, and all records showing compliance with
6 all of the disclosure requirements to be made pursuant to this
7 Section, shall be kept at the facility and shall, at all times
8 during business hours, be subject to inspection by any law
9 enforcement or health oversight agency or its duly authorized
10 agents or employees.

11 (c) Any report of abuse and neglect of residents made by
12 any individual in whatever manner, including, but not limited
13 to, reports made under Sections 2-107 and 3-610 of this Act, or
14 as provided under the Abused and Neglected Long Term Care
15 Facility Residents Reporting Act, that is made to an
16 administrator, a director of nursing, or any other person with
17 management responsibility at a long-term care facility must be
18 disclosed to the owners and licensee of the facility within 24
19 hours of the report. The owners and licensee of a long-term
20 care facility shall maintain all records necessary to show
21 compliance with this disclosure requirement.

22 (d) Any person with an ownership interest in a long-term
23 care facility licensed by the Department must, within 30 days
24 of the effective date of this Act, disclose the existence of
25 any ownership interest in any vendor who does business with the
26 facility. The disclosures required by this subsection shall be

1 made in the form and manner prescribed by the Department.
2 Licensed long-term care facilities who receive Medicaid
3 funding shall submit a copy of the disclosures required by this
4 subsection to the Illinois Medicaid Fraud Control Unit. The
5 owners and licensee of a long-term care facility shall maintain
6 all records necessary to show compliance with this disclosure
7 requirement.

8 (e) Notwithstanding the provisions of Section 3-318 of this
9 Act, and in addition thereto, any person, owner, or licensee
10 who willfully fails to keep and maintain, or willfully fails to
11 produce for inspection, books and records, or willfully fails
12 to make the disclosures required by this Section, is guilty of
13 a Class A misdemeanor. A second or subsequent violation of this
14 Section shall be punishable as a Class 4 felony.

15 (f) Any owner or licensee who willfully files or willfully
16 causes to be filed a document with false information with the
17 Department, the Department of Healthcare and Family Services,
18 or the Illinois Medicaid Fraud Control Unit or any other law
19 enforcement agency, is guilty of a Class A misdemeanor.

20 Section 3-809. Rules to implement changes. In developing
21 rules and regulations to implement this Act, the Department
22 shall seek the input of advocates for long term care facility
23 residents, representatives of associations representing
24 long-term care facilities, and representatives of associations
25 representing employees of long-term care facilities.

1 Section 3-810. Whistleblower protection.

2 (a) In this Section, "retaliatory action" means the
3 reprimand, discharge, suspension, demotion, denial of
4 promotion or transfer, or change in the terms and conditions of
5 employment of any employee of a facility that is taken in
6 retaliation for the employee's involvement in a protected
7 activity as set forth in paragraphs (1) through (3) of
8 subsection (b).

9 (b) A facility shall not take any retaliatory action
10 against an employee of the facility, including a nursing home
11 administrator, because the employee does any of the following:

12 (1) Discloses or threatens to disclose to a supervisor
13 or to a public body an activity, inaction, policy, or
14 practice implemented by a facility that the employee
15 reasonably believes is in violation of a law, rule, or
16 regulation.

17 (2) Provides information to or testifies before any
18 public body conducting an investigation, hearing, or
19 inquiry into any violation of a law, rule, or regulation by
20 a nursing home administrator.

21 (3) Assists or participates in a proceeding to enforce
22 the provisions of this Act.

23 (c) A violation of this Section may be established only
24 upon a finding that (i) the employee of the facility engaged in
25 conduct described in subsection (b) of this Section and (ii)

1 this conduct was a contributing factor in the retaliatory
2 action alleged by the employee. There is no violation of this
3 Section, however, if the facility demonstrates by clear and
4 convincing evidence that it would have taken the same
5 unfavorable personnel action in the absence of that conduct.

6 (d) The employee of the facility may be awarded all
7 remedies necessary to make the employee whole and to prevent
8 future violations of this Section. Remedies imposed by the
9 court may include, but are not limited to, all of the
10 following:

11 (1) Reinstatement of the employee to either the same
12 position held before the retaliatory action or to an
13 equivalent position.

14 (2) Two times the amount of back pay.

15 (3) Interest on the back pay.

16 (4) Reinstatement of full fringe benefits and
17 seniority rights.

18 (5) Payment of reasonable costs and attorney's fees.

19 (e) Nothing in this Section shall be deemed to diminish the
20 rights, privileges, or remedies of an employee of a facility
21 under any other federal or State law, rule, or regulation or
22 under any employment contract.

23 ARTICLE IV. FACILITY PAYMENTS

24 Section 4-101. Payments. For facilities licensed by the

1 Department of Public Health under the Specialized Mental Health
2 Rehabilitation Facilities Act, the payment methodology in
3 effect on June 30, 2011, shall be \$1 less than the rate that
4 would have been paid pursuant to Article V of the Illinois
5 Public Aid Code for that same facility, had the facility been
6 licensed under a different Act and been participating in the
7 Demonstration Program pursuant to Department rules. Any
8 adjustment in the support component or the capital component
9 for facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act shall apply equally to
11 facilities licensed by the Department of Public Health under
12 the Specialized Mental Health Rehabilitation Facilities Act.

13 ARTICLE 90. AMENDATORY PROVISIONS

14 Section 90-5. The Election Code is amended by changing
15 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,
16 19-12.1, and 19-12.2 as follows:

17 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

18 Sec. 3-3. Every honorably discharged soldier or sailor who
19 is an inmate of any soldiers' and sailors' home within the
20 State of Illinois, any person who is a resident of a facility
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, or any person who is a resident of a

1 community-integrated living arrangement, as defined in Section
2 3 of the Community-Integrated Living Arrangements Licensure
3 and Certification Act, for 30 days or longer, and who is a
4 citizen of the United States and has resided in this State and
5 in the election district 30 days next preceding any election
6 shall be entitled to vote in the election district in which any
7 such home or community-integrated living arrangement in which
8 he is an inmate or resident is located, for all officers that
9 now are or hereafter may be elected by the people, and upon all
10 questions that may be submitted to the vote of the people:
11 Provided, that he shall declare upon oath, that it was his bona
12 fide intention at the time he entered said home or
13 community-integrated living arrangement to become a resident
14 thereof.

15 (Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10;
16 96-1000, eff. 7-2-10.)

17 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

18 Sec. 4-6.3. The county clerk may establish a temporary
19 place of registration for such times and at such locations
20 within the county as the county clerk may select. However, no
21 temporary place of registration may be in operation during the
22 27 days preceding an election. Notice of the time and place of
23 registration under this Section shall be published by the
24 county clerk in a newspaper having a general circulation in the
25 county not less than 3 nor more than 15 days before the holding

1 of such registration.

2 Temporary places of registration shall be established so
3 that the areas of concentration of population or use by the
4 public are served, whether by facilities provided in places of
5 private business or in public buildings or in mobile units.
6 Areas which may be designated as temporary places of
7 registration include, but are not limited to, facilities
8 licensed or certified pursuant to the Nursing Home Care Act,
9 the Specialized Mental Health Rehabilitation Act, or the MR/DD
10 Community Care Act, Soldiers' and Sailors' Homes, shopping
11 centers, business districts, public buildings and county
12 fairs.

13 Temporary places of registration shall be available to the
14 public not less than 2 hours per year for each 1,000 population
15 or fraction thereof in the county.

16 All temporary places of registration shall be manned by
17 deputy county clerks or deputy registrars appointed pursuant to
18 Section 4-6.2.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

21 Sec. 4-10. Except as herein provided, no person shall be
22 registered, unless he applies in person to a registration
23 officer, answers such relevant questions as may be asked of him
24 by the registration officer, and executes the affidavit of
25 registration. The registration officer shall require the

1 applicant to furnish two forms of identification, and except in
2 the case of a homeless individual, one of which must include
3 his or her residence address. These forms of identification
4 shall include, but not be limited to, any of the following:
5 driver's license, social security card, public aid
6 identification card, utility bill, employee or student
7 identification card, lease or contract for a residence, credit
8 card, or a civic, union or professional association membership
9 card. The registration officer shall require a homeless
10 individual to furnish evidence of his or her use of the mailing
11 address stated. This use may be demonstrated by a piece of mail
12 addressed to that individual and received at that address or by
13 a statement from a person authorizing use of the mailing
14 address. The registration officer shall require each applicant
15 for registration to read or have read to him the affidavit of
16 registration before permitting him to execute the affidavit.

17 One of the registration officers or a deputy registration
18 officer, county clerk, or clerk in the office of the county
19 clerk, shall administer to all persons who shall personally
20 apply to register the following oath or affirmation:

21 "You do solemnly swear (or affirm) that you will fully and
22 truly answer all such questions as shall be put to you touching
23 your name, place of residence, place of birth, your
24 qualifications as an elector and your right as such to register
25 and vote under the laws of the State of Illinois."

26 The registration officer shall satisfy himself that each

1 applicant for registration is qualified to register before
2 registering him. If the registration officer has reason to
3 believe that the applicant is a resident of a Soldiers' and
4 Sailors' Home or any facility which is licensed or certified
5 pursuant to the Nursing Home Care Act, the Specialized Mental
6 Health Rehabilitation Act, or the MR/DD Community Care Act, the
7 following question shall be put, "When you entered the home
8 which is your present address, was it your bona fide intention
9 to become a resident thereof?" Any voter of a township, city,
10 village or incorporated town in which such applicant resides,
11 shall be permitted to be present at the place of any precinct
12 registration and shall have the right to challenge any
13 applicant who applies to be registered.

14 In case the officer is not satisfied that the applicant is
15 qualified he shall forthwith notify such applicant in writing
16 to appear before the county clerk to complete his registration.
17 Upon the card of such applicant shall be written the word
18 "incomplete" and no such applicant shall be permitted to vote
19 unless such registration is satisfactorily completed as
20 hereinafter provided. No registration shall be taken and marked
21 as incomplete if information to complete it can be furnished on
22 the date of the original application.

23 Any person claiming to be an elector in any election
24 precinct and whose registration card is marked "Incomplete" may
25 make and sign an application in writing, under oath, to the
26 county clerk in substance in the following form:

1 "I do solemnly swear that I,, did on (insert date)
 2 make application to the board of registry of the precinct
 3 of the township of (or to the county clerk of county)
 4 and that said board or clerk refused to complete my
 5 registration as a qualified voter in said precinct. That I
 6 reside in said precinct, that I intend to reside in said
 7 precinct, and am a duly qualified voter of said precinct and am
 8 entitled to be registered to vote in said precinct at the next
 9 election.

10 (Signature of applicant)"

11 All such applications shall be presented to the county
 12 clerk or to his duly authorized representative by the
 13 applicant, in person between the hours of 9:00 a.m. and 5:00
 14 p.m. on any day after the days on which the 1969 and 1970
 15 precinct re-registrations are held but not on any day within 27
 16 days preceding the ensuing general election and thereafter for
 17 the registration provided in Section 4-7 all such applications
 18 shall be presented to the county clerk or his duly authorized
 19 representative by the applicant in person between the hours of
 20 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding
 21 the ensuing general election. Such application shall be heard
 22 by the county clerk or his duly authorized representative at
 23 the time the application is presented. If the applicant for
 24 registration has registered with the county clerk, such
 25 application may be presented to and heard by the county clerk

1 or by his duly authorized representative upon the dates
2 specified above or at any time prior thereto designated by the
3 county clerk.

4 Any otherwise qualified person who is absent from his
5 county of residence either due to business of the United States
6 or because he is temporarily outside the territorial limits of
7 the United States may become registered by mailing an
8 application to the county clerk within the periods of
9 registration provided for in this Article, or by simultaneous
10 application for absentee registration and absentee ballot as
11 provided in Article 20 of this Code.

12 Upon receipt of such application the county clerk shall
13 immediately mail an affidavit of registration in duplicate,
14 which affidavit shall contain the following and such other
15 information as the State Board of Elections may think it proper
16 to require for the identification of the applicant:

17 Name. The name of the applicant, giving surname and first
18 or Christian name in full, and the middle name or the initial
19 for such middle name, if any.

20 Sex.

21 Residence. The name and number of the street, avenue or
22 other location of the dwelling, and such additional clear and
23 definite description as may be necessary to determine the exact
24 location of the dwelling of the applicant. Where the location
25 cannot be determined by street and number, then the Section,
26 congressional township and range number may be used, or such

1 other information as may be necessary, including post office
2 mailing address.

3 Term of residence in the State of Illinois and the
4 precinct.

5 Nativity. The State or country in which the applicant was
6 born.

7 Citizenship. Whether the applicant is native born or
8 naturalized. If naturalized, the court, place and date of
9 naturalization.

10 Age. Date of birth, by month, day and year.

11 Out of State address of

12 AFFIDAVIT OF REGISTRATION

13 State of)

14)ss

15 County of)

16 I hereby swear (or affirm) that I am a citizen of the
17 United States; that on the day of the next election I shall
18 have resided in the State of Illinois and in the election
19 precinct 30 days; that I am fully qualified to vote, that I am
20 not registered to vote anywhere else in the United States, that
21 I intend to remain a resident of the State of Illinois and of
22 the election precinct, that I intend to return to the State of
23 Illinois, and that the above statements are true.

24

25 (His or her signature or mark)

26 Subscribed and sworn to before me, an officer qualified to

1 administer oaths, on (insert date).

2

3 Signature of officer administering oath.

4 Upon receipt of the executed duplicate affidavit of
5 Registration, the county clerk shall transfer the information
6 contained thereon to duplicate Registration Cards provided for
7 in Section 4-8 of this Article and shall attach thereto a copy
8 of each of the duplicate affidavit of registration and
9 thereafter such registration card and affidavit shall
10 constitute the registration of such person the same as if he
11 had applied for registration in person.

12 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;
13 96-1000, eff. 7-2-10.)

14 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

15 Sec. 5-9. Except as herein provided, no person shall be
16 registered unless he applies in person to registration officer,
17 answers such relevant questions as may be asked of him by the
18 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 Deputy Registrars, the Judge of Registration, or
12 an Officer of Registration, County Clerk, or clerk in the
13 office of the County Clerk, shall administer to all persons who
14 shall personally apply to register the following oath or
15 affirmation:

16 "You do solemnly swear (or affirm) that you will fully and
17 truly answer all such questions as shall be put to you touching
18 your place of residence, name, place of birth, your
19 qualifications as an elector and your right as such to register
20 and vote under the laws of the State of Illinois."

21 The Registration Officer shall satisfy himself that each
22 applicant for registration is qualified to register before
23 registering him. If the registration officer has reason to
24 believe that the applicant is a resident of a Soldiers' and
25 Sailors' Home or any facility which is licensed or certified
26 pursuant to the Nursing Home Care Act, the Specialized Mental

1 Health Rehabilitation Act, or the MR/DD Community Care Act, the
2 following question shall be put, "When you entered the home
3 which is your present address, was it your bona fide intention
4 to become a resident thereof?" Any voter of a township, city,
5 village or incorporated town in which such applicant resides,
6 shall be permitted to be present at the place of precinct
7 registration, and shall have the right to challenge any
8 applicant who applies to be registered.

9 In case the officer is not satisfied that the applicant is
10 qualified, he shall forthwith in writing notify such applicant
11 to appear before the County Clerk to furnish further proof of
12 his qualifications. Upon the card of such applicant shall be
13 written the word "Incomplete" and no such applicant shall be
14 permitted to vote unless such registration is satisfactorily
15 completed as hereinafter provided. No registration shall be
16 taken and marked as "incomplete" if information to complete it
17 can be furnished on the date of the original application.

18 Any person claiming to be an elector in any election
19 precinct in such township, city, village or incorporated town
20 and whose registration is marked "Incomplete" may make and sign
21 an application in writing, under oath, to the County Clerk in
22 substance in the following form:

23 "I do solemnly swear that I,, did on (insert
24 date) make application to the Board of Registry of the
25 precinct of ward of the City of or of the
26 District Town of (or to the

1 County Clerk of) and County; that
 2 said Board or Clerk refused to complete my registration as a
 3 qualified voter in said precinct, that I reside in said
 4 precinct (or that I intend to reside in said precinct), am a
 5 duly qualified voter and entitled to vote in said precinct at
 6 the next election.

7
 8 (Signature of Applicant)"

9 All such applications shall be presented to the County
 10 Clerk by the applicant, in person between the hours of nine
 11 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of
 12 the third week subsequent to the weeks in which the 1961 and
 13 1962 precinct re-registrations are to be held, and thereafter
 14 for the registration provided in Section 5-17 of this Article,
 15 all such applications shall be presented to the County Clerk by
 16 the applicant in person between the hours of nine o'clock a.m.
 17 and nine o'clock p.m. on Monday and Tuesday of the third week
 18 prior to the date on which such election is to be held.

19 Any otherwise qualified person who is absent from his
 20 county of residence either due to business of the United States
 21 or because he is temporarily outside the territorial limits of
 22 the United States may become registered by mailing an
 23 application to the county clerk within the periods of
 24 registration provided for in this Article or by simultaneous
 25 application for absentee registration and absentee ballot as
 26 provided in Article 20 of this Code.

1 Upon receipt of such application the county clerk shall
 2 immediately mail an affidavit of registration in duplicate,
 3 which affidavit shall contain the following and such other
 4 information as the State Board of Elections may think it proper
 5 to require for the identification of the applicant:

6 Name. The name of the applicant, giving surname and first
 7 or Christian name in full, and the middle name or the initial
 8 for such middle name, if any.

9 Sex.

10 Residence. The name and number of the street, avenue or
 11 other location of the dwelling, and such additional clear and
 12 definite description as may be necessary to determine the exact
 13 location of the dwelling of the applicant. Where the location
 14 cannot be determined by street and number, then the Section,
 15 congressional township and range number may be used, or such
 16 other information as may be necessary, including post office
 17 mailing address.

18 Term of residence in the State of Illinois and the
 19 precinct.

20 Nativity. The State or country in which the applicant was
 21 born.

22 Citizenship. Whether the applicant is native born or
 23 naturalized. If naturalized, the court, place and date of
 24 naturalization.

25 Age. Date of birth, by month, day and year.

26 Out of State address of

1 AFFIDAVIT OF REGISTRATION

2 State of)

3) ss

4 County of)

5 I hereby swear (or affirm) that I am a citizen of the
6 United States; that on the day of the next election I shall
7 have resided in the State of Illinois for 6 months and in the
8 election precinct 30 days; that I am fully qualified to vote,
9 that I am not registered to vote anywhere else in the United
10 States, that I intend to remain a resident of the State of
11 Illinois and of the election precinct, that I intend to return
12 to the State of Illinois, and that the above statements are
13 true.

14
15 (His or her signature or mark)

16 Subscribed and sworn to before me, an officer qualified to
17 administer oaths, on (insert date).

18
19 Signature of officer administering oath.

20
21 Upon receipt of the executed duplicate affidavit of
22 Registration, the county clerk shall transfer the information
23 contained thereon to duplicate Registration Cards provided for
24 in Section 5-7 of this Article and shall attach thereto a copy
25 of each of the duplicate affidavit of registration and

1 thereafter such registration card and affidavit shall
2 constitute the registration of such person the same as if he
3 had applied for registration in person.

4 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;
5 96-1000, eff. 7-2-10.)

6 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

7 Sec. 5-16.3. The county clerk may establish temporary
8 places of registration for such times and at such locations
9 within the county as the county clerk may select. However, no
10 temporary place of registration may be in operation during the
11 27 days preceding an election. Notice of time and place of
12 registration at any such temporary place of registration under
13 this Section shall be published by the county clerk in a
14 newspaper having a general circulation in the county not less
15 than 3 nor more than 15 days before the holding of such
16 registration.

17 Temporary places of registration shall be established so
18 that the areas of concentration of population or use by the
19 public are served, whether by facilities provided in places of
20 private business or in public buildings or in mobile units.
21 Areas which may be designated as temporary places of
22 registration include, but are not limited to, facilities
23 licensed or certified pursuant to the Nursing Home Care Act,
24 the Specialized Mental Health Rehabilitation Act, or the MR/DD
25 Community Care Act, Soldiers' and Sailors' Homes, shopping

1 centers, business districts, public buildings and county
2 fairs.

3 Temporary places of registration shall be available to the
4 public not less than 2 hours per year for each 1,000 population
5 or fraction thereof in the county.

6 All temporary places of registration shall be manned by
7 deputy county clerks or deputy registrars appointed pursuant to
8 Section 5-16.2.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

11 Sec. 6-50.3. The board of election commissioners may
12 establish temporary places of registration for such times and
13 at such locations as the board may select. However, no
14 temporary place of registration may be in operation during the
15 27 days preceding an election. Notice of the time and place of
16 registration at any such temporary place of registration under
17 this Section shall be published by the board of election
18 commissioners in a newspaper having a general circulation in
19 the city, village or incorporated town not less than 3 nor more
20 than 15 days before the holding 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 employees of the board of election commissioners or deputy
12 registrars appointed pursuant to Section 6-50.2.

13 (Source: P.A. 96-339, eff. 7-1-10.)

14 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

15 Sec. 6-56. Not more than 30 nor less than 28 days before
16 any election under this Article, all owners, managers,
17 administrators or operators of hotels, lodging houses, rooming
18 houses, furnished apartments or facilities licensed or
19 certified under the Nursing Home Care Act, which house 4 or
20 more persons, outside the members of the family of such owner,
21 manager, administrator or operator, shall file with the board
22 of election commissioners a report, under oath, together with
23 one copy thereof, in such form as may be required by the board
24 of election commissioners, of the names and descriptions of all
25 lodgers, guests or residents claiming a voting residence at the

1 hotels, lodging houses, rooming houses, furnished apartments,
2 or facility licensed or certified under the Nursing Home Care
3 Act, the Specialized Mental Health Rehabilitation Act, or the
4 MR/DD Community Care Act under their control. In counties
5 having a population of 500,000 or more such report shall be
6 made on forms mailed to them by the board of election
7 commissioners. The board of election commissioners shall sort
8 and assemble the sworn copies of the reports in numerical order
9 according to ward and according to precincts within each ward
10 and shall, not later than 5 days after the last day allowed by
11 this Article for the filing of the reports, maintain one
12 assembled set of sworn duplicate reports available for public
13 inspection until 60 days after election days. Except as is
14 otherwise expressly provided in this Article, the board shall
15 not be required to perform any duties with respect to the sworn
16 reports other than to mail, sort, assemble, post and file them
17 as hereinabove provided.

18 Except in such cases where a precinct canvass is being
19 conducted by the Board of Election Commissioners prior to a
20 Primary or Election, the board of election commissioners shall
21 compare the original copy of each such report with the list of
22 registered voters from such addresses. Every person registered
23 from such address and not listed in such report or whose name
24 is different from any name so listed, shall immediately after
25 the last day of registration be sent a notice through the
26 United States mail, at the address appearing upon his

1 registration record card, requiring him to appear before the
2 board of election commissioners on one of the days specified in
3 Section 6-45 of this Article and show cause why his
4 registration should not be cancelled. The provisions of
5 Sections 6-45, 6-46 and 6-47 of this Article shall apply to
6 such hearing and proceedings subsequent thereto.

7 Any owner, manager or operator of any such hotel, lodging
8 house, rooming house or furnished apartment who shall fail or
9 neglect to file such statement and copy thereof as in this
10 Article provided, may, upon written information of the attorney
11 for the election commissioners, be cited by the election
12 commissioners or upon the complaint of any voter of such city,
13 village or incorporated town, to appear before them and furnish
14 such sworn statement and copy thereof and make such oral
15 statements under oath regarding such hotel, lodging house,
16 rooming house or furnished apartment, as the election
17 commissioners may require. The election commissioners shall
18 sit to hear such citations on the Friday of the fourth week
19 preceding the week in which such election is to be held. Such
20 citation shall be served not later than the day preceding the
21 day on which it is returnable.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

24 Sec. 19-4. Mailing or delivery of ballots - Time.)
25 Immediately upon the receipt of such application either by

1 mail, not more than 40 days nor less than 5 days prior to such
2 election, or by personal delivery not more than 40 days nor
3 less than one day prior to such election, at the office of such
4 election authority, it shall be the duty of such election
5 authority to examine the records to ascertain whether or not
6 such applicant is lawfully entitled to vote as requested,
7 including a verification of the applicant's signature by
8 comparison with the signature on the official registration
9 record card, and if found so to be entitled to vote, to post
10 within one business day thereafter the name, street address,
11 ward and precinct number or township and district number, as
12 the case may be, of such applicant given on a list, the pages
13 of which are to be numbered consecutively to be kept by such
14 election authority for such purpose in a conspicuous, open and
15 public place accessible to the public at the entrance of the
16 office of such election authority, and in such a manner that
17 such list may be viewed without necessity of requesting
18 permission therefor. Within one day after posting the name and
19 other information of an applicant for an absentee ballot, the
20 election authority shall transmit that name and other posted
21 information to the State Board of Elections, which shall
22 maintain those names and other information in an electronic
23 format on its website, arranged by county and accessible to
24 State and local political committees. Within 2 business days
25 after posting a name and other information on the list within
26 its office, the election authority shall mail, postage prepaid,

1 or deliver in person in such office an official ballot or
2 ballots if more than one are to be voted at said election. Mail
3 delivery of Temporarily Absent Student ballot applications
4 pursuant to Section 19-12.3 shall be by nonforwardable mail.
5 However, for the consolidated election, absentee ballots for
6 certain precincts may be delivered to applicants not less than
7 25 days before the election if so much time is required to have
8 prepared and printed the ballots containing the names of
9 persons nominated for offices at the consolidated primary. The
10 election authority shall enclose with each absentee ballot or
11 application written instructions on how voting assistance
12 shall be provided pursuant to Section 17-14 and a document,
13 written and approved by the State Board of Elections,
14 enumerating the circumstances under which a person is
15 authorized to vote by absentee ballot pursuant to this Article;
16 such document shall also include a statement informing the
17 applicant that if he or she falsifies or is solicited by
18 another to falsify his or her eligibility to cast an absentee
19 ballot, such applicant or other is subject to penalties
20 pursuant to Section 29-10 and Section 29-20 of the Election
21 Code. Each election authority shall maintain a list of the
22 name, street address, ward and precinct, or township and
23 district number, as the case may be, of all applicants who have
24 returned absentee ballots to such authority, and the name of
25 such absent voter shall be added to such list within one
26 business day from receipt of such ballot. If the absentee

1 ballot envelope indicates that the voter was assisted in
2 casting the ballot, the name of the person so assisting shall
3 be included on the list. The list, the pages of which are to be
4 numbered consecutively, shall be kept by each election
5 authority in a conspicuous, open, and public place accessible
6 to the public at the entrance of the office of the election
7 authority and in a manner that the list may be viewed without
8 necessity of requesting permission for viewing.

9 Each election authority shall maintain a list for each
10 election of the voters to whom it has issued absentee ballots.
11 The list shall be maintained for each precinct within the
12 jurisdiction of the election authority. Prior to the opening of
13 the polls on election day, the election authority shall deliver
14 to the judges of election in each precinct the list of
15 registered voters in that precinct to whom absentee ballots
16 have been issued by mail.

17 Each election authority shall maintain a list for each
18 election of voters to whom it has issued temporarily absent
19 student ballots. The list shall be maintained for each election
20 jurisdiction within which such voters temporarily abide.
21 Immediately after the close of the period during which
22 application may be made by mail for absentee ballots, each
23 election authority shall mail to each other election authority
24 within the State a certified list of all such voters
25 temporarily abiding within the jurisdiction of the other
26 election authority.

1 In the event that the return address of an application for
2 ballot by a physically incapacitated elector is that of a
3 facility licensed or certified under the Nursing Home Care Act,
4 the Specialized Mental Health Rehabilitation Act, or the MR/DD
5 Community Care Act, within the jurisdiction of the election
6 authority, and the applicant is a registered voter in the
7 precinct in which such facility is located, the ballots shall
8 be prepared and transmitted to a responsible judge of election
9 no later than 9 a.m. on the Saturday, Sunday or Monday
10 immediately preceding the election as designated by the
11 election authority under Section 19-12.2. Such judge shall
12 deliver in person on the designated day the ballot to the
13 applicant on the premises of the facility from which
14 application was made. The election authority shall by mail
15 notify the applicant in such facility that the ballot will be
16 delivered by a judge of election on the designated day.

17 All applications for absentee ballots shall be available at
18 the office of the election authority for public inspection upon
19 request from the time of receipt thereof by the election
20 authority until 30 days after the election, except during the
21 time such applications are kept in the office of the election
22 authority pursuant to Section 19-7, and except during the time
23 such applications are in the possession of the judges of
24 election.

25 (Source: P.A. 96-339, eff. 7-1-10.)

1 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

2 Sec. 19-12.1. Any qualified elector who has secured an
3 Illinois Disabled Person Identification Card in accordance
4 with The Illinois Identification Card Act, indicating that the
5 person named thereon has a Class 1A or Class 2 disability or
6 any qualified voter who has a permanent physical incapacity of
7 such a nature as to make it improbable that he will be able to
8 be present at the polls at any future election, or any voter
9 who is a resident of a facility licensed or certified pursuant
10 to the Nursing Home Care Act, the Specialized Mental Health
11 Rehabilitation Act, or the MR/DD Community Care Act and has a
12 condition or disability of such a nature as to make it
13 improbable that he will be able to be present at the polls at
14 any future election, may secure a disabled voter's or nursing
15 home resident's identification card, which will enable him to
16 vote under this Article as a physically incapacitated or
17 nursing home voter.

18 Application for a disabled voter's or nursing home
19 resident's identification card shall be made either: (a) in
20 writing, with voter's sworn affidavit, to the county clerk or
21 board of election commissioners, as the case may be, and shall
22 be accompanied by the affidavit of the attending physician
23 specifically describing the nature of the physical incapacity
24 or the fact that the voter is a nursing home resident and is
25 physically unable to be present at the polls on election days;
26 or (b) by presenting, in writing or otherwise, to the county

1 clerk or board of election commissioners, as the case may be,
2 proof that the applicant has secured an Illinois Disabled
3 Person Identification Card indicating that the person named
4 thereon has a Class 1A or Class 2 disability. Upon the receipt
5 of either the sworn-to application and the physician's
6 affidavit or proof that the applicant has secured an Illinois
7 Disabled Person Identification Card indicating that the person
8 named thereon has a Class 1A or Class 2 disability, the county
9 clerk or board of election commissioners shall issue a disabled
10 voter's or nursing home resident's identification card. Such
11 identification cards shall be issued for a period of 5 years,
12 upon the expiration of which time the voter may secure a new
13 card by making application in the same manner as is prescribed
14 for the issuance of an original card, accompanied by a new
15 affidavit of the attending physician. The date of expiration of
16 such five-year period shall be made known to any interested
17 person by the election authority upon the request of such
18 person. Applications for the renewal of the identification
19 cards shall be mailed to the voters holding such cards not less
20 than 3 months prior to the date of expiration of the cards.

21 Each disabled voter's or nursing home resident's
22 identification card shall bear an identification number, which
23 shall be clearly noted on the voter's original and duplicate
24 registration record cards. In the event the holder becomes
25 physically capable of resuming normal voting, he must surrender
26 his disabled voter's or nursing home resident's identification

1 card to the county clerk or board of election commissioners
2 before the next election.

3 The holder of a disabled voter's or nursing home resident's
4 identification card may make application by mail for an
5 official ballot within the time prescribed by Section 19-2.
6 Such application shall contain the same information as is
7 included in the form of application for ballot by a physically
8 incapacitated elector prescribed in Section 19-3 except that it
9 shall also include the applicant's disabled voter's
10 identification card number and except that it need not be sworn
11 to. If an examination of the records discloses that the
12 applicant is lawfully entitled to vote, he shall be mailed a
13 ballot as provided in Section 19-4. The ballot envelope shall
14 be the same as that prescribed in Section 19-5 for physically
15 disabled voters, and the manner of voting and returning the
16 ballot shall be the same as that provided in this Article for
17 other absentee ballots, except that a statement to be
18 subscribed to by the voter but which need not be sworn to shall
19 be placed on the ballot envelope in lieu of the affidavit
20 prescribed by Section 19-5.

21 Any person who knowingly subscribes to a false statement in
22 connection with voting under this Section shall be guilty of a
23 Class A misdemeanor.

24 For the purposes of this Section, "nursing home resident"
25 includes a resident of a facility licensed under the MR/DD
26 Community Care Act or the Specialized Mental Health

1 Rehabilitation Act.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

4 Sec. 19-12.2. Voting by physically incapacitated electors
5 who have made proper application to the election authority not
6 later than 5 days before the regular primary and general
7 election of 1980 and before each election thereafter shall be
8 conducted on the premises of facilities licensed or certified
9 pursuant to the Nursing Home Care Act, the Specialized Mental
10 Health Rehabilitation Act, or the MR/DD Community Care Act for
11 the sole benefit of residents of such facilities. Such voting
12 shall be conducted during any continuous period sufficient to
13 allow all applicants to cast their ballots between the hours of
14 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or
15 Monday immediately preceding the regular election. This
16 absentee voting on one of said days designated by the election
17 authority shall be supervised by two election judges who must
18 be selected by the election authority in the following order of
19 priority: (1) from the panel of judges appointed for the
20 precinct in which such facility is located, or from a panel of
21 judges appointed for any other precinct within the jurisdiction
22 of the election authority in the same ward or township, as the
23 case may be, in which the facility is located or, only in the
24 case where a judge or judges from the precinct, township or
25 ward are unavailable to serve, (3) from a panel of judges

1 appointed for any other precinct within the jurisdiction of the
2 election authority. The two judges shall be from different
3 political parties. Not less than 30 days before each regular
4 election, the election authority shall have arranged with the
5 chief administrative officer of each facility in his or its
6 election jurisdiction a mutually convenient time period on the
7 Friday, Saturday, Sunday or Monday immediately preceding the
8 election for such voting on the premises of the facility and
9 shall post in a prominent place in his or its office a notice
10 of the agreed day and time period for conducting such voting at
11 each facility; provided that the election authority shall not
12 later than noon on the Thursday before the election also post
13 the names and addresses of those facilities from which no
14 applications were received and in which no supervised absentee
15 voting will be conducted. All provisions of this Code
16 applicable to pollwatchers shall be applicable herein. To the
17 maximum extent feasible, voting booths or screens shall be
18 provided to insure the privacy of the voter. Voting procedures
19 shall be as described in Article 17 of this Code, except that
20 ballots shall be treated as absentee ballots and shall not be
21 counted until the close of the polls on the following day.
22 After the last voter has concluded voting, the judges shall
23 seal the ballots in an envelope and affix their signatures
24 across the flap of the envelope. Immediately thereafter, the
25 judges shall bring the sealed envelope to the office of the
26 election authority who shall deliver such ballots to the

1 election authority's central ballot counting location prior to
2 the closing of the polls on the day of election. The judges of
3 election shall also report to the election authority the name
4 of any applicant in the facility who, due to unforeseen
5 circumstance or condition or because of a religious holiday,
6 was unable to vote. In this event, the election authority may
7 appoint a qualified person from his or its staff to deliver the
8 ballot to such applicant on the day of election. This staff
9 person shall follow the same procedures prescribed for judges
10 conducting absentee voting in such facilities and shall return
11 the ballot to the central ballot counting location before the
12 polls close. However, if the facility from which the
13 application was made is also used as a regular precinct polling
14 place for that voter, voting procedures heretofore prescribed
15 may be implemented by 2 of the election judges of opposite
16 party affiliation assigned to that polling place during the
17 hours of voting on the day of the election. Judges of election
18 shall be compensated not less than \$25.00 for conducting
19 absentee voting in such facilities.

20 Not less than 120 days before each regular election, the
21 Department of Public Health shall certify to the State Board of
22 Elections a list of the facilities licensed or certified
23 pursuant to the Nursing Home Care Act, the Specialized Mental
24 Health Rehabilitation Act, or the MR/DD Community Care Act, and
25 shall indicate the approved bed capacity and the name of the
26 chief administrative officer of each such facility, and the

1 State Board of Elections shall certify the same to the
2 appropriate election authority within 20 days thereafter.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 Section 90-10. The Illinois Act on the Aging is amended by
5 changing Section 4.04 as follows:

6 (20 ILCS 105/4.04) (from Ch. 23, par. 6104.04)

7 Sec. 4.04. Long Term Care Ombudsman Program.

8 (a) Long Term Care Ombudsman Program. The Department shall
9 establish a Long Term Care Ombudsman Program, through the
10 Office of State Long Term Care Ombudsman ("the Office"), in
11 accordance with the provisions of the Older Americans Act of
12 1965, as now or hereafter amended.

13 (b) Definitions. As used in this Section, unless the
14 context requires otherwise:

15 (1) "Access" has the same meaning as in Section 1-104
16 of the Nursing Home Care Act, as now or hereafter amended;
17 that is, it means the right to:

18 (i) Enter any long term care facility or assisted
19 living or shared housing establishment or supportive
20 living facility;

21 (ii) Communicate privately and without restriction
22 with any resident, regardless of age, who consents to
23 the communication;

24 (iii) Seek consent to communicate privately and

1 without restriction with any resident, regardless of
2 age;

3 (iv) Inspect the clinical and other records of a
4 resident, regardless of age, with the express written
5 consent of the resident;

6 (v) Observe all areas of the long term care
7 facility or supportive living facilities, assisted
8 living or shared housing establishment except the
9 living area of any resident who protests the
10 observation.

11 (2) "Long Term Care Facility" means (i) any facility as
12 defined by Section 1-113 of the Nursing Home Care Act, as
13 now or hereafter amended; and (ii) any skilled nursing
14 facility or a nursing facility which meets the requirements
15 of Section 1819(a), (b), (c), and (d) or Section 1919(a),
16 (b), (c), and (d) of the Social Security Act, as now or
17 hereafter amended (42 U.S.C. 1395i-3(a), (b), (c), and (d)
18 and 42 U.S.C. 1396r(a), (b), (c), and (d)); and any
19 facility as defined by Section 1-113 of the MR/DD Community
20 Care Act, as now or hereafter amended.

21 (2.5) "Assisted living establishment" and "shared
22 housing establishment" have the meanings given those terms
23 in Section 10 of the Assisted Living and Shared Housing
24 Act.

25 (2.7) "Supportive living facility" means a facility
26 established under Section 5-5.01a of the Illinois Public

1 Aid Code.

2 (3) "State Long Term Care Ombudsman" means any person
3 employed by the Department to fulfill the requirements of
4 the Office of State Long Term Care Ombudsman as required
5 under the Older Americans Act of 1965, as now or hereafter
6 amended, and Departmental policy.

7 (3.1) "Ombudsman" means any designated representative
8 of a regional long term care ombudsman program; provided
9 that the representative, whether he is paid for or
10 volunteers his ombudsman services, shall be qualified and
11 designated by the Office to perform the duties of an
12 ombudsman as specified by the Department in rules and in
13 accordance with the provisions of the Older Americans Act
14 of 1965, as now or hereafter amended.

15 (c) Ombudsman; rules. The Office of State Long Term Care
16 Ombudsman shall be composed of at least one full-time ombudsman
17 and shall include a system of designated regional long term
18 care ombudsman programs. Each regional program shall be
19 designated by the State Long Term Care Ombudsman as a
20 subdivision of the Office and any representative of a regional
21 program shall be treated as a representative of the Office.

22 The Department, in consultation with the Office, shall
23 promulgate administrative rules in accordance with the
24 provisions of the Older Americans Act of 1965, as now or
25 hereafter amended, to establish the responsibilities of the
26 Department and the Office of State Long Term Care Ombudsman and

1 the designated regional Ombudsman programs. The administrative
2 rules shall include the responsibility of the Office and
3 designated regional programs to investigate and resolve
4 complaints made by or on behalf of residents of long term care
5 facilities, supportive living facilities, and assisted living
6 and shared housing establishments, including the option to
7 serve residents under the age of 60, relating to actions,
8 inaction, or decisions of providers, or their representatives,
9 of long term care facilities, of supported living facilities,
10 of assisted living and shared housing establishments, of public
11 agencies, or of social services agencies, which may adversely
12 affect the health, safety, welfare, or rights of such
13 residents. The Office and designated regional programs may
14 represent all residents, but are not required by this Act to
15 represent persons under 60 years of age, except to the extent
16 required by federal law. When necessary and appropriate,
17 representatives of the Office shall refer complaints to the
18 appropriate regulatory State agency. The Department, in
19 consultation with the Office, shall cooperate with the
20 Department of Human Services and other State agencies in
21 providing information and training to designated regional long
22 term care ombudsman programs about the appropriate assessment
23 and treatment (including information about appropriate
24 supportive services, treatment options, and assessment of
25 rehabilitation potential) of the residents they serve,
26 including children, persons with mental illness (other than

1 Alzheimer's disease and related disorders), and persons with
2 developmental disabilities.

3 The State Long Term Care Ombudsman and all other ombudsmen,
4 as defined in paragraph (3.1) of subsection (b) must submit to
5 background checks under the Health Care Worker Background Check
6 Act and receive training, as prescribed by the Illinois
7 Department on Aging, before visiting facilities. The training
8 must include information specific to assisted living
9 establishments, supportive living facilities, and shared
10 housing establishments and to the rights of residents
11 guaranteed under the corresponding Acts and administrative
12 rules.

13 (c-5) Consumer Choice Information Reports. The Office
14 shall:

15 (1) In collaboration with the Attorney General, create
16 a Consumer Choice Information Report form to be completed
17 by all licensed long term care facilities to aid
18 Illinoisans and their families in making informed choices
19 about long term care. The Office shall create a Consumer
20 Choice Information Report for each type of licensed long
21 term care facility. The Office shall collaborate with the
22 Attorney General and the Department of Human Services to
23 create a Consumer Choice Information Report form for
24 facilities licensed under the MR/DD Community Care Act.

25 (2) Develop a database of Consumer Choice Information
26 Reports completed by licensed long term care facilities

1 that includes information in the following consumer
2 categories:

3 (A) Medical Care, Services, and Treatment.

4 (B) Special Services and Amenities.

5 (C) Staffing.

6 (D) Facility Statistics and Resident Demographics.

7 (E) Ownership and Administration.

8 (F) Safety and Security.

9 (G) Meals and Nutrition.

10 (H) Rooms, Furnishings, and Equipment.

11 (I) Family, Volunteer, and Visitation Provisions.

12 (3) Make this information accessible to the public,
13 including on the Internet by means of a hyperlink labeled
14 "Resident's Right to Know" on the Office's World Wide Web
15 home page. Information about facilities licensed under the
16 MR/DD Community Care Act shall be made accessible to the
17 public by the Department of Human Services, including on
18 the Internet by means of a hyperlink labeled "Resident's
19 and Families' Right to Know" on the Department of Human
20 Services' "For Customers" website.

21 (4) Have the authority, with the Attorney General, to
22 verify that information provided by a facility is accurate.

23 (5) Request a new report from any licensed facility
24 whenever it deems necessary.

25 (6) Include in the Office's Consumer Choice
26 Information Report for each type of licensed long term care

1 facility additional information on each licensed long term
2 care facility in the State of Illinois, including
3 information regarding each facility's compliance with the
4 relevant State and federal statutes, rules, and standards;
5 customer satisfaction surveys; and information generated
6 from quality measures developed by the Centers for Medicare
7 and Medicaid Services.

8 (d) Access and visitation rights.

9 (1) In accordance with subparagraphs (A) and (E) of
10 paragraph (3) of subsection (c) of Section 1819 and
11 subparagraphs (A) and (E) of paragraph (3) of subsection
12 (c) of Section 1919 of the Social Security Act, as now or
13 hereafter amended (42 U.S.C. 1395i-3 (c) (3) (A) and (E) and
14 42 U.S.C. 1396r (c) (3) (A) and (E)), and Section 712 of the
15 Older Americans Act of 1965, as now or hereafter amended
16 (42 U.S.C. 3058f), a long term care facility, supportive
17 living facility, assisted living establishment, and shared
18 housing establishment must:

19 (i) permit immediate access to any resident,
20 regardless of age, by a designated ombudsman; and

21 (ii) permit representatives of the Office, with
22 the permission of the resident's legal representative
23 or legal guardian, to examine a resident's clinical and
24 other records, regardless of the age of the resident,
25 and if a resident is unable to consent to such review,
26 and has no legal guardian, permit representatives of

1 the Office appropriate access, as defined by the
2 Department, in consultation with the Office, in
3 administrative rules, to the resident's records.

4 (2) Each long term care facility, supportive living
5 facility, assisted living establishment, and shared
6 housing establishment shall display, in multiple,
7 conspicuous public places within the facility accessible
8 to both visitors and residents and in an easily readable
9 format, the address and phone number of the Office of the
10 Long Term Care Ombudsman, in a manner prescribed by the
11 Office.

12 (e) Immunity. An ombudsman or any representative of the
13 Office participating in the good faith performance of his or
14 her official duties shall have immunity from any liability
15 (civil, criminal or otherwise) in any proceedings (civil,
16 criminal or otherwise) brought as a consequence of the
17 performance of his official duties.

18 (f) Business offenses.

19 (1) No person shall:

20 (i) Intentionally prevent, interfere with, or
21 attempt to impede in any way any representative of the
22 Office in the performance of his official duties under
23 this Act and the Older Americans Act of 1965; or

24 (ii) Intentionally retaliate, discriminate
25 against, or effect reprisals against any long term care
26 facility resident or employee for contacting or

1 providing information to any representative of the
2 Office.

3 (2) A violation of this Section is a business offense,
4 punishable by a fine not to exceed \$501.

5 (3) The Director of Aging, in consultation with the
6 Office, shall notify the State's Attorney of the county in
7 which the long term care facility, supportive living
8 facility, or assisted living or shared housing
9 establishment is located, or the Attorney General, of any
10 violations of this Section.

11 (g) Confidentiality of records and identities. The
12 Department shall establish procedures for the disclosure by the
13 State Ombudsman or the regional ombudsmen entities of files
14 maintained by the program. The procedures shall provide that
15 the files and records may be disclosed only at the discretion
16 of the State Long Term Care Ombudsman or the person designated
17 by the State Ombudsman to disclose the files and records, and
18 the procedures shall prohibit the disclosure of the identity of
19 any complainant, resident, witness, or employee of a long term
20 care provider unless:

21 (1) the complainant, resident, witness, or employee of
22 a long term care provider or his or her legal
23 representative consents to the disclosure and the consent
24 is in writing;

25 (2) the complainant, resident, witness, or employee of
26 a long term care provider gives consent orally; and the

1 consent is documented contemporaneously in writing in
2 accordance with such requirements as the Department shall
3 establish; or

4 (3) the disclosure is required by court order.

5 (h) Legal representation. The Attorney General shall
6 provide legal representation to any representative of the
7 Office against whom suit or other legal action is brought in
8 connection with the performance of the representative's
9 official duties, in accordance with the State Employee
10 Indemnification Act.

11 (i) Treatment by prayer and spiritual means. Nothing in
12 this Act shall be construed to authorize or require the medical
13 supervision, regulation or control of remedial care or
14 treatment of any resident in a long term care facility operated
15 exclusively by and for members or adherents of any church or
16 religious denomination the tenets and practices of which
17 include reliance solely upon spiritual means through prayer for
18 healing.

19 (j) The Long Term Care Ombudsman Fund is created as a
20 special fund in the State treasury to receive moneys for the
21 express purposes of this Section. All interest earned on moneys
22 in the fund shall be credited to the fund. Moneys contained in
23 the fund shall be used to support the purposes of this Section.

24 (Source: P.A. 95-620, eff. 9-17-07; 95-823, eff. 1-1-09;
25 96-328, eff. 8-11-09; 96-758, eff. 8-25-09; 96-1372, eff.
26 7-29-10.)

1 Section 90-15. The Mental Health and Developmental
2 Disabilities Administrative Act is amended by changing Section
3 15 as follows:

4 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

5 Sec. 15. Before any person is released from a facility
6 operated by the State pursuant to an absolute discharge or a
7 conditional discharge from hospitalization under this Act, the
8 facility director of the facility in which such person is
9 hospitalized shall determine that such person is not currently
10 in need of hospitalization and:

11 (a) is able to live independently in the community; or

12 (b) requires further oversight and supervisory care
13 for which arrangements have been made with responsible
14 relatives or supervised residential program approved by
15 the Department; or

16 (c) requires further personal care or general
17 oversight as defined by the MR/DD Community Care Act or the
18 Specialized Mental Health Rehabilitation Act, for which
19 placement arrangements have been made with a suitable
20 family home or other licensed facility approved by the
21 Department under this Section; or

22 (d) requires community mental health services for
23 which arrangements have been made with a community mental
24 health provider in accordance with criteria, standards,

1 and procedures promulgated by rule.

2 Such determination shall be made in writing and shall
3 become a part of the facility record of such absolutely or
4 conditionally discharged person. When the determination
5 indicates that the condition of the person to be granted an
6 absolute discharge or a conditional discharge is described
7 under subparagraph (c) or (d) of this Section, the name and
8 address of the continuing care facility or home to which such
9 person is to be released shall be entered in the facility
10 record. Where a discharge from a mental health facility is made
11 under subparagraph (c), the Department shall assign the person
12 so discharged to an existing community based not-for-profit
13 agency for participation in day activities suitable to the
14 person's needs, such as but not limited to social and
15 vocational rehabilitation, and other recreational, educational
16 and financial activities unless the community based
17 not-for-profit agency is unqualified to accept such
18 assignment. Where the clientele of any not-for-profit agency
19 increases as a result of assignments under this amendatory Act
20 of 1977 by more than 3% over the prior year, the Department
21 shall fully reimburse such agency for the costs of providing
22 services to such persons in excess of such 3% increase. The
23 Department shall keep written records detailing how many
24 persons have been assigned to a community based not-for-profit
25 agency and how many persons were not so assigned because the
26 community based agency was unable to accept the assignments, in

1 accordance with criteria, standards, and procedures
2 promulgated by rule. Whenever a community based agency is found
3 to be unable to accept the assignments, the name of the agency
4 and the reason for the finding shall be included in the report.

5 Insofar as desirable in the interests of the former
6 recipient, the facility, program or home in which the
7 discharged person is to be placed shall be located in or near
8 the community in which the person resided prior to
9 hospitalization or in the community in which the person's
10 family or nearest next of kin presently reside. Placement of
11 the discharged person in facilities, programs or homes located
12 outside of this State shall not be made by the Department
13 unless there are no appropriate facilities, programs or homes
14 available within this State. Out-of-state placements shall be
15 subject to return of recipients so placed upon the availability
16 of facilities, programs or homes within this State to
17 accommodate these recipients, except where placement in a
18 contiguous state results in locating a recipient in a facility
19 or program closer to the recipient's home or family. If an
20 appropriate facility or program becomes available equal to or
21 closer to the recipient's home or family, the recipient shall
22 be returned to and placed at the appropriate facility or
23 program within this State.

24 To place any person who is under a program of the
25 Department at board in a suitable family home or in such other
26 facility or program as the Department may consider desirable.

1 The Department may place in licensed nursing homes, sheltered
2 care homes, or homes for the aged those persons whose
3 behavioral manifestations and medical and nursing care needs
4 are such as to be substantially indistinguishable from persons
5 already living in such facilities. Prior to any placement by
6 the Department under this Section, a determination shall be
7 made by the personnel of the Department, as to the capability
8 and suitability of such facility to adequately meet the needs
9 of the person to be discharged. When specialized programs are
10 necessary in order to enable persons in need of supervised
11 living to develop and improve in the community, the Department
12 shall place such persons only in specialized residential care
13 facilities which shall meet Department standards including
14 restricted admission policy, special staffing and programming
15 for social and vocational rehabilitation, in addition to the
16 requirements of the appropriate State licensing agency. The
17 Department shall not place any new person in a facility the
18 license of which has been revoked or not renewed on grounds of
19 inadequate programming, staffing, or medical or adjunctive
20 services, regardless of the pendency of an action for
21 administrative review regarding such revocation or failure to
22 renew. Before the Department may transfer any person to a
23 licensed nursing home, sheltered care home or home for the aged
24 or place any person in a specialized residential care facility
25 the Department shall notify the person to be transferred, or a
26 responsible relative of such person, in writing, at least 30

1 days before the proposed transfer, with respect to all the
2 relevant facts concerning such transfer, except in cases of
3 emergency when such notice is not required. If either the
4 person to be transferred or a responsible relative of such
5 person objects to such transfer, in writing to the Department,
6 at any time after receipt of notice and before the transfer,
7 the facility director of the facility in which the person was a
8 recipient shall immediately schedule a hearing at the facility
9 with the presence of the facility director, the person who
10 objected to such proposed transfer, and a psychiatrist who is
11 familiar with the record of the person to be transferred. Such
12 person to be transferred or a responsible relative may be
13 represented by such counsel or interested party as he may
14 appoint, who may present such testimony with respect to the
15 proposed transfer. Testimony presented at such hearing shall
16 become a part of the facility record of the
17 person-to-be-transferred. The record of testimony shall be
18 held in the person-to-be-transferred's record in the central
19 files of the facility. If such hearing is held a transfer may
20 only be implemented, if at all, in accordance with the results
21 of such hearing. Within 15 days after such hearing the facility
22 director shall deliver his findings based on the record of the
23 case and the testimony presented at the hearing, by registered
24 or certified mail, to the parties to such hearing. The findings
25 of the facility director shall be deemed a final administrative
26 decision of the Department. For purposes of this Section, "case

1 of emergency" means those instances in which the health of the
2 person to be transferred is imperiled and the most appropriate
3 mental health care or medical care is available at a licensed
4 nursing home, sheltered care home or home for the aged or a
5 specialized residential care facility.

6 Prior to placement of any person in a facility under this
7 Section the Department shall ensure that an appropriate
8 training plan for staff is provided by the facility. Said
9 training may include instruction and demonstration by
10 Department personnel qualified in the area of mental illness or
11 mental retardation, as applicable to the person to be placed.
12 Training may be given both at the facility from which the
13 recipient is transferred and at the facility receiving the
14 recipient, and may be available on a continuing basis
15 subsequent to placement. In a facility providing services to
16 former Department recipients, training shall be available as
17 necessary for facility staff. Such training will be on a
18 continuing basis as the needs of the facility and recipients
19 change and further training is required.

20 The Department shall not place any person in a facility
21 which does not have appropriately trained staff in sufficient
22 numbers to accommodate the recipient population already at the
23 facility. As a condition of further or future placements of
24 persons, the Department shall require the employment of
25 additional trained staff members at the facility where said
26 persons are to be placed. The Secretary, or his or her

1 designate, shall establish written guidelines for placement of
2 persons in facilities under this Act. The Department shall keep
3 written records detailing which facilities have been
4 determined to have staff who have been appropriately trained by
5 the Department and all training which it has provided or
6 required under this Section.

7 Bills for the support for a person boarded out shall be
8 payable monthly out of the proper maintenance funds and shall
9 be audited as any other accounts of the Department. If a person
10 is placed in a facility or program outside the Department, the
11 Department may pay the actual costs of residence, treatment or
12 maintenance in such facility and may collect such actual costs
13 or a portion thereof from the recipient or the estate of a
14 person placed in accordance with this Section.

15 Other than those placed in a family home the Department
16 shall cause all persons who are placed in a facility, as
17 defined by the MR/DD Community Care Act or the Specialized
18 Mental Health Rehabilitation Act, or in designated community
19 living situations or programs, to be visited at least once
20 during the first month following placement, and once every
21 month thereafter for the first year following placement when
22 indicated, but at least quarterly. After the first year, the
23 Department shall determine at what point the appropriate
24 licensing entity for the facility or designated community
25 living situation or program will assume the responsibility of
26 ensuring that appropriate services are being provided to the

1 resident. Once that responsibility is assumed, the Department
2 may discontinue such visits. If a long term care facility has
3 periodic care plan conferences, the visitor may participate in
4 those conferences, if such participation is approved by the
5 resident or the resident's guardian. Visits shall be made by
6 qualified and trained Department personnel, or their designee,
7 in the area of mental health or developmental disabilities
8 applicable to the person visited, and shall be made on a more
9 frequent basis when indicated. The Department may not use as
10 designee any personnel connected with or responsible to the
11 representatives of any facility in which persons who have been
12 transferred under this Section are placed. In the course of
13 such visit there shall be consideration of the following areas,
14 but not limited thereto: effects of transfer on physical and
15 mental health of the person, sufficiency of nursing care and
16 medical coverage required by the person, sufficiency of staff
17 personnel and ability to provide basic care for the person,
18 social, recreational and programmatic activities available for
19 the person, and other appropriate aspects of the person's
20 environment.

21 A report containing the above observations shall be made to
22 the Department, to the licensing agency, and to any other
23 appropriate agency subsequent to each visitation. The report
24 shall contain recommendations to improve the care and treatment
25 of the resident, as necessary, which shall be reviewed by the
26 facility's interdisciplinary team and the resident or the

1 resident's legal guardian.

2 Upon the complaint of any person placed in accordance with
3 this Section or any responsible citizen or upon discovery that
4 such person has been abused, neglected, or improperly cared
5 for, or that the placement does not provide the type of care
6 required by the recipient's current condition, the Department
7 immediately shall investigate, and determine if the
8 well-being, health, care, or safety of any person is affected
9 by any of the above occurrences, and if any one of the above
10 occurrences is verified, the Department shall remove such
11 person at once to a facility of the Department or to another
12 facility outside the Department, provided such person's needs
13 can be met at said facility. The Department may also provide
14 any person placed in accordance with this Section who is
15 without available funds, and who is permitted to engage in
16 employment outside the facility, such sums for the
17 transportation, and other expenses as may be needed by him
18 until he receives his wages for such employment.

19 The Department shall promulgate rules and regulations
20 governing the purchase of care for persons who are wards of or
21 who are receiving services from the Department. Such rules and
22 regulations shall apply to all monies expended by any agency of
23 the State of Illinois for services rendered by any person,
24 corporate entity, agency, governmental agency or political
25 subdivision whether public or private outside of the Department
26 whether payment is made through a contractual, per-diem or

1 other arrangement. No funds shall be paid to any person,
2 corporation, agency, governmental entity or political
3 subdivision without compliance with such rules and
4 regulations.

5 The rules and regulations governing purchase of care shall
6 describe categories and types of service deemed appropriate for
7 purchase by the Department.

8 Any provider of services under this Act may elect to
9 receive payment for those services, and the Department is
10 authorized to arrange for that payment, by means of direct
11 deposit transmittals to the service provider's account
12 maintained at a bank, savings and loan association, or other
13 financial institution. The financial institution shall be
14 approved by the Department, and the deposits shall be in
15 accordance with rules and regulations adopted by the
16 Department.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 Section 90-20. The Department of Public Health Powers and
19 Duties Law of the Civil Administrative Code of Illinois is
20 amended by changing Sections 2310-550, 2310-560, 2310-565, and
21 2310-625 as follows:

22 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

23 Sec. 2310-550. Long-term care facilities. The Department
24 may perform, in all long-term care facilities as defined in the

1 Nursing Home Care Act, all facilities as defined in the
2 Specialized Mental Health Rehabilitation Act, and all
3 facilities as defined in the MR/DD Community Care Act, all
4 inspection, evaluation, certification, and inspection of care
5 duties that the federal government may require the State of
6 Illinois to perform or have performed as a condition of
7 participation in any programs under Title XVIII or Title XIX of
8 the federal Social Security Act.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

11 Sec. 2310-560. Advisory committees concerning construction
12 of facilities.

13 (a) The Director shall appoint an advisory committee. The
14 committee shall be established by the Department by rule. The
15 Director and the Department shall consult with the advisory
16 committee concerning the application of building codes and
17 Department rules related to those building codes to facilities
18 under the Ambulatory Surgical Treatment Center Act, the Nursing
19 Home Care Act, the Specialized Mental Health Rehabilitation
20 Act, and the MR/DD Community Care Act.

21 (b) The Director shall appoint an advisory committee to
22 advise the Department and to conduct informal dispute
23 resolution concerning the application of building codes for new
24 and existing construction and related Department rules and
25 standards under the Hospital Licensing Act, including without

1 limitation rules and standards for (i) design and construction,
2 (ii) engineering and maintenance of the physical plant, site,
3 equipment, and systems (heating, cooling, electrical,
4 ventilation, plumbing, water, sewer, and solid waste
5 disposal), and (iii) fire and safety. The advisory committee
6 shall be composed of all of the following members:

7 (1) The chairperson or an elected representative from
8 the Hospital Licensing Board under the Hospital Licensing
9 Act.

10 (2) Two health care architects with a minimum of 10
11 years of experience in institutional design and building
12 code analysis.

13 (3) Two engineering professionals (one mechanical and
14 one electrical) with a minimum of 10 years of experience in
15 institutional design and building code analysis.

16 (4) One commercial interior design professional with a
17 minimum of 10 years of experience.

18 (5) Two representatives from provider associations.

19 (6) The Director or his or her designee, who shall
20 serve as the committee moderator.

21 Appointments shall be made with the concurrence of the
22 Hospital Licensing Board. The committee shall submit
23 recommendations concerning the application of building codes
24 and related Department rules and standards to the Hospital
25 Licensing Board for review and comment prior to submission to
26 the Department. The committee shall submit recommendations

1 concerning informal dispute resolution to the Director. The
2 Department shall provide per diem and travel expenses to the
3 committee members.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

6 Sec. 2310-565. Facility construction training program. The
7 Department shall conduct, at least annually, a joint in-service
8 training program for architects, engineers, interior
9 designers, and other persons involved in the construction of a
10 facility under the Ambulatory Surgical Treatment Center Act,
11 the Nursing Home Care Act, the Specialized Mental Health
12 Rehabilitation Act, the MR/DD Community Care Act, or the
13 Hospital Licensing Act on problems and issues relating to the
14 construction of facilities under any of those Acts.

15 (Source: P.A. 96-339, eff. 7-1-10.)

16 (20 ILCS 2310/2310-625)

17 Sec. 2310-625. Emergency Powers.

18 (a) Upon proclamation of a disaster by the Governor, as
19 provided for in the Illinois Emergency Management Agency Act,
20 the Director of Public Health shall have the following powers,
21 which shall be exercised only in coordination with the Illinois
22 Emergency Management Agency and the Department of Financial and
23 Professional Regulation:

24 (1) The power to suspend the requirements for temporary

1 or permanent licensure or certification of persons who are
2 licensed or certified in another state and are working
3 under the direction of the Illinois Emergency Management
4 Agency and the Illinois Department of Public Health
5 pursuant to the declared disaster.

6 (2) The power to modify the scope of practice
7 restrictions under the Emergency Medical Services (EMS)
8 Systems Act for any persons who are licensed under that Act
9 for any person working under the direction of the Illinois
10 Emergency Management Agency and the Illinois Department of
11 Public Health pursuant to the declared disaster.

12 (3) The power to modify the scope of practice
13 restrictions under the Nursing Home Care Act, the
14 Specialized Mental Health Rehabilitation Act, or the MR/DD
15 Community Care Act for Certified Nursing Assistants for any
16 person working under the direction of the Illinois
17 Emergency Management Agency and the Illinois Department of
18 Public Health pursuant to the declared disaster.

19 (b) Persons exempt from licensure or certification under
20 paragraph (1) of subsection (a) and persons operating under
21 modified scope of practice provisions under paragraph (2) of
22 subsection (a) and paragraph (3) of subsection (a) shall be
23 exempt from licensure or certification or subject to modified
24 scope of practice only until the declared disaster has ended as
25 provided by law. For purposes of this Section, persons working
26 under the direction of an emergency services and disaster

1 agency accredited by the Illinois Emergency Management Agency
2 and a local public health department, pursuant to a declared
3 disaster, shall be deemed to be working under the direction of
4 the Illinois Emergency Management Agency and the Department of
5 Public Health.

6 (c) The Director shall exercise these powers by way of
7 proclamation.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 Section 90-25. The Abuse of Adults with Disabilities
10 Intervention Act is amended by changing Section 15 as follows:

11 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

12 Sec. 15. Definitions. As used in this Act:

13 "Abuse" means causing any physical, sexual, or mental
14 injury to an adult with disabilities, including exploitation of
15 the adult's financial resources. Nothing in this Act shall be
16 construed to mean that an adult with disabilities is a victim
17 of abuse or neglect for the sole reason that he or she is being
18 furnished with or relies upon treatment by spiritual means
19 through prayer alone, in accordance with the tenets and
20 practices of a recognized church or religious denomination.
21 Nothing in this Act shall be construed to mean that an adult
22 with disabilities is a victim of abuse because of health care
23 services provided or not provided by licensed health care
24 professionals.

1 "Adult with disabilities" means a person aged 18 through 59
2 who resides in a domestic living situation and whose physical
3 or mental disability impairs his or her ability to seek or
4 obtain protection from abuse, neglect, or exploitation.

5 "Department" means the Department of Human Services.

6 "Adults with Disabilities Abuse Project" or "project"
7 means that program within the Office of Inspector General
8 designated by the Department of Human Services to receive and
9 assess reports of alleged or suspected abuse, neglect, or
10 exploitation of adults with disabilities.

11 "Domestic living situation" means a residence where the
12 adult with disabilities lives alone or with his or her family
13 or household members, a care giver, or others or at a board and
14 care home or other community-based unlicensed facility, but is
15 not:

16 (1) A licensed facility as defined in Section 1-113 of
17 the Nursing Home Care Act or Section 1-113 of the MR/DD
18 Community Care Act or Section 1-113 of the Specialized
19 Mental Health Rehabilitation Act.

20 (2) A life care facility as defined in the Life Care
21 Facilities Act.

22 (3) A home, institution, or other place operated by the
23 federal government, a federal agency, or the State.

24 (4) A hospital, sanitarium, or other institution, the
25 principal activity or business of which is the diagnosis,
26 care, and treatment of human illness through the

1 maintenance and operation of organized facilities and that
2 is required to be licensed under the Hospital Licensing
3 Act.

4 (5) A community living facility as defined in the
5 Community Living Facilities Licensing Act.

6 (6) A community-integrated living arrangement as
7 defined in the Community-Integrated Living Arrangements
8 Licensure and Certification Act or community residential
9 alternative as licensed under that Act.

10 "Emergency" means a situation in which an adult with
11 disabilities is in danger of death or great bodily harm.

12 "Exploitation" means the illegal, including tortious, use
13 of the assets or resources of an adult with disabilities.
14 Exploitation includes, but is not limited to, the
15 misappropriation of assets or resources of an adult with
16 disabilities by undue influence, by breach of a fiduciary
17 relationship, by fraud, deception, or extortion, or by the use
18 of the assets or resources in a manner contrary to law.

19 "Family or household members" means a person who as a
20 family member, volunteer, or paid care provider has assumed
21 responsibility for all or a portion of the care of an adult
22 with disabilities who needs assistance with activities of daily
23 living.

24 "Neglect" means the failure of another individual to
25 provide an adult with disabilities with or the willful
26 withholding from an adult with disabilities the necessities of

1 life, including, but not limited to, food, clothing, shelter,
2 or medical care.

3 Nothing in the definition of "neglect" shall be construed to
4 impose a requirement that assistance be provided to an adult
5 with disabilities over his or her objection in the absence of a
6 court order, nor to create any new affirmative duty to provide
7 support, assistance, or intervention to an adult with
8 disabilities. Nothing in this Act shall be construed to mean
9 that an adult with disabilities is a victim of neglect because
10 of health care services provided or not provided by licensed
11 health care professionals.

12 "Physical abuse" includes sexual abuse and means any of the
13 following:

14 (1) knowing or reckless use of physical force,
15 confinement, or restraint;

16 (2) knowing, repeated, and unnecessary sleep
17 deprivation; or

18 (3) knowing or reckless conduct which creates an
19 immediate risk of physical harm.

20 "Secretary" means the Secretary of Human Services.

21 "Sexual abuse" means touching, fondling, sexual threats,
22 sexually inappropriate remarks, or any other sexual activity
23 with an adult with disabilities when the adult with
24 disabilities is unable to understand, unwilling to consent,
25 threatened, or physically forced to engage in sexual behavior.

26 "Substantiated case" means a reported case of alleged or

1 suspected abuse, neglect, or exploitation in which the Adults
2 with Disabilities Abuse Project staff, after assessment,
3 determines that there is reason to believe abuse, neglect, or
4 exploitation has occurred.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 Section 90-30. The Criminal Identification Act is amended
7 by changing Section 7.5 as follows:

8 (20 ILCS 2630/7.5)

9 Sec. 7.5. Notification of outstanding warrant. If the
10 existence of an outstanding arrest warrant is identified by the
11 Department of State Police in connection with the criminal
12 history background checks conducted pursuant to subsection (b)
13 of Section 2-201.5 of the Nursing Home Care Act and Section
14 2-201.5 of the MR/DD Community Care Act or subsection (d) of
15 Section 6.09 of the Hospital Licensing Act, the Department
16 shall notify the jurisdiction issuing the warrant of the
17 following:

18 (1) Existence of the warrant.

19 (2) The name, address, and telephone number of the
20 licensed long term care facility in which the wanted person
21 resides.

22 Local issuing jurisdictions shall be aware that nursing
23 facilities have residents who may be fragile or vulnerable or
24 who may have a mental illness. When serving a warrant, law

1 enforcement shall make every attempt to mitigate the adverse
2 impact on other facility residents.

3 (Source: P.A. 96-1372, eff. 7-29-10.)

4 Section 90-35. The Illinois Finance Authority Act is
5 amended by changing Section 801-10 as follows:

6 (20 ILCS 3501/801-10)

7 Sec. 801-10. Definitions. The following terms, whenever
8 used or referred to in this Act, shall have the following
9 meanings, except in such instances where the context may
10 clearly indicate otherwise:

11 (a) The term "Authority" means the Illinois Finance
12 Authority created by this Act.

13 (b) The term "project" means an industrial project,
14 conservation project, housing project, public purpose project,
15 higher education project, health facility project, cultural
16 institution project, agricultural facility or agribusiness,
17 and "project" may include any combination of one or more of the
18 foregoing undertaken jointly by any person with one or more
19 other persons.

20 (c) The term "public purpose project" means any project or
21 facility including without limitation land, buildings,
22 structures, machinery, equipment and all other real and
23 personal property, which is authorized or required by law to be
24 acquired, constructed, improved, rehabilitated, reconstructed,

1 replaced or maintained by any unit of government or any other
2 lawful public purpose which is authorized or required by law to
3 be undertaken by any unit of government.

4 (d) The term "industrial project" means the acquisition,
5 construction, refurbishment, creation, development or
6 redevelopment of any facility, equipment, machinery, real
7 property or personal property for use by any instrumentality of
8 the State or its political subdivisions, for use by any person
9 or institution, public or private, for profit or not for
10 profit, or for use in any trade or business including, but not
11 limited to, any industrial, manufacturing or commercial
12 enterprise and which is (1) a capital project including but not
13 limited to: (i) land and any rights therein, one or more
14 buildings, structures or other improvements, machinery and
15 equipment, whether now existing or hereafter acquired, and
16 whether or not located on the same site or sites; (ii) all
17 appurtenances and facilities incidental to the foregoing,
18 including, but not limited to utilities, access roads, railroad
19 sidings, track, docking and similar facilities, parking
20 facilities, dockage, wharfage, railroad roadbed, track,
21 trestle, depot, terminal, switching and signaling or related
22 equipment, site preparation and landscaping; and (iii) all
23 non-capital costs and expenses relating thereto or (2) any
24 addition to, renovation, rehabilitation or improvement of a
25 capital project or (3) any activity or undertaking which the
26 Authority determines will aid, assist or encourage economic

1 growth, development or redevelopment within the State or any
2 area thereof, will promote the expansion, retention or
3 diversification of employment opportunities within the State
4 or any area thereof or will aid in stabilizing or developing
5 any industry or economic sector of the State economy. The term
6 "industrial project" also means the production of motion
7 pictures.

8 (e) The term "bond" or "bonds" shall include bonds, notes
9 (including bond, grant or revenue anticipation notes),
10 certificates and/or other evidences of indebtedness
11 representing an obligation to pay money, including refunding
12 bonds.

13 (f) The terms "lease agreement" and "loan agreement" shall
14 mean: (i) an agreement whereby a project acquired by the
15 Authority by purchase, gift or lease is leased to any person,
16 corporation or unit of local government which will use or cause
17 the project to be used as a project as heretofore defined upon
18 terms providing for lease rental payments at least sufficient
19 to pay when due all principal of, interest and premium, if any,
20 on any bonds of the Authority issued with respect to such
21 project, providing for the maintenance, insuring and operation
22 of the project on terms satisfactory to the Authority,
23 providing for disposition of the project upon termination of
24 the lease term, including purchase options or abandonment of
25 the premises, and such other terms as may be deemed desirable
26 by the Authority, or (ii) any agreement pursuant to which the

1 Authority agrees to loan the proceeds of its bonds issued with
2 respect to a project or other funds of the Authority to any
3 person which will use or cause the project to be used as a
4 project as heretofore defined upon terms providing for loan
5 repayment installments at least sufficient to pay when due all
6 principal of, interest and premium, if any, on any bonds of the
7 Authority, if any, issued with respect to the project, and
8 providing for maintenance, insurance and other matters as may
9 be deemed desirable by the Authority.

10 (g) The term "financial aid" means the expenditure of
11 Authority funds or funds provided by the Authority through the
12 issuance of its bonds, notes or other evidences of indebtedness
13 or from other sources for the development, construction,
14 acquisition or improvement of a project.

15 (h) The term "person" means an individual, corporation,
16 unit of government, business trust, estate, trust, partnership
17 or association, 2 or more persons having a joint or common
18 interest, or any other legal entity.

19 (i) The term "unit of government" means the federal
20 government, the State or unit of local government, a school
21 district, or any agency or instrumentality, office, officer,
22 department, division, bureau, commission, college or
23 university thereof.

24 (j) The term "health facility" means: (a) any public or
25 private institution, place, building, or agency required to be
26 licensed under the Hospital Licensing Act; (b) any public or

1 private institution, place, building, or agency required to be
2 licensed under the Nursing Home Care Act, the Specialized
3 Mental Health Rehabilitation Act, or the MR/DD Community Care
4 Act; (c) any public or licensed private hospital as defined in
5 the Mental Health and Developmental Disabilities Code; (d) any
6 such facility exempted from such licensure when the Director of
7 Public Health attests that such exempted facility meets the
8 statutory definition of a facility subject to licensure; (e)
9 any other public or private health service institution, place,
10 building, or agency which the Director of Public Health attests
11 is subject to certification by the Secretary, U.S. Department
12 of Health and Human Services under the Social Security Act, as
13 now or hereafter amended, or which the Director of Public
14 Health attests is subject to standard-setting by a recognized
15 public or voluntary accrediting or standard-setting agency;
16 (f) any public or private institution, place, building or
17 agency engaged in providing one or more supporting services to
18 a health facility; (g) any public or private institution,
19 place, building or agency engaged in providing training in the
20 healing arts, including but not limited to schools of medicine,
21 dentistry, osteopathy, optometry, podiatry, pharmacy or
22 nursing, schools for the training of x-ray, laboratory or other
23 health care technicians and schools for the training of
24 para-professionals in the health care field; (h) any public or
25 private congregate, life or extended care or elderly housing
26 facility or any public or private home for the aged or infirm,

1 including, without limitation, any Facility as defined in the
2 Life Care Facilities Act; (i) any public or private mental,
3 emotional or physical rehabilitation facility or any public or
4 private educational, counseling, or rehabilitation facility or
5 home, for those persons with a developmental disability, those
6 who are physically ill or disabled, the emotionally disturbed,
7 those persons with a mental illness or persons with learning or
8 similar disabilities or problems; (j) any public or private
9 alcohol, drug or substance abuse diagnosis, counseling
10 treatment or rehabilitation facility, (k) any public or private
11 institution, place, building or agency licensed by the
12 Department of Children and Family Services or which is not so
13 licensed but which the Director of Children and Family Services
14 attests provides child care, child welfare or other services of
15 the type provided by facilities subject to such licensure; (l)
16 any public or private adoption agency or facility; and (m) any
17 public or private blood bank or blood center. "Health facility"
18 also means a public or private structure or structures suitable
19 primarily for use as a laboratory, laundry, nurses or interns
20 residence or other housing or hotel facility used in whole or
21 in part for staff, employees or students and their families,
22 patients or relatives of patients admitted for treatment or
23 care in a health facility, or persons conducting business with
24 a health facility, physician's facility, surgicenter,
25 administration building, research facility, maintenance,
26 storage or utility facility and all structures or facilities

1 related to any of the foregoing or required or useful for the
2 operation of a health facility, including parking or other
3 facilities or other supporting service structures required or
4 useful for the orderly conduct of such health facility. "Health
5 facility" also means, with respect to a project located outside
6 the State, any public or private institution, place, building,
7 or agency which provides services similar to those described
8 above, provided that such project is owned, operated, leased or
9 managed by a participating health institution located within
10 the State, or a participating health institution affiliated
11 with an entity located within the State.

12 (k) The term "participating health institution" means (i) a
13 private corporation or association or (ii) a public entity of
14 this State, in either case authorized by the laws of this State
15 or the applicable state to provide or operate a health facility
16 as defined in this Act and which, pursuant to the provisions of
17 this Act, undertakes the financing, construction or
18 acquisition of a project or undertakes the refunding or
19 refinancing of obligations, loans, indebtedness or advances as
20 provided in this Act.

21 (l) The term "health facility project", means a specific
22 health facility work or improvement to be financed or
23 refinanced (including without limitation through reimbursement
24 of prior expenditures), acquired, constructed, enlarged,
25 remodeled, renovated, improved, furnished, or equipped, with
26 funds provided in whole or in part hereunder, any accounts

1 receivable, working capital, liability or insurance cost or
2 operating expense financing or refinancing program of a health
3 facility with or involving funds provided in whole or in part
4 hereunder, or any combination thereof.

5 (m) The term "bond resolution" means the resolution or
6 resolutions authorizing the issuance of, or providing terms and
7 conditions related to, bonds issued under this Act and
8 includes, where appropriate, any trust agreement, trust
9 indenture, indenture of mortgage or deed of trust providing
10 terms and conditions for such bonds.

11 (n) The term "property" means any real, personal or mixed
12 property, whether tangible or intangible, or any interest
13 therein, including, without limitation, any real estate,
14 leasehold interests, appurtenances, buildings, easements,
15 equipment, furnishings, furniture, improvements, machinery,
16 rights of way, structures, accounts, contract rights or any
17 interest therein.

18 (o) The term "revenues" means, with respect to any project,
19 the rents, fees, charges, interest, principal repayments,
20 collections and other income or profit derived therefrom.

21 (p) The term "higher education project" means, in the case
22 of a private institution of higher education, an educational
23 facility to be acquired, constructed, enlarged, remodeled,
24 renovated, improved, furnished, or equipped, or any
25 combination thereof.

26 (q) The term "cultural institution project" means, in the

1 case of a cultural institution, a cultural facility to be
2 acquired, constructed, enlarged, remodeled, renovated,
3 improved, furnished, or equipped, or any combination thereof.

4 (r) The term "educational facility" means any property
5 located within the State, or any property located outside the
6 State, provided that, if the property is located outside the
7 State, it must be owned, operated, leased or managed by an
8 entity located within the State or an entity affiliated with an
9 entity located within the State, in each case constructed or
10 acquired before or after the effective date of this Act, which
11 is or will be, in whole or in part, suitable for the
12 instruction, feeding, recreation or housing of students, the
13 conducting of research or other work of a private institution
14 of higher education, the use by a private institution of higher
15 education in connection with any educational, research or
16 related or incidental activities then being or to be conducted
17 by it, or any combination of the foregoing, including, without
18 limitation, any such property suitable for use as or in
19 connection with any one or more of the following: an academic
20 facility, administrative facility, agricultural facility,
21 assembly hall, athletic facility, auditorium, boating
22 facility, campus, communication facility, computer facility,
23 continuing education facility, classroom, dining hall,
24 dormitory, exhibition hall, fire fighting facility, fire
25 prevention facility, food service and preparation facility,
26 gymnasium, greenhouse, health care facility, hospital,

1 housing, instructional facility, laboratory, library,
2 maintenance facility, medical facility, museum, offices,
3 parking area, physical education facility, recreational
4 facility, research facility, stadium, storage facility,
5 student union, study facility, theatre or utility.

6 (s) The term "cultural facility" means any property located
7 within the State, or any property located outside the State,
8 provided that, if the property is located outside the State, it
9 must be owned, operated, leased or managed by an entity located
10 within the State or an entity affiliated with an entity located
11 within the State, in each case constructed or acquired before
12 or after the effective date of this Act, which is or will be,
13 in whole or in part, suitable for the particular purposes or
14 needs of a cultural institution, including, without
15 limitation, any such property suitable for use as or in
16 connection with any one or more of the following: an
17 administrative facility, aquarium, assembly hall, auditorium,
18 botanical garden, exhibition hall, gallery, greenhouse,
19 library, museum, scientific laboratory, theater or zoological
20 facility, and shall also include, without limitation, books,
21 works of art or music, animal, plant or aquatic life or other
22 items for display, exhibition or performance. The term
23 "cultural facility" includes buildings on the National
24 Register of Historic Places which are owned or operated by
25 nonprofit entities.

26 (t) "Private institution of higher education" means a

1 not-for-profit educational institution which is not owned by
2 the State or any political subdivision, agency,
3 instrumentality, district or municipality thereof, which is
4 authorized by law to provide a program of education beyond the
5 high school level and which:

6 (1) Admits as regular students only individuals having
7 a certificate of graduation from a high school, or the
8 recognized equivalent of such a certificate;

9 (2) Provides an educational program for which it awards
10 a bachelor's degree, or provides an educational program,
11 admission into which is conditioned upon the prior
12 attainment of a bachelor's degree or its equivalent, for
13 which it awards a postgraduate degree, or provides not less
14 than a 2-year program which is acceptable for full credit
15 toward such a degree, or offers a 2-year program in
16 engineering, mathematics, or the physical or biological
17 sciences which is designed to prepare the student to work
18 as a technician and at a semiprofessional level in
19 engineering, scientific, or other technological fields
20 which require the understanding and application of basic
21 engineering, scientific, or mathematical principles or
22 knowledge;

23 (3) Is accredited by a nationally recognized
24 accrediting agency or association or, if not so accredited,
25 is an institution whose credits are accepted, on transfer,
26 by not less than 3 institutions which are so accredited,

1 for credit on the same basis as if transferred from an
2 institution so accredited, and holds an unrevoked
3 certificate of approval under the Private College Act from
4 the Board of Higher Education, or is qualified as a "degree
5 granting institution" under the Academic Degree Act; and

6 (4) Does not discriminate in the admission of students
7 on the basis of race or color. "Private institution of
8 higher education" also includes any "academic
9 institution".

10 (u) The term "academic institution" means any
11 not-for-profit institution which is not owned by the State or
12 any political subdivision, agency, instrumentality, district
13 or municipality thereof, which institution engages in, or
14 facilitates academic, scientific, educational or professional
15 research or learning in a field or fields of study taught at a
16 private institution of higher education. Academic institutions
17 include, without limitation, libraries, archives, academic,
18 scientific, educational or professional societies,
19 institutions, associations or foundations having such
20 purposes.

21 (v) The term "cultural institution" means any
22 not-for-profit institution which is not owned by the State or
23 any political subdivision, agency, instrumentality, district
24 or municipality thereof, which institution engages in the
25 cultural, intellectual, scientific, educational or artistic
26 enrichment of the people of the State. Cultural institutions

1 include, without limitation, aquaria, botanical societies,
2 historical societies, libraries, museums, performing arts
3 associations or societies, scientific societies and zoological
4 societies.

5 (w) The term "affiliate" means, with respect to financing
6 of an agricultural facility or an agribusiness, any lender, any
7 person, firm or corporation controlled by, or under common
8 control with, such lender, and any person, firm or corporation
9 controlling such lender.

10 (x) The term "agricultural facility" means land, any
11 building or other improvement thereon or thereto, and any
12 personal properties deemed necessary or suitable for use,
13 whether or not now in existence, in farming, ranching, the
14 production of agricultural commodities (including, without
15 limitation, the products of aquaculture, hydroponics and
16 silviculture) or the treating, processing or storing of such
17 agricultural commodities when such activities are customarily
18 engaged in by farmers as a part of farming.

19 (y) The term "lender" with respect to financing of an
20 agricultural facility or an agribusiness, means any federal or
21 State chartered bank, Federal Land Bank, Production Credit
22 Association, Bank for Cooperatives, federal or State chartered
23 savings and loan association or building and loan association,
24 Small Business Investment Company or any other institution
25 qualified within this State to originate and service loans,
26 including, but without limitation to, insurance companies,

1 credit unions and mortgage loan companies. "Lender" also means
2 a wholly owned subsidiary of a manufacturer, seller or
3 distributor of goods or services that makes loans to businesses
4 or individuals, commonly known as a "captive finance company".

5 (z) The term "agribusiness" means any sole proprietorship,
6 limited partnership, co-partnership, joint venture,
7 corporation or cooperative which operates or will operate a
8 facility located within the State of Illinois that is related
9 to the processing of agricultural commodities (including,
10 without limitation, the products of aquaculture, hydroponics
11 and silviculture) or the manufacturing, production or
12 construction of agricultural buildings, structures, equipment,
13 implements, and supplies, or any other facilities or processes
14 used in agricultural production. Agribusiness includes but is
15 not limited to the following:

16 (1) grain handling and processing, including grain
17 storage, drying, treatment, conditioning, mailing and
18 packaging;

19 (2) seed and feed grain development and processing;

20 (3) fruit and vegetable processing, including
21 preparation, canning and packaging;

22 (4) processing of livestock and livestock products,
23 dairy products, poultry and poultry products, fish or
24 apiarian products, including slaughter, shearing,
25 collecting, preparation, canning and packaging;

26 (5) fertilizer and agricultural chemical

1 manufacturing, processing, application and supplying;

2 (6) farm machinery, equipment and implement
3 manufacturing and supplying;

4 (7) manufacturing and supplying of agricultural
5 commodity processing machinery and equipment, including
6 machinery and equipment used in slaughter, treatment,
7 handling, collecting, preparation, canning or packaging of
8 agricultural commodities;

9 (8) farm building and farm structure manufacturing,
10 construction and supplying;

11 (9) construction, manufacturing, implementation,
12 supplying or servicing of irrigation, drainage and soil and
13 water conservation devices or equipment;

14 (10) fuel processing and development facilities that
15 produce fuel from agricultural commodities or byproducts;

16 (11) facilities and equipment for processing and
17 packaging agricultural commodities specifically for
18 export;

19 (12) facilities and equipment for forestry product
20 processing and supplying, including sawmilling operations,
21 wood chip operations, timber harvesting operations, and
22 manufacturing of prefabricated buildings, paper, furniture
23 or other goods from forestry products;

24 (13) facilities and equipment for research and
25 development of products, processes and equipment for the
26 production, processing, preparation or packaging of

1 agricultural commodities and byproducts.

2 (aa) The term "asset" with respect to financing of any
3 agricultural facility or any agribusiness, means, but is not
4 limited to the following: cash crops or feed on hand; livestock
5 held for sale; breeding stock; marketable bonds and securities;
6 securities not readily marketable; accounts receivable; notes
7 receivable; cash invested in growing crops; net cash value of
8 life insurance; machinery and equipment; cars and trucks; farm
9 and other real estate including life estates and personal
10 residence; value of beneficial interests in trusts; government
11 payments or grants; and any other assets.

12 (bb) The term "liability" with respect to financing of any
13 agricultural facility or any agribusiness shall include, but
14 not be limited to the following: accounts payable; notes or
15 other indebtedness owed to any source; taxes; rent; amounts
16 owed on real estate contracts or real estate mortgages;
17 judgments; accrued interest payable; and any other liability.

18 (cc) The term "Predecessor Authorities" means those
19 authorities as described in Section 845-75.

20 (dd) The term "housing project" means a specific work or
21 improvement undertaken to provide residential dwelling
22 accommodations, including the acquisition, construction or
23 rehabilitation of lands, buildings and community facilities
24 and in connection therewith to provide nonhousing facilities
25 which are part of the housing project, including land,
26 buildings, improvements, equipment and all ancillary

1 facilities for use for offices, stores, retirement homes,
2 hotels, financial institutions, service, health care,
3 education, recreation or research establishments, or any other
4 commercial purpose which are or are to be related to a housing
5 development.

6 (ee) The term "conservation project" means any project
7 including the acquisition, construction, rehabilitation,
8 maintenance, operation, or upgrade that is intended to create
9 or expand open space or to reduce energy usage through
10 efficiency measures. For the purpose of this definition, "open
11 space" has the definition set forth under Section 10 of the
12 Illinois Open Land Trust Act.

13 (ff) The term "significant presence" means the existence
14 within the State of the national or regional headquarters of an
15 entity or group or such other facility of an entity or group of
16 entities where a significant amount of the business functions
17 are performed for such entity or group of entities.

18 (Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10;
19 96-1021, eff. 7-12-10.)

20 Section 90-40. The Illinois Health Facilities Planning Act
21 is amended by changing Sections 3, 12, 13, and 14.1 as follows:

22 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

23 (Section scheduled to be repealed on December 31, 2019)

24 Sec. 3. Definitions. As used in this Act:

1 "Health care facilities" means and includes the following
2 facilities and organizations:

3 1. An ambulatory surgical treatment center required to
4 be licensed pursuant to the Ambulatory Surgical Treatment
5 Center Act;

6 2. An institution, place, building, or agency required
7 to be licensed pursuant to the Hospital Licensing Act;

8 3. Skilled and intermediate long term care facilities
9 licensed under the Nursing Home Care Act;

10 3.5. Skilled and intermediate care facilities licensed
11 under the MR/DD Community Care Act;

12 3.7 Facilities licensed under the Specialized Mental
13 Health Rehabilitation Act;

14 4. Hospitals, nursing homes, ambulatory surgical
15 treatment centers, or kidney disease treatment centers
16 maintained by the State or any department or agency
17 thereof;

18 5. Kidney disease treatment centers, including a
19 free-standing hemodialysis unit required to be licensed
20 under the End Stage Renal Disease Facility Act;

21 6. An institution, place, building, or room used for
22 the performance of outpatient surgical procedures that is
23 leased, owned, or operated by or on behalf of an
24 out-of-state facility;

25 7. An institution, place, building, or room used for
26 provision of a health care category of service as defined

1 by the Board, including, but not limited to, cardiac
2 catheterization and open heart surgery; and

3 8. An institution, place, building, or room used for
4 provision of major medical equipment used in the direct
5 clinical diagnosis or treatment of patients, and whose
6 project cost is in excess of the capital expenditure
7 minimum.

8 This Act shall not apply to the construction of any new
9 facility or the renovation of any existing facility located on
10 any campus facility as defined in Section 5-5.8b of the
11 Illinois Public Aid Code, provided that the campus facility
12 encompasses 30 or more contiguous acres and that the new or
13 renovated facility is intended for use by a licensed
14 residential facility.

15 No federally owned facility shall be subject to the
16 provisions of this Act, nor facilities used solely for healing
17 by prayer or spiritual means.

18 No facility licensed under the Supportive Residences
19 Licensing Act or the Assisted Living and Shared Housing Act
20 shall be subject to the provisions of this Act.

21 No facility established and operating under the
22 Alternative Health Care Delivery Act as a children's respite
23 care center alternative health care model demonstration
24 program or as an Alzheimer's Disease Management Center
25 alternative health care model demonstration program shall be
26 subject to the provisions of this Act.

1 A facility designated as a supportive living facility that
2 is in good standing with the program established under Section
3 5-5.01a of the Illinois Public Aid Code shall not be subject to
4 the provisions of this Act.

5 This Act does not apply to facilities granted waivers under
6 Section 3-102.2 of the Nursing Home Care Act. However, if a
7 demonstration project under that Act applies for a certificate
8 of need to convert to a nursing facility, it shall meet the
9 licensure and certificate of need requirements in effect as of
10 the date of application.

11 This Act does not apply to a dialysis facility that
12 provides only dialysis training, support, and related services
13 to individuals with end stage renal disease who have elected to
14 receive home dialysis. This Act does not apply to a dialysis
15 unit located in a licensed nursing home that offers or provides
16 dialysis-related services to residents with end stage renal
17 disease who have elected to receive home dialysis within the
18 nursing home. The Board, however, may require these dialysis
19 facilities and licensed nursing homes to report statistical
20 information on a quarterly basis to the Board to be used by the
21 Board to conduct analyses on the need for proposed kidney
22 disease treatment centers.

23 This Act shall not apply to the closure of an entity or a
24 portion of an entity licensed under the Nursing Home Care Act, the
25 Specialized Mental Health Rehabilitation Act, or the MR/DD
26 Community Care Act, with the exceptions of facilities operated

1 by a county or Illinois Veterans Homes, that elects to convert,
2 in whole or in part, to an assisted living or shared housing
3 establishment licensed under the Assisted Living and Shared
4 Housing Act.

5 This Act does not apply to any change of ownership of a
6 healthcare facility that is licensed under the Nursing Home
7 Care Act, the Specialized Mental Health Rehabilitation Act, or
8 the MR/DD Community Care Act, with the exceptions of facilities
9 operated by a county or Illinois Veterans Homes. Changes of
10 ownership of facilities licensed under the Nursing Home Care
11 Act must meet the requirements set forth in Sections 3-101
12 through 3-119 of the Nursing Home Care Act.

13 With the exception of those health care facilities
14 specifically included in this Section, nothing in this Act
15 shall be intended to include facilities operated as a part of
16 the practice of a physician or other licensed health care
17 professional, whether practicing in his individual capacity or
18 within the legal structure of any partnership, medical or
19 professional corporation, or unincorporated medical or
20 professional group. Further, this Act shall not apply to
21 physicians or other licensed health care professional's
22 practices where such practices are carried out in a portion of
23 a health care facility under contract with such health care
24 facility by a physician or by other licensed health care
25 professionals, whether practicing in his individual capacity
26 or within the legal structure of any partnership, medical or

1 professional corporation, or unincorporated medical or
2 professional groups. This Act shall apply to construction or
3 modification and to establishment by such health care facility
4 of such contracted portion which is subject to facility
5 licensing requirements, irrespective of the party responsible
6 for such action or attendant financial obligation.

7 "Person" means any one or more natural persons, legal
8 entities, governmental bodies other than federal, or any
9 combination thereof.

10 "Consumer" means any person other than a person (a) whose
11 major occupation currently involves or whose official capacity
12 within the last 12 months has involved the providing,
13 administering or financing of any type of health care facility,
14 (b) who is engaged in health research or the teaching of
15 health, (c) who has a material financial interest in any
16 activity which involves the providing, administering or
17 financing of any type of health care facility, or (d) who is or
18 ever has been a member of the immediate family of the person
19 defined by (a), (b), or (c).

20 "State Board" or "Board" means the Health Facilities and
21 Services Review Board.

22 "Construction or modification" means the establishment,
23 erection, building, alteration, reconstruction, modernization,
24 improvement, extension, discontinuation, change of ownership,
25 of or by a health care facility, or the purchase or acquisition
26 by or through a health care facility of equipment or service

1 for diagnostic or therapeutic purposes or for facility
2 administration or operation, or any capital expenditure made by
3 or on behalf of a health care facility which exceeds the
4 capital expenditure minimum; however, any capital expenditure
5 made by or on behalf of a health care facility for (i) the
6 construction or modification of a facility licensed under the
7 Assisted Living and Shared Housing Act or (ii) a conversion
8 project undertaken in accordance with Section 30 of the Older
9 Adult Services Act shall be excluded from any obligations under
10 this Act.

11 "Establish" means the construction of a health care
12 facility or the replacement of an existing facility on another
13 site or the initiation of a category of service as defined by
14 the Board.

15 "Major medical equipment" means medical equipment which is
16 used for the provision of medical and other health services and
17 which costs in excess of the capital expenditure minimum,
18 except that such term does not include medical equipment
19 acquired by or on behalf of a clinical laboratory to provide
20 clinical laboratory services if the clinical laboratory is
21 independent of a physician's office and a hospital and it has
22 been determined under Title XVIII of the Social Security Act to
23 meet the requirements of paragraphs (10) and (11) of Section
24 1861(s) of such Act. In determining whether medical equipment
25 has a value in excess of the capital expenditure minimum, the
26 value of studies, surveys, designs, plans, working drawings,

1 specifications, and other activities essential to the
2 acquisition of such equipment shall be included.

3 "Capital Expenditure" means an expenditure: (A) made by or
4 on behalf of a health care facility (as such a facility is
5 defined in this Act); and (B) which under generally accepted
6 accounting principles is not properly chargeable as an expense
7 of operation and maintenance, or is made to obtain by lease or
8 comparable arrangement any facility or part thereof or any
9 equipment for a facility or part; and which exceeds the capital
10 expenditure minimum.

11 For the purpose of this paragraph, the cost of any studies,
12 surveys, designs, plans, working drawings, specifications, and
13 other activities essential to the acquisition, improvement,
14 expansion, or replacement of any plant or equipment with
15 respect to which an expenditure is made shall be included in
16 determining if such expenditure exceeds the capital
17 expenditures minimum. Unless otherwise interdependent, or
18 submitted as one project by the applicant, components of
19 construction or modification undertaken by means of a single
20 construction contract or financed through the issuance of a
21 single debt instrument shall not be grouped together as one
22 project. Donations of equipment or facilities to a health care
23 facility which if acquired directly by such facility would be
24 subject to review under this Act shall be considered capital
25 expenditures, and a transfer of equipment or facilities for
26 less than fair market value shall be considered a capital

1 expenditure for purposes of this Act if a transfer of the
2 equipment or facilities at fair market value would be subject
3 to review.

4 "Capital expenditure minimum" means \$11,500,000 for
5 projects by hospital applicants, \$6,500,000 for applicants for
6 projects related to skilled and intermediate care long-term
7 care facilities licensed under the Nursing Home Care Act, and
8 \$3,000,000 for projects by all other applicants, which shall be
9 annually adjusted to reflect the increase in construction costs
10 due to inflation, for major medical equipment and for all other
11 capital expenditures.

12 "Non-clinical service area" means an area (i) for the
13 benefit of the patients, visitors, staff, or employees of a
14 health care facility and (ii) not directly related to the
15 diagnosis, treatment, or rehabilitation of persons receiving
16 services from the health care facility. "Non-clinical service
17 areas" include, but are not limited to, chapels; gift shops;
18 news stands; computer systems; tunnels, walkways, and
19 elevators; telephone systems; projects to comply with life
20 safety codes; educational facilities; student housing;
21 patient, employee, staff, and visitor dining areas;
22 administration and volunteer offices; modernization of
23 structural components (such as roof replacement and masonry
24 work); boiler repair or replacement; vehicle maintenance and
25 storage facilities; parking facilities; mechanical systems for
26 heating, ventilation, and air conditioning; loading docks; and

1 repair or replacement of carpeting, tile, wall coverings,
2 window coverings or treatments, or furniture. Solely for the
3 purpose of this definition, "non-clinical service area" does
4 not include health and fitness centers.

5 "Areawide" means a major area of the State delineated on a
6 geographic, demographic, and functional basis for health
7 planning and for health service and having within it one or
8 more local areas for health planning and health service. The
9 term "region", as contrasted with the term "subregion", and the
10 word "area" may be used synonymously with the term "areawide".

11 "Local" means a subarea of a delineated major area that on
12 a geographic, demographic, and functional basis may be
13 considered to be part of such major area. The term "subregion"
14 may be used synonymously with the term "local".

15 "Physician" means a person licensed to practice in
16 accordance with the Medical Practice Act of 1987, as amended.

17 "Licensed health care professional" means a person
18 licensed to practice a health profession under pertinent
19 licensing statutes of the State of Illinois.

20 "Director" means the Director of the Illinois Department of
21 Public Health.

22 "Agency" means the Illinois Department of Public Health.

23 "Alternative health care model" means a facility or program
24 authorized under the Alternative Health Care Delivery Act.

25 "Out-of-state facility" means a person that is both (i)
26 licensed as a hospital or as an ambulatory surgery center under

1 the laws of another state or that qualifies as a hospital or an
2 ambulatory surgery center under regulations adopted pursuant
3 to the Social Security Act and (ii) not licensed under the
4 Ambulatory Surgical Treatment Center Act, the Hospital
5 Licensing Act, or the Nursing Home Care Act. Affiliates of
6 out-of-state facilities shall be considered out-of-state
7 facilities. Affiliates of Illinois licensed health care
8 facilities 100% owned by an Illinois licensed health care
9 facility, its parent, or Illinois physicians licensed to
10 practice medicine in all its branches shall not be considered
11 out-of-state facilities. Nothing in this definition shall be
12 construed to include an office or any part of an office of a
13 physician licensed to practice medicine in all its branches in
14 Illinois that is not required to be licensed under the
15 Ambulatory Surgical Treatment Center Act.

16 "Change of ownership of a health care facility" means a
17 change in the person who has ownership or control of a health
18 care facility's physical plant and capital assets. A change in
19 ownership is indicated by the following transactions: sale,
20 transfer, acquisition, lease, change of sponsorship, or other
21 means of transferring control.

22 "Related person" means any person that: (i) is at least 50%
23 owned, directly or indirectly, by either the health care
24 facility or a person owning, directly or indirectly, at least
25 50% of the health care facility; or (ii) owns, directly or
26 indirectly, at least 50% of the health care facility.

1 "Charity care" means care provided by a health care
2 facility for which the provider does not expect to receive
3 payment from the patient or a third-party payer.

4 "Freestanding emergency center" means a facility subject
5 to licensure under Section 32.5 of the Emergency Medical
6 Services (EMS) Systems Act.

7 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;
8 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.
9 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,
10 eff. 7-2-10.)

11 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

12 (Section scheduled to be repealed on December 31, 2019)

13 Sec. 12. Powers and duties of State Board. For purposes of
14 this Act, the State Board shall exercise the following powers
15 and duties:

16 (1) Prescribe rules, regulations, standards, criteria,
17 procedures or reviews which may vary according to the purpose
18 for which a particular review is being conducted or the type of
19 project reviewed and which are required to carry out the
20 provisions and purposes of this Act. Policies and procedures of
21 the State Board shall take into consideration the priorities
22 and needs of medically underserved areas and other health care
23 services identified through the comprehensive health planning
24 process, giving special consideration to the impact of projects
25 on access to safety net services.

1 (2) Adopt procedures for public notice and hearing on all
2 proposed rules, regulations, standards, criteria, and plans
3 required to carry out the provisions of this Act.

4 (3) (Blank).

5 (4) Develop criteria and standards for health care
6 facilities planning, conduct statewide inventories of health
7 care facilities, maintain an updated inventory on the Board's
8 web site reflecting the most recent bed and service changes and
9 updated need determinations when new census data become
10 available or new need formulae are adopted, and develop health
11 care facility plans which shall be utilized in the review of
12 applications for permit under this Act. Such health facility
13 plans shall be coordinated by the Board with pertinent State
14 Plans. Inventories pursuant to this Section of skilled or
15 intermediate care facilities licensed under the Nursing Home
16 Care Act, skilled or intermediate care facilities licensed
17 under the MR/DD Community Care Act, facilities licensed under
18 the Specialized Mental Health Rehabilitation Act, or nursing
19 homes licensed under the Hospital Licensing Act shall be
20 conducted on an annual basis no later than July 1 of each year
21 and shall include among the information requested a list of all
22 services provided by a facility to its residents and to the
23 community at large and differentiate between active and
24 inactive beds.

25 In developing health care facility plans, the State Board
26 shall consider, but shall not be limited to, the following:

1 (a) The size, composition and growth of the population
2 of the area to be served;

3 (b) The number of existing and planned facilities
4 offering similar programs;

5 (c) The extent of utilization of existing facilities;

6 (d) The availability of facilities which may serve as
7 alternatives or substitutes;

8 (e) The availability of personnel necessary to the
9 operation of the facility;

10 (f) Multi-institutional planning and the establishment
11 of multi-institutional systems where feasible;

12 (g) The financial and economic feasibility of proposed
13 construction or modification; and

14 (h) In the case of health care facilities established
15 by a religious body or denomination, the needs of the
16 members of such religious body or denomination may be
17 considered to be public need.

18 The health care facility plans which are developed and
19 adopted in accordance with this Section shall form the basis
20 for the plan of the State to deal most effectively with
21 statewide health needs in regard to health care facilities.

22 (5) Coordinate with the Center for Comprehensive Health
23 Planning and other state agencies having responsibilities
24 affecting health care facilities, including those of licensure
25 and cost reporting.

26 (6) Solicit, accept, hold and administer on behalf of the

1 State any grants or bequests of money, securities or property
2 for use by the State Board or Center for Comprehensive Health
3 Planning in the administration of this Act; and enter into
4 contracts consistent with the appropriations for purposes
5 enumerated in this Act.

6 (7) The State Board shall prescribe procedures for review,
7 standards, and criteria which shall be utilized to make
8 periodic reviews and determinations of the appropriateness of
9 any existing health services being rendered by health care
10 facilities subject to the Act. The State Board shall consider
11 recommendations of the Board in making its determinations.

12 (8) Prescribe, in consultation with the Center for
13 Comprehensive Health Planning, rules, regulations, standards,
14 and criteria for the conduct of an expeditious review of
15 applications for permits for projects of construction or
16 modification of a health care facility, which projects are
17 classified as emergency, substantive, or non-substantive in
18 nature.

19 Six months after June 30, 2009 (the effective date of
20 Public Act 96-31), substantive projects shall include no more
21 than the following:

22 (a) Projects to construct (1) a new or replacement
23 facility located on a new site or (2) a replacement
24 facility located on the same site as the original facility
25 and the cost of the replacement facility exceeds the
26 capital expenditure minimum;

1 (b) Projects proposing a (1) new service or (2)
2 discontinuation of a service, which shall be reviewed by
3 the Board within 60 days; or

4 (c) Projects proposing a change in the bed capacity of
5 a health care facility by an increase in the total number
6 of beds or by a redistribution of beds among various
7 categories of service or by a relocation of beds from one
8 physical facility or site to another by more than 20 beds
9 or more than 10% of total bed capacity, as defined by the
10 State Board, whichever is less, over a 2-year period.

11 The Chairman may approve applications for exemption that
12 meet the criteria set forth in rules or refer them to the full
13 Board. The Chairman may approve any unopposed application that
14 meets all of the review criteria or refer them to the full
15 Board.

16 Such rules shall not abridge the right of the Center for
17 Comprehensive Health Planning to make recommendations on the
18 classification and approval of projects, nor shall such rules
19 prevent the conduct of a public hearing upon the timely request
20 of an interested party. Such reviews shall not exceed 60 days
21 from the date the application is declared to be complete.

22 (9) Prescribe rules, regulations, standards, and criteria
23 pertaining to the granting of permits for construction and
24 modifications which are emergent in nature and must be
25 undertaken immediately to prevent or correct structural
26 deficiencies or hazardous conditions that may harm or injure

1 persons using the facility, as defined in the rules and
2 regulations of the State Board. This procedure is exempt from
3 public hearing requirements of this Act.

4 (10) Prescribe rules, regulations, standards and criteria
5 for the conduct of an expeditious review, not exceeding 60
6 days, of applications for permits for projects to construct or
7 modify health care facilities which are needed for the care and
8 treatment of persons who have acquired immunodeficiency
9 syndrome (AIDS) or related conditions.

10 (11) Issue written decisions upon request of the applicant
11 or an adversely affected party to the Board within 30 days of
12 the meeting in which a final decision has been made. A "final
13 decision" for purposes of this Act is the decision to approve
14 or deny an application, or take other actions permitted under
15 this Act, at the time and date of the meeting that such action
16 is scheduled by the Board. The staff of the State Board shall
17 prepare a written copy of the final decision and the State
18 Board shall approve a final copy for inclusion in the formal
19 record.

20 (12) Require at least one of its members to participate in
21 any public hearing, after the appointment of the 9 members to
22 the Board.

23 (13) Provide a mechanism for the public to comment on, and
24 request changes to, draft rules and standards.

25 (14) Implement public information campaigns to regularly
26 inform the general public about the opportunity for public

1 hearings and public hearing procedures.

2 (15) Establish a separate set of rules and guidelines for
3 long-term care that recognizes that nursing homes are a
4 different business line and service model from other regulated
5 facilities. An open and transparent process shall be developed
6 that considers the following: how skilled nursing fits in the
7 continuum of care with other care providers, modernization of
8 nursing homes, establishment of more private rooms,
9 development of alternative services, and current trends in
10 long-term care services. The Chairman of the Board shall
11 appoint a permanent Health Services Review Board Long-term Care
12 Facility Advisory Subcommittee that shall develop and
13 recommend to the Board the rules to be established by the Board
14 under this paragraph (15). The Subcommittee shall also provide
15 continuous review and commentary on policies and procedures
16 relative to long-term care and the review of related projects.
17 In consultation with other experts from the health field of
18 long-term care, the Board and the Subcommittee shall study new
19 approaches to the current bed need formula and Health Service
20 Area boundaries to encourage flexibility and innovation in
21 design models reflective of the changing long-term care
22 marketplace and consumer preferences. The Board shall file the
23 proposed related administrative rules for the separate rules
24 and guidelines for long-term care required by this paragraph
25 (15) by September 1, 2010. The Subcommittee shall be provided a
26 reasonable and timely opportunity to review and comment on any

1 review, revision, or updating of the criteria, standards,
2 procedures, and rules used to evaluate project applications as
3 provided under Section 12.3 of this Act prior to approval by
4 the Board and promulgation of related rules.

5 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
6 96-1000, eff. 7-2-10.)

7 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

8 (Section scheduled to be repealed on December 31, 2019)

9 Sec. 13. Investigation of applications for permits and
10 certificates of recognition. The Agency or the State Board
11 shall make or cause to be made such investigations as it or the
12 State Board deems necessary in connection with an application
13 for a permit or an application for a certificate of
14 recognition, or in connection with a determination of whether
15 or not construction or modification which has been commenced is
16 in accord with the permit issued by the State Board or whether
17 construction or modification has been commenced without a
18 permit having been obtained. The State Board may issue
19 subpoenas duces tecum requiring the production of records and
20 may administer oaths to such witnesses.

21 Any circuit court of this State, upon the application of
22 the State Board or upon the application of any party to such
23 proceedings, may, in its discretion, compel the attendance of
24 witnesses, the production of books, papers, records, or
25 memoranda and the giving of testimony before the State Board,

1 by a proceeding as for contempt, or otherwise, in the same
2 manner as production of evidence may be compelled before the
3 court.

4 The State Board shall require all health facilities
5 operating in this State to provide such reasonable reports at
6 such times and containing such information as is needed by it
7 to carry out the purposes and provisions of this Act. Prior to
8 collecting information from health facilities, the State Board
9 shall make reasonable efforts through a public process to
10 consult with health facilities and associations that represent
11 them to determine whether data and information requests will
12 result in useful information for health planning, whether
13 sufficient information is available from other sources, and
14 whether data requested is routinely collected by health
15 facilities and is available without retrospective record
16 review. Data and information requests shall not impose undue
17 paperwork burdens on health care facilities and personnel.
18 Health facilities not complying with this requirement shall be
19 reported to licensing, accrediting, certifying, or payment
20 agencies as being in violation of State law. Health care
21 facilities and other parties at interest shall have reasonable
22 access, under rules established by the State Board, to all
23 planning information submitted in accord with this Act
24 pertaining to their area.

25 Among the reports to be required by the State Board are
26 facility questionnaires for health care facilities licensed

1 under the Ambulatory Surgical Treatment Center Act, the
2 Hospital Licensing Act, the Nursing Home Care Act, the MR/DD
3 Community Care Act, the Specialized Mental Health
4 Rehabilitation Act, or the End Stage Renal Disease Facility
5 Act. These questionnaires shall be conducted on an annual basis
6 and compiled by the Agency. For health care facilities licensed
7 under the Nursing Home Care Act, the Specialized Mental Health
8 Rehabilitation Act, or the MR/DD Community Care Act, these
9 reports shall include, but not be limited to, the
10 identification of specialty services provided by the facility
11 to patients, residents, and the community at large. For health
12 care facilities that contain long term care beds, the reports
13 shall also include the number of staffed long term care beds,
14 physical capacity for long term care beds at the facility, and
15 long term care beds available for immediate occupancy. For
16 purposes of this paragraph, "long term care beds" means beds
17 (i) licensed under the Nursing Home Care Act, (ii) licensed
18 under the MR/DD Community Care Act, ~~or~~ (iii) licensed under the
19 Hospital Licensing Act, or (iv) licensed under the Specialized
20 Mental Health Rehabilitation Act and certified as skilled
21 nursing or nursing facility beds under Medicaid or Medicare.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (20 ILCS 3960/14.1)

24 Sec. 14.1. Denial of permit; other sanctions.

25 (a) The State Board may deny an application for a permit or

1 may revoke or take other action as permitted by this Act with
2 regard to a permit as the State Board deems appropriate,
3 including the imposition of fines as set forth in this Section,
4 for any one or a combination of the following:

5 (1) The acquisition of major medical equipment without
6 a permit or in violation of the terms of a permit.

7 (2) The establishment, construction, or modification
8 of a health care facility without a permit or in violation
9 of the terms of a permit.

10 (3) The violation of any provision of this Act or any
11 rule adopted under this Act.

12 (4) The failure, by any person subject to this Act, to
13 provide information requested by the State Board or Agency
14 within 30 days after a formal written request for the
15 information.

16 (5) The failure to pay any fine imposed under this
17 Section within 30 days of its imposition.

18 (a-5) For facilities licensed under the MR/DD Community
19 Care Act, no permit shall be denied on the basis of prior
20 operator history, other than for actions specified under item
21 (2), (4), or (5) of Section 3-117 of the MR/DD Community Care
22 Act. For facilities licensed under the Specialized Mental
23 Health Rehabilitation Act, no permit shall be denied on the
24 basis of prior operator history, other than for actions
25 specified under item (2), (4), or (5) of Section 3-117 of the
26 Specialized Mental Health Rehabilitation Act. For facilities

1 licensed under the Nursing Home Care Act, no permit shall be
2 denied on the basis of prior operator history, other than for:
3 (i) actions specified under item (2), (3), (4), (5), or (6) of
4 Section 3-117 of the Nursing Home Care Act; (ii) actions
5 specified under item (a)(6) of Section 3-119 of the Nursing
6 Home Care Act; or (iii) actions within the preceding 5 years
7 constituting a substantial and repeated failure to comply with
8 the Nursing Home Care Act or the rules and regulations adopted
9 by the Department under that Act. The State Board shall not
10 deny a permit on account of any action described in this
11 subsection (a-5) without also considering all such actions in
12 the light of all relevant information available to the State
13 Board, including whether the permit is sought to substantially
14 comply with a mandatory or voluntary plan of correction
15 associated with any action described in this subsection (a-5).

16 (b) Persons shall be subject to fines as follows:

17 (1) A permit holder who fails to comply with the
18 requirements of maintaining a valid permit shall be fined
19 an amount not to exceed 1% of the approved permit amount
20 plus an additional 1% of the approved permit amount for
21 each 30-day period, or fraction thereof, that the violation
22 continues.

23 (2) A permit holder who alters the scope of an approved
24 project or whose project costs exceed the allowable permit
25 amount without first obtaining approval from the State
26 Board shall be fined an amount not to exceed the sum of (i)

1 the lesser of \$25,000 or 2% of the approved permit amount
2 and (ii) in those cases where the approved permit amount is
3 exceeded by more than \$1,000,000, an additional \$20,000 for
4 each \$1,000,000, or fraction thereof, in excess of the
5 approved permit amount.

6 (3) A person who acquires major medical equipment or
7 who establishes a category of service without first
8 obtaining a permit or exemption, as the case may be, shall
9 be fined an amount not to exceed \$10,000 for each such
10 acquisition or category of service established plus an
11 additional \$10,000 for each 30-day period, or fraction
12 thereof, that the violation continues.

13 (4) A person who constructs, modifies, or establishes a
14 health care facility without first obtaining a permit shall
15 be fined an amount not to exceed \$25,000 plus an additional
16 \$25,000 for each 30-day period, or fraction thereof, that
17 the violation continues.

18 (5) A person who discontinues a health care facility or
19 a category of service without first obtaining a permit
20 shall be fined an amount not to exceed \$10,000 plus an
21 additional \$10,000 for each 30-day period, or fraction
22 thereof, that the violation continues. For purposes of this
23 subparagraph (5), facilities licensed under the Nursing
24 Home Care Act or the MR/DD Community Care Act, with the
25 exceptions of facilities operated by a county or Illinois
26 Veterans Homes, are exempt from this permit requirement.

1 However, facilities licensed under the Nursing Home Care
2 Act or the MR/DD Community Care Act must comply with
3 Section 3-423 of the Nursing Home Care Act or Section 3-423
4 of the MR/DD Community Care Act and must provide the Board
5 with 30-days' written notice of its intent to close.

6 (6) A person subject to this Act who fails to provide
7 information requested by the State Board or Agency within
8 30 days of a formal written request shall be fined an
9 amount not to exceed \$1,000 plus an additional \$1,000 for
10 each 30-day period, or fraction thereof, that the
11 information is not received by the State Board or Agency.

12 (c) Before imposing any fine authorized under this Section,
13 the State Board shall afford the person or permit holder, as
14 the case may be, an appearance before the State Board and an
15 opportunity for a hearing before a hearing officer appointed by
16 the State Board. The hearing shall be conducted in accordance
17 with Section 10.

18 (d) All fines collected under this Act shall be transmitted
19 to the State Treasurer, who shall deposit them into the
20 Illinois Health Facilities Planning Fund.

21 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;
22 96-1372, eff. 7-29-10.)

23 Section 90-45. The Illinois Income Tax Act is amended by
24 changing Section 806 as follows:

1 (35 ILCS 5/806)

2 Sec. 806. Exemption from penalty. An individual taxpayer
3 shall not be subject to a penalty for failing to pay estimated
4 tax as required by Section 803 if the taxpayer is 65 years of
5 age or older and is a permanent resident of a nursing home. For
6 purposes of this Section, "nursing home" means a skilled
7 nursing or intermediate long term care facility that is subject
8 to licensure by the Illinois Department of Public Health under
9 the Nursing Home Care Act, the Specialized Mental Health
10 Rehabilitation Act, or the MR/DD Community Care Act.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 Section 90-50. The Use Tax Act is amended by changing
13 Section 3-5 as follows:

14 (35 ILCS 105/3-5)

15 Sec. 3-5. Exemptions. Use of the following tangible
16 personal property is exempt from the tax imposed by this Act:

17 (1) Personal property purchased from a corporation,
18 society, association, foundation, institution, or
19 organization, other than a limited liability company, that is
20 organized and operated as a not-for-profit service enterprise
21 for the benefit of persons 65 years of age or older if the
22 personal property was not purchased by the enterprise for the
23 purpose of resale 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 a not-for-profit arts or
4 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) Personal property purchased by a governmental body, by
19 a corporation, society, association, foundation, or
20 institution organized and operated exclusively for charitable,
21 religious, or educational purposes, or by a not-for-profit
22 corporation, society, association, foundation, institution, or
23 organization that has no compensated officers or employees and
24 that is organized and operated primarily for the recreation of
25 persons 55 years of age or older. A limited liability company
26 may qualify for the exemption under this paragraph only if the

1 limited liability company is organized and operated
2 exclusively for educational purposes. On and after July 1,
3 1987, however, no entity otherwise eligible for this exemption
4 shall make tax-free purchases unless it has an active exemption
5 identification number issued by the Department.

6 (5) Until July 1, 2003, a passenger car that is a
7 replacement vehicle to the extent that the purchase price of
8 the car is subject to the Replacement Vehicle Tax.

9 (6) Until July 1, 2003 and beginning again on September 1,
10 2004 through August 30, 2014, graphic arts machinery and
11 equipment, including repair and replacement parts, both new and
12 used, and including that manufactured on special order,
13 certified by the purchaser to be used primarily for graphic
14 arts production, and including machinery and equipment
15 purchased for lease. Equipment includes chemicals or chemicals
16 acting as catalysts but only if the chemicals or chemicals
17 acting as catalysts effect a direct and immediate change upon a
18 graphic arts product.

19 (7) Farm chemicals.

20 (8) 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 (9) Personal property purchased from a teacher-sponsored
25 student organization affiliated with an elementary or
26 secondary school located in Illinois.

1 (10) A motor vehicle of the first division, a motor vehicle
2 of the second division that is a self-contained motor vehicle
3 designed or permanently converted to provide living quarters
4 for recreational, camping, or travel use, with direct walk
5 through to the living quarters from the driver's seat, or a
6 motor vehicle of the second division that is of the van
7 configuration designed for the transportation of not less than
8 7 nor more than 16 passengers, as defined in Section 1-146 of
9 the Illinois Vehicle Code, that is used for automobile renting,
10 as defined in the Automobile Renting Occupation and Use Tax
11 Act.

12 (11) Farm machinery and equipment, both new and used,
13 including that manufactured on special order, certified by the
14 purchaser to be used primarily for production agriculture or
15 State or federal agricultural programs, including individual
16 replacement parts for the machinery and equipment, including
17 machinery and equipment purchased for lease, and including
18 implements of husbandry defined in Section 1-130 of the
19 Illinois Vehicle Code, farm machinery and agricultural
20 chemical and fertilizer spreaders, and nurse wagons required to
21 be registered under Section 3-809 of the Illinois Vehicle Code,
22 but excluding other motor vehicles required to be registered
23 under the Illinois Vehicle Code. Horticultural polyhouses or
24 hoop houses used for propagating, growing, or overwintering
25 plants shall be considered farm machinery and equipment under
26 this item (11). Agricultural chemical tender tanks and dry

1 boxes shall include units sold separately from a motor vehicle
2 required to be licensed and units sold mounted on a motor
3 vehicle required to be licensed if the selling price of the
4 tender is separately stated.

5 Farm machinery and equipment shall include precision
6 farming equipment that is installed or purchased to be
7 installed on farm machinery and equipment including, but not
8 limited to, tractors, harvesters, sprayers, planters, seeders,
9 or spreaders. Precision farming equipment includes, but is not
10 limited to, soil testing sensors, computers, monitors,
11 software, global positioning and mapping systems, and other
12 such equipment.

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (11) is exempt from the
20 provisions of Section 3-90.

21 (12) Fuel and petroleum products sold to or used by an air
22 common carrier, certified by the carrier to be used for
23 consumption, shipment, or storage in the conduct of its
24 business as an air common carrier, for a flight destined for or
25 returning from a location or locations outside the United
26 States without regard to previous or subsequent domestic

1 stopovers.

2 (13) Proceeds of mandatory service charges separately
3 stated on customers' bills for the purchase and consumption of
4 food and beverages purchased at retail from a retailer, to the
5 extent that the proceeds of the service charge are in fact
6 turned over as tips or as a substitute for tips to the
7 employees who participate directly in preparing, serving,
8 hosting or cleaning up the food or beverage function with
9 respect to which the service charge is imposed.

10 (14) Until July 1, 2003, oil field exploration, drilling,
11 and production equipment, including (i) rigs and parts of rigs,
12 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
13 tubular goods, including casing and drill strings, (iii) pumps
14 and pump-jack units, (iv) storage tanks and flow lines, (v) any
15 individual replacement part for oil field exploration,
16 drilling, and production equipment, and (vi) machinery and
17 equipment purchased for lease; but excluding motor vehicles
18 required to be registered under the Illinois Vehicle Code.

19 (15) Photoprocessing machinery and equipment, including
20 repair and replacement parts, both new and used, including that
21 manufactured on special order, certified by the purchaser to be
22 used primarily for photoprocessing, and including
23 photoprocessing machinery and equipment purchased for lease.

24 (16) 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 (17) Until July 1, 2003, distillation machinery and
5 equipment, sold as a unit or kit, assembled or installed by the
6 retailer, certified by the user to be used only for the
7 production of ethyl alcohol that will be used for consumption
8 as motor fuel or as a component of motor fuel for the personal
9 use of the user, and not subject to sale or resale.

10 (18) Manufacturing and assembling machinery and equipment
11 used primarily in the process of manufacturing or assembling
12 tangible personal property for wholesale or retail sale or
13 lease, whether that sale or lease is made directly by the
14 manufacturer or by some other person, whether the materials
15 used in the process are owned by the manufacturer or some other
16 person, or whether that sale or lease is made apart from or as
17 an incident to the seller's engaging in the service occupation
18 of producing machines, tools, dies, jigs, patterns, gauges, or
19 other similar items of no commercial value on special order for
20 a particular purchaser.

21 (19) Personal property delivered to a purchaser or
22 purchaser's donee inside Illinois when the purchase order for
23 that personal property was received by a florist located
24 outside Illinois who has a florist located inside Illinois
25 deliver the personal property.

26 (20) Semen used for artificial insemination of livestock

1 for direct agricultural production.

2 (21) Horses, or interests in horses, registered with and
3 meeting the requirements of any of the Arabian Horse Club
4 Registry of America, Appaloosa Horse Club, American Quarter
5 Horse Association, United States Trotting Association, or
6 Jockey Club, as appropriate, used for purposes of breeding or
7 racing for prizes. This item (21) is exempt from the provisions
8 of Section 3-90, and the exemption provided for under this item
9 (21) applies for all periods beginning May 30, 1995, but no
10 claim for credit or refund is allowed on or after January 1,
11 2008 for such taxes paid during the period beginning May 30,
12 2000 and ending on January 1, 2008.

13 (22) Computers and communications equipment utilized for
14 any hospital purpose and equipment used in the diagnosis,
15 analysis, or treatment of hospital patients purchased by a
16 lessor who leases the equipment, under a lease of one year or
17 longer executed or in effect at the time the lessor would
18 otherwise be subject to the tax imposed by this Act, to a
19 hospital that has been issued an active tax exemption
20 identification number by the Department under Section 1g of the
21 Retailers' Occupation Tax Act. If the equipment is leased in a
22 manner that does not qualify for this exemption or is used in
23 any other non-exempt manner, the lessor shall be liable for the
24 tax imposed under this Act or the Service Use Tax Act, as the
25 case may be, based on the fair market value of the property at
26 the time the non-qualifying use occurs. No lessor shall collect

1 or attempt to collect an amount (however designated) that
2 purports to reimburse that lessor for the tax imposed by this
3 Act or the Service Use Tax Act, as the case may be, if the tax
4 has not been paid by the lessor. If a lessor improperly
5 collects any such amount from the lessee, the lessee shall have
6 a legal right to claim a refund of that amount from the lessor.
7 If, however, that amount is not refunded to the lessee for any
8 reason, the lessor is liable to pay that amount to the
9 Department.

10 (23) Personal property purchased by a lessor who leases the
11 property, under a lease of one year or longer executed or in
12 effect at the time the lessor would otherwise be subject to the
13 tax imposed by this Act, to a governmental body that has been
14 issued an active sales tax exemption identification number by
15 the Department under Section 1g of the Retailers' Occupation
16 Tax Act. If the property is leased in a manner that does not
17 qualify for this exemption or used in any other non-exempt
18 manner, the lessor shall be liable for the tax imposed under
19 this Act or the Service Use Tax Act, as the case may be, based
20 on the fair market value of the property at the time the
21 non-qualifying use occurs. No lessor shall collect or attempt
22 to collect an amount (however designated) that purports to
23 reimburse that lessor for the tax imposed by this Act or the
24 Service Use Tax Act, as the case may be, if the tax has not been
25 paid by the lessor. If a lessor improperly collects any such
26 amount from the lessee, the lessee shall have a legal right to

1 claim a refund of that amount from the lessor. If, however,
2 that amount is not refunded to the lessee for any reason, the
3 lessor is liable to pay that amount to the Department.

4 (24) Beginning with taxable years ending on or after
5 December 31, 1995 and ending with taxable years ending on or
6 before December 31, 2004, personal property that is donated for
7 disaster relief to be used in a State or federally declared
8 disaster area in Illinois or bordering Illinois by a
9 manufacturer or retailer that is registered in this State to a
10 corporation, society, association, foundation, or institution
11 that has been issued a sales tax exemption identification
12 number by the Department that assists victims of the disaster
13 who reside within the declared disaster area.

14 (25) 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 used in the
17 performance of infrastructure repairs in this State, including
18 but not limited to municipal roads and streets, access roads,
19 bridges, sidewalks, waste disposal systems, water and sewer
20 line extensions, water distribution and purification
21 facilities, storm water drainage and retention facilities, and
22 sewage treatment facilities, resulting from a State or
23 federally declared disaster in Illinois or bordering Illinois
24 when such repairs are initiated on facilities located in the
25 declared disaster area within 6 months after the disaster.

26 (26) Beginning July 1, 1999, game or game birds purchased

1 at a "game breeding and hunting preserve area" or an "exotic
2 game hunting area" as those terms are used in the Wildlife Code
3 or at a hunting enclosure approved through rules adopted by the
4 Department of Natural Resources. This paragraph is exempt from
5 the provisions of Section 3-90.

6 (27) A motor vehicle, as that term is defined in Section
7 1-146 of the Illinois Vehicle Code, that is donated to a
8 corporation, limited liability company, society, association,
9 foundation, or institution that is determined by the Department
10 to be organized and operated exclusively for educational
11 purposes. For purposes of this exemption, "a corporation,
12 limited liability company, society, association, foundation,
13 or institution organized and operated exclusively for
14 educational purposes" means all tax-supported public schools,
15 private schools that offer systematic instruction in useful
16 branches of learning by methods common to public schools and
17 that compare favorably in their scope and intensity with the
18 course of study presented in tax-supported schools, and
19 vocational or technical schools or institutes organized and
20 operated exclusively to provide a course of study of not less
21 than 6 weeks duration and designed to prepare individuals to
22 follow a trade or to pursue a manual, technical, mechanical,
23 industrial, business, or commercial occupation.

24 (28) Beginning January 1, 2000, personal property,
25 including food, purchased through fundraising events for the
26 benefit of a public or private elementary or secondary school,

1 a group of those schools, or one or more school districts if
2 the events are sponsored by an entity recognized by the school
3 district that consists primarily of volunteers and includes
4 parents and teachers of the school children. This paragraph
5 does not apply to fundraising events (i) for the benefit of
6 private home instruction or (ii) for which the fundraising
7 entity purchases the personal property sold at the events from
8 another individual or entity that sold the property for the
9 purpose of resale by the fundraising entity and that profits
10 from the sale to the fundraising entity. This paragraph is
11 exempt from the provisions of Section 3-90.

12 (29) Beginning January 1, 2000 and through December 31,
13 2001, new or used automatic vending machines that prepare and
14 serve hot food and beverages, including coffee, soup, and other
15 items, and replacement parts for these machines. Beginning
16 January 1, 2002 and through June 30, 2003, machines and parts
17 for machines used in commercial, coin-operated amusement and
18 vending business if a use or occupation tax is paid on the
19 gross receipts derived from the use of the commercial,
20 coin-operated amusement and vending machines. This paragraph
21 is exempt from the provisions of Section 3-90.

22 (30) Beginning January 1, 2001 and through June 30, 2011,
23 food for human consumption that is to be consumed off the
24 premises where it is sold (other than alcoholic beverages, soft
25 drinks, and food that has been prepared for immediate
26 consumption) and prescription and nonprescription medicines,

1 drugs, medical appliances, and insulin, urine testing
2 materials, syringes, and needles used by diabetics, for human
3 use, when purchased for use by a person receiving medical
4 assistance under Article V of the Illinois Public Aid Code who
5 resides in a licensed long-term care facility, as defined in
6 the Nursing Home Care Act, or in a licensed facility as defined
7 in the MR/DD Community Care Act or the Specialized Mental
8 Health Rehabilitation Act.

9 (31) Beginning on the effective date of this amendatory Act
10 of the 92nd General Assembly, computers and communications
11 equipment utilized for any hospital purpose and equipment used
12 in the diagnosis, analysis, or treatment of hospital patients
13 purchased by a lessor who leases the equipment, under a lease
14 of one year or longer executed or in effect at the time the
15 lessor would otherwise be subject to the tax imposed by this
16 Act, to a hospital that has been issued an active tax exemption
17 identification number by the Department under Section 1g of the
18 Retailers' Occupation Tax Act. If the equipment is leased in a
19 manner that does not qualify for this exemption or is used in
20 any other nonexempt manner, the lessor shall be liable for the
21 tax imposed under this Act or the Service Use Tax Act, as the
22 case may be, based on the fair market value of the property at
23 the time the nonqualifying use occurs. No lessor shall collect
24 or attempt to collect an amount (however designated) that
25 purports to reimburse that lessor for the tax imposed by this
26 Act or the Service Use Tax Act, as the case may be, if the tax

1 has not been paid by the lessor. If a lessor improperly
2 collects any such amount from the lessee, the lessee shall have
3 a legal right to claim a refund of that amount from the lessor.
4 If, however, that amount is not refunded to the lessee for any
5 reason, the lessor is liable to pay that amount to the
6 Department. This paragraph is exempt from the provisions of
7 Section 3-90.

8 (32) Beginning on the effective date of this amendatory Act
9 of the 92nd General Assembly, personal property purchased by a
10 lessor who leases the property, 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 governmental body that has been issued an active sales tax
14 exemption identification number by the Department under
15 Section 1g of the Retailers' Occupation Tax Act. If the
16 property is leased in a manner that does not qualify for this
17 exemption or used in any other nonexempt manner, the lessor
18 shall be liable for the tax imposed under this Act or the
19 Service Use Tax Act, as the case may be, based on the fair
20 market value of the property at the time the nonqualifying use
21 occurs. No lessor shall collect or attempt to collect an amount
22 (however designated) that purports to reimburse that lessor for
23 the tax imposed by this Act or the Service Use Tax Act, as the
24 case may be, if the tax has not been paid by the lessor. If a
25 lessor improperly collects any such amount from the lessee, the
26 lessee shall have a legal right to claim a refund of that

1 amount from the lessor. If, however, that amount is not
2 refunded to the lessee for any reason, the lessor is liable to
3 pay that amount to the Department. This paragraph is exempt
4 from the provisions of Section 3-90.

5 (33) On and after July 1, 2003 and through June 30, 2004,
6 the use in this State of motor vehicles of the second division
7 with a gross vehicle weight in excess of 8,000 pounds and that
8 are subject to the commercial distribution fee imposed under
9 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
10 1, 2004 and through June 30, 2005, the use in this State of
11 motor vehicles of the second division: (i) with a gross vehicle
12 weight rating in excess of 8,000 pounds; (ii) that are subject
13 to the commercial distribution fee imposed under Section
14 3-815.1 of the Illinois Vehicle Code; and (iii) that are
15 primarily used for commercial purposes. Through June 30, 2005,
16 this exemption applies to repair and replacement parts added
17 after the initial purchase of such a motor vehicle if that
18 motor vehicle is used in a manner that would qualify for the
19 rolling stock exemption otherwise provided for in this Act. For
20 purposes of this paragraph, the term "used for commercial
21 purposes" means the transportation of persons or property in
22 furtherance of any commercial or industrial enterprise,
23 whether for-hire or not.

24 (34) Beginning January 1, 2008, tangible personal property
25 used in the construction or maintenance of a community water
26 supply, as defined under Section 3.145 of the Environmental

1 Protection Act, that is operated by a not-for-profit
2 corporation that holds a valid water supply permit issued under
3 Title IV of the Environmental Protection Act. This paragraph is
4 exempt from the provisions of Section 3-90.

5 (35) Beginning January 1, 2010, materials, parts,
6 equipment, components, and furnishings incorporated into or
7 upon an aircraft as part of the modification, refurbishment,
8 completion, replacement, repair, or maintenance of the
9 aircraft. This exemption includes consumable supplies used in
10 the modification, refurbishment, completion, replacement,
11 repair, and maintenance of aircraft, but excludes any
12 materials, parts, equipment, components, and consumable
13 supplies used in the modification, replacement, repair, and
14 maintenance of aircraft engines or power plants, whether such
15 engines or power plants are installed or uninstalled upon any
16 such aircraft. "Consumable supplies" include, but are not
17 limited to, adhesive, tape, sandpaper, general purpose
18 lubricants, cleaning solution, latex gloves, and protective
19 films. This exemption applies only to those organizations that
20 (i) hold an Air Agency Certificate and are empowered to operate
21 an approved repair station by the Federal Aviation
22 Administration, (ii) have a Class IV Rating, and (iii) conduct
23 operations in accordance with Part 145 of the Federal Aviation
24 Regulations. The exemption does not include aircraft operated
25 by a commercial air carrier providing scheduled passenger air
26 service pursuant to authority issued under Part 121 or Part 129

1 of the Federal Aviation Regulations.

2 (36) Tangible personal property purchased by a
3 public-facilities corporation, as described in Section
4 11-65-10 of the Illinois Municipal Code, for purposes of
5 constructing or furnishing a municipal convention hall, but
6 only if the legal title to the municipal convention hall is
7 transferred to the municipality without any further
8 consideration by or on behalf of the municipality at the time
9 of the completion of the municipal convention hall or upon the
10 retirement or redemption of any bonds or other debt instruments
11 issued by the public-facilities corporation in connection with
12 the development of the municipal convention hall. This
13 exemption includes existing public-facilities corporations as
14 provided in Section 11-65-25 of the Illinois Municipal Code.
15 This paragraph is exempt from the provisions of Section 3-90.

16 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,
17 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
18 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
19 7-2-10.)

20 Section 90-55. The Service Use Tax Act is amended by
21 changing Sections 3-5 and 3-10 as follows:

22 (35 ILCS 110/3-5)

23 Sec. 3-5. Exemptions. Use of the following tangible
24 personal property is exempt from the tax imposed by this Act:

1 (1) Personal property purchased from a corporation,
2 society, association, foundation, institution, or
3 organization, other than a limited liability company, that is
4 organized and operated as a not-for-profit service enterprise
5 for the benefit of persons 65 years of age or older if the
6 personal property was not purchased by the enterprise for the
7 purpose of resale by the enterprise.

8 (2) Personal property purchased by a non-profit Illinois
9 county fair association for use in conducting, operating, or
10 promoting the county fair.

11 (3) Personal property purchased by a not-for-profit arts or
12 cultural organization that establishes, by proof required by
13 the Department by rule, that it has received an exemption under
14 Section 501(c)(3) of the Internal Revenue Code and that is
15 organized and operated primarily for the presentation or
16 support of arts or cultural programming, activities, or
17 services. These organizations include, but are not limited to,
18 music and dramatic arts organizations such as symphony
19 orchestras and theatrical groups, arts and cultural service
20 organizations, local arts councils, visual arts organizations,
21 and media arts organizations. On and after the effective date
22 of this amendatory Act of the 92nd General Assembly, however,
23 an entity otherwise eligible for this exemption shall not make
24 tax-free purchases unless it has an active identification
25 number issued by the Department.

26 (4) Legal tender, currency, medallions, or gold or silver

1 coinage issued by the State of Illinois, the government of the
2 United States of America, or the government of any foreign
3 country, and bullion.

4 (5) Until July 1, 2003 and beginning again on 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 (6) Personal property purchased from a teacher-sponsored
14 student organization affiliated with an elementary or
15 secondary school located in Illinois.

16 (7) Farm machinery and equipment, both new and used,
17 including that manufactured on special order, certified by the
18 purchaser to be used primarily for production agriculture or
19 State or federal agricultural programs, including individual
20 replacement parts for the machinery and equipment, including
21 machinery and equipment purchased for lease, and including
22 implements of husbandry defined in Section 1-130 of the
23 Illinois Vehicle Code, farm machinery and agricultural
24 chemical and fertilizer spreaders, and nurse wagons required to
25 be registered under Section 3-809 of the Illinois Vehicle Code,
26 but excluding other motor vehicles required to be registered

1 under the Illinois Vehicle Code. Horticultural polyhouses or
2 hoop houses used for propagating, growing, or overwintering
3 plants shall be considered farm machinery and equipment under
4 this item (7). Agricultural chemical tender tanks and dry boxes
5 shall include units sold separately from a motor vehicle
6 required to be licensed and units sold mounted on a motor
7 vehicle required to be licensed if the selling price of the
8 tender is separately stated.

9 Farm machinery and equipment shall include precision
10 farming equipment that is installed or purchased to be
11 installed on farm machinery and equipment including, but not
12 limited to, tractors, harvesters, sprayers, planters, seeders,
13 or spreaders. Precision farming equipment includes, but is not
14 limited to, soil testing sensors, computers, monitors,
15 software, global positioning and mapping systems, and other
16 such equipment.

17 Farm machinery and equipment also includes computers,
18 sensors, software, and related equipment used primarily in the
19 computer-assisted operation of production agriculture
20 facilities, equipment, and activities such as, but not limited
21 to, the collection, monitoring, and correlation of animal and
22 crop data for the purpose of formulating animal diets and
23 agricultural chemicals. This item (7) is exempt from the
24 provisions of Section 3-75.

25 (8) Fuel and petroleum products sold to or used by an air
26 common carrier, certified by the carrier to be used for

1 consumption, shipment, or storage in the conduct of its
2 business as an air common carrier, for a flight destined for or
3 returning from a location or locations outside the United
4 States without regard to previous or subsequent domestic
5 stopovers.

6 (9) Proceeds of mandatory service charges separately
7 stated on customers' bills for the purchase and consumption of
8 food and beverages acquired as an incident to the purchase of a
9 service from a serviceman, to the extent that the proceeds of
10 the service charge are in fact turned over as tips or as a
11 substitute for tips to the employees who participate directly
12 in preparing, serving, hosting or cleaning up the food or
13 beverage function with respect to which the service charge is
14 imposed.

15 (10) Until July 1, 2003, oil field exploration, drilling,
16 and production equipment, including (i) rigs and parts of rigs,
17 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
18 tubular goods, including casing and drill strings, (iii) pumps
19 and pump-jack units, (iv) storage tanks and flow lines, (v) any
20 individual replacement part for oil field exploration,
21 drilling, and production equipment, and (vi) machinery and
22 equipment purchased for lease; but excluding motor vehicles
23 required to be registered under the Illinois Vehicle Code.

24 (11) Proceeds from the sale of photoprocessing machinery
25 and equipment, including repair and replacement parts, both new
26 and used, including that manufactured on special order,

1 certified by the purchaser to be used primarily for
2 photoprocessing, and including photoprocessing machinery and
3 equipment purchased for lease.

4 (12) Until July 1, 2003, coal exploration, mining,
5 offhighway hauling, processing, maintenance, and reclamation
6 equipment, including replacement parts and equipment, and
7 including equipment purchased for lease, but excluding motor
8 vehicles required to be registered under the Illinois Vehicle
9 Code.

10 (13) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (14) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes. This item (14) is exempt from the provisions
18 of Section 3-75, and the exemption provided for under this item
19 (14) applies for all periods beginning May 30, 1995, but no
20 claim for credit or refund is allowed on or after the effective
21 date of this amendatory Act of the 95th General Assembly for
22 such taxes paid during the period beginning May 30, 2000 and
23 ending on the effective date of this amendatory Act of the 95th
24 General Assembly.

25 (15) Computers and communications equipment utilized for
26 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients purchased by a
2 lessor who leases the equipment, under a lease of one year or
3 longer executed or in effect at the time the lessor would
4 otherwise be subject to the tax imposed by this Act, to a
5 hospital that has been issued an active tax exemption
6 identification number by the Department under Section 1g of the
7 Retailers' Occupation Tax Act. If the equipment is leased in a
8 manner that does not qualify for this exemption or is used in
9 any other non-exempt manner, the lessor shall be liable for the
10 tax imposed under this Act or the Use Tax Act, as the case may
11 be, based on the fair market value of the property at the time
12 the non-qualifying use occurs. No lessor shall collect or
13 attempt to collect an amount (however designated) that purports
14 to reimburse that lessor for the tax imposed by this Act or the
15 Use Tax Act, as the case may be, if the tax has not been paid by
16 the lessor. If a lessor improperly collects any such amount
17 from the lessee, the lessee shall have a legal right to claim a
18 refund of that amount from the lessor. If, however, that amount
19 is not refunded to the lessee for any reason, the lessor is
20 liable to pay that amount to the Department.

21 (16) Personal property purchased by a lessor who leases the
22 property, under a lease of one year or longer executed or in
23 effect at the time the lessor would otherwise be subject to the
24 tax imposed by this Act, to a governmental body that has been
25 issued an active tax exemption identification number by the
26 Department under Section 1g of the Retailers' Occupation Tax

1 Act. If the property is leased in a manner that does not
2 qualify for this exemption or is used in any other non-exempt
3 manner, the lessor shall be liable for the tax imposed under
4 this Act or the Use Tax Act, as the case may be, based on the
5 fair market value of the property at the time the
6 non-qualifying use occurs. No lessor shall collect or attempt
7 to collect an amount (however designated) that purports to
8 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 (17) 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 (18) 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 (19) Beginning July 1, 1999, game or game birds purchased
12 at a "game breeding and hunting preserve area" or an "exotic
13 game hunting area" as those terms are used in the Wildlife Code
14 or 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 3-75.

17 (20) 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 (21) 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 3-75.

23 (22) 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 3-75.

7 (23) Beginning August 23, 2001 and through June 30, 2011,
8 food for human consumption that is to be consumed off the
9 premises where it is sold (other than alcoholic beverages, soft
10 drinks, and food that has been prepared for immediate
11 consumption) and prescription and nonprescription medicines,
12 drugs, medical appliances, and insulin, urine testing
13 materials, syringes, and needles used by diabetics, for human
14 use, when purchased for use by a person receiving medical
15 assistance under Article V of the Illinois Public Aid Code who
16 resides in a licensed long-term care facility, as defined in
17 the Nursing Home Care Act, or in a licensed facility as defined
18 in the MR/DD Community Care Act or the Specialized Mental
19 Health Rehabilitation Act.

20 (24) Beginning on the effective date of this amendatory Act
21 of the 92nd General Assembly, computers and communications
22 equipment utilized for any hospital purpose and equipment used
23 in the diagnosis, analysis, or treatment of hospital patients
24 purchased by a lessor who leases the equipment, under a lease
25 of one year or longer executed or in effect at the time the
26 lessor would otherwise be subject to the tax imposed by this

1 Act, to a hospital that has been issued an active tax exemption
2 identification number by the Department under Section 1g of the
3 Retailers' Occupation Tax Act. If the equipment is leased in a
4 manner that does not qualify for this exemption or is used in
5 any other nonexempt manner, the lessor shall be liable for the
6 tax imposed under this Act or the Use Tax Act, as the case may
7 be, based on the fair market value of the property at the time
8 the nonqualifying use occurs. No lessor shall collect or
9 attempt to collect an amount (however designated) that purports
10 to reimburse that lessor for the tax imposed by this Act or the
11 Use Tax Act, as the case may be, if the tax has not been paid by
12 the lessor. If a lessor improperly collects any such amount
13 from the lessee, the lessee shall have a legal right to claim a
14 refund of that amount from the lessor. If, however, that amount
15 is not refunded to the lessee for any reason, the lessor is
16 liable to pay that amount to the Department. This paragraph is
17 exempt from the provisions of Section 3-75.

18 (25) Beginning on the effective date of this amendatory Act
19 of the 92nd General Assembly, personal property purchased by a
20 lessor who leases the property, under a lease of one year or
21 longer executed or in effect at the time the lessor would
22 otherwise be subject to the tax imposed by this Act, to a
23 governmental body that has been issued an active tax exemption
24 identification number by the Department under Section 1g of the
25 Retailers' Occupation Tax Act. If the property is leased in a
26 manner that does not qualify for this exemption or is used in

1 any other nonexempt manner, the lessor shall be liable for the
2 tax imposed under this Act or the Use Tax Act, as the case may
3 be, based on the fair market value of the property at the time
4 the nonqualifying use occurs. No lessor shall collect or
5 attempt to collect an amount (however designated) that purports
6 to reimburse that lessor for the tax imposed by this Act or the
7 Use Tax Act, as the case may be, if the tax has not been paid by
8 the lessor. If a lessor improperly collects any such amount
9 from the lessee, the lessee shall have a legal right to claim a
10 refund of that amount from the lessor. If, however, that amount
11 is not refunded to the lessee for any reason, the lessor is
12 liable to pay that amount to the Department. This paragraph is
13 exempt from the provisions of Section 3-75.

14 (26) Beginning January 1, 2008, tangible personal property
15 used in the construction or maintenance of a community water
16 supply, as defined under Section 3.145 of the Environmental
17 Protection Act, that is operated by a not-for-profit
18 corporation that holds a valid water supply permit issued under
19 Title IV of the Environmental Protection Act. This paragraph is
20 exempt from the provisions of Section 3-75.

21 (27) Beginning January 1, 2010, materials, parts,
22 equipment, components, and furnishings incorporated into or
23 upon an aircraft as part of the modification, refurbishment,
24 completion, replacement, repair, or maintenance of the
25 aircraft. This exemption includes consumable supplies used in
26 the modification, refurbishment, completion, replacement,

1 repair, and maintenance of aircraft, but excludes any
2 materials, parts, equipment, components, and consumable
3 supplies used in the modification, replacement, repair, and
4 maintenance of aircraft engines or power plants, whether such
5 engines or power plants are installed or uninstalled upon any
6 such aircraft. "Consumable supplies" include, but are not
7 limited to, adhesive, tape, sandpaper, general purpose
8 lubricants, cleaning solution, latex gloves, and protective
9 films. This exemption applies only to those organizations that
10 (i) hold an Air Agency Certificate and are empowered to operate
11 an approved repair station by the Federal Aviation
12 Administration, (ii) have a Class IV Rating, and (iii) conduct
13 operations in accordance with Part 145 of the Federal Aviation
14 Regulations. The exemption does not include aircraft operated
15 by a commercial air carrier providing scheduled passenger air
16 service pursuant to authority issued under Part 121 or Part 129
17 of the Federal Aviation Regulations.

18 (28) Tangible personal property purchased by a
19 public-facilities corporation, as described in Section
20 11-65-10 of the Illinois Municipal Code, for purposes of
21 constructing or furnishing a municipal convention hall, but
22 only if the legal title to the municipal convention hall is
23 transferred to the municipality without any further
24 consideration by or on behalf of the municipality at the time
25 of the completion of the municipal convention hall or upon the
26 retirement or redemption of any bonds or other debt instruments

1 issued by the public-facilities corporation in connection with
2 the development of the municipal convention hall. This
3 exemption includes existing public-facilities corporations as
4 provided in Section 11-65-25 of the Illinois Municipal Code.
5 This paragraph is exempt from the provisions of Section 3-75.
6 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,
7 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
8 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
9 7-2-10.)

10 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

11 Sec. 3-10. Rate of tax. Unless otherwise provided in this
12 Section, the tax imposed by this Act is at the rate of 6.25% of
13 the selling price of tangible personal property transferred as
14 an incident to the sale of service, but, for the purpose of
15 computing this tax, in no event shall the selling price be less
16 than the cost price of the property to the serviceman.

17 Beginning on July 1, 2000 and through December 31, 2000,
18 with respect to motor fuel, as defined in Section 1.1 of the
19 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
20 the Use Tax Act, the tax is imposed at the rate of 1.25%.

21 With respect to gasohol, as defined in the Use Tax Act, the
22 tax imposed by this Act applies to (i) 70% of the selling price
23 of property transferred as an incident to the sale of service
24 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
25 of the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before
2 December 31, 2013, and (iii) 100% of the selling price
3 thereafter. If, at any time, however, the tax under this Act on
4 sales of gasohol, as defined in the Use Tax Act, is imposed at
5 the rate of 1.25%, then the tax imposed by this Act applies to
6 100% of the proceeds of sales of gasohol made during that time.

7 With respect to majority blended ethanol fuel, as defined
8 in the Use Tax Act, the tax imposed by this Act does not apply
9 to the selling price of property transferred as an incident to
10 the sale of service on or after July 1, 2003 and on or before
11 December 31, 2013 but applies to 100% of the selling price
12 thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax
14 Act, with no less than 1% and no more than 10% biodiesel, the
15 tax imposed by this Act applies to (i) 80% of the selling price
16 of property transferred as an incident to the sale of service
17 on or after July 1, 2003 and on or before December 31, 2013 and
18 (ii) 100% of the proceeds of the selling price thereafter. If,
19 at any time, however, the tax under this Act on sales of
20 biodiesel blends, as defined in the Use Tax Act, with no less
21 than 1% and no more than 10% biodiesel is imposed at the rate
22 of 1.25%, then the tax imposed by this Act applies to 100% of
23 the proceeds of sales of biodiesel blends with no less than 1%
24 and no more than 10% biodiesel made during that time.

25 With respect to 100% biodiesel, as defined in the Use Tax
26 Act, and biodiesel blends, as defined in the Use Tax Act, with

1 more than 10% but no more than 99% biodiesel, the tax imposed
2 by this Act does not apply to the proceeds of the selling price
3 of property transferred as an incident to the sale of service
4 on or after July 1, 2003 and on or before December 31, 2013 but
5 applies to 100% of the selling price thereafter.

6 At the election of any registered serviceman made for each
7 fiscal year, sales of service in which the aggregate annual
8 cost price of tangible personal property transferred as an
9 incident to the sales of service is less than 35%, or 75% in
10 the case of servicemen transferring prescription drugs or
11 servicemen engaged in graphic arts production, of the aggregate
12 annual total gross receipts from all sales of service, the tax
13 imposed by this Act shall be based on the serviceman's cost
14 price of the tangible personal property transferred as an
15 incident to the sale of those services.

16 The tax shall be imposed at the rate of 1% on food prepared
17 for immediate consumption and transferred incident to a sale of
18 service subject to this Act or the Service Occupation Tax Act
19 by an entity licensed under the Hospital Licensing Act, the
20 Nursing Home Care Act, the MR/DD Community Care Act, the
21 Specialized Mental Health Rehabilitation Act, or the Child Care
22 Act of 1969. The tax shall also be imposed at the rate of 1% on
23 food for human consumption that is to be consumed off the
24 premises where it is sold (other than alcoholic beverages, soft
25 drinks, and food that has been prepared for immediate
26 consumption and is not otherwise included in this paragraph)

1 and prescription and nonprescription medicines, drugs, medical
2 appliances, modifications to a motor vehicle for the purpose of
3 rendering it usable by a disabled person, and insulin, urine
4 testing materials, syringes, and needles used by diabetics, for
5 human use. For the purposes of this Section, until September 1,
6 2009: the term "soft drinks" means any complete, finished,
7 ready-to-use, non-alcoholic drink, whether carbonated or not,
8 including but not limited to soda water, cola, fruit juice,
9 vegetable juice, carbonated water, and all other preparations
10 commonly known as soft drinks of whatever kind or description
11 that are contained in any closed or sealed bottle, can, carton,
12 or container, regardless of size; but "soft drinks" does not
13 include coffee, tea, non-carbonated water, infant formula,
14 milk or milk products as defined in the Grade A Pasteurized
15 Milk and Milk Products Act, or drinks containing 50% or more
16 natural fruit or vegetable juice.

17 Notwithstanding any other provisions of this Act,
18 beginning September 1, 2009, "soft drinks" means non-alcoholic
19 beverages that contain natural or artificial sweeteners. "Soft
20 drinks" do not include beverages that contain milk or milk
21 products, soy, rice or similar milk substitutes, or greater
22 than 50% of vegetable or fruit juice by volume.

23 Until August 1, 2009, and notwithstanding any other
24 provisions of this Act, "food for human consumption that is to
25 be consumed off the premises where it is sold" includes all
26 food sold through a vending machine, except soft drinks and

1 food products that are dispensed hot from a vending machine,
2 regardless of the location of the vending machine. Beginning
3 August 1, 2009, and notwithstanding any other provisions of
4 this Act, "food for human consumption that is to be consumed
5 off the premises where it is sold" includes all food sold
6 through a vending machine, except soft drinks, candy, and food
7 products that are dispensed hot from a vending machine,
8 regardless of the location of the vending machine.

9 Notwithstanding any other provisions of this Act,
10 beginning September 1, 2009, "food for human consumption that
11 is to be consumed off the premises where it is sold" does not
12 include candy. For purposes of this Section, "candy" means a
13 preparation of sugar, honey, or other natural or artificial
14 sweeteners in combination with chocolate, fruits, nuts or other
15 ingredients or flavorings in the form of bars, drops, or
16 pieces. "Candy" does not include any preparation that contains
17 flour or requires refrigeration.

18 Notwithstanding any other provisions of this Act,
19 beginning September 1, 2009, "nonprescription medicines and
20 drugs" does not include grooming and hygiene products. For
21 purposes of this Section, "grooming and hygiene products"
22 includes, but is not limited to, soaps and cleaning solutions,
23 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
24 lotions and screens, unless those products are available by
25 prescription only, regardless of whether the products meet the
26 definition of "over-the-counter-drugs". For the purposes of

1 this paragraph, "over-the-counter-drug" means a drug for human
2 use that contains a label that identifies the product as a drug
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
4 label includes:

5 (A) A "Drug Facts" panel; or

6 (B) A statement of the "active ingredient(s)" with a
7 list of those ingredients contained in the compound,
8 substance or preparation.

9 If the property that is acquired from a serviceman is
10 acquired outside Illinois and used outside Illinois before
11 being brought to Illinois for use here and is taxable under
12 this Act, the "selling price" on which the tax is computed
13 shall be reduced by an amount that represents a reasonable
14 allowance for depreciation for the period of prior out-of-state
15 use.

16 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,
17 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

18 Section 90-60. The Service Occupation Tax Act is amended by
19 changing Sections 3-5 and 3-10 as follows:

20 (35 ILCS 115/3-5)

21 Sec. 3-5. Exemptions. The following tangible personal
22 property is exempt from the tax imposed by this Act:

23 (1) Personal property sold by a corporation, society,
24 association, foundation, institution, or organization, other

1 than a limited liability company, that is organized and
2 operated as a not-for-profit service enterprise for the benefit
3 of persons 65 years of age or older if the personal property
4 was not purchased by the enterprise for the purpose of resale
5 by the enterprise.

6 (2) Personal property purchased by a not-for-profit
7 Illinois county fair association for use in conducting,
8 operating, or promoting the county fair.

9 (3) Personal property purchased by any not-for-profit arts
10 or cultural organization that establishes, by proof required by
11 the Department by rule, that it has received an exemption under
12 Section 501(c)(3) of the Internal Revenue Code and that is
13 organized and operated primarily for the presentation or
14 support of arts or cultural programming, activities, or
15 services. These organizations include, but are not limited to,
16 music and dramatic arts organizations such as symphony
17 orchestras and theatrical groups, arts and cultural service
18 organizations, local arts councils, visual arts organizations,
19 and media arts organizations. On and after the effective date
20 of this amendatory Act of the 92nd General Assembly, however,
21 an entity otherwise eligible for this exemption shall not make
22 tax-free purchases unless it has an active identification
23 number issued by the Department.

24 (4) Legal tender, currency, medallions, or gold or silver
25 coinage issued by the State of Illinois, the government of the
26 United States of America, or the government of any foreign

1 country, and bullion.

2 (5) Until July 1, 2003 and beginning again on September 1,
3 2004 through August 30, 2014, graphic arts machinery and
4 equipment, including repair and replacement parts, both new and
5 used, and including that manufactured on special order or
6 purchased for lease, certified by the purchaser to be used
7 primarily for graphic arts production. Equipment includes
8 chemicals or chemicals acting as catalysts but only if the
9 chemicals or chemicals acting as catalysts effect a direct and
10 immediate change upon a graphic arts product.

11 (6) Personal property sold by a teacher-sponsored student
12 organization affiliated with an elementary or secondary school
13 located in Illinois.

14 (7) Farm machinery and equipment, both new and used,
15 including that manufactured on special order, certified by the
16 purchaser to be used primarily for production agriculture or
17 State or federal agricultural programs, including individual
18 replacement parts for the machinery and equipment, including
19 machinery and equipment purchased for lease, and including
20 implements of husbandry defined in Section 1-130 of the
21 Illinois Vehicle Code, farm machinery and agricultural
22 chemical and fertilizer spreaders, and nurse wagons required to
23 be registered under Section 3-809 of the Illinois Vehicle Code,
24 but excluding other motor vehicles required to be registered
25 under the Illinois Vehicle Code. Horticultural polyhouses or
26 hoop houses used for propagating, growing, or overwintering

1 plants shall be considered farm machinery and equipment under
2 this item (7). Agricultural chemical tender tanks and dry boxes
3 shall include units sold separately from a motor vehicle
4 required to be licensed and units sold mounted on a motor
5 vehicle required to be licensed if the selling price of the
6 tender is separately stated.

7 Farm machinery and equipment shall include precision
8 farming equipment that is installed or purchased to be
9 installed on farm machinery and equipment including, but not
10 limited to, tractors, harvesters, sprayers, planters, seeders,
11 or spreaders. Precision farming equipment includes, but is not
12 limited to, soil testing sensors, computers, monitors,
13 software, global positioning and mapping systems, and other
14 such equipment.

15 Farm machinery and equipment also includes computers,
16 sensors, software, and related equipment used primarily in the
17 computer-assisted operation of production agriculture
18 facilities, equipment, and activities such as, but not limited
19 to, the collection, monitoring, and correlation of animal and
20 crop data for the purpose of formulating animal diets and
21 agricultural chemicals. This item (7) is exempt from the
22 provisions of Section 3-55.

23 (8) Fuel and petroleum products sold to or used by an air
24 common carrier, certified by the carrier to be used for
25 consumption, shipment, or storage in the conduct of its
26 business as an air common carrier, for a flight destined for or

1 returning from a location or locations outside the United
2 States without regard to previous or subsequent domestic
3 stopovers.

4 (9) Proceeds of mandatory service charges separately
5 stated on customers' bills for the purchase and consumption of
6 food and beverages, to the extent that the proceeds of the
7 service charge are in fact turned over as tips or as a
8 substitute for tips to the employees who participate directly
9 in preparing, serving, hosting or cleaning up the food or
10 beverage function with respect to which the service charge is
11 imposed.

12 (10) Until July 1, 2003, oil field exploration, drilling,
13 and production equipment, including (i) rigs and parts of rigs,
14 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
15 tubular goods, including casing and drill strings, (iii) pumps
16 and pump-jack units, (iv) storage tanks and flow lines, (v) any
17 individual replacement part for oil field exploration,
18 drilling, and production equipment, and (vi) machinery and
19 equipment purchased for lease; but excluding motor vehicles
20 required to be registered under the Illinois Vehicle Code.

21 (11) Photoprocessing machinery and equipment, including
22 repair and replacement parts, both new and used, including that
23 manufactured on special order, certified by the purchaser to be
24 used primarily for photoprocessing, and including
25 photoprocessing machinery and equipment purchased for lease.

26 (12) Until July 1, 2003, coal exploration, mining,

1 offhighway hauling, processing, maintenance, and reclamation
2 equipment, including replacement parts and equipment, and
3 including equipment purchased for lease, but excluding motor
4 vehicles required to be registered under the Illinois Vehicle
5 Code.

6 (13) Beginning January 1, 1992 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 non-prescription 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 in a licensed facility as defined
17 in the MR/DD Community Care Act or the Specialized Mental
18 Health Rehabilitation Act.

19 (14) Semen used for artificial insemination of livestock
20 for direct agricultural production.

21 (15) Horses, or interests in horses, registered with and
22 meeting the requirements of any of the Arabian Horse Club
23 Registry of America, Appaloosa Horse Club, American Quarter
24 Horse Association, United States Trotting Association, or
25 Jockey Club, as appropriate, used for purposes of breeding or
26 racing for prizes. This item (15) is exempt from the provisions

1 of Section 3-55, and the exemption provided for under this item
2 (15) applies for all periods beginning May 30, 1995, but no
3 claim for credit or refund is allowed on or after January 1,
4 2008 (the effective date of Public Act 95-88) for such taxes
5 paid during the period beginning May 30, 2000 and ending on
6 January 1, 2008 (the effective date of Public Act 95-88).

7 (16) Computers and communications equipment utilized for
8 any hospital purpose and equipment used in the diagnosis,
9 analysis, or treatment of hospital patients sold to a lessor
10 who leases the equipment, under a lease of one year or longer
11 executed or in effect at the time of the purchase, to a
12 hospital that has been issued an active tax exemption
13 identification number by the Department under Section 1g of the
14 Retailers' Occupation Tax Act.

15 (17) Personal property sold to a lessor who leases the
16 property, under a lease of one year or longer executed or in
17 effect at the time of the purchase, to a governmental body that
18 has been issued an active tax exemption identification number
19 by the Department under Section 1g of the Retailers' Occupation
20 Tax Act.

21 (18) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is donated for
24 disaster relief to be used in a State or federally declared
25 disaster area in Illinois or bordering Illinois by a
26 manufacturer or retailer that is registered in this State to a

1 corporation, society, association, foundation, or institution
2 that has been issued a sales tax exemption identification
3 number by the Department that assists victims of the disaster
4 who reside within the declared disaster area.

5 (19) Beginning with taxable years ending on or after
6 December 31, 1995 and ending with taxable years ending on or
7 before December 31, 2004, personal property that is used in the
8 performance of infrastructure repairs in this State, including
9 but not limited to municipal roads and streets, access roads,
10 bridges, sidewalks, waste disposal systems, water and sewer
11 line extensions, water distribution and purification
12 facilities, storm water drainage and retention facilities, and
13 sewage treatment facilities, resulting from a State or
14 federally declared disaster in Illinois or bordering Illinois
15 when such repairs are initiated on facilities located in the
16 declared disaster area within 6 months after the disaster.

17 (20) Beginning July 1, 1999, game or game birds sold at a
18 "game breeding and hunting preserve area" or an "exotic game
19 hunting area" as those terms are used in the Wildlife Code or
20 at a hunting enclosure approved through rules adopted by the
21 Department of Natural Resources. This paragraph is exempt from
22 the provisions of Section 3-55.

23 (21) A motor vehicle, as that term is defined in Section
24 1-146 of the Illinois Vehicle Code, that is donated to a
25 corporation, limited liability company, society, association,
26 foundation, or institution that is determined by the Department

1 to be organized and operated exclusively for educational
2 purposes. For purposes of this exemption, "a corporation,
3 limited liability company, society, association, foundation,
4 or institution organized and operated exclusively for
5 educational purposes" means all tax-supported public schools,
6 private schools that offer systematic instruction in useful
7 branches of learning by methods common to public schools and
8 that compare favorably in their scope and intensity with the
9 course of study presented in tax-supported schools, and
10 vocational or technical schools or institutes organized and
11 operated exclusively to provide a course of study of not less
12 than 6 weeks duration and designed to prepare individuals to
13 follow a trade or to pursue a manual, technical, mechanical,
14 industrial, business, or commercial occupation.

15 (22) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits

1 from the sale to the fundraising entity. This paragraph is
2 exempt from the provisions of Section 3-55.

3 (23) Beginning January 1, 2000 and through December 31,
4 2001, new or used automatic vending machines that prepare and
5 serve hot food and beverages, including coffee, soup, and other
6 items, and replacement parts for these machines. Beginning
7 January 1, 2002 and through June 30, 2003, machines and parts
8 for machines used in commercial, coin-operated amusement and
9 vending business if a use or occupation tax is paid on the
10 gross receipts derived from the use of the commercial,
11 coin-operated amusement and vending machines. This paragraph
12 is exempt from the provisions of Section 3-55.

13 (24) Beginning on the effective date of this amendatory Act
14 of the 92nd General Assembly, computers and communications
15 equipment utilized for any hospital purpose and equipment used
16 in the diagnosis, analysis, or treatment of hospital patients
17 sold to a lessor who leases the equipment, under a lease of one
18 year or longer executed or in effect at the time of the
19 purchase, to a hospital that has been issued an active tax
20 exemption identification number by the Department under
21 Section 1g of the Retailers' Occupation Tax Act. This paragraph
22 is exempt from the provisions of Section 3-55.

23 (25) Beginning on the effective date of this amendatory Act
24 of the 92nd General Assembly, personal property sold to a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption
2 identification number by the Department under Section 1g of the
3 Retailers' Occupation Tax Act. This paragraph is exempt from
4 the provisions of Section 3-55.

5 (26) Beginning on January 1, 2002 and through June 30,
6 2011, tangible personal property purchased from an Illinois
7 retailer by a taxpayer engaged in centralized purchasing
8 activities in Illinois who will, upon receipt of the property
9 in Illinois, temporarily store the property in Illinois (i) for
10 the purpose of subsequently transporting it outside this State
11 for use or consumption thereafter solely outside this State or
12 (ii) for the purpose of being processed, fabricated, or
13 manufactured into, attached to, or incorporated into other
14 tangible personal property to be transported outside this State
15 and thereafter used or consumed solely outside this State. The
16 Director of Revenue shall, pursuant to rules adopted in
17 accordance with the Illinois Administrative Procedure Act,
18 issue a permit to any taxpayer in good standing with the
19 Department who is eligible for the exemption under this
20 paragraph (26). The permit issued under this paragraph (26)
21 shall authorize the holder, to the extent and in the manner
22 specified in the rules adopted under this Act, to purchase
23 tangible personal property from a retailer exempt from the
24 taxes imposed by this Act. Taxpayers shall maintain all
25 necessary books and records to substantiate the use and
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (27) Beginning January 1, 2008, tangible personal property
3 used in the construction or maintenance of a community water
4 supply, as defined under Section 3.145 of the Environmental
5 Protection Act, that is operated by a not-for-profit
6 corporation that holds a valid water supply permit issued under
7 Title IV of the Environmental Protection Act. This paragraph is
8 exempt from the provisions of Section 3-55.

9 (28) Tangible personal property sold to a
10 public-facilities corporation, as described in Section
11 11-65-10 of the Illinois Municipal Code, for purposes of
12 constructing or furnishing a municipal convention hall, but
13 only if the legal title to the municipal convention hall is
14 transferred to the municipality without any further
15 consideration by or on behalf of the municipality at the time
16 of the completion of the municipal convention hall or upon the
17 retirement or redemption of any bonds or other debt instruments
18 issued by the public-facilities corporation in connection with
19 the development of the municipal convention hall. This
20 exemption includes existing public-facilities corporations as
21 provided in Section 11-65-25 of the Illinois Municipal Code.
22 This paragraph is exempt from the provisions of Section 3-55.

23 (29) Beginning January 1, 2010, materials, parts,
24 equipment, components, and furnishings incorporated into or
25 upon an aircraft as part of the modification, refurbishment,
26 completion, replacement, repair, or maintenance of the

1 aircraft. This exemption includes consumable supplies used in
2 the modification, refurbishment, completion, replacement,
3 repair, and maintenance of aircraft, but excludes any
4 materials, parts, equipment, components, and consumable
5 supplies used in the modification, replacement, repair, and
6 maintenance of aircraft engines or power plants, whether such
7 engines or power plants are installed or uninstalled upon any
8 such aircraft. "Consumable supplies" include, but are not
9 limited to, adhesive, tape, sandpaper, general purpose
10 lubricants, cleaning solution, latex gloves, and protective
11 films. This exemption applies only to those organizations that
12 (i) hold an Air Agency Certificate and are empowered to operate
13 an approved repair station by the Federal Aviation
14 Administration, (ii) have a Class IV Rating, and (iii) conduct
15 operations in accordance with Part 145 of the Federal Aviation
16 Regulations. The exemption does not include aircraft operated
17 by a commercial air carrier providing scheduled passenger air
18 service pursuant to authority issued under Part 121 or Part 129
19 of the Federal Aviation Regulations.

20 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,
21 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
22 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
23 7-2-10.)

24 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

25 Sec. 3-10. Rate of tax. Unless otherwise provided in this

1 Section, the tax imposed by this Act is at the rate of 6.25% of
2 the "selling price", as defined in Section 2 of the Service Use
3 Tax Act, of the tangible personal property. For the purpose of
4 computing this tax, in no event shall the "selling price" be
5 less than the cost price to the serviceman of the tangible
6 personal property transferred. The selling price of each item
7 of tangible personal property transferred as an incident of a
8 sale of service may be shown as a distinct and separate item on
9 the serviceman's billing to the service customer. If the
10 selling price is not so shown, the selling price of the
11 tangible personal property is deemed to be 50% of the
12 serviceman's entire billing to the service customer. When,
13 however, a serviceman contracts to design, develop, and produce
14 special order machinery or equipment, the tax imposed by this
15 Act shall be based on the serviceman's cost price of the
16 tangible personal property transferred incident to the
17 completion of the contract.

18 Beginning on July 1, 2000 and through December 31, 2000,
19 with respect to motor fuel, as defined in Section 1.1 of the
20 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
21 the Use Tax Act, the tax is imposed at the rate of 1.25%.

22 With respect to gasohol, as defined in the Use Tax Act, the
23 tax imposed by this Act shall apply to (i) 70% of the cost
24 price of property transferred as an incident to the sale of
25 service on or after January 1, 1990, and before July 1, 2003,
26 (ii) 80% of the selling price of property transferred as an

1 incident to the sale of service on or after July 1, 2003 and on
2 or before December 31, 2013, and (iii) 100% of the cost price
3 thereafter. If, at any time, however, the tax under this Act on
4 sales of gasohol, as defined in the Use Tax Act, is imposed at
5 the rate of 1.25%, then the tax imposed by this Act applies to
6 100% of the proceeds of sales of gasohol made during that time.

7 With respect to majority blended ethanol fuel, as defined
8 in the Use Tax Act, the tax imposed by this Act does not apply
9 to the selling price of property transferred as an incident to
10 the sale of service on or after July 1, 2003 and on or before
11 December 31, 2013 but applies to 100% of the selling price
12 thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax
14 Act, with no less than 1% and no more than 10% biodiesel, the
15 tax imposed by this Act applies to (i) 80% of the selling price
16 of property transferred as an incident to the sale of service
17 on or after July 1, 2003 and on or before December 31, 2013 and
18 (ii) 100% of the proceeds of the selling price thereafter. If,
19 at any time, however, the tax under this Act on sales of
20 biodiesel blends, as defined in the Use Tax Act, with no less
21 than 1% and no more than 10% biodiesel is imposed at the rate
22 of 1.25%, then the tax imposed by this Act applies to 100% of
23 the proceeds of sales of biodiesel blends with no less than 1%
24 and no more than 10% biodiesel made during that time.

25 With respect to 100% biodiesel, as defined in the Use Tax
26 Act, and biodiesel blends, as defined in the Use Tax Act, with

1 more than 10% but no more than 99% biodiesel material, the tax
2 imposed by this Act does not apply to the proceeds of the
3 selling price of property transferred as an incident to the
4 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 At the election of any registered serviceman made for each
8 fiscal year, sales of service in which the aggregate annual
9 cost price of tangible personal property transferred as an
10 incident to the sales of service is less than 35%, or 75% in
11 the case of servicemen transferring prescription drugs or
12 servicemen engaged in graphic arts production, of the aggregate
13 annual total gross receipts from all sales of service, the tax
14 imposed by this Act shall be based on the serviceman's cost
15 price of the tangible personal property transferred incident to
16 the sale of those services.

17 The tax shall be imposed at the rate of 1% on food prepared
18 for immediate consumption and transferred incident to a sale of
19 service subject to this Act or the Service Occupation Tax Act
20 by an entity licensed under the Hospital Licensing Act, the
21 Nursing Home Care Act, the MR/DD Community Care Act, the
22 Specialized Mental Health Rehabilitation Act, or the Child Care
23 Act of 1969. The tax shall also be imposed at the rate of 1% on
24 food for human consumption that is to be consumed off the
25 premises where it is sold (other than alcoholic beverages, soft
26 drinks, and food that has been prepared for immediate

1 consumption and is not otherwise included in this paragraph)
2 and prescription and nonprescription medicines, drugs, medical
3 appliances, modifications to a motor vehicle for the purpose of
4 rendering it usable by a disabled person, and insulin, urine
5 testing materials, syringes, and needles used by diabetics, for
6 human use. For the purposes of this Section, until September 1,
7 2009: the term "soft drinks" means any complete, finished,
8 ready-to-use, non-alcoholic drink, whether carbonated or not,
9 including but not limited to soda water, cola, fruit juice,
10 vegetable juice, carbonated water, and all other preparations
11 commonly known as soft drinks of whatever kind or description
12 that are contained in any closed or sealed can, carton, or
13 container, regardless of size; but "soft drinks" does not
14 include coffee, tea, non-carbonated water, infant formula,
15 milk or milk products as defined in the Grade A Pasteurized
16 Milk and Milk Products Act, or drinks containing 50% or more
17 natural fruit or vegetable juice.

18 Notwithstanding any other provisions of this Act,
19 beginning September 1, 2009, "soft drinks" means non-alcoholic
20 beverages that contain natural or artificial sweeteners. "Soft
21 drinks" do not include beverages that contain milk or milk
22 products, soy, rice or similar milk substitutes, or greater
23 than 50% of vegetable or fruit juice by volume.

24 Until August 1, 2009, and notwithstanding any other
25 provisions of this Act, "food for human consumption that is to
26 be consumed off the premises where it is sold" includes all

1 food sold through a vending machine, except soft drinks and
2 food products that are dispensed hot from a vending machine,
3 regardless of the location of the vending machine. Beginning
4 August 1, 2009, and notwithstanding any other provisions of
5 this Act, "food for human consumption that is to be consumed
6 off the premises where it is sold" includes all food sold
7 through a vending machine, except soft drinks, candy, and food
8 products that are dispensed hot from a vending machine,
9 regardless of the location of the vending machine.

10 Notwithstanding any other provisions of this Act,
11 beginning September 1, 2009, "food for human consumption that
12 is to be consumed off the premises where it is sold" does not
13 include candy. For purposes of this Section, "candy" means a
14 preparation of sugar, honey, or other natural or artificial
15 sweeteners in combination with chocolate, fruits, nuts or other
16 ingredients or flavorings in the form of bars, drops, or
17 pieces. "Candy" does not include any preparation that contains
18 flour or requires refrigeration.

19 Notwithstanding any other provisions of this Act,
20 beginning September 1, 2009, "nonprescription medicines and
21 drugs" does not include grooming and hygiene products. For
22 purposes of this Section, "grooming and hygiene products"
23 includes, but is not limited to, soaps and cleaning solutions,
24 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
25 lotions and screens, unless those products are available by
26 prescription only, regardless of whether the products meet the

1 definition of "over-the-counter-drugs". For the purposes of
2 this paragraph, "over-the-counter-drug" means a drug for human
3 use that contains a label that identifies the product as a drug
4 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
5 label includes:

6 (A) A "Drug Facts" panel; or

7 (B) A statement of the "active ingredient(s)" with a
8 list of those ingredients contained in the compound,
9 substance or preparation.

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 90-65. The Retailers' Occupation Tax Act is amended
13 by changing Section 2-5 as follows:

14 (35 ILCS 120/2-5)

15 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
16 sale of the following tangible personal property are exempt
17 from the tax imposed by this Act:

18 (1) Farm chemicals.

19 (2) Farm machinery and equipment, both new and used,
20 including that manufactured on special order, certified by the
21 purchaser to be used primarily for production agriculture or
22 State or federal agricultural programs, including individual
23 replacement parts for the machinery and equipment, including
24 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (2). Agricultural chemical tender tanks and dry boxes
10 shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed, if the selling price of the
13 tender is separately stated.

14 Farm machinery and equipment shall include precision
15 farming equipment that is installed or purchased to be
16 installed on farm machinery and equipment including, but not
17 limited to, tractors, harvesters, sprayers, planters, seeders,
18 or spreaders. Precision farming equipment includes, but is not
19 limited to, soil testing sensors, computers, monitors,
20 software, global positioning and mapping systems, and other
21 such equipment.

22 Farm machinery and equipment also includes computers,
23 sensors, software, and related equipment used primarily in the
24 computer-assisted operation of production agriculture
25 facilities, equipment, and activities such as, but not limited
26 to, the collection, monitoring, and correlation of animal and

1 crop data for the purpose of formulating animal diets and
2 agricultural chemicals. This item (7) is exempt from the
3 provisions of Section 2-70.

4 (3) Until July 1, 2003, distillation machinery and
5 equipment, sold as a unit or kit, assembled or installed by the
6 retailer, certified by the user to be used only for the
7 production of ethyl alcohol that will be used for consumption
8 as motor fuel or as a component of motor fuel for the personal
9 use of the user, and not subject to sale or resale.

10 (4) Until July 1, 2003 and beginning again September 1,
11 2004 through August 30, 2014, graphic arts machinery and
12 equipment, including repair and replacement parts, both new and
13 used, and including that manufactured on special order or
14 purchased for lease, certified by the purchaser to be used
15 primarily for graphic arts production. Equipment includes
16 chemicals or chemicals acting as catalysts but only if the
17 chemicals or chemicals acting as catalysts effect a direct and
18 immediate change upon a graphic arts product.

19 (5) A motor vehicle of the first division, a motor vehicle
20 of the second division that is a self contained motor vehicle
21 designed or permanently converted to provide living quarters
22 for recreational, camping, or travel use, with direct walk
23 through access to the living quarters from the driver's seat,
24 or a motor vehicle of the second division that is of the van
25 configuration designed for the transportation of not less than
26 7 nor more than 16 passengers, as defined in Section 1-146 of

1 the Illinois Vehicle Code, that is used for automobile renting,
2 as defined in the Automobile Renting Occupation and Use Tax
3 Act. This paragraph is exempt from the provisions of Section
4 2-70.

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) Until July 1, 2003, proceeds of that portion of the
9 selling price of a passenger car the sale of which is subject
10 to the Replacement Vehicle Tax.

11 (8) Personal property sold to an Illinois county fair
12 association for use in conducting, operating, or promoting the
13 county fair.

14 (9) Personal property sold to a not-for-profit arts or
15 cultural organization that establishes, by proof required by
16 the Department by rule, that it has received an exemption under
17 Section 501(c)(3) of the Internal Revenue Code and that is
18 organized and operated primarily for the presentation or
19 support of arts or cultural programming, activities, or
20 services. These organizations include, but are not limited to,
21 music and dramatic arts organizations such as symphony
22 orchestras and theatrical groups, arts and cultural service
23 organizations, local arts councils, visual arts organizations,
24 and media arts organizations. On and after the effective date
25 of this amendatory Act of the 92nd General Assembly, however,
26 an entity otherwise eligible for this exemption shall not make

1 tax-free purchases unless it has an active identification
2 number issued by the Department.

3 (10) Personal property sold by a corporation, society,
4 association, foundation, institution, or organization, other
5 than a limited liability company, that is organized and
6 operated as a not-for-profit service enterprise for the benefit
7 of persons 65 years of age or older if the personal property
8 was not purchased by the enterprise for the purpose of resale
9 by the enterprise.

10 (11) Personal property sold to a governmental body, to a
11 corporation, society, association, foundation, or institution
12 organized and operated exclusively for charitable, religious,
13 or educational purposes, or to a not-for-profit corporation,
14 society, association, foundation, institution, or organization
15 that has no compensated officers or employees and that is
16 organized and operated primarily for the recreation of persons
17 55 years of age or older. A limited liability company may
18 qualify for the exemption under this paragraph only if the
19 limited liability company is organized and operated
20 exclusively for educational purposes. On and after July 1,
21 1987, however, no entity otherwise eligible for this exemption
22 shall make tax-free purchases unless it has an active
23 identification number issued by the Department.

24 (12) Tangible personal property sold to interstate
25 carriers for hire for use as rolling stock moving in interstate
26 commerce or to lessors under leases of one year or longer

1 executed or in effect at the time of purchase by interstate
2 carriers for hire for use as rolling stock moving in interstate
3 commerce and equipment operated by a telecommunications
4 provider, licensed as a common carrier by the Federal
5 Communications Commission, which is permanently installed in
6 or affixed to aircraft moving in interstate commerce.

7 (12-5) On and after July 1, 2003 and through June 30, 2004,
8 motor vehicles of the second division with a gross vehicle
9 weight in excess of 8,000 pounds that are subject to the
10 commercial distribution fee imposed under Section 3-815.1 of
11 the Illinois Vehicle Code. Beginning on July 1, 2004 and
12 through June 30, 2005, the use in this State of motor vehicles
13 of the second division: (i) with a gross vehicle weight rating
14 in excess of 8,000 pounds; (ii) that are subject to the
15 commercial distribution fee imposed under Section 3-815.1 of
16 the Illinois Vehicle Code; and (iii) that are primarily used
17 for commercial purposes. Through June 30, 2005, this exemption
18 applies to repair and replacement parts added after the initial
19 purchase of such a motor vehicle if that motor vehicle is used
20 in a manner that would qualify for the rolling stock exemption
21 otherwise provided for in this Act. For purposes of this
22 paragraph, "used for commercial purposes" means the
23 transportation of persons or property in furtherance of any
24 commercial or industrial enterprise whether for-hire or not.

25 (13) Proceeds from sales to owners, lessors, or shippers of
26 tangible personal property that is utilized by interstate

1 carriers for hire for use as rolling stock moving in interstate
2 commerce and equipment operated by a telecommunications
3 provider, licensed as a common carrier by the Federal
4 Communications Commission, which is permanently installed in
5 or affixed to aircraft moving in interstate commerce.

6 (14) Machinery and equipment that will be used by the
7 purchaser, or a lessee of the purchaser, primarily in the
8 process of manufacturing or assembling tangible personal
9 property for wholesale or retail sale or lease, whether the
10 sale or lease is made directly by the manufacturer or by some
11 other person, whether the materials used in the process are
12 owned by the manufacturer or some other person, or whether the
13 sale or lease is made apart from or as an incident to the
14 seller's engaging in the service occupation of producing
15 machines, tools, dies, jigs, patterns, gauges, or other similar
16 items of no commercial value on special order for a particular
17 purchaser.

18 (15) Proceeds of mandatory service charges separately
19 stated on customers' bills for purchase and consumption of food
20 and beverages, to the extent that the proceeds of the service
21 charge are in fact turned over as tips or as a substitute for
22 tips to the employees who participate directly in preparing,
23 serving, hosting or cleaning up the food or beverage function
24 with respect to which the service charge is imposed.

25 (16) Petroleum products sold to a purchaser if the seller
26 is prohibited by federal law from charging tax to the

1 purchaser.

2 (17) Tangible personal property sold to a common carrier by
3 rail or motor that receives the physical possession of the
4 property in Illinois and that transports the property, or
5 shares with another common carrier in the transportation of the
6 property, out of Illinois on a standard uniform bill of lading
7 showing the seller of the property as the shipper or consignor
8 of the property to a destination outside Illinois, for use
9 outside Illinois.

10 (18) Legal tender, currency, medallions, or gold or silver
11 coinage issued by the State of Illinois, the government of the
12 United States of America, or the government of any foreign
13 country, and bullion.

14 (19) Until July 1 2003, oil field exploration, drilling,
15 and production equipment, including (i) rigs and parts of rigs,
16 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
17 tubular goods, including casing and drill strings, (iii) pumps
18 and pump-jack units, (iv) storage tanks and flow lines, (v) any
19 individual replacement part for oil field exploration,
20 drilling, and production equipment, and (vi) machinery and
21 equipment purchased for lease; but excluding motor vehicles
22 required to be registered under the Illinois Vehicle Code.

23 (20) Photoprocessing machinery and equipment, including
24 repair and replacement parts, both new and used, including that
25 manufactured on special order, certified by the purchaser to be
26 used primarily for photoprocessing, and including

1 photoprocessing machinery and equipment purchased for lease.

2 (21) Until July 1, 2003, coal exploration, mining,
3 offhighway hauling, processing, maintenance, and reclamation
4 equipment, including replacement parts and equipment, and
5 including equipment purchased for lease, but excluding motor
6 vehicles required to be registered under the Illinois Vehicle
7 Code.

8 (22) Fuel and petroleum products sold to or used by an air
9 carrier, certified by the carrier to be used for consumption,
10 shipment, or storage in the conduct of its business as an air
11 common carrier, for a flight destined for or returning from a
12 location or locations outside the United States without regard
13 to previous or subsequent domestic stopovers.

14 (23) A transaction in which the purchase order is received
15 by a florist who is located outside Illinois, but who has a
16 florist located in Illinois deliver the property to the
17 purchaser or the purchaser's donee in Illinois.

18 (24) Fuel consumed or used in the operation of ships,
19 barges, or vessels that are used primarily in or for the
20 transportation of property or the conveyance of persons for
21 hire on rivers bordering on this State if the fuel is delivered
22 by the seller to the purchaser's barge, ship, or vessel while
23 it is afloat upon that bordering river.

24 (25) Except as provided in item (25-5) of this Section, a
25 motor vehicle sold in this State to a nonresident even though
26 the motor vehicle is delivered to the nonresident in this

1 State, if the motor vehicle is not to be titled in this State,
2 and if a drive-away permit is issued to the motor vehicle as
3 provided in Section 3-603 of the Illinois Vehicle Code or if
4 the nonresident purchaser has vehicle registration plates to
5 transfer to the motor vehicle upon returning to his or her home
6 state. The issuance of the drive-away permit or having the
7 out-of-state registration plates to be transferred is prima
8 facie evidence that the motor vehicle will not be titled in
9 this State.

10 (25-5) The exemption under item (25) does not apply if the
11 state in which the motor vehicle will be titled does not allow
12 a reciprocal exemption for a motor vehicle sold and delivered
13 in that state to an Illinois resident but titled in Illinois.
14 The tax collected under this Act on the sale of a motor vehicle
15 in this State to a resident of another state that does not
16 allow a reciprocal exemption shall be imposed at a rate equal
17 to the state's rate of tax on taxable property in the state in
18 which the purchaser is a resident, except that the tax shall
19 not exceed the tax that would otherwise be imposed under this
20 Act. At the time of the sale, the purchaser shall execute a
21 statement, signed under penalty of perjury, of his or her
22 intent to title the vehicle in the state in which the purchaser
23 is a resident within 30 days after the sale and of the fact of
24 the payment to the State of Illinois of tax in an amount
25 equivalent to the state's rate of tax on taxable property in
26 his or her state of residence and shall submit the statement to

1 the appropriate tax collection agency in his or her state of
2 residence. In addition, the retailer must retain a signed copy
3 of the statement in his or her records. Nothing in this item
4 shall be construed to require the removal of the vehicle from
5 this state following the filing of an intent to title the
6 vehicle in the purchaser's state of residence if the purchaser
7 titles the vehicle in his or her state of residence within 30
8 days after the date of sale. The tax collected under this Act
9 in accordance with this item (25-5) shall be proportionately
10 distributed as if the tax were collected at the 6.25% general
11 rate imposed under this Act.

12 (25-7) Beginning on July 1, 2007, no tax is imposed under
13 this Act on the sale of an aircraft, as defined in Section 3 of
14 the Illinois Aeronautics Act, if all of the following
15 conditions are met:

16 (1) the aircraft leaves this State within 15 days after
17 the later of either the issuance of the final billing for
18 the sale of the aircraft, or the authorized approval for
19 return to service, completion of the maintenance record
20 entry, and completion of the test flight and ground test
21 for inspection, as required by 14 C.F.R. 91.407;

22 (2) the aircraft is not based or registered in this
23 State after the sale of the aircraft; and

24 (3) the seller retains in his or her books and records
25 and provides to the Department a signed and dated
26 certification from the purchaser, on a form prescribed by

1 the Department, certifying that the requirements of this
2 item (25-7) are met. The certificate must also include the
3 name and address of the purchaser, the address of the
4 location where the aircraft is to be titled or registered,
5 the address of the primary physical location of the
6 aircraft, and other information that the Department may
7 reasonably require.

8 For purposes of this item (25-7):

9 "Based in this State" means hangared, stored, or otherwise
10 used, excluding post-sale customizations as defined in this
11 Section, for 10 or more days in each 12-month period
12 immediately following the date of the sale of the aircraft.

13 "Registered in this State" means an aircraft registered
14 with the Department of Transportation, Aeronautics Division,
15 or titled or registered with the Federal Aviation
16 Administration to an address located in this State.

17 This paragraph (25-7) is exempt from the provisions of
18 Section 2-70.

19 (26) Semen used for artificial insemination of livestock
20 for direct agricultural production.

21 (27) Horses, or interests in horses, registered with and
22 meeting the requirements of any of the Arabian Horse Club
23 Registry of America, Appaloosa Horse Club, American Quarter
24 Horse Association, United States Trotting Association, or
25 Jockey Club, as appropriate, used for purposes of breeding or
26 racing for prizes. This item (27) is exempt from the provisions

1 of Section 2-70, and the exemption provided for under this item
2 (27) applies for all periods beginning May 30, 1995, but no
3 claim for credit or refund is allowed on or after January 1,
4 2008 (the effective date of Public Act 95-88) for such taxes
5 paid during the period beginning May 30, 2000 and ending on
6 January 1, 2008 (the effective date of Public Act 95-88).

7 (28) Computers and communications equipment utilized for
8 any hospital purpose and equipment used in the diagnosis,
9 analysis, or treatment of hospital patients sold to a lessor
10 who leases the equipment, under a lease of one year or longer
11 executed or in effect at the time of the purchase, to a
12 hospital that has been issued an active tax exemption
13 identification number by the Department under Section 1g of
14 this Act.

15 (29) Personal property sold to a lessor who leases the
16 property, under a lease of one year or longer executed or in
17 effect at the time of the purchase, to a governmental body that
18 has been issued an active tax exemption identification number
19 by the Department under Section 1g of this Act.

20 (30) Beginning with taxable years ending on or after
21 December 31, 1995 and ending with taxable years ending on or
22 before December 31, 2004, personal property that is donated for
23 disaster relief to be used in a State or federally declared
24 disaster area in Illinois or bordering Illinois by a
25 manufacturer or retailer that is registered in this State to a
26 corporation, society, association, foundation, or institution

1 that has been issued a sales tax exemption identification
2 number by the Department that assists victims of the disaster
3 who reside within the declared disaster area.

4 (31) Beginning with taxable years ending on or after
5 December 31, 1995 and ending with taxable years ending on or
6 before December 31, 2004, personal property that is used in the
7 performance of infrastructure repairs in this State, including
8 but not limited to municipal roads and streets, access roads,
9 bridges, sidewalks, waste disposal systems, water and sewer
10 line extensions, water distribution and purification
11 facilities, storm water drainage and retention facilities, and
12 sewage treatment facilities, resulting from a State or
13 federally declared disaster in Illinois or bordering Illinois
14 when such repairs are initiated on facilities located in the
15 declared disaster area within 6 months after the disaster.

16 (32) Beginning July 1, 1999, game or game birds sold at a
17 "game breeding and hunting preserve area" or an "exotic game
18 hunting area" as those terms are used in the Wildlife Code or
19 at a hunting enclosure approved through rules adopted by the
20 Department of Natural Resources. This paragraph is exempt from
21 the provisions of Section 2-70.

22 (33) A motor vehicle, as that term is defined in Section
23 1-146 of the Illinois Vehicle Code, that is donated to a
24 corporation, limited liability company, society, association,
25 foundation, or institution that is determined by the Department
26 to be organized and operated exclusively for educational

1 purposes. For purposes of this exemption, "a corporation,
2 limited liability company, society, association, foundation,
3 or institution organized and operated exclusively for
4 educational purposes" means all tax-supported public schools,
5 private schools that offer systematic instruction in useful
6 branches of learning by methods common to public schools and
7 that compare favorably in their scope and intensity with the
8 course of study presented in tax-supported schools, and
9 vocational or technical schools or institutes organized and
10 operated exclusively to provide a course of study of not less
11 than 6 weeks duration and designed to prepare individuals to
12 follow a trade or to pursue a manual, technical, mechanical,
13 industrial, business, or commercial occupation.

14 (34) Beginning January 1, 2000, personal property,
15 including food, purchased through fundraising events for the
16 benefit of a public or private elementary or secondary school,
17 a group of those schools, or one or more school districts if
18 the events are sponsored by an entity recognized by the school
19 district that consists primarily of volunteers and includes
20 parents and teachers of the school children. This paragraph
21 does not apply to fundraising events (i) for the benefit of
22 private home instruction or (ii) for which the fundraising
23 entity purchases the personal property sold at the events from
24 another individual or entity that sold the property for the
25 purpose of resale by the fundraising entity and that profits
26 from the sale to the fundraising entity. This paragraph is

1 exempt from the provisions of Section 2-70.

2 (35) Beginning January 1, 2000 and through December 31,
3 2001, new or used automatic vending machines that prepare and
4 serve hot food and beverages, including coffee, soup, and other
5 items, and replacement parts for these machines. Beginning
6 January 1, 2002 and through June 30, 2003, machines and parts
7 for machines used in commercial, coin-operated amusement and
8 vending business if a use or occupation tax is paid on the
9 gross receipts derived from the use of the commercial,
10 coin-operated amusement and vending machines. This paragraph
11 is exempt from the provisions of Section 2-70.

12 (35-5) Beginning August 23, 2001 and through June 30, 2011,
13 food for human consumption that is to be consumed off the
14 premises where it is sold (other than alcoholic beverages, soft
15 drinks, and food that has been prepared for immediate
16 consumption) and prescription and nonprescription medicines,
17 drugs, medical appliances, and insulin, urine testing
18 materials, syringes, and needles used by diabetics, for human
19 use, when purchased for use by a person receiving medical
20 assistance under Article V of the Illinois Public Aid Code who
21 resides in a licensed long-term care facility, as defined in
22 the Nursing Home Care Act, or a licensed facility as defined in
23 the MR/DD Community Care Act or the Specialized Mental Health
24 Rehabilitation Act.

25 (36) Beginning August 2, 2001, computers and
26 communications equipment utilized for any hospital purpose and

1 equipment used in the diagnosis, analysis, or treatment of
2 hospital patients sold to a lessor who leases the equipment,
3 under a lease of one year or longer executed or in effect at
4 the time of the purchase, to a hospital that has been issued an
5 active tax exemption identification number by the Department
6 under Section 1g of this Act. This paragraph is exempt from the
7 provisions of Section 2-70.

8 (37) Beginning August 2, 2001, personal property sold to a
9 lessor who leases the property, under a lease of one year or
10 longer executed or in effect at the time of the purchase, to a
11 governmental body that has been issued an active tax exemption
12 identification number by the Department under Section 1g of
13 this Act. This paragraph is exempt from the provisions of
14 Section 2-70.

15 (38) Beginning on January 1, 2002 and through June 30,
16 2011, tangible personal property purchased from an Illinois
17 retailer by a taxpayer engaged in centralized purchasing
18 activities in Illinois who will, upon receipt of the property
19 in Illinois, temporarily store the property in Illinois (i) for
20 the purpose of subsequently transporting it outside this State
21 for use or consumption thereafter solely outside this State or
22 (ii) for the purpose of being processed, fabricated, or
23 manufactured into, attached to, or incorporated into other
24 tangible personal property to be transported outside this State
25 and thereafter used or consumed solely outside this State. The
26 Director of Revenue shall, pursuant to rules adopted in

1 accordance with the Illinois Administrative Procedure Act,
2 issue a permit to any taxpayer in good standing with the
3 Department who is eligible for the exemption under this
4 paragraph (38). The permit issued under this paragraph (38)
5 shall authorize the holder, to the extent and in the manner
6 specified in the rules adopted under this Act, to purchase
7 tangible personal property from a retailer exempt from the
8 taxes imposed by this Act. Taxpayers shall maintain all
9 necessary books and records to substantiate the use and
10 consumption of all such tangible personal property outside of
11 the State of Illinois.

12 (39) Beginning January 1, 2008, tangible personal property
13 used in the construction or maintenance of a community water
14 supply, as defined under Section 3.145 of the Environmental
15 Protection Act, that is operated by a not-for-profit
16 corporation that holds a valid water supply permit issued under
17 Title IV of the Environmental Protection Act. This paragraph is
18 exempt from the provisions of Section 2-70.

19 (40) Beginning January 1, 2010, materials, parts,
20 equipment, components, and furnishings incorporated into or
21 upon an aircraft as part of the modification, refurbishment,
22 completion, replacement, repair, or maintenance of the
23 aircraft. This exemption includes consumable supplies used in
24 the modification, refurbishment, completion, replacement,
25 repair, and maintenance of aircraft, but excludes any
26 materials, parts, equipment, components, and consumable

1 supplies used in the modification, replacement, repair, and
2 maintenance of aircraft engines or power plants, whether such
3 engines or power plants are installed or uninstalled upon any
4 such aircraft. "Consumable supplies" include, but are not
5 limited to, adhesive, tape, sandpaper, general purpose
6 lubricants, cleaning solution, latex gloves, and protective
7 films. This exemption applies only to those organizations that
8 (i) hold an Air Agency Certificate and are empowered to operate
9 an approved repair station by the Federal Aviation
10 Administration, (ii) have a Class IV Rating, and (iii) conduct
11 operations in accordance with Part 145 of the Federal Aviation
12 Regulations. The exemption does not include aircraft operated
13 by a commercial air carrier providing scheduled passenger air
14 service pursuant to authority issued under Part 121 or Part 129
15 of the Federal Aviation Regulations.

16 (41) Tangible personal property sold to a
17 public-facilities corporation, as described in Section
18 11-65-10 of the Illinois Municipal Code, for purposes of
19 constructing or furnishing a municipal convention hall, but
20 only if the legal title to the municipal convention hall is
21 transferred to the municipality without any further
22 consideration by or on behalf of the municipality at the time
23 of the completion of the municipal convention hall or upon the
24 retirement or redemption of any bonds or other debt instruments
25 issued by the public-facilities corporation in connection with
26 the development of the municipal convention hall. This

1 exemption includes existing public-facilities corporations as
2 provided in Section 11-65-25 of the Illinois Municipal Code.
3 This paragraph is exempt from the provisions of Section 2-70.

4 (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304,
5 eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08;
6 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.
7 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000,
8 eff. 7-2-10.)

9 Section 90-70. The Property Tax Code is amended by changing
10 Sections 15-168, 15-170, and 15-172 as follows:

11 (35 ILCS 200/15-168)

12 Sec. 15-168. Disabled persons' homestead exemption.

13 (a) Beginning with taxable year 2007, an annual homestead
14 exemption is granted to disabled persons in the amount of
15 \$2,000, except as provided in subsection (c), to be deducted
16 from the property's value as equalized or assessed by the
17 Department of Revenue. The disabled person shall receive the
18 homestead exemption upon meeting the following requirements:

19 (1) The property must be occupied as the primary
20 residence by the disabled person.

21 (2) The disabled person must be liable for paying the
22 real estate taxes on the property.

23 (3) The disabled person must be an owner of record of
24 the property or have a legal or equitable interest in the

1 property as evidenced by a written instrument. In the case
2 of a leasehold interest in property, the lease must be for
3 a single family residence.

4 A person who is disabled during the taxable year is
5 eligible to apply for this homestead exemption during that
6 taxable year. Application must be made during the application
7 period in effect for the county of residence. If a homestead
8 exemption has been granted under this Section and the person
9 awarded the exemption subsequently becomes a resident of a
10 facility licensed under the Nursing Home Care Act, the
11 Specialized Mental Health Rehabilitation Act, or the MR/DD
12 Community Care Act, then the exemption shall continue (i) so
13 long as the residence continues to be occupied by the
14 qualifying person's spouse or (ii) if the residence remains
15 unoccupied but is still owned by the person qualified for the
16 homestead exemption.

17 (b) For the purposes of this Section, "disabled person"
18 means a person unable to engage in any substantial gainful
19 activity by reason of a medically determinable physical or
20 mental impairment which can be expected to result in death or
21 has lasted or can be expected to last for a continuous period
22 of not less than 12 months. Disabled persons filing claims
23 under this Act shall submit proof of disability in such form
24 and manner as the Department shall by rule and regulation
25 prescribe. Proof that a claimant is eligible to receive
26 disability benefits under the Federal Social Security Act shall

1 constitute proof of disability for purposes of this Act.
2 Issuance of an Illinois Disabled Person Identification Card
3 stating that the claimant is under a Class 2 disability, as
4 defined in Section 4A of The Illinois Identification Card Act,
5 shall constitute proof that the person named thereon is a
6 disabled person for purposes of this Act. A disabled person not
7 covered under the Federal Social Security Act and not
8 presenting a Disabled Person Identification Card stating that
9 the claimant is under a Class 2 disability shall be examined by
10 a physician designated by the Department, and his status as a
11 disabled person determined using the same standards as used by
12 the Social Security Administration. The costs of any required
13 examination shall be borne by the claimant.

14 (c) For land improved with (i) an apartment building owned
15 and operated as a cooperative or (ii) a life care facility as
16 defined under Section 2 of the Life Care Facilities Act that is
17 considered to be a cooperative, the maximum reduction from the
18 value of the property, as equalized or assessed by the
19 Department, shall be multiplied by the number of apartments or
20 units occupied by a disabled person. The disabled person shall
21 receive the homestead exemption upon meeting the following
22 requirements:

23 (1) The property must be occupied as the primary
24 residence by the disabled person.

25 (2) The disabled person must be liable by contract with
26 the owner or owners of record for paying the apportioned

1 property taxes on the property of the cooperative or life
2 care facility. In the case of a life care facility, the
3 disabled person must be liable for paying the apportioned
4 property taxes under a life care contract as defined in
5 Section 2 of the Life Care Facilities Act.

6 (3) The disabled person must be an owner of record of a
7 legal or equitable interest in the cooperative apartment
8 building. A leasehold interest does not meet this
9 requirement.

10 If a homestead exemption is granted under this subsection, the
11 cooperative association or management firm shall credit the
12 savings resulting from the exemption to the apportioned tax
13 liability of the qualifying disabled person. The chief county
14 assessment officer may request reasonable proof that the
15 association or firm has properly credited the exemption. A
16 person who willfully refuses to credit an exemption to the
17 qualified disabled person is guilty of a Class B misdemeanor.

18 (d) The chief county assessment officer shall determine the
19 eligibility of property to receive the homestead exemption
20 according to guidelines established by the Department. After a
21 person has received an exemption under this Section, an annual
22 verification of eligibility for the exemption shall be mailed
23 to the taxpayer.

24 In counties with fewer than 3,000,000 inhabitants, the
25 chief county assessment officer shall provide to each person
26 granted a homestead exemption under this Section a form to

1 designate any other person to receive a duplicate of any notice
2 of delinquency in the payment of taxes assessed and levied
3 under this Code on the person's qualifying property. The
4 duplicate notice shall be in addition to the notice required to
5 be provided to the person receiving the exemption and shall be
6 given in the manner required by this Code. The person filing
7 the request for the duplicate notice shall pay an
8 administrative fee of \$5 to the chief county assessment
9 officer. The assessment officer shall then file the executed
10 designation with the county collector, who shall issue the
11 duplicate notices as indicated by the designation. A
12 designation may be rescinded by the disabled person in the
13 manner required by the chief county assessment officer.

14 (e) A taxpayer who claims an exemption under Section 15-165
15 or 15-169 may not claim an exemption under this Section.

16 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

17 (35 ILCS 200/15-170)

18 Sec. 15-170. Senior Citizens Homestead Exemption. An
19 annual homestead exemption limited, except as described here
20 with relation to cooperatives or life care facilities, to a
21 maximum reduction set forth below from the property's value, as
22 equalized or assessed by the Department, is granted for
23 property that is occupied as a residence by a person 65 years
24 of age or older who is liable for paying real estate taxes on
25 the property and is an owner of record of the property or has a

1 legal or equitable interest therein as evidenced by a written
2 instrument, except for a leasehold interest, other than a
3 leasehold interest of land on which a single family residence
4 is located, which is occupied as a residence by a person 65
5 years or older who has an ownership interest therein, legal,
6 equitable or as a lessee, and on which he or she is liable for
7 the payment of property taxes. Before taxable year 2004, the
8 maximum reduction shall be \$2,500 in counties with 3,000,000 or
9 more inhabitants and \$2,000 in all other counties. For taxable
10 years 2004 through 2005, the maximum reduction shall be \$3,000
11 in all counties. For taxable years 2006 and 2007, the maximum
12 reduction shall be \$3,500 and, for taxable years 2008 and
13 thereafter, the maximum reduction is \$4,000 in all counties.

14 For land improved with an apartment building owned and
15 operated as a cooperative, the maximum reduction from the value
16 of the property, as equalized by the Department, shall be
17 multiplied by the number of apartments or units occupied by a
18 person 65 years of age or older who is liable, by contract with
19 the owner or owners of record, for paying property taxes on the
20 property and is an owner of record of a legal or equitable
21 interest in the cooperative apartment building, other than a
22 leasehold interest. For land improved with a life care
23 facility, the maximum reduction from the value of the property,
24 as equalized by the Department, shall be multiplied by the
25 number of apartments or units occupied by persons 65 years of
26 age or older, irrespective of any legal, equitable, or

1 leasehold interest in the facility, who are liable, under a
2 contract with the owner or owners of record of the facility,
3 for paying property taxes on the property. In a cooperative or
4 a life care facility where a homestead exemption has been
5 granted, the cooperative association or the management firm of
6 the cooperative or facility shall credit the savings resulting
7 from that exemption only to the apportioned tax liability of
8 the owner or resident who qualified for the exemption. Any
9 person who willfully refuses to so credit the savings shall be
10 guilty of a Class B misdemeanor. Under this Section and
11 Sections 15-175, 15-176, and 15-177, "life care facility" means
12 a facility, as defined in Section 2 of the Life Care Facilities
13 Act, with which the applicant for the homestead exemption has a
14 life care contract as defined in that Act.

15 When a homestead exemption has been granted under this
16 Section and the person qualifying subsequently becomes a
17 resident of a facility licensed under the Assisted Living and
18 Shared Housing Act, the Nursing Home Care Act, the Specialized
19 Mental Health Rehabilitation Act, or the MR/DD Community Care
20 Act, the exemption shall continue so long as the residence
21 continues to be occupied by the qualifying person's spouse if
22 the spouse is 65 years of age or older, or if the residence
23 remains unoccupied but is still owned by the person qualified
24 for the homestead exemption.

25 A person who will be 65 years of age during the current
26 assessment year shall be eligible to apply for the homestead

1 exemption during that assessment year. Application shall be
2 made during the application period in effect for the county of
3 his residence.

4 Beginning with assessment year 2003, for taxes payable in
5 2004, property that is first occupied as a residence after
6 January 1 of any assessment year by a person who is eligible
7 for the senior citizens homestead exemption under this Section
8 must be granted a pro-rata exemption for the assessment year.
9 The amount of the pro-rata exemption is the exemption allowed
10 in the county under this Section divided by 365 and multiplied
11 by the number of days during the assessment year the property
12 is occupied as a residence by a person eligible for the
13 exemption under this Section. The chief county assessment
14 officer must adopt reasonable procedures to establish
15 eligibility for this pro-rata exemption.

16 The assessor or chief county assessment officer may
17 determine the eligibility of a life care facility to receive
18 the benefits provided by this Section, by affidavit,
19 application, visual inspection, questionnaire or other
20 reasonable methods in order to insure that the tax savings
21 resulting from the exemption are credited by the management
22 firm to the apportioned tax liability of each qualifying
23 resident. The assessor may request reasonable proof that the
24 management firm has so credited the exemption.

25 The chief county assessment officer of each county with
26 less than 3,000,000 inhabitants shall provide to each person

1 allowed a homestead exemption under this Section a form to
2 designate any other person to receive a duplicate of any notice
3 of delinquency in the payment of taxes assessed and levied
4 under this Code on the property of the person receiving the
5 exemption. The duplicate notice shall be in addition to the
6 notice required to be provided to the person receiving the
7 exemption, and shall be given in the manner required by this
8 Code. The person filing the request for the duplicate notice
9 shall pay a fee of \$5 to cover administrative costs to the
10 supervisor of assessments, who shall then file the executed
11 designation with the county collector. Notwithstanding any
12 other provision of this Code to the contrary, the filing of
13 such an executed designation requires the county collector to
14 provide duplicate notices as indicated by the designation. A
15 designation may be rescinded by the person who executed such
16 designation at any time, in the manner and form required by the
17 chief county assessment officer.

18 The assessor or chief county assessment officer may
19 determine the eligibility of residential property to receive
20 the homestead exemption provided by this Section by
21 application, visual inspection, questionnaire or other
22 reasonable methods. The determination shall be made in
23 accordance with guidelines established by the Department.

24 In counties with 3,000,000 or more inhabitants, beginning
25 in taxable year 2010, each taxpayer who has been granted an
26 exemption under this Section must reapply on an annual basis.

1 The chief county assessment officer shall mail the application
2 to the taxpayer. In counties with less than 3,000,000
3 inhabitants, the county board may by resolution provide that if
4 a person has been granted a homestead exemption under this
5 Section, the person qualifying need not reapply for the
6 exemption.

7 In counties with less than 3,000,000 inhabitants, if the
8 assessor or chief county assessment officer requires annual
9 application for verification of eligibility for an exemption
10 once granted under this Section, the application shall be
11 mailed to the taxpayer.

12 The assessor or chief county assessment officer shall
13 notify each person who qualifies for an exemption under this
14 Section that the person may also qualify for deferral of real
15 estate taxes under the Senior Citizens Real Estate Tax Deferral
16 Act. The notice shall set forth the qualifications needed for
17 deferral of real estate taxes, the address and telephone number
18 of county collector, and a statement that applications for
19 deferral of real estate taxes may be obtained from the county
20 collector.

21 Notwithstanding Sections 6 and 8 of the State Mandates Act,
22 no reimbursement by the State is required for the
23 implementation of any mandate created by this Section.

24 (Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08;
25 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10;
26 96-1418, eff. 8-2-10.)

1 (35 ILCS 200/15-172)

2 Sec. 15-172. Senior Citizens Assessment Freeze Homestead
3 Exemption.

4 (a) This Section may be cited as the Senior Citizens
5 Assessment Freeze Homestead Exemption.

6 (b) As used in this Section:

7 "Applicant" means an individual who has filed an
8 application under this Section.

9 "Base amount" means the base year equalized assessed value
10 of the residence plus the first year's equalized assessed value
11 of any added improvements which increased the assessed value of
12 the residence after the base year.

13 "Base year" means the taxable year prior to the taxable
14 year for which the applicant first qualifies and applies for
15 the exemption provided that in the prior taxable year the
16 property was improved with a permanent structure that was
17 occupied as a residence by the applicant who was liable for
18 paying real property taxes on the property and who was either
19 (i) an owner of record of the property or had legal or
20 equitable interest in the property as evidenced by a written
21 instrument or (ii) had a legal or equitable interest as a
22 lessee in the parcel of property that was single family
23 residence. If in any subsequent taxable year for which the
24 applicant applies and qualifies for the exemption the equalized
25 assessed value of the residence is less than the equalized

1 assessed value in the existing base year (provided that such
2 equalized assessed value is not based on an assessed value that
3 results from a temporary irregularity in the property that
4 reduces the assessed value for one or more taxable years), then
5 that subsequent taxable year shall become the base year until a
6 new base year is established under the terms of this paragraph.
7 For taxable year 1999 only, the Chief County Assessment Officer
8 shall review (i) all taxable years for which the applicant
9 applied and qualified for the exemption and (ii) the existing
10 base year. The assessment officer shall select as the new base
11 year the year with the lowest equalized assessed value. An
12 equalized assessed value that is based on an assessed value
13 that results from a temporary irregularity in the property that
14 reduces the assessed value for one or more taxable years shall
15 not be considered the lowest equalized assessed value. The
16 selected year shall be the base year for taxable year 1999 and
17 thereafter until a new base year is established under the terms
18 of this paragraph.

19 "Chief County Assessment Officer" means the County
20 Assessor or Supervisor of Assessments of the county in which
21 the property is located.

22 "Equalized assessed value" means the assessed value as
23 equalized by the Illinois Department of Revenue.

24 "Household" means the applicant, the spouse of the
25 applicant, and all persons using the residence of the applicant
26 as their principal place of residence.

1 "Household income" means the combined income of the members
2 of a household for the calendar year preceding the taxable
3 year.

4 "Income" has the same meaning as provided in Section 3.07
5 of the Senior Citizens and Disabled Persons Property Tax Relief
6 and Pharmaceutical Assistance Act, except that, beginning in
7 assessment year 2001, "income" does not include veteran's
8 benefits.

9 "Internal Revenue Code of 1986" means the United States
10 Internal Revenue Code of 1986 or any successor law or laws
11 relating to federal income taxes in effect for the year
12 preceding the taxable year.

13 "Life care facility that qualifies as a cooperative" means
14 a facility as defined in Section 2 of the Life Care Facilities
15 Act.

16 "Maximum income limitation" means:

- 17 (1) \$35,000 prior to taxable year 1999;
18 (2) \$40,000 in taxable years 1999 through 2003;
19 (3) \$45,000 in taxable years 2004 through 2005;
20 (4) \$50,000 in taxable years 2006 and 2007; and
21 (5) \$55,000 in taxable year 2008 and thereafter.

22 "Residence" means the principal dwelling place and
23 appurtenant structures used for residential purposes in this
24 State occupied on January 1 of the taxable year by a household
25 and so much of the surrounding land, constituting the parcel
26 upon which the dwelling place is situated, as is used for

1 residential purposes. If the Chief County Assessment Officer
2 has established a specific legal description for a portion of
3 property constituting the residence, then that portion of
4 property shall be deemed the residence for the purposes of this
5 Section.

6 "Taxable year" means the calendar year during which ad
7 valorem property taxes payable in the next succeeding year are
8 levied.

9 (c) Beginning in taxable year 1994, a senior citizens
10 assessment freeze homestead exemption is granted for real
11 property that is improved with a permanent structure that is
12 occupied as a residence by an applicant who (i) is 65 years of
13 age or older during the taxable year, (ii) has a household
14 income that does not exceed the maximum income limitation,
15 (iii) is liable for paying real property taxes on the property,
16 and (iv) is an owner of record of the property or has a legal or
17 equitable interest in the property as evidenced by a written
18 instrument. This homestead exemption shall also apply to a
19 leasehold interest in a parcel of property improved with a
20 permanent structure that is a single family residence that is
21 occupied as a residence by a person who (i) is 65 years of age
22 or older during the taxable year, (ii) has a household income
23 that does not exceed the maximum income limitation, (iii) has a
24 legal or equitable ownership interest in the property as
25 lessee, and (iv) is liable for the payment of real property
26 taxes on that property.

1 In counties of 3,000,000 or more inhabitants, the amount of
2 the exemption for all taxable years is the equalized assessed
3 value of the residence in the taxable year for which
4 application is made minus the base amount. In all other
5 counties, the amount of the exemption is as follows: (i)
6 through taxable year 2005 and for taxable year 2007 and
7 thereafter, the amount of this exemption shall be the equalized
8 assessed value of the residence in the taxable year for which
9 application is made minus the base amount; and (ii) for taxable
10 year 2006, the amount of the exemption is as follows:

11 (1) For an applicant who has a household income of
12 \$45,000 or less, the amount of the exemption is the
13 equalized assessed value of the residence in the taxable
14 year for which application is made minus the base amount.

15 (2) For an applicant who has a household income
16 exceeding \$45,000 but not exceeding \$46,250, the amount of
17 the exemption is (i) the equalized assessed value of the
18 residence in the taxable year for which application is made
19 minus the base amount (ii) multiplied by 0.8.

20 (3) For an applicant who has a household income
21 exceeding \$46,250 but not exceeding \$47,500, the amount of
22 the exemption is (i) the equalized assessed value of the
23 residence in the taxable year for which application is made
24 minus the base amount (ii) multiplied by 0.6.

25 (4) For an applicant who has a household income
26 exceeding \$47,500 but not exceeding \$48,750, the amount of

1 the exemption is (i) the equalized assessed value of the
2 residence in the taxable year for which application is made
3 minus the base amount (ii) multiplied by 0.4.

4 (5) For an applicant who has a household income
5 exceeding \$48,750 but not exceeding \$50,000, the amount of
6 the exemption is (i) the equalized assessed value of the
7 residence in the taxable year for which application is made
8 minus the base amount (ii) multiplied by 0.2.

9 When the applicant is a surviving spouse of an applicant
10 for a prior year for the same residence for which an exemption
11 under this Section has been granted, the base year and base
12 amount for that residence are the same as for the applicant for
13 the prior year.

14 Each year at the time the assessment books are certified to
15 the County Clerk, the Board of Review or Board of Appeals shall
16 give to the County Clerk a list of the assessed values of
17 improvements on each parcel qualifying for this exemption that
18 were added after the base year for this parcel and that
19 increased the assessed value of the property.

20 In the case of land improved with an apartment building
21 owned and operated as a cooperative or a building that is a
22 life care facility that qualifies as a cooperative, the maximum
23 reduction from the equalized assessed value of the property is
24 limited to the sum of the reductions calculated for each unit
25 occupied as a residence by a person or persons (i) 65 years of
26 age or older, (ii) with a household income that does not exceed

1 the maximum income limitation, (iii) who is liable, by contract
2 with the owner or owners of record, for paying real property
3 taxes on the property, and (iv) who is an owner of record of a
4 legal or equitable interest in the cooperative apartment
5 building, other than a leasehold interest. In the instance of a
6 cooperative where a homestead exemption has been granted under
7 this Section, the cooperative association or its management
8 firm shall credit the savings resulting from that exemption
9 only to the apportioned tax liability of the owner who
10 qualified for the exemption. Any person who willfully refuses
11 to credit that savings to an owner who qualifies for the
12 exemption is guilty of a Class B misdemeanor.

13 When a homestead exemption has been granted under this
14 Section and an applicant then becomes a resident of a facility
15 licensed under the Assisted Living and Shared Housing Act, the
16 Nursing Home Care Act, the Specialized Mental Health
17 Rehabilitation Act, or the MR/DD Community Care Act, the
18 exemption shall be granted in subsequent years so long as the
19 residence (i) continues to be occupied by the qualified
20 applicant's spouse or (ii) if remaining unoccupied, is still
21 owned by the qualified applicant for the homestead exemption.

22 Beginning January 1, 1997, when an individual dies who
23 would have qualified for an exemption under this Section, and
24 the surviving spouse does not independently qualify for this
25 exemption because of age, the exemption under this Section
26 shall be granted to the surviving spouse for the taxable year

1 preceding and the taxable year of the death, provided that,
2 except for age, the surviving spouse meets all other
3 qualifications for the granting of this exemption for those
4 years.

5 When married persons maintain separate residences, the
6 exemption provided for in this Section may be claimed by only
7 one of such persons and for only one residence.

8 For taxable year 1994 only, in counties having less than
9 3,000,000 inhabitants, to receive the exemption, a person shall
10 submit an application by February 15, 1995 to the Chief County
11 Assessment Officer of the county in which the property is
12 located. In counties having 3,000,000 or more inhabitants, for
13 taxable year 1994 and all subsequent taxable years, to receive
14 the exemption, a person may submit an application to the Chief
15 County Assessment Officer of the county in which the property
16 is located during such period as may be specified by the Chief
17 County Assessment Officer. The Chief County Assessment Officer
18 in counties of 3,000,000 or more inhabitants shall annually
19 give notice of the application period by mail or by
20 publication. In counties having less than 3,000,000
21 inhabitants, beginning with taxable year 1995 and thereafter,
22 to receive the exemption, a person shall submit an application
23 by July 1 of each taxable year to the Chief County Assessment
24 Officer of the county in which the property is located. A
25 county may, by ordinance, establish a date for submission of
26 applications that is different than July 1. The applicant shall

1 submit with the application an affidavit of the applicant's
2 total household income, age, marital status (and if married the
3 name and address of the applicant's spouse, if known), and
4 principal dwelling place of members of the household on January
5 1 of the taxable year. The Department shall establish, by rule,
6 a method for verifying the accuracy of affidavits filed by
7 applicants under this Section, and the Chief County Assessment
8 Officer may conduct audits of any taxpayer claiming an
9 exemption under this Section to verify that the taxpayer is
10 eligible to receive the exemption. Each application shall
11 contain or be verified by a written declaration that it is made
12 under the penalties of perjury. A taxpayer's signing a
13 fraudulent application under this Act is perjury, as defined in
14 Section 32-2 of the Criminal Code of 1961. The applications
15 shall be clearly marked as applications for the Senior Citizens
16 Assessment Freeze Homestead Exemption and must contain a notice
17 that any taxpayer who receives the exemption is subject to an
18 audit by the Chief County Assessment Officer.

19 Notwithstanding any other provision to the contrary, in
20 counties having fewer than 3,000,000 inhabitants, if an
21 applicant fails to file the application required by this
22 Section in a timely manner and this failure to file is due to a
23 mental or physical condition sufficiently severe so as to
24 render the applicant incapable of filing the application in a
25 timely manner, the Chief County Assessment Officer may extend
26 the filing deadline for a period of 30 days after the applicant

1 regains the capability to file the application, but in no case
2 may the filing deadline be extended beyond 3 months of the
3 original filing deadline. In order to receive the extension
4 provided in this paragraph, the applicant shall provide the
5 Chief County Assessment Officer with a signed statement from
6 the applicant's physician stating the nature and extent of the
7 condition, that, in the physician's opinion, the condition was
8 so severe that it rendered the applicant incapable of filing
9 the application in a timely manner, and the date on which the
10 applicant regained the capability to file the application.

11 Beginning January 1, 1998, notwithstanding any other
12 provision to the contrary, in counties having fewer than
13 3,000,000 inhabitants, if an applicant fails to file the
14 application required by this Section in a timely manner and
15 this failure to file is due to a mental or physical condition
16 sufficiently severe so as to render the applicant incapable of
17 filing the application in a timely manner, the Chief County
18 Assessment Officer may extend the filing deadline for a period
19 of 3 months. In order to receive the extension provided in this
20 paragraph, the applicant shall provide the Chief County
21 Assessment Officer with a signed statement from the applicant's
22 physician stating the nature and extent of the condition, and
23 that, in the physician's opinion, the condition was so severe
24 that it rendered the applicant incapable of filing the
25 application in a timely manner.

26 In counties having less than 3,000,000 inhabitants, if an

1 applicant was denied an exemption in taxable year 1994 and the
2 denial occurred due to an error on the part of an assessment
3 official, or his or her agent or employee, then beginning in
4 taxable year 1997 the applicant's base year, for purposes of
5 determining the amount of the exemption, shall be 1993 rather
6 than 1994. In addition, in taxable year 1997, the applicant's
7 exemption shall also include an amount equal to (i) the amount
8 of any exemption denied to the applicant in taxable year 1995
9 as a result of using 1994, rather than 1993, as the base year,
10 (ii) the amount of any exemption denied to the applicant in
11 taxable year 1996 as a result of using 1994, rather than 1993,
12 as the base year, and (iii) the amount of the exemption
13 erroneously denied for taxable year 1994.

14 For purposes of this Section, a person who will be 65 years
15 of age during the current taxable year shall be eligible to
16 apply for the homestead exemption during that taxable year.
17 Application shall be made during the application period in
18 effect for the county of his or her residence.

19 The Chief County Assessment Officer may determine the
20 eligibility of a life care facility that qualifies as a
21 cooperative to receive the benefits provided by this Section by
22 use of an affidavit, application, visual inspection,
23 questionnaire, or other reasonable method in order to insure
24 that the tax savings resulting from the exemption are credited
25 by the management firm to the apportioned tax liability of each
26 qualifying resident. The Chief County Assessment Officer may

1 request reasonable proof that the management firm has so
2 credited that exemption.

3 Except as provided in this Section, all information
4 received by the chief county assessment officer or the
5 Department from applications filed under this Section, or from
6 any investigation conducted under the provisions of this
7 Section, shall be confidential, except for official purposes or
8 pursuant to official procedures for collection of any State or
9 local tax or enforcement of any civil or criminal penalty or
10 sanction imposed by this Act or by any statute or ordinance
11 imposing a State or local tax. Any person who divulges any such
12 information in any manner, except in accordance with a proper
13 judicial order, is guilty of a Class A misdemeanor.

14 Nothing contained in this Section shall prevent the
15 Director or chief county assessment officer from publishing or
16 making available reasonable statistics concerning the
17 operation of the exemption contained in this Section in which
18 the contents of claims are grouped into aggregates in such a
19 way that information contained in any individual claim shall
20 not be disclosed.

21 (d) Each Chief County Assessment Officer shall annually
22 publish a notice of availability of the exemption provided
23 under this Section. The notice shall be published at least 60
24 days but no more than 75 days prior to the date on which the
25 application must be submitted to the Chief County Assessment
26 Officer of the county in which the property is located. The

1 notice shall appear in a newspaper of general circulation in
2 the county.

3 Notwithstanding Sections 6 and 8 of the State Mandates Act,
4 no reimbursement by the State is required for the
5 implementation of any mandate created by this Section.

6 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;
7 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

8 Section 90-75. The Regional Transportation Authority Act
9 is amended by changing Section 4.03 as follows:

10 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)
11 Sec. 4.03. Taxes.

12 (a) In order to carry out any of the powers or purposes of
13 the Authority, the Board may by ordinance adopted with the
14 concurrence of 12 of the then Directors, impose throughout the
15 metropolitan region any or all of the taxes provided in this
16 Section. Except as otherwise provided in this Act, taxes
17 imposed under this Section and civil penalties imposed incident
18 thereto shall be collected and enforced by the State Department
19 of Revenue. The Department shall have the power to administer
20 and enforce the taxes and to determine all rights for refunds
21 for erroneous payments of the taxes. Nothing in this amendatory
22 Act of the 95th General Assembly is intended to invalidate any
23 taxes currently imposed by the Authority. The increased vote
24 requirements to impose a tax shall only apply to actions taken

1 after the effective date of this amendatory Act of the 95th
2 General Assembly.

3 (b) The Board may impose a public transportation tax upon
4 all persons engaged in the metropolitan region in the business
5 of selling at retail motor fuel for operation of motor vehicles
6 upon public highways. The tax shall be at a rate not to exceed
7 5% of the gross receipts from the sales of motor fuel in the
8 course of the business. As used in this Act, the term "motor
9 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
10 The Board may provide for details of the tax. The provisions of
11 any tax shall conform, as closely as may be practicable, to the
12 provisions of the Municipal Retailers Occupation Tax Act,
13 including without limitation, conformity to penalties with
14 respect to the tax imposed and as to the powers of the State
15 Department of Revenue to promulgate and enforce rules and
16 regulations relating to the administration and enforcement of
17 the provisions of the tax imposed, except that reference in the
18 Act to any municipality shall refer to the Authority and the
19 tax shall be imposed only with regard to receipts from sales of
20 motor fuel in the metropolitan region, at rates as limited by
21 this Section.

22 (c) In connection with the tax imposed under paragraph (b)
23 of this Section the Board may impose a tax upon the privilege
24 of using in the metropolitan region motor fuel for the
25 operation of a motor vehicle upon public highways, the tax to
26 be at a rate not in excess of the rate of tax imposed under

1 paragraph (b) of this Section. The Board may provide for
2 details of the tax.

3 (d) The Board may impose a motor vehicle parking tax upon
4 the privilege of parking motor vehicles at off-street parking
5 facilities in the metropolitan region at which a fee is
6 charged, and may provide for reasonable classifications in and
7 exemptions to the tax, for administration and enforcement
8 thereof and for civil penalties and refunds thereunder and may
9 provide criminal penalties thereunder, the maximum penalties
10 not to exceed the maximum criminal penalties provided in the
11 Retailers' Occupation Tax Act. The Authority may collect and
12 enforce the tax itself or by contract with any unit of local
13 government. The State Department of Revenue shall have no
14 responsibility for the collection and enforcement unless the
15 Department agrees with the Authority to undertake the
16 collection and enforcement. As used in this paragraph, the term
17 "parking facility" means a parking area or structure having
18 parking spaces for more than 2 vehicles at which motor vehicles
19 are permitted to park in return for an hourly, daily, or other
20 periodic fee, whether publicly or privately owned, but does not
21 include parking spaces on a public street, the use of which is
22 regulated by parking meters.

23 (e) The Board may impose a Regional Transportation
24 Authority Retailers' Occupation Tax upon all persons engaged in
25 the business of selling tangible personal property at retail in
26 the metropolitan region. In Cook County the tax rate shall be

1 1.25% of the gross receipts from sales of food for human
2 consumption that is to be consumed off the premises where it is
3 sold (other than alcoholic beverages, soft drinks and food that
4 has been prepared for immediate consumption) and prescription
5 and nonprescription medicines, drugs, medical appliances and
6 insulin, urine testing materials, syringes and needles used by
7 diabetics, and 1% of the gross receipts from other taxable
8 sales made in the course of that business. In DuPage, Kane,
9 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%
10 of the gross receipts from all taxable sales made in the course
11 of that business. The tax imposed under this Section and all
12 civil penalties that may be assessed as an incident thereof
13 shall be collected and enforced by the State Department of
14 Revenue. The Department shall have full power to administer and
15 enforce this Section; to collect all taxes and penalties so
16 collected in the manner hereinafter provided; and to determine
17 all rights to credit memoranda arising on account of the
18 erroneous payment of tax or penalty hereunder. In the
19 administration of, and compliance with this Section, the
20 Department and persons who are subject to this Section shall
21 have the same rights, remedies, privileges, immunities, powers
22 and duties, and be subject to the same conditions,
23 restrictions, limitations, penalties, exclusions, exemptions
24 and definitions of terms, and employ the same modes of
25 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
26 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions

1 therein other than the State rate of tax), 2c, 3 (except as to
2 the disposition of taxes and penalties collected), 4, 5, 5a,
3 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
4 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
5 Section 3-7 of the Uniform Penalty and Interest Act, as fully
6 as if those provisions were set forth herein.

7 Persons subject to any tax imposed under the authority
8 granted in this Section may reimburse themselves for their
9 seller's tax liability hereunder by separately stating the tax
10 as an additional charge, which charge may be stated in
11 combination in a single amount with State taxes that sellers
12 are required to collect under the Use Tax Act, under any
13 bracket schedules the Department may prescribe.

14 Whenever the Department determines that a refund should be
15 made under this Section to a claimant instead of issuing a
16 credit memorandum, the Department shall notify the State
17 Comptroller, who shall cause the warrant to be drawn for the
18 amount specified, and to the person named, in the notification
19 from the Department. The refund shall be paid by the State
20 Treasurer out of the Regional Transportation Authority tax fund
21 established under paragraph (n) of this Section.

22 If a tax is imposed under this subsection (e), a tax shall
23 also be imposed under subsections (f) and (g) of this Section.

24 For the purpose of determining whether a tax authorized
25 under this Section is applicable, a retail sale by a producer
26 of coal or other mineral mined in Illinois, is a sale at retail

1 at the place where the coal or other mineral mined in Illinois
2 is extracted from the earth. This paragraph does not apply to
3 coal or other mineral when it is delivered or shipped by the
4 seller to the purchaser at a point outside Illinois so that the
5 sale is exempt under the Federal Constitution as a sale in
6 interstate or foreign commerce.

7 No tax shall be imposed or collected under this subsection
8 on the sale of a motor vehicle in this State to a resident of
9 another state if that motor vehicle will not be titled in this
10 State.

11 Nothing in this Section shall be construed to authorize the
12 Regional Transportation Authority to impose a tax upon the
13 privilege of engaging in any business that under the
14 Constitution of the United States may not be made the subject
15 of taxation by this State.

16 (f) If a tax has been imposed under paragraph (e), a
17 Regional Transportation Authority Service Occupation Tax shall
18 also be imposed upon all persons engaged, in the metropolitan
19 region in the business of making sales of service, who as an
20 incident to making the sales of service, transfer tangible
21 personal property within the metropolitan region, either in the
22 form of tangible personal property or in the form of real
23 estate as an incident to a sale of service. In Cook County, the
24 tax rate shall be: (1) 1.25% of the serviceman's cost price of
25 food prepared for immediate consumption and transferred
26 incident to a sale of service subject to the service occupation

1 tax by an entity licensed under the Hospital Licensing Act, the
2 Nursing Home Care Act, the Specialized Mental Health
3 Rehabilitation Act, or the MR/DD Community Care Act that is
4 located in the metropolitan region; (2) 1.25% of the selling
5 price of food for human consumption that is to be consumed off
6 the premises where it is sold (other than alcoholic beverages,
7 soft drinks and food that has been prepared for immediate
8 consumption) and prescription and nonprescription medicines,
9 drugs, medical appliances and insulin, urine testing
10 materials, syringes and needles used by diabetics; and (3) 1%
11 of the selling price from other taxable sales of tangible
12 personal property transferred. In DuPage, Kane, Lake, McHenry
13 and Will Counties the rate shall be 0.75% of the selling price
14 of all tangible personal property transferred.

15 The tax imposed under this paragraph and all civil
16 penalties that may be assessed as an incident thereof shall be
17 collected and enforced by the State Department of Revenue. The
18 Department shall have full power to administer and enforce this
19 paragraph; to collect all taxes and penalties due hereunder; to
20 dispose of taxes and penalties collected in the manner
21 hereinafter provided; and to determine all rights to credit
22 memoranda arising on account of the erroneous payment of tax or
23 penalty hereunder. In the administration of and compliance with
24 this paragraph, the Department and persons who are subject to
25 this paragraph shall have the same rights, remedies,
26 privileges, immunities, powers and duties, and be subject to

1 the same conditions, restrictions, limitations, penalties,
2 exclusions, exemptions and definitions of terms, and employ the
3 same modes of procedure, as are prescribed in Sections 1a-1, 2,
4 2a, 3 through 3-50 (in respect to all provisions therein other
5 than the State rate of tax), 4 (except that the reference to
6 the State shall be to the Authority), 5, 7, 8 (except that the
7 jurisdiction to which the tax shall be a debt to the extent
8 indicated in that Section 8 shall be the Authority), 9 (except
9 as to the disposition of taxes and penalties collected, and
10 except that the returned merchandise credit for this tax may
11 not be taken against any State tax), 10, 11, 12 (except the
12 reference therein to Section 2b of the Retailers' Occupation
13 Tax Act), 13 (except that any reference to the State shall mean
14 the Authority), the first paragraph of Section 15, 16, 17, 18,
15 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
16 the Uniform Penalty and Interest Act, as fully as if those
17 provisions were set forth herein.

18 Persons subject to any tax imposed under the authority
19 granted in this paragraph may reimburse themselves for their
20 serviceman's tax liability hereunder by separately stating the
21 tax as an additional charge, that charge may be stated in
22 combination in a single amount with State tax that servicemen
23 are authorized to collect under the Service Use Tax Act, under
24 any bracket schedules the Department may prescribe.

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 warrant 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 Nothing in this paragraph shall be construed to authorize
8 the Authority to impose a tax upon the privilege of engaging in
9 any business that under the Constitution of the United States
10 may not be made the subject of taxation by the State.

11 (g) If a tax has been imposed under paragraph (e), a tax
12 shall also be imposed upon the privilege of using in the
13 metropolitan region, any item of tangible personal property
14 that is purchased outside the metropolitan region at retail
15 from a retailer, and that is titled or registered with an
16 agency of this State's government. In Cook County the tax rate
17 shall be 1% of the selling price of the tangible personal
18 property, as "selling price" is defined in the Use Tax Act. In
19 DuPage, Kane, Lake, McHenry and Will counties the tax rate
20 shall be 0.75% of the selling price of the tangible personal
21 property, as "selling price" is defined in the Use Tax Act. The
22 tax shall be collected from persons whose Illinois address for
23 titling or registration purposes is given as being in the
24 metropolitan region. The tax shall be collected by the
25 Department of Revenue for the Regional Transportation
26 Authority. The tax must be paid to the State, or an exemption

1 determination must be obtained from the Department of Revenue,
2 before the title or certificate of registration for the
3 property may be issued. The tax or proof of exemption may be
4 transmitted to the Department by way of the State agency with
5 which, or the State officer with whom, the tangible personal
6 property must be titled or registered if the Department and the
7 State agency or State officer determine that this procedure
8 will expedite the processing of applications for title or
9 registration.

10 The Department shall have full power to administer and
11 enforce this paragraph; to collect all taxes, penalties and
12 interest due hereunder; to dispose of taxes, penalties and
13 interest collected in the manner hereinafter provided; and to
14 determine all rights to credit memoranda or refunds arising on
15 account of the erroneous payment of tax, penalty or interest
16 hereunder. In the administration of and compliance with this
17 paragraph, the Department and persons who are subject to this
18 paragraph shall have the same rights, remedies, privileges,
19 immunities, powers and duties, and be subject to the same
20 conditions, restrictions, limitations, penalties, exclusions,
21 exemptions and definitions of terms and employ the same modes
22 of procedure, as are prescribed in Sections 2 (except the
23 definition of "retailer maintaining a place of business in this
24 State"), 3 through 3-80 (except provisions pertaining to the
25 State rate of tax, and except provisions concerning collection
26 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,

1 19 (except the portions pertaining to claims by retailers and
2 except the last paragraph concerning refunds), 20, 21 and 22 of
3 the Use Tax Act, and are not inconsistent with this paragraph,
4 as fully as if those provisions were set forth herein.

5 Whenever the Department determines that a refund should be
6 made under this paragraph to a claimant instead of issuing a
7 credit memorandum, the Department shall notify the State
8 Comptroller, who shall cause the order to be drawn for the
9 amount specified, and to the person named in the notification
10 from the Department. The refund shall be paid by the State
11 Treasurer out of the Regional Transportation Authority tax fund
12 established under paragraph (n) of this Section.

13 (h) The Authority may impose a replacement vehicle tax of
14 \$50 on any passenger car as defined in Section 1-157 of the
15 Illinois Vehicle Code purchased within the metropolitan region
16 by or on behalf of an insurance company to replace a passenger
17 car of an insured person in settlement of a total loss claim.
18 The tax imposed may not become effective before the first day
19 of the month following the passage of the ordinance imposing
20 the tax and receipt of a certified copy of the ordinance by the
21 Department of Revenue. The Department of Revenue shall collect
22 the tax for the Authority in accordance with Sections 3-2002
23 and 3-2003 of the Illinois Vehicle Code.

24 The Department shall immediately pay over to the State
25 Treasurer, ex officio, as trustee, all taxes collected
26 hereunder.

1 As soon as possible after the first day of each month,
2 beginning January 1, 2011, upon certification of the Department
3 of Revenue, the Comptroller shall order transferred, and the
4 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
5 local sales tax increment, as defined in the Innovation
6 Development and Economy Act, collected under this Section
7 during the second preceding calendar month for sales within a
8 STAR bond district.

9 After the monthly transfer to the STAR Bonds Revenue Fund,
10 on or before the 25th day of each calendar month, the
11 Department shall prepare and certify to the Comptroller the
12 disbursement of stated sums of money to the Authority. The
13 amount to be paid to the Authority shall be the amount
14 collected hereunder during the second preceding calendar month
15 by the Department, less any amount determined by the Department
16 to be necessary for the payment of refunds, and less any
17 amounts that are transferred to the STAR Bonds Revenue Fund.
18 Within 10 days after receipt by the Comptroller of the
19 disbursement certification to the Authority provided for in
20 this Section to be given to the Comptroller by the Department,
21 the Comptroller shall cause the orders to be drawn for that
22 amount in accordance with the directions contained in the
23 certification.

24 (i) The Board may not impose any other taxes except as it
25 may from time to time be authorized by law to impose.

26 (j) A certificate of registration issued by the State

1 Department of Revenue to a retailer under the Retailers'
2 Occupation Tax Act or under the Service Occupation Tax Act
3 shall permit the registrant to engage in a business that is
4 taxed under the tax imposed under paragraphs (b), (e), (f) or
5 (g) of this Section and no additional registration shall be
6 required under the tax. A certificate issued under the Use Tax
7 Act or the Service Use Tax Act shall be applicable with regard
8 to any tax imposed under paragraph (c) of this Section.

9 (k) The provisions of any tax imposed under paragraph (c)
10 of this Section shall conform as closely as may be practicable
11 to the provisions of the Use Tax Act, including without
12 limitation conformity as to penalties with respect to the tax
13 imposed and as to the powers of the State Department of Revenue
14 to promulgate and enforce rules and regulations relating to the
15 administration and enforcement of the provisions of the tax
16 imposed. The taxes shall be imposed only on use within the
17 metropolitan region and at rates as provided in the paragraph.

18 (l) The Board in imposing any tax as provided in paragraphs
19 (b) and (c) of this Section, shall, after seeking the advice of
20 the State Department of Revenue, provide means for retailers,
21 users or purchasers of motor fuel for purposes other than those
22 with regard to which the taxes may be imposed as provided in
23 those paragraphs to receive refunds of taxes improperly paid,
24 which provisions may be at variance with the refund provisions
25 as applicable under the Municipal Retailers Occupation Tax Act.
26 The State Department of Revenue may provide for certificates of

1 registration for users or purchasers of motor fuel for purposes
2 other than those with regard to which taxes may be imposed as
3 provided in paragraphs (b) and (c) of this Section to
4 facilitate the reporting and nontaxability of the exempt sales
5 or uses.

6 (m) Any ordinance imposing or discontinuing any tax under
7 this Section shall be adopted and a certified copy thereof
8 filed with the Department on or before June 1, whereupon the
9 Department of Revenue shall proceed to administer and enforce
10 this Section on behalf of the Regional Transportation Authority
11 as of September 1 next following such adoption and filing.
12 Beginning January 1, 1992, an ordinance or resolution imposing
13 or discontinuing the tax hereunder shall be adopted and a
14 certified copy thereof filed with the Department on or before
15 the first day of July, whereupon the Department shall proceed
16 to administer and enforce this Section as of the first day of
17 October next following such adoption and filing. Beginning
18 January 1, 1993, an ordinance or resolution imposing,
19 increasing, decreasing, or discontinuing the tax hereunder
20 shall be adopted and a certified copy thereof filed with the
21 Department, whereupon the Department shall proceed to
22 administer and enforce this Section as of the first day of the
23 first month to occur not less than 60 days following such
24 adoption and filing. Any ordinance or resolution of the
25 Authority imposing a tax under this Section and in effect on
26 August 1, 2007 shall remain in full force and effect and shall

1 be administered by the Department of Revenue under the terms
2 and conditions and rates of tax established by such ordinance
3 or resolution until the Department begins administering and
4 enforcing an increased tax under this Section as authorized by
5 this amendatory Act of the 95th General Assembly. The tax rates
6 authorized by this amendatory Act of the 95th General Assembly
7 are effective only if imposed by ordinance of the Authority.

8 (n) The State Department of Revenue shall, upon collecting
9 any taxes as provided in this Section, pay the taxes over to
10 the State Treasurer as trustee for the Authority. The taxes
11 shall be held in a trust fund outside the State Treasury. On or
12 before the 25th day of each calendar month, the State
13 Department of Revenue shall prepare and certify to the
14 Comptroller of the State of Illinois and to the Authority (i)
15 the amount of taxes collected in each County other than Cook
16 County in the metropolitan region, (ii) the amount of taxes
17 collected within the City of Chicago, and (iii) the amount
18 collected in that portion of Cook County outside of Chicago,
19 each amount less the amount necessary for the payment of
20 refunds to taxpayers located in those areas described in items
21 (i), (ii), and (iii). Within 10 days after receipt by the
22 Comptroller of the certification of the amounts, the
23 Comptroller shall cause an order to be drawn for the payment of
24 two-thirds of the amounts certified in item (i) of this
25 subsection to the Authority and one-third of the amounts
26 certified in item (i) of this subsection to the respective

1 counties other than Cook County and the amount certified in
2 items (ii) and (iii) of this subsection to the Authority.

3 In addition to the disbursement required by the preceding
4 paragraph, an allocation shall be made in July 1991 and each
5 year thereafter to the Regional Transportation Authority. The
6 allocation shall be made in an amount equal to the average
7 monthly distribution during the preceding calendar year
8 (excluding the 2 months of lowest receipts) and the allocation
9 shall include the amount of average monthly distribution from
10 the Regional Transportation Authority Occupation and Use Tax
11 Replacement Fund. The distribution made in July 1992 and each
12 year thereafter under this paragraph and the preceding
13 paragraph shall be reduced by the amount allocated and
14 disbursed under this paragraph in the preceding calendar year.
15 The Department of Revenue shall prepare and certify to the
16 Comptroller for disbursement the allocations made in
17 accordance with this paragraph.

18 (o) Failure to adopt a budget ordinance or otherwise to
19 comply with Section 4.01 of this Act or to adopt a Five-year
20 Capital Program or otherwise to comply with paragraph (b) of
21 Section 2.01 of this Act shall not affect the validity of any
22 tax imposed by the Authority otherwise in conformity with law.

23 (p) At no time shall a public transportation tax or motor
24 vehicle parking tax authorized under paragraphs (b), (c) and
25 (d) of this Section be in effect at the same time as any
26 retailers' occupation, use or service occupation tax

1 authorized under paragraphs (e), (f) and (g) of this Section is
2 in effect.

3 Any taxes imposed under the authority provided in
4 paragraphs (b), (c) and (d) shall remain in effect only until
5 the time as any tax authorized by paragraphs (e), (f) or (g) of
6 this Section are imposed and becomes effective. Once any tax
7 authorized by paragraphs (e), (f) or (g) is imposed the Board
8 may not reimpose taxes as authorized in paragraphs (b), (c) and
9 (d) of the Section unless any tax authorized by paragraphs (e),
10 (f) or (g) of this Section becomes ineffective by means other
11 than an ordinance of the Board.

12 (q) Any existing rights, remedies and obligations
13 (including enforcement by the Regional Transportation
14 Authority) arising under any tax imposed under paragraphs (b),
15 (c) or (d) of this Section shall not be affected by the
16 imposition of a tax under paragraphs (e), (f) or (g) of this
17 Section.

18 (Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10;
19 96-939, eff. 6-24-10.)

20 Section 90-80. The Alternative Health Care Delivery Act is
21 amended by changing Section 15 as follows:

22 (210 ILCS 3/15)

23 Sec. 15. License required. No health care facility or
24 program that meets the definition and scope of an alternative

1 health care model shall operate as such unless it is a
2 participant in a demonstration program under this Act and
3 licensed by the Department as an alternative health care model.
4 The provisions of this Section as they relate to subacute care
5 hospitals shall not apply to hospitals licensed under the
6 Illinois Hospital Licensing Act or ~~skilled nursing~~ facilities
7 licensed under the Illinois Nursing Home Care Act, the
8 Specialized Mental Health Rehabilitation Act, or the MR/DD
9 Community Care Act; provided, however, that the facilities
10 shall not hold themselves out to the public as subacute care
11 hospitals. The provisions of this Act concerning children's
12 respite care centers shall not apply to any facility licensed
13 under the Hospital Licensing Act, the Nursing Home Care Act,
14 the Specialized Mental Health Rehabilitation Act, the MR/DD
15 Community Care Act, or the University of Illinois Hospital Act
16 that provides respite care services to children.

17 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

18 Section 90-85. The Ambulatory Surgical Treatment Center
19 Act is amended by changing Section 3 as follows:

20 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

21 Sec. 3. As used in this Act, unless the context otherwise
22 requires, the following words and phrases shall have the
23 meanings ascribed to them:

24 (A) "Ambulatory surgical treatment center" means any

1 institution, place or building devoted primarily to the
2 maintenance and operation of facilities for the performance of
3 surgical procedures or any facility in which a medical or
4 surgical procedure is utilized to terminate a pregnancy,
5 irrespective of whether the facility is devoted primarily to
6 this purpose. Such facility shall not provide beds or other
7 accommodations for the overnight stay of patients; however,
8 facilities devoted exclusively to the treatment of children may
9 provide accommodations and beds for their patients for up to 23
10 hours following admission. Individual patients shall be
11 discharged in an ambulatory condition without danger to the
12 continued well being of the patients or shall be transferred to
13 a hospital.

14 The term "ambulatory surgical treatment center" does not
15 include any of the following:

16 (1) Any institution, place, building or agency
17 required to be licensed pursuant to the "Hospital Licensing
18 Act", approved July 1, 1953, as amended.

19 (2) Any person or institution required to be licensed
20 pursuant to the Nursing Home Care Act, the Specialized
21 Mental Health Rehabilitation Act, or the MR/DD Community
22 Care Act.

23 (3) Hospitals or ambulatory surgical treatment centers
24 maintained by the State or any department or agency
25 thereof, where such department or agency has authority
26 under law to establish and enforce standards for the

1 hospitals or ambulatory surgical treatment centers under
2 its management and control.

3 (4) Hospitals or ambulatory surgical treatment centers
4 maintained by the Federal Government or agencies thereof.

5 (5) Any place, agency, clinic, or practice, public or
6 private, whether organized for profit or not, devoted
7 exclusively to the performance of dental or oral surgical
8 procedures.

9 (B) "Person" means any individual, firm, partnership,
10 corporation, company, association, or joint stock association,
11 or the legal successor thereof.

12 (C) "Department" means the Department of Public Health of
13 the State of Illinois.

14 (D) "Director" means the Director of the Department of
15 Public Health of the State of Illinois.

16 (E) "Physician" means a person licensed to practice
17 medicine in all of its branches in the State of Illinois.

18 (F) "Dentist" means a person licensed to practice dentistry
19 under the Illinois Dental Practice Act.

20 (G) "Podiatrist" means a person licensed to practice
21 podiatry under the Podiatric Medical Practice Act of 1987.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 Section 90-90. The Assisted Living and Shared Housing Act
24 is amended by changing Sections 10, 35, 55, and 145 as follows:

1 (210 ILCS 9/10)

2 Sec. 10. Definitions. For purposes of this Act:

3 "Activities of daily living" means eating, dressing,
4 bathing, toileting, transferring, or personal hygiene.

5 "Assisted living establishment" or "establishment" means a
6 home, building, residence, or any other place where sleeping
7 accommodations are provided for at least 3 unrelated adults, at
8 least 80% of whom are 55 years of age or older and where the
9 following are provided consistent with the purposes of this
10 Act:

11 (1) services consistent with a social model that is
12 based on the premise that the resident's unit in assisted
13 living and shared housing is his or her own home;

14 (2) community-based residential care for persons who
15 need assistance with activities of daily living, including
16 personal, supportive, and intermittent health-related
17 services available 24 hours per day, if needed, to meet the
18 scheduled and unscheduled needs of a resident;

19 (3) mandatory services, whether provided directly by
20 the establishment or by another entity arranged for by the
21 establishment, with the consent of the resident or
22 resident's representative; and

23 (4) a physical environment that is a homelike setting
24 that includes the following and such other elements as
25 established by the Department: individual living units
26 each of which shall accommodate small kitchen appliances

1 and contain private bathing, washing, and toilet
2 facilities, or private washing and toilet facilities with a
3 common bathing room readily accessible to each resident.
4 Units shall be maintained for single occupancy except in
5 cases in which 2 residents choose to share a unit.
6 Sufficient common space shall exist to permit individual
7 and group activities.

8 "Assisted living establishment" or "establishment" does
9 not 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.
16 However, a facility licensed under either of those Acts may
17 convert distinct parts of the facility to assisted living.
18 If the facility elects to do so, the facility shall retain
19 the Certificate of Need for its nursing and sheltered care
20 beds that were 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) The portion of a life care facility as defined in
15 the Life Care Facilities Act not licensed as an assisted
16 living establishment under this Act; a life care facility
17 may apply under this Act to convert sections of the
18 community to assisted living.

19 (10) A free-standing hospice facility licensed under
20 the Hospice Program Licensing Act.

21 (11) A shared housing establishment.

22 (12) A supportive living facility as described in
23 Section 5-5.01a of the Illinois Public Aid Code.

24 "Department" means the Department of Public Health.

25 "Director" means the Director of Public Health.

26 "Emergency situation" means imminent danger of death or

1 serious physical harm to a resident of an establishment.

2 "License" means any of the following types of licenses
3 issued to an applicant or licensee by the Department:

4 (1) "Probationary license" means a license issued to an
5 applicant or licensee that has not held a license under
6 this Act prior to its application or pursuant to a license
7 transfer in accordance with Section 50 of this Act.

8 (2) "Regular license" means a license issued by the
9 Department to an applicant or licensee that is in
10 substantial compliance with this Act and any rules
11 promulgated under this Act.

12 "Licensee" means a person, agency, association,
13 corporation, partnership, or organization that has been issued
14 a license to operate an assisted living or shared housing
15 establishment.

16 "Licensed health care professional" means a registered
17 professional nurse, an advanced practice nurse, a physician
18 assistant, and a licensed practical nurse.

19 "Mandatory services" include the following:

20 (1) 3 meals per day available to the residents prepared
21 by the establishment or an outside contractor;

22 (2) housekeeping services including, but not limited
23 to, vacuuming, dusting, and cleaning the resident's unit;

24 (3) personal laundry and linen services available to
25 the residents provided or arranged for by the
26 establishment;

1 (4) security provided 24 hours each day including, but
2 not limited to, locked entrances or building or contract
3 security personnel;

4 (5) an emergency communication response system, which
5 is a procedure in place 24 hours each day by which a
6 resident can notify building management, an emergency
7 response vendor, or others able to respond to his or her
8 need for assistance; and

9 (6) assistance with activities of daily living as
10 required by each resident.

11 "Negotiated risk" is the process by which a resident, or
12 his or her representative, may formally negotiate with
13 providers what risks each are willing and unwilling to assume
14 in service provision and the resident's living environment. The
15 provider assures that the resident and the resident's
16 representative, if any, are informed of the risks of these
17 decisions and of the potential consequences of assuming these
18 risks.

19 "Owner" means the individual, partnership, corporation,
20 association, or other person who owns an assisted living or
21 shared housing establishment. In the event an assisted living
22 or shared housing establishment is operated by a person who
23 leases or manages the physical plant, which is owned by another
24 person, "owner" means the person who operates the assisted
25 living or shared housing establishment, except that if the
26 person who owns the physical plant is an affiliate of the

1 person who operates the assisted living or shared housing
2 establishment and has significant control over the day to day
3 operations of the assisted living or shared housing
4 establishment, the person who owns the physical plant shall
5 incur jointly and severally with the owner all liabilities
6 imposed on an owner under this Act.

7 "Physician" means a person licensed under the Medical
8 Practice Act of 1987 to practice medicine in all of its
9 branches.

10 "Resident" means a person residing in an assisted living or
11 shared housing establishment.

12 "Resident's representative" means a person, other than the
13 owner, agent, or employee of an establishment or of the health
14 care provider unless related to the resident, designated in
15 writing by a resident to be his or her representative. This
16 designation may be accomplished through the Illinois Power of
17 Attorney Act, pursuant to the guardianship process under the
18 Probate Act of 1975, or pursuant to an executed designation of
19 representative form specified by the Department.

20 "Self" means the individual or the individual's designated
21 representative.

22 "Shared housing establishment" or "establishment" means a
23 publicly or privately operated free-standing residence for 16
24 or fewer persons, at least 80% of whom are 55 years of age or
25 older and who are unrelated to the owners and one manager of
26 the residence, where the following are provided:

1 (1) services consistent with a social model that is
2 based on the premise that the resident's unit is his or her
3 own home;

4 (2) community-based residential care for persons who
5 need assistance with activities of daily living, including
6 housing and personal, supportive, and intermittent
7 health-related services available 24 hours per day, if
8 needed, to meet the scheduled and unscheduled needs of a
9 resident; and

10 (3) mandatory services, whether provided directly by
11 the establishment or by another entity arranged for by the
12 establishment, with the consent of the resident or the
13 resident's representative.

14 "Shared housing establishment" or "establishment" does not
15 mean any of the following:

16 (1) A home, institution, or similar place operated by
17 the federal government or the State of Illinois.

18 (2) A long term care facility licensed under the
19 Nursing Home Care Act, a facility licensed under the
20 Specialized Mental Health Rehabilitation Act, or a
21 facility licensed under the MR/DD Community Care Act. A
22 facility licensed under either of those Acts may, however,
23 convert sections of the facility to assisted living. If the
24 facility elects to do so, the facility shall retain the
25 Certificate of Need for its nursing beds that were
26 converted.

1 (3) A hospital, sanitarium, or other institution, the
2 principal activity or business of which is the diagnosis,
3 care, and treatment of human illness and that is required
4 to be licensed under the Hospital Licensing Act.

5 (4) A facility for child care as defined in the Child
6 Care Act of 1969.

7 (5) A community living facility as defined in the
8 Community Living Facilities Licensing Act.

9 (6) A nursing home or sanitarium operated solely by and
10 for persons who rely exclusively upon treatment by
11 spiritual means through prayer in accordance with the creed
12 or tenants of a well-recognized church or religious
13 denomination.

14 (7) A facility licensed by the Department of Human
15 Services as a community-integrated living arrangement as
16 defined in the Community-Integrated Living Arrangements
17 Licensure and Certification Act.

18 (8) A supportive residence licensed under the
19 Supportive Residences Licensing Act.

20 (9) A life care facility as defined in the Life Care
21 Facilities Act; a life care facility may apply under this
22 Act to convert sections of the community to assisted
23 living.

24 (10) A free-standing hospice facility licensed under
25 the Hospice Program Licensing Act.

26 (11) An assisted living establishment.

1 (12) A supportive living facility as described in
2 Section 5-5.01a of the Illinois Public Aid Code.

3 "Total assistance" means that staff or another individual
4 performs the entire activity of daily living without
5 participation by the resident.

6 (Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;
7 96-975, eff. 7-2-10.)

8 (210 ILCS 9/35)

9 Sec. 35. Issuance of license.

10 (a) Upon receipt and review of an application for a license
11 and review of the applicant establishment, the Director may
12 issue a license 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 an
17 establishment by virtue of financial capacity, appropriate
18 business or professional experience, a record of lawful
19 compliance with lawful orders of the Department and lack of
20 revocation of a license issued under this Act, the Nursing
21 Home Care Act, the Specialized Mental Health
22 Rehabilitation Act, or the MR/DD Community Care Act during
23 the previous 5 years;

24 (2) that the establishment is under the supervision of
25 a full-time director who is at least 21 years of age and

1 has a high school diploma or equivalent plus either:

2 (A) 2 years of management experience or 2 years of
3 experience in positions of progressive responsibility
4 in health care, housing with services, or adult day
5 care or providing similar services to the elderly; or

6 (B) 2 years of management experience or 2 years of
7 experience in positions of progressive responsibility
8 in hospitality and training in health care and housing
9 with services management as defined by rule;

10 (3) that the establishment has staff sufficient in
11 number with qualifications, adequate skills, education,
12 and experience to meet the 24 hour scheduled and
13 unscheduled needs of residents and who participate in
14 ongoing training to serve the resident population;

15 (4) that all employees who are subject to the Health
16 Care Worker Background Check Act meet the requirements of
17 that Act;

18 (5) that the applicant is in substantial compliance
19 with this Act and such other requirements for a license as
20 the Department by rule may establish under this Act;

21 (6) that the applicant pays all required fees;

22 (7) that the applicant has provided to the Department
23 an accurate disclosure document in accordance with the
24 Alzheimer's Disease and Related Dementias Special Care
25 Disclosure Act and in substantial compliance with Section
26 150 of this Act.

1 In addition to any other requirements set forth in this
2 Act, as a condition of licensure under this Act, the director
3 of an establishment must participate in at least 20 hours of
4 training every 2 years to assist him or her in better meeting
5 the needs of the residents of the establishment and managing
6 the operation of the establishment.

7 Any license issued by the Director shall state the physical
8 location of the establishment, the date the license was issued,
9 and the expiration date. All licenses shall be valid for one
10 year, except as provided in Sections 40 and 45. Each license
11 shall be issued only for the premises and persons named in the
12 application, and shall not be transferable or assignable.

13 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;
14 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.
15 7-1-10; 96-990, eff. 7-2-10.)

16 (210 ILCS 9/55)

17 Sec. 55. Grounds for denial of a license. An application
18 for a license may be denied for any of the following reasons:

19 (1) failure to meet any of the standards set forth in
20 this Act or by rules adopted by the Department under this
21 Act;

22 (2) conviction of the applicant, or if the applicant is
23 a firm, partnership, or association, of any of its members,
24 or if a corporation, the conviction of the corporation or
25 any of its officers or stockholders, or of the person

1 designated to manage or supervise the establishment, of a
2 felony or of 2 or more misdemeanors involving moral
3 turpitude during the previous 5 years as shown by a
4 certified copy of the record of the court of conviction;

5 (3) personnel insufficient in number or unqualified by
6 training or experience to properly care for the residents;

7 (4) insufficient financial or other resources to
8 operate and conduct the establishment in accordance with
9 standards adopted by the Department under this Act;

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

24 (6) the establishment is not under the direct
25 supervision of a full-time director, as defined by rule.

26 The Department shall deny an application for a license if 6

1 months after submitting its initial application the applicant
2 has not provided the Department with all of the information
3 required for review and approval or the applicant is not
4 actively pursuing the processing of its application. In
5 addition, the Department shall determine whether the applicant
6 has violated any provision of the Nursing Home Care Act, the
7 Specialized Mental Health Rehabilitation Act, or the MR/DD
8 Community Care Act.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 9/145)

11 Sec. 145. Conversion of facilities. Entities licensed as
12 facilities under the Nursing Home Care Act, the Specialized
13 Mental Health Rehabilitation Act, or the MR/DD Community Care
14 Act may elect to convert to a license under this Act. Any
15 facility that chooses to convert, in whole or in part, shall
16 follow the requirements in the Nursing Home Care Act, the
17 Specialized Mental Health Rehabilitation Act, or the MR/DD
18 Community Care Act, as applicable, and rules promulgated under
19 those Acts regarding voluntary closure and notice to residents.
20 Any conversion of existing beds licensed under the Nursing Home
21 Care Act, the Specialized Mental Health Rehabilitation Act, or
22 the MR/DD Community Care Act to licensure under this Act is
23 exempt from review by the Health Facilities and Services Review
24 Board.

25 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;

1 96-1000, eff. 7-2-10.)

2 Section 90-95. The Abuse Prevention Review Team Act is
3 amended by changing Sections 10 and 50 as follows:

4 (210 ILCS 28/10)

5 Sec. 10. Definitions. As used in this Act, unless the
6 context requires otherwise:

7 "Department" means the Department of Public Health.

8 "Director" means the Director of Public Health.

9 "Executive Council" means the Illinois Residential Health
10 Care Facility Resident Sexual Assault and Death Review Teams
11 Executive Council.

12 "Resident" means a person residing in and receiving
13 personal care from a facility licensed under the Nursing Home
14 Care Act, the Specialized Mental Health Rehabilitation Act, or
15 the MR/DD Community Care Act.

16 "Review team" means a residential health care facility
17 resident sexual assault and death review team appointed under
18 this Act.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (210 ILCS 28/50)

21 Sec. 50. Funding. Notwithstanding any other provision of
22 law, to the extent permitted by federal law, the Department
23 shall use moneys from fines paid by facilities licensed under

1 the Nursing Home Care Act, the Specialized Mental Health
2 Rehabilitation Act, or the MR/DD Community Care Act for
3 violating requirements for certification under Titles XVIII
4 and XIX of the Social Security Act to implement the provisions
5 of this Act. The Department shall use moneys deposited in the
6 Long Term Care Monitor/Receiver Fund to pay the costs of
7 implementing this Act that cannot be met by the use of federal
8 civil monetary penalties.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 Section 90-100. The Abused and Neglected Long Term Care
11 Facility Residents Reporting Act is amended by changing
12 Sections 3, 4, and 6 as follows:

13 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

14 Sec. 3. As used in this Act unless the context otherwise
15 requires:

16 a. "Department" means the Department of Public Health of
17 the State of Illinois.

18 b. "Resident" means a person residing in and receiving
19 personal care from a long term care facility, or residing in a
20 mental health facility or developmental disability facility as
21 defined in the Mental Health and Developmental Disabilities
22 Code.

23 c. "Long term care facility" has the same meaning ascribed
24 to such term in the Nursing Home Care Act, except that the term

1 as used in this Act shall include any mental health facility or
2 developmental disability facility as defined in the Mental
3 Health and Developmental Disabilities Code. The term also
4 includes any facility licensed under the MR/DD Community Care
5 Act or the Specialized Mental Health Rehabilitation Act.

6 d. "Abuse" means any physical injury, sexual abuse or
7 mental injury inflicted on a resident other than by accidental
8 means.

9 e. "Neglect" means a failure in a long term care facility
10 to provide adequate medical or personal care or maintenance,
11 which failure results in physical or mental injury to a
12 resident or in the deterioration of a resident's physical or
13 mental condition.

14 f. "Protective services" means services provided to a
15 resident who has been abused or neglected, which may include,
16 but are not limited to alternative temporary institutional
17 placement, nursing care, counseling, other social services
18 provided at the nursing home where the resident resides or at
19 some other facility, personal care and such protective services
20 of voluntary agencies as are available.

21 g. Unless the context otherwise requires, direct or
22 indirect references in this Act to the programs, personnel,
23 facilities, services, service providers, or service recipients
24 of the Department of Human Services shall be construed to refer
25 only to those programs, personnel, facilities, services,
26 service providers, or service recipients that pertain to the

1 Department of Human Services' mental health and developmental
2 disabilities functions.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

5 Sec. 4. Any long term care facility administrator, agent or
6 employee or any physician, hospital, surgeon, dentist,
7 osteopath, chiropractor, podiatrist, accredited religious
8 practitioner who provides treatment by spiritual means alone
9 through prayer in accordance with the tenets and practices of
10 the accrediting church, coroner, social worker, social
11 services administrator, registered nurse, law enforcement
12 officer, field personnel of the Department of Healthcare and
13 Family Services, field personnel of the Illinois Department of
14 Public Health and County or Municipal Health Departments,
15 personnel of the Department of Human Services (acting as the
16 successor to the Department of Mental Health and Developmental
17 Disabilities or the Department of Public Aid), personnel of the
18 Guardianship and Advocacy Commission, personnel of the State
19 Fire Marshal, local fire department inspectors or other
20 personnel, or personnel of the Illinois Department on Aging, or
21 its subsidiary Agencies on Aging, or employee of a facility
22 licensed under the Assisted Living and Shared Housing Act,
23 having reasonable cause to believe any resident with whom they
24 have direct contact has been subjected to abuse or neglect
25 shall immediately report or cause a report to be made to the

1 Department. Persons required to make reports or cause reports
2 to be made under this Section include all employees of the
3 State of Illinois who are involved in providing services to
4 residents, including professionals providing medical or
5 rehabilitation services and all other persons having direct
6 contact with residents; and further include all employees of
7 community service agencies who provide services to a resident
8 of a public or private long term care facility outside of that
9 facility. Any long term care surveyor of the Illinois
10 Department of Public Health who has reasonable cause to believe
11 in the course of a survey that a resident has been abused or
12 neglected and initiates an investigation while on site at the
13 facility shall be exempt from making a report under this
14 Section but the results of any such investigation shall be
15 forwarded to the central register in a manner and form
16 described by the Department.

17 The requirement of this Act shall not relieve any long term
18 care facility administrator, agent or employee of
19 responsibility to report the abuse or neglect of a resident
20 under Section 3-610 of the Nursing Home Care Act or under
21 Section 3-610 of the MR/DD Community Care Act or under Section
22 3-610 of the Specialized Mental Health Rehabilitation Act.

23 In addition to the above persons required to report
24 suspected resident abuse and neglect, any other person may make
25 a report to the Department, or to any law enforcement officer,
26 if such person has reasonable cause to suspect a resident has

1 been abused or neglected.

2 This Section also applies to residents whose death occurs
3 from suspected abuse or neglect before being found or brought
4 to a hospital.

5 A person required to make reports or cause reports to be
6 made under this Section who fails to comply with the
7 requirements of this Section is guilty of a Class A
8 misdemeanor.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

11 Sec. 6. All reports of suspected abuse or neglect made
12 under this Act shall be made immediately by telephone to the
13 Department's central register established under Section 14 on
14 the single, State-wide, toll-free telephone number established
15 under Section 13, or in person or by telephone through the
16 nearest Department office. No long term care facility
17 administrator, agent or employee, or any other person, shall
18 screen reports or otherwise withhold any reports from the
19 Department, and no long term care facility, department of State
20 government, or other agency shall establish any rules,
21 criteria, standards or guidelines to the contrary. Every long
22 term care facility, department of State government and other
23 agency whose employees are required to make or cause to be made
24 reports under Section 4 shall notify its employees of the
25 provisions of that Section and of this Section, and provide to

1 the Department documentation that such notification has been
2 given. The Department of Human Services shall train all of its
3 mental health and developmental disabilities employees in the
4 detection and reporting of suspected abuse and neglect of
5 residents. Reports made to the central register through the
6 State-wide, toll-free telephone number shall be transmitted to
7 appropriate Department offices and municipal health
8 departments that have responsibility for licensing long term
9 care facilities under the Nursing Home Care Act, the
10 Specialized Mental Health Rehabilitation Act, or the MR/DD
11 Community Care Act. All reports received through offices of the
12 Department shall be forwarded to the central register, in a
13 manner and form described by the Department. The Department
14 shall be capable of receiving reports of suspected abuse and
15 neglect 24 hours a day, 7 days a week. Reports shall also be
16 made in writing deposited in the U.S. mail, postage prepaid,
17 within 24 hours after having reasonable cause to believe that
18 the condition of the resident resulted from abuse or neglect.
19 Such reports may in addition be made to the local law
20 enforcement agency in the same manner. However, in the event a
21 report is made to the local law enforcement agency, the
22 reporter also shall immediately so inform the Department. The
23 Department shall initiate an investigation of each report of
24 resident abuse and neglect under this Act, whether oral or
25 written, as provided for in Section 3-702 of the Nursing Home
26 Care Act, Section 3-702 of the Specialized Mental Health

1 Rehabilitation Act, or Section 3-702 of the MR/DD Community
2 Care Act, except that reports of abuse which indicate that a
3 resident's life or safety is in imminent danger shall be
4 investigated within 24 hours of such report. The Department may
5 delegate to law enforcement officials or other public agencies
6 the duty to perform such investigation.

7 With respect to investigations of reports of suspected
8 abuse or neglect of residents of mental health and
9 developmental disabilities institutions under the jurisdiction
10 of the Department of Human Services, the Department shall
11 transmit copies of such reports to the Department of State
12 Police, the Department of Human Services, and the Inspector
13 General appointed under Section 1-17 of the Department of Human
14 Services Act. If the Department receives a report of suspected
15 abuse or neglect of a recipient of services as defined in
16 Section 1-123 of the Mental Health and Developmental
17 Disabilities Code, the Department shall transmit copies of such
18 report to the Inspector General and the Directors of the
19 Guardianship and Advocacy Commission and the agency designated
20 by the Governor pursuant to the Protection and Advocacy for
21 Developmentally Disabled Persons Act. When requested by the
22 Director of the Guardianship and Advocacy Commission, the
23 agency designated by the Governor pursuant to the Protection
24 and Advocacy for Developmentally Disabled Persons Act, or the
25 Department of Financial and Professional Regulation, the
26 Department, the Department of Human Services and the Department

1 of State Police shall make available a copy of the final
2 investigative report regarding investigations conducted by
3 their respective agencies on incidents of suspected abuse or
4 neglect of residents of mental health and developmental
5 disabilities institutions or individuals receiving services at
6 community agencies under the jurisdiction of the Department of
7 Human Services. Such final investigative report shall not
8 contain witness statements, investigation notes, draft
9 summaries, results of lie detector tests, investigative files
10 or other raw data which was used to compile the final
11 investigative report. Specifically, the final investigative
12 report of the Department of State Police shall mean the
13 Director's final transmittal letter. The Department of Human
14 Services shall also make available a copy of the results of
15 disciplinary proceedings of employees involved in incidents of
16 abuse or neglect to the Directors. All identifiable information
17 in reports provided shall not be further disclosed except as
18 provided by the Mental Health and Developmental Disabilities
19 Confidentiality Act. Nothing in this Section is intended to
20 limit or construe the power or authority granted to the agency
21 designated by the Governor pursuant to the Protection and
22 Advocacy for Developmentally Disabled Persons Act, pursuant to
23 any other State or federal statute.

24 With respect to investigations of reported resident abuse
25 or neglect, the Department shall effect with appropriate law
26 enforcement agencies formal agreements concerning methods and

1 procedures for the conduct of investigations into the criminal
2 histories of any administrator, staff assistant or employee of
3 the nursing home or other person responsible for the residents
4 care, as well as for other residents in the nursing home who
5 may be in a position to abuse, neglect or exploit the patient.
6 Pursuant to the formal agreements entered into with appropriate
7 law enforcement agencies, the Department may request
8 information with respect to whether the person or persons set
9 forth in this paragraph have ever been charged with a crime and
10 if so, the disposition of those charges. Unless the criminal
11 histories of the subjects involved crimes of violence or
12 resident abuse or neglect, the Department shall be entitled
13 only to information limited in scope to charges and their
14 dispositions. In cases where prior crimes of violence or
15 resident abuse or neglect are involved, a more detailed report
16 can be made available to authorized representatives of the
17 Department, pursuant to the agreements entered into with
18 appropriate law enforcement agencies. Any criminal charges and
19 their disposition information obtained by the Department shall
20 be confidential and may not be transmitted outside the
21 Department, except as required herein, to authorized
22 representatives or delegates of the Department, and may not be
23 transmitted to anyone within the Department who is not duly
24 authorized to handle resident abuse or neglect investigations.

25 The Department shall effect formal agreements with
26 appropriate law enforcement agencies in the various counties

1 and communities to encourage cooperation and coordination in
2 the handling of resident abuse or neglect cases pursuant to
3 this Act. The Department shall adopt and implement methods and
4 procedures to promote statewide uniformity in the handling of
5 reports of abuse and neglect under this Act, and those methods
6 and procedures shall be adhered to by personnel of the
7 Department involved in such investigations and reporting. The
8 Department shall also make information required by this Act
9 available to authorized personnel within the Department, as
10 well as its authorized representatives.

11 The Department shall keep a continuing record of all
12 reports made pursuant to this Act, including indications of the
13 final determination of any investigation and the final
14 disposition of all reports.

15 The Department shall report annually to the General
16 Assembly on the incidence of abuse and neglect of long term
17 care facility residents, with special attention to residents
18 who are mentally disabled. The report shall include but not be
19 limited to data on the number and source of reports of
20 suspected abuse or neglect filed under this Act, the nature of
21 any injuries to residents, the final determination of
22 investigations, the type and number of cases where abuse or
23 neglect is determined to exist, and the final disposition of
24 cases.

25 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

1 Section 90-105. The Nursing Home Care Act is amended by
2 changing Sections 1-113, 2-204, 3-202.5, and 3-206.01 as
3 follows:

4 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

5 Sec. 1-113. "Facility" or "long-term care facility" means a
6 private home, institution, building, residence, or any other
7 place, whether operated for profit or not, or a county home for
8 the infirm and chronically ill operated pursuant to Division
9 5-21 or 5-22 of the Counties Code, or any similar institution
10 operated by a political subdivision of the State of Illinois,
11 which provides, through its ownership or management, personal
12 care, sheltered care or nursing for 3 or more persons, not
13 related to the applicant or owner by blood or marriage. It
14 includes skilled nursing facilities and intermediate care
15 facilities as those terms are defined in Title XVIII and Title
16 XIX of the Federal Social Security Act. It also includes homes,
17 institutions, or other places operated by or under the
18 authority of the Illinois Department of Veterans' Affairs.

19 "Facility" does not include the following:

20 (1) A home, institution, or other place operated by the
21 federal government or agency thereof, or by the State of
22 Illinois, other than homes, institutions, or other places
23 operated by or under the authority of the Illinois
24 Department of Veterans' Affairs;

25 (2) A hospital, sanitarium, or other institution whose

1 principal activity or business is the diagnosis, care, and
2 treatment of human illness through the maintenance and
3 operation as organized facilities therefor, which is
4 required to be licensed under the Hospital Licensing Act;

5 (3) Any "facility for child care" as defined in the
6 Child Care Act of 1969;

7 (4) Any "Community Living Facility" as defined in the
8 Community Living Facilities Licensing Act;

9 (5) Any "community residential alternative" as defined
10 in the Community Residential Alternatives Licensing Act;

11 (6) Any nursing home or sanatorium operated solely by
12 and for persons who rely exclusively upon treatment by
13 spiritual means through prayer, in accordance with the
14 creed or tenets of any well-recognized church or religious
15 denomination. However, such nursing home or sanatorium
16 shall comply with all local laws and rules relating to
17 sanitation and safety;

18 (7) Any facility licensed by the Department of Human
19 Services as a community-integrated living arrangement as
20 defined in the Community-Integrated Living Arrangements
21 Licensure and Certification Act;

22 (8) Any "Supportive Residence" licensed under the
23 Supportive Residences Licensing Act;

24 (9) Any "supportive living facility" in good standing
25 with the program established under Section 5-5.01a of the
26 Illinois Public Aid Code, except only for purposes of the

1 employment of persons in accordance with Section 3-206.01;

2 (10) Any assisted living or shared housing
3 establishment licensed under the Assisted Living and
4 Shared Housing Act, except only for purposes of the
5 employment of persons in accordance with Section 3-206.01;

6 (11) An Alzheimer's disease management center
7 alternative health care model licensed under the
8 Alternative Health Care Delivery Act; ~~or~~

9 (12) A facility licensed under the MR/DD Community Care
10 Act; or

11 (13) A facility licensed under the Specialized Mental
12 Health Rehabilitation Act.

13 (Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

14 (210 ILCS 45/2-204) (from Ch. 111 1/2, par. 4152-204)

15 Sec. 2-204. The Director shall appoint a Long-Term Care
16 Facility Advisory Board to consult with the Department and the
17 residents' advisory councils created under Section 2-203.

18 (a) The Board shall be comprised of the following persons:

19 (1) The Director who shall serve as chairman, ex
20 officio and nonvoting; and

21 (2) One representative each of the Department of
22 Healthcare and Family Services, the Department of Human
23 Services, the Department on Aging, and the Office of the
24 State Fire Marshal, all nonvoting members;

25 (3) One member who shall be a physician licensed to

1 practice medicine in all its branches;

2 (4) One member who shall be a registered nurse selected
3 from the recommendations of professional nursing
4 associations;

5 (5) Four members who shall be selected from the
6 recommendations by organizations whose membership consists
7 of facilities;

8 (6) Two members who shall represent the general public
9 who are not members of a residents' advisory council
10 established under Section 2-203 and who have no
11 responsibility for management or formation of policy or
12 financial interest in a facility;

13 (7) One member who is a member of a residents' advisory
14 council established under Section 2-203 and is capable of
15 actively participating on the Board; and

16 (8) One member who shall be selected from the
17 recommendations of consumer organizations which engage
18 solely in advocacy or legal representation on behalf of
19 residents and their immediate families.

20 (b) The terms of those members of the Board appointed prior
21 to the effective date of this amendatory Act of 1988 shall
22 expire on December 31, 1988. Members of the Board created by
23 this amendatory Act of 1988 shall be appointed to serve for
24 terms as follows: 3 for 2 years, 3 for 3 years and 3 for 4
25 years. The member of the Board added by this amendatory Act of
26 1989 shall be appointed to serve for a term of 4 years. Each

1 successor member shall be appointed for a term of 4 years. Any
2 member appointed to fill a vacancy occurring prior to the
3 expiration of the term for which his predecessor was appointed
4 shall be appointed for the remainder of such term. The Board
5 shall meet as frequently as the chairman deems necessary, but
6 not less than 4 times each year. Upon request by 4 or more
7 members the chairman shall call a meeting of the Board. The
8 affirmative vote of 6 members of the Board shall be necessary
9 for Board action. A member of the Board can designate a
10 replacement to serve at the Board meeting and vote in place of
11 the member by submitting a letter of designation to the
12 chairman prior to or at the Board meeting. The Board members
13 shall be reimbursed for their actual expenses incurred in the
14 performance of their duties.

15 (c) The Advisory Board shall advise the Department of
16 Public Health on all aspects of its responsibilities under this
17 Act and the Specialized Mental Health Rehabilitation
18 Facilities Act, including the format and content of any rules
19 promulgated by the Department of Public Health. Any such rules,
20 except emergency rules promulgated pursuant to Section 5-45 of
21 the Illinois Administrative Procedure Act, promulgated without
22 obtaining the advice of the Advisory Board are null and void.
23 In the event that the Department fails to follow the advice of
24 the Board, the Department shall, prior to the promulgation of
25 such rules, transmit a written explanation of the reason
26 thereof to the Board. During its review of rules, the Board

1 shall analyze the economic and regulatory impact of those
2 rules. If the Advisory Board, having been asked for its advice,
3 fails to advise the Department within 90 days, the rules shall
4 be considered acted upon.

5 (Source: P.A. 95-331, eff. 8-21-07.)

6 (210 ILCS 45/3-202.5)

7 Sec. 3-202.5. Facility plan review; fees.

8 (a) Before commencing construction of a new facility or
9 specified types of alteration or additions to an existing long
10 term care facility involving major construction, as defined by
11 rule by the Department, with an estimated cost greater than
12 \$100,000, architectural drawings and specifications for the
13 facility shall be submitted to the Department for review and
14 approval. A facility may submit architectural drawings and
15 specifications for other construction projects for Department
16 review according to subsection (b) that shall not be subject to
17 fees under subsection (d). Review of drawings and
18 specifications shall be conducted by an employee of the
19 Department meeting the qualifications established by the
20 Department of Central Management Services class specifications
21 for such an individual's position or by a person contracting
22 with the Department who meets those class specifications. Final
23 approval of the drawings and specifications for compliance with
24 design and construction standards shall be obtained from the
25 Department before the alteration, addition, or new

1 construction is begun.

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

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

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

18 (1) the Department reviewed and approved or deemed
19 approved the drawings and specifications for compliance
20 with design and construction standards;

21 (2) the construction, major alteration, or addition
22 was built as submitted;

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

25 (4) the conditions at the facility indicate that there
26 is a reasonable degree of safety provided for the

1 residents.

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

5 (1) (Blank).

6 (2) (Blank).

7 (3) If the estimated dollar value of the alteration,
8 addition, or new construction is \$100,000 or more but less
9 than \$500,000, the fee shall be the greater of \$2,400 or
10 1.2% of that value.

11 (4) If the estimated dollar value of the alteration,
12 addition, or new construction is \$500,000 or more but less
13 than \$1,000,000, the fee shall be the greater of \$6,000 or
14 0.96% of that value.

15 (5) If the estimated dollar value of the alteration,
16 addition, or new construction is \$1,000,000 or more but
17 less than \$5,000,000, the fee shall be the greater of
18 \$9,600 or 0.22% of that value.

19 (6) If the estimated dollar value of the alteration,
20 addition, or new construction is \$5,000,000 or more, the
21 fee shall be the greater of \$11,000 or 0.11% of that value,
22 but shall not exceed \$40,000.

23 The fees provided in this subsection (d) shall not apply to
24 major construction projects involving facility changes that
25 are required by Department rule amendments.

26 The fees provided in this subsection (d) shall also not

1 apply to major construction projects if 51% or more of the
2 estimated cost of the project is attributed to capital
3 equipment. For major construction projects where 51% or more of
4 the estimated cost of the project is attributed to capital
5 equipment, the Department shall by rule establish a fee that is
6 reasonably related to the cost of reviewing the project.

7 The Department shall not commence the facility plan review
8 process under this Section until the applicable fee has been
9 paid.

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

24 (f) (1) The provisions of this amendatory Act of 1997
25 concerning drawings and specifications shall apply only to
26 drawings and specifications submitted to the Department on

1 or after October 1, 1997.

2 (2) On and after the effective date of this amendatory
3 Act of 1997 and before October 1, 1997, an applicant may
4 submit or resubmit drawings and specifications to the
5 Department and pay the fees provided in subsection (d). If
6 an applicant pays the fees provided in subsection (d) under
7 this paragraph (2), the provisions of subsection (b) shall
8 apply with regard to those drawings and specifications.

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

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

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

3 (j) Nothing in this Section shall be construed to apply to
4 maintenance, upkeep, or renovation that does not affect the
5 structural integrity of the building, does not add beds or
6 services over the number for which the long-term care facility
7 is licensed, and provides a reasonable degree of safety for the
8 residents.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 Section 90-110. The MR/DD Community Care Act is amended by
11 changing Sections 1-114.01, 1-117, 1-122, 1-129, 1-130, 2-104,
12 2-106.1, 2-201.5, 2-205, 2-208, 3-109, 3-110, 3-112, 3-117,
13 3-119, 3-202, 3-206, 3-206.01, 3-206.02, 3-212, 3-303,
14 3-303.2, 3-304.1, 3-304.2, 3-305, 3-306, 3-308, 3-309, 3-310,
15 3-318, 3-402, 3-501, 3-502, 3-504, 3-703, and 3-712 and by
16 adding Sections 1-111.05, 1-114.001, 1-114.005, 1-120.3,
17 1-128.5, 1-132, 2-114, 2-115, 2-201.6, 2-217, 2-218, 3-119.1,
18 3-202.2a, 3-206.04, 3-808, 3-808.5, 3-809, and 3-810 as
19 follows:

20 (210 ILCS 47/1-111.05 new)

21 Sec. 1-111.05. Distressed facility. "Distressed facility"
22 means a facility determined by the Department to be a
23 distressed facility pursuant to Section 3-304.2 of this Act.

1 (210 ILCS 47/1-114.001 new)

2 Sec. 1-114.001. Habilitation. "Habilitation" means an
3 effort directed toward increasing a person's level of physical,
4 mental, social, or economic functioning. Habilitation may
5 include, but is not limited to, diagnosis, evaluation, medical
6 services, residential care, day care, special living
7 arrangements, training, education, employment services,
8 protective services, and counseling.

9 (210 ILCS 47/1-114.005 new)

10 Sec. 1-114.005. High risk designation. "High risk
11 designation" means a violation of a provision of the Illinois
12 Administrative Code that has been identified by the Department
13 through rulemaking to be inherently necessary to protect the
14 health, safety, and welfare of a resident.

15 (210 ILCS 47/1-114.01)

16 Sec. 1-114.01. Identified offender. "Identified offender"
17 means a person who meets any of the following criteria:

18 (1) Has been convicted of, found guilty of, adjudicated
19 delinquent for, found not guilty by reason of insanity for,
20 or found unfit to stand trial for any felony offense listed
21 in Section 25 of the Health Care Worker Background Check
22 Act, except for the following:

23 (i) a felony offense described in Section 10-5 of
24 the Nurse Practice Act;

1 (ii) a felony offense described in Section 4, 5, 6,
2 8, or 17.02 of the Illinois Credit Card and Debit Card
3 Act;

4 (iii) a felony offense described in Section 5, 5.1,
5 5.2, 7, or 9 of the Cannabis Control Act;

6 (iv) a felony offense described in Section 401,
7 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois
8 Controlled Substances Act; and

9 (v) a felony offense described in the
10 Methamphetamine Control and Community Protection Act.

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

16 (3) Is any other resident as determined by the
17 Department of State Police. ~~has been convicted of any~~
18 ~~felony offense listed in Section 25 of the Health Care~~
19 ~~Worker Background Check Act, is a registered sex offender,~~
20 ~~or is serving a term of parole, mandatory supervised~~
21 ~~release, or probation for a felony offense.~~

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (210 ILCS 47/1-117)

24 Sec. 1-117. Neglect. "Neglect" means a facility's failure
25 to provide or willful withholding of any element identified in

1 the individual's service plan, adequate medical care,
2 habilitation, psychiatric services, therapeutic services,
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 ~~failure in a facility to provide~~
6 ~~adequate medical or personal care or maintenance, which failure~~
7 ~~results in physical or mental injury to a resident or in the~~
8 ~~deterioration of a resident's physical or mental condition.~~

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/1-120.3 new)

11 Sec. 1-120.3. Provisional admission period. "Provisional
12 admission period" means the time between the admission of an
13 identified offender as defined in Section 1-114.01 of this Act
14 and 3 days following the admitting facility's receipt of an
15 Identified Offender Report and Recommendation in accordance
16 with Section 2-201.6 of this Act.

17 (210 ILCS 47/1-122)

18 Sec. 1-122. Resident. "Resident" means a person receiving
19 personal or medical care, including, but not limited to,
20 habilitation, psychiatric services, therapeutic services, and
21 assistance with activities of daily living from a facility
22 ~~residing in and receiving personal care from a facility.~~

23 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/1-128.5 new)

2 Sec. 1-128.5. Type "AA" violation. A "Type 'AA' violation"
3 means a violation of this Act or of the rules promulgated
4 thereunder that creates a condition or occurrence relating to
5 the operation and maintenance of a facility that proximately
6 caused a resident's death.

7 (210 ILCS 47/1-129)

8 Sec. 1-129. Type 'A' violation. A "Type 'A' violation"
9 means a violation of this Act or of the rules promulgated
10 thereunder which creates a condition or occurrence relating to
11 the operation and maintenance of a facility that (i) creates a
12 substantial probability that the risk of death or serious
13 mental or physical harm to a resident will result therefrom or
14 (ii) has resulted in actual physical or mental harm to a
15 resident ~~presenting a substantial probability that death or~~
16 ~~serious mental or physical harm to a resident will result~~
17 ~~therefrom.~~

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (210 ILCS 47/1-130)

20 Sec. 1-130. Type 'B' violation. A "Type 'B' violation"
21 means a violation of this Act or of the rules promulgated
22 thereunder which (i) creates a condition or occurrence relating
23 to the operation and maintenance of a facility that is more
24 likely than not to cause more than minimal physical or mental

1 harm to a resident or (ii) is specifically designated as a Type
2 "B" violation in this Act ~~directly threatening to the health,~~
3 ~~safety or welfare of a resident.~~

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 (210 ILCS 47/1-132 new)

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

12 (210 ILCS 47/2-104)

13 Sec. 2-104. Medical treatment; records.

14 (a) A resident shall be permitted to retain the services of
15 his or her own personal physician at his or her own expense or
16 under an individual or group plan of health insurance, or under
17 any public or private assistance program providing such
18 coverage. However, the facility is not liable for the
19 negligence of any such personal physician. Every resident shall
20 be permitted to obtain from his or her own physician or the
21 physician attached to the facility complete and current
22 information concerning his or her medical diagnosis, treatment
23 and prognosis in terms and language the resident can reasonably
24 be expected to understand. Every resident shall be permitted to

1 participate in the planning of his or her total care and
2 medical treatment to the extent that his or her condition
3 permits. No resident shall be subjected to experimental
4 research or treatment without first obtaining his or her
5 informed, written consent. The conduct of any experimental
6 research or treatment shall be authorized and monitored by an
7 institutional review board ~~committee~~ appointed by the Director
8 ~~administrator of the facility where such research and treatment~~
9 ~~is conducted~~. The membership, operating procedures and review
10 criteria for the institutional review board ~~committees~~ shall be
11 prescribed under rules and regulations of the Department and
12 shall comply with the requirements for institutional review
13 boards established by the federal Food and Drug Administration.
14 No person who has received compensation in the prior 3 years
15 from an entity that manufactures, distributes, or sells
16 pharmaceuticals, biologics, or medical devices may serve on the
17 institutional review board.

18 The institutional review board may approve only research or
19 treatment that meets the standards of the federal Food and Drug
20 Administration with respect to (i) the protection of human
21 subjects and (ii) financial disclosure by clinical
22 investigators. The Office of State Long Term Care Ombudsman and
23 the State Protection and Advocacy organization shall be given
24 an opportunity to comment on any request for approval before
25 the board makes a decision. Those entities shall not be
26 provided information that would allow a potential human subject

1 to be individually identified, unless the board asks the
2 Ombudsman for help in securing information from or about the
3 resident. The board shall require frequent reporting of the
4 progress of the approved research or treatment and its impact
5 on residents, including immediate reporting of any adverse
6 impact to the resident, the resident's representative, the
7 Office of the State Long Term Care Ombudsman, and the State
8 Protection and Advocacy organization. The board may not approve
9 any retrospective study of the records of any resident about
10 the safety or efficacy of any care or treatment if the resident
11 was under the care of the proposed researcher or a business
12 associate when the care or treatment was given, unless the
13 study is under the control of a researcher without any business
14 relationship to any person or entity who could benefit from the
15 findings of the study.

16 No facility shall permit experimental research or
17 treatment to be conducted on a resident or give access to any
18 person or person's records for a retrospective study about the
19 safety or efficacy of any care or treatment without the prior
20 written approval of the institutional review board. No
21 administrator, or person licensed by the State to provide
22 medical care or treatment to any person may assist or
23 participate in any experimental research on or treatment of a
24 resident, including a retrospective study, that does not have
25 the prior written approval of the board. Such conduct shall be
26 grounds for professional discipline by the Department of

1 Financial and Professional Regulation.

2 The institutional review board may exempt from ongoing
3 review research or treatment initiated on a resident before the
4 individual's admission to a facility and for which the board
5 determines there is adequate ongoing oversight by another
6 institutional review board. Nothing in this Section shall
7 prevent a facility, any facility employee, or any other person
8 from assisting or participating in any experimental research on
9 or treatment of a resident if the research or treatment began
10 before the person's admission to a facility, until the board
11 has reviewed the research or treatment and decided to grant or
12 deny approval or to exempt the research or treatment from
13 ongoing review.

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

19 According to rules adopted by the Department, every woman
20 resident of child bearing age shall receive routine obstetrical
21 and gynecological evaluations as well as necessary prenatal
22 care.

23 (c) Every resident shall be permitted to refuse medical
24 treatment and to know the consequences of such action, unless
25 such refusal would be harmful to the health and safety of
26 others and such harm is documented by a physician in the

1 resident's clinical record. The resident's refusal shall free
2 the facility from the obligation to provide the treatment.

3 (d) Every resident, resident's guardian, or parent if the
4 resident is a minor shall be permitted to inspect and copy all
5 his or her clinical and other records concerning his or her
6 care and maintenance kept by the facility or by his or her
7 physician. The facility may charge a reasonable fee for
8 duplication of a record.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/2-106.1)

11 Sec. 2-106.1. Drug treatment.

12 (a) A resident shall not be given unnecessary drugs. An
13 unnecessary drug is any drug used in an excessive dose,
14 including in duplicative therapy; for excessive duration;
15 without adequate monitoring; without adequate indications for
16 its use; or in the presence of adverse consequences that
17 indicate the drugs should be reduced or discontinued. The
18 Department shall adopt, by rule, the standards for unnecessary
19 drugs contained in interpretive guidelines issued by the United
20 States Department of Health and Human Services for the purposes
21 of administering Titles XVIII and XIX of the Social Security
22 Act.

23 (b) Psychotropic medication shall not be administered
24 ~~prescribed~~ without the informed consent of the resident, the
25 resident's guardian, or other authorized representative.

1 "Psychotropic medication" means medication that is used for or
2 listed as used for antipsychotic, antidepressant, antimanic,
3 or antianxiety behavior modification or behavior management
4 purposes in the latest editions of the AMA Drug Evaluations or
5 the Physician's Desk Reference. The Department shall adopt, by
6 rule, a protocol specifying how informed consent for
7 psychotropic medication may be obtained or refused. The
8 protocol shall require, at a minimum, a discussion between (1)
9 the resident or the resident's authorized representative and
10 (2) the resident's physician, a registered pharmacist who is
11 not a dispensing pharmacist for the facility where the resident
12 lives, or a licensed nurse about the possible risks and
13 benefits of a recommended medication and the use of
14 standardized consent forms designated by the Department. Each
15 form developed by the Department (i) shall be written in plain
16 language, (ii) shall be able to be downloaded from the
17 Department's official website, (iii) shall include information
18 specific to the psychotropic medication for which consent is
19 being sought, and (iv) shall be used for every resident for
20 whom psychotropic drugs are prescribed. In addition to creating
21 those forms, the Department shall approve the use of any other
22 informed consent forms that meet criteria developed by the
23 Department.

24 In addition to any other requirement prescribed by law, a
25 facility that is found to have violated this subsection, or the
26 federal certification requirement that informed consent be

1 obtained before administering a psychotropic medication shall
2 for 3 years after the notice of violation be required to (A)
3 obtain the signatures of 2 licensed health care professionals
4 on every form purporting to give informed consent for the
5 administration of a psychotropic medication, certifying the
6 personal knowledge of each health care professional that the
7 consent was obtained in compliance with the requirements of
8 this subsection or (B) videotape or make a digital video record
9 of the procedures followed by the facility to comply with the
10 requirements of this subsection.

11 (c) The requirements of this Section are intended to
12 control in a conflict with the requirements of Sections 2-102
13 and 2-107.2 of the Mental Health and Developmental Disabilities
14 Code with respect to the administration of psychotropic
15 medication.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 47/2-114 new)

18 Sec. 2-114. Unlawful discrimination. No resident shall be
19 subjected to unlawful discrimination as defined in Section
20 1-103 of the Illinois Human Rights Act by any owner, licensee,
21 administrator, employee, or agent of a facility. Unlawful
22 discrimination does not include an action by any owner,
23 licensee, administrator, employee, or agent of a facility that
24 is required by this Act or rules adopted under this Act.

1 (210 ILCS 47/2-115 new)

2 Sec. 2-115. Right to notification of violations. Residents
3 and their guardians or other resident representatives, if any,
4 shall be notified of any violation of this Act or the rules
5 promulgated thereunder pursuant to Section 2-217 of this Act,
6 or of violations of the requirements of Titles 18 or 19 of the
7 Social Security Act or rules promulgated thereunder, with
8 respect to the health, safety, or welfare of the resident.

9 (210 ILCS 47/2-201.5)

10 Sec. 2-201.5. Screening prior to admission.

11 (a) All persons age 18 or older seeking admission to a
12 facility must be screened to determine the need for facility
13 services prior to being admitted, regardless of income, assets,
14 or funding source. In addition, any person who seeks to become
15 eligible for medical assistance from the Medical Assistance
16 Program under the Illinois Public Aid Code to pay for services
17 while residing in a facility must be screened prior to
18 receiving those benefits. Screening for facility services
19 shall be administered through procedures established by
20 administrative rule. Screening may be done by agencies other
21 than the Department as established by administrative rule.

22 (a-1) Any screening shall also include an evaluation of
23 whether there are residential supports and services or an array
24 of community services that would enable the person to live in
25 the community. The person shall be told about the existence of

1 any such services that would enable the person to live safely
2 and humanely in the least restrictive environment, that is
3 appropriate, that the individual or guardian chooses, and the
4 person shall be given the assistance necessary to avail himself
5 or herself of any available services.

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

1 emotional or physical hardship to the resident.

2 (c) If the results of a resident's criminal history
3 background check reveal that the resident is an identified
4 offender as defined in Section 1-114.01 of this Act, the
5 facility shall do the following:

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

10 (2) Within 72 hours, arrange for a fingerprint-based
11 criminal history record inquiry to be requested on the
12 identified offender resident. The inquiry shall be
13 based on the subject's name, sex, race, date of birth,
14 fingerprint images, and other identifiers required by
15 the Department of State Police. The inquiry shall be
16 processed through the files of the Department of State
17 Police and the Federal Bureau of Investigation to
18 locate any criminal history record information that
19 may exist regarding the subject. The Federal Bureau of
20 Investigation shall furnish to the Department of State
21 Police, pursuant to an inquiry under this paragraph
22 (2), any criminal history record information contained
23 in its files. The facility shall comply with all
24 applicable provisions contained in the Uniform
25 Conviction Information Act. All name-based and
26 fingerprint-based criminal history record inquiries

1 shall be submitted to the Department of State Police
2 electronically in the form and manner prescribed by the
3 Department of State Police. The Department of State
4 Police may charge the facility a fee for processing
5 name-based and fingerprint-based criminal history
6 record inquiries. The fee shall be deposited into the
7 State Police Services Fund. The fee shall not exceed
8 the actual cost of processing the inquiry.

9 ~~identified offenders who seek admission to a licensed facility~~
10 ~~shall not be admitted unless the licensed facility complies~~
11 ~~with the requirements of the Department's administrative rules~~
12 ~~adopted pursuant to Section 3-202.3.~~

13 (d) The Department shall develop and maintain a
14 de-identified database of residents who have injured facility
15 staff, facility visitors, or other residents, and the attendant
16 circumstances, solely for the purposes of evaluating and
17 improving resident pre-screening and assessment procedures
18 (including the Criminal History Report prepared under Section
19 2-201.6 of this Act) and the adequacy of Department
20 requirements concerning the provision of care and services to
21 residents. A resident shall not be listed in the database until
22 a Department survey confirms the accuracy of the listing. The
23 names of persons listed in the database and information that
24 would allow them to be individually identified shall not be
25 made public. Neither the Department nor any other agency of
26 State government may use information in the database to take

1 any action against any individual, licensee, or other entity
2 unless the Department or agency receives the information
3 independent of this subsection (d). All information collected,
4 maintained, or developed under the authority of this subsection
5 (d) for the purposes of the database maintained under this
6 subsection (d) shall be treated in the same manner as
7 information that is subject to Part 21 of Article VIII of the
8 Code of Civil Procedure.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/2-201.6 new)

11 Sec. 2-201.6. Criminal History Report.

12 (a) The Department of State Police shall prepare a Criminal
13 History Report when it receives information, through the
14 criminal history background check required pursuant to
15 subsection (c) of Section 2-201.5 or through any other means,
16 that a resident of a facility is an identified offender.

17 (b) The Department of State Police shall complete the
18 Criminal History Report within 10 business days after receiving
19 any information described under subsection (a) of this Act that
20 a resident is an identified offender.

21 (c) The Criminal History Report shall include, but not be
22 limited to, all of the following:

23 (1) Copies of the identified offender's parole,
24 mandatory supervised release, or probation orders.

25 (2) An interview with the identified offender.

1 (3) A detailed summary of the entire criminal history
2 of the offender, including arrests, convictions, and the
3 date of the identified offender's last conviction relative
4 to the date of admission to a long-term care facility.

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

20 (d) The Department of State Police shall provide the
21 Criminal History Report to a licensed forensic psychologist.
22 The licensed forensic psychologist shall prepare an Identified
23 Offender Report and Recommendation after (i) consideration of
24 the Criminal History Report, (ii) consultation with the
25 facility administrator or the facility medical director, or
26 both, regarding the mental and physical condition of the

1 identified offender, and (iii) reviewing the facility's file on
2 the identified offender, including all incident reports, all
3 information regarding medication and medication compliance,
4 and all information regarding previous discharges or transfers
5 from other facilities. The Identified Offender Report and
6 Recommendation shall detail whether and to what extent the
7 identified offender's criminal history necessitates the
8 implementation of security measures within the facility. If the
9 identified offender is a convicted or registered sex offender,
10 or if the Identified Offender Report and Recommendation reveals
11 that the identified offender poses a significant risk of harm
12 to others within the facility, then the offender shall be
13 required to have his or her own room within the facility.

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

21 (1) The facility within which the identified offender
22 resides.

23 (2) The Chief of Police of the municipality in which
24 the facility is located.

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

26 (4) The Department of Public Health.

1 (f) The Department of Public Health shall keep a continuing
2 record of all residents determined to be identified offenders
3 as defined in Section 1-114.01 and shall report the number of
4 identified offender residents annually to the General
5 Assembly.

6 (g) The facility shall incorporate the Identified Offender
7 Report and Recommendation into the identified offender's
8 individual program plan created pursuant to 42 CFR 483.440(c).

9 (h) If, based on the Identified Offender Report and
10 Recommendation, a facility determines that it cannot manage the
11 identified offender resident safely within the facility, then
12 it shall commence involuntary transfer or discharge
13 proceedings pursuant to Section 3-402.

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

20 (210 ILCS 47/2-205)

21 Sec. 2-205. Disclosure of information to public. The
22 following information is subject to disclosure to the public
23 from the Department or the Department of Healthcare and Family
24 Services:

25 (1) Information submitted under Sections 3-103 and

1 3-207 except information concerning the remuneration of
2 personnel licensed, registered, or certified by the
3 Department of Financial and Professional Regulation (as
4 successor to the Department of Professional Regulation)
5 and monthly charges for an individual private resident;

6 (2) Records of license and certification inspections,
7 surveys, and evaluations of facilities, other reports of
8 inspections, surveys, and evaluations of resident care,
9 whether a facility is designated a distressed facility and
10 the basis for the designation, and reports concerning a
11 facility prepared pursuant to Titles XVIII and XIX of the
12 Social Security Act, subject to the provisions of the
13 Social Security Act;

14 (3) Cost and reimbursement reports submitted by a
15 facility under Section 3-208, reports of audits of
16 facilities, and other public records concerning costs
17 incurred by, revenues received by, and reimbursement of
18 facilities; and

19 (4) Complaints filed against a facility and complaint
20 investigation reports, except that a complaint or
21 complaint investigation report shall not be disclosed to a
22 person other than the complainant or complainant's
23 representative before it is disclosed to a facility under
24 Section 3-702, and, further, except that a complainant or
25 resident's name shall not be disclosed except under Section
26 3-702. The Department shall disclose information under

1 this Section in accordance with provisions for inspection
2 and copying of public records required by the Freedom of
3 Information Act. However, the disclosure of information
4 described in subsection (1) shall not be restricted by any
5 provision of the Freedom of Information Act.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (210 ILCS 47/2-208)

8 Sec. 2-208. Notice of imminent death, unusual incident,
9 abuse, or neglect.

10 (a) A facility shall immediately notify the identified
11 resident's next of kin, guardian, resident's representative,
12 and physician of the resident's death or when the resident's
13 death appears to be imminent. A facility shall immediately
14 notify the Department by telephone of a resident's death within
15 24 hours after the resident's death. The facility shall notify
16 the Department of the death of a facility's resident that does
17 not occur in the facility immediately upon learning of the
18 death. A facility shall notify the coroner or medical examiner
19 of a resident's death in a manner and form to be determined by
20 the Department after consultation with the coroner or medical
21 examiner of the county in which the facility is located. In
22 addition to notice to the Department by telephone, the
23 Department shall require the facility to submit written
24 notification of the death of a resident within 72 hours after
25 the death, including a report of any medication errors or other

1 incidents that occurred within 30 days of the resident's death.
2 A facility's failure to comply with this Section shall
3 constitute a Type "B" violation.

4 (b) A facility shall immediately notify the resident's next
5 of kin, guardian, or resident representative of any unusual
6 incident, abuse, or neglect involving the resident. A facility
7 shall immediately notify the Department by telephone of any
8 unusual incident, abuse, or neglect required to be reported
9 pursuant to State law or administrative rule. In addition to
10 notice to the Department by telephone, the Department shall
11 require the facility to submit written notification of any
12 unusual incident, abuse, or neglect within one day after the
13 unusual incident, abuse, or neglect occurring. A facility's
14 failure to comply with this Section shall constitute a Type "B"
15 violation. For purposes of this Section, "unusual incident"
16 means serious injury; unscheduled hospital visit for treatment
17 of serious injury; 9-1-1 calls for emergency services directly
18 relating to a resident threat; or stalking of staff or person
19 served that raises health or safety concerns.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 (210 ILCS 47/2-217 new)

22 Sec. 2-217. Notification of violations. When the
23 Department issues any notice pursuant to Section 3-119,
24 3-119.1, 3-301, 3-303, 3-307, or 3-702 of this Act or a notice
25 of federal Medicaid certification deficiencies, the facility

1 shall provide notification of the violations and deficiencies
2 within 10 days after receiving a notice described within this
3 Section to every resident and the resident's representative or
4 guardian identified or referred to anywhere within the
5 Department notice or the CMS 2567 as having received care or
6 services that violated State or federal standards. The
7 notification shall include a Department-prescribed
8 notification letter as determined by rule and a copy of the
9 notice and CMS 2567, if any, issued by the Department. A
10 facility's failure to provide notification pursuant to this
11 Section to a resident and the resident's representative or
12 guardian, if any, shall constitute a Type "B" violation.

13 (210 ILCS 47/2-218 new)

14 Sec. 2-218. Minimum staffing in long-term care facilities
15 for under age 22 residents. Facility staffing shall be based
16 on the all the needs of the residents and comply with
17 Department rules as set forth under Section 3-202 of this Act.
18 Facilities for under age 22 residents shall provide each
19 resident, regardless of age, no less than 4.0 hours of nursing
20 and personal care time each day. The Department shall establish
21 by rule the amount of registered or other licensed nurse and
22 professional care time from the total 4.0 nursing and personal
23 care time that shall be provided each day. A facility's failure
24 to comply with this Section shall constitute a Type "B"
25 violation.

1 (210 ILCS 47/3-109)

2 Sec. 3-109. Issuance of license based on Director's
3 findings. Upon receipt and review of an application for a
4 license made under this Article and inspection of the applicant
5 facility under this Article, the Director shall issue a license
6 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 a facility
11 by virtue of financial capacity, appropriate business or
12 professional experience, a record of compliance with
13 lawful orders of the Department and lack of revocation of a
14 license during the previous 5 years and is not the owner of
15 a facility designated pursuant to Section 3-304.2 as a
16 distressed facility;

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

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

24 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/3-110)

2 Sec. 3-110. Contents and period of license.

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

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

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

22 (1) has not received a Type "AA" violation within the
23 last 12 months;

24 (1.5) ~~(1)~~ has not received a Type "A" violation within
25 the last 24 months;

26 (2) has not received a Type "B" violation within the

1 last 24 months;

2 (3) has not had an inspection, survey, or evaluation
3 that resulted in the issuance of 10 or more administrative
4 warnings in the last 24 months;

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

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

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

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

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (210 ILCS 47/3-112)

25 Sec. 3-112. Transfer of ownership; license.

1 (a) Whenever ownership of a facility is transferred from
2 the person named in the license to any other person, the
3 transferee must obtain a new probationary license. The
4 transferee shall notify the Department of the transfer and
5 apply for a new license at least 30 days prior to final
6 transfer. The Department may not approve the transfer of
7 ownership to an owner of a facility designated pursuant to
8 Section 3-304.2 of this Act as a distressed facility.

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 (Source: P.A. 96-339, eff. 7-1-10.)

14 (210 ILCS 47/3-117)

15 Sec. 3-117. Denial of license; grounds. An application for
16 a license may be denied for any of the following reasons:

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

20 (2) Conviction of the applicant, or if the applicant is
21 a firm, partnership or association, of any of its members,
22 or if a corporation, the conviction of the corporation or
23 any of its officers or stockholders, or of the person
24 designated to manage or supervise the facility, of a
25 felony, or of 2 or more misdemeanors involving moral

1 turpitude, during the previous 5 years as shown by a
2 certified copy of the record of the court of conviction.

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

6 (4) Insufficient financial or other resources to
7 operate and conduct the facility in accordance with
8 standards promulgated by the Department under this Act.

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

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

1 (7) That the facility is in receivership and the
2 proposed licensee has not submitted a specific detailed
3 plan to bring the facility into compliance with the
4 requirements of this Act and with federal certification
5 requirements, if the facility is certified, and to keep the
6 facility in such compliance.

7 (8) The applicant is the owner of a facility designated
8 pursuant to Section 3-304.2 of this Act as a distressed
9 facility.

10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (210 ILCS 47/3-119)

12 Sec. 3-119. Suspension, revocation, or refusal to renew
13 license.

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

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

22 (A) termination of Medicare or Medicaid
23 certification by the Centers for Medicare and Medicaid
24 Services; or

25 (B) a failure by the facility to pay any fine

1 assessed under this Act after the Department has sent
2 to the facility and licensee at least 2 notices of
3 assessment that include a schedule of payments as
4 determined by the Department, taking into account
5 extenuating circumstances and financial hardships of
6 the facility.

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

12 (3) Personnel is insufficient in number or unqualified
13 by training or experience to properly care for the number
14 and type of residents served by the facility.

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

18 (5) The facility is not under the direct supervision of
19 a full time administrator, as defined by regulation, who is
20 licensed, if required, under the Nursing Home
21 Administrators Licensing and Disciplinary Act.

22 (6) The facility has committed 2 Type "AA" violations
23 within a 2-year period.

24 (7) The facility has committed a Type "AA" violation
25 while the facility is listed as a "distressed facility".

26 (b) Notice under this Section shall include a clear and

1 concise statement of the violations on which the nonrenewal or
2 revocation is based, the statute or rule violated and notice of
3 the opportunity for a hearing under Section 3-703.

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

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

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

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

25 (3) The Department may extend the effective date of
26 license revocation or expiration in any case in order to

1 permit orderly removal and relocation of residents.

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

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/3-119.1 new)

11 Sec. 3-119.1. Ban on new admissions.

12 (a) Upon a finding by the Department that there has been a
13 substantial failure to comply with this Act or the rules and
14 regulations promulgated by the Department under this Act,
15 including, without limitation, the circumstances set forth in
16 subsection (a) of Section 3-119 of this Act, or if the
17 Department otherwise finds that it would be in the public
18 interest or the interest of the health, safety, and welfare of
19 facility residents, the Department may impose a ban on new
20 admissions to any facility licensed under this Act. The ban
21 shall continue until such time as the Department determines
22 that the circumstances giving rise to the ban no longer exist.

23 (b) The Department shall provide notice to the facility and
24 licensee of any ban imposed pursuant to subsection (a) of this
25 Section. The notice shall provide a clear and concise statement

1 of the circumstances on which the ban on new admissions is
2 based and notice of the opportunity for a hearing. If the
3 Department finds that the public interest or the health,
4 safety, or welfare of facility residents imperatively requires
5 immediate action and if the Department incorporates a finding
6 to that effect in its notice, then the ban on new admissions
7 may be ordered pending any hearing requested by the facility.
8 Those proceedings shall be promptly instituted and determined.
9 The Department shall promulgate rules defining the
10 circumstances under which a ban on new admissions may be
11 imposed.

12 (210 ILCS 47/3-202)

13 Sec. 3-202. Standards for facilities. The Department shall
14 prescribe minimum standards for facilities. These standards
15 shall regulate:

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

21 (2) To the extent this Act has not established minimum
22 staffing requirements within this Act, the numbers ~~Number~~
23 and qualifications of all personnel, including management
24 and nursing personnel, having responsibility for any part
25 of the care given to residents; specifically, the

1 Department shall establish staffing ratios for facilities
2 which shall specify the number of staff hours per resident
3 of care that are needed for professional nursing care for
4 various types of facilities or areas within facilities;

5 (3) All sanitary conditions within the facility and its
6 surroundings, including water supply, sewage disposal,
7 food handling, and general hygiene, which shall ensure the
8 health and comfort of residents;

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

12 (5) Equipment essential to the health and welfare of
13 the residents;

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

16 (7) A program for adequate maintenance of physical
17 plant and equipment;

18 (8) Adequate accommodations, staff and services for
19 the number and types of residents for whom the facility is
20 licensed to care, including standards for temperature and
21 relative humidity within comfort zones determined by the
22 Department based upon a combination of air temperature,
23 relative humidity and air movement. Such standards shall
24 also require facility plans that provide for health and
25 comfort of residents at medical risk as determined by the
26 attending physician whenever the temperature and relative

1 humidity are outside such comfort zones established by the
2 Department. The standards must include a requirement that
3 areas of a facility used by residents of the facility be
4 air-conditioned and heated by means of operable
5 air-conditioning and heating equipment. The areas subject
6 to this air-conditioning and heating requirement include,
7 without limitation, bedrooms or common areas such as
8 sitting rooms, activity rooms, living rooms, community
9 rooms, and dining rooms;

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

13 (10) Maintenance of minimum financial or other
14 resources necessary to meet the standards established
15 under this Section, and to operate and conduct the facility
16 in accordance with this Act.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (210 ILCS 47/3-202.2a new)

19 Sec. 3-202.2a. Comprehensive resident care plan. A
20 facility, with the participation of the resident and the
21 resident's guardian or resident's representative, as
22 applicable, must develop and implement a comprehensive care
23 plan for each resident that includes measurable objectives and
24 timetables to meet the resident's medical, nursing, mental
25 health, psychosocial, and habilitation needs that are

1 identified in the resident's comprehensive assessment that
2 allows the resident to attain or maintain the highest
3 practicable level of independent functioning and provide for
4 discharge planning to the least restrictive setting based on
5 the resident's care needs. The assessment shall be developed
6 with the active participation of the resident and the
7 resident's guardian or resident's representative, as
8 applicable.

9 (210 ILCS 47/3-206)

10 Sec. 3-206. Curriculum for training nursing assistants and
11 aides. The Department shall prescribe a curriculum for training
12 nursing assistants, habilitation aides, and child care aides.

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

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

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

4 (3) Provide evidence of employment or occupation, if
5 any, and residence for 2 years prior to his or her present
6 employment.

7 (4) Have completed at least 8 years of grade school or
8 provide proof of equivalent knowledge.

9 (5) Begin a current course of training for nursing
10 assistants, habilitation aides, or child care aides,
11 approved by the Department, within 45 days of initial
12 employment in the capacity of a nursing assistant,
13 habilitation aide, or child care aide at any facility. Such
14 courses of training shall be successfully completed within
15 120 days of initial employment in the capacity of nursing
16 assistant, habilitation aide, or child care aide at a
17 facility. Nursing assistants, habilitation aides, and
18 child care aides who are enrolled in approved courses in
19 community colleges or other educational institutions on a
20 term, semester or trimester basis, shall be exempt from the
21 120-day completion time limit. The Department shall adopt
22 rules for such courses of training. These rules shall
23 include procedures for facilities to carry on an approved
24 course of training within the facility.

25 The Department may accept comparable training in lieu
26 of the 120-hour course for student nurses, foreign nurses,

1 military personnel, or employees of the Department of Human
2 Services.

3 The facility shall develop and implement procedures,
4 which shall be approved by the Department, for an ongoing
5 review process, which shall take place within the facility,
6 for nursing assistants, habilitation aides, and child care
7 aides.

8 At the time of each regularly scheduled licensure
9 survey, or at the time of a complaint investigation, the
10 Department may require any nursing assistant, habilitation
11 aide, or child care aide to demonstrate, either through
12 written examination or action, or both, sufficient
13 knowledge in all areas of required training. If such
14 knowledge is inadequate the Department shall require the
15 nursing assistant, habilitation aide, or child care aide to
16 complete inservice training and review in the facility
17 until the nursing assistant, habilitation aide, or child
18 care aide demonstrates to the Department, either through
19 written examination or action, or both, sufficient
20 knowledge in all areas of required training; and

21 (6) Be familiar with and have general skills related to
22 resident care.

23 (a-0.5) An educational entity, other than a secondary
24 school, conducting a nursing assistant, habilitation aide, or
25 child care aide training program shall initiate a ~~UCIA~~ criminal
26 history record check in accordance with the Health Care Worker

1 Background Check Act prior to entry of an individual into the
2 training program. A secondary school may initiate a ~~UCIA~~
3 criminal history record check in accordance with the Health
4 Care Worker Background Check Act at any time during or after
5 ~~prior to the entry of an individual into~~ a training program.

6 (a-1) Nursing assistants, habilitation aides, or child
7 care aides seeking to be included on the registry maintained
8 under Section 3-206.01 of this Act must authorize the
9 Department of Public Health or its designee ~~that tests nursing~~
10 ~~assistants~~ to request a ~~UCIA~~ criminal history record check in
11 accordance with the Health Care Worker Background Check Act and
12 submit all necessary information. An individual may not newly
13 be included on the registry unless a criminal history record
14 check has been conducted with respect to the individual.

15 (b) Persons subject to this Section shall perform their
16 duties under the supervision of a licensed nurse or other
17 appropriately trained, licensed, or certified personnel.

18 (c) It is unlawful for any facility to employ any person in
19 the capacity of nursing assistant, habilitation aide, or child
20 care aide, or under any other title, not licensed by the State
21 of Illinois to assist in the personal, medical, or nursing care
22 of residents in such facility unless such person has complied
23 with this Section.

24 (d) Proof of compliance by each employee with the
25 requirements set out in this Section shall be maintained for
26 each such employee by each facility in the individual personnel

1 folder of the employee. Proof of training shall be obtained
2 only from the health care worker registry.

3 (e) Each facility shall obtain access to the health care
4 worker registry's web application, maintain the employment and
5 demographic information relating to ~~certify to the Department~~
6 ~~on a form provided by the Department the name and residence~~
7 ~~address~~ of each employee, and verify by the category and type
8 of employment that each employee subject to this Section meets
9 all the requirements of this Section.

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

12 (g) Each skilled nursing and intermediate care facility
13 that admits persons who are diagnosed as having Alzheimer's
14 disease or related dementias shall require all nursing
15 assistants, habilitation aides, or child care aides, who did
16 not receive 12 hours of training in the care and treatment of
17 such residents during the training required under paragraph (5)
18 of subsection (a), to obtain 12 hours of in house training in
19 the care and treatment of such residents. If the facility does
20 not provide the training in house, the training shall be
21 obtained from other facilities, community colleges or other
22 educational institutions that have a recognized course for such
23 training. The Department shall, by rule, establish a recognized
24 course for such training.

25 The Department's rules shall provide that such training may
26 be conducted in house at each facility subject to the

1 requirements of this subsection, in which case such training
2 shall be monitored by the Department. The Department's rules
3 shall also provide for circumstances and procedures whereby any
4 person who has received training that meets the requirements of
5 this subsection shall not be required to undergo additional
6 training if he or she is transferred to or obtains employment
7 at a different facility or a facility other than those licensed
8 under this Act but remains continuously employed as a nursing
9 assistant, habilitation aide, or child care aide. Individuals
10 who have performed no nursing, nursing-related services, or
11 habilitation services for a period of 24 consecutive months
12 shall be listed as inactive and as such do not meet the
13 requirements of this Section. Licensed sheltered care
14 facilities shall be exempt from the requirements of this
15 Section.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 47/3-206.01)

18 Sec. 3-206.01. Health care worker registry.

19 (a) The Department shall establish and maintain a registry
20 of all individuals who (i) have satisfactorily completed the
21 training required by Section 3-206, (ii) have begun a current
22 course of training as set forth in Section 3-206, or (iii) are
23 otherwise acting as a nursing assistant, habilitation aide,
24 home health aide, or child care aide. The registry shall
25 include the individual's name ~~of the nursing assistant,~~

1 ~~habilitation aide, or child care aide,~~ his or her current
2 address, Social Security number, and whether the individual has
3 any of the disqualifying convictions listed in Section 25 of
4 the Health Care Worker Background Check Act from the date and
5 location of the training course completed by the individual,
6 and the date of the individual's last criminal records check.
7 Any individual placed on the registry is required to inform the
8 Department of any change of address within 30 days. A facility
9 shall not employ an individual as a nursing assistant,
10 habilitation aide, home health aide, or child care aide, or
11 newly hired as an individual who may have access to a resident,
12 a resident's living quarters, or a resident's personal,
13 financial, or medical records, unless the facility has inquired
14 of the Department's health care worker registry ~~Department~~ as
15 to information in the registry concerning the individual. The
16 facility and shall not employ an individual as a nursing
17 assistant, habilitation aide, or child care aide if that
18 individual is anyone not on the registry unless the individual
19 is enrolled in a training program under paragraph (5) of
20 subsection (a) of Section 3-206 of this Act.

21 If the Department finds that a nursing assistant,
22 habilitation aide, home health aide, ~~or~~ child care aide, or an
23 unlicensed individual, has abused or neglected a resident or an
24 individual under his or her care, ~~neglected a resident,~~ or
25 misappropriated ~~resident~~ property of a resident or an
26 individual under his or her care in a facility, the Department

1 shall notify the individual of this finding by certified mail
2 sent to the address contained in the registry. The notice shall
3 give the individual an opportunity to contest the finding in a
4 hearing before the Department or to submit a written response
5 to the findings in lieu of requesting a hearing. If, after a
6 hearing or if the individual does not request a hearing, the
7 Department finds that the individual abused a resident,
8 neglected a resident, or misappropriated resident property in a
9 facility, the finding shall be included as part of the registry
10 as well as a clear and accurate summary ~~brief~~ statement from
11 the individual, if he or she chooses to make such a statement.
12 The Department shall make the following information in the
13 registry available to the public: an individual's full name;
14 the date an individual successfully completed a nurse aide
15 training or competency evaluation; and whether the Department
16 has made a finding that an individual has been guilty of abuse
17 or neglect of a resident or misappropriation of resident's
18 property. In the case of inquiries to the registry concerning
19 an individual listed in the registry, any information disclosed
20 concerning such a finding shall also include disclosure of the
21 individual's ~~any~~ statement in the registry relating to the
22 finding or a clear and accurate summary of the statement.

23 (b) The Department shall add to the health care worker
24 registry records of findings as reported by the Inspector
25 General or remove from the health care worker registry records
26 of findings as reported by the Department of Human Services,

1 under subsection (g-5) of Section 1-17 of the Department of
2 Human Services Act.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 (210 ILCS 47/3-206.02)

5 Sec. 3-206.02. Designation on registry for offense.

6 (a) The Department, after notice to the nursing assistant,
7 habilitation aide, home health aide, or child care aide, may
8 designate that the Department has found any of the following:

9 (1) The nursing assistant, habilitation aide, home
10 health aide, or child care aide has abused a resident.

11 (2) The nursing assistant, habilitation aide, home
12 health aide, or child care aide has neglected a resident.

13 (3) The nursing assistant, habilitation aide, home
14 health aide, or child care aide has misappropriated
15 resident property.

16 (4) The nursing assistant, habilitation aide, home
17 health aide, or child care aide has been convicted of (i) a
18 felony, (ii) a misdemeanor, an essential element of which
19 is dishonesty, or (iii) any crime that is directly related
20 to the duties of a nursing assistant, habilitation aide, or
21 child care aide.

22 (b) Notice under this Section shall include a clear and
23 concise statement of the grounds denoting abuse, neglect, or
24 theft and notice of the opportunity for a hearing to contest
25 the designation.

1 (c) The Department may designate any nursing assistant,
2 habilitation aide, home health aide, or child care aide on the
3 registry who fails (i) to file a return, (ii) to pay the tax,
4 penalty or interest shown in a filed return, or (iii) to pay
5 any final assessment of tax, penalty or interest, as required
6 by any tax Act administered by the Illinois Department of
7 Revenue, until the time the requirements of the tax Act are
8 satisfied.

9 (c-1) The Department shall document criminal background
10 check results pursuant to the requirements of the Health Care
11 Worker Background Check Act.

12 (d) At any time after the designation on the registry
13 pursuant to subsection (a), (b), or (c) of this Section, a
14 nursing assistant, habilitation aide, home health aide, or
15 child care aide may petition the Department for removal of a
16 designation of neglect on the registry. The Department may
17 remove the designation of neglect of the nursing assistant,
18 habilitation aide, home health aide, or child care aide on the
19 registry unless, after an investigation and a hearing, the
20 Department determines that removal of designation is not in the
21 public interest.

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (210 ILCS 47/3-206.04 new)

24 Sec. 3-206.04. Registry checks for employees.

25 (a) Within 60 days after the effective date of this

1 amendatory Act of the 97th General Assembly, the Department
2 shall require all facilities to conduct required registry
3 checks on employees at the time of hire and annually thereafter
4 during employment. The required registries to be checked are
5 the Health Care Worker Registry, the Department of Children and
6 Family Services' State Central Register, and the Illinois Sex
7 Offender Registry. A person may not be employed if he or she is
8 found to have disqualifying convictions or substantiated cases
9 of abuse or neglect. At the time of the annual registry checks,
10 if a current employee's name has been placed on a registry with
11 disqualifying convictions or disqualifying substantiated cases
12 of abuse or neglect, then the employee must be terminated.
13 Disqualifying convictions or disqualifying substantiated cases
14 of abuse or neglect are defined for the Department of Children
15 and Family Services Central Register by the Department of
16 Children and Family Services' standards for background checks
17 in Part 385 of Title 89 of the Illinois Administrative Code.
18 Disqualifying convictions or disqualifying substantiated cases
19 of abuse or neglect are defined for the Health Care Worker
20 Registry by the Health Care Worker Background Check Act and
21 within this Act. A facility's failure to conduct the required
22 registry checks will constitute a Type "B" violation.

23 (b) In collaboration with the Department of Children and
24 Family Services and the Department of Human Services, the
25 Department shall establish a waiver process from the
26 prohibition of employment or termination of employment

1 requirements in subsection (a) of this Section for any
2 applicant or employee listed under the Department of Children
3 and Family Services' State Central Register seeking to be hired
4 or maintain his or her employment with a facility under this
5 Act. The waiver process for applicants and employees outlined
6 under Section 40 of the Health Care Worker Background Check Act
7 shall remain in effect for individuals listed on the Health
8 Care Worker Registry.

9 (210 ILCS 47/3-212)

10 Sec. 3-212. Inspection of facility by Department; report.

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

1 related disorders) to enable its surveyors to determine whether
2 a facility is complying with State and federal requirements
3 about the assessment, care planning, and care of those persons.

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

23 (a-2) An employee of a State or unit of local government
24 agency charged with inspecting, surveying, or evaluating
25 facilities who willfully profits from violating the
26 confidentiality of the inspection, survey, or evaluation

1 process shall be guilty of a Class 4 felony and that conduct
2 shall be deemed unprofessional conduct that may subject a
3 person to loss of his or her professional license. An action to
4 prosecute a person for violating this subsection (a-2) may be
5 brought by either the Attorney General or the State's Attorney
6 in the county where the violation took place.

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

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

1 or subsection (d) of Section 3-702, the Department shall
2 determine whether a certified facility is in compliance with
3 requirements of this Act that exceed federal certification
4 requirements. If a certified facility is found to be out of
5 compliance with federal certification requirements, the
6 results of an inspection conducted pursuant to Title XVIII or
7 XIX of the Social Security Act may be used as the basis for
8 enforcement remedies authorized and commenced, with the
9 Department's discretion to evaluate whether penalties are
10 warranted, under this Act. Enforcement of this Act against a
11 certified facility shall be commenced pursuant to the
12 requirements of this Act, unless enforcement remedies sought
13 pursuant to Title XVIII or XIX of the Social Security Act
14 exceed those authorized by this Act. As used in this
15 subsection, "enforcement remedy" means a sanction for
16 violating a federal certification requirement or this Act.

17 (c) Upon completion of each inspection, survey and
18 evaluation, the appropriate Department personnel who conducted
19 the inspection, survey or evaluation shall submit a copy of
20 their report to the licensee upon exiting the facility, and
21 shall submit the actual report to the appropriate regional
22 office of the Department. Such report and any recommendations
23 for action by the Department under this Act shall be
24 transmitted to the appropriate offices of the associate
25 director of the Department, together with related comments or
26 documentation provided by the licensee which may refute

1 findings in the report, which explain extenuating
2 circumstances that the facility could not reasonably have
3 prevented, or which indicate methods and timetables for
4 correction of deficiencies described in the report. Without
5 affecting the application of subsection (a) of Section 3-303,
6 any documentation or comments of the licensee shall be provided
7 within 10 days of receipt of the copy of the report. Such
8 report shall recommend to the Director appropriate action under
9 this Act with respect to findings against a facility. The
10 Director shall then determine whether the report's findings
11 constitute a violation or violations of which the facility must
12 be given notice. Such determination shall be based upon the
13 severity of the finding, the danger posed to resident health
14 and safety, the comments and documentation provided by the
15 facility, the diligence and efforts to correct deficiencies,
16 correction of the reported deficiencies, the frequency and
17 duration of similar findings in previous reports and the
18 facility's general inspection history. The Department
19 ~~Violations~~ shall determine violations ~~be determined~~ under this
20 subsection no later than 90 ~~60~~ days after completion of each
21 inspection, survey and evaluation.

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

25 (e) The Department shall conduct a revisit to its licensure
26 and certification surveys, consistent with federal regulations

1 and guidelines.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 (210 ILCS 47/3-303)

4 Sec. 3-303. Correction of violations; hearing.

5 (a) The situation, condition or practice constituting a
6 Type "AA" violation or a Type "A" violation shall be abated or
7 eliminated immediately unless a fixed period of time, not
8 exceeding 15 days, as determined by the Department and
9 specified in the notice of violation, is required for
10 correction.

11 (b) At the time of issuance of a notice of a Type "B"
12 violation, the Department shall request a plan of correction
13 which is subject to the Department's approval. The facility
14 shall have 10 days after receipt of notice of violation in
15 which to prepare and submit a plan of correction. The
16 Department may extend this period up to 30 days where
17 correction involves substantial capital improvement. The plan
18 shall include a fixed time period not in excess of 90 days
19 within which violations are to be corrected. If the Department
20 rejects a plan of correction, it shall send notice of the
21 rejection and the reason for the rejection to the facility. The
22 facility shall have 10 days after receipt of the notice of
23 rejection in which to submit a modified plan. If the modified
24 plan is not timely submitted, or if the modified plan is
25 rejected, the facility shall follow an approved plan of

1 correction imposed by the Department.

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

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

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

22 (Source: P.A. 96-339, eff. 7-1-10.)

23 (210 ILCS 47/3-303.2)

24 Sec. 3-303.2. Administrative warning.

25 (a) If the Department finds a situation, condition or

1 practice which violates this Act or any rule promulgated
2 thereunder which does not constitute a Type "AA", Type "A",
3 Type "B", or Type "C" violation ~~directly threaten the health,~~
4 ~~safety or welfare of a resident,~~ the Department shall issue an
5 administrative warning. Any administrative warning shall be
6 served upon the facility in the same manner as the notice of
7 violation under Section 3-301. The facility shall be
8 responsible for correcting the situation, condition or
9 practice; however, no written plan of correction need be
10 submitted for an administrative warning, except for violations
11 of Sections 3-401 through 3-413 or the rules promulgated
12 thereunder. A written plan of correction is required to be
13 filed for an administrative warning issued for violations of
14 Sections 3-401 through 3-413 or the rules promulgated
15 thereunder.

16 (b) If, however, the situation, condition or practice which
17 resulted in the issuance of an administrative warning, with the
18 exception of administrative warnings issued pursuant to
19 Sections 3-401 through 3-413 or the rules promulgated
20 thereunder, is not corrected by the next on site inspection by
21 the Department which occurs no earlier than 90 days from the
22 issuance of the administrative warning, a written plan of
23 correction must be submitted in the same manner as provided in
24 subsection (b) of Section 3-303.

25 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/3-304.1)

2 Sec. 3-304.1. Public computer access to information.

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

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

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

10 (3) deficiencies and plans of correction;

11 (4) enforcement remedies;

12 (5) penalty letters;

13 (6) designation of penalty monies;

14 (7) the U.S. Department of Health and Human Services'
15 Health Care Financing Administration special projects or
16 federally required inspections;

17 (8) advisory standards;

18 (9) deficiency free surveys; ~~and~~

19 (10) enforcement actions and enforcement summaries;
20 and-

21 (11) distressed facilities.

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

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

1 (d) The information shall be made available as provided in
2 this Section in the shortest practicable time after it is
3 publicly available in any other form.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 (210 ILCS 47/3-304.2 new)

6 Sec. 3-304.2. Designation of distressed facilities.

7 (a) The Department shall, by rule, adopt criteria to
8 identify facilities that are distressed and shall publish this
9 list quarterly. No facility shall be identified as a distressed
10 facility unless it has committed violations or deficiencies
11 that have actually harmed residents.

12 (b) The Department shall notify each facility and licensee
13 of its distressed designation and of the calculation on which
14 it is based.

15 (c) A distressed facility may contract with an independent
16 consultant meeting criteria established by the Department. If
17 the distressed facility does not seek the assistance of an
18 independent consultant, then the Department shall place a
19 monitor or a temporary manager in the facility, depending on
20 the Department's assessment of the condition of the facility.

21 (d) A facility that has been designated a distressed
22 facility may contract with an independent consultant to develop
23 and assist in the implementation of a plan of improvement to
24 bring and keep the facility in compliance with this Act and, if
25 applicable, with federal certification requirements. A

1 facility that contracts with an independent consultant shall
2 have 90 days to develop a plan of improvement and demonstrate a
3 good faith effort at implementation, and another 90 days to
4 achieve compliance and take whatever additional actions are
5 called for in the improvement plan to maintain compliance in
6 this subsection (d) "Independent" consultant means an
7 individual who has no professional or financial relationship
8 with the facility, any person with a reportable ownership
9 interest in the facility, or any related parties. In this
10 subsection (d), "related parties" has the meaning attributed to
11 it in the instructions for completing Medicaid cost reports.

12 (e) A distressed facility that does not contract with a
13 consultant shall be assigned a monitor or a temporary manager
14 at the Department's discretion. The cost of the temporary
15 manager shall be paid by the Department. The authority afforded
16 the temporary manager shall be determined through rulemaking.

17 If a distressed facility that contracts with an independent
18 consultant but does not, in a timely manner, develop an
19 adequate plan of improvement or comply with the plan of
20 improvement, then the Department may place a monitor in the
21 facility.

22 Nothing in this Section shall limit the authority of the
23 Department to place a monitor in a distressed facility if
24 otherwise justified by law.

25 (f) The Department shall by rule establish a mentor program
26 for owners of distressed facilities. That a mentor program does

1 not exist, or that a mentor is not available to assist a
2 distressed facility, shall not delay or prevent the imposition
3 of any penalties on a distressed facility, authorized by this
4 Act.

5 (210 ILCS 47/3-305)

6 Sec. 3-305. Penalties or fines. The license of a facility
7 which is in violation of this Act or any rule adopted
8 thereunder may be subject to the penalties or fines levied by
9 the Department as specified in this Section.

10 (1) ~~A Unless a greater penalty or fine is allowed under~~
11 ~~subsection (3),~~ a licensee who commits a Type "AA" ~~"A"~~
12 violation as defined in Section 1-128.5 ~~1-129~~ is
13 automatically issued a conditional license for a period of
14 6 months to coincide with an acceptable plan of correction
15 and assessed a fine of up to \$25,000 per violation. For a
16 facility licensed to provide care to fewer than 100
17 residents, but no less than 17 residents, the fine shall be
18 up to \$18,500 per violation. For a facility licensed to
19 provide care to fewer than 17 residents, the fine shall be
20 up to \$12,500 per violation. ~~computed at a rate of \$5.00~~
21 ~~per resident in the facility plus 20 cents per resident for~~
22 ~~each day of the violation, commencing on the date a notice~~
23 ~~of the violation is served under Section 3-301 and ending~~
24 ~~on the date the violation is corrected, or a fine of not~~
25 ~~less than \$5,000, or when death, serious mental or physical~~

1 ~~harm, permanent disability, or disfigurement results, a~~
2 ~~fine of not less than \$10,000, whichever is greater.~~

3 (1.5) A licensee who commits a Type "A" violation as
4 defined in Section 1-129 is automatically issued a
5 conditional license for a period of 6 months to coincide
6 with an acceptable plan of correction and assessed a fine
7 of up to \$12,500 per violation. For a facility licensed to
8 provide care to fewer than 100 residents, but no less than
9 17 residents, the fine shall be up to \$10,000 per
10 violation. For a facility licensed to provide care to fewer
11 than 17 residents, the fine shall be up to \$6,250 per
12 violation.

13 (2) A licensee who commits a Type "B" violation as
14 defined in Section 1-130 shall be assessed a fine of up to
15 \$1,100 per violation. For a facility licensed to provide
16 care to fewer than 100 residents, but no less than 17
17 residents, the fine shall be up to \$750 per violation. For
18 a facility licensed to provide care to fewer than 17
19 residents, the fine shall be up to \$550 per violation. ~~or~~
20 ~~who is issued an administrative warning for a violation of~~
21 ~~Sections 3-401 through 3-413 or the rules promulgated~~
22 ~~thereunder is subject to a penalty computed at a rate of \$3~~
23 ~~per resident in the facility, plus 15 cents per resident~~
24 ~~for each day of the violation, commencing on the date a~~
25 ~~notice of the violation is served under Section 3-301 and~~
26 ~~ending on the date the violation is corrected, or a fine~~

1 ~~not less than \$500, whichever is greater. Such fine shall~~
2 ~~be assessed on the date of notice of the violation and~~
3 ~~shall be suspended for violations that continue after such~~
4 ~~date upon completion of a plan of correction in accordance~~
5 ~~with Section 3-308 in relation to the assessment of fines~~
6 ~~and correction. Failure to correct such violation within~~
7 ~~the time period approved under a plan of correction shall~~
8 ~~result in a fine and conditional license as provided under~~
9 ~~subsection (5).~~

10 (2.5) A licensee who commits 8 or more Type "C"
11 violations as defined in Section 1-132 in a single survey
12 shall be assessed a fine of up to \$250 per violation. A
13 facility licensed to provide care to fewer than 100
14 residents, but no less than 17 residents, that commits 8 or
15 more Type "C" violations in a single survey, shall be
16 assessed a fine of up to \$200 per violation. A facility
17 licensed to provide care to fewer than 17 residents, that
18 commits 8 or more Type "C" violations in a single survey,
19 shall be assessed a fine of up to \$175 per violation.

20 (3) A licensee who commits a Type "AA" or Type "A"
21 violation as defined in Section 1-128.5 or 1-129 which
22 continues beyond the time specified in paragraph (a) of
23 Section 3-303 which is cited as a repeat violation shall
24 have its license revoked and shall be assessed a fine of 3
25 times the fine computed ~~per resident per day~~ under
26 subsection (1).

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

12 (5) (Blank). ~~For the purpose of computing a penalty~~
13 ~~under subsections (2) through (4), the number of residents~~
14 ~~per day shall be based on the average number of residents~~
15 ~~in the facility during the 30 days preceding the discovery~~
16 ~~of the violation.~~

17 (6) When the Department finds that a provision of
18 Article II has been violated with regard to a particular
19 resident, the Department shall issue an order requiring the
20 facility to reimburse the resident for injuries incurred,
21 or \$100, whichever is greater. In the case of a violation
22 involving any action other than theft of money belonging to
23 a resident, reimbursement shall be ordered only if a
24 provision of Article II has been violated with regard to
25 that or any other resident of the facility within the 2
26 years immediately preceding the violation in question.

1 (7) For purposes of assessing fines under this Section,
2 a repeat violation shall be a violation which has been
3 cited during one inspection of the facility for which an
4 accepted plan of correction was not complied with or. ~~A~~
5 ~~repeat violation shall not be~~ a new citation of the same
6 rule if, ~~unless~~ the licensee is not substantially
7 addressing the issue routinely throughout the facility.

8 (8) If an occurrence results in more than one type of
9 violation as defined in this Act (that is, a Type "AA",
10 Type "A", Type "B", or Type "C" violation), then the
11 maximum fine that may be assessed for that occurrence is
12 the maximum fine that may be assessed for the most serious
13 type of violation charged. For purposes of the preceding
14 sentence, a Type "AA" violation is the most serious type of
15 violation that may be charged, followed by a Type "A", Type
16 "B", or Type "C" violation, in that order.

17 (9) If any facility willfully makes a misstatement of
18 fact to the Department or willfully fails to make a
19 required notification to the Department and that
20 misstatement or failure delays the start of a survey or
21 impedes a survey, then it will constitute a Type "B"
22 violation. The minimum and maximum fines that may be
23 assessed pursuant to this subsection (9) shall be 3 times
24 those otherwise specified for any facility.

25 (10) If the Department finds that a facility has
26 violated a provision of the Illinois Administrative Code

1 that has a high risk designation or that a facility has
2 violated the same provision of the Illinois Administrative
3 Code 3 or more times in the previous 12 months, then the
4 Department may assess a fine of up to 2 times the maximum
5 fine otherwise allowed.

6 (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

7 (210 ILCS 47/3-306)

8 Sec. 3-306. Factors to be considered in determining
9 penalty. In determining whether a penalty is to be imposed and
10 in determining ~~fixing~~ the amount of the penalty to be imposed,
11 if any, for a violation, the Director shall consider the
12 following factors:

13 (1) The gravity of the violation, including the
14 probability that death or serious physical or mental harm
15 to a resident will result or has resulted; the severity of
16 the actual or potential harm, and the extent to which the
17 provisions of the applicable statutes or regulations were
18 violated;

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

21 (3) Any previous violations committed by the licensee;
22 and

23 (4) The financial benefit to the facility of committing
24 or continuing the violation.

25 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 47/3-308)

2 Sec. 3-308. Time of assessment; plan of correction. In the
3 case of a Type Type "AA" or "A" violation, a penalty may be
4 assessed from the date on which the violation is discovered. In
5 the case of a Type "B" or Type "C" violation or an
6 administrative warning issued pursuant to Sections 3-401
7 through 3-413 or the rules promulgated thereunder, the facility
8 shall submit a plan of correction as provided in Section 3-303.
9 In the case of a Type "B" violation or an administrative
10 warning issued pursuant to Sections 3-401 through 3-413 or the
11 rules promulgated thereunder, a penalty shall be assessed on
12 the date of notice of the violation, but the Director may
13 reduce the amount or waive such payment for any of the
14 following reasons:

15 (a) The facility submits a true report of correction within
16 10 days;

17 (b) The facility submits a plan of correction within 10
18 days and subsequently submits a true report of correction
19 within 15 days thereafter;

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

23 (d) The facility submits a plan of correction for
24 violations involving substantial capital improvements which
25 provides for correction within the initial 90 day limit

1 provided under Section 3-303. The Director shall consider the
2 following factors in determinations to reduce or waive such
3 penalties:

4 (1) The violation has not caused actual harm to a
5 resident;

6 (2) The facility has made a diligent effort to correct
7 the violation and to prevent its recurrence;

8 (3) The facility has no record of a pervasive pattern
9 of the same or similar violations; and

10 (4) The facility has a record of substantial compliance
11 with this Act and the regulations promulgated hereunder.

12 If a plan of correction is approved and carried out for a
13 Type "C" violation, the fine provided under Section 3-305 shall
14 be suspended for the time period specified in the approved plan
15 of correction. If a plan of correction is approved and carried
16 out for a Type "B" violation or an administrative warning
17 issued pursuant to Sections 3-401 through 3-413 or the rules
18 promulgated thereunder, with respect to a violation that
19 continues after the date of notice of violation, the fine
20 provided under Section 3-305 shall be suspended for the time
21 period specified in the approved plan of correction.

22 If a good faith plan of correction is not received within
23 the time provided by Section 3-303, a penalty may be assessed
24 from the date of the notice of the Type "B" or "C" violation or
25 an administrative warning issued pursuant to Sections 3-401
26 through 3-413 or the rules promulgated thereunder served under

1 Section 3-301 until the date of the receipt of a good faith
2 plan of correction, or until the date the violation is
3 corrected, whichever is earlier. If a violation is not
4 corrected within the time specified by an approved plan of
5 correction or any lawful extension thereof, a penalty may be
6 assessed from the date of notice of the violation, until the
7 date the violation is corrected.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (210 ILCS 47/3-309)

10 Sec. 3-309. Contesting assessment of penalty. A facility
11 may contest an assessment of a penalty by sending a written
12 request to the Department for hearing under Section 3-703. Upon
13 receipt of the request the Department shall hold a hearing as
14 provided under Section 3-703. Instead of requesting a hearing
15 pursuant to Section 3-703, a facility may, within 10 business
16 days after receipt of the notice of violation and fine
17 assessment, transmit to the Department 65% of the amount
18 assessed for each violation specified in the penalty
19 assessment.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 (210 ILCS 47/3-310)

22 Sec. 3-310. Collection of penalties. All penalties shall be
23 paid to the Department within 10 days of receipt of notice of
24 assessment or, if the penalty is contested under Section 3-309,

1 within 10 days of receipt of the final decision, unless the
2 decision is appealed and the order is stayed by court order
3 under Section 3-713. A facility choosing to waive the right to
4 a hearing under Section 3-309 shall submit a payment totaling
5 65% of the original fine amount along with the written waiver.

6 A penalty assessed under this Act shall be collected by the
7 Department and shall be deposited with the State Treasurer into
8 the Long Term Care Monitor/Receiver Fund. If the person or
9 facility against whom a penalty has been assessed does not
10 comply with a written demand for payment within 30 days, the
11 Director shall issue an order to do any of the following:

12 (1) Direct the State Treasurer or Comptroller to deduct
13 the amount of the fine from amounts otherwise due from the
14 State for the penalty, including any payments to be made
15 from the Developmentally Disabled Care Provider Fund
16 established under Section 5C-7 of the Illinois Public Aid
17 Code, and remit that amount to the Department;

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

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

24 ~~With the approval of the federal centers for Medicaid and~~
25 ~~Medicare services, the Director of Public Health shall set~~
26 ~~aside 50% of the federal civil monetary penalties collected~~

1 ~~each year to be used to award grants under the Innovations in~~
2 ~~Long-term Care Quality Grants Act.~~

3 (Source: P.A. 96-339, eff. 7-1-10; revised 10-19-10.)

4 (210 ILCS 47/3-318)

5 Sec. 3-318. Business offenses.

6 (a) No person shall:

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

13 (2) Intentionally prevent, interfere with, or attempt
14 to impede in any way any duly authorized investigation and
15 enforcement of this Act;

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

19 (4) Intentionally prevent or interfere with the
20 preservation of evidence pertaining to any violation of
21 this Act or the rules promulgated under this Act;

22 (5) Intentionally retaliate or discriminate against
23 any resident or employee for contacting or providing
24 information to any state official, or for initiating,
25 participating in, or testifying in an action for any remedy

1 authorized under this Act;

2 (6) Willfully ~~Wilfully~~ file any false, incomplete or
3 intentionally misleading information required to be filed
4 under this Act, or willfully ~~wilfully~~ fail or refuse to
5 file any required information; or

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

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

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

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (210 ILCS 47/3-402)

16 Sec. 3-402. Notice of involuntary transfer or discharge.
17 Involuntary transfer or discharge of a resident from a facility
18 shall be preceded by the discussion required under Section
19 3-408 and by a minimum written notice of 21 days, except in one
20 of the following instances:

21 (a) When ~~when~~ an emergency transfer or discharge is ordered
22 by the resident's attending physician because of the resident's
23 health care needs. ~~or~~

24 (b) When ~~when~~ the transfer or discharge is mandated by the
25 physical safety of other residents, the facility staff, or

1 facility visitors, as documented in the clinical record. The
2 Department shall be notified prior to any such involuntary
3 transfer or discharge. The Department shall immediately offer
4 transfer, or discharge and relocation assistance to residents
5 transferred or discharged under this subparagraph (b), and the
6 Department may place relocation teams as provided in Section
7 3-419 of this Act.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (210 ILCS 47/3-501)

10 Sec. 3-501. Monitor or receiver for facility; grounds. The
11 Department may place an employee or agent to serve as a monitor
12 in a facility or may petition the circuit court for appointment
13 of a receiver for a facility, or both, when any of the
14 following conditions exist:

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

16 (b) The Department has suspended, revoked or refused to
17 renew the existing license of the facility;

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

22 (d) The Department determines that an emergency exists,
23 whether or not it has initiated revocation or nonrenewal
24 procedures, if because of the unwillingness or inability of the
25 licensee to remedy the emergency the Department believes a

1 monitor or receiver is necessary; ~~or~~

2 (e) The Department is notified that the facility is
3 terminated or will not be renewed for participation in the
4 federal reimbursement program under either Title XVIII or Title
5 XIX of the Social Security Act. As used in subsection (d) and
6 Section 3-503, "emergency" means a threat to the health, safety
7 or welfare of a resident that the facility is unwilling or
8 unable to correct;~~;~~

9 (f) The facility has been designated a distressed facility
10 by the Department and does not have a consultant employed
11 pursuant to subsection (f) of Section 3-304.2 of this Act and
12 an acceptable plan of improvement, or the Department has reason
13 to believe the facility is not complying with the plan of
14 improvement. Nothing in this paragraph (f) shall preclude the
15 Department from placing a monitor in a facility if otherwise
16 justified by law; or

17 (g) At the discretion of the Department when a review of
18 facility compliance history, incident reports, or reports of
19 financial problems raises a concern that a threat to resident
20 health, safety, or welfare exists.

21 (Source: P.A. 96-339, eff. 7-1-10.)

22 (210 ILCS 47/3-502)

23 Sec. 3-502. Placement of monitor by Department. In any
24 situation described in Section 3-501, the Department may place
25 a qualified person to act as monitor in the facility. The

1 monitor shall observe operation of the facility, assist the
2 facility by advising it on how to comply with the State
3 regulations, and shall report periodically to the Department on
4 the operation of the facility. Once a monitor has been placed
5 the Department may retain the monitor until it is satisfied
6 that the basis for the placement is resolved, and the threat to
7 the health, safety, or welfare of a resident is not likely to
8 recur.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (210 ILCS 47/3-504)

11 Sec. 3-504. Hearing on petition for receiver; grounds for
12 appointment of receiver. The court shall hold a hearing within
13 5 days of the filing of the petition. The petition and notice
14 of the hearing shall be served on the owner, administrator or
15 designated agent of the facility as provided under the Civil
16 Practice Law, or the petition and notice of hearing shall be
17 posted in a conspicuous place in the facility not later than 3
18 days before the time specified for the hearing, unless a
19 different period is fixed by order of the court. The court
20 shall appoint a receiver ~~for a limited time period, not to~~
21 ~~exceed 180 days,~~ if it finds that:

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

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

25 (c) The facility is closing or has informed the Department

1 that it intends to close and adequate arrangements for
2 relocation of residents have not been made at least 30 days
3 prior to closure; or

4 (d) An emergency exists, whether or not the Department has
5 initiated revocation or nonrenewal procedures, if because of
6 the unwillingness or inability of the licensee to remedy the
7 emergency the appointment of a receiver is necessary.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (210 ILCS 47/3-703)

10 Sec. 3-703. Hearing to contest decision; applicable
11 provisions. Any person requesting a hearing pursuant to
12 Sections 2-110, 3-115, 3-118, 3-119, 3-119.1, 3-301, 3-303,
13 3-309, 3-410, 3-422 or 3-702 to contest a decision rendered in
14 a particular case may have such decision reviewed in accordance
15 with Sections 3-703 through 3-712.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 (210 ILCS 47/3-712)

18 Sec. 3-712. Certification of record; fee. The Department
19 shall not be required to certify any record or file any answer
20 or otherwise appear in any proceeding for judicial review under
21 Section 3-713 of this Act unless there is filed with the party
22 filing the complaint a receipt from the Department
23 acknowledging payment of the costs of furnishing and certifying
24 the record, which cost shall be computed at the rate of 95

1 cents per page of such record ~~deposits with the clerk of the~~
2 ~~court the sum of 95 cents per page, representing the costs of~~
3 ~~such certification.~~ Failure on the part of the plaintiff to
4 file such receipt in Court ~~make such deposit~~ shall be grounds
5 for dismissal of the action; provided, however, that persons
6 proceeding in forma pauperis with the approval of the circuit
7 court shall not be required to pay these fees.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 (210 ILCS 47/3-808 new)

10 Sec. 3-808. Protocol for sexual assault victims; MR/DD
11 facility. The Department shall develop a protocol for the care
12 and treatment of residents who have been sexually assaulted in
13 a MR/DD facility or elsewhere.

14 (210 ILCS 47/3-808.5 new)

15 Sec. 3-808.5. Facility fraud, abuse, or neglect prevention
16 and reporting.

17 (a) A facility licensed to provide care to 17 or more
18 residents that receives Medicaid funding shall prominently
19 display in its lobby, in its dining areas, and on each floor of
20 the facility information approved by the Illinois Medicaid
21 Fraud Control Unit on how to report fraud, abuse, and neglect.
22 A facility licensed to provide care to fewer than 17 residents
23 that receives Medicaid funding shall prominently display in the
24 facility so as to be easily seen by all residents, visitors,

1 and employees information approved by the Illinois Medicaid
2 Fraud Control Unit on how to report fraud, abuse, and neglect.
3 In addition, information regarding the reporting of fraud,
4 abuse, and neglect shall be provided to each resident at the
5 time of admission and to the resident's guardian or resident's
6 representative.

7 (b) Any owner or licensee of a facility licensed under this
8 Act shall be responsible for the collection and maintenance of
9 any and all records required to be maintained under this
10 Section and any other applicable provisions of this Act and as
11 a provider under the Illinois Public Aid Code, and shall be
12 responsible for compliance with all of the disclosure
13 requirements under this Section. All books and records and
14 other papers and documents that are required to be kept, and
15 all records showing compliance with all of the disclosure
16 requirements to be made pursuant to this Section, shall be kept
17 by the licensee and available at the facility and shall, at all
18 times during business hours, be subject to inspection by any
19 law enforcement or health oversight agency or its duly
20 authorized agents or employees.

21 (c) Any report of abuse and neglect of residents made by
22 any individual in whatever manner, including, but not limited
23 to, reports made under Sections 2-107 and 3-610 of this Act, or
24 as provided under the Abused and Neglected Long Term Care
25 Facility Residents Reporting Act, that is made to an
26 administrator, a director of nursing, or any other person with

1 management responsibility at a facility must be disclosed to
2 the owners and licensee of the facility within 24 hours of the
3 report. The owners and licensee of a facility shall maintain
4 all records necessary to show compliance with this disclosure
5 requirement.

6 (d) Any person with an ownership interest in a facility
7 licensed by the Department must, within 30 days after the
8 effective date of this amendatory Act of the 97th General
9 Assembly, disclose the existence of any ownership interest in
10 any vendor who does business with the facility. The disclosures
11 required by this subsection (d) shall be made in the form and
12 manner prescribed by the Department. Licensed facilities that
13 receive Medicaid funding shall submit a copy of the disclosures
14 required by this subsection (d) to the Illinois Medicaid Fraud
15 Control Unit. The owners and licensee of a facility shall
16 maintain all records necessary to show compliance with this
17 disclosure requirement.

18 (e) Notwithstanding the provisions of Section 3-318 of this
19 Act and in addition thereto, any person, owner, or licensee who
20 willfully fails to keep and maintain, or willfully fails to
21 produce for inspection, books and records, or willfully fails
22 to make the disclosures required by this Section, is guilty of
23 a Class A misdemeanor. A second or subsequent violation of this
24 Section shall be punishable as a Class 4 felony.

25 (f) Any owner or licensee who willfully files or willfully
26 causes to be filed a document with false information with the

1 Department, the Department of Healthcare and Family Services,
2 or the Illinois Medicaid Fraud Control Unit or any other law
3 enforcement agency is guilty of a Class A misdemeanor.

4 (210 ILCS 47/3-809 new)

5 Sec. 3-809. Rules to implement changes. In developing rules
6 and regulations to implement changes made by this amendatory
7 Act of the 97th General Assembly, the Department shall seek the
8 input of advocates for facility residents, representatives of
9 associations representing facilities, and representatives of
10 associations representing employees of facilities.

11 (210 ILCS 47/3-810 new)

12 Sec. 3-810. Whistleblower protection.

13 (a) In this Section, "retaliatory action" means the
14 reprimand, discharge, suspension, demotion, denial of
15 promotion or transfer, or change in the terms and conditions of
16 employment of any employee of a facility that is taken in
17 retaliation for the employee's involvement in a protected
18 activity as set forth in paragraphs (1), (2), and (3) of
19 subsection (b) of this Section.

20 (b) A facility shall not take any retaliatory action
21 against an employee of the facility, including a nursing home
22 administrator, because the employee does any of the following:

23 (1) Discloses or threatens to disclose to a supervisor
24 or to a public body an activity, inaction, policy, or

1 practice implemented by a facility that the employee
2 reasonably believes is in violation of a law, rule, or
3 regulation.

4 (2) Provides information to or testifies before any
5 public body conducting an investigation, hearing, or
6 inquiry into any violation of a law, rule, or regulation by
7 a nursing home administrator.

8 (3) Assists or participates in a proceeding to enforce
9 the provisions of this Act.

10 (c) A violation of this Section may be established only
11 upon a finding that (1) the employee of the facility engaged in
12 conduct described in subsection (b) of this Section and (2)
13 this conduct was a contributing factor in the retaliatory
14 action alleged by the employee. There is no violation of this
15 Section, however, if the facility demonstrates by clear and
16 convincing evidence that it would have taken the same
17 unfavorable personnel action in the absence of that conduct.

18 (d) The employee of the facility may be awarded all
19 remedies necessary to make the employee whole and to prevent
20 future violations of this Section. Remedies imposed by the
21 court may include, but are not limited to, all of the
22 following:

23 (1) Reinstatement of the employee to either the same
24 position held before the retaliatory action or to an
25 equivalent position.

26 (2) Two times the amount of back pay.

1 (3) Interest on the back pay.

2 (4) Reinstatement of full fringe benefits and
3 seniority rights.

4 (5) Payment of reasonable costs and attorney's fees.

5 (e) Nothing in this Section shall be deemed to diminish the
6 rights, privileges, or remedies of an employee of a facility
7 under any other federal or State law, rule, or regulation or
8 under any employment contract.

9 Section 90-115. The Home Health, Home Services, and Home
10 Nursing Agency Licensing Act is amended by changing Section
11 2.08 as follows:

12 (210 ILCS 55/2.08)

13 Sec. 2.08. "Home services agency" means an agency that
14 provides services directly, or acts as a placement agency, for
15 the purpose of placing individuals as workers providing home
16 services for consumers in their personal residences. "Home
17 services agency" does not include agencies licensed under the
18 Nurse Agency Licensing Act, the Hospital Licensing Act, the
19 Nursing Home Care Act, the MR/DD Community Care Act, the
20 Specialized Mental Health Rehabilitation Act, or the Assisted
21 Living and Shared Housing Act and does not include an agency
22 that limits its business exclusively to providing
23 housecleaning services. Programs providing services
24 exclusively through the Community Care Program of the Illinois

1 Department on Aging, the Department of Human Services Office of
2 Rehabilitation Services, or the United States Department of
3 Veterans Affairs are not considered to be a home services
4 agency under this Act.

5 (Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09;
6 96-1000, eff. 7-2-10.)

7 Section 90-120. The Hospice Program Licensing Act is
8 amended by changing Sections 3 and 4 as follows:

9 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

10 Sec. 3. Definitions. As used in this Act, unless the
11 context otherwise requires:

12 (a) "Bereavement" means the period of time during which the
13 hospice patient's family experiences and adjusts to the death
14 of the hospice patient.

15 (a-5) "Bereavement services" means counseling services
16 provided to an individual's family after the individual's
17 death.

18 (a-10) "Attending physician" means a physician who:

19 (1) is a doctor of medicine or osteopathy; and

20 (2) is identified by an individual, at the time the
21 individual elects to receive hospice care, as having the
22 most significant role in the determination and delivery of
23 the individual's medical care.

24 (b) "Department" means the Illinois Department of Public

1 Health.

2 (c) "Director" means the Director of the Illinois
3 Department of Public Health.

4 (d) "Hospice care" means a program of palliative care that
5 provides for the physical, emotional, and spiritual care needs
6 of a terminally ill patient and his or her family. The goal of
7 such care is to achieve the highest quality of life as defined
8 by the patient and his or her family through the relief of
9 suffering and control of symptoms.

10 (e) "Hospice care team" means an interdisciplinary group or
11 groups composed of individuals who provide or supervise the
12 care and services offered by the hospice.

13 (f) "Hospice patient" means a terminally ill person
14 receiving hospice services.

15 (g) "Hospice patient's family" means a hospice patient's
16 immediate family consisting of a spouse, sibling, child, parent
17 and those individuals designated as such by the patient for the
18 purposes of this Act.

19 (g-1) "Hospice residence" means a separately licensed
20 home, apartment building, or similar building providing living
21 quarters:

22 (1) that is owned or operated by a person licensed to
23 operate as a comprehensive hospice; and

24 (2) at which hospice services are provided to facility
25 residents.

26 A building that is licensed under the Hospital Licensing

1 Act, the Nursing Home Care Act, the Specialized Mental Health
2 Rehabilitation Act, or the MR/DD Community Care Act is not a
3 hospice residence.

4 (h) "Hospice services" means a range of professional and
5 other supportive services provided to a hospice patient and his
6 or her family. These services may include, but are not limited
7 to, physician services, nursing services, medical social work
8 services, spiritual counseling services, bereavement services,
9 and volunteer services.

10 (h-5) "Hospice program" means a licensed public agency or
11 private organization, or a subdivision of either of those, that
12 is primarily engaged in providing care to terminally ill
13 individuals through a program of home care or inpatient care,
14 or both home care and inpatient care, utilizing a medically
15 directed interdisciplinary hospice care team of professionals
16 or volunteers, or both professionals and volunteers. A hospice
17 program may be licensed as a comprehensive hospice program or a
18 volunteer hospice program.

19 (h-10) "Comprehensive hospice" means a program that
20 provides hospice services and meets the minimum standards for
21 certification under the Medicare program set forth in the
22 Conditions of Participation in 42 CFR Part 418 but is not
23 required to be Medicare-certified.

24 (i) "Palliative care" means the management of pain and
25 other distressing symptoms that incorporates medical, nursing,
26 psychosocial, and spiritual care according to the needs,

1 values, beliefs, and culture or cultures of the patient and his
2 or her family. The evaluation and treatment is
3 patient-centered, with a focus on the central role of the
4 family unit in decision-making.

5 (j) "Hospice service plan" means a plan detailing the
6 specific hospice services offered by a comprehensive or
7 volunteer hospice program, and the administrative and direct
8 care personnel responsible for those services. The plan shall
9 include but not be limited to:

10 (1) Identification of the person or persons
11 administratively responsible for the program.

12 (2) The estimated average monthly patient census.

13 (3) The proposed geographic area the hospice will
14 serve.

15 (4) A listing of those hospice services provided
16 directly by the hospice, and those hospice services
17 provided indirectly through a contractual agreement.

18 (5) The name and qualifications of those persons or
19 entities under contract to provide indirect hospice
20 services.

21 (6) The name and qualifications of those persons
22 providing direct hospice services, with the exception of
23 volunteers.

24 (7) A description of how the hospice plans to utilize
25 volunteers in the provision of hospice services.

26 (8) A description of the program's record keeping

1 system.

2 (k) "Terminally ill" means a medical prognosis by a
3 physician licensed to practice medicine in all of its branches
4 that a patient has an anticipated life expectancy of one year
5 or less.

6 (l) "Volunteer" means a person who offers his or her
7 services to a hospice without compensation. Reimbursement for a
8 volunteer's expenses in providing hospice service shall not be
9 considered compensation.

10 (l-5) "Employee" means a paid or unpaid member of the staff
11 of a hospice program, or, if the hospice program is a
12 subdivision of an agency or organization, of the agency or
13 organization, who is appropriately trained and assigned to the
14 hospice program. "Employee" also means a volunteer whose duties
15 are prescribed by the hospice program and whose performance of
16 those duties is supervised by the hospice program.

17 (l-10) "Representative" means an individual who has been
18 authorized under State law to terminate an individual's medical
19 care or to elect or revoke the election of hospice care on
20 behalf of a terminally ill individual who is mentally or
21 physically incapacitated.

22 (m) "Volunteer hospice" means a program which provides
23 hospice services to patients regardless of their ability to
24 pay, with emphasis on the utilization of volunteers to provide
25 services, under the administration of a not-for-profit agency.
26 This definition does not prohibit the employment of staff.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

3 Sec. 4. License.

4 (a) No person shall establish, conduct or maintain a
5 comprehensive or volunteer hospice program without first
6 obtaining a license from the Department. A hospice residence
7 may be operated only at the locations listed on the license. A
8 comprehensive hospice program owning or operating a hospice
9 residence is not subject to the provisions of the Nursing Home
10 Care Act, the Specialized Mental Health Rehabilitation Act, or
11 the MR/DD Community Care Act in owning or operating a hospice
12 residence.

13 (b) No public or private agency shall advertise or present
14 itself to the public as a comprehensive or volunteer hospice
15 program which provides hospice services without meeting the
16 provisions of subsection (a).

17 (c) The license shall be valid only in the possession of
18 the hospice to which it was originally issued and shall not be
19 transferred or assigned to any other person, agency, or
20 corporation.

21 (d) The license shall be renewed annually.

22 (e) The license shall be displayed in a conspicuous place
23 inside the hospice program office.

24 (Source: P.A. 96-339, eff. 7-1-10.)

1 Section 90-125. The Hospital Licensing Act is amended by
2 changing Sections 3, 7, and 6.09 and by adding Section 6.09a as
3 follows:

4 (210 ILCS 85/3)

5 Sec. 3. As used in this Act:

6 (A) "Hospital" means any institution, place, building,
7 buildings on a campus, or agency, public or private, whether
8 organized for profit or not, devoted primarily to the
9 maintenance and operation of facilities for the diagnosis and
10 treatment or care of 2 or more unrelated persons admitted for
11 overnight stay or longer in order to obtain medical, including
12 obstetric, psychiatric and nursing, care of illness, disease,
13 injury, infirmity, or deformity.

14 The term "hospital", without regard to length of stay,
15 shall also include:

16 (a) any facility which is devoted primarily to
17 providing psychiatric and related services and programs
18 for the diagnosis and treatment or care of 2 or more
19 unrelated persons suffering from emotional or nervous
20 diseases;

21 (b) all places where pregnant females are received,
22 cared for, or treated during delivery irrespective of the
23 number of patients received.

24 The term "hospital" includes general and specialized
25 hospitals, tuberculosis sanitarium, mental or psychiatric

1 hospitals and sanitarium, and includes maternity homes,
2 lying-in homes, and homes for unwed mothers in which care is
3 given during delivery.

4 The term "hospital" does not include:

5 (1) any person or institution required to be licensed
6 pursuant to the Nursing Home Care Act, the Specialized
7 Mental Health Rehabilitation Act, or the MR/DD Community
8 Care Act;

9 (2) hospitalization or care facilities maintained by
10 the State or any department or agency thereof, where such
11 department or agency has authority under law to establish
12 and enforce standards for the hospitalization or care
13 facilities under its management and control;

14 (3) hospitalization or care facilities maintained by
15 the federal government or agencies thereof;

16 (4) hospitalization or care facilities maintained by
17 any university or college established under the laws of
18 this State and supported principally by public funds raised
19 by taxation;

20 (5) any person or facility required to be licensed
21 pursuant to the Alcoholism and Other Drug Abuse and
22 Dependency Act;

23 (6) any facility operated solely by and for persons who
24 rely exclusively upon treatment by spiritual means through
25 prayer, in accordance with the creed or tenets of any
26 well-recognized church or religious denomination;

1 (7) an Alzheimer's disease management center
2 alternative health care model licensed under the
3 Alternative Health Care Delivery Act; or

4 (8) any veterinary hospital or clinic operated by a
5 veterinarian or veterinarians licensed under the
6 Veterinary Medicine and Surgery Practice Act of 2004 or
7 maintained by a State-supported or publicly funded
8 university or college.

9 (B) "Person" means the State, and any political subdivision
10 or municipal corporation, individual, firm, partnership,
11 corporation, company, association, or joint stock association,
12 or the legal successor thereof.

13 (C) "Department" means the Department of Public Health of
14 the State of Illinois.

15 (D) "Director" means the Director of Public Health of the
16 State of Illinois.

17 (E) "Perinatal" means the period of time between the
18 conception of an infant and the end of the first month after
19 birth.

20 (F) "Federally designated organ procurement agency" means
21 the organ procurement agency designated by the Secretary of the
22 U.S. Department of Health and Human Services for the service
23 area in which a hospital is located; except that in the case of
24 a hospital located in a county adjacent to Wisconsin which
25 currently contracts with an organ procurement agency located in
26 Wisconsin that is not the organ procurement agency designated

1 by the U.S. Secretary of Health and Human Services for the
2 service area in which the hospital is located, if the hospital
3 applies for a waiver pursuant to 42 USC 1320b-8(a), it may
4 designate an organ procurement agency located in Wisconsin to
5 be thereafter deemed its federally designated organ
6 procurement agency for the purposes of this Act.

7 (G) "Tissue bank" means any facility or program operating
8 in Illinois that is certified by the American Association of
9 Tissue Banks or the Eye Bank Association of America and is
10 involved in procuring, furnishing, donating, or distributing
11 corneas, bones, or other human tissue for the purpose of
12 injecting, transfusing, or transplanting any of them into the
13 human body. "Tissue bank" does not include a licensed blood
14 bank. For the purposes of this Act, "tissue" does not include
15 organs.

16 (H) "Campus", as this term applies to operations, has the
17 same meaning as the term "campus" as set forth in federal
18 Medicare regulations, 42 CFR 413.65.

19 (Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10;
20 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

21 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

22 Sec. 6.09. (a) In order to facilitate the orderly
23 transition of aged and disabled patients from hospitals to
24 post-hospital care, whenever a patient who qualifies for the
25 federal Medicare program is hospitalized, the patient shall be

1 notified of discharge at least 24 hours prior to discharge from
2 the hospital. With regard to pending discharges to a skilled
3 nursing facility, the hospital must notify the case
4 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
5 least 24 hours prior to discharge or, if home health services
6 are ordered, the hospital must inform its designated case
7 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
8 the pending discharge and must provide the patient with the
9 case coordination unit's telephone number and other contact
10 information.

11 (b) Every hospital shall develop procedures for a physician
12 with medical staff privileges at the hospital or any
13 appropriate medical staff member to provide the discharge
14 notice prescribed in subsection (a) of this Section. The
15 procedures must include prohibitions against discharging or
16 referring a patient to any of the following if unlicensed,
17 uncertified, or unregistered: (i) a board and care facility, as
18 defined in the Board and Care Home Act; (ii) an assisted living
19 and shared housing establishment, as defined in the Assisted
20 Living and Shared Housing Act; (iii) a facility licensed under
21 the Nursing Home Care Act, the Specialized Mental Health
22 Rehabilitation Act, or the MR/DD Community Care Act; (iv) a
23 supportive living facility, as defined in Section 5-5.01a of
24 the Illinois Public Aid Code; or (v) a free-standing hospice
25 facility licensed under the Hospice Program Licensing Act if
26 licensure, certification, or registration is required. The

1 Department of Public Health shall annually provide hospitals
2 with a list of licensed, certified, or registered board and
3 care facilities, assisted living and shared housing
4 establishments, nursing homes, supportive living facilities,
5 facilities licensed under the MR/DD Community Care Act or the
6 Specialized Mental Health Rehabilitation Act, and hospice
7 facilities. Reliance upon this list by a hospital shall satisfy
8 compliance with this requirement. The procedure may also
9 include a waiver for any case in which a discharge notice is
10 not feasible due to a short length of stay in the hospital by
11 the patient, or for any case in which the patient voluntarily
12 desires to leave the hospital before the expiration of the 24
13 hour period.

14 (c) At least 24 hours prior to discharge from the hospital,
15 the patient shall receive written information on the patient's
16 right to appeal the discharge pursuant to the federal Medicare
17 program, including the steps to follow to appeal the discharge
18 and the appropriate telephone number to call in case the
19 patient intends to appeal the discharge.

20 (d) Before transfer of a patient to a long term care
21 facility licensed under the Nursing Home Care Act where elderly
22 persons reside, a hospital shall as soon as practicable
23 initiate a name-based criminal history background check by
24 electronic submission to the Department of State Police for all
25 persons between the ages of 18 and 70 years; provided, however,
26 that a hospital shall be required to initiate such a background

1 check only with respect to patients who:

2 (1) are transferring to a long term care facility for
3 the first time;

4 (2) have been in the hospital more than 5 days;

5 (3) are reasonably expected to remain at the long term
6 care facility for more than 30 days;

7 (4) have a known history of serious mental illness or
8 substance abuse; and

9 (5) are independently ambulatory or mobile for more
10 than a temporary period of time.

11 A hospital may also request a criminal history background
12 check for a patient who does not meet any of the criteria set
13 forth in items (1) through (5).

14 A hospital shall notify a long term care facility if the
15 hospital has initiated a criminal history background check on a
16 patient being discharged to that facility. In all circumstances
17 in which the hospital is required by this subsection to
18 initiate the criminal history background check, the transfer to
19 the long term care facility may proceed regardless of the
20 availability of criminal history results. Upon receipt of the
21 results, the hospital shall promptly forward the results to the
22 appropriate long term care facility. If the results of the
23 background check are inconclusive, the hospital shall have no
24 additional duty or obligation to seek additional information
25 from, or about, the patient.

26 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;

1 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff.
2 7-29-10.)

3 (210 ILCS 85/6.09a new)

4 Sec. 6.09a. Report of Death. Every hospital shall, as soon
5 as possible, but no longer than 24 hours later, report the
6 death of a person readily known to be, without an investigation
7 by the hospital, a resident of a facility licensed under the
8 MR/DD Community Care Act, to the coroner or medical examiner.
9 The coroner or medical examiner shall promptly respond to the
10 report by accepting or not accepting the body for
11 investigation.

12 (210 ILCS 85/7) (from Ch. 111 1/2, par. 148)

13 Sec. 7. (a) The Director after notice and opportunity for
14 hearing to the applicant or licensee may deny, suspend, or
15 revoke a permit to establish a hospital or deny, suspend, or
16 revoke a license to open, conduct, operate, and maintain a
17 hospital in any case in which he finds that there has been a
18 substantial failure to comply with the provisions of this Act,
19 the Hospital Report Card Act, or the Illinois Adverse Health
20 Care Events Reporting Law of 2005 or the standards, rules, and
21 regulations established by virtue of any of those Acts. The
22 Department may impose fines on hospitals, not to exceed \$500
23 per occurrence, for failing to (1) initiate a criminal
24 background check on a patient that meets the criteria for

1 hospital-initiated background checks or (2) report the death of
2 a person known to be a resident of a facility licensed under
3 the MR/DD Community Care Act to the coroner or medical examiner
4 within 24 hours as required by Section 6.09a of this Act. In
5 assessing whether to impose such a fine for failure to initiate
6 a criminal background check, the Department shall consider
7 various factors including, but not limited to, whether the
8 hospital has engaged in a pattern or practice of failing to
9 initiate criminal background checks. Money from fines shall be
10 deposited into the Long Term Care Provider Fund.

11 (b) Such notice shall be effected by registered mail or by
12 personal service setting forth the particular reasons for the
13 proposed action and fixing a date, not less than 15 days from
14 the date of such mailing or service, at which time the
15 applicant or licensee shall be given an opportunity for a
16 hearing. Such hearing shall be conducted by the Director or by
17 an employee of the Department designated in writing by the
18 Director as Hearing Officer to conduct the hearing. On the
19 basis of any such hearing, or upon default of the applicant or
20 licensee, the Director shall make a determination specifying
21 his findings and conclusions. In case of a denial to an
22 applicant of a permit to establish a hospital, such
23 determination shall specify the subsection of Section 6 under
24 which the permit was denied and shall contain findings of fact
25 forming the basis of such denial. A copy of such determination
26 shall be sent by registered mail or served personally upon the

1 applicant or licensee. The decision denying, suspending, or
2 revoking a permit or a license shall become final 35 days after
3 it is so mailed or served, unless the applicant or licensee,
4 within such 35 day period, petitions for review pursuant to
5 Section 13.

6 (c) The procedure governing hearings authorized by this
7 Section shall be in accordance with rules promulgated by the
8 Department and approved by the Hospital Licensing Board. A full
9 and complete record shall be kept of all proceedings, including
10 the notice of hearing, complaint, and all other documents in
11 the nature of pleadings, written motions filed in the
12 proceedings, and the report and orders of the Director and
13 Hearing Officer. All testimony shall be reported but need not
14 be transcribed unless the decision is appealed pursuant to
15 Section 13. A copy or copies of the transcript may be obtained
16 by any interested party on payment of the cost of preparing
17 such copy or copies.

18 (d) The Director or Hearing Officer shall upon his own
19 motion, or on the written request of any party to the
20 proceeding, issue subpoenas requiring the attendance and the
21 giving of testimony by witnesses, and subpoenas duces tecum
22 requiring the production of books, papers, records, or
23 memoranda. All subpoenas and subpoenas duces tecum issued under
24 the terms of this Act may be served by any person of full age.
25 The fees of witnesses for attendance and travel shall be the
26 same as the fees of witnesses before the Circuit Court of this

1 State, such fees to be paid when the witness is excused from
2 further attendance. When the witness is subpoenaed at the
3 instance of the Director, or Hearing Officer, such fees shall
4 be paid in the same manner as other expenses of the Department,
5 and when the witness is subpoenaed at the instance of any other
6 party to any such proceeding the Department may require that
7 the cost of service of the subpoena or subpoena duces tecum and
8 the fee of the witness be borne by the party at whose instance
9 the witness is summoned. In such case, the Department in its
10 discretion, may require a deposit to cover the cost of such
11 service and witness fees. A subpoena or subpoena duces tecum
12 issued as aforesaid shall be served in the same manner as a
13 subpoena issued out of a court.

14 (e) Any Circuit Court of this State upon the application of
15 the Director, or upon the application of any other party to the
16 proceeding, may, in its discretion, compel the attendance of
17 witnesses, the production of books, papers, records, or
18 memoranda and the giving of testimony before the Director or
19 Hearing Officer conducting an investigation or holding a
20 hearing authorized by this Act, by an attachment for contempt,
21 or otherwise, in the same manner as production of evidence may
22 be compelled before the court.

23 (f) The Director or Hearing Officer, or any party in an
24 investigation or hearing before the Department, may cause the
25 depositions of witnesses within the State to be taken in the
26 manner prescribed by law for like depositions in civil actions

1 in courts of this State, and to that end compel the attendance
2 of witnesses and the production of books, papers, records, or
3 memoranda.

4 (Source: P.A. 96-1372, eff. 7-29-10.)

5 Section 90-130. The Language Assistance Services Act is
6 amended by changing Section 10 as follows:

7 (210 ILCS 87/10)

8 Sec. 10. Definitions. As used in this Act:

9 "Department" means the Department of Public Health.

10 "Interpreter" means a person fluent in English and in the
11 necessary language of the patient who can accurately speak,
12 read, and readily interpret the necessary second language, or a
13 person who can accurately sign and read sign language.
14 Interpreters shall have the ability to translate the names of
15 body parts and to describe completely symptoms and injuries in
16 both languages. Interpreters may include members of the medical
17 or professional staff.

18 "Language or communication barriers" means either of the
19 following:

20 (1) With respect to spoken language, barriers that are
21 experienced by limited-English-speaking or
22 non-English-speaking individuals who speak the same
23 primary language, if those individuals constitute at least
24 5% of the patients served by the health facility annually.

1 (2) With respect to sign language, barriers that are
2 experienced by individuals who are deaf and whose primary
3 language is sign language.

4 "Health facility" means a hospital licensed under the
5 Hospital Licensing Act, a long-term care facility licensed
6 under the Nursing Home Care Act, or a facility licensed under
7 the MR/DD Community Care Act or the Specialized Mental Health
8 Rehabilitation Act.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 Section 90-135. The Community-Integrated Living
11 Arrangements Licensure and Certification Act is amended by
12 changing Section 4 as follows:

13 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

14 Sec. 4. (a) Any community mental health or developmental
15 services agency who wishes to develop and support a variety of
16 community-integrated living arrangements may do so pursuant to
17 a license issued by the Department under this Act. However,
18 programs established under or otherwise subject to the Child
19 Care Act of 1969, the Nursing Home Care Act, the Specialized
20 Mental Health Rehabilitation Act, or the MR/DD Community Care
21 Act, as now or hereafter amended, shall remain subject thereto,
22 and this Act shall not be construed to limit the application of
23 those Acts.

24 (b) The system of licensure established under this Act

1 shall be for the purposes of:

2 (1) Insuring that all recipients residing in
3 community-integrated living arrangements are receiving
4 appropriate community-based services, including treatment,
5 training and habilitation or rehabilitation;

6 (2) Insuring that recipients' rights are protected and
7 that all programs provided to and placements arranged for
8 recipients comply with this Act, the Mental Health and
9 Developmental Disabilities Code, and applicable Department
10 rules and regulations;

11 (3) Maintaining the integrity of communities by
12 requiring regular monitoring and inspection of placements
13 and other services provided in community-integrated living
14 arrangements.

15 The licensure system shall be administered by a quality
16 assurance unit within the Department which shall be
17 administratively independent of units responsible for funding
18 of agencies or community services.

19 (c) As a condition of being licensed by the Department as a
20 community mental health or developmental services agency under
21 this Act, the agency shall certify to the Department that:

22 (1) All recipients residing in community-integrated
23 living arrangements are receiving appropriate
24 community-based services, including treatment, training
25 and habilitation or rehabilitation;

26 (2) All programs provided to and placements arranged

1 for recipients are supervised by the agency; and

2 (3) All programs provided to and placements arranged
3 for recipients comply with this Act, the Mental Health and
4 Developmental Disabilities Code, and applicable Department
5 rules and regulations.

6 (d) An applicant for licensure as a community mental health
7 or developmental services agency under this Act shall submit an
8 application pursuant to the application process established by
9 the Department by rule and shall pay an application fee in an
10 amount established by the Department, which amount shall not be
11 more than \$200.

12 (e) If an applicant meets the requirements established by
13 the Department to be licensed as a community mental health or
14 developmental services agency under this Act, after payment of
15 the licensing fee, the Department shall issue a license valid
16 for 3 years from the date thereof unless suspended or revoked
17 by the Department or voluntarily surrendered by the agency.

18 (f) Upon application to the Department, the Department may
19 issue a temporary permit to an applicant for a 6-month period
20 to allow the holder of such permit reasonable time to become
21 eligible for a license under this Act.

22 (g) (1) The Department may conduct site visits to an agency
23 licensed under this Act, or to any program or placement
24 certified by the agency, and inspect the records or premises,
25 or both, of such agency, program or placement as it deems
26 appropriate, for the purpose of determining compliance with

1 this Act, the Mental Health and Developmental Disabilities
2 Code, and applicable Department rules and regulations.

3 (2) If the Department determines that an agency licensed
4 under this Act is not in compliance with this Act or the rules
5 and regulations promulgated under this Act, the Department
6 shall serve a notice of violation upon the licensee. Each
7 notice of violation shall be prepared in writing and shall
8 specify the nature of the violation, the statutory provision or
9 rule alleged to have been violated, and that the licensee
10 submit a plan of correction to the Department if required. The
11 notice shall also inform the licensee of any other action which
12 the Department might take pursuant to this Act and of the right
13 to a hearing.

14 (h) Upon the expiration of any license issued under this
15 Act, a license renewal application shall be required of and a
16 license renewal fee in an amount established by the Department
17 shall be charged to a community mental health or developmental
18 services agency, provided that such fee shall not be more than
19 \$200.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 Section 90-140. The Child Care Act of 1969 is amended by
22 changing Section 2.06 as follows:

23 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

24 Sec. 2.06. "Child care institution" means a child care

1 facility where more than 7 children are received and maintained
2 for the purpose of providing them with care or training or
3 both. The term "child care institution" includes residential
4 schools, primarily serving ambulatory handicapped children,
5 and those operating a full calendar year, but does not include:

6 (a) Any State-operated institution for child care
7 established by legislative action;

8 (b) Any juvenile detention or shelter care home established
9 and operated by any county or child protection district
10 established under the "Child Protection Act";

11 (c) Any institution, home, place or facility operating
12 under a license pursuant to the Nursing Home Care Act, the
13 Specialized Mental Health Rehabilitation Act, or the MR/DD
14 Community Care Act;

15 (d) Any bona fide boarding school in which children are
16 primarily taught branches of education corresponding to those
17 taught in public schools, grades one through 12, or taught in
18 public elementary schools, high schools, or both elementary and
19 high schools, and which operates on a regular academic school
20 year basis; or

21 (e) Any facility licensed as a "group home" as defined in
22 this Act.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 Section 90-145. The Health Care Worker Background Check Act
25 is amended by changing Section 15 as follows:

1 (225 ILCS 46/15)

2 Sec. 15. Definitions. In this Act:

3 "Applicant" means an individual seeking employment with a
4 health care employer who has received a bona fide conditional
5 offer of employment.

6 "Conditional offer of employment" means a bona fide offer
7 of employment by a health care employer to an applicant, which
8 is contingent upon the receipt of a report from the Department
9 of Public Health indicating that the applicant does not have a
10 record of conviction of any of the criminal offenses enumerated
11 in Section 25.

12 "Direct care" means the provision of nursing care or
13 assistance with feeding, dressing, movement, bathing,
14 toileting, or other personal needs, including home services as
15 defined in the Home Health, Home Services, and Home Nursing
16 Agency Licensing Act. The entity responsible for inspecting and
17 licensing, certifying, or registering the health care employer
18 may, by administrative rule, prescribe guidelines for
19 interpreting this definition with regard to the health care
20 employers that it licenses.

21 "Disqualifying offenses" means those offenses set forth in
22 Section 25 of this Act.

23 "Employee" means any individual hired, employed, or
24 retained to which this Act applies.

25 "Fingerprint-based criminal history records check" means a

1 livescan fingerprint-based criminal history records check
2 submitted as a fee applicant inquiry in the form and manner
3 prescribed by the Department of State Police.

4 "Health care employer" means:

5 (1) the owner or licensee of any of the following:

6 (i) a community living facility, as defined in the
7 Community Living Facilities Act;

8 (ii) a life care facility, as defined in the Life
9 Care Facilities Act;

10 (iii) a long-term care facility;

11 (iv) a home health agency, home services agency, or
12 home nursing agency as defined in the Home Health, Home
13 Services, and Home Nursing Agency Licensing Act;

14 (v) a hospice care program or volunteer hospice
15 program, as defined in the Hospice Program Licensing
16 Act;

17 (vi) a hospital, as defined in the Hospital
18 Licensing Act;

19 (vii) (blank);

20 (viii) a nurse agency, as defined in the Nurse
21 Agency Licensing Act;

22 (ix) a respite care provider, as defined in the
23 Respite Program Act;

24 (ix-a) an establishment licensed under the
25 Assisted Living and Shared Housing Act;

26 (x) a supportive living program, as defined in the

1 Illinois Public Aid Code;

2 (xi) early childhood intervention programs as
3 described in 59 Ill. Adm. Code 121;

4 (xii) the University of Illinois Hospital,
5 Chicago;

6 (xiii) programs funded by the Department on Aging
7 through the Community Care Program;

8 (xiv) programs certified to participate in the
9 Supportive Living Program authorized pursuant to
10 Section 5-5.01a of the Illinois Public Aid Code;

11 (xv) programs listed by the Emergency Medical
12 Services (EMS) Systems Act as Freestanding Emergency
13 Centers;

14 (xvi) locations licensed under the Alternative
15 Health Care Delivery Act;

16 (2) a day training program certified by the Department
17 of Human Services;

18 (3) a community integrated living arrangement operated
19 by a community mental health and developmental service
20 agency, as defined in the Community-Integrated Living
21 Arrangements Licensing and Certification Act; or

22 (4) the State Long Term Care Ombudsman Program,
23 including any regional long term care ombudsman programs
24 under Section 4.04 of the Illinois Act on the Aging, only
25 for the purpose of securing background checks.

26 "Initiate" means obtaining from a student, applicant, or

1 employee his or her social security number, demographics, a
2 disclosure statement, and an authorization for the Department
3 of Public Health or its designee to request a fingerprint-based
4 criminal history records check; transmitting this information
5 electronically to the Department of Public Health; conducting
6 Internet searches on certain web sites, including without
7 limitation the Illinois Sex Offender Registry, the Department
8 of Corrections' Sex Offender Search Engine, the Department of
9 Corrections' Inmate Search Engine, the Department of
10 Corrections Wanted Fugitives Search Engine, the National Sex
11 Offender Public Registry, and the website of the Health and
12 Human Services Office of Inspector General to determine if the
13 applicant has been adjudicated a sex offender, has been a
14 prison inmate, or has committed Medicare or Medicaid fraud, or
15 conducting similar searches as defined by rule; and having the
16 student, applicant, or employee's fingerprints collected and
17 transmitted electronically to the Department of State Police.

18 "Livescan vendor" means an entity whose equipment has been
19 certified by the Department of State Police to collect an
20 individual's demographics and inkless fingerprints and, in a
21 manner prescribed by the Department of State Police and the
22 Department of Public Health, electronically transmit the
23 fingerprints and required data to the Department of State
24 Police and a daily file of required data to the Department of
25 Public Health. The Department of Public Health shall negotiate
26 a contract with one or more vendors that effectively

1 demonstrate that the vendor has 2 or more years of experience
2 transmitting fingerprints electronically to the Department of
3 State Police and that the vendor can successfully transmit the
4 required data in a manner prescribed by the Department of
5 Public Health. Vendor authorization may be further defined by
6 administrative rule.

7 "Long-term care facility" means a facility licensed by the
8 State or certified under federal law as a long-term care
9 facility, including without limitation facilities licensed
10 under the Nursing Home Care Act, the Specialized Mental Health
11 Rehabilitation Act, or the MR/DD Community Care Act, a
12 supportive living facility, an assisted living establishment,
13 or a shared housing establishment or registered as a board and
14 care home.

15 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;
16 96-339, eff. 7-1-10.)

17 Section 90-150. The Nursing Home Administrators Licensing
18 and Disciplinary Act is amended by changing Sections 4 and 17
19 as follows:

20 (225 ILCS 70/4) (from Ch. 111, par. 3654)

21 (Section scheduled to be repealed on January 1, 2018)

22 Sec. 4. Definitions. For purposes of this Act, the
23 following definitions shall have the following meanings,
24 except where the context requires otherwise:

1 (1) "Act" means the Nursing Home Administrators
2 Licensing and Disciplinary Act.

3 (2) "Department" means the Department of Financial and
4 Professional Regulation.

5 (3) "Secretary" means the Secretary of Financial and
6 Professional Regulation.

7 (4) "Board" means the Nursing Home Administrators
8 Licensing and Disciplinary Board appointed by the
9 Governor.

10 (5) "Nursing home administrator" means the individual
11 licensed under this Act and directly responsible for
12 planning, organizing, directing and supervising the
13 operation of a nursing home, or who in fact performs such
14 functions, whether or not such functions are delegated to
15 one or more other persons.

16 (6) "Nursing home" or "facility" means any entity that
17 is required to be licensed by the Department of Public
18 Health under the Nursing Home Care Act, as amended, other
19 than a sheltered care home as defined thereunder, and
20 includes private homes, institutions, buildings,
21 residences, or other places, whether operated for profit or
22 not, irrespective of the names attributed to them, county
23 homes for the infirm and chronically ill operated pursuant
24 to the County Nursing Home Act, as amended, and any similar
25 institutions operated by a political subdivision of the
26 State of Illinois that provide, though their ownership or

1 management, maintenance, personal care, and nursing for 3
2 or more persons, not related to the owner by blood or
3 marriage, or any similar facilities in which maintenance is
4 provided to 3 or more persons who by reason of illness of
5 physical infirmity require personal care and nursing. The
6 term also means any facility licensed under the MR/DD
7 Community Care Act or the Specialized Mental Health
8 Rehabilitation Act.

9 (7) "Maintenance" means food, shelter and laundry.

10 (8) "Personal care" means assistance with meals,
11 dressing, movement, bathing, or other personal needs, or
12 general supervision of the physical and mental well-being
13 of an individual who because of age, physical, or mental
14 disability, emotion or behavior disorder, or mental
15 retardation is incapable of managing his or her person,
16 whether or not a guardian has been appointed for such
17 individual. For the purposes of this Act, this definition
18 does not include the professional services of a nurse.

19 (9) "Nursing" means professional nursing or practical
20 nursing, as those terms are defined in the Nurse Practice
21 Act, for sick or infirm persons who are under the care and
22 supervision of licensed physicians or dentists.

23 (10) "Disciplinary action" means revocation,
24 suspension, probation, supervision, reprimand, required
25 education, fines or any other action taken by the
26 Department against a person holding a license.

1 (11) "Impaired" means the inability to practice with
2 reasonable skill and safety due to physical or mental
3 disabilities as evidenced by a written determination or
4 written consent based on clinical evidence including
5 deterioration through the aging process or loss of motor
6 skill, or abuse of drugs or alcohol, of sufficient degree
7 to diminish a person's ability to administer a nursing
8 home.

9 (12) "Address of record" means the designated address
10 recorded by the Department in the applicant's or licensee's
11 application file or license file maintained by the
12 Department's licensure maintenance unit. It is the duty of
13 the applicant or licensee to inform the Department of any
14 change of address, and such changes must be made either
15 through the Department's website or by contacting the
16 Department's licensure maintenance unit.

17 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;
18 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

19 (225 ILCS 70/17) (from Ch. 111, par. 3667)

20 (Text of Section before amendment by P.A. 96-1551)

21 (Section scheduled to be repealed on January 1, 2018)

22 Sec. 17. Grounds for disciplinary action.

23 (a) The Department may impose fines not to exceed \$10,000
24 or may refuse to issue or to renew, or may revoke, suspend,
25 place on probation, censure, reprimand or take other

1 disciplinary or non-disciplinary action with regard to the
2 license of any person, for any one or combination of the
3 following causes:

4 (1) Intentional material misstatement in furnishing
5 information to the Department.

6 (2) Conviction of or entry of a plea of guilty or nolo
7 contendere to any crime that is a felony under the laws of
8 the United States or any state or territory thereof or a
9 misdemeanor of which an essential element is dishonesty or
10 that is directly related to the practice of the profession
11 of nursing home administration.

12 (3) Making any misrepresentation for the purpose of
13 obtaining a license, or violating any provision of this
14 Act.

15 (4) Immoral conduct in the commission of any act, such
16 as sexual abuse or sexual misconduct, related to the
17 licensee's practice.

18 (5) Failing to respond within 30 days, to a written
19 request made by the Department for information.

20 (6) Engaging in dishonorable, unethical or
21 unprofessional conduct of a character likely to deceive,
22 defraud or harm the public.

23 (7) Habitual use or addiction to alcohol, narcotics,
24 stimulants, or any other chemical agent or drug which
25 results in the inability to practice with reasonable
26 judgment, skill or safety.

1 (8) Discipline by another U.S. jurisdiction if at least
2 one of the grounds for the discipline is the same or
3 substantially equivalent to those set forth herein.

4 (9) A finding by the Department that the licensee,
5 after having his or her license placed on probationary
6 status has violated the terms of probation.

7 (10) Willfully making or filing false records or
8 reports in his or her practice, including but not limited
9 to false records filed with State agencies or departments.

10 (11) Physical illness, mental illness, or other
11 impairment or disability, including, but not limited to,
12 deterioration through the aging process, or loss of motor
13 skill that results in the inability to practice the
14 profession with reasonable judgment, skill or safety.

15 (12) Disregard or violation of this Act or of any rule
16 issued pursuant to this Act.

17 (13) Aiding or abetting another in the violation of
18 this Act or any rule or regulation issued pursuant to this
19 Act.

20 (14) Allowing one's license to be used by an unlicensed
21 person.

22 (15) (Blank).

23 (16) Professional incompetence in the practice of
24 nursing home administration.

25 (17) Conviction of a violation of Section 12-19 of the
26 Criminal Code of 1961 for the abuse and gross neglect of a

1 long term care facility resident.

2 (18) Violation of the Nursing Home Care Act or the
3 MR/DD Community Care Act or of any rule issued under the
4 Nursing Home Care Act or the MR/DD Community Care Act. A
5 final adjudication of a Type "AA" violation of the Nursing
6 Home Care Act or MR/DD Community Care Act made by the
7 Illinois Department of Public Health, as identified by
8 rule, relating to the hiring, training, planning,
9 organizing, directing, or supervising the operation of a
10 nursing home and a licensee's failure to comply with this
11 Act or the rules adopted under this Act, shall create a
12 rebuttable presumption of a violation of this subsection.

13 (19) Failure to report to the Department any adverse
14 final action taken against the licensee by a licensing
15 authority of another state, territory of the United States,
16 or foreign country; or by any governmental or law
17 enforcement agency; or by any court for acts or conduct
18 similar to acts or conduct that would constitute grounds
19 for disciplinary action under this Section.

20 (20) Failure to report to the Department the surrender
21 of a license or authorization to practice as a nursing home
22 administrator in another state or jurisdiction for acts or
23 conduct similar to acts or conduct that would constitute
24 grounds for disciplinary action under this Section.

25 (21) Failure to report to the Department any adverse
26 judgment, settlement, or award arising from a liability

1 claim related to acts or conduct similar to acts or conduct
2 that would constitute grounds for disciplinary action
3 under this Section.

4 All proceedings to suspend, revoke, place on probationary
5 status, or take any other disciplinary action as the Department
6 may deem proper, with regard to a license on any of the
7 foregoing grounds, must be commenced within 5 years next after
8 receipt by the Department of (i) a complaint alleging the
9 commission of or notice of the conviction order for any of the
10 acts described herein or (ii) a referral for investigation
11 under Section 3-108 of the Nursing Home Care Act.

12 The entry of an order or judgment by any circuit court
13 establishing that any person holding a license under this Act
14 is a person in need of mental treatment operates as a
15 suspension of that license. That person may resume their
16 practice only upon the entry of a Department order based upon a
17 finding by the Board that they have been determined to be
18 recovered from mental illness by the court and upon the Board's
19 recommendation that they be permitted to resume their practice.

20 The Department, upon the recommendation of the Board, may
21 adopt rules which set forth standards to be used in determining
22 what constitutes:

23 (i) when a person will be deemed sufficiently
24 rehabilitated to warrant the public trust;

25 (ii) dishonorable, unethical or unprofessional conduct
26 of a character likely to deceive, defraud, or harm the

1 public;

2 (iii) immoral conduct in the commission of any act
3 related to the licensee's practice; and

4 (iv) professional incompetence in the practice of
5 nursing home administration.

6 However, no such rule shall be admissible into evidence in
7 any civil action except for review of a licensing or other
8 disciplinary action under this Act.

9 In enforcing this Section, the Department or Board, upon a
10 showing of a possible violation, may compel any individual
11 licensed to practice under this Act, or who has applied for
12 licensure pursuant to this Act, to submit to a mental or
13 physical examination, or both, as required by and at the
14 expense of the Department. The examining physician or
15 physicians shall be those specifically designated by the
16 Department or Board. The Department or Board may order the
17 examining physician to present testimony concerning this
18 mental or physical examination of the licensee or applicant. No
19 information shall be excluded by reason of any common law or
20 statutory privilege relating to communications between the
21 licensee or applicant and the examining physician. The
22 individual to be examined may have, at his or her own expense,
23 another physician of his or her choice present during all
24 aspects of the examination. Failure of any individual to submit
25 to mental or physical examination, when directed, shall be
26 grounds for suspension of his or her license until such time as

1 the individual submits to the examination if the Department
2 finds, after notice and hearing, that the refusal to submit to
3 the examination was without reasonable cause.

4 If the Department or Board finds an individual unable to
5 practice because of the reasons set forth in this Section, the
6 Department or Board shall require such individual to submit to
7 care, counseling, or treatment by physicians approved or
8 designated by the Department or Board, as a condition, term, or
9 restriction for continued, reinstated, or renewed licensure to
10 practice; or in lieu of care, counseling, or treatment, the
11 Department may file, or the Board may recommend to the
12 Department to file, a complaint to immediately suspend, revoke,
13 or otherwise discipline the license of the individual. Any
14 individual whose license was granted pursuant to this Act or
15 continued, reinstated, renewed, disciplined or supervised,
16 subject to such terms, conditions or restrictions who shall
17 fail to comply with such terms, conditions or restrictions
18 shall be referred to the Secretary for a determination as to
19 whether the licensee shall have his or her license suspended
20 immediately, pending a hearing by the Department. In instances
21 in which the Secretary immediately suspends a license under
22 this Section, a hearing upon such person's license must be
23 convened by the Board within 30 days after such suspension and
24 completed without appreciable delay. The Department and Board
25 shall have the authority to review the subject administrator's
26 record of treatment and counseling regarding the impairment, to

1 the extent permitted by applicable federal statutes and
2 regulations safeguarding the confidentiality of medical
3 records.

4 An individual licensed under this Act, affected under this
5 Section, shall be afforded an opportunity to demonstrate to the
6 Department or Board that he or she can resume practice in
7 compliance with acceptable and prevailing standards under the
8 provisions of his or her license.

9 (b) Any individual or organization acting in good faith,
10 and not in a wilful and wanton manner, in complying with this
11 Act by providing any report or other information to the
12 Department, or assisting in the investigation or preparation of
13 such information, or by participating in proceedings of the
14 Department, or by serving as a member of the Board, shall not,
15 as a result of such actions, be subject to criminal prosecution
16 or civil damages.

17 (c) Members of the Board, and persons retained under
18 contract to assist and advise in an investigation, shall be
19 indemnified by the State for any actions occurring within the
20 scope of services on or for the Board, done in good faith and
21 not wilful and wanton in nature. The Attorney General shall
22 defend all such actions unless he or she determines either that
23 there would be a conflict of interest in such representation or
24 that the actions complained of were not in good faith or were
25 wilful and wanton.

26 Should the Attorney General decline representation, a

1 person entitled to indemnification under this Section shall
2 have the right to employ counsel of his or her choice, whose
3 fees shall be provided by the State, after approval by the
4 Attorney General, unless there is a determination by a court
5 that the member's actions were not in good faith or were wilful
6 and wanton.

7 A person entitled to indemnification under this Section
8 must notify the Attorney General within 7 days of receipt of
9 notice of the initiation of any action involving services of
10 the Board. Failure to so notify the Attorney General shall
11 constitute an absolute waiver of the right to a defense and
12 indemnification.

13 The Attorney General shall determine within 7 days after
14 receiving such notice, whether he or she will undertake to
15 represent a person entitled to indemnification under this
16 Section.

17 (d) The determination by a circuit court that a licensee is
18 subject to involuntary admission or judicial admission as
19 provided in the Mental Health and Developmental Disabilities
20 Code, as amended, operates as an automatic suspension. Such
21 suspension will end only upon a finding by a court that the
22 patient is no longer subject to involuntary admission or
23 judicial admission and issues an order so finding and
24 discharging the patient; and upon the recommendation of the
25 Board to the Secretary that the licensee be allowed to resume
26 his or her practice.

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

8 (f) The Department of Public Health shall transmit to the
9 Department a list of those facilities which receive an "A"
10 violation as defined in Section 1-129 of the Nursing Home Care
11 Act.

12 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;
13 96-1372, eff. 7-29-10.)

14 (Text of Section after amendment by P.A. 96-1551)

15 (Section scheduled to be repealed on January 1, 2018)

16 Sec. 17. Grounds for disciplinary action.

17 (a) The Department may impose fines not to exceed \$10,000
18 or may refuse to issue or to renew, or may revoke, suspend,
19 place on probation, censure, reprimand or take other
20 disciplinary or non-disciplinary action with regard to the
21 license of any person, for any one or combination of the
22 following causes:

23 (1) Intentional material misstatement in furnishing
24 information to the Department.

25 (2) Conviction of or entry of a plea of guilty or nolo

1 contendere to any crime that is a felony under the laws of
2 the United States or any state or territory thereof or a
3 misdemeanor of which an essential element is dishonesty or
4 that is directly related to the practice of the profession
5 of nursing home administration.

6 (3) Making any misrepresentation for the purpose of
7 obtaining a license, or violating any provision of this
8 Act.

9 (4) Immoral conduct in the commission of any act, such
10 as sexual abuse or sexual misconduct, related to the
11 licensee's practice.

12 (5) Failing to respond within 30 days, to a written
13 request made by the Department for information.

14 (6) Engaging in dishonorable, unethical or
15 unprofessional conduct of a character likely to deceive,
16 defraud or harm the public.

17 (7) Habitual use or addiction to alcohol, narcotics,
18 stimulants, or any other chemical agent or drug which
19 results in the inability to practice with reasonable
20 judgment, skill or safety.

21 (8) Discipline by another U.S. jurisdiction if at least
22 one of the grounds for the discipline is the same or
23 substantially equivalent to those set forth herein.

24 (9) A finding by the Department that the licensee,
25 after having his or her license placed on probationary
26 status has violated the terms of probation.

1 (10) Willfully making or filing false records or
2 reports in his or her practice, including but not limited
3 to false records filed with State agencies or departments.

4 (11) Physical illness, mental illness, or other
5 impairment or disability, including, but not limited to,
6 deterioration through the aging process, or loss of motor
7 skill that results in the inability to practice the
8 profession with reasonable judgment, skill or safety.

9 (12) Disregard or violation of this Act or of any rule
10 issued pursuant to this Act.

11 (13) Aiding or abetting another in the violation of
12 this Act or any rule or regulation issued pursuant to this
13 Act.

14 (14) Allowing one's license to be used by an unlicensed
15 person.

16 (15) (Blank).

17 (16) Professional incompetence in the practice of
18 nursing home administration.

19 (17) Conviction of a violation of Section 12-19 or
20 subsection (a) of Section 12-4.4a of the Criminal Code of
21 1961 for the abuse and criminal neglect of a long term care
22 facility resident.

23 (18) Violation of the Nursing Home Care Act, the
24 Specialized Mental Health Rehabilitation Act, or the MR/DD
25 Community Care Act or of any rule issued under the Nursing
26 Home Care Act, the Specialized Mental Health

1 Rehabilitation Act, or the MR/DD Community Care Act. A
2 final adjudication of a Type "AA" violation of the Nursing
3 Home Care Act made by the Illinois Department of Public
4 Health, as identified by rule, relating to the hiring,
5 training, planning, organizing, directing, or supervising
6 the operation of a nursing home and a licensee's failure to
7 comply with this Act or the rules adopted under this Act,
8 shall create a rebuttable presumption of a violation of
9 this subsection.

10 (19) Failure to report to the Department any adverse
11 final action taken against the licensee by a licensing
12 authority of another state, territory of the United States,
13 or foreign country; or by any governmental or law
14 enforcement agency; or by any court for acts or conduct
15 similar to acts or conduct that would constitute grounds
16 for disciplinary action under this Section.

17 (20) Failure to report to the Department the surrender
18 of a license or authorization to practice as a nursing home
19 administrator in another state or jurisdiction for acts or
20 conduct similar to acts or conduct that would constitute
21 grounds for disciplinary action under this Section.

22 (21) Failure to report to the Department any adverse
23 judgment, settlement, or award arising from a liability
24 claim related to acts or conduct similar to acts or conduct
25 that would constitute grounds for disciplinary action
26 under this Section.

1 All proceedings to suspend, revoke, place on probationary
2 status, or take any other disciplinary action as the Department
3 may deem proper, with regard to a license on any of the
4 foregoing grounds, must be commenced within 5 years next after
5 receipt by the Department of (i) a complaint alleging the
6 commission of or notice of the conviction order for any of the
7 acts described herein or (ii) a referral for investigation
8 under Section 3-108 of the Nursing Home Care Act.

9 The entry of an order or judgment by any circuit court
10 establishing that any person holding a license under this Act
11 is a person in need of mental treatment operates as a
12 suspension of that license. That person may resume their
13 practice only upon the entry of a Department order based upon a
14 finding by the Board that they have been determined to be
15 recovered from mental illness by the court and upon the Board's
16 recommendation that they be permitted to resume their practice.

17 The Department, upon the recommendation of the Board, may
18 adopt rules which set forth standards to be used in determining
19 what constitutes:

20 (i) when a person will be deemed sufficiently
21 rehabilitated to warrant the public trust;

22 (ii) dishonorable, unethical or unprofessional conduct
23 of a character likely to deceive, defraud, or harm the
24 public;

25 (iii) immoral conduct in the commission of any act
26 related to the licensee's practice; and

1 (iv) professional incompetence in the practice of
2 nursing home administration.

3 However, no such rule shall be admissible into evidence in
4 any civil action except for review of a licensing or other
5 disciplinary action under this Act.

6 In enforcing this Section, the Department or Board, upon a
7 showing of a possible violation, may compel any individual
8 licensed to practice under this Act, or who has applied for
9 licensure pursuant to this Act, to submit to a mental or
10 physical examination, or both, as required by and at the
11 expense of the Department. The examining physician or
12 physicians shall be those specifically designated by the
13 Department or Board. The Department or Board may order the
14 examining physician to present testimony concerning this
15 mental or physical examination of the licensee or applicant. No
16 information shall be excluded by reason of any common law or
17 statutory privilege relating to communications between the
18 licensee or applicant and the examining physician. The
19 individual to be examined may have, at his or her own expense,
20 another physician of his or her choice present during all
21 aspects of the examination. Failure of any individual to submit
22 to mental or physical examination, when directed, shall be
23 grounds for suspension of his or her license until such time as
24 the individual submits to the examination if the Department
25 finds, after notice and hearing, that the refusal to submit to
26 the examination was without reasonable cause.

1 If the Department or Board finds an individual unable to
2 practice because of the reasons set forth in this Section, the
3 Department or Board shall require such individual to submit to
4 care, counseling, or treatment by physicians approved or
5 designated by the Department or Board, as a condition, term, or
6 restriction for continued, reinstated, or renewed licensure to
7 practice; or in lieu of care, counseling, or treatment, the
8 Department may file, or the Board may recommend to the
9 Department to file, a complaint to immediately suspend, revoke,
10 or otherwise discipline the license of the individual. Any
11 individual whose license was granted pursuant to this Act or
12 continued, reinstated, renewed, disciplined or supervised,
13 subject to such terms, conditions or restrictions who shall
14 fail to comply with such terms, conditions or restrictions
15 shall be referred to the Secretary for a determination as to
16 whether the licensee shall have his or her license suspended
17 immediately, pending a hearing by the Department. In instances
18 in which the Secretary immediately suspends a license under
19 this Section, a hearing upon such person's license must be
20 convened by the Board within 30 days after such suspension and
21 completed without appreciable delay. The Department and Board
22 shall have the authority to review the subject administrator's
23 record of treatment and counseling regarding the impairment, to
24 the extent permitted by applicable federal statutes and
25 regulations safeguarding the confidentiality of medical
26 records.

1 An individual licensed under this Act, affected under this
2 Section, shall be afforded an opportunity to demonstrate to the
3 Department or Board that he or she can resume practice in
4 compliance with acceptable and prevailing standards under the
5 provisions of his or her license.

6 (b) Any individual or organization acting in good faith,
7 and not in a wilful and wanton manner, in complying with this
8 Act by providing any report or other information to the
9 Department, or assisting in the investigation or preparation of
10 such information, or by participating in proceedings of the
11 Department, or by serving as a member of the Board, shall not,
12 as a result of such actions, be subject to criminal prosecution
13 or civil damages.

14 (c) Members of the Board, and persons retained under
15 contract to assist and advise in an investigation, shall be
16 indemnified by the State for any actions occurring within the
17 scope of services on or for the Board, done in good faith and
18 not wilful and wanton in nature. The Attorney General shall
19 defend all such actions unless he or she determines either that
20 there would be a conflict of interest in such representation or
21 that the actions complained of were not in good faith or were
22 wilful and wanton.

23 Should the Attorney General decline representation, a
24 person entitled to indemnification under this Section shall
25 have the right to employ counsel of his or her choice, whose
26 fees shall be provided by the State, after approval by the

1 Attorney General, unless there is a determination by a court
2 that the member's actions were not in good faith or were wilful
3 and wanton.

4 A person entitled to indemnification under this Section
5 must notify the Attorney General within 7 days of receipt of
6 notice of the initiation of any action involving services of
7 the Board. Failure to so notify the Attorney General shall
8 constitute an absolute waiver of the right to a defense and
9 indemnification.

10 The Attorney General shall determine within 7 days after
11 receiving such notice, whether he or she will undertake to
12 represent a person entitled to indemnification under this
13 Section.

14 (d) The determination by a circuit court that a licensee is
15 subject to involuntary admission or judicial admission as
16 provided in the Mental Health and Developmental Disabilities
17 Code, as amended, operates as an automatic suspension. Such
18 suspension will end only upon a finding by a court that the
19 patient is no longer subject to involuntary admission or
20 judicial admission and issues an order so finding and
21 discharging the patient; and upon the recommendation of the
22 Board to the Secretary that the licensee be allowed to resume
23 his or her practice.

24 (e) The Department may refuse to issue or may suspend the
25 license of any person who fails to file a return, or to pay the
26 tax, penalty or interest shown in a filed return, or to pay any

1 final assessment of tax, penalty or interest, as required by
2 any tax Act administered by the Department of Revenue, until
3 such time as the requirements of any such tax Act are
4 satisfied.

5 (f) The Department of Public Health shall transmit to the
6 Department a list of those facilities which receive an "A"
7 violation as defined in Section 1-129 of the Nursing Home Care
8 Act.

9 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;
10 96-1372, eff. 7-29-10; 96-1551, eff. 7-1-11.)

11 Section 90-155. The Pharmacy Practice Act is amended by
12 changing Section 3 as follows:

13 (225 ILCS 85/3)

14 (Section scheduled to be repealed on January 1, 2018)

15 Sec. 3. Definitions. For the purpose of this Act, except
16 where otherwise limited therein:

17 (a) "Pharmacy" or "drugstore" means and includes every
18 store, shop, pharmacy department, or other place where
19 pharmacist care is provided by a pharmacist (1) where drugs,
20 medicines, or poisons are dispensed, sold or offered for sale
21 at retail, or displayed for sale at retail; or (2) where
22 prescriptions of physicians, dentists, advanced practice
23 nurses, physician assistants, veterinarians, podiatrists, or
24 optometrists, within the limits of their licenses, are

1 compounded, filled, or dispensed; or (3) which has upon it or
2 displayed within it, or affixed to or used in connection with
3 it, a sign bearing the word or words "Pharmacist", "Druggist",
4 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",
5 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",
6 "Medicines", or any word or words of similar or like import,
7 either in the English language or any other language; or (4)
8 where the characteristic prescription sign (Rx) or similar
9 design is exhibited; or (5) any store, or shop, or other place
10 with respect to which any of the above words, objects, signs or
11 designs are used in any advertisement.

12 (b) "Drugs" means and includes (1) articles recognized in
13 the official United States Pharmacopoeia/National Formulary
14 (USP/NF), or any supplement thereto and being intended for and
15 having for their main use the diagnosis, cure, mitigation,
16 treatment or prevention of disease in man or other animals, as
17 approved by the United States Food and Drug Administration, but
18 does not include devices or their components, parts, or
19 accessories; and (2) all other articles intended for and having
20 for their main use the diagnosis, cure, mitigation, treatment
21 or prevention of disease in man or other animals, as approved
22 by the United States Food and Drug Administration, but does not
23 include devices or their components, parts, or accessories; and
24 (3) articles (other than food) having for their main use and
25 intended to affect the structure or any function of the body of
26 man or other animals; and (4) articles having for their main

1 use and intended for use as a component or any articles
2 specified in clause (1), (2) or (3); but does not include
3 devices or their components, parts or accessories.

4 (c) "Medicines" means and includes all drugs intended for
5 human or veterinary use approved by the United States Food and
6 Drug Administration.

7 (d) "Practice of pharmacy" means (1) the interpretation and
8 the provision of assistance in the monitoring, evaluation, and
9 implementation of prescription drug orders; (2) the dispensing
10 of prescription drug orders; (3) participation in drug and
11 device selection; (4) drug administration limited to the
12 administration of oral, topical, injectable, and inhalation as
13 follows: in the context of patient education on the proper use
14 or delivery of medications; vaccination of patients 14 years of
15 age and older pursuant to a valid prescription or standing
16 order, by a physician licensed to practice medicine in all its
17 branches, upon completion of appropriate training, including
18 how to address contraindications and adverse reactions set
19 forth by rule, with notification to the patient's physician and
20 appropriate record retention, or pursuant to hospital pharmacy
21 and therapeutics committee policies and procedures; (5) drug
22 regimen review; (6) drug or drug-related research; (7) the
23 provision of patient counseling; (8) the practice of
24 telepharmacy; (9) the provision of those acts or services
25 necessary to provide pharmacist care; (10) medication therapy
26 management; and (11) the responsibility for compounding and

1 labeling of drugs and devices (except labeling by a
2 manufacturer, repackager, or distributor of non-prescription
3 drugs and commercially packaged legend drugs and devices),
4 proper and safe storage of drugs and devices, and maintenance
5 of required records. A pharmacist who performs any of the acts
6 defined as the practice of pharmacy in this State must be
7 actively licensed as a pharmacist under this Act.

8 (e) "Prescription" means and includes any written, oral,
9 facsimile, or electronically transmitted order for drugs or
10 medical devices, issued by a physician licensed to practice
11 medicine in all its branches, dentist, veterinarian, or
12 podiatrist, or optometrist, within the limits of their
13 licenses, by a physician assistant in accordance with
14 subsection (f) of Section 4, or by an advanced practice nurse
15 in accordance with subsection (g) of Section 4, containing the
16 following: (1) name of the patient; (2) date when prescription
17 was issued; (3) name and strength of drug or description of the
18 medical device prescribed; and (4) quantity; (5) directions for
19 use; (6) prescriber's name, address, and signature; and (7) DEA
20 number where required, for controlled substances. The
21 prescription may, but is not required to, list the illness,
22 disease, or condition for which the drug or device is being
23 prescribed. DEA numbers shall not be required on inpatient drug
24 orders.

25 (f) "Person" means and includes a natural person,
26 copartnership, association, corporation, government entity, or

1 any other legal entity.

2 (g) "Department" means the Department of Financial and
3 Professional Regulation.

4 (h) "Board of Pharmacy" or "Board" means the State Board of
5 Pharmacy of the Department of Financial and Professional
6 Regulation.

7 (i) "Secretary" means the Secretary of Financial and
8 Professional Regulation.

9 (j) "Drug product selection" means the interchange for a
10 prescribed pharmaceutical product in accordance with Section
11 25 of this Act and Section 3.14 of the Illinois Food, Drug and
12 Cosmetic Act.

13 (k) "Inpatient drug order" means an order issued by an
14 authorized prescriber for a resident or patient of a facility
15 licensed under the Nursing Home Care Act, the MR/DD Community
16 Care Act, the Specialized Mental Health Rehabilitation Act, or
17 the Hospital Licensing Act, or "An Act in relation to the
18 founding and operation of the University of Illinois Hospital
19 and the conduct of University of Illinois health care
20 programs", approved July 3, 1931, as amended, or a facility
21 which is operated by the Department of Human Services (as
22 successor to the Department of Mental Health and Developmental
23 Disabilities) or the Department of Corrections.

24 (k-5) "Pharmacist" means an individual health care
25 professional and provider currently licensed by this State to
26 engage in the practice of pharmacy.

1 (1) "Pharmacist in charge" means the licensed pharmacist
2 whose name appears on a pharmacy license and who is responsible
3 for all aspects of the operation related to the practice of
4 pharmacy.

5 (m) "Dispense" or "dispensing" means the interpretation,
6 evaluation, and implementation of a prescription drug order,
7 including the preparation and delivery of a drug or device to a
8 patient or patient's agent in a suitable container
9 appropriately labeled for subsequent administration to or use
10 by a patient in accordance with applicable State and federal
11 laws and regulations. "Dispense" or "dispensing" does not mean
12 the physical delivery to a patient or a patient's
13 representative in a home or institution by a designee of a
14 pharmacist or by common carrier. "Dispense" or "dispensing"
15 also does not mean the physical delivery of a drug or medical
16 device to a patient or patient's representative by a
17 pharmacist's designee within a pharmacy or drugstore while the
18 pharmacist is on duty and the pharmacy is open.

19 (n) "Nonresident pharmacy" means a pharmacy that is located
20 in a state, commonwealth, or territory of the United States,
21 other than Illinois, that delivers, dispenses, or distributes,
22 through the United States Postal Service, commercially
23 acceptable parcel delivery service, or other common carrier, to
24 Illinois residents, any substance which requires a
25 prescription.

26 (o) "Compounding" means the preparation and mixing of

1 components, excluding flavorings, (1) as the result of a
2 prescriber's prescription drug order or initiative based on the
3 prescriber-patient-pharmacist relationship in the course of
4 professional practice or (2) for the purpose of, or incident
5 to, research, teaching, or chemical analysis and not for sale
6 or dispensing. "Compounding" includes the preparation of drugs
7 or devices in anticipation of receiving prescription drug
8 orders based on routine, regularly observed dispensing
9 patterns. Commercially available products may be compounded
10 for dispensing to individual patients only if all of the
11 following conditions are met: (i) the commercial product is not
12 reasonably available from normal distribution channels in a
13 timely manner to meet the patient's needs and (ii) the
14 prescribing practitioner has requested that the drug be
15 compounded.

16 (p) (Blank).

17 (q) (Blank).

18 (r) "Patient counseling" means the communication between a
19 pharmacist or a student pharmacist under the supervision of a
20 pharmacist and a patient or the patient's representative about
21 the patient's medication or device for the purpose of
22 optimizing proper use of prescription medications or devices.
23 "Patient counseling" may include without limitation (1)
24 obtaining a medication history; (2) acquiring a patient's
25 allergies and health conditions; (3) facilitation of the
26 patient's understanding of the intended use of the medication;

1 (4) proper directions for use; (5) significant potential
2 adverse events; (6) potential food-drug interactions; and (7)
3 the need to be compliant with the medication therapy. A
4 pharmacy technician may only participate in the following
5 aspects of patient counseling under the supervision of a
6 pharmacist: (1) obtaining medication history; (2) providing
7 the offer for counseling by a pharmacist or student pharmacist;
8 and (3) acquiring a patient's allergies and health conditions.

9 (s) "Patient profiles" or "patient drug therapy record"
10 means the obtaining, recording, and maintenance of patient
11 prescription information, including prescriptions for
12 controlled substances, and personal information.

13 (t) (Blank).

14 (u) "Medical device" means an instrument, apparatus,
15 implement, machine, contrivance, implant, in vitro reagent, or
16 other similar or related article, including any component part
17 or accessory, required under federal law to bear the label
18 "Caution: Federal law requires dispensing by or on the order of
19 a physician". A seller of goods and services who, only for the
20 purpose of retail sales, compounds, sells, rents, or leases
21 medical devices shall not, by reasons thereof, be required to
22 be a licensed pharmacy.

23 (v) "Unique identifier" means an electronic signature,
24 handwritten signature or initials, thumb print, or other
25 acceptable biometric or electronic identification process as
26 approved by the Department.

1 (w) "Current usual and customary retail price" means the
2 price that a pharmacy charges to a non-third-party payor.

3 (x) "Automated pharmacy system" means a mechanical system
4 located within the confines of the pharmacy or remote location
5 that performs operations or activities, other than compounding
6 or administration, relative to storage, packaging, dispensing,
7 or distribution of medication, and which collects, controls,
8 and maintains all transaction information.

9 (y) "Drug regimen review" means and includes the evaluation
10 of prescription drug orders and patient records for (1) known
11 allergies; (2) drug or potential therapy contraindications;
12 (3) reasonable dose, duration of use, and route of
13 administration, taking into consideration factors such as age,
14 gender, and contraindications; (4) reasonable directions for
15 use; (5) potential or actual adverse drug reactions; (6)
16 drug-drug interactions; (7) drug-food interactions; (8)
17 drug-disease contraindications; (9) therapeutic duplication;
18 (10) patient laboratory values when authorized and available;
19 (11) proper utilization (including over or under utilization)
20 and optimum therapeutic outcomes; and (12) abuse and misuse.

21 (z) "Electronic transmission prescription" means any
22 prescription order for which a facsimile or electronic image of
23 the order is electronically transmitted from a licensed
24 prescriber to a pharmacy. "Electronic transmission
25 prescription" includes both data and image prescriptions.

26 (aa) "Medication therapy management services" means a

1 distinct service or group of services offered by licensed
2 pharmacists, physicians licensed to practice medicine in all
3 its branches, advanced practice nurses authorized in a written
4 agreement with a physician licensed to practice medicine in all
5 its branches, or physician assistants authorized in guidelines
6 by a supervising physician that optimize therapeutic outcomes
7 for individual patients through improved medication use. In a
8 retail or other non-hospital pharmacy, medication therapy
9 management services shall consist of the evaluation of
10 prescription drug orders and patient medication records to
11 resolve conflicts with the following:

- 12 (1) known allergies;
- 13 (2) drug or potential therapy contraindications;
- 14 (3) reasonable dose, duration of use, and route of
15 administration, taking into consideration factors such as
16 age, gender, and contraindications;
- 17 (4) reasonable directions for use;
- 18 (5) potential or actual adverse drug reactions;
- 19 (6) drug-drug interactions;
- 20 (7) drug-food interactions;
- 21 (8) drug-disease contraindications;
- 22 (9) identification of therapeutic duplication;
- 23 (10) patient laboratory values when authorized and
24 available;
- 25 (11) proper utilization (including over or under
26 utilization) and optimum therapeutic outcomes; and

1 (12) drug abuse and misuse.

2 "Medication therapy management services" includes the
3 following:

4 (1) documenting the services delivered and
5 communicating the information provided to patients'
6 prescribers within an appropriate time frame, not to exceed
7 48 hours;

8 (2) providing patient counseling designed to enhance a
9 patient's understanding and the appropriate use of his or
10 her medications; and

11 (3) providing information, support services, and
12 resources designed to enhance a patient's adherence with
13 his or her prescribed therapeutic regimens.

14 "Medication therapy management services" may also include
15 patient care functions authorized by a physician licensed to
16 practice medicine in all its branches for his or her identified
17 patient or groups of patients under specified conditions or
18 limitations in a standing order from the physician.

19 "Medication therapy management services" in a licensed
20 hospital may also include the following:

21 (1) reviewing assessments of the patient's health
22 status; and

23 (2) following protocols of a hospital pharmacy and
24 therapeutics committee with respect to the fulfillment of
25 medication orders.

26 (bb) "Pharmacist care" means the provision by a pharmacist

1 of medication therapy management services, with or without the
2 dispensing of drugs or devices, intended to achieve outcomes
3 that improve patient health, quality of life, and comfort and
4 enhance patient safety.

5 (cc) "Protected health information" means individually
6 identifiable health information that, except as otherwise
7 provided, is:

8 (1) transmitted by electronic media;

9 (2) maintained in any medium set forth in the
10 definition of "electronic media" in the federal Health
11 Insurance Portability and Accountability Act; or

12 (3) transmitted or maintained in any other form or
13 medium.

14 "Protected health information" does not include individually
15 identifiable health information found in:

16 (1) education records covered by the federal Family
17 Educational Right and Privacy Act; or

18 (2) employment records held by a licensee in its role
19 as an employer.

20 (dd) "Standing order" means a specific order for a patient
21 or group of patients issued by a physician licensed to practice
22 medicine in all its branches in Illinois.

23 (ee) "Address of record" means the address recorded by the
24 Department in the applicant's or licensee's application file or
25 license file, as maintained by the Department's licensure
26 maintenance unit.

1 (ff) "Home pharmacy" means the location of a pharmacy's
2 primary operations.

3 (Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10;
4 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff.
5 7-28-10.)

6 Section 90-160. The Nurse Agency Licensing Act is amended
7 by changing Section 3 as follows:

8 (225 ILCS 510/3) (from Ch. 111, par. 953)

9 Sec. 3. Definitions. As used in this Act:

10 (a) "Certified nurse aide" means an individual certified as
11 defined in Section 3-206 of the Nursing Home Care Act, Section
12 3-206 of the Specialized Mental Health Rehabilitation Act, or
13 Section 3-206 of the MR/DD Community Care Act, as now or
14 hereafter amended.

15 (b) "Department" means the Department of Labor.

16 (c) "Director" means the Director of Labor.

17 (d) "Health care facility" is defined as in Section 3 of
18 the Illinois Health Facilities Planning Act, as now or
19 hereafter amended.

20 (e) "Licensee" means any nursing agency which is properly
21 licensed under this Act.

22 (f) "Nurse" means a registered nurse or a licensed
23 practical nurse as defined in the Nurse Practice Act.

24 (g) "Nurse agency" means any individual, firm,

1 corporation, partnership or other legal entity that employs,
2 assigns or refers nurses or certified nurse aides to a health
3 care facility for a fee. The term "nurse agency" includes
4 nurses registries. The term "nurse agency" does not include
5 services provided by home health agencies licensed and operated
6 under the Home Health, Home Services, and Home Nursing Agency
7 Licensing Act or a licensed or certified individual who
8 provides his or her own services as a regular employee of a
9 health care facility, nor does it apply to a health care
10 facility's organizing nonsalaried employees to provide
11 services only in that facility.

12 (Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

13 Section 90-165. The Illinois Public Aid Code is amended by
14 changing Sections 5-5.4, 5-5.7, 5-6, 5-5.12, 5B-1, 5E-5, and
15 8A-11 as follows:

16 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

17 Sec. 5-5.4. Standards of Payment - Department of Healthcare
18 and Family Services. The Department of Healthcare and Family
19 Services shall develop standards of payment of nursing facility
20 and ICF/DD services in facilities providing such services under
21 this Article which:

22 (1) Provide for the determination of a facility's payment
23 for nursing facility or ICF/DD services on a prospective basis.
24 The amount of the payment rate for all nursing facilities

1 certified by the Department of Public Health under the MR/DD
2 Community Care Act or the Nursing Home Care Act as Intermediate
3 Care for the Developmentally Disabled facilities, Long Term
4 Care for Under Age 22 facilities, Skilled Nursing facilities,
5 or Intermediate Care facilities under the medical assistance
6 program shall be prospectively established annually on the
7 basis of historical, financial, and statistical data
8 reflecting actual costs from prior years, which shall be
9 applied to the current rate year and updated for inflation,
10 except that the capital cost element for newly constructed
11 facilities shall be based upon projected budgets. The annually
12 established payment rate shall take effect on July 1 in 1984
13 and subsequent years. No rate increase and no update for
14 inflation shall be provided on or after July 1, 1994 and before
15 July 1, 2012, unless specifically provided for in this Section.
16 The changes made by Public Act 93-841 extending the duration of
17 the prohibition against a rate increase or update for inflation
18 are effective retroactive to July 1, 2004.

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 July 1, 1998
23 shall include an increase of 3%. 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, 1998 shall include an

1 increase of 3% plus \$1.10 per resident-day, as defined by the
2 Department. For facilities licensed by the Department of Public
3 Health under the Nursing Home Care Act as Intermediate Care
4 Facilities for the Developmentally Disabled or Long Term Care
5 for Under Age 22 facilities, the rates taking effect on January
6 1, 2006 shall include an increase of 3%. For facilities
7 licensed by the Department of Public Health under the Nursing
8 Home Care Act as Intermediate Care Facilities for the
9 Developmentally Disabled or Long Term Care for Under Age 22
10 facilities, the rates taking effect on January 1, 2009 shall
11 include an increase sufficient to provide a \$0.50 per hour wage
12 increase for non-executive staff.

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 July 1, 1999
17 shall include an increase of 1.6% plus \$3.00 per resident-day,
18 as defined by the Department. For facilities licensed by the
19 Department of Public Health under the Nursing Home Care Act as
20 Skilled Nursing facilities or Intermediate Care facilities,
21 the rates taking effect on July 1, 1999 shall include an
22 increase of 1.6% and, for services provided on or after October
23 1, 1999, shall be increased by \$4.00 per resident-day, as
24 defined by the Department.

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 July 1, 2000
3 shall include an increase of 2.5% per resident-day, as defined
4 by the Department. For facilities licensed by the Department of
5 Public Health under the Nursing Home Care Act as Skilled
6 Nursing facilities or Intermediate Care facilities, the rates
7 taking effect on July 1, 2000 shall include an increase of 2.5%
8 per resident-day, as defined by the Department.

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as skilled nursing facilities
11 or intermediate care facilities, a new payment methodology must
12 be implemented for the nursing component of the rate effective
13 July 1, 2003. The Department of Public Aid (now Healthcare and
14 Family Services) shall develop the new payment methodology
15 using the Minimum Data Set (MDS) as the instrument to collect
16 information concerning nursing home resident condition
17 necessary to compute the rate. The Department shall develop the
18 new payment methodology to meet the unique needs of Illinois
19 nursing home residents while remaining subject to the
20 appropriations provided by the General Assembly. A transition
21 period from the payment methodology in effect on June 30, 2003
22 to the payment methodology in effect on July 1, 2003 shall be
23 provided for a period not exceeding 3 years and 184 days after
24 implementation of the new payment methodology as follows:

25 (A) For a facility that would receive a lower nursing
26 component rate per patient day under the new system than

1 the facility received effective on the date immediately
2 preceding the date that the Department implements the new
3 payment methodology, the nursing component rate per
4 patient day for the facility shall be held at the level in
5 effect on the date immediately preceding the date that the
6 Department implements the new payment methodology until a
7 higher nursing component rate of reimbursement is achieved
8 by that facility.

9 (B) For a facility that would receive a higher nursing
10 component rate per patient day under the payment
11 methodology in effect on July 1, 2003 than the facility
12 received effective on the date immediately preceding the
13 date that the Department implements the new payment
14 methodology, the nursing component rate per patient day for
15 the facility shall be adjusted.

16 (C) Notwithstanding paragraphs (A) and (B), the
17 nursing component rate per patient day for the facility
18 shall be adjusted subject to appropriations provided by the
19 General Assembly.

20 For facilities licensed by the Department of Public Health
21 under the Nursing Home Care Act as Intermediate Care for the
22 Developmentally Disabled facilities or Long Term Care for Under
23 Age 22 facilities, the rates taking effect on March 1, 2001
24 shall include a statewide increase of 7.85%, as defined by the
25 Department.

26 Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under
2 the Nursing Home Care Act as skilled nursing facilities or
3 intermediate care facilities, except facilities participating
4 in the Department's demonstration program pursuant to the
5 provisions of Title 77, Part 300, Subpart T of the Illinois
6 Administrative Code, the numerator of the ratio used by the
7 Department of Healthcare and Family Services to compute the
8 rate payable under this Section using the Minimum Data Set
9 (MDS) methodology shall incorporate the following annual
10 amounts as the additional funds appropriated to the Department
11 specifically to pay for rates based on the MDS nursing
12 component methodology in excess of the funding in effect on
13 December 31, 2006:

14 (i) For rates taking effect January 1, 2007,
15 \$60,000,000.

16 (ii) For rates taking effect January 1, 2008,
17 \$110,000,000.

18 (iii) For rates taking effect January 1, 2009,
19 \$194,000,000.

20 (iv) For rates taking effect April 1, 2011, or the
21 first day of the month that begins at least 45 days after
22 the effective date of this amendatory Act of the 96th
23 General Assembly, \$416,500,000 or an amount as may be
24 necessary to complete the transition to the MDS methodology
25 for the nursing component of the rate.

26 Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under
2 the Nursing Home Care Act as skilled nursing facilities or
3 intermediate care facilities, the support component of the
4 rates taking effect on January 1, 2008 shall be computed using
5 the most recent cost reports on file with the Department of
6 Healthcare and Family Services no later than April 1, 2005,
7 updated for inflation to January 1, 2006.

8 For facilities licensed by the Department of Public Health
9 under the Nursing Home Care Act as Intermediate Care for the
10 Developmentally Disabled facilities or Long Term Care for Under
11 Age 22 facilities, the rates taking effect on April 1, 2002
12 shall include a statewide increase of 2.0%, as defined by the
13 Department. This increase terminates on July 1, 2002; beginning
14 July 1, 2002 these rates are reduced to the level of the rates
15 in effect on March 31, 2002, as defined by the Department.

16 For facilities licensed by the Department of Public Health
17 under the Nursing Home Care Act as skilled nursing facilities
18 or intermediate care facilities, the rates taking effect on
19 July 1, 2001 shall be computed using the most recent cost
20 reports on file with the Department of Public Aid no later than
21 April 1, 2000, updated for inflation to January 1, 2001. For
22 rates effective July 1, 2001 only, rates shall be the greater
23 of the rate computed for July 1, 2001 or the rate effective on
24 June 30, 2001.

25 Notwithstanding any other provision of this Section, for
26 facilities licensed by the Department of Public Health under

1 the Nursing Home Care Act as skilled nursing facilities or
2 intermediate care facilities, the Illinois Department shall
3 determine by rule the rates taking effect on July 1, 2002,
4 which shall be 5.9% less than the rates in effect on June 30,
5 2002.

6 Notwithstanding any other provision of this Section, for
7 facilities licensed by the Department of Public Health under
8 the Nursing Home Care Act as skilled nursing facilities or
9 intermediate care facilities, if the payment methodologies
10 required under Section 5A-12 and the waiver granted under 42
11 CFR 433.68 are approved by the United States Centers for
12 Medicare and Medicaid Services, the rates taking effect on July
13 1, 2004 shall be 3.0% greater than the rates in effect on June
14 30, 2004. These rates shall take effect only upon approval and
15 implementation of the payment methodologies required under
16 Section 5A-12.

17 Notwithstanding any other provisions of this Section, for
18 facilities licensed by the Department of Public Health under
19 the Nursing Home Care Act as skilled nursing facilities or
20 intermediate care facilities, the rates taking effect on
21 January 1, 2005 shall be 3% more than the rates in effect on
22 December 31, 2004.

23 Notwithstanding any other provision of this Section, for
24 facilities licensed by the Department of Public Health under
25 the Nursing Home Care Act as skilled nursing facilities or
26 intermediate care facilities, effective January 1, 2009, the

1 per diem support component of the rates effective on January 1,
2 2008, computed using the most recent cost reports on file with
3 the Department of Healthcare and Family Services no later than
4 April 1, 2005, updated for inflation to January 1, 2006, shall
5 be increased to the amount that would have been derived using
6 standard Department of Healthcare and Family Services methods,
7 procedures, and inflators.

8 Notwithstanding any other provisions of this Section, for
9 facilities licensed by the Department of Public Health under
10 the Nursing Home Care Act as intermediate care facilities that
11 are federally defined as Institutions for Mental Disease, or
12 facilities licensed by the Department of Public Health under
13 the Specialized Mental Health Rehabilitation Facilities Act, a
14 socio-development component rate equal to 6.6% of the
15 facility's nursing component rate as of January 1, 2006 shall
16 be established and paid effective July 1, 2006. The
17 socio-development component of the rate shall be increased by a
18 factor of 2.53 on the first day of the month that begins at
19 least 45 days after January 11, 2008 (the effective date of
20 Public Act 95-707). As of August 1, 2008, the socio-development
21 component rate shall be equal to 6.6% of the facility's nursing
22 component rate as of January 1, 2006, multiplied by a factor of
23 3.53. For services provided on or after April 1, 2011, or the
24 first day of the month that begins at least 45 days after the
25 effective date of this amendatory Act of the 96th General
26 Assembly, whichever is later, the Illinois Department may by

1 rule adjust these socio-development component rates, and may
2 use different adjustment methodologies for those facilities
3 participating, and those not participating, in the Illinois
4 Department's demonstration program pursuant to the provisions
5 of Title 77, Part 300, Subpart T of the Illinois Administrative
6 Code, but in no case may such rates be diminished below those
7 in effect on August 1, 2008.

8 For facilities licensed by the Department of Public Health
9 under the Nursing Home Care Act as Intermediate Care for the
10 Developmentally Disabled facilities or as long-term care
11 facilities for residents under 22 years of age, the rates
12 taking effect on July 1, 2003 shall include a statewide
13 increase of 4%, as defined by the Department.

14 For facilities licensed by the Department of Public Health
15 under the Nursing Home Care Act as Intermediate Care for the
16 Developmentally Disabled facilities or Long Term Care for Under
17 Age 22 facilities, the rates taking effect on the first day of
18 the month that begins at least 45 days after the effective date
19 of this amendatory Act of the 95th General Assembly shall
20 include a statewide increase of 2.5%, as defined by the
21 Department.

22 Notwithstanding any other provision 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, effective January 1, 2005,
26 facility rates shall be increased by the difference between (i)

1 a facility's per diem property, liability, and malpractice
2 insurance costs as reported in the cost report filed with the
3 Department of Public Aid and used to establish rates effective
4 July 1, 2001 and (ii) those same costs as reported in the
5 facility's 2002 cost report. These costs shall be passed
6 through to the facility without caps or limitations, except for
7 adjustments required under normal auditing procedures.

8 Rates established effective each July 1 shall govern
9 payment for services rendered throughout that fiscal year,
10 except that rates established on July 1, 1996 shall be
11 increased by 6.8% for services provided on or after January 1,
12 1997. Such rates will be based upon the rates calculated for
13 the year beginning July 1, 1990, and for subsequent years
14 thereafter until June 30, 2001 shall be based on the facility
15 cost reports for the facility fiscal year ending at any point
16 in time during the previous calendar year, updated to the
17 midpoint of the rate year. The cost report shall be on file
18 with the Department no later than April 1 of the current rate
19 year. Should the cost report not be on file by April 1, the
20 Department shall base the rate on the latest cost report filed
21 by each skilled care facility and intermediate care facility,
22 updated to the midpoint of the current rate year. In
23 determining rates for services rendered on and after July 1,
24 1985, fixed time shall not be computed at less than zero. The
25 Department shall not make any alterations of regulations which
26 would reduce any component of the Medicaid rate to a level

1 below what that component would have been utilizing in the rate
2 effective on July 1, 1984.

3 (2) Shall take into account the actual costs incurred by
4 facilities in providing services for recipients of skilled
5 nursing and intermediate care services under the medical
6 assistance program.

7 (3) Shall take into account the medical and psycho-social
8 characteristics and needs of the patients.

9 (4) Shall take into account the actual costs incurred by
10 facilities in meeting licensing and certification standards
11 imposed and prescribed by the State of Illinois, any of its
12 political subdivisions or municipalities and by the U.S.
13 Department of Health and Human Services pursuant to Title XIX
14 of the Social Security Act.

15 The Department of Healthcare and Family Services shall
16 develop precise standards for payments to reimburse nursing
17 facilities for any utilization of appropriate rehabilitative
18 personnel for the provision of rehabilitative services which is
19 authorized by federal regulations, including reimbursement for
20 services provided by qualified therapists or qualified
21 assistants, and which is in accordance with accepted
22 professional practices. Reimbursement also may be made for
23 utilization of other supportive personnel under appropriate
24 supervision.

25 The Department shall develop enhanced payments to offset
26 the additional costs incurred by a facility serving exceptional

1 need residents and shall allocate at least \$8,000,000 of the
2 funds collected from the assessment established by Section 5B-2
3 of this Code for such payments. For the purpose of this
4 Section, "exceptional needs" means, but need not be limited to,
5 ventilator care, tracheotomy care, bariatric care, complex
6 wound care, and traumatic brain injury care.

7 (5) Beginning July 1, 2012 the methodologies for
8 reimbursement of nursing facility services as provided under
9 this Section 5-5.4 shall no longer be applicable for bills
10 payable for State fiscal years 2012 and thereafter.

11 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,
12 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;
13 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;
14 96-1530, eff. 2-16-11.)

15 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

16 Sec. 5-5.7. Cost Reports - Audits. The Department of
17 Healthcare and Family Services shall work with the Department
18 of Public Health to use cost report information currently being
19 collected under provisions of the Nursing Home Care Act, the
20 Specialized Mental Health Rehabilitation Act, and the MR/DD
21 Community Care Act. The Department of Healthcare and Family
22 Services may, in conjunction with the Department of Public
23 Health, develop in accordance with generally accepted
24 accounting principles a uniform chart of accounts which each
25 facility providing services under the medical assistance

1 program shall adopt, after a reasonable period.

2 Facilities ~~Nursing homes~~ licensed under the Nursing Home
3 Care, the Specialized Mental Health Rehabilitation Act, Act or
4 the MR/DD Community Care Act and providers of adult
5 developmental training services certified by the Department of
6 Human Services pursuant to Section 15.2 of the Mental Health
7 and Developmental Disabilities Administrative Act which
8 provide services to clients eligible for medical assistance
9 under this Article are responsible for submitting the required
10 annual cost report to the Department of Healthcare and Family
11 Services.

12 The Department of Healthcare and Family Services shall
13 audit the financial and statistical records of each provider
14 participating in the medical assistance program as a nursing
15 facility, a specialized mental health rehabilitation facility,
16 or an ICF/DD over a 3 year period, beginning with the close of
17 the first cost reporting year. Following the end of this 3-year
18 term, audits of the financial and statistical records will be
19 performed each year in at least 20% of the facilities
20 participating in the medical assistance program with at least
21 10% being selected on a random sample basis, and the remainder
22 selected on the basis of exceptional profiles. All audits shall
23 be conducted in accordance with generally accepted auditing
24 standards.

25 The Department of Healthcare and Family Services shall
26 establish prospective payment rates for categories or ~~of~~

1 ~~service needed within the nursing facility or ICF/DD~~ levels of
2 services within each licensure class, in order to more
3 appropriately recognize the individual needs of patients in
4 nursing facilities.

5 The Department of Healthcare and Family Services shall
6 provide, during the process of establishing the payment rate
7 for nursing facility, specialized mental health rehabilitation
8 facility, or ICF/DD services, or when a substantial change in
9 rates is proposed, an opportunity for public review and comment
10 on the proposed rates prior to their becoming effective.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10;
12 96-1530, eff. 2-16-11.)

13 (305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

14 Sec. 5-5.12. Pharmacy payments.

15 (a) Every request submitted by a pharmacy for reimbursement
16 under this Article for prescription drugs provided to a
17 recipient of aid under this Article shall include the name of
18 the prescriber or an acceptable identification number as
19 established by the Department.

20 (b) Pharmacies providing prescription drugs under this
21 Article shall be reimbursed at a rate which shall include a
22 professional dispensing fee as determined by the Illinois
23 Department, plus the current acquisition cost of the
24 prescription drug dispensed. The Illinois Department shall
25 update its information on the acquisition costs of all

1 prescription drugs no less frequently than every 30 days.
2 However, the Illinois Department may set the rate of
3 reimbursement for the acquisition cost, by rule, at a
4 percentage of the current average wholesale acquisition cost.

5 (c) (Blank).

6 (d) The Department shall not impose requirements for prior
7 approval based on a preferred drug list for anti-retroviral,
8 anti-hemophilic factor concentrates, or any atypical
9 antipsychotics, conventional antipsychotics, or
10 anticonvulsants used for the treatment of serious mental
11 illnesses until 30 days after it has conducted a study of the
12 impact of such requirements on patient care and submitted a
13 report to the Speaker of the House of Representatives and the
14 President of the Senate. The Department shall review
15 utilization of narcotic medications in the medical assistance
16 program and impose utilization controls that protect against
17 abuse.

18 (e) When making determinations as to which drugs shall be
19 on a prior approval list, the Department shall include as part
20 of the analysis for this determination, the degree to which a
21 drug may affect individuals in different ways based on factors
22 including the gender of the person taking the medication.

23 (f) The Department shall cooperate with the Department of
24 Public Health and the Department of Human Services Division of
25 Mental Health in identifying psychotropic medications that,
26 when given in a particular form, manner, duration, or frequency

1 (including "as needed") in a dosage, or in conjunction with
2 other psychotropic medications to a nursing home resident or to
3 a resident of a facility licensed under the MR/DD Community
4 Care Act, may constitute a chemical restraint or an
5 "unnecessary drug" as defined by the Nursing Home Care Act or
6 Titles XVIII and XIX of the Social Security Act and the
7 implementing rules and regulations. The Department shall
8 require prior approval for any such medication prescribed for a
9 nursing home resident or to a resident of a facility licensed
10 under the MR/DD Community Care Act, that appears to be a
11 chemical restraint or an unnecessary drug. The Department shall
12 consult with the Department of Human Services Division of
13 Mental Health in developing a protocol and criteria for
14 deciding whether to grant such prior approval.

15 (g) The Department may by rule provide for reimbursement of
16 the dispensing of a 90-day supply of a generic, non-narcotic
17 maintenance medication in circumstances where it is cost
18 effective.

19 (Source: P.A. 96-1269, eff. 7-26-10; 96-1372, eff. 7-29-10;
20 96-1501, eff. 1-25-11.)

21 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

22 Sec. 5-6. Obligations incurred prior to death of a
23 recipient. Obligations incurred but not paid for at the time of
24 a recipient's death for services authorized under Section 5-5,
25 including medical and other care in ~~group-care~~ facilities as

1 defined in the Nursing Home Care Act, the Specialized Mental
2 Health Rehabilitation Act, or the MR/DD Community Care Act, or
3 in like facilities not required to be licensed under that Act,
4 may be paid, subject to the rules and regulations of the
5 Illinois Department, after the death of the recipient.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

8 Sec. 5B-1. Definitions. As used in this Article, unless the
9 context requires otherwise:

10 "Fund" means the Long-Term Care Provider Fund.

11 "Long-term care facility" means (i) a nursing facility,
12 whether public or private and whether organized for profit or
13 not-for-profit, that is subject to licensure by the Illinois
14 Department of Public Health under the Nursing Home Care Act or
15 the MR/DD Community Care Act, including a county nursing home
16 directed and maintained under Section 5-1005 of the Counties
17 Code, and (ii) a part of a hospital in which skilled or
18 intermediate long-term care services within the meaning of
19 Title XVIII or XIX of the Social Security Act are provided;
20 except that the term "long-term care facility" does not include
21 a facility operated by a State agency, ~~a facility participating~~
22 ~~in the Illinois Department's demonstration program pursuant to~~
23 ~~the provisions of Title 77, Part 300, Subpart T of the Illinois~~
24 ~~Administrative Code,~~ or operated solely as an intermediate care
25 facility for the mentally retarded within the meaning of Title

1 XIX of the Social Security Act.

2 "Long-term care provider" means (i) a person licensed by
3 the Department of Public Health to operate and maintain a
4 skilled nursing or intermediate long-term care facility or (ii)
5 a hospital provider that provides skilled or intermediate
6 long-term care services within the meaning of Title XVIII or
7 XIX of the Social Security Act. For purposes of this paragraph,
8 "person" means any political subdivision of the State,
9 municipal corporation, individual, firm, partnership,
10 corporation, company, limited liability company, association,
11 joint stock association, or trust, or a receiver, executor,
12 trustee, guardian, or other representative appointed by order
13 of any court. "Hospital provider" means a person licensed by
14 the Department of Public Health to conduct, operate, or
15 maintain a hospital.

16 "Occupied bed days" shall be computed separately for each
17 long-term care facility operated or maintained by a long-term
18 care provider, and means the sum for all beds of the number of
19 days during the month on which each bed was occupied by a
20 resident, other than a resident for whom Medicare Part A is the
21 primary payer.

22 (Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

23 (305 ILCS 5/5E-5)

24 Sec. 5E-5. Definitions. As used in this Article, unless the
25 context requires otherwise:

1 "Nursing home" means (i) a skilled nursing or intermediate
2 long-term care facility, whether public or private and whether
3 organized for profit or not-for-profit, that is subject to
4 licensure by the Illinois Department of Public Health under the
5 Nursing Home Care Act or the MR/DD Community Care Act,
6 including a county nursing home directed and maintained under
7 Section 5-1005 of the Counties Code, and (ii) a part of a
8 hospital in which skilled or intermediate long-term care
9 services within the meaning of Title XVIII or XIX of the Social
10 Security Act are provided; except that the term "nursing home"
11 does not include a facility operated solely as an intermediate
12 care facility for the mentally retarded within the meaning of
13 Title XIX of the Social Security Act or a specialized mental
14 health rehabilitation facility.

15 "Nursing home provider" means (i) a person licensed by the
16 Department of Public Health to operate and maintain a skilled
17 nursing or intermediate long-term care facility which charges
18 its residents, a third party payor, Medicaid, or Medicare for
19 skilled nursing or intermediate long-term care services, or
20 (ii) a hospital provider that provides skilled or intermediate
21 long-term care services within the meaning of Title XVIII or
22 XIX of the Social Security Act. "Nursing home provider" does
23 not include a person who operates or a provider who provides
24 services within a specialized mental health rehabilitation
25 facility. For purposes of this paragraph, "person" means any
26 political subdivision of the State, municipal corporation,

1 individual, firm, partnership, corporation, company, limited
2 liability company, association, joint stock association, or
3 trust, or a receiver, executor, trustee, guardian, or other
4 representative appointed by order of any court. "Hospital
5 provider" means a person licensed by the Department of Public
6 Health to conduct, operate, or maintain a hospital.

7 "Licensed bed days" shall be computed separately for each
8 nursing home operated or maintained by a nursing home provider
9 and means, with respect to a nursing home provider, the sum for
10 all nursing home beds of the number of days during a calendar
11 quarter on which each bed is covered by a license issued to
12 that provider under the Nursing Home Care Act or the Hospital
13 Licensing Act.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

16 Sec. 8A-11. (a) No person shall:

17 (1) Knowingly charge a resident of a nursing home for
18 any services provided pursuant to Article V of the Illinois
19 Public Aid Code, money or other consideration at a rate in
20 excess of the rates established for covered services by the
21 Illinois Department pursuant to Article V of The Illinois
22 Public Aid Code; or

23 (2) Knowingly charge, solicit, accept or receive, in
24 addition to any amount otherwise authorized or required to
25 be paid pursuant to Article V of The Illinois Public Aid

1 Code, any gift, money, donation or other consideration:

2 (i) As a precondition to admitting or expediting
3 the admission of a recipient or applicant, pursuant to
4 Article V of The Illinois Public Aid Code, to a
5 long-term care facility as defined in Section 1-113 of
6 the Nursing Home Care Act or a facility as defined in
7 Section 1-113 of the MR/DD Community Care Act or
8 Section 1-113 of the Specialized Mental Health
9 Rehabilitation Act; and

10 (ii) As a requirement for the recipient's or
11 applicant's continued stay in such facility when the
12 cost of the services provided therein to the recipient
13 is paid for, in whole or in part, pursuant to Article V
14 of The Illinois Public Aid Code.

15 (b) Nothing herein shall prohibit a person from making a
16 voluntary contribution, gift or donation to a long-term care
17 facility.

18 (c) This paragraph shall not apply to agreements to provide
19 continuing care or life care between a life care facility as
20 defined by the Life Care Facilities Act, and a person
21 financially eligible for benefits pursuant to Article V of The
22 Illinois Public Aid Code.

23 (d) Any person who violates this Section shall be guilty of
24 a business offense and fined not less than \$5,000 nor more than
25 \$25,000.

26 (e) "Person", as used in this Section, means an individual,

1 corporation, partnership, or unincorporated association.

2 (f) The State's Attorney of the county in which the
3 facility is located and the Attorney General shall be notified
4 by the Illinois Department of any alleged violations of this
5 Section known to the Department.

6 (g) The Illinois Department shall adopt rules and
7 regulations to carry out the provisions of this Section.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 Section 90-170. The Elder Abuse and Neglect Act is amended
10 by changing Section 2 as follows:

11 (320 ILCS 20/2) (from Ch. 23, par. 6602)

12 Sec. 2. Definitions. As used in this Act, unless the
13 context requires otherwise:

14 (a) "Abuse" means causing any physical, mental or sexual
15 injury to an eligible adult, including exploitation of such
16 adult's financial resources.

17 Nothing in this Act shall be construed to mean that an
18 eligible adult is a victim of abuse, neglect, or self-neglect
19 for the sole reason that he or she is being furnished with or
20 relies upon treatment by spiritual means through prayer alone,
21 in accordance with the tenets and practices of a recognized
22 church or religious denomination.

23 Nothing in this Act shall be construed to mean that an
24 eligible adult is a victim of abuse because of health care

1 services provided or not provided by licensed health care
2 professionals.

3 (a-5) "Abuser" means a person who abuses, neglects, or
4 financially exploits an eligible adult.

5 (a-7) "Caregiver" means a person who either as a result of
6 a family relationship, voluntarily, or in exchange for
7 compensation has assumed responsibility for all or a portion of
8 the care of an eligible adult who needs assistance with
9 activities of daily living.

10 (b) "Department" means the Department on Aging of the State
11 of Illinois.

12 (c) "Director" means the Director of the Department.

13 (d) "Domestic living situation" means a residence where the
14 eligible adult lives alone or with his or her family or a
15 caregiver, or others, or a board and care home or other
16 community-based unlicensed facility, but is not:

17 (1) A licensed facility as defined in Section 1-113 of
18 the Nursing Home Care Act;

19 (1.5) A facility licensed under the MR/DD Community
20 Care Act;

21 (1.7) A facility licensed under the Specialized Mental
22 Health Rehabilitation Act;

23 (2) A "life care facility" as defined in the Life Care
24 Facilities Act;

25 (3) A home, institution, or other place operated by the
26 federal government or agency thereof or by the State of

1 Illinois;

2 (4) A hospital, sanitarium, or other institution, the
3 principal activity or business of which is the diagnosis,
4 care, and treatment of human illness through the
5 maintenance and operation of organized facilities
6 therefor, which is required to be licensed under the
7 Hospital Licensing Act;

8 (5) A "community living facility" as defined in the
9 Community Living Facilities Licensing Act;

10 (6) (Blank);

11 (7) A "community-integrated living arrangement" as
12 defined in the Community-Integrated Living Arrangements
13 Licensure and Certification Act;

14 (8) An assisted living or shared housing establishment
15 as defined in the Assisted Living and Shared Housing Act;
16 or

17 (9) A supportive living facility as described in
18 Section 5-5.01a of the Illinois Public Aid Code.

19 (e) "Eligible adult" means a person 60 years of age or
20 older who resides in a domestic living situation and is, or is
21 alleged to be, abused, neglected, or financially exploited by
22 another individual or who neglects himself or herself.

23 (f) "Emergency" means a situation in which an eligible
24 adult is living in conditions presenting a risk of death or
25 physical, mental or sexual injury and the provider agency has
26 reason to believe the eligible adult is unable to consent to

1 services which would alleviate that risk.

2 (f-5) "Mandated reporter" means any of the following
3 persons while engaged in carrying out their professional
4 duties:

5 (1) a professional or professional's delegate while
6 engaged in: (i) social services, (ii) law enforcement,
7 (iii) education, (iv) the care of an eligible adult or
8 eligible adults, or (v) any of the occupations required to
9 be licensed under the Clinical Psychologist Licensing Act,
10 the Clinical Social Work and Social Work Practice Act, the
11 Illinois Dental Practice Act, the Dietetic and Nutrition
12 Services Practice Act, the Marriage and Family Therapy
13 Licensing Act, the Medical Practice Act of 1987, the
14 Naprapathic Practice Act, the Nurse Practice Act, the
15 Nursing Home Administrators Licensing and Disciplinary
16 Act, the Illinois Occupational Therapy Practice Act, the
17 Illinois Optometric Practice Act of 1987, the Pharmacy
18 Practice Act, the Illinois Physical Therapy Act, the
19 Physician Assistant Practice Act of 1987, the Podiatric
20 Medical Practice Act of 1987, the Respiratory Care Practice
21 Act, the Professional Counselor and Clinical Professional
22 Counselor Licensing Act, the Illinois Speech-Language
23 Pathology and Audiology Practice Act, the Veterinary
24 Medicine and Surgery Practice Act of 2004, and the Illinois
25 Public Accounting Act;

26 (2) an employee of a vocational rehabilitation

1 facility prescribed or supervised by the Department of
2 Human Services;

3 (3) an administrator, employee, or person providing
4 services in or through an unlicensed community based
5 facility;

6 (4) any religious practitioner who provides treatment
7 by prayer or spiritual means alone in accordance with the
8 tenets and practices of a recognized church or religious
9 denomination, except as to information received in any
10 confession or sacred communication enjoined by the
11 discipline of the religious denomination to be held
12 confidential;

13 (5) field personnel of the Department of Healthcare and
14 Family Services, Department of Public Health, and
15 Department of Human Services, and any county or municipal
16 health department;

17 (6) personnel of the Department of Human Services, the
18 Guardianship and Advocacy Commission, the State Fire
19 Marshal, local fire departments, the Department on Aging
20 and its subsidiary Area Agencies on Aging and provider
21 agencies, and the Office of State Long Term Care Ombudsman;

22 (7) any employee of the State of Illinois not otherwise
23 specified herein who is involved in providing services to
24 eligible adults, including professionals providing medical
25 or rehabilitation services and all other persons having
26 direct contact with eligible adults;

1 (8) a person who performs the duties of a coroner or
2 medical examiner; or

3 (9) a person who performs the duties of a paramedic or
4 an emergency medical technician.

5 (g) "Neglect" means another individual's failure to
6 provide an eligible adult with or willful withholding from an
7 eligible adult the necessities of life including, but not
8 limited to, food, clothing, shelter or health care. This
9 subsection does not create any new affirmative duty to provide
10 support to eligible adults. Nothing in this Act shall be
11 construed to mean that an eligible adult is a victim of neglect
12 because of health care services provided or not provided by
13 licensed health care professionals.

14 (h) "Provider agency" means any public or nonprofit agency
15 in a planning and service area appointed by the regional
16 administrative agency with prior approval by the Department on
17 Aging to receive and assess reports of alleged or suspected
18 abuse, neglect, or financial exploitation.

19 (i) "Regional administrative agency" means any public or
20 nonprofit agency in a planning and service area so designated
21 by the Department, provided that the designated Area Agency on
22 Aging shall be designated the regional administrative agency if
23 it so requests. The Department shall assume the functions of
24 the regional administrative agency for any planning and service
25 area where another agency is not so designated.

26 (i-5) "Self-neglect" means a condition that is the result

1 of an eligible adult's inability, due to physical or mental
2 impairments, or both, or a diminished capacity, to perform
3 essential self-care tasks that substantially threaten his or
4 her own health, including: providing essential food, clothing,
5 shelter, and health care; and obtaining goods and services
6 necessary to maintain physical health, mental health,
7 emotional well-being, and general safety. The term includes
8 compulsive hoarding, which is characterized by the acquisition
9 and retention of large quantities of items and materials that
10 produce an extensively cluttered living space, which
11 significantly impairs the performance of essential self-care
12 tasks or otherwise substantially threatens life or safety.

13 (j) "Substantiated case" means a reported case of alleged
14 or suspected abuse, neglect, financial exploitation, or
15 self-neglect in which a provider agency, after assessment,
16 determines that there is reason to believe abuse, neglect, or
17 financial exploitation has occurred.

18 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;
19 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;
20 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

21 Section 90-175. The Mental Health and Developmental
22 Disabilities Code is amended by changing Section 2-107 as
23 follows:

24 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

1 Sec. 2-107. Refusal of services; informing of risks.

2 (a) An adult recipient of services or the recipient's
3 guardian, if the recipient is under guardianship, and the
4 recipient's substitute decision maker, if any, must be informed
5 of the recipient's right to refuse medication or
6 electroconvulsive therapy. The recipient and the recipient's
7 guardian or substitute decision maker shall be given the
8 opportunity to refuse generally accepted mental health or
9 developmental disability services, including but not limited
10 to medication or electroconvulsive therapy. If such services
11 are refused, they shall not be given unless such services are
12 necessary to prevent the recipient from causing serious and
13 imminent physical harm to the recipient or others and no less
14 restrictive alternative is available. The facility director
15 shall inform a recipient, guardian, or substitute decision
16 maker, if any, who refuses such services of alternate services
17 available and the risks of such alternate services, as well as
18 the possible consequences to the recipient of refusal of such
19 services.

20 (b) Psychotropic medication or electroconvulsive therapy
21 may be administered under this Section for up to 24 hours only
22 if the circumstances leading up to the need for emergency
23 treatment are set forth in writing in the recipient's record.

24 (c) Administration of medication or electroconvulsive
25 therapy may not be continued unless the need for such treatment
26 is redetermined at least every 24 hours based upon a personal

1 examination of the recipient by a physician or a nurse under
2 the supervision of a physician and the circumstances
3 demonstrating that need are set forth in writing in the
4 recipient's record.

5 (d) Neither psychotropic medication nor electroconvulsive
6 therapy may be administered under this Section for a period in
7 excess of 72 hours, excluding Saturdays, Sundays, and holidays,
8 unless a petition is filed under Section 2-107.1 and the
9 treatment continues to be necessary under subsection (a) of
10 this Section. Once the petition has been filed, treatment may
11 continue in compliance with subsections (a), (b), and (c) of
12 this Section until the final outcome of the hearing on the
13 petition.

14 (e) The Department shall issue rules designed to insure
15 that in State-operated mental health facilities psychotropic
16 medication and electroconvulsive therapy are administered in
17 accordance with this Section and only when appropriately
18 authorized and monitored by a physician or a nurse under the
19 supervision of a physician in accordance with accepted medical
20 practice. The facility director of each mental health facility
21 not operated by the State shall issue rules designed to insure
22 that in that facility psychotropic medication and
23 electroconvulsive therapy are administered in accordance with
24 this Section and only when appropriately authorized and
25 monitored by a physician or a nurse under the supervision of a
26 physician in accordance with accepted medical practice. Such

1 rules shall be available for public inspection and copying
2 during normal business hours.

3 (f) The provisions of this Section with respect to the
4 emergency administration of psychotropic medication and
5 electroconvulsive therapy do not apply to facilities licensed
6 under the Nursing Home Care Act, the Specialized Mental Health
7 Rehabilitation Act, or the MR/DD Community Care Act.

8 (g) Under no circumstances may long-acting psychotropic
9 medications be administered under this Section.

10 (h) Whenever psychotropic medication or electroconvulsive
11 therapy is refused pursuant to subsection (a) of this Section
12 at least once that day, the physician shall determine and state
13 in writing the reasons why the recipient did not meet the
14 criteria for administration of medication or electroconvulsive
15 therapy under subsection (a) and whether the recipient meets
16 the standard for administration of psychotropic medication or
17 electroconvulsive therapy under Section 2-107.1 of this Code.
18 If the physician determines that the recipient meets the
19 standard for administration of psychotropic medication or
20 electroconvulsive therapy under Section 2-107.1, the facility
21 director or his or her designee shall petition the court for
22 administration of psychotropic medication or electroconvulsive
23 therapy pursuant to that Section unless the facility director
24 or his or her designee states in writing in the recipient's
25 record why the filing of such a petition is not warranted. This
26 subsection (h) applies only to State-operated mental health

1 facilities.

2 (i) The Department shall conduct annual trainings for all
3 physicians and registered nurses working in State-operated
4 mental health facilities on the appropriate use of emergency
5 administration of psychotropic medication and
6 electroconvulsive therapy, standards for their use, and the
7 methods of authorization under this Section.

8 (Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

9 Section 90-180. The Protection and Advocacy for Mentally
10 Ill Persons Act is amended by changing Section 3 as follows:

11 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

12 Sec. 3. Powers and Duties.

13 (A) In order to properly exercise its powers and duties,
14 the agency shall have the authority to:

15 (1) Investigate incidents of abuse and neglect of
16 mentally ill persons if the incidents are reported to the
17 agency or if there is probable cause to believe that the
18 incidents occurred. In case of conflict with provisions of
19 the Abused and Neglected Child Reporting Act or the Nursing
20 Home Care Act, the provisions of those Acts shall apply.

21 (2) Pursue administrative, legal and other appropriate
22 remedies to ensure the protection of the rights of mentally
23 ill persons who are receiving care and treatment in this
24 State.

1 (3) Pursue administrative, legal and other remedies on
2 behalf of an individual who:

3 (a) was a mentally ill individual; and

4 (b) is a resident of this State, but only with
5 respect to matters which occur within 90 days after the
6 date of the discharge of such individual from a
7 facility providing care and treatment.

8 (4) Establish a board which shall:

9 (a) advise the protection and advocacy system on
10 policies and priorities to be carried out in protecting
11 and advocating the rights of mentally ill individuals;
12 and

13 (b) include attorneys, mental health
14 professionals, individuals from the public who are
15 knowledgeable about mental illness, a provider of
16 mental health services, individuals who have received
17 or are receiving mental health services and family
18 members of such individuals. At least one-half the
19 members of the board shall be individuals who have
20 received or are receiving mental health services or who
21 are family members of such individuals.

22 (5) On January 1, 1988, and on January 1 of each
23 succeeding year, prepare and transmit to the Secretary of
24 the United States Department of Health and Human Services
25 and to the Illinois Secretary of Human Services a report
26 describing the activities, accomplishments and

1 expenditures of the protection and advocacy system during
2 the most recently completed fiscal year.

3 (B) The agency shall have access to all mental health
4 facilities as defined in Sections 1-107 and 1-114 of the Mental
5 Health and Developmental Disabilities Code, all facilities as
6 defined in Section 1-113 of the Nursing Home Care Act, all
7 facilities as defined in Section 1-113 of the Specialized
8 Mental Health Rehabilitation Act, all facilities as defined in
9 Section 1-113 of the MR/DD Community Care Act, all facilities
10 as defined in Section 2.06 of the Child Care Act of 1969, as
11 now or hereafter amended, and all other facilities providing
12 care or treatment to mentally ill persons. Such access shall be
13 granted for the purposes of meeting with residents and staff,
14 informing them of services available from the agency,
15 distributing written information about the agency and the
16 rights of persons who are mentally ill, conducting scheduled
17 and unscheduled visits, and performing other activities
18 designed to protect the rights of mentally ill persons.

19 (C) The agency shall have access to all records of mentally
20 ill persons who are receiving care or treatment from a
21 facility, subject to the limitations of this Act, the Mental
22 Health and Developmental Disabilities Confidentiality Act, the
23 Nursing Home Care Act and the Child Care Act of 1969, as now or
24 hereafter amended. If the mentally ill person has a legal
25 guardian other than the State or a designee of the State, the
26 facility director shall disclose the guardian's name, address

1 and telephone number to the agency upon its request. In cases
2 of conflict with provisions of the Abused and Neglected Child
3 Reporting Act and the Nursing Home Care Act, the provisions of
4 the Abused and Neglected Child Reporting Act and the Nursing
5 Home Care Act shall apply. The agency shall also have access,
6 for the purpose of inspection and copying, to the records of a
7 mentally ill person (i) who by reason of his or her mental or
8 physical condition is unable to authorize the agency to have
9 such access; (ii) who does not have a legal guardian or for
10 whom the State or a designee of the State is the legal
11 guardian; and (iii) with respect to whom a complaint has been
12 received by the agency or with respect to whom there is
13 probable cause to believe that such person has been subjected
14 to abuse or neglect.

15 The agency shall provide written notice to the mentally ill
16 person and the State guardian of the nature of the complaint
17 based upon which the agency has gained access to the records.
18 No record or the contents of the record shall be redisclosed by
19 the agency unless the person who is mentally ill and the State
20 guardian are provided 7 days advance written notice, except in
21 emergency situations, of the agency's intent to redisclose such
22 record. Within such 7-day period, the mentally ill person or
23 the State guardian may seek an injunction prohibiting the
24 agency's redisclosure of such record on the grounds that such
25 redisclosure is contrary to the interests of the mentally ill
26 person.

1 Upon request, the authorized agency shall be entitled to
2 inspect and copy any clinical or trust fund records of mentally
3 ill persons which may further the agency's investigation of
4 alleged problems affecting numbers of mentally ill persons.
5 When required by law, any personally identifiable information
6 of mentally ill persons shall be removed from the records.
7 However, the agency may not inspect or copy any records or
8 other materials when the removal of personally identifiable
9 information imposes an unreasonable burden on any facility as
10 defined by the Mental Health and Developmental Disabilities
11 Code, the Nursing Home Care Act, the Specialized Mental Health
12 Rehabilitation Act, or the Child Care Act of 1969, or any other
13 facility providing care or treatment to mentally ill persons.

14 (D) Prior to instituting any legal action in a federal or
15 State court on behalf of a mentally ill individual, an eligible
16 protection and advocacy system, or a State agency or nonprofit
17 organization which entered into a contract with such an
18 eligible system under Section 104(a) of the federal Protection
19 and Advocacy for Mentally Ill Individuals Act of 1986, shall
20 exhaust in a timely manner all administrative remedies where
21 appropriate. If, in pursuing administrative remedies, the
22 system, State agency or organization determines that any matter
23 with respect to such individual will not be resolved within a
24 reasonable time, the system, State agency or organization may
25 pursue alternative remedies, including the initiation of
26 appropriate legal action.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 Section 90-285. The Developmental Disability and Mental
3 Disability Services Act is amended by changing Sections 2-3 and
4 5-1 as follows:

5 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

6 Sec. 2-3. As used in this Article, unless the context
7 requires otherwise:

8 (a) "Agency" means an agency or entity licensed by the
9 Department pursuant to this Article or pursuant to the
10 Community Residential Alternatives Licensing Act.

11 (b) "Department" means the Department of Human Services, as
12 successor to the Department of Mental Health and Developmental
13 Disabilities.

14 (c) "Home-based services" means services provided to a
15 mentally disabled adult who lives in his or her own home. These
16 services include but are not limited to:

17 (1) home health services;

18 (2) case management;

19 (3) crisis management;

20 (4) training and assistance in self-care;

21 (5) personal care services;

22 (6) habilitation and rehabilitation services;

23 (7) employment-related services;

24 (8) respite care; and

1 (9) other skill training that enables a person to
2 become self-supporting.

3 (d) "Legal guardian" means a person appointed by a court of
4 competent jurisdiction to exercise certain powers on behalf of
5 a mentally disabled adult.

6 (e) "Mentally disabled adult" means a person over the age
7 of 18 years who lives in his or her own home; who needs
8 home-based services, but does not require 24-hour-a-day
9 supervision; and who has one of the following conditions:
10 severe autism, severe mental illness, severe or profound mental
11 retardation, or severe and multiple impairments.

12 (f) In one's "own home" means that a mentally disabled
13 adult lives alone; or that a mentally disabled adult is in
14 full-time residence with his or her parents, legal guardian, or
15 other relatives; or that a mentally disabled adult is in
16 full-time residence in a setting not subject to licensure under
17 the Nursing Home Care Act, the Specialized Mental Health
18 Rehabilitation Act, the MR/DD Community Care Act, or the Child
19 Care Act of 1969, as now or hereafter amended, with 3 or fewer
20 other adults unrelated to the mentally disabled adult who do
21 not provide home-based services to the mentally disabled adult.

22 (g) "Parent" means the biological or adoptive parent of a
23 mentally disabled adult, or a person licensed as a foster
24 parent under the laws of this State who acts as a mentally
25 disabled adult's foster parent.

26 (h) "Relative" means any of the following relationships by

1 blood, marriage or adoption: parent, son, daughter, brother,
2 sister, grandparent, uncle, aunt, nephew, niece, great
3 grandparent, great uncle, great aunt, stepbrother, stepsister,
4 stepson, stepdaughter, stepparent or first cousin.

5 (i) "Severe autism" means a lifelong developmental
6 disability which is typically manifested before 30 months of
7 age and is characterized by severe disturbances in reciprocal
8 social interactions; verbal and nonverbal communication and
9 imaginative activity; and repertoire of activities and
10 interests. A person shall be determined severely autistic, for
11 purposes of this Article, if both of the following are present:

12 (1) Diagnosis consistent with the criteria for
13 autistic disorder in the current edition of the Diagnostic
14 and Statistical Manual of Mental Disorders.

15 (2) Severe disturbances in reciprocal social
16 interactions; verbal and nonverbal communication and
17 imaginative activity; repertoire of activities and
18 interests. A determination of severe autism shall be based
19 upon a comprehensive, documented assessment with an
20 evaluation by a licensed clinical psychologist or
21 psychiatrist. A determination of severe autism shall not be
22 based solely on behaviors relating to environmental,
23 cultural or economic differences.

24 (j) "Severe mental illness" means the manifestation of all
25 of the following characteristics:

26 (1) A primary diagnosis of one of the major mental

1 disorders in the current edition of the Diagnostic and
2 Statistical Manual of Mental Disorders listed below:

- 3 (A) Schizophrenia disorder.
- 4 (B) Delusional disorder.
- 5 (C) Schizo-affective disorder.
- 6 (D) Bipolar affective disorder.
- 7 (E) Atypical psychosis.
- 8 (F) Major depression, recurrent.

9 (2) The individual's mental illness must substantially
10 impair his or her functioning in at least 2 of the
11 following areas:

- 12 (A) Self-maintenance.
- 13 (B) Social functioning.
- 14 (C) Activities of community living.
- 15 (D) Work skills.

16 (3) Disability must be present or expected to be
17 present for at least one year.

18 A determination of severe mental illness shall be based
19 upon a comprehensive, documented assessment with an evaluation
20 by a licensed clinical psychologist or psychiatrist, and shall
21 not be based solely on behaviors relating to environmental,
22 cultural or economic differences.

23 (k) "Severe or profound mental retardation" means a
24 manifestation of all of the following characteristics:

25 (1) A diagnosis which meets Classification in Mental
26 Retardation or criteria in the current edition of the

1 Diagnostic and Statistical Manual of Mental Disorders for
2 severe or profound mental retardation (an IQ of 40 or
3 below). This must be measured by a standardized instrument
4 for general intellectual functioning.

5 (2) A severe or profound level of disturbed adaptive
6 behavior. This must be measured by a standardized adaptive
7 behavior scale or informal appraisal by the professional in
8 keeping with illustrations in Classification in Mental
9 Retardation, 1983.

10 (3) Disability diagnosed before age of 18.

11 A determination of severe or profound mental retardation
12 shall be based upon a comprehensive, documented assessment with
13 an evaluation by a licensed clinical psychologist or certified
14 school psychologist or a psychiatrist, and shall not be based
15 solely on behaviors relating to environmental, cultural or
16 economic differences.

17 (1) "Severe and multiple impairments" means the
18 manifestation of all of the following characteristics:

19 (1) The evaluation determines the presence of a
20 developmental disability which is expected to continue
21 indefinitely, constitutes a substantial handicap and is
22 attributable to any of the following:

23 (A) Mental retardation, which is defined as
24 general intellectual functioning that is 2 or more
25 standard deviations below the mean concurrent with
26 impairment of adaptive behavior which is 2 or more

1 standard deviations below the mean. Assessment of the
2 individual's intellectual functioning must be measured
3 by a standardized instrument for general intellectual
4 functioning.

5 (B) Cerebral palsy.

6 (C) Epilepsy.

7 (D) Autism.

8 (E) Any other condition which results in
9 impairment similar to that caused by mental
10 retardation and which requires services similar to
11 those required by mentally retarded persons.

12 (2) The evaluation determines multiple handicaps in
13 physical, sensory, behavioral or cognitive functioning
14 which constitute a severe or profound impairment
15 attributable to one or more of the following:

16 (A) Physical functioning, which severely impairs
17 the individual's motor performance that may be due to:

18 (i) Neurological, psychological or physical
19 involvement resulting in a variety of disabling
20 conditions such as hemiplegia, quadriplegia or
21 ataxia,

22 (ii) Severe organ systems involvement such as
23 congenital heart defect,

24 (iii) Physical abnormalities resulting in the
25 individual being non-mobile and non-ambulatory or
26 confined to bed and receiving assistance in

1 transferring, or

2 (iv) The need for regular medical or nursing
3 supervision such as gastrostomy care and feeding.

4 Assessment of physical functioning must be based
5 on clinical medical assessment by a physician licensed
6 to practice medicine in all its branches, using the
7 appropriate instruments, techniques and standards of
8 measurement required by the professional.

9 (B) Sensory, which involves severe restriction due
10 to hearing or visual impairment limiting the
11 individual's movement and creating dependence in
12 completing most daily activities. Hearing impairment
13 is defined as a loss of 70 decibels aided or speech
14 discrimination of less than 50% aided. Visual
15 impairment is defined as 20/200 corrected in the better
16 eye or a visual field of 20 degrees or less. Sensory
17 functioning must be based on clinical medical
18 assessment by a physician licensed to practice
19 medicine in all its branches using the appropriate
20 instruments, techniques and standards of measurement
21 required by the professional.

22 (C) Behavioral, which involves behavior that is
23 maladaptive and presents a danger to self or others, is
24 destructive to property by deliberately breaking,
25 destroying or defacing objects, is disruptive by
26 fighting, or has other socially offensive behaviors in

1 sufficient frequency or severity to seriously limit
2 social integration. Assessment of behavioral
3 functioning may be measured by a standardized scale or
4 informal appraisal by a clinical psychologist or
5 psychiatrist.

6 (D) Cognitive, which involves intellectual
7 functioning at a measured IQ of 70 or below. Assessment
8 of cognitive functioning must be measured by a
9 standardized instrument for general intelligence.

10 (3) The evaluation determines that development is
11 substantially less than expected for the age in cognitive,
12 affective or psychomotor behavior as follows:

13 (A) Cognitive, which involves intellectual
14 functioning at a measured IQ of 70 or below. Assessment
15 of cognitive functioning must be measured by a
16 standardized instrument for general intelligence.

17 (B) Affective behavior, which involves over and
18 under responding to stimuli in the environment and may
19 be observed in mood, attention to awareness, or in
20 behaviors such as euphoria, anger or sadness that
21 seriously limit integration into society. Affective
22 behavior must be based on clinical assessment using the
23 appropriate instruments, techniques and standards of
24 measurement required by the professional.

25 (C) Psychomotor, which includes a severe
26 developmental delay in fine or gross motor skills so

1 that development in self-care, social interaction,
2 communication or physical activity will be greatly
3 delayed or restricted.

4 (4) A determination that the disability originated
5 before the age of 18 years.

6 A determination of severe and multiple impairments shall be
7 based upon a comprehensive, documented assessment with an
8 evaluation by a licensed clinical psychologist or
9 psychiatrist.

10 If the examiner is a licensed clinical psychologist,
11 ancillary evaluation of physical impairment, cerebral palsy or
12 epilepsy must be made by a physician licensed to practice
13 medicine in all its branches.

14 Regardless of the discipline of the examiner, ancillary
15 evaluation of visual impairment must be made by an
16 ophthalmologist or a licensed optometrist.

17 Regardless of the discipline of the examiner, ancillary
18 evaluation of hearing impairment must be made by an
19 otolaryngologist or an audiologist with a certificate of
20 clinical competency.

21 The only exception to the above is in the case of a person
22 with cerebral palsy or epilepsy who, according to the
23 eligibility criteria listed below, has multiple impairments
24 which are only physical and sensory. In such a case, a
25 physician licensed to practice medicine in all its branches may
26 serve as the examiner.

1 (m) "Twenty-four-hour-a-day supervision" means
2 24-hour-a-day care by a trained mental health or developmental
3 disability professional on an ongoing basis.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

6 Sec. 5-1. As the mental health and developmental
7 disabilities or mental retardation authority for the State of
8 Illinois, the Department of Human Services shall have the
9 authority to license, certify and prescribe standards
10 governing the programs and services provided under this Act, as
11 well as all other agencies or programs which provide home-based
12 or community-based services to the mentally disabled, except
13 those services, programs or agencies established under or
14 otherwise subject to the Child Care Act of 1969, the
15 Specialized Mental Health Rehabilitation Act, or the MR/DD
16 Community Care Act, as now or hereafter amended, and this Act
17 shall not be construed to limit the application of those Acts.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 Section 90-190. The Facilities Requiring Smoke Detectors
20 Act is amended by changing Section 1 as follows:

21 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

22 Sec. 1. For purposes of this Act, unless the context
23 requires otherwise:

1 (a) "Facility" means:

2 (1) Any long-term care facility as defined in Section
3 1-113 of the Nursing Home Care Act or any facility as
4 defined in Section 1-113 of the MR/DD Community Care Act or
5 the Specialized Mental Health Rehabilitation Act, as
6 amended;

7 (2) Any community residential alternative as defined
8 in paragraph (4) of Section 3 of the Community Residential
9 Alternatives Licensing Act, as amended; and

10 (3) Any child care facility as defined in Section 2.05
11 of the Child Care Act of 1969, as amended.

12 (b) "Approved smoke detector" or "detector" means a smoke
13 detector of the ionization or photoelectric type which complies
14 with all the requirements of the rules and regulations of the
15 Illinois State Fire Marshal.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 Section 90-195. The Criminal Code of 1961 is amended by
18 changing Sections 12-19, 12-21, and 26-1 as follows:

19 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

20 (Section scheduled to be repealed on July 1, 2011)

21 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
22 Facility Resident.

23 (a) Any person or any owner or licensee of a long term care
24 facility who abuses a long term care facility resident is

1 guilty of a Class 3 felony. Any person or any owner or licensee
2 of a long term care facility who criminally neglects a long
3 term care facility resident is guilty of a Class 4 felony. A
4 person whose criminal neglect of a long term care facility
5 resident results in the resident's death is guilty of a Class 3
6 felony. However, nothing herein shall be deemed to apply to a
7 physician licensed to practice medicine in all its branches or
8 a duly licensed nurse providing care within the scope of his or
9 her professional judgment and within the accepted standards of
10 care within the community.

11 (b) Notwithstanding the penalties in subsections (a) and
12 (c) and in addition thereto, if a licensee or owner of a long
13 term care facility or his or her employee has caused neglect of
14 a resident, the licensee or owner is guilty of a petty offense.
15 An owner or licensee is guilty under this subsection (b) only
16 if the owner or licensee failed to exercise reasonable care in
17 the hiring, training, supervising or providing of staff or
18 other related routine administrative responsibilities.

19 (c) Notwithstanding the penalties in subsections (a) and
20 (b) and in addition thereto, if a licensee or owner of a long
21 term care facility or his or her employee has caused gross
22 neglect of a resident, the licensee or owner is guilty of a
23 business offense for which a fine of not more than \$10,000 may
24 be imposed. An owner or licensee is guilty under this
25 subsection (c) only if the owner or licensee failed to exercise
26 reasonable care in the hiring, training, supervising or

1 providing of staff or other related routine administrative
2 responsibilities.

3 (d) For the purpose of this Section:

4 (1) "Abuse" means intentionally or knowingly causing
5 any physical or mental injury or committing any sexual
6 offense set forth in this Code.

7 (2) "Criminal neglect" means an act whereby a person
8 recklessly (i) performs acts that cause an elderly person's
9 or person with a disability's life to be endangered, health
10 to be injured, or pre-existing physical or mental condition
11 to deteriorate or that create the substantial likelihood
12 that an elderly person's or person with a disability's life
13 will be endangered, health will be injured, or pre-existing
14 physical or mental condition will deteriorate, or (ii)
15 fails to perform acts that he or she knows or reasonably
16 should know are necessary to maintain or preserve the life
17 or health of an elderly person or person with a disability,
18 and that failure causes the elderly person's or person with
19 a disability's life to be endangered, health to be injured,
20 or pre-existing physical or mental condition to
21 deteriorate or that create the substantial likelihood that
22 an elderly person's or person with a disability's life will
23 be endangered, health will be injured, or pre-existing
24 physical or mental condition will deteriorate, or (iii)
25 abandons an elderly person or person with a disability.

26 (3) "Neglect" means negligently failing to provide

1 adequate medical or personal care or maintenance, which
2 failure results in physical or mental injury or the
3 deterioration of a physical or mental condition.

4 (4) "Resident" means a person residing in a long term
5 care facility.

6 (5) "Owner" means the person who owns a long term care
7 facility as provided under the Nursing Home Care Act, a
8 facility as provided under the Specialized Mental Health
9 Rehabilitation Act, a facility as provided under the MR/DD
10 Community Care Act, or an assisted living or shared housing
11 establishment under the Assisted Living and Shared Housing
12 Act.

13 (6) "Licensee" means the individual or entity licensed
14 to operate a facility under the Nursing Home Care Act, the
15 Specialized Mental Health Rehabilitation Act, the MR/DD
16 Community Care Act, or the Assisted Living and Shared
17 Housing Act.

18 (7) "Facility" or "long term care facility" means a
19 private home, institution, building, residence, or any
20 other place, whether operated for profit or not, or a
21 county home for the infirm and chronically ill operated
22 pursuant to Division 5-21 or 5-22 of the Counties Code, or
23 any similar institution operated by the State of Illinois
24 or a political subdivision thereof, which provides,
25 through its ownership or management, personal care,
26 sheltered care or nursing for 3 or more persons not related

1 to the owner by blood or marriage. The term also includes
2 skilled nursing facilities and intermediate care
3 facilities as defined in Title XVIII and Title XIX of the
4 federal Social Security Act and assisted living
5 establishments and shared housing establishments licensed
6 under the Assisted Living and Shared Housing Act.

7 (e) Nothing contained in this Section shall be deemed to
8 apply to the medical supervision, regulation or control of the
9 remedial care or treatment of residents in a facility conducted
10 for those who rely upon treatment by prayer or spiritual means
11 in accordance with the creed or tenets of any well recognized
12 church or religious denomination and which is licensed in
13 accordance with Section 3-803 of the Nursing Home Care Act,
14 Section 3-803 of the Specialized Mental Health Rehabilitation
15 Act, or Section 3-803 of the MR/DD Community Care Act.

16 (Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.
17 Repealed by P.A. 96-1551, eff. 7-1-11.)

18 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

19 Sec. 12-21. Criminal abuse or neglect of an elderly person
20 or person with a disability.

21 (a) A person commits the offense of criminal abuse or
22 neglect of an elderly person or person with a disability when
23 he or she is a caregiver and he or she knowingly:

24 (1) performs acts that cause the elderly person or
25 person with a disability's life to be endangered, health to

1 be injured, or pre-existing physical or mental condition to
2 deteriorate; or

3 (2) fails to perform acts that he or she knows or
4 reasonably should know are necessary to maintain or
5 preserve the life or health of the elderly person or person
6 with a disability and such failure causes the elderly
7 person or person with a disability's life to be endangered,
8 health to be injured or pre-existing physical or mental
9 condition to deteriorate; or

10 (3) abandons the elderly person or person with a
11 disability; or

12 (4) physically abuses, harasses, intimidates, or
13 interferes with the personal liberty of the elderly person
14 or person with a disability or exposes the elderly person
15 or person with a disability to willful deprivation.

16 Criminal abuse or neglect of an elderly person or person
17 with a disability is a Class 3 felony. Criminal neglect of an
18 elderly person or person with a disability is a Class 2 felony
19 if the criminal neglect results in the death of the person
20 neglected for which the defendant, if sentenced to a term of
21 imprisonment, shall be sentenced to a term of not less than 3
22 years and not more than 14 years.

23 (b) For purposes of this Section:

24 (1) "Elderly person" means a person 60 years of age or
25 older who is incapable of adequately providing for his own
26 health and personal care.

1 (2) "Person with a disability" means a person who
2 suffers from a permanent physical or mental impairment,
3 resulting from disease, injury, functional disorder or
4 congenital condition which renders such person incapable
5 of adequately providing for his own health and personal
6 care.

7 (3) "Caregiver" means a person who has a duty to
8 provide for an elderly person or person with a disability's
9 health and personal care, at such person's place of
10 residence, including but not limited to, food and
11 nutrition, shelter, hygiene, prescribed medication and
12 medical care and treatment.

13 "Caregiver" shall include:

14 (A) a parent, spouse, adult child or other relative
15 by blood or marriage who resides with or resides in the
16 same building with or regularly visits the elderly
17 person or person with a disability, knows or reasonably
18 should know of such person's physical or mental
19 impairment and knows or reasonably should know that
20 such person is unable to adequately provide for his own
21 health and personal care;

22 (B) a person who is employed by the elderly person
23 or person with a disability or by another to reside
24 with or regularly visit the elderly person or person
25 with a disability and provide for such person's health
26 and personal care;

1 (C) a person who has agreed for consideration to
2 reside with or regularly visit the elderly person or
3 person with a disability and provide for such person's
4 health and personal care; and

5 (D) a person who has been appointed by a private or
6 public agency or by a court of competent jurisdiction
7 to provide for the elderly person or person with a
8 disability's health and personal care.

9 "Caregiver" shall not include a long-term care
10 facility licensed or certified under the Nursing Home Care
11 Act or a facility licensed or certified under the MR/DD
12 Community Care Act or the Specialized Mental Health
13 Rehabilitation Act, or any administrative, medical or
14 other personnel of such a facility, or a health care
15 provider who is licensed under the Medical Practice Act of
16 1987 and renders care in the ordinary course of his
17 profession.

18 (4) "Abandon" means to desert or knowingly forsake an
19 elderly person or person with a disability under
20 circumstances in which a reasonable person would continue
21 to provide care and custody.

22 (5) "Willful deprivation" has the meaning ascribed to
23 it in paragraph (15) of Section 103 of the Illinois
24 Domestic Violence Act of 1986.

25 (c) Nothing in this Section shall be construed to limit the
26 remedies available to the victim under the Illinois Domestic

1 Violence Act.

2 (d) Nothing in this Section shall be construed to impose
3 criminal liability on a person who has made a good faith effort
4 to provide for the health and personal care of an elderly
5 person or person with a disability, but through no fault of his
6 own has been unable to provide such care.

7 (e) Nothing in this Section shall be construed as
8 prohibiting a person from providing treatment by spiritual
9 means through prayer alone and care consistent therewith in
10 lieu of medical care and treatment in accordance with the
11 tenets and practices of any church or religious denomination of
12 which the elderly person or person with a disability is a
13 member.

14 (f) It is not a defense to criminal abuse or neglect of an
15 elderly person or person with a disability that the accused
16 reasonably believed that the victim was not an elderly person
17 or person with a disability.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

20 Sec. 26-1. Elements of the Offense.

21 (a) A person commits disorderly conduct when he knowingly:

22 (1) Does any act in such unreasonable manner as to
23 alarm or disturb another and to provoke a breach of the
24 peace; or

25 (2) Transmits or causes to be transmitted in any manner

1 to the fire department of any city, town, village or fire
2 protection district a false alarm of fire, knowing at the
3 time of such transmission that there is no reasonable
4 ground for believing that such fire exists; or

5 (3) Transmits or causes to be transmitted in any manner
6 to another a false alarm to the effect that a bomb or other
7 explosive of any nature or a container holding poison gas,
8 a deadly biological or chemical contaminant, or
9 radioactive substance is concealed in such place that its
10 explosion or release would endanger human life, knowing at
11 the time of such transmission that there is no reasonable
12 ground for believing that such bomb, explosive or a
13 container holding poison gas, a deadly biological or
14 chemical contaminant, or radioactive substance is
15 concealed in such place; or

16 (4) Transmits or causes to be transmitted in any manner
17 to any peace officer, public officer or public employee a
18 report to the effect that an offense will be committed, is
19 being committed, or has been committed, knowing at the time
20 of such transmission that there is no reasonable ground for
21 believing that such an offense will be committed, is being
22 committed, or has been committed; or

23 (5) Enters upon the property of another and for a lewd
24 or unlawful purpose deliberately looks into a dwelling on
25 the property through any window or other opening in it; or

26 (6) While acting as a collection agency as defined in

1 the "Collection Agency Act" or as an employee of such
2 collection agency, and while attempting to collect an
3 alleged debt, makes a telephone call to the alleged debtor
4 which is designed to harass, annoy or intimidate the
5 alleged debtor; or

6 (7) Transmits or causes to be transmitted a false
7 report to the Department of Children and Family Services
8 under Section 4 of the "Abused and Neglected Child
9 Reporting Act"; or

10 (8) Transmits or causes to be transmitted a false
11 report to the Department of Public Health under the Nursing
12 Home Care Act, the Specialized Mental Health
13 Rehabilitation Act, or the MR/DD Community Care Act; or

14 (9) Transmits or causes to be transmitted in any manner
15 to the police department or fire department of any
16 municipality or fire protection district, or any privately
17 owned and operated ambulance service, a false request for
18 an ambulance, emergency medical technician-ambulance or
19 emergency medical technician-paramedic knowing at the time
20 there is no reasonable ground for believing that such
21 assistance is required; or

22 (10) Transmits or causes to be transmitted a false
23 report under Article II of "An Act in relation to victims
24 of violence and abuse", approved September 16, 1984, as
25 amended; or

26 (11) Transmits or causes to be transmitted a false

1 report to any public safety agency without the reasonable
2 grounds necessary to believe that transmitting such a
3 report is necessary for the safety and welfare of the
4 public; or

5 (12) Calls the number "911" for the purpose of making
6 or transmitting a false alarm or complaint and reporting
7 information when, at the time the call or transmission is
8 made, the person knows there is no reasonable ground for
9 making the call or transmission and further knows that the
10 call or transmission could result in the emergency response
11 of any public safety agency; or

12 (13) Transmits or causes to be transmitted a threat of
13 destruction of a school building or school property, or a
14 threat of violence, death, or bodily harm directed against
15 persons at a school, school function, or school event,
16 whether or not school is in session.

17 (b) Sentence. A violation of subsection (a)(1) of this
18 Section is a Class C misdemeanor. A violation of subsection
19 (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A
20 violation of subsection (a)(8) or (a)(10) of this Section is a
21 Class B misdemeanor. A violation of subsection (a)(2), (a)(4),
22 (a)(7), (a)(9), (a)(12), or (a)(13) of this Section is a Class
23 4 felony. A violation of subsection (a)(3) of this Section is a
24 Class 3 felony, for which a fine of not less than \$3,000 and no
25 more than \$10,000 shall be assessed in addition to any other
26 penalty imposed.

1 A violation of subsection (a)(6) of this Section is a
2 Business Offense and shall be punished by a fine not to exceed
3 \$3,000. A second or subsequent violation of subsection (a)(7)
4 or (a)(11) of this Section is a Class 4 felony. A third or
5 subsequent violation of subsection (a)(5) of this Section is a
6 Class 4 felony.

7 (c) In addition to any other sentence that may be imposed,
8 a court shall order any person convicted of disorderly conduct
9 to perform community service for not less than 30 and not more
10 than 120 hours, if community service is available in the
11 jurisdiction and is funded and approved by the county board of
12 the county where the offense was committed. In addition,
13 whenever any person is placed on supervision for an alleged
14 offense under this Section, the supervision shall be
15 conditioned upon the performance of the community service.

16 This subsection does not apply when the court imposes a
17 sentence of incarceration.

18 (d) In addition to any other sentence that may be imposed,
19 the court shall order any person convicted of disorderly
20 conduct under paragraph (3) of subsection (a) involving a false
21 alarm of a threat that a bomb or explosive device has been
22 placed in a school to reimburse the unit of government that
23 employs the emergency response officer or officers that were
24 dispatched to the school for the cost of the search for a bomb
25 or explosive device. For the purposes of this Section,
26 "emergency response" means any incident requiring a response by

1 a police officer, a firefighter, a State Fire Marshal employee,
2 or an ambulance.

3 (Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09;
4 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff.
5 1-1-11.)

6 Section 90-200. The Unified Code of Corrections is amended
7 by changing Section 5-5-3.2 as follows:

8 (730 ILCS 5/5-5-3.2)

9 (Text of Section before amendment by P.A. 96-1551)

10 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term
11 Sentencing.

12 (a) The following factors shall be accorded weight in favor
13 of imposing a term of imprisonment or may be considered by the
14 court as reasons to impose a more severe sentence under Section
15 5-8-1 or Article 4.5 of Chapter V:

16 (1) the defendant's conduct caused or threatened
17 serious harm;

18 (2) the defendant received compensation for committing
19 the offense;

20 (3) the defendant has a history of prior delinquency or
21 criminal activity;

22 (4) the defendant, by the duties of his office or by
23 his position, was obliged to prevent the particular offense
24 committed or to bring the offenders committing it to

1 justice;

2 (5) the defendant held public office at the time of the
3 offense, and the offense related to the conduct of that
4 office;

5 (6) the defendant utilized his professional reputation
6 or position in the community to commit the offense, or to
7 afford him an easier means of committing it;

8 (7) the sentence is necessary to deter others from
9 committing the same crime;

10 (8) the defendant committed the offense against a
11 person 60 years of age or older or such person's property;

12 (9) the defendant committed the offense against a
13 person who is physically handicapped or such person's
14 property;

15 (10) by reason of another individual's actual or
16 perceived race, color, creed, religion, ancestry, gender,
17 sexual orientation, physical or mental disability, or
18 national origin, the defendant committed the offense
19 against (i) the person or property of that individual; (ii)
20 the person or property of a person who has an association
21 with, is married to, or has a friendship with the other
22 individual; or (iii) the person or property of a relative
23 (by blood or marriage) of a person described in clause (i)
24 or (ii). For the purposes of this Section, "sexual
25 orientation" means heterosexuality, homosexuality, or
26 bisexuality;

1 (11) the offense took place in a place of worship or on
2 the grounds of a place of worship, immediately prior to,
3 during or immediately following worship services. For
4 purposes of this subparagraph, "place of worship" shall
5 mean any church, synagogue or other building, structure or
6 place used primarily for religious worship;

7 (12) the defendant was convicted of a felony committed
8 while he was released on bail or his own recognizance
9 pending trial for a prior felony and was convicted of such
10 prior felony, or the defendant was convicted of a felony
11 committed while he was serving a period of probation,
12 conditional discharge, or mandatory supervised release
13 under subsection (d) of Section 5-8-1 for a prior felony;

14 (13) the defendant committed or attempted to commit a
15 felony while he was wearing a bulletproof vest. For the
16 purposes of this paragraph (13), a bulletproof vest is any
17 device which is designed for the purpose of protecting the
18 wearer from bullets, shot or other lethal projectiles;

19 (14) the defendant held a position of trust or
20 supervision such as, but not limited to, family member as
21 defined in Section 12-12 of the Criminal Code of 1961,
22 teacher, scout leader, baby sitter, or day care worker, in
23 relation to a victim under 18 years of age, and the
24 defendant committed an offense in violation of Section
25 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
26 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961

1 against that victim;

2 (15) the defendant committed an offense related to the
3 activities of an organized gang. For the purposes of this
4 factor, "organized gang" has the meaning ascribed to it in
5 Section 10 of the Streetgang Terrorism Omnibus Prevention
6 Act;

7 (16) the defendant committed an offense in violation of
8 one of the following Sections while in a school, regardless
9 of the time of day or time of year; on any conveyance
10 owned, leased, or contracted by a school to transport
11 students to or from school or a school related activity; on
12 the real property of a school; or on a public way within
13 1,000 feet of the real property comprising any school:
14 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
15 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
16 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
17 33A-2 of the Criminal Code of 1961;

18 (16.5) the defendant committed an offense in violation
19 of one of the following Sections while in a day care
20 center, regardless of the time of day or time of year; on
21 the real property of a day care center, regardless of the
22 time of day or time of year; or on a public way within
23 1,000 feet of the real property comprising any day care
24 center, regardless of the time of day or time of year:
25 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
26 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,

1 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
2 33A-2 of the Criminal Code of 1961;

3 (17) the defendant committed the offense by reason of
4 any person's activity as a community policing volunteer or
5 to prevent any person from engaging in activity as a
6 community policing volunteer. For the purpose of this
7 Section, "community policing volunteer" has the meaning
8 ascribed to it in Section 2-3.5 of the Criminal Code of
9 1961;

10 (18) the defendant committed the offense in a nursing
11 home or on the real property comprising a nursing home. For
12 the purposes of this paragraph (18), "nursing home" means a
13 skilled nursing or intermediate long term care facility
14 that is subject to license by the Illinois Department of
15 Public Health under the Nursing Home Care Act, the
16 Specialized Mental Health Rehabilitation Act, or the MR/DD
17 Community Care Act;

18 (19) the defendant was a federally licensed firearm
19 dealer and was previously convicted of a violation of
20 subsection (a) of Section 3 of the Firearm Owners
21 Identification Card Act and has now committed either a
22 felony violation of the Firearm Owners Identification Card
23 Act or an act of armed violence while armed with a firearm;

24 (20) the defendant (i) committed the offense of
25 reckless homicide under Section 9-3 of the Criminal Code of
26 1961 or the offense of driving under the influence of

1 alcohol, other drug or drugs, intoxicating compound or
2 compounds or any combination thereof under Section 11-501
3 of the Illinois Vehicle Code or a similar provision of a
4 local ordinance and (ii) was operating a motor vehicle in
5 excess of 20 miles per hour over the posted speed limit as
6 provided in Article VI of Chapter 11 of the Illinois
7 Vehicle Code;

8 (21) the defendant (i) committed the offense of
9 reckless driving or aggravated reckless driving under
10 Section 11-503 of the Illinois Vehicle Code and (ii) was
11 operating a motor vehicle in excess of 20 miles per hour
12 over the posted speed limit as provided in Article VI of
13 Chapter 11 of the Illinois Vehicle Code;

14 (22) the defendant committed the offense against a
15 person that the defendant knew, or reasonably should have
16 known, was a member of the Armed Forces of the United
17 States serving on active duty. For purposes of this clause
18 (22), the term "Armed Forces" means any of the Armed Forces
19 of the United States, including a member of any reserve
20 component thereof or National Guard unit called to active
21 duty;

22 (23) the defendant committed the offense against a
23 person who was elderly, disabled, or infirm by taking
24 advantage of a family or fiduciary relationship with the
25 elderly, disabled, or infirm person;

26 (24) the defendant committed any offense under Section

1 11-20.1 of the Criminal Code of 1961 and possessed 100 or
2 more images;

3 (25) the defendant committed the offense while the
4 defendant or the victim was in a train, bus, or other
5 vehicle used for public transportation; ~~or~~

6 (26) the defendant committed the offense of child
7 pornography or aggravated child pornography, specifically
8 including paragraph (1), (2), (3), (4), (5), or (7) of
9 subsection (a) of Section 11-20.1 of the Criminal Code of
10 1961 where a child engaged in, solicited for, depicted in,
11 or posed in any act of sexual penetration or bound,
12 fettered, or subject to sadistic, masochistic, or
13 sadomasochistic abuse in a sexual context and specifically
14 including paragraph (1), (2), (3), (4), (5), or (7) of
15 subsection (a) of Section 11-20.3 of the Criminal Code of
16 1961 where a child engaged in, solicited for, depicted in,
17 or posed in any act of sexual penetration or bound,
18 fettered, or subject to sadistic, masochistic, or
19 sadomasochistic abuse in a sexual context; or

20 (27) the defendant committed the offense of first
21 degree murder, assault, aggravated assault, battery,
22 aggravated battery, robbery, armed robbery, or aggravated
23 robbery against a person who was a veteran and the
24 defendant knew, or reasonably should have known, that the
25 person was a veteran performing duties as a representative
26 of a veterans' organization. For the purposes of this

1 paragraph (27), "veteran" means an Illinois resident who
2 has served as a member of the United States Armed Forces, a
3 member of the Illinois National Guard, or a member of the
4 United States Reserve Forces; and "veterans' organization"
5 means an organization comprised of members of which
6 substantially all are individuals who are veterans or
7 spouses, widows, or widowers of veterans, the primary
8 purpose of which is to promote the welfare of its members
9 and to provide assistance to the general public in such a
10 way as to confer a public benefit.

11 For the purposes of this Section:

12 "School" is defined as a public or private elementary or
13 secondary school, community college, college, or university.

14 "Day care center" means a public or private State certified
15 and licensed day care center as defined in Section 2.09 of the
16 Child Care Act of 1969 that displays a sign in plain view
17 stating that the property is a day care center.

18 "Public transportation" means the transportation or
19 conveyance of persons by means available to the general public,
20 and includes paratransit services.

21 (b) The following factors, related to all felonies, may be
22 considered by the court as reasons to impose an extended term
23 sentence under Section 5-8-2 upon any offender:

24 (1) When a defendant is convicted of any felony, after
25 having been previously convicted in Illinois or any other
26 jurisdiction of the same or similar class felony or greater

1 class felony, when such conviction has occurred within 10
2 years after the previous conviction, excluding time spent
3 in custody, and such charges are separately brought and
4 tried and arise out of different series of acts; or

5 (2) When a defendant is convicted of any felony and the
6 court finds that the offense was accompanied by
7 exceptionally brutal or heinous behavior indicative of
8 wanton cruelty; or

9 (3) When a defendant is convicted of any felony
10 committed against:

11 (i) a person under 12 years of age at the time of
12 the offense or such person's property;

13 (ii) a person 60 years of age or older at the time
14 of the offense or such person's property; or

15 (iii) a person physically handicapped at the time
16 of the offense or such person's property; or

17 (4) When a defendant is convicted of any felony and the
18 offense involved any of the following types of specific
19 misconduct committed as part of a ceremony, rite,
20 initiation, observance, performance, practice or activity
21 of any actual or ostensible religious, fraternal, or social
22 group:

23 (i) the brutalizing or torturing of humans or
24 animals;

25 (ii) the theft of human corpses;

26 (iii) the kidnapping of humans;

1 (iv) the desecration of any cemetery, religious,
2 fraternal, business, governmental, educational, or
3 other building or property; or

4 (v) ritualized abuse of a child; or

5 (5) When a defendant is convicted of a felony other
6 than conspiracy and the court finds that the felony was
7 committed under an agreement with 2 or more other persons
8 to commit that offense and the defendant, with respect to
9 the other individuals, occupied a position of organizer,
10 supervisor, financier, or any other position of management
11 or leadership, and the court further finds that the felony
12 committed was related to or in furtherance of the criminal
13 activities of an organized gang or was motivated by the
14 defendant's leadership in an organized gang; or

15 (6) When a defendant is convicted of an offense
16 committed while using a firearm with a laser sight attached
17 to it. For purposes of this paragraph, "laser sight" has
18 the meaning ascribed to it in Section 24.6-5 of the
19 Criminal Code of 1961; or

20 (7) When a defendant who was at least 17 years of age
21 at the time of the commission of the offense is convicted
22 of a felony and has been previously adjudicated a
23 delinquent minor under the Juvenile Court Act of 1987 for
24 an act that if committed by an adult would be a Class X or
25 Class 1 felony when the conviction has occurred within 10
26 years after the previous adjudication, excluding time

1 spent in custody; or

2 (8) When a defendant commits any felony and the
3 defendant used, possessed, exercised control over, or
4 otherwise directed an animal to assault a law enforcement
5 officer engaged in the execution of his or her official
6 duties or in furtherance of the criminal activities of an
7 organized gang in which the defendant is engaged.

8 (c) The following factors may be considered by the court as
9 reasons to impose an extended term sentence under Section 5-8-2
10 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

11 (1) When a defendant is convicted of first degree
12 murder, after having been previously convicted in Illinois
13 of any offense listed under paragraph (c)(2) of Section
14 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
15 within 10 years after the previous conviction, excluding
16 time spent in custody, and the charges are separately
17 brought and tried and arise out of different series of
18 acts.

19 (1.5) When a defendant is convicted of first degree
20 murder, after having been previously convicted of domestic
21 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
22 (720 ILCS 5/12-3.3) committed on the same victim or after
23 having been previously convicted of violation of an order
24 of protection (720 ILCS 5/12-30) in which the same victim
25 was the protected person.

26 (2) When a defendant is convicted of voluntary

1 manslaughter, second degree murder, involuntary
2 manslaughter, or reckless homicide in which the defendant
3 has been convicted of causing the death of more than one
4 individual.

5 (3) When a defendant is convicted of aggravated
6 criminal sexual assault or criminal sexual assault, when
7 there is a finding that aggravated criminal sexual assault
8 or criminal sexual assault was also committed on the same
9 victim by one or more other individuals, and the defendant
10 voluntarily participated in the crime with the knowledge of
11 the participation of the others in the crime, and the
12 commission of the crime was part of a single course of
13 conduct during which there was no substantial change in the
14 nature of the criminal objective.

15 (4) If the victim was under 18 years of age at the time
16 of the commission of the offense, when a defendant is
17 convicted of aggravated criminal sexual assault or
18 predatory criminal sexual assault of a child under
19 subsection (a)(1) of Section 12-14.1 of the Criminal Code
20 of 1961 (720 ILCS 5/12-14.1).

21 (5) When a defendant is convicted of a felony violation
22 of Section 24-1 of the Criminal Code of 1961 (720 ILCS
23 5/24-1) and there is a finding that the defendant is a
24 member of an organized gang.

25 (6) When a defendant was convicted of unlawful use of
26 weapons under Section 24-1 of the Criminal Code of 1961

1 (720 ILCS 5/24-1) for possessing a weapon that is not
2 readily distinguishable as one of the weapons enumerated in
3 Section 24-1 of the Criminal Code of 1961 (720 ILCS
4 5/24-1).

5 (7) When a defendant is convicted of an offense
6 involving the illegal manufacture of a controlled
7 substance under Section 401 of the Illinois Controlled
8 Substances Act (720 ILCS 570/401), the illegal manufacture
9 of methamphetamine under Section 25 of the Methamphetamine
10 Control and Community Protection Act (720 ILCS 646/25), or
11 the illegal possession of explosives and an emergency
12 response officer in the performance of his or her duties is
13 killed or injured at the scene of the offense while
14 responding to the emergency caused by the commission of the
15 offense. In this paragraph, "emergency" means a situation
16 in which a person's life, health, or safety is in jeopardy;
17 and "emergency response officer" means a peace officer,
18 community policing volunteer, fireman, emergency medical
19 technician-ambulance, emergency medical
20 technician-intermediate, emergency medical
21 technician-paramedic, ambulance driver, other medical
22 assistance or first aid personnel, or hospital emergency
23 room personnel.

24 (d) For the purposes of this Section, "organized gang" has
25 the meaning ascribed to it in Section 10 of the Illinois
26 Streetgang Terrorism Omnibus Prevention Act.

1 (e) The court may impose an extended term sentence under
2 Article 4.5 of Chapter V upon an offender who has been
3 convicted of a felony violation of Section 12-13, 12-14,
4 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the
5 victim of the offense is under 18 years of age at the time of
6 the commission of the offense and, during the commission of the
7 offense, the victim was under the influence of alcohol,
8 regardless of whether or not the alcohol was supplied by the
9 offender; and the offender, at the time of the commission of
10 the offense, knew or should have known that the victim had
11 consumed alcohol.

12 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,
13 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;
14 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;
15 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.
16 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,
17 eff. 1-1-11; revised 9-16-10.)

18 (Text of Section after amendment by P.A. 96-1551)

19 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term
20 Sentencing.

21 (a) The following factors shall be accorded weight in favor
22 of imposing a term of imprisonment or may be considered by the
23 court as reasons to impose a more severe sentence under Section
24 5-8-1 or Article 4.5 of Chapter V:

25 (1) the defendant's conduct caused or threatened

1 serious harm;

2 (2) the defendant received compensation for committing
3 the offense;

4 (3) the defendant has a history of prior delinquency or
5 criminal activity;

6 (4) the defendant, by the duties of his office or by
7 his position, was obliged to prevent the particular offense
8 committed or to bring the offenders committing it to
9 justice;

10 (5) the defendant held public office at the time of the
11 offense, and the offense related to the conduct of that
12 office;

13 (6) the defendant utilized his professional reputation
14 or position in the community to commit the offense, or to
15 afford him an easier means of committing it;

16 (7) the sentence is necessary to deter others from
17 committing the same crime;

18 (8) the defendant committed the offense against a
19 person 60 years of age or older or such person's property;

20 (9) the defendant committed the offense against a
21 person who is physically handicapped or such person's
22 property;

23 (10) by reason of another individual's actual or
24 perceived race, color, creed, religion, ancestry, gender,
25 sexual orientation, physical or mental disability, or
26 national origin, the defendant committed the offense

1 against (i) the person or property of that individual; (ii)
2 the person or property of a person who has an association
3 with, is married to, or has a friendship with the other
4 individual; or (iii) the person or property of a relative
5 (by blood or marriage) of a person described in clause (i)
6 or (ii). For the purposes of this Section, "sexual
7 orientation" means heterosexuality, homosexuality, or
8 bisexuality;

9 (11) the offense took place in a place of worship or on
10 the grounds of a place of worship, immediately prior to,
11 during or immediately following worship services. For
12 purposes of this subparagraph, "place of worship" shall
13 mean any church, synagogue or other building, structure or
14 place used primarily for religious worship;

15 (12) the defendant was convicted of a felony committed
16 while he was released on bail or his own recognizance
17 pending trial for a prior felony and was convicted of such
18 prior felony, or the defendant was convicted of a felony
19 committed while he was serving a period of probation,
20 conditional discharge, or mandatory supervised release
21 under subsection (d) of Section 5-8-1 for a prior felony;

22 (13) the defendant committed or attempted to commit a
23 felony while he was wearing a bulletproof vest. For the
24 purposes of this paragraph (13), a bulletproof vest is any
25 device which is designed for the purpose of protecting the
26 wearer from bullets, shot or other lethal projectiles;

1 (14) the defendant held a position of trust or
2 supervision such as, but not limited to, family member as
3 defined in Section 11-0.1 of the Criminal Code of 1961,
4 teacher, scout leader, baby sitter, or day care worker, in
5 relation to a victim under 18 years of age, and the
6 defendant committed an offense in violation of Section
7 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,
8 11-14.4 except for an offense that involves keeping a place
9 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,
10 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15
11 or 12-16 of the Criminal Code of 1961 against that victim;

12 (15) the defendant committed an offense related to the
13 activities of an organized gang. For the purposes of this
14 factor, "organized gang" has the meaning ascribed to it in
15 Section 10 of the Streetgang Terrorism Omnibus Prevention
16 Act;

17 (16) the defendant committed an offense in violation of
18 one of the following Sections while in a school, regardless
19 of the time of day or time of year; on any conveyance
20 owned, leased, or contracted by a school to transport
21 students to or from school or a school related activity; on
22 the real property of a school; or on a public way within
23 1,000 feet of the real property comprising any school:
24 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
25 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
26 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,

1 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
2 18-2, or 33A-2, or Section 12-3.05 except for subdivision
3 (a) (4) or (g) (1), of the Criminal Code of 1961;

4 (16.5) the defendant committed an offense in violation
5 of one of the following Sections while in a day care
6 center, regardless of the time of day or time of year; on
7 the real property of a day care center, regardless of the
8 time of day or time of year; or on a public way within
9 1,000 feet of the real property comprising any day care
10 center, regardless of the time of day or time of year:
11 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,
12 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,
13 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
14 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,
15 18-2, or 33A-2, or Section 12-3.05 except for subdivision
16 (a) (4) or (g) (1), of the Criminal Code of 1961;

17 (17) the defendant committed the offense by reason of
18 any person's activity as a community policing volunteer or
19 to prevent any person from engaging in activity as a
20 community policing volunteer. For the purpose of this
21 Section, "community policing volunteer" has the meaning
22 ascribed to it in Section 2-3.5 of the Criminal Code of
23 1961;

24 (18) the defendant committed the offense in a nursing
25 home or on the real property comprising a nursing home. For
26 the purposes of this paragraph (18), "nursing home" means a

1 skilled nursing or intermediate long term care facility
2 that is subject to license by the Illinois Department of
3 Public Health under the Nursing Home Care Act, the
4 Specialized Mental Health Rehabilitation Act, or the MR/DD
5 Community Care Act;

6 (19) the defendant was a federally licensed firearm
7 dealer and was previously convicted of a violation of
8 subsection (a) of Section 3 of the Firearm Owners
9 Identification Card Act and has now committed either a
10 felony violation of the Firearm Owners Identification Card
11 Act or an act of armed violence while armed with a firearm;

12 (20) the defendant (i) committed the offense of
13 reckless homicide under Section 9-3 of the Criminal Code of
14 1961 or the offense of driving under the influence of
15 alcohol, other drug or drugs, intoxicating compound or
16 compounds or any combination thereof under Section 11-501
17 of the Illinois Vehicle Code or a similar provision of a
18 local ordinance and (ii) was operating a motor vehicle in
19 excess of 20 miles per hour over the posted speed limit as
20 provided in Article VI of Chapter 11 of the Illinois
21 Vehicle Code;

22 (21) the defendant (i) committed the offense of
23 reckless driving or aggravated reckless driving under
24 Section 11-503 of the Illinois Vehicle Code and (ii) was
25 operating a motor vehicle in excess of 20 miles per hour
26 over the posted speed limit as provided in Article VI of

1 Chapter 11 of the Illinois Vehicle Code;

2 (22) the defendant committed the offense against a
3 person that the defendant knew, or reasonably should have
4 known, was a member of the Armed Forces of the United
5 States serving on active duty. For purposes of this clause
6 (22), the term "Armed Forces" means any of the Armed Forces
7 of the United States, including a member of any reserve
8 component thereof or National Guard unit called to active
9 duty;

10 (23) the defendant committed the offense against a
11 person who was elderly, disabled, or infirm by taking
12 advantage of a family or fiduciary relationship with the
13 elderly, disabled, or infirm person;

14 (24) the defendant committed any offense under Section
15 11-20.1 of the Criminal Code of 1961 and possessed 100 or
16 more images;

17 (25) the defendant committed the offense while the
18 defendant or the victim was in a train, bus, or other
19 vehicle used for public transportation;

20 (26) the defendant committed the offense of child
21 pornography or aggravated child pornography, specifically
22 including paragraph (1), (2), (3), (4), (5), or (7) of
23 subsection (a) of Section 11-20.1 of the Criminal Code of
24 1961 where a child engaged in, solicited for, depicted in,
25 or posed in any act of sexual penetration or bound,
26 fettered, or subject to sadistic, masochistic, or

1 sadomasochistic abuse in a sexual context and specifically
2 including paragraph (1), (2), (3), (4), (5), or (7) of
3 subsection (a) of Section 11-20.3 of the Criminal Code of
4 1961 where a child engaged in, solicited for, depicted in,
5 or posed in any act of sexual penetration or bound,
6 fettered, or subject to sadistic, masochistic, or
7 sadomasochistic abuse in a sexual context; or

8 (27) the defendant committed the offense of first
9 degree murder, assault, aggravated assault, battery,
10 aggravated battery, robbery, armed robbery, or aggravated
11 robbery against a person who was a veteran and the
12 defendant knew, or reasonably should have known, that the
13 person was a veteran performing duties as a representative
14 of a veterans' organization. For the purposes of this
15 paragraph (27), "veteran" means an Illinois resident who
16 has served as a member of the United States Armed Forces, a
17 member of the Illinois National Guard, or a member of the
18 United States Reserve Forces; and "veterans' organization"
19 means an organization comprised of members of which
20 substantially all are individuals who are veterans or
21 spouses, widows, or widowers of veterans, the primary
22 purpose of which is to promote the welfare of its members
23 and to provide assistance to the general public in such a
24 way as to confer a public benefit.

25 For the purposes of this Section:

26 "School" is defined as a public or private elementary or

1 secondary school, community college, college, or university.

2 "Day care center" means a public or private State certified
3 and licensed day care center as defined in Section 2.09 of the
4 Child Care Act of 1969 that displays a sign in plain view
5 stating that the property is a day care center.

6 "Public transportation" means the transportation or
7 conveyance of persons by means available to the general public,
8 and includes paratransit services.

9 (b) The following factors, related to all felonies, may be
10 considered by the court as reasons to impose an extended term
11 sentence under Section 5-8-2 upon any offender:

12 (1) When a defendant is convicted of any felony, after
13 having been previously convicted in Illinois or any other
14 jurisdiction of the same or similar class felony or greater
15 class felony, when such conviction has occurred within 10
16 years after the previous conviction, excluding time spent
17 in custody, and such charges are separately brought and
18 tried and arise out of different series of acts; or

19 (2) When a defendant is convicted of any felony and the
20 court finds that the offense was accompanied by
21 exceptionally brutal or heinous behavior indicative of
22 wanton cruelty; or

23 (3) When a defendant is convicted of any felony
24 committed against:

25 (i) a person under 12 years of age at the time of
26 the offense or such person's property;

1 (ii) a person 60 years of age or older at the time
2 of the offense or such person's property; or

3 (iii) a person physically handicapped at the time
4 of the offense or such person's property; or

5 (4) When a defendant is convicted of any felony and the
6 offense involved any of the following types of specific
7 misconduct committed as part of a ceremony, rite,
8 initiation, observance, performance, practice or activity
9 of any actual or ostensible religious, fraternal, or social
10 group:

11 (i) the brutalizing or torturing of humans or
12 animals;

13 (ii) the theft of human corpses;

14 (iii) the kidnapping of humans;

15 (iv) the desecration of any cemetery, religious,
16 fraternal, business, governmental, educational, or
17 other building or property; or

18 (v) ritualized abuse of a child; or

19 (5) When a defendant is convicted of a felony other
20 than conspiracy and the court finds that the felony was
21 committed under an agreement with 2 or more other persons
22 to commit that offense and the defendant, with respect to
23 the other individuals, occupied a position of organizer,
24 supervisor, financier, or any other position of management
25 or leadership, and the court further finds that the felony
26 committed was related to or in furtherance of the criminal

1 activities of an organized gang or was motivated by the
2 defendant's leadership in an organized gang; or

3 (6) When a defendant is convicted of an offense
4 committed while using a firearm with a laser sight attached
5 to it. For purposes of this paragraph, "laser sight" has
6 the meaning ascribed to it in Section 24.6-5 of the
7 Criminal Code of 1961; or

8 (7) When a defendant who was at least 17 years of age
9 at the time of the commission of the offense is convicted
10 of a felony and has been previously adjudicated a
11 delinquent minor under the Juvenile Court Act of 1987 for
12 an act that if committed by an adult would be a Class X or
13 Class 1 felony when the conviction has occurred within 10
14 years after the previous adjudication, excluding time
15 spent in custody; or

16 (8) When a defendant commits any felony and the
17 defendant used, possessed, exercised control over, or
18 otherwise directed an animal to assault a law enforcement
19 officer engaged in the execution of his or her official
20 duties or in furtherance of the criminal activities of an
21 organized gang in which the defendant is engaged.

22 (c) The following factors may be considered by the court as
23 reasons to impose an extended term sentence under Section 5-8-2
24 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

25 (1) When a defendant is convicted of first degree
26 murder, after having been previously convicted in Illinois

1 of any offense listed under paragraph (c)(2) of Section
2 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
3 within 10 years after the previous conviction, excluding
4 time spent in custody, and the charges are separately
5 brought and tried and arise out of different series of
6 acts.

7 (1.5) When a defendant is convicted of first degree
8 murder, after having been previously convicted of domestic
9 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
10 (720 ILCS 5/12-3.3) committed on the same victim or after
11 having been previously convicted of violation of an order
12 of protection (720 ILCS 5/12-30) in which the same victim
13 was the protected person.

14 (2) When a defendant is convicted of voluntary
15 manslaughter, second degree murder, involuntary
16 manslaughter, or reckless homicide in which the defendant
17 has been convicted of causing the death of more than one
18 individual.

19 (3) When a defendant is convicted of aggravated
20 criminal sexual assault or criminal sexual assault, when
21 there is a finding that aggravated criminal sexual assault
22 or criminal sexual assault was also committed on the same
23 victim by one or more other individuals, and the defendant
24 voluntarily participated in the crime with the knowledge of
25 the participation of the others in the crime, and the
26 commission of the crime was part of a single course of

1 conduct during which there was no substantial change in the
2 nature of the criminal objective.

3 (4) If the victim was under 18 years of age at the time
4 of the commission of the offense, when a defendant is
5 convicted of aggravated criminal sexual assault or
6 predatory criminal sexual assault of a child under
7 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)
8 of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS
9 5/11-1.40 or 5/12-14.1).

10 (5) When a defendant is convicted of a felony violation
11 of Section 24-1 of the Criminal Code of 1961 (720 ILCS
12 5/24-1) and there is a finding that the defendant is a
13 member of an organized gang.

14 (6) When a defendant was convicted of unlawful use of
15 weapons under Section 24-1 of the Criminal Code of 1961
16 (720 ILCS 5/24-1) for possessing a weapon that is not
17 readily distinguishable as one of the weapons enumerated in
18 Section 24-1 of the Criminal Code of 1961 (720 ILCS
19 5/24-1).

20 (7) When a defendant is convicted of an offense
21 involving the illegal manufacture of a controlled
22 substance under Section 401 of the Illinois Controlled
23 Substances Act (720 ILCS 570/401), the illegal manufacture
24 of methamphetamine under Section 25 of the Methamphetamine
25 Control and Community Protection Act (720 ILCS 646/25), or
26 the illegal possession of explosives and an emergency

1 response officer in the performance of his or her duties is
2 killed or injured at the scene of the offense while
3 responding to the emergency caused by the commission of the
4 offense. In this paragraph, "emergency" means a situation
5 in which a person's life, health, or safety is in jeopardy;
6 and "emergency response officer" means a peace officer,
7 community policing volunteer, fireman, emergency medical
8 technician-ambulance, emergency medical
9 technician-intermediate, emergency medical
10 technician-paramedic, ambulance driver, other medical
11 assistance or first aid personnel, or hospital emergency
12 room personnel.

13 (d) For the purposes of this Section, "organized gang" has
14 the meaning ascribed to it in Section 10 of the Illinois
15 Streetgang Terrorism Omnibus Prevention Act.

16 (e) The court may impose an extended term sentence under
17 Article 4.5 of Chapter V upon an offender who has been
18 convicted of a felony violation of Section 12-13, 12-14,
19 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the
20 victim of the offense is under 18 years of age at the time of
21 the commission of the offense and, during the commission of the
22 offense, the victim was under the influence of alcohol,
23 regardless of whether or not the alcohol was supplied by the
24 offender; and the offender, at the time of the commission of
25 the offense, knew or should have known that the victim had
26 consumed alcohol.

1 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,
2 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;
3 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;
4 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.
5 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,
6 eff. 1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11;
7 96-1551, Article 2, Section 1065, eff. 7-1-11; revised
8 4-18-11.)

9 Section 90-205. The Secure Residential Youth Care Facility
10 Licensing Act is amended by changing Section 45-10 as follows:

11 (730 ILCS 175/45-10)

12 Sec. 45-10. Definitions. As used in this Act:

13 "Department" means the Illinois Department of Corrections.

14 "Director" means the Director of Corrections.

15 "Secure residential youth care facility" means a facility

16 (1) where youth are placed and reside for care, treatment, and
17 custody; (2) that is designed and operated so as to ensure that
18 all entrances and exits from the facility, or from a building
19 or distinct part of a building within the facility, are under
20 the exclusive control of the staff of the facility, whether or
21 not the youth has freedom of movement within the perimeter of
22 the facility or within the perimeter of a building or distinct
23 part of a building within the facility; and (3) that uses
24 physically restrictive construction including, but not limited

1 to, locks, bolts, gates, doors, bars, fences, and screen
2 barriers. This definition does not include jails, prisons,
3 detention centers, or other such correctional facilities;
4 State operated mental health facilities; or facilities
5 operating as psychiatric hospitals under a license pursuant to
6 the MR/DD Community Care Act, the Nursing Home Care Act, the
7 Specialized Mental Health Rehabilitation Act, or the Hospital
8 Licensing Act.

9 "Youth" means an adjudicated delinquent who is 18 years of
10 age or under and is transferred to the Department pursuant to
11 Section 3-10-11 of the Unified Code of Corrections.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 Section 90-210. The Code of Civil Procedure is amended by
14 changing Section 2-203 as follows:

15 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

16 Sec. 2-203. Service on individuals.

17 (a) Except as otherwise expressly provided, service of
18 summons upon an individual defendant shall be made (1) by
19 leaving a copy of the summons with the defendant personally,
20 (2) by leaving a copy at the defendant's usual place of abode,
21 with some person of the family or a person residing there, of
22 the age of 13 years or upwards, and informing that person of
23 the contents of the summons, provided the officer or other
24 person making service shall also send a copy of the summons in

1 a sealed envelope with postage fully prepaid, addressed to the
2 defendant at his or her usual place of abode, or (3) as
3 provided in Section 1-2-9.2 of the Illinois Municipal Code with
4 respect to violation of an ordinance governing parking or
5 standing of vehicles in cities with a population over 500,000.
6 The certificate of the officer or affidavit of the person that
7 he or she has sent the copy in pursuance of this Section is
8 evidence that he or she has done so. No employee of a facility
9 licensed under the Nursing Home Care Act, the Specialized
10 Mental Health Rehabilitation Act, or the MR/DD Community Care
11 Act shall obstruct an officer or other person making service in
12 compliance with this Section.

13 (b) The officer, in his or her certificate or in a record
14 filed and maintained in the Sheriff's office, or other person
15 making service, in his or her affidavit or in a record filed
16 and maintained in his or her employer's office, shall (1)
17 identify as to sex, race, and approximate age the defendant or
18 other person with whom the summons was left and (2) state the
19 place where (whenever possible in terms of an exact street
20 address) and the date and time of the day when the summons was
21 left with the defendant or other person.

22 (c) Any person who knowingly sets forth in the certificate
23 or affidavit any false statement, shall be liable in civil
24 contempt. When the court holds a person in civil contempt under
25 this Section, it shall award such damages as it determines to
26 be just and, when the contempt is prosecuted by a private

1 attorney, may award reasonable attorney's fees.

2 (Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

3 Section 90-215. The Consumer Fraud and Deceptive Business
4 Practices Act is amended by changing Section 2BBB as follows:

5 (815 ILCS 505/2BBB)

6 Sec. 2BBB. Long term care facility, ~~or~~ MR/DD facility, or
7 specialized mental health rehabilitation facility; Consumer
8 Choice Information Report. A long term care facility that fails
9 to comply with Section 2-214 of the Nursing Home Care Act or a
10 facility that fails to comply with Section 2-214 of the MR/DD
11 Community Care Act or Section 2-214 of the Specialized Mental
12 Health Rehabilitation Act commits an unlawful practice within
13 the meaning of this Act.

14 (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09;
15 96-339, eff. 7-1-10.)

16 ARTICLE 95. NONACCELERATION

17 Section 95-95. No acceleration or delay. Where this Act
18 makes changes in a statute that is represented in this Act by
19 text that is not yet or no longer in effect (for example, a
20 Section represented by multiple versions), the use of that text
21 does not accelerate or delay the taking effect of (i) the
22 changes made by this Act or (ii) provisions derived from any

1 other Public Act.

2 ARTICLE 99. EFFECTIVE DATE

3 Section 99-99. Effective date. This Act takes effect upon
4 becoming law.".