



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1667

Introduced 2/9/2011, by Sen. Heather A. Steans

SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-5.2	from Ch. 23, par. 5-5.2
305 ILCS 5/5-5.4	from Ch. 23, par. 5-5.4
305 ILCS 5/5B-1	from Ch. 23, par. 5B-1
305 ILCS 5/5B-2	from Ch. 23, par. 5B-2
305 ILCS 5/5B-4	from Ch. 23, par. 5B-4
305 ILCS 5/5B-7	from Ch. 23, par. 5B-7
305 ILCS 5/Art. V-E rep.	
305 ILCS 5/5E-5 rep.	
305 ILCS 5/5E-10 rep.	
305 ILCS 5/5E-15 rep.	

Amends the Illinois Public Aid Code. Changes the date on when the Department of Healthcare and Family Services shall implement an evidence-based payment methodology for the reimbursement of nursing facility services and requires the revised methodology to incorporate patient acuity, patient health outcomes, and measures of quality and quality improvement for the determination of payment. Removes a provision requiring the Department to develop enhanced payments to offset the additional costs incurred by a facility serving exceptional need residents. Provides that licensed bed days shall be computed separately for each nursing home operated or maintained by a nursing home provider. Changes the assessment rate for long-term care providers to \$2.04 times the number of licensed bed days (rather than \$6.07 times the number of occupied bed days) due and payable each month. Repeals provisions concerning licensed nursing bed day fees. Effective upon becoming law or on the effective date of Senate Bill 3088 of the 96th General Assembly, whichever is later.

LRB097 09068 KTG 50057 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public aid.

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

4 Section 5. If and only if Senate Bill 3088 of the 96th
5 General Assembly becomes law, then the Illinois Public Aid Code
6 is amended by changing Sections 5-5.2, 5-5.4, 5B-1, 5B-2, 5B-4,
7 and 5B-7 as follows:

8 (305 ILCS 5/5-5.2) (from Ch. 23, par. 5-5.2)

9 Sec. 5-5.2. Payment.

10 (a) All nursing facilities that are grouped pursuant to
11 Section 5-5.1 of this Act shall receive the same rate of
12 payment for similar services.

13 (b) It shall be a matter of State policy that the Illinois
14 Department shall utilize a uniform billing cycle throughout the
15 State for the long-term care providers.

16 (c) Notwithstanding any other provisions of this Code,
17 beginning January ~~July~~ 1, 2012 the methodologies for
18 reimbursement of nursing facility services as provided under
19 this Article shall no longer be applicable for bills payable
20 for State fiscal years 2012 and thereafter. The Department of
21 Healthcare and Family Services shall, effective January ~~July~~ 1,
22 2012, implement an evidence-based payment methodology for the
23 reimbursement of nursing facility services. The methodology

1 shall continue to take into consideration the needs of
2 individual residents, as assessed and reported by the most
3 current version of the nursing facility Resident Assessment
4 Instrument, adopted and in use by the federal government.
5 Additionally, the revised methodology shall incorporate
6 patient acuity, patient health outcomes, and measures of
7 quality and quality improvement for the determination of
8 payment.

9 (Source: P.A. 87-809; 88-380; 96SB3088 Enrolled.)

10 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

11 Sec. 5-5.4. Standards of Payment - Department of Healthcare
12 and Family Services. The Department of Healthcare and Family
13 Services shall develop standards of payment of nursing facility
14 and ICF/DD services in facilities providing such services under
15 this Article which:

16 (1) Provide for the determination of a facility's payment
17 for nursing facility or ICF/DD services on a prospective basis.
18 The amount of the payment rate for all nursing facilities
19 certified by the Department of Public Health under the MR/DD
20 Community Care Act or the Nursing Home Care Act as Intermediate
21 Care for the Developmentally Disabled facilities, Long Term
22 Care for Under Age 22 facilities, Skilled Nursing facilities,
23 or Intermediate Care facilities under the medical assistance
24 program shall be prospectively established annually on the
25 basis of historical, financial, and statistical data

1 reflecting actual costs from prior years, which shall be
2 applied to the current rate year and updated for inflation,
3 except that the capital cost element for newly constructed
4 facilities shall be based upon projected budgets. The annually
5 established payment rate shall take effect on July 1 in 1984
6 and subsequent years. No rate increase and no update for
7 inflation shall be provided on or after July 1, 1994 and before
8 January ~~July~~ 1, 2012, unless specifically provided for in this
9 Section. The changes made by Public Act 93-841 extending the
10 duration of the prohibition against a rate increase or update
11 for inflation are effective retroactive to July 1, 2004.

12 For facilities licensed by the Department of Public Health
13 under the Nursing Home Care Act as Intermediate Care for the
14 Developmentally Disabled facilities or Long Term Care for Under
15 Age 22 facilities, the rates taking effect on July 1, 1998
16 shall include an increase of 3%. For facilities licensed by the
17 Department of Public Health under the Nursing Home Care Act as
18 Skilled Nursing facilities or Intermediate Care facilities,
19 the rates taking effect on July 1, 1998 shall include an
20 increase of 3% plus \$1.10 per resident-day, as defined by the
21 Department. For facilities licensed by the Department of Public
22 Health under the Nursing Home Care Act as Intermediate Care
23 Facilities for the Developmentally Disabled or Long Term Care
24 for Under Age 22 facilities, the rates taking effect on January
25 1, 2006 shall include an increase of 3%. For facilities
26 licensed by the Department of Public Health under the Nursing

1 Home Care Act as Intermediate Care Facilities for the
2 Developmentally Disabled or Long Term Care for Under Age 22
3 facilities, the rates taking effect on January 1, 2009 shall
4 include an increase sufficient to provide a \$0.50 per hour wage
5 increase for non-executive staff.

6 For facilities licensed by the Department of Public Health
7 under the Nursing Home Care Act as Intermediate Care for the
8 Developmentally Disabled facilities or Long Term Care for Under
9 Age 22 facilities, the rates taking effect on July 1, 1999
10 shall include an increase of 1.6% plus \$3.00 per resident-day,
11 as defined by the Department. For facilities licensed by the
12 Department of Public Health under the Nursing Home Care Act as
13 Skilled Nursing facilities or Intermediate Care facilities,
14 the rates taking effect on July 1, 1999 shall include an
15 increase of 1.6% and, for services provided on or after October
16 1, 1999, shall be increased by \$4.00 per resident-day, as
17 defined by the Department.

18 For facilities licensed by the Department of Public Health
19 under the Nursing Home Care Act as Intermediate Care for the
20 Developmentally Disabled facilities or Long Term Care for Under
21 Age 22 facilities, the rates taking effect on July 1, 2000
22 shall include an increase of 2.5% per resident-day, as defined
23 by the Department. For facilities licensed by the Department of
24 Public Health under the Nursing Home Care Act as Skilled
25 Nursing facilities or Intermediate Care facilities, the rates
26 taking effect on July 1, 2000 shall include an increase of 2.5%

1 per resident-day, as defined by the Department.

2 For facilities licensed by the Department of Public Health
3 under the Nursing Home Care Act as skilled nursing facilities
4 or intermediate care facilities, a new payment methodology must
5 be implemented for the nursing component of the rate effective
6 July 1, 2003. The Department of Public Aid (now Healthcare and
7 Family Services) shall develop the new payment methodology
8 using the Minimum Data Set (MDS) as the instrument to collect
9 information concerning nursing home resident condition
10 necessary to compute the rate. The Department shall develop the
11 new payment methodology to meet the unique needs of Illinois
12 nursing home residents while remaining subject to the
13 appropriations provided by the General Assembly. A transition
14 period from the payment methodology in effect on June 30, 2003
15 to the payment methodology in effect on July 1, 2003 shall be
16 provided for a period not exceeding 3 years and 184 days after
17 implementation of the new payment methodology as follows:

18 (A) For a facility that would receive a lower nursing
19 component rate per patient day under the new system than
20 the facility received effective on the date immediately
21 preceding the date that the Department implements the new
22 payment methodology, the nursing component rate per
23 patient day for the facility shall be held at the level in
24 effect on the date immediately preceding the date that the
25 Department implements the new payment methodology until a
26 higher nursing component rate of reimbursement is achieved

1 by that facility.

2 (B) For a facility that would receive a higher nursing
3 component rate per patient day under the payment
4 methodology in effect on July 1, 2003 than the facility
5 received effective on the date immediately preceding the
6 date that the Department implements the new payment
7 methodology, the nursing component rate per patient day for
8 the facility shall be adjusted.

9 (C) Notwithstanding paragraphs (A) and (B), the
10 nursing component rate per patient day for the facility
11 shall be adjusted subject to appropriations provided by the
12 General Assembly.

13 For facilities licensed by the Department of Public Health
14 under the Nursing Home Care Act as Intermediate Care for the
15 Developmentally Disabled facilities or Long Term Care for Under
16 Age 22 facilities, the rates taking effect on March 1, 2001
17 shall include a statewide increase of 7.85%, as defined by the
18 Department.

19 Notwithstanding any other provision of this Section, for
20 facilities licensed by the Department of Public Health under
21 the Nursing Home Care Act as skilled nursing facilities or
22 intermediate care facilities, except facilities participating
23 in the Department's demonstration program pursuant to the
24 provisions of Title 77, Part 300, Subpart T of the Illinois
25 Administrative Code, the numerator of the ratio used by the
26 Department of Healthcare and Family Services to compute the

1 rate payable under this Section using the Minimum Data Set
2 (MDS) methodology shall incorporate the following annual
3 amounts as the additional funds appropriated to the Department
4 specifically to pay for rates based on the MDS nursing
5 component methodology in excess of the funding in effect on
6 December 31, 2006:

7 (i) For rates taking effect January 1, 2007,
8 \$60,000,000.

9 (ii) For rates taking effect January 1, 2008,
10 \$110,000,000.

11 (iii) For rates taking effect January 1, 2009,
12 \$194,000,000.

13 (iv) (Blank) ~~For rates taking effect April 1, 2011, or~~
14 ~~the first day of the month that begins at least 45 days~~
15 ~~after the effective date of this amendatory Act of the 96th~~
16 ~~General Assembly, \$416,500,000 or an amount as may be~~
17 ~~necessary to complete the transition to the MDS methodology~~
18 ~~for the nursing component of the rate.~~

19 Notwithstanding any other provision of this Section, for
20 facilities licensed by the Department of Public Health under
21 the Nursing Home Care Act as skilled nursing facilities or
22 intermediate care facilities, the support component of the
23 rates taking effect on January 1, 2008 shall be computed using
24 the most recent cost reports on file with the Department of
25 Healthcare and Family Services no later than April 1, 2005,
26 updated for inflation to January 1, 2006.

1 For facilities licensed by the Department of Public Health
2 under the Nursing Home Care Act as Intermediate Care for the
3 Developmentally Disabled facilities or Long Term Care for Under
4 Age 22 facilities, the rates taking effect on April 1, 2002
5 shall include a statewide increase of 2.0%, as defined by the
6 Department. This increase terminates on July 1, 2002; beginning
7 July 1, 2002 these rates are reduced to the level of the rates
8 in effect on March 31, 2002, as defined by the Department.

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as skilled nursing facilities
11 or intermediate care facilities, the rates taking effect on
12 July 1, 2001 shall be computed using the most recent cost
13 reports on file with the Department of Public Aid no later than
14 April 1, 2000, updated for inflation to January 1, 2001. For
15 rates effective July 1, 2001 only, rates shall be the greater
16 of the rate computed for July 1, 2001 or the rate effective on
17 June 30, 2001.

18 Notwithstanding any other provision of this Section, for
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as skilled nursing facilities or
21 intermediate care facilities, the Illinois Department shall
22 determine by rule the rates taking effect on July 1, 2002,
23 which shall be 5.9% less than the rates in effect on June 30,
24 2002.

25 Notwithstanding any other provision of this Section, for
26 facilities licensed by the Department of Public Health under

1 the Nursing Home Care Act as skilled nursing facilities or
2 intermediate care facilities, if the payment methodologies
3 required under Section 5A-12 and the waiver granted under 42
4 CFR 433.68 are approved by the United States Centers for
5 Medicare and Medicaid Services, the rates taking effect on July
6 1, 2004 shall be 3.0% greater than the rates in effect on June
7 30, 2004. These rates shall take effect only upon approval and
8 implementation of the payment methodologies required under
9 Section 5A-12.

10 Notwithstanding any other provisions of this Section, for
11 facilities licensed by the Department of Public Health under
12 the Nursing Home Care Act as skilled nursing facilities or
13 intermediate care facilities, the rates taking effect on
14 January 1, 2005 shall be 3% more than the rates in effect on
15 December 31, 2004.

16 Notwithstanding any other provision of this Section, for
17 facilities licensed by the Department of Public Health under
18 the Nursing Home Care Act as skilled nursing facilities or
19 intermediate care facilities, effective January 1, 2009, the
20 per diem support component of the rates effective on January 1,
21 2008, computed using the most recent cost reports on file with
22 the Department of Healthcare and Family Services no later than
23 April 1, 2005, updated for inflation to January 1, 2006, shall
24 be increased to the amount that would have been derived using
25 standard Department of Healthcare and Family Services methods,
26 procedures, and inflators.

1 Notwithstanding any other provisions of this Section, for
2 facilities licensed by the Department of Public Health under
3 the Nursing Home Care Act as intermediate care facilities that
4 are federally defined as Institutions for Mental Disease, a
5 socio-development component rate equal to 6.6% of the
6 facility's nursing component rate as of January 1, 2006 shall
7 be established and paid effective July 1, 2006. The
8 socio-development component of the rate shall be increased by a
9 factor of 2.53 on the first day of the month that begins at
10 least 45 days after January 11, 2008 (the effective date of
11 Public Act 95-707). As of August 1, 2008, the socio-development
12 component rate shall be equal to 6.6% of the facility's nursing
13 component rate as of January 1, 2006, multiplied by a factor of
14 3.53. For services provided on or after January 1, 2012 ~~April~~
15 ~~1, 2011, or the first day of the month that begins at least 45~~
16 ~~days after the effective date of this amendatory Act of the~~
17 ~~96th General Assembly, whichever is later,~~ the Illinois
18 Department may by rule adjust these socio-development
19 component rates, and may use different adjustment
20 methodologies for those facilities participating, and those
21 not participating, in the Illinois Department's demonstration
22 program pursuant to the provisions of Title 77, Part 300,
23 Subpart T of the Illinois Administrative Code, but in no case
24 may such rates be diminished below those in effect on August 1,
25 2008.

26 For facilities licensed by the Department of Public Health

1 under the Nursing Home Care Act as Intermediate Care for the
2 Developmentally Disabled facilities or as long-term care
3 facilities for residents under 22 years of age, the rates
4 taking effect on July 1, 2003 shall include a statewide
5 increase of 4%, as defined by the Department.

6 For facilities licensed by the Department of Public Health
7 under the Nursing Home Care Act as Intermediate Care for the
8 Developmentally Disabled facilities or Long Term Care for Under
9 Age 22 facilities, the rates taking effect on the first day of
10 the month that begins at least 45 days after the effective date
11 of this amendatory Act of the 95th General Assembly shall
12 include a statewide increase of 2.5%, as defined by the
13 Department.

14 Notwithstanding any other provision of this Section, for
15 facilities licensed by the Department of Public Health under
16 the Nursing Home Care Act as skilled nursing facilities or
17 intermediate care facilities, effective January 1, 2005,
18 facility rates shall be increased by the difference between (i)
19 a facility's per diem property, liability, and malpractice
20 insurance costs as reported in the cost report filed with the
21 Department of Public Aid and used to establish rates effective
22 July 1, 2001 and (ii) those same costs as reported in the
23 facility's 2002 cost report. These costs shall be passed
24 through to the facility without caps or limitations, except for
25 adjustments required under normal auditing procedures.

26 Rates established effective each July 1 shall govern

1 payment for services rendered throughout that fiscal year,
2 except that rates established on July 1, 1996 shall be
3 increased by 6.8% for services provided on or after January 1,
4 1997. Such rates will be based upon the rates calculated for
5 the year beginning July 1, 1990, and for subsequent years
6 thereafter until June 30, 2001 shall be based on the facility
7 cost reports for the facility fiscal year ending at any point
8 in time during the previous calendar year, updated to the
9 midpoint of the rate year. The cost report shall be on file
10 with the Department no later than April 1 of the current rate
11 year. Should the cost report not be on file by April 1, the
12 Department shall base the rate on the latest cost report filed
13 by each skilled care facility and intermediate care facility,
14 updated to the midpoint of the current rate year. In
15 determining rates for services rendered on and after July 1,
16 1985, fixed time shall not be computed at less than zero. The
17 Department shall not make any alterations of regulations which
18 would reduce any component of the Medicaid rate to a level
19 below what that component would have been utilizing in the rate
20 effective on July 1, 1984.

21 (2) Shall take into account the actual costs incurred by
22 facilities in providing services for recipients of skilled
23 nursing and intermediate care services under the medical
24 assistance program.

25 (3) Shall take into account the medical and psycho-social
26 characteristics and needs of the patients.

1 (4) Shall take into account the actual costs incurred by
2 facilities in meeting licensing and certification standards
3 imposed and prescribed by the State of Illinois, any of its
4 political subdivisions or municipalities and by the U.S.
5 Department of Health and Human Services pursuant to Title XIX
6 of the Social Security Act.

7 The Department of Healthcare and Family Services shall
8 develop precise standards for payments to reimburse nursing
9 facilities for any utilization of appropriate rehabilitative
10 personnel for the provision of rehabilitative services which is
11 authorized by federal regulations, including reimbursement for
12 services provided by qualified therapists or qualified
13 assistants, and which is in accordance with accepted
14 professional practices. Reimbursement also may be made for
15 utilization of other supportive personnel under appropriate
16 supervision.

17 ~~The Department shall develop enhanced payments to offset~~
18 ~~the additional costs incurred by a facility serving exceptional~~
19 ~~need residents and shall allocate at least \$8,000,000 of the~~
20 ~~funds collected from the assessment established by Section 5B-2~~
21 ~~of this Code for such payments. For the purpose of this~~
22 ~~Section, "exceptional needs" means, but need not be limited to,~~
23 ~~ventilator care, tracheotomy care, bariatric care, complex~~
24 ~~wound care, and traumatic brain injury care.~~

25 (5) Beginning January ~~July~~ 1, 2012 the methodologies for
26 reimbursement of nursing facility services as provided under

1 this Section 5-5.4 shall no longer be applicable for bills
2 payable for State fiscal years 2012 and thereafter.

3 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,
4 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;
5 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;
6 96SB3088 Enrolled.)

7 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

8 Sec. 5B-1. Definitions. As used in this Article, unless the
9 context requires otherwise:

10 "Fund" means the Long-Term Care Provider Fund.

11 "Long-term care facility" means (i) a nursing facility,
12 whether public or private and whether organized for profit or
13 not-for-profit, that is subject to licensure by the Illinois
14 Department of Public Health under the Nursing Home Care Act or
15 the MR/DD Community Care Act, including a county nursing home
16 directed and maintained under Section 5-1005 of the Counties
17 Code, and (ii) a part of a hospital in which skilled or
18 intermediate long-term care services within the meaning of
19 Title XVIII or XIX of the Social Security Act are provided;
20 except that the term "long-term care facility" does not include
21 a facility operated ~~by a State agency, a facility participating~~
22 ~~in the Illinois Department's demonstration program pursuant to~~
23 ~~the provisions of Title 77, Part 300, Subpart T of the Illinois~~
24 ~~Administrative Code, or operated solely as an intermediate care~~
25 facility for the mentally retarded within the meaning of Title

1 XIX of the Social Security Act.

2 "Long-term care provider" means (i) a person licensed by
3 the Department of Public Health to operate and maintain a
4 skilled nursing or intermediate long-term care facility or (ii)
5 a hospital provider that provides skilled or intermediate
6 long-term care services within the meaning of Title XVIII or
7 XIX of the Social Security Act. For purposes of this paragraph,
8 "person" means any political subdivision of the State,
9 municipal corporation, individual, firm, partnership,
10 corporation, company, limited liability company, association,
11 joint stock association, or trust, or a receiver, executor,
12 trustee, guardian, or other representative appointed by order
13 of any court. "Hospital provider" means a person licensed by
14 the Department of Public Health to conduct, operate, or
15 maintain a hospital.

16 "Occupied bed days" shall be computed separately for each
17 long-term care facility operated or maintained by a long-term
18 care provider, and means the sum for all beds of the number of
19 days during the month on which each bed was occupied by a
20 resident, other than a resident for whom Medicare Part A is the
21 primary payer.

22 "Licensed bed days" shall be computed separately for each
23 nursing home operated or maintained by a nursing home provider
24 and means, with respect to a nursing home provider, the sum for
25 all nursing home beds of the number of days during a calendar
26 quarter on which each bed is covered by a license issued to

1 that provider under the Nursing Home Care Act or the Hospital
2 Licensing Act.

3 (Source: P.A. 96-339, eff. 7-1-10; 96SB3088 Enrolled.)

4 (305 ILCS 5/5B-2) (from Ch. 23, par. 5B-2)

5 Sec. 5B-2. Assessment; no local authorization to tax.

6 (a) For the privilege of engaging in the occupation of
7 long-term care provider, beginning July 1, 2011 an assessment
8 is imposed upon each long-term care provider in an amount equal
9 to \$2.04 ~~\$6.07~~ times the number of licensed ~~occupied~~ bed days
10 due and payable each month. Notwithstanding any provision of
11 any other Act to the contrary, this assessment shall be
12 construed as a tax, but may not be added to the charges of an
13 individual's nursing home care that is paid for in whole, or in
14 part, by a federal, State, or combined federal-state medical
15 care program.

16 (b) Nothing in this amendatory Act of 1992 shall be
17 construed to authorize any home rule unit or other unit of
18 local government to license for revenue or impose a tax or
19 assessment upon long-term care providers or the occupation of
20 long-term care provider, or a tax or assessment measured by the
21 income or earnings or occupied bed days or licensed bed days of
22 a long-term care provider.

23 (Source: P.A. 87-861; 96SB3088 Enrolled.)

24 (305 ILCS 5/5B-4) (from Ch. 23, par. 5B-4)

1 Sec. 5B-4. Payment of assessment; penalty.

2 (a) The assessment imposed by Section 5B-2 shall be due and
3 payable monthly, on the last State business day of the month
4 for licensed ~~occupied~~ bed days reported for the preceding third
5 month prior to the month in which the tax is payable and due. A
6 facility that has delayed payment due to the State's failure to
7 reimburse for services rendered may request an extension on the
8 due date for payment pursuant to subsection (b) and shall pay
9 the assessment within 30 days of reimbursement by the
10 Department. The Illinois Department may provide that county
11 nursing homes directed and maintained pursuant to Section
12 5-1005 of the Counties Code may meet their assessment
13 obligation by certifying to the Illinois Department that county
14 expenditures have been obligated for the operation of the
15 county nursing home in an amount at least equal to the amount
16 of the assessment.

17 (a-5) Each assessment payment shall be accompanied by an
18 assessment report to be completed by the long-term care
19 provider. A separate report shall be completed for each
20 long-term care facility in this State operated by a long-term
21 care provider. The report shall be in a form and manner
22 prescribed by the Illinois Department and shall at a minimum
23 provide for the reporting of the number of occupied bed days of
24 the long-term care facility for the reporting period and other
25 reasonable information the Illinois Department requires for
26 the administration of its responsibilities under this Code. To

1 the extent practicable, the Department shall coordinate the
2 assessment reporting requirements with other reporting
3 required of long-term care facilities.

4 (b) The Illinois Department is authorized to establish
5 delayed payment schedules for long-term care providers that are
6 unable to make assessment payments when due under this Section
7 due to financial difficulties, as determined by the Illinois
8 Department. The Illinois Department may not deny a request for
9 delay of payment of the assessment imposed under this Article
10 if the long-term care provider has not been paid for services
11 provided during the month on which the assessment is levied.

12 (c) If a long-term care provider fails to pay the full
13 amount of an assessment payment when due (including any
14 extensions granted under subsection (b)), there shall, unless
15 waived by the Illinois Department for reasonable cause, be
16 added to the assessment imposed by Section 5B-2 a penalty
17 assessment equal to the lesser of (i) 5% of the amount of the
18 assessment payment not paid on or before the due date plus 5%
19 of the portion thereof remaining unpaid on the last day of each
20 month thereafter or (ii) 100% of the assessment payment amount
21 not paid on or before the due date. For purposes of this
22 subsection, payments will be credited first to unpaid
23 assessment payment amounts (rather than to penalty or
24 interest), beginning with the most delinquent assessment
25 payments . Payment cycles of longer than 60 days shall be one
26 factor the Director takes into account in granting a waiver

1 under this Section.

2 (c-5) If a long-term care provider fails to file its report
3 with payment, there shall, unless waived by the Illinois
4 Department for reasonable cause, be added to the assessment due
5 a penalty assessment equal to 25% of the assessment due.

6 (d) Nothing in this amendatory Act of 1993 shall be
7 construed to prevent the Illinois Department from collecting
8 all amounts due under this Article pursuant to an assessment
9 imposed before the effective date of this amendatory Act of
10 1993.

11 (e) Nothing in this amendatory Act of the 96th General
12 Assembly shall be construed to prevent the Illinois Department
13 from collecting all amounts due under this Code pursuant to an
14 assessment, tax, fee, or penalty imposed before the effective
15 date of this amendatory Act of the 96th General Assembly.

16 (Source: P.A. 96-444, eff. 8-14-09; 96SB3088 Enrolled.)

17 (305 ILCS 5/5B-7) (from Ch. 23, par. 5B-7)

18 Sec. 5B-7. Administration; enforcement provisions.

19 (a) To the extent practicable, the Illinois Department
20 shall administer and enforce this Article and collect the
21 assessments, interest, and penalty assessments imposed under
22 this Article, using procedures employed in its administration
23 of this Code generally and, as it deems appropriate, in a
24 manner similar to that in which the Department of Revenue
25 administers and collects the retailers' occupation tax under

1 the Retailers' Occupation Tax Act ("ROTA"). Instead of
2 certificates of registration, the Illinois Department shall
3 establish and maintain a listing of all long-term care
4 providers appearing in the licensing records of the Department
5 of Public Health, which shall show each provider's name,
6 principal place of business, and the name and address of each
7 long-term care facility operated or maintained by the provider
8 in this State. In addition, the following provisions of the
9 Retailers' Occupation Tax Act are incorporated by reference
10 into this Section, except that the Illinois Department and its
11 Director (rather than the Department of Revenue and its
12 Director) and every long-term care provider subject to
13 assessment measured by licensed ~~occupied~~ bed days and to the
14 return filing requirements of this Article (rather than persons
15 subject to retailers' occupation tax measured by gross receipts
16 from the sale of tangible personal property at retail and to
17 the return filing requirements of ROTA) shall have the powers,
18 duties, and rights specified in these ROTA provisions, as
19 modified in this Section or by the Illinois Department in a
20 manner consistent with this Article and except as manifestly
21 inconsistent with the other provisions of this Article:

22 (1) ROTA, Section 4 (examination of return; notice of
23 correction; evidence; limitations; protest and hearing),
24 except that (i) the Illinois Department shall issue notices
25 of assessment liability (rather than notices of tax
26 liability as provided in ROTA, Section 4); (ii) in the case

1 of a fraudulent return or in the case of an extended period
2 agreed to by the Illinois Department and the long-term care
3 provider before the expiration of the limitation period, no
4 notice of assessment liability shall be issued more than 3
5 years after the later of the due date of the return
6 required by Section 5B-5 or the date the return (or an
7 amended return) was filed (rather within the period stated
8 in ROTA, Section 4); and (iii) the penalty provisions of
9 ROTA, Section 4 shall not apply.

10 (2) ROTA, Section 5 (failure to make return; failure to
11 pay assessment), except that the penalty and interest
12 provisions of ROTA, Section 5 shall not apply.

13 (3) ROTA, Section 5a (lien; attachment; termination;
14 notice; protest; review; release of lien; status of lien).

15 (4) ROTA, Section 5b (State lien notices; State lien
16 index; duties of recorder and registrar of titles).

17 (5) ROTA, Section 5c (liens; certificate of release).

18 (6) ROTA, Section 5d (Department not required to
19 furnish bond; claim to property attached or levied upon).

20 (7) ROTA, Section 5e (foreclosure on liens;
21 enforcement).

22 (8) ROTA, Section 5f (demand for payment; levy and sale
23 of property; limitation).

24 (9) ROTA, Section 5g (sale of property; redemption).

25 (10) ROTA, Section 5j (sales on transfers outside usual
26 course of business; report; payment of assessment; rights

1 and duties of purchaser; penalty).

2 (11) ROTA, Section 6 (erroneous payments; credit or
3 refund), provided that (i) the Illinois Department may only
4 apply an amount otherwise subject to credit or refund to a
5 liability arising under this Article; (ii) except in the
6 case of an extended period agreed to by the Illinois
7 Department and the long term care provider prior to the
8 expiration of this limitation period, a claim for credit or
9 refund must be filed no more than 3 years after the due
10 date of the return required by Section 5B-5 (rather than
11 the time limitation stated in ROTA, Section 6); and (iii)
12 credits or refunds shall not bear interest.

13 (12) ROTA, Section 6a (claims for credit or refund).

14 (13) ROTA, Section 6b (tentative determination of
15 claim; notice; hearing; review), provided that a long-term
16 care provider or its representative shall have 60 days
17 (rather than 20 days) within which to file a protest and
18 request for hearing in response to a tentative
19 determination of claim.

20 (14) ROTA, Section 6c (finality of tentative
21 determinations).

22 (15) ROTA, Section 8 (investigations and hearings).

23 (16) ROTA, Section 9 (witness; immunity).

24 (17) ROTA, Section 10 (issuance of subpoenas;
25 attendance of witnesses; production of books and records).

26 (18) ROTA, Section 11 (information confidential;

1 exceptions).

2 (19) ROTA, Section 12 (rules and regulations; hearing;
3 appeals), except that a long-term care provider shall not
4 be required to file a bond or be subject to a lien in lieu
5 thereof in order to seek court review under the
6 Administrative Review Law of a final assessment or revised
7 final assessment or the equivalent thereof issued by the
8 Illinois Department under this Article.

9 (b) In addition to any other remedy provided for and
10 without sending a notice of assessment liability, the Illinois
11 Department may collect an unpaid assessment by withholding, as
12 payment of the assessment, reimbursements or other amounts
13 otherwise payable by the Illinois Department to the provider.

14 (Source: P.A. 87-861.)

15 (305 ILCS 5/Art. V-E rep.)

16 (305 ILCS 5/5E-5 rep.)

17 (305 ILCS 5/5E-10 rep.)

18 (305 ILCS 5/5E-15 rep.)

19 Section 10. If and only if Senate Bill 3088 of the 96th
20 General Assembly becomes law, then the Illinois Public Aid Code
21 is amended by repealing Article V-E.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law or on the effective date of Senate Bill 3088 of
24 the 96th General Assembly, whichever is later.