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**Joint Committee on Administrative Rules**  
Illinois General Assembly

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*Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

### MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Medical Assistance Programs" (89 Ill Adm Code 120; 33 Ill Reg 5683 and 6608), effective 9/7/09. Two separately proposed rulemakings were combined to produce this one adopted rulemaking. Also, two companion emergency rulemakings became effective on 4/2/09 and 4/28/09. The amendments add provisions that are restricted by the federal American Recovery and Reinvestment Act (ARRA) from being considered when determining eligibility for Medicaid. The provisions include unemployment compensation; payments made to veterans who served in World War II in the Philippines and their spouses; premium assistance for health insurance under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA); one-time payments made during the 3-month period immediately preceding the 2/17/09 effective date of ARRA for social security benefits, railroad benefits, or veterans' disability benefits; and income tax credit in 2009 given to government retirees. An additional amendment repeals a section of text that was the subject of a peremptory amendment adopted on 11/18/08 and suspended by JCAR on

11/19/08. According to DHFS, the amendment attempted to implement a 9/26/08 Illinois Appellate Court decision concerning the FamilyCare health insurance program. However, JCAR found that the peremptory rulemaking was a misuse of peremptory authority because the court did not direct DHFS to adopt regulations outside the proposed rulemaking process of the Illinois Administrative Procedure Act. The intent of the amendment was to state that any individuals in FamilyCare must comply with child support obligations, must be searching for work or in a training program, and must not have been convicted a second time for public aid fraud. At JCAR's 4/21/09 meeting, DHFS agreed to adopt an emergency repeal of the peremptory rulemaking and follow it up with a regular adopted repealer. A portion of this week's rulemaking is the follow-up companion to this earlier emergency rulemaking.

### VETERANS' HEALTHCARE

DHFS also adopted amendments to "Veterans' Health Insurance Program" (89 Ill Adm Code 128; 33 Ill Reg 3022), effective 9/7/09, to implement Public Act 95-755 by updating statutory references, eliminating the obsolete 9/1/

(cont'd next page)

## Proposed Regulations

### DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030; 33 Ill Reg 12685) and "Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040; 33 Ill Reg 12692), which implement Public Act 96-607. The Act requires any individual whose driver's license or permit has been suspended before his or her 21<sup>st</sup> birthday to participate in a driver remedial education course and be retested as a condition of driver's license/permit reinstatement. Current rule applies this requirement to individuals up to the age of 18. SOS classifies a driver remedial education course as the same driver's education that an individual under 18 is required to take testing his or her knowledge of the rules of the road and preparing for an actual driving test. Also, Part 1040 amendments change the penalties imposed on individuals who have been (1) convicted of using a decal or device (placard) intended for a disabled driver without being the actual holder of the decal or placard or (2) not transporting the individual holding the disabled decal or placard. Individuals whose offense occurred prior to 6/1/08 or after 12/31/09 will receive a 1-month suspension of driving privileges; if the individual's arrest occurred between 5/31/09 and 1/1/10, no penalty will be enforced. Individuals who have an open or pending revocation and

(cont'd page 3)

*NEW REGULATIONS: Rules adopted by agencies this week.*

*PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.*

*☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.*

*QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.*

# New Regulations

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06 program start-up date and the 2-month premium waiver for prospective coverage, and increasing the veterans' maximum income standard for program eligibility from 25% to 50% of the federal poverty level in addition to the federal "Veterans Administration Geographic Means Test threshold". Also, language is stricken that allowed DHFS to raise the standard to 50% at its discretion if resources were available.

## CHILD SUPPORT

DHFS adopted an amendment to "Child Support Enforcement" (89 Ill Adm Code 160; 33 Ill Reg 6377), effective 9/7/09, allowing DHFS to collect any additional debt from a non-custodial parent that accrues after an advance notice is sent to the non-custodial parent without DCFS having to send additional notice. Previous rule allowed collection only of the amount stated on the notice (e.g., a specific amount that will be intercepted from a non-custodial parent's income tax refund to pay past-due child support).

Questions/requests for copies of the 3 DHFS rulemakings above: Tamara Tanzillo Hoffman, DHFS, 201 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/557-7157.

## PUBLIC ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Temporary Assistance for Needy Families" (TANF) (89 Ill Adm Code 112; 33 Ill Reg 4505), "Aid to the Aged, Blind or Disabled" (AABD) (89 Ill Adm Code 113; 33 Ill Reg 4517), and "General Assistance" (GA) (89 Ill Adm Code 114; 33 Ill Reg 4527), all effective 9/8/09, that implement federal directives. The U.S. Department of Health and Human Services Administration for Children and Families has directed states to exempt from eligibility considerations the income received by TANF, AABD, and GA assistance recipients who temporarily work for the U.S. Census Bureau in conducting the

2010 census for up to 12 weeks. Under the adopted amendments, these individuals will continue to receive their cash benefits during the time they temporarily work for the Census Bureau.

DHS adopted amendments to "Refugee/Repatriate Program" (RRP) (89 Ill Adm Code 115; 33 Ill Reg 4809), effective 9/4/09. Companion emergency amendments became effective 3/19/09. The rulemaking reflects relevant provisions of Public Act 95-744, which is known as the FY2009 Budget Implementation Act, by implementing a 9% increase in RRP benefits to mirror the 9% Temporary Assistance for Needy Families (TANF) increase.

DHS also adopted amendments to "Food Stamps" (89 Ill Adm Code 121; 33 Ill Reg 4811), effective 9/3/09, in accordance with federal standards to increase the standard utility allowance from \$299 to \$304 and increase the limited utility standard allowance from \$177 to \$190, the single utility standard allowance from \$37 to \$41, and the basic telephone allowance from \$28 to \$29. The limited utility standard is for households that are not billed for air conditioning or heating but are billed for at least 2 other utilities, single utility standard allowance is for households that are not billed for air conditioning or heating but are billed for one utility other than telephone, and the basic telephone allowance is an allowable deduction for billed telephone service. (These allowances constitute deductions from monthly income that a food stamp applicant is allowed to offset against his or her monthly income when determining food stamp eligibility.) The rulemaking also updates all incorporations by reference of federal regulations to reflect 2008 standards. DHS changed these allowances as a result of the federal Department of Agriculture Food and Nutrition Service's annual review of Food Stamp Program standards.

Questions/requests for copies of the 5 DHS rulemakings above: Tracie Drew,

DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## BUSINESS REGULATION

The SECRETARY OF STATE Securities Department adopted amendments to "Regulations under the Illinois Securities Law of 1953" (14 Ill Adm Code 130; 33 Ill Reg 1451), "Regulations under the Business Opportunity Sales Law of 1995" (14 Ill Adm Code 135; 33 Ill Reg 1468), "Regulations under the Illinois Business Brokers Act of 1995" (14 Ill Adm Code 140; 33 Ill Reg 1473), and "Regulations under the Illinois Loan Brokers Act of 1995" (14 Ill Adm Code 145; 33 Ill Reg 1479), all effective 9/8/09. All 4 Parts revise the address of the SOS Securities Department's Springfield office. Part 130 further adds cross-references and a new section pertaining to certification and professional designations of businesses that provide securities services for senior citizens or retirees. The new section lists unlawful acts regarding provision of securities services to retirees, such as use of a non-existent or self-conferred certification or use of a certification from an organization primarily devoted to sales instruction or marketing that does not have reasonable standards for assuring the competency of its designees or certificants. A rebuttable presumption is created when an organization is accredited by the American National Standards Institute or the National Commission for Certifying Agencies or appears on the U.S. Department of Education's lists titled "Accrediting Agencies Responsible for Title IV Purposes". The new section also lists terms to be considered in determining whether an entity claiming senior service accreditation may be involved (e.g., the words "senior", "retirement", or "elder" combined with terms such as "certified", "registered", "adviser", or "planner"). A filing deadline with SOS for insurers of securities is revised to conform to federal Securities and Exchange Commission requirements, and a section in the SOS hearing rules governing special appearances is repealed. This rulemaking

# New Regulations

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will affect small businesses doing business with the Securities Department.

Questions/requests for copies of the 4 SOS rulemakings above: Tanya Solov, SOS Securities Department, 69 W. Washington, Ste. 1220, Chicago IL 60602, 312/793-3384.

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 12872), effective 9/3/09, implementing one memorandum of understanding (MOU) and a portion of another. The first MOU, between the Illinois State Employees Association and DCMS, adds the public service administrator position, option 7, to a bargaining unit. This affects women and family services coordinators at the Department of Corrections. The other MOU, between DCMS and the American Federation of State, County and Municipal Employees, adds the graphic arts designer advanced position to a bargaining unit. Employees in these positions could be affected.

Questions/requests for copies: Jason

Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, e-mail: [CMS.PayPlan@Illinois.gov](mailto:CMS.PayPlan@Illinois.gov), Fax 217/524-4570.

## HORSE RACING

The ILLINOIS RACING BOARD adopted a new Part by emergency rulemaking titled "Advance Deposit Wagering (ADW)" (11 Ill Adm Code 325; 33 Ill Reg 12860), effective 9/1/09, for a maximum of 150 days. A companion identical proposed Part is also in this week's *Illinois Register* at 33 Ill Reg 12650. The new Part implements a provision of Public Act 96-762 that authorizes IRB to regulate ADW (a pari-mutual wagering method in which an individual establishes an account, deposits money into the account, uses the account to make bets, and whereby bets may be placed in person at a betting facility or from any other location via electronic means). The new Part defines terms, requires organization licensees or individuals who contract with them to conduct ADW to be licensed, prescribes the manner in which licensees must operate ADW accounts, and sets requirements to initially establish ADW accounts.

Questions/requests for copies/comments concerning the proposed rulemaking until 11/2/09: Mickey Ezzo at the IRB address and telephone number below.

## REFUGEE ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to "Aid to the Aged, Blind or Disabled" (89 Ill Adm Code 113; 33 Ill Reg 12850), effective 9/4/09, for a maximum of 150 days. An identical proposed rulemaking appears in this week's issue of the *Illinois Register* at 33 Ill Reg 12644. The rulemakings implement Public Act 96-22, which removes a 7/1/09 cutoff date for certain refugees who are ineligible for Social Security income (SSI) to receive an allowance up to \$500. Federal law dictates that non-citizens whose SSI eligibility period has expired may receive these payments for up to 7 years.

Questions/requests for copies/comments concerning the proposed rulemaking through 11/2/09: Tracie Drew at the DHS address and telephone number above.

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have been convicted of a 1<sup>st</sup> offense prior to 6/1/08 or after 12/31/09 will have their driving privileges revoked.

Questions/requests for copies/comments concerning the 2 SOS rulemakings above through 11/2/09: Arlene Pulley, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

or shareholders who elect to file by composite return. Current provisions do not allow credits to be claimed on a composite return, necessitating a partner or shareholder to file his or her separate return. Those affected by this rulemaking include small businesses operating as partnerships or subchapter S corporations that will be able to claim credits on behalf of their partners or shareholders joining in composite returns.

Questions/requests for copies/comments through 11/2/09: Paul Caselton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/524-3951.

## INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to "Income Tax" (86 Ill Adm Code 100; 33 Ill Reg 12662) allowing partnerships and subchapter S corporations to claim credits to the tax on behalf of their partners

## SOS BUSINESS SERVICES

The SECRETARY OF STATE Business Services Dept. proposed amendments to "Uniform Commercial Code" (UCC) (14 Ill Adm Code 180; 33 Ill Reg 12675). Concerning records maintained by the UCC division, the amendments add 9-point helvetica-style print font to the font authorized for the names and addresses of the debtor and secured party and allow the SOS to reverse and remove forms filed without sufficient payment for secured transactions. Information requests will be assumed to be UCC information requests unless otherwise identified as a federal tax lien search. Also, one

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type of search request will be allowed per form, and a separate fee must accompany each form. Extensive search requests (over 100 pages) will need additional time to complete. Those affected by this rulemaking include bulk data users and businesses that register with SOS.

Questions/requests for copies/comments through 11/2/09: Dennis Hankins, SOS Dept. of Business Services, 501 S. 2<sup>nd</sup> St., Rm. 350 W., Springfield IL 62756, 217/524-3356.

## **HORSE RACING**

The ILLINOIS RACING BOARD proposed amendments to 3 Parts. An amendment to "Superfecta" (11 Ill Adm Code 311; 33 Ill. Reg. 12646) makes superfecta rules consistent by permitting, in the event of a scratch, superfecta wagering on a race in which 6 betting interests remain, provided there are no uncoupled entries. Amendments to "Racetrack Improvements" (11 Ill Adm Code 452; 33 Ill Reg 12653) add to the information required of race track licensees in an annual verification of expenditures to IRB: (1) the amount of money received in the previous year from the Horse Racing Equity Trust Fund and (2) a detailed description of expenditures made using the portion of the Fund distributed to the licensee for

operating its facilities to conduct live racing, including moneys used for improvements, marketing, backstretch services, capital improvements, and other operating expenses. These funds must be applied prospectively, and verification of payment will include canceled checks or invoices upon IRB request. Amendments to "Racing Rules" (11 Ill Adm Code 1318; 33 Ill Reg 12657) mirror the Association of Racing Commissioners International rules specifying more detailed standardbred whip specifications and appropriate use of whips by drivers. Also, current penalty and suspension provisions are expanded from a maximum \$200 penalty and 3-day suspension (with steward discretion for increases) to a range of a \$100 fine for a 1<sup>st</sup> offense to a \$1,000 fine and 5-day suspension for a 4<sup>th</sup> offense during a one-year period.

Questions/requests for copies/comments concerning the 3 IRB rulemakings above through 11/2/09: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

## **RIVERBOAT GAMBLING**

The ILLINOIS GAMING BOARD proposed an amendment to "Riverboat Gambling" (86 Ill Adm Code 3000; 33 Ill Reg 12635). Cur-

rently, "key" persons (those able to control or exercise significant influence over the management, assets, or operating policies of an owner or supplier licensee) and "occupational level one" licensees (managerial positions) of holders of, or applicants for, an owner's or supplier's license must submit a trust registration and disclosure form for any trust (excluding land trusts) for which they are a grantor, trustee, or beneficiary each time a trust relationship is established, amended, or terminated. This rulemaking expands that requirement to strike the exemption for land trusts and include trusts that hold a direct or indirect interest in any gaming entity that is subject to gaming regulation and any other trust in which these individuals have an interest if requested by the Board. The rulemaking further requires that appropriate disclosure is needed as provided this Part each time a gaming industry trust relationship is established, amended, or terminated.

Questions/requests for copies/comments through 11/2/09: Michael Fries, IGB, 160 N. LaSalle St., Chicago IL 60601, 312/814-4700, e-mail: [mfries@revenue.state.il.us](mailto:mfries@revenue.state.il.us), Fax 312/814-7253.

# Second Notices

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The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's October 14, 2009 meeting.

## **SECRETARY OF STATE**

"Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040) proposed 7/24/09 (33 Ill Reg 10959)

## **DEPARTMENT OF TRANSPORTATION**

"Selection of Architect-Engineer Consultant Firms" (44 Ill Adm Code 625) proposed 7/24/09 (33 Ill Reg 11079)

## **DEPARTMENT OF NATURAL RESOURCES**

"Consignment of Licenses, Stamps and Permits" (17 Ill Adm Code 2520) proposed 6/12/09 (33 Ill Reg 7541)

## **ENVIRONMENTAL PROTECTION AGENCY**

"Procedures for Issuing Loans from the Water Pollution Control Loan Program" (35 Ill Adm Code 365) proposed 6/19/09 (33 Ill Reg 7957)

"Procedures for Providing Financial Assistance from the Water Pollution Control Loan Program under the American Recovery and Reinvestment Act of 2009" (35 Ill Adm Code 369) proposed 6/19/09 (33 Ill Reg 7960)

"Procedures for Issuing Loans from the Public Water Supply Loan Program" (35 Ill Adm Code 662) proposed 6/19/09 (33 Ill Reg 7964)

"Procedures for Providing Financial Assistance from the Public Water Supply Loan Program under the American Recovery and Reinvestment Act of 2009" (35 Ill Adm Code 664) proposed 6/19/09 (33 Ill Reg 7967)

# The Flinn Report

# Illinois Regulation

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