

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 47

ISSUE 45

November 13, 2023

The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemaking

▪ RENTAL HOUSING GRANTS

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed a new Part titled Multifamily Rental Housing Grant Programs (47 IAC 315; 47 Ill Reg 15873) establishing procedures through which developers of affordable rental housing may apply for State-funded grants. (IHDA's existing rules apply to federally funded grant programs.) Affordable housing for which development grants may be made includes, but is not limited to, single-family and multi-family residential housing, permanent supportive housing (for persons at risk of institutionalization due to disabilities, mental illness or substance use disorders), congregate housing (facilities with a shared kitchen and dining area and separate bedrooms and bathrooms), group housing (State-licensed or approved facilities with all rooms other than bedrooms shared), shared housing (one unit is occupied by more than

one individual or household) and cooperative housing (each resident is also a shareholder or participant in the management of the facility). These housing arrangements may be temporary, transitional or permanent and must be made available to or for persons, families, members of a household or a group who are very low income (at or below 50% of area

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median income), low income (at or below 80% of area median income) or moderate income (at or below 120% of area median income). Entities eligible for grants may be for-profit, limited-profit or non-profit. Land trusts must be established in a format approved by IHDA. IHDA may charge fees to meet necessary administrative and other costs of the program.

Application Process

When IHDA receives a grant application for a proposed development under this Part, it will issue notice to the chair of the county board and mayor or other executive of the municipality, if any, in which the proposed development will be located. IHDA will also notify the General Assembly members representing the area of the proposed development. Persons notified of a proposed development will then have 30 days to submit written comments to IHDA, to which the developer must respond (including documenting any hearings, conferences, etc. conducted in response to comments) before its application process can continue. If any public or adjudicatory hearing is scheduled in response to a proposed development, the developer must notify IHDA within 2 days after receiving notice of the proceeding.

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.

PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

▪ - Designates rules of special interest to small businesses, small municipalities and/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.

QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.

RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemaking

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The developer is responsible for attending and responding to any questions or comments raised at such proceedings. Developers seeking grants under this Part may also be required to submit a marketing and management plan to IHDA outlining, among other factors, how the development will be advertised to prospective residents; the process by which tenants will be selected; the intended mix of family, elderly and disabled residents/tenants; and

criteria for approving tenant applications. Developments shall give preference to prospective residents who have been displaced by urban renewal, government action, or natural disaster and must also meet energy efficiency requirements established in the most recent International Energy Efficiency Code.

Grants

Maximum grant amounts are 100% of the development cost as determined by IHDA for non-profit entities and 90% of the development cost as determined by IHDA for all other eligible entities. IHDA may subsequently increase a grant amount if it determines that the increase is

necessary to maintain the financial stability or economic viability of the development. Administrative, operating and maintenance costs for the development must be reasonable and developers shall solicit bids for certain contracts in accordance with IHDA agreements. Municipalities and non-profit agencies are affected by this rulemaking.

Questions/requests for copies/comments through 12/27/23: Christina McClernon, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601, cmccclernon@ihda.org

JCAR Meeting Action

At its 11/7/23 meeting, the Joint Committee on Administrative Rules approved the following actions. Proposed rulemakings from this agenda that are not listed below received No Objection and may now be adopted by their agencies. Emergency rules not acted upon at this meeting may be addressed at future meetings.

RECOMMENDATION

With respect to the Elevator Safety Review Board rulemaking titled Illinois Elevator Safety Rules (41 IAC 1000; 47 Ill Reg 6388), JCAR recommends that the ELRB engage with industry stakeholders at its quarterly board meetings and report back to the Committee at its June 2024 meeting regarding whether the elimination of the Temporary Certificate of Operation has impacted the public's access to elevators within the State.

EXTENSION

JCAR, with the concurrence of the Department of Healthcare and Family Services, extended the Second Notice period for the HFS rulemaking titled Medical Payment (89 IAC 140; 47 Ill Reg 315) an additional 45 days. This rulemaking will be considered again at the Dec. 12 JCAR meeting.

POSTPONEMENTS

JCAR postponed action on the following proposed rulemakings, which are on extended Second Notice, until the Dec. 12 meeting:

Department of Financial and Professional Regulation, Credit Union Community Reinvestment (38 IAC 185; 46 Ill Reg 19276), Bank Community Reinvestment (38 IAC 345; 46 Ill Reg 19794), Rules Governing the Request for Reconsideration of Examination Findings (38 IAC 385; 46 Ill Reg 19856), and Mortgage Community Reinvestment (38 IAC 1055; 46 Ill Reg 19681).

Department of Natural Resources, White-Tailed Deer Hunting by Use of Bow and Arrow (17 IAC 670; 47 Ill Reg 10849)

NO ACTION

JCAR took no action on a Department of Healthcare and Family Services rulemaking titled Specialized Health Care Delivery Systems (89 IAC 146; 46 Ill Reg 19321). Because this rulemaking was proposed on 12/9/22 and did not receive No Objection, it will expire before the end of its 45-day Second Notice period and cannot be adopted.

Adopted Rules

▪ DAY CARE STAFFING

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Licensing Standards for Day Care Centers (89 IAC 407; 47 Ill Reg 8052) effective 10/30/23, replacing emergency amendments that expired on 10/29/23. This rulemaking allows early childhood assistants age 18 and older to supervise day care center classrooms in place of an early childhood teacher for up to 3 hours per day. Assistants who supervise children under age 2 must have at least 1 year of experience in a licensed day care home or center or in a license-exempt child care setting, and must have completed safety training provided by the Department of Human Services. Since 1st Notice, DCFS replaced provisions that prohibited assistant supervision of children under age 2 with additional experience and training requirements for assistants supervising children in this age group. DCFS also removed provisions restricting assistant supervision to the first and last 90 minutes of the program day and no more than 50% of the center's classrooms at any given time, and requiring notices to be posted outside classrooms where assistants are supervising in place of teachers. Day care centers that employ early childhood assistants are affected by this rulemaking.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe, Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, fax 217/557-0692, DCFS.Policy@illinois.gov

RENTAL ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted amendments to the Part titled Federal

Emergency Rental Assistance Program (47 IAC 378; 47 Ill Reg 12003) effective 10/30/23 that align the rules in this Part with those of IHDA's Court-Based Rental Assistance Program (CBRAP) that provides emergency rental assistance to tenants facing eviction. The rulemaking revises the definition of annual income and clarifies that CBRAP tenants must meet income requirements, must have been served an eviction summons and must be at least 30 days behind on rent in order to qualify for CBRAP assistance.

Questions/requests for copies: Kathryn Finn, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601, 312-836-7416, kfinn@ihda.org

FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 47 Ill Reg 8996) effective 10/30/23, making numerous site-specific changes and updates. The rulemaking revises the sections of the Illinois, Embarras and Big Muddy rivers that are open to bowfishing or spearfishing and removes a provision permitting bowfishing from Starved Rock Dam to the Route 89 bridge at Spring Valley only for commercial harvesting/removal of Asian carp by a limited number of restricted period contracts. Size limits on northern pike (must be 24" or longer) now apply to the Ohio River. Newly added fishing sites include Aledo City Lake (Mercer County), Fox Creek State Wildlife Area (Richland and Wayne counties), and Lake Ka-Ho (Macoupin County). All ponds at Crab Orchard National Wildlife Refuge (Williamson County) are now open to bluegill or redear sunfish fishing. Sites that have been removed include Boston Pond at Stephen A. Forbes State Park (Marion

County) and Herrin Lake #2 (Williamson County). The rulemaking also schedules DNR's next annual statewide Free Fishing Days for June 14-17, 2024.

Questions/requests for copies: Carrie Leitner, DNR, One Natural Resources Way, Springfield IL 62702, 217/782-1809.

▪ FIRE EQUIPMENT

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to Fire Equipment Distributor and Employee Standards (41 IAC 251; 47 Ill Reg 4251) and repealed the Part titled Fire Equipment Administrative Procedures (41 IAC 280; 47 Ill Reg 4299), whose provisions have been moved to Part 251, both effective 10/26/23. The amendments to Part 251 streamline the administration of OSFM's fire equipment distributor licensing program for fire extinguishing devices or systems (other than sprinkler systems, which are regulated under a different statute) and update references to the current statutory authority (Fire Equipment Distributor and Employee Regulation Act of 2011). Other changes include increasing license terms from 1 to 3 years; establishing citations for violations of the Act or this Part and a hearing process for persons who receive citations; clarifying that fire equipment employees are sponsored under the fire equipment distributor's license; updating license fees; updating incorporated National Fire Protection Association (NFPA) standards and requirements for fire equipment distributor license applications under the Act; updating trainee registration requirements; clarifying provisions related to hydrostatic testing; and

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Adopted Rules

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aligning procedures and terminology with current program operations and industry practices. Businesses that sell or install fire extinguishers and fire suppression equipment other than sprinkler systems are affected by these rulemakings.

Questions/requests for copies of the 2 OSFM rulemakings: Ashley Vincent, OSFM, 1035 Stevenson Drive, Springfield IL 62703-4259, 217/785-4212, fax 217/524-5487.

• IEMA GRANTS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY AND OFFICE OF HOMELAND SECURITY adopted amendments to Compensation of Local Governments for Emergency Planning and Participation in Nuclear Emergency Response Exercises (32 IAC 501; 47 Ill Reg 10673) effective 10/26/23, aligning the Part with current statutes and procedures regarding grants to local governments. The amendments reflect statute allowing IEMA to either reclaim unexpended grant funds via the recovery process in the Grant Recovery Act, or offset funds not spent in a previous year by deducting them from grants in a subsequent year. (Formerly, this rule only allowed for grant recovery.) Municipalities and other units of local government that receive IEMA grants for nuclear emergency response planning are affected.

Questions/requests for copies: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217-720-8242 or 217-524-3698.

DOL Public Hearing

• PAID LEAVE POLICIES

The DEPARTMENT OF LABOR will hold a public hearing on the proposed rulemaking titled Paid Leave for All Workers Act (56 IAC 200; 47 Ill Reg 15559) **Wednesday, Nov. 29**, from **1:30 to 3 p.m.** at 524 S. Second St. (Lincoln Tower), 4th Floor, Springfield. Online access is also available via WebEx. To obtain access, copy and paste the following link into your computer's browser and complete the registration process when the page opens: <https://illinois.webex.com/weblink/register/r883d474759c7fb05054cad99830db231>

Persons wishing to testify at the hearing must register separately at <https://forms.office.com/g/59x8r6rMqv>. Testimony will be limited to 5 minutes per person.

This hearing concerns a proposed new Part, published in the 11/3/23 *Illinois Register*, that implements the Paid Leave for All Workers Act, which requires nearly all Illinois employers to provide workers with a minimum of 40 hours paid leave per 12-month period effective 1/1/24.

Questions regarding the rulemaking or the public hearing: Anna Koepfel, DOL, 524 S. Second St., 4th Floor, Springfield IL 62701, DOL.PaidLeave@illinois.gov, 217-558-1270

SERS PROCEDURES

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted an amendment to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 47 Ill Reg 12023) effective 10/26/23 that requires majority approval of the Executive Committee members to grant a petitioner's request to receive a rehearing or written reappeal.

Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veterans Pkwy., PO Box 19255, Springfield IL 62794-9255, 217/524-8105, fax 217/557-3943, jeff.houch@srs.illinois.gov

SUCSS ORGANIZATION

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM adopted amendments to the Part titled Public

Information, Rulemaking and Organization (2 IAC 5350; 47 Ill Reg 7868) effective 10/27/23 that update the phone number and email address for requesting public information; update references to the University Civil Service Merit Board and include the website for posting board meeting notices; include emergency rules in its rulemaking procedures; and remove an obsolete reference to a defunct advisory committee. Other provisions clarify the hiring authority of the Merit Board and Executive Director and update the agency's organizational chart.

Questions/requests for copies: Gail Schiesser, SUCSS, 1717 Philo Road, Suite 24, Urbana IL 61802, 217/278-3150, rulemaking@sucss.illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the December 12, 2023 meeting in Chicago. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF HEALTHCARE AND FAMILY SERVICES

Specialized Health Care Delivery Systems (89 IAC 146; 47 Ill Reg 11994) proposed 8/11/23

SECRETARY OF STATE

Illinois State Library Grant Programs (23 IAC 3035; 47 Ill Reg 13038) proposed 9/8/23

Next JCAR Meeting: Tuesday, Dec. 12, 11:00 a.m.

Room C600, Bilandic Bldg., 160 N. La Salle St., Chicago

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair

Senator Cristina Castro

Senator Donald DeWitte

Senator Dale Fowler

Senator Kimberly Lightford

Senator Sue Rezin

Representative Ryan Spain, Co-Chair

Representative Eva-Dina Delgado

Representative Jackie Haas

Representative Steven Reick

Representative Curtis Tarver, II

Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

700 Stratton Office Building, Springfield IL 62706

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