



Rep. Lou Lang

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FISCAL NOTE ACT  
MAY APPLY

09700SB0769ham001

LRB097 04502 RPM 55303 a

1 AMENDMENT TO SENATE BILL 769

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 769 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 1-101.05. Prior law.

8 (a) This Act provides for licensure of long-term care  
9 facilities for the mentally ill under this Act instead of under  
10 the Nursing Home Care Act. On and after the effective date of  
11 this Act, those facilities shall be governed by this Act  
12 instead of the Nursing Home Care Act.

13 (b) If any other Act of the 97th General Assembly changes,  
14 adds, or repeals a provision of the Nursing Home Care Act that  
15 is the same as or substantially similar to a provision of this

1 Act, then that change, addition, or repeal in the Nursing Home  
2 Care Act shall be construed together with this Act.

3 (c) Nothing in this Act affects the validity or effect of  
4 any finding, decision, or action made or taken by the  
5 Department or the Director under the Nursing Home Care Act  
6 before the effective date of this Act with respect to a  
7 facility subject to licensure under this Act. That finding,  
8 decision, or action shall continue to apply to the facility on  
9 and after the effective date of this Act. Any finding,  
10 decision, or action with respect to the facility made or taken  
11 on or after the effective date of this Act shall be made or  
12 taken as provided in this Act. All court consent decrees in  
13 effect on or after the effective date of this Act with respect  
14 to facilities under the MR/DD Community Care Act or the Nursing  
15 Home Care Act shall apply to facilities under this Act.

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

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

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

23 (1) Enter any facility;

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

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

5           (4) Inspect the clinical and other records of a  
6 resident with the express written consent of the resident;  
7 or

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

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

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

16           (1) With respect to a partnership, each partner  
17 thereof.

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

20           (3) With respect to a natural person: any person  
21 related in the first degree of kinship to that person; each  
22 partnership and each partner thereof of which that person  
23 or any affiliate of that person is a partner; and each  
24 corporation in which that person or any affiliate of that

1 person is an officer, director or stockholder.

2 Section 1-107. Applicant. "Applicant" means any person  
3 making application for a license.

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

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

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

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

20 Section 1-109. Department. "Department" means the  
21 Department of Public Health.

22 Section 1-110. Director. "Director" means the Director of

1 Public Health or his or her designee.

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

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

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

14 (i) 90% or more of the resident population of the  
15 facility has a diagnosis of serious mental illness;

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

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

20 (iv) none of the residents require medical or nursing  
21 care at a level higher than the intermediate nursing care  
22 light level of care as defined in Subpart T of Section 300  
23 of Title 77 of the Illinois Administrative Code; and

1 (v) the facility must participate in the Department of  
2 Public Aid's demonstration program relating to specialized  
3 services, training, technical assistance, development and  
4 use of a standardized assessment tool, data collection, and  
5 admission restrictions; a facility's participation in this  
6 demonstration program must be prior to January 1, 2011 in  
7 order to be defined as a mental health rehabilitation  
8 facility for the mentally ill under this Act.

9 "Facility" does not include the following:

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

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

20 (3) Any "facility for child care" as defined in the  
21 Child Care Act of 1969;

22 (4) Any "community living facility" as defined in the  
23 Community Living Facilities Licensing Act;

24 (5) Any "community residential alternative" as defined  
25 in the Community Residential Alternatives Licensing Act;

26 (6) Any nursing home or sanatorium operated solely by

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

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

11 (8) Any "supportive residence" licensed under the  
12 Supportive Residences Licensing Act;

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

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

21 (11) An Alzheimer's disease management center  
22 alternative health care model licensed under the  
23 Alternative Health Care Delivery Act;

24 (12) A home, institution, or other place operated by or  
25 under the authority of the Illinois Department of Veterans'  
26 Affairs; or

1           (13) Any facility licensed under the MR/DD Community  
2           Care Act.

3           (14) Any facility licensed under the Nursing Home Care  
4           Act.

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

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

14          Section 1-114.01. Identified offender. "Identified  
15          offender" means a person who has been convicted of any felony  
16          offense listed in Section 25 of the Health Care Worker  
17          Background Check Act, is a registered sex offender, or is  
18          serving a term of parole, mandatory supervised release, or  
19          probation for a felony offense.

20          Section 1-114.1. Immediate family. "Immediate family"  
21          means the spouse, an adult child, a parent, an adult brother or  
22          sister, or an adult grandchild of a person.



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

3           Section 1-116. Maintenance. "Maintenance" means food,  
4 shelter, and laundry services.

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

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

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

18          Section 1-119. Owner. "Owner" means the individual,  
19 partnership, corporation, association, or other person who  
20 owns a facility. In the event a facility is operated by a

1 person who leases the physical plant, which is owned by another  
2 person, "owner" means the person who operates the facility,  
3 except that if the person who owns the physical plant is an  
4 affiliate of the person who operates the facility and has  
5 significant control over the day to day operations of the  
6 facility, the person who owns the physical plant shall incur  
7 jointly and severally with the owner all liabilities imposed on  
8 an owner under this Act.

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

17 Section 1-120.3. Provisional admission period.  
18 "Provisional admission period" means the time between the  
19 admission of an identified offender as defined in Section  
20 1-114.01 and 3 days following the admitting facility's receipt  
21 of an Identified Offender Report and Recommendation in  
22 accordance with Section 2-201.6.

23 Section 1-120.7. Psychiatric services rehabilitation aide.

1 "Psychiatric services rehabilitation aide" means an individual  
2 employed by a long-term care facility to provide, for mentally  
3 ill residents, at a minimum, crisis intervention,  
4 rehabilitation, and assistance with activities of daily  
5 living.

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

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

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

17 Section 1-124. "Sheltered care" means maintenance and  
18 personal care.

19 Section 1-125. Stockholder. "Stockholder" of a corporation  
20 means any person who, directly or indirectly, beneficially  
21 owns, holds or has the power to vote, at least 5% of any class

1 of securities issued by the corporation.

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

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

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

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

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

20 Section 1-128. Transfer. "Transfer" means a change in  
21 status of a resident's living arrangements from one facility to  
22 another facility.

1           Section 1-129. Type 'A' violation. A "Type 'A' violation"  
2 means a violation of this Act or of the rules promulgated  
3 thereunder which creates a condition or occurrence relating to  
4 the operation and maintenance of a facility that (i) creates a  
5 substantial probability that the risk of death or serious  
6 mental or physical harm to a resident may result therefrom or  
7 (ii) has resulted in actual physical or mental harm to a  
8 resident.

9           Section 1-130. Type 'B' violation. A "Type 'B' violation"  
10 means a violation of this Act or of the rules promulgated  
11 thereunder which creates a condition or occurrence relating to  
12 the operation and maintenance of a facility directly  
13 threatening to the health, safety, or welfare of a resident.

14                           ARTICLE II. RIGHTS AND RESPONSIBILITIES

15   PART 1. RESIDENT RIGHTS

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

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

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

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

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

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

7 Section 2-104. Medical treatment; records.

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

21 Section 2-104.3. Serious mental illness; rescreening. All  
22 persons admitted to a nursing home facility with a diagnosis of  
23 serious mental illness who remain in the facility for a period  
24 of 90 days shall be re-screened by the Department of Human  
25 Services or its designee at the end of the 90-day period, at 6

1 months, and annually thereafter to assess their continuing need  
2 for nursing facility care and shall be advised of all other  
3 available care options.

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

11 Section 2-106. Restraints and confinements.

12 (a) For purposes of this Act:

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

21 (ii) A chemical restraint is any drug used for  
22 discipline or convenience and not required to treat medical  
23 symptoms. The Department shall by rule, designate certain  
24 devices as restraints, including at least all those devices

1           which have been determined to be restraints by the United  
2           States Department of Health and Human Services in  
3           interpretive guidelines issued for the purposes of  
4           administering Titles XVIII and XIX of the Social Security  
5           Act.

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

18          (c) A restraint may be used only with the informed consent  
19          of the resident, the resident's guardian, or other authorized  
20          representative. A restraint may be used only for specific  
21          periods, if it is the least restrictive means necessary to  
22          attain and maintain the resident's highest practicable  
23          physical, mental or psychosocial well being, including brief  
24          periods of time to provide necessary life saving treatment. A  
25          restraint may be used only after consultation with appropriate  
26          health professionals, such as occupational or physical

1 therapists, and a trial of less restrictive measures has led to  
2 the determination that the use of less restrictive measures  
3 would not attain or maintain the resident's highest practicable  
4 physical, mental or psychosocial well being. However, if the  
5 resident needs emergency care, restraints may be used for brief  
6 periods to permit medical treatment to proceed unless the  
7 facility has notice that the resident has previously made a  
8 valid refusal of the treatment in question.

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

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

25 (f) Whenever a restraint is used on a resident whose  
26 primary mode of communication is sign language, the resident

1 shall be permitted to have his or her hands free from restraint  
2 for brief periods each hour, except when this freedom may  
3 result in physical harm to the resident or others.

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

8 Section 2-106.1. Drug treatment.

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

20 (b) Psychotropic medication shall not be prescribed  
21 without the informed consent of the resident, the resident's  
22 guardian, or other authorized representative. "Psychotropic  
23 medication" means medication that is used for or listed as used  
24 for antipsychotic, antidepressant, antimanic, or antianxiety  
25 behavior modification or behavior management purposes in the



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

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

1 medication, certifying the personal knowledge of each health  
2 care professional that the consent was obtained in compliance  
3 with the requirements of this subsection.

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

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

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

22 Section 2-108. Communications; visits; married residents.  
23 Every resident shall be permitted unimpeded, private, and

1 uncensored communication of his or her choice by mail, public  
2 telephone, or visitation.

3 (a) The administrator shall ensure that correspondence is  
4 conveniently received and mailed, and that telephones are  
5 reasonably accessible.

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

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

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

1 examination by facility personnel.

2 (e) The administrator shall ensure that married residents  
3 residing in the same facility be allowed to reside in the same  
4 room within the facility unless there is no room available in  
5 the facility or it is deemed medically inadvisable by the  
6 residents' attending physician and so documented in the  
7 residents' medical records.

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

15 Section 2-110. Access to residents.

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

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

24 (2) Inform residents of their rights and entitlements

1 and their corresponding obligations, under federal and  
2 State laws, by means of educational materials and  
3 discussions in groups and with individual residents;

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

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

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

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

1 visit by a person having access to the resident's living area  
2 under this Section.

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

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

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

1 responsibility for the resident's care, safety or well being.

2 Section 2-112. Grievances. A resident shall be permitted to  
3 present grievances on behalf of himself or herself or others to  
4 the administrator, the residents' advisory council, State  
5 governmental agencies or other persons without threat of  
6 discharge or reprisal in any form or manner whatsoever. The  
7 administrator shall provide all residents or their  
8 representatives with the name, address, and telephone number of  
9 the appropriate State governmental office where complaints may  
10 be lodged.

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

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

20 PART 2. RESPONSIBILITIES

21 Section 2-201. Residents' funds. To protect the residents'

1 funds, the facility:

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

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

26 (3) Shall maintain and allow, in order of priority, each



1 resident or the resident's guardian, if any, or the resident's  
2 representative, if any, or the resident's immediate family  
3 member, if any, access to a written record of all financial  
4 arrangements and transactions involving the individual  
5 resident's funds.

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

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

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

25 (7) Shall deposit any funds received from a resident in  
26 excess of \$100 in an interest bearing account insured by

1 agencies of, or corporations chartered by, the State or federal  
2 government. The account shall be in a form which clearly  
3 indicates that the facility has only a fiduciary interest in  
4 the funds and any interest from the account shall accrue to the  
5 resident. The facility may keep up to \$100 of a resident's  
6 money in a non-interest-bearing account or petty cash fund, to  
7 be readily available for the resident's current expenditures.

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

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

1           (10) Unless otherwise provided by State law, upon the death  
2 of a resident, shall provide the executor or administrator of  
3 the resident's estate with a complete accounting of all the  
4 resident's personal property, including any funds of the  
5 resident being held by the facility.

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

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

15           Section 2-201.5. Screening prior to admission.

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

1 be done by agencies other than the Department as established by  
2 administrative rule. This Section applies on and after July 1,  
3 1996. No later than October 1, 2011, the Department of  
4 Healthcare and Family Services, in collaboration with the  
5 Department on Aging, the Department of Human Services, and the  
6 Department of Public Health, shall file administrative rules  
7 providing for the gathering, during the screening process, of  
8 information relevant to determining each person's potential  
9 for placing other residents, employees, and visitors at risk of  
10 harm.

11 (a-1) Any screening performed pursuant to subsection (a) of  
12 this Section shall include a determination of whether any  
13 person is being considered for admission to a nursing facility  
14 due to a need for mental health services. For a person who  
15 needs mental health services, the screening shall also include  
16 an evaluation of whether there is permanent supportive housing,  
17 or an array of community mental health services, including but  
18 not limited to supported housing, assertive community  
19 treatment, and peer support services, that would enable the  
20 person to live in the community. The person shall be told about  
21 the existence of any such services that would enable the person  
22 to live safely and humanely and about available appropriate  
23 nursing home services that would enable the person to live  
24 safely and humanely, and the person shall be given the  
25 assistance necessary to avail himself or herself of any  
26 available services.

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

12 For any person entering a nursing facility, the  
13 pre-screening agent shall make specific recommendations about  
14 what care and services the individual needs to receive,  
15 beginning at admission, to attain or maintain the individual's  
16 highest level of independent functioning and to live in the  
17 most integrated setting appropriate for his or her physical and  
18 personal care and developmental and mental health needs. These  
19 recommendations shall be revised as appropriate by the  
20 pre-screening or re-screening agent based on the results of  
21 resident review and in response to changes in the resident's  
22 wishes, needs, and interest in transition.

23 Upon the person entering the nursing facility, the  
24 Department of Human Services or its designee shall assist the  
25 person in establishing a relationship with a community mental  
26 health agency or other appropriate agencies in order to (i)

1 promote the person's transition to independent living and (ii)  
2 support the person's progress in meeting individual goals.

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

19 (b) In addition to the screening required by subsection  
20 (a), a facility, except for those licensed as long term care  
21 for under age 22 facilities, shall, within 24 hours after  
22 admission, request a criminal history background check  
23 pursuant to the Uniform Conviction Information Act for all  
24 persons age 18 or older seeking admission to the facility,  
25 unless a background check was initiated by a hospital pursuant  
26 to subsection (d) of Section 6.09 of the Hospital Licensing

1 Act. Background checks conducted pursuant to this Section shall  
2 be based on the resident's name, date of birth, and other  
3 identifiers as required by the Department of State Police. If  
4 the results of the background check are inconclusive, the  
5 facility shall initiate a fingerprint-based check, unless the  
6 fingerprint check is waived by the Director of Public Health  
7 based on verification by the facility that the resident is  
8 completely immobile or that the resident meets other criteria  
9 related to the resident's health or lack of potential risk  
10 which may be established by Departmental rule. A waiver issued  
11 pursuant to this Section shall be valid only while the resident  
12 is immobile or while the criteria supporting the waiver exist.  
13 The facility shall provide for or arrange for any required  
14 fingerprint-based checks to be taken on the premises of the  
15 facility. If a fingerprint-based check is required, the  
16 facility shall arrange for it to be conducted in a manner that  
17 is respectful of the resident's dignity and that minimizes any  
18 emotional or physical hardship to the resident.

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

23 (1) Immediately notify the Department of State Police,  
24 in the form and manner required by the Department of State  
25 Police, in collaboration with the Department of Public  
26 Health, that the resident is an identified offender.

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

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

16           All name-based and fingerprint-based criminal history  
17 record inquiries shall be submitted to the Department of State  
18 Police electronically in the form and manner prescribed by the  
19 Department of State Police. The Department of State Police may  
20 charge the facility a fee for processing name-based and  
21 fingerprint-based criminal history record inquiries. The fee  
22 shall be deposited into the State Police Services Fund. The fee  
23 shall not exceed the actual cost of processing the inquiry.

24           (d) (Blank).

25           (e) The Department shall develop and maintain a  
26 de-identified database of residents who have injured facility



1 staff, facility visitors, or other residents, and the attendant  
2 circumstances, solely for the purposes of evaluating and  
3 improving resident pre-screening and assessment procedures  
4 (including the Criminal History Report prepared under Section  
5 2-201.6) and the adequacy of Department requirements  
6 concerning the provision of care and services to residents. A  
7 resident shall not be listed in the database until a Department  
8 survey confirms the accuracy of the listing. The names of  
9 persons listed in the database and information that would allow  
10 them to be individually identified shall not be made public.  
11 Neither the Department nor any other agency of State government  
12 may use information in the database to take any action against  
13 any individual, licensee, or other entity, unless the  
14 Department or agency receives the information independent of  
15 this subsection (e). All information collected, maintained, or  
16 developed under the authority of this subsection (e) for the  
17 purposes of the database maintained under this subsection (e)  
18 shall be treated in the same manner as information that is  
19 subject to Part 21 of Article VIII of the Code of Civil  
20 Procedure.

21 Section 2-201.6. Criminal History Report.

22 (a) The Department of State Police shall prepare a Criminal  
23 History Report when it receives information, through the  
24 criminal history background check required pursuant to  
25 subsection (d) of Section 6.09 of the Hospital Licensing Act or

1 subsection (c) of Section 2-201.5, or through any other means,  
2 that a resident of a facility is an identified offender.

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

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

9 (1) (Blank).

10 (2) (Blank).

11 (3) (Blank).

12 (3.5) Copies of the identified offender's parole,  
13 mandatory supervised release, or probation orders.

14 (4) An interview with the identified offender.

15 (5) (Blank).

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

20 (7) If the identified offender is a convicted or  
21 registered sex offender, a review of any and all sex  
22 offender evaluations conducted on that offender. If there  
23 is no sex offender evaluation available, the Department of  
24 State Police shall arrange, through the Department of  
25 Public Health, for a sex offender evaluation to be  
26 conducted on the identified offender. If the convicted or

1 registered sex offender is under supervision by the  
2 Illinois Department of Corrections or a county probation  
3 department, the sex offender evaluation shall be arranged  
4 by and at the expense of the supervising agency. All  
5 evaluations conducted on convicted or registered sex  
6 offenders under this Act shall be conducted by sex offender  
7 evaluators approved by the Sex Offender Management Board.

8 (d) The Department of State Police shall provide the  
9 Criminal History Report to a licensed forensic psychologist.  
10 After (i) consideration of the Criminal History Report, (ii)  
11 consultation with the facility administrator or the facility  
12 medical director, or both, regarding the mental and physical  
13 condition of the identified offender, and (iii) reviewing the  
14 facility's file on the identified offender, including all  
15 incident reports, all information regarding medication and  
16 medication compliance, and all information regarding previous  
17 discharges or transfers from other facilities, the licensed  
18 forensic psychologist shall prepare an Identified Offender  
19 Report and Recommendation. The Identified Offender Report and  
20 Recommendation shall detail whether and to what extent the  
21 identified offender's criminal history necessitates the  
22 implementation of security measures within the long-term care  
23 facility. If the identified offender is a convicted or  
24 registered sex offender or if the Identified Offender Report  
25 and Recommendation reveals that the identified offender poses a  
26 significant risk of harm to others within the facility, the

1 offender shall be required to have his or her own room within  
2 the facility.

3 (e) The licensed forensic psychologist shall complete the  
4 Identified Offender Report and Recommendation within 14  
5 business days after receiving the Criminal History Report and  
6 shall promptly provide the Identified Offender Report and  
7 Recommendation to the Department of State Police, which shall  
8 provide the Identified Offender Report and Recommendation to  
9 the following:

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

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

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

15 (4) The Department of Public Health.

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

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

24 (g) If, based on the Identified Offender Report and  
25 Recommendation, a facility determines that it cannot manage the  
26 identified offender resident safely within the facility, it

1 shall commence involuntary transfer or discharge proceedings  
2 pursuant to Section 3-402.

3 (h) Except for willful and wanton misconduct, any person  
4 authorized to participate in the development of a Criminal  
5 History Report or Identified Offender Report and  
6 Recommendation is immune from criminal or civil liability for  
7 any acts or omissions as the result of his or her good faith  
8 effort to comply with this Section.

9 Section 2-202. Contract required.

10 (a) Before a person is admitted to a facility, or at the  
11 expiration of the period of previous contract, or when the  
12 source of payment for the resident's care changes from private  
13 to public funds or from public to private funds, a written  
14 contract shall be executed between a licensee and the following  
15 in order of priority:

16 (1) the person, or if the person is a minor, his parent  
17 or guardian; or

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

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

22 An adult person shall be presumed to have the capacity to  
23 contract for admission to a long term care facility unless he  
24 or she has been adjudicated a "disabled person" within the  
25 meaning of Section 11a-2 of the Probate Act of 1975, or unless

1 a petition for such an adjudication is pending in a circuit  
2 court of Illinois.

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

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

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

26 (b) A resident shall not be discharged or transferred at

1 the expiration of the term of a contract, except as provided in  
2 Sections 3-401 through 3-423.

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

7 (d) A copy of the contract for a resident who is supported  
8 by nonpublic funds other than the resident's own funds shall be  
9 made available to the person providing the funds for the  
10 resident's support.

11 (e) The original or a copy of the contract shall be  
12 maintained in the facility and be made available upon request  
13 to representatives of the Department and the Department of  
14 Healthcare and Family Services.

15 (f) The contract shall be written in clear and unambiguous  
16 language and shall be printed in not less than 12-point type.  
17 The general form of the contract shall be prescribed by the  
18 Department.

19 (g) The contract shall specify:

20 (1) the term of the contract;

21 (2) the services to be provided under the contract and  
22 the charges for the services;

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

25 (4) the sources liable for payments due under the  
26 contract;

1 (5) the amount of deposit paid; and

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

6 (h) The contract shall designate the name of the resident's  
7 representative, if any. The resident shall provide the facility  
8 with a copy of the written agreement between the resident and  
9 the resident's representative which authorizes the resident's  
10 representative to inspect and copy the resident's records and  
11 authorizes the resident's representative to execute the  
12 contract on behalf of the resident required by this Section.

13 (i) The contract shall provide that if the resident is  
14 compelled by a change in physical or mental health to leave the  
15 facility, the contract and all obligations under it shall  
16 terminate on 7 days' notice. No prior notice of termination of  
17 the contract shall be required, however, in the case of a  
18 resident's death. The contract shall also provide that in all  
19 other situations, a resident may terminate the contract and all  
20 obligations under it with 30 days' notice. All charges shall be  
21 prorated as of the date on which the contract terminates, and,  
22 if any payments have been made in advance, the excess shall be  
23 refunded to the resident. This provision shall not apply to  
24 life care contracts through which a facility agrees to provide  
25 maintenance and care for a resident throughout the remainder of  
26 his life nor to continuing care contracts through which a



1 facility agrees to supplement all available forms of financial  
2 support in providing maintenance and care for a resident  
3 throughout the remainder of his or her life.

4 (j) In addition to all other contract specifications  
5 contained in this Section admission contracts shall also  
6 specify:

7 (1) whether the facility accepts Medicaid clients;

8 (2) whether the facility requires a deposit of the  
9 resident or his or her family prior to the establishment of  
10 Medicaid eligibility;

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

15 (4) that all deposits made to a facility by a resident,  
16 or on behalf of a resident, shall be returned by the  
17 facility within 30 days of the establishment of Medicaid  
18 eligibility, unless such deposits must be drawn upon or  
19 encumbered in accordance with Medicaid eligibility  
20 requirements established by the Department of Healthcare  
21 and Family Services.

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

25 Section 2-203. Residents' advisory council. Each facility

1 shall establish a residents' advisory council. The  
2 administrator shall designate a member of the facility staff to  
3 coordinate the establishment of, and render assistance to, the  
4 council.

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

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

12 (c) Records of the council meetings will be maintained in  
13 the office of the administrator.

14 (d) The residents' advisory council may communicate to the  
15 administrator the opinions and concerns of the residents. The  
16 council shall review procedures for implementing resident  
17 rights, facility responsibilities and make recommendations for  
18 changes or additions which will strengthen the facility's  
19 policies and procedures as they affect residents' rights and  
20 facility responsibilities.

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

22 (1) Obtaining and disseminating information;

23 (2) Soliciting and adopting recommendations for  
24 facility programing and improvements;

25 (3) Early identification and for recommending orderly  
26 resolution of problems.

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

4           Section 2-204. Mental Health Rehabilitation Facility  
5 Advisory Board. The Director shall appoint a Mental Health  
6 Rehabilitation Facility Advisory Board to consult with the  
7 Department and the residents' advisory councils created under  
8 Section 2-203.

9           (a) The Board shall be comprised of the following persons:

10           (1) The Director who shall serve as chairman, ex  
11 officio and nonvoting; and

12           (2) One representative each of the Department of  
13 Healthcare and Family Services, the Department of Human  
14 Services, the Department on Aging, and the Office of the  
15 State Fire Marshal, all nonvoting members;

16           (3) One member who shall be a physician licensed to  
17 practice medicine in all its branches;

18           (4) One member who shall be a registered nurse selected  
19 from the recommendations of professional nursing  
20 associations;

21           (5) Four members who shall be selected from the  
22 recommendations by organizations whose membership consists  
23 of facilities;

24           (6) Two members who shall represent the general public  
25 who are not members of a residents' advisory council

1 established under Section 2-203 and who have no  
2 responsibility for management or formation of policy or  
3 financial interest in a facility;

4 (7) One member who is a member of a residents' advisory  
5 council established under Section 2-203 and is capable of  
6 actively participating on the Board; and

7 (8) One member who shall be selected from the  
8 recommendations of consumer organizations which engage  
9 solely in advocacy or legal representation on behalf of  
10 residents and their immediate families.

11 (b) The terms of those members of the Board appointed prior  
12 to the effective date of this amendatory Act of 1988 shall  
13 expire on December 31, 1988. Members of the Board created by  
14 this amendatory Act of 1988 shall be appointed to serve for  
15 terms as follows: 3 for 2 years, 3 for 3 years and 3 for 4  
16 years. The member of the Board added by this amendatory Act of  
17 1989 shall be appointed to serve for a term of 4 years. Each  
18 successor member shall be appointed for a term of 4 years. Any  
19 member appointed to fill a vacancy occurring prior to the  
20 expiration of the term for which his predecessor was appointed  
21 shall be appointed for the remainder of such term. The Board  
22 shall meet as frequently as the chairman deems necessary, but  
23 not less than 4 times each year. Upon request by 4 or more  
24 members the chairman shall call a meeting of the Board. The  
25 affirmative vote of 6 members of the Board shall be necessary  
26 for Board action. A member of the Board can designate a

1 replacement to serve at the Board meeting and vote in place of  
2 the member by submitting a letter of designation to the  
3 chairman prior to or at the Board meeting. The Board members  
4 shall be reimbursed for their actual expenses incurred in the  
5 performance of their duties.

6 (c) The Advisory Board shall advise the Department of  
7 Public Health on all aspects of its responsibilities under this  
8 Act, including the format and content of any rules promulgated  
9 by the Department of Public Health. Any such rules, except  
10 emergency rules promulgated pursuant to Section 5-45 of the  
11 Illinois Administrative Procedure Act, promulgated without  
12 obtaining the advice of the Advisory Board are null and void.  
13 In the event that the Department fails to follow the advice of  
14 the Board, the Department shall, prior to the promulgation of  
15 such rules, transmit a written explanation of the reason  
16 thereof to the Board. During its review of rules, the Board  
17 shall analyze the economic and regulatory impact of those  
18 rules. If the Advisory Board, having been asked for its advice,  
19 fails to advise the Department within 90 days, the rules shall  
20 be considered acted upon.

21 Section 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 has been designated a distressed  
10 facility and the basis for the designation, and reports  
11 concerning a facility prepared pursuant to Titles XVIII and  
12 XIX of the Social Security Act, subject to the provisions  
13 of the 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.

1           The Department shall disclose information under this  
2 Section in accordance with provisions for inspection and  
3 copying of public records required by the Freedom of  
4 Information Act.

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

8           Section 2-206. Confidentiality of records.

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

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

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

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

1 Directory shall contain, at a minimum, the following  
2 information:

3 (1) The name and address of the facility;

4 (2) The number and type of licensed beds;

5 (3) The name of the cooperating hospital, if any;

6 (4) The name of the administrator;

7 (5) The facility telephone number; and

8 (6) Membership in a provider association and  
9 accreditation by any such organization.

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

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

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

22 Section 2-210. Policies and procedures. A facility shall  
23 establish written policies and procedures to implement the



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

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

24 If a resident is unable to read such written explanation,  
25 it shall be read to the resident in a language the resident

1 understands. In the case of a minor or a person having a  
2 guardian or other person acting for him or her, both the  
3 resident and the parent, guardian or other person acting for  
4 the resident shall be fully informed of these rights.

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

9 Section 2-213. Vaccinations.

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

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

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

22 (c) All persons seeking admission to a nursing facility  
23 shall be verbally screened for risk factors associated with  
24 hepatitis B, hepatitis C, and the Human Immunodeficiency Virus  
25 (HIV) according to guidelines established by the U.S. Centers  
26 for Disease Control and Prevention. Persons who are identified

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

16 Section 2-214. Consumer Choice Information Reports.

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

24 (b) A violation of any of the provisions of this Section  
25 constitutes an unlawful practice under the Consumer Fraud and

1 Deceptive Business Practices Act. All remedies, penalties, and  
2 authority granted to the Attorney General by the Consumer Fraud  
3 and Deceptive Business Practices Act shall be available to him  
4 or her for the enforcement of this Section.

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

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

22 Section 2-217. Order for transportation of resident by  
23 ambulance. If a facility orders transportation of a resident of  
24 the facility by ambulance, the facility must maintain a written

1 record that shows (i) the name of the person who placed the  
2 order for that transportation and (ii) the medical reason for  
3 that transportation. The facility must maintain the record for  
4 a period of at least 3 years after the date of the order for  
5 transportation by ambulance.

6 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND  
7 REMEDIES

8 PART 1. LICENSING

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

12 (1) Protecting the health, welfare, and safety of  
13 residents; and

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

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

1 any person be placed in, or directly or indirectly cause any  
2 person to be placed in any facility which is being operated  
3 without a valid license. All licenses and licensing procedures  
4 established under the Nursing Home Care Act shall be deemed  
5 valid under this Act until the Department establishes licenses  
6 and licensing procedures and initiates the licenses and  
7 licensing procedures under this Act.

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

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

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

23 (2) All license applications shall be accompanied with  
24 an application fee. The fee for an annual license shall be

1           \$1,990. The fee for a 2-year license shall be double the  
2           fee for the annual license. The fees collected shall be  
3           deposited with the State Treasurer into the Long Term Care  
4           Monitor/Receiver Fund, which has been created as a special  
5           fund in the State treasury. This special fund is to be used  
6           by the Department for expenses related to the appointment  
7           of monitors and receivers as contained in Sections 3-501  
8           through 3-517. At the end of each fiscal year, any funds in  
9           excess of \$1,000,000 held in the Long Term Care  
10          Monitor/Receiver Fund shall be deposited in the State's  
11          General Revenue Fund. The application shall be under oath  
12          and the submission of false or misleading information shall  
13          be a Class A misdemeanor. The application shall contain the  
14          following information:

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

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

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



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

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

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

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

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

15           Section 3-105. Reports by municipality. Any city, village,  
16  or incorporated town which has or may have ordinances requiring  
17  the licensing and regulation of facilities with at least the  
18  minimum standards established by the Department under this Act,  
19  shall make such periodic reports to the Department as the  
20  Department deems necessary. This report shall include a list of  
21  those facilities licensed by such municipality, the number of  
22  beds of each facility, and the date the license of each  
23  facility is effective.

24           Section 3-106. Issuance of license to holder of municipal

1 license.

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

13 (b) In the event that the standards and requirements under  
14 the ordinance or resolution of the municipality are greater  
15 than those prescribed under this Act, the license issued by the  
16 Department shall remain in effect pending reasonable  
17 opportunity provided by the municipality, which shall be not  
18 less than 60 days, for the licensee to comply with the local  
19 requirements. Upon notice by the municipality, or upon the  
20 Department's own determination that the licensee has failed to  
21 qualify for a local license, the Department shall revoke such  
22 license.

23 Section 3-107. Inspection; fees. The Department and the  
24 city, village, or incorporated town shall have the right at any  
25 time to visit and inspect the premises and personnel of any

1 facility for the purpose of determining whether the applicant  
2 or licensee is in compliance with this Act or with the local  
3 ordinances which govern the regulation of the facility. The  
4 Department may survey any former facility which once held a  
5 license to ensure that the facility is not again operating  
6 without a license. Municipalities may charge a reasonable  
7 license or renewal fee for the regulation of facilities, which  
8 fees shall be in addition to the fees paid to the Department.

9 Section 3-107.1. Access by law enforcement officials and  
10 agencies. Notwithstanding any other provision of this Act, the  
11 Attorney General, the State's Attorneys, and various law  
12 enforcement agencies of this State and its political  
13 subdivisions shall have full and open access to any facility  
14 pursuant to Article 108 of the Code of Criminal Procedure of  
15 1963 in the exercise of their investigatory and prosecutorial  
16 powers in the enforcement of the criminal laws of this State.  
17 Furthermore, the Attorney General, the State's Attorneys and  
18 law enforcement agencies of this State shall inform the  
19 Department of any violations of this Act of which they have  
20 knowledge. Disclosure of matters before a grand jury shall be  
21 made in accordance with Section 112-6 of the Code of Criminal  
22 Procedure of 1963.

23 Section 3-108. Cooperation with State agencies. The  
24 Department shall coordinate the functions within State

1 government affecting facilities licensed under this Act and  
2 shall cooperate with other State agencies which establish  
3 standards or requirements for facilities to assure necessary,  
4 equitable, and consistent State supervision of licensees  
5 without unnecessary duplication of survey, evaluation, and  
6 consultation services or complaint investigations. The  
7 Department shall cooperate with the Department of Human  
8 Services in regard to facilities containing more than 20% of  
9 residents for whom the Department of Human Services has  
10 mandated follow up responsibilities under the Mental Health and  
11 Developmental Disabilities Administrative Act. The Department  
12 shall cooperate with the Department of Healthcare and Family  
13 Services in regard to facilities where recipients of public aid  
14 are residents. The Department shall immediately refer to the  
15 Department of Financial and Professional Regulation (as  
16 successor to the Department of Professional Regulation) for  
17 investigation any credible evidence of which it has knowledge  
18 that an individual licensed by that Department has violated  
19 this Act or any rule issued under this Act. The Department  
20 shall enter into agreements with other State Departments,  
21 agencies or commissions to effectuate the purpose of this  
22 Section.

23 Section 3-109. Issuance of license based on Director's  
24 findings. Upon receipt and review of an application for a  
25 license made under this Article and inspection of the applicant

1 facility under this Article, the Director shall issue a license  
2 if he or she finds:

3 (1) That the individual applicant, or the corporation,  
4 partnership or other entity if the applicant is not an  
5 individual, is a person responsible and suitable to operate  
6 or to direct or participate in the operation of a facility  
7 by virtue of financial capacity, appropriate business or  
8 professional experience, a record of compliance with  
9 lawful orders of the Department and lack of revocation of a  
10 license during the previous 5 years;

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

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

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

19 (a) Any license granted by the Director shall state the  
20 maximum bed capacity for which it is granted, the date the  
21 license was issued, and the expiration date. Except as provided  
22 in subsection (b), such licenses shall normally be issued for a  
23 period of one year. However, the Director may issue licenses or  
24 renewals for periods of not less than 6 months nor more than 18  
25 months for facilities with annual licenses and not less than 18

1 months nor more than 30 months for facilities with 2-year  
2 licenses in order to distribute the expiration dates of such  
3 licenses throughout the calendar year, and fees for such  
4 licenses shall be prorated on the basis of the portion of a  
5 year for which they are issued. Each license shall be issued  
6 only for the premises and persons named in the application and  
7 shall not be transferable or assignable.

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

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

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

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

17 (3) has not had an inspection, survey, or evaluation  
18 that resulted in the issuance of 10 or more administrative  
19 warnings in the last 24 months;

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

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

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

5           If a facility with a 2-year license fails to meet the  
6           conditions in items (1) through (6) of this subsection, in  
7           addition to any other sanctions that may be applied by the  
8           Department under this Act, the facility's 2-year license shall  
9           be replaced by a one year license until such time as the  
10          facility again meets the conditions in items (1) through (6) of  
11          this subsection.

12          Section 3-111. Issuance or renewal of license after notice  
13          of violation. The issuance or renewal of a license after notice  
14          of a violation has been sent shall not constitute a waiver by  
15          the Department of its power to rely on the violation as the  
16          basis for subsequent license revocation or other enforcement  
17          action under this Act arising out of the notice of violation.

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

19          (a) Whenever ownership of a facility is transferred from  
20          the person named in the license to any other person, the  
21          transferee must obtain a new probationary license. The  
22          transferee shall notify the Department of the transfer and  
23          apply for a new license at least 30 days prior to final  
24          transfer.



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

5           Section 3-113. Transferee; conditional license. The  
6 license granted to the transferee shall be subject to the plan  
7 of correction submitted by the previous owner and approved by  
8 the Department and any conditions contained in a conditional  
9 license issued to the previous owner. If there are outstanding  
10 violations and no approved plan of correction has been  
11 implemented, the Department may issue a conditional license and  
12 plan of correction as provided in Sections 3-311 through 3-317.  
13 The license granted to a transferee for a facility that is in  
14 receivership shall be subject to any contractual obligations  
15 assumed by a grantee under the Equity in Long-term Care Quality  
16 Act and to the plan submitted by the receiver for continuing  
17 and increasing adherence to best practices in providing  
18 high-quality nursing home care, unless the grant is repaid,  
19 under conditions to be determined by rule by the Department in  
20 its administration of the Equity in Long-term Care Quality Act.

21           Section 3-114. Transferor liable for penalties. The  
22 transferor shall remain liable for all penalties assessed  
23 against the facility which are imposed for violations occurring  
24 prior to transfer of ownership.

1           Section 3-115. License renewal application. At least 120  
2 days but not more than 150 days prior to license expiration,  
3 the licensee shall submit an application for renewal of the  
4 license in such form and containing such information as the  
5 Department requires. If the application is approved, the  
6 license shall be renewed in accordance with Section 3-110. If  
7 application for renewal is not timely filed, the Department  
8 shall so inform the licensee.

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

23           Section 3-117. Denial of license; grounds. An application

1 for a license may be denied for any of the following reasons:

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

5 (2) Conviction of the applicant, or if the applicant is  
6 a firm, partnership or association, of any of its members,  
7 or if a corporation, the conviction of the corporation or  
8 any of its officers or stockholders, or of the person  
9 designated to manage or supervise the facility, of a  
10 felony, or of 2 or more misdemeanors involving moral  
11 turpitude, during the previous 5 years as shown by a  
12 certified copy of the record of the court of conviction.

13 (3) Personnel insufficient in number or unqualified by  
14 training or experience to properly care for the proposed  
15 number and type of residents.

16 (4) Insufficient financial or other resources to  
17 operate and conduct the facility in accordance with  
18 standards promulgated by the Department under this Act and  
19 with contractual obligations assumed by a recipient of a  
20 grant under the Equity in Long-term Care Quality Act and  
21 the plan (if applicable) submitted by a grantee for  
22 continuing and increasing adherence to best practices in  
23 providing high-quality nursing home care.

24 (5) Revocation of a facility license during the  
25 previous 5 years, if such prior license was issued to the  
26 individual applicant, a controlling owner or controlling

1 combination of owners of the applicant; or any affiliate of  
2 the individual applicant or controlling owner of the  
3 applicant and such individual applicant, controlling owner  
4 of the applicant or affiliate of the applicant was a  
5 controlling owner of the prior license; provided, however,  
6 that the denial of an application for a license pursuant to  
7 this subsection must be supported by evidence that such  
8 prior revocation renders the applicant unqualified or  
9 incapable of meeting or maintaining a facility in  
10 accordance with the standards and rules promulgated by the  
11 Department under this Act.

12 (6) That the facility is not under the direct  
13 supervision of a full time administrator, as defined by  
14 regulation, who is licensed, if required, under the Nursing  
15 Home Administrators Licensing and Disciplinary Act.

16 (7) That the facility is in receivership and the  
17 proposed licensee has not submitted a specific detailed  
18 plan to bring the facility into compliance with the  
19 requirements of this Act and with federal certification  
20 requirements, if the facility is certified, and to keep the  
21 facility in such compliance.

22 Section 3-118. Notice of denial; request for hearing.  
23 Immediately upon the denial of any application or reapplication  
24 for a license under this Article, the Department shall notify  
25 the applicant in writing. Notice of denial shall include a

1 clear and concise statement of the violations of Section 3-117  
2 on which denial is based and notice of the opportunity for a  
3 hearing under Section 3-703. If the applicant desires to  
4 contest the denial of a license, it shall provide written  
5 notice to the Department of a request for a hearing within 10  
6 days after receipt of the notice of denial. The Department  
7 shall commence the hearing under Section 3-703.

8 Section 3-119. Suspension, revocation, or refusal to renew  
9 license.

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

13 (1) There has been a substantial failure to comply with  
14 this Act or the rules and regulations promulgated by the  
15 Department under this Act. A substantial failure by a  
16 facility shall include, but not be limited to, any of the  
17 following:

18 (A) termination of Medicare or Medicaid  
19 certification by the Centers for Medicare and Medicaid  
20 Services; or

21 (B) a failure by the facility to pay any fine  
22 assessed under this Act after the Department has sent  
23 to the facility at least 2 notices of assessment that  
24 include a schedule of payments as determined by the  
25 Department, taking into account extenuating

1           circumstances and financial hardships of the facility.

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

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

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

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

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

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

23          (c) If a facility desires to contest the nonrenewal or  
24          revocation of a license, the facility shall, within 10 days  
25          after receipt of notice under subsection (b) of this Section,  
26          notify the Department in writing of its request for a hearing

1 under Section 3-703. Upon receipt of the request the Department  
2 shall send notice to the facility and hold a hearing as  
3 provided under Section 3-703.

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

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

10 (2) Until otherwise ordered by the circuit court,  
11 nonrenewal is effective on the date of expiration of any  
12 existing license, or upon final action after hearing under  
13 Section 3-703, whichever is later; however, a license shall  
14 not be deemed to have expired if the Department fails to  
15 timely respond to a timely request for renewal under this  
16 Act or for a hearing to contest nonrenewal under paragraph  
17 (c).

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

21 The Department may refuse to issue or may suspend the  
22 license of any person who fails to file a return, or to pay the  
23 tax, penalty or interest shown in a filed return, or to pay any  
24 final assessment of tax, penalty or interest, as required by  
25 any tax Act administered by the Illinois Department of Revenue,  
26 until such time as the requirements of any such tax Act are

1 satisfied.

2 PART 2. GENERAL PROVISIONS

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

7 Section 3-202. Standards for facilities. The Department  
8 shall prescribe minimum standards for facilities. These  
9 standards shall regulate:

10 (1) Location and construction of the facility,  
11 including plumbing, heating, lighting, ventilation, and  
12 other physical conditions which shall ensure the health,  
13 safety, and comfort of residents and their protection from  
14 fire hazard;

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

23 (3) All sanitary conditions within the facility and its



1 surroundings, including water supply, sewage disposal,  
2 food handling, and general hygiene, which shall ensure the  
3 health and comfort of residents;

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

7 (5) Equipment essential to the health and welfare of  
8 the residents;

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

11 (7) A program for adequate maintenance of physical  
12 plant and equipment;

13 (8) Adequate accommodations, staff and services for  
14 the number and types of residents for whom the facility is  
15 licensed to care, including standards for temperature and  
16 relative humidity within comfort zones determined by the  
17 Department based upon a combination of air temperature,  
18 relative humidity and air movement. Such standards shall  
19 also require facility plans that provide for health and  
20 comfort of residents at medical risk as determined by the  
21 attending physician whenever the temperature and relative  
22 humidity are outside such comfort zones established by the  
23 Department. The standards must include a requirement that  
24 areas of a facility used by residents of the facility be  
25 air-conditioned and heated by means of operable  
26 air-conditioning and heating equipment. The areas subject

1 to this air-conditioning and heating requirement include,  
2 without limitation, bedrooms or common areas such as  
3 sitting rooms, activity rooms, living rooms, community  
4 rooms, and dining rooms;

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

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

12 Section 3-202.05. Staffing ratios. The Department shall  
13 establish rules governing the minimum staffing level for  
14 facilities. In crafting the staffing ratios the Department  
15 shall take into account the ambulatory nature and mental health  
16 of the resident population in the facilities. The rules shall  
17 be substantially similar to the staffing ratios contained in  
18 Section 3-202.05 of the Nursing Home Care Act.

19 Section 3-202.05a. Comprehensive resident care plan. A  
20 facility, with the participation of the resident and the  
21 resident's guardian or representative, as applicable, must  
22 develop and implement a comprehensive care plan for each  
23 resident that includes measurable objectives and timetables to  
24 meet the resident's mental and psychosocial needs that are

1 identified in the resident's comprehensive assessment, that  
2 allow the resident to attain or maintain the highest  
3 practicable level of independent functioning, and that provide  
4 for discharge planning to the least restrictive setting based  
5 on 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 representative, as applicable.

8 Section 3-202.05b. Certification of specialized mental  
9 health rehabilitation facilities.

10 (a) No later than July 1, 2011, the Department shall file  
11 with the Joint Committee on Administrative Rules, pursuant to  
12 the Illinois Administrative Procedure Act, proposed rules or  
13 proposed amendments to existing rules to establish a special  
14 certification program that provides for psychiatric  
15 rehabilitation services that are required to be offered by a  
16 facility licensed under this Act that serves residents with  
17 serious mental illness. Compliance with standards promulgated  
18 pursuant to this Section must be demonstrated before a facility  
19 licensed under this Act is eligible to become certified under  
20 this Section and annually thereafter.

21 (b) No facility shall establish, operate, maintain, or  
22 offer psychiatric rehabilitation services, or admit, retain,  
23 or seek referrals of a resident with a serious mental illness  
24 diagnosis, unless and until a valid certification, which  
25 remains unsuspended, unrevoked, and unexpired, has been

1 issued.

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

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

26 (e) A facility found to be out of compliance with the

1 certification requirements under this Section may be subject to  
2 denial, revocation, or suspension of the psychiatric  
3 rehabilitation services certification or the imposition of  
4 sanctions and penalties, including the immediate suspension of  
5 new admissions. Hearings shall be conducted pursuant to Part 7  
6 of Article III of this Act.

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

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

23 (h) The Department shall establish requirements for  
24 certification that augment current quality of care standards  
25 for facilities serving residents with serious mental illness,  
26 which shall include admission, discharge planning, psychiatric

1 rehabilitation services, development of age group appropriate  
2 treatment plan goals and services, behavior management  
3 services, coordination with community mental health services,  
4 staff qualifications and training, clinical consultation,  
5 resident access to the outside community, and appropriate  
6 environment and space for resident programs, recreation,  
7 privacy, and any other issue deemed appropriate by the  
8 Department. The augmented standards shall at a minimum include,  
9 but need not be limited to, the following:

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

17 (2) The number and qualifications of consultants  
18 required to be contracted with to provide continuing  
19 education and training and to assist with program  
20 development.

21 (3) Training for all new employees specific to the care  
22 needs of residents with a serious mental illness diagnosis  
23 during their orientation period and annually thereafter.  
24 Training shall be independent of the Department and  
25 overseen by an agency designated by the Governor to  
26 determine the content of all facility employee training and

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

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

22 (5) Room selection and appropriateness of roommate  
23 assignment.

24 (6) Comprehensive quarterly review of all treatment  
25 plans for residents with serious mental illness by the  
26 resident's interdisciplinary team, which takes into

1 account, at a minimum, the resident's progress, prior  
2 assessments, and treatment plan.

3 (7) Substance abuse screening and management and  
4 documented referral relationships with certified substance  
5 abuse treatment providers.

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

11 (i) The Department shall establish a certification fee  
12 schedule by rule, in consultation with advocates, nursing  
13 homes, and representatives of associations representing long  
14 term care facilities. Rules proposed no later than July 1, 2011  
15 under this Section shall take effect 180 days after being  
16 approved by the Joint Committee on Administrative Rules.

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



1 such existing or potential weather or hazardous circumstances.

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

3 (a) Before commencing construction of a new facility or  
4 specified types of alteration or additions to an existing long  
5 term care facility involving major construction, as defined by  
6 rule by the Department, with an estimated cost greater than  
7 \$100,000, architectural drawings and specifications for the  
8 facility shall be submitted to the Department for review and  
9 approval. A facility may submit architectural drawings and  
10 specifications for other construction projects for Department  
11 review according to subsection (b) that shall not be subject to  
12 fees under subsection (d). Review of drawings and  
13 specifications shall be conducted by an employee of the  
14 Department meeting the qualifications established by the  
15 Department of Central Management Services class specifications  
16 for such an individual's position or by a person contracting  
17 with the Department who meets those class specifications. Final  
18 approval of the drawings and specifications for compliance with  
19 design and construction standards shall be obtained from the  
20 Department before the alteration, addition, or new  
21 construction is begun.

22 (b) The Department shall inform an applicant in writing  
23 within 10 working days after receiving drawings and  
24 specifications and the required fee, if any, from the applicant  
25 whether the applicant's submission is complete or incomplete.

1 Failure to provide the applicant with this notice within 10  
2 working days shall result in the submission being deemed  
3 complete for purposes of initiating the 60 day review period  
4 under this Section. If the submission is incomplete, the  
5 Department shall inform the applicant of the deficiencies with  
6 the submission in writing. If the submission is complete the  
7 required fee, if any, has been paid, the Department shall  
8 approve or disapprove drawings and specifications submitted to  
9 the Department no later than 60 days following receipt by the  
10 Department. The drawings and specifications shall be of  
11 sufficient detail, as provided by Department rule, to enable  
12 the Department to render a determination of compliance with  
13 design and construction standards under this Act. If the  
14 Department finds that the drawings are not of sufficient detail  
15 for it to render a determination of compliance, the plans shall  
16 be determined to be incomplete and shall not be considered for  
17 purposes of initiating the 60 day review period. If a  
18 submission of drawings and specifications is incomplete, the  
19 applicant may submit additional information. The 60 day review  
20 period shall not commence until the Department determines that  
21 a submission of drawings and specifications is complete or the  
22 submission is deemed complete. If the Department has not  
23 approved or disapproved the drawings and specifications within  
24 60 days, the construction, major alteration, or addition shall  
25 be deemed approved. If the drawings and specifications are  
26 disapproved, the Department shall state in writing, with

1 specificity, the reasons for the disapproval. The entity  
2 submitting the drawings and specifications may submit  
3 additional information in response to the written comments from  
4 the Department or request a reconsideration of the disapproval.  
5 A final decision of approval or disapproval shall be made  
6 within 45 days of the receipt of the additional information or  
7 reconsideration request. If denied, the Department shall state  
8 the specific reasons for the denial.

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

13 (1) the Department reviewed and approved or deemed  
14 approved the drawings and specifications for compliance  
15 with design and construction standards;

16 (2) the construction, major alteration, or addition  
17 was built as submitted;

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

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

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

26 (1) (Blank).

1 (2) (Blank).

2 (3) If the estimated dollar value of the alteration,  
3 addition, or new construction is \$100,000 or more but less  
4 than \$500,000, the fee shall be the greater of \$2,400 or  
5 1.2% of that value.

6 (4) If the estimated dollar value of the alteration,  
7 addition, or new construction is \$500,000 or more but less  
8 than \$1,000,000, the fee shall be the greater of \$6,000 or  
9 0.96% of that value.

10 (5) If the estimated dollar value of the alteration,  
11 addition, or new construction is \$1,000,000 or more but  
12 less than \$5,000,000, the fee shall be the greater of  
13 \$9,600 or 0.22% of that value.

14 (6) If the estimated dollar value of the alteration,  
15 addition, or new construction is \$5,000,000 or more, the  
16 fee shall be the greater of \$11,000 or 0.11% of that value,  
17 but shall not exceed \$40,000. The fees provided in this  
18 subsection (d) shall not apply to major construction  
19 projects involving facility changes that are required by  
20 Department rule amendments. The fees provided in this  
21 subsection (d) shall also not apply to major construction  
22 projects if 51% or more of the estimated cost of the  
23 project is attributed to capital equipment. For major  
24 construction projects where 51% or more of the estimated  
25 cost of the project is attributed to capital equipment, the  
26 Department shall by rule establish a fee that is reasonably

1 related to the cost of reviewing the project. The  
2 Department shall not commence the facility plan review  
3 process under this Section until the applicable fee has  
4 been paid.

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

18 (f) (Blank).

19 (g) The Department shall conduct an on site inspection of  
20 the completed project no later than 30 days after notification  
21 from the applicant that the project has been completed and all  
22 certifications required by the Department have been received  
23 and accepted by the Department. The Department shall provide  
24 written approval for occupancy to the applicant within 5  
25 working days of the Department's final inspection, provided the  
26 applicant has demonstrated substantial compliance as defined

1 by Department rule. Occupancy of new major construction is  
2 prohibited until Department approval is received, unless the  
3 Department has not acted within the time frames provided in  
4 this subsection (g), in which case the construction shall be  
5 deemed approved. Occupancy shall be authorized after any  
6 required health inspection by the Department has been  
7 conducted.

8 (h) The Department shall establish, by rule, a procedure to  
9 conduct interim on site review of large or complex construction  
10 projects.

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

13 (j) Nothing in this Section shall be construed to apply to  
14 maintenance, upkeep, or renovation that does not affect the  
15 structural integrity of the building, does not add beds or  
16 services over the number for which the long term care facility  
17 is licensed, and provides a reasonable degree of safety for the  
18 residents.

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

23 Section 3-204. License classifications. In addition to the  
24 authority to prescribe minimum standards, the Department may

1 adopt license classifications of facilities according to the  
2 levels of service, and if license classification is adopted the  
3 applicable minimum standards shall define the classification.  
4 In adopting classification of the license of facilities, the  
5 Department may give recognition to the classification of  
6 services defined or prescribed by federal statute or federal  
7 rule or regulation. More than one classification of the license  
8 may be issued to the same facility when the prescribed minimum  
9 standards and regulations are met.

10 Section 3-205. Municipalities; license classifications.  
11 Where licensing responsibilities are performed by a city,  
12 village or incorporated town, the municipality shall use the  
13 same classifications as the Department; and a facility may not  
14 be licensed for a different classification by the Department  
15 than by the municipality.

16 Section 3-206. Nursing assistants, habilitation aids, and  
17 child care aides. The Department shall prescribe a curriculum  
18 for training nursing assistants, habilitation aides, and child  
19 care aides.

20 (a) No person, except a volunteer who receives no  
21 compensation from a facility and is not included for the  
22 purpose of meeting any staffing requirements set forth by the  
23 Department, shall act as a nursing assistant, habilitation  
24 aide, or child care aide in a facility, nor shall any person,

1 under any other title, not licensed, certified, or registered  
2 to render medical care by the Department of Professional  
3 Regulation, assist with the personal, medical, or nursing care  
4 of residents in a facility, unless such person meets the  
5 following requirements:

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

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

12 (3) Provide evidence of employment or occupation, if  
13 any, and residence for 2 years prior to his or her present  
14 employment.

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

17 (5) Begin a current course of training for nursing  
18 assistants, habilitation aides, or child care aides,  
19 approved by the Department, within 45 days of initial  
20 employment in the capacity of a nursing assistant,  
21 habilitation aide, or child care aide at any facility. Such  
22 courses of training shall be successfully completed within  
23 120 days of initial employment in the capacity of nursing  
24 assistant, habilitation aide, or child care aide at a  
25 facility. Nursing assistants, habilitation aides, and  
26 child care aides who are enrolled in approved courses in



1 community colleges or other educational institutions on a  
2 term, semester, or trimester basis shall be exempt from the  
3 120-day completion time limit. The Department shall adopt  
4 rules for such courses of training. These rules shall  
5 include procedures for facilities to carry on an approved  
6 course of training within the facility.

7 The Department may accept comparable training in lieu  
8 of the 120-hour course for student nurses, foreign nurses,  
9 military personnel, or employes of the Department of Human  
10 Services.

11 The facility shall develop and implement procedures,  
12 which shall be approved by the Department, for an ongoing  
13 review process, which shall take place within the facility,  
14 for nursing assistants, habilitation aides, and child care  
15 aides.

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

1 written examination or action, or both, sufficient  
2 knowledge in all areas of required training.

3 (6) Be familiar with and have general skills related to  
4 resident care.

5 (a-0.5) An educational entity, other than a secondary  
6 school, conducting a nursing assistant, habilitation aide, or  
7 child care aide training program shall initiate a criminal  
8 history record check in accordance with the Health Care Worker  
9 Background Check Act prior to entry of an individual into the  
10 training program. A secondary school may initiate a criminal  
11 history record check in accordance with the Health Care Worker  
12 Background Check Act at any time during or after a training  
13 program.

14 (a-1) Nursing assistants, habilitation aides, or child  
15 care aides seeking to be included on the registry maintained  
16 under Section 3-206.01 must authorize the Department of Public  
17 Health or its designee to request a criminal history record  
18 check in accordance with the Health Care Worker Background  
19 Check Act and submit all necessary information. An individual  
20 may not newly be included on the registry unless a criminal  
21 history record check has been conducted with respect to the  
22 individual.

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

25 (c) It is unlawful for any facility to employ any person in  
26 the capacity of nursing assistant, habilitation aide, or child

1 care aide, or under any other title, not licensed by the State  
2 of Illinois to assist in the personal, medical, or nursing care  
3 of residents in such facility unless such person has complied  
4 with this Section.

5 (d) Proof of compliance by each employee with the  
6 requirements set out in this Section shall be maintained for  
7 each such employee by each facility in the individual personnel  
8 folder of the employee. Proof of training shall be obtained  
9 only from the health care worker registry.

10 (e) Each facility shall obtain access to the health care  
11 worker registry's web application, maintain the employment and  
12 demographic information relating to each employee, and verify  
13 by the category and type of employment that each employee  
14 subject to this Section meets all the requirements of this  
15 Section.

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

18 (g) Each skilled nursing and intermediate care facility  
19 that admits persons who are diagnosed as having Alzheimer's  
20 disease or related dementias shall require all nursing  
21 assistants, habilitation aides, or child care aides, who did  
22 not receive 12 hours of training in the care and treatment of  
23 such residents during the training required under paragraph (5)  
24 of subsection (a), to obtain 12 hours of in-house training in  
25 the care and treatment of such residents. If the facility does  
26 not provide the training in-house, the training shall be

1 obtained from other facilities, community colleges, or other  
2 educational institutions that have a recognized course for such  
3 training. The Department shall, by rule, establish a recognized  
4 course for such training. The Department's rules shall provide  
5 that such training may be conducted in-house at each facility  
6 subject to the requirements of this subsection, in which case  
7 such training shall be monitored by the Department.

8 The Department's rules shall also provide for  
9 circumstances and procedures whereby any person who has  
10 received training that meets the requirements of this  
11 subsection shall not be required to undergo additional training  
12 if he or she is transferred to or obtains employment at a  
13 different facility or a facility other than a long-term care  
14 facility but remains continuously employed for pay as a nursing  
15 assistant, habilitation aide, or child care aide. Individuals  
16 who have performed no nursing or nursing-related services for a  
17 period of 24 consecutive months shall be listed as "inactive"  
18 and, as such, do not meet the requirements of this Section.  
19 Licensed sheltered care facilities shall be exempt from the  
20 requirements of this Section.

21 Section 3-206.01. Health care worker registry.

22 (a) The Department shall include in the registry  
23 established under Section 3-206.01 of the Nursing Home Care Act  
24 all individuals who (i) have satisfactorily completed the  
25 training required by Section 3-206 of this Act, (ii) have begun

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

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

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

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

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

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

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

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

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

15 (4) The nursing assistant, habilitation aide, home  
16 health aide, psychiatric services rehabilitation aide, or  
17 child care aide has been convicted of (i) a felony, (ii) a  
18 misdemeanor, an essential element of which is dishonesty,  
19 or (iii) any crime that is directly related to the duties  
20 of a nursing assistant, habilitation aide, or child care  
21 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 denote any nursing assistant,  
2 habilitation aide, home health aide, psychiatric services  
3 rehabilitation aide, or child care aide on the registry who  
4 fails (i) to file a return, (ii) to pay the tax, penalty or  
5 interest shown in a filed return, or (iii) to pay any final  
6 assessment of tax, penalty or interest, as required by any tax  
7 Act administered by the Illinois Department of Revenue, until  
8 the time the requirements of the tax Act are 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,  
15 psychiatric services rehabilitation aide, or child care aide  
16 may petition the Department for removal of a designation of  
17 neglect on the registry. The Department may remove the  
18 designation of neglect of the nursing assistant, habilitation  
19 aide, home health aide, psychiatric services rehabilitation  
20 aide, or child care aide on the registry unless, after an  
21 investigation and a hearing, the Department determines that  
22 removal of designation is not in the public interest.

23           Section 3-206.03. Resident attendants.

24           (a) As used in this Section, "resident attendant" means an  
25 individual who assists residents in a facility with the



1 following activities:

2 (1) eating and drinking; and

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

7 The term "resident attendant" does not include an  
8 individual who:

9 (1) is a licensed health professional or a registered  
10 dietitian;

11 (2) volunteers without monetary compensation;

12 (3) is a nurse assistant; or

13 (4) performs any nursing or nursing related services  
14 for residents of a facility.

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

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

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

25 (2) is competent to provide feeding, hydration, and  
26 personal hygiene services.

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

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

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

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

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

13 Section 3-206.05. Safe resident handling policy.

14 (a) In this Section:

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

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

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

1 establish a process that, at a minimum, includes all of the  
2 following:

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

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

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

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

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

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

1           (7) In developing architectural plans for construction  
2           or remodeling of a facility or unit of a facility in which  
3           resident handling and movement occurs, consideration of  
4           the feasibility of incorporating resident handling  
5           equipment or the physical space and construction design  
6           needed to incorporate that equipment.

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

15          Section 3-207. Statement of ownership.

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

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

22                  (1) The name, address, telephone number, occupation or  
23                  business activity, business address and business telephone  
24                  number of the person who is the owner of the facility and

1 every person who owns the building in which the facility is  
2 located, if other than the owner of the facility, which is  
3 the subject of the application or license; and if the owner  
4 is a partnership or corporation, the name of every partner  
5 and stockholder of the owner;

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

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

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

16 Section 3-208. Annual financial statement.

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

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

1 funds shall be paid to or on behalf of a facility which has  
2 failed to file a statement.

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

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

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

1 following:

2 (1) Its current license;

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

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

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

11 Section 3-210. Materials for public inspection.

12 A facility shall retain the following for public  
13 inspection:

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

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

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

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

25 (5) A record of personnel employed or retained by the

1 facility who are licensed, certified or registered by the  
2 Department of Financial and Professional Regulation (as  
3 successor to the Department of Professional Regulation);

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

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

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

13 Section 3-212. Inspection of facility by Department;  
14 report.

15 (a) The Department, whenever it deems necessary in  
16 accordance with subsection (b), shall inspect, survey and  
17 evaluate every facility to determine compliance with  
18 applicable licensure requirements and standards. Submission of  
19 a facility's current Consumer Choice Information Report  
20 required by Section 2-214 shall be verified at the time of  
21 inspection. An inspection should occur within 120 days prior to  
22 license renewal. The Department may periodically visit a  
23 facility for the purpose of consultation. An inspection,  
24 survey, or evaluation, other than an inspection of financial



1 records, shall be conducted without prior notice to the  
2 facility. A visit for the sole purpose of consultation may be  
3 announced. The Department shall provide training to surveyors  
4 about the appropriate assessment, care planning, and care of  
5 persons with mental illness (other than Alzheimer's disease or  
6 related disorders) to enable its surveyors to determine whether  
7 a facility is complying with State and federal requirements  
8 about the assessment, care planning, and care of those persons.

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

1 after discovery of the information.

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

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

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

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

22 (c) Upon completion of each inspection, survey and  
23 evaluation, the appropriate Department personnel who conducted  
24 the inspection, survey or evaluation shall submit a copy of  
25 their report to the licensee upon exiting the facility, and  
26 shall submit the actual report to the appropriate regional

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

26 (d) The Department shall maintain all inspection, survey

1 and evaluation reports for at least 5 years in a manner  
2 accessible to and understandable by the public.

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

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

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

23 Section 3-215. Annual report on facility by Department. The

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

11 PART 3. VIOLATIONS AND PENALTIES

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

1 a penalty under Section 3-305; a conditional license under  
2 Sections 3-311 through 3-317; or license suspension or  
3 revocation under Section 3-119. The Director or his or her  
4 designee shall also inform the licensee of rights to a hearing  
5 under Section 3-703.

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

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

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

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

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

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



1 the original correction time approved.

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

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

1 comply with the particular rule or standard in question. The  
2 Department may provide, by rule, for the automatic renewal of  
3 waivers concerning physical plant requirements upon the  
4 renewal of a license. The Department shall renew waivers  
5 relating to physical plant standards issued pursuant to this  
6 Section at the time of the indicated reviews, unless it can  
7 show why such waivers should not be extended for the following  
8 reasons:

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

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

22 Section 3-303.2. Administrative warning.

23 (a) If the Department finds a situation, condition or  
24 practice which violates this Act or any rule promulgated  
25 thereunder that does not constitute a Type "AA", Type "A", Type

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

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

22 Section 3-304. Quarterly list of facilities against which  
23 Department has taken action.

24 (a) The Department shall prepare on a quarterly basis a  
25 list containing the names and addresses of all facilities

1 against which the Department during the previous quarter has:

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

4 (2) sent a notice of license revocation under Section  
5 3-119;

6 (3) sent a notice refusing renewal of a license under  
7 Section 3-119;

8 (4) sent a notice to suspend a license under Section  
9 3-119;

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

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

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

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

25 (b) In addition to the name and address of the facility,  
26 the list shall include the name and address of the person or

1 licensee against whom the action has been initiated, a self  
2 explanatory summary of the facts which warranted the initiation  
3 of each action, the type of action initiated, the date of the  
4 initiation of the action, the amount of the penalty sought to  
5 be assessed, if any, and the final disposition of the action,  
6 if completed.

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

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

10 (a) The Department must make information regarding nursing  
11 homes in the State available to the public in electronic form  
12 on the World Wide Web, including all of the following  
13 information:

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

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

17 (3) deficiencies and plans of correction;

18 (4) enforcement remedies;

19 (5) penalty letters;

20 (6) designation of penalty monies;

21 (7) the U.S. Department of Health and Human Services'  
22 Health Care Financing Administration special projects or  
23 federally required inspections;

24 (8) advisory standards;

25 (9) deficiency free surveys;

1           (10) enforcement actions and enforcement summaries;  
2           and  
3           (11) distressed facilities.

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

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

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

12          Section 3-304.2. Designation of distressed facilities.

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

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

1 substitute criteria that generate fewer facilities with a  
2 distressed designation than are produced by the General  
3 Accounting Office criteria during the test run.

4 (c) The Department shall, by rule, adopt criteria to  
5 identify non-Medicaid-certified facilities that are distressed  
6 and shall publish this list quarterly beginning October 1,  
7 2011.

8 (d) The Department shall notify each facility of its  
9 distressed designation, and of the calculation on which it is  
10 based.

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

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

1 facility that the Department determines has a plan of  
2 improvement likely to bring and keep the facility in compliance  
3 and that has demonstrated good faith efforts at implementation  
4 within the first 90 days may be eligible to receive a grant  
5 under the Equity in Long-term Care Quality Act to assist it in  
6 achieving and maintaining compliance. In this subsection,  
7 "independent" consultant means an individual who has no  
8 professional or financial relationship with the facility, any  
9 person with a reportable ownership interest in the facility, or  
10 any related parties. In this subsection, "related parties" has  
11 the meaning attributed to it in the instructions for completing  
12 Medicaid cost reports.

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

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

25 (i) The Department shall by rule establish sanctions (in  
26 addition to those authorized elsewhere in this Article) against



1 distressed facilities that are not in compliance with this Act  
2 and (if applicable) with federal certification requirements.  
3 Criteria for imposing sanctions shall take into account a  
4 facility's actions to address the violations and deficiencies  
5 that caused its designation as a distressed facility, and its  
6 compliance with this Act and with federal certification  
7 requirements (if applicable), subsequent to its designation as  
8 a distressed facility, including mandatory revocations if  
9 criteria can be agreed upon by the Department, resident  
10 advocates, and representatives of the nursing home profession.  
11 The Department shall report to the General Assembly on the  
12 results of negotiations about creating criteria for mandatory  
13 license revocations of distressed facilities and make  
14 recommendations about any statutory changes it believes are  
15 appropriate to protect the health, safety, and welfare of  
16 nursing home residents.

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

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

24 (1) A licensee who commits a Type "AA" violation as defined  
25 in Section 1-128.5 is automatically issued a conditional

1 license for a period of 6 months to coincide with an acceptable  
2 plan of correction and assessed a fine up to \$25,000 per  
3 violation.

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

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

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

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

24 (4) A licensee who fails to satisfactorily comply with an  
25 accepted plan of correction for a Type "B" violation or an  
26 administrative warning issued pursuant to Sections 3-401

1 through 3-413 or the rules promulgated thereunder shall be  
2 automatically issued a conditional license for a period of not  
3 less than 6 months. A second or subsequent acceptable plan of  
4 correction shall be filed. A fine shall be assessed in  
5 accordance with subsection (2) when cited for the repeat  
6 violation. This fine shall be computed for all days of the  
7 violation, including the duration of the first plan of  
8 correction compliance time.

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

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

24 (7) For purposes of assessing fines under this Section, a  
25 repeat violation shall be a violation which has been cited  
26 during one inspection of the facility for which an accepted

1 plan of correction was not complied with or a new citation of  
2 the same rule if the licensee is not substantially addressing  
3 the issue routinely throughout the facility. Violations of the  
4 Nursing Home Care Act and the MR/DD Community Care Act shall be  
5 deemed violations of this Act.

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

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

22 (9) If the Department finds that a facility has violated a  
23 provision of the Illinois Administrative Code that has a high  
24 risk designation, or that a facility has violated the same  
25 provision of the Illinois Administrative Code 3 or more times  
26 in the previous 12 months, the Department may assess a fine of

1 up to 2 times the maximum fine otherwise allowed.

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

8 Section 3-306. Factors to be considered in determining  
9 penalty. In determining whether a penalty is to be imposed and  
10 in determining the amount of the penalty to be imposed, if any,  
11 for a violation, the Director shall consider the following  
12 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.

1           Section 3-307. Assessment of penalties; notice. The  
2 Director may directly assess penalties provided for under  
3 Section 3-305 of this Act. If the Director determines that a  
4 penalty should be assessed for a particular violation or for  
5 failure to correct it, the Director shall send a notice to the  
6 facility. The notice shall specify the amount of the penalty  
7 assessed, the violation, and the statute or rule alleged to  
8 have been violated, and shall inform the licensee of the right  
9 to hearing under Section 3-703 of this Act. The notice must  
10 contain a detailed computation showing how the amount of the  
11 penalty was derived, including the number of days and the  
12 number of residents on which the penalty was based. If the  
13 violation is continuing, the notice shall specify the amount of  
14 additional assessment per day for the continuing violation.

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

22           In the case of a Type "B" violation or an administrative  
23 warning issued pursuant to Sections 3-401 through 3-413 or the  
24 rules promulgated thereunder, a penalty shall be assessed on  
25 the date of notice of the violation, but the Director may

1 reduce the amount or waive such payment for any of the  
2 following reasons:

3 (a) The facility submits a true report of correction  
4 within 10 days;

5 (b) The facility submits a plan of correction within 10  
6 days and subsequently submits a true report of correction  
7 within 15 days thereafter;

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

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

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

1 following factors:

2 (1) The violation has not caused actual harm to a  
3 resident.

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

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

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

10 At least annually, and upon request, the Department shall  
11 provide a list of all reallocations and the reasons for those  
12 reallocations.

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

23 If a good faith plan of correction is not received within  
24 the time provided by Section 3-303, a penalty may be assessed  
25 from the date of the notice of the Type "B" or "C" violation or  
26 an administrative warning issued pursuant to Sections 3-401



1 through 3-413 or the rules promulgated thereunder served under  
2 Section 3-301 until the date of the receipt of a good faith  
3 plan of correction, or until the date the violation is  
4 corrected, whichever is earlier. If a violation is not  
5 corrected within the time specified by an approved plan of  
6 correction or any lawful extension thereof, a penalty may be  
7 assessed from the date of notice of the violation, until the  
8 date the violation is corrected.

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

20 Section 3-310. Collection of penalties. All penalties  
21 shall be paid to the Department within 10 days of receipt of  
22 notice of assessment or, if the penalty is contested under  
23 Section 3-309, within 10 days of receipt of the final decision,  
24 unless the decision is appealed and the order is stayed by

1 court order under Section 3-713. A facility choosing to waive  
2 the right to a hearing under Section 3-309 shall submit a  
3 payment totaling 65% of the original fine amount along with the  
4 written waiver. A penalty assessed under this Act shall be  
5 collected by the Department and shall be deposited with the  
6 State Treasurer into the Long Term Care Monitor/Receiver Fund.  
7 If the person or facility against whom a penalty has been  
8 assessed does not comply with a written demand for payment  
9 within 30 days, the Director shall issue an order to do any of  
10 the following:

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

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

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

23 With the approval of the federal centers for Medicaid and  
24 Medicare services, the Director of Public Health shall set  
25 aside 50% of the federal civil monetary penalties collected  
26 each year to be used to award grants under the Equity in

1 Long-term Care Quality Act.

2 Section 3-311. Issuance of conditional license in addition  
3 to penalties. In addition to the right to assess penalties  
4 under this Act, the Director may issue a conditional license  
5 under Section 3-305 to any facility if the Director finds that  
6 either a Type "A" or Type "B" violation exists in such  
7 facility. The issuance of a conditional license shall revoke  
8 any license held by the facility.

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

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

1 notice shall inform the applicant or licensee of its right to a  
2 full hearing under Section 3-315 to contest the issuance of the  
3 conditional license.

4 Section 3-315. Hearing on conditional license or plan of  
5 correction. If the applicant or licensee desires to contest the  
6 basis for issuance of a conditional license, or the terms of  
7 the plan of correction, the applicant or licensee shall send a  
8 written request for hearing to the Department within 10 days  
9 after receipt by the applicant or licensee of the Department's  
10 notice and decision to issue a conditional license. The  
11 Department shall hold the hearing as provided under Section  
12 3-703.

13 Section 3-316. Period of conditional license. A  
14 conditional license shall be issued for a period specified by  
15 the Department, but in no event for more than one year. The  
16 Department shall periodically inspect any facility operating  
17 under a conditional license. If the Department finds  
18 substantial failure by the facility to timely correct the  
19 violations which prevented full licensure and formed the basis  
20 for the Department's decision to issue a conditional license in  
21 accordance with the required plan of correction, the  
22 conditional license may be revoked as provided under Section  
23 3-119.

1 Section 3-318. Business offenses.

2 (a) No person shall:

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

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

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

15 (4) Intentionally prevent or interfere with the  
16 preservation of evidence pertaining to any violation of  
17 this Act or the rules promulgated under this Act;

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

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

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

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

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

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

15 PART 4. DISCHARGE AND TRANSFER

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

19 (a) for medical reasons;

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

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

23 (d) for either late payment or nonpayment for the

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

22 Section 3-401.1. Medical assistance recipients.

23 (a) A facility participating in the Medical Assistance  
24 Program is prohibited from failing or refusing to retain as a  
25 resident any person because he or she is a recipient of or an

1 applicant for the Medical Assistance Program under Article V of  
2 the Illinois Public Aid Code.

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

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

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

23 (a-10) For the purposes of this Section, a recipient or  
24 applicant shall be considered a resident in the facility during  
25 any hospital stay totaling 10 days or less following a hospital  
26 admission. The Department of Healthcare and Family Services



1 shall recoup funds from a facility when, as a result of the  
2 facility's refusal to readmit a recipient after  
3 hospitalization for 10 days or less, the recipient incurs  
4 hospital bills in an amount greater than the amount that would  
5 have been paid by that Department for care of the recipient in  
6 the facility. The amount of the recoupment shall be the  
7 difference between the Department of Healthcare and Family  
8 Services' payment for hospital care and the amount that  
9 Department would have paid for care in the facility.

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

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

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

22 (b) When the transfer or discharge is mandated by the  
23 physical safety of other residents, the facility staff, or  
24 facility visitors, as documented in the clinical record. The  
25 Department shall be notified prior to any such involuntary

1 transfer or discharge. The Department shall immediately offer  
2 transfer, or discharge and relocation assistance to residents  
3 transferred or discharged under this subparagraph (b), and the  
4 Department may place relocation teams as provided in Section  
5 3-419 of this Act.

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

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

20 (a) The stated reason for the proposed transfer or  
21 discharge;

22 (b) The effective date of the proposed transfer or  
23 discharge;

24 (c) A statement in not less than 12 point type, which  
25 reads: "You have a right to appeal the facility's decision to

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

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

16 (e) The name, address, and telephone number of the person  
17 charged with the responsibility of supervising the transfer or  
18 discharge.

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

1           Section 3-405. Copy of notice in resident's record; copy to  
2 Department. A copy of the notice required by Section 3-402  
3 shall be placed in the resident's clinical record and a copy  
4 shall be transmitted to the Department, the resident, the  
5 resident's representative, and, if the resident's care is paid  
6 for in whole or part through Title XIX, the Department of  
7 Healthcare and Family Services.

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

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

1           Section 3-408. Discussion of planned transfer or  
2 discharge. The planned involuntary transfer or discharge shall  
3 be discussed with the resident, the resident's representative  
4 and person or agency responsible for the resident's placement,  
5 maintenance, and care in the facility. The explanation and  
6 discussion of the reasons for involuntary transfer or discharge  
7 shall include the facility administrator or other appropriate  
8 facility representative as the administrator's designee. The  
9 content of the discussion and explanation shall be summarized  
10 in writing and shall include the names of the individuals  
11 involved in the discussions and made a part of the resident's  
12 clinical record.

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

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

1           Section 3-411. Hearing; time. The Department of Public  
2 Health, when the basis for involuntary transfer or discharge is  
3 other than action by the Department of Healthcare and Family  
4 Services with respect to the Title XIX Medicaid recipient,  
5 shall hold a hearing at the resident's facility not later than  
6 10 days after a hearing request is filed, and render a decision  
7 within 14 days after the filing of the hearing request.

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

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

23           Section 3-414. Continuation of medical assistance funding.

1 The Department of Healthcare and Family Services shall continue  
2 Title XIX Medicaid funding during the appeal, transfer, or  
3 discharge period for those residents who are recipients of  
4 assistance under Title XIX of the Social Security Act affected  
5 by Section 3-401.

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

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

11 (b) The Department has suspended, revoked or refused to  
12 renew the license of the facility as provided under Section  
13 3-119;

14 (c) The facility has requested the aid of the Department in  
15 the transfer or discharge of the resident and the Department  
16 finds that the resident consents to transfer or discharge;

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

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

22 Section 3-416. Transfer or discharge by Department;  
23 likelihood of serious harm. In deciding to transfer or  
24 discharge a resident from a facility under Section 3-415, the

1 Department shall consider the likelihood of serious harm which  
2 may result if the resident remains in the facility.

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

23 When the Department provides information on available  
24 alternative placements in community-based settings for  
25 individuals being discharged or transferred from facilities



1 licensed under this Act, the information must include a  
2 comprehensive list of a range of appropriate, client-oriented  
3 services and the name of and contact information for the ADA  
4 coordinator in the relocation locale. The comprehensive list  
5 must include the name and contact information for each agency  
6 or organization providing those services and a summary of the  
7 services provided by each agency or organization. A hotline or  
8 similar crisis telephone number must also be provided to  
9 individuals relocating into the community.

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

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

20 Section 3-420. Transfer or discharge by Department;  
21 notice. In any transfer or discharge conducted under Sections  
22 3-415 through 3-418 the Department shall do the following:

23 (a) Provide written notice to the facility prior to the

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

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

1 transfer or discharge plan or alternative placement.

2 Section 3-421. Notice of emergency. In any transfer or  
3 discharge conducted under subsection (e) of Section 3-415, the  
4 Department shall notify the facility and any resident to be  
5 removed that an emergency has been found to exist and removal  
6 has been ordered, and shall involve the residents in removal  
7 planning if possible. Following emergency removal, the  
8 Department shall provide written notice to the facility, to the  
9 resident, to the resident's representative, if any, and to a  
10 member of the resident's family, where practicable, of the  
11 basis for the finding that an emergency existed and of the  
12 right to challenge removal under Section 3-422.

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

1 resident transferred or discharged may be held liable for the  
2 charge for care which would have been made had the resident  
3 remained in the facility. If a resident prevails, the resident  
4 may file a claim against the State under the Court of Claims  
5 Act for any excess expenses directly caused by the order to  
6 transfer or discharge. The Department shall assist the resident  
7 in returning to the facility if assistance is requested.

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

1 may place a relocation team in the facility as provided under  
2 Section 3-419.

3 PART 5. MONITORS AND RECEIVERSHIP

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

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

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

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

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

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

1           (f) The facility has been designated a distressed  
2 facility by the Department and does not have a consultant  
3 employed pursuant to paragraph (f) of Section 3-304.2 and  
4 an acceptable plan of improvement, or the Department has  
5 reason to believe the facility is not complying with the  
6 plan of improvement. Nothing in this paragraph (f) shall  
7 preclude the Department from placing a monitor in a  
8 facility if otherwise justified by law.

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

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

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

1 receiver.

2 Section 3-504. Hearing on petition for receiver; grounds  
3 for appointment of receiver. The court shall hold a hearing  
4 within 5 days of the filing of the petition. The petition and  
5 notice of the hearing shall be served on the owner,  
6 administrator or designated agent of the facility as provided  
7 under the Civil Practice Law, or the petition and notice of  
8 hearing shall be posted in a conspicuous place in the facility  
9 not later than 3 days before the time specified for the  
10 hearing, unless a different period is fixed by order of the  
11 court. The court shall appoint a receiver if it finds that:

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

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

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

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

23 Section 3-505. Emergency; time for hearing. If a petition  
24 filed under Section 3-503 alleges that the conditions set out

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

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

18 Section 3-507. Health, safety, and welfare of residents.  
19 The receiver shall make provisions for the continued health,  
20 safety and welfare of all residents of the facility.

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

23 (a) Shall exercise those powers and shall perform those



1 duties set out by the court.

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

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

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

24 (e) May correct or eliminate any deficiency in the  
25 structure or furnishings of the facility which endangers the  
26 safety or health of residents while they remain in the

1 facility, provided the total cost of correction does not exceed  
2 \$3,000. The court may order expenditures for this purpose in  
3 excess of \$3,000 on application from the receiver after notice  
4 to the owner and hearing.

5 (f) May let contracts and hire agents and employees to  
6 carry out the powers and duties of the receiver under this  
7 Section.

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

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

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

26 (j) Shall be entitled to and shall take possession of all

1 property or assets of residents which are in the possession of  
2 a facility or its owner. The receiver shall preserve all  
3 property, assets and records of residents of which the receiver  
4 takes possession and shall provide for the prompt transfer of  
5 the property, assets and records to the new placement of any  
6 transferred resident.

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

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

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

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

1           (c) A payment to the receiver of any sum owing to the  
2 facility or its owner shall discharge any obligation to the  
3 facility to the extent of the payment.

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

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

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

1 the hearing. Payment by the receiver of the amount determined  
2 by the court to be reasonable is a defense to any action  
3 against the receiver for payment or for possession of the goods  
4 or real estate subject to the lease, security interest or  
5 mortgage involved by any person who received such notice, but  
6 the payment does not relieve the owner of the facility of any  
7 liability for the difference between the amount paid by the  
8 receiver and the amount due under the original lease, security  
9 interest or mortgage involved.

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

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

22 Section 3-513. Action against receiver.

23 (a) In any action or special proceeding brought against a

1 receiver in the receiver's official capacity for acts committed  
2 while carrying out powers and duties under this Article, the  
3 receiver shall be considered a public employee under the Local  
4 Governmental and Governmental Employees Tort Immunity Act, as  
5 now or hereafter amended.

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

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

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

15 Section 3-515. Termination of receivership. The court may  
16 terminate a receivership:

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

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

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

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

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

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

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

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

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

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

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

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

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

25           Section 3-517. Civil and criminal liability during



1 receivership. Nothing in this Act shall be deemed to relieve  
2 any owner, administrator or employee of a facility placed in  
3 receivership of any civil or criminal liability incurred, or  
4 any duty imposed by law, by reason of acts or omissions of the  
5 owner, administrator, or employee prior to the appointment of a  
6 receiver; nor shall anything contained in this Act be construed  
7 to suspend during the receivership any obligation of the owner,  
8 administrator, or employee for payment of taxes or other  
9 operating and maintenance expenses of the facility nor of the  
10 owner, administrator, employee or any other person for the  
11 payment of mortgages or liens. The owner shall retain the right  
12 to sell or mortgage any facility under receivership, subject to  
13 approval of the court which ordered the receivership

14 PART 6. DUTIES

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

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

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

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

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

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

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

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

20           Section 3-609. Immunity from liability for making report.  
21 Any person, institution or agency, under this Act,  
22 participating in good faith in the making of a report, or in  
23 the investigation of such a report shall not be deemed to have

1 violated any privileged communication and shall have immunity  
2 from any liability, civil, criminal or any other proceedings,  
3 civil or criminal as a consequence of making such report. The  
4 good faith of any persons required to report, or permitted to  
5 report, cases of suspected resident abuse or neglect under this  
6 Act, shall be presumed.

7 Section 3-610. Duty to report violations.

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

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

1 agents may dismiss or otherwise retaliate against a facility  
2 employee or agent who reports the theft or misappropriation of  
3 a resident's property under this subsection.

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

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

20 PART 7. COMPLAINT, HEARING, AND APPEAL

21 Section 3-701. Public nuisance; action for injunction. The  
22 operation or maintenance of a facility in violation of this

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

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

17 (a) A person who believes that this Act or a rule  
18 promulgated under this Act may have been violated may request  
19 an investigation. The request may be submitted to the  
20 Department in writing, by telephone, or by personal visit. An  
21 oral complaint shall be reduced to writing by the Department.  
22 The Department shall request information identifying the  
23 complainant, including the name, address and telephone number,  
24 to help enable appropriate follow up. The Department shall act  
25 on such complaints via on-site visits or other methods deemed

1 appropriate to handle the complaints with or without such  
2 identifying information, as otherwise provided under this  
3 Section. The complainant shall be informed that compliance with  
4 such request is not required to satisfy the procedures for  
5 filing a complaint under this Act.

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

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

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

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

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

19 (e) In all cases, the Department shall inform the  
20 complainant of its findings within 10 days of its determination  
21 unless otherwise indicated by the complainant, and the  
22 complainant may direct the Department to send a copy of such  
23 findings to another person. The Department's findings may  
24 include comments or documentation provided by either the  
25 complainant or the licensee pertaining to the complaint. The  
26 Department shall also notify the facility of such findings



1 within 10 days of the determination, but the name of the  
2 complainant or residents shall not be disclosed in this notice  
3 to the facility. The notice of such findings shall include a  
4 copy of the written determination; the correction order, if  
5 any; the warning notice, if any; the inspection report; or the  
6 State licensure form on which the violation is listed.

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

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

25 (h) Any person who knowingly transmits a false report to  
26 the Department commits the offense of disorderly conduct under

1 subsection (a) (8) of Section 26-1 of the Criminal Code of 1961.

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

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

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

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

1           (c) The Department shall commence the hearing within 30  
2 days of the receipt of request for hearing. The hearing shall  
3 proceed as expeditiously as practicable, but in all cases shall  
4 conclude within 90 days of commencement.

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

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

22           Section 3-707. Findings of fact; decision. The Director or  
23 hearing officer shall make findings of fact in such hearing,

1 and the Director shall render his or her decision within 30  
2 days after the termination of the hearing, unless additional  
3 time not to exceed 90 days is required by him or her for a  
4 proper disposition of the matter. When the hearing has been  
5 conducted by a hearing officer, the Director shall review the  
6 record and findings of fact before rendering a decision. All  
7 decisions rendered by the Director shall be binding upon and  
8 complied with by the Department, the facility or the persons  
9 involved in the hearing, as appropriate to each case.

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

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

1           Section 3-710. Compelling obedience to subpoena. In cases  
2 of refusal of a witness to attend or testify or to produce  
3 books or papers, concerning any matter upon which he might be  
4 lawfully examined, the circuit court of the county wherein the  
5 hearing is held, upon application of any party to the  
6 proceeding, may compel obedience by a proceeding for contempt  
7 as in cases of a like refusal to obey a similar order of the  
8 court.

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

23           Section 3-712. Certification of record; fee. The

1 Department shall not be required to certify any record or file  
2 any answer or otherwise appear in any proceeding for judicial  
3 review under Section 3-713 of this Act unless the party filing  
4 the complaint deposits with the clerk of the court the sum of  
5 95 cents per page, representing the costs of such  
6 certification. Failure on the part of the plaintiff to make  
7 such deposit shall be grounds for dismissal of the action;  
8 provided, however, that persons proceeding in forma pauperis  
9 with the approval of the circuit court shall not be required to  
10 pay these fees.

11 Section 3-713. Judicial review; stay of enforcement of  
12 Department's decision.

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

21 (b) The court may stay enforcement of the Department's  
22 final decision or toll the continuing accrual of a penalty  
23 under Section 3-305 if a showing is made that there is a  
24 substantial probability that the party seeking review will  
25 prevail on the merits and will suffer irreparable harm if a

1 stay is not granted, and that the facility will meet the  
2 requirements of this Act and the rules promulgated under this  
3 Act during such stay. Where a stay is granted the court may  
4 impose such conditions on the granting of the stay as may be  
5 necessary to safeguard the lives, health, rights, safety and  
6 welfare of residents, and to assure compliance by the facility  
7 with the requirements of this Act, including an order for  
8 transfer or discharge of residents under Sections 3-401 through  
9 3-423 or for appointment of a receiver under Sections 3-501  
10 through 3-517.

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

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

#### 20 PART 8. MISCELLANEOUS PROVISIONS

21 Section 3-801. Rules and regulations. The Department shall  
22 have the power to adopt rules and regulations to carry out the  
23 purpose of this Act.

1           Section 3-801.05. Rules adopted under prior law. The  
2 Department shall adopt rules to implement the changes  
3 concerning licensure of facilities under this Act instead of  
4 under the Nursing Home Care Act. Until the Department adopts  
5 those rules, the rules adopted under the Nursing Home Care Act  
6 that apply to facilities subject to licensure under this Act  
7 shall continue to apply to those facilities.

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

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

20           Section 3-804. Report to General Assembly. The Department  
21 shall report to the General Assembly by April 1 of each year  
22 upon the performance of its inspection, survey and evaluation



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

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

12 Section 3-808.5. Nursing home fraud, abuse, and neglect  
13 prevention and reporting.

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

23 (b) Any owner or licensee of a long-term care facility  
24 licensed under this Act shall be responsible for the collection

1 and maintenance of any and all records required to be  
2 maintained under this Section and any other applicable  
3 provisions of this Act, and as a provider under the Illinois  
4 Public Aid Code, and shall be responsible for compliance with  
5 all of the disclosure requirements under this Section. All  
6 books and records and other papers and documents that are  
7 required to be kept, and all records showing compliance with  
8 all of the disclosure requirements to be made pursuant to this  
9 Section, shall be kept at the facility and shall, at all times  
10 during business hours, be subject to inspection by any law  
11 enforcement or health oversight agency or its duly authorized  
12 agents or employees.

13 (c) Any report of abuse and neglect of residents made by  
14 any individual in whatever manner, including, but not limited  
15 to, reports made under Sections 2-107 and 3-610 of this Act, or  
16 as provided under the Abused and Neglected Long Term Care  
17 Facility Residents Reporting Act, that is made to an  
18 administrator, a director of nursing, or any other person with  
19 management responsibility at a long-term care facility must be  
20 disclosed to the owners and licensee of the facility within 24  
21 hours of the report. The owners and licensee of a long-term  
22 care facility shall maintain all records necessary to show  
23 compliance with this disclosure requirement.

24 (d) Any person with an ownership interest in a long-term  
25 care facility licensed by the Department must, within 30 days  
26 of the effective date of this Act, disclose the existence of

1 any ownership interest in any vendor who does business with the  
2 facility. The disclosures required by this subsection shall be  
3 made in the form and manner prescribed by the Department.  
4 Licensed long-term care facilities who receive Medicaid  
5 funding shall submit a copy of the disclosures required by this  
6 subsection to the Illinois Medicaid Fraud Control Unit. The  
7 owners and licensee of a long-term care facility shall maintain  
8 all records necessary to show compliance with this disclosure  
9 requirement.

10 (e) Notwithstanding the provisions of Section 3-318 of this  
11 Act, and in addition thereto, any person, owner, or licensee  
12 who willfully fails to keep and maintain, or willfully fails to  
13 produce for inspection, books and records, or willfully fails  
14 to make the disclosures required by this Section, is guilty of  
15 a Class A misdemeanor. A second or subsequent violation of this  
16 Section shall be punishable as a Class 4 felony.

17 (f) Any owner or licensee who willfully files or willfully  
18 causes to be filed a document with false information with the  
19 Department, the Department of Healthcare and Family Services,  
20 or the Illinois Medicaid Fraud Control Unit or any other law  
21 enforcement agency, is guilty of a Class A misdemeanor.

22 Section 3-809. Rules to implement changes. In developing  
23 rules and regulations to implement this Act, the Department  
24 shall seek the input of advocates for long term care facility  
25 residents, representatives of associations representing

1 long-term care facilities, and representatives of associations  
2 representing employees of long-term care facilities.

3 Section 3-810. Whistleblower protection.

4 (a) In this Section, "retaliatory action" means the  
5 reprimand, discharge, suspension, demotion, denial of  
6 promotion or transfer, or change in the terms and conditions of  
7 employment of any employee of a facility that is taken in  
8 retaliation for the employee's involvement in a protected  
9 activity as set forth in paragraphs (1) through (3) of  
10 subsection (b).

11 (b) A facility shall not take any retaliatory action  
12 against an employee of the facility, including a nursing home  
13 administrator, because the employee does any of the following:

14 (1) Discloses or threatens to disclose to a supervisor  
15 or to a public body an activity, inaction, policy, or  
16 practice implemented by a facility that the employee  
17 reasonably believes is in violation of a law, rule, or  
18 regulation.

19 (2) Provides information to or testifies before any  
20 public body conducting an investigation, hearing, or  
21 inquiry into any violation of a law, rule, or regulation by  
22 a nursing home administrator.

23 (3) Assists or participates in a proceeding to enforce  
24 the provisions of this Act.

25 (c) A violation of this Section may be established only

1 upon a finding that (i) the employee of the facility engaged in  
2 conduct described in subsection (b) of this Section and (ii)  
3 this conduct was a contributing factor in the retaliatory  
4 action alleged by the employee. There is no violation of this  
5 Section, however, if the facility demonstrates by clear and  
6 convincing evidence that it would have taken the same  
7 unfavorable personnel action in the absence of that conduct.

8 (d) The employee of the facility may be awarded all  
9 remedies necessary to make the employee whole and to prevent  
10 future violations of this Section. Remedies imposed by the  
11 court may include, but are not limited to, all of the  
12 following:

13 (1) Reinstatement of the employee to either the same  
14 position held before the retaliatory action or to an  
15 equivalent position.

16 (2) Two times the amount of back pay.

17 (3) Interest on the back pay.

18 (4) Reinstatement of full fringe benefits and  
19 seniority rights.

20 (5) Payment of reasonable costs and attorney's fees.

21 (e) Nothing in this Section shall be deemed to diminish the  
22 rights, privileges, or remedies of an employee of a facility  
23 under any other federal or State law, rule, or regulation or  
24 under any employment contract.

1           Section 4-101. Cooperative arrangements. The Department  
2 shall enter into one or more cooperative arrangements with the  
3 Illinois Department of Public Aid, the Department on Aging, the  
4 Office of the State Fire Marshal, and any other appropriate  
5 entity for the purpose of developing a single survey for  
6 nursing facilities, including, but not limited to, facilities  
7 funded under Title XVIII or Title XIX of the federal Social  
8 Security Act, or both, which shall be administered and  
9 conducted solely by the Department. The Departments shall test  
10 the single survey process on a pilot basis, with both the  
11 Departments of Public Aid and Public Health represented on the  
12 consolidated survey team. After the pilot period ends, unless  
13 otherwise determined by the Governor, a single survey shall be  
14 implemented by the Department of Public Health that would not  
15 preclude staff from the Department of Healthcare and Family  
16 Services (formerly Department of Public Aid) from going on-site  
17 to nursing facilities to perform necessary audits and reviews  
18 which shall not replicate the single State agency survey  
19 required by this Act. This Article shall not apply to community  
20 or intermediate care facilities for the developmentally  
21 disabled.

22           Section 4-102. Standards of payment; Department of  
23 Healthcare and Family Services. The Department of Healthcare  
24 and Family Services shall develop standards of payment of

1 specialized mental health rehabilitation facilities providing  
2 such services under this Article which:

3 (1) Provide for the determination of a facility's  
4 payment for services on a prospective basis. The amount of  
5 the payment rate for all facilities certified by the  
6 Department of Public Health under the Act as mental health  
7 rehabilitation facilities for the mentally ill under the  
8 medical assistance program shall be prospectively  
9 established annually on the basis of historical,  
10 financial, and statistical data reflecting actual costs  
11 from prior years, which shall be applied to the current  
12 rate year and updated for inflation, except that the  
13 capital cost element for newly constructed facilities  
14 shall be based upon projected budgets.

15 For facilities licensed by the Department of Public  
16 Health under this Act, the methodologies in effect for  
17 facilities licensed under the Nursing Home Care Act shall  
18 be deemed in effect for facilities licensed under this Act.

19 (2) Shall take into account the actual costs incurred  
20 by facilities in providing services for recipients of under  
21 the medical assistance program.

22 (3) Shall take into account the medical and psycho  
23 social characteristics and needs of the patients.

24 (4) Shall take into account the actual costs incurred  
25 by facilities in meeting licensing and certification  
26 standards imposed and prescribed by the State of Illinois,

1 any of its political subdivisions or municipalities and by  
2 the U.S. Department of Health and Human Services pursuant  
3 to Title XIX of the Social Security Act.

4 The Department of Healthcare and Family Services shall  
5 develop precise standards for payments to reimburse facilities  
6 for any utilization of appropriate rehabilitative personnel  
7 for the provision of rehabilitative services which is  
8 authorized by federal regulations, including reimbursement for  
9 services provided by qualified therapists or qualified  
10 assistants, and which is in accordance with accepted  
11 professional practices. Reimbursement also may be made for  
12 utilization of other supportive personnel under appropriate  
13 supervision.

14 Section 4-103. Elements of payment rate.

15 (a) The Department of Healthcare and Family Services shall  
16 develop a prospective method for determining payment rates for  
17 specialized mental health rehabilitation facilities composed  
18 of the following cost elements:

19 (1) Standard Services, with the cost of this component  
20 being determined by taking into account the actual costs to  
21 the facilities of these services subject to cost ceilings  
22 to be defined in the Department's rules.

23 (2) Resident Services, with the cost of this component  
24 being determined by taking into account the actual costs,  
25 needs and utilization of these services, as derived from an



1 assessment of the resident needs in the facilities.

2 (3) Ancillary Services, with the payment rate being  
3 developed for each individual type of service. Payment  
4 shall be made only when authorized under procedures  
5 developed by the Department of Healthcare and Family  
6 Services.

7 (4) Nurse's Aide Training, with the cost of this  
8 component being determined by taking into account the  
9 actual cost to the facilities of such training.

10 (5) Real Estate Taxes, with the cost of this component  
11 being determined by taking into account the figures  
12 contained in the most currently available cost reports  
13 (with no imposition of maximums) updated to the midpoint of  
14 the current rate year for long-term care services.

15 (b) In developing a prospective method for determining  
16 payment rates for services in facilities, the Department of  
17 Healthcare and Family Services shall consider the following  
18 cost elements:

19 (1) Reasonable capital cost determined by utilizing  
20 incurred interest rate and the current value of the  
21 investment, including land, utilizing composite rates, or  
22 by utilizing such other reasonable cost related methods  
23 determined by the Department. The Department shall be  
24 prohibited from establishing, including, and implementing  
25 any depreciation factor in calculating the capital cost  
26 element.

1           (2) Profit, with the actual amount being produced and  
2           accruing to the providers in the form of a return on their  
3           total investment, on the basis of their ability to  
4           economically and efficiently deliver a type of service. The  
5           method of payment may assure the opportunity for a profit,  
6           but shall not guarantee or establish a specific amount as a  
7           cost.

8           (c) The Department may implement the amendatory changes to  
9           this Section made by this Act through the use of emergency  
10          rules in accordance with the provisions of Section 5.02 of the  
11          Illinois Administrative Procedure Act. For purposes of the  
12          Illinois Administrative Procedure Act, the adoption of rules to  
13          implement this Section shall be deemed an emergency and  
14          necessary for the public interest, safety and welfare.

15          (d) The Department of Public Healthcare and Family Services  
16          shall utilize existing rules regarding payment for appropriate  
17          services, including care planning, discharge planning, and  
18          treatment provided by facilities prior to the effective date of  
19          this Act.

20          Section 4-104. Cost reports; audits. The Department of  
21          Healthcare and Family Services shall work with the Department  
22          of Public Health to use cost report information currently being  
23          collected under provisions of this Act. The Department of  
24          Healthcare and Family Services may, in conjunction with the  
25          Department of Public Health, develop in accordance with

1 generally accepted accounting principles a uniform chart of  
2 accounts which each facility providing services under the  
3 medical assistance program shall adopt, after a reasonable  
4 period.

5 Facilities that provide services to clients eligible for  
6 medical assistance under this Article are responsible for  
7 submitting the required annual cost report to the Department of  
8 Healthcare and Family Services.

9 The Department of Healthcare and Family Services shall  
10 audit the financial and statistical records of each provider  
11 participating in the medical assistance program as a facility  
12 over a 3-year period, beginning with the close of the first  
13 cost reporting year. Following the end of this 3-year term,  
14 audits of the financial and statistical records will be  
15 performed each year in at least 20% of the facilities  
16 participating in the medical assistance program with at least  
17 10% being selected on a random sample basis, and the remainder  
18 selected on the basis of exceptional profiles. All audits shall  
19 be conducted in accordance with generally accepted auditing  
20 standards.

21 The Department of Healthcare and Family Services shall  
22 establish prospective payment rates for categories of service  
23 needed within the nursing facility levels of services, in order  
24 to more appropriately recognize the individual needs of  
25 patients in nursing facilities.

26 The Department of Healthcare and Family Services shall

1 provide, during the process of establishing the payment rate  
2 for services, or when a substantial change in rates is  
3 proposed, an opportunity for public review and comment on the  
4 proposed rates prior to their becoming effective.

5 ARTICLE 90. AMENDATORY PROVISIONS

6 Section 90-5. The Election Code is amended by changing  
7 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,  
8 19-12.1, and 19-12.2 as follows:

9 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

10 Sec. 3-3. Every honorably discharged soldier or sailor who  
11 is an inmate of any soldiers' and sailors' home within the  
12 State of Illinois, any person who is a resident of a facility  
13 licensed or certified pursuant to the Nursing Home Care Act,  
14 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
15 Community Care Act, or any person who is a resident of a  
16 community-integrated living arrangement, as defined in Section  
17 3 of the Community-Integrated Living Arrangements Licensure  
18 and Certification Act, for 30 days or longer, and who is a  
19 citizen of the United States and has resided in this State and  
20 in the election district 30 days next preceding any election  
21 shall be entitled to vote in the election district in which any  
22 such home or community-integrated living arrangement in which  
23 he is an inmate or resident is located, for all officers that

1 now are or hereafter may be elected by the people, and upon all  
2 questions that may be submitted to the vote of the people:  
3 Provided, that he shall declare upon oath, that it was his bona  
4 fide intention at the time he entered said home or  
5 community-integrated living arrangement to become a resident  
6 thereof.

7 (Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10;  
8 96-1000, eff. 7-2-10.)

9 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

10 Sec. 4-6.3. The county clerk may establish a temporary  
11 place of registration for such times and at such locations  
12 within the county as the county clerk may select. However, no  
13 temporary place of registration may be in operation during the  
14 27 days preceding an election. Notice of the time and place of  
15 registration under this Section shall be published by the  
16 county clerk in a newspaper having a general circulation in the  
17 county not less than 3 nor more than 15 days before the holding  
18 of such registration.

19 Temporary places of registration shall be established so  
20 that the areas of concentration of population or use by the  
21 public are served, whether by facilities provided in places of  
22 private business or in public buildings or in mobile units.  
23 Areas which may be designated as temporary places of  
24 registration include, but are not limited to, facilities  
25 licensed or certified pursuant to the Nursing Home Care Act, l

1 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
2 Community Care Act, Soldiers' and Sailors' Homes, shopping  
3 centers, business districts, public buildings and county  
4 fairs.

5 Temporary places of registration shall be available to the  
6 public not less than 2 hours per year for each 1,000 population  
7 or fraction thereof in the county.

8 All temporary places of registration shall be manned by  
9 deputy county clerks or deputy registrars appointed pursuant to  
10 Section 4-6.2.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

13 Sec. 4-10. Except as herein provided, no person shall be  
14 registered, unless he applies in person to a registration  
15 officer, answers such relevant questions as may be asked of him  
16 by the registration officer, and executes the affidavit of  
17 registration. The registration officer shall require the  
18 applicant to furnish two forms of identification, and except in  
19 the case of a homeless individual, one of which must include  
20 his or her residence address. These forms of identification  
21 shall include, but not be limited to, any of the following:  
22 driver's license, social security card, public aid  
23 identification card, utility bill, employee or student  
24 identification card, lease or contract for a residence, credit  
25 card, or a civic, union or professional association membership

1 card. The registration officer shall require a homeless  
2 individual to furnish evidence of his or her use of the mailing  
3 address stated. This use may be demonstrated by a piece of mail  
4 addressed to that individual and received at that address or by  
5 a statement from a person authorizing use of the mailing  
6 address. The registration officer shall require each applicant  
7 for registration to read or have read to him the affidavit of  
8 registration before permitting him to execute the affidavit.

9 One of the registration officers or a deputy registration  
10 officer, county clerk, or clerk in the office of the county  
11 clerk, shall administer to all persons who shall personally  
12 apply to register the following oath or affirmation:

13 "You do solemnly swear (or affirm) that you will fully and  
14 truly answer all such questions as shall be put to you touching  
15 your name, place of residence, place of birth, your  
16 qualifications as an elector and your right as such to register  
17 and vote under the laws of the State of Illinois."

18 The registration officer shall satisfy himself that each  
19 applicant for registration is qualified to register before  
20 registering him. If the registration officer has reason to  
21 believe that the applicant is a resident of a Soldiers' and  
22 Sailors' Home or any facility which is 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, the  
25 following question shall be put, "When you entered the home  
26 which is your present address, was it your bona fide intention

1 to become a resident thereof?" Any voter of a township, city,  
2 village or incorporated town in which such applicant resides,  
3 shall be permitted to be present at the place of any precinct  
4 registration and shall have the right to challenge any  
5 applicant who applies to be registered.

6 In case the officer is not satisfied that the applicant is  
7 qualified he shall forthwith notify such applicant in writing  
8 to appear before the county clerk to complete his registration.  
9 Upon the card of such applicant shall be written the word  
10 "incomplete" and no such applicant shall be permitted to vote  
11 unless such registration is satisfactorily completed as  
12 hereinafter provided. No registration shall be taken and marked  
13 as incomplete if information to complete it can be furnished on  
14 the date of the original application.

15 Any person claiming to be an elector in any election  
16 precinct and whose registration card is marked "Incomplete" may  
17 make and sign an application in writing, under oath, to the  
18 county clerk in substance in the following form:

19 "I do solemnly swear that I, ....., did on (insert date)  
20 make application to the board of registry of the .... precinct  
21 of the township of .... (or to the county clerk of .... county)  
22 and that said board or clerk refused to complete my  
23 registration as a qualified voter in said precinct. That I  
24 reside in said precinct, that I intend to reside in said  
25 precinct, and am a duly qualified voter of said precinct and am  
26 entitled to be registered to vote in said precinct at the next



1 election.

2 (Signature of applicant) ....."

3 All such applications shall be presented to the county  
4 clerk or to his duly authorized representative by the  
5 applicant, in person between the hours of 9:00 a.m. and 5:00  
6 p.m. on any day after the days on which the 1969 and 1970  
7 precinct re-registrations are held but not on any day within 27  
8 days preceding the ensuing general election and thereafter for  
9 the registration provided in Section 4-7 all such applications  
10 shall be presented to the county clerk or his duly authorized  
11 representative by the applicant in person between the hours of  
12 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding  
13 the ensuing general election. Such application shall be heard  
14 by the county clerk or his duly authorized representative at  
15 the time the application is presented. If the applicant for  
16 registration has registered with the county clerk, such  
17 application may be presented to and heard by the county clerk  
18 or by his duly authorized representative upon the dates  
19 specified above or at any time prior thereto designated by the  
20 county clerk.

21 Any otherwise qualified person who is absent from his  
22 county of residence either due to business of the United States  
23 or because he is temporarily outside the territorial limits of  
24 the United States may become registered by mailing an  
25 application to the county clerk within the periods of

1 registration provided for in this Article, or by simultaneous  
2 application for absentee registration and absentee ballot as  
3 provided in Article 20 of this Code.

4 Upon receipt of such application the county clerk shall  
5 immediately mail an affidavit of registration in duplicate,  
6 which affidavit shall contain the following and such other  
7 information as the State Board of Elections may think it proper  
8 to require for the identification of the applicant:

9 Name. The name of the applicant, giving surname and first  
10 or Christian name in full, and the middle name or the initial  
11 for such middle name, if any.

12 Sex.

13 Residence. The name and number of the street, avenue or  
14 other location of the dwelling, and such additional clear and  
15 definite description as may be necessary to determine the exact  
16 location of the dwelling of the applicant. Where the location  
17 cannot be determined by street and number, then the Section,  
18 congressional township and range number may be used, or such  
19 other information as may be necessary, including post office  
20 mailing address.

21 Term of residence in the State of Illinois and the  
22 precinct.

23 Nativity. The State or country in which the applicant was  
24 born.

25 Citizenship. Whether the applicant is native born or  
26 naturalized. If naturalized, the court, place and date of

1 naturalization.

2 Age. Date of birth, by month, day and year.

3 Out of State address of .....

4 AFFIDAVIT OF REGISTRATION

5 State of .....)

6 )ss

7 County of .....

8 I hereby swear (or affirm) that I am a citizen of the  
9 United States; that on the day of the next election I shall  
10 have resided in the State of Illinois and in the election  
11 precinct 30 days; that I am fully qualified to vote, that I am  
12 not registered to vote anywhere else in the United States, that  
13 I intend to remain a resident of the State of Illinois and of  
14 the election precinct, that I intend to return to the State of  
15 Illinois, and that the above statements are true.

16 .....

17 (His or her signature or mark)

18 Subscribed and sworn to before me, an officer qualified to  
19 administer oaths, on (insert date).

20 .....

21 Signature of officer administering oath.

22 Upon receipt of the executed duplicate affidavit of  
23 Registration, the county clerk shall transfer the information  
24 contained thereon to duplicate Registration Cards provided for  
25 in Section 4-8 of this Article and shall attach thereto a copy  
26 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 5/5-9) (from Ch. 46, par. 5-9)

7 Sec. 5-9. Except as herein provided, no person shall be  
8 registered unless he applies in person to registration officer,  
9 answers such relevant questions as may be asked of him by the  
10 registration officer, and executes the affidavit of  
11 registration. The registration officer shall require the  
12 applicant to furnish two forms of identification, and except in  
13 the case of a homeless individual, one of which must include  
14 his or her residence address. These forms of identification  
15 shall include, but not be limited to, any of the following:  
16 driver's license, social security card, public aid  
17 identification card, utility bill, employee or student  
18 identification card, lease or contract for a residence, credit  
19 card, or a civic, union or professional association membership  
20 card. The registration officer shall require a homeless  
21 individual to furnish evidence of his or her use of the mailing  
22 address stated. This use may be demonstrated by a piece of mail  
23 addressed to that individual and received at that address or by  
24 a statement from a person authorizing use of the mailing  
25 address. The registration officer shall require each applicant

1 for registration to read or have read to him the affidavit of  
2 registration before permitting him to execute the affidavit.

3 One of the Deputy Registrars, the Judge of Registration, or  
4 an Officer of Registration, County Clerk, or clerk in the  
5 office of the County Clerk, shall administer to all persons who  
6 shall personally apply to register the following oath or  
7 affirmation:

8 "You do solemnly swear (or affirm) that you will fully and  
9 truly answer all such questions as shall be put to you touching  
10 your place of residence, name, place of birth, your  
11 qualifications as an elector and your right as such to register  
12 and vote under the laws of the State of Illinois."

13 The Registration Officer shall satisfy himself that each  
14 applicant for registration is qualified to register before  
15 registering him. If the registration officer has reason to  
16 believe that the applicant is a resident of a Soldiers' and  
17 Sailors' Home or any facility which is licensed or certified  
18 pursuant to the Nursing Home Care Act, the Specialized Mental  
19 Health Rehabilitation Act, or the MR/DD Community Care Act, the  
20 following question shall be put, "When you entered the home  
21 which is your present address, was it your bona fide intention  
22 to become a resident thereof?" Any voter of a township, city,  
23 village or incorporated town in which such applicant resides,  
24 shall be permitted to be present at the place of precinct  
25 registration, and shall have the right to challenge any  
26 applicant who applies to be registered.



1 All such applications shall be presented to the County  
2 Clerk by the applicant, in person between the hours of nine  
3 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of  
4 the third week subsequent to the weeks in which the 1961 and  
5 1962 precinct re-registrations are to be held, and thereafter  
6 for the registration provided in Section 5-17 of this Article,  
7 all such applications shall be presented to the County Clerk by  
8 the applicant in person between the hours of nine o'clock a.m.  
9 and nine o'clock p.m. on Monday and Tuesday of the third week  
10 prior to the date on which such election is to be held.

11 Any otherwise qualified person who is absent from his  
12 county of residence either due to business of the United States  
13 or because he is temporarily outside the territorial limits of  
14 the United States may become registered by mailing an  
15 application to the county clerk within the periods of  
16 registration provided for in this Article or by simultaneous  
17 application for absentee registration and absentee ballot as  
18 provided in Article 20 of this Code.

19 Upon receipt of such application the county clerk shall  
20 immediately mail an affidavit of registration in duplicate,  
21 which affidavit shall contain the following and such other  
22 information as the State Board of Elections may think it proper  
23 to require for the identification of the applicant:

24 Name. The name of the applicant, giving surname and first  
25 or Christian name in full, and the middle name or the initial  
26 for such middle name, if any.

1 Sex.

2 Residence. The name and number of the street, avenue or  
3 other location of the dwelling, and such additional clear and  
4 definite description as may be necessary to determine the exact  
5 location of the dwelling of the applicant. Where the location  
6 cannot be determined by street and number, then the Section,  
7 congressional township and range number may be used, or such  
8 other information as may be necessary, including post office  
9 mailing address.

10 Term of residence in the State of Illinois and the  
11 precinct.

12 Nativity. The State or country in which the applicant was  
13 born.

14 Citizenship. Whether the applicant is native born or  
15 naturalized. If naturalized, the court, place and date of  
16 naturalization.

17 Age. Date of birth, by month, day and year.

18 Out of State address of .....

19 AFFIDAVIT OF REGISTRATION

20 State of .....

21 )ss

22 County of .....

23 I hereby swear (or affirm) that I am a citizen of the  
24 United States; that on the day of the next election I shall  
25 have resided in the State of Illinois for 6 months and in the  
26 election precinct 30 days; that I am fully qualified to vote,



1 that I am not registered to vote anywhere else in the United  
 2 States, that I intend to remain a resident of the State of  
 3 Illinois and of the election precinct, that I intend to return  
 4 to the State of Illinois, and that the above statements are  
 5 true.

6 .....

7 (His or her signature or mark)

8 Subscribed and sworn to before me, an officer qualified to  
 9 administer oaths, on (insert date).

10 .....

11 Signature of officer administering oath.

12

13 Upon receipt of the executed duplicate affidavit of  
 14 Registration, the county clerk shall transfer the information  
 15 contained thereon to duplicate Registration Cards provided for  
 16 in Section 5-7 of this Article and shall attach thereto a copy  
 17 of each of the duplicate affidavit of registration and  
 18 thereafter such registration card and affidavit shall  
 19 constitute the registration of such person the same as if he  
 20 had applied for registration in person.

21 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
 22 96-1000, eff. 7-2-10.)

23 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

24 Sec. 5-16.3. The county clerk may establish temporary

1 places of registration for such times and at such locations  
2 within the county as the county clerk may select. However, no  
3 temporary place of registration may be in operation during the  
4 27 days preceding an election. Notice of time and place of  
5 registration at any such temporary place of registration under  
6 this Section shall be published by the county clerk in a  
7 newspaper having a general circulation in the county not less  
8 than 3 nor more than 15 days before the holding of such  
9 registration.

10 Temporary places of registration shall be established so  
11 that the areas of concentration of population or use by the  
12 public are served, whether by facilities provided in places of  
13 private business or in public buildings or in mobile units.  
14 Areas which may be designated as temporary places of  
15 registration include, but are not limited to, facilities  
16 licensed or certified pursuant to the Nursing Home Care Act,  
17 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
18 Community Care Act, Soldiers' and Sailors' Homes, shopping  
19 centers, business districts, public buildings and county  
20 fairs.

21 Temporary places of registration shall be available to the  
22 public not less than 2 hours per year for each 1,000 population  
23 or fraction thereof in the county.

24 All temporary places of registration shall be manned by  
25 deputy county clerks or deputy registrars appointed pursuant to  
26 Section 5-16.2.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

3 Sec. 6-50.3. The board of election commissioners may  
4 establish temporary places of registration for such times and  
5 at such locations as the board may select. However, no  
6 temporary place of registration may be in operation during the  
7 27 days preceding an election. Notice of the time and place of  
8 registration at any such temporary place of registration under  
9 this Section shall be published by the board of election  
10 commissioners in a newspaper having a general circulation in  
11 the city, village or incorporated town not less than 3 nor more  
12 than 15 days before the holding of such registration.

13 Temporary places of registration shall be established so  
14 that the areas of concentration of population or use by the  
15 public are served, whether by facilities provided in places of  
16 private business or in public buildings or in mobile units.  
17 Areas which may be designated as temporary places of  
18 registration include, but are not limited to facilities  
19 licensed or certified pursuant to the Nursing Home Care Act,  
20 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
21 Community Care Act, Soldiers' and Sailors' Homes, shopping  
22 centers, business districts, public buildings and county  
23 fairs.

24 Temporary places of registration shall be available to the  
25 public not less than 2 hours per year for each 1,000 population

1 or fraction thereof in the county.

2 All temporary places of registration shall be manned by  
3 employees of the board of election commissioners or deputy  
4 registrars appointed pursuant to Section 6-50.2.

5 (Source: P.A. 96-339, eff. 7-1-10.)

6 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

7 Sec. 6-56. Not more than 30 nor less than 28 days before  
8 any election under this Article, all owners, managers,  
9 administrators or operators of hotels, lodging houses, rooming  
10 houses, furnished apartments or facilities licensed or  
11 certified under the Nursing Home Care Act, which house 4 or  
12 more persons, outside the members of the family of such owner,  
13 manager, administrator or operator, shall file with the board  
14 of election commissioners a report, under oath, together with  
15 one copy thereof, in such form as may be required by the board  
16 of election commissioners, of the names and descriptions of all  
17 lodgers, guests or residents claiming a voting residence at the  
18 hotels, lodging houses, rooming houses, furnished apartments,  
19 or facility licensed or certified under the Nursing Home Care  
20 Act, the Specialized Mental Health Rehabilitation Act, or the  
21 MR/DD Community Care Act under their control. In counties  
22 having a population of 500,000 or more such report shall be  
23 made on forms mailed to them by the board of election  
24 commissioners. The board of election commissioners shall sort  
25 and assemble the sworn copies of the reports in numerical order

1 according to ward and according to precincts within each ward  
2 and shall, not later than 5 days after the last day allowed by  
3 this Article for the filing of the reports, maintain one  
4 assembled set of sworn duplicate reports available for public  
5 inspection until 60 days after election days. Except as is  
6 otherwise expressly provided in this Article, the board shall  
7 not be required to perform any duties with respect to the sworn  
8 reports other than to mail, sort, assemble, post and file them  
9 as hereinabove provided.

10 Except in such cases where a precinct canvass is being  
11 conducted by the Board of Election Commissioners prior to a  
12 Primary or Election, the board of election commissioners shall  
13 compare the original copy of each such report with the list of  
14 registered voters from such addresses. Every person registered  
15 from such address and not listed in such report or whose name  
16 is different from any name so listed, shall immediately after  
17 the last day of registration be sent a notice through the  
18 United States mail, at the address appearing upon his  
19 registration record card, requiring him to appear before the  
20 board of election commissioners on one of the days specified in  
21 Section 6-45 of this Article and show cause why his  
22 registration should not be cancelled. The provisions of  
23 Sections 6-45, 6-46 and 6-47 of this Article shall apply to  
24 such hearing and proceedings subsequent thereto.

25 Any owner, manager or operator of any such hotel, lodging  
26 house, rooming house or furnished apartment who shall fail or

1 neglect to file such statement and copy thereof as in this  
2 Article provided, may, upon written information of the attorney  
3 for the election commissioners, be cited by the election  
4 commissioners or upon the complaint of any voter of such city,  
5 village or incorporated town, to appear before them and furnish  
6 such sworn statement and copy thereof and make such oral  
7 statements under oath regarding such hotel, lodging house,  
8 rooming house or furnished apartment, as the election  
9 commissioners may require. The election commissioners shall  
10 sit to hear such citations on the Friday of the fourth week  
11 preceding the week in which such election is to be held. Such  
12 citation shall be served not later than the day preceding the  
13 day on which it is returnable.

14 (Source: P.A. 96-339, eff. 7-1-10.)

15 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

16 Sec. 19-4. Mailing or delivery of ballots - Time.)  
17 Immediately upon the receipt of such application either by  
18 mail, not more than 40 days nor less than 5 days prior to such  
19 election, or by personal delivery not more than 40 days nor  
20 less than one day prior to such election, at the office of such  
21 election authority, it shall be the duty of such election  
22 authority to examine the records to ascertain whether or not  
23 such applicant is lawfully entitled to vote as requested,  
24 including a verification of the applicant's signature by  
25 comparison with the signature on the official registration

1 record card, and if found so to be entitled to vote, to post  
2 within one business day thereafter the name, street address,  
3 ward and precinct number or township and district number, as  
4 the case may be, of such applicant given on a list, the pages  
5 of which are to be numbered consecutively to be kept by such  
6 election authority for such purpose in a conspicuous, open and  
7 public place accessible to the public at the entrance of the  
8 office of such election authority, and in such a manner that  
9 such list may be viewed without necessity of requesting  
10 permission therefor. Within one day after posting the name and  
11 other information of an applicant for an absentee ballot, the  
12 election authority shall transmit that name and other posted  
13 information to the State Board of Elections, which shall  
14 maintain those names and other information in an electronic  
15 format on its website, arranged by county and accessible to  
16 State and local political committees. Within 2 business days  
17 after posting a name and other information on the list within  
18 its office, the election authority shall mail, postage prepaid,  
19 or deliver in person in such office an official ballot or  
20 ballots if more than one are to be voted at said election. Mail  
21 delivery of Temporarily Absent Student ballot applications  
22 pursuant to Section 19-12.3 shall be by nonforwardable mail.  
23 However, for the consolidated election, absentee ballots for  
24 certain precincts may be delivered to applicants not less than  
25 25 days before the election if so much time is required to have  
26 prepared and printed the ballots containing the names of

1 persons nominated for offices at the consolidated primary. The  
2 election authority shall enclose with each absentee ballot or  
3 application written instructions on how voting assistance  
4 shall be provided pursuant to Section 17-14 and a document,  
5 written and approved by the State Board of Elections,  
6 enumerating the circumstances under which a person is  
7 authorized to vote by absentee ballot pursuant to this Article;  
8 such document shall also include a statement informing the  
9 applicant that if he or she falsifies or is solicited by  
10 another to falsify his or her eligibility to cast an absentee  
11 ballot, such applicant or other is subject to penalties  
12 pursuant to Section 29-10 and Section 29-20 of the Election  
13 Code. Each election authority shall maintain a list of the  
14 name, street address, ward and precinct, or township and  
15 district number, as the case may be, of all applicants who have  
16 returned absentee ballots to such authority, and the name of  
17 such absent voter shall be added to such list within one  
18 business day from receipt of such ballot. If the absentee  
19 ballot envelope indicates that the voter was assisted in  
20 casting the ballot, the name of the person so assisting shall  
21 be included on the list. The list, the pages of which are to be  
22 numbered consecutively, shall be kept by each election  
23 authority in a conspicuous, open, and public place accessible  
24 to the public at the entrance of the office of the election  
25 authority and in a manner that the list may be viewed without  
26 necessity of requesting permission for viewing.



1           Each election authority shall maintain a list for each  
2 election of the voters to whom it has issued absentee ballots.  
3 The list shall be maintained for each precinct within the  
4 jurisdiction of the election authority. Prior to the opening of  
5 the polls on election day, the election authority shall deliver  
6 to the judges of election in each precinct the list of  
7 registered voters in that precinct to whom absentee ballots  
8 have been issued by mail.

9           Each election authority shall maintain a list for each  
10 election of voters to whom it has issued temporarily absent  
11 student ballots. The list shall be maintained for each election  
12 jurisdiction within which such voters temporarily abide.  
13 Immediately after the close of the period during which  
14 application may be made by mail for absentee ballots, each  
15 election authority shall mail to each other election authority  
16 within the State a certified list of all such voters  
17 temporarily abiding within the jurisdiction of the other  
18 election authority.

19           In the event that the return address of an application for  
20 ballot by a physically incapacitated elector is that of a  
21 facility licensed or certified under the Nursing Home Care Act,  
22 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
23 Community Care Act, within the jurisdiction of the election  
24 authority, and the applicant is a registered voter in the  
25 precinct in which such facility is located, the ballots shall  
26 be prepared and transmitted to a responsible judge of election

1 no later than 9 a.m. on the Saturday, Sunday or Monday  
2 immediately preceding the election as designated by the  
3 election authority under Section 19-12.2. Such judge shall  
4 deliver in person on the designated day the ballot to the  
5 applicant on the premises of the facility from which  
6 application was made. The election authority shall by mail  
7 notify the applicant in such facility that the ballot will be  
8 delivered by a judge of election on the designated day.

9 All applications for absentee ballots shall be available at  
10 the office of the election authority for public inspection upon  
11 request from the time of receipt thereof by the election  
12 authority until 30 days after the election, except during the  
13 time such applications are kept in the office of the election  
14 authority pursuant to Section 19-7, and except during the time  
15 such applications are in the possession of the judges of  
16 election.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

19 Sec. 19-12.1. Any qualified elector who has secured an  
20 Illinois Disabled Person Identification Card in accordance  
21 with The Illinois Identification Card Act, indicating that the  
22 person named thereon has a Class 1A or Class 2 disability or  
23 any qualified voter who has a permanent physical incapacity of  
24 such a nature as to make it improbable that he will be able to  
25 be present at the polls at any future election, or any voter

1 who is a resident of a facility licensed or certified pursuant  
2 to the Nursing Home Care Act, the Specialized Mental Health  
3 Rehabilitation Act, or the MR/DD Community Care Act and has a  
4 condition or disability of such a nature as to make it  
5 improbable that he will be able to be present at the polls at  
6 any future election, may secure a disabled voter's or nursing  
7 home resident's identification card, which will enable him to  
8 vote under this Article as a physically incapacitated or  
9 nursing home voter.

10 Application for a disabled voter's or nursing home  
11 resident's identification card shall be made either: (a) in  
12 writing, with voter's sworn affidavit, to the county clerk or  
13 board of election commissioners, as the case may be, and shall  
14 be accompanied by the affidavit of the attending physician  
15 specifically describing the nature of the physical incapacity  
16 or the fact that the voter is a nursing home resident and is  
17 physically unable to be present at the polls on election days;  
18 or (b) by presenting, in writing or otherwise, to the county  
19 clerk or board of election commissioners, as the case may be,  
20 proof that the applicant has secured an Illinois Disabled  
21 Person Identification Card indicating that the person named  
22 thereon has a Class 1A or Class 2 disability. Upon the receipt  
23 of either the sworn-to application and the physician's  
24 affidavit or proof that the applicant has secured an Illinois  
25 Disabled Person Identification Card indicating that the person  
26 named thereon has a Class 1A or Class 2 disability, the county

1 clerk or board of election commissioners shall issue a disabled  
2 voter's or nursing home resident's identification card. Such  
3 identification cards shall be issued for a period of 5 years,  
4 upon the expiration of which time the voter may secure a new  
5 card by making application in the same manner as is prescribed  
6 for the issuance of an original card, accompanied by a new  
7 affidavit of the attending physician. The date of expiration of  
8 such five-year period shall be made known to any interested  
9 person by the election authority upon the request of such  
10 person. Applications for the renewal of the identification  
11 cards shall be mailed to the voters holding such cards not less  
12 than 3 months prior to the date of expiration of the cards.

13 Each disabled voter's or nursing home resident's  
14 identification card shall bear an identification number, which  
15 shall be clearly noted on the voter's original and duplicate  
16 registration record cards. In the event the holder becomes  
17 physically capable of resuming normal voting, he must surrender  
18 his disabled voter's or nursing home resident's identification  
19 card to the county clerk or board of election commissioners  
20 before the next election.

21 The holder of a disabled voter's or nursing home resident's  
22 identification card may make application by mail for an  
23 official ballot within the time prescribed by Section 19-2.  
24 Such application shall contain the same information as is  
25 included in the form of application for ballot by a physically  
26 incapacitated elector prescribed in Section 19-3 except that it

1 shall also include the applicant's disabled voter's  
2 identification card number and except that it need not be sworn  
3 to. If an examination of the records discloses that the  
4 applicant is lawfully entitled to vote, he shall be mailed a  
5 ballot as provided in Section 19-4. The ballot envelope shall  
6 be the same as that prescribed in Section 19-5 for physically  
7 disabled voters, and the manner of voting and returning the  
8 ballot shall be the same as that provided in this Article for  
9 other absentee ballots, except that a statement to be  
10 subscribed to by the voter but which need not be sworn to shall  
11 be placed on the ballot envelope in lieu of the affidavit  
12 prescribed by Section 19-5.

13 Any person who knowingly subscribes to a false statement in  
14 connection with voting under this Section shall be guilty of a  
15 Class A misdemeanor.

16 For the purposes of this Section, "nursing home resident"  
17 includes a resident of a facility licensed under the MR/DD  
18 Community Care Act or the Specialized Mental Health  
19 Rehabilitation Act.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

22 Sec. 19-12.2. Voting by physically incapacitated electors  
23 who have made proper application to the election authority not  
24 later than 5 days before the regular primary and general  
25 election of 1980 and before each election thereafter shall be

1 conducted on the premises of facilities licensed or certified  
2 pursuant to the Nursing Home Care Act, the Specialized Mental  
3 Health Rehabilitation Act, or the MR/DD Community Care Act for  
4 the sole benefit of residents of such facilities. Such voting  
5 shall be conducted during any continuous period sufficient to  
6 allow all applicants to cast their ballots between the hours of  
7 9 a.m. and 7 p.m. either on the Friday, Saturday, Sunday or  
8 Monday immediately preceding the regular election. This  
9 absentee voting on one of said days designated by the election  
10 authority shall be supervised by two election judges who must  
11 be selected by the election authority in the following order of  
12 priority: (1) from the panel of judges appointed for the  
13 precinct in which such facility is located, or from a panel of  
14 judges appointed for any other precinct within the jurisdiction  
15 of the election authority in the same ward or township, as the  
16 case may be, in which the facility is located or, only in the  
17 case where a judge or judges from the precinct, township or  
18 ward are unavailable to serve, (3) from a panel of judges  
19 appointed for any other precinct within the jurisdiction of the  
20 election authority. The two judges shall be from different  
21 political parties. Not less than 30 days before each regular  
22 election, the election authority shall have arranged with the  
23 chief administrative officer of each facility in his or its  
24 election jurisdiction a mutually convenient time period on the  
25 Friday, Saturday, Sunday or Monday immediately preceding the  
26 election for such voting on the premises of the facility and

1 shall post in a prominent place in his or its office a notice  
2 of the agreed day and time period for conducting such voting at  
3 each facility; provided that the election authority shall not  
4 later than noon on the Thursday before the election also post  
5 the names and addresses of those facilities from which no  
6 applications were received and in which no supervised absentee  
7 voting will be conducted. All provisions of this Code  
8 applicable to pollwatchers shall be applicable herein. To the  
9 maximum extent feasible, voting booths or screens shall be  
10 provided to insure the privacy of the voter. Voting procedures  
11 shall be as described in Article 17 of this Code, except that  
12 ballots shall be treated as absentee ballots and shall not be  
13 counted until the close of the polls on the following day.  
14 After the last voter has concluded voting, the judges shall  
15 seal the ballots in an envelope and affix their signatures  
16 across the flap of the envelope. Immediately thereafter, the  
17 judges shall bring the sealed envelope to the office of the  
18 election authority who shall deliver such ballots to the  
19 election authority's central ballot counting location prior to  
20 the closing of the polls on the day of election. The judges of  
21 election shall also report to the election authority the name  
22 of any applicant in the facility who, due to unforeseen  
23 circumstance or condition or because of a religious holiday,  
24 was unable to vote. In this event, the election authority may  
25 appoint a qualified person from his or its staff to deliver the  
26 ballot to such applicant on the day of election. This staff

1 person shall follow the same procedures prescribed for judges  
2 conducting absentee voting in such facilities and shall return  
3 the ballot to the central ballot counting location before the  
4 polls close. However, if the facility from which the  
5 application was made is also used as a regular precinct polling  
6 place for that voter, voting procedures heretofore prescribed  
7 may be implemented by 2 of the election judges of opposite  
8 party affiliation assigned to that polling place during the  
9 hours of voting on the day of the election. Judges of election  
10 shall be compensated not less than \$25.00 for conducting  
11 absentee voting in such facilities.

12 Not less than 120 days before each regular election, the  
13 Department of Public Health shall certify to the State Board of  
14 Elections a list of the facilities licensed or certified  
15 pursuant to the Nursing Home Care Act, the Specialized Mental  
16 Health Rehabilitation Act, or the MR/DD Community Care Act, and  
17 shall indicate the approved bed capacity and the name of the  
18 chief administrative officer of each such facility, and the  
19 State Board of Elections shall certify the same to the  
20 appropriate election authority within 20 days thereafter.

21 (Source: P.A. 96-339, eff. 7-1-10.)

22 Section 90-20. The Mental Health and Developmental  
23 Disabilities Administrative Act is amended by changing Section  
24 15 as follows:



1 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

2 Sec. 15. Before any person is released from a facility  
3 operated by the State pursuant to an absolute discharge or a  
4 conditional discharge from hospitalization under this Act, the  
5 facility director of the facility in which such person is  
6 hospitalized shall determine that such person is not currently  
7 in need of hospitalization and:

8 (a) is able to live independently in the community; or

9 (b) requires further oversight and supervisory care  
10 for which arrangements have been made with responsible  
11 relatives or supervised residential program approved by  
12 the Department; or

13 (c) requires further personal care or general  
14 oversight as defined by the MR/DD Community Care Act or the  
15 Specialized Mental Health Rehabilitation Act, for which  
16 placement arrangements have been made with a suitable  
17 family home or other licensed facility approved by the  
18 Department under this Section; or

19 (d) requires community mental health services for  
20 which arrangements have been made with a community mental  
21 health provider in accordance with criteria, standards,  
22 and procedures promulgated by rule.

23 Such determination shall be made in writing and shall  
24 become a part of the facility record of such absolutely or  
25 conditionally discharged person. When the determination  
26 indicates that the condition of the person to be granted an

1 absolute discharge or a conditional discharge is described  
2 under subparagraph (c) or (d) of this Section, the name and  
3 address of the continuing care facility or home to which such  
4 person is to be released shall be entered in the facility  
5 record. Where a discharge from a mental health facility is made  
6 under subparagraph (c), the Department shall assign the person  
7 so discharged to an existing community based not-for-profit  
8 agency for participation in day activities suitable to the  
9 person's needs, such as but not limited to social and  
10 vocational rehabilitation, and other recreational, educational  
11 and financial activities unless the community based  
12 not-for-profit agency is unqualified to accept such  
13 assignment. Where the clientele of any not-for-profit agency  
14 increases as a result of assignments under this amendatory Act  
15 of 1977 by more than 3% over the prior year, the Department  
16 shall fully reimburse such agency for the costs of providing  
17 services to such persons in excess of such 3% increase. The  
18 Department shall keep written records detailing how many  
19 persons have been assigned to a community based not-for-profit  
20 agency and how many persons were not so assigned because the  
21 community based agency was unable to accept the assignments, in  
22 accordance with criteria, standards, and procedures  
23 promulgated by rule. Whenever a community based agency is found  
24 to be unable to accept the assignments, the name of the agency  
25 and the reason for the finding shall be included in the report.

26 Insofar as desirable in the interests of the former

1 recipient, the facility, program or home in which the  
2 discharged person is to be placed shall be located in or near  
3 the community in which the person resided prior to  
4 hospitalization or in the community in which the person's  
5 family or nearest next of kin presently reside. Placement of  
6 the discharged person in facilities, programs or homes located  
7 outside of this State shall not be made by the Department  
8 unless there are no appropriate facilities, programs or homes  
9 available within this State. Out-of-state placements shall be  
10 subject to return of recipients so placed upon the availability  
11 of facilities, programs or homes within this State to  
12 accommodate these recipients, except where placement in a  
13 contiguous state results in locating a recipient in a facility  
14 or program closer to the recipient's home or family. If an  
15 appropriate facility or program becomes available equal to or  
16 closer to the recipient's home or family, the recipient shall  
17 be returned to and placed at the appropriate facility or  
18 program within this State.

19 To place any person who is under a program of the  
20 Department at board in a suitable family home or in such other  
21 facility or program as the Department may consider desirable.  
22 The Department may place in licensed nursing homes, sheltered  
23 care homes, or homes for the aged those persons whose  
24 behavioral manifestations and medical and nursing care needs  
25 are such as to be substantially indistinguishable from persons  
26 already living in such facilities. Prior to any placement by

1 the Department under this Section, a determination shall be  
2 made by the personnel of the Department, as to the capability  
3 and suitability of such facility to adequately meet the needs  
4 of the person to be discharged. When specialized programs are  
5 necessary in order to enable persons in need of supervised  
6 living to develop and improve in the community, the Department  
7 shall place such persons only in specialized residential care  
8 facilities which shall meet Department standards including  
9 restricted admission policy, special staffing and programming  
10 for social and vocational rehabilitation, in addition to the  
11 requirements of the appropriate State licensing agency. The  
12 Department shall not place any new person in a facility the  
13 license of which has been revoked or not renewed on grounds of  
14 inadequate programming, staffing, or medical or adjunctive  
15 services, regardless of the pendency of an action for  
16 administrative review regarding such revocation or failure to  
17 renew. Before the Department may transfer any person to a  
18 licensed nursing home, sheltered care home or home for the aged  
19 or place any person in a specialized residential care facility  
20 the Department shall notify the person to be transferred, or a  
21 responsible relative of such person, in writing, at least 30  
22 days before the proposed transfer, with respect to all the  
23 relevant facts concerning such transfer, except in cases of  
24 emergency when such notice is not required. If either the  
25 person to be transferred or a responsible relative of such  
26 person objects to such transfer, in writing to the Department,

1 at any time after receipt of notice and before the transfer,  
2 the facility director of the facility in which the person was a  
3 recipient shall immediately schedule a hearing at the facility  
4 with the presence of the facility director, the person who  
5 objected to such proposed transfer, and a psychiatrist who is  
6 familiar with the record of the person to be transferred. Such  
7 person to be transferred or a responsible relative may be  
8 represented by such counsel or interested party as he may  
9 appoint, who may present such testimony with respect to the  
10 proposed transfer. Testimony presented at such hearing shall  
11 become a part of the facility record of the  
12 person-to-be-transferred. The record of testimony shall be  
13 held in the person-to-be-transferred's record in the central  
14 files of the facility. If such hearing is held a transfer may  
15 only be implemented, if at all, in accordance with the results  
16 of such hearing. Within 15 days after such hearing the facility  
17 director shall deliver his findings based on the record of the  
18 case and the testimony presented at the hearing, by registered  
19 or certified mail, to the parties to such hearing. The findings  
20 of the facility director shall be deemed a final administrative  
21 decision of the Department. For purposes of this Section, "case  
22 of emergency" means those instances in which the health of the  
23 person to be transferred is imperiled and the most appropriate  
24 mental health care or medical care is available at a licensed  
25 nursing home, sheltered care home or home for the aged or a  
26 specialized residential care facility.

1           Prior to placement of any person in a facility under this  
2 Section the Department shall ensure that an appropriate  
3 training plan for staff is provided by the facility. Said  
4 training may include instruction and demonstration by  
5 Department personnel qualified in the area of mental illness or  
6 mental retardation, as applicable to the person to be placed.  
7 Training may be given both at the facility from which the  
8 recipient is transferred and at the facility receiving the  
9 recipient, and may be available on a continuing basis  
10 subsequent to placement. In a facility providing services to  
11 former Department recipients, training shall be available as  
12 necessary for facility staff. Such training will be on a  
13 continuing basis as the needs of the facility and recipients  
14 change and further training is required.

15           The Department shall not place any person in a facility  
16 which does not have appropriately trained staff in sufficient  
17 numbers to accommodate the recipient population already at the  
18 facility. As a condition of further or future placements of  
19 persons, the Department shall require the employment of  
20 additional trained staff members at the facility where said  
21 persons are to be placed. The Secretary, or his or her  
22 designate, shall establish written guidelines for placement of  
23 persons in facilities under this Act. The Department shall keep  
24 written records detailing which facilities have been  
25 determined to have staff who have been appropriately trained by  
26 the Department and all training which it has provided or

1 required under this Section.

2 Bills for the support for a person boarded out shall be  
3 payable monthly out of the proper maintenance funds and shall  
4 be audited as any other accounts of the Department. If a person  
5 is placed in a facility or program outside the Department, the  
6 Department may pay the actual costs of residence, treatment or  
7 maintenance in such facility and may collect such actual costs  
8 or a portion thereof from the recipient or the estate of a  
9 person placed in accordance with this Section.

10 Other than those placed in a family home the Department  
11 shall cause all persons who are placed in a facility, as  
12 defined by the MR/DD Community Care Act or the Specialized  
13 Mental Health Rehabilitation Act, or in designated community  
14 living situations or programs, to be visited at least once  
15 during the first month following placement, and once every  
16 month thereafter for the first year following placement when  
17 indicated, but at least quarterly. After the first year, the  
18 Department shall determine at what point the appropriate  
19 licensing entity for the facility or designated community  
20 living situation or program will assume the responsibility of  
21 ensuring that appropriate services are being provided to the  
22 resident. Once that responsibility is assumed, the Department  
23 may discontinue such visits. If a long term care facility has  
24 periodic care plan conferences, the visitor may participate in  
25 those conferences, if such participation is approved by the  
26 resident or the resident's guardian. Visits shall be made by

1 qualified and trained Department personnel, or their designee,  
2 in the area of mental health or developmental disabilities  
3 applicable to the person visited, and shall be made on a more  
4 frequent basis when indicated. The Department may not use as  
5 designee any personnel connected with or responsible to the  
6 representatives of any facility in which persons who have been  
7 transferred under this Section are placed. In the course of  
8 such visit there shall be consideration of the following areas,  
9 but not limited thereto: effects of transfer on physical and  
10 mental health of the person, sufficiency of nursing care and  
11 medical coverage required by the person, sufficiency of staff  
12 personnel and ability to provide basic care for the person,  
13 social, recreational and programmatic activities available for  
14 the person, and other appropriate aspects of the person's  
15 environment.

16 A report containing the above observations shall be made to  
17 the Department, to the licensing agency, and to any other  
18 appropriate agency subsequent to each visitation. The report  
19 shall contain recommendations to improve the care and treatment  
20 of the resident, as necessary, which shall be reviewed by the  
21 facility's interdisciplinary team and the resident or the  
22 resident's legal guardian.

23 Upon the complaint of any person placed in accordance with  
24 this Section or any responsible citizen or upon discovery that  
25 such person has been abused, neglected, or improperly cared  
26 for, or that the placement does not provide the type of care



1 required by the recipient's current condition, the Department  
2 immediately shall investigate, and determine if the  
3 well-being, health, care, or safety of any person is affected  
4 by any of the above occurrences, and if any one of the above  
5 occurrences is verified, the Department shall remove such  
6 person at once to a facility of the Department or to another  
7 facility outside the Department, provided such person's needs  
8 can be met at said facility. The Department may also provide  
9 any person placed in accordance with this Section who is  
10 without available funds, and who is permitted to engage in  
11 employment outside the facility, such sums for the  
12 transportation, and other expenses as may be needed by him  
13 until he receives his wages for such employment.

14 The Department shall promulgate rules and regulations  
15 governing the purchase of care for persons who are wards of or  
16 who are receiving services from the Department. Such rules and  
17 regulations shall apply to all monies expended by any agency of  
18 the State of Illinois for services rendered by any person,  
19 corporate entity, agency, governmental agency or political  
20 subdivision whether public or private outside of the Department  
21 whether payment is made through a contractual, per-diem or  
22 other arrangement. No funds shall be paid to any person,  
23 corporation, agency, governmental entity or political  
24 subdivision without compliance with such rules and  
25 regulations.

26 The rules and regulations governing purchase of care shall

1 describe categories and types of service deemed appropriate for  
2 purchase by the Department.

3 Any provider of services under this Act may elect to  
4 receive payment for those services, and the Department is  
5 authorized to arrange for that payment, by means of direct  
6 deposit transmittals to the service provider's account  
7 maintained at a bank, savings and loan association, or other  
8 financial institution. The financial institution shall be  
9 approved by the Department, and the deposits shall be in  
10 accordance with rules and regulations adopted by the  
11 Department.

12 (Source: P.A. 96-339, eff. 7-1-10.)

13 Section 90-25. The Department of Public Health Powers and  
14 Duties Law of the Civil Administrative Code of Illinois is  
15 amended by changing Sections 2310-550, 2310-560, 2310-565, and  
16 2310-625 as follows:

17 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

18 Sec. 2310-550. Long-term care facilities. The Department  
19 may perform, in all long-term care facilities as defined in the  
20 Nursing Home Care Act, all facilities as defined in the  
21 Specialized Mental Health Rehabilitation Act, and all  
22 facilities as defined in the MR/DD Community Care Act, all  
23 inspection, evaluation, certification, and inspection of care  
24 duties that the federal government may require the State of

1 Illinois to perform or have performed as a condition of  
2 participation in any programs under Title XVIII or Title XIX of  
3 the federal Social Security Act.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

6 Sec. 2310-560. Advisory committees concerning construction  
7 of facilities.

8 (a) The Director shall appoint an advisory committee. The  
9 committee shall be established by the Department by rule. The  
10 Director and the Department shall consult with the advisory  
11 committee concerning the application of building codes and  
12 Department rules related to those building codes to facilities  
13 under the Ambulatory Surgical Treatment Center Act, the Nursing  
14 Home Care Act, the Specialized Mental Health Rehabilitation  
15 Act, and the MR/DD Community Care Act.

16 (b) The Director shall appoint an advisory committee to  
17 advise the Department and to conduct informal dispute  
18 resolution concerning the application of building codes for new  
19 and existing construction and related Department rules and  
20 standards under the Hospital Licensing Act, including without  
21 limitation rules and standards for (i) design and construction,  
22 (ii) engineering and maintenance of the physical plant, site,  
23 equipment, and systems (heating, cooling, electrical,  
24 ventilation, plumbing, water, sewer, and solid waste  
25 disposal), and (iii) fire and safety. The advisory committee

1 shall be composed of all of the following members:

2 (1) The chairperson or an elected representative from  
3 the Hospital Licensing Board under the Hospital Licensing  
4 Act.

5 (2) Two health care architects with a minimum of 10  
6 years of experience in institutional design and building  
7 code analysis.

8 (3) Two engineering professionals (one mechanical and  
9 one electrical) with a minimum of 10 years of experience in  
10 institutional design and building code analysis.

11 (4) One commercial interior design professional with a  
12 minimum of 10 years of experience.

13 (5) Two representatives from provider associations.

14 (6) The Director or his or her designee, who shall  
15 serve as the committee moderator.

16 Appointments shall be made with the concurrence of the  
17 Hospital Licensing Board. The committee shall submit  
18 recommendations concerning the application of building codes  
19 and related Department rules and standards to the Hospital  
20 Licensing Board for review and comment prior to submission to  
21 the Department. The committee shall submit recommendations  
22 concerning informal dispute resolution to the Director. The  
23 Department shall provide per diem and travel expenses to the  
24 committee members.

25 (Source: P.A. 96-339, eff. 7-1-10.)

1 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

2 Sec. 2310-565. Facility construction training program. The  
3 Department shall conduct, at least annually, a joint in-service  
4 training program for architects, engineers, interior  
5 designers, and other persons involved in the construction of a  
6 facility under the Ambulatory Surgical Treatment Center Act,  
7 the Nursing Home Care Act, the Specialized Mental Health  
8 Rehabilitation Act, the MR/DD Community Care Act, or the  
9 Hospital Licensing Act on problems and issues relating to the  
10 construction of facilities under any of those Acts.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 (20 ILCS 2310/2310-625)

13 Sec. 2310-625. Emergency Powers.

14 (a) Upon proclamation of a disaster by the Governor, as  
15 provided for in the Illinois Emergency Management Agency Act,  
16 the Director of Public Health shall have the following powers,  
17 which shall be exercised only in coordination with the Illinois  
18 Emergency Management Agency and the Department of Financial and  
19 Professional Regulation:

20 (1) The power to suspend the requirements for temporary  
21 or permanent licensure or certification of persons who are  
22 licensed or certified in another state and are working  
23 under the direction of the Illinois Emergency Management  
24 Agency and the Illinois Department of Public Health  
25 pursuant to the declared disaster.

1           (2) The power to modify the scope of practice  
2 restrictions under the Emergency Medical Services (EMS)  
3 Systems Act for any persons who are licensed under that Act  
4 for any person working under the direction of the Illinois  
5 Emergency Management Agency and the Illinois Department of  
6 Public Health pursuant to the declared disaster.

7           (3) The power to modify the scope of practice  
8 restrictions under the Nursing Home Care Act, the  
9 Specialized Mental Health Rehabilitation Act, or the MR/DD  
10 Community Care Act for Certified Nursing Assistants for any  
11 person working under the direction of the Illinois  
12 Emergency Management Agency and the Illinois Department of  
13 Public Health pursuant to the declared disaster.

14           (b) Persons exempt from licensure or certification under  
15 paragraph (1) of subsection (a) and persons operating under  
16 modified scope of practice provisions under paragraph (2) of  
17 subsection (a) and paragraph (3) of subsection (a) shall be  
18 exempt from licensure or certification or subject to modified  
19 scope of practice only until the declared disaster has ended as  
20 provided by law. For purposes of this Section, persons working  
21 under the direction of an emergency services and disaster  
22 agency accredited by the Illinois Emergency Management Agency  
23 and a local public health department, pursuant to a declared  
24 disaster, shall be deemed to be working under the direction of  
25 the Illinois Emergency Management Agency and the Department of  
26 Public Health.

1 (c) The Director shall exercise these powers by way of  
2 proclamation.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 Section 90-35. The Abuse of Adults with Disabilities  
5 Intervention Act is amended by changing Section 15 as follows:

6 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

7 Sec. 15. Definitions. As used in this Act:

8 "Abuse" means causing any physical, sexual, or mental  
9 injury to an adult with disabilities, including exploitation of  
10 the adult's financial resources. Nothing in this Act shall be  
11 construed to mean that an adult with disabilities is a victim  
12 of abuse or neglect for the sole reason that he or she is being  
13 furnished with or relies upon treatment by spiritual means  
14 through prayer alone, in accordance with the tenets and  
15 practices of a recognized church or religious denomination.  
16 Nothing in this Act shall be construed to mean that an adult  
17 with disabilities is a victim of abuse because of health care  
18 services provided or not provided by licensed health care  
19 professionals.

20 "Adult with disabilities" means a person aged 18 through 59  
21 who resides in a domestic living situation and whose physical  
22 or mental disability impairs his or her ability to seek or  
23 obtain protection from abuse, neglect, or exploitation.

24 "Department" means the Department of Human Services.

1 "Adults with Disabilities Abuse Project" or "project"  
2 means that program within the Office of Inspector General  
3 designated by the Department of Human Services to receive and  
4 assess reports of alleged or suspected abuse, neglect, or  
5 exploitation of adults with disabilities.

6 "Domestic living situation" means a residence where the  
7 adult with disabilities lives alone or with his or her family  
8 or household members, a care giver, or others or at a board and  
9 care home or other community-based unlicensed facility, but is  
10 not:

11 (1) A licensed facility as defined in Section 1-113 of  
12 the Nursing Home Care Act or Section 1-113 of the MR/DD  
13 Community Care Act or Section 1-113 of the Specialized  
14 Mental Health Rehabilitation Act.

15 (2) A life care facility as defined in the Life Care  
16 Facilities Act.

17 (3) A home, institution, or other place operated by the  
18 federal government, a federal agency, or the State.

19 (4) A hospital, sanitarium, or other institution, the  
20 principal activity or business of which is the diagnosis,  
21 care, and treatment of human illness through the  
22 maintenance and operation of organized facilities and that  
23 is required to be licensed under the Hospital Licensing  
24 Act.

25 (5) A community living facility as defined in the  
26 Community Living Facilities Licensing Act.



1           (6) A community-integrated living arrangement as  
2 defined in the Community-Integrated Living Arrangements  
3 Licensure and Certification Act or community residential  
4 alternative as licensed under that Act.

5           "Emergency" means a situation in which an adult with  
6 disabilities is in danger of death or great bodily harm.

7           "Exploitation" means the illegal, including tortious, use  
8 of the assets or resources of an adult with disabilities.  
9 Exploitation includes, but is not limited to, the  
10 misappropriation of assets or resources of an adult with  
11 disabilities by undue influence, by breach of a fiduciary  
12 relationship, by fraud, deception, or extortion, or by the use  
13 of the assets or resources in a manner contrary to law.

14           "Family or household members" means a person who as a  
15 family member, volunteer, or paid care provider has assumed  
16 responsibility for all or a portion of the care of an adult  
17 with disabilities who needs assistance with activities of daily  
18 living.

19           "Neglect" means the failure of another individual to  
20 provide an adult with disabilities with or the willful  
21 withholding from an adult with disabilities the necessities of  
22 life, including, but not limited to, food, clothing, shelter,  
23 or medical care.

24 Nothing in the definition of "neglect" shall be construed to  
25 impose a requirement that assistance be provided to an adult  
26 with disabilities over his or her objection in the absence of a

1 court order, nor to create any new affirmative duty to provide  
2 support, assistance, or intervention to an adult with  
3 disabilities. Nothing in this Act shall be construed to mean  
4 that an adult with disabilities is a victim of neglect because  
5 of health care services provided or not provided by licensed  
6 health care professionals.

7 "Physical abuse" includes sexual abuse and means any of the  
8 following:

9 (1) knowing or reckless use of physical force,  
10 confinement, or restraint;

11 (2) knowing, repeated, and unnecessary sleep  
12 deprivation; or

13 (3) knowing or reckless conduct which creates an  
14 immediate risk of physical harm.

15 "Secretary" means the Secretary of Human Services.

16 "Sexual abuse" means touching, fondling, sexual threats,  
17 sexually inappropriate remarks, or any other sexual activity  
18 with an adult with disabilities when the adult with  
19 disabilities is unable to understand, unwilling to consent,  
20 threatened, or physically forced to engage in sexual behavior.

21 "Substantiated case" means a reported case of alleged or  
22 suspected abuse, neglect, or exploitation in which the Adults  
23 with Disabilities Abuse Project staff, after assessment,  
24 determines that there is reason to believe abuse, neglect, or  
25 exploitation has occurred.

26 (Source: P.A. 96-339, eff. 7-1-10.)

1           Section 90-40. The Illinois Finance Authority Act is  
2 amended by changing Section 801-10 as follows:

3           (20 ILCS 3501/801-10)

4           Sec. 801-10. Definitions. The following terms, whenever  
5 used or referred to in this Act, shall have the following  
6 meanings, except in such instances where the context may  
7 clearly indicate otherwise:

8           (a) The term "Authority" means the Illinois Finance  
9 Authority created by this Act.

10          (b) The term "project" means an industrial project,  
11 conservation project, housing project, public purpose project,  
12 higher education project, health facility project, cultural  
13 institution project, agricultural facility or agribusiness,  
14 and "project" may include any combination of one or more of the  
15 foregoing undertaken jointly by any person with one or more  
16 other persons.

17          (c) The term "public purpose project" means any project or  
18 facility including without limitation land, buildings,  
19 structures, machinery, equipment and all other real and  
20 personal property, which is authorized or required by law to be  
21 acquired, constructed, improved, rehabilitated, reconstructed,  
22 replaced or maintained by any unit of government or any other  
23 lawful public purpose which is authorized or required by law to  
24 be undertaken by any unit of government.

1 (d) The term "industrial project" means the acquisition,  
2 construction, refurbishment, creation, development or  
3 redevelopment of any facility, equipment, machinery, real  
4 property or personal property for use by any instrumentality of  
5 the State or its political subdivisions, for use by any person  
6 or institution, public or private, for profit or not for  
7 profit, or for use in any trade or business including, but not  
8 limited to, any industrial, manufacturing or commercial  
9 enterprise and which is (1) a capital project including but not  
10 limited to: (i) land and any rights therein, one or more  
11 buildings, structures or other improvements, machinery and  
12 equipment, whether now existing or hereafter acquired, and  
13 whether or not located on the same site or sites; (ii) all  
14 appurtenances and facilities incidental to the foregoing,  
15 including, but not limited to utilities, access roads, railroad  
16 sidings, track, docking and similar facilities, parking  
17 facilities, dockage, wharfage, railroad roadbed, track,  
18 trestle, depot, terminal, switching and signaling or related  
19 equipment, site preparation and landscaping; and (iii) all  
20 non-capital costs and expenses relating thereto or (2) any  
21 addition to, renovation, rehabilitation or improvement of a  
22 capital project or (3) any activity or undertaking which the  
23 Authority determines will aid, assist or encourage economic  
24 growth, development or redevelopment within the State or any  
25 area thereof, will promote the expansion, retention or  
26 diversification of employment opportunities within the State

1 or any area thereof or will aid in stabilizing or developing  
2 any industry or economic sector of the State economy. The term  
3 "industrial project" also means the production of motion  
4 pictures.

5 (e) The term "bond" or "bonds" shall include bonds, notes  
6 (including bond, grant or revenue anticipation notes),  
7 certificates and/or other evidences of indebtedness  
8 representing an obligation to pay money, including refunding  
9 bonds.

10 (f) The terms "lease agreement" and "loan agreement" shall  
11 mean: (i) an agreement whereby a project acquired by the  
12 Authority by purchase, gift or lease is leased to any person,  
13 corporation or unit of local government which will use or cause  
14 the project to be used as a project as heretofore defined upon  
15 terms providing for lease rental payments at least sufficient  
16 to pay when due all principal of, interest and premium, if any,  
17 on any bonds of the Authority issued with respect to such  
18 project, providing for the maintenance, insuring and operation  
19 of the project on terms satisfactory to the Authority,  
20 providing for disposition of the project upon termination of  
21 the lease term, including purchase options or abandonment of  
22 the premises, and such other terms as may be deemed desirable  
23 by the Authority, or (ii) any agreement pursuant to which the  
24 Authority agrees to loan the proceeds of its bonds issued with  
25 respect to a project or other funds of the Authority to any  
26 person which will use or cause the project to be used as a

1 project as heretofore defined upon terms providing for loan  
2 repayment installments at least sufficient to pay when due all  
3 principal of, interest and premium, if any, on any bonds of the  
4 Authority, if any, issued with respect to the project, and  
5 providing for maintenance, insurance and other matters as may  
6 be deemed desirable by the Authority.

7 (g) The term "financial aid" means the expenditure of  
8 Authority funds or funds provided by the Authority through the  
9 issuance of its bonds, notes or other evidences of indebtedness  
10 or from other sources for the development, construction,  
11 acquisition or improvement of a project.

12 (h) The term "person" means an individual, corporation,  
13 unit of government, business trust, estate, trust, partnership  
14 or association, 2 or more persons having a joint or common  
15 interest, or any other legal entity.

16 (i) The term "unit of government" means the federal  
17 government, the State or unit of local government, a school  
18 district, or any agency or instrumentality, office, officer,  
19 department, division, bureau, commission, college or  
20 university thereof.

21 (j) The term "health facility" means: (a) any public or  
22 private institution, place, building, or agency required to be  
23 licensed under the Hospital Licensing Act; (b) any public or  
24 private institution, place, building, or agency required to be  
25 licensed under the Nursing Home Care Act, the Specialized  
26 Mental Health Rehabilitation Act, or the MR/DD Community Care

1 Act; (c) any public or licensed private hospital as defined in  
2 the Mental Health and Developmental Disabilities Code; (d) any  
3 such facility exempted from such licensure when the Director of  
4 Public Health attests that such exempted facility meets the  
5 statutory definition of a facility subject to licensure; (e)  
6 any other public or private health service institution, place,  
7 building, or agency which the Director of Public Health attests  
8 is subject to certification by the Secretary, U.S. Department  
9 of Health and Human Services under the Social Security Act, as  
10 now or hereafter amended, or which the Director of Public  
11 Health attests is subject to standard-setting by a recognized  
12 public or voluntary accrediting or standard-setting agency;  
13 (f) any public or private institution, place, building or  
14 agency engaged in providing one or more supporting services to  
15 a health facility; (g) any public or private institution,  
16 place, building or agency engaged in providing training in the  
17 healing arts, including but not limited to schools of medicine,  
18 dentistry, osteopathy, optometry, podiatry, pharmacy or  
19 nursing, schools for the training of x-ray, laboratory or other  
20 health care technicians and schools for the training of  
21 para-professionals in the health care field; (h) any public or  
22 private congregate, life or extended care or elderly housing  
23 facility or any public or private home for the aged or infirm,  
24 including, without limitation, any Facility as defined in the  
25 Life Care Facilities Act; (i) any public or private mental,  
26 emotional or physical rehabilitation facility or any public or

1 private educational, counseling, or rehabilitation facility or  
2 home, for those persons with a developmental disability, those  
3 who are physically ill or disabled, the emotionally disturbed,  
4 those persons with a mental illness or persons with learning or  
5 similar disabilities or problems; (j) any public or private  
6 alcohol, drug or substance abuse diagnosis, counseling  
7 treatment or rehabilitation facility, (k) any public or private  
8 institution, place, building or agency licensed by the  
9 Department of Children and Family Services or which is not so  
10 licensed but which the Director of Children and Family Services  
11 attests provides child care, child welfare or other services of  
12 the type provided by facilities subject to such licensure; (l)  
13 any public or private adoption agency or facility; and (m) any  
14 public or private blood bank or blood center. "Health facility"  
15 also means a public or private structure or structures suitable  
16 primarily for use as a laboratory, laundry, nurses or interns  
17 residence or other housing or hotel facility used in whole or  
18 in part for staff, employees or students and their families,  
19 patients or relatives of patients admitted for treatment or  
20 care in a health facility, or persons conducting business with  
21 a health facility, physician's facility, surgicenter,  
22 administration building, research facility, maintenance,  
23 storage or utility facility and all structures or facilities  
24 related to any of the foregoing or required or useful for the  
25 operation of a health facility, including parking or other  
26 facilities or other supporting service structures required or



1 useful for the orderly conduct of such health facility. "Health  
2 facility" also means, with respect to a project located outside  
3 the State, any public or private institution, place, building,  
4 or agency which provides services similar to those described  
5 above, provided that such project is owned, operated, leased or  
6 managed by a participating health institution located within  
7 the State, or a participating health institution affiliated  
8 with an entity located within the State.

9 (k) The term "participating health institution" means (i) a  
10 private corporation or association or (ii) a public entity of  
11 this State, in either case authorized by the laws of this State  
12 or the applicable state to provide or operate a health facility  
13 as defined in this Act and which, pursuant to the provisions of  
14 this Act, undertakes the financing, construction or  
15 acquisition of a project or undertakes the refunding or  
16 refinancing of obligations, loans, indebtedness or advances as  
17 provided in this Act.

18 (l) The term "health facility project", means a specific  
19 health facility work or improvement to be financed or  
20 refinanced (including without limitation through reimbursement  
21 of prior expenditures), acquired, constructed, enlarged,  
22 remodeled, renovated, improved, furnished, or equipped, with  
23 funds provided in whole or in part hereunder, any accounts  
24 receivable, working capital, liability or insurance cost or  
25 operating expense financing or refinancing program of a health  
26 facility with or involving funds provided in whole or in part

1 hereunder, or any combination thereof.

2 (m) The term "bond resolution" means the resolution or  
3 resolutions authorizing the issuance of, or providing terms and  
4 conditions related to, bonds issued under this Act and  
5 includes, where appropriate, any trust agreement, trust  
6 indenture, indenture of mortgage or deed of trust providing  
7 terms and conditions for such bonds.

8 (n) The term "property" means any real, personal or mixed  
9 property, whether tangible or intangible, or any interest  
10 therein, including, without limitation, any real estate,  
11 leasehold interests, appurtenances, buildings, easements,  
12 equipment, furnishings, furniture, improvements, machinery,  
13 rights of way, structures, accounts, contract rights or any  
14 interest therein.

15 (o) The term "revenues" means, with respect to any project,  
16 the rents, fees, charges, interest, principal repayments,  
17 collections and other income or profit derived therefrom.

18 (p) The term "higher education project" means, in the case  
19 of a private institution of higher education, an educational  
20 facility to be acquired, constructed, enlarged, remodeled,  
21 renovated, improved, furnished, or equipped, or any  
22 combination thereof.

23 (q) The term "cultural institution project" means, in the  
24 case of a cultural institution, a cultural facility to be  
25 acquired, constructed, enlarged, remodeled, renovated,  
26 improved, furnished, or equipped, or any combination thereof.

1           (r) The term "educational facility" means any property  
2 located within the State, or any property located outside the  
3 State, provided that, if the property is located outside the  
4 State, it must be owned, operated, leased or managed by an  
5 entity located within the State or an entity affiliated with an  
6 entity located within the State, in each case constructed or  
7 acquired before or after the effective date of this Act, which  
8 is or will be, in whole or in part, suitable for the  
9 instruction, feeding, recreation or housing of students, the  
10 conducting of research or other work of a private institution  
11 of higher education, the use by a private institution of higher  
12 education in connection with any educational, research or  
13 related or incidental activities then being or to be conducted  
14 by it, or any combination of the foregoing, including, without  
15 limitation, any such property suitable for use as or in  
16 connection with any one or more of the following: an academic  
17 facility, administrative facility, agricultural facility,  
18 assembly hall, athletic facility, auditorium, boating  
19 facility, campus, communication facility, computer facility,  
20 continuing education facility, classroom, dining hall,  
21 dormitory, exhibition hall, fire fighting facility, fire  
22 prevention facility, food service and preparation facility,  
23 gymnasium, greenhouse, health care facility, hospital,  
24 housing, instructional facility, laboratory, library,  
25 maintenance facility, medical facility, museum, offices,  
26 parking area, physical education facility, recreational

1 facility, research facility, stadium, storage facility,  
2 student union, study facility, theatre or utility.

3 (s) The term "cultural facility" means any property located  
4 within the State, or any property located outside the State,  
5 provided that, if the property is located outside the State, it  
6 must be owned, operated, leased or managed by an entity located  
7 within the State or an entity affiliated with an entity located  
8 within the State, in each case constructed or acquired before  
9 or after the effective date of this Act, which is or will be,  
10 in whole or in part, suitable for the particular purposes or  
11 needs of a cultural institution, including, without  
12 limitation, any such property suitable for use as or in  
13 connection with any one or more of the following: an  
14 administrative facility, aquarium, assembly hall, auditorium,  
15 botanical garden, exhibition hall, gallery, greenhouse,  
16 library, museum, scientific laboratory, theater or zoological  
17 facility, and shall also include, without limitation, books,  
18 works of art or music, animal, plant or aquatic life or other  
19 items for display, exhibition or performance. The term  
20 "cultural facility" includes buildings on the National  
21 Register of Historic Places which are owned or operated by  
22 nonprofit entities.

23 (t) "Private institution of higher education" means a  
24 not-for-profit educational institution which is not owned by  
25 the State or any political subdivision, agency,  
26 instrumentality, district or municipality thereof, which is

1 authorized by law to provide a program of education beyond the  
2 high school level and which:

3 (1) Admits as regular students only individuals having  
4 a certificate of graduation from a high school, or the  
5 recognized equivalent of such a certificate;

6 (2) Provides an educational program for which it awards  
7 a bachelor's degree, or provides an educational program,  
8 admission into which is conditioned upon the prior  
9 attainment of a bachelor's degree or its equivalent, for  
10 which it awards a postgraduate degree, or provides not less  
11 than a 2-year program which is acceptable for full credit  
12 toward such a degree, or offers a 2-year program in  
13 engineering, mathematics, or the physical or biological  
14 sciences which is designed to prepare the student to work  
15 as a technician and at a semiprofessional level in  
16 engineering, scientific, or other technological fields  
17 which require the understanding and application of basic  
18 engineering, scientific, or mathematical principles or  
19 knowledge;

20 (3) Is accredited by a nationally recognized  
21 accrediting agency or association or, if not so accredited,  
22 is an institution whose credits are accepted, on transfer,  
23 by not less than 3 institutions which are so accredited,  
24 for credit on the same basis as if transferred from an  
25 institution so accredited, and holds an unrevoked  
26 certificate of approval under the Private College Act from

1 the Board of Higher Education, or is qualified as a "degree  
2 granting institution" under the Academic Degree Act; and

3 (4) Does not discriminate in the admission of students  
4 on the basis of race or color. "Private institution of  
5 higher education" also includes any "academic  
6 institution".

7 (u) The term "academic institution" means any  
8 not-for-profit institution which is not owned by the State or  
9 any political subdivision, agency, instrumentality, district  
10 or municipality thereof, which institution engages in, or  
11 facilitates academic, scientific, educational or professional  
12 research or learning in a field or fields of study taught at a  
13 private institution of higher education. Academic institutions  
14 include, without limitation, libraries, archives, academic,  
15 scientific, educational or professional societies,  
16 institutions, associations or foundations having such  
17 purposes.

18 (v) The term "cultural institution" means any  
19 not-for-profit institution which is not owned by the State or  
20 any political subdivision, agency, instrumentality, district  
21 or municipality thereof, which institution engages in the  
22 cultural, intellectual, scientific, educational or artistic  
23 enrichment of the people of the State. Cultural institutions  
24 include, without limitation, aquaria, botanical societies,  
25 historical societies, libraries, museums, performing arts  
26 associations or societies, scientific societies and zoological

1 societies.

2 (w) The term "affiliate" means, with respect to financing  
3 of an agricultural facility or an agribusiness, any lender, any  
4 person, firm or corporation controlled by, or under common  
5 control with, such lender, and any person, firm or corporation  
6 controlling such lender.

7 (x) The term "agricultural facility" means land, any  
8 building or other improvement thereon or thereto, and any  
9 personal properties deemed necessary or suitable for use,  
10 whether or not now in existence, in farming, ranching, the  
11 production of agricultural commodities (including, without  
12 limitation, the products of aquaculture, hydroponics and  
13 silviculture) or the treating, processing or storing of such  
14 agricultural commodities when such activities are customarily  
15 engaged in by farmers as a part of farming.

16 (y) The term "lender" with respect to financing of an  
17 agricultural facility or an agribusiness, means any federal or  
18 State chartered bank, Federal Land Bank, Production Credit  
19 Association, Bank for Cooperatives, federal or State chartered  
20 savings and loan association or building and loan association,  
21 Small Business Investment Company or any other institution  
22 qualified within this State to originate and service loans,  
23 including, but without limitation to, insurance companies,  
24 credit unions and mortgage loan companies. "Lender" also means  
25 a wholly owned subsidiary of a manufacturer, seller or  
26 distributor of goods or services that makes loans to businesses

1 or individuals, commonly known as a "captive finance company".

2 (z) The term "agribusiness" means any sole proprietorship,  
3 limited partnership, co-partnership, joint venture,  
4 corporation or cooperative which operates or will operate a  
5 facility located within the State of Illinois that is related  
6 to the processing of agricultural commodities (including,  
7 without limitation, the products of aquaculture, hydroponics  
8 and silviculture) or the manufacturing, production or  
9 construction of agricultural buildings, structures, equipment,  
10 implements, and supplies, or any other facilities or processes  
11 used in agricultural production. Agribusiness includes but is  
12 not limited to the following:

13 (1) grain handling and processing, including grain  
14 storage, drying, treatment, conditioning, mailing and  
15 packaging;

16 (2) seed and feed grain development and processing;

17 (3) fruit and vegetable processing, including  
18 preparation, canning and packaging;

19 (4) processing of livestock and livestock products,  
20 dairy products, poultry and poultry products, fish or  
21 apiarian products, including slaughter, shearing,  
22 collecting, preparation, canning and packaging;

23 (5) fertilizer and agricultural chemical  
24 manufacturing, processing, application and supplying;

25 (6) farm machinery, equipment and implement  
26 manufacturing and supplying;



1           (7) manufacturing and supplying of agricultural  
2 commodity processing machinery and equipment, including  
3 machinery and equipment used in slaughter, treatment,  
4 handling, collecting, preparation, canning or packaging of  
5 agricultural commodities;

6           (8) farm building and farm structure manufacturing,  
7 construction and supplying;

8           (9) construction, manufacturing, implementation,  
9 supplying or servicing of irrigation, drainage and soil and  
10 water conservation devices or equipment;

11           (10) fuel processing and development facilities that  
12 produce fuel from agricultural commodities or byproducts;

13           (11) facilities and equipment for processing and  
14 packaging agricultural commodities specifically for  
15 export;

16           (12) facilities and equipment for forestry product  
17 processing and supplying, including sawmilling operations,  
18 wood chip operations, timber harvesting operations, and  
19 manufacturing of prefabricated buildings, paper, furniture  
20 or other goods from forestry products;

21           (13) facilities and equipment for research and  
22 development of products, processes and equipment for the  
23 production, processing, preparation or packaging of  
24 agricultural commodities and byproducts.

25           (aa) The term "asset" with respect to financing of any  
26 agricultural facility or any agribusiness, means, but is not

1 limited to the following: cash crops or feed on hand; livestock  
2 held for sale; breeding stock; marketable bonds and securities;  
3 securities not readily marketable; accounts receivable; notes  
4 receivable; cash invested in growing crops; net cash value of  
5 life insurance; machinery and equipment; cars and trucks; farm  
6 and other real estate including life estates and personal  
7 residence; value of beneficial interests in trusts; government  
8 payments or grants; and any other assets.

9 (bb) The term "liability" with respect to financing of any  
10 agricultural facility or any agribusiness shall include, but  
11 not be limited to the following: accounts payable; notes or  
12 other indebtedness owed to any source; taxes; rent; amounts  
13 owed on real estate contracts or real estate mortgages;  
14 judgments; accrued interest payable; and any other liability.

15 (cc) The term "Predecessor Authorities" means those  
16 authorities as described in Section 845-75.

17 (dd) The term "housing project" means a specific work or  
18 improvement undertaken to provide residential dwelling  
19 accommodations, including the acquisition, construction or  
20 rehabilitation of lands, buildings and community facilities  
21 and in connection therewith to provide nonhousing facilities  
22 which are part of the housing project, including land,  
23 buildings, improvements, equipment and all ancillary  
24 facilities for use for offices, stores, retirement homes,  
25 hotels, financial institutions, service, health care,  
26 education, recreation or research establishments, or any other

1 commercial purpose which are or are to be related to a housing  
2 development.

3 (ee) The term "conservation project" means any project  
4 including the acquisition, construction, rehabilitation,  
5 maintenance, operation, or upgrade that is intended to create  
6 or expand open space or to reduce energy usage through  
7 efficiency measures. For the purpose of this definition, "open  
8 space" has the definition set forth under Section 10 of the  
9 Illinois Open Land Trust Act.

10 (ff) The term "significant presence" means the existence  
11 within the State of the national or regional headquarters of an  
12 entity or group or such other facility of an entity or group of  
13 entities where a significant amount of the business functions  
14 are performed for such entity or group of entities.

15 (Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10;  
16 96-1021, eff. 7-12-10.)

17 Section 90-45. The Illinois Health Facilities Planning Act  
18 is amended by changing Sections 3, 12, 13, and 14.1 as follows:

19 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

20 (Section scheduled to be repealed on December 31, 2019)

21 Sec. 3. Definitions. As used in this Act:

22 "Health care facilities" means and includes the following  
23 facilities and organizations:

24 1. An ambulatory surgical treatment center required to

1 be licensed pursuant to the Ambulatory Surgical Treatment  
2 Center Act;

3 2. An institution, place, building, or agency required  
4 to be licensed pursuant to the Hospital Licensing Act;

5 3. Skilled and intermediate long term care facilities  
6 licensed under the Nursing Home Care Act;

7 3.5. Skilled and intermediate care facilities licensed  
8 under the MR/DD Community Care Act;

9 3.7 Facilities licensed under the Specialized Mental  
10 Health Rehabilitation Act;

11 4. Hospitals, nursing homes, ambulatory surgical  
12 treatment centers, or kidney disease treatment centers  
13 maintained by the State or any department or agency  
14 thereof;

15 5. Kidney disease treatment centers, including a  
16 free-standing hemodialysis unit required to be licensed  
17 under the End Stage Renal Disease Facility Act;

18 6. An institution, place, building, or room used for  
19 the performance of outpatient surgical procedures that is  
20 leased, owned, or operated by or on behalf of an  
21 out-of-state facility;

22 7. An institution, place, building, or room used for  
23 provision of a health care category of service as defined  
24 by the Board, including, but not limited to, cardiac  
25 catheterization and open heart surgery; and

26 8. An institution, place, building, or room used for

1 provision of major medical equipment used in the direct  
2 clinical diagnosis or treatment of patients, and whose  
3 project cost is in excess of the capital expenditure  
4 minimum.

5 This Act shall not apply to the construction of any new  
6 facility or the renovation of any existing facility located on  
7 any campus facility as defined in Section 5-5.8b of the  
8 Illinois Public Aid Code, provided that the campus facility  
9 encompasses 30 or more contiguous acres and that the new or  
10 renovated facility is intended for use by a licensed  
11 residential facility.

12 No federally owned facility shall be subject to the  
13 provisions of this Act, nor facilities used solely for healing  
14 by prayer or spiritual means.

15 No facility licensed under the Supportive Residences  
16 Licensing Act or the Assisted Living and Shared Housing Act  
17 shall be subject to the provisions of this Act.

18 No facility established and operating under the  
19 Alternative Health Care Delivery Act as a children's respite  
20 care center alternative health care model demonstration  
21 program or as an Alzheimer's Disease Management Center  
22 alternative health care model demonstration program shall be  
23 subject to the provisions of this Act.

24 A facility designated as a supportive living facility that  
25 is in good standing with the program established under Section  
26 5-5.01a of the Illinois Public Aid Code shall not be subject to

1 the provisions of this Act.

2 This Act does not apply to facilities granted waivers under  
3 Section 3-102.2 of the Nursing Home Care Act. However, if a  
4 demonstration project under that Act applies for a certificate  
5 of need to convert to a nursing facility, it shall meet the  
6 licensure and certificate of need requirements in effect as of  
7 the date of application.

8 This Act does not apply to a dialysis facility that  
9 provides only dialysis training, support, and related services  
10 to individuals with end stage renal disease who have elected to  
11 receive home dialysis. This Act does not apply to a dialysis  
12 unit located in a licensed nursing home that offers or provides  
13 dialysis-related services to residents with end stage renal  
14 disease who have elected to receive home dialysis within the  
15 nursing home. The Board, however, may require these dialysis  
16 facilities and licensed nursing homes to report statistical  
17 information on a quarterly basis to the Board to be used by the  
18 Board to conduct analyses on the need for proposed kidney  
19 disease treatment centers.

20 This Act shall not apply to the closure of an entity or a  
21 portion of an entity licensed under the Nursing Home Care Act,  
22 the Specialized Mental Health Rehabilitation Act, or the MR/DD  
23 Community Care Act, with the exceptions of facilities operated  
24 by a county or Illinois Veterans Homes, that elects to convert,  
25 in whole or in part, to an assisted living or shared housing  
26 establishment licensed under the Assisted Living and Shared

1 Housing Act.

2 This Act does not apply to any change of ownership of a  
3 healthcare facility that is licensed under the Nursing Home  
4 Care Act, the Specialized Mental Health Rehabilitation Act, or  
5 the MR/DD Community Care Act, with the exceptions of facilities  
6 operated by a county or Illinois Veterans Homes. Changes of  
7 ownership of facilities licensed under the Nursing Home Care  
8 Act must meet the requirements set forth in Sections 3-101  
9 through 3-119 of the Nursing Home Care Act.

10 With the exception of those health care facilities  
11 specifically included in this Section, nothing in this Act  
12 shall be intended to include facilities operated as a part of  
13 the practice of a physician or other licensed health care  
14 professional, whether practicing in his individual capacity or  
15 within the legal structure of any partnership, medical or  
16 professional corporation, or unincorporated medical or  
17 professional group. Further, this Act shall not apply to  
18 physicians or other licensed health care professional's  
19 practices where such practices are carried out in a portion of  
20 a health care facility under contract with such health care  
21 facility by a physician or by other licensed health care  
22 professionals, whether practicing in his individual capacity  
23 or within the legal structure of any partnership, medical or  
24 professional corporation, or unincorporated medical or  
25 professional groups. This Act shall apply to construction or  
26 modification and to establishment by such health care facility

1 of such contracted portion which is subject to facility  
2 licensing requirements, irrespective of the party responsible  
3 for such action or attendant financial obligation.

4 "Person" means any one or more natural persons, legal  
5 entities, governmental bodies other than federal, or any  
6 combination thereof.

7 "Consumer" means any person other than a person (a) whose  
8 major occupation currently involves or whose official capacity  
9 within the last 12 months has involved the providing,  
10 administering or financing of any type of health care facility,  
11 (b) who is engaged in health research or the teaching of  
12 health, (c) who has a material financial interest in any  
13 activity which involves the providing, administering or  
14 financing of any type of health care facility, or (d) who is or  
15 ever has been a member of the immediate family of the person  
16 defined by (a), (b), or (c).

17 "State Board" or "Board" means the Health Facilities and  
18 Services Review Board.

19 "Construction or modification" means the establishment,  
20 erection, building, alteration, reconstruction, modernization,  
21 improvement, extension, discontinuation, change of ownership,  
22 of or by a health care facility, or the purchase or acquisition  
23 by or through a health care facility of equipment or service  
24 for diagnostic or therapeutic purposes or for facility  
25 administration or operation, or any capital expenditure made by  
26 or on behalf of a health care facility which exceeds the



1 capital expenditure minimum; however, any capital expenditure  
2 made by or on behalf of a health care facility for (i) the  
3 construction or modification of a facility licensed under the  
4 Assisted Living and Shared Housing Act or (ii) a conversion  
5 project undertaken in accordance with Section 30 of the Older  
6 Adult Services Act shall be excluded from any obligations under  
7 this Act.

8 "Establish" means the construction of a health care  
9 facility or the replacement of an existing facility on another  
10 site or the initiation of a category of service as defined by  
11 the Board.

12 "Major medical equipment" means medical equipment which is  
13 used for the provision of medical and other health services and  
14 which costs in excess of the capital expenditure minimum,  
15 except that such term does not include medical equipment  
16 acquired by or on behalf of a clinical laboratory to provide  
17 clinical laboratory services if the clinical laboratory is  
18 independent of a physician's office and a hospital and it has  
19 been determined under Title XVIII of the Social Security Act to  
20 meet the requirements of paragraphs (10) and (11) of Section  
21 1861(s) of such Act. In determining whether medical equipment  
22 has a value in excess of the capital expenditure minimum, the  
23 value of studies, surveys, designs, plans, working drawings,  
24 specifications, and other activities essential to the  
25 acquisition of such equipment shall be included.

26 "Capital Expenditure" means an expenditure: (A) made by or

1 on behalf of a health care facility (as such a facility is  
2 defined in this Act); and (B) which under generally accepted  
3 accounting principles is not properly chargeable as an expense  
4 of operation and maintenance, or is made to obtain by lease or  
5 comparable arrangement any facility or part thereof or any  
6 equipment for a facility or part; and which exceeds the capital  
7 expenditure minimum.

8 For the purpose of this paragraph, the cost of any studies,  
9 surveys, designs, plans, working drawings, specifications, and  
10 other activities essential to the acquisition, improvement,  
11 expansion, or replacement of any plant or equipment with  
12 respect to which an expenditure is made shall be included in  
13 determining if such expenditure exceeds the capital  
14 expenditures minimum. Unless otherwise interdependent, or  
15 submitted as one project by the applicant, components of  
16 construction or modification undertaken by means of a single  
17 construction contract or financed through the issuance of a  
18 single debt instrument shall not be grouped together as one  
19 project. Donations of equipment or facilities to a health care  
20 facility which if acquired directly by such facility would be  
21 subject to review under this Act shall be considered capital  
22 expenditures, and a transfer of equipment or facilities for  
23 less than fair market value shall be considered a capital  
24 expenditure for purposes of this Act if a transfer of the  
25 equipment or facilities at fair market value would be subject  
26 to review.

1 "Capital expenditure minimum" means \$11,500,000 for  
2 projects by hospital applicants, \$6,500,000 for applicants for  
3 projects related to skilled and intermediate care long-term  
4 care facilities licensed under the Nursing Home Care Act, and  
5 \$3,000,000 for projects by all other applicants, which shall be  
6 annually adjusted to reflect the increase in construction costs  
7 due to inflation, for major medical equipment and for all other  
8 capital expenditures.

9 "Non-clinical service area" means an area (i) for the  
10 benefit of the patients, visitors, staff, or employees of a  
11 health care facility and (ii) not directly related to the  
12 diagnosis, treatment, or rehabilitation of persons receiving  
13 services from the health care facility. "Non-clinical service  
14 areas" include, but are not limited to, chapels; gift shops;  
15 news stands; computer systems; tunnels, walkways, and  
16 elevators; telephone systems; projects to comply with life  
17 safety codes; educational facilities; student housing;  
18 patient, employee, staff, and visitor dining areas;  
19 administration and volunteer offices; modernization of  
20 structural components (such as roof replacement and masonry  
21 work); boiler repair or replacement; vehicle maintenance and  
22 storage facilities; parking facilities; mechanical systems for  
23 heating, ventilation, and air conditioning; loading docks; and  
24 repair or replacement of carpeting, tile, wall coverings,  
25 window coverings or treatments, or furniture. Solely for the  
26 purpose of this definition, "non-clinical service area" does

1 not include health and fitness centers.

2 "Areawide" means a major area of the State delineated on a  
3 geographic, demographic, and functional basis for health  
4 planning and for health service and having within it one or  
5 more local areas for health planning and health service. The  
6 term "region", as contrasted with the term "subregion", and the  
7 word "area" may be used synonymously with the term "areawide".

8 "Local" means a subarea of a delineated major area that on  
9 a geographic, demographic, and functional basis may be  
10 considered to be part of such major area. The term "subregion"  
11 may be used synonymously with the term "local".

12 "Physician" means a person licensed to practice in  
13 accordance with the Medical Practice Act of 1987, as amended.

14 "Licensed health care professional" means a person  
15 licensed to practice a health profession under pertinent  
16 licensing statutes of the State of Illinois.

17 "Director" means the Director of the Illinois Department of  
18 Public Health.

19 "Agency" means the Illinois Department of Public Health.

20 "Alternative health care model" means a facility or program  
21 authorized under the Alternative Health Care Delivery Act.

22 "Out-of-state facility" means a person that is both (i)  
23 licensed as a hospital or as an ambulatory surgery center under  
24 the laws of another state or that qualifies as a hospital or an  
25 ambulatory surgery center under regulations adopted pursuant  
26 to the Social Security Act and (ii) not licensed under the

1 Ambulatory Surgical Treatment Center Act, the Hospital  
2 Licensing Act, or the Nursing Home Care Act. Affiliates of  
3 out-of-state facilities shall be considered out-of-state  
4 facilities. Affiliates of Illinois licensed health care  
5 facilities 100% owned by an Illinois licensed health care  
6 facility, its parent, or Illinois physicians licensed to  
7 practice medicine in all its branches shall not be considered  
8 out-of-state facilities. Nothing in this definition shall be  
9 construed to include an office or any part of an office of a  
10 physician licensed to practice medicine in all its branches in  
11 Illinois that is not required to be licensed under the  
12 Ambulatory Surgical Treatment Center Act.

13 "Change of ownership of a health care facility" means a  
14 change in the person who has ownership or control of a health  
15 care facility's physical plant and capital assets. A change in  
16 ownership is indicated by the following transactions: sale,  
17 transfer, acquisition, lease, change of sponsorship, or other  
18 means of transferring control.

19 "Related person" means any person that: (i) is at least 50%  
20 owned, directly or indirectly, by either the health care  
21 facility or a person owning, directly or indirectly, at least  
22 50% of the health care facility; or (ii) owns, directly or  
23 indirectly, at least 50% of the health care facility.

24 "Charity care" means care provided by a health care  
25 facility for which the provider does not expect to receive  
26 payment from the patient or a third-party payer.

1 "Freestanding emergency center" means a facility subject  
2 to licensure under Section 32.5 of the Emergency Medical  
3 Services (EMS) Systems Act.

4 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;  
5 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.  
6 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,  
7 eff. 7-2-10.)

8 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

9 (Section scheduled to be repealed on December 31, 2019)

10 Sec. 12. Powers and duties of State Board. For purposes of  
11 this Act, the State Board shall exercise the following powers  
12 and duties:

13 (1) Prescribe rules, regulations, standards, criteria,  
14 procedures or reviews which may vary according to the purpose  
15 for which a particular review is being conducted or the type of  
16 project reviewed and which are required to carry out the  
17 provisions and purposes of this Act. Policies and procedures of  
18 the State Board shall take into consideration the priorities  
19 and needs of medically underserved areas and other health care  
20 services identified through the comprehensive health planning  
21 process, giving special consideration to the impact of projects  
22 on access to safety net services.

23 (2) Adopt procedures for public notice and hearing on all  
24 proposed rules, regulations, standards, criteria, and plans  
25 required to carry out the provisions of this Act.

1 (3) (Blank).

2 (4) Develop criteria and standards for health care  
3 facilities planning, conduct statewide inventories of health  
4 care facilities, maintain an updated inventory on the Board's  
5 web site reflecting the most recent bed and service changes and  
6 updated need determinations when new census data become  
7 available or new need formulae are adopted, and develop health  
8 care facility plans which shall be utilized in the review of  
9 applications for permit under this Act. Such health facility  
10 plans shall be coordinated by the Board with pertinent State  
11 Plans. Inventories pursuant to this Section of skilled or  
12 intermediate care facilities licensed under the Nursing Home  
13 Care Act, skilled or intermediate care facilities licensed  
14 under the MR/DD Community Care Act, facilities licensed under  
15 the Specialized Mental Health Rehabilitation Act, or nursing  
16 homes licensed under the Hospital Licensing Act shall be  
17 conducted on an annual basis no later than July 1 of each year  
18 and shall include among the information requested a list of all  
19 services provided by a facility to its residents and to the  
20 community at large and differentiate between active and  
21 inactive beds.

22 In developing health care facility plans, the State Board  
23 shall consider, but shall not be limited to, the following:

24 (a) The size, composition and growth of the population  
25 of the area to be served;

26 (b) The number of existing and planned facilities

1 offering similar programs;

2 (c) The extent of utilization of existing facilities;

3 (d) The availability of facilities which may serve as  
4 alternatives or substitutes;

5 (e) The availability of personnel necessary to the  
6 operation of the facility;

7 (f) Multi-institutional planning and the establishment  
8 of multi-institutional systems where feasible;

9 (g) The financial and economic feasibility of proposed  
10 construction or modification; and

11 (h) In the case of health care facilities established  
12 by a religious body or denomination, the needs of the  
13 members of such religious body or denomination may be  
14 considered to be public need.

15 The health care facility plans which are developed and  
16 adopted in accordance with this Section shall form the basis  
17 for the plan of the State to deal most effectively with  
18 statewide health needs in regard to health care facilities.

19 (5) Coordinate with the Center for Comprehensive Health  
20 Planning and other state agencies having responsibilities  
21 affecting health care facilities, including those of licensure  
22 and cost reporting.

23 (6) Solicit, accept, hold and administer on behalf of the  
24 State any grants or bequests of money, securities or property  
25 for use by the State Board or Center for Comprehensive Health  
26 Planning in the administration of this Act; and enter into



1 contracts consistent with the appropriations for purposes  
2 enumerated in this Act.

3 (7) The State Board shall prescribe procedures for review,  
4 standards, and criteria which shall be utilized to make  
5 periodic reviews and determinations of the appropriateness of  
6 any existing health services being rendered by health care  
7 facilities subject to the Act. The State Board shall consider  
8 recommendations of the Board in making its determinations.

9 (8) Prescribe, in consultation with the Center for  
10 Comprehensive Health Planning, rules, regulations, standards,  
11 and criteria for the conduct of an expeditious review of  
12 applications for permits for projects of construction or  
13 modification of a health care facility, which projects are  
14 classified as emergency, substantive, or non-substantive in  
15 nature.

16 Six months after June 30, 2009 (the effective date of  
17 Public Act 96-31), substantive projects shall include no more  
18 than the following:

19 (a) Projects to construct (1) a new or replacement  
20 facility located on a new site or (2) a replacement  
21 facility located on the same site as the original facility  
22 and the cost of the replacement facility exceeds the  
23 capital expenditure minimum;

24 (b) Projects proposing a (1) new service or (2)  
25 discontinuation of a service, which shall be reviewed by  
26 the Board within 60 days; or

1           (c) Projects proposing a change in the bed capacity of  
2           a health care facility by an increase in the total number  
3           of beds or by a redistribution of beds among various  
4           categories of service or by a relocation of beds from one  
5           physical facility or site to another by more than 20 beds  
6           or more than 10% of total bed capacity, as defined by the  
7           State Board, whichever is less, over a 2-year period.

8           The Chairman may approve applications for exemption that  
9           meet the criteria set forth in rules or refer them to the full  
10          Board. The Chairman may approve any unopposed application that  
11          meets all of the review criteria or refer them to the full  
12          Board.

13          Such rules shall not abridge the right of the Center for  
14          Comprehensive Health Planning to make recommendations on the  
15          classification and approval of projects, nor shall such rules  
16          prevent the conduct of a public hearing upon the timely request  
17          of an interested party. Such reviews shall not exceed 60 days  
18          from the date the application is declared to be complete.

19          (9) Prescribe rules, regulations, standards, and criteria  
20          pertaining to the granting of permits for construction and  
21          modifications which are emergent in nature and must be  
22          undertaken immediately to prevent or correct structural  
23          deficiencies or hazardous conditions that may harm or injure  
24          persons using the facility, as defined in the rules and  
25          regulations of the State Board. This procedure is exempt from  
26          public hearing requirements of this Act.

1           (10) Prescribe rules, regulations, standards and criteria  
2 for the conduct of an expeditious review, not exceeding 60  
3 days, of applications for permits for projects to construct or  
4 modify health care facilities which are needed for the care and  
5 treatment of persons who have acquired immunodeficiency  
6 syndrome (AIDS) or related conditions.

7           (11) Issue written decisions upon request of the applicant  
8 or an adversely affected party to the Board within 30 days of  
9 the meeting in which a final decision has been made. A "final  
10 decision" for purposes of this Act is the decision to approve  
11 or deny an application, or take other actions permitted under  
12 this Act, at the time and date of the meeting that such action  
13 is scheduled by the Board. The staff of the State Board shall  
14 prepare a written copy of the final decision and the State  
15 Board shall approve a final copy for inclusion in the formal  
16 record.

17           (12) Require at least one of its members to participate in  
18 any public hearing, after the appointment of the 9 members to  
19 the Board.

20           (13) Provide a mechanism for the public to comment on, and  
21 request changes to, draft rules and standards.

22           (14) Implement public information campaigns to regularly  
23 inform the general public about the opportunity for public  
24 hearings and public hearing procedures.

25           (15) Establish a separate set of rules and guidelines for  
26 long-term care that recognizes that nursing homes are a

1 different business line and service model from other regulated  
2 facilities. An open and transparent process shall be developed  
3 that considers the following: how skilled nursing fits in the  
4 continuum of care with other care providers, modernization of  
5 nursing homes, establishment of more private rooms,  
6 development of alternative services, and current trends in  
7 long-term care services. The Chairman of the Board shall  
8 appoint a permanent Health Services Review Board Long-term Care  
9 Facility Advisory Subcommittee that shall develop and  
10 recommend to the Board the rules to be established by the Board  
11 under this paragraph (15). The Subcommittee shall also provide  
12 continuous review and commentary on policies and procedures  
13 relative to long-term care and the review of related projects.  
14 In consultation with other experts from the health field of  
15 long-term care, the Board and the Subcommittee shall study new  
16 approaches to the current bed need formula and Health Service  
17 Area boundaries to encourage flexibility and innovation in  
18 design models reflective of the changing long-term care  
19 marketplace and consumer preferences. The Board shall file the  
20 proposed related administrative rules for the separate rules  
21 and guidelines for long-term care required by this paragraph  
22 (15) by September 1, 2010. The Subcommittee shall be provided a  
23 reasonable and timely opportunity to review and comment on any  
24 review, revision, or updating of the criteria, standards,  
25 procedures, and rules used to evaluate project applications as  
26 provided under Section 12.3 of this Act prior to approval by

1 the Board and promulgation of related rules.

2 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
3 96-1000, eff. 7-2-10.)

4 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

5 (Section scheduled to be repealed on December 31, 2019)

6 Sec. 13. Investigation of applications for permits and  
7 certificates of recognition. The Agency or the State Board  
8 shall make or cause to be made such investigations as it or the  
9 State Board deems necessary in connection with an application  
10 for a permit or an application for a certificate of  
11 recognition, or in connection with a determination of whether  
12 or not construction or modification which has been commenced is  
13 in accord with the permit issued by the State Board or whether  
14 construction or modification has been commenced without a  
15 permit having been obtained. The State Board may issue  
16 subpoenas duces tecum requiring the production of records and  
17 may administer oaths to such witnesses.

18 Any circuit court of this State, upon the application of  
19 the State Board or upon the application of any party to such  
20 proceedings, may, in its discretion, compel the attendance of  
21 witnesses, the production of books, papers, records, or  
22 memoranda and the giving of testimony before the State Board,  
23 by a proceeding as for contempt, or otherwise, in the same  
24 manner as production of evidence may be compelled before the  
25 court.

1           The State Board shall require all health facilities  
2 operating in this State to provide such reasonable reports at  
3 such times and containing such information as is needed by it  
4 to carry out the purposes and provisions of this Act. Prior to  
5 collecting information from health facilities, the State Board  
6 shall make reasonable efforts through a public process to  
7 consult with health facilities and associations that represent  
8 them to determine whether data and information requests will  
9 result in useful information for health planning, whether  
10 sufficient information is available from other sources, and  
11 whether data requested is routinely collected by health  
12 facilities and is available without retrospective record  
13 review. Data and information requests shall not impose undue  
14 paperwork burdens on health care facilities and personnel.  
15 Health facilities not complying with this requirement shall be  
16 reported to licensing, accrediting, certifying, or payment  
17 agencies as being in violation of State law. Health care  
18 facilities and other parties at interest shall have reasonable  
19 access, under rules established by the State Board, to all  
20 planning information submitted in accord with this Act  
21 pertaining to their area.

22           Among the reports to be required by the State Board are  
23 facility questionnaires for health care facilities licensed  
24 under the Ambulatory Surgical Treatment Center Act, the  
25 Hospital Licensing Act, the Nursing Home Care Act, the MR/DD  
26 Community Care Act, the Specialized Mental Health

1 Rehabilitation Act, or the End Stage Renal Disease Facility  
2 Act. These questionnaires shall be conducted on an annual basis  
3 and compiled by the Agency. For health care facilities licensed  
4 under the Nursing Home Care Act, the Specialized Mental Health  
5 Rehabilitation Act, or the MR/DD Community Care Act, these  
6 reports shall include, but not be limited to, the  
7 identification of specialty services provided by the facility  
8 to patients, residents, and the community at large. For health  
9 care facilities that contain long term care beds, the reports  
10 shall also include the number of staffed long term care beds,  
11 physical capacity for long term care beds at the facility, and  
12 long term care beds available for immediate occupancy. For  
13 purposes of this paragraph, "long term care beds" means beds  
14 (i) licensed under the Nursing Home Care Act, (ii) licensed  
15 under the MR/DD Community Care Act, ~~or~~ (iii) licensed under the  
16 Hospital Licensing Act, or (iv) licensed under the Specialized  
17 Mental Health Rehabilitation Act and certified as skilled  
18 nursing or nursing facility beds under Medicaid or Medicare.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 (20 ILCS 3960/14.1)

21 Sec. 14.1. Denial of permit; other sanctions.

22 (a) The State Board may deny an application for a permit or  
23 may revoke or take other action as permitted by this Act with  
24 regard to a permit as the State Board deems appropriate,  
25 including the imposition of fines as set forth in this Section,

1 for any one or a combination of the following:

2 (1) The acquisition of major medical equipment without  
3 a permit or in violation of the terms of a permit.

4 (2) The establishment, construction, or modification  
5 of a health care facility without a permit or in violation  
6 of the terms of a permit.

7 (3) The violation of any provision of this Act or any  
8 rule adopted under this Act.

9 (4) The failure, by any person subject to this Act, to  
10 provide information requested by the State Board or Agency  
11 within 30 days after a formal written request for the  
12 information.

13 (5) The failure to pay any fine imposed under this  
14 Section within 30 days of its imposition.

15 (a-5) For facilities licensed under the MR/DD Community  
16 Care Act, no permit shall be denied on the basis of prior  
17 operator history, other than for actions specified under item  
18 (2), (4), or (5) of Section 3-117 of the MR/DD Community Care  
19 Act. For facilities licensed under the Specialized Mental  
20 Health Rehabilitation Act, no permit shall be denied on the  
21 basis of prior operator history, other than for actions  
22 specified under item (2), (4), or (5) of Section 3-117 of the  
23 Specialized Mental Health Rehabilitation Act. For facilities  
24 licensed under the Nursing Home Care Act, no permit shall be  
25 denied on the basis of prior operator history, other than for:  
26 (i) actions specified under item (2), (3), (4), (5), or (6) of



1 Section 3-117 of the Nursing Home Care Act; (ii) actions  
2 specified under item (a)(6) of Section 3-119 of the Nursing  
3 Home Care Act; or (iii) actions within the preceding 5 years  
4 constituting a substantial and repeated failure to comply with  
5 the Nursing Home Care Act or the rules and regulations adopted  
6 by the Department under that Act. The State Board shall not  
7 deny a permit on account of any action described in this  
8 subsection (a-5) without also considering all such actions in  
9 the light of all relevant information available to the State  
10 Board, including whether the permit is sought to substantially  
11 comply with a mandatory or voluntary plan of correction  
12 associated with any action described in this subsection (a-5).

13 (b) Persons shall be subject to fines as follows:

14 (1) A permit holder who fails to comply with the  
15 requirements of maintaining a valid permit shall be fined  
16 an amount not to exceed 1% of the approved permit amount  
17 plus an additional 1% of the approved permit amount for  
18 each 30-day period, or fraction thereof, that the violation  
19 continues.

20 (2) A permit holder who alters the scope of an approved  
21 project or whose project costs exceed the allowable permit  
22 amount without first obtaining approval from the State  
23 Board shall be fined an amount not to exceed the sum of (i)  
24 the lesser of \$25,000 or 2% of the approved permit amount  
25 and (ii) in those cases where the approved permit amount is  
26 exceeded by more than \$1,000,000, an additional \$20,000 for

1 each \$1,000,000, or fraction thereof, in excess of the  
2 approved permit amount.

3 (3) A person who acquires major medical equipment or  
4 who establishes a category of service without first  
5 obtaining a permit or exemption, as the case may be, shall  
6 be fined an amount not to exceed \$10,000 for each such  
7 acquisition or category of service established plus an  
8 additional \$10,000 for each 30-day period, or fraction  
9 thereof, that the violation continues.

10 (4) A person who constructs, modifies, or establishes a  
11 health care facility without first obtaining a permit shall  
12 be fined an amount not to exceed \$25,000 plus an additional  
13 \$25,000 for each 30-day period, or fraction thereof, that  
14 the violation continues.

15 (5) A person who discontinues a health care facility or  
16 a category of service without first obtaining a permit  
17 shall be fined an amount not to exceed \$10,000 plus an  
18 additional \$10,000 for each 30-day period, or fraction  
19 thereof, that the violation continues. For purposes of this  
20 subparagraph (5), facilities licensed under the Nursing  
21 Home Care Act or the MR/DD Community Care Act, with the  
22 exceptions of facilities operated by a county or Illinois  
23 Veterans Homes, are exempt from this permit requirement.  
24 However, facilities licensed under the Nursing Home Care  
25 Act or the MR/DD Community Care Act must comply with  
26 Section 3-423 of the Nursing Home Care Act or Section 3-423

1 of the MR/DD Community Care Act and must provide the Board  
2 with 30-days' written notice of its intent to close.

3 (6) A person subject to this Act who fails to provide  
4 information requested by the State Board or Agency within  
5 30 days of a formal written request shall be fined an  
6 amount not to exceed \$1,000 plus an additional \$1,000 for  
7 each 30-day period, or fraction thereof, that the  
8 information is not received by the State Board or Agency.

9 (c) Before imposing any fine authorized under this Section,  
10 the State Board shall afford the person or permit holder, as  
11 the case may be, an appearance before the State Board and an  
12 opportunity for a hearing before a hearing officer appointed by  
13 the State Board. The hearing shall be conducted in accordance  
14 with Section 10.

15 (d) All fines collected under this Act shall be transmitted  
16 to the State Treasurer, who shall deposit them into the  
17 Illinois Health Facilities Planning Fund.

18 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;  
19 96-1372, eff. 7-29-10.)

20 Section 90-50. The Illinois Income Tax Act is amended by  
21 changing Section 806 as follows:

22 (35 ILCS 5/806)

23 Sec. 806. Exemption from penalty. An individual taxpayer  
24 shall not be subject to a penalty for failing to pay estimated

1 tax as required by Section 803 if the taxpayer is 65 years of  
2 age or older and is a permanent resident of a nursing home. For  
3 purposes of this Section, "nursing home" means a skilled  
4 nursing or intermediate long term care facility that is subject  
5 to licensure by the Illinois Department of Public Health under  
6 the Nursing Home Care Act, the Specialized Mental Health  
7 Rehabilitation Act, or the MR/DD Community Care Act.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 Section 90-55. The Use Tax Act is amended by changing  
10 Section 3-5 as follows:

11 (35 ILCS 105/3-5)

12 Sec. 3-5. Exemptions. Use of the following tangible  
13 personal property is exempt from the tax imposed by this Act:

14 (1) Personal property purchased from a corporation,  
15 society, association, foundation, institution, or  
16 organization, other than a limited liability company, that is  
17 organized and operated as a not-for-profit service enterprise  
18 for the benefit of persons 65 years of age or older if the  
19 personal property was not purchased by the enterprise for the  
20 purpose of resale by the enterprise.

21 (2) Personal property purchased by a not-for-profit  
22 Illinois county fair association for use in conducting,  
23 operating, or promoting the county fair.

24 (3) Personal property purchased by a not-for-profit arts or

1 cultural organization that establishes, by proof required by  
2 the Department by rule, that it has received an exemption under  
3 Section 501(c)(3) of the Internal Revenue Code and that is  
4 organized and operated primarily for the presentation or  
5 support of arts or cultural programming, activities, or  
6 services. These organizations include, but are not limited to,  
7 music and dramatic arts organizations such as symphony  
8 orchestras and theatrical groups, arts and cultural service  
9 organizations, local arts councils, visual arts organizations,  
10 and media arts organizations. On and after the effective date  
11 of this amendatory Act of the 92nd General Assembly, however,  
12 an entity otherwise eligible for this exemption shall not make  
13 tax-free purchases unless it has an active identification  
14 number issued by the Department.

15 (4) Personal property purchased by a governmental body, by  
16 a corporation, society, association, foundation, or  
17 institution organized and operated exclusively for charitable,  
18 religious, or educational purposes, or by a not-for-profit  
19 corporation, society, association, foundation, institution, or  
20 organization that has no compensated officers or employees and  
21 that is organized and operated primarily for the recreation of  
22 persons 55 years of age or older. A limited liability company  
23 may qualify for the exemption under this paragraph only if the  
24 limited liability company is organized and operated  
25 exclusively for educational purposes. On and after July 1,  
26 1987, however, no entity otherwise eligible for this exemption

1 shall make tax-free purchases unless it has an active exemption  
2 identification number issued by the Department.

3 (5) Until July 1, 2003, a passenger car that is a  
4 replacement vehicle to the extent that the purchase price of  
5 the car is subject to the Replacement Vehicle Tax.

6 (6) Until July 1, 2003 and beginning again on September 1,  
7 2004 through August 30, 2014, graphic arts machinery and  
8 equipment, including repair and replacement parts, both new and  
9 used, and including that manufactured on special order,  
10 certified by the purchaser to be used primarily for graphic  
11 arts production, and including machinery and equipment  
12 purchased for lease. Equipment includes chemicals or chemicals  
13 acting as catalysts but only if the chemicals or chemicals  
14 acting as catalysts effect a direct and immediate change upon a  
15 graphic arts product.

16 (7) Farm chemicals.

17 (8) Legal tender, currency, medallions, or gold or silver  
18 coinage issued by the State of Illinois, the government of the  
19 United States of America, or the government of any foreign  
20 country, and bullion.

21 (9) Personal property purchased from a teacher-sponsored  
22 student organization affiliated with an elementary or  
23 secondary school located in Illinois.

24 (10) A motor vehicle of the first division, a motor vehicle  
25 of the second division that is a self-contained motor vehicle  
26 designed or permanently converted to provide living quarters

1 for recreational, camping, or travel use, with direct walk  
2 through to the living quarters from the driver's seat, or a  
3 motor vehicle of the second division that is of the van  
4 configuration designed for the transportation of not less than  
5 7 nor more than 16 passengers, as defined in Section 1-146 of  
6 the Illinois Vehicle Code, that is used for automobile renting,  
7 as defined in the Automobile Renting Occupation and Use Tax  
8 Act.

9 (11) Farm machinery and equipment, both new and used,  
10 including that manufactured on special order, certified by the  
11 purchaser to be used primarily for production agriculture or  
12 State or federal agricultural programs, including individual  
13 replacement parts for the machinery and equipment, including  
14 machinery and equipment purchased for lease, and including  
15 implements of husbandry defined in Section 1-130 of the  
16 Illinois Vehicle Code, farm machinery and agricultural  
17 chemical and fertilizer spreaders, and nurse wagons required to  
18 be registered under Section 3-809 of the Illinois Vehicle Code,  
19 but excluding other motor vehicles required to be registered  
20 under the Illinois Vehicle Code. Horticultural polyhouses or  
21 hoop houses used for propagating, growing, or overwintering  
22 plants shall be considered farm machinery and equipment under  
23 this item (11). Agricultural chemical tender tanks and dry  
24 boxes shall include units sold separately from a motor vehicle  
25 required to be licensed and units sold mounted on a motor  
26 vehicle required to be licensed if the selling price of the

1 tender is separately stated.

2 Farm machinery and equipment shall include precision  
3 farming equipment that is installed or purchased to be  
4 installed on farm machinery and equipment including, but not  
5 limited to, tractors, harvesters, sprayers, planters, seeders,  
6 or spreaders. Precision farming equipment includes, but is not  
7 limited to, soil testing sensors, computers, monitors,  
8 software, global positioning and mapping systems, and other  
9 such equipment.

10 Farm machinery and equipment also includes computers,  
11 sensors, software, and related equipment used primarily in the  
12 computer-assisted operation of production agriculture  
13 facilities, equipment, and activities such as, but not limited  
14 to, the collection, monitoring, and correlation of animal and  
15 crop data for the purpose of formulating animal diets and  
16 agricultural chemicals. This item (11) is exempt from the  
17 provisions of Section 3-90.

18 (12) Fuel and petroleum products sold to or used by an air  
19 common carrier, certified by the carrier to be used for  
20 consumption, shipment, or storage in the conduct of its  
21 business as an air common carrier, for a flight destined for or  
22 returning from a location or locations outside the United  
23 States without regard to previous or subsequent domestic  
24 stopovers.

25 (13) Proceeds of mandatory service charges separately  
26 stated on customers' bills for the purchase and consumption of



1 food and beverages purchased at retail from a retailer, to the  
2 extent that the proceeds of the service charge are in fact  
3 turned over as tips or as a substitute for tips to the  
4 employees who participate directly in preparing, serving,  
5 hosting or cleaning up the food or beverage function with  
6 respect to which the service charge is imposed.

7 (14) Until July 1, 2003, oil field exploration, drilling,  
8 and production equipment, including (i) rigs and parts of rigs,  
9 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
10 tubular goods, including casing and drill strings, (iii) pumps  
11 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
12 individual replacement part for oil field exploration,  
13 drilling, and production equipment, and (vi) machinery and  
14 equipment purchased for lease; but excluding motor vehicles  
15 required to be registered under the Illinois Vehicle Code.

16 (15) Photoprocessing machinery and equipment, including  
17 repair and replacement parts, both new and used, including that  
18 manufactured on special order, certified by the purchaser to be  
19 used primarily for photoprocessing, and including  
20 photoprocessing machinery and equipment purchased for lease.

21 (16) Until July 1, 2003, coal exploration, mining,  
22 offhighway hauling, processing, maintenance, and reclamation  
23 equipment, including replacement parts and equipment, and  
24 including equipment purchased for lease, but excluding motor  
25 vehicles required to be registered under the Illinois Vehicle  
26 Code.

1           (17) Until July 1, 2003, distillation machinery and  
2 equipment, sold as a unit or kit, assembled or installed by the  
3 retailer, certified by the user to be used only for the  
4 production of ethyl alcohol that will be used for consumption  
5 as motor fuel or as a component of motor fuel for the personal  
6 use of the user, and not subject to sale or resale.

7           (18) Manufacturing and assembling machinery and equipment  
8 used primarily in the process of manufacturing or assembling  
9 tangible personal property for wholesale or retail sale or  
10 lease, whether that sale or lease is made directly by the  
11 manufacturer or by some other person, whether the materials  
12 used in the process are owned by the manufacturer or some other  
13 person, or whether that sale or lease is made apart from or as  
14 an incident to the seller's engaging in the service occupation  
15 of producing machines, tools, dies, jigs, patterns, gauges, or  
16 other similar items of no commercial value on special order for  
17 a particular purchaser.

18           (19) Personal property delivered to a purchaser or  
19 purchaser's donee inside Illinois when the purchase order for  
20 that personal property was received by a florist located  
21 outside Illinois who has a florist located inside Illinois  
22 deliver the personal property.

23           (20) Semen used for artificial insemination of livestock  
24 for direct agricultural production.

25           (21) Horses, or interests in horses, registered with and  
26 meeting the requirements of any of the Arabian Horse Club

1 Registry of America, Appaloosa Horse Club, American Quarter  
2 Horse Association, United States Trotting Association, or  
3 Jockey Club, as appropriate, used for purposes of breeding or  
4 racing for prizes. This item (21) is exempt from the provisions  
5 of Section 3-90, and the exemption provided for under this item  
6 (21) applies for all periods beginning May 30, 1995, but no  
7 claim for credit or refund is allowed on or after January 1,  
8 2008 for such taxes paid during the period beginning May 30,  
9 2000 and ending on January 1, 2008.

10 (22) Computers and communications equipment utilized for  
11 any hospital purpose and equipment used in the diagnosis,  
12 analysis, or treatment of hospital patients purchased by a  
13 lessor who leases the equipment, under a lease of one year or  
14 longer executed or in effect at the time the lessor would  
15 otherwise be subject to the tax imposed by this Act, to a  
16 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 non-exempt 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 non-qualifying 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.

7 (23) Personal property purchased by a lessor who leases the  
8 property, under a lease of one year or longer executed or in  
9 effect at the time the lessor would otherwise be subject to the  
10 tax imposed by this Act, to a governmental body that has been  
11 issued an active sales tax exemption identification number by  
12 the Department under Section 1g of the Retailers' Occupation  
13 Tax Act. If the property is leased in a manner that does not  
14 qualify for this exemption or used in any other non-exempt  
15 manner, the lessor shall be liable for the tax imposed under  
16 this Act or the Service Use Tax Act, as the case may be, based  
17 on the fair market value of the property at the time the  
18 non-qualifying use occurs. No lessor shall collect or attempt  
19 to collect an amount (however designated) that purports to  
20 reimburse that lessor for the tax imposed by this Act or the  
21 Service Use Tax Act, as the case may be, if the tax has not been  
22 paid by the lessor. If a lessor improperly collects any such  
23 amount from the lessee, the lessee shall have a legal right to  
24 claim a refund of that amount from the lessor. If, however,  
25 that amount is not refunded to the lessee for any reason, the  
26 lessor is liable to pay that amount to the Department.

1           (24) Beginning with taxable years ending on or after  
2 December 31, 1995 and ending with taxable years ending on or  
3 before December 31, 2004, personal property that is donated for  
4 disaster relief to be used in a State or federally declared  
5 disaster area in Illinois or bordering Illinois by a  
6 manufacturer or retailer that is registered in this State to a  
7 corporation, society, association, foundation, or institution  
8 that has been issued a sales tax exemption identification  
9 number by the Department that assists victims of the disaster  
10 who reside within the declared disaster area.

11           (25) Beginning with taxable years ending on or after  
12 December 31, 1995 and ending with taxable years ending on or  
13 before December 31, 2004, personal property that is used in the  
14 performance of infrastructure repairs in this State, including  
15 but not limited to municipal roads and streets, access roads,  
16 bridges, sidewalks, waste disposal systems, water and sewer  
17 line extensions, water distribution and purification  
18 facilities, storm water drainage and retention facilities, and  
19 sewage treatment facilities, resulting from a State or  
20 federally declared disaster in Illinois or bordering Illinois  
21 when such repairs are initiated on facilities located in the  
22 declared disaster area within 6 months after the disaster.

23           (26) Beginning July 1, 1999, game or game birds purchased  
24 at a "game breeding and hunting preserve area" or an "exotic  
25 game hunting area" as those terms are used in the Wildlife Code  
26 or at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from  
2 the provisions of Section 3-90.

3 (27) A motor vehicle, as that term is defined in Section  
4 1-146 of the Illinois Vehicle Code, that is donated to a  
5 corporation, limited liability company, society, association,  
6 foundation, or institution that is determined by the Department  
7 to be organized and operated exclusively for educational  
8 purposes. For purposes of this exemption, "a corporation,  
9 limited liability company, society, association, foundation,  
10 or institution organized and operated exclusively for  
11 educational purposes" means all tax-supported public schools,  
12 private schools that offer systematic instruction in useful  
13 branches of learning by methods common to public schools and  
14 that compare favorably in their scope and intensity with the  
15 course of study presented in tax-supported schools, and  
16 vocational or technical schools or institutes organized and  
17 operated exclusively to provide a course of study of not less  
18 than 6 weeks duration and designed to prepare individuals to  
19 follow a trade or to pursue a manual, technical, mechanical,  
20 industrial, business, or commercial occupation.

21 (28) Beginning January 1, 2000, personal property,  
22 including food, purchased through fundraising events for the  
23 benefit of a public or private elementary or secondary school,  
24 a group of those schools, or one or more school districts if  
25 the events are sponsored by an entity recognized by the school  
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph  
2 does not apply to fundraising events (i) for the benefit of  
3 private home instruction or (ii) for which the fundraising  
4 entity purchases the personal property sold at the events from  
5 another individual or entity that sold the property for the  
6 purpose of resale by the fundraising entity and that profits  
7 from the sale to the fundraising entity. This paragraph is  
8 exempt from the provisions of Section 3-90.

9 (29) Beginning January 1, 2000 and through December 31,  
10 2001, new or used automatic vending machines that prepare and  
11 serve hot food and beverages, including coffee, soup, and other  
12 items, and replacement parts for these machines. Beginning  
13 January 1, 2002 and through June 30, 2003, machines and parts  
14 for machines used in commercial, coin-operated amusement and  
15 vending business if a use or occupation tax is paid on the  
16 gross receipts derived from the use of the commercial,  
17 coin-operated amusement and vending machines. This paragraph  
18 is exempt from the provisions of Section 3-90.

19 (30) Beginning January 1, 2001 and through June 30, 2011,  
20 food for human consumption that is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages, soft  
22 drinks, and food that has been prepared for immediate  
23 consumption) and prescription and nonprescription medicines,  
24 drugs, medical appliances, and insulin, urine testing  
25 materials, syringes, and needles used by diabetics, for human  
26 use, when purchased for use by a person receiving medical

1 assistance under Article V of the Illinois Public Aid Code who  
2 resides in a licensed long-term care facility, as defined in  
3 the Nursing Home Care Act, or in a licensed facility as defined  
4 in the MR/DD Community Care Act or the Specialized Mental  
5 Health Rehabilitation Act.

6 (31) Beginning on the effective date of this amendatory Act  
7 of the 92nd General Assembly, computers and communications  
8 equipment utilized for any hospital purpose and equipment used  
9 in the diagnosis, analysis, or treatment of hospital patients  
10 purchased by a lessor who leases the equipment, under a lease  
11 of one year or longer executed or in effect at the time the  
12 lessor would otherwise be subject to the tax imposed by this  
13 Act, to a hospital that has been issued an active tax exemption  
14 identification number by the Department under Section 1g of the  
15 Retailers' Occupation Tax Act. If the equipment is leased in a  
16 manner that does not qualify for this exemption or is used in  
17 any other nonexempt manner, the lessor shall be liable for the  
18 tax imposed under this Act or the Service Use Tax Act, as the  
19 case may be, based on the fair market value of the property at  
20 the time the nonqualifying use occurs. No lessor shall collect  
21 or attempt to collect an amount (however designated) that  
22 purports to reimburse that lessor for the tax imposed by this  
23 Act or the Service Use Tax Act, as the case may be, if the tax  
24 has not been paid by the lessor. If a lessor improperly  
25 collects any such amount from the lessee, the lessee shall have  
26 a legal right to claim a refund of that amount from the lessor.



1 If, however, that amount is not refunded to the lessee for any  
2 reason, the lessor is liable to pay that amount to the  
3 Department. This paragraph is exempt from the provisions of  
4 Section 3-90.

5 (32) Beginning on the effective date of this amendatory Act  
6 of the 92nd General Assembly, personal property purchased by a  
7 lessor who leases the property, under a lease of one year or  
8 longer executed or in effect at the time the lessor would  
9 otherwise be subject to the tax imposed by this Act, to a  
10 governmental body that has been issued an active sales tax  
11 exemption identification number by the Department under  
12 Section 1g of the Retailers' Occupation Tax Act. If the  
13 property is leased in a manner that does not qualify for this  
14 exemption or used in any other nonexempt manner, the lessor  
15 shall be liable for the tax imposed under this Act or the  
16 Service Use Tax Act, as the case may be, based on the fair  
17 market value of the property at the time the nonqualifying use  
18 occurs. No lessor shall collect or attempt to collect an amount  
19 (however designated) that purports to reimburse that lessor for  
20 the tax imposed by this Act or the Service Use Tax Act, as the  
21 case may be, if the tax has not been paid by the lessor. If a  
22 lessor improperly collects any such amount from the lessee, the  
23 lessee shall have a legal right to claim a refund of that  
24 amount from the lessor. If, however, that amount is not  
25 refunded to the lessee for any reason, the lessor is liable to  
26 pay that amount to the Department. This paragraph is exempt

1 from the provisions of Section 3-90.

2 (33) On and after July 1, 2003 and through June 30, 2004,  
3 the use in this State of motor vehicles of the second division  
4 with a gross vehicle weight in excess of 8,000 pounds and that  
5 are subject to the commercial distribution fee imposed under  
6 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
7 1, 2004 and through June 30, 2005, the use in this State of  
8 motor vehicles of the second division: (i) with a gross vehicle  
9 weight rating in excess of 8,000 pounds; (ii) that are subject  
10 to the commercial distribution fee imposed under Section  
11 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
12 primarily used for commercial purposes. Through June 30, 2005,  
13 this exemption applies to repair and replacement parts added  
14 after the initial purchase of such a motor vehicle if that  
15 motor vehicle is used in a manner that would qualify for the  
16 rolling stock exemption otherwise provided for in this Act. For  
17 purposes of this paragraph, the term "used for commercial  
18 purposes" means the transportation of persons or property in  
19 furtherance of any commercial or industrial enterprise,  
20 whether for-hire or not.

21 (34) Beginning January 1, 2008, tangible personal property  
22 used in the construction or maintenance of a community water  
23 supply, as defined under Section 3.145 of the Environmental  
24 Protection Act, that is operated by a not-for-profit  
25 corporation that holds a valid water supply permit issued under  
26 Title IV of the Environmental Protection Act. This paragraph is

1 exempt from the provisions of Section 3-90.

2 (35) Beginning January 1, 2010, materials, parts,  
3 equipment, components, and furnishings incorporated into or  
4 upon an aircraft as part of the modification, refurbishment,  
5 completion, replacement, repair, or maintenance of the  
6 aircraft. This exemption includes consumable supplies used in  
7 the modification, refurbishment, completion, replacement,  
8 repair, and maintenance of aircraft, but excludes any  
9 materials, parts, equipment, components, and consumable  
10 supplies used in the modification, replacement, repair, and  
11 maintenance of aircraft engines or power plants, whether such  
12 engines or power plants are installed or uninstalled upon any  
13 such aircraft. "Consumable supplies" include, but are not  
14 limited to, adhesive, tape, sandpaper, general purpose  
15 lubricants, cleaning solution, latex gloves, and protective  
16 films. This exemption applies only to those organizations that  
17 (i) hold an Air Agency Certificate and are empowered to operate  
18 an approved repair station by the Federal Aviation  
19 Administration, (ii) have a Class IV Rating, and (iii) conduct  
20 operations in accordance with Part 145 of the Federal Aviation  
21 Regulations. The exemption does not include aircraft operated  
22 by a commercial air carrier providing scheduled passenger air  
23 service pursuant to authority issued under Part 121 or Part 129  
24 of the Federal Aviation Regulations.

25 (36) Tangible personal property purchased by a  
26 public-facilities corporation, as described in Section

1 11-65-10 of the Illinois Municipal Code, for purposes of  
2 constructing or furnishing a municipal convention hall, but  
3 only if the legal title to the municipal convention hall is  
4 transferred to the municipality without any further  
5 consideration by or on behalf of the municipality at the time  
6 of the completion of the municipal convention hall or upon the  
7 retirement or redemption of any bonds or other debt instruments  
8 issued by the public-facilities corporation in connection with  
9 the development of the municipal convention hall. This  
10 exemption includes existing public-facilities corporations as  
11 provided in Section 11-65-25 of the Illinois Municipal Code.  
12 This paragraph is exempt from the provisions of Section 3-90.

13 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
14 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
15 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
16 7-2-10.)

17 Section 90-60. The Service Use Tax Act is amended by  
18 changing Sections 3-5 and 3-10 as follows:

19 (35 ILCS 110/3-5)

20 Sec. 3-5. Exemptions. Use of the following tangible  
21 personal property is exempt from the tax imposed by this Act:

22 (1) Personal property purchased from a corporation,  
23 society, association, foundation, institution, or  
24 organization, other than a limited liability company, that is

1 organized and operated as a not-for-profit service enterprise  
2 for the benefit of persons 65 years of age or older if the  
3 personal property was not purchased by the enterprise for the  
4 purpose of resale by the enterprise.

5 (2) Personal property purchased by a non-profit Illinois  
6 county fair association for use in conducting, operating, or  
7 promoting the county fair.

8 (3) Personal property purchased by a not-for-profit arts or  
9 cultural organization that establishes, by proof required by  
10 the Department by rule, that it has received an exemption under  
11 Section 501(c)(3) of the Internal Revenue Code and that is  
12 organized and operated primarily for the presentation or  
13 support of arts or cultural programming, activities, or  
14 services. These organizations include, but are not limited to,  
15 music and dramatic arts organizations such as symphony  
16 orchestras and theatrical groups, arts and cultural service  
17 organizations, local arts councils, visual arts organizations,  
18 and media arts organizations. On and after the effective date  
19 of this amendatory Act of the 92nd General Assembly, however,  
20 an entity otherwise eligible for this exemption shall not make  
21 tax-free purchases unless it has an active identification  
22 number issued by the Department.

23 (4) Legal tender, currency, medallions, or gold or silver  
24 coinage issued by the State of Illinois, the government of the  
25 United States of America, or the government of any foreign  
26 country, and bullion.

1           (5) Until July 1, 2003 and beginning again on September 1,  
2           2004 through August 30, 2014, graphic arts machinery and  
3           equipment, including repair and replacement parts, both new and  
4           used, and including that manufactured on special order or  
5           purchased for lease, certified by the purchaser to be used  
6           primarily for graphic arts production. Equipment includes  
7           chemicals or chemicals acting as catalysts but only if the  
8           chemicals or chemicals acting as catalysts effect a direct and  
9           immediate change upon a graphic arts product.

10          (6) Personal property purchased from a teacher-sponsored  
11          student organization affiliated with an elementary or  
12          secondary school located in Illinois.

13          (7) Farm machinery and equipment, both new and used,  
14          including that manufactured on special order, certified by the  
15          purchaser to be used primarily for production agriculture or  
16          State or federal agricultural programs, including individual  
17          replacement parts for the machinery and equipment, including  
18          machinery and equipment purchased for lease, and including  
19          implements of husbandry defined in Section 1-130 of the  
20          Illinois Vehicle Code, farm machinery and agricultural  
21          chemical and fertilizer spreaders, and nurse wagons required to  
22          be registered under Section 3-809 of the Illinois Vehicle Code,  
23          but excluding other motor vehicles required to be registered  
24          under the Illinois Vehicle Code. Horticultural polyhouses or  
25          hoop houses used for propagating, growing, or overwintering  
26          plants shall be considered farm machinery and equipment under

1 this item (7). Agricultural chemical tender tanks and dry boxes  
2 shall include units sold separately from a motor vehicle  
3 required to be licensed and units sold mounted on a motor  
4 vehicle required to be licensed if the selling price of the  
5 tender is separately stated.

6 Farm machinery and equipment shall include precision  
7 farming equipment that is installed or purchased to be  
8 installed on farm machinery and equipment including, but not  
9 limited to, tractors, harvesters, sprayers, planters, seeders,  
10 or spreaders. Precision farming equipment includes, but is not  
11 limited to, soil testing sensors, computers, monitors,  
12 software, global positioning and mapping systems, and other  
13 such equipment.

14 Farm machinery and equipment also includes computers,  
15 sensors, software, and related equipment used primarily in the  
16 computer-assisted operation of production agriculture  
17 facilities, equipment, and activities such as, but not limited  
18 to, the collection, monitoring, and correlation of animal and  
19 crop data for the purpose of formulating animal diets and  
20 agricultural chemicals. This item (7) is exempt from the  
21 provisions of Section 3-75.

22 (8) Fuel and petroleum products sold to or used by an air  
23 common carrier, certified by the carrier to be used for  
24 consumption, shipment, or storage in the conduct of its  
25 business as an air common carrier, for a flight destined for or  
26 returning from a location or locations outside the United

1 States without regard to previous or subsequent domestic  
2 stopovers.

3 (9) Proceeds of mandatory service charges separately  
4 stated on customers' bills for the purchase and consumption of  
5 food and beverages acquired as an incident to the purchase of a  
6 service from a serviceman, to the extent that the proceeds of  
7 the 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) Proceeds from the sale of photoprocessing machinery  
22 and equipment, including repair and replacement parts, both new  
23 and used, including that manufactured on special order,  
24 certified by the purchaser to be used primarily for  
25 photoprocessing, and including photoprocessing machinery and  
26 equipment purchased for lease.



1           (12) Until July 1, 2003, coal exploration, mining,  
2 offhighway hauling, processing, maintenance, and reclamation  
3 equipment, including replacement parts and equipment, and  
4 including equipment purchased for lease, but excluding motor  
5 vehicles required to be registered under the Illinois Vehicle  
6 Code.

7           (13) Semen used for artificial insemination of livestock  
8 for direct agricultural production.

9           (14) Horses, or interests in horses, registered with and  
10 meeting the requirements of any of the Arabian Horse Club  
11 Registry of America, Appaloosa Horse Club, American Quarter  
12 Horse Association, United States Trotting Association, or  
13 Jockey Club, as appropriate, used for purposes of breeding or  
14 racing for prizes. This item (14) is exempt from the provisions  
15 of Section 3-75, and the exemption provided for under this item  
16 (14) applies for all periods beginning May 30, 1995, but no  
17 claim for credit or refund is allowed on or after the effective  
18 date of this amendatory Act of the 95th General Assembly for  
19 such taxes paid during the period beginning May 30, 2000 and  
20 ending on the effective date of this amendatory Act of the 95th  
21 General Assembly.

22           (15) Computers and communications equipment utilized for  
23 any hospital purpose and equipment used in the diagnosis,  
24 analysis, or treatment of hospital patients purchased by a  
25 lessor who leases the equipment, under a lease of one year or  
26 longer executed or in effect at the time the lessor would

1 otherwise be subject to the tax imposed by this Act, to a  
2 hospital that has been issued an active tax exemption  
3 identification number by the Department under Section 1g of the  
4 Retailers' Occupation Tax Act. If the equipment is leased in a  
5 manner that does not qualify for this exemption or is used in  
6 any other non-exempt manner, the lessor shall be liable for the  
7 tax imposed under this Act or the Use Tax Act, as the case may  
8 be, based on the fair market value of the property at the time  
9 the non-qualifying use occurs. No lessor shall collect or  
10 attempt to collect an amount (however designated) that purports  
11 to reimburse that lessor for the tax imposed by this Act or the  
12 Use Tax Act, as the case may be, if the tax has not been paid by  
13 the lessor. If a lessor improperly collects any such amount  
14 from the lessee, the lessee shall have a legal right to claim a  
15 refund of that amount from the lessor. If, however, that amount  
16 is not refunded to the lessee for any reason, the lessor is  
17 liable to pay that amount to the Department.

18 (16) Personal property purchased by a lessor who leases the  
19 property, under a lease of one year or longer executed or in  
20 effect at the time the lessor would otherwise be subject to the  
21 tax imposed by this Act, to a governmental body that has been  
22 issued an active tax exemption identification number by the  
23 Department under Section 1g of the Retailers' Occupation Tax  
24 Act. If the property is leased in a manner that does not  
25 qualify for this exemption or is used in any other non-exempt  
26 manner, the lessor shall be liable for the tax imposed under

1 this Act or the Use Tax Act, as the case may be, based on the  
2 fair market value of the property at the time the  
3 non-qualifying use occurs. No lessor shall collect or attempt  
4 to collect an amount (however designated) that purports to  
5 reimburse that lessor for the tax imposed by this Act or the  
6 Use Tax Act, as the case may be, if the tax has not been paid by  
7 the lessor. If a lessor improperly collects any such amount  
8 from the lessee, the lessee shall have a legal right to claim a  
9 refund of that amount from the lessor. If, however, that amount  
10 is not refunded to the lessee for any reason, the lessor is  
11 liable to pay that amount to the Department.

12 (17) Beginning with taxable years ending on or after  
13 December 31, 1995 and ending with taxable years ending on or  
14 before December 31, 2004, personal property that is donated for  
15 disaster relief to be used in a State or federally declared  
16 disaster area in Illinois or bordering Illinois by a  
17 manufacturer or retailer that is registered in this State to a  
18 corporation, society, association, foundation, or institution  
19 that has been issued a sales tax exemption identification  
20 number by the Department that assists victims of the disaster  
21 who reside within the declared disaster area.

22 (18) Beginning with taxable years ending on or after  
23 December 31, 1995 and ending with taxable years ending on or  
24 before December 31, 2004, personal property that is used in the  
25 performance of infrastructure repairs in this State, including  
26 but not limited to municipal roads and streets, access roads,

1 bridges, sidewalks, waste disposal systems, water and sewer  
2 line extensions, water distribution and purification  
3 facilities, storm water drainage and retention facilities, and  
4 sewage treatment facilities, resulting from a State or  
5 federally declared disaster in Illinois or bordering Illinois  
6 when such repairs are initiated on facilities located in the  
7 declared disaster area within 6 months after the disaster.

8 (19) Beginning July 1, 1999, game or game birds purchased  
9 at a "game breeding and hunting preserve area" or an "exotic  
10 game hunting area" as those terms are used in the Wildlife Code  
11 or at a hunting enclosure approved through rules adopted by the  
12 Department of Natural Resources. This paragraph is exempt from  
13 the provisions of Section 3-75.

14 (20) A motor vehicle, as that term is defined in Section  
15 1-146 of the Illinois Vehicle Code, that is donated to a  
16 corporation, limited liability company, society, association,  
17 foundation, or institution that is determined by the Department  
18 to be organized and operated exclusively for educational  
19 purposes. For purposes of this exemption, "a corporation,  
20 limited liability company, society, association, foundation,  
21 or institution organized and operated exclusively for  
22 educational purposes" means all tax-supported public schools,  
23 private schools that offer systematic instruction in useful  
24 branches of learning by methods common to public schools and  
25 that compare favorably in their scope and intensity with the  
26 course of study presented in tax-supported schools, and

1 vocational or technical schools or institutes organized and  
2 operated exclusively to provide a course of study of not less  
3 than 6 weeks duration and designed to prepare individuals to  
4 follow a trade or to pursue a manual, technical, mechanical,  
5 industrial, business, or commercial occupation.

6 (21) Beginning January 1, 2000, personal property,  
7 including food, purchased through fundraising events for the  
8 benefit of a public or private elementary or secondary school,  
9 a group of those schools, or one or more school districts if  
10 the events are sponsored by an entity recognized by the school  
11 district that consists primarily of volunteers and includes  
12 parents and teachers of the school children. This paragraph  
13 does not apply to fundraising events (i) for the benefit of  
14 private home instruction or (ii) for which the fundraising  
15 entity purchases the personal property sold at the events from  
16 another individual or entity that sold the property for the  
17 purpose of resale by the fundraising entity and that profits  
18 from the sale to the fundraising entity. This paragraph is  
19 exempt from the provisions of Section 3-75.

20 (22) Beginning January 1, 2000 and through December 31,  
21 2001, new or used automatic vending machines that prepare and  
22 serve hot food and beverages, including coffee, soup, and other  
23 items, and replacement parts for these machines. Beginning  
24 January 1, 2002 and through June 30, 2003, machines and parts  
25 for machines used in commercial, coin-operated amusement and  
26 vending business if a use or occupation tax is paid on the

1 gross receipts derived from the use of the commercial,  
2 coin-operated amusement and vending machines. This paragraph  
3 is exempt from the provisions of Section 3-75.

4 (23) Beginning August 23, 2001 and through June 30, 2011,  
5 food for human consumption that is to be consumed off the  
6 premises where it is sold (other than alcoholic beverages, soft  
7 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, for human  
11 use, when purchased for use by a person receiving medical  
12 assistance under Article V of the Illinois Public Aid Code who  
13 resides in a licensed long-term care facility, as defined in  
14 the Nursing Home Care Act, or in a licensed facility as defined  
15 in the MR/DD Community Care Act or the Specialized Mental  
16 Health Rehabilitation Act.

17 (24) Beginning on the effective date of this amendatory Act  
18 of the 92nd General Assembly, computers and communications  
19 equipment utilized for any hospital purpose and equipment used  
20 in the diagnosis, analysis, or treatment of hospital patients  
21 purchased by a lessor who leases the equipment, under a lease  
22 of one year or longer executed or in effect at the time the  
23 lessor would otherwise be subject to the tax imposed by this  
24 Act, to a hospital that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of the  
26 Retailers' Occupation Tax Act. If the equipment is leased in a

1 manner that does not qualify for this exemption or is used in  
2 any other nonexempt manner, the lessor shall be liable for the  
3 tax imposed under this Act or the Use Tax Act, as the case may  
4 be, based on the fair market value of the property at the time  
5 the nonqualifying use occurs. No lessor shall collect or  
6 attempt to collect an amount (however designated) that purports  
7 to reimburse that lessor for the tax imposed by this Act or the  
8 Use Tax Act, as the case may be, if the tax has not been paid by  
9 the lessor. If a lessor improperly collects any such amount  
10 from the lessee, the lessee shall have a legal right to claim a  
11 refund of that amount from the lessor. If, however, that amount  
12 is not refunded to the lessee for any reason, the lessor is  
13 liable to pay that amount to the Department. This paragraph is  
14 exempt from the provisions of Section 3-75.

15 (25) Beginning on the effective date of this amendatory Act  
16 of the 92nd General Assembly, personal property purchased by a  
17 lessor who leases the property, under a lease of one year or  
18 longer executed or in effect at the time the lessor would  
19 otherwise be subject to the tax imposed by this Act, to a  
20 governmental body that has been issued an active tax exemption  
21 identification number by the Department under Section 1g of the  
22 Retailers' Occupation Tax Act. If the property is leased in a  
23 manner that does not qualify for this exemption or is used in  
24 any other nonexempt manner, the lessor shall be liable for the  
25 tax imposed under this Act or the Use Tax Act, as the case may  
26 be, based on the fair market value of the property at the time

1 the nonqualifying use occurs. No lessor shall collect or  
2 attempt to collect an amount (however designated) that purports  
3 to reimburse that lessor for the tax imposed by this Act or the  
4 Use Tax Act, as the case may be, if the tax has not been paid by  
5 the lessor. If a lessor improperly collects any such amount  
6 from the lessee, the lessee shall have a legal right to claim a  
7 refund of that amount from the lessor. If, however, that amount  
8 is not refunded to the lessee for any reason, the lessor is  
9 liable to pay that amount to the Department. This paragraph is  
10 exempt from the provisions of Section 3-75.

11 (26) Beginning January 1, 2008, tangible personal property  
12 used in the construction or maintenance of a community water  
13 supply, as defined under Section 3.145 of the Environmental  
14 Protection Act, that is operated by a not-for-profit  
15 corporation that holds a valid water supply permit issued under  
16 Title IV of the Environmental Protection Act. This paragraph is  
17 exempt from the provisions of Section 3-75.

18 (27) Beginning January 1, 2010, materials, parts,  
19 equipment, components, and furnishings incorporated into or  
20 upon an aircraft as part of the modification, refurbishment,  
21 completion, replacement, repair, or maintenance of the  
22 aircraft. This exemption includes consumable supplies used in  
23 the modification, refurbishment, completion, replacement,  
24 repair, and maintenance of aircraft, but excludes any  
25 materials, parts, equipment, components, and consumable  
26 supplies used in the modification, replacement, repair, and



1 maintenance of aircraft engines or power plants, whether such  
2 engines or power plants are installed or uninstalled upon any  
3 such aircraft. "Consumable supplies" include, but are not  
4 limited to, adhesive, tape, sandpaper, general purpose  
5 lubricants, cleaning solution, latex gloves, and protective  
6 films. This exemption applies only to those organizations that  
7 (i) hold an Air Agency Certificate and are empowered to operate  
8 an approved repair station by the Federal Aviation  
9 Administration, (ii) have a Class IV Rating, and (iii) conduct  
10 operations in accordance with Part 145 of the Federal Aviation  
11 Regulations. The exemption does not include aircraft operated  
12 by a commercial air carrier providing scheduled passenger air  
13 service pursuant to authority issued under Part 121 or Part 129  
14 of the Federal Aviation Regulations.

15 (28) Tangible personal property purchased by a  
16 public-facilities corporation, as described in Section  
17 11-65-10 of the Illinois Municipal Code, for purposes of  
18 constructing or furnishing a municipal convention hall, but  
19 only if the legal title to the municipal convention hall is  
20 transferred to the municipality without any further  
21 consideration by or on behalf of the municipality at the time  
22 of the completion of the municipal convention hall or upon the  
23 retirement or redemption of any bonds or other debt instruments  
24 issued by the public-facilities corporation in connection with  
25 the development of the municipal convention hall. This  
26 exemption includes existing public-facilities corporations as

1 provided in Section 11-65-25 of the Illinois Municipal Code.  
2 This paragraph is exempt from the provisions of Section 3-75.  
3 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
4 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
5 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
6 7-2-10.)

7 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

8 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
9 Section, the tax imposed by this Act is at the rate of 6.25% of  
10 the selling price of tangible personal property transferred as  
11 an incident to the sale of service, but, for the purpose of  
12 computing this tax, in no event shall the selling price be less  
13 than the cost price of the property to the serviceman.

14 Beginning on July 1, 2000 and through December 31, 2000,  
15 with respect to motor fuel, as defined in Section 1.1 of the  
16 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
17 the Use Tax Act, the tax is imposed at the rate of 1.25%.

18 With respect to gasohol, as defined in the Use Tax Act, the  
19 tax imposed by this Act applies to (i) 70% of the selling price  
20 of property transferred as an incident to the sale of service  
21 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
22 of the selling price of property transferred as an incident to  
23 the sale of service on or after July 1, 2003 and on or before  
24 December 31, 2013, and (iii) 100% of the selling price  
25 thereafter. If, at any time, however, the tax under this Act on

1 sales of gasohol, as defined in the Use Tax Act, is imposed at  
2 the rate of 1.25%, then the tax imposed by this Act applies to  
3 100% of the proceeds of sales of gasohol made during that time.

4 With respect to majority blended ethanol fuel, as defined  
5 in the Use Tax Act, the tax imposed by this Act does not apply  
6 to the selling price of property transferred as an incident to  
7 the sale of service on or after July 1, 2003 and on or before  
8 December 31, 2013 but applies to 100% of the selling price  
9 thereafter.

10 With respect to biodiesel blends, as defined in the Use Tax  
11 Act, with no less than 1% and no more than 10% biodiesel, the  
12 tax imposed by this Act applies to (i) 80% of the selling price  
13 of property transferred as an incident to the sale of service  
14 on or after July 1, 2003 and on or before December 31, 2013 and  
15 (ii) 100% of the proceeds of the selling price thereafter. If,  
16 at any time, however, the tax under this Act on sales of  
17 biodiesel blends, as defined in the Use Tax Act, with no less  
18 than 1% and no more than 10% biodiesel is imposed at the rate  
19 of 1.25%, then the tax imposed by this Act applies to 100% of  
20 the proceeds of sales of biodiesel blends with no less than 1%  
21 and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax  
23 Act, and biodiesel blends, as defined in the Use Tax Act, with  
24 more than 10% but no more than 99% biodiesel, the tax imposed  
25 by this Act does not apply to the proceeds of the selling price  
26 of property transferred as an incident to the sale of service

1 on or after July 1, 2003 and on or before December 31, 2013 but  
2 applies to 100% of the selling price thereafter.

3 At the election of any registered serviceman made for each  
4 fiscal year, sales of service in which the aggregate annual  
5 cost price of tangible personal property transferred as an  
6 incident to the sales of service is less than 35%, or 75% in  
7 the case of servicemen transferring prescription drugs or  
8 servicemen engaged in graphic arts production, of the aggregate  
9 annual total gross receipts from all sales of service, the tax  
10 imposed by this Act shall be based on the serviceman's cost  
11 price of the tangible personal property transferred as an  
12 incident to the sale of those services.

13 The tax shall be imposed at the rate of 1% on food prepared  
14 for immediate consumption and transferred incident to a sale of  
15 service subject to this Act or the Service Occupation Tax Act  
16 by an entity licensed under the Hospital Licensing Act, the  
17 Nursing Home Care Act, the MR/DD Community Care Act, the  
18 Specialized Mental Health Rehabilitation Act, or the Child Care  
19 Act of 1969. The tax shall also be imposed at the rate of 1% on  
20 food for human consumption that is to be consumed off the  
21 premises where it is sold (other than alcoholic beverages, soft  
22 drinks, and food that has been prepared for immediate  
23 consumption and is not otherwise included in this paragraph)  
24 and prescription and nonprescription medicines, drugs, medical  
25 appliances, modifications to a motor vehicle for the purpose of  
26 rendering it usable by a disabled person, and insulin, urine

1 testing materials, syringes, and needles used by diabetics, for  
2 human use. For the purposes of this Section, until September 1,  
3 2009: the term "soft drinks" means any complete, finished,  
4 ready-to-use, non-alcoholic drink, whether carbonated or not,  
5 including but not limited to soda water, cola, fruit juice,  
6 vegetable juice, carbonated water, and all other preparations  
7 commonly known as soft drinks of whatever kind or description  
8 that are contained in any closed or sealed bottle, can, carton,  
9 or container, regardless of size; but "soft drinks" does not  
10 include coffee, tea, non-carbonated water, infant formula,  
11 milk or milk products as defined in the Grade A Pasteurized  
12 Milk and Milk Products Act, or drinks containing 50% or more  
13 natural fruit or vegetable juice.

14 Notwithstanding any other provisions of this Act,  
15 beginning September 1, 2009, "soft drinks" means non-alcoholic  
16 beverages that contain natural or artificial sweeteners. "Soft  
17 drinks" do not include beverages that contain milk or milk  
18 products, soy, rice or similar milk substitutes, or greater  
19 than 50% of vegetable or fruit juice by volume.

20 Until August 1, 2009, and notwithstanding any other  
21 provisions of this Act, "food for human consumption that is to  
22 be consumed off the premises where it is sold" includes all  
23 food sold through a vending machine, except soft drinks and  
24 food products that are dispensed hot from a vending machine,  
25 regardless of the location of the vending machine. Beginning  
26 August 1, 2009, and notwithstanding any other provisions of

1 this Act, "food for human consumption that is to be consumed  
2 off the premises where it is sold" includes all food sold  
3 through a vending machine, except soft drinks, candy, and food  
4 products that are dispensed hot from a vending machine,  
5 regardless of the location of the vending machine.

6 Notwithstanding any other provisions of this Act,  
7 beginning September 1, 2009, "food for human consumption that  
8 is to be consumed off the premises where it is sold" does not  
9 include candy. For purposes of this Section, "candy" means a  
10 preparation of sugar, honey, or other natural or artificial  
11 sweeteners in combination with chocolate, fruits, nuts or other  
12 ingredients or flavorings in the form of bars, drops, or  
13 pieces. "Candy" does not include any preparation that contains  
14 flour or requires refrigeration.

15 Notwithstanding any other provisions of this Act,  
16 beginning September 1, 2009, "nonprescription medicines and  
17 drugs" does not include grooming and hygiene products. For  
18 purposes of this Section, "grooming and hygiene products"  
19 includes, but is not limited to, soaps and cleaning solutions,  
20 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
21 lotions and screens, unless those products are available by  
22 prescription only, regardless of whether the products meet the  
23 definition of "over-the-counter-drugs". For the purposes of  
24 this paragraph, "over-the-counter-drug" means a drug for human  
25 use that contains a label that identifies the product as a drug  
26 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"

1 label includes:

2 (A) A "Drug Facts" panel; or

3 (B) A statement of the "active ingredient(s)" with a  
4 list of those ingredients contained in the compound,  
5 substance or preparation.

6 If the property that is acquired from a serviceman is  
7 acquired outside Illinois and used outside Illinois before  
8 being brought to Illinois for use here and is taxable under  
9 this Act, the "selling price" on which the tax is computed  
10 shall be reduced by an amount that represents a reasonable  
11 allowance for depreciation for the period of prior out-of-state  
12 use.

13 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
14 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

15 Section 90-65. The Service Occupation Tax Act is amended by  
16 changing Sections 3-5 and 3-10 as follows:

17 (35 ILCS 115/3-5)

18 Sec. 3-5. Exemptions. The following tangible personal  
19 property is exempt from the tax imposed by this Act:

20 (1) Personal property sold by a corporation, society,  
21 association, foundation, institution, or organization, other  
22 than a limited liability company, that is organized and  
23 operated as a not-for-profit service enterprise for the benefit  
24 of persons 65 years of age or older if the personal property

1 was not purchased by the enterprise for the purpose of resale  
2 by the enterprise.

3 (2) Personal property purchased by a not-for-profit  
4 Illinois county fair association for use in conducting,  
5 operating, or promoting the county fair.

6 (3) Personal property purchased by any not-for-profit arts  
7 or cultural organization that establishes, by proof required by  
8 the Department by rule, that it has received an exemption under  
9 Section 501(c)(3) of the Internal Revenue Code and that is  
10 organized and operated primarily for the presentation or  
11 support of arts or cultural programming, activities, or  
12 services. These organizations include, but are not limited to,  
13 music and dramatic arts organizations such as symphony  
14 orchestras and theatrical groups, arts and cultural service  
15 organizations, local arts councils, visual arts organizations,  
16 and media arts organizations. On and after the effective date  
17 of this amendatory Act of the 92nd General Assembly, however,  
18 an entity otherwise eligible for this exemption shall not make  
19 tax-free purchases unless it has an active identification  
20 number issued by the Department.

21 (4) Legal tender, currency, medallions, or gold or silver  
22 coinage issued by the State of Illinois, the government of the  
23 United States of America, or the government of any foreign  
24 country, and bullion.

25 (5) Until July 1, 2003 and beginning again on September 1,  
26 2004 through August 30, 2014, graphic arts machinery and



1 equipment, including repair and replacement parts, both new and  
2 used, and including that manufactured on special order or  
3 purchased for lease, certified by the purchaser to be used  
4 primarily for graphic arts production. Equipment includes  
5 chemicals or chemicals acting as catalysts but only if the  
6 chemicals or chemicals acting as catalysts effect a direct and  
7 immediate change upon a graphic arts product.

8 (6) Personal property sold by a teacher-sponsored student  
9 organization affiliated with an elementary or secondary school  
10 located in Illinois.

11 (7) Farm machinery and equipment, both new and used,  
12 including that manufactured on special order, certified by the  
13 purchaser to be used primarily for production agriculture or  
14 State or federal agricultural programs, including individual  
15 replacement parts for the machinery and equipment, including  
16 machinery and equipment purchased for lease, and including  
17 implements of husbandry defined in Section 1-130 of the  
18 Illinois Vehicle Code, farm machinery and agricultural  
19 chemical and fertilizer spreaders, and nurse wagons required to  
20 be registered under Section 3-809 of the Illinois Vehicle Code,  
21 but excluding other motor vehicles required to be registered  
22 under the Illinois Vehicle Code. Horticultural polyhouses or  
23 hoop houses used for propagating, growing, or overwintering  
24 plants shall be considered farm machinery and equipment under  
25 this item (7). Agricultural chemical tender tanks and dry boxes  
26 shall include units sold separately from a motor vehicle

1 required to be licensed and units sold mounted on a motor  
2 vehicle required to be licensed if the selling price of the  
3 tender is separately stated.

4 Farm machinery and equipment shall include precision  
5 farming equipment that is installed or purchased to be  
6 installed on farm machinery and equipment including, but not  
7 limited to, tractors, harvesters, sprayers, planters, seeders,  
8 or spreaders. Precision farming equipment includes, but is not  
9 limited to, soil testing sensors, computers, monitors,  
10 software, global positioning and mapping systems, and other  
11 such equipment.

12 Farm machinery and equipment also includes computers,  
13 sensors, software, and related equipment used primarily in the  
14 computer-assisted operation of production agriculture  
15 facilities, equipment, and activities such as, but not limited  
16 to, the collection, monitoring, and correlation of animal and  
17 crop data for the purpose of formulating animal diets and  
18 agricultural chemicals. This item (7) is exempt from the  
19 provisions of Section 3-55.

20 (8) Fuel and petroleum products sold to or used by an air  
21 common carrier, certified by the carrier to be used for  
22 consumption, shipment, or storage in the conduct of its  
23 business as an air common carrier, for a flight destined for or  
24 returning from a location or locations outside the United  
25 States without regard to previous or subsequent domestic  
26 stopovers.

1           (9) Proceeds of mandatory service charges separately  
2 stated on customers' bills for the purchase and consumption of  
3 food and beverages, to the extent that the proceeds of the  
4 service charge are in fact turned over as tips or as a  
5 substitute for tips to the employees who participate directly  
6 in preparing, serving, hosting or cleaning up the food or  
7 beverage function with respect to which the service charge is  
8 imposed.

9           (10) Until July 1, 2003, oil field exploration, drilling,  
10 and production equipment, including (i) rigs and parts of rigs,  
11 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
12 tubular goods, including casing and drill strings, (iii) pumps  
13 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
14 individual replacement part for oil field exploration,  
15 drilling, and production equipment, and (vi) machinery and  
16 equipment purchased for lease; but excluding motor vehicles  
17 required to be registered under the Illinois Vehicle Code.

18           (11) Photoprocessing machinery and equipment, including  
19 repair and replacement parts, both new and used, including that  
20 manufactured on special order, certified by the purchaser to be  
21 used primarily for photoprocessing, and including  
22 photoprocessing machinery and equipment purchased for lease.

23           (12) Until July 1, 2003, coal exploration, mining,  
24 offhighway hauling, processing, maintenance, and reclamation  
25 equipment, including replacement parts and equipment, and  
26 including equipment purchased for lease, but excluding motor

1 vehicles required to be registered under the Illinois Vehicle  
2 Code.

3 (13) Beginning January 1, 1992 and through June 30, 2011,  
4 food for human consumption that is to be consumed off the  
5 premises where it is sold (other than alcoholic beverages, soft  
6 drinks and food that has been prepared for immediate  
7 consumption) and prescription and non-prescription medicines,  
8 drugs, medical appliances, and insulin, urine testing  
9 materials, syringes, and needles used by diabetics, for human  
10 use, when purchased for use by a person receiving medical  
11 assistance under Article V of the Illinois Public Aid Code who  
12 resides in a licensed long-term care facility, as defined in  
13 the Nursing Home Care Act, or in a licensed facility as defined  
14 in the MR/DD Community Care Act or the Specialized Mental  
15 Health Rehabilitation Act.

16 (14) Semen used for artificial insemination of livestock  
17 for direct agricultural production.

18 (15) Horses, or interests in horses, registered with and  
19 meeting the requirements of any of the Arabian Horse Club  
20 Registry of America, Appaloosa Horse Club, American Quarter  
21 Horse Association, United States Trotting Association, or  
22 Jockey Club, as appropriate, used for purposes of breeding or  
23 racing for prizes. This item (15) is exempt from the provisions  
24 of Section 3-55, and the exemption provided for under this item  
25 (15) applies for all periods beginning May 30, 1995, but no  
26 claim for credit or refund is allowed on or after January 1,

1 2008 (the effective date of Public Act 95-88) for such taxes  
2 paid during the period beginning May 30, 2000 and ending on  
3 January 1, 2008 (the effective date of Public Act 95-88).

4 (16) Computers and communications equipment utilized for  
5 any hospital purpose and equipment used in the diagnosis,  
6 analysis, or treatment of hospital patients sold to a lessor  
7 who leases the equipment, under a lease of one year or longer  
8 executed or in effect at the time of the purchase, to a  
9 hospital that has been issued an active tax exemption  
10 identification number by the Department under Section 1g of the  
11 Retailers' Occupation Tax Act.

12 (17) Personal property sold to a lessor who leases the  
13 property, under a lease of one year or longer executed or in  
14 effect at the time of the purchase, to a governmental body that  
15 has been issued an active tax exemption identification number  
16 by the Department under Section 1g of the Retailers' Occupation  
17 Tax Act.

18 (18) Beginning with taxable years ending on or after  
19 December 31, 1995 and ending with taxable years ending on or  
20 before December 31, 2004, personal property that is donated for  
21 disaster relief to be used in a State or federally declared  
22 disaster area in Illinois or bordering Illinois by a  
23 manufacturer or retailer that is registered in this State to a  
24 corporation, society, association, foundation, or institution  
25 that has been issued a sales tax exemption identification  
26 number by the Department that assists victims of the disaster

1 who reside within the declared disaster area.

2 (19) Beginning with taxable years ending on or after  
3 December 31, 1995 and ending with taxable years ending on or  
4 before December 31, 2004, personal property that is used in the  
5 performance of infrastructure repairs in this State, including  
6 but not limited to municipal roads and streets, access roads,  
7 bridges, sidewalks, waste disposal systems, water and sewer  
8 line extensions, water distribution and purification  
9 facilities, storm water drainage and retention facilities, and  
10 sewage treatment facilities, resulting from a State or  
11 federally declared disaster in Illinois or bordering Illinois  
12 when such repairs are initiated on facilities located in the  
13 declared disaster area within 6 months after the disaster.

14 (20) Beginning July 1, 1999, game or game birds sold at a  
15 "game breeding and hunting preserve area" or an "exotic game  
16 hunting area" as those terms are used in the Wildlife Code or  
17 at a hunting enclosure approved through rules adopted by the  
18 Department of Natural Resources. This paragraph is exempt from  
19 the provisions of Section 3-55.

20 (21) A motor vehicle, as that term is defined in Section  
21 1-146 of the Illinois Vehicle Code, that is donated to a  
22 corporation, limited liability company, society, association,  
23 foundation, or institution that is determined by the Department  
24 to be organized and operated exclusively for educational  
25 purposes. For purposes of this exemption, "a corporation,  
26 limited liability company, society, association, foundation,

1 or institution organized and operated exclusively for  
2 educational purposes" means all tax-supported public schools,  
3 private schools that offer systematic instruction in useful  
4 branches of learning by methods common to public schools and  
5 that compare favorably in their scope and intensity with the  
6 course of study presented in tax-supported schools, and  
7 vocational or technical schools or institutes organized and  
8 operated exclusively to provide a course of study of not less  
9 than 6 weeks duration and designed to prepare individuals to  
10 follow a trade or to pursue a manual, technical, mechanical,  
11 industrial, business, or commercial occupation.

12 (22) Beginning January 1, 2000, personal property,  
13 including food, purchased through fundraising events for the  
14 benefit of a public or private elementary or secondary school,  
15 a group of those schools, or one or more school districts if  
16 the events are sponsored by an entity recognized by the school  
17 district that consists primarily of volunteers and includes  
18 parents and teachers of the school children. This paragraph  
19 does not apply to fundraising events (i) for the benefit of  
20 private home instruction or (ii) for which the fundraising  
21 entity purchases the personal property sold at the events from  
22 another individual or entity that sold the property for the  
23 purpose of resale by the fundraising entity and that profits  
24 from the sale to the fundraising entity. This paragraph is  
25 exempt from the provisions of Section 3-55.

26 (23) Beginning January 1, 2000 and through December 31,

1 2001, new or used automatic vending machines that prepare and  
2 serve hot food and beverages, including coffee, soup, and other  
3 items, and replacement parts for these machines. Beginning  
4 January 1, 2002 and through June 30, 2003, machines and parts  
5 for machines used in commercial, coin-operated amusement and  
6 vending business if a use or occupation tax is paid on the  
7 gross receipts derived from the use of the commercial,  
8 coin-operated amusement and vending machines. This paragraph  
9 is exempt from the provisions of Section 3-55.

10 (24) Beginning on the effective date of this amendatory Act  
11 of the 92nd General Assembly, computers and communications  
12 equipment utilized for any hospital purpose and equipment used  
13 in the diagnosis, analysis, or treatment of hospital patients  
14 sold to a lessor who leases the equipment, under a lease of one  
15 year or longer executed or in effect at the time of the  
16 purchase, to a hospital that has been issued an active tax  
17 exemption identification number by the Department under  
18 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
19 is exempt from the provisions of Section 3-55.

20 (25) Beginning on the effective date of this amendatory Act  
21 of the 92nd General Assembly, personal property sold to a  
22 lessor who leases the property, under a lease of one year or  
23 longer executed or in effect at the time of the purchase, to a  
24 governmental body that has been issued an active tax exemption  
25 identification number by the Department under Section 1g of the  
26 Retailers' Occupation Tax Act. This paragraph is exempt from



1 the provisions of Section 3-55.

2 (26) Beginning on January 1, 2002 and through June 30,  
3 2011, tangible personal property purchased from an Illinois  
4 retailer by a taxpayer engaged in centralized purchasing  
5 activities in Illinois who will, upon receipt of the property  
6 in Illinois, temporarily store the property in Illinois (i) for  
7 the purpose of subsequently transporting it outside this State  
8 for use or consumption thereafter solely outside this State or  
9 (ii) for the purpose of being processed, fabricated, or  
10 manufactured into, attached to, or incorporated into other  
11 tangible personal property to be transported outside this State  
12 and thereafter used or consumed solely outside this State. The  
13 Director of Revenue shall, pursuant to rules adopted in  
14 accordance with the Illinois Administrative Procedure Act,  
15 issue a permit to any taxpayer in good standing with the  
16 Department who is eligible for the exemption under this  
17 paragraph (26). The permit issued under this paragraph (26)  
18 shall authorize the holder, to the extent and in the manner  
19 specified in the rules adopted under this Act, to purchase  
20 tangible personal property from a retailer exempt from the  
21 taxes imposed by this Act. Taxpayers shall maintain all  
22 necessary books and records to substantiate the use and  
23 consumption of all such tangible personal property outside of  
24 the State of Illinois.

25 (27) Beginning January 1, 2008, tangible personal property  
26 used in the construction or maintenance of a community water

1 supply, as defined under Section 3.145 of the Environmental  
2 Protection Act, that is operated by a not-for-profit  
3 corporation that holds a valid water supply permit issued under  
4 Title IV of the Environmental Protection Act. This paragraph is  
5 exempt from the provisions of Section 3-55.

6 (28) Tangible personal property sold to a  
7 public-facilities corporation, as described in Section  
8 11-65-10 of the Illinois Municipal Code, for purposes of  
9 constructing or furnishing a municipal convention hall, but  
10 only if the legal title to the municipal convention hall is  
11 transferred to the municipality without any further  
12 consideration by or on behalf of the municipality at the time  
13 of the completion of the municipal convention hall or upon the  
14 retirement or redemption of any bonds or other debt instruments  
15 issued by the public-facilities corporation in connection with  
16 the development of the municipal convention hall. This  
17 exemption includes existing public-facilities corporations as  
18 provided in Section 11-65-25 of the Illinois Municipal Code.  
19 This paragraph is exempt from the provisions of Section 3-55.

20 (29) Beginning January 1, 2010, materials, parts,  
21 equipment, components, and furnishings incorporated into or  
22 upon an aircraft as part of the modification, refurbishment,  
23 completion, replacement, repair, or maintenance of the  
24 aircraft. This exemption includes consumable supplies used in  
25 the modification, refurbishment, completion, replacement,  
26 repair, and maintenance of aircraft, but excludes any

1 materials, parts, equipment, components, and consumable  
2 supplies used in the modification, replacement, repair, and  
3 maintenance of aircraft engines or power plants, whether such  
4 engines or power plants are installed or uninstalled upon any  
5 such aircraft. "Consumable supplies" include, but are not  
6 limited to, adhesive, tape, sandpaper, general purpose  
7 lubricants, cleaning solution, latex gloves, and protective  
8 films. This exemption applies only to those organizations that  
9 (i) hold an Air Agency Certificate and are empowered to operate  
10 an approved repair station by the Federal Aviation  
11 Administration, (ii) have a Class IV Rating, and (iii) conduct  
12 operations in accordance with Part 145 of the Federal Aviation  
13 Regulations. The exemption does not include aircraft operated  
14 by a commercial air carrier providing scheduled passenger air  
15 service pursuant to authority issued under Part 121 or Part 129  
16 of the Federal Aviation Regulations.

17 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
18 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
19 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
20 7-2-10.)

21 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

22 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
23 Section, the tax imposed by this Act is at the rate of 6.25% of  
24 the "selling price", as defined in Section 2 of the Service Use  
25 Tax Act, of the tangible personal property. For the purpose of

1 computing this tax, in no event shall the "selling price" be  
2 less than the cost price to the serviceman of the tangible  
3 personal property transferred. The selling price of each item  
4 of tangible personal property transferred as an incident of a  
5 sale of service may be shown as a distinct and separate item on  
6 the serviceman's billing to the service customer. If the  
7 selling price is not so shown, the selling price of the  
8 tangible personal property is deemed to be 50% of the  
9 serviceman's entire billing to the service customer. When,  
10 however, a serviceman contracts to design, develop, and produce  
11 special order machinery or equipment, the tax imposed by this  
12 Act shall be based on the serviceman's cost price of the  
13 tangible personal property transferred incident to the  
14 completion of the contract.

15 Beginning on July 1, 2000 and through December 31, 2000,  
16 with respect to motor fuel, as defined in Section 1.1 of the  
17 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
18 the Use Tax Act, the tax is imposed at the rate of 1.25%.

19 With respect to gasohol, as defined in the Use Tax Act, the  
20 tax imposed by this Act shall apply to (i) 70% of the cost  
21 price of property transferred as an incident to the sale of  
22 service on or after January 1, 1990, and before July 1, 2003,  
23 (ii) 80% of the selling price of property transferred as an  
24 incident to the sale of service on or after July 1, 2003 and on  
25 or before December 31, 2013, and (iii) 100% of the cost price  
26 thereafter. If, at any time, however, the tax under this Act on

1 sales of gasohol, as defined in the Use Tax Act, is imposed at  
2 the rate of 1.25%, then the tax imposed by this Act applies to  
3 100% of the proceeds of sales of gasohol made during that time.

4 With respect to majority blended ethanol fuel, as defined  
5 in the Use Tax Act, the tax imposed by this Act does not apply  
6 to the selling price of property transferred as an incident to  
7 the sale of service on or after July 1, 2003 and on or before  
8 December 31, 2013 but applies to 100% of the selling price  
9 thereafter.

10 With respect to biodiesel blends, as defined in the Use Tax  
11 Act, with no less than 1% and no more than 10% biodiesel, the  
12 tax imposed by this Act applies to (i) 80% of the selling price  
13 of property transferred as an incident to the sale of service  
14 on or after July 1, 2003 and on or before December 31, 2013 and  
15 (ii) 100% of the proceeds of the selling price thereafter. If,  
16 at any time, however, the tax under this Act on sales of  
17 biodiesel blends, as defined in the Use Tax Act, with no less  
18 than 1% and no more than 10% biodiesel is imposed at the rate  
19 of 1.25%, then the tax imposed by this Act applies to 100% of  
20 the proceeds of sales of biodiesel blends with no less than 1%  
21 and no more than 10% biodiesel made during that time.

22 With respect to 100% biodiesel, as defined in the Use Tax  
23 Act, and biodiesel blends, as defined in the Use Tax Act, with  
24 more than 10% but no more than 99% biodiesel material, the tax  
25 imposed by this Act does not apply to the proceeds of the  
26 selling price of property transferred as an incident to the

1 sale of service on or after July 1, 2003 and on or before  
2 December 31, 2013 but applies to 100% of the selling price  
3 thereafter.

4 At the election of any registered serviceman made for each  
5 fiscal year, sales of service in which the aggregate annual  
6 cost price of tangible personal property transferred as an  
7 incident to the sales of service is less than 35%, or 75% in  
8 the case of servicemen transferring prescription drugs or  
9 servicemen engaged in graphic arts production, of the aggregate  
10 annual total gross receipts from all sales of service, the tax  
11 imposed by this Act shall be based on the serviceman's cost  
12 price of the tangible personal property transferred incident to  
13 the sale of those services.

14 The tax shall be imposed at the rate of 1% on food prepared  
15 for immediate consumption and transferred incident to a sale of  
16 service subject to this Act or the Service Occupation Tax Act  
17 by an entity licensed under the Hospital Licensing Act, the  
18 Nursing Home Care Act, the MR/DD Community Care Act, the  
19 Specialized Mental Health Rehabilitation Act, or the Child Care  
20 Act of 1969. The tax shall also be imposed at the rate of 1% on  
21 food for human consumption that is to be consumed off the  
22 premises where it is sold (other than alcoholic beverages, soft  
23 drinks, and food that has been prepared for immediate  
24 consumption and is not otherwise included in this paragraph)  
25 and prescription and nonprescription medicines, drugs, medical  
26 appliances, modifications to a motor vehicle for the purpose of

1 rendering it usable by a disabled person, and insulin, urine  
2 testing materials, syringes, and needles used by diabetics, for  
3 human use. For the purposes of this Section, until September 1,  
4 2009: the term "soft drinks" means any complete, finished,  
5 ready-to-use, non-alcoholic drink, whether carbonated or not,  
6 including but not limited to soda water, cola, fruit juice,  
7 vegetable juice, carbonated water, and all other preparations  
8 commonly known as soft drinks of whatever kind or description  
9 that are contained in any closed or sealed can, carton, or  
10 container, regardless of size; but "soft drinks" does not  
11 include coffee, tea, non-carbonated water, infant formula,  
12 milk or milk products as defined in the Grade A Pasteurized  
13 Milk and Milk Products Act, or drinks containing 50% or more  
14 natural fruit or vegetable juice.

15 Notwithstanding any other provisions of this Act,  
16 beginning September 1, 2009, "soft drinks" means non-alcoholic  
17 beverages that contain natural or artificial sweeteners. "Soft  
18 drinks" do not include beverages that contain milk or milk  
19 products, soy, rice or similar milk substitutes, or greater  
20 than 50% of vegetable or fruit juice by volume.

21 Until August 1, 2009, and notwithstanding any other  
22 provisions of this Act, "food for human consumption that is to  
23 be consumed off the premises where it is sold" includes all  
24 food sold through a vending machine, except soft drinks and  
25 food products that are dispensed hot from a vending machine,  
26 regardless of the location of the vending machine. Beginning

1 August 1, 2009, and notwithstanding any other provisions of  
2 this Act, "food for human consumption that is to be consumed  
3 off the premises where it is sold" includes all food sold  
4 through a vending machine, except soft drinks, candy, and food  
5 products that are dispensed hot from a vending machine,  
6 regardless of the location of the vending machine.

7 Notwithstanding any other provisions of this Act,  
8 beginning September 1, 2009, "food for human consumption that  
9 is to be consumed off the premises where it is sold" does not  
10 include candy. For purposes of this Section, "candy" means a  
11 preparation of sugar, honey, or other natural or artificial  
12 sweeteners in combination with chocolate, fruits, nuts or other  
13 ingredients or flavorings in the form of bars, drops, or  
14 pieces. "Candy" does not include any preparation that contains  
15 flour or requires refrigeration.

16 Notwithstanding any other provisions of this Act,  
17 beginning September 1, 2009, "nonprescription medicines and  
18 drugs" does not include grooming and hygiene products. For  
19 purposes of this Section, "grooming and hygiene products"  
20 includes, but is not limited to, soaps and cleaning solutions,  
21 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
22 lotions and screens, unless those products are available by  
23 prescription only, regardless of whether the products meet the  
24 definition of "over-the-counter-drugs". For the purposes of  
25 this paragraph, "over-the-counter-drug" means a drug for human  
26 use that contains a label that identifies the product as a drug



1 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
2 label includes:

3 (A) A "Drug Facts" panel; or

4 (B) A statement of the "active ingredient(s)" with a  
5 list of those ingredients contained in the compound,  
6 substance or preparation.

7 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
8 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

9 Section 90-70. The Retailers' Occupation Tax Act is amended  
10 by changing Section 2-5 as follows:

11 (35 ILCS 120/2-5)

12 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
13 sale of the following tangible personal property are exempt  
14 from the tax imposed by this Act:

15 (1) Farm chemicals.

16 (2) 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

1 be registered under Section 3-809 of the Illinois Vehicle Code,  
2 but excluding other motor vehicles required to be registered  
3 under the Illinois Vehicle Code. Horticultural polyhouses or  
4 hoop houses used for propagating, growing, or overwintering  
5 plants shall be considered farm machinery and equipment under  
6 this item (2). Agricultural chemical tender tanks and dry boxes  
7 shall include units sold separately from a motor vehicle  
8 required to be licensed and units sold mounted on a motor  
9 vehicle required to be licensed, if the selling price of the  
10 tender is separately stated.

11 Farm machinery and equipment shall include precision  
12 farming equipment that is installed or purchased to be  
13 installed on farm machinery and equipment including, but not  
14 limited to, tractors, harvesters, sprayers, planters, seeders,  
15 or spreaders. Precision farming equipment includes, but is not  
16 limited to, soil testing sensors, computers, monitors,  
17 software, global positioning and mapping systems, and other  
18 such equipment.

19 Farm machinery and equipment also includes computers,  
20 sensors, software, and related equipment used primarily in the  
21 computer-assisted operation of production agriculture  
22 facilities, equipment, and activities such as, but not limited  
23 to, the collection, monitoring, and correlation of animal and  
24 crop data for the purpose of formulating animal diets and  
25 agricultural chemicals. This item (7) is exempt from the  
26 provisions of Section 2-70.

1           (3) Until July 1, 2003, distillation machinery and  
2 equipment, sold as a unit or kit, assembled or installed by the  
3 retailer, certified by the user to be used only for the  
4 production of ethyl alcohol that will be used for consumption  
5 as motor fuel or as a component of motor fuel for the personal  
6 use of the user, and not subject to sale or resale.

7           (4) Until July 1, 2003 and beginning again September 1,  
8 2004 through August 30, 2014, graphic arts machinery and  
9 equipment, including repair and replacement parts, both new and  
10 used, and including that manufactured on special order or  
11 purchased for lease, certified by the purchaser to be used  
12 primarily for graphic arts production. Equipment includes  
13 chemicals or chemicals acting as catalysts but only if the  
14 chemicals or chemicals acting as catalysts effect a direct and  
15 immediate change upon a graphic arts product.

16           (5) A motor vehicle of the first division, a motor vehicle  
17 of the second division that is a self contained motor vehicle  
18 designed or permanently converted to provide living quarters  
19 for recreational, camping, or travel use, with direct walk  
20 through access to the living quarters from the driver's seat,  
21 or a motor vehicle of the second division that is of the van  
22 configuration designed for the transportation of not less than  
23 7 nor more than 16 passengers, as defined in Section 1-146 of  
24 the Illinois Vehicle Code, that is used for automobile renting,  
25 as defined in the Automobile Renting Occupation and Use Tax  
26 Act. This paragraph is exempt from the provisions of Section

1 2-70.

2 (6) Personal property sold by a teacher-sponsored student  
3 organization affiliated with an elementary or secondary school  
4 located in Illinois.

5 (7) Until July 1, 2003, proceeds of that portion of the  
6 selling price of a passenger car the sale of which is subject  
7 to the Replacement Vehicle Tax.

8 (8) Personal property sold to an Illinois county fair  
9 association for use in conducting, operating, or promoting the  
10 county fair.

11 (9) Personal property sold to 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 (10) Personal property sold by a corporation, society,

1 association, foundation, institution, or organization, other  
2 than a limited liability company, that is organized and  
3 operated as a not-for-profit service enterprise for the benefit  
4 of persons 65 years of age or older if the personal property  
5 was not purchased by the enterprise for the purpose of resale  
6 by the enterprise.

7 (11) Personal property sold to a governmental body, to a  
8 corporation, society, association, foundation, or institution  
9 organized and operated exclusively for charitable, religious,  
10 or educational purposes, or to a not-for-profit corporation,  
11 society, association, foundation, institution, or organization  
12 that has no compensated officers or employees and that is  
13 organized and operated primarily for the recreation of persons  
14 55 years of age or older. A limited liability company may  
15 qualify for the exemption under this paragraph only if the  
16 limited liability company is organized and operated  
17 exclusively for educational purposes. On and after July 1,  
18 1987, however, no entity otherwise eligible for this exemption  
19 shall make tax-free purchases unless it has an active  
20 identification number issued by the Department.

21 (12) Tangible personal property sold to interstate  
22 carriers for hire for use as rolling stock moving in interstate  
23 commerce or to lessors under leases of one year or longer  
24 executed or in effect at the time of purchase by interstate  
25 carriers for hire for use as rolling stock moving in interstate  
26 commerce and equipment operated by a telecommunications

1 provider, licensed as a common carrier by the Federal  
2 Communications Commission, which is permanently installed in  
3 or affixed to aircraft moving in interstate commerce.

4 (12-5) On and after July 1, 2003 and through June 30, 2004,  
5 motor vehicles of the second division with a gross vehicle  
6 weight in excess of 8,000 pounds that are subject to the  
7 commercial distribution fee imposed under Section 3-815.1 of  
8 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
9 through June 30, 2005, the use in this State of motor vehicles  
10 of the second division: (i) with a gross vehicle weight rating  
11 in excess of 8,000 pounds; (ii) that are subject to the  
12 commercial distribution fee imposed under Section 3-815.1 of  
13 the Illinois Vehicle Code; and (iii) that are primarily used  
14 for commercial purposes. Through June 30, 2005, this exemption  
15 applies to repair and replacement parts added after the initial  
16 purchase of such a motor vehicle if that motor vehicle is used  
17 in a manner that would qualify for the rolling stock exemption  
18 otherwise provided for in this Act. For purposes of this  
19 paragraph, "used for commercial purposes" means the  
20 transportation of persons or property in furtherance of any  
21 commercial or industrial enterprise whether for-hire or not.

22 (13) Proceeds from sales to owners, lessors, or shippers of  
23 tangible personal property that is utilized by interstate  
24 carriers for hire for use as rolling stock moving in interstate  
25 commerce and equipment operated by a telecommunications  
26 provider, licensed as a common carrier by the Federal

1 Communications Commission, which is permanently installed in  
2 or affixed to aircraft moving in interstate commerce.

3 (14) Machinery and equipment that will be used by the  
4 purchaser, or a lessee of the purchaser, primarily in the  
5 process of manufacturing or assembling tangible personal  
6 property for wholesale or retail sale or lease, whether the  
7 sale or lease is made directly by the manufacturer or by some  
8 other person, whether the materials used in the process are  
9 owned by the manufacturer or some other person, or whether the  
10 sale or lease is made apart from or as an incident to the  
11 seller's engaging in the service occupation of producing  
12 machines, tools, dies, jigs, patterns, gauges, or other similar  
13 items of no commercial value on special order for a particular  
14 purchaser.

15 (15) Proceeds of mandatory service charges separately  
16 stated on customers' bills for purchase and consumption of food  
17 and beverages, to the extent that the proceeds of the service  
18 charge are in fact turned over as tips or as a substitute for  
19 tips to the employees who participate directly in preparing,  
20 serving, hosting or cleaning up the food or beverage function  
21 with respect to which the service charge is imposed.

22 (16) Petroleum products sold to a purchaser if the seller  
23 is prohibited by federal law from charging tax to the  
24 purchaser.

25 (17) Tangible personal property sold to a common carrier by  
26 rail or motor that receives the physical possession of the

1 property in Illinois and that transports the property, or  
2 shares with another common carrier in the transportation of the  
3 property, out of Illinois on a standard uniform bill of lading  
4 showing the seller of the property as the shipper or consignor  
5 of the property to a destination outside Illinois, for use  
6 outside Illinois.

7 (18) Legal tender, currency, medallions, or gold or silver  
8 coinage issued by the State of Illinois, the government of the  
9 United States of America, or the government of any foreign  
10 country, and bullion.

11 (19) Until July 1 2003, oil field exploration, drilling,  
12 and production equipment, including (i) rigs and parts of rigs,  
13 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
14 tubular goods, including casing and drill strings, (iii) pumps  
15 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
16 individual replacement part for oil field exploration,  
17 drilling, and production equipment, and (vi) machinery and  
18 equipment purchased for lease; but excluding motor vehicles  
19 required to be registered under the Illinois Vehicle Code.

20 (20) Photoprocessing machinery and equipment, including  
21 repair and replacement parts, both new and used, including that  
22 manufactured on special order, certified by the purchaser to be  
23 used primarily for photoprocessing, and including  
24 photoprocessing machinery and equipment purchased for lease.

25 (21) Until July 1, 2003, coal exploration, mining,  
26 offhighway hauling, processing, maintenance, and reclamation



1 equipment, including replacement parts and equipment, and  
2 including equipment purchased for lease, but excluding motor  
3 vehicles required to be registered under the Illinois Vehicle  
4 Code.

5 (22) Fuel and petroleum products sold to or used by an air  
6 carrier, certified by the carrier to be used for consumption,  
7 shipment, or storage in the conduct of its business as an air  
8 common carrier, for a flight destined for or returning from a  
9 location or locations outside the United States without regard  
10 to previous or subsequent domestic stopovers.

11 (23) A transaction in which the purchase order is received  
12 by a florist who is located outside Illinois, but who has a  
13 florist located in Illinois deliver the property to the  
14 purchaser or the purchaser's donee in Illinois.

15 (24) Fuel consumed or used in the operation of ships,  
16 barges, or vessels that are used primarily in or for the  
17 transportation of property or the conveyance of persons for  
18 hire on rivers bordering on this State if the fuel is delivered  
19 by the seller to the purchaser's barge, ship, or vessel while  
20 it is afloat upon that bordering river.

21 (25) Except as provided in item (25-5) of this Section, a  
22 motor vehicle sold in this State to a nonresident even though  
23 the motor vehicle is delivered to the nonresident in this  
24 State, if the motor vehicle is not to be titled in this State,  
25 and if a drive-away permit is issued to the motor vehicle as  
26 provided in Section 3-603 of the Illinois Vehicle Code or if

1 the nonresident purchaser has vehicle registration plates to  
2 transfer to the motor vehicle upon returning to his or her home  
3 state. The issuance of the drive-away permit or having the  
4 out-of-state registration plates to be transferred is prima  
5 facie evidence that the motor vehicle will not be titled in  
6 this State.

7 (25-5) The exemption under item (25) does not apply if the  
8 state in which the motor vehicle will be titled does not allow  
9 a reciprocal exemption for a motor vehicle sold and delivered  
10 in that state to an Illinois resident but titled in Illinois.  
11 The tax collected under this Act on the sale of a motor vehicle  
12 in this State to a resident of another state that does not  
13 allow a reciprocal exemption shall be imposed at a rate equal  
14 to the state's rate of tax on taxable property in the state in  
15 which the purchaser is a resident, except that the tax shall  
16 not exceed the tax that would otherwise be imposed under this  
17 Act. At the time of the sale, the purchaser shall execute a  
18 statement, signed under penalty of perjury, of his or her  
19 intent to title the vehicle in the state in which the purchaser  
20 is a resident within 30 days after the sale and of the fact of  
21 the payment to the State of Illinois of tax in an amount  
22 equivalent to the state's rate of tax on taxable property in  
23 his or her state of residence and shall submit the statement to  
24 the appropriate tax collection agency in his or her state of  
25 residence. In addition, the retailer must retain a signed copy  
26 of the statement in his or her records. Nothing in this item

1 shall be construed to require the removal of the vehicle from  
2 this state following the filing of an intent to title the  
3 vehicle in the purchaser's state of residence if the purchaser  
4 titles the vehicle in his or her state of residence within 30  
5 days after the date of sale. The tax collected under this Act  
6 in accordance with this item (25-5) shall be proportionately  
7 distributed as if the tax were collected at the 6.25% general  
8 rate imposed under this Act.

9 (25-7) Beginning on July 1, 2007, no tax is imposed under  
10 this Act on the sale of an aircraft, as defined in Section 3 of  
11 the Illinois Aeronautics Act, if all of the following  
12 conditions are met:

13 (1) the aircraft leaves this State within 15 days after  
14 the later of either the issuance of the final billing for  
15 the sale of the aircraft, or the authorized approval for  
16 return to service, completion of the maintenance record  
17 entry, and completion of the test flight and ground test  
18 for inspection, as required by 14 C.F.R. 91.407;

19 (2) the aircraft is not based or registered in this  
20 State after the sale of the aircraft; and

21 (3) the seller retains in his or her books and records  
22 and provides to the Department a signed and dated  
23 certification from the purchaser, on a form prescribed by  
24 the Department, certifying that the requirements of this  
25 item (25-7) are met. The certificate must also include the  
26 name and address of the purchaser, the address of the

1 location where the aircraft is to be titled or registered,  
2 the address of the primary physical location of the  
3 aircraft, and other information that the Department may  
4 reasonably require.

5 For purposes of this item (25-7):

6 "Based in this State" means hangared, stored, or otherwise  
7 used, excluding post-sale customizations as defined in this  
8 Section, for 10 or more days in each 12-month period  
9 immediately following the date of the sale of the aircraft.

10 "Registered in this State" means an aircraft registered  
11 with the Department of Transportation, Aeronautics Division,  
12 or titled or registered with the Federal Aviation  
13 Administration to an address located in this State.

14 This paragraph (25-7) is exempt from the provisions of  
15 Section 2-70.

16 (26) Semen used for artificial insemination of livestock  
17 for direct agricultural production.

18 (27) Horses, or interests in horses, registered with and  
19 meeting the requirements of any of the Arabian Horse Club  
20 Registry of America, Appaloosa Horse Club, American Quarter  
21 Horse Association, United States Trotting Association, or  
22 Jockey Club, as appropriate, used for purposes of breeding or  
23 racing for prizes. This item (27) is exempt from the provisions  
24 of Section 2-70, and the exemption provided for under this item  
25 (27) applies for all periods beginning May 30, 1995, but no  
26 claim for credit or refund is allowed on or after January 1,

1 2008 (the effective date of Public Act 95-88) for such taxes  
2 paid during the period beginning May 30, 2000 and ending on  
3 January 1, 2008 (the effective date of Public Act 95-88).

4 (28) Computers and communications equipment utilized for  
5 any hospital purpose and equipment used in the diagnosis,  
6 analysis, or treatment of hospital patients sold to a lessor  
7 who leases the equipment, under a lease of one year or longer  
8 executed or in effect at the time of the purchase, to a  
9 hospital that has been issued an active tax exemption  
10 identification number by the Department under Section 1g of  
11 this Act.

12 (29) Personal property sold to a lessor who leases the  
13 property, under a lease of one year or longer executed or in  
14 effect at the time of the purchase, to a governmental body that  
15 has been issued an active tax exemption identification number  
16 by the Department under Section 1g of this Act.

17 (30) Beginning with taxable years ending on or after  
18 December 31, 1995 and ending with taxable years ending on or  
19 before December 31, 2004, personal property that is donated for  
20 disaster relief to be used in a State or federally declared  
21 disaster area in Illinois or bordering Illinois by a  
22 manufacturer or retailer that is registered in this State to a  
23 corporation, society, association, foundation, or institution  
24 that has been issued a sales tax exemption identification  
25 number by the Department that assists victims of the disaster  
26 who reside within the declared disaster area.

1           (31) Beginning with taxable years ending on or after  
2           December 31, 1995 and ending with taxable years ending on or  
3           before December 31, 2004, personal property that is used in the  
4           performance of infrastructure repairs in this State, including  
5           but not limited to municipal roads and streets, access roads,  
6           bridges, sidewalks, waste disposal systems, water and sewer  
7           line extensions, water distribution and purification  
8           facilities, storm water drainage and retention facilities, and  
9           sewage treatment facilities, resulting from a State or  
10          federally declared disaster in Illinois or bordering Illinois  
11          when such repairs are initiated on facilities located in the  
12          declared disaster area within 6 months after the disaster.

13          (32) Beginning July 1, 1999, game or game birds sold at a  
14          "game breeding and hunting preserve area" or an "exotic game  
15          hunting area" as those terms are used in the Wildlife Code or  
16          at a hunting enclosure approved through rules adopted by the  
17          Department of Natural Resources. This paragraph is exempt from  
18          the provisions of Section 2-70.

19          (33) A motor vehicle, as that term is defined in Section  
20          1-146 of the Illinois Vehicle Code, that is donated to a  
21          corporation, limited liability company, society, association,  
22          foundation, or institution that is determined by the Department  
23          to be organized and operated exclusively for educational  
24          purposes. For purposes of this exemption, "a corporation,  
25          limited liability company, society, association, foundation,  
26          or institution organized and operated exclusively for

1 educational purposes" means all tax-supported public schools,  
2 private schools that offer systematic instruction in useful  
3 branches of learning by methods common to public schools and  
4 that compare favorably in their scope and intensity with the  
5 course of study presented in tax-supported schools, and  
6 vocational or technical schools or institutes organized and  
7 operated exclusively to provide a course of study of not less  
8 than 6 weeks duration and designed to prepare individuals to  
9 follow a trade or to pursue a manual, technical, mechanical,  
10 industrial, business, or commercial occupation.

11 (34) Beginning January 1, 2000, personal property,  
12 including food, purchased through fundraising events for the  
13 benefit of a public or private elementary or secondary school,  
14 a group of those schools, or one or more school districts if  
15 the events are sponsored by an entity recognized by the school  
16 district that consists primarily of volunteers and includes  
17 parents and teachers of the school children. This paragraph  
18 does not apply to fundraising events (i) for the benefit of  
19 private home instruction or (ii) for which the fundraising  
20 entity purchases the personal property sold at the events from  
21 another individual or entity that sold the property for the  
22 purpose of resale by the fundraising entity and that profits  
23 from the sale to the fundraising entity. This paragraph is  
24 exempt from the provisions of Section 2-70.

25 (35) Beginning January 1, 2000 and through December 31,  
26 2001, new or used automatic vending machines that prepare and

1 serve hot food and beverages, including coffee, soup, and other  
2 items, and replacement parts for these machines. Beginning  
3 January 1, 2002 and through June 30, 2003, machines and parts  
4 for machines used in commercial, coin-operated amusement and  
5 vending business if a use or occupation tax is paid on the  
6 gross receipts derived from the use of the commercial,  
7 coin-operated amusement and vending machines. This paragraph  
8 is exempt from the provisions of Section 2-70.

9 (35-5) Beginning August 23, 2001 and through June 30, 2011,  
10 food for human consumption that is to be consumed off the  
11 premises where it is sold (other than alcoholic beverages, soft  
12 drinks, and food that has been prepared for immediate  
13 consumption) and prescription and nonprescription medicines,  
14 drugs, medical appliances, and insulin, urine testing  
15 materials, syringes, and needles used by diabetics, for human  
16 use, when purchased for use by a person receiving medical  
17 assistance under Article V of the Illinois Public Aid Code who  
18 resides in a licensed long-term care facility, as defined in  
19 the Nursing Home Care Act, or a licensed facility as defined in  
20 the MR/DD Community Care Act or the Specialized Mental Health  
21 Rehabilitation Act.

22 (36) Beginning August 2, 2001, computers and  
23 communications equipment utilized for any hospital purpose and  
24 equipment used in the diagnosis, analysis, or treatment of  
25 hospital patients sold to a lessor who leases the equipment,  
26 under a lease of one year or longer executed or in effect at



1 the time of the purchase, to a hospital that has been issued an  
2 active tax exemption identification number by the Department  
3 under Section 1g of this Act. This paragraph is exempt from the  
4 provisions of Section 2-70.

5 (37) Beginning August 2, 2001, personal property sold to a  
6 lessor who leases the property, under a lease of one year or  
7 longer executed or in effect at the time of the purchase, to a  
8 governmental body that has been issued an active tax exemption  
9 identification number by the Department under Section 1g of  
10 this Act. This paragraph is exempt from the provisions of  
11 Section 2-70.

12 (38) Beginning on January 1, 2002 and through June 30,  
13 2011, tangible personal property purchased from an Illinois  
14 retailer by a taxpayer engaged in centralized purchasing  
15 activities in Illinois who will, upon receipt of the property  
16 in Illinois, temporarily store the property in Illinois (i) for  
17 the purpose of subsequently transporting it outside this State  
18 for use or consumption thereafter solely outside this State or  
19 (ii) for the purpose of being processed, fabricated, or  
20 manufactured into, attached to, or incorporated into other  
21 tangible personal property to be transported outside this State  
22 and thereafter used or consumed solely outside this State. The  
23 Director of Revenue shall, pursuant to rules adopted in  
24 accordance with the Illinois Administrative Procedure Act,  
25 issue a permit to any taxpayer in good standing with the  
26 Department who is eligible for the exemption under this

1 paragraph (38). The permit issued under this paragraph (38)  
2 shall authorize the holder, to the extent and in the manner  
3 specified in the rules adopted under this Act, to purchase  
4 tangible personal property from a retailer exempt from the  
5 taxes imposed by this Act. Taxpayers shall maintain all  
6 necessary books and records to substantiate the use and  
7 consumption of all such tangible personal property outside of  
8 the State of Illinois.

9 (39) Beginning January 1, 2008, tangible personal property  
10 used in the construction or maintenance of a community water  
11 supply, as defined under Section 3.145 of the Environmental  
12 Protection Act, that is operated by a not-for-profit  
13 corporation that holds a valid water supply permit issued under  
14 Title IV of the Environmental Protection Act. This paragraph is  
15 exempt from the provisions of Section 2-70.

16 (40) Beginning January 1, 2010, materials, parts,  
17 equipment, components, and furnishings incorporated into or  
18 upon an aircraft as part of the modification, refurbishment,  
19 completion, replacement, repair, or maintenance of the  
20 aircraft. This exemption includes consumable supplies used in  
21 the modification, refurbishment, completion, replacement,  
22 repair, and maintenance of aircraft, but excludes any  
23 materials, parts, equipment, components, and consumable  
24 supplies used in the modification, replacement, repair, and  
25 maintenance of aircraft engines or power plants, whether such  
26 engines or power plants are installed or uninstalled upon any

1 such aircraft. "Consumable supplies" include, but are not  
2 limited to, adhesive, tape, sandpaper, general purpose  
3 lubricants, cleaning solution, latex gloves, and protective  
4 films. This exemption applies only to those organizations that  
5 (i) hold an Air Agency Certificate and are empowered to operate  
6 an approved repair station by the Federal Aviation  
7 Administration, (ii) have a Class IV Rating, and (iii) conduct  
8 operations in accordance with Part 145 of the Federal Aviation  
9 Regulations. The exemption does not include aircraft operated  
10 by a commercial air carrier providing scheduled passenger air  
11 service pursuant to authority issued under Part 121 or Part 129  
12 of the Federal Aviation Regulations.

13 (41) Tangible personal property sold to a  
14 public-facilities corporation, as described in Section  
15 11-65-10 of the Illinois Municipal Code, for purposes of  
16 constructing or furnishing a municipal convention hall, but  
17 only if the legal title to the municipal convention hall is  
18 transferred to the municipality without any further  
19 consideration by or on behalf of the municipality at the time  
20 of the completion of the municipal convention hall or upon the  
21 retirement or redemption of any bonds or other debt instruments  
22 issued by the public-facilities corporation in connection with  
23 the development of the municipal convention hall. This  
24 exemption includes existing public-facilities corporations as  
25 provided in Section 11-65-25 of the Illinois Municipal Code.  
26 This paragraph is exempt from the provisions of Section 2-70.

1 (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304,  
2 eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08;  
3 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.  
4 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000,  
5 eff. 7-2-10.)

6 Section 90-75. The Property Tax Code is amended by changing  
7 Sections 15-168, 15-170, and 15-172 as follows:

8 (35 ILCS 200/15-168)

9 Sec. 15-168. Disabled persons' homestead exemption.

10 (a) Beginning with taxable year 2007, an annual homestead  
11 exemption is granted to disabled persons in the amount of  
12 \$2,000, except as provided in subsection (c), to be deducted  
13 from the property's value as equalized or assessed by the  
14 Department of Revenue. The disabled person shall receive the  
15 homestead exemption upon meeting the following requirements:

16 (1) The property must be occupied as the primary  
17 residence by the disabled person.

18 (2) The disabled person must be liable for paying the  
19 real estate taxes on the property.

20 (3) The disabled person must be an owner of record of  
21 the property or have a legal or equitable interest in the  
22 property as evidenced by a written instrument. In the case  
23 of a leasehold interest in property, the lease must be for  
24 a single family residence.

1           A person who is disabled during the taxable year is  
2 eligible to apply for this homestead exemption during that  
3 taxable year. Application must be made during the application  
4 period in effect for the county of residence. If a homestead  
5 exemption has been granted under this Section and the person  
6 awarded the exemption subsequently becomes a resident of a  
7 facility licensed under the Nursing Home Care Act, the  
8 Specialized Mental Health Rehabilitation Act, or the MR/DD  
9 Community Care Act, then the exemption shall continue (i) so  
10 long as the residence continues to be occupied by the  
11 qualifying person's spouse or (ii) if the residence remains  
12 unoccupied but is still owned by the person qualified for the  
13 homestead exemption.

14           (b) For the purposes of this Section, "disabled person"  
15 means a person unable to engage in any substantial gainful  
16 activity by reason of a medically determinable physical or  
17 mental impairment which can be expected to result in death or  
18 has lasted or can be expected to last for a continuous period  
19 of not less than 12 months. Disabled persons filing claims  
20 under this Act shall submit proof of disability in such form  
21 and manner as the Department shall by rule and regulation  
22 prescribe. Proof that a claimant is eligible to receive  
23 disability benefits under the Federal Social Security Act shall  
24 constitute proof of disability for purposes of this Act.  
25 Issuance of an Illinois Disabled Person Identification Card  
26 stating that the claimant is under a Class 2 disability, as

1 defined in Section 4A of The Illinois Identification Card Act,  
2 shall constitute proof that the person named thereon is a  
3 disabled person for purposes of this Act. A disabled person not  
4 covered under the Federal Social Security Act and not  
5 presenting a Disabled Person Identification Card stating that  
6 the claimant is under a Class 2 disability shall be examined by  
7 a physician designated by the Department, and his status as a  
8 disabled person determined using the same standards as used by  
9 the Social Security Administration. The costs of any required  
10 examination shall be borne by the claimant.

11 (c) For land improved with (i) an apartment building owned  
12 and operated as a cooperative or (ii) a life care facility as  
13 defined under Section 2 of the Life Care Facilities Act that is  
14 considered to be a cooperative, the maximum reduction from the  
15 value of the property, as equalized or assessed by the  
16 Department, shall be multiplied by the number of apartments or  
17 units occupied by a disabled person. The disabled person shall  
18 receive the homestead exemption upon meeting the following  
19 requirements:

20 (1) The property must be occupied as the primary  
21 residence by the disabled person.

22 (2) The disabled person must be liable by contract with  
23 the owner or owners of record for paying the apportioned  
24 property taxes on the property of the cooperative or life  
25 care facility. In the case of a life care facility, the  
26 disabled person must be liable for paying the apportioned

1 property taxes under a life care contract as defined in  
2 Section 2 of the Life Care Facilities Act.

3 (3) The disabled person must be an owner of record of a  
4 legal or equitable interest in the cooperative apartment  
5 building. A leasehold interest does not meet this  
6 requirement.

7 If a homestead exemption is granted under this subsection, the  
8 cooperative association or management firm shall credit the  
9 savings resulting from the exemption to the apportioned tax  
10 liability of the qualifying disabled person. The chief county  
11 assessment officer may request reasonable proof that the  
12 association or firm has properly credited the exemption. A  
13 person who willfully refuses to credit an exemption to the  
14 qualified disabled person is guilty of a Class B misdemeanor.

15 (d) The chief county assessment officer shall determine the  
16 eligibility of property to receive the homestead exemption  
17 according to guidelines established by the Department. After a  
18 person has received an exemption under this Section, an annual  
19 verification of eligibility for the exemption shall be mailed  
20 to the taxpayer.

21 In counties with fewer than 3,000,000 inhabitants, the  
22 chief county assessment officer shall provide to each person  
23 granted a homestead exemption under this Section a form to  
24 designate any other person to receive a duplicate of any notice  
25 of delinquency in the payment of taxes assessed and levied  
26 under this Code on the person's qualifying property. The

1 duplicate notice shall be in addition to the notice required to  
2 be provided to the person receiving the exemption and shall be  
3 given in the manner required by this Code. The person filing  
4 the request for the duplicate notice shall pay an  
5 administrative fee of \$5 to the chief county assessment  
6 officer. The assessment officer shall then file the executed  
7 designation with the county collector, who shall issue the  
8 duplicate notices as indicated by the designation. A  
9 designation may be rescinded by the disabled person in the  
10 manner required by the chief county assessment officer.

11 (e) A taxpayer who claims an exemption under Section 15-165  
12 or 15-169 may not claim an exemption under this Section.

13 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

14 (35 ILCS 200/15-170)

15 Sec. 15-170. Senior Citizens Homestead Exemption. An  
16 annual homestead exemption limited, except as described here  
17 with relation to cooperatives or life care facilities, to a  
18 maximum reduction set forth below from the property's value, as  
19 equalized or assessed by the Department, is granted for  
20 property that is occupied as a residence by a person 65 years  
21 of age or older who is liable for paying real estate taxes on  
22 the property and is an owner of record of the property or has a  
23 legal or equitable interest therein as evidenced by a written  
24 instrument, except for a leasehold interest, other than a  
25 leasehold interest of land on which a single family residence



1 is located, which is occupied as a residence by a person 65  
2 years or older who has an ownership interest therein, legal,  
3 equitable or as a lessee, and on which he or she is liable for  
4 the payment of property taxes. Before taxable year 2004, the  
5 maximum reduction shall be \$2,500 in counties with 3,000,000 or  
6 more inhabitants and \$2,000 in all other counties. For taxable  
7 years 2004 through 2005, the maximum reduction shall be \$3,000  
8 in all counties. For taxable years 2006 and 2007, the maximum  
9 reduction shall be \$3,500 and, for taxable years 2008 and  
10 thereafter, the maximum reduction is \$4,000 in all counties.

11 For land improved with an apartment building owned and  
12 operated as a cooperative, the maximum reduction from the value  
13 of the property, as equalized by the Department, shall be  
14 multiplied by the number of apartments or units occupied by a  
15 person 65 years of age or older who is liable, by contract with  
16 the owner or owners of record, for paying property taxes on the  
17 property and is an owner of record of a legal or equitable  
18 interest in the cooperative apartment building, other than a  
19 leasehold interest. For land improved with a life care  
20 facility, the maximum reduction from the value of the property,  
21 as equalized by the Department, shall be multiplied by the  
22 number of apartments or units occupied by persons 65 years of  
23 age or older, irrespective of any legal, equitable, or  
24 leasehold interest in the facility, who are liable, under a  
25 contract with the owner or owners of record of the facility,  
26 for paying property taxes on the property. In a cooperative or

1 a life care facility where a homestead exemption has been  
2 granted, the cooperative association or the management firm of  
3 the cooperative or facility shall credit the savings resulting  
4 from that exemption only to the apportioned tax liability of  
5 the owner or resident who qualified for the exemption. Any  
6 person who willfully refuses to so credit the savings shall be  
7 guilty of a Class B misdemeanor. Under this Section and  
8 Sections 15-175, 15-176, and 15-177, "life care facility" means  
9 a facility, as defined in Section 2 of the Life Care Facilities  
10 Act, with which the applicant for the homestead exemption has a  
11 life care contract as defined in that Act.

12 When a homestead exemption has been granted under this  
13 Section and the person qualifying subsequently becomes a  
14 resident of a facility licensed under the Assisted Living and  
15 Shared Housing Act, the Nursing Home Care Act, the Specialized  
16 Mental Health Rehabilitation Act, or the MR/DD Community Care  
17 Act, the exemption shall continue so long as the residence  
18 continues to be occupied by the qualifying person's spouse if  
19 the spouse is 65 years of age or older, or if the residence  
20 remains unoccupied but is still owned by the person qualified  
21 for the homestead exemption.

22 A person who will be 65 years of age during the current  
23 assessment year shall be eligible to apply for the homestead  
24 exemption during that assessment year. Application shall be  
25 made during the application period in effect for the county of  
26 his residence.

1           Beginning with assessment year 2003, for taxes payable in  
2           2004, property that is first occupied as a residence after  
3           January 1 of any assessment year by a person who is eligible  
4           for the senior citizens homestead exemption under this Section  
5           must be granted a pro-rata exemption for the assessment year.  
6           The amount of the pro-rata exemption is the exemption allowed  
7           in the county under this Section divided by 365 and multiplied  
8           by the number of days during the assessment year the property  
9           is occupied as a residence by a person eligible for the  
10          exemption under this Section. The chief county assessment  
11          officer must adopt reasonable procedures to establish  
12          eligibility for this pro-rata exemption.

13          The assessor or chief county assessment officer may  
14          determine the eligibility of a life care facility to receive  
15          the benefits provided by this Section, by affidavit,  
16          application, visual inspection, questionnaire or other  
17          reasonable methods in order to insure that the tax savings  
18          resulting from the exemption are credited by the management  
19          firm to the apportioned tax liability of each qualifying  
20          resident. The assessor may request reasonable proof that the  
21          management firm has so credited the exemption.

22          The chief county assessment officer of each county with  
23          less than 3,000,000 inhabitants shall provide to each person  
24          allowed a homestead exemption under this Section a form to  
25          designate any other person to receive a duplicate of any notice  
26          of delinquency in the payment of taxes assessed and levied

1 under this Code on the property of the person receiving the  
2 exemption. The duplicate notice shall be in addition to the  
3 notice required to be provided to the person receiving the  
4 exemption, and shall be given in the manner required by this  
5 Code. The person filing the request for the duplicate notice  
6 shall pay a fee of \$5 to cover administrative costs to the  
7 supervisor of assessments, who shall then file the executed  
8 designation with the county collector. Notwithstanding any  
9 other provision of this Code to the contrary, the filing of  
10 such an executed designation requires the county collector to  
11 provide duplicate notices as indicated by the designation. A  
12 designation may be rescinded by the person who executed such  
13 designation at any time, in the manner and form required by the  
14 chief county assessment officer.

15 The assessor or chief county assessment officer may  
16 determine the eligibility of residential property to receive  
17 the homestead exemption provided by this Section by  
18 application, visual inspection, questionnaire or other  
19 reasonable methods. The determination shall be made in  
20 accordance with guidelines established by the Department.

21 In counties with 3,000,000 or more inhabitants, beginning  
22 in taxable year 2010, each taxpayer who has been granted an  
23 exemption under this Section must reapply on an annual basis.  
24 The chief county assessment officer shall mail the application  
25 to the taxpayer. In counties with less than 3,000,000  
26 inhabitants, the county board may by resolution provide that if

1 a person has been granted a homestead exemption under this  
2 Section, the person qualifying need not reapply for the  
3 exemption.

4 In counties with less than 3,000,000 inhabitants, if the  
5 assessor or chief county assessment officer requires annual  
6 application for verification of eligibility for an exemption  
7 once granted under this Section, the application shall be  
8 mailed to the taxpayer.

9 The assessor or chief county assessment officer shall  
10 notify each person who qualifies for an exemption under this  
11 Section that the person may also qualify for deferral of real  
12 estate taxes under the Senior Citizens Real Estate Tax Deferral  
13 Act. The notice shall set forth the qualifications needed for  
14 deferral of real estate taxes, the address and telephone number  
15 of county collector, and a statement that applications for  
16 deferral of real estate taxes may be obtained from the county  
17 collector.

18 Notwithstanding Sections 6 and 8 of the State Mandates Act,  
19 no reimbursement by the State is required for the  
20 implementation of any mandate created by this Section.

21 (Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08;  
22 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10;  
23 96-1418, eff. 8-2-10.)

24 (35 ILCS 200/15-172)

25 Sec. 15-172. Senior Citizens Assessment Freeze Homestead

1 Exemption.

2 (a) This Section may be cited as the Senior Citizens  
3 Assessment Freeze Homestead Exemption.

4 (b) As used in this Section:

5 "Applicant" means an individual who has filed an  
6 application under this Section.

7 "Base amount" means the base year equalized assessed value  
8 of the residence plus the first year's equalized assessed value  
9 of any added improvements which increased the assessed value of  
10 the residence after the base year.

11 "Base year" means the taxable year prior to the taxable  
12 year for which the applicant first qualifies and applies for  
13 the exemption provided that in the prior taxable year the  
14 property was improved with a permanent structure that was  
15 occupied as a residence by the applicant who was liable for  
16 paying real property taxes on the property and who was either  
17 (i) an owner of record of the property or had legal or  
18 equitable interest in the property as evidenced by a written  
19 instrument or (ii) had a legal or equitable interest as a  
20 lessee in the parcel of property that was single family  
21 residence. If in any subsequent taxable year for which the  
22 applicant applies and qualifies for the exemption the equalized  
23 assessed value of the residence is less than the equalized  
24 assessed value in the existing base year (provided that such  
25 equalized assessed value is not based on an assessed value that  
26 results from a temporary irregularity in the property that

1 reduces the assessed value for one or more taxable years), then  
2 that subsequent taxable year shall become the base year until a  
3 new base year is established under the terms of this paragraph.  
4 For taxable year 1999 only, the Chief County Assessment Officer  
5 shall review (i) all taxable years for which the applicant  
6 applied and qualified for the exemption and (ii) the existing  
7 base year. The assessment officer shall select as the new base  
8 year the year with the lowest equalized assessed value. An  
9 equalized assessed value that is based on an assessed value  
10 that results from a temporary irregularity in the property that  
11 reduces the assessed value for one or more taxable years shall  
12 not be considered the lowest equalized assessed value. The  
13 selected year shall be the base year for taxable year 1999 and  
14 thereafter until a new base year is established under the terms  
15 of this paragraph.

16 "Chief County Assessment Officer" means the County  
17 Assessor or Supervisor of Assessments of the county in which  
18 the property is located.

19 "Equalized assessed value" means the assessed value as  
20 equalized by the Illinois Department of Revenue.

21 "Household" means the applicant, the spouse of the  
22 applicant, and all persons using the residence of the applicant  
23 as their principal place of residence.

24 "Household income" means the combined income of the members  
25 of a household for the calendar year preceding the taxable  
26 year.

1 "Income" has the same meaning as provided in Section 3.07  
2 of the Senior Citizens and Disabled Persons Property Tax Relief  
3 and Pharmaceutical Assistance Act, except that, beginning in  
4 assessment year 2001, "income" does not include veteran's  
5 benefits.

6 "Internal Revenue Code of 1986" means the United States  
7 Internal Revenue Code of 1986 or any successor law or laws  
8 relating to federal income taxes in effect for the year  
9 preceding the taxable year.

10 "Life care facility that qualifies as a cooperative" means  
11 a facility as defined in Section 2 of the Life Care Facilities  
12 Act.

13 "Maximum income limitation" means:

- 14 (1) \$35,000 prior to taxable year 1999;
- 15 (2) \$40,000 in taxable years 1999 through 2003;
- 16 (3) \$45,000 in taxable years 2004 through 2005;
- 17 (4) \$50,000 in taxable years 2006 and 2007; and
- 18 (5) \$55,000 in taxable year 2008 and thereafter.

19 "Residence" means the principal dwelling place and  
20 appurtenant structures used for residential purposes in this  
21 State occupied on January 1 of the taxable year by a household  
22 and so much of the surrounding land, constituting the parcel  
23 upon which the dwelling place is situated, as is used for  
24 residential purposes. If the Chief County Assessment Officer  
25 has established a specific legal description for a portion of  
26 property constituting the residence, then that portion of



1 property shall be deemed the residence for the purposes of this  
2 Section.

3 "Taxable year" means the calendar year during which ad  
4 valorem property taxes payable in the next succeeding year are  
5 levied.

6 (c) Beginning in taxable year 1994, a senior citizens  
7 assessment freeze homestead exemption is granted for real  
8 property that is improved with a permanent structure that is  
9 occupied as a residence by an applicant who (i) is 65 years of  
10 age or older during the taxable year, (ii) has a household  
11 income that does not exceed the maximum income limitation,  
12 (iii) is liable for paying real property taxes on the property,  
13 and (iv) is an owner of record of the property or has a legal or  
14 equitable interest in the property as evidenced by a written  
15 instrument. This homestead exemption shall also apply to a  
16 leasehold interest in a parcel of property improved with a  
17 permanent structure that is a single family residence that is  
18 occupied as a residence by a person who (i) is 65 years of age  
19 or older during the taxable year, (ii) has a household income  
20 that does not exceed the maximum income limitation, (iii) has a  
21 legal or equitable ownership interest in the property as  
22 lessee, and (iv) is liable for the payment of real property  
23 taxes on that property.

24 In counties of 3,000,000 or more inhabitants, the amount of  
25 the exemption for all taxable years is the equalized assessed  
26 value of the residence in the taxable year for which

1 application is made minus the base amount. In all other  
2 counties, the amount of the exemption is as follows: (i)  
3 through taxable year 2005 and for taxable year 2007 and  
4 thereafter, the amount of this exemption shall be the equalized  
5 assessed value of the residence in the taxable year for which  
6 application is made minus the base amount; and (ii) for taxable  
7 year 2006, the amount of the exemption is as follows:

8 (1) For an applicant who has a household income of  
9 \$45,000 or less, the amount of the exemption is the  
10 equalized assessed value of the residence in the taxable  
11 year for which application is made minus the base amount.

12 (2) For an applicant who has a household income  
13 exceeding \$45,000 but not exceeding \$46,250, the amount of  
14 the exemption is (i) the equalized assessed value of the  
15 residence in the taxable year for which application is made  
16 minus the base amount (ii) multiplied by 0.8.

17 (3) For an applicant who has a household income  
18 exceeding \$46,250 but not exceeding \$47,500, the amount of  
19 the exemption is (i) the equalized assessed value of the  
20 residence in the taxable year for which application is made  
21 minus the base amount (ii) multiplied by 0.6.

22 (4) For an applicant who has a household income  
23 exceeding \$47,500 but not exceeding \$48,750, the amount of  
24 the exemption is (i) the equalized assessed value of the  
25 residence in the taxable year for which application is made  
26 minus the base amount (ii) multiplied by 0.4.

1           (5) For an applicant who has a household income  
2           exceeding \$48,750 but not exceeding \$50,000, the amount of  
3           the exemption is (i) the equalized assessed value of the  
4           residence in the taxable year for which application is made  
5           minus the base amount (ii) multiplied by 0.2.

6           When the applicant is a surviving spouse of an applicant  
7           for a prior year for the same residence for which an exemption  
8           under this Section has been granted, the base year and base  
9           amount for that residence are the same as for the applicant for  
10          the prior year.

11          Each year at the time the assessment books are certified to  
12          the County Clerk, the Board of Review or Board of Appeals shall  
13          give to the County Clerk a list of the assessed values of  
14          improvements on each parcel qualifying for this exemption that  
15          were added after the base year for this parcel and that  
16          increased the assessed value of the property.

17          In the case of land improved with an apartment building  
18          owned and operated as a cooperative or a building that is a  
19          life care facility that qualifies as a cooperative, the maximum  
20          reduction from the equalized assessed value of the property is  
21          limited to the sum of the reductions calculated for each unit  
22          occupied as a residence by a person or persons (i) 65 years of  
23          age or older, (ii) with a household income that does not exceed  
24          the maximum income limitation, (iii) who is liable, by contract  
25          with the owner or owners of record, for paying real property  
26          taxes on the property, and (iv) who is an owner of record of a

1 legal or equitable interest in the cooperative apartment  
2 building, other than a leasehold interest. In the instance of a  
3 cooperative where a homestead exemption has been granted under  
4 this Section, the cooperative association or its management  
5 firm shall credit the savings resulting from that exemption  
6 only to the apportioned tax liability of the owner who  
7 qualified for the exemption. Any person who willfully refuses  
8 to credit that savings to an owner who qualifies for the  
9 exemption is guilty of a Class B misdemeanor.

10 When a homestead exemption has been granted under this  
11 Section and an applicant then becomes a resident of a facility  
12 licensed under the Assisted Living and Shared Housing Act, the  
13 Nursing Home Care Act, the Specialized Mental Health  
14 Rehabilitation Act, or the MR/DD Community Care Act, the  
15 exemption shall be granted in subsequent years so long as the  
16 residence (i) continues to be occupied by the qualified  
17 applicant's spouse or (ii) if remaining unoccupied, is still  
18 owned by the qualified applicant for the homestead exemption.

19 Beginning January 1, 1997, when an individual dies who  
20 would have qualified for an exemption under this Section, and  
21 the surviving spouse does not independently qualify for this  
22 exemption because of age, the exemption under this Section  
23 shall be granted to the surviving spouse for the taxable year  
24 preceding and the taxable year of the death, provided that,  
25 except for age, the surviving spouse meets all other  
26 qualifications for the granting of this exemption for those

1 years.

2 When married persons maintain separate residences, the  
3 exemption provided for in this Section may be claimed by only  
4 one of such persons and for only one residence.

5 For taxable year 1994 only, in counties having less than  
6 3,000,000 inhabitants, to receive the exemption, a person shall  
7 submit an application by February 15, 1995 to the Chief County  
8 Assessment Officer of the county in which the property is  
9 located. In counties having 3,000,000 or more inhabitants, for  
10 taxable year 1994 and all subsequent taxable years, to receive  
11 the exemption, a person may submit an application to the Chief  
12 County Assessment Officer of the county in which the property  
13 is located during such period as may be specified by the Chief  
14 County Assessment Officer. The Chief County Assessment Officer  
15 in counties of 3,000,000 or more inhabitants shall annually  
16 give notice of the application period by mail or by  
17 publication. In counties having less than 3,000,000  
18 inhabitants, beginning with taxable year 1995 and thereafter,  
19 to receive the exemption, a person shall submit an application  
20 by July 1 of each taxable year to the Chief County Assessment  
21 Officer of the county in which the property is located. A  
22 county may, by ordinance, establish a date for submission of  
23 applications that is different than July 1. The applicant shall  
24 submit with the application an affidavit of the applicant's  
25 total household income, age, marital status (and if married the  
26 name and address of the applicant's spouse, if known), and

1 principal dwelling place of members of the household on January  
2 1 of the taxable year. The Department shall establish, by rule,  
3 a method for verifying the accuracy of affidavits filed by  
4 applicants under this Section, and the Chief County Assessment  
5 Officer may conduct audits of any taxpayer claiming an  
6 exemption under this Section to verify that the taxpayer is  
7 eligible to receive the exemption. Each application shall  
8 contain or be verified by a written declaration that it is made  
9 under the penalties of perjury. A taxpayer's signing a  
10 fraudulent application under this Act is perjury, as defined in  
11 Section 32-2 of the Criminal Code of 1961. The applications  
12 shall be clearly marked as applications for the Senior Citizens  
13 Assessment Freeze Homestead Exemption and must contain a notice  
14 that any taxpayer who receives the exemption is subject to an  
15 audit by the Chief County Assessment Officer.

16 Notwithstanding any other provision to the contrary, in  
17 counties having fewer than 3,000,000 inhabitants, if an  
18 applicant fails to file the application required by this  
19 Section in a timely manner and this failure to file is due to a  
20 mental or physical condition sufficiently severe so as to  
21 render the applicant incapable of filing the application in a  
22 timely manner, the Chief County Assessment Officer may extend  
23 the filing deadline for a period of 30 days after the applicant  
24 regains the capability to file the application, but in no case  
25 may the filing deadline be extended beyond 3 months of the  
26 original filing deadline. In order to receive the extension

1 provided in this paragraph, the applicant shall provide the  
2 Chief County Assessment Officer with a signed statement from  
3 the applicant's physician stating the nature and extent of the  
4 condition, that, in the physician's opinion, the condition was  
5 so severe that it rendered the applicant incapable of filing  
6 the application in a timely manner, and the date on which the  
7 applicant regained the capability to file the application.

8 Beginning January 1, 1998, notwithstanding any other  
9 provision to the contrary, in counties having fewer than  
10 3,000,000 inhabitants, if an applicant fails to file the  
11 application required by this Section in a timely manner and  
12 this failure to file is due to a mental or physical condition  
13 sufficiently severe so as to render the applicant incapable of  
14 filing the application in a timely manner, the Chief County  
15 Assessment Officer may extend the filing deadline for a period  
16 of 3 months. In order to receive the extension provided in this  
17 paragraph, the applicant shall provide the Chief County  
18 Assessment Officer with a signed statement from the applicant's  
19 physician stating the nature and extent of the condition, and  
20 that, in the physician's opinion, the condition was so severe  
21 that it rendered the applicant incapable of filing the  
22 application in a timely manner.

23 In counties having less than 3,000,000 inhabitants, if an  
24 applicant was denied an exemption in taxable year 1994 and the  
25 denial occurred due to an error on the part of an assessment  
26 official, or his or her agent or employee, then beginning in

1 taxable year 1997 the applicant's base year, for purposes of  
2 determining the amount of the exemption, shall be 1993 rather  
3 than 1994. In addition, in taxable year 1997, the applicant's  
4 exemption shall also include an amount equal to (i) the amount  
5 of any exemption denied to the applicant in taxable year 1995  
6 as a result of using 1994, rather than 1993, as the base year,  
7 (ii) the amount of any exemption denied to the applicant in  
8 taxable year 1996 as a result of using 1994, rather than 1993,  
9 as the base year, and (iii) the amount of the exemption  
10 erroneously denied for taxable year 1994.

11 For purposes of this Section, a person who will be 65 years  
12 of age during the current taxable year shall be eligible to  
13 apply for the homestead exemption during that taxable year.  
14 Application shall be made during the application period in  
15 effect for the county of his or her residence.

16 The Chief County Assessment Officer may determine the  
17 eligibility of a life care facility that qualifies as a  
18 cooperative to receive the benefits provided by this Section by  
19 use of an affidavit, application, visual inspection,  
20 questionnaire, or other reasonable method in order to insure  
21 that the tax savings resulting from the exemption are credited  
22 by the management firm to the apportioned tax liability of each  
23 qualifying resident. The Chief County Assessment Officer may  
24 request reasonable proof that the management firm has so  
25 credited that exemption.

26 Except as provided in this Section, all information



1 received by the chief county assessment officer or the  
2 Department from applications filed under this Section, or from  
3 any investigation conducted under the provisions of this  
4 Section, shall be confidential, except for official purposes or  
5 pursuant to official procedures for collection of any State or  
6 local tax or enforcement of any civil or criminal penalty or  
7 sanction imposed by this Act or by any statute or ordinance  
8 imposing a State or local tax. Any person who divulges any such  
9 information in any manner, except in accordance with a proper  
10 judicial order, is guilty of a Class A misdemeanor.

11 Nothing contained in this Section shall prevent the  
12 Director or chief county assessment officer from publishing or  
13 making available reasonable statistics concerning the  
14 operation of the exemption contained in this Section in which  
15 the contents of claims are grouped into aggregates in such a  
16 way that information contained in any individual claim shall  
17 not be disclosed.

18 (d) Each Chief County Assessment Officer shall annually  
19 publish a notice of availability of the exemption provided  
20 under this Section. The notice shall be published at least 60  
21 days but no more than 75 days prior to the date on which the  
22 application must be submitted to the Chief County Assessment  
23 Officer of the county in which the property is located. The  
24 notice shall appear in a newspaper of general circulation in  
25 the county.

26 Notwithstanding Sections 6 and 8 of the State Mandates Act,

1 no reimbursement by the State is required for the  
2 implementation of any mandate created by this Section.

3 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;  
4 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

5 Section 90-80. The Regional Transportation Authority Act  
6 is amended by changing Section 4.03 as follows:

7 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

8 Sec. 4.03. Taxes.

9 (a) In order to carry out any of the powers or purposes of  
10 the Authority, the Board may by ordinance adopted with the  
11 concurrence of 12 of the then Directors, impose throughout the  
12 metropolitan region any or all of the taxes provided in this  
13 Section. Except as otherwise provided in this Act, taxes  
14 imposed under this Section and civil penalties imposed incident  
15 thereto shall be collected and enforced by the State Department  
16 of Revenue. The Department shall have the power to administer  
17 and enforce the taxes and to determine all rights for refunds  
18 for erroneous payments of the taxes. Nothing in this amendatory  
19 Act of the 95th General Assembly is intended to invalidate any  
20 taxes currently imposed by the Authority. The increased vote  
21 requirements to impose a tax shall only apply to actions taken  
22 after the effective date of this amendatory Act of the 95th  
23 General Assembly.

24 (b) The Board may impose a public transportation tax upon

1 all persons engaged in the metropolitan region in the business  
2 of selling at retail motor fuel for operation of motor vehicles  
3 upon public highways. The tax shall be at a rate not to exceed  
4 5% of the gross receipts from the sales of motor fuel in the  
5 course of the business. As used in this Act, the term "motor  
6 fuel" shall have the same meaning as in the Motor Fuel Tax Law.  
7 The Board may provide for details of the tax. The provisions of  
8 any tax shall conform, as closely as may be practicable, to the  
9 provisions of the Municipal Retailers Occupation Tax Act,  
10 including without limitation, conformity to penalties with  
11 respect to the tax imposed and as to the powers of the State  
12 Department of Revenue to promulgate and enforce rules and  
13 regulations relating to the administration and enforcement of  
14 the provisions of the tax imposed, except that reference in the  
15 Act to any municipality shall refer to the Authority and the  
16 tax shall be imposed only with regard to receipts from sales of  
17 motor fuel in the metropolitan region, at rates as limited by  
18 this Section.

19 (c) In connection with the tax imposed under paragraph (b)  
20 of this Section the Board may impose a tax upon the privilege  
21 of using in the metropolitan region motor fuel for the  
22 operation of a motor vehicle upon public highways, the tax to  
23 be at a rate not in excess of the rate of tax imposed under  
24 paragraph (b) of this Section. The Board may provide for  
25 details of the tax.

26 (d) The Board may impose a motor vehicle parking tax upon

1 the privilege of parking motor vehicles at off-street parking  
2 facilities in the metropolitan region at which a fee is  
3 charged, and may provide for reasonable classifications in and  
4 exemptions to the tax, for administration and enforcement  
5 thereof and for civil penalties and refunds thereunder and may  
6 provide criminal penalties thereunder, the maximum penalties  
7 not to exceed the maximum criminal penalties provided in the  
8 Retailers' Occupation Tax Act. The Authority may collect and  
9 enforce the tax itself or by contract with any unit of local  
10 government. The State Department of Revenue shall have no  
11 responsibility for the collection and enforcement unless the  
12 Department agrees with the Authority to undertake the  
13 collection and enforcement. As used in this paragraph, the term  
14 "parking facility" means a parking area or structure having  
15 parking spaces for more than 2 vehicles at which motor vehicles  
16 are permitted to park in return for an hourly, daily, or other  
17 periodic fee, whether publicly or privately owned, but does not  
18 include parking spaces on a public street, the use of which is  
19 regulated by parking meters.

20 (e) The Board may impose a Regional Transportation  
21 Authority Retailers' Occupation Tax upon all persons engaged in  
22 the business of selling tangible personal property at retail in  
23 the metropolitan region. In Cook County the tax rate shall be  
24 1.25% of the gross receipts from sales of food for human  
25 consumption that is to be consumed off the premises where it is  
26 sold (other than alcoholic beverages, soft drinks and food that

1 has been prepared for immediate consumption) and prescription  
2 and nonprescription medicines, drugs, medical appliances and  
3 insulin, urine testing materials, syringes and needles used by  
4 diabetics, and 1% of the gross receipts from other taxable  
5 sales made in the course of that business. In DuPage, Kane,  
6 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%  
7 of the gross receipts from all taxable sales made in the course  
8 of that business. The tax imposed under this Section and all  
9 civil penalties that may be assessed as an incident thereof  
10 shall be collected and enforced by the State Department of  
11 Revenue. The Department shall have full power to administer and  
12 enforce this Section; to collect all taxes and penalties so  
13 collected in the manner hereinafter provided; and to determine  
14 all rights to credit memoranda arising on account of the  
15 erroneous payment of tax or penalty hereunder. In the  
16 administration of, and compliance with this Section, the  
17 Department and persons who are subject to this Section shall  
18 have the same rights, remedies, privileges, immunities, powers  
19 and duties, and be subject to the same conditions,  
20 restrictions, limitations, penalties, exclusions, exemptions  
21 and definitions of terms, and employ the same modes of  
22 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
23 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions  
24 therein other than the State rate of tax), 2c, 3 (except as to  
25 the disposition of taxes and penalties collected), 4, 5, 5a,  
26 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,

1 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
2 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
3 as if those provisions were set forth herein.

4 Persons subject to any tax imposed under the authority  
5 granted in this Section may reimburse themselves for their  
6 seller's tax liability hereunder by separately stating the tax  
7 as an additional charge, which charge may be stated in  
8 combination in a single amount with State taxes that sellers  
9 are required to collect under the Use Tax Act, under any  
10 bracket schedules the Department may prescribe.

11 Whenever the Department determines that a refund should be  
12 made under this Section to a claimant instead of issuing a  
13 credit memorandum, the Department shall notify the State  
14 Comptroller, who shall cause the warrant to be drawn for the  
15 amount specified, and to the person named, in the notification  
16 from the Department. The refund shall be paid by the State  
17 Treasurer out of the Regional Transportation Authority tax fund  
18 established under paragraph (n) of this Section.

19 If a tax is imposed under this subsection (e), a tax shall  
20 also be imposed under subsections (f) and (g) of this Section.

21 For the purpose of determining whether a tax authorized  
22 under this Section is applicable, a retail sale by a producer  
23 of coal or other mineral mined in Illinois, is a sale at retail  
24 at the place where the coal or other mineral mined in Illinois  
25 is extracted from the earth. This paragraph does not apply to  
26 coal or other mineral when it is delivered or shipped by the

1 seller to the purchaser at a point outside Illinois so that the  
2 sale is exempt under the Federal Constitution as a sale in  
3 interstate or foreign commerce.

4 No tax shall be imposed or collected under this subsection  
5 on the sale of a motor vehicle in this State to a resident of  
6 another state if that motor vehicle will not be titled in this  
7 State.

8 Nothing in this Section shall be construed to authorize the  
9 Regional Transportation Authority to impose a tax upon the  
10 privilege of engaging in any business that under the  
11 Constitution of the United States may not be made the subject  
12 of taxation by this State.

13 (f) If a tax has been imposed under paragraph (e), a  
14 Regional Transportation Authority Service Occupation Tax shall  
15 also be imposed upon all persons engaged, in the metropolitan  
16 region in the business of making sales of service, who as an  
17 incident to making the sales of service, transfer tangible  
18 personal property within the metropolitan region, either in the  
19 form of tangible personal property or in the form of real  
20 estate as an incident to a sale of service. In Cook County, the  
21 tax rate shall be: (1) 1.25% of the serviceman's cost price of  
22 food prepared for immediate consumption and transferred  
23 incident to a sale of service subject to the service occupation  
24 tax by an entity licensed under the Hospital Licensing Act, the  
25 Nursing Home Care Act, the Specialized Mental Health  
26 Rehabilitation Act, or the MR/DD Community Care Act that is

1 located in the metropolitan region; (2) 1.25% of the selling  
2 price of food for human consumption that is to be consumed off  
3 the premises where it is sold (other than alcoholic beverages,  
4 soft drinks and food that has been prepared for immediate  
5 consumption) and prescription and nonprescription medicines,  
6 drugs, medical appliances and insulin, urine testing  
7 materials, syringes and needles used by diabetics; and (3) 1%  
8 of the selling price from other taxable sales of tangible  
9 personal property transferred. In DuPage, Kane, Lake, McHenry  
10 and Will Counties the rate shall be 0.75% of the selling price  
11 of all tangible personal property transferred.

12 The tax imposed under this paragraph and all civil  
13 penalties that may be assessed as an incident thereof shall be  
14 collected and enforced by the State Department of Revenue. The  
15 Department shall have full power to administer and enforce this  
16 paragraph; to collect all taxes and penalties due hereunder; to  
17 dispose of taxes and penalties collected in the manner  
18 hereinafter provided; and to determine all rights to credit  
19 memoranda arising on account of the erroneous payment of tax or  
20 penalty hereunder. In the administration of and compliance with  
21 this paragraph, the Department and persons who are subject to  
22 this paragraph shall have the same rights, remedies,  
23 privileges, immunities, powers and duties, and be subject to  
24 the same conditions, restrictions, limitations, penalties,  
25 exclusions, exemptions and definitions of terms, and employ the  
26 same modes of procedure, as are prescribed in Sections 1a-1, 2,



1 2a, 3 through 3-50 (in respect to all provisions therein other  
2 than the State rate of tax), 4 (except that the reference to  
3 the State shall be to the Authority), 5, 7, 8 (except that the  
4 jurisdiction to which the tax shall be a debt to the extent  
5 indicated in that Section 8 shall be the Authority), 9 (except  
6 as to the disposition of taxes and penalties collected, and  
7 except that the returned merchandise credit for this tax may  
8 not be taken against any State tax), 10, 11, 12 (except the  
9 reference therein to Section 2b of the Retailers' Occupation  
10 Tax Act), 13 (except that any reference to the State shall mean  
11 the Authority), the first paragraph of Section 15, 16, 17, 18,  
12 19 and 20 of the Service Occupation Tax Act and Section 3-7 of  
13 the Uniform Penalty and Interest Act, as fully as if those  
14 provisions were set forth herein.

15 Persons subject to any tax imposed under the authority  
16 granted in this paragraph may reimburse themselves for their  
17 serviceman's tax liability hereunder by separately stating the  
18 tax as an additional charge, that charge may be stated in  
19 combination in a single amount with State tax that servicemen  
20 are authorized to collect under the Service Use Tax Act, under  
21 any bracket schedules the Department may prescribe.

22 Whenever the Department determines that a refund should be  
23 made under this paragraph to a claimant instead of issuing a  
24 credit memorandum, the Department shall notify the State  
25 Comptroller, who shall cause the warrant to be drawn for the  
26 amount specified, and to the person named in the notification

1 from the Department. The refund shall be paid by the State  
2 Treasurer out of the Regional Transportation Authority tax fund  
3 established under paragraph (n) of this Section.

4 Nothing in this paragraph shall be construed to authorize  
5 the Authority to impose a tax upon the privilege of engaging in  
6 any business that under the Constitution of the United States  
7 may not be made the subject of taxation by the State.

8 (g) If a tax has been imposed under paragraph (e), a tax  
9 shall also be imposed upon the privilege of using in the  
10 metropolitan region, any item of tangible personal property  
11 that is purchased outside the metropolitan region at retail  
12 from a retailer, and that is titled or registered with an  
13 agency of this State's government. In Cook County the tax rate  
14 shall be 1% of the selling price of the tangible personal  
15 property, as "selling price" is defined in the Use Tax Act. In  
16 DuPage, Kane, Lake, McHenry and Will counties the tax rate  
17 shall be 0.75% of the selling price of the tangible personal  
18 property, as "selling price" is defined in the Use Tax Act. The  
19 tax shall be collected from persons whose Illinois address for  
20 titling or registration purposes is given as being in the  
21 metropolitan region. The tax shall be collected by the  
22 Department of Revenue for the Regional Transportation  
23 Authority. The tax must be paid to the State, or an exemption  
24 determination must be obtained from the Department of Revenue,  
25 before the title or certificate of registration for the  
26 property may be issued. The tax or proof of exemption may be

1 transmitted to the Department by way of the State agency with  
2 which, or the State officer with whom, the tangible personal  
3 property must be titled or registered if the Department and the  
4 State agency or State officer determine that this procedure  
5 will expedite the processing of applications for title or  
6 registration.

7 The Department shall have full power to administer and  
8 enforce this paragraph; to collect all taxes, penalties and  
9 interest due hereunder; to dispose of taxes, penalties and  
10 interest collected in the manner hereinafter provided; and to  
11 determine all rights to credit memoranda or refunds arising on  
12 account of the erroneous payment of tax, penalty or interest  
13 hereunder. In the administration of and compliance with this  
14 paragraph, the Department and persons who are subject to this  
15 paragraph shall have the same rights, remedies, privileges,  
16 immunities, powers and duties, and be subject to the same  
17 conditions, restrictions, limitations, penalties, exclusions,  
18 exemptions and definitions of terms and employ the same modes  
19 of procedure, as are prescribed in Sections 2 (except the  
20 definition of "retailer maintaining a place of business in this  
21 State"), 3 through 3-80 (except provisions pertaining to the  
22 State rate of tax, and except provisions concerning collection  
23 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,  
24 19 (except the portions pertaining to claims by retailers and  
25 except the last paragraph concerning refunds), 20, 21 and 22 of  
26 the Use Tax Act, and are not inconsistent with this paragraph,

1 as fully as if those provisions were set forth herein.

2 Whenever the Department determines that a refund should be  
3 made under this paragraph to a claimant instead of issuing a  
4 credit memorandum, the Department shall notify the State  
5 Comptroller, who shall cause the order to be drawn for the  
6 amount specified, and to the person named in the notification  
7 from the Department. The refund shall be paid by the State  
8 Treasurer out of the Regional Transportation Authority tax fund  
9 established under paragraph (n) of this Section.

10 (h) The Authority may impose a replacement vehicle tax of  
11 \$50 on any passenger car as defined in Section 1-157 of the  
12 Illinois Vehicle Code purchased within the metropolitan region  
13 by or on behalf of an insurance company to replace a passenger  
14 car of an insured person in settlement of a total loss claim.  
15 The tax imposed may not become effective before the first day  
16 of the month following the passage of the ordinance imposing  
17 the tax and receipt of a certified copy of the ordinance by the  
18 Department of Revenue. The Department of Revenue shall collect  
19 the tax for the Authority in accordance with Sections 3-2002  
20 and 3-2003 of the Illinois Vehicle Code.

21 The Department shall immediately pay over to the State  
22 Treasurer, ex officio, as trustee, all taxes collected  
23 hereunder.

24 As soon as possible after the first day of each month,  
25 beginning January 1, 2011, upon certification of the Department  
26 of Revenue, the Comptroller shall order transferred, and the

1 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
2 local sales tax increment, as defined in the Innovation  
3 Development and Economy Act, collected under this Section  
4 during the second preceding calendar month for sales within a  
5 STAR bond district.

6 After the monthly transfer to the STAR Bonds Revenue Fund,  
7 on or before the 25th day of each calendar month, the  
8 Department shall prepare and certify to the Comptroller the  
9 disbursement of stated sums of money to the Authority. The  
10 amount to be paid to the Authority shall be the amount  
11 collected hereunder during the second preceding calendar month  
12 by the Department, less any amount determined by the Department  
13 to be necessary for the payment of refunds, and less any  
14 amounts that are transferred to the STAR Bonds Revenue Fund.  
15 Within 10 days after receipt by the Comptroller of the  
16 disbursement certification to the Authority provided for in  
17 this Section to be given to the Comptroller by the Department,  
18 the Comptroller shall cause the orders to be drawn for that  
19 amount in accordance with the directions contained in the  
20 certification.

21 (i) The Board may not impose any other taxes except as it  
22 may from time to time be authorized by law to impose.

23 (j) A certificate of registration issued by the State  
24 Department of Revenue to a retailer under the Retailers'  
25 Occupation Tax Act or under the Service Occupation Tax Act  
26 shall permit the registrant to engage in a business that is

1 taxed under the tax imposed under paragraphs (b), (e), (f) or  
2 (g) of this Section and no additional registration shall be  
3 required under the tax. A certificate issued under the Use Tax  
4 Act or the Service Use Tax Act shall be applicable with regard  
5 to any tax imposed under paragraph (c) of this Section.

6 (k) The provisions of any tax imposed under paragraph (c)  
7 of this Section shall conform as closely as may be practicable  
8 to the provisions of the Use Tax Act, including without  
9 limitation conformity as to penalties with respect to the tax  
10 imposed and as to the powers of the State Department of Revenue  
11 to promulgate and enforce rules and regulations relating to the  
12 administration and enforcement of the provisions of the tax  
13 imposed. The taxes shall be imposed only on use within the  
14 metropolitan region and at rates as provided in the paragraph.

15 (l) The Board in imposing any tax as provided in paragraphs  
16 (b) and (c) of this Section, shall, after seeking the advice of  
17 the State Department of Revenue, provide means for retailers,  
18 users or purchasers of motor fuel for purposes other than those  
19 with regard to which the taxes may be imposed as provided in  
20 those paragraphs to receive refunds of taxes improperly paid,  
21 which provisions may be at variance with the refund provisions  
22 as applicable under the Municipal Retailers Occupation Tax Act.  
23 The State Department of Revenue may provide for certificates of  
24 registration for users or purchasers of motor fuel for purposes  
25 other than those with regard to which taxes may be imposed as  
26 provided in paragraphs (b) and (c) of this Section to

1 facilitate the reporting and nontaxability of the exempt sales  
2 or uses.

3 (m) Any ordinance imposing or discontinuing any tax under  
4 this Section shall be adopted and a certified copy thereof  
5 filed with the Department on or before June 1, whereupon the  
6 Department of Revenue shall proceed to administer and enforce  
7 this Section on behalf of the Regional Transportation Authority  
8 as of September 1 next following such adoption and filing.  
9 Beginning January 1, 1992, an ordinance or resolution imposing  
10 or discontinuing the tax hereunder shall be adopted and a  
11 certified copy thereof filed with the Department on or before  
12 the first day of July, whereupon the Department shall proceed  
13 to administer and enforce this Section as of the first day of  
14 October next following such adoption and filing. Beginning  
15 January 1, 1993, an ordinance or resolution imposing,  
16 increasing, decreasing, or discontinuing the tax hereunder  
17 shall be adopted and a certified copy thereof filed with the  
18 Department, whereupon the Department shall proceed to  
19 administer and enforce this Section as of the first day of the  
20 first month to occur not less than 60 days following such  
21 adoption and filing. Any ordinance or resolution of the  
22 Authority imposing a tax under this Section and in effect on  
23 August 1, 2007 shall remain in full force and effect and shall  
24 be administered by the Department of Revenue under the terms  
25 and conditions and rates of tax established by such ordinance  
26 or resolution until the Department begins administering and

1 enforcing an increased tax under this Section as authorized by  
2 this amendatory Act of the 95th General Assembly. The tax rates  
3 authorized by this amendatory Act of the 95th General Assembly  
4 are effective only if imposed by ordinance of the Authority.

5 (n) The State Department of Revenue shall, upon collecting  
6 any taxes as provided in this Section, pay the taxes over to  
7 the State Treasurer as trustee for the Authority. The taxes  
8 shall be held in a trust fund outside the State Treasury. On or  
9 before the 25th day of each calendar month, the State  
10 Department of Revenue shall prepare and certify to the  
11 Comptroller of the State of Illinois and to the Authority (i)  
12 the amount of taxes collected in each County other than Cook  
13 County in the metropolitan region, (ii) the amount of taxes  
14 collected within the City of Chicago, and (iii) the amount  
15 collected in that portion of Cook County outside of Chicago,  
16 each amount less the amount necessary for the payment of  
17 refunds to taxpayers located in those areas described in items  
18 (i), (ii), and (iii). Within 10 days after receipt by the  
19 Comptroller of the certification of the amounts, the  
20 Comptroller shall cause an order to be drawn for the payment of  
21 two-thirds of the amounts certified in item (i) of this  
22 subsection to the Authority and one-third of the amounts  
23 certified in item (i) of this subsection to the respective  
24 counties other than Cook County and the amount certified in  
25 items (ii) and (iii) of this subsection to the Authority.

26 In addition to the disbursement required by the preceding



1 paragraph, an allocation shall be made in July 1991 and each  
2 year thereafter to the Regional Transportation Authority. The  
3 allocation shall be made in an amount equal to the average  
4 monthly distribution during the preceding calendar year  
5 (excluding the 2 months of lowest receipts) and the allocation  
6 shall include the amount of average monthly distribution from  
7 the Regional Transportation Authority Occupation and Use Tax  
8 Replacement Fund. The distribution made in July 1992 and each  
9 year thereafter under this paragraph and the preceding  
10 paragraph shall be reduced by the amount allocated and  
11 disbursed under this paragraph in the preceding calendar year.  
12 The Department of Revenue shall prepare and certify to the  
13 Comptroller for disbursement the allocations made in  
14 accordance with this paragraph.

15 (o) Failure to adopt a budget ordinance or otherwise to  
16 comply with Section 4.01 of this Act or to adopt a Five-year  
17 Capital Program or otherwise to comply with paragraph (b) of  
18 Section 2.01 of this Act shall not affect the validity of any  
19 tax imposed by the Authority otherwise in conformity with law.

20 (p) At no time shall a public transportation tax or motor  
21 vehicle parking tax authorized under paragraphs (b), (c) and  
22 (d) of this Section be in effect at the same time as any  
23 retailers' occupation, use or service occupation tax  
24 authorized under paragraphs (e), (f) and (g) of this Section is  
25 in effect.

26 Any taxes imposed under the authority provided in

1 paragraphs (b), (c) and (d) shall remain in effect only until  
2 the time as any tax authorized by paragraphs (e), (f) or (g) of  
3 this Section are imposed and becomes effective. Once any tax  
4 authorized by paragraphs (e), (f) or (g) is imposed the Board  
5 may not reimpose taxes as authorized in paragraphs (b), (c) and  
6 (d) of the Section unless any tax authorized by paragraphs (e),  
7 (f) or (g) of this Section becomes ineffective by means other  
8 than an ordinance of the Board.

9 (q) Any existing rights, remedies and obligations  
10 (including enforcement by the Regional Transportation  
11 Authority) arising under any tax imposed under paragraphs (b),  
12 (c) or (d) of this Section shall not be affected by the  
13 imposition of a tax under paragraphs (e), (f) or (g) of this  
14 Section.

15 (Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10;  
16 96-939, eff. 6-24-10.)

17 Section 90-85. The Alternative Health Care Delivery Act is  
18 amended by changing Section 15 as follows:

19 (210 ILCS 3/15)

20 Sec. 15. License required. No health care facility or  
21 program that meets the definition and scope of an alternative  
22 health care model shall operate as such unless it is a  
23 participant in a demonstration program under this Act and  
24 licensed by the Department as an alternative health care model.

1 The provisions of this Section as they relate to subacute care  
2 hospitals shall not apply to hospitals licensed under the  
3 Illinois Hospital Licensing Act or skilled nursing facilities  
4 licensed under the Illinois Nursing Home Care Act, the  
5 Specialized Mental Health Rehabilitation Act, or the MR/DD  
6 Community Care Act; provided, however, that the facilities  
7 shall not hold themselves out to the public as subacute care  
8 hospitals. The provisions of this Act concerning children's  
9 respite care centers shall not apply to any facility licensed  
10 under the Hospital Licensing Act, the Nursing Home Care Act,  
11 the Specialized Mental Health Rehabilitation Act, the MR/DD  
12 Community Care Act, or the University of Illinois Hospital Act  
13 that provides respite care services to children.

14 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

15 Section 90-90. The Ambulatory Surgical Treatment Center  
16 Act is amended by changing Section 3 as follows:

17 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

18 Sec. 3. As used in this Act, unless the context otherwise  
19 requires, the following words and phrases shall have the  
20 meanings ascribed to them:

21 (A) "Ambulatory surgical treatment center" means any  
22 institution, place or building devoted primarily to the  
23 maintenance and operation of facilities for the performance of  
24 surgical procedures or any facility in which a medical or

1 surgical procedure is utilized to terminate a pregnancy,  
2 irrespective of whether the facility is devoted primarily to  
3 this purpose. Such facility shall not provide beds or other  
4 accommodations for the overnight stay of patients; however,  
5 facilities devoted exclusively to the treatment of children may  
6 provide accommodations and beds for their patients for up to 23  
7 hours following admission. Individual patients shall be  
8 discharged in an ambulatory condition without danger to the  
9 continued well being of the patients or shall be transferred to  
10 a hospital.

11 The term "ambulatory surgical treatment center" does not  
12 include any of the following:

13 (1) Any institution, place, building or agency  
14 required to be licensed pursuant to the "Hospital Licensing  
15 Act", approved July 1, 1953, as amended.

16 (2) Any person or institution required to be licensed  
17 pursuant to the Nursing Home Care Act, the Specialized  
18 Mental Health Rehabilitation Act, or the MR/DD Community  
19 Care Act.

20 (3) Hospitals or ambulatory surgical treatment centers  
21 maintained by the State or any department or agency  
22 thereof, where such department or agency has authority  
23 under law to establish and enforce standards for the  
24 hospitals or ambulatory surgical treatment centers under  
25 its management and control.

26 (4) Hospitals or ambulatory surgical treatment centers

1 maintained by the Federal Government or agencies thereof.

2 (5) Any place, agency, clinic, or practice, public or  
3 private, whether organized for profit or not, devoted  
4 exclusively to the performance of dental or oral surgical  
5 procedures.

6 (B) "Person" means any individual, firm, partnership,  
7 corporation, company, association, or joint stock association,  
8 or the legal successor thereof.

9 (C) "Department" means the Department of Public Health of  
10 the State of Illinois.

11 (D) "Director" means the Director of the Department of  
12 Public Health of the State of Illinois.

13 (E) "Physician" means a person licensed to practice  
14 medicine in all of its branches in the State of Illinois.

15 (F) "Dentist" means a person licensed to practice dentistry  
16 under the Illinois Dental Practice Act.

17 (G) "Podiatrist" means a person licensed to practice  
18 podiatry under the Podiatric Medical Practice Act of 1987.

19 (Source: P.A. 96-339, eff. 7-1-10.)

20 Section 90-95. The Assisted Living and Shared Housing Act  
21 is amended by changing Sections 10, 35, 55, and 145 as follows:

22 (210 ILCS 9/10)

23 Sec. 10. Definitions. For purposes of this Act:

24 "Activities of daily living" means eating, dressing,

1 bathing, toileting, transferring, or personal hygiene.

2 "Assisted living establishment" or "establishment" means a  
3 home, building, residence, or any other place where sleeping  
4 accommodations are provided for at least 3 unrelated adults, at  
5 least 80% of whom are 55 years of age or older and where the  
6 following are provided consistent with the purposes of this  
7 Act:

8 (1) services consistent with a social model that is  
9 based on the premise that the resident's unit in assisted  
10 living and shared housing is his or her own home;

11 (2) community-based residential care for persons who  
12 need assistance with activities of daily living, including  
13 personal, supportive, and intermittent health-related  
14 services available 24 hours per day, if needed, to meet the  
15 scheduled and unscheduled needs of a resident;

16 (3) mandatory services, whether provided directly by  
17 the establishment or by another entity arranged for by the  
18 establishment, with the consent of the resident or  
19 resident's representative; and

20 (4) a physical environment that is a homelike setting  
21 that includes the following and such other elements as  
22 established by the Department: individual living units  
23 each of which shall accommodate small kitchen appliances  
24 and contain private bathing, washing, and toilet  
25 facilities, or private washing and toilet facilities with a  
26 common bathing room readily accessible to each resident.

1 Units shall be maintained for single occupancy except in  
2 cases in which 2 residents choose to share a unit.  
3 Sufficient common space shall exist to permit individual  
4 and group activities.

5 "Assisted living establishment" or "establishment" does  
6 not mean any of the following:

7 (1) A home, institution, or similar place operated by  
8 the federal government or the State of Illinois.

9 (2) A long term care facility licensed under the  
10 Nursing Home Care Act, a facility licensed under the  
11 Specialized Mental Health Rehabilitation Act, or a  
12 facility licensed under the MR/DD Community Care Act.  
13 However, a facility licensed under either of those Acts may  
14 convert distinct parts of the facility to assisted living.  
15 If the facility elects to do so, the facility shall retain  
16 the Certificate of Need for its nursing and sheltered care  
17 beds that were converted.

18 (3) A hospital, sanitarium, or other institution, the  
19 principal activity or business of which is the diagnosis,  
20 care, and treatment of human illness and that is required  
21 to be licensed under the Hospital Licensing Act.

22 (4) A facility for child care as defined in the Child  
23 Care Act of 1969.

24 (5) A community living facility as defined in the  
25 Community Living Facilities Licensing Act.

26 (6) A nursing home or sanitarium operated solely by and

1 for persons who rely exclusively upon treatment by  
2 spiritual means through prayer in accordance with the creed  
3 or tenants of a well-recognized church or religious  
4 denomination.

5 (7) A facility licensed by the Department of Human  
6 Services as a community-integrated living arrangement as  
7 defined in the Community-Integrated Living Arrangements  
8 Licensure and Certification Act.

9 (8) A supportive residence licensed under the  
10 Supportive Residences Licensing Act.

11 (9) The portion of a life care facility as defined in  
12 the Life Care Facilities Act not licensed as an assisted  
13 living establishment under this Act; a life care facility  
14 may apply under this Act to convert sections of the  
15 community to assisted living.

16 (10) A free-standing hospice facility licensed under  
17 the Hospice Program Licensing Act.

18 (11) A shared housing establishment.

19 (12) A supportive living facility as described in  
20 Section 5-5.01a of the Illinois Public Aid Code.

21 "Department" means the Department of Public Health.

22 "Director" means the Director of Public Health.

23 "Emergency situation" means imminent danger of death or  
24 serious physical harm to a resident of an establishment.

25 "License" means any of the following types of licenses  
26 issued to an applicant or licensee by the Department:



1           (1) "Probationary license" means a license issued to an  
2           applicant or licensee that has not held a license under  
3           this Act prior to its application or pursuant to a license  
4           transfer in accordance with Section 50 of this Act.

5           (2) "Regular license" means a license issued by the  
6           Department to an applicant or licensee that is in  
7           substantial compliance with this Act and any rules  
8           promulgated under this Act.

9           "Licensee" means a person, agency, association,  
10          corporation, partnership, or organization that has been issued  
11          a license to operate an assisted living or shared housing  
12          establishment.

13          "Licensed health care professional" means a registered  
14          professional nurse, an advanced practice nurse, a physician  
15          assistant, and a licensed practical nurse.

16          "Mandatory services" include the following:

17                 (1) 3 meals per day available to the residents prepared  
18                 by the establishment or an outside contractor;

19                 (2) housekeeping services including, but not limited  
20                 to, vacuuming, dusting, and cleaning the resident's unit;

21                 (3) personal laundry and linen services available to  
22                 the residents provided or arranged for by the  
23                 establishment;

24                 (4) security provided 24 hours each day including, but  
25                 not limited to, locked entrances or building or contract  
26                 security personnel;

1           (5) an emergency communication response system, which  
2           is a procedure in place 24 hours each day by which a  
3           resident can notify building management, an emergency  
4           response vendor, or others able to respond to his or her  
5           need for assistance; and

6           (6) assistance with activities of daily living as  
7           required by each resident.

8           "Negotiated risk" is the process by which a resident, or  
9           his or her representative, may formally negotiate with  
10          providers what risks each are willing and unwilling to assume  
11          in service provision and the resident's living environment. The  
12          provider assures that the resident and the resident's  
13          representative, if any, are informed of the risks of these  
14          decisions and of the potential consequences of assuming these  
15          risks.

16          "Owner" means the individual, partnership, corporation,  
17          association, or other person who owns an assisted living or  
18          shared housing establishment. In the event an assisted living  
19          or shared housing establishment is operated by a person who  
20          leases or manages the physical plant, which is owned by another  
21          person, "owner" means the person who operates the assisted  
22          living or shared housing establishment, except that if the  
23          person who owns the physical plant is an affiliate of the  
24          person who operates the assisted living or shared housing  
25          establishment and has significant control over the day to day  
26          operations of the assisted living or shared housing

1 establishment, the person who owns the physical plant shall  
2 incur jointly and severally with the owner all liabilities  
3 imposed on an owner under this Act.

4 "Physician" means a person licensed under the Medical  
5 Practice Act of 1987 to practice medicine in all of its  
6 branches.

7 "Resident" means a person residing in an assisted living or  
8 shared housing establishment.

9 "Resident's representative" means a person, other than the  
10 owner, agent, or employee of an establishment or of the health  
11 care provider unless related to the resident, designated in  
12 writing by a resident to be his or her representative. This  
13 designation may be accomplished through the Illinois Power of  
14 Attorney Act, pursuant to the guardianship process under the  
15 Probate Act of 1975, or pursuant to an executed designation of  
16 representative form specified by the Department.

17 "Self" means the individual or the individual's designated  
18 representative.

19 "Shared housing establishment" or "establishment" means a  
20 publicly or privately operated free-standing residence for 16  
21 or fewer persons, at least 80% of whom are 55 years of age or  
22 older and who are unrelated to the owners and one manager of  
23 the residence, where the following are provided:

24 (1) services consistent with a social model that is  
25 based on the premise that the resident's unit is his or her  
26 own home;

1           (2) community-based residential care for persons who  
2           need assistance with activities of daily living, including  
3           housing and personal, supportive, and intermittent  
4           health-related services available 24 hours per day, if  
5           needed, to meet the scheduled and unscheduled needs of a  
6           resident; and

7           (3) mandatory services, whether provided directly by  
8           the establishment or by another entity arranged for by the  
9           establishment, with the consent of the resident or the  
10          resident's representative.

11          "Shared housing establishment" or "establishment" does not  
12          mean any of the following:

13           (1) A home, institution, or similar place operated by  
14           the federal government or the State of Illinois.

15           (2) A long term care facility licensed under the  
16           Nursing Home Care Act, a facility licensed under the  
17           Specialized Mental Health Rehabilitation Act, or a  
18           facility licensed under the MR/DD Community Care Act. A  
19           facility licensed under either of those Acts may, however,  
20           convert sections of the facility to assisted living. If the  
21           facility elects to do so, the facility shall retain the  
22           Certificate of Need for its nursing beds that were  
23           converted.

24           (3) A hospital, sanitarium, or other institution, the  
25           principal activity or business of which is the diagnosis,  
26           care, and treatment of human illness and that is required

1 to be licensed under the Hospital Licensing Act.

2 (4) A facility for child care as defined in the Child  
3 Care Act of 1969.

4 (5) A community living facility as defined in the  
5 Community Living Facilities Licensing Act.

6 (6) A nursing home or sanitarium operated solely by and  
7 for persons who rely exclusively upon treatment by  
8 spiritual means through prayer in accordance with the creed  
9 or tenants of a well-recognized church or religious  
10 denomination.

11 (7) A facility licensed by the Department of Human  
12 Services as a community-integrated living arrangement as  
13 defined in the Community-Integrated Living Arrangements  
14 Licensure and Certification Act.

15 (8) A supportive residence licensed under the  
16 Supportive Residences Licensing Act.

17 (9) A life care facility as defined in the Life Care  
18 Facilities Act; a life care facility may apply under this  
19 Act to convert sections of the community to assisted  
20 living.

21 (10) A free-standing hospice facility licensed under  
22 the Hospice Program Licensing Act.

23 (11) An assisted living establishment.

24 (12) A supportive living facility as described in  
25 Section 5-5.01a of the Illinois Public Aid Code.

26 "Total assistance" means that staff or another individual

1 performs the entire activity of daily living without  
2 participation by the resident.

3 (Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;  
4 96-975, eff. 7-2-10.)

5 (210 ILCS 9/35)

6 Sec. 35. Issuance of license.

7 (a) Upon receipt and review of an application for a license  
8 and review of the applicant establishment, the Director may  
9 issue a license if he or she finds:

10 (1) that the individual applicant, or the corporation,  
11 partnership, or other entity if the applicant is not an  
12 individual, is a person responsible and suitable to operate  
13 or to direct or participate in the operation of an  
14 establishment by virtue of financial capacity, appropriate  
15 business or professional experience, a record of lawful  
16 compliance with lawful orders of the Department and lack of  
17 revocation of a license issued under this Act, the Nursing  
18 Home Care Act, the Specialized Mental Health  
19 Rehabilitation Act, or the MR/DD Community Care Act during  
20 the previous 5 years;

21 (2) that the establishment is under the supervision of  
22 a full-time director who is at least 21 years of age and  
23 has a high school diploma or equivalent plus either:

24 (A) 2 years of management experience or 2 years of  
25 experience in positions of progressive responsibility

1 in health care, housing with services, or adult day  
2 care or providing similar services to the elderly; or

3 (B) 2 years of management experience or 2 years of  
4 experience in positions of progressive responsibility  
5 in hospitality and training in health care and housing  
6 with services management as defined by rule;

7 (3) that the establishment has staff sufficient in  
8 number with qualifications, adequate skills, education,  
9 and experience to meet the 24 hour scheduled and  
10 unscheduled needs of residents and who participate in  
11 ongoing training to serve the resident population;

12 (4) that all employees who are subject to the Health  
13 Care Worker Background Check Act meet the requirements of  
14 that Act;

15 (5) that the applicant is in substantial compliance  
16 with this Act and such other requirements for a license as  
17 the Department by rule may establish under this Act;

18 (6) that the applicant pays all required fees;

19 (7) that the applicant has provided to the Department  
20 an accurate disclosure document in accordance with the  
21 Alzheimer's Disease and Related Dementias Special Care  
22 Disclosure Act and in substantial compliance with Section  
23 150 of this Act.

24 In addition to any other requirements set forth in this  
25 Act, as a condition of licensure under this Act, the director  
26 of an establishment must participate in at least 20 hours of

1 training every 2 years to assist him or her in better meeting  
2 the needs of the residents of the establishment and managing  
3 the operation of the establishment.

4 Any license issued by the Director shall state the physical  
5 location of the establishment, the date the license was issued,  
6 and the expiration date. All licenses shall be valid for one  
7 year, except as provided in Sections 40 and 45. Each license  
8 shall be issued only for the premises and persons named in the  
9 application, and shall not be transferable or assignable.

10 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;  
11 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.  
12 7-1-10; 96-990, eff. 7-2-10.)

13 (210 ILCS 9/55)

14 Sec. 55. Grounds for denial of a license. An application  
15 for a license may be denied for any of the following reasons:

16 (1) failure to meet any of the standards set forth in  
17 this Act or by rules adopted by the Department under this  
18 Act;

19 (2) conviction of the applicant, or if the applicant is  
20 a firm, partnership, or association, of any of its members,  
21 or if a corporation, the conviction of the corporation or  
22 any of its officers or stockholders, or of the person  
23 designated to manage or supervise the establishment, of a  
24 felony or of 2 or more misdemeanors involving moral  
25 turpitude during the previous 5 years as shown by a



1 certified copy of the record of the court of conviction;

2 (3) personnel insufficient in number or unqualified by  
3 training or experience to properly care for the residents;

4 (4) insufficient financial or other resources to  
5 operate and conduct the establishment in accordance with  
6 standards adopted by the Department under this Act;

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

21 (6) the establishment is not under the direct  
22 supervision of a full-time director, as defined by rule.

23 The Department shall deny an application for a license if 6  
24 months after submitting its initial application the applicant  
25 has not provided the Department with all of the information  
26 required for review and approval or the applicant is not

1 actively pursuing the processing of its application. In  
2 addition, the Department shall determine whether the applicant  
3 has violated any provision of the Nursing Home Care Act, the  
4 Specialized Mental Health Rehabilitation Act, or the MR/DD  
5 Community Care Act.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (210 ILCS 9/145)

8 Sec. 145. Conversion of facilities. Entities licensed as  
9 facilities under the Nursing Home Care Act, the Specialized  
10 Mental Health Rehabilitation Act, or the MR/DD Community Care  
11 Act may elect to convert to a license under this Act. Any  
12 facility that chooses to convert, in whole or in part, shall  
13 follow the requirements in the Nursing Home Care Act, the  
14 Specialized Mental Health Rehabilitation Act, or the MR/DD  
15 Community Care Act, as applicable, and rules promulgated under  
16 those Acts regarding voluntary closure and notice to residents.  
17 Any conversion of existing beds licensed under the Nursing Home  
18 Care Act, the Specialized Mental Health Rehabilitation Act, or  
19 the MR/DD Community Care Act to licensure under this Act is  
20 exempt from review by the Health Facilities and Services Review  
21 Board.

22 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
23 96-1000, eff. 7-2-10.)

24 Section 90-100. The Abuse Prevention Review Team Act is

1 amended by changing Sections 10 and 50 as follows:

2 (210 ILCS 28/10)

3 Sec. 10. Definitions. As used in this Act, unless the  
4 context requires otherwise:

5 "Department" means the Department of Public Health.

6 "Director" means the Director of Public Health.

7 "Executive Council" means the Illinois Residential Health  
8 Care Facility Resident Sexual Assault and Death Review Teams  
9 Executive Council.

10 "Resident" means a person residing in and receiving  
11 personal care from a facility licensed under the Nursing Home  
12 Care Act, the Specialized Mental Health Rehabilitation Act, or  
13 the MR/DD Community Care Act.

14 "Review team" means a residential health care facility  
15 resident sexual assault and death review team appointed under  
16 this Act.

17 (Source: P.A. 96-339, eff. 7-1-10.)

18 (210 ILCS 28/50)

19 Sec. 50. Funding. Notwithstanding any other provision of  
20 law, to the extent permitted by federal law, the Department  
21 shall use moneys from fines paid by facilities licensed under  
22 the Nursing Home Care Act, the Specialized Mental Health  
23 Rehabilitation Act, or the MR/DD Community Care Act for  
24 violating requirements for certification under Titles XVIII

1 and XIX of the Social Security Act to implement the provisions  
2 of this Act. The Department shall use moneys deposited in the  
3 Long Term Care Monitor/Receiver Fund to pay the costs of  
4 implementing this Act that cannot be met by the use of federal  
5 civil monetary penalties.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 Section 90-105. The Abused and Neglected Long Term Care  
8 Facility Residents Reporting Act is amended by changing  
9 Sections 3, 4, and 6 as follows:

10 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

11 Sec. 3. As used in this Act unless the context otherwise  
12 requires:

13 a. "Department" means the Department of Public Health of  
14 the State of Illinois.

15 b. "Resident" means a person residing in and receiving  
16 personal care from a long term care facility, or residing in a  
17 mental health facility or developmental disability facility as  
18 defined in the Mental Health and Developmental Disabilities  
19 Code.

20 c. "Long term care facility" has the same meaning ascribed  
21 to such term in the Nursing Home Care Act, except that the term  
22 as used in this Act shall include any mental health facility or  
23 developmental disability facility as defined in the Mental  
24 Health and Developmental Disabilities Code. The term also

1 includes any facility licensed under the MR/DD Community Care  
2 Act or the Specialized Mental Health Rehabilitation Act.

3 d. "Abuse" means any physical injury, sexual abuse or  
4 mental injury inflicted on a resident other than by accidental  
5 means.

6 e. "Neglect" means a failure in a long term care facility  
7 to provide adequate medical or personal care or maintenance,  
8 which failure results in physical or mental injury to a  
9 resident or in the deterioration of a resident's physical or  
10 mental condition.

11 f. "Protective services" means services provided to a  
12 resident who has been abused or neglected, which may include,  
13 but are not limited to alternative temporary institutional  
14 placement, nursing care, counseling, other social services  
15 provided at the nursing home where the resident resides or at  
16 some other facility, personal care and such protective services  
17 of voluntary agencies as are available.

18 g. Unless the context otherwise requires, direct or  
19 indirect references in this Act to the programs, personnel,  
20 facilities, services, service providers, or service recipients  
21 of the Department of Human Services shall be construed to refer  
22 only to those programs, personnel, facilities, services,  
23 service providers, or service recipients that pertain to the  
24 Department of Human Services' mental health and developmental  
25 disabilities functions.

26 (Source: P.A. 96-339, eff. 7-1-10.)

1 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

2 Sec. 4. Any long term care facility administrator, agent or  
3 employee or any physician, hospital, surgeon, dentist,  
4 osteopath, chiropractor, podiatrist, accredited religious  
5 practitioner who provides treatment by spiritual means alone  
6 through prayer in accordance with the tenets and practices of  
7 the accrediting church, coroner, social worker, social  
8 services administrator, registered nurse, law enforcement  
9 officer, field personnel of the Department of Healthcare and  
10 Family Services, field personnel of the Illinois Department of  
11 Public Health and County or Municipal Health Departments,  
12 personnel of the Department of Human Services (acting as the  
13 successor to the Department of Mental Health and Developmental  
14 Disabilities or the Department of Public Aid), personnel of the  
15 Guardianship and Advocacy Commission, personnel of the State  
16 Fire Marshal, local fire department inspectors or other  
17 personnel, or personnel of the Illinois Department on Aging, or  
18 its subsidiary Agencies on Aging, or employee of a facility  
19 licensed under the Assisted Living and Shared Housing Act,  
20 having reasonable cause to believe any resident with whom they  
21 have direct contact has been subjected to abuse or neglect  
22 shall immediately report or cause a report to be made to the  
23 Department. Persons required to make reports or cause reports  
24 to be made under this Section include all employees of the  
25 State of Illinois who are involved in providing services to

1 residents, including professionals providing medical or  
2 rehabilitation services and all other persons having direct  
3 contact with residents; and further include all employees of  
4 community service agencies who provide services to a resident  
5 of a public or private long term care facility outside of that  
6 facility. Any long term care surveyor of the Illinois  
7 Department of Public Health who has reasonable cause to believe  
8 in the course of a survey that a resident has been abused or  
9 neglected and initiates an investigation while on site at the  
10 facility shall be exempt from making a report under this  
11 Section but the results of any such investigation shall be  
12 forwarded to the central register in a manner and form  
13 described by the Department.

14 The requirement of this Act shall not relieve any long term  
15 care facility administrator, agent or employee of  
16 responsibility to report the abuse or neglect of a resident  
17 under Section 3-610 of the Nursing Home Care Act or under  
18 Section 3-610 of the MR/DD Community Care Act or under Section  
19 3-610 of the Specialized Mental Health Rehabilitation Act.

20 In addition to the above persons required to report  
21 suspected resident abuse and neglect, any other person may make  
22 a report to the Department, or to any law enforcement officer,  
23 if such person has reasonable cause to suspect a resident has  
24 been abused or neglected.

25 This Section also applies to residents whose death occurs  
26 from suspected abuse or neglect before being found or brought

1 to a hospital.

2 A person required to make reports or cause reports to be  
3 made under this Section who fails to comply with the  
4 requirements of this Section is guilty of a Class A  
5 misdemeanor.

6 (Source: P.A. 96-339, eff. 7-1-10.)

7 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

8 Sec. 6. All reports of suspected abuse or neglect made  
9 under this Act shall be made immediately by telephone to the  
10 Department's central register established under Section 14 on  
11 the single, State-wide, toll-free telephone number established  
12 under Section 13, or in person or by telephone through the  
13 nearest Department office. No long term care facility  
14 administrator, agent or employee, or any other person, shall  
15 screen reports or otherwise withhold any reports from the  
16 Department, and no long term care facility, department of State  
17 government, or other agency shall establish any rules,  
18 criteria, standards or guidelines to the contrary. Every long  
19 term care facility, department of State government and other  
20 agency whose employees are required to make or cause to be made  
21 reports under Section 4 shall notify its employees of the  
22 provisions of that Section and of this Section, and provide to  
23 the Department documentation that such notification has been  
24 given. The Department of Human Services shall train all of its  
25 mental health and developmental disabilities employees in the



1 detection and reporting of suspected abuse and neglect of  
2 residents. Reports made to the central register through the  
3 State-wide, toll-free telephone number shall be transmitted to  
4 appropriate Department offices and municipal health  
5 departments that have responsibility for licensing long term  
6 care facilities under the Nursing Home Care Act, the  
7 Specialized Mental Health Rehabilitation Act, or the MR/DD  
8 Community Care Act. All reports received through offices of the  
9 Department shall be forwarded to the central register, in a  
10 manner and form described by the Department. The Department  
11 shall be capable of receiving reports of suspected abuse and  
12 neglect 24 hours a day, 7 days a week. Reports shall also be  
13 made in writing deposited in the U.S. mail, postage prepaid,  
14 within 24 hours after having reasonable cause to believe that  
15 the condition of the resident resulted from abuse or neglect.  
16 Such reports may in addition be made to the local law  
17 enforcement agency in the same manner. However, in the event a  
18 report is made to the local law enforcement agency, the  
19 reporter also shall immediately so inform the Department. The  
20 Department shall initiate an investigation of each report of  
21 resident abuse and neglect under this Act, whether oral or  
22 written, as provided for in Section 3-702 of the Nursing Home  
23 Care Act, Section 3-702 of the Specialized Mental Health  
24 Rehabilitation Act, or Section 3-702 of the MR/DD Community  
25 Care Act, except that reports of abuse which indicate that a  
26 resident's life or safety is in imminent danger shall be

1 investigated within 24 hours of such report. The Department may  
2 delegate to law enforcement officials or other public agencies  
3 the duty to perform such investigation.

4 With respect to investigations of reports of suspected  
5 abuse or neglect of residents of mental health and  
6 developmental disabilities institutions under the jurisdiction  
7 of the Department of Human Services, the Department shall  
8 transmit copies of such reports to the Department of State  
9 Police, the Department of Human Services, and the Inspector  
10 General appointed under Section 1-17 of the Department of Human  
11 Services Act. If the Department receives a report of suspected  
12 abuse or neglect of a recipient of services as defined in  
13 Section 1-123 of the Mental Health and Developmental  
14 Disabilities Code, the Department shall transmit copies of such  
15 report to the Inspector General and the Directors of the  
16 Guardianship and Advocacy Commission and the agency designated  
17 by the Governor pursuant to the Protection and Advocacy for  
18 Developmentally Disabled Persons Act. When requested by the  
19 Director of the Guardianship and Advocacy Commission, the  
20 agency designated by the Governor pursuant to the Protection  
21 and Advocacy for Developmentally Disabled Persons Act, or the  
22 Department of Financial and Professional Regulation, the  
23 Department, the Department of Human Services and the Department  
24 of State Police shall make available a copy of the final  
25 investigative report regarding investigations conducted by  
26 their respective agencies on incidents of suspected abuse or

1 neglect of residents of mental health and developmental  
2 disabilities institutions or individuals receiving services at  
3 community agencies under the jurisdiction of the Department of  
4 Human Services. Such final investigative report shall not  
5 contain witness statements, investigation notes, draft  
6 summaries, results of lie detector tests, investigative files  
7 or other raw data which was used to compile the final  
8 investigative report. Specifically, the final investigative  
9 report of the Department of State Police shall mean the  
10 Director's final transmittal letter. The Department of Human  
11 Services shall also make available a copy of the results of  
12 disciplinary proceedings of employees involved in incidents of  
13 abuse or neglect to the Directors. All identifiable information  
14 in reports provided shall not be further disclosed except as  
15 provided by the Mental Health and Developmental Disabilities  
16 Confidentiality Act. Nothing in this Section is intended to  
17 limit or construe the power or authority granted to the agency  
18 designated by the Governor pursuant to the Protection and  
19 Advocacy for Developmentally Disabled Persons Act, pursuant to  
20 any other State or federal statute.

21 With respect to investigations of reported resident abuse  
22 or neglect, the Department shall effect with appropriate law  
23 enforcement agencies formal agreements concerning methods and  
24 procedures for the conduct of investigations into the criminal  
25 histories of any administrator, staff assistant or employee of  
26 the nursing home or other person responsible for the residents

1 care, as well as for other residents in the nursing home who  
2 may be in a position to abuse, neglect or exploit the patient.  
3 Pursuant to the formal agreements entered into with appropriate  
4 law enforcement agencies, the Department may request  
5 information with respect to whether the person or persons set  
6 forth in this paragraph have ever been charged with a crime and  
7 if so, the disposition of those charges. Unless the criminal  
8 histories of the subjects involved crimes of violence or  
9 resident abuse or neglect, the Department shall be entitled  
10 only to information limited in scope to charges and their  
11 dispositions. In cases where prior crimes of violence or  
12 resident abuse or neglect are involved, a more detailed report  
13 can be made available to authorized representatives of the  
14 Department, pursuant to the agreements entered into with  
15 appropriate law enforcement agencies. Any criminal charges and  
16 their disposition information obtained by the Department shall  
17 be confidential and may not be transmitted outside the  
18 Department, except as required herein, to authorized  
19 representatives or delegates of the Department, and may not be  
20 transmitted to anyone within the Department who is not duly  
21 authorized to handle resident abuse or neglect investigations.

22 The Department shall effect formal agreements with  
23 appropriate law enforcement agencies in the various counties  
24 and communities to encourage cooperation and coordination in  
25 the handling of resident abuse or neglect cases pursuant to  
26 this Act. The Department shall adopt and implement methods and

1 procedures to promote statewide uniformity in the handling of  
2 reports of abuse and neglect under this Act, and those methods  
3 and procedures shall be adhered to by personnel of the  
4 Department involved in such investigations and reporting. The  
5 Department shall also make information required by this Act  
6 available to authorized personnel within the Department, as  
7 well as its authorized representatives.

8 The Department shall keep a continuing record of all  
9 reports made pursuant to this Act, including indications of the  
10 final determination of any investigation and the final  
11 disposition of all reports.

12 The Department shall report annually to the General  
13 Assembly on the incidence of abuse and neglect of long term  
14 care facility residents, with special attention to residents  
15 who are mentally disabled. The report shall include but not be  
16 limited to data on the number and source of reports of  
17 suspected abuse or neglect filed under this Act, the nature of  
18 any injuries to residents, the final determination of  
19 investigations, the type and number of cases where abuse or  
20 neglect is determined to exist, and the final disposition of  
21 cases.

22 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

23 Section 90-110. The Nursing Home Care Act is amended by  
24 changing Sections 1-113, 3-202.5, and 3-206.01 as follows:

1 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

2 Sec. 1-113. "Facility" or "long-term care facility" means a  
3 private home, institution, building, residence, or any other  
4 place, whether operated for profit or not, or a county home for  
5 the infirm and chronically ill operated pursuant to Division  
6 5-21 or 5-22 of the Counties Code, or any similar institution  
7 operated by a political subdivision of the State of Illinois,  
8 which provides, through its ownership or management, personal  
9 care, sheltered care or nursing for 3 or more persons, not  
10 related to the applicant or owner by blood or marriage. It  
11 includes skilled nursing facilities and intermediate care  
12 facilities as those terms are defined in Title XVIII and Title  
13 XIX of the Federal Social Security Act. It also includes homes,  
14 institutions, or other places operated by or under the  
15 authority of the Illinois Department of Veterans' Affairs.

16 "Facility" does not include the following:

17 (1) A home, institution, or other place operated by the  
18 federal government or agency thereof, or by the State of  
19 Illinois, other than homes, institutions, or other places  
20 operated by or under the authority of the Illinois  
21 Department of Veterans' Affairs;

22 (2) A hospital, sanitarium, or other institution whose  
23 principal activity or business is the diagnosis, care, and  
24 treatment of human illness through the maintenance and  
25 operation as organized facilities therefor, which is  
26 required to be licensed under the Hospital Licensing Act;

1           (3) Any "facility for child care" as defined in the  
2 Child Care Act of 1969;

3           (4) Any "Community Living Facility" as defined in the  
4 Community Living Facilities Licensing Act;

5           (5) Any "community residential alternative" as defined  
6 in the Community Residential Alternatives Licensing Act;

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

14           (7) Any 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) Any "Supportive Residence" licensed under the  
19 Supportive Residences Licensing Act;

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

24           (10) Any assisted living or shared housing  
25 establishment licensed under the Assisted Living and  
26 Shared Housing Act, except only for purposes of the

1 employment of persons in accordance with Section 3-206.01;

2 (11) An Alzheimer's disease management center  
3 alternative health care model licensed under the  
4 Alternative Health Care Delivery Act; ~~or~~

5 (12) A facility licensed under the MR/DD Community Care  
6 Act; or

7 (13) A facility licensed under the Specialized Mental  
8 Health Rehabilitation Act.

9 (Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

10 (210 ILCS 45/3-202.5)

11 Sec. 3-202.5. Facility plan review; fees.

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



1 with the Department who meets those class specifications. Final  
2 approval of the drawings and specifications for compliance with  
3 design and construction standards shall be obtained from the  
4 Department before the alteration, addition, or new  
5 construction is begun.

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

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

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

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

25 (2) the construction, major alteration, or addition  
26 was built as submitted;

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

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

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

9           (1) (Blank).

10          (2) (Blank).

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

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

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

23          (6) If the estimated dollar value of the alteration,  
24 addition, or new construction is \$5,000,000 or more, the  
25 fee shall be the greater of \$11,000 or 0.11% of that value,  
26 but shall not exceed \$40,000.

1           The fees provided in this subsection (d) shall not apply to  
2 major construction projects involving facility changes that  
3 are required by Department rule amendments.

4           The fees provided in this subsection (d) shall also not  
5 apply to major construction projects if 51% or more of the  
6 estimated cost of the project is attributed to capital  
7 equipment. For major construction projects where 51% or more of  
8 the estimated cost of the project is attributed to capital  
9 equipment, the Department shall by rule establish a fee that is  
10 reasonably related to the cost of reviewing the project.

11           The Department shall not commence the facility plan review  
12 process under this Section until the applicable fee has been  
13 paid.

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

1 plan reviews conducted pursuant to this Section.

2 (f) (1) The provisions of this amendatory Act of 1997  
3 concerning drawings and specifications shall apply only to  
4 drawings and specifications submitted to the Department on  
5 or after October 1, 1997.

6 (2) On and after the effective date of this amendatory  
7 Act of 1997 and before October 1, 1997, an applicant may  
8 submit or resubmit drawings and specifications to the  
9 Department and pay the fees provided in subsection (d). If  
10 an applicant pays the fees provided in subsection (d) under  
11 this paragraph (2), the provisions of subsection (b) shall  
12 apply with regard to those drawings and specifications.

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

1 conducted.

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

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

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

13 (Source: P.A. 96-339, eff. 7-1-10.)

14 (210 ILCS 45/3-206.01) (from Ch. 111 1/2, par.  
15 4153-206.01)

16 Sec. 3-206.01. Health care worker registry.

17 (a) The Department shall establish and maintain a registry  
18 of all individuals who (i) have satisfactorily completed the  
19 training required by Section 3-206 of this Act, Section 3-206  
20 of the MR/DD Community Care Act, or Section 3-206 of the  
21 Specialized Mental Health Rehabilitation Act, (ii) have begun a  
22 current course of training as set forth in Section 3-206 of  
23 this Act, Section 3-206 of the MR/DD Community Care Act, or  
24 Section 3-206 of the Specialized Mental Health Rehabilitation  
25 Act, or (iii) are otherwise acting as a nursing assistant,

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

23 If the Department finds that a nursing assistant,  
24 habilitation aide, home health aide, psychiatric services  
25 rehabilitation aide, or child care aide, or an unlicensed  
26 individual, has abused or neglected a resident or an individual

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

25 (b) The Department shall add to the health care worker  
26 registry records of findings as reported by the Inspector



1 General or remove from the health care worker registry records  
2 of findings as reported by the Department of Human Services,  
3 under subsection (g-5) of Section 1-17 of the Department of  
4 Human Services Act.

5 (Source: P.A. 95-545, eff. 8-28-07; 96-1372, eff. 7-29-10.)

6 Section 90-112. The MR/DD Community Care Act is amended by  
7 changing Section 3-206.01 as follows:

8 (210 ILCS 47/3-206.01)

9 Sec. 3-206.01. Health care worker registry.

10 (a) The Department shall include in the ~~establish and~~  
11 ~~maintain a~~ registry established under Section 3-206.01 of the  
12 Nursing Home Care Act ~~of~~ all individuals who have  
13 satisfactorily completed the training required by Section  
14 3-206 of this Act. ~~The registry shall include the name of the~~  
15 ~~nursing assistant, habilitation aide, or child care aide, his~~  
16 ~~or her current address, Social Security number, and the date~~  
17 ~~and location of the training course completed by the~~  
18 ~~individual, and the date of the individual's last criminal~~  
19 ~~records check.~~ Any individual placed on the registry is  
20 required to inform the Department of any change of address  
21 within 30 days. A facility shall not employ an individual as a  
22 nursing assistant, habilitation aide, or child care aide unless  
23 the facility has inquired of the Department as to information  
24 in the registry concerning the individual and shall not employ

1 anyone not on the registry unless the individual is enrolled in  
2 a training program under paragraph (5) of subsection (a) of  
3 Section 3-206 of this Act.

4 If the Department finds that a nursing assistant,  
5 habilitation aide, or child care aide has abused a resident,  
6 neglected a resident, or misappropriated resident property in a  
7 facility, the Department shall notify the individual of this  
8 finding by certified mail sent to the address contained in the  
9 registry. The notice shall give the individual an opportunity  
10 to contest the finding in a hearing before the Department or to  
11 submit a written response to the findings in lieu of requesting  
12 a hearing. If, after a hearing or if the individual does not  
13 request a hearing, the Department finds that the individual  
14 abused a resident, neglected a resident, or misappropriated  
15 resident property in a facility, the finding shall be included  
16 as part of the registry as well as a brief statement from the  
17 individual, if he or she chooses to make such a statement. The  
18 Department shall make information in the registry available to  
19 the public. In the case of inquiries to the registry concerning  
20 an individual listed in the registry, any information disclosed  
21 concerning such a finding shall also include disclosure of any  
22 statement in the registry relating to the finding or a clear  
23 and accurate summary of the statement.

24 (b) The Department shall add to the health care worker  
25 registry records of findings as reported by the Inspector  
26 General or remove from the health care worker registry records

1 of findings as reported by the Department of Human Services,  
2 under subsection (g-5) of Section 1-17 of the Department of  
3 Human Services Act.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 Section 90-115. The Home Health, Home Services, and Home  
6 Nursing Agency Licensing Act is amended by changing Section  
7 2.08 as follows:

8 (210 ILCS 55/2.08)

9 Sec. 2.08. "Home services agency" means an agency that  
10 provides services directly, or acts as a placement agency, for  
11 the purpose of placing individuals as workers providing home  
12 services for consumers in their personal residences. "Home  
13 services agency" does not include agencies licensed under the  
14 Nurse Agency Licensing Act, the Hospital Licensing Act, the  
15 Nursing Home Care Act, the MR/DD Community Care Act, the  
16 Specialized Mental Health Rehabilitation Act, or the Assisted  
17 Living and Shared Housing Act and does not include an agency  
18 that limits its business exclusively to providing  
19 housecleaning services. Programs providing services  
20 exclusively through the Community Care Program of the Illinois  
21 Department on Aging, the Department of Human Services Office of  
22 Rehabilitation Services, or the United States Department of  
23 Veterans Affairs are not considered to be a home services  
24 agency under this Act.

1 (Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09;  
2 96-1000, eff. 7-2-10.)

3 Section 90-120. The Hospice Program Licensing Act is  
4 amended by changing Sections 3 and 4 as follows:

5 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

6 Sec. 3. Definitions. As used in this Act, unless the  
7 context otherwise requires:

8 (a) "Bereavement" means the period of time during which the  
9 hospice patient's family experiences and adjusts to the death  
10 of the hospice patient.

11 (a-5) "Bereavement services" means counseling services  
12 provided to an individual's family after the individual's  
13 death.

14 (a-10) "Attending physician" means a physician who:

15 (1) is a doctor of medicine or osteopathy; and

16 (2) is identified by an individual, at the time the  
17 individual elects to receive hospice care, as having the  
18 most significant role in the determination and delivery of  
19 the individual's medical care.

20 (b) "Department" means the Illinois Department of Public  
21 Health.

22 (c) "Director" means the Director of the Illinois  
23 Department of Public Health.

24 (d) "Hospice care" means a program of palliative care that

1 provides for the physical, emotional, and spiritual care needs  
2 of a terminally ill patient and his or her family. The goal of  
3 such care is to achieve the highest quality of life as defined  
4 by the patient and his or her family through the relief of  
5 suffering and control of symptoms.

6 (e) "Hospice care team" means an interdisciplinary group or  
7 groups composed of individuals who provide or supervise the  
8 care and services offered by the hospice.

9 (f) "Hospice patient" means a terminally ill person  
10 receiving hospice services.

11 (g) "Hospice patient's family" means a hospice patient's  
12 immediate family consisting of a spouse, sibling, child, parent  
13 and those individuals designated as such by the patient for the  
14 purposes of this Act.

15 (g-1) "Hospice residence" means a separately licensed  
16 home, apartment building, or similar building providing living  
17 quarters:

18 (1) that is owned or operated by a person licensed to  
19 operate as a comprehensive hospice; and

20 (2) at which hospice services are provided to facility  
21 residents.

22 A building that is licensed under the Hospital Licensing  
23 Act, the Nursing Home Care Act, the Specialized Mental Health  
24 Rehabilitation Act, or the MR/DD Community Care Act is not a  
25 hospice residence.

26 (h) "Hospice services" means a range of professional and

1 other supportive services provided to a hospice patient and his  
2 or her family. These services may include, but are not limited  
3 to, physician services, nursing services, medical social work  
4 services, spiritual counseling services, bereavement services,  
5 and volunteer services.

6 (h-5) "Hospice program" means a licensed public agency or  
7 private organization, or a subdivision of either of those, that  
8 is primarily engaged in providing care to terminally ill  
9 individuals through a program of home care or inpatient care,  
10 or both home care and inpatient care, utilizing a medically  
11 directed interdisciplinary hospice care team of professionals  
12 or volunteers, or both professionals and volunteers. A hospice  
13 program may be licensed as a comprehensive hospice program or a  
14 volunteer hospice program.

15 (h-10) "Comprehensive hospice" means a program that  
16 provides hospice services and meets the minimum standards for  
17 certification under the Medicare program set forth in the  
18 Conditions of Participation in 42 CFR Part 418 but is not  
19 required to be Medicare-certified.

20 (i) "Palliative care" means the management of pain and  
21 other distressing symptoms that incorporates medical, nursing,  
22 psychosocial, and spiritual care according to the needs,  
23 values, beliefs, and culture or cultures of the patient and his  
24 or her family. The evaluation and treatment is  
25 patient-centered, with a focus on the central role of the  
26 family unit in decision-making.

1 (j) "Hospice service plan" means a plan detailing the  
2 specific hospice services offered by a comprehensive or  
3 volunteer hospice program, and the administrative and direct  
4 care personnel responsible for those services. The plan shall  
5 include but not be limited to:

6 (1) Identification of the person or persons  
7 administratively responsible for the program.

8 (2) The estimated average monthly patient census.

9 (3) The proposed geographic area the hospice will  
10 serve.

11 (4) A listing of those hospice services provided  
12 directly by the hospice, and those hospice services  
13 provided indirectly through a contractual agreement.

14 (5) The name and qualifications of those persons or  
15 entities under contract to provide indirect hospice  
16 services.

17 (6) The name and qualifications of those persons  
18 providing direct hospice services, with the exception of  
19 volunteers.

20 (7) A description of how the hospice plans to utilize  
21 volunteers in the provision of hospice services.

22 (8) A description of the program's record keeping  
23 system.

24 (k) "Terminally ill" means a medical prognosis by a  
25 physician licensed to practice medicine in all of its branches  
26 that a patient has an anticipated life expectancy of one year

1 or less.

2 (1) "Volunteer" means a person who offers his or her  
3 services to a hospice without compensation. Reimbursement for a  
4 volunteer's expenses in providing hospice service shall not be  
5 considered compensation.

6 (1-5) "Employee" means a paid or unpaid member of the staff  
7 of a hospice program, or, if the hospice program is a  
8 subdivision of an agency or organization, of the agency or  
9 organization, who is appropriately trained and assigned to the  
10 hospice program. "Employee" also means a volunteer whose duties  
11 are prescribed by the hospice program and whose performance of  
12 those duties is supervised by the hospice program.

13 (1-10) "Representative" means an individual who has been  
14 authorized under State law to terminate an individual's medical  
15 care or to elect or revoke the election of hospice care on  
16 behalf of a terminally ill individual who is mentally or  
17 physically incapacitated.

18 (m) "Volunteer hospice" means a program which provides  
19 hospice services to patients regardless of their ability to  
20 pay, with emphasis on the utilization of volunteers to provide  
21 services, under the administration of a not-for-profit agency.  
22 This definition does not prohibit the employment of staff.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

25 Sec. 4. License.



1           (a) No person shall establish, conduct or maintain a  
2 comprehensive or volunteer hospice program without first  
3 obtaining a license from the Department. A hospice residence  
4 may be operated only at the locations listed on the license. A  
5 comprehensive hospice program owning or operating a hospice  
6 residence is not subject to the provisions of the Nursing Home  
7 Care Act, the Specialized Mental Health Rehabilitation Act, or  
8 the MR/DD Community Care Act in owning or operating a hospice  
9 residence.

10           (b) No public or private agency shall advertise or present  
11 itself to the public as a comprehensive or volunteer hospice  
12 program which provides hospice services without meeting the  
13 provisions of subsection (a).

14           (c) The license shall be valid only in the possession of  
15 the hospice to which it was originally issued and shall not be  
16 transferred or assigned to any other person, agency, or  
17 corporation.

18           (d) The license shall be renewed annually.

19           (e) The license shall be displayed in a conspicuous place  
20 inside the hospice program office.

21           (Source: P.A. 96-339, eff. 7-1-10.)

22           Section 90-125. The Hospital Licensing Act is amended by  
23 changing Sections 3 and 6.09 as follows:

24           (210 ILCS 85/3)

1           Sec. 3. As used in this Act:

2           (A) "Hospital" means any institution, place, building,  
3 buildings on a campus, or agency, public or private, whether  
4 organized for profit or not, devoted primarily to the  
5 maintenance and operation of facilities for the diagnosis and  
6 treatment or care of 2 or more unrelated persons admitted for  
7 overnight stay or longer in order to obtain medical, including  
8 obstetric, psychiatric and nursing, care of illness, disease,  
9 injury, infirmity, or deformity.

10           The term "hospital", without regard to length of stay,  
11 shall also include:

12           (a) any facility which is devoted primarily to  
13 providing psychiatric and related services and programs  
14 for the diagnosis and treatment or care of 2 or more  
15 unrelated persons suffering from emotional or nervous  
16 diseases;

17           (b) all places where pregnant females are received,  
18 cared for, or treated during delivery irrespective of the  
19 number of patients received.

20           The term "hospital" includes general and specialized  
21 hospitals, tuberculosis sanitarium, mental or psychiatric  
22 hospitals and sanitarium, and includes maternity homes,  
23 lying-in homes, and homes for unwed mothers in which care is  
24 given during delivery.

25           The term "hospital" does not include:

26           (1) any person or institution required to be licensed

1       pursuant to the Nursing Home Care Act, the Specialized  
2       Mental Health Rehabilitation Act, or the MR/DD Community  
3       Care Act;

4           (2) hospitalization or care facilities maintained by  
5       the State or any department or agency thereof, where such  
6       department or agency has authority under law to establish  
7       and enforce standards for the hospitalization or care  
8       facilities under its management and control;

9           (3) hospitalization or care facilities maintained by  
10       the federal government or agencies thereof;

11          (4) hospitalization or care facilities maintained by  
12       any university or college established under the laws of  
13       this State and supported principally by public funds raised  
14       by taxation;

15          (5) any person or facility required to be licensed  
16       pursuant to the Alcoholism and Other Drug Abuse and  
17       Dependency Act;

18          (6) any facility operated solely by and for persons who  
19       rely exclusively upon treatment by spiritual means through  
20       prayer, in accordance with the creed or tenets of any  
21       well-recognized church or religious denomination;

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

25          (8) any veterinary hospital or clinic operated by a  
26       veterinarian or veterinarians licensed under the

1           Veterinary Medicine and Surgery Practice Act of 2004 or  
2           maintained by a State-supported or publicly funded  
3           university or college.

4           (B) "Person" means the State, and any political subdivision  
5           or municipal corporation, individual, firm, partnership,  
6           corporation, company, association, or joint stock association,  
7           or the legal successor thereof.

8           (C) "Department" means the Department of Public Health of  
9           the State of Illinois.

10          (D) "Director" means the Director of Public Health of the  
11          State of Illinois.

12          (E) "Perinatal" means the period of time between the  
13          conception of an infant and the end of the first month after  
14          birth.

15          (F) "Federally designated organ procurement agency" means  
16          the organ procurement agency designated by the Secretary of the  
17          U.S. Department of Health and Human Services for the service  
18          area in which a hospital is located; except that in the case of  
19          a hospital located in a county adjacent to Wisconsin which  
20          currently contracts with an organ procurement agency located in  
21          Wisconsin that is not the organ procurement agency designated  
22          by the U.S. Secretary of Health and Human Services for the  
23          service area in which the hospital is located, if the hospital  
24          applies for a waiver pursuant to 42 USC 1320b-8(a), it may  
25          designate an organ procurement agency located in Wisconsin to  
26          be thereafter deemed its federally designated organ

1 procurement agency for the purposes of this Act.

2 (G) "Tissue bank" means any facility or program operating  
3 in Illinois that is certified by the American Association of  
4 Tissue Banks or the Eye Bank Association of America and is  
5 involved in procuring, furnishing, donating, or distributing  
6 corneas, bones, or other human tissue for the purpose of  
7 injecting, transfusing, or transplanting any of them into the  
8 human body. "Tissue bank" does not include a licensed blood  
9 bank. For the purposes of this Act, "tissue" does not include  
10 organs.

11 (H) "Campus", as this terms applies to operations, has the  
12 same meaning as the term "campus" as set forth in federal  
13 Medicare regulations, 42 CFR 413.65.

14 (Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10;  
15 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

16 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

17 Sec. 6.09. (a) In order to facilitate the orderly  
18 transition of aged and disabled patients from hospitals to  
19 post-hospital care, whenever a patient who qualifies for the  
20 federal Medicare program is hospitalized, the patient shall be  
21 notified of discharge at least 24 hours prior to discharge from  
22 the hospital. With regard to pending discharges to a skilled  
23 nursing facility, the hospital must notify the case  
24 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at  
25 least 24 hours prior to discharge or, if home health services

1 are ordered, the hospital must inform its designated case  
2 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of  
3 the pending discharge and must provide the patient with the  
4 case coordination unit's telephone number and other contact  
5 information.

6 (b) Every hospital shall develop procedures for a physician  
7 with medical staff privileges at the hospital or any  
8 appropriate medical staff member to provide the discharge  
9 notice prescribed in subsection (a) of this Section. The  
10 procedures must include prohibitions against discharging or  
11 referring a patient to any of the following if unlicensed,  
12 uncertified, or unregistered: (i) a board and care facility, as  
13 defined in the Board and Care Home Act; (ii) an assisted living  
14 and shared housing establishment, as defined in the Assisted  
15 Living and Shared Housing Act; (iii) a facility licensed under  
16 the Nursing Home Care Act, the Specialized Mental Health  
17 Rehabilitation Act, or the MR/DD Community Care Act; (iv) a  
18 supportive living facility, as defined in Section 5-5.01a of  
19 the Illinois Public Aid Code; or (v) a free-standing hospice  
20 facility licensed under the Hospice Program Licensing Act if  
21 licensure, certification, or registration is required. The  
22 Department of Public Health shall annually provide hospitals  
23 with a list of licensed, certified, or registered board and  
24 care facilities, assisted living and shared housing  
25 establishments, nursing homes, supportive living facilities,  
26 facilities licensed under the MR/DD Community Care Act or the

1 Specialized Mental Health Rehabilitation Act, and hospice  
2 facilities. Reliance upon this list by a hospital shall satisfy  
3 compliance with this requirement. The procedure may also  
4 include a waiver for any case in which a discharge notice is  
5 not feasible due to a short length of stay in the hospital by  
6 the patient, or for any case in which the patient voluntarily  
7 desires to leave the hospital before the expiration of the 24  
8 hour period.

9 (c) At least 24 hours prior to discharge from the hospital,  
10 the patient shall receive written information on the patient's  
11 right to appeal the discharge pursuant to the federal Medicare  
12 program, including the steps to follow to appeal the discharge  
13 and the appropriate telephone number to call in case the  
14 patient intends to appeal the discharge.

15 (d) Before transfer of a patient to a long term care  
16 facility licensed under the Nursing Home Care Act where elderly  
17 persons reside, a hospital shall as soon as practicable  
18 initiate a name-based criminal history background check by  
19 electronic submission to the Department of State Police for all  
20 persons between the ages of 18 and 70 years; provided, however,  
21 that a hospital shall be required to initiate such a background  
22 check only with respect to patients who:

23 (1) are transferring to a long term care facility for  
24 the first time;

25 (2) have been in the hospital more than 5 days;

26 (3) are reasonably expected to remain at the long term

1 care facility for more than 30 days;

2 (4) have a known history of serious mental illness or  
3 substance abuse; and

4 (5) are independently ambulatory or mobile for more  
5 than a temporary period of time.

6 A hospital may also request a criminal history background  
7 check for a patient who does not meet any of the criteria set  
8 forth in items (1) through (5).

9 A hospital shall notify a long term care facility if the  
10 hospital has initiated a criminal history background check on a  
11 patient being discharged to that facility. In all circumstances  
12 in which the hospital is required by this subsection to  
13 initiate the criminal history background check, the transfer to  
14 the long term care facility may proceed regardless of the  
15 availability of criminal history results. Upon receipt of the  
16 results, the hospital shall promptly forward the results to the  
17 appropriate long term care facility. If the results of the  
18 background check are inconclusive, the hospital shall have no  
19 additional duty or obligation to seek additional information  
20 from, or about, the patient.

21 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;  
22 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff.  
23 7-29-10.)

24 Section 90-130. The Language Assistance Services Act is  
25 amended by changing Section 10 as follows:



1 (210 ILCS 87/10)

2 Sec. 10. Definitions. As used in this Act:

3 "Department" means the Department of Public Health.

4 "Interpreter" means a person fluent in English and in the  
5 necessary language of the patient who can accurately speak,  
6 read, and readily interpret the necessary second language, or a  
7 person who can accurately sign and read sign language.  
8 Interpreters shall have the ability to translate the names of  
9 body parts and to describe completely symptoms and injuries in  
10 both languages. Interpreters may include members of the medical  
11 or professional staff.

12 "Language or communication barriers" means either of the  
13 following:

14 (1) With respect to spoken language, barriers that are  
15 experienced by limited-English-speaking or  
16 non-English-speaking individuals who speak the same  
17 primary language, if those individuals constitute at least  
18 5% of the patients served by the health facility annually.

19 (2) With respect to sign language, barriers that are  
20 experienced by individuals who are deaf and whose primary  
21 language is sign language.

22 "Health facility" means a hospital licensed under the  
23 Hospital Licensing Act, a long-term care facility licensed  
24 under the Nursing Home Care Act, or a facility licensed under  
25 the MR/DD Community Care Act or the Specialized Mental Health

1 Rehabilitation Act.

2 (Source: P.A. 96-339, eff. 7-1-10.)

3 Section 90-135. The Community-Integrated Living  
4 Arrangements Licensure and Certification Act is amended by  
5 changing Section 4 as follows:

6 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

7 Sec. 4. (a) Any community mental health or developmental  
8 services agency who wishes to develop and support a variety of  
9 community-integrated living arrangements may do so pursuant to  
10 a license issued by the Department under this Act. However,  
11 programs established under or otherwise subject to the Child  
12 Care Act of 1969, the Nursing Home Care Act, the Specialized  
13 Mental Health Rehabilitation Act, or the MR/DD Community Care  
14 Act, as now or hereafter amended, shall remain subject thereto,  
15 and this Act shall not be construed to limit the application of  
16 those Acts.

17 (b) The system of licensure established under this Act  
18 shall be for the purposes of:

19 (1) Insuring that all recipients residing in  
20 community-integrated living arrangements are receiving  
21 appropriate community-based services, including treatment,  
22 training and habilitation or rehabilitation;

23 (2) Insuring that recipients' rights are protected and  
24 that all programs provided to and placements arranged for

1 recipients comply with this Act, the Mental Health and  
2 Developmental Disabilities Code, and applicable Department  
3 rules and regulations;

4 (3) Maintaining the integrity of communities by  
5 requiring regular monitoring and inspection of placements  
6 and other services provided in community-integrated living  
7 arrangements.

8 The licensure system shall be administered by a quality  
9 assurance unit within the Department which shall be  
10 administratively independent of units responsible for funding  
11 of agencies or community services.

12 (c) As a condition of being licensed by the Department as a  
13 community mental health or developmental services agency under  
14 this Act, the agency shall certify to the Department that:

15 (1) All recipients residing in community-integrated  
16 living arrangements are receiving appropriate  
17 community-based services, including treatment, training  
18 and habilitation or rehabilitation;

19 (2) All programs provided to and placements arranged  
20 for recipients are supervised by the agency; and

21 (3) All programs provided to and placements arranged  
22 for recipients comply with this Act, the Mental Health and  
23 Developmental Disabilities Code, and applicable Department  
24 rules and regulations.

25 (d) An applicant for licensure as a community mental health  
26 or developmental services agency under this Act shall submit an

1 application pursuant to the application process established by  
2 the Department by rule and shall pay an application fee in an  
3 amount established by the Department, which amount shall not be  
4 more than \$200.

5 (e) If an applicant meets the requirements established by  
6 the Department to be licensed as a community mental health or  
7 developmental services agency under this Act, after payment of  
8 the licensing fee, the Department shall issue a license valid  
9 for 3 years from the date thereof unless suspended or revoked  
10 by the Department or voluntarily surrendered by the agency.

11 (f) Upon application to the Department, the Department may  
12 issue a temporary permit to an applicant for a 6-month period  
13 to allow the holder of such permit reasonable time to become  
14 eligible for a license under this Act.

15 (g) (1) The Department may conduct site visits to an agency  
16 licensed under this Act, or to any program or placement  
17 certified by the agency, and inspect the records or premises,  
18 or both, of such agency, program or placement as it deems  
19 appropriate, for the purpose of determining compliance with  
20 this Act, the Mental Health and Developmental Disabilities  
21 Code, and applicable Department rules and regulations.

22 (2) If the Department determines that an agency licensed  
23 under this Act is not in compliance with this Act or the rules  
24 and regulations promulgated under this Act, the Department  
25 shall serve a notice of violation upon the licensee. Each  
26 notice of violation shall be prepared in writing and shall

1 specify the nature of the violation, the statutory provision or  
2 rule alleged to have been violated, and that the licensee  
3 submit a plan of correction to the Department if required. The  
4 notice shall also inform the licensee of any other action which  
5 the Department might take pursuant to this Act and of the right  
6 to a hearing.

7 (h) Upon the expiration of any license issued under this  
8 Act, a license renewal application shall be required of and a  
9 license renewal fee in an amount established by the Department  
10 shall be charged to a community mental health or developmental  
11 services agency, provided that such fee shall not be more than  
12 \$200.

13 (Source: P.A. 96-339, eff. 7-1-10.)

14 Section 90-140. The Child Care Act of 1969 is amended by  
15 changing Section 2.06 as follows:

16 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

17 Sec. 2.06. "Child care institution" means a child care  
18 facility where more than 7 children are received and maintained  
19 for the purpose of providing them with care or training or  
20 both. The term "child care institution" includes residential  
21 schools, primarily serving ambulatory handicapped children,  
22 and those operating a full calendar year, but does not include:

23 (a) Any State-operated institution for child care  
24 established by legislative action;

1 (b) Any juvenile detention or shelter care home established  
2 and operated by any county or child protection district  
3 established under the "Child Protection Act";

4 (c) Any institution, home, place or facility operating  
5 under a license pursuant to the Nursing Home Care Act, the  
6 Specialized Mental Health Rehabilitation Act, or the MR/DD  
7 Community Care Act;

8 (d) Any bona fide boarding school in which children are  
9 primarily taught branches of education corresponding to those  
10 taught in public schools, grades one through 12, or taught in  
11 public elementary schools, high schools, or both elementary and  
12 high schools, and which operates on a regular academic school  
13 year basis; or

14 (e) Any facility licensed as a "group home" as defined in  
15 this Act.

16 (Source: P.A. 96-339, eff. 7-1-10.)

17 Section 90-145. The Health Care Worker Background Check Act  
18 is amended by changing Section 15 as follows:

19 (225 ILCS 46/15)

20 Sec. 15. Definitions. In this Act:

21 "Applicant" means an individual seeking employment with a  
22 health care employer who has received a bona fide conditional  
23 offer of employment.

24 "Conditional offer of employment" means a bona fide offer

1 of employment by a health care employer to an applicant, which  
2 is contingent upon the receipt of a report from the Department  
3 of Public Health indicating that the applicant does not have a  
4 record of conviction of any of the criminal offenses enumerated  
5 in Section 25.

6 "Direct care" means the provision of nursing care or  
7 assistance with feeding, dressing, movement, bathing,  
8 toileting, or other personal needs, including home services as  
9 defined in the Home Health, Home Services, and Home Nursing  
10 Agency Licensing Act. The entity responsible for inspecting and  
11 licensing, certifying, or registering the health care employer  
12 may, by administrative rule, prescribe guidelines for  
13 interpreting this definition with regard to the health care  
14 employers that it licenses.

15 "Disqualifying offenses" means those offenses set forth in  
16 Section 25 of this Act.

17 "Employee" means any individual hired, employed, or  
18 retained to which this Act applies.

19 "Fingerprint-based criminal history records check" means a  
20 livescan fingerprint-based criminal history records check  
21 submitted as a fee applicant inquiry in the form and manner  
22 prescribed by the Department of State Police.

23 "Health care employer" means:

24 (1) the owner or licensee of any of the following:

25 (i) a community living facility, as defined in the  
26 Community Living Facilities Act;

1           (ii) a life care facility, as defined in the Life  
2 Care Facilities Act;

3           (iii) a long-term care facility;

4           (iv) a home health agency, home services agency, or  
5 home nursing agency as defined in the Home Health, Home  
6 Services, and Home Nursing Agency Licensing Act;

7           (v) a hospice care program or volunteer hospice  
8 program, as defined in the Hospice Program Licensing  
9 Act;

10          (vi) a hospital, as defined in the Hospital  
11 Licensing Act;

12          (vii) (blank);

13          (viii) a nurse agency, as defined in the Nurse  
14 Agency Licensing Act;

15          (ix) a respite care provider, as defined in the  
16 Respite Program Act;

17          (ix-a) an establishment licensed under the  
18 Assisted Living and Shared Housing Act;

19          (x) a supportive living program, as defined in the  
20 Illinois Public Aid Code;

21          (xi) early childhood intervention programs as  
22 described in 59 Ill. Adm. Code 121;

23          (xii) the University of Illinois Hospital,  
24 Chicago;

25          (xiii) programs funded by the Department on Aging  
26 through the Community Care Program;



1           (xiv) programs certified to participate in the  
2           Supportive Living Program authorized pursuant to  
3           Section 5-5.01a of the Illinois Public Aid Code;

4           (xv) programs listed by the Emergency Medical  
5           Services (EMS) Systems Act as Freestanding Emergency  
6           Centers;

7           (xvi) locations licensed under the Alternative  
8           Health Care Delivery Act;

9           (2) a day training program certified by the Department  
10          of Human Services;

11          (3) a community integrated living arrangement operated  
12          by a community mental health and developmental service  
13          agency, as defined in the Community-Integrated Living  
14          Arrangements Licensing and Certification Act; or

15          (4) the State Long Term Care Ombudsman Program,  
16          including any regional long term care ombudsman programs  
17          under Section 4.04 of the Illinois Act on the Aging, only  
18          for the purpose of securing background checks.

19          "Initiate" means obtaining from a student, applicant, or  
20          employee his or her social security number, demographics, a  
21          disclosure statement, and an authorization for the Department  
22          of Public Health or its designee to request a fingerprint-based  
23          criminal history records check; transmitting this information  
24          electronically to the Department of Public Health; conducting  
25          Internet searches on certain web sites, including without  
26          limitation the Illinois Sex Offender Registry, the Department

1 of Corrections' Sex Offender Search Engine, the Department of  
2 Corrections' Inmate Search Engine, the Department of  
3 Corrections Wanted Fugitives Search Engine, the National Sex  
4 Offender Public Registry, and the website of the Health and  
5 Human Services Office of Inspector General to determine if the  
6 applicant has been adjudicated a sex offender, has been a  
7 prison inmate, or has committed Medicare or Medicaid fraud, or  
8 conducting similar searches as defined by rule; and having the  
9 student, applicant, or employee's fingerprints collected and  
10 transmitted electronically to the Department of State Police.

11 "Livescan vendor" means an entity whose equipment has been  
12 certified by the Department of State Police to collect an  
13 individual's demographics and inkless fingerprints and, in a  
14 manner prescribed by the Department of State Police and the  
15 Department of Public Health, electronically transmit the  
16 fingerprints and required data to the Department of State  
17 Police and a daily file of required data to the Department of  
18 Public Health. The Department of Public Health shall negotiate  
19 a contract with one or more vendors that effectively  
20 demonstrate that the vendor has 2 or more years of experience  
21 transmitting fingerprints electronically to the Department of  
22 State Police and that the vendor can successfully transmit the  
23 required data in a manner prescribed by the Department of  
24 Public Health. Vendor authorization may be further defined by  
25 administrative rule.

26 "Long-term care facility" means a facility licensed by the

1 State or certified under federal law as a long-term care  
2 facility, including without limitation facilities licensed  
3 under the Nursing Home Care Act, the Specialized Mental Health  
4 Rehabilitation Act, or the MR/DD Community Care Act, a  
5 supportive living facility, an assisted living establishment,  
6 or a shared housing establishment or registered as a board and  
7 care home.

8 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;  
9 96-339, eff. 7-1-10.)

10 Section 90-150. The Nursing Home Administrators Licensing  
11 and Disciplinary Act is amended by changing Sections 4 and 17  
12 as follows:

13 (225 ILCS 70/4) (from Ch. 111, par. 3654)

14 (Section scheduled to be repealed on January 1, 2018)

15 Sec. 4. Definitions. For purposes of this Act, the  
16 following definitions shall have the following meanings,  
17 except where the context requires otherwise:

18 (1) "Act" means the Nursing Home Administrators  
19 Licensing and Disciplinary Act.

20 (2) "Department" means the Department of Financial and  
21 Professional Regulation.

22 (3) "Secretary" means the Secretary of Financial and  
23 Professional Regulation.

24 (4) "Board" means the Nursing Home Administrators

1 Licensing and Disciplinary Board appointed by the  
2 Governor.

3 (5) "Nursing home administrator" means the individual  
4 licensed under this Act and directly responsible for  
5 planning, organizing, directing and supervising the  
6 operation of a nursing home, or who in fact performs such  
7 functions, whether or not such functions are delegated to  
8 one or more other persons.

9 (6) "Nursing home" or "facility" means any entity that  
10 is required to be licensed by the Department of Public  
11 Health under the Nursing Home Care Act, as amended, other  
12 than a sheltered care home as defined thereunder, and  
13 includes private homes, institutions, buildings,  
14 residences, or other places, whether operated for profit or  
15 not, irrespective of the names attributed to them, county  
16 homes for the infirm and chronically ill operated pursuant  
17 to the County Nursing Home Act, as amended, and any similar  
18 institutions operated by a political subdivision of the  
19 State of Illinois that provide, though their ownership or  
20 management, maintenance, personal care, and nursing for 3  
21 or more persons, not related to the owner by blood or  
22 marriage, or any similar facilities in which maintenance is  
23 provided to 3 or more persons who by reason of illness of  
24 physical infirmity require personal care and nursing. The  
25 term also means any facility licensed under the MR/DD  
26 Community Care Act or the Specialized Mental Health

1           Rehabilitation Act.

2           (7) "Maintenance" means food, shelter and laundry.

3           (8) "Personal care" means assistance with meals,  
4           dressing, movement, bathing, or other personal needs, or  
5           general supervision of the physical and mental well-being  
6           of an individual who because of age, physical, or mental  
7           disability, emotion or behavior disorder, or mental  
8           retardation is incapable of managing his or her person,  
9           whether or not a guardian has been appointed for such  
10          individual. For the purposes of this Act, this definition  
11          does not include the professional services of a nurse.

12          (9) "Nursing" means professional nursing or practical  
13          nursing, as those terms are defined in the Nurse Practice  
14          Act, for sick or infirm persons who are under the care and  
15          supervision of licensed physicians or dentists.

16          (10) "Disciplinary action" means revocation,  
17          suspension, probation, supervision, reprimand, required  
18          education, fines or any other action taken by the  
19          Department against a person holding a license.

20          (11) "Impaired" means the inability to practice with  
21          reasonable skill and safety due to physical or mental  
22          disabilities as evidenced by a written determination or  
23          written consent based on clinical evidence including  
24          deterioration through the aging process or loss of motor  
25          skill, or abuse of drugs or alcohol, of sufficient degree  
26          to diminish a person's ability to administer a nursing

1 home.

2 (12) "Address of record" means the designated address  
3 recorded by the Department in the applicant's or licensee's  
4 application file or license file maintained by the  
5 Department's licensure maintenance unit. It is the duty of  
6 the applicant or licensee to inform the Department of any  
7 change of address, and such changes must be made either  
8 through the Department's website or by contacting the  
9 Department's licensure maintenance unit.

10 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;  
11 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

12 (225 ILCS 70/17) (from Ch. 111, par. 3667)

13 (Section scheduled to be repealed on January 1, 2018)

14 Sec. 17. Grounds for disciplinary action.

15 (a) The Department may impose fines not to exceed \$10,000  
16 or may refuse to issue or to renew, or may revoke, suspend,  
17 place on probation, censure, reprimand or take other  
18 disciplinary or non-disciplinary action with regard to the  
19 license of any person, for any one or combination of the  
20 following causes:

21 (1) Intentional material misstatement in furnishing  
22 information to the Department.

23 (2) Conviction of or entry of a plea of guilty or nolo  
24 contendere to any crime that is a felony under the laws of  
25 the United States or any state or territory thereof or a

1           misdemeanor of which an essential element is dishonesty or  
2           that is directly related to the practice of the profession  
3           of nursing home administration.

4           (3) Making any misrepresentation for the purpose of  
5           obtaining a license, or violating any provision of this  
6           Act.

7           (4) Immoral conduct in the commission of any act, such  
8           as sexual abuse or sexual misconduct, related to the  
9           licensee's practice.

10          (5) Failing to respond within 30 days, to a written  
11          request made by the Department for information.

12          (6) Engaging in dishonorable, unethical or  
13          unprofessional conduct of a character likely to deceive,  
14          defraud or harm the public.

15          (7) Habitual use or addiction to alcohol, narcotics,  
16          stimulants, or any other chemical agent or drug which  
17          results in the inability to practice with reasonable  
18          judgment, skill or safety.

19          (8) Discipline by another U.S. jurisdiction if at least  
20          one of the grounds for the discipline is the same or  
21          substantially equivalent to those set forth herein.

22          (9) A finding by the Department that the licensee,  
23          after having his or her license placed on probationary  
24          status has violated the terms of probation.

25          (10) Willfully making or filing false records or  
26          reports in his or her practice, including but not limited

1 to false records filed with State agencies or departments.

2 (11) Physical illness, mental illness, or other  
3 impairment or disability, including, but not limited to,  
4 deterioration through the aging process, or loss of motor  
5 skill that results in the inability to practice the  
6 profession with reasonable judgment, skill or safety.

7 (12) Disregard or violation of this Act or of any rule  
8 issued pursuant to this Act.

9 (13) Aiding or abetting another in the violation of  
10 this Act or any rule or regulation issued pursuant to this  
11 Act.

12 (14) Allowing one's license to be used by an unlicensed  
13 person.

14 (15) (Blank).

15 (16) Professional incompetence in the practice of  
16 nursing home administration.

17 (17) Conviction of a violation of Section 12-19 of the  
18 Criminal Code of 1961 for the abuse and gross neglect of a  
19 long term care facility resident.

20 (18) Violation of the Nursing Home Care Act, the  
21 Specialized Mental Health Rehabilitation Act, or the MR/DD  
22 Community Care Act or of any rule issued under the Nursing  
23 Home Care Act, the Specialized Mental Health  
24 Rehabilitation Act, or the MR/DD Community Care Act. A  
25 final adjudication of a Type "AA" violation of the Nursing  
26 Home Care Act made by the Illinois Department of Public



1 Health, as identified by rule, relating to the hiring,  
2 training, planning, organizing, directing, or supervising  
3 the operation of a nursing home and a licensee's failure to  
4 comply with this Act or the rules adopted under this Act,  
5 shall create a rebuttable presumption of a violation of  
6 this subsection.

7 (19) Failure to report to the Department any adverse  
8 final action taken against the licensee by a licensing  
9 authority of another state, territory of the United States,  
10 or foreign country; or by any governmental or law  
11 enforcement agency; or by any court for acts or conduct  
12 similar to acts or conduct that would constitute grounds  
13 for disciplinary action under this Section.

14 (20) Failure to report to the Department the surrender  
15 of a license or authorization to practice as a nursing home  
16 administrator in another state or jurisdiction for acts or  
17 conduct similar to acts or conduct that would constitute  
18 grounds for disciplinary action under this Section.

19 (21) Failure to report to the Department any adverse  
20 judgment, settlement, or award arising from a liability  
21 claim related to acts or conduct similar to acts or conduct  
22 that would constitute grounds for disciplinary action  
23 under this Section.

24 All proceedings to suspend, revoke, place on probationary  
25 status, or take any other disciplinary action as the Department  
26 may deem proper, with regard to a license on any of the

1 foregoing grounds, must be commenced within 5 years next after  
2 receipt by the Department of (i) a complaint alleging the  
3 commission of or notice of the conviction order for any of the  
4 acts described herein or (ii) a referral for investigation  
5 under Section 3-108 of the Nursing Home Care Act.

6 The entry of an order or judgment by any circuit court  
7 establishing that any person holding a license under this Act  
8 is a person in need of mental treatment operates as a  
9 suspension of that license. That person may resume their  
10 practice only upon the entry of a Department order based upon a  
11 finding by the Board that they have been determined to be  
12 recovered from mental illness by the court and upon the Board's  
13 recommendation that they be permitted to resume their practice.

14 The Department, upon the recommendation of the Board, may  
15 adopt rules which set forth standards to be used in determining  
16 what constitutes:

17 (i) when a person will be deemed sufficiently  
18 rehabilitated to warrant the public trust;

19 (ii) dishonorable, unethical or unprofessional conduct  
20 of a character likely to deceive, defraud, or harm the  
21 public;

22 (iii) immoral conduct in the commission of any act  
23 related to the licensee's practice; and

24 (iv) professional incompetence in the practice of  
25 nursing home administration.

26 However, no such rule shall be admissible into evidence in

1 any civil action except for review of a licensing or other  
2 disciplinary action under this Act.

3 In enforcing this Section, the Department or Board, upon a  
4 showing of a possible violation, may compel any individual  
5 licensed to practice under this Act, or who has applied for  
6 licensure pursuant to this Act, to submit to a mental or  
7 physical examination, or both, as required by and at the  
8 expense of the Department. The examining physician or  
9 physicians shall be those specifically designated by the  
10 Department or Board. The Department or Board may order the  
11 examining physician to present testimony concerning this  
12 mental or physical examination of the licensee or applicant. No  
13 information shall be excluded by reason of any common law or  
14 statutory privilege relating to communications between the  
15 licensee or applicant and the examining physician. The  
16 individual to be examined may have, at his or her own expense,  
17 another physician of his or her choice present during all  
18 aspects of the examination. Failure of any individual to submit  
19 to mental or physical examination, when directed, shall be  
20 grounds for suspension of his or her license until such time as  
21 the individual submits to the examination if the Department  
22 finds, after notice and hearing, that the refusal to submit to  
23 the examination was without reasonable cause.

24 If the Department or Board finds an individual unable to  
25 practice because of the reasons set forth in this Section, the  
26 Department or Board shall require such individual to submit to

1 care, counseling, or treatment by physicians approved or  
2 designated by the Department or Board, as a condition, term, or  
3 restriction for continued, reinstated, or renewed licensure to  
4 practice; or in lieu of care, counseling, or treatment, the  
5 Department may file, or the Board may recommend to the  
6 Department to file, a complaint to immediately suspend, revoke,  
7 or otherwise discipline the license of the individual. Any  
8 individual whose license was granted pursuant to this Act or  
9 continued, reinstated, renewed, disciplined or supervised,  
10 subject to such terms, conditions or restrictions who shall  
11 fail to comply with such terms, conditions or restrictions  
12 shall be referred to the Secretary for a determination as to  
13 whether the licensee shall have his or her license suspended  
14 immediately, pending a hearing by the Department. In instances  
15 in which the Secretary immediately suspends a license under  
16 this Section, a hearing upon such person's license must be  
17 convened by the Board within 30 days after such suspension and  
18 completed without appreciable delay. The Department and Board  
19 shall have the authority to review the subject administrator's  
20 record of treatment and counseling regarding the impairment, to  
21 the extent permitted by applicable federal statutes and  
22 regulations safeguarding the confidentiality of medical  
23 records.

24 An individual licensed under this Act, affected under this  
25 Section, shall be afforded an opportunity to demonstrate to the  
26 Department or Board that he or she can resume practice in

1 compliance with acceptable and prevailing standards under the  
2 provisions of his or her license.

3 (b) Any individual or organization acting in good faith,  
4 and not in a wilful and wanton manner, in complying with this  
5 Act by providing any report or other information to the  
6 Department, or assisting in the investigation or preparation of  
7 such information, or by participating in proceedings of the  
8 Department, or by serving as a member of the Board, shall not,  
9 as a result of such actions, be subject to criminal prosecution  
10 or civil damages.

11 (c) Members of the Board, and persons retained under  
12 contract to assist and advise in an investigation, shall be  
13 indemnified by the State for any actions occurring within the  
14 scope of services on or for the Board, done in good faith and  
15 not wilful and wanton in nature. The Attorney General shall  
16 defend all such actions unless he or she determines either that  
17 there would be a conflict of interest in such representation or  
18 that the actions complained of were not in good faith or were  
19 wilful and wanton.

20 Should the Attorney General decline representation, a  
21 person entitled to indemnification under this Section shall  
22 have the right to employ counsel of his or her choice, whose  
23 fees shall be provided by the State, after approval by the  
24 Attorney General, unless there is a determination by a court  
25 that the member's actions were not in good faith or were wilful  
26 and wanton.

1           A person entitled to indemnification under this Section  
2 must notify the Attorney General within 7 days of receipt of  
3 notice of the initiation of any action involving services of  
4 the Board. Failure to so notify the Attorney General shall  
5 constitute an absolute waiver of the right to a defense and  
6 indemnification.

7           The Attorney General shall determine within 7 days after  
8 receiving such notice, whether he or she will undertake to  
9 represent a person entitled to indemnification under this  
10 Section.

11           (d) The determination by a circuit court that a licensee is  
12 subject to involuntary admission or judicial admission as  
13 provided in the Mental Health and Developmental Disabilities  
14 Code, as amended, operates as an automatic suspension. Such  
15 suspension will end only upon a finding by a court that the  
16 patient is no longer subject to involuntary admission or  
17 judicial admission and issues an order so finding and  
18 discharging the patient; and upon the recommendation of the  
19 Board to the Secretary that the licensee be allowed to resume  
20 his or her practice.

21           (e) The Department may refuse to issue or may suspend the  
22 license of any person who fails to file a return, or to pay the  
23 tax, penalty or interest shown in a filed return, or to pay any  
24 final assessment of tax, penalty or interest, as required by  
25 any tax Act administered by the Department of Revenue, until  
26 such time as the requirements of any such tax Act are

1 satisfied.

2 (f) The Department of Public Health shall transmit to the  
3 Department a list of those facilities which receive an "A"  
4 violation as defined in Section 1-129 of the Nursing Home Care  
5 Act.

6 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;  
7 96-1372, eff. 7-29-10.)

8 Section 90-155. The Pharmacy Practice Act is amended by  
9 changing Section 3 as follows:

10 (225 ILCS 85/3)

11 (Section scheduled to be repealed on January 1, 2018)

12 Sec. 3. Definitions. For the purpose of this Act, except  
13 where otherwise limited therein:

14 (a) "Pharmacy" or "drugstore" means and includes every  
15 store, shop, pharmacy department, or other place where  
16 pharmacist care is provided by a pharmacist (1) where drugs,  
17 medicines, or poisons are dispensed, sold or offered for sale  
18 at retail, or displayed for sale at retail; or (2) where  
19 prescriptions of physicians, dentists, advanced practice  
20 nurses, physician assistants, veterinarians, podiatrists, or  
21 optometrists, within the limits of their licenses, are  
22 compounded, filled, or dispensed; or (3) which has upon it or  
23 displayed within it, or affixed to or used in connection with  
24 it, a sign bearing the word or words "Pharmacist", "Druggist",

1 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
2 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
3 "Medicines", or any word or words of similar or like import,  
4 either in the English language or any other language; or (4)  
5 where the characteristic prescription sign (Rx) or similar  
6 design is exhibited; or (5) any store, or shop, or other place  
7 with respect to which any of the above words, objects, signs or  
8 designs are used in any advertisement.

9 (b) "Drugs" means and includes (1) articles recognized in  
10 the official United States Pharmacopoeia/National Formulary  
11 (USP/NF), or any supplement thereto and being intended for and  
12 having for their main use the diagnosis, cure, mitigation,  
13 treatment or prevention of disease in man or other animals, as  
14 approved by the United States Food and Drug Administration, but  
15 does not include devices or their components, parts, or  
16 accessories; and (2) all other articles intended for and having  
17 for their main use the diagnosis, cure, mitigation, treatment  
18 or prevention of disease in man or other animals, as approved  
19 by the United States Food and Drug Administration, but does not  
20 include devices or their components, parts, or accessories; and  
21 (3) articles (other than food) having for their main use and  
22 intended to affect the structure or any function of the body of  
23 man or other animals; and (4) articles having for their main  
24 use and intended for use as a component or any articles  
25 specified in clause (1), (2) or (3); but does not include  
26 devices or their components, parts or accessories.



1 (c) "Medicines" means and includes all drugs intended for  
2 human or veterinary use approved by the United States Food and  
3 Drug Administration.

4 (d) "Practice of pharmacy" means (1) the interpretation and  
5 the provision of assistance in the monitoring, evaluation, and  
6 implementation of prescription drug orders; (2) the dispensing  
7 of prescription drug orders; (3) participation in drug and  
8 device selection; (4) drug administration limited to the  
9 administration of oral, topical, injectable, and inhalation as  
10 follows: in the context of patient education on the proper use  
11 or delivery of medications; vaccination of patients 14 years of  
12 age and older pursuant to a valid prescription or standing  
13 order, by a physician licensed to practice medicine in all its  
14 branches, upon completion of appropriate training, including  
15 how to address contraindications and adverse reactions set  
16 forth by rule, with notification to the patient's physician and  
17 appropriate record retention, or pursuant to hospital pharmacy  
18 and therapeutics committee policies and procedures; (5) drug  
19 regimen review; (6) drug or drug-related research; (7) the  
20 provision of patient counseling; (8) the practice of  
21 telepharmacy; (9) the provision of those acts or services  
22 necessary to provide pharmacist care; (10) medication therapy  
23 management; and (11) the responsibility for compounding and  
24 labeling of drugs and devices (except labeling by a  
25 manufacturer, repackager, or distributor of non-prescription  
26 drugs and commercially packaged legend drugs and devices),

1 proper and safe storage of drugs and devices, and maintenance  
2 of required records. A pharmacist who performs any of the acts  
3 defined as the practice of pharmacy in this State must be  
4 actively licensed as a pharmacist under this Act.

5 (e) "Prescription" means and includes any written, oral,  
6 facsimile, or electronically transmitted order for drugs or  
7 medical devices, issued by a physician licensed to practice  
8 medicine in all its branches, dentist, veterinarian, or  
9 podiatrist, or optometrist, within the limits of their  
10 licenses, by a physician assistant in accordance with  
11 subsection (f) of Section 4, or by an advanced practice nurse  
12 in accordance with subsection (g) of Section 4, containing the  
13 following: (1) name of the patient; (2) date when prescription  
14 was issued; (3) name and strength of drug or description of the  
15 medical device prescribed; and (4) quantity; (5) directions for  
16 use; (6) prescriber's name, address, and signature; and (7) DEA  
17 number where required, for controlled substances. The  
18 prescription may, but is not required to, list the illness,  
19 disease, or condition for which the drug or device is being  
20 prescribed. DEA numbers shall not be required on inpatient drug  
21 orders.

22 (f) "Person" means and includes a natural person,  
23 copartnership, association, corporation, government entity, or  
24 any other legal entity.

25 (g) "Department" means the Department of Financial and  
26 Professional Regulation.

1 (h) "Board of Pharmacy" or "Board" means the State Board of  
2 Pharmacy of the Department of Financial and Professional  
3 Regulation.

4 (i) "Secretary" means the Secretary of Financial and  
5 Professional Regulation.

6 (j) "Drug product selection" means the interchange for a  
7 prescribed pharmaceutical product in accordance with Section  
8 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
9 Cosmetic Act.

10 (k) "Inpatient drug order" means an order issued by an  
11 authorized prescriber for a resident or patient of a facility  
12 licensed under the Nursing Home Care Act, the MR/DD Community  
13 Care Act, the Specialized Mental Health Rehabilitation Act, or  
14 the Hospital Licensing Act, or "An Act in relation to the  
15 founding and operation of the University of Illinois Hospital  
16 and the conduct of University of Illinois health care  
17 programs", approved July 3, 1931, as amended, or a facility  
18 which is operated by the Department of Human Services (as  
19 successor to the Department of Mental Health and Developmental  
20 Disabilities) or the Department of Corrections.

21 (k-5) "Pharmacist" means an individual health care  
22 professional and provider currently licensed by this State to  
23 engage in the practice of pharmacy.

24 (l) "Pharmacist in charge" means the licensed pharmacist  
25 whose name appears on a pharmacy license and who is responsible  
26 for all aspects of the operation related to the practice of

1 pharmacy.

2 (m) "Dispense" or "dispensing" means the interpretation,  
3 evaluation, and implementation of a prescription drug order,  
4 including the preparation and delivery of a drug or device to a  
5 patient or patient's agent in a suitable container  
6 appropriately labeled for subsequent administration to or use  
7 by a patient in accordance with applicable State and federal  
8 laws and regulations. "Dispense" or "dispensing" does not mean  
9 the physical delivery to a patient or a patient's  
10 representative in a home or institution by a designee of a  
11 pharmacist or by common carrier. "Dispense" or "dispensing"  
12 also does not mean the physical delivery of a drug or medical  
13 device to a patient or patient's representative by a  
14 pharmacist's designee within a pharmacy or drugstore while the  
15 pharmacist is on duty and the pharmacy is open.

16 (n) "Nonresident pharmacy" means a pharmacy that is located  
17 in a state, commonwealth, or territory of the United States,  
18 other than Illinois, that delivers, dispenses, or distributes,  
19 through the United States Postal Service, commercially  
20 acceptable parcel delivery service, or other common carrier, to  
21 Illinois residents, any substance which requires a  
22 prescription.

23 (o) "Compounding" means the preparation and mixing of  
24 components, excluding flavorings, (1) as the result of a  
25 prescriber's prescription drug order or initiative based on the  
26 prescriber-patient-pharmacist relationship in the course of

1 professional practice or (2) for the purpose of, or incident  
2 to, research, teaching, or chemical analysis and not for sale  
3 or dispensing. "Compounding" includes the preparation of drugs  
4 or devices in anticipation of receiving prescription drug  
5 orders based on routine, regularly observed dispensing  
6 patterns. Commercially available products may be compounded  
7 for dispensing to individual patients only if all of the  
8 following conditions are met: (i) the commercial product is not  
9 reasonably available from normal distribution channels in a  
10 timely manner to meet the patient's needs and (ii) the  
11 prescribing practitioner has requested that the drug be  
12 compounded.

13 (p) (Blank).

14 (q) (Blank).

15 (r) "Patient counseling" means the communication between a  
16 pharmacist or a student pharmacist under the supervision of a  
17 pharmacist and a patient or the patient's representative about  
18 the patient's medication or device for the purpose of  
19 optimizing proper use of prescription medications or devices.  
20 "Patient counseling" may include without limitation (1)  
21 obtaining a medication history; (2) acquiring a patient's  
22 allergies and health conditions; (3) facilitation of the  
23 patient's understanding of the intended use of the medication;  
24 (4) proper directions for use; (5) significant potential  
25 adverse events; (6) potential food-drug interactions; and (7)  
26 the need to be compliant with the medication therapy. A

1 pharmacy technician may only participate in the following  
2 aspects of patient counseling under the supervision of a  
3 pharmacist: (1) obtaining medication history; (2) providing  
4 the offer for counseling by a pharmacist or student pharmacist;  
5 and (3) acquiring a patient's allergies and health conditions.

6 (s) "Patient profiles" or "patient drug therapy record"  
7 means the obtaining, recording, and maintenance of patient  
8 prescription information, including prescriptions for  
9 controlled substances, and personal information.

10 (t) (Blank).

11 (u) "Medical device" means an instrument, apparatus,  
12 implement, machine, contrivance, implant, in vitro reagent, or  
13 other similar or related article, including any component part  
14 or accessory, required under federal law to bear the label  
15 "Caution: Federal law requires dispensing by or on the order of  
16 a physician". A seller of goods and services who, only for the  
17 purpose of retail sales, compounds, sells, rents, or leases  
18 medical devices shall not, by reasons thereof, be required to  
19 be a licensed pharmacy.

20 (v) "Unique identifier" means an electronic signature,  
21 handwritten signature or initials, thumb print, or other  
22 acceptable biometric or electronic identification process as  
23 approved by the Department.

24 (w) "Current usual and customary retail price" means the  
25 price that a pharmacy charges to a non-third-party payor.

26 (x) "Automated pharmacy system" means a mechanical system

1 located within the confines of the pharmacy or remote location  
2 that performs operations or activities, other than compounding  
3 or administration, relative to storage, packaging, dispensing,  
4 or distribution of medication, and which collects, controls,  
5 and maintains all transaction information.

6 (y) "Drug regimen review" means and includes the evaluation  
7 of prescription drug orders and patient records for (1) known  
8 allergies; (2) drug or potential therapy contraindications;  
9 (3) reasonable dose, duration of use, and route of  
10 administration, taking into consideration factors such as age,  
11 gender, and contraindications; (4) reasonable directions for  
12 use; (5) potential or actual adverse drug reactions; (6)  
13 drug-drug interactions; (7) drug-food interactions; (8)  
14 drug-disease contraindications; (9) therapeutic duplication;  
15 (10) patient laboratory values when authorized and available;  
16 (11) proper utilization (including over or under utilization)  
17 and optimum therapeutic outcomes; and (12) abuse and misuse.

18 (z) "Electronic transmission prescription" means any  
19 prescription order for which a facsimile or electronic image of  
20 the order is electronically transmitted from a licensed  
21 prescriber to a pharmacy. "Electronic transmission  
22 prescription" includes both data and image prescriptions.

23 (aa) "Medication therapy management services" means a  
24 distinct service or group of services offered by licensed  
25 pharmacists, physicians licensed to practice medicine in all  
26 its branches, advanced practice nurses authorized in a written

1 agreement with a physician licensed to practice medicine in all  
2 its branches, or physician assistants authorized in guidelines  
3 by a supervising physician that optimize therapeutic outcomes  
4 for individual patients through improved medication use. In a  
5 retail or other non-hospital pharmacy, medication therapy  
6 management services shall consist of the evaluation of  
7 prescription drug orders and patient medication records to  
8 resolve conflicts with the following:

- 9 (1) known allergies;
- 10 (2) drug or potential therapy contraindications;
- 11 (3) reasonable dose, duration of use, and route of  
12 administration, taking into consideration factors such as  
13 age, gender, and contraindications;
- 14 (4) reasonable directions for use;
- 15 (5) potential or actual adverse drug reactions;
- 16 (6) drug-drug interactions;
- 17 (7) drug-food interactions;
- 18 (8) drug-disease contraindications;
- 19 (9) identification of therapeutic duplication;
- 20 (10) patient laboratory values when authorized and  
21 available;
- 22 (11) proper utilization (including over or under  
23 utilization) and optimum therapeutic outcomes; and
- 24 (12) drug abuse and misuse.

25 "Medication therapy management services" includes the  
26 following:



1           (1) documenting the services delivered and  
2           communicating the information provided to patients'  
3           prescribers within an appropriate time frame, not to exceed  
4           48 hours;

5           (2) providing patient counseling designed to enhance a  
6           patient's understanding and the appropriate use of his or  
7           her medications; and

8           (3) providing information, support services, and  
9           resources designed to enhance a patient's adherence with  
10          his or her prescribed therapeutic regimens.

11         "Medication therapy management services" may also include  
12         patient care functions authorized by a physician licensed to  
13         practice medicine in all its branches for his or her identified  
14         patient or groups of patients under specified conditions or  
15         limitations in a standing order from the physician.

16         "Medication therapy management services" in a licensed  
17         hospital may also include the following:

18                 (1) reviewing assessments of the patient's health  
19                 status; and

20                 (2) following protocols of a hospital pharmacy and  
21                 therapeutics committee with respect to the fulfillment of  
22                 medication orders.

23                 (bb) "Pharmacist care" means the provision by a pharmacist  
24                 of medication therapy management services, with or without the  
25                 dispensing of drugs or devices, intended to achieve outcomes  
26                 that improve patient health, quality of life, and comfort and

1 enhance patient safety.

2 (cc) "Protected health information" means individually  
3 identifiable health information that, except as otherwise  
4 provided, is:

5 (1) transmitted by electronic media;

6 (2) maintained in any medium set forth in the  
7 definition of "electronic media" in the federal Health  
8 Insurance Portability and Accountability Act; or

9 (3) transmitted or maintained in any other form or  
10 medium.

11 "Protected health information" does not include individually  
12 identifiable health information found in:

13 (1) education records covered by the federal Family  
14 Educational Right and Privacy Act; or

15 (2) employment records held by a licensee in its role  
16 as an employer.

17 (dd) "Standing order" means a specific order for a patient  
18 or group of patients issued by a physician licensed to practice  
19 medicine in all its branches in Illinois.

20 (ee) "Address of record" means the address recorded by the  
21 Department in the applicant's or licensee's application file or  
22 license file, as maintained by the Department's licensure  
23 maintenance unit.

24 (ff) "Home pharmacy" means the location of a pharmacy's  
25 primary operations.

26 (Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10;

1 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff.  
2 7-28-10.)

3 Section 90-160. The Nurse Agency Licensing Act is amended  
4 by changing Section 3 as follows:

5 (225 ILCS 510/3) (from Ch. 111, par. 953)

6 Sec. 3. Definitions. As used in this Act:

7 (a) "Certified nurse aide" means an individual certified as  
8 defined in Section 3-206 of the Nursing Home Care Act, Section  
9 3-206 of the Specialized Mental Health Rehabilitation Act, or  
10 Section 3-206 of the MR/DD Community Care Act, as now or  
11 hereafter amended.

12 (b) "Department" means the Department of Labor.

13 (c) "Director" means the Director of Labor.

14 (d) "Health care facility" is defined as in Section 3 of  
15 the Illinois Health Facilities Planning Act, as now or  
16 hereafter amended.

17 (e) "Licensee" means any nursing agency which is properly  
18 licensed under this Act.

19 (f) "Nurse" means a registered nurse or a licensed  
20 practical nurse as defined in the Nurse Practice Act.

21 (g) "Nurse agency" means any individual, firm,  
22 corporation, partnership or other legal entity that employs,  
23 assigns or refers nurses or certified nurse aides to a health  
24 care facility for a fee. The term "nurse agency" includes

1 nurses registries. The term "nurse agency" does not include  
2 services provided by home health agencies licensed and operated  
3 under the Home Health, Home Services, and Home Nursing Agency  
4 Licensing Act or a licensed or certified individual who  
5 provides his or her own services as a regular employee of a  
6 health care facility, nor does it apply to a health care  
7 facility's organizing nonsalaried employees to provide  
8 services only in that facility.

9 (Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

10 Section 90-165. The Illinois Public Aid Code is amended by  
11 changing Sections 5-5.4, 5-6, 5B-2, 5B-4, 5B-8, 5E-5, and 8A-11  
12 as follows:

13 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

14 Sec. 5-5.4. Standards of Payment - Department of Healthcare  
15 and Family Services. The Department of Healthcare and Family  
16 Services shall develop standards of payment of nursing facility  
17 and ICF/DD services in facilities providing such services under  
18 this Article which:

19 (1) Provide for the determination of a facility's payment  
20 for nursing facility or ICF/DD services on a prospective basis.  
21 The amount of the payment rate for all nursing facilities  
22 certified by the Department of Public Health under the MR/DD  
23 Community Care Act or the Nursing Home Care Act as Intermediate  
24 Care for the Developmentally Disabled facilities, Long Term

1 Care for Under Age 22 facilities, Skilled Nursing facilities,  
2 or Intermediate Care facilities under the medical assistance  
3 program shall be prospectively established annually on the  
4 basis of historical, financial, and statistical data  
5 reflecting actual costs from prior years, which shall be  
6 applied to the current rate year and updated for inflation,  
7 except that the capital cost element for newly constructed  
8 facilities shall be based upon projected budgets. The annually  
9 established payment rate shall take effect on July 1 in 1984  
10 and subsequent years. No rate increase and no update for  
11 inflation shall be provided on or after July 1, 1994 and before  
12 July 1, 2012, unless specifically provided for in this Section.  
13 The changes made by Public Act 93-841 extending the duration of  
14 the prohibition against a rate increase or update for inflation  
15 are effective retroactive to July 1, 2004.

16 For facilities licensed by the Department of Public Health  
17 under the Nursing Home Care Act as Intermediate Care for the  
18 Developmentally Disabled facilities or Long Term Care for Under  
19 Age 22 facilities, the rates taking effect on July 1, 1998  
20 shall include an increase of 3%. For facilities licensed by the  
21 Department of Public Health under the Nursing Home Care Act as  
22 Skilled Nursing facilities or Intermediate Care facilities,  
23 the rates taking effect on July 1, 1998 shall include an  
24 increase of 3% plus \$1.10 per resident-day, as defined by the  
25 Department. For facilities licensed by the Department of Public  
26 Health under the Nursing Home Care Act as Intermediate Care

1 Facilities for the Developmentally Disabled or Long Term Care  
2 for Under Age 22 facilities, the rates taking effect on January  
3 1, 2006 shall include an increase of 3%. For facilities  
4 licensed by the Department of Public Health under the Nursing  
5 Home Care Act as Intermediate Care Facilities for the  
6 Developmentally Disabled or Long Term Care for Under Age 22  
7 facilities, the rates taking effect on January 1, 2009 shall  
8 include an increase sufficient to provide a \$0.50 per hour wage  
9 increase for non-executive staff.

10 For facilities licensed by the Department of Public Health  
11 under the Nursing Home Care Act as Intermediate Care for the  
12 Developmentally Disabled facilities or Long Term Care for Under  
13 Age 22 facilities, the rates taking effect on July 1, 1999  
14 shall include an increase of 1.6% plus \$3.00 per resident-day,  
15 as defined by the Department. For facilities licensed by the  
16 Department of Public Health under the Nursing Home Care Act as  
17 Skilled Nursing facilities or Intermediate Care facilities,  
18 the rates taking effect on July 1, 1999 shall include an  
19 increase of 1.6% and, for services provided on or after October  
20 1, 1999, shall be increased by \$4.00 per resident-day, as  
21 defined by the Department.

22 For facilities licensed by the Department of Public Health  
23 under the Nursing Home Care Act as Intermediate Care for the  
24 Developmentally Disabled facilities or Long Term Care for Under  
25 Age 22 facilities, the rates taking effect on July 1, 2000  
26 shall include an increase of 2.5% per resident-day, as defined

1 by the Department. For facilities licensed by the Department of  
2 Public Health under the Nursing Home Care Act as Skilled  
3 Nursing facilities or Intermediate Care facilities, the rates  
4 taking effect on July 1, 2000 shall include an increase of 2.5%  
5 per resident-day, as defined by the Department.

6 For facilities licensed by the Department of Public Health  
7 under the Nursing Home Care Act as skilled nursing facilities  
8 or intermediate care facilities, a new payment methodology must  
9 be implemented for the nursing component of the rate effective  
10 July 1, 2003. The Department of Public Aid (now Healthcare and  
11 Family Services) shall develop the new payment methodology  
12 using the Minimum Data Set (MDS) as the instrument to collect  
13 information concerning nursing home resident condition  
14 necessary to compute the rate. The Department shall develop the  
15 new payment methodology to meet the unique needs of Illinois  
16 nursing home residents while remaining subject to the  
17 appropriations provided by the General Assembly. A transition  
18 period from the payment methodology in effect on June 30, 2003  
19 to the payment methodology in effect on July 1, 2003 shall be  
20 provided for a period not exceeding 3 years and 184 days after  
21 implementation of the new payment methodology as follows:

22 (A) For a facility that would receive a lower nursing  
23 component rate per patient day under the new system than  
24 the facility received effective on the date immediately  
25 preceding the date that the Department implements the new  
26 payment methodology, the nursing component rate per

1 patient day for the facility shall be held at the level in  
2 effect on the date immediately preceding the date that the  
3 Department implements the new payment methodology until a  
4 higher nursing component rate of reimbursement is achieved  
5 by that facility.

6 (B) For a facility that would receive a higher nursing  
7 component rate per patient day under the payment  
8 methodology in effect on July 1, 2003 than the facility  
9 received effective on the date immediately preceding the  
10 date that the Department implements the new payment  
11 methodology, the nursing component rate per patient day for  
12 the facility shall be adjusted.

13 (C) Notwithstanding paragraphs (A) and (B), the  
14 nursing component rate per patient day for the facility  
15 shall be adjusted subject to appropriations provided by the  
16 General Assembly.

17 For facilities licensed by the Department of Public Health  
18 under the Nursing Home Care Act as Intermediate Care for the  
19 Developmentally Disabled facilities or Long Term Care for Under  
20 Age 22 facilities, the rates taking effect on March 1, 2001  
21 shall include a statewide increase of 7.85%, as defined by the  
22 Department.

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, except facilities participating



1 in the Department's demonstration program pursuant to the  
2 provisions of Title 77, Part 300, Subpart T of the Illinois  
3 Administrative Code, the numerator of the ratio used by the  
4 Department of Healthcare and Family Services to compute the  
5 rate payable under this Section using the Minimum Data Set  
6 (MDS) methodology shall incorporate the following annual  
7 amounts as the additional funds appropriated to the Department  
8 specifically to pay for rates based on the MDS nursing  
9 component methodology in excess of the funding in effect on  
10 December 31, 2006:

11 (i) For rates taking effect January 1, 2007,  
12 \$60,000,000.

13 (ii) For rates taking effect January 1, 2008,  
14 \$110,000,000.

15 (iii) For rates taking effect January 1, 2009,  
16 \$194,000,000.

17 (iv) For rates taking effect April 1, 2011, or the  
18 first day of the month that begins at least 45 days after  
19 the effective date of this amendatory Act of the 96th  
20 General Assembly, \$416,500,000 or an amount as may be  
21 necessary to complete the transition to the MDS methodology  
22 for the nursing component of the rate. Increased payments  
23 under this item (iv) are not due and payable, however,  
24 until (i) the methodologies described in this paragraph are  
25 approved by the federal government in an appropriate State  
26 Plan amendment and (ii) the assessment imposed by Section

1       5B-2 of this Code is determined to be a permissible tax  
2       under Title XIX of the Social Security Act.

3       Notwithstanding any other provision of this Section, for  
4 facilities licensed by the Department of Public Health under  
5 the Nursing Home Care Act as skilled nursing facilities or  
6 intermediate care facilities, the support component of the  
7 rates taking effect on January 1, 2008 shall be computed using  
8 the most recent cost reports on file with the Department of  
9 Healthcare and Family Services no later than April 1, 2005,  
10 updated for inflation to January 1, 2006.

11       For facilities licensed by the Department of Public Health  
12 under the Nursing Home Care Act as Intermediate Care for the  
13 Developmentally Disabled facilities or Long Term Care for Under  
14 Age 22 facilities, the rates taking effect on April 1, 2002  
15 shall include a statewide increase of 2.0%, as defined by the  
16 Department. This increase terminates on July 1, 2002; beginning  
17 July 1, 2002 these rates are reduced to the level of the rates  
18 in effect on March 31, 2002, as defined by the Department.

19       For facilities licensed by the Department of Public Health  
20 under the Nursing Home Care Act as skilled nursing facilities  
21 or intermediate care facilities, the rates taking effect on  
22 July 1, 2001 shall be computed using the most recent cost  
23 reports on file with the Department of Public Aid no later than  
24 April 1, 2000, updated for inflation to January 1, 2001. For  
25 rates effective July 1, 2001 only, rates shall be the greater  
26 of the rate computed for July 1, 2001 or the rate effective on

1 June 30, 2001.

2 Notwithstanding any other provision of this Section, for  
3 facilities licensed by the Department of Public Health under  
4 the Nursing Home Care Act as skilled nursing facilities or  
5 intermediate care facilities, the Illinois Department shall  
6 determine by rule the rates taking effect on July 1, 2002,  
7 which shall be 5.9% less than the rates in effect on June 30,  
8 2002.

9 Notwithstanding any other provision of this Section, for  
10 facilities licensed by the Department of Public Health under  
11 the Nursing Home Care Act as skilled nursing facilities or  
12 intermediate care facilities, if the payment methodologies  
13 required under Section 5A-12 and the waiver granted under 42  
14 CFR 433.68 are approved by the United States Centers for  
15 Medicare and Medicaid Services, the rates taking effect on July  
16 1, 2004 shall be 3.0% greater than the rates in effect on June  
17 30, 2004. These rates shall take effect only upon approval and  
18 implementation of the payment methodologies required under  
19 Section 5A-12.

20 Notwithstanding any other provisions of this Section, for  
21 facilities licensed by the Department of Public Health under  
22 the Nursing Home Care Act as skilled nursing facilities or  
23 intermediate care facilities, the rates taking effect on  
24 January 1, 2005 shall be 3% more than the rates in effect on  
25 December 31, 2004.

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, effective January 1, 2009, the  
4 per diem support component of the rates effective on January 1,  
5 2008, computed using the most recent cost reports on file with  
6 the Department of Healthcare and Family Services no later than  
7 April 1, 2005, updated for inflation to January 1, 2006, shall  
8 be increased to the amount that would have been derived using  
9 standard Department of Healthcare and Family Services methods,  
10 procedures, and inflators.

11 Notwithstanding any other provisions of this Section, for  
12 facilities licensed by the Department of Public Health under  
13 the Nursing Home Care Act as intermediate care facilities that  
14 are federally defined as Institutions for Mental Disease, a  
15 socio-development component rate equal to 6.6% of the  
16 facility's nursing component rate as of January 1, 2006 shall  
17 be established and paid effective July 1, 2006. The  
18 socio-development component of the rate shall be increased by a  
19 factor of 2.53 on the first day of the month that begins at  
20 least 45 days after January 11, 2008 (the effective date of  
21 Public Act 95-707). As of August 1, 2008, the socio-development  
22 component rate shall be equal to 6.6% of the facility's nursing  
23 component rate as of January 1, 2006, multiplied by a factor of  
24 3.53. For services provided on or after April 1, 2011, or the  
25 first day of the month that begins at least 45 days after the  
26 effective date of this amendatory Act of the 96th General

1 Assembly, whichever is later, the Illinois Department may by  
2 rule adjust these socio-development component rates, and may  
3 use different adjustment methodologies for those facilities  
4 participating, and those not participating, in the Illinois  
5 Department's demonstration program pursuant to the provisions  
6 of Title 77, Part 300, Subpart T of the Illinois Administrative  
7 Code, but in no case may such rates be diminished below those  
8 in effect on August 1, 2008.

9 For facilities licensed by the Department of Public Health  
10 under the Nursing Home Care Act as Intermediate Care for the  
11 Developmentally Disabled facilities or as long-term care  
12 facilities for residents under 22 years of age, the rates  
13 taking effect on July 1, 2003 shall include a statewide  
14 increase of 4%, as defined by the Department.

15 For facilities licensed by the Department of Public Health  
16 under the Nursing Home Care Act as Intermediate Care for the  
17 Developmentally Disabled facilities or Long Term Care for Under  
18 Age 22 facilities, the rates taking effect on the first day of  
19 the month that begins at least 45 days after the effective date  
20 of this amendatory Act of the 95th General Assembly shall  
21 include a statewide increase of 2.5%, as defined by the  
22 Department.

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, 2005,

1 facility rates shall be increased by the difference between (i)  
2 a facility's per diem property, liability, and malpractice  
3 insurance costs as reported in the cost report filed with the  
4 Department of Public Aid and used to establish rates effective  
5 July 1, 2001 and (ii) those same costs as reported in the  
6 facility's 2002 cost report. These costs shall be passed  
7 through to the facility without caps or limitations, except for  
8 adjustments required under normal auditing procedures.

9 Rates established effective each July 1 shall govern  
10 payment for services rendered throughout that fiscal year,  
11 except that rates established on July 1, 1996 shall be  
12 increased by 6.8% for services provided on or after January 1,  
13 1997. Such rates will be based upon the rates calculated for  
14 the year beginning July 1, 1990, and for subsequent years  
15 thereafter until June 30, 2001 shall be based on the facility  
16 cost reports for the facility fiscal year ending at any point  
17 in time during the previous calendar year, updated to the  
18 midpoint of the rate year. The cost report shall be on file  
19 with the Department no later than April 1 of the current rate  
20 year. Should the cost report not be on file by April 1, the  
21 Department shall base the rate on the latest cost report filed  
22 by each skilled care facility and intermediate care facility,  
23 updated to the midpoint of the current rate year. In  
24 determining rates for services rendered on and after July 1,  
25 1985, fixed time shall not be computed at less than zero. The  
26 Department shall not make any alterations of regulations which

1 would reduce any component of the Medicaid rate to a level  
2 below what that component would have been utilizing in the rate  
3 effective on July 1, 1984.

4 (2) Shall take into account the actual costs incurred by  
5 facilities in providing services for recipients of skilled  
6 nursing and intermediate care services under the medical  
7 assistance program.

8 (3) Shall take into account the medical and psycho-social  
9 characteristics and needs of the patients.

10 (4) Shall take into account the actual costs incurred by  
11 facilities in meeting licensing and certification standards  
12 imposed and prescribed by the State of Illinois, any of its  
13 political subdivisions or municipalities and by the U.S.  
14 Department of Health and Human Services pursuant to Title XIX  
15 of the Social Security Act.

16 The Department of Healthcare and Family Services shall  
17 develop precise standards for payments to reimburse nursing  
18 facilities for any utilization of appropriate rehabilitative  
19 personnel for the provision of rehabilitative services which is  
20 authorized by federal regulations, including reimbursement for  
21 services provided by qualified therapists or qualified  
22 assistants, and which is in accordance with accepted  
23 professional practices. Reimbursement also may be made for  
24 utilization of other supportive personnel under appropriate  
25 supervision.

26 The Department shall develop enhanced payments to offset

1 the additional costs incurred by a facility serving exceptional  
2 need residents and shall allocate at least \$8,000,000 of the  
3 funds collected from the assessment established by Section 5B-2  
4 of this Code for such payments. For the purpose of this  
5 Section, "exceptional needs" means, but need not be limited to,  
6 ventilator care, tracheotomy care, bariatric care, complex  
7 wound care, and traumatic brain injury care. The enhanced  
8 payments for exceptional need residents under this paragraph  
9 are not due and payable, however, until (i) the methodologies  
10 described in this paragraph are approved by the federal  
11 government in an appropriate State Plan amendment and (ii) the  
12 assessment imposed by Section 5B-2 of this Code is determined  
13 to be a permissible tax under Title XIX of the Social Security  
14 Act.

15 (5) Beginning July 1, 2012 the methodologies for  
16 reimbursement of nursing facility services as provided under  
17 this Section 5-5.4 shall no longer be applicable for bills  
18 payable for State fiscal years 2012 and thereafter.

19 (6) No payment increase under this Section for the MDS  
20 methodology, exceptional care residents, or the  
21 socio-development component rate established by Public Act  
22 96-1530 of the 96th General Assembly and funded by the  
23 assessment imposed under Section 5B-2 of this Code shall be due  
24 and payable until after the Department notifies the long-term  
25 care providers, in writing, that the payment methodologies to  
26 long-term care providers required under this Section have been



1 approved by the Centers for Medicare and Medicaid Services of  
2 the U.S. Department of Health and Human Services and the  
3 waivers under 42 CFR 433.68 for the assessment imposed by this  
4 Section, if necessary, have been granted by the Centers for  
5 Medicare and Medicaid Services of the U.S. Department of Health  
6 and Human Services. Upon notification to the Department of  
7 approval of the payment methodologies required under this  
8 Section and the waivers granted under 42 CFR 433.68, all  
9 increased payments otherwise due under this Section prior to  
10 the date of notification shall be due and payable within 90  
11 days of the date federal approval is received.

12 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,  
13 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;  
14 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;  
15 96-1530, eff. 2-16-11.)

16 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

17 Sec. 5-6. Obligations incurred prior to death of a  
18 recipient. Obligations incurred but not paid for at the time of  
19 a recipient's death for services authorized under Section 5-5,  
20 including medical and other care in ~~group care~~ facilities as  
21 defined in the Nursing Home Care Act, the Specialized Mental  
22 Health Rehabilitation Act, or the MR/DD Community Care Act, or  
23 in like facilities not required to be licensed under that Act,  
24 may be paid, subject to the rules and regulations of the  
25 Illinois Department, after the death of the recipient.

1 (Source: P.A. 96-339, eff. 7-1-10.)

2 (305 ILCS 5/5B-2) (from Ch. 23, par. 5B-2)

3 Sec. 5B-2. Assessment; no local authorization to tax.

4 (a) For the privilege of engaging in the occupation of  
5 long-term care provider, beginning July 1, 2011 an assessment  
6 is imposed upon each long-term care provider in an amount equal  
7 to \$6.07 times the number of occupied bed days due and payable  
8 each month. Notwithstanding any provision of any other Act to  
9 the contrary, this assessment shall be construed as a tax, but  
10 may not be added to the charges of an individual's nursing home  
11 care that is paid for in whole, or in part, by a federal,  
12 State, or combined federal-state medical care program.

13 (b) Nothing in this amendatory Act of 1992 shall be  
14 construed to authorize any home rule unit or other unit of  
15 local government to license for revenue or impose a tax or  
16 assessment upon long-term care providers or the occupation of  
17 long-term care provider, or a tax or assessment measured by the  
18 income or earnings or occupied bed days of a long-term care  
19 provider.

20 (c) The assessment imposed by this Section shall not be due  
21 and payable, however, until after the Department notifies the  
22 long-term care providers, in writing, that the payment  
23 methodologies to long-term care providers required under  
24 Section 5-5.4 of this Code have been approved by the Centers  
25 for Medicare and Medicaid Services of the U.S. Department of

1 Health and Human Services and the waivers under 42 CFR 433.68  
2 for the assessment imposed by this Section, if necessary, have  
3 been granted by the Centers for Medicare and Medicaid Services  
4 of the U.S. Department of Health and Human Services.

5 (Source: P.A. 96-1530, eff. 2-16-11.)

6 (305 ILCS 5/5B-4) (from Ch. 23, par. 5B-4)

7 Sec. 5B-4. Payment of assessment; penalty.

8 (a) The assessment imposed by Section 5B-2 shall be due and  
9 payable monthly, on the last State business day of the month  
10 for occupied bed days reported for the preceding third month  
11 prior to the month in which the tax is payable and due. A  
12 facility that has delayed payment due to the State's failure to  
13 reimburse for services rendered may request an extension on the  
14 due date for payment pursuant to subsection (b) and shall pay  
15 the assessment within 30 days of reimbursement by the  
16 Department. The Illinois Department may provide that county  
17 nursing homes directed and maintained pursuant to Section  
18 5-1005 of the Counties Code may meet their assessment  
19 obligation by certifying to the Illinois Department that county  
20 expenditures have been obligated for the operation of the  
21 county nursing home in an amount at least equal to the amount  
22 of the assessment.

23 (a-5) Each assessment payment shall be accompanied by an  
24 assessment report to be completed by the long-term care  
25 provider. A separate report shall be completed for each

1 long-term care facility in this State operated by a long-term  
2 care provider. The report shall be in a form and manner  
3 prescribed by the Illinois Department and shall at a minimum  
4 provide for the reporting of the number of occupied bed days of  
5 the long-term care facility for the reporting period and other  
6 reasonable information the Illinois Department requires for  
7 the administration of its responsibilities under this Code. To  
8 the extent practicable, the Department shall coordinate the  
9 assessment reporting requirements with other reporting  
10 required of long-term care facilities.

11 (b) The Illinois Department is authorized to establish  
12 delayed payment schedules for long-term care providers that are  
13 unable to make assessment payments when due under this Section  
14 due to financial difficulties, as determined by the Illinois  
15 Department. The Illinois Department may not deny a request for  
16 delay of payment of the assessment imposed under this Article  
17 if the long-term care provider has not been paid for services  
18 provided during the month on which the assessment is levied.

19 (c) If a long-term care provider fails to pay the full  
20 amount of an assessment payment when due (including any  
21 extensions granted under subsection (b)), there shall, unless  
22 waived by the Illinois Department for reasonable cause, be  
23 added to the assessment imposed by Section 5B-2 a penalty  
24 assessment equal to the lesser of (i) 5% of the amount of the  
25 assessment payment not paid on or before the due date plus 5%  
26 of the portion thereof remaining unpaid on the last day of each

1 month thereafter or (ii) 100% of the assessment payment amount  
2 not paid on or before the due date. For purposes of this  
3 subsection, payments will be credited first to unpaid  
4 assessment payment amounts (rather than to penalty or  
5 interest), beginning with the most delinquent assessment  
6 payments. Payment cycles of longer than 60 days shall be one  
7 factor the Director takes into account in granting a waiver  
8 under this Section.

9 (c-5) If a long-term care provider fails to file its report  
10 with payment, there shall, unless waived by the Illinois  
11 Department for reasonable cause, be added to the assessment due  
12 a penalty assessment equal to 25% of the assessment due.

13 (d) Nothing in this amendatory Act of 1993 shall be  
14 construed to prevent the Illinois Department from collecting  
15 all amounts due under this Article pursuant to an assessment  
16 imposed before the effective date of this amendatory Act of  
17 1993.

18 (e) Nothing in this amendatory Act of the 96th General  
19 Assembly shall be construed to prevent the Illinois Department  
20 from collecting all amounts due under this Code pursuant to an  
21 assessment, tax, fee, or penalty imposed before the effective  
22 date of this amendatory Act of the 96th General Assembly.

23 (f) No installment of the assessment imposed by Section  
24 5B-2 shall be due and payable until after the Department  
25 notifies the long-term care providers, in writing, that the  
26 payment methodologies to long-term care providers required

1 under Section 5-5.4 of this Code have been approved by the  
2 Centers for Medicare and Medicaid Services of the U.S.  
3 Department of Health and Human Services and the waivers under  
4 42 CFR 433.68 for the assessment imposed by this Section, if  
5 necessary, have been granted by the Centers for Medicare and  
6 Medicaid Services of the U.S. Department of Health and Human  
7 Services. Upon notification to the Department of approval of  
8 the payment methodologies required under Section 5-5.4 of this  
9 Code and the waivers granted under 42 CFR 433.68, all  
10 installments otherwise due under Section 5B-4 prior to the date  
11 of notification shall be due and payable to the Department upon  
12 written direction from the Department within 90 days after  
13 issuance by the Comptroller of the payments required under  
14 Section 5-5.4 of this Code.

15 (Source: P.A. 96-444, eff. 8-14-09; 96-1530, eff. 2-16-11.)

16 (305 ILCS 5/5B-8) (from Ch. 23, par. 5B-8)

17 Sec. 5B-8. Long-Term Care Provider Fund.

18 (a) There is created in the State Treasury the Long-Term  
19 Care Provider Fund. Interest earned by the Fund shall be  
20 credited to the Fund. The Fund shall not be used to replace any  
21 moneys appropriated to the Medicaid program by the General  
22 Assembly.

23 (b) The Fund is created for the purpose of receiving and  
24 disbursing moneys in accordance with this Article.  
25 Disbursements from the Fund shall be made only as follows:

1           (1) For payments to nursing facilities, including  
2 county nursing facilities but excluding State-operated  
3 facilities, under Title XIX of the Social Security Act and  
4 Article V of this Code.

5           (2) For the reimbursement of moneys collected by the  
6 Illinois Department through error or mistake.

7           (3) For payment of administrative expenses incurred by  
8 the Illinois Department or its agent in performing the  
9 activities authorized by this Article.

10          (3.5) For reimbursement of expenses incurred by  
11 long-term care facilities, and payment of administrative  
12 expenses incurred by the Department of Public Health, in  
13 relation to the conduct and analysis of background checks  
14 for identified offenders under the Nursing Home Care Act.

15          (4) For payments of any amounts that are reimbursable  
16 to the federal government for payments from this Fund that  
17 are required to be paid by State warrant.

18          (5) For making transfers to the General Obligation Bond  
19 Retirement and Interest Fund, as those transfers are  
20 authorized in the proceedings authorizing debt under the  
21 Short Term Borrowing Act, but transfers made under this  
22 paragraph (5) shall not exceed the principal amount of debt  
23 issued in anticipation of the receipt by the State of  
24 moneys to be deposited into the Fund.

25          (6) For making transfers, at the direction of the  
26 Director of the Governor's Office of Management and Budget

1 during each fiscal year beginning on or after July 1, 2011,  
2 to other State funds in an annual amount of \$20,000,000 of  
3 the tax collected pursuant to this Article for the purpose  
4 of enforcement of nursing home standards, support of the  
5 ombudsman program, and efforts to expand home and  
6 community-based services. No transfer under this paragraph  
7 shall occur until (i) the payment methodologies created by  
8 Public Act 96-1530 under Section 5-5.4 of this Code have  
9 been approved by the Centers for Medicare and Medicaid  
10 Services of the U.S. Department of Health and Human  
11 Services and (ii) the assessment imposed by Section 5B-2 of  
12 this Code is determined to be a permissible tax under Title  
13 XIX of the Social Security Act.

14 Disbursements from the Fund, other than transfers made  
15 pursuant to paragraphs (5) and (6) of this subsection, shall be  
16 by warrants drawn by the State Comptroller upon receipt of  
17 vouchers duly executed and certified by the Illinois  
18 Department.

19 (c) The Fund shall consist of the following:

20 (1) All moneys collected or received by the Illinois  
21 Department from the long-term care provider assessment  
22 imposed by this Article.

23 (2) All federal matching funds received by the Illinois  
24 Department as a result of expenditures made by the Illinois  
25 Department that are attributable to moneys deposited in the  
26 Fund.



1           (3) Any interest or penalty levied in conjunction with  
2           the administration of this Article.

3           (4) (Blank).

4           (5) All other monies received for the Fund from any  
5           other source, including interest earned thereon.

6           (Source: P.A. 95-707, eff. 1-11-08; 96-1530, eff. 2-16-11.)

7           (305 ILCS 5/5E-5)

8           Sec. 5E-5. Definitions. As used in this Article, unless the  
9           context requires otherwise:

10          "Nursing home" means (i) a skilled nursing or intermediate  
11          long-term care facility, whether public or private and whether  
12          organized for profit or not-for-profit, that is subject to  
13          licensure by the Illinois Department of Public Health under the  
14          Nursing Home Care Act or the MR/DD Community Care Act,  
15          including a county nursing home directed and maintained under  
16          Section 5-1005 of the Counties Code, and (ii) a part of a  
17          hospital in which skilled or intermediate long-term care  
18          services within the meaning of Title XVIII or XIX of the Social  
19          Security Act are provided; except that the term "nursing home"  
20          does not include a facility operated solely as an intermediate  
21          care facility for the mentally retarded within the meaning of  
22          Title XIX of the Social Security Act or to mental health  
23          rehabilitation facilities for the mentally ill.

24          "Nursing home provider" means (i) a person licensed by the  
25          Department of Public Health to operate and maintain a skilled

1 nursing or intermediate long-term care facility which charges  
2 its residents, a third party payor, Medicaid, or Medicare for  
3 skilled nursing or intermediate long-term care services, or  
4 (ii) a hospital provider that provides skilled or intermediate  
5 long-term care services within the meaning of Title XVIII or  
6 XIX of the Social Security Act. "Nursing home provider" does  
7 not include a person who operates or a provider who provides  
8 services within a mental health rehabilitation facility. For  
9 purposes of this paragraph, "person" means any political  
10 subdivision of the State, municipal corporation, individual,  
11 firm, partnership, corporation, company, limited liability  
12 company, association, joint stock association, or trust, or a  
13 receiver, executor, trustee, guardian, or other representative  
14 appointed by order of any court. "Hospital provider" means a  
15 person licensed by the Department of Public Health to conduct,  
16 operate, or maintain a hospital.

17 "Licensed bed days" shall be computed separately for each  
18 nursing home operated or maintained by a nursing home provider  
19 and means, with respect to a nursing home provider, the sum for  
20 all nursing home beds of the number of days during a calendar  
21 quarter on which each bed is covered by a license issued to  
22 that provider under the Nursing Home Care Act or the Hospital  
23 Licensing Act.

24 (Source: P.A. 96-339, eff. 7-1-10.)

1           Sec. 8A-11. (a) No person shall:

2           (1) Knowingly charge a resident of a nursing home for  
3 any services provided pursuant to Article V of the Illinois  
4 Public Aid Code, money or other consideration at a rate in  
5 excess of the rates established for covered services by the  
6 Illinois Department pursuant to Article V of The Illinois  
7 Public Aid Code; or

8           (2) Knowingly charge, solicit, accept or receive, in  
9 addition to any amount otherwise authorized or required to  
10 be paid pursuant to Article V of The Illinois Public Aid  
11 Code, any gift, money, donation or other consideration:

12           (i) As a precondition to admitting or expediting  
13 the admission of a recipient or applicant, pursuant to  
14 Article V of The Illinois Public Aid Code, to a  
15 long-term care facility as defined in Section 1-113 of  
16 the Nursing Home Care Act or a facility as defined in  
17 Section 1-113 of the MR/DD Community Care Act or  
18 Section 1-113 of the Specialized Mental Health  
19 Rehabilitation Act; and

20           (ii) As a requirement for the recipient's or  
21 applicant's continued stay in such facility when the  
22 cost of the services provided therein to the recipient  
23 is paid for, in whole or in part, pursuant to Article V  
24 of The Illinois Public Aid Code.

25           (b) Nothing herein shall prohibit a person from making a  
26 voluntary contribution, gift or donation to a long-term care

1 facility.

2 (c) This paragraph shall not apply to agreements to provide  
3 continuing care or life care between a life care facility as  
4 defined by the Life Care Facilities Act, and a person  
5 financially eligible for benefits pursuant to Article V of The  
6 Illinois Public Aid Code.

7 (d) Any person who violates this Section shall be guilty of  
8 a business offense and fined not less than \$5,000 nor more than  
9 \$25,000.

10 (e) "Person", as used in this Section, means an individual,  
11 corporation, partnership, or unincorporated association.

12 (f) The State's Attorney of the county in which the  
13 facility is located and the Attorney General shall be notified  
14 by the Illinois Department of any alleged violations of this  
15 Section known to the Department.

16 (g) The Illinois Department shall adopt rules and  
17 regulations to carry out the provisions of this Section.

18 (Source: P.A. 96-339, eff. 7-1-10.)

19 Section 90-175. The Elder Abuse and Neglect Act is amended  
20 by changing Section 2 as follows:

21 (320 ILCS 20/2) (from Ch. 23, par. 6602)

22 Sec. 2. Definitions. As used in this Act, unless the  
23 context requires otherwise:

24 (a) "Abuse" means causing any physical, mental or sexual

1 injury to an eligible adult, including exploitation of such  
2 adult's financial resources.

3 Nothing in this Act shall be construed to mean that an  
4 eligible adult is a victim of abuse, neglect, or self-neglect  
5 for the sole reason that he or she is being furnished with or  
6 relies upon treatment by spiritual means through prayer alone,  
7 in accordance with the tenets and practices of a recognized  
8 church or religious denomination.

9 Nothing in this Act shall be construed to mean that an  
10 eligible adult is a victim of abuse because of health care  
11 services provided or not provided by licensed health care  
12 professionals.

13 (a-5) "Abuser" means a person who abuses, neglects, or  
14 financially exploits an eligible adult.

15 (a-7) "Caregiver" means a person who either as a result of  
16 a family relationship, voluntarily, or in exchange for  
17 compensation has assumed responsibility for all or a portion of  
18 the care of an eligible adult who needs assistance with  
19 activities of daily living.

20 (b) "Department" means the Department on Aging of the State  
21 of Illinois.

22 (c) "Director" means the Director of the Department.

23 (d) "Domestic living situation" means a residence where the  
24 eligible adult lives alone or with his or her family or a  
25 caregiver, or others, or a board and care home or other  
26 community-based unlicensed facility, but is not:

1 (1) A licensed facility as defined in Section 1-113 of  
2 the Nursing Home Care Act;

3 (1.5) A facility licensed under the MR/DD Community  
4 Care Act;

5 (1.7) A facility licensed under the Specialized Mental  
6 Health Rehabilitation Act;

7 (2) A "life care facility" as defined in the Life Care  
8 Facilities Act;

9 (3) A home, institution, or other place operated by the  
10 federal government or agency thereof or by the State of  
11 Illinois;

12 (4) A hospital, sanitarium, or other institution, the  
13 principal activity or business of which is the diagnosis,  
14 care, and treatment of human illness through the  
15 maintenance and operation of organized facilities  
16 therefor, which is required to be licensed under the  
17 Hospital Licensing Act;

18 (5) A "community living facility" as defined in the  
19 Community Living Facilities Licensing Act;

20 (6) (Blank);

21 (7) A "community-integrated living arrangement" as  
22 defined in the Community-Integrated Living Arrangements  
23 Licensure and Certification Act;

24 (8) An assisted living or shared housing establishment  
25 as defined in the Assisted Living and Shared Housing Act;

26 or

1           (9) A supportive living facility as described in  
2           Section 5-5.01a of the Illinois Public Aid Code.

3           (e) "Eligible adult" means a person 60 years of age or  
4           older who resides in a domestic living situation and is, or is  
5           alleged to be, abused, neglected, or financially exploited by  
6           another individual or who neglects himself or herself.

7           (f) "Emergency" means a situation in which an eligible  
8           adult is living in conditions presenting a risk of death or  
9           physical, mental or sexual injury and the provider agency has  
10          reason to believe the eligible adult is unable to consent to  
11          services which would alleviate that risk.

12          (f-5) "Mandated reporter" means any of the following  
13          persons while engaged in carrying out their professional  
14          duties:

15               (1) a professional or professional's delegate while  
16               engaged in: (i) social services, (ii) law enforcement,  
17               (iii) education, (iv) the care of an eligible adult or  
18               eligible adults, or (v) any of the occupations required to  
19               be licensed under the Clinical Psychologist Licensing Act,  
20               the Clinical Social Work and Social Work Practice Act, the  
21               Illinois Dental Practice Act, the Dietetic and Nutrition  
22               Services Practice Act, the Marriage and Family Therapy  
23               Licensing Act, the Medical Practice Act of 1987, the  
24               Naprathic Practice Act, the Nurse Practice Act, the  
25               Nursing Home Administrators Licensing and Disciplinary  
26               Act, the Illinois Occupational Therapy Practice Act, the

1 Illinois Optometric Practice Act of 1987, the Pharmacy  
2 Practice Act, the Illinois Physical Therapy Act, the  
3 Physician Assistant Practice Act of 1987, the Podiatric  
4 Medical Practice Act of 1987, the Respiratory Care Practice  
5 Act, the Professional Counselor and Clinical Professional  
6 Counselor Licensing Act, the Illinois Speech-Language  
7 Pathology and Audiology Practice Act, the Veterinary  
8 Medicine and Surgery Practice Act of 2004, and the Illinois  
9 Public Accounting Act;

10 (2) an employee of a vocational rehabilitation  
11 facility prescribed or supervised by the Department of  
12 Human Services;

13 (3) an administrator, employee, or person providing  
14 services in or through an unlicensed community based  
15 facility;

16 (4) any religious practitioner who provides treatment  
17 by prayer or spiritual means alone in accordance with the  
18 tenets and practices of a recognized church or religious  
19 denomination, except as to information received in any  
20 confession or sacred communication enjoined by the  
21 discipline of the religious denomination to be held  
22 confidential;

23 (5) field personnel of the Department of Healthcare and  
24 Family Services, Department of Public Health, and  
25 Department of Human Services, and any county or municipal  
26 health department;



1           (6) personnel of the Department of Human Services, the  
2           Guardianship and Advocacy Commission, the State Fire  
3           Marshal, local fire departments, the Department on Aging  
4           and its subsidiary Area Agencies on Aging and provider  
5           agencies, and the Office of State Long Term Care Ombudsman;

6           (7) any employee of the State of Illinois not otherwise  
7           specified herein who is involved in providing services to  
8           eligible adults, including professionals providing medical  
9           or rehabilitation services and all other persons having  
10          direct contact with eligible adults;

11          (8) a person who performs the duties of a coroner or  
12          medical examiner; or

13          (9) a person who performs the duties of a paramedic or  
14          an emergency medical technician.

15          (g) "Neglect" means another individual's failure to  
16          provide an eligible adult with or willful withholding from an  
17          eligible adult the necessities of life including, but not  
18          limited to, food, clothing, shelter or health care. This  
19          subsection does not create any new affirmative duty to provide  
20          support to eligible adults. Nothing in this Act shall be  
21          construed to mean that an eligible adult is a victim of neglect  
22          because of health care services provided or not provided by  
23          licensed health care professionals.

24          (h) "Provider agency" means any public or nonprofit agency  
25          in a planning and service area appointed by the regional  
26          administrative agency with prior approval by the Department on

1 Aging to receive and assess reports of alleged or suspected  
2 abuse, neglect, or financial exploitation.

3 (i) "Regional administrative agency" means any public or  
4 nonprofit agency in a planning and service area so designated  
5 by the Department, provided that the designated Area Agency on  
6 Aging shall be designated the regional administrative agency if  
7 it so requests. The Department shall assume the functions of  
8 the regional administrative agency for any planning and service  
9 area where another agency is not so designated.

10 (i-5) "Self-neglect" means a condition that is the result  
11 of an eligible adult's inability, due to physical or mental  
12 impairments, or both, or a diminished capacity, to perform  
13 essential self-care tasks that substantially threaten his or  
14 her own health, including: providing essential food, clothing,  
15 shelter, and health care; and obtaining goods and services  
16 necessary to maintain physical health, mental health,  
17 emotional well-being, and general safety. The term includes  
18 compulsive hoarding, which is characterized by the acquisition  
19 and retention of large quantities of items and materials that  
20 produce an extensively cluttered living space, which  
21 significantly impairs the performance of essential self-care  
22 tasks or otherwise substantially threatens life or safety.

23 (j) "Substantiated case" means a reported case of alleged  
24 or suspected abuse, neglect, financial exploitation, or  
25 self-neglect in which a provider agency, after assessment,  
26 determines that there is reason to believe abuse, neglect, or

1 financial exploitation has occurred.

2 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;  
3 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;  
4 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

5 Section 90-185. The Mental Health and Developmental  
6 Disabilities Code is amended by changing Section 2-107 as  
7 follows:

8 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

9 Sec. 2-107. Refusal of services; informing of risks.

10 (a) An adult recipient of services or the recipient's  
11 guardian, if the recipient is under guardianship, and the  
12 recipient's substitute decision maker, if any, must be informed  
13 of the recipient's right to refuse medication or  
14 electroconvulsive therapy. The recipient and the recipient's  
15 guardian or substitute decision maker shall be given the  
16 opportunity to refuse generally accepted mental health or  
17 developmental disability services, including but not limited  
18 to medication or electroconvulsive therapy. If such services  
19 are refused, they shall not be given unless such services are  
20 necessary to prevent the recipient from causing serious and  
21 imminent physical harm to the recipient or others and no less  
22 restrictive alternative is available. The facility director  
23 shall inform a recipient, guardian, or substitute decision  
24 maker, if any, who refuses such services of alternate services

1 available and the risks of such alternate services, as well as  
2 the possible consequences to the recipient of refusal of such  
3 services.

4 (b) Psychotropic medication or electroconvulsive therapy  
5 may be administered under this Section for up to 24 hours only  
6 if the circumstances leading up to the need for emergency  
7 treatment are set forth in writing in the recipient's record.

8 (c) Administration of medication or electroconvulsive  
9 therapy may not be continued unless the need for such treatment  
10 is redetermined at least every 24 hours based upon a personal  
11 examination of the recipient by a physician or a nurse under  
12 the supervision of a physician and the circumstances  
13 demonstrating that need are set forth in writing in the  
14 recipient's record.

15 (d) Neither psychotropic medication nor electroconvulsive  
16 therapy may be administered under this Section for a period in  
17 excess of 72 hours, excluding Saturdays, Sundays, and holidays,  
18 unless a petition is filed under Section 2-107.1 and the  
19 treatment continues to be necessary under subsection (a) of  
20 this Section. Once the petition has been filed, treatment may  
21 continue in compliance with subsections (a), (b), and (c) of  
22 this Section until the final outcome of the hearing on the  
23 petition.

24 (e) The Department shall issue rules designed to insure  
25 that in State-operated mental health facilities psychotropic  
26 medication and electroconvulsive therapy are administered in

1 accordance with this Section and only when appropriately  
2 authorized and monitored by a physician or a nurse under the  
3 supervision of a physician in accordance with accepted medical  
4 practice. The facility director of each mental health facility  
5 not operated by the State shall issue rules designed to insure  
6 that in that facility psychotropic medication and  
7 electroconvulsive therapy are administered in accordance with  
8 this Section and only when appropriately authorized and  
9 monitored by a physician or a nurse under the supervision of a  
10 physician in accordance with accepted medical practice. Such  
11 rules shall be available for public inspection and copying  
12 during normal business hours.

13 (f) The provisions of this Section with respect to the  
14 emergency administration of psychotropic medication and  
15 electroconvulsive therapy do not apply to facilities licensed  
16 under the Nursing Home Care Act, the Specialized Mental Health  
17 Rehabilitation Act, or the MR/DD Community Care Act.

18 (g) Under no circumstances may long-acting psychotropic  
19 medications be administered under this Section.

20 (h) Whenever psychotropic medication or electroconvulsive  
21 therapy is refused pursuant to subsection (a) of this Section  
22 at least once that day, the physician shall determine and state  
23 in writing the reasons why the recipient did not meet the  
24 criteria for administration of medication or electroconvulsive  
25 therapy under subsection (a) and whether the recipient meets  
26 the standard for administration of psychotropic medication or

1 electroconvulsive therapy under Section 2-107.1 of this Code.  
2 If the physician determines that the recipient meets the  
3 standard for administration of psychotropic medication or  
4 electroconvulsive therapy under Section 2-107.1, the facility  
5 director or his or her designee shall petition the court for  
6 administration of psychotropic medication or electroconvulsive  
7 therapy pursuant to that Section unless the facility director  
8 or his or her designee states in writing in the recipient's  
9 record why the filing of such a petition is not warranted. This  
10 subsection (h) applies only to State-operated mental health  
11 facilities.

12 (i) The Department shall conduct annual trainings for all  
13 physicians and registered nurses working in State-operated  
14 mental health facilities on the appropriate use of emergency  
15 administration of psychotropic medication and  
16 electroconvulsive therapy, standards for their use, and the  
17 methods of authorization under this Section.

18 (Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

19 Section 90-195. The Protection and Advocacy for Mentally  
20 Ill Persons Act is amended by changing Section 3 as follows:

21 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

22 Sec. 3. Powers and Duties.

23 (A) In order to properly exercise its powers and duties,  
24 the agency shall have the authority to:

1           (1) Investigate incidents of abuse and neglect of  
2           mentally ill persons if the incidents are reported to the  
3           agency or if there is probable cause to believe that the  
4           incidents occurred. In case of conflict with provisions of  
5           the Abused and Neglected Child Reporting Act or the Nursing  
6           Home Care Act, the provisions of those Acts shall apply.

7           (2) Pursue administrative, legal and other appropriate  
8           remedies to ensure the protection of the rights of mentally  
9           ill persons who are receiving care and treatment in this  
10          State.

11          (3) Pursue administrative, legal and other remedies on  
12          behalf of an individual who:

13                 (a) was a mentally ill individual; and

14                 (b) is a resident of this State, but only with  
15                 respect to matters which occur within 90 days after the  
16                 date of the discharge of such individual from a  
17                 facility providing care and treatment.

18          (4) Establish a board which shall:

19                 (a) advise the protection and advocacy system on  
20                 policies and priorities to be carried out in protecting  
21                 and advocating the rights of mentally ill individuals;  
22                 and

23                 (b) include attorneys, mental health  
24                 professionals, individuals from the public who are  
25                 knowledgeable about mental illness, a provider of  
26                 mental health services, individuals who have received

1           or are receiving mental health services and family  
2           members of such individuals. At least one-half the  
3           members of the board shall be individuals who have  
4           received or are receiving mental health services or who  
5           are family members of such individuals.

6           (5) On January 1, 1988, and on January 1 of each  
7           succeeding year, prepare and transmit to the Secretary of  
8           the United States Department of Health and Human Services  
9           and to the Illinois Secretary of Human Services a report  
10          describing the activities, accomplishments and  
11          expenditures of the protection and advocacy system during  
12          the most recently completed fiscal year.

13          (B) The agency shall have access to all mental health  
14          facilities as defined in Sections 1-107 and 1-114 of the Mental  
15          Health and Developmental Disabilities Code, all facilities as  
16          defined in Section 1-113 of the Nursing Home Care Act, all  
17          facilities as defined in Section 1-113 of the Specialized  
18          Mental Health Rehabilitation Act, all facilities as defined in  
19          Section 1-113 of the MR/DD Community Care Act, all facilities  
20          as defined in Section 2.06 of the Child Care Act of 1969, as  
21          now or hereafter amended, and all other facilities providing  
22          care or treatment to mentally ill persons. Such access shall be  
23          granted for the purposes of meeting with residents and staff,  
24          informing them of services available from the agency,  
25          distributing written information about the agency and the  
26          rights of persons who are mentally ill, conducting scheduled



1 and unscheduled visits, and performing other activities  
2 designed to protect the rights of mentally ill persons.

3 (C) The agency shall have access to all records of mentally  
4 ill persons who are receiving care or treatment from a  
5 facility, subject to the limitations of this Act, the Mental  
6 Health and Developmental Disabilities Confidentiality Act, the  
7 Nursing Home Care Act and the Child Care Act of 1969, as now or  
8 hereafter amended. If the mentally ill person has a legal  
9 guardian other than the State or a designee of the State, the  
10 facility director shall disclose the guardian's name, address  
11 and telephone number to the agency upon its request. In cases  
12 of conflict with provisions of the Abused and Neglected Child  
13 Reporting Act and the Nursing Home Care Act, the provisions of  
14 the Abused and Neglected Child Reporting Act and the Nursing  
15 Home Care Act shall apply. The agency shall also have access,  
16 for the purpose of inspection and copying, to the records of a  
17 mentally ill person (i) who by reason of his or her mental or  
18 physical condition is unable to authorize the agency to have  
19 such access; (ii) who does not have a legal guardian or for  
20 whom the State or a designee of the State is the legal  
21 guardian; and (iii) with respect to whom a complaint has been  
22 received by the agency or with respect to whom there is  
23 probable cause to believe that such person has been subjected  
24 to abuse or neglect.

25 The agency shall provide written notice to the mentally ill  
26 person and the State guardian of the nature of the complaint

1 based upon which the agency has gained access to the records.  
2 No record or the contents of the record shall be redisclosed by  
3 the agency unless the person who is mentally ill and the State  
4 guardian are provided 7 days advance written notice, except in  
5 emergency situations, of the agency's intent to redisclose such  
6 record. Within such 7-day period, the mentally ill person or  
7 the State guardian may seek an injunction prohibiting the  
8 agency's redisclosure of such record on the grounds that such  
9 redisclosure is contrary to the interests of the mentally ill  
10 person.

11 Upon request, the authorized agency shall be entitled to  
12 inspect and copy any clinical or trust fund records of mentally  
13 ill persons which may further the agency's investigation of  
14 alleged problems affecting numbers of mentally ill persons.  
15 When required by law, any personally identifiable information  
16 of mentally ill persons shall be removed from the records.  
17 However, the agency may not inspect or copy any records or  
18 other materials when the removal of personally identifiable  
19 information imposes an unreasonable burden on any facility as  
20 defined by the Mental Health and Developmental Disabilities  
21 Code, the Nursing Home Care Act, the Specialized Mental Health  
22 Rehabilitation Act, or the Child Care Act of 1969, or any other  
23 facility providing care or treatment to mentally ill persons.

24 (D) Prior to instituting any legal action in a federal or  
25 State court on behalf of a mentally ill individual, an eligible  
26 protection and advocacy system, or a State agency or nonprofit

1 organization which entered into a contract with such an  
2 eligible system under Section 104(a) of the federal Protection  
3 and Advocacy for Mentally Ill Individuals Act of 1986, shall  
4 exhaust in a timely manner all administrative remedies where  
5 appropriate. If, in pursuing administrative remedies, the  
6 system, State agency or organization determines that any matter  
7 with respect to such individual will not be resolved within a  
8 reasonable time, the system, State agency or organization may  
9 pursue alternative remedies, including the initiation of  
10 appropriate legal action.

11 (Source: P.A. 96-339, eff. 7-1-10.)

12 Section 90-200. The Developmental Disability and Mental  
13 Disability Services Act is amended by changing Sections 2-3 and  
14 5-1 as follows:

15 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

16 Sec. 2-3. As used in this Article, unless the context  
17 requires otherwise:

18 (a) "Agency" means an agency or entity licensed by the  
19 Department pursuant to this Article or pursuant to the  
20 Community Residential Alternatives Licensing Act.

21 (b) "Department" means the Department of Human Services, as  
22 successor to the Department of Mental Health and Developmental  
23 Disabilities.

24 (c) "Home-based services" means services provided to a

1 mentally disabled adult who lives in his or her own home. These  
2 services include but are not limited to:

3 (1) home health services;

4 (2) case management;

5 (3) crisis management;

6 (4) training and assistance in self-care;

7 (5) personal care services;

8 (6) habilitation and rehabilitation services;

9 (7) employment-related services;

10 (8) respite care; and

11 (9) other skill training that enables a person to  
12 become self-supporting.

13 (d) "Legal guardian" means a person appointed by a court of  
14 competent jurisdiction to exercise certain powers on behalf of  
15 a mentally disabled adult.

16 (e) "Mentally disabled adult" means a person over the age  
17 of 18 years who lives in his or her own home; who needs  
18 home-based services, but does not require 24-hour-a-day  
19 supervision; and who has one of the following conditions:  
20 severe autism, severe mental illness, severe or profound mental  
21 retardation, or severe and multiple impairments.

22 (f) In one's "own home" means that a mentally disabled  
23 adult lives alone; or that a mentally disabled adult is in  
24 full-time residence with his or her parents, legal guardian, or  
25 other relatives; or that a mentally disabled adult is in  
26 full-time residence in a setting not subject to licensure under

1 the Nursing Home Care Act, the Specialized Mental Health  
2 Rehabilitation Act, the MR/DD Community Care Act, or the Child  
3 Care Act of 1969, as now or hereafter amended, with 3 or fewer  
4 other adults unrelated to the mentally disabled adult who do  
5 not provide home-based services to the mentally disabled adult.

6 (g) "Parent" means the biological or adoptive parent of a  
7 mentally disabled adult, or a person licensed as a foster  
8 parent under the laws of this State who acts as a mentally  
9 disabled adult's foster parent.

10 (h) "Relative" means any of the following relationships by  
11 blood, marriage or adoption: parent, son, daughter, brother,  
12 sister, grandparent, uncle, aunt, nephew, niece, great  
13 grandparent, great uncle, great aunt, stepbrother, stepsister,  
14 stepson, stepdaughter, stepparent or first cousin.

15 (i) "Severe autism" means a lifelong developmental  
16 disability which is typically manifested before 30 months of  
17 age and is characterized by severe disturbances in reciprocal  
18 social interactions; verbal and nonverbal communication and  
19 imaginative activity; and repertoire of activities and  
20 interests. A person shall be determined severely autistic, for  
21 purposes of this Article, if both of the following are present:

22 (1) Diagnosis consistent with the criteria for  
23 autistic disorder in the current edition of the Diagnostic  
24 and Statistical Manual of Mental Disorders.

25 (2) Severe disturbances in reciprocal social  
26 interactions; verbal and nonverbal communication and

1 imaginative activity; repertoire of activities and  
2 interests. A determination of severe autism shall be based  
3 upon a comprehensive, documented assessment with an  
4 evaluation by a licensed clinical psychologist or  
5 psychiatrist. A determination of severe autism shall not be  
6 based solely on behaviors relating to environmental,  
7 cultural or economic differences.

8 (j) "Severe mental illness" means the manifestation of all  
9 of the following characteristics:

10 (1) A primary diagnosis of one of the major mental  
11 disorders in the current edition of the Diagnostic and  
12 Statistical Manual of Mental Disorders listed below:

- 13 (A) Schizophrenia disorder.
- 14 (B) Delusional disorder.
- 15 (C) Schizo-affective disorder.
- 16 (D) Bipolar affective disorder.
- 17 (E) Atypical psychosis.
- 18 (F) Major depression, recurrent.

19 (2) The individual's mental illness must substantially  
20 impair his or her functioning in at least 2 of the  
21 following areas:

- 22 (A) Self-maintenance.
- 23 (B) Social functioning.
- 24 (C) Activities of community living.
- 25 (D) Work skills.

26 (3) Disability must be present or expected to be

1 present for at least one year.

2 A determination of severe mental illness shall be based  
3 upon a comprehensive, documented assessment with an evaluation  
4 by a licensed clinical psychologist or psychiatrist, and shall  
5 not be based solely on behaviors relating to environmental,  
6 cultural or economic differences.

7 (k) "Severe or profound mental retardation" means a  
8 manifestation of all of the following characteristics:

9 (1) A diagnosis which meets Classification in Mental  
10 Retardation or criteria in the current edition of the  
11 Diagnostic and Statistical Manual of Mental Disorders for  
12 severe or profound mental retardation (an IQ of 40 or  
13 below). This must be measured by a standardized instrument  
14 for general intellectual functioning.

15 (2) A severe or profound level of disturbed adaptive  
16 behavior. This must be measured by a standardized adaptive  
17 behavior scale or informal appraisal by the professional in  
18 keeping with illustrations in Classification in Mental  
19 Retardation, 1983.

20 (3) Disability diagnosed before age of 18.

21 A determination of severe or profound mental retardation  
22 shall be based upon a comprehensive, documented assessment with  
23 an evaluation by a licensed clinical psychologist or certified  
24 school psychologist or a psychiatrist, and shall not be based  
25 solely on behaviors relating to environmental, cultural or  
26 economic differences.

1           (1) "Severe and multiple impairments" means the  
2 manifestation of all of the following characteristics:

3           (1) The evaluation determines the presence of a  
4 developmental disability which is expected to continue  
5 indefinitely, constitutes a substantial handicap and is  
6 attributable to any of the following:

7           (A) Mental retardation, which is defined as  
8 general intellectual functioning that is 2 or more  
9 standard deviations below the mean concurrent with  
10 impairment of adaptive behavior which is 2 or more  
11 standard deviations below the mean. Assessment of the  
12 individual's intellectual functioning must be measured  
13 by a standardized instrument for general intellectual  
14 functioning.

15           (B) Cerebral palsy.

16           (C) Epilepsy.

17           (D) Autism.

18           (E) Any other condition which results in  
19 impairment similar to that caused by mental  
20 retardation and which requires services similar to  
21 those required by mentally retarded persons.

22           (2) The evaluation determines multiple handicaps in  
23 physical, sensory, behavioral or cognitive functioning  
24 which constitute a severe or profound impairment  
25 attributable to one or more of the following:

26           (A) Physical functioning, which severely impairs



1 the individual's motor performance that may be due to:

2 (i) Neurological, psychological or physical  
3 involvement resulting in a variety of disabling  
4 conditions such as hemiplegia, quadriplegia or  
5 ataxia,

6 (ii) Severe organ systems involvement such as  
7 congenital heart defect,

8 (iii) Physical abnormalities resulting in the  
9 individual being non-mobile and non-ambulatory or  
10 confined to bed and receiving assistance in  
11 transferring, or

12 (iv) The need for regular medical or nursing  
13 supervision such as gastrostomy care and feeding.

14 Assessment of physical functioning must be based  
15 on clinical medical assessment by a physician licensed  
16 to practice medicine in all its branches, using the  
17 appropriate instruments, techniques and standards of  
18 measurement required by the professional.

19 (B) Sensory, which involves severe restriction due  
20 to hearing or visual impairment limiting the  
21 individual's movement and creating dependence in  
22 completing most daily activities. Hearing impairment  
23 is defined as a loss of 70 decibels aided or speech  
24 discrimination of less than 50% aided. Visual  
25 impairment is defined as 20/200 corrected in the better  
26 eye or a visual field of 20 degrees or less. Sensory

1 functioning must be based on clinical medical  
2 assessment by a physician licensed to practice  
3 medicine in all its branches using the appropriate  
4 instruments, techniques and standards of measurement  
5 required by the professional.

6 (C) Behavioral, which involves behavior that is  
7 maladaptive and presents a danger to self or others, is  
8 destructive to property by deliberately breaking,  
9 destroying or defacing objects, is disruptive by  
10 fighting, or has other socially offensive behaviors in  
11 sufficient frequency or severity to seriously limit  
12 social integration. Assessment of behavioral  
13 functioning may be measured by a standardized scale or  
14 informal appraisal by a clinical psychologist or  
15 psychiatrist.

16 (D) Cognitive, which involves intellectual  
17 functioning at a measured IQ of 70 or below. Assessment  
18 of cognitive functioning must be measured by a  
19 standardized instrument for general intelligence.

20 (3) The evaluation determines that development is  
21 substantially less than expected for the age in cognitive,  
22 affective or psychomotor behavior as follows:

23 (A) Cognitive, which involves intellectual  
24 functioning at a measured IQ of 70 or below. Assessment  
25 of cognitive functioning must be measured by a  
26 standardized instrument for general intelligence.

1           (B) Affective behavior, which involves over and  
2           under responding to stimuli in the environment and may  
3           be observed in mood, attention to awareness, or in  
4           behaviors such as euphoria, anger or sadness that  
5           seriously limit integration into society. Affective  
6           behavior must be based on clinical assessment using the  
7           appropriate instruments, techniques and standards of  
8           measurement required by the professional.

9           (C) Psychomotor, which includes a severe  
10          developmental delay in fine or gross motor skills so  
11          that development in self-care, social interaction,  
12          communication or physical activity will be greatly  
13          delayed or restricted.

14          (4) A determination that the disability originated  
15          before the age of 18 years.

16          A determination of severe and multiple impairments shall be  
17          based upon a comprehensive, documented assessment with an  
18          evaluation by a licensed clinical psychologist or  
19          psychiatrist.

20          If the examiner is a licensed clinical psychologist,  
21          ancillary evaluation of physical impairment, cerebral palsy or  
22          epilepsy must be made by a physician licensed to practice  
23          medicine in all its branches.

24          Regardless of the discipline of the examiner, ancillary  
25          evaluation of visual impairment must be made by an  
26          ophthalmologist or a licensed optometrist.

1           Regardless of the discipline of the examiner, ancillary  
2 evaluation of hearing impairment must be made by an  
3 otolaryngologist or an audiologist with a certificate of  
4 clinical competency.

5           The only exception to the above is in the case of a person  
6 with cerebral palsy or epilepsy who, according to the  
7 eligibility criteria listed below, has multiple impairments  
8 which are only physical and sensory. In such a case, a  
9 physician licensed to practice medicine in all its branches may  
10 serve as the examiner.

11           (m)       "Twenty-four-hour-a-day supervision" means  
12 24-hour-a-day care by a trained mental health or developmental  
13 disability professional on an ongoing basis.

14           (Source: P.A. 96-339, eff. 7-1-10.)

15           (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

16           Sec. 5-1. As the mental health and developmental  
17 disabilities or mental retardation authority for the State of  
18 Illinois, the Department of Human Services shall have the  
19 authority to license, certify and prescribe standards  
20 governing the programs and services provided under this Act, as  
21 well as all other agencies or programs which provide home-based  
22 or community-based services to the mentally disabled, except  
23 those services, programs or agencies established under or  
24 otherwise subject to the Child Care Act of 1969, the  
25 Specialized Mental Health Rehabilitation Act, or the MR/DD

1 Community Care Act, as now or hereafter amended, and this Act  
2 shall not be construed to limit the application of those Acts.

3 (Source: P.A. 96-339, eff. 7-1-10.)

4 Section 90-205. The Facilities Requiring Smoke Detectors  
5 Act is amended by changing Section 1 as follows:

6 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

7 Sec. 1. For purposes of this Act, unless the context  
8 requires otherwise:

9 (a) "Facility" means:

10 (1) Any long-term care facility as defined in Section  
11 1-113 of the Nursing Home Care Act or any facility as  
12 defined in Section 1-113 of the MR/DD Community Care Act or  
13 the Specialized Mental Health Rehabilitation Act, as  
14 amended;

15 (2) Any community residential alternative as defined  
16 in paragraph (4) of Section 3 of the Community Residential  
17 Alternatives Licensing Act, as amended; and

18 (3) Any child care facility as defined in Section 2.05  
19 of the Child Care Act of 1969, as amended.

20 (b) "Approved smoke detector" or "detector" means a smoke  
21 detector of the ionization or photoelectric type which complies  
22 with all the requirements of the rules and regulations of the  
23 Illinois State Fire Marshal.

24 (Source: P.A. 96-339, eff. 7-1-10.)

1           Section 90-210. The Criminal Code of 1961 is amended by  
2 changing Sections 12-19, 12-21, and 26-1 as follows:

3           (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

4           Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care  
5 Facility Resident.

6           (a) Any person or any owner or licensee of a long term care  
7 facility who abuses a long term care facility resident is  
8 guilty of a Class 3 felony. Any person or any owner or licensee  
9 of a long term care facility who criminally neglects a long  
10 term care facility resident is guilty of a Class 4 felony. A  
11 person whose criminal neglect of a long term care facility  
12 resident results in the resident's death is guilty of a Class 3  
13 felony. However, nothing herein shall be deemed to apply to a  
14 physician licensed to practice medicine in all its branches or  
15 a duly licensed nurse providing care within the scope of his or  
16 her professional judgment and within the accepted standards of  
17 care within the community.

18           (b) Notwithstanding the penalties in subsections (a) and  
19 (c) and in addition thereto, if a licensee or owner of a long  
20 term care facility or his or her employee has caused neglect of  
21 a resident, the licensee or owner is guilty of a petty offense.  
22 An owner or licensee is guilty under this subsection (b) only  
23 if the owner or licensee failed to exercise reasonable care in  
24 the hiring, training, supervising or providing of staff or

1 other related routine administrative responsibilities.

2 (c) Notwithstanding the penalties in subsections (a) and  
3 (b) and in addition thereto, if a licensee or owner of a long  
4 term care facility or his or her employee has caused gross  
5 neglect of a resident, the licensee or owner is guilty of a  
6 business offense for which a fine of not more than \$10,000 may  
7 be imposed. An owner or licensee is guilty under this  
8 subsection (c) only if the owner or licensee failed to exercise  
9 reasonable care in the hiring, training, supervising or  
10 providing of staff or other related routine administrative  
11 responsibilities.

12 (d) For the purpose of this Section:

13 (1) "Abuse" means intentionally or knowingly causing  
14 any physical or mental injury or committing any sexual  
15 offense set forth in this Code.

16 (2) "Criminal neglect" means an act whereby a person  
17 recklessly (i) performs acts that cause an elderly person's  
18 or person with a disability's life to be endangered, health  
19 to be injured, or pre-existing physical or mental condition  
20 to deteriorate or that create the substantial likelihood  
21 that an elderly person's or person with a disability's life  
22 will be endangered, health will be injured, or pre-existing  
23 physical or mental condition will deteriorate, or (ii)  
24 fails to perform acts that he or she knows or reasonably  
25 should know are necessary to maintain or preserve the life  
26 or health of an elderly person or person with a disability,

1 and that failure causes the elderly person's or person with  
2 a disability's life to be endangered, health to be injured,  
3 or pre-existing physical or mental condition to  
4 deteriorate or that create the substantial likelihood that  
5 an elderly person's or person with a disability's life will  
6 be endangered, health will be injured, or pre-existing  
7 physical or mental condition will deteriorate, or (iii)  
8 abandons an elderly person or person with a disability.

9 (3) "Neglect" means negligently failing to provide  
10 adequate medical or personal care or maintenance, which  
11 failure results in physical or mental injury or the  
12 deterioration of a physical or mental condition.

13 (4) "Resident" means a person residing in a long term  
14 care facility.

15 (5) "Owner" means the person who owns a long term care  
16 facility as provided under the Nursing Home Care Act, a  
17 facility as provided under the Specialized Mental Health  
18 Rehabilitation Act, a facility as provided under the MR/DD  
19 Community Care Act, or an assisted living or shared housing  
20 establishment under the Assisted Living and Shared Housing  
21 Act.

22 (6) "Licensee" means the individual or entity licensed  
23 to operate a facility under the Nursing Home Care Act, the  
24 Specialized Mental Health Rehabilitation Act, the MR/DD  
25 Community Care Act, or the Assisted Living and Shared  
26 Housing Act.



1           (7) "Facility" or "long term care facility" means a  
2 private home, institution, building, residence, or any  
3 other place, whether operated for profit or not, or a  
4 county home for the infirm and chronically ill operated  
5 pursuant to Division 5-21 or 5-22 of the Counties Code, or  
6 any similar institution operated by the State of Illinois  
7 or a political subdivision thereof, which provides,  
8 through its ownership or management, personal care,  
9 sheltered care or nursing for 3 or more persons not related  
10 to the owner by blood or marriage. The term also includes  
11 skilled nursing facilities and intermediate care  
12 facilities as defined in Title XVIII and Title XIX of the  
13 federal Social Security Act and assisted living  
14 establishments and shared housing establishments licensed  
15 under the Assisted Living and Shared Housing Act.

16           (e) Nothing contained in this Section shall be deemed to  
17 apply to the medical supervision, regulation or control of the  
18 remedial care or treatment of residents in a facility conducted  
19 for those who rely upon treatment by prayer or spiritual means  
20 in accordance with the creed or tenets of any well recognized  
21 church or religious denomination and which is licensed in  
22 accordance with Section 3-803 of the Nursing Home Care Act,  
23 Section 3-803 of the Specialized Mental Health Rehabilitation  
24 Act, or Section 3-803 of the MR/DD Community Care Act.

25           (Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.)

1 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

2 Sec. 12-21. Criminal abuse or neglect of an elderly person  
3 or person with a disability.

4 (a) A person commits the offense of criminal abuse or  
5 neglect of an elderly person or person with a disability when  
6 he or she is a caregiver and he or she knowingly:

7 (1) performs acts that cause the elderly person or  
8 person with a disability's life to be endangered, health to  
9 be injured, or pre-existing physical or mental condition to  
10 deteriorate; or

11 (2) fails to perform acts that he or she knows or  
12 reasonably should know are necessary to maintain or  
13 preserve the life or health of the elderly person or person  
14 with a disability and such failure causes the elderly  
15 person or person with a disability's life to be endangered,  
16 health to be injured or pre-existing physical or mental  
17 condition to deteriorate; or

18 (3) abandons the elderly person or person with a  
19 disability; or

20 (4) physically abuses, harasses, intimidates, or  
21 interferes with the personal liberty of the elderly person  
22 or person with a disability or exposes the elderly person  
23 or person with a disability to willful deprivation.

24 Criminal abuse or neglect of an elderly person or person  
25 with a disability is a Class 3 felony. Criminal neglect of an  
26 elderly person or person with a disability is a Class 2 felony

1 if the criminal neglect results in the death of the person  
2 neglected for which the defendant, if sentenced to a term of  
3 imprisonment, shall be sentenced to a term of not less than 3  
4 years and not more than 14 years.

5 (b) For purposes of this Section:

6 (1) "Elderly person" means a person 60 years of age or  
7 older who is incapable of adequately providing for his own  
8 health and personal care.

9 (2) "Person with a disability" means a person who  
10 suffers from a permanent physical or mental impairment,  
11 resulting from disease, injury, functional disorder or  
12 congenital condition which renders such person incapable  
13 of adequately providing for his own health and personal  
14 care.

15 (3) "Caregiver" means a person who has a duty to  
16 provide for an elderly person or person with a disability's  
17 health and personal care, at such person's place of  
18 residence, including but not limited to, food and  
19 nutrition, shelter, hygiene, prescribed medication and  
20 medical care and treatment.

21 "Caregiver" shall include:

22 (A) a parent, spouse, adult child or other relative  
23 by blood or marriage who resides with or resides in the  
24 same building with or regularly visits the elderly  
25 person or person with a disability, knows or reasonably  
26 should know of such person's physical or mental

1           impairment and knows or reasonably should know that  
2           such person is unable to adequately provide for his own  
3           health and personal care;

4           (B) a person who is employed by the elderly person  
5           or person with a disability or by another to reside  
6           with or regularly visit the elderly person or person  
7           with a disability and provide for such person's health  
8           and personal care;

9           (C) a person who has agreed for consideration to  
10          reside with or regularly visit the elderly person or  
11          person with a disability and provide for such person's  
12          health and personal care; and

13          (D) a person who has been appointed by a private or  
14          public agency or by a court of competent jurisdiction  
15          to provide for the elderly person or person with a  
16          disability's health and personal care.

17          "Caregiver" shall not include a long-term care  
18          facility licensed or certified under the Nursing Home Care  
19          Act or a facility licensed or certified under the MR/DD  
20          Community Care Act or the Specialized Mental Health  
21          Rehabilitation Act, or any administrative, medical or  
22          other personnel of such a facility, or a health care  
23          provider who is licensed under the Medical Practice Act of  
24          1987 and renders care in the ordinary course of his  
25          profession.

26          (4) "Abandon" means to desert or knowingly forsake an

1 elderly person or person with a disability under  
2 circumstances in which a reasonable person would continue  
3 to provide care and custody.

4 (5) "Willful deprivation" has the meaning ascribed to  
5 it in paragraph (15) of Section 103 of the Illinois  
6 Domestic Violence Act of 1986.

7 (c) Nothing in this Section shall be construed to limit the  
8 remedies available to the victim under the Illinois Domestic  
9 Violence Act.

10 (d) Nothing in this Section shall be construed to impose  
11 criminal liability on a person who has made a good faith effort  
12 to provide for the health and personal care of an elderly  
13 person or person with a disability, but through no fault of his  
14 own has been unable to provide such care.

15 (e) Nothing in this Section shall be construed as  
16 prohibiting a person from providing treatment by spiritual  
17 means through prayer alone and care consistent therewith in  
18 lieu of medical care and treatment in accordance with the  
19 tenets and practices of any church or religious denomination of  
20 which the elderly person or person with a disability is a  
21 member.

22 (f) It is not a defense to criminal abuse or neglect of an  
23 elderly person or person with a disability that the accused  
24 reasonably believed that the victim was not an elderly person  
25 or person with a disability.

26 (Source: P.A. 96-339, eff. 7-1-10.)

1 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

2 Sec. 26-1. Elements of the Offense.

3 (a) A person commits disorderly conduct when he knowingly:

4 (1) Does any act in such unreasonable manner as to  
5 alarm or disturb another and to provoke a breach of the  
6 peace; or

7 (2) Transmits or causes to be transmitted in any manner  
8 to the fire department of any city, town, village or fire  
9 protection district a false alarm of fire, knowing at the  
10 time of such transmission that there is no reasonable  
11 ground for believing that such fire exists; or

12 (3) Transmits or causes to be transmitted in any manner  
13 to another a false alarm to the effect that a bomb or other  
14 explosive of any nature or a container holding poison gas,  
15 a deadly biological or chemical contaminant, or  
16 radioactive substance is concealed in such place that its  
17 explosion or release would endanger human life, knowing at  
18 the time of such transmission that there is no reasonable  
19 ground for believing that such bomb, explosive or a  
20 container holding poison gas, a deadly biological or  
21 chemical contaminant, or radioactive substance is  
22 concealed in such place; or

23 (4) Transmits or causes to be transmitted in any manner  
24 to any peace officer, public officer or public employee a  
25 report to the effect that an offense will be committed, is

1 being committed, or has been committed, knowing at the time  
2 of such transmission that there is no reasonable ground for  
3 believing that such an offense will be committed, is being  
4 committed, or has been committed; or

5 (5) Enters upon the property of another and for a lewd  
6 or unlawful purpose deliberately looks into a dwelling on  
7 the property through any window or other opening in it; or

8 (6) While acting as a collection agency as defined in  
9 the "Collection Agency Act" or as an employee of such  
10 collection agency, and while attempting to collect an  
11 alleged debt, makes a telephone call to the alleged debtor  
12 which is designed to harass, annoy or intimidate the  
13 alleged debtor; or

14 (7) Transmits or causes to be transmitted a false  
15 report to the Department of Children and Family Services  
16 under Section 4 of the "Abused and Neglected Child  
17 Reporting Act"; or

18 (8) Transmits or causes to be transmitted a false  
19 report to the Department of Public Health under the Nursing  
20 Home Care Act, the Specialized Mental Health  
21 Rehabilitation Act, or the MR/DD Community Care Act; or

22 (9) Transmits or causes to be transmitted in any manner  
23 to the police department or fire department of any  
24 municipality or fire protection district, or any privately  
25 owned and operated ambulance service, a false request for  
26 an ambulance, emergency medical technician-ambulance or

1 emergency medical technician-paramedic knowing at the time  
2 there is no reasonable ground for believing that such  
3 assistance is required; or

4 (10) Transmits or causes to be transmitted a false  
5 report under Article II of "An Act in relation to victims  
6 of violence and abuse", approved September 16, 1984, as  
7 amended; or

8 (11) Transmits or causes to be transmitted a false  
9 report to any public safety agency without the reasonable  
10 grounds necessary to believe that transmitting such a  
11 report is necessary for the safety and welfare of the  
12 public; or

13 (12) Calls the number "911" for the purpose of making  
14 or transmitting a false alarm or complaint and reporting  
15 information when, at the time the call or transmission is  
16 made, the person knows there is no reasonable ground for  
17 making the call or transmission and further knows that the  
18 call or transmission could result in the emergency response  
19 of any public safety agency; or

20 (13) Transmits or causes to be transmitted a threat of  
21 destruction of a school building or school property, or a  
22 threat of violence, death, or bodily harm directed against  
23 persons at a school, school function, or school event,  
24 whether or not school is in session.

25 (b) Sentence. A violation of subsection (a)(1) of this  
26 Section is a Class C misdemeanor. A violation of subsection



1 (a) (5) or (a) (11) of this Section is a Class A misdemeanor. A  
2 violation of subsection (a) (8) or (a) (10) of this Section is a  
3 Class B misdemeanor. A violation of subsection (a) (2), (a) (4),  
4 (a) (7), (a) (9), (a) (12), or (a) (13) of this Section is a Class  
5 4 felony. A violation of subsection (a) (3) of this Section is a  
6 Class 3 felony, for which a fine of not less than \$3,000 and no  
7 more than \$10,000 shall be assessed in addition to any other  
8 penalty imposed.

9 A violation of subsection (a) (6) of this Section is a  
10 Business Offense and shall be punished by a fine not to exceed  
11 \$3,000. A second or subsequent violation of subsection (a) (7)  
12 or (a) (11) of this Section is a Class 4 felony. A third or  
13 subsequent violation of subsection (a) (5) of this Section is a  
14 Class 4 felony.

15 (c) In addition to any other sentence that may be imposed,  
16 a court shall order any person convicted of disorderly conduct  
17 to perform community service for not less than 30 and not more  
18 than 120 hours, if community service is available in the  
19 jurisdiction and is funded and approved by the county board of  
20 the county where the offense was committed. In addition,  
21 whenever any person is placed on supervision for an alleged  
22 offense under this Section, the supervision shall be  
23 conditioned upon the performance of the community service.

24 This subsection does not apply when the court imposes a  
25 sentence of incarceration.

26 (d) In addition to any other sentence that may be imposed,

1 the court shall order any person convicted of disorderly  
2 conduct under paragraph (3) of subsection (a) involving a false  
3 alarm of a threat that a bomb or explosive device has been  
4 placed in a school to reimburse the unit of government that  
5 employs the emergency response officer or officers that were  
6 dispatched to the school for the cost of the search for a bomb  
7 or explosive device. For the purposes of this Section,  
8 "emergency response" means any incident requiring a response by  
9 a police officer, a firefighter, a State Fire Marshal employee,  
10 or an ambulance.

11 (Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09;  
12 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff.  
13 1-1-11.)

14 Section 90-215. The Unified Code of Corrections is amended  
15 by changing Section 5-5-3.2 as follows:

16 (730 ILCS 5/5-5-3.2)

17 (Text of Section before amendment by P.A. 96-1551)

18 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
19 Sentencing.

20 (a) The following factors shall be accorded weight in favor  
21 of imposing a term of imprisonment or may be considered by the  
22 court as reasons to impose a more severe sentence under Section  
23 5-8-1 or Article 4.5 of Chapter V:

24 (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 12-12 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 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
8 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
9 against that victim;

10 (15) the defendant committed an offense related to the  
11 activities of an organized gang. For the purposes of this  
12 factor, "organized gang" has the meaning ascribed to it in  
13 Section 10 of the Streetgang Terrorism Omnibus Prevention  
14 Act;

15 (16) the defendant committed an offense in violation of  
16 one of the following Sections while in a school, regardless  
17 of the time of day or time of year; on any conveyance  
18 owned, leased, or contracted by a school to transport  
19 students to or from school or a school related activity; on  
20 the real property of a school; or on a public way within  
21 1,000 feet of the real property comprising any school:  
22 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
23 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
24 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
25 33A-2 of the Criminal Code of 1961;

26 (16.5) the defendant committed an offense in violation

1 of one of the following Sections while in a day care  
2 center, regardless of the time of day or time of year; on  
3 the real property of a day care center, regardless of the  
4 time of day or time of year; or on a public way within  
5 1,000 feet of the real property comprising any day care  
6 center, regardless of the time of day or time of year:  
7 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
8 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
9 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
10 33A-2 of the Criminal Code of 1961;

11 (17) the defendant committed the offense by reason of  
12 any person's activity as a community policing volunteer or  
13 to prevent any person from engaging in activity as a  
14 community policing volunteer. For the purpose of this  
15 Section, "community policing volunteer" has the meaning  
16 ascribed to it in Section 2-3.5 of the Criminal Code of  
17 1961;

18 (18) the defendant committed the offense in a nursing  
19 home or on the real property comprising a nursing home. For  
20 the purposes of this paragraph (18), "nursing home" means a  
21 skilled nursing or intermediate long term care facility  
22 that is subject to license by the Illinois Department of  
23 Public Health under the Nursing Home Care Act, the  
24 Specialized Mental Health Rehabilitation Act, or the MR/DD  
25 Community Care Act;

26 (19) the defendant was a federally licensed firearm

1 dealer and was previously convicted of a violation of  
2 subsection (a) of Section 3 of the Firearm Owners  
3 Identification Card Act and has now committed either a  
4 felony violation of the Firearm Owners Identification Card  
5 Act or an act of armed violence while armed with a firearm;

6 (20) the defendant (i) committed the offense of  
7 reckless homicide under Section 9-3 of the Criminal Code of  
8 1961 or the offense of driving under the influence of  
9 alcohol, other drug or drugs, intoxicating compound or  
10 compounds or any combination thereof under Section 11-501  
11 of the Illinois Vehicle Code or a similar provision of a  
12 local ordinance and (ii) was operating a motor vehicle in  
13 excess of 20 miles per hour over the posted speed limit as  
14 provided in Article VI of Chapter 11 of the Illinois  
15 Vehicle Code;

16 (21) the defendant (i) committed the offense of  
17 reckless driving or aggravated reckless driving under  
18 Section 11-503 of the Illinois Vehicle Code and (ii) was  
19 operating a motor vehicle in excess of 20 miles per hour  
20 over the posted speed limit as provided in Article VI of  
21 Chapter 11 of the Illinois Vehicle Code;

22 (22) the defendant committed the offense against a  
23 person that the defendant knew, or reasonably should have  
24 known, was a member of the Armed Forces of the United  
25 States serving on active duty. For purposes of this clause  
26 (22), the term "Armed Forces" means any of the Armed Forces

1 of the United States, including a member of any reserve  
2 component thereof or National Guard unit called to active  
3 duty;

4 (23) the defendant committed the offense against a  
5 person who was elderly, disabled, or infirm by taking  
6 advantage of a family or fiduciary relationship with the  
7 elderly, disabled, or infirm person;

8 (24) the defendant committed any offense under Section  
9 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
10 more images;

11 (25) the defendant committed the offense while the  
12 defendant or the victim was in a train, bus, or other  
13 vehicle used for public transportation; ~~or~~

14 (26) the defendant committed the offense of child  
15 pornography or aggravated child pornography, specifically  
16 including paragraph (1), (2), (3), (4), (5), or (7) of  
17 subsection (a) of Section 11-20.1 of the Criminal Code of  
18 1961 where a child engaged in, solicited for, depicted in,  
19 or posed in any act of sexual penetration or bound,  
20 fettered, or subject to sadistic, masochistic, or  
21 sadomasochistic abuse in a sexual context and specifically  
22 including paragraph (1), (2), (3), (4), (5), or (7) of  
23 subsection (a) of Section 11-20.3 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; or

2 (27) the defendant committed the offense of first  
3 degree murder, assault, aggravated assault, battery,  
4 aggravated battery, robbery, armed robbery, or aggravated  
5 robbery against a person who was a veteran and the  
6 defendant knew, or reasonably should have known, that the  
7 person was a veteran performing duties as a representative  
8 of a veterans' organization. For the purposes of this  
9 paragraph (27), "veteran" means an Illinois resident who  
10 has served as a member of the United States Armed Forces, a  
11 member of the Illinois National Guard, or a member of the  
12 United States Reserve Forces; and "veterans' organization"  
13 means an organization comprised of members of which  
14 substantially all are individuals who are veterans or  
15 spouses, widows, or widowers of veterans, the primary  
16 purpose of which is to promote the welfare of its members  
17 and to provide assistance to the general public in such a  
18 way as to confer a public benefit.

19 For the purposes of this Section:

20 "School" is defined as a public or private elementary or  
21 secondary school, community college, college, or university.

22 "Day care center" means a public or private State certified  
23 and licensed day care center as defined in Section 2.09 of the  
24 Child Care Act of 1969 that displays a sign in plain view  
25 stating that the property is a day care center.

26 "Public transportation" means the transportation or

1 conveyance of persons by means available to the general public,  
2 and includes paratransit services.

3 (b) The following factors, related to all felonies, may be  
4 considered by the court as reasons to impose an extended term  
5 sentence under Section 5-8-2 upon any offender:

6 (1) When a defendant is convicted of any felony, after  
7 having been previously convicted in Illinois or any other  
8 jurisdiction of the same or similar class felony or greater  
9 class felony, when such conviction has occurred within 10  
10 years after the previous conviction, excluding time spent  
11 in custody, and such charges are separately brought and  
12 tried and arise out of different series of acts; or

13 (2) When a defendant is convicted of any felony and the  
14 court finds that the offense was accompanied by  
15 exceptionally brutal or heinous behavior indicative of  
16 wanton cruelty; or

17 (3) When a defendant is convicted of any felony  
18 committed against:

19 (i) a person under 12 years of age at the time of  
20 the offense or such person's property;

21 (ii) a person 60 years of age or older at the time  
22 of the offense or such person's property; or

23 (iii) a person physically handicapped at the time  
24 of the offense or such person's property; or

25 (4) When a defendant is convicted of any felony and the  
26 offense involved any of the following types of specific

1 misconduct committed as part of a ceremony, rite,  
2 initiation, observance, performance, practice or activity  
3 of any actual or ostensible religious, fraternal, or social  
4 group:

5 (i) the brutalizing or torturing of humans or  
6 animals;

7 (ii) the theft of human corpses;

8 (iii) the kidnapping of humans;

9 (iv) the desecration of any cemetery, religious,  
10 fraternal, business, governmental, educational, or  
11 other building or property; or

12 (v) ritualized abuse of a child; or

13 (5) When a defendant is convicted of a felony other  
14 than conspiracy and the court finds that the felony was  
15 committed under an agreement with 2 or more other persons  
16 to commit that offense and the defendant, with respect to  
17 the other individuals, occupied a position of organizer,  
18 supervisor, financier, or any other position of management  
19 or leadership, and the court further finds that the felony  
20 committed was related to or in furtherance of the criminal  
21 activities of an organized gang or was motivated by the  
22 defendant's leadership in an organized gang; or

23 (6) When a defendant is convicted of an offense  
24 committed while using a firearm with a laser sight attached  
25 to it. For purposes of this paragraph, "laser sight" has  
26 the meaning ascribed to it in Section 24.6-5 of the

1 Criminal Code of 1961; or

2 (7) When a defendant who was at least 17 years of age  
3 at the time of the commission of the offense is convicted  
4 of a felony and has been previously adjudicated a  
5 delinquent minor under the Juvenile Court Act of 1987 for  
6 an act that if committed by an adult would be a Class X or  
7 Class 1 felony when the conviction has occurred within 10  
8 years after the previous adjudication, excluding time  
9 spent in custody; or

10 (8) When a defendant commits any felony and the  
11 defendant used, possessed, exercised control over, or  
12 otherwise directed an animal to assault a law enforcement  
13 officer engaged in the execution of his or her official  
14 duties or in furtherance of the criminal activities of an  
15 organized gang in which the defendant is engaged.

16 (c) The following factors may be considered by the court as  
17 reasons to impose an extended term sentence under Section 5-8-2  
18 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

19 (1) When a defendant is convicted of first degree  
20 murder, after having been previously convicted in Illinois  
21 of any offense listed under paragraph (c)(2) of Section  
22 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
23 within 10 years after the previous conviction, excluding  
24 time spent in custody, and the charges are separately  
25 brought and tried and arise out of different series of  
26 acts.

1           (1.5) When a defendant is convicted of first degree  
2 murder, after having been previously convicted of domestic  
3 battery (720 ILCS 5/12-3.2) or aggravated domestic battery  
4 (720 ILCS 5/12-3.3) committed on the same victim or after  
5 having been previously convicted of violation of an order  
6 of protection (720 ILCS 5/12-30) in which the same victim  
7 was the protected person.

8           (2) When a defendant is convicted of voluntary  
9 manslaughter, second degree murder, involuntary  
10 manslaughter, or reckless homicide in which the defendant  
11 has been convicted of causing the death of more than one  
12 individual.

13           (3) When a defendant is convicted of aggravated  
14 criminal sexual assault or criminal sexual assault, when  
15 there is a finding that aggravated criminal sexual assault  
16 or criminal sexual assault was also committed on the same  
17 victim by one or more other individuals, and the defendant  
18 voluntarily participated in the crime with the knowledge of  
19 the participation of the others in the crime, and the  
20 commission of the crime was part of a single course of  
21 conduct during which there was no substantial change in the  
22 nature of the criminal objective.

23           (4) If the victim was under 18 years of age at the time  
24 of the commission of the offense, when a defendant is  
25 convicted of aggravated criminal sexual assault or  
26 predatory criminal sexual assault of a child under

1 subsection (a)(1) of Section 12-14.1 of the Criminal Code  
2 of 1961 (720 ILCS 5/12-14.1).

3 (5) When a defendant is convicted of a felony violation  
4 of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
5 5/24-1) and there is a finding that the defendant is a  
6 member of an organized gang.

7 (6) When a defendant was convicted of unlawful use of  
8 weapons under Section 24-1 of the Criminal Code of 1961  
9 (720 ILCS 5/24-1) for possessing a weapon that is not  
10 readily distinguishable as one of the weapons enumerated in  
11 Section 24-1 of the Criminal Code of 1961 (720 ILCS  
12 5/24-1).

13 (7) When a defendant is convicted of an offense  
14 involving the illegal manufacture of a controlled  
15 substance under Section 401 of the Illinois Controlled  
16 Substances Act (720 ILCS 570/401), the illegal manufacture  
17 of methamphetamine under Section 25 of the Methamphetamine  
18 Control and Community Protection Act (720 ILCS 646/25), or  
19 the illegal possession of explosives and an emergency  
20 response officer in the performance of his or her duties is  
21 killed or injured at the scene of the offense while  
22 responding to the emergency caused by the commission of the  
23 offense. In this paragraph, "emergency" means a situation  
24 in which a person's life, health, or safety is in jeopardy;  
25 and "emergency response officer" means a peace officer,  
26 community policing volunteer, fireman, emergency medical

1 technician-ambulance, emergency medical  
2 technician-intermediate, emergency medical  
3 technician-paramedic, ambulance driver, other medical  
4 assistance or first aid personnel, or hospital emergency  
5 room personnel.

6 (d) For the purposes of this Section, "organized gang" has  
7 the meaning ascribed to it in Section 10 of the Illinois  
8 Streetgang Terrorism Omnibus Prevention Act.

9 (e) The court may impose an extended term sentence under  
10 Article 4.5 of Chapter V upon an offender who has been  
11 convicted of a felony violation of Section 12-13, 12-14,  
12 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the  
13 victim of the offense is under 18 years of age at the time of  
14 the commission of the offense and, during the commission of the  
15 offense, the victim was under the influence of alcohol,  
16 regardless of whether or not the alcohol was supplied by the  
17 offender; and the offender, at the time of the commission of  
18 the offense, knew or should have known that the victim had  
19 consumed alcohol.

20 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,  
21 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;  
22 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;  
23 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.  
24 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,  
25 eff. 1-1-11; revised 9-16-10.)

1 (Text of Section after amendment by P.A. 96-1551)

2 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
3 Sentencing.

4 (a) The following factors shall be accorded weight in favor  
5 of imposing a term of imprisonment or may be considered by the  
6 court as reasons to impose a more severe sentence under Section  
7 5-8-1 or Article 4.5 of Chapter V:

8 (1) the defendant's conduct caused or threatened  
9 serious harm;

10 (2) the defendant received compensation for committing  
11 the offense;

12 (3) the defendant has a history of prior delinquency or  
13 criminal activity;

14 (4) the defendant, by the duties of his office or by  
15 his position, was obliged to prevent the particular offense  
16 committed or to bring the offenders committing it to  
17 justice;

18 (5) the defendant held public office at the time of the  
19 offense, and the offense related to the conduct of that  
20 office;

21 (6) the defendant utilized his professional reputation  
22 or position in the community to commit the offense, or to  
23 afford him an easier means of committing it;

24 (7) the sentence is necessary to deter others from  
25 committing the same crime;

26 (8) the defendant committed the offense against a



1 person 60 years of age or older or such person's property;

2 (9) the defendant committed the offense against a  
3 person who is physically handicapped or such person's  
4 property;

5 (10) by reason of another individual's actual or  
6 perceived race, color, creed, religion, ancestry, gender,  
7 sexual orientation, physical or mental disability, or  
8 national origin, the defendant committed the offense  
9 against (i) the person or property of that individual; (ii)  
10 the person or property of a person who has an association  
11 with, is married to, or has a friendship with the other  
12 individual; or (iii) the person or property of a relative  
13 (by blood or marriage) of a person described in clause (i)  
14 or (ii). For the purposes of this Section, "sexual  
15 orientation" means heterosexuality, homosexuality, or  
16 bisexuality;

17 (11) the offense took place in a place of worship or on  
18 the grounds of a place of worship, immediately prior to,  
19 during or immediately following worship services. For  
20 purposes of this subparagraph, "place of worship" shall  
21 mean any church, synagogue or other building, structure or  
22 place used primarily for religious worship;

23 (12) the defendant was convicted of a felony committed  
24 while he was released on bail or his own recognizance  
25 pending trial for a prior felony and was convicted of such  
26 prior felony, or the defendant was convicted of a felony

1 committed while he was serving a period of probation,  
2 conditional discharge, or mandatory supervised release  
3 under subsection (d) of Section 5-8-1 for a prior felony;

4 (13) the defendant committed or attempted to commit a  
5 felony while he was wearing a bulletproof vest. For the  
6 purposes of this paragraph (13), a bulletproof vest is any  
7 device which is designed for the purpose of protecting the  
8 wearer from bullets, shot or other lethal projectiles;

9 (14) the defendant held a position of trust or  
10 supervision such as, but not limited to, family member as  
11 defined in Section 11-0.1 of the Criminal Code of 1961,  
12 teacher, scout leader, baby sitter, or day care worker, in  
13 relation to a victim under 18 years of age, and the  
14 defendant committed an offense in violation of Section  
15 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 11-6, 11-11,  
16 11-14.4 except for an offense that involves keeping a place  
17 of juvenile prostitution, 11-15.1, 11-19.1, 11-19.2,  
18 11-20.1, 11-20.1B, 11-20.3, 12-13, 12-14, 12-14.1, 12-15  
19 or 12-16 of the Criminal Code of 1961 against that victim;

20 (15) the defendant committed an offense related to the  
21 activities of an organized gang. For the purposes of this  
22 factor, "organized gang" has the meaning ascribed to it in  
23 Section 10 of the Streetgang Terrorism Omnibus Prevention  
24 Act;

25 (16) the defendant committed an offense in violation of  
26 one of the following Sections while in a school, regardless

1 of the time of day or time of year; on any conveyance  
2 owned, leased, or contracted by a school to transport  
3 students to or from school or a school related activity; on  
4 the real property of a school; or on a public way within  
5 1,000 feet of the real property comprising any school:  
6 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
7 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
8 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
9 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
10 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
11 (a) (4) or (g) (1), of the Criminal Code of 1961;

12 (16.5) the defendant committed an offense in violation  
13 of one of the following Sections while in a day care  
14 center, regardless of the time of day or time of year; on  
15 the real property of a day care center, regardless of the  
16 time of day or time of year; or on a public way within  
17 1,000 feet of the real property comprising any day care  
18 center, regardless of the time of day or time of year:  
19 Section 10-1, 10-2, 10-5, 11-1.20, 11-1.30, 11-1.40,  
20 11-1.50, 11-1.60, 11-14.4, 11-15.1, 11-17.1, 11-18.1,  
21 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
22 12-6, 12-6.1, 12-6.5, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
23 18-2, or 33A-2, or Section 12-3.05 except for subdivision  
24 (a) (4) or (g) (1), of the Criminal Code of 1961;

25 (17) the defendant committed the offense by reason of  
26 any person's activity as a community policing volunteer or

1 to prevent any person from engaging in activity as a  
2 community policing volunteer. For the purpose of this  
3 Section, "community policing volunteer" has the meaning  
4 ascribed to it in Section 2-3.5 of the Criminal Code of  
5 1961;

6 (18) the defendant committed the offense in a nursing  
7 home or on the real property comprising a nursing home. For  
8 the purposes of this paragraph (18), "nursing home" means a  
9 skilled nursing or intermediate long term care facility  
10 that is subject to license by the Illinois Department of  
11 Public Health under the Nursing Home Care Act, the  
12 Specialized Mental Health Rehabilitation Act, or the MR/DD  
13 Community Care Act;

14 (19) the defendant was a federally licensed firearm  
15 dealer and was previously convicted of a violation of  
16 subsection (a) of Section 3 of the Firearm Owners  
17 Identification Card Act and has now committed either a  
18 felony violation of the Firearm Owners Identification Card  
19 Act or an act of armed violence while armed with a firearm;

20 (20) the defendant (i) committed the offense of  
21 reckless homicide under Section 9-3 of the Criminal Code of  
22 1961 or the offense of driving under the influence of  
23 alcohol, other drug or drugs, intoxicating compound or  
24 compounds or any combination thereof under Section 11-501  
25 of the Illinois Vehicle Code or a similar provision of a  
26 local ordinance and (ii) was operating a motor vehicle in

1 excess of 20 miles per hour over the posted speed limit as  
2 provided in Article VI of Chapter 11 of the Illinois  
3 Vehicle Code;

4 (21) the defendant (i) committed the offense of  
5 reckless driving or aggravated reckless driving under  
6 Section 11-503 of the Illinois Vehicle Code and (ii) was  
7 operating a motor vehicle in excess of 20 miles per hour  
8 over the posted speed limit as provided in Article VI of  
9 Chapter 11 of the Illinois Vehicle Code;

10 (22) the defendant committed the offense against a  
11 person that the defendant knew, or reasonably should have  
12 known, was a member of the Armed Forces of the United  
13 States serving on active duty. For purposes of this clause  
14 (22), the term "Armed Forces" means any of the Armed Forces  
15 of the United States, including a member of any reserve  
16 component thereof or National Guard unit called to active  
17 duty;

18 (23) the defendant committed the offense against a  
19 person who was elderly, disabled, or infirm by taking  
20 advantage of a family or fiduciary relationship with the  
21 elderly, disabled, or infirm person;

22 (24) the defendant committed any offense under Section  
23 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
24 more images;

25 (25) the defendant committed the offense while the  
26 defendant or the victim was in a train, bus, or other

1 vehicle used for public transportation;

2 (26) the defendant committed the offense of child  
3 pornography or aggravated child pornography, specifically  
4 including paragraph (1), (2), (3), (4), (5), or (7) of  
5 subsection (a) of Section 11-20.1 of the Criminal Code of  
6 1961 where a child engaged in, solicited for, depicted in,  
7 or posed in any act of sexual penetration or bound,  
8 fettered, or subject to sadistic, masochistic, or  
9 sadomasochistic abuse in a sexual context and specifically  
10 including paragraph (1), (2), (3), (4), (5), or (7) of  
11 subsection (a) of Section 11-20.3 of the Criminal Code of  
12 1961 where a child engaged in, solicited for, depicted in,  
13 or posed in any act of sexual penetration or bound,  
14 fettered, or subject to sadistic, masochistic, or  
15 sadomasochistic abuse in a sexual context; or

16 (27) the defendant committed the offense of first  
17 degree murder, assault, aggravated assault, battery,  
18 aggravated battery, robbery, armed robbery, or aggravated  
19 robbery against a person who was a veteran and the  
20 defendant knew, or reasonably should have known, that the  
21 person was a veteran performing duties as a representative  
22 of a veterans' organization. For the purposes of this  
23 paragraph (27), "veteran" means an Illinois resident who  
24 has served as a member of the United States Armed Forces, a  
25 member of the Illinois National Guard, or a member of the  
26 United States Reserve Forces; and "veterans' organization"

1 means an organization comprised of members of which  
2 substantially all are individuals who are veterans or  
3 spouses, widows, or widowers of veterans, the primary  
4 purpose of which is to promote the welfare of its members  
5 and to provide assistance to the general public in such a  
6 way as to confer a public benefit.

7 For the purposes of this Section:

8 "School" is defined as a public or private elementary or  
9 secondary school, community college, college, or university.

10 "Day care center" means a public or private State certified  
11 and licensed day care center as defined in Section 2.09 of the  
12 Child Care Act of 1969 that displays a sign in plain view  
13 stating that the property is a day care center.

14 "Public transportation" means the transportation or  
15 conveyance of persons by means available to the general public,  
16 and includes paratransit services.

17 (b) The following factors, related to all felonies, may be  
18 considered by the court as reasons to impose an extended term  
19 sentence under Section 5-8-2 upon any offender:

20 (1) When a defendant is convicted of any felony, after  
21 having been previously convicted in Illinois or any other  
22 jurisdiction of the same or similar class felony or greater  
23 class felony, when such conviction has occurred within 10  
24 years after the previous conviction, excluding time spent  
25 in custody, and such charges are separately brought and  
26 tried and arise out of different series of acts; or

1           (2) When a defendant is convicted of any felony and the  
2 court finds that the offense was accompanied by  
3 exceptionally brutal or heinous behavior indicative of  
4 wanton cruelty; or

5           (3) When a defendant is convicted of any felony  
6 committed against:

7                 (i) a person under 12 years of age at the time of  
8 the offense or such person's property;

9                 (ii) a person 60 years of age or older at the time  
10 of the offense or such person's property; or

11                (iii) a person physically handicapped at the time  
12 of the offense or such person's property; or

13           (4) When a defendant is convicted of any felony and the  
14 offense involved any of the following types of specific  
15 misconduct committed as part of a ceremony, rite,  
16 initiation, observance, performance, practice or activity  
17 of any actual or ostensible religious, fraternal, or social  
18 group:

19                 (i) the brutalizing or torturing of humans or  
20 animals;

21                 (ii) the theft of human corpses;

22                 (iii) the kidnapping of humans;

23                 (iv) the desecration of any cemetery, religious,  
24 fraternal, business, governmental, educational, or  
25 other building or property; or

26                 (v) ritualized abuse of a child; or



1           (5) When a defendant is convicted of a felony other  
2 than conspiracy and the court finds that the felony was  
3 committed under an agreement with 2 or more other persons  
4 to commit that offense and the defendant, with respect to  
5 the other individuals, occupied a position of organizer,  
6 supervisor, financier, or any other position of management  
7 or leadership, and the court further finds that the felony  
8 committed was related to or in furtherance of the criminal  
9 activities of an organized gang or was motivated by the  
10 defendant's leadership in an organized gang; or

11           (6) When a defendant is convicted of an offense  
12 committed while using a firearm with a laser sight attached  
13 to it. For purposes of this paragraph, "laser sight" has  
14 the meaning ascribed to it in Section 24.6-5 of the  
15 Criminal Code of 1961; or

16           (7) When a defendant who was at least 17 years of age  
17 at the time of the commission of the offense is convicted  
18 of a felony and has been previously adjudicated a  
19 delinquent minor under the Juvenile Court Act of 1987 for  
20 an act that if committed by an adult would be a Class X or  
21 Class 1 felony when the conviction has occurred within 10  
22 years after the previous adjudication, excluding time  
23 spent in custody; or

24           (8) When a defendant commits any felony and the  
25 defendant used, possessed, exercised control over, or  
26 otherwise directed an animal to assault a law enforcement

1 officer engaged in the execution of his or her official  
2 duties or in furtherance of the criminal activities of an  
3 organized gang in which the defendant is engaged.

4 (c) The following factors may be considered by the court as  
5 reasons to impose an extended term sentence under Section 5-8-2  
6 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

7 (1) When a defendant is convicted of first degree  
8 murder, after having been previously convicted in Illinois  
9 of any offense listed under paragraph (c)(2) of Section  
10 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
11 within 10 years after the previous conviction, excluding  
12 time spent in custody, and the charges are separately  
13 brought and tried and arise out of different series of  
14 acts.

15 (1.5) When a defendant is convicted of first degree  
16 murder, after having been previously convicted of domestic  
17 battery (720 ILCS 5/12-3.2) or aggravated domestic battery  
18 (720 ILCS 5/12-3.3) committed on the same victim or after  
19 having been previously convicted of violation of an order  
20 of protection (720 ILCS 5/12-30) in which the same victim  
21 was the protected person.

22 (2) When a defendant is convicted of voluntary  
23 manslaughter, second degree murder, involuntary  
24 manslaughter, or reckless homicide in which the defendant  
25 has been convicted of causing the death of more than one  
26 individual.

1           (3) When a defendant is convicted of aggravated  
2 criminal sexual assault or criminal sexual assault, when  
3 there is a finding that aggravated criminal sexual assault  
4 or criminal sexual assault was also committed on the same  
5 victim by one or more other individuals, and the defendant  
6 voluntarily participated in the crime with the knowledge of  
7 the participation of the others in the crime, and the  
8 commission of the crime was part of a single course of  
9 conduct during which there was no substantial change in the  
10 nature of the criminal objective.

11           (4) If the victim was under 18 years of age at the time  
12 of the commission of the offense, when a defendant is  
13 convicted of aggravated criminal sexual assault or  
14 predatory criminal sexual assault of a child under  
15 subsection (a)(1) of Section 11-1.40 or subsection (a)(1)  
16 of Section 12-14.1 of the Criminal Code of 1961 (720 ILCS  
17 5/11-1.40 or 5/12-14.1).

18           (5) When a defendant is convicted of a felony violation  
19 of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
20 5/24-1) and there is a finding that the defendant is a  
21 member of an organized gang.

22           (6) When a defendant was convicted of unlawful use of  
23 weapons under Section 24-1 of the Criminal Code of 1961  
24 (720 ILCS 5/24-1) for possessing a weapon that is not  
25 readily distinguishable as one of the weapons enumerated in  
26 Section 24-1 of the Criminal Code of 1961 (720 ILCS

1 5/24-1).

2 (7) When a defendant is convicted of an offense  
3 involving the illegal manufacture of a controlled  
4 substance under Section 401 of the Illinois Controlled  
5 Substances Act (720 ILCS 570/401), the illegal manufacture  
6 of methamphetamine under Section 25 of the Methamphetamine  
7 Control and Community Protection Act (720 ILCS 646/25), or  
8 the illegal possession of explosives and an emergency  
9 response officer in the performance of his or her duties is  
10 killed or injured at the scene of the offense while  
11 responding to the emergency caused by the commission of the  
12 offense. In this paragraph, "emergency" means a situation  
13 in which a person's life, health, or safety is in jeopardy;  
14 and "emergency response officer" means a peace officer,  
15 community policing volunteer, fireman, emergency medical  
16 technician-ambulance, emergency medical  
17 technician-intermediate, emergency medical  
18 technician-paramedic, ambulance driver, other medical  
19 assistance or first aid personnel, or hospital emergency  
20 room personnel.

21 (d) For the purposes of this Section, "organized gang" has  
22 the meaning ascribed to it in Section 10 of the Illinois  
23 Streetgang Terrorism Omnibus Prevention Act.

24 (e) The court may impose an extended term sentence under  
25 Article 4.5 of Chapter V upon an offender who has been  
26 convicted of a felony violation of Section 12-13, 12-14,

1 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the  
2 victim of the offense is under 18 years of age at the time of  
3 the commission of the offense and, during the commission of the  
4 offense, the victim was under the influence of alcohol,  
5 regardless of whether or not the alcohol was supplied by the  
6 offender; and the offender, at the time of the commission of  
7 the offense, knew or should have known that the victim had  
8 consumed alcohol.

9 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,  
10 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;  
11 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;  
12 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.  
13 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,  
14 eff. 1-1-11; 96-1551, Article 1, Section 970, eff. 7-1-11;  
15 96-1551, Article 2, Section 1065, eff. 7-1-11; revised  
16 4-18-11.)

17 Section 90-220. The Secure Residential Youth Care Facility  
18 Licensing Act is amended by changing Section 45-10 as follows:

19 (730 ILCS 175/45-10)

20 Sec. 45-10. Definitions. As used in this Act:

21 "Department" means the Illinois Department of Corrections.

22 "Director" means the Director of Corrections.

23 "Secure residential youth care facility" means a facility  
24 (1) where youth are placed and reside for care, treatment, and

1 custody; (2) that is designed and operated so as to ensure that  
2 all entrances and exits from the facility, or from a building  
3 or distinct part of a building within the facility, are under  
4 the exclusive control of the staff of the facility, whether or  
5 not the youth has freedom of movement within the perimeter of  
6 the facility or within the perimeter of a building or distinct  
7 part of a building within the facility; and (3) that uses  
8 physically restrictive construction including, but not limited  
9 to, locks, bolts, gates, doors, bars, fences, and screen  
10 barriers. This definition does not include jails, prisons,  
11 detention centers, or other such correctional facilities;  
12 State operated mental health facilities; or facilities  
13 operating as psychiatric hospitals under a license pursuant to  
14 the MR/DD Community Care Act, the Nursing Home Care Act, the  
15 Specialized Mental Health Rehabilitation Act, or the Hospital  
16 Licensing Act.

17 "Youth" means an adjudicated delinquent who is 18 years of  
18 age or under and is transferred to the Department pursuant to  
19 Section 3-10-11 of the Unified Code of Corrections.

20 (Source: P.A. 96-339, eff. 7-1-10.)

21 Section 90-225. The Code of Civil Procedure is amended by  
22 changing Section 2-203 as follows:

23 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

24 Sec. 2-203. Service on individuals.

1 (a) Except as otherwise expressly provided, service of  
2 summons upon an individual defendant shall be made (1) by  
3 leaving a copy of the summons with the defendant personally,  
4 (2) by leaving a copy at the defendant's usual place of abode,  
5 with some person of the family or a person residing there, of  
6 the age of 13 years or upwards, and informing that person of  
7 the contents of the summons, provided the officer or other  
8 person making service shall also send a copy of the summons in  
9 a sealed envelope with postage fully prepaid, addressed to the  
10 defendant at his or her usual place of abode, or (3) as  
11 provided in Section 1-2-9.2 of the Illinois Municipal Code with  
12 respect to violation of an ordinance governing parking or  
13 standing of vehicles in cities with a population over 500,000.  
14 The certificate of the officer or affidavit of the person that  
15 he or she has sent the copy in pursuance of this Section is  
16 evidence that he or she has done so. No employee of a facility  
17 licensed under the Nursing Home Care Act, the Specialized  
18 Mental Health Rehabilitation Act, or the MR/DD Community Care  
19 Act shall obstruct an officer or other person making service in  
20 compliance with this Section.

21 (b) The officer, in his or her certificate or in a record  
22 filed and maintained in the Sheriff's office, or other person  
23 making service, in his or her affidavit or in a record filed  
24 and maintained in his or her employer's office, shall (1)  
25 identify as to sex, race, and approximate age the defendant or  
26 other person with whom the summons was left and (2) state the

1 place where (whenever possible in terms of an exact street  
2 address) and the date and time of the day when the summons was  
3 left with the defendant or other person.

4 (c) Any person who knowingly sets forth in the certificate  
5 or affidavit any false statement, shall be liable in civil  
6 contempt. When the court holds a person in civil contempt under  
7 this Section, it shall award such damages as it determines to  
8 be just and, when the contempt is prosecuted by a private  
9 attorney, may award reasonable attorney's fees.

10 (Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

11 Section 90-230. The Consumer Fraud and Deceptive Business  
12 Practices Act is amended by changing Section 2BBB as follows:

13 (815 ILCS 505/2BBB)

14 Sec. 2BBB. Long term care facility, or MR/DD facility, or  
15 mental health rehabilitation facility for the mentally ill;  
16 Consumer Choice Information Report. A long term care facility  
17 that fails to comply with Section 2-214 of the Nursing Home  
18 Care Act or a facility that fails to comply with Section 2-214  
19 of the MR/DD Community Care Act or Section 2-214 of the  
20 Specialized Mental Health Rehabilitation Act commits an  
21 unlawful practice within the meaning of this Act.

22 (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09;  
23 96-339, eff. 7-1-10.)



1                                   ARTICLE 95. NONACCELERATION

2           Section 95-95. No acceleration or delay. Where this Act  
3 makes changes in a statute that is represented in this Act by  
4 text that is not yet or no longer in effect (for example, a  
5 Section represented by multiple versions), the use of that text  
6 does not accelerate or delay the taking effect of (i) the  
7 changes made by this Act or (ii) provisions derived from any  
8 other Public Act.

9                                   ARTICLE 99. EFFECTIVE DATE

10           Section 99-99. Effective date. This Act takes effect upon  
11 becoming law.".