

1 AN ACT concerning revenue.

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

4 ARTICLE 1. CIGARETTE MACHINE OPERATORS' OCCUPATION TAX ACT

5 Section 1-1. Short title. This Act may be cited as the
6 Cigarette Machine Operators' Occupation Tax Act.

7 Section 1-5. Definitions. As used in this Act:

8 "Business" means any trade, occupation, activity or
9 enterprise engaged in for the purpose of selling cigarettes in
10 this State.

11 "Cigarette" means any roll for smoking made wholly or in
12 part of tobacco, irrespective of size or shape and whether or
13 not such tobacco is flavored, adulterated or mixed with any
14 other ingredient, and the wrapper or cover of which is made of
15 paper or any other substance or material except tobacco.

16 "Cigarette machine" means any machine, equipment or device
17 used to make or fabricate cigarettes.

18 "Cigarette machine" shall not include a handheld manually
19 operated device used by consumers to make roll-your-own
20 cigarettes for personal consumption.

21 "Cigarette machine operator" means any person who is
22 engaged in the business of operating a cigarette machine in

1 this State and is licensed by the Department as a cigarette
2 machine operator under Section 1-15 of this Act.

3 "Contraband cigarettes" means:

4 (1) cigarettes for which any required federal taxes
5 have not been paid;

6 (2) cigarettes that do not meet the requirements of
7 this Act;

8 (3) cigarettes that are made or fabricated by a person
9 holding a cigarette machine operator license under Section
10 1-15 of this Act and that are in the possession of
11 manufacturers, distributors, secondary distributors,
12 manufacturer representatives, or retailers, all as defined
13 by the Cigarette Tax Act, for the purpose of resale;

14 (4) cigarettes that are in the possession of a
15 cigarette machine operator and that are made or fabricated
16 with cigarette tubes that do not meet the requirements of
17 Section 1-30 of this Act;

18 (5) cigarettes that are in the possession of an
19 individual and that are made or fabricated with cigarette
20 tubes that do not meet the requirements of Section 1-30 of
21 this Act, unless the cigarettes were made or fabricated by
22 an individual for the individual's own use and consumption
23 without the aid or use of a cigarette machine in the
24 possession of a cigarette machine operator holding a
25 license under Section 1-15 of this Act; or

26 (6) cigarettes that (i) are made or fabricated by a

1 person holding a cigarette machine operator license under
2 Section 1-15 of this Act, (ii) are in the possession of a
3 person, and (iii) contain tobacco of a brand family and
4 manufacturer that are not identified on the State of
5 Illinois Directory of Participating Manufacturers or the
6 Illinois Directory of Compliant Non-Participating
7 Manufacturers maintained by the Office of the Attorney
8 General.

9 "Department" means the Department of Revenue.

10 "Operate or operating a cigarette machine" means to possess
11 a cigarette machine for the purpose of engaging in the business
12 of making the cigarette machine available to individuals who
13 use the cigarette machine to make or fabricate cigarettes for
14 their own use or consumption, and not for resale. For purposes
15 of this Act, the cigarette machine is operated by the person
16 possessing the cigarette machine. For purposes of this Act,
17 cigarettes made or fabricated by the use of a cigarette machine
18 in the possession of a cigarette machine operator holding a
19 license under Section 1-15 of this Act are considered to be
20 made or fabricated by the person holding the cigarette machine
21 operator license and not the individual.

22 "Original package" means the individual packet, box, or
23 other container used to contain and convey cigarettes to the
24 consumer.

25 "Person" means any natural individual, firm, partnership,
26 association, joint stock company, joint adventure, public or

1 private corporation, however formed, limited liability
2 company, or a receiver, executor, administrator, trustee,
3 guardian, or other representative appointed by order of any
4 court.

5 "Place of business" means any place where cigarettes are
6 made or fabricated by a cigarette machine operator holding a
7 license under Section 1-15 of this Act.

8 "Possess or possessing a cigarette machine" means to own,
9 lease, rent or have on one's premises a cigarette machine for
10 the purpose of engaging in the business of making the cigarette
11 machine available to individuals who use the cigarette machine
12 to make or fabricate cigarettes for their own use or
13 consumption, and not for resale.

14 "Prior continuous compliance taxpayer" means any person
15 who is licensed under this Act and who, having been a licensee
16 for a continuous period of 5 years, is determined by the
17 Department not to have been either delinquent or deficient in
18 the payment of tax liability during that period or otherwise in
19 violation of this Act. "Prior continuous compliance taxpayer"
20 also means any taxpayer who has, as verified by the Department,
21 continuously complied with the condition of his bond or other
22 security under provisions of this Act for a period of 5
23 consecutive years.

24 "Retailer" means any person who engages in the making of
25 transfers of the ownership of, or title to, tobacco or
26 cigarettes to a purchaser for use or consumption and not for

1 resale in any form, for a valuable consideration.

2 "Sale" means any transfer, exchange, or barter in any
3 manner or by any means whatsoever for a consideration, and
4 includes and means all sales made by any person.

5 Section 1-10. Tax imposed.

6 (a) Beginning August 1, 2012, a tax is imposed upon all
7 persons engaged in the business of operating a cigarette
8 machine. The tax is imposed at the rate of 99 mills per
9 cigarette made or fabricated by a cigarette machine possessed
10 by a cigarette machine operator.

11 (b) If, after July 1, 2012, the General Assembly increases
12 the rate of tax imposed under Section 2 of the Cigarette Tax
13 Act, then the tax imposed under subsection (a) of this Section
14 shall be increased by the same amount beginning on the
15 effective date of the Cigarette Tax increase, but not earlier
16 than August 1, 2012.

17 (c) The tax herein imposed shall be in addition to all
18 other occupation or privilege taxes imposed by the State of
19 Illinois or by any municipal corporation or political
20 subdivision thereof.

21 (d) Persons subject to the tax imposed by this Act may
22 reimburse themselves for their tax liability under this Act by
23 separately stating such tax, less any credit the machine
24 operator claims under subsection (b) of Section 1-40 of this
25 Act on tobacco sold to and used by users of a cigarette machine

1 to make or fabricate cigarettes, as an additional charge to
2 users of cigarette machines.

3 (e) If any cigarette machine operator collects an amount
4 (however designated) which purports to reimburse such operator
5 for his or her cigarette machine operators' occupation tax
6 liability under this Act with respect to cigarettes that are
7 not subject to cigarette machine operators' occupation tax
8 under this Act, or if any cigarette machine operator, in
9 collecting an amount (however designated) which purports to
10 reimburse such operator for his or her cigarette machine
11 operators' occupation tax liability measured by cigarettes
12 made or fabricated by a cigarette machine that are subject to
13 tax under this Act, collects more from the customer than the
14 cigarette machine operators' cigarette machine operators'
15 occupation tax liability in the transaction, the customer shall
16 have a legal right to claim a refund of that amount from the
17 cigarette machine operator. However, if such amount is not
18 refunded to the customer for any reason, the cigarette machine
19 operator is liable to pay such amount to the Department.

20 Section 1-15. Cigarette machine operator license. No
21 person may engage in the business of operating a cigarette
22 machine in this State on or after August 1, 2012 without first
23 having obtained a license from the Department. Application for
24 a license shall be made to the Department on a form furnished
25 and prescribed by the Department. Each applicant for a license

1 under this Section shall furnish the following information to
2 the Department on a form signed and verified by the applicant
3 under penalty of perjury:

4 (1) the name and address of the applicant;

5 (2) the address of the location at which the applicant
6 proposes to engage in the business of operating a cigarette
7 machine in this State; and

8 (3) any other additional information the Department
9 may reasonably require.

10 The annual license fee payable to the Department for each
11 cigarette machine operator license is \$250. Each applicant for
12 a license shall pay that fee to the Department at the time of
13 submitting an application for license to the Department.

14 Every applicant who is required to procure a cigarette
15 machine operator license shall file with his or her application
16 a joint and several bond. Such bond shall be executed to the
17 Department of Revenue, with good and sufficient surety or
18 sureties residing or licensed to do business within the State
19 of Illinois, in the amount of \$2,500, conditioned upon the true
20 and faithful compliance by the licensee with all of the
21 provisions of this Act. Such bond, or a reissue thereof, or a
22 substitute therefore, shall be kept in effect during the entire
23 period covered by the license. A separate application for
24 license shall be made, a separate annual license fee paid, and
25 a separate bond filed, for each place of business at which a
26 person who is required to procure a cigarette machine operator

1 license under this Section proposes to engage in business as a
2 cigarette machine operator in Illinois under this Act.

3 The following are ineligible to receive a cigarette machine
4 operator license under this Act:

5 (1) a person who is not of good character and
6 reputation in the community in which he resides;

7 (2) a person who has been convicted of a felony under
8 any federal or State law, if the Department, after
9 investigation and a hearing, if requested by the applicant,
10 determines that such person has not been sufficiently
11 rehabilitated to warrant the public trust;

12 (3) a corporation, if any officer, manager, or director
13 thereof, or any stockholder or stockholders owning in the
14 aggregate more than 5% of the stock of such corporation,
15 would not be eligible to receive a license under this Act
16 for any reason; or

17 (4) a person, or any person who owns more than 15% of
18 the ownership interests in an entity or a related party,
19 who:

20 (A) owes, at the time of application, any
21 delinquent cigarette taxes or tobacco taxes that have
22 been determined by law to be due and unpaid, unless the
23 license applicant has entered into an agreement
24 approved by the Department to pay the amount due;

25 (B) has had a license under this Act, the Cigarette
26 Tax Act, the Cigarette Use Tax Act, or the Tobacco

1 Products Tax Act of 1995 revoked within the past 2
2 years by the Department for misconduct relating to
3 stolen or contraband cigarettes or has been convicted
4 of a State or federal crime, punishable by imprisonment
5 of one year or more, relating to stolen or contraband
6 cigarettes;

7 (C) has been found by the Department, after notice
8 and a hearing, to have imported or caused to be
9 imported into the United States for sale or
10 distribution any cigarette in violation of 19 U.S.C.
11 1681a;

12 (D) has been found by the Department, after notice
13 and a hearing, to have imported or caused to be
14 imported into the United States for sale or
15 distribution, or manufactured for sale or distribution
16 in the United States, any cigarette that does not fully
17 comply with the Federal Cigarette Labeling and
18 Advertising Act (15 U.S.C. 1331, et seq.); or

19 (E) has been found by the Department, after notice
20 and a hearing, to have made a material false statement
21 in the application or has failed to produce records
22 required to be maintained by this Act.

23 The Department, upon receipt of an application, license
24 fee, and bond in proper form from a person who is eligible to
25 receive a cigarette machine operator license under this Act,
26 shall issue to such applicant a license in a form as prescribed

1 by the Department. That license shall permit the applicant to
2 whom it is issued to engage in business as a cigarette machine
3 operator at the place shown in his or her application. All
4 licenses issued by the Department under this Section shall be
5 valid for a period not to exceed one year after issuance unless
6 sooner revoked, canceled, or suspended as provided in this Act.
7 No license issued under this Section is transferable or
8 assignable. Such license shall be conspicuously displayed in
9 the place of business conducted by the licensee in Illinois
10 under such license. No cigarette machine operator acquires any
11 vested interest or compensable property right in a license
12 issued under this Act.

13 A cigarette machine operator shall notify the Department of
14 any change in the information contained on the application
15 form, including any change in ownership, and shall do so within
16 30 days after that change.

17 Every prior continuous compliance taxpayer shall be exempt
18 from all requirements under this Section concerning the
19 furnishing of bond as a condition precedent to his being
20 authorized to engage in the business licensed under this Act.
21 This exemption shall continue for each prior continuous
22 compliance taxpayer until such time as he may be determined by
23 the Department to be delinquent in the filing of any returns,
24 or is determined by the Department (either through the
25 Department's issuance of a final assessment which has become
26 final under the Act, or by the taxpayer's filing of a return

1 which admits tax to be due that is not paid) to be delinquent
2 or deficient in the paying of any tax under this Act, at which
3 time that taxpayer shall become subject to the bond
4 requirements of this Section and, as a condition of being
5 allowed to continue to engage in the business licensed under
6 this Act, shall be required to furnish bond to the Department
7 in such form as provided in this Section. The taxpayer shall
8 furnish such bond for a period of 2 years, after which, if the
9 taxpayer has not been delinquent in the filing of any returns,
10 or delinquent or deficient in the paying of any tax under this
11 Act, the Department may reinstate that person as a prior
12 continuance compliance taxpayer. Any taxpayer who fails to pay
13 an admitted or established liability under this Act may also be
14 required by the Department to post bond or other acceptable
15 security with the Department guaranteeing the payment of that
16 admitted or established liability.

17 The Department shall discharge any surety and shall release
18 and return any bond or security deposited, assigned, pledged,
19 or otherwise provided to it by a taxpayer under this Section
20 within 30 days after:

21 (1) that taxpayer becomes a prior continuous
22 compliance taxpayer; or

23 (2) that taxpayer has ceased to collect receipts on
24 which he is required to remit tax to the Department, has
25 filed a final tax return, and has paid to the Department an
26 amount sufficient to discharge his remaining tax liability

1 as determined by the Department under this Act. The
2 Department shall make a final determination of the
3 taxpayer's outstanding tax liability as expeditiously as
4 possible after his final tax return has been filed. If the
5 Department cannot make the final determination within 45
6 days after receiving the final tax return, it shall so
7 notify the taxpayer within that period, stating its reasons
8 therefore.

9 Any person aggrieved by any decision of the Department
10 under this Section may, within 20 days after receiving notice
11 of the decision, protest and request a hearing. Upon receiving
12 a written request for a hearing, the Department shall give
13 notice to the person requesting the hearing of the time and
14 place fixed for the hearing and shall hold a hearing in
15 conformity with the provisions of this Act and then issue its
16 final administrative decision in the matter to that person. In
17 the absence of a protest and request for a hearing within 20
18 days, the Department's decision shall become final without any
19 further determination being made or notice given.

20 Section 1-20. Revocation, cancellation, or suspension of
21 license. The Department may, after notice and hearing as
22 provided for by this Act, revoke, cancel, or suspend the
23 license of any cigarette machine operator for the violation of
24 any provision of this Act, or for noncompliance with the
25 provisions of this Act, or for any noncompliance with any

1 lawful rule or regulation promulgated by the Department under
2 this Act, or because the licensee is determined to be
3 ineligible for a cigarette machine operator's license for any
4 one or more of the reasons provided for in Section 1-15 of this
5 Act.

6 Any cigarette machine operator aggrieved by any decision of
7 the Department under this Section may, within 20 days after
8 notice of the decision, protest and request a hearing. Upon
9 receiving a written request for a hearing, the Department shall
10 give notice in writing to the cigarette machine operator
11 requesting the hearing that contains a statement of the charges
12 preferred against the cigarette machine operator and that
13 states the time and place fixed for the hearing. The Department
14 shall hold the hearing in conformity with the provisions of
15 this Act and then issue its final administrative decision in
16 the matter to the cigarette machine operator. In the absence of
17 a written protest and request for a hearing within 20 days, the
18 Department's decision shall become final without any further
19 determination being made or notice given.

20 No license so revoked shall be reissued to any cigarette
21 machine operator for a period of 6 months after the date of the
22 final determination of such revocation. No license shall be
23 reissued at all so long as the person who would receive the
24 license is ineligible to receive a cigarette machine operator's
25 license under this Act for any one or more of the reasons
26 provided for in Section 1-15 of this Act.

1 The Department, upon complaint filed in the circuit court,
2 may, by injunction, restrain any person who fails or refuses to
3 comply with any of the provisions of this Act from acting as a
4 cigarette machine operator in this State.

5 Section 1-25. Restriction on tobacco used in cigarette
6 machines.

7 (a) Only roll-your-own tobacco products of a brand family
8 and manufacturer identified on the State of Illinois Directory
9 of Participating Manufacturers or the Illinois Directory of
10 Compliant Non-Participating Manufacturers maintained by the
11 Office of the Attorney General may be sold by cigarette machine
12 operators to customers for use in cigarette machines possessed
13 by the cigarette machine operator.

14 (b) Only roll-your-own tobacco products meeting the
15 requirements of subsection (a) and purchased at the place of
16 business of the cigarette machine operator may be used in a
17 cigarette machine at that location.

18 Section 1-30. Cigarette tubes used in cigarette machines.

19 (a) All cigarette tubes used in cigarette machines in the
20 possession of cigarette machine operators licensed under
21 Section 1-15 of this Act shall be constructed of paper of a
22 type determined by the Attorney General, pursuant to rules
23 promulgated by the Attorney General under the provisions of the
24 Administrative Procedure Act, to reduce the likely ignition

1 propensity of cigarettes made by those tubes.

2 (b) A cigarette machine operator is not required to comply
3 with subsection (a) of this Section until the Attorney General
4 has promulgated rules implementing subsection (a) and the rules
5 have become effective. The effective date for such rules shall
6 be no earlier than January 1, 2014.

7 Section 1-35. Cigarette machine operators; sale of
8 cigarettes.

9 (a) The cigarette machine operator is responsible for
10 complying with all State and federal laws and regulations
11 regarding packaging and labeling of original packages of
12 cigarettes.

13 (b) A person possessing a cigarette machine operator
14 license may not purchase unstamped cigarettes from an in-State
15 or out-of-State manufacturer or distributor of cigarettes.

16 (c) Cigarettes made or fabricated by a cigarette machine
17 may not be sold or distributed to, or possessed by,
18 manufacturers, distributors, secondary distributors,
19 manufacturer representatives, or retailers, except the
20 cigarette machine operator.

21 (d) A cigarette machine possessed by a cigarette machine
22 operator shall have a secure meter that counts the number of
23 cigarettes made or fabricated by the cigarette machine and that
24 cannot be accessed, altered, or reset by the machine operator,
25 except for the sole purpose of taking meter readings.

1 Section 1-40. Returns.

2 (a) Cigarette machine operators shall file a return and
3 remit the tax imposed by Section 1-10 by the 15th day of each
4 month covering the preceding calendar month. Each such return
5 shall show: the quantity of cigarettes made or fabricated
6 during the period covered by the return; the beginning and
7 ending meter reading for each cigarette machine for the period
8 covered by the return; the quantity of such cigarettes sold or
9 otherwise disposed of during the period covered by the return;
10 the brand family and manufacturer and quantity of tobacco
11 products used to make or fabricate cigarettes by use of a
12 cigarette machine; the license number of each distributor from
13 whom tobacco products are purchased; the type and quantity of
14 cigarette tubes purchased for use in a cigarette machine; the
15 type and quantity of cigarette tubes used in a cigarette
16 machine; and such other information as the Department may
17 require. Such returns shall be filed on forms prescribed and
18 furnished by the Department. The Department may promulgate
19 rules to require that the cigarette machine operator's return
20 be accompanied by appropriate computer-generated magnetic
21 media supporting schedule data in the format required by the
22 Department, unless, as provided by rule, the Department grants
23 an exception upon petition of a cigarette machine operator.

24 Cigarette machine operators shall send a copy of those
25 returns, together with supporting schedule data, to the

1 Attorney General's Office by the 15th day of each month for the
2 period covering the preceding calendar month.

3 (b) Cigarette machine operators may take a credit against
4 any tax due under Section 1-10 of this Act for taxes imposed
5 and paid under the Tobacco Products Tax Act of 1995 on tobacco
6 products sold to a customer and used in a rolling machine
7 located at the cigarette machine operator's place of business.
8 To be eligible for such credit, the tobacco product must meet
9 the requirements of subsection (a) of Section 1-25 of this Act.
10 This subsection (b) is exempt from the provisions of Section
11 1-155 of this Act.

12 Section 1-45. Examination and correction of returns.

13 (a) As soon as practicable after any return is filed, the
14 Department shall examine that return and shall correct the
15 return according to its best judgment and information, which
16 return so corrected by the Department shall be prima facie
17 correct and shall be prima facie evidence of the correctness of
18 the amount of tax due, as shown on the corrected return.
19 Instead of requiring the cigarette machine operator to file an
20 amended return, the Department may simply notify the cigarette
21 machine operator of the correction or corrections it has made.
22 Proof of the correction by the Department may be made at any
23 hearing before the Department or in any legal proceeding by a
24 reproduced copy of the Department's record relating thereto in
25 the name of the Department under the certificate of the

1 Director of Revenue. Such reproduced copy shall, without
2 further proof, be admitted into evidence before the Department
3 or in any legal proceeding and shall be prima facie proof of
4 the correctness of the amount of tax due, as shown on the
5 reproduced copy. If the Department finds that any amount of tax
6 is due from the cigarette machine operator, the Department
7 shall issue the cigarette machine operator a notice of tax
8 liability for the amount of tax claimed by the Department to be
9 due, together with a penalty in an amount determined in
10 accordance with Sections 3-3, 3-5 and 3-6 of the Uniform
11 Penalty and Interest Act. If, in administering the provisions
12 of this Act, comparison of a return or returns of a cigarette
13 machine operator with the books, records, and inventories of
14 such cigarette machine operator discloses a deficiency that
15 cannot be allocated by the Department to a particular month or
16 months, the Department shall issue the cigarette machine
17 operator a notice of tax liability for the amount of tax
18 claimed by the Department to be due for a given period, but
19 without any obligation upon the Department to allocate that
20 deficiency to any particular month or months, together with a
21 penalty in an amount determined in accordance with Sections
22 3-3, 3-5, and 3-6 of the Uniform Penalty and Interest Act,
23 under which circumstances the aforesaid notice of tax liability
24 shall be prima facie correct and shall be prima facie evidence
25 of the correctness of the amount of tax due, as shown therein;
26 and proof of such correctness may be made in accordance with,

1 and the admissibility of a reproduced copy of such notice of
2 tax liability shall be governed by, all the provisions of this
3 Act applicable to corrected returns. If any cigarette machine
4 operator filing any return dies or becomes a person under legal
5 disability at any time before the Department issues its notice
6 of tax liability, such notice shall be issued to the
7 administrator, executor, or other legal representative of the
8 cigarette machine operator.

9 (b) If, within 60 days after such notice of tax liability,
10 the cigarette machine operator or his or her legal
11 representative files a written protest to such notice of tax
12 liability and requests a hearing thereon, the Department shall
13 give notice to such cigarette machine operator or legal
14 representative of the time and place fixed for such hearing,
15 and shall hold a hearing in conformity with the provisions of
16 this Act, and pursuant thereto shall issue a final assessment
17 to such cigarette machine operator or legal representative for
18 the amount found to be due as a result of such hearing. If a
19 written protest to the notice of tax liability and a request
20 for a hearing thereon is not filed within 60 days after such
21 notice of tax liability, such notice of tax liability shall
22 become final without the necessity of a final assessment being
23 issued and shall be deemed to be a final assessment.

24 (c) In case of failure to pay the tax, or any portion
25 thereof, or any penalty provided for in this Act, when due, the
26 Department may bring suit to recover the amount of such tax, or

1 portion thereof, or penalty; or, if the taxpayer dies or
2 becomes incompetent, by filing claim therefore against his or
3 her estate; provided that no such action with respect to any
4 tax, or portion thereof, or penalty, shall be instituted more
5 than 2 years after the cause of action accrues, except with the
6 consent of the person from whom such tax or penalty is due.

7 After the expiration of the period within which the person
8 assessed may file an action for judicial review under the
9 Administrative Review Law without such an action being filed, a
10 certified copy of the final assessment or revised final
11 assessment of the Department may be filed with the circuit
12 court of the county in which the taxpayer has his or her
13 principal place of business, or of Sangamon County in those
14 cases in which the taxpayer does not have his or her principal
15 place of business in this State. The certified copy of the
16 final assessment or revised final assessment shall be
17 accompanied by a certification which recites facts that are
18 sufficient to show that the Department complied with the
19 jurisdictional requirements of the law in arriving at its final
20 assessment or its revised final assessment and that the
21 taxpayer had his or her opportunity for an administrative
22 hearing and for judicial review, whether he or she availed
23 himself or herself of either or both of these opportunities or
24 not. If the court is satisfied that the Department complied
25 with the jurisdictional requirements of the law in arriving at
26 its final assessment or its revised final assessment and that

1 the taxpayer had his or her opportunity for an administrative
2 hearing and for judicial review, whether he or she availed
3 himself or herself of either or both of these opportunities or
4 not, the court shall enter judgment in favor of the Department
5 and against the taxpayer for the amount shown to be due by the
6 final assessment or the revised final assessment, and such
7 judgment shall be filed of record in the court. Such judgment
8 shall bear the rate of interest set in the Uniform Penalty and
9 Interest Act, but otherwise shall have the same effect as other
10 judgments. The judgment may be enforced, and all laws
11 applicable to sales for the enforcement of a judgment shall be
12 applicable to sales made under such judgments. The Department
13 shall file the certified copy of its assessment, as herein
14 provided, with the circuit court within 2 years after such
15 assessment becomes final except when the taxpayer consents in
16 writing to an extension of such filing period.

17 If, when the cause of action for a proceeding in court
18 accrues against a person, he or she is out of the State, the
19 action may be commenced within the times herein limited, after
20 his or her coming into or returning to the State; and if, after
21 the cause of action accrues, he or she departs from and remains
22 out of the State, the time of his or her absence is no part of
23 the time limited for the commencement of the action; but the
24 foregoing provisions concerning absence from the State shall
25 not apply to any case in which, at the time the cause of action
26 accrues, the party against whom the cause of action accrues is

1 not a resident of this State. The time within which a court
2 action is to be commenced by the Department hereunder shall not
3 run while the taxpayer is a debtor in any proceeding under the
4 federal Bankruptcy Code nor thereafter until 90 days after the
5 Department is notified by such debtor of being discharged in
6 bankruptcy.

7 No claim shall be filed against the estate of any deceased
8 person or a person under legal disability for any tax or
9 penalty or part of either except in the manner prescribed and
10 within the time limited by the Probate Act of 1975.

11 The remedies provided for herein shall not be exclusive,
12 but all remedies available to creditors for the collection of
13 debts shall be available for the collection of any tax or
14 penalty due hereunder.

15 The collection of tax or penalty by any means provided for
16 herein shall not be a bar to any prosecution under this Act.

17 The certificate of the Director of the Department to the
18 effect that a tax or amount required to be paid by this Act has
19 not been paid, that a return has not been filed, or that
20 information has not been supplied pursuant to the provisions of
21 this Act, shall be prima facie evidence thereof.

22 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
23 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
24 not inconsistent with this Act, shall apply, as far as
25 practicable, to the subject matter of this Act to the same
26 extent as if such provisions were included herein. References

1 in such incorporated Sections of the Retailers' Occupation Tax
2 Act to retailers, to sellers, or to persons engaged in the
3 business of selling tangible personal property shall mean
4 cigarette machine operator when used in this Act.

5 Section 1-50. Failure to file return or pay tax; penalty;
6 protest.

7 In case any person who is required to file a return under
8 this Act fails to file a return, or files a return and fails to
9 remit the correct amount of tax, the Department shall determine
10 the amount of tax due from him according to its best judgment
11 and information, which amount so fixed by the Department shall
12 be prima facie correct and shall be prima facie evidence of the
13 correctness of the amount of tax due, as shown in such
14 determination. Proof of such determination by the Department
15 may be made at any hearing before the Department or in any
16 legal proceeding by a reproduced copy of the Department's
17 record relating thereto in the name of the Department under the
18 certificate of the Director of Revenue. Such reproduced copy
19 shall, without further proof, be admitted into evidence before
20 the Department or in any legal proceeding and shall be prima
21 facie proof of the correctness of the amount of tax due, as
22 shown therein. The Department shall issue such person a notice
23 of tax liability for the amount of tax claimed by the
24 Department to be due, together with a penalty in an amount
25 determined in accordance with Sections 3-3, 3-5 and 3-6 of the

1 Uniform Penalty and Interest Act. If such person or the legal
2 representative of such person, within 60 days after such
3 notice, files a written protest to such notice of tax liability
4 and requests a hearing thereon, the Department shall give
5 notice to such person or the legal representative of such
6 person of the time and place fixed for such hearing and shall
7 hold a hearing in conformity with the provisions of this Act,
8 and pursuant thereto shall issue a final assessment to such
9 person or to the legal representative of such person for the
10 amount found to be due as a result of such hearing. If a
11 written protest to the notice of tax liability and a request
12 for a hearing thereon is not filed within 60 days after such
13 notice of tax liability, such notice of tax liability shall
14 become final without the necessity of a final assessment being
15 issued and shall be deemed to be a final assessment.

16 Section 1-55. Claims; credit memorandum or refunds. If it
17 appears, after claim is filed with the Department, that an
18 amount of tax or penalty has been paid which was not due under
19 this Act, whether as the result of a mistake of fact or an
20 error of law, except as hereinafter provided, then the
21 Department shall issue a credit memorandum or refund to the
22 person who made the erroneous payment or, if that person has
23 died or become a person under legal disability, to his or her
24 legal representative.

25 If it is determined that the Department should issue a

1 credit or refund under this Act, the Department may first apply
2 the amount thereof against any amount of tax or penalty due
3 under this Act, the Cigarette Tax Act, the Cigarette Use Tax
4 Act, or the Tobacco Products Act of 1995 from the person
5 entitled to that credit or refund. For this purpose, if
6 proceedings are pending to determine whether or not any tax or
7 penalty is due under this Act or under the Cigarette Tax Act,
8 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
9 the person, the Department may withhold issuance of the credit
10 or refund pending the final disposition of such proceedings and
11 may apply such credit or refund against any amount found to be
12 due to the Department under this Act, the Cigarette Tax Act,
13 the Cigarette Use Tax Act, or the Tobacco Products Act of 1995
14 as a result of such proceedings. The balance, if any, of the
15 credit or refund shall be issued to the person entitled
16 thereto.

17 If no tax or penalty is due and no proceeding is pending to
18 determine whether such taxpayer is indebted to the Department
19 for the payment of a tax or penalty, the credit memorandum or
20 refund shall be issued to the claimant; or (in the case of a
21 credit memorandum) the credit memorandum may be assigned and
22 set over by the lawful holder thereof, subject to reasonable
23 rules of the Department, to any other person who is subject to
24 this Act, the Cigarette Tax Act, the Cigarette Use Tax Act, or
25 the Tobacco Products Act of 1995, and the amount thereof shall
26 be applied by the Department against any tax or penalty due or

1 to become due under this Act, the Cigarette Tax Act, the
2 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
3 such assignee.

4 As to any claim filed hereunder with the Department on and
5 after each January 1 and July 1, no amount of tax or penalty
6 erroneously paid (either in total or partial liquidation of a
7 tax or penalty under this Act) more than 3 years prior to such
8 January 1 and July 1, respectively, shall be credited or
9 refunded, except that, if both the Department and the taxpayer
10 have agreed to an extension of time to issue a notice of tax
11 liability under this Act, the claim may be filed at any time
12 prior to the expiration of the period agreed upon.

13 Any credit or refund that is allowed under this Act shall
14 bear interest at the rate and in the manner set forth in the
15 Uniform Penalty and Interest Act.

16 In case the Department determines that the claimant is
17 entitled to a refund, such refund shall be made only from
18 appropriations available for that purpose. If it appears
19 unlikely that the amount appropriated would permit everyone
20 having a claim allowed during the period covered by such
21 appropriation to elect to receive a cash refund, the
22 Department, by rule or regulation, shall provide for the
23 payment of refunds in hardship cases and shall define what
24 types of cases qualify as hardship cases.

25 The provisions of Sections 6a, 6b, and 6c of the Retailers'
26 Occupation Tax Act which are not inconsistent with this Act

1 shall apply, as far as practicable, to the subject matter of
2 this Act to the same extent as if such provisions were included
3 herein.

4 Section 1-60. Investigations and hearings. The Department,
5 or any officer or employee designated in writing by the
6 Director thereof, for the purpose of administering and
7 enforcing the provisions of this Act, may hold investigations
8 and hearings concerning any matters covered by this Act, and
9 may examine books, papers, records, or memoranda bearing upon
10 the sale or other disposition of cigarettes or tobacco products
11 by a cigarette machine operator, and may issue subpoenas
12 requiring the attendance of a cigarette machine operator, or
13 any officer or employee of a cigarette machine operator, or any
14 person having knowledge of the facts, and may take testimony
15 and require proof, and may issue subpoenas duces tecum to
16 compel the production of relevant books, papers, records, and
17 memoranda, for the information of the Department.

18 In the conduct of any investigation or hearing provided for
19 by this Act, neither the Department, nor any officer or
20 employee thereof, shall be bound by the technical rules of
21 evidence, and no informality in the proceedings nor in the
22 manner of taking testimony shall invalidate any rule, order,
23 decision, or regulation made, approved, or confirmed by the
24 Department.

25 The Director of Revenue, or any duly authorized officer or

1 employee of the Department, shall have the power to administer
2 oaths to such persons required by this Act to give testimony
3 before the Department.

4 The books, papers, records, and memoranda of the
5 Department, or parts thereof, may be proved in any hearing,
6 investigation or legal proceeding by a reproduced copy thereof
7 under the certificate of the Director of Revenue. Such
8 reproduced copy shall, without further proof, be admitted into
9 evidence before the Department or in any legal proceeding.

10 Section 1-65. Testimony and production of documents;
11 immunity. No person shall be excused from testifying or from
12 producing any books, papers, records, or memoranda in any
13 investigation or upon any hearing, when ordered to do so by the
14 Department or any officer or employee thereof, upon the ground
15 that the testimony or evidence, documentary or otherwise, may
16 tend to incriminate him or subject him to a criminal penalty,
17 but no person shall be prosecuted or subjected to any criminal
18 penalty for or on account of the subject matter of his or her
19 testimony or the evidence produced before the Department or an
20 officer or employee of the Department; provided that such
21 immunity shall extend only to a natural person who, in
22 obedience to a subpoena, gives testimony under oath or produces
23 evidence under oath. No person so testifying shall be exempt
24 from prosecution and punishment for perjury committed in so
25 testifying.

1 Section 1-70. Confidentiality; official purposes. All
2 information received by the Department from returns or reports
3 filed under this Act, or from any investigation conducted under
4 this Act, shall be confidential, except for official purposes,
5 and any person who divulges any such information in any manner,
6 except in accordance with a proper judicial order or as
7 otherwise provided by law, shall be guilty of a Class A
8 misdemeanor.

9 Nothing in this Act prevents the Director of Revenue from
10 publishing or making available to the public the names and
11 addresses of persons filing returns or reports under this Act,
12 or reasonable statistics concerning the operation of the tax by
13 grouping the contents of returns or reports so that the
14 information in any individual return or report is not
15 disclosed.

16 Nothing in this Act prevents the Director of Revenue from
17 divulging to the United States government or the government of
18 any other state, or any officer or agency thereof, for
19 exclusively official purposes, information received by the
20 Department in administering this Act, provided that such other
21 governmental agency agrees to divulge requested tax
22 information to the Department.

23 The furnishing upon request of the Auditor General, or his
24 authorized agents, for official use, of returns or reports
25 filed and information related thereto under this Act is deemed

1 to be an official purpose within the meaning of this Section.

2 The furnishing of financial information to a home rule unit
3 with a population in excess of 2,000,000 that has imposed a tax
4 similar to that imposed by this Act under its home rule powers,
5 upon request of the Chief Executive of the home rule unit, is
6 an official purpose within the meaning of this Section,
7 provided the home rule unit agrees in writing to the
8 requirements of this Section. Information so provided is
9 subject to all confidentiality provisions of this Section. The
10 written agreement shall provide for reciprocity, limitations
11 on access, disclosure, and procedures for requesting
12 information.

13 The Director may make available to any State agency,
14 including the Illinois Supreme Court, that licenses persons to
15 engage in any occupation, information that a person licensed by
16 such agency has failed to file returns under this Act or pay
17 the tax, penalty, and interest shown therein, or has failed to
18 pay any final assessment of tax, penalty, or interest due under
19 this Act or has failed to file reports under this Act. An
20 assessment is final when all proceedings in court for review of
21 such assessment have terminated or the time for the taking
22 thereof has expired without such proceedings being instituted.

23 The Director shall make available for public inspection in
24 the Department's principal office and for publication, at cost,
25 administrative decisions issued on or after January 1, 2013.
26 These decisions are to be made available in a manner so that

1 the following taxpayer or licensee information is not
2 disclosed:

3 (1) The names, addresses, and identification numbers
4 of the taxpayer or licensee, related entities, and
5 employees.

6 (2) At the sole discretion of the Director, trade
7 secrets or other confidential information identified as
8 such by the taxpayer or licensee no later than 30 days
9 after receipt of an administrative decision, by such means
10 as the Department shall provide by rule.

11 The Director shall determine the appropriate extent of the
12 deletions allowed in paragraph (2). In the event the taxpayer
13 or licensee does not submit deletions, the Director shall make
14 only the deletions specified in paragraph (1).

15 The Director shall make available for public inspection and
16 publication each administrative decision within 180 days after
17 the issuance of the administrative decision. The term
18 "administrative decision" has the same meaning as defined in
19 Section 3-101 of the Code of Civil Procedure. Costs collected
20 under this Section shall be paid into the Tax Compliance and
21 Administration Fund.

22 Nothing contained in this Act shall prevent the Director
23 from divulging information to any person pursuant to a request
24 or authorization made by the taxpayer or licensee or by an
25 authorized representative of the taxpayer or licensee.

1 Section 1-75. Records. Every cigarette machine operator
2 who is required to procure a license under this Act shall keep
3 within Illinois, at his licensed address: complete and accurate
4 records of the quantity of such cigarettes made or fabricated;
5 meter readings for each cigarette machine; the quantity of such
6 cigarettes sold or otherwise disposed of; the brand family and
7 manufacturer and quantity of tobacco products purchased and the
8 brand family and manufacturer and quantity of tobacco products
9 used to make or fabricate cigarettes by use of a cigarette
10 machine; the name, address, and license number of each
11 distributor from whom the cigarette machine operator purchases
12 tobacco products; the type and quantity of cigarette tubes
13 purchased for use in a cigarette machine; the type and quantity
14 of cigarette tubes used in a cigarette machine; and such other
15 information as the Department may require, and shall preserve
16 and keep within Illinois at his licensed address all invoices,
17 bills of lading, sales records, copies of bills of sale,
18 inventory at the close of each period for which a return is
19 required of all cigarettes, tobacco products and cigarette
20 tubes on hand, and other pertinent papers and documents
21 relating to the manufacture, purchase, sale, or disposition of
22 cigarettes and tobacco products. All books and records and
23 other papers and documents that are required by this Act to be
24 kept shall be kept in the English language, and shall, at all
25 times during the usual business hours of the day, be subject to
26 inspection by the Department or its duly authorized agents and

1 employees. The Department may adopt rules that establish
2 requirements, including record forms and formats, for records
3 required to be kept and maintained by taxpayers. For purposes
4 of this Section, "records" means all data maintained by the
5 taxpayer, including data on paper, microfilm, microfiche or any
6 type of machine-sensible data compilation. Those books,
7 records, papers and documents shall be preserved for a period
8 of at least 3 years after the date of the documents, or the
9 date of the entries appearing in the records, unless the
10 Department, in writing, authorizes their destruction or
11 disposal at an earlier date. At all times during the usual
12 business hours of the day, any duly authorized agent or
13 employee of the Department may enter any place of business of
14 the cigarette machine operator, without a search warrant, and
15 inspect the premises and the stock or packages of cigarettes,
16 tobacco products, cigarette tubes, and the cigarette machines
17 therein contained, to determine whether any of the provisions
18 of this Act are being violated. If such agent or employee is
19 denied free access or is hindered or interfered with in making
20 such examination as herein provided, the license of the
21 cigarette machine operator at such premises shall be subject to
22 revocation by the Department.

23 Section 1-80. Subpoenas and witnesses; depositions. The
24 Department, or any officer or employee of the Department
25 designated in writing by the Director, shall, at its, his, or

1 her own instance, or on the written request of any cigarette
2 machine operator or other interested party to the proceeding,
3 issue subpoenas requiring the attendance of and the giving of
4 testimony by witnesses, and subpoenas duces tecum requiring the
5 production of books, papers, records or memoranda. All
6 subpoenas and subpoenas duces tecum issued under the terms of
7 this Act may be served by any person of full age. The fees of
8 witnesses for attendance and travel shall be the same as the
9 fees of witnesses before the circuit court of this State; such
10 fees to be paid when the witness is excused from further
11 attendance. When the witness is subpoenaed at the instance of
12 the Department or any officer or employee thereof, such fees
13 shall be paid in the same manner as other expenses of the
14 Department, and when the witness is subpoenaed at the instance
15 of any other party to any such proceeding, the cost of service
16 of the subpoena or subpoena duces tecum and the fee of the
17 witness shall be borne by the party at whose instance the
18 witness is summoned. In such case, the Department, in its
19 discretion, may require a deposit to cover the cost of such
20 service and witness fees. A subpoena or subpoena duces tecum so
21 issued shall be served in the same manner as a subpoena or
22 subpoena duces tecum issued out of a court.

23 Any circuit court of this State, upon the application of
24 the Department or any officer or employee thereof, or upon the
25 application of any other party to the proceeding, may, in its
26 discretion, compel the attendance of witnesses, the production

1 of books, papers, records or memoranda and the giving of
2 testimony before the Department or any officer or employee
3 thereof conducting an investigation or holding a hearing
4 authorized by this Act, by an attachment for contempt, or
5 otherwise, in the same manner as production of evidence may be
6 compelled before the court.

7 The Department or any officer or employee thereof, or any
8 other party in an investigation or hearing before the
9 Department, may cause the depositions of witnesses within the
10 State to be taken in the manner prescribed by law for like
11 depositions, or depositions for discovery in civil actions in
12 courts of this State, and to that end compel the attendance of
13 witnesses and the production of books, papers, records or
14 memoranda, in the same manner provided herein.

15 Section 1-85. Regulations and rules; notice; hearings. The
16 Department may adopt and enforce such reasonable rules and
17 regulations relating to the administration and enforcement of
18 this Act as may be deemed expedient.

19 Whenever notice is required by this Act, such notice may be
20 given by United States certified or registered mail, addressed
21 to the person concerned at his last known address, and proof of
22 such mailing shall be sufficient for the purposes of this Act.
23 Notice of any hearing provided for by this Act shall be so
24 given not less than 7 days prior to the day fixed for the
25 hearing.

1 Hearings provided for in this Act shall be held:

2 (1) in Cook County, if the taxpayer's or licensee's
3 principal place of business is in that county;

4 (2) at the Department's office nearest the taxpayer's
5 or licensee's principal place of business, if the
6 taxpayer's or licensee's principal place of business is in
7 Illinois but outside Cook County; or

8 (3) in Sangamon County, if the taxpayer's or licensee's
9 principal place of business is outside Illinois.

10 The circuit court of the county wherein the hearing is held
11 has power to review all final administrative decisions of the
12 Department in administering this Act. The provisions of the
13 Administrative Review Law, and all amendments and
14 modifications thereof, and the rules adopted pursuant thereto,
15 shall apply to and govern all proceedings for the judicial
16 review of final administrative decisions of the Department
17 under this Act. The term "administrative decision" is defined
18 as in Section 3-101 of the Code of Civil Procedure.

19 Service upon the Director of Revenue or Assistant Director
20 of Revenue of summons issued in any action to review a final
21 administrative decision shall be service upon the Department.
22 The Department shall certify the record of its proceedings if
23 the cigarette machine operator pays to it the sum of 75¢ per
24 page of testimony taken before the Department and 25¢ per page
25 of all other matters contained in such record, except that
26 these charges may be waived where the Department is satisfied

1 that the aggrieved party is an indigent person who cannot
2 afford to pay such charges. Before the delivery of such record
3 to the person applying for it, payment of these charges must be
4 made, and if the record is not paid for within 30 days after
5 notice that such record is available, the complaint may be
6 dismissed by the court upon motion of the Department.

7 No stay order shall be entered by the circuit court unless
8 the cigarette machine operator files with the court a bond, in
9 an amount fixed and approved by the court, to indemnify the
10 State against all loss and injury which may be sustained by it
11 on account of the review proceedings and to secure all costs
12 which may be occasioned by such proceedings.

13 Whenever any proceeding provided by this Act is begun
14 before the Department, either by the Department or by a person
15 subject to this Act, and such person thereafter dies or becomes
16 a person under legal disability before such proceeding is
17 concluded, the legal representative of the deceased person or
18 of the person under legal disability shall notify the
19 Department of such death or legal disability. Such legal
20 representative, as such, shall then be substituted by the
21 Department for such person. If the legal representative fails
22 to notify the Department of his or her appointment as such
23 legal representative, the Department may, upon its own motion,
24 substitute such legal representative in the proceeding pending
25 before the Department for the person who died or became a
26 person under legal disability.

1 Section 1-90. The Illinois Administrative Procedure Act.
2 The Illinois Administrative Procedure Act is hereby expressly
3 adopted and shall apply to all administrative rules and
4 procedures of the Department of Revenue under this Act, except
5 that: (1) paragraph (b) of Section 5-10 of the Illinois
6 Administrative Procedure Act does not apply to final orders,
7 decisions and opinions of the Department; (2) subparagraph
8 (a)(ii) of Section 5-10 of the Illinois Administrative
9 Procedure Act does not apply to forms established by the
10 Department for use under this Act; and (3) the provisions of
11 Section 10-45 of the Illinois Administrative Procedure Act
12 regarding proposals for decision are excluded and not
13 applicable to the Department under this Act.

14 Section 1-95. Legal proceedings. All legal proceedings
15 under this Act, whether civil or criminal, shall be instituted
16 and prosecuted by the Attorney General or by the State's
17 Attorney for the county in which an offense under this Act is
18 committed, and all civil actions may be brought in the name of
19 the Department of Revenue.

20 Section 1-100. Arrest and seizure. Any duly authorized
21 employee of the Department may: arrest without warrant any
22 person committing in his presence a violation of any of the
23 provisions of this Act; may without a search warrant inspect

1 all cigarettes and cigarette machines located in any place of
2 business; and may seize any contraband cigarettes and any
3 cigarette machines in which such contraband cigarettes may be
4 found or may be made, and such packages or cigarette machines
5 so seized shall be subject to confiscation and forfeiture as
6 provided in Section 1-105 of this Act.

7 Section 1-105. Hearings regarding seized cigarettes and
8 cigarette machines. After seizing any cigarettes or cigarette
9 machines, as provided in Section 1-100 of this Act, the
10 Department shall hold a hearing and shall determine whether
11 such cigarettes, at the time of their seizure by the
12 Department, were contraband cigarettes, or whether such
13 cigarette machines, at the time of their seizure by the
14 Department, contained or made contraband cigarettes. The
15 Department shall give not less than 7 days' notice of the time
16 and place of such hearing to the owner of such property, if he
17 is known, and also to the person in whose possession the
18 property so taken was found, if such person is known and if
19 such person in possession is not the owner of said property. In
20 case neither the owner nor the person in possession of such
21 property is known, the Department shall cause publication of
22 the time and place of such hearing to be made at least once in
23 each week for 3 weeks successively in a newspaper of general
24 circulation in the county where such hearing is to be held.

25 If, as the result of such hearing, the Department

1 determines that the cigarettes seized were, at the time of
2 seizure, contraband cigarettes, or that any cigarette machine
3 at the time of its seizure contained or made contraband
4 cigarettes, the Department shall enter an order declaring such
5 cigarettes or such cigarette machine confiscated and forfeited
6 to the State, and to be held by the Department for disposal as
7 provided in this Section. The Department shall give notice of
8 such order to the owner of such property if he is known, and
9 also to the person in whose possession the property so taken
10 was found, if such person is known, and if such person in
11 possession is not the owner of the property. In case neither
12 the owner nor the person in possession of such property is
13 known, the Department shall cause publication of such order to
14 be made at least once in each week for 3 weeks successively in
15 a newspaper of general circulation in the county where such
16 hearing was held.

17 When any cigarettes or any cigarette machine shall have
18 been declared forfeited to the State by the Department, as
19 provided hereunder, and when all proceedings for the judicial
20 review of the Department's decision have terminated, the
21 Department shall, to the extent that its decision is sustained
22 on review, destroy or maintain and use such property in an
23 undercover capacity.

24 Section 1-110. Filing of a complaint.

25 Whenever any peace officer of the State or any duly

1 authorized officer or employee of the Department shall have
2 reason to believe that any violation of this Act has occurred
3 and that the person so violating the Act has in that person's
4 possession contraband cigarettes, or any cigarette machine
5 containing or making contraband cigarettes, he or she may file
6 or cause to be filed his complaint in writing, verified by
7 affidavit, with any court within whose jurisdiction the
8 premises to be searched are situated, stating the facts upon
9 which such belief is founded, the premises to be searched, and
10 the property to be seized, and procure a search warrant and
11 execute the same. Upon the execution of such search warrant,
12 the peace officer, or officer or employee of the Department,
13 executing such search warrant shall make due return thereof to
14 the court issuing the same, together with an inventory of the
15 property taken thereunder. The court shall thereupon issue
16 process against the owner of such property if he is known;
17 otherwise, such process shall be issued against the person in
18 whose possession the property so taken is found, if such person
19 is known. In case of inability to serve such process upon the
20 owner or the person in possession of the property at the time
21 of its seizure, notice of the proceedings before the court
22 shall be given as required by the statutes of the State
23 governing cases of attachment. Upon the return of the process
24 duly served or upon the posting or publishing of notice made,
25 as herein provided, the court or jury, if a jury shall be
26 demanded, shall proceed to determine whether or not such

1 property so seized was held or possessed in violation of this
2 Act, or whether, if a cigarette machine has been so seized, it
3 contained or was making at the time of its seizure contraband
4 cigarettes. In case of a finding that any cigarette machine so
5 seized contained or was making at the time of its seizure
6 contraband cigarettes, judgment shall be entered confiscating
7 and forfeiting the property to the State and ordering its
8 delivery to the Department, and, in addition thereto, the court
9 shall have power to tax and assess the costs of the
10 proceedings.

11 When any cigarettes or any cigarette machine is declared
12 forfeited to the State by any court, and when such confiscated
13 and forfeited property is delivered to the Department as
14 provided in this Act, the Department shall destroy or maintain
15 and use such property in an undercover capacity.

16 Section 1-115. False or fraudulent reports. Any person
17 required by this Act to make, file, render, sign, or verify any
18 report or return, or any officer, agent, or employee of that
19 person, who makes any false or fraudulent report or return or
20 files any false or fraudulent report or return, or who fails to
21 make such report or return or file such report or return when
22 due, is guilty of a Class 4 felony.

23 Section 1-120. Possession of more than 200 contraband
24 cigarettes; penalty. Any person possessing more than 200

1 contraband cigarettes is liable to pay, to the Department, for
2 deposit into the Tax Compliance and Administration Fund, a
3 penalty of \$1 for each such cigarette in excess of 200, unless
4 reasonable cause can be established by the person upon whom the
5 penalty is imposed. This penalty is in addition to the taxes
6 imposed by this Act. Reasonable cause shall be determined in
7 each situation in accordance with rules adopted by the
8 Department. The provisions of the Uniform Penalty and Interest
9 Act do not apply to this Section.

10 Section 1-125. Possession of not less than 20 and not more
11 than 200 contraband cigarettes; penalty. Any person possessing
12 not less than 20 and not more than 200 contraband cigarettes is
13 liable to pay to the Department, for deposit into the Tax
14 Compliance and Administration Fund, a penalty of \$0.50 for each
15 such cigarette, unless reasonable cause can be established by
16 the person upon whom the penalty is imposed. Reasonable cause
17 shall be determined in each situation in accordance with rules
18 adopted by the Department. The provisions of the Uniform
19 Penalty and Interest Act do not apply to this Section.

20 Section 1-130. Punishment for sale or possession of
21 contraband cigarettes.

22 (a) Possession or sale of 200 or less contraband
23 cigarettes. Any person who has in his or her possession or
24 sells 200 or less contraband cigarettes is guilty of a Class A

1 misdemeanor.

2 (b) Possession or sale of more than 200 and not more 1000
3 contraband cigarettes. Any person who has in his or her
4 possession or sells more than 200 and not more than 1000
5 contraband cigarettes is guilty of a Class A misdemeanor for a
6 first offense and a Class 4 felony for each subsequent offense.

7 (c) Possession or sale of more than 1000 contraband
8 cigarettes. Any person who has in his or her possession or
9 sells more than 1000 contraband cigarettes is guilty of a Class
10 4 felony.

11 Section 1-135. Unlawful operation of cigarette machines.
12 Whoever operates a cigarette machine without a license is
13 guilty of a Class 4 felony. Notwithstanding this Section, and
14 any other provisions of this Act, an individual may own a
15 cigarette machine for that individual's own use, and not for
16 the purpose of resale of cigarettes.

17 Section 1-140. Failure to keep records; penalty. Any person
18 required by this Act to keep records of any kind, who fails to
19 keep the required records or falsifies those records, is guilty
20 of a Class 4 felony.

21 Section 1-145. Failure to preserve records; penalty. Any
22 person who fails to safely preserve the records required by
23 Section 1-75 of this Act for the period of 3 years, as required

1 by that Section, in such manner as to insure permanency and
2 accessibility for inspection by the Department, shall be guilty
3 of a business offense and may be fined up to \$5,000.

4 Section 1-150. Forfeit of bond. If a cigarette machine
5 operator is convicted of the violation of any of the provisions
6 of this Act, or if his or her license is revoked and no review
7 is had of the order or revocation, or if on review thereof the
8 decision is adverse to the cigarette machine operator, or if a
9 cigarette machine operator fails to pay an assessment as to
10 which no judicial review is sought and which has become final,
11 or pursuant to which, upon review thereof, the circuit court
12 has entered a judgment that is in favor of the Department and
13 that has become final, the bond filed pursuant to this Act
14 shall thereupon be forfeited, and the Department may institute
15 a suit upon such bond in its own name for the entire amount of
16 such bond and costs. Such suit upon the bond shall be in
17 addition to any other remedy provided for herein.

18 Section 1-155. Sunset of exemptions, credits, and
19 deductions. The application of every exemption, credit, and
20 deduction against tax imposed by this Act that becomes law
21 after the effective date of this Act shall be limited by a
22 reasonable and appropriate sunset date. A taxpayer is not
23 entitled to take the exemption, credit, or deduction beginning
24 on the sunset date and thereafter. If a reasonable and

1 appropriate sunset date is not specified in the Public Act that
2 creates the exemption, credit, or deduction, a taxpayer shall
3 not be entitled to take the exemption, credit, or deduction
4 beginning 5 years after the effective date of the Public Act
5 creating the exemption, credit, or deduction and thereafter.

6 Section 1-160. Distribution of receipts by the Department.
7 All moneys received by the Department under this Act shall be
8 deposited into the Healthcare Provider Relief Fund.

9 Section 1-165. Exemption. Persons who are not operating
10 cigarette machines as defined in this Act and are engaged in
11 the business of renting, leasing or selling cigarette machines
12 to persons are exempt from the provisions of this Act.

13 Section 1-170. Notice. Any person who distributes or offers
14 for sale or rent a cigarette machine in this State shall
15 provide notice to any potential purchaser, lessee, or lessor of
16 that cigarette machine or any retail space containing a
17 cigarette machine. The notice shall contain information about
18 this Act, including: (i) licensure requirements for cigarette
19 machine operators; (ii) tax collection and remittance duties of
20 cigarette machine operators; (iii) any product limitations
21 imposed on cigarette machines by this Act; and (iv) packaging
22 and labeling requirements.

1 ARTICLE 5. AMENDATORY PROVISIONS

2 Section 5-5. The Illinois Income Tax Act is amended by
3 adding Section 223 as follows:

4 (35 ILCS 5/223 new)

5 Sec. 223. Hospital credit.

6 (a) For tax years ending on or after December 31, 2012, a
7 taxpayer that is the owner of a hospital licensed under the
8 Hospital Licensing Act, but not including an organization that
9 is exempt from federal income taxes under the Internal Revenue
10 Code, is entitled to a credit against the taxes imposed under
11 subsections (a) and (b) of Section 201 of this Act in an amount
12 equal to the lesser of the amount of real property taxes paid
13 during the tax year on real property used for hospital purposes
14 during the prior tax year or the cost of free or discounted
15 services provided during the tax year pursuant to the
16 hospital's charitable financial assistance policy, measured at
17 cost.

18 (b) If the taxpayer is a partnership or Subchapter S
19 corporation, the credit is allowed to the partners or
20 shareholders in accordance with the determination of income and
21 distributive share of income under Sections 702 and 704 and
22 Subchapter S of the Internal Revenue Code. A transfer of this
23 credit may be made by the taxpayer earning the credit within
24 one year after the credit is earned in accordance with rules

1 adopted by the Department. The Department shall prescribe rules
2 to enforce and administer provisions of this Section. If the
3 amount of the credit exceeds the tax liability for the year,
4 then the excess credit may be carried forward and applied to
5 the tax liability of the 5 taxable years following the excess
6 credit year. The credit shall be applied to the earliest year
7 for which there is a tax liability. If there are credits from
8 more than one tax year that are available to offset a
9 liability, the earlier credit shall be applied first. In no
10 event shall a credit under this Section reduce the taxpayer's
11 liability to less than zero.

12 Section 5-10. The Use Tax Act is amended by adding Section
13 3-8 as follows:

14 (35 ILCS 105/3-8 new)

15 Sec. 3-8. Hospital exemption.

16 (a) Tangible personal property sold to or used by a
17 hospital owner that owns one or more hospitals licensed under
18 the Hospital Licensing Act or operated under the University of
19 Illinois Hospital Act, or a hospital affiliate that is not
20 already exempt under another provision of this Act and meets
21 the criteria for an exemption under this Section, is exempt
22 from taxation under this Act.

23 (b) A hospital owner or hospital affiliate satisfies the
24 conditions for an exemption under this Section if the value of

1 qualified services or activities listed in subsection (c) of
2 this Section for the hospital year equals or exceeds the
3 relevant hospital entity's estimated property tax liability,
4 without regard to any property tax exemption granted under
5 Section 15-86 of the Property Tax Code, for the calendar year
6 in which exemption or renewal of exemption is sought. For
7 purposes of making the calculations required by this subsection
8 (b), if the relevant hospital entity is a hospital owner that
9 owns more than one hospital, the value of the services or
10 activities listed in subsection (c) shall be calculated on the
11 basis of only those services and activities relating to the
12 hospital that includes the subject property, and the relevant
13 hospital entity's estimated property tax liability shall be
14 calculated only with respect to the properties comprising that
15 hospital. In the case of a multi-state hospital system or
16 hospital affiliate, the value of the services or activities
17 listed in subsection (c) shall be calculated on the basis of
18 only those services and activities that occur in Illinois and
19 the relevant hospital entity's estimated property tax
20 liability shall be calculated only with respect to its property
21 located in Illinois.

22 (c) The following services and activities shall be
23 considered for purposes of making the calculations required by
24 subsection (b):

25 (1) Charity care. Free or discounted services provided
26 pursuant to the relevant hospital entity's financial

1 assistance policy, measured at cost, including discounts
2 provided under the Hospital Uninsured Patient Discount
3 Act.

4 (2) Health services to low-income and underserved
5 individuals. Other unreimbursed costs of the relevant
6 hospital entity for providing without charge, paying for,
7 or subsidizing goods, activities, or services for the
8 purpose of addressing the health of low-income or
9 underserved individuals. Those activities or services may
10 include, but are not limited to: financial or in-kind
11 support to affiliated or unaffiliated hospitals, hospital
12 affiliates, community clinics, or programs that treat
13 low-income or underserved individuals; paying for or
14 subsidizing health care professionals who care for
15 low-income or underserved individuals; providing or
16 subsidizing outreach or educational services to low-income
17 or underserved individuals for disease management and
18 prevention; free or subsidized goods, supplies, or
19 services needed by low-income or underserved individuals
20 because of their medical condition; and prenatal or
21 childbirth outreach to low-income or underserved persons.

22 (3) Subsidy of State or local governments. Direct or
23 indirect financial or in-kind subsidies of State or local
24 governments by the relevant hospital entity that pay for or
25 subsidize activities or programs related to health care for
26 low-income or underserved individuals.

1 (4) Support for State health care programs for
2 low-income individuals. At the election of the hospital
3 applicant for each applicable year, either (A) 10% of
4 payments to the relevant hospital entity and any hospital
5 affiliate designated by the relevant hospital entity
6 (provided that such hospital affiliate's operations
7 provide financial or operational support for or receive
8 financial or operational support from the relevant
9 hospital entity) under Medicaid or other means-tested
10 programs, including, but not limited to, General
11 Assistance, the Covering ALL KIDS Health Insurance Act, and
12 the State Children's Health Insurance Program or (B) the
13 amount of subsidy provided by the relevant hospital entity
14 and any hospital affiliate designated by the relevant
15 hospital entity (provided that such hospital affiliate's
16 operations provide financial or operational support for or
17 receive financial or operational support from the relevant
18 hospital entity) to State or local government in treating
19 Medicaid recipients and recipients of means-tested
20 programs, including but not limited to General Assistance,
21 the Covering ALL KIDS Health Insurance Act, and the State
22 Children's Health Insurance Program. The amount of subsidy
23 for purpose of this item (4) is calculated in the same
24 manner as unreimbursed costs are calculated for Medicaid
25 and other means-tested government programs in the Schedule
26 H of IRS Form 990 in effect on the effective date of this

1 amendatory Act of the 97th General Assembly.

2 (5) Dual-eligible subsidy. The amount of subsidy
3 provided to government by treating dual-eligible
4 Medicare/Medicaid patients. The amount of subsidy for
5 purposes of this item (5) is calculated by multiplying the
6 relevant hospital entity's unreimbursed costs for
7 Medicare, calculated in the same manner as determined in
8 the Schedule H of IRS Form 990 in effect on the effective
9 date of this amendatory Act of the 97th General Assembly,
10 by the relevant hospital entity's ratio of dual-eligible
11 patients to total Medicare patients.

12 (6) Relief of the burden of government related to
13 health care. Except to the extent otherwise taken into
14 account in this subsection, the portion of unreimbursed
15 costs of the relevant hospital entity attributable to
16 providing, paying for, or subsidizing goods, activities,
17 or services that relieve the burden of government related
18 to health care for low-income individuals. Such activities
19 or services shall include, but are not limited to,
20 providing emergency, trauma, burn, neonatal, psychiatric,
21 rehabilitation, or other special services; providing
22 medical education; and conducting medical research or
23 training of health care professionals. The portion of those
24 unreimbursed costs attributable to benefiting low-income
25 individuals shall be determined using the ratio calculated
26 by adding the relevant hospital entity's costs

1 attributable to charity care, Medicaid, other means-tested
2 government programs, disabled Medicare patients under age
3 65, and dual-eligible Medicare/Medicaid patients and
4 dividing that total by the relevant hospital entity's total
5 costs. Such costs for the numerator and denominator shall
6 be determined by multiplying gross charges by the cost to
7 charge ratio taken from the hospital's most recently filed
8 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
9 the case of emergency services, the ratio shall be
10 calculated using costs (gross charges multiplied by the
11 cost to charge ratio taken from the hospital's most
12 recently filed Medicare cost report (CMS 2252-10
13 Worksheet, Part I)) of patients treated in the relevant
14 hospital entity's emergency department.

15 (7) Any other activity by the relevant hospital entity
16 that the Department determines relieves the burden of
17 government or addresses the health of low-income or
18 underserved individuals.

19 (d) The hospital applicant shall include information in its
20 exemption application establishing that it satisfies the
21 requirements of subsection (b). For purposes of making the
22 calculations required by subsection (b), the hospital
23 applicant may for each year elect to use either (1) the value
24 of the services or activities listed in subsection (e) for the
25 hospital year or (2) the average value of those services or
26 activities for the 3 fiscal years ending with the hospital

1 year. If the relevant hospital entity has been in operation for
2 less than 3 completed fiscal years, then the latter
3 calculation, if elected, shall be performed on a pro rata
4 basis.

5 (e) For purposes of making the calculations required by
6 this Section:

7 (1) particular services or activities eligible for
8 consideration under any of the paragraphs (1) through (7)
9 of subsection (c) may not be counted under more than one of
10 those paragraphs; and

11 (2) the amount of unreimbursed costs and the amount of
12 subsidy shall not be reduced by restricted or unrestricted
13 payments received by the relevant hospital entity as
14 contributions deductible under Section 170(a) of the
15 Internal Revenue Code.

16 (g) Estimation of Exempt Property Tax Liability. The
17 estimated property tax liability used for the determination in
18 subsection (b) shall be calculated as follows:

19 (1) "Estimated property tax liability" means the
20 estimated dollar amount of property tax that would be owed,
21 with respect to the exempt portion of each of the relevant
22 hospital entity's properties that are already fully or
23 partially exempt, or for which an exemption in whole or in
24 part is currently being sought, and then aggregated as
25 applicable, as if the exempt portion of those properties
26 were subject to tax, calculated with respect to each such

1 property by multiplying:

2 (A) the lesser of (i) the actual assessed value, if
3 any, of the portion of the property for which an
4 exemption is sought or (ii) an estimated assessed value
5 of the exempt portion of such property as determined in
6 item (2) of this subsection (g), by

7 (B) the applicable State equalization rate
8 (yielding the equalized assessed value), by

9 (C) the applicable tax rate.

10 (2) The estimated assessed value of the exempt portion
11 of the property equals the sum of (i) the estimated fair
12 market value of buildings on the property, as determined in
13 accordance with subparagraphs (A) and (B) of this item (2),
14 multiplied by the applicable assessment factor, and (ii)
15 the estimated assessed value of the land portion of the
16 property, as determined in accordance with subparagraph
17 (C).

18 (A) The "estimated fair market value of buildings
19 on the property" means the replacement value of any
20 exempt portion of buildings on the property, minus
21 depreciation, determined utilizing the cost
22 replacement method whereby the exempt square footage
23 of all such buildings is multiplied by the replacement
24 cost per square foot for Class A Average building found
25 in the most recent edition of the Marshall & Swift
26 Valuation Services Manual, adjusted by any appropriate

1 current cost and local multipliers.

2 (B) Depreciation, for purposes of calculating the
3 estimated fair market value of buildings on the
4 property, is applied by utilizing a weighted mean life
5 for the buildings based on original construction and
6 assuming a 40-year life for hospital buildings and the
7 applicable life for other types of buildings as
8 specified in the American Hospital Association
9 publication "Estimated Useful Lives of Depreciable
10 Hospital Assets". In the case of hospital buildings,
11 the remaining life is divided by 40 and this ratio is
12 multiplied by the replacement cost of the buildings to
13 obtain an estimated fair market value of buildings. If
14 a hospital building is older than 35 years, a remaining
15 life of 5 years for residual value is assumed; and if a
16 building is less than 8 years old, a remaining life of
17 32 years is assumed.

18 (C) The estimated assessed value of the land
19 portion of the property shall be determined by
20 multiplying (i) the per square foot average of the
21 assessed values of three parcels of land (not including
22 farm land, and excluding the assessed value of the
23 improvements thereon) reasonably comparable to the
24 property, by (ii) the number of square feet comprising
25 the exempt portion of the property's land square
26 footage.

1 (3) The assessment factor, State equalization rate,
2 and tax rate (including any special factors such as
3 Enterprise Zones) used in calculating the estimated
4 property tax liability shall be for the most recent year
5 that is publicly available from the applicable chief county
6 assessment officer or officers at least 90 days before the
7 end of the hospital year.

8 (4) The method utilized to calculate estimated
9 property tax liability for purposes of this Section 15-86
10 shall not be utilized for the actual valuation, assessment,
11 or taxation of property pursuant to the Property Tax Code.

12 (h) For the purpose of this Section, the following terms
13 shall have the meanings set forth below:

14 (1) "Hospital" means any institution, place, building,
15 buildings on a campus, or other health care facility
16 located in Illinois that is licensed under the Hospital
17 Licensing Act and has a hospital owner.

18 (2) "Hospital owner" means a not-for-profit
19 corporation that is the titleholder of a hospital, or the
20 owner of the beneficial interest in an Illinois land trust
21 that is the titleholder of a hospital.

22 (3) "Hospital affiliate" means any corporation,
23 partnership, limited partnership, joint venture, limited
24 liability company, association or other organization,
25 other than a hospital owner, that directly or indirectly
26 controls, is controlled by, or is under common control with

1 one or more hospital owners and that supports, is supported
2 by, or acts in furtherance of the exempt health care
3 purposes of at least one of those hospital owners'
4 hospitals.

5 (4) "Hospital system" means a hospital and one or more
6 other hospitals or hospital affiliates related by common
7 control or ownership.

8 (5) "Control" relating to hospital owners, hospital
9 affiliates, or hospital systems means possession, direct
10 or indirect, of the power to direct or cause the direction
11 of the management and policies of the entity, whether
12 through ownership of assets, membership interest, other
13 voting or governance rights, by contract or otherwise.

14 (6) "Hospital applicant" means a hospital owner or
15 hospital affiliate that files an application for an
16 exemption or renewal of exemption under this Section.

17 (7) "Relevant hospital entity" means (A) the hospital
18 owner, in the case of a hospital applicant that is a
19 hospital owner, and (B) at the election of a hospital
20 applicant that is a hospital affiliate, either (i) the
21 hospital affiliate or (ii) the hospital system to which the
22 hospital applicant belongs, including any hospitals or
23 hospital affiliates that are related by common control or
24 ownership.

25 (8) "Subject property" means property used for the
26 calculation under subsection (b) of this Section.

1 (9) "Hospital year" means the fiscal year of the
2 relevant hospital entity, or the fiscal year of one of the
3 hospital owners in the hospital system if the relevant
4 hospital entity is a hospital system with members with
5 different fiscal years, that ends in the year for which the
6 exemption is sought.

7 Section 5-15. The Service Use Tax Act is amended by adding
8 Section 3-8 as follows:

9 (35 ILCS 110/3-8 new)

10 Sec. 3-8. Hospital exemption.

11 (a) Tangible personal property sold to or used by a
12 hospital owner that owns one or more hospitals licensed under
13 the Hospital Licensing Act or operated under the University of
14 Illinois Hospital Act, or a hospital affiliate that is not
15 already exempt under another provision of this Act and meets
16 the criteria for an exemption under this Section, is exempt
17 from taxation under this Act.

18 (b) A hospital owner or hospital affiliate satisfies the
19 conditions for an exemption under this Section if the value of
20 qualified services or activities listed in subsection (c) of
21 this Section for the hospital year equals or exceeds the
22 relevant hospital entity's estimated property tax liability,
23 without regard to any property tax exemption granted under
24 Section 15-86 of the Property Tax Code, for the calendar year

1 in which exemption or renewal of exemption is sought. For
2 purposes of making the calculations required by this subsection
3 (b), if the relevant hospital entity is a hospital owner that
4 owns more than one hospital, the value of the services or
5 activities listed in subsection (c) shall be calculated on the
6 basis of only those services and activities relating to the
7 hospital that includes the subject property, and the relevant
8 hospital entity's estimated property tax liability shall be
9 calculated only with respect to the properties comprising that
10 hospital. In the case of a multi-state hospital system or
11 hospital affiliate, the value of the services or activities
12 listed in subsection (c) shall be calculated on the basis of
13 only those services and activities that occur in Illinois and
14 the relevant hospital entity's estimated property tax
15 liability shall be calculated only with respect to its property
16 located in Illinois.

17 (c) The following services and activities shall be
18 considered for purposes of making the calculations required by
19 subsection (b):

20 (1) Charity care. Free or discounted services provided
21 pursuant to the relevant hospital entity's financial
22 assistance policy, measured at cost, including discounts
23 provided under the Hospital Uninsured Patient Discount
24 Act.

25 (2) Health services to low-income and underserved
26 individuals. Other unreimbursed costs of the relevant

1 hospital entity for providing without charge, paying for,
2 or subsidizing goods, activities, or services for the
3 purpose of addressing the health of low-income or
4 underserved individuals. Those activities or services may
5 include, but are not limited to: financial or in-kind
6 support to affiliated or unaffiliated hospitals, hospital
7 affiliates, community clinics, or programs that treat
8 low-income or underserved individuals; paying for or
9 subsidizing health care professionals who care for
10 low-income or underserved individuals; providing or
11 subsidizing outreach or educational services to low-income
12 or underserved individuals for disease management and
13 prevention; free or subsidized goods, supplies, or
14 services needed by low-income or underserved individuals
15 because of their medical condition; and prenatal or
16 childbirth outreach to low-income or underserved persons.

17 (3) Subsidy of State or local governments. Direct or
18 indirect financial or in-kind subsidies of State or local
19 governments by the relevant hospital entity that pay for or
20 subsidize activities or programs related to health care for
21 low-income or underserved individuals.

22 (4) Support for State health care programs for
23 low-income individuals. At the election of the hospital
24 applicant for each applicable year, either (A) 10% of
25 payments to the relevant hospital entity and any hospital
26 affiliate designated by the relevant hospital entity

1 (provided that such hospital affiliate's operations
2 provide financial or operational support for or receive
3 financial or operational support from the relevant
4 hospital entity) under Medicaid or other means-tested
5 programs, including, but not limited to, General
6 Assistance, the Covering ALL KIDS Health Insurance Act, and
7 the State Children's Health Insurance Program or (B) the
8 amount of subsidy provided by the relevant hospital entity
9 and any hospital affiliate designated by the relevant
10 hospital entity (provided that such hospital affiliate's
11 operations provide financial or operational support for or
12 receive financial or operational support from the relevant
13 hospital entity) to State or local government in treating
14 Medicaid recipients and recipients of means-tested
15 programs, including but not limited to General Assistance,
16 the Covering ALL KIDS Health Insurance Act, and the State
17 Children's Health Insurance Program. The amount of subsidy
18 for purposes of this item (4) is calculated in the same
19 manner as unreimbursed costs are calculated for Medicaid
20 and other means-tested government programs in the Schedule
21 H of IRS Form 990 in effect on the effective date of this
22 amendatory Act of the 97th General Assembly.

23 (5) Dual-eligible subsidy. The amount of subsidy
24 provided to government by treating dual-eligible
25 Medicare/Medicaid patients. The amount of subsidy for
26 purposes of this item (5) is calculated by multiplying the

1 relevant hospital entity's unreimbursed costs for
2 Medicare, calculated in the same manner as determined in
3 the Schedule H of IRS Form 990 in effect on the effective
4 date of this amendatory Act of the 97th General Assembly,
5 by the relevant hospital entity's ratio of dual-eligible
6 patients to total Medicare patients.

7 (6) Relief of the burden of government related to
8 health care. Except to the extent otherwise taken into
9 account in this subsection, the portion of unreimbursed
10 costs of the relevant hospital entity attributable to
11 providing, paying for, or subsidizing goods, activities,
12 or services that relieve the burden of government related
13 to health care for low-income individuals. Such activities
14 or services shall include, but are not limited to,
15 providing emergency, trauma, burn, neonatal, psychiatric,
16 rehabilitation, or other special services; providing
17 medical education; and conducting medical research or
18 training of health care professionals. The portion of those
19 unreimbursed costs attributable to benefiting low-income
20 individuals shall be determined using the ratio calculated
21 by adding the relevant hospital entity's costs
22 attributable to charity care, Medicaid, other means-tested
23 government programs, disabled Medicare patients under age
24 65, and dual-eligible Medicare/Medicaid patients and
25 dividing that total by the relevant hospital entity's total
26 costs. Such costs for the numerator and denominator shall

1 be determined by multiplying gross charges by the cost to
2 charge ratio taken from the hospital's most recently filed
3 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
4 the case of emergency services, the ratio shall be
5 calculated using costs (gross charges multiplied by the
6 cost to charge ratio taken from the hospital's most
7 recently filed Medicare cost report (CMS 2252-10
8 Worksheet, Part I)) of patients treated in the relevant
9 hospital entity's emergency department.

10 (7) Any other activity by the relevant hospital entity
11 that the Department determines relieves the burden of
12 government or addresses the health of low-income or
13 underserved individuals.

14 (d) The hospital applicant shall include information in its
15 exemption application establishing that it satisfies the
16 requirements of subsection (b). For purposes of making the
17 calculations required by subsection (b), the hospital
18 applicant may for each year elect to use either (1) the value
19 of the services or activities listed in subsection (e) for the
20 hospital year or (2) the average value of those services or
21 activities for the 3 fiscal years ending with the hospital
22 year. If the relevant hospital entity has been in operation for
23 less than 3 completed fiscal years, then the latter
24 calculation, if elected, shall be performed on a pro rata
25 basis.

26 (e) For purposes of making the calculations required by

1 this Section:

2 (1) particular services or activities eligible for
3 consideration under any of the paragraphs (1) through (7)
4 of subsection (c) may not be counted under more than one of
5 those paragraphs; and

6 (2) the amount of unreimbursed costs and the amount of
7 subsidy shall not be reduced by restricted or unrestricted
8 payments received by the relevant hospital entity as
9 contributions deductible under Section 170(a) of the
10 Internal Revenue Code.

11 (g) Estimation of Exempt Property Tax Liability. The
12 estimated property tax liability used for the determination in
13 subsection (b) shall be calculated as follows:

14 (1) "Estimated property tax liability" means the
15 estimated dollar amount of property tax that would be owed,
16 with respect to the exempt portion of each of the relevant
17 hospital entity's properties that are already fully or
18 partially exempt, or for which an exemption in whole or in
19 part is currently being sought, and then aggregated as
20 applicable, as if the exempt portion of those properties
21 were subject to tax, calculated with respect to each such
22 property by multiplying:

23 (A) the lesser of (i) the actual assessed value, if
24 any, of the portion of the property for which an
25 exemption is sought or (ii) an estimated assessed value
26 of the exempt portion of such property as determined in

1 item (2) of this subsection (g), by

2 (B) the applicable State equalization rate
3 (yielding the equalized assessed value), by

4 (C) the applicable tax rate.

5 (2) The estimated assessed value of the exempt portion
6 of the property equals the sum of (i) the estimated fair
7 market value of buildings on the property, as determined in
8 accordance with subparagraphs (A) and (B) of this item (2),
9 multiplied by the applicable assessment factor, and (ii)
10 the estimated assessed value of the land portion of the
11 property, as determined in accordance with subparagraph
12 (C).

13 (A) The "estimated fair market value of buildings
14 on the property" means the replacement value of any
15 exempt portion of buildings on the property, minus
16 depreciation, determined utilizing the cost
17 replacement method whereby the exempt square footage
18 of all such buildings is multiplied by the replacement
19 cost per square foot for Class A Average building found
20 in the most recent edition of the Marshall & Swift
21 Valuation Services Manual, adjusted by any appropriate
22 current cost and local multipliers.

23 (B) Depreciation, for purposes of calculating the
24 estimated fair market value of buildings on the
25 property, is applied by utilizing a weighted mean life
26 for the buildings based on original construction and

1 assuming a 40-year life for hospital buildings and the
2 applicable life for other types of buildings as
3 specified in the American Hospital Association
4 publication "Estimated Useful Lives of Depreciable
5 Hospital Assets". In the case of hospital buildings,
6 the remaining life is divided by 40 and this ratio is
7 multiplied by the replacement cost of the buildings to
8 obtain an estimated fair market value of buildings. If
9 a hospital building is older than 35 years, a remaining
10 life of 5 years for residual value is assumed; and if a
11 building is less than 8 years old, a remaining life of
12 32 years is assumed.

13 (C) The estimated assessed value of the land
14 portion of the property shall be determined by
15 multiplying (i) the per square foot average of the
16 assessed values of three parcels of land (not including
17 farm land, and excluding the assessed value of the
18 improvements thereon) reasonably comparable to the
19 property, by (ii) the number of square feet comprising
20 the exempt portion of the property's land square
21 footage.

22 (3) The assessment factor, State equalization rate,
23 and tax rate (including any special factors such as
24 Enterprise Zones) used in calculating the estimated
25 property tax liability shall be for the most recent year
26 that is publicly available from the applicable chief county

1 assessment officer or officers at least 90 days before the
2 end of the hospital year.

3 (4) The method utilized to calculate estimated
4 property tax liability for purposes of this Section 15-86
5 shall not be utilized for the actual valuation, assessment,
6 or taxation of property pursuant to the Property Tax Code.

7 (h) For the purpose of this Section, the following terms
8 shall have the meanings set forth below:

9 (1) "Hospital" means any institution, place, building,
10 buildings on a campus, or other health care facility
11 located in Illinois that is licensed under the Hospital
12 Licensing Act and has a hospital owner.

13 (2) "Hospital owner" means a not-for-profit
14 corporation that is the titleholder of a hospital, or the
15 owner of the beneficial interest in an Illinois land trust
16 that is the titleholder of a hospital.

17 (3) "Hospital affiliate" means any corporation,
18 partnership, limited partnership, joint venture, limited
19 liability company, association or other organization,
20 other than a hospital owner, that directly or indirectly
21 controls, is controlled by, or is under common control with
22 one or more hospital owners and that supports, is supported
23 by, or acts in furtherance of the exempt health care
24 purposes of at least one of those hospital owners'
25 hospitals.

26 (4) "Hospital system" means a hospital and one or more

1 other hospitals or hospital affiliates related by common
2 control or ownership.

3 (5) "Control" relating to hospital owners, hospital
4 affiliates, or hospital systems means possession, direct
5 or indirect, of the power to direct or cause the direction
6 of the management and policies of the entity, whether
7 through ownership of assets, membership interest, other
8 voting or governance rights, by contract or otherwise.

9 (6) "Hospital applicant" means a hospital owner or
10 hospital affiliate that files an application for an
11 exemption or renewal of exemption under this Section.

12 (7) "Relevant hospital entity" means (A) the hospital
13 owner, in the case of a hospital applicant that is a
14 hospital owner, and (B) at the election of a hospital
15 applicant that is a hospital affiliate, either (i) the
16 hospital affiliate or (ii) the hospital system to which the
17 hospital applicant belongs, including any hospitals or
18 hospital affiliates that are related by common control or
19 ownership.

20 (8) "Subject property" means property used for the
21 calculation under subsection (b) of this Section.

22 (9) "Hospital year" means the fiscal year of the
23 relevant hospital entity, or the fiscal year of one of the
24 hospital owners in the hospital system if the relevant
25 hospital entity is a hospital system with members with
26 different fiscal years, that ends in the year for which the

1 exemption is sought.

2 Section 5-20. The Service Occupation Tax Act is amended by
3 adding Section 3-8 as follows:

4 (35 ILCS 115/3-8 new)

5 Sec. 3-8. Hospital exemption.

6 (a) Tangible personal property sold to or used by a
7 hospital owner that owns one or more hospitals licensed under
8 the Hospital Licensing Act or operated under the University of
9 Illinois Hospital Act, or a hospital affiliate that is not
10 already exempt under another provision of this Act and meets
11 the criteria for an exemption under this Section, is exempt
12 from taxation under this Act.

13 (b) A hospital owner or hospital affiliate satisfies the
14 conditions for an exemption under this Section if the value of
15 qualified services or activities listed in subsection (c) of
16 this Section for the hospital year equals or exceeds the
17 relevant hospital entity's estimated property tax liability,
18 without regard to any property tax exemption granted under
19 Section 15-86 of the Property Tax Code, for the calendar year
20 in which exemption or renewal of exemption is sought. For
21 purposes of making the calculations required by this subsection
22 (b), if the relevant hospital entity is a hospital owner that
23 owns more than one hospital, the value of the services or
24 activities listed in subsection (c) shall be calculated on the

1 basis of only those services and activities relating to the
2 hospital that includes the subject property, and the relevant
3 hospital entity's estimated property tax liability shall be
4 calculated only with respect to the properties comprising that
5 hospital. In the case of a multi-state hospital system or
6 hospital affiliate, the value of the services or activities
7 listed in subsection (c) shall be calculated on the basis of
8 only those services and activities that occur in Illinois and
9 the relevant hospital entity's estimated property tax
10 liability shall be calculated only with respect to its property
11 located in Illinois.

12 (c) The following services and activities shall be
13 considered for purposes of making the calculations required by
14 subsection (b):

15 (1) Charity care. Free or discounted services provided
16 pursuant to the relevant hospital entity's financial
17 assistance policy, measured at cost, including discounts
18 provided under the Hospital Uninsured Patient Discount
19 Act.

20 (2) Health services to low-income and underserved
21 individuals. Other unreimbursed costs of the relevant
22 hospital entity for providing without charge, paying for,
23 or subsidizing goods, activities, or services for the
24 purpose of addressing the health of low-income or
25 underserved individuals. Those activities or services may
26 include, but are not limited to: financial or in-kind

1 support to affiliated or unaffiliated hospitals, hospital
2 affiliates, community clinics, or programs that treat
3 low-income or underserved individuals; paying for or
4 subsidizing health care professionals who care for
5 low-income or underserved individuals; providing or
6 subsidizing outreach or educational services to low-income
7 or underserved individuals for disease management and
8 prevention; free or subsidized goods, supplies, or
9 services needed by low-income or underserved individuals
10 because of their medical condition; and prenatal or
11 childbirth outreach to low-income or underserved persons.

12 (3) Subsidy of State or local governments. Direct or
13 indirect financial or in-kind subsidies of State or local
14 governments by the relevant hospital entity that pay for or
15 subsidize activities or programs related to health care for
16 low-income or underserved individuals.

17 (4) Support for State health care programs for
18 low-income individuals. At the election of the hospital
19 applicant for each applicable year, either (A) 10% of
20 payments to the relevant hospital entity and any hospital
21 affiliate designated by the relevant hospital entity
22 (provided that such hospital affiliate's operations
23 provide financial or operational support for or receive
24 financial or operational support from the relevant
25 hospital entity) under Medicaid or other means-tested
26 programs, including, but not limited to, General

1 Assistance, the Covering ALL KIDS Health Insurance Act, and
2 the State Children's Health Insurance Program or (B) the
3 amount of subsidy provided by the relevant hospital entity
4 and any hospital affiliate designated by the relevant
5 hospital entity (provided that such hospital affiliate's
6 operations provide financial or operational support for or
7 receive financial or operational support from the relevant
8 hospital entity) to State or local government in treating
9 Medicaid recipients and recipients of means-tested
10 programs, including but not limited to General Assistance,
11 the Covering ALL KIDS Health Insurance Act, and the State
12 Children's Health Insurance Program. The amount of subsidy
13 for purposes of this item (4) is calculated in the same
14 manner as unreimbursed costs are calculated for Medicaid
15 and other means-tested government programs in the Schedule
16 H of IRS Form 990 in effect on the effective date of this
17 amendatory Act of the 97th General Assembly.

18 (5) Dual-eligible subsidy. The amount of subsidy
19 provided to government by treating dual-eligible
20 Medicare/Medicaid patients. The amount of subsidy for
21 purposes of this item (5) is calculated by multiplying the
22 relevant hospital entity's unreimbursed costs for
23 Medicare, calculated in the same manner as determined in
24 the Schedule H of IRS Form 990 in effect on the effective
25 date of this amendatory Act of the 97th General Assembly,
26 by the relevant hospital entity's ratio of dual-eligible

1 patients to total Medicare patients.

2 (6) Relief of the burden of government related to
3 health care. Except to the extent otherwise taken into
4 account in this subsection, the portion of unreimbursed
5 costs of the relevant hospital entity attributable to
6 providing, paying for, or subsidizing goods, activities,
7 or services that relieve the burden of government related
8 to health care for low-income individuals. Such activities
9 or services shall include, but are not limited to,
10 providing emergency, trauma, burn, neonatal, psychiatric,
11 rehabilitation, or other special services; providing
12 medical education; and conducting medical research or
13 training of health care professionals. The portion of those
14 unreimbursed costs attributable to benefiting low-income
15 individuals shall be determined using the ratio calculated
16 by adding the relevant hospital entity's costs
17 attributable to charity care, Medicaid, other means-tested
18 government programs, disabled Medicare patients under age
19 65, and dual-eligible Medicare/Medicaid patients and
20 dividing that total by the relevant hospital entity's total
21 costs. Such costs for the numerator and denominator shall
22 be determined by multiplying gross charges by the cost to
23 charge ratio taken from the hospital's most recently filed
24 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
25 the case of emergency services, the ratio shall be
26 calculated using costs (gross charges multiplied by the

1 cost to charge ratio taken from the hospital's most
2 recently filed Medicare cost report (CMS 2252-10
3 Worksheet, Part I)) of patients treated in the relevant
4 hospital entity's emergency department.

5 (7) Any other activity by the relevant hospital entity
6 that the Department determines relieves the burden of
7 government or addresses the health of low-income or
8 underserved individuals.

9 (d) The hospital applicant shall include information in its
10 exemption application establishing that it satisfies the
11 requirements of subsection (b). For purposes of making the
12 calculations required by subsection (b), the hospital
13 applicant may for each year elect to use either (1) the value
14 of the services or activities listed in subsection (e) for the
15 hospital year or (2) the average value of those services or
16 activities for the 3 fiscal years ending with the hospital
17 year. If the relevant hospital entity has been in operation for
18 less than 3 completed fiscal years, then the latter
19 calculation, if elected, shall be performed on a pro rata
20 basis.

21 (e) For purposes of making the calculations required by
22 this Section:

23 (1) particular services or activities eligible for
24 consideration under any of the paragraphs (1) through (7)
25 of subsection (c) may not be counted under more than one of
26 those paragraphs; and

1 (2) the amount of unreimbursed costs and the amount of
2 subsidy shall not be reduced by restricted or unrestricted
3 payments received by the relevant hospital entity as
4 contributions deductible under Section 170(a) of the
5 Internal Revenue Code.

6 (g) Estimation of Exempt Property Tax Liability. The
7 estimated property tax liability used for the determination in
8 subsection (b) shall be calculated as follows:

9 (1) "Estimated property tax liability" means the
10 estimated dollar amount of property tax that would be owed,
11 with respect to the exempt portion of each of the relevant
12 hospital entity's properties that are already fully or
13 partially exempt, or for which an exemption in whole or in
14 part is currently being sought, and then aggregated as
15 applicable, as if the exempt portion of those properties
16 were subject to tax, calculated with respect to each such
17 property by multiplying:

18 (A) the lesser of (i) the actual assessed value, if
19 any, of the portion of the property for which an
20 exemption is sought or (ii) an estimated assessed value
21 of the exempt portion of such property as determined in
22 item (2) of this subsection (g), by

23 (B) the applicable State equalization rate
24 (yielding the equalized assessed value), by

25 (C) the applicable tax rate.

26 (2) The estimated assessed value of the exempt portion

1 of the property equals the sum of (i) the estimated fair
2 market value of buildings on the property, as determined in
3 accordance with subparagraphs (A) and (B) of this item (2),
4 multiplied by the applicable assessment factor, and (ii)
5 the estimated assessed value of the land portion of the
6 property, as determined in accordance with subparagraph
7 (C).

8 (A) The "estimated fair market value of buildings
9 on the property" means the replacement value of any
10 exempt portion of buildings on the property, minus
11 depreciation, determined utilizing the cost
12 replacement method whereby the exempt square footage
13 of all such buildings is multiplied by the replacement
14 cost per square foot for Class A Average building found
15 in the most recent edition of the Marshall & Swift
16 Valuation Services Manual, adjusted by any appropriate
17 current cost and local multipliers.

18 (B) Depreciation, for purposes of calculating the
19 estimated fair market value of buildings on the
20 property, is applied by utilizing a weighted mean life
21 for the buildings based on original construction and
22 assuming a 40-year life for hospital buildings and the
23 applicable life for other types of buildings as
24 specified in the American Hospital Association
25 publication "Estimated Useful Lives of Depreciable
26 Hospital Assets". In the case of hospital buildings,

1 the remaining life is divided by 40 and this ratio is
2 multiplied by the replacement cost of the buildings to
3 obtain an estimated fair market value of buildings. If
4 a hospital building is older than 35 years, a remaining
5 life of 5 years for residual value is assumed; and if a
6 building is less than 8 years old, a remaining life of
7 32 years is assumed.

8 (C) The estimated assessed value of the land
9 portion of the property shall be determined by
10 multiplying (i) the per square foot average of the
11 assessed values of three parcels of land (not including
12 farm land, and excluding the assessed value of the
13 improvements thereon) reasonably comparable to the
14 property, by (ii) the number of square feet comprising
15 the exempt portion of the property's land square
16 footage.

17 (3) The assessment factor, State equalization rate,
18 and tax rate (including any special factors such as
19 Enterprise Zones) used in calculating the estimated
20 property tax liability shall be for the most recent year
21 that is publicly available from the applicable chief county
22 assessment officer or officers at least 90 days before the
23 end of the hospital year.

24 (4) The method utilized to calculate estimated
25 property tax liability for purposes of this Section 15-86
26 shall not be utilized for the actual valuation, assessment,

1 or taxation of property pursuant to the Property Tax Code.

2 (h) For the purpose of this Section, the following terms
3 shall have the meanings set forth below:

4 (1) "Hospital" means any institution, place, building,
5 buildings on a campus, or other health care facility
6 located in Illinois that is licensed under the Hospital
7 Licensing Act and has a hospital owner.

8 (2) "Hospital owner" means a not-for-profit
9 corporation that is the titleholder of a hospital, or the
10 owner of the beneficial interest in an Illinois land trust
11 that is the titleholder of a hospital.

12 (3) "Hospital affiliate" means any corporation,
13 partnership, limited partnership, joint venture, limited
14 liability company, association or other organization,
15 other than a hospital owner, that directly or indirectly
16 controls, is controlled by, or is under common control with
17 one or more hospital owners and that supports, is supported
18 by, or acts in furtherance of the exempt health care
19 purposes of at least one of those hospital owners'
20 hospitals.

21 (4) "Hospital system" means a hospital and one or more
22 other hospitals or hospital affiliates related by common
23 control or ownership.

24 (5) "Control" relating to hospital owners, hospital
25 affiliates, or hospital systems means possession, direct
26 or indirect, of the power to direct or cause the direction

1 of the management and policies of the entity, whether
2 through ownership of assets, membership interest, other
3 voting or governance rights, by contract or otherwise.

4 (6) "Hospital applicant" means a hospital owner or
5 hospital affiliate that files an application for an
6 exemption or renewal of exemption under this Section.

7 (7) "Relevant hospital entity" means (A) the hospital
8 owner, in the case of a hospital applicant that is a
9 hospital owner, and (B) at the election of a hospital
10 applicant that is a hospital affiliate, either (i) the
11 hospital affiliate or (ii) the hospital system to which the
12 hospital applicant belongs, including any hospitals or
13 hospital affiliates that are related by common control or
14 ownership.

15 (8) "Subject property" means property used for the
16 calculation under subsection (b) of this Section.

17 (9) "Hospital year" means the fiscal year of the
18 relevant hospital entity, or the fiscal year of one of the
19 hospital owners in the hospital system if the relevant
20 hospital entity is a hospital system with members with
21 different fiscal years, that ends in the year for which the
22 exemption is sought.

23 Section 5-25. The Retailers' Occupation Tax Act is amended
24 by adding Section 2-9 as follows:

1 (35 ILCS 120/2-9 new)

2 Sec. 2-9. Hospital exemption.

3 (a) Tangible personal property sold to or used by a
4 hospital owner that owns one or more hospitals licensed under
5 the Hospital Licensing Act or operated under the University of
6 Illinois Hospital Act, or a hospital affiliate that is not
7 already exempt under another provision of this Act and meets
8 the criteria for an exemption under this Section, is exempt
9 from taxation under this Act.

10 (b) A hospital owner or hospital affiliate satisfies the
11 conditions for an exemption under this Section if the value of
12 qualified services or activities listed in subsection (c) of
13 this Section for the hospital year equals or exceeds the
14 relevant hospital entity's estimated property tax liability,
15 without regard to any property tax exemption granted under
16 Section 15-86 of the Property Tax Code, for the calendar year
17 in which exemption or renewal of exemption is sought. For
18 purposes of making the calculations required by this subsection
19 (b), if the relevant hospital entity is a hospital owner that
20 owns more than one hospital, the value of the services or
21 activities listed in subsection (c) shall be calculated on the
22 basis of only those services and activities relating to the
23 hospital that includes the subject property, and the relevant
24 hospital entity's estimated property tax liability shall be
25 calculated only with respect to the properties comprising that
26 hospital. In the case of a multi-state hospital system or

1 hospital affiliate, the value of the services or activities
2 listed in subsection (c) shall be calculated on the basis of
3 only those services and activities that occur in Illinois and
4 the relevant hospital entity's estimated property tax
5 liability shall be calculated only with respect to its property
6 located in Illinois.

7 (c) The following services and activities shall be
8 considered for purposes of making the calculations required by
9 subsection (b):

10 (1) Charity care. Free or discounted services provided
11 pursuant to the relevant hospital entity's financial
12 assistance policy, measured at cost, including discounts
13 provided under the Hospital Uninsured Patient Discount
14 Act.

15 (2) Health services to low-income and underserved
16 individuals. Other unreimbursed costs of the relevant
17 hospital entity for providing without charge, paying for,
18 or subsidizing goods, activities, or services for the
19 purpose of addressing the health of low-income or
20 underserved individuals. Those activities or services may
21 include, but are not limited to: financial or in-kind
22 support to affiliated or unaffiliated hospitals, hospital
23 affiliates, community clinics, or programs that treat
24 low-income or underserved individuals; paying for or
25 subsidizing health care professionals who care for
26 low-income or underserved individuals; providing or

1 subsidizing outreach or educational services to low-income
2 or underserved individuals for disease management and
3 prevention; free or subsidized goods, supplies, or
4 services needed by low-income or underserved individuals
5 because of their medical condition; and prenatal or
6 childbirth outreach to low-income or underserved persons.

7 (3) Subsidy of State or local governments. Direct or
8 indirect financial or in-kind subsidies of State or local
9 governments by the relevant hospital entity that pay for or
10 subsidize activities or programs related to health care for
11 low-income or underserved individuals.

12 (4) Support for State health care programs for
13 low-income individuals. At the election of the hospital
14 applicant for each applicable year, either (A) 10% of
15 payments to the relevant hospital entity and any hospital
16 affiliate designated by the relevant hospital entity
17 (provided that such hospital affiliate's operations
18 provide financial or operational support for or receive
19 financial or operational support from the relevant
20 hospital entity) under Medicaid or other means-tested
21 programs, including, but not limited to, General
22 Assistance, the Covering ALL KIDS Health Insurance Act, and
23 the State Children's Health Insurance Program or (B) the
24 amount of subsidy provided by the relevant hospital entity
25 and any hospital affiliate designated by the relevant
26 hospital entity (provided that such hospital affiliate's

1 operations provide financial or operational support for or
2 receive financial or operational support from the relevant
3 hospital entity) to State or local government in treating
4 Medicaid recipients and recipients of means-tested
5 programs, including but not limited to General Assistance,
6 the Covering ALL KIDS Health Insurance Act, and the State
7 Children's Health Insurance Program. The amount of subsidy
8 for purposes of this item (4) is calculated in the same
9 manner as unreimbursed costs are calculated for Medicaid
10 and other means-tested government programs in the Schedule
11 H of IRS Form 990 in effect on the effective date of this
12 amendatory Act of the 97th General Assembly.

13 (5) Dual-eligible subsidy. The amount of subsidy
14 provided to government by treating dual-eligible
15 Medicare/Medicaid patients. The amount of subsidy for
16 purposes of this item (5) is calculated by multiplying the
17 relevant hospital entity's unreimbursed costs for
18 Medicare, calculated in the same manner as determined in
19 the Schedule H of IRS Form 990 in effect on the effective
20 date of this amendatory Act of the 97th General Assembly,
21 by the relevant hospital entity's ratio of dual-eligible
22 patients to total Medicare patients.

23 (6) Relief of the burden of government related to
24 health care. Except to the extent otherwise taken into
25 account in this subsection, the portion of unreimbursed
26 costs of the relevant hospital entity attributable to

1 providing, paying for, or subsidizing goods, activities,
2 or services that relieve the burden of government related
3 to health care for low-income individuals. Such activities
4 or services shall include, but are not limited to,
5 providing emergency, trauma, burn, neonatal, psychiatric,
6 rehabilitation, or other special services; providing
7 medical education; and conducting medical research or
8 training of health care professionals. The portion of those
9 unreimbursed costs attributable to benefiting low-income
10 individuals shall be determined using the ratio calculated
11 by adding the relevant hospital entity's costs
12 attributable to charity care, Medicaid, other means-tested
13 government programs, disabled Medicare patients under age
14 65, and dual-eligible Medicare/Medicaid patients and
15 dividing that total by the relevant hospital entity's total
16 costs. Such costs for the numerator and denominator shall
17 be determined by multiplying gross charges by the cost to
18 charge ratio taken from the hospital's most recently filed
19 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
20 the case of emergency services, the ratio shall be
21 calculated using costs (gross charges multiplied by the
22 cost to charge ratio taken from the hospital's most
23 recently filed Medicare cost report (CMS 2252-10
24 Worksheet, Part I)) of patients treated in the relevant
25 hospital entity's emergency department.

26 (7) Any other activity by the relevant hospital entity

1 that the Department determines relieves the burden of
2 government or addresses the health of low-income or
3 underserved individuals.

4 (d) The hospital applicant shall include information in its
5 exemption application establishing that it satisfies the
6 requirements of subsection (b). For purposes of making the
7 calculations required by subsection (b), the hospital
8 applicant may for each year elect to use either (1) the value
9 of the services or activities listed in subsection (e) for the
10 hospital year or (2) the average value of those services or
11 activities for the 3 fiscal years ending with the hospital
12 year. If the relevant hospital entity has been in operation for
13 less than 3 completed fiscal years, then the latter
14 calculation, if elected, shall be performed on a pro rata
15 basis.

16 (e) For purposes of making the calculations required by
17 this Section:

18 (1) particular services or activities eligible for
19 consideration under any of the paragraphs (1) through (7)
20 of subsection (c) may not be counted under more than one of
21 those paragraphs; and

22 (2) the amount of unreimbursed costs and the amount of
23 subsidy shall not be reduced by restricted or unrestricted
24 payments received by the relevant hospital entity as
25 contributions deductible under Section 170(a) of the
26 Internal Revenue Code.

1 (g) Estimation of Exempt Property Tax Liability. The
2 estimated property tax liability used for the determination in
3 subsection (b) shall be calculated as follows:

4 (1) "Estimated property tax liability" means the
5 estimated dollar amount of property tax that would be owed,
6 with respect to the exempt portion of each of the relevant
7 hospital entity's properties that are already fully or
8 partially exempt, or for which an exemption in whole or in
9 part is currently being sought, and then aggregated as
10 applicable, as if the exempt portion of those properties
11 were subject to tax, calculated with respect to each such
12 property by multiplying:

13 (A) the lesser of (i) the actual assessed value, if
14 any, of the portion of the property for which an
15 exemption is sought or (ii) an estimated assessed value
16 of the exempt portion of such property as determined in
17 item (2) of this subsection (g), by

18 (B) the applicable State equalization rate
19 (yielding the equalized assessed value), by

20 (C) the applicable tax rate.

21 (2) The estimated assessed value of the exempt portion
22 of the property equals the sum of (i) the estimated fair
23 market value of buildings on the property, as determined in
24 accordance with subparagraphs (A) and (B) of this item (2),
25 multiplied by the applicable assessment factor, and (ii)
26 the estimated assessed value of the land portion of the

1 property, as determined in accordance with subparagraph
2 (C).

3 (A) The "estimated fair market value of buildings
4 on the property" means the replacement value of any
5 exempt portion of buildings on the property, minus
6 depreciation, determined utilizing the cost
7 replacement method whereby the exempt square footage
8 of all such buildings is multiplied by the replacement
9 cost per square foot for Class A Average building found
10 in the most recent edition of the Marshall & Swift
11 Valuation Services Manual, adjusted by any appropriate
12 current cost and local multipliers.

13 (B) Depreciation, for purposes of calculating the
14 estimated fair market value of buildings on the
15 property, is applied by utilizing a weighted mean life
16 for the buildings based on original construction and
17 assuming a 40-year life for hospital buildings and the
18 applicable life for other types of buildings as
19 specified in the American Hospital Association
20 publication "Estimated Useful Lives of Depreciable
21 Hospital Assets". In the case of hospital buildings,
22 the remaining life is divided by 40 and this ratio is
23 multiplied by the replacement cost of the buildings to
24 obtain an estimated fair market value of buildings. If
25 a hospital building is older than 35 years, a remaining
26 life of 5 years for residual value is assumed; and if a

1 building is less than 8 years old, a remaining life of
2 32 years is assumed.

3 (C) The estimated assessed value of the land
4 portion of the property shall be determined by
5 multiplying (i) the per square foot average of the
6 assessed values of three parcels of land (not including
7 farm land, and excluding the assessed value of the
8 improvements thereon) reasonably comparable to the
9 property, by (ii) the number of square feet comprising
10 the exempt portion of the property's land square
11 footage.

12 (3) The assessment factor, State equalization rate,
13 and tax rate (including any special factors such as
14 Enterprise Zones) used in calculating the estimated
15 property tax liability shall be for the most recent year
16 that is publicly available from the applicable chief county
17 assessment officer or officers at least 90 days before the
18 end of the hospital year.

19 (4) The method utilized to calculate estimated
20 property tax liability for purposes of this Section 15-86
21 shall not be utilized for the actual valuation, assessment,
22 or taxation of property pursuant to the Property Tax Code.

23 (h) For the purpose of this Section, the following terms
24 shall have the meanings set forth below:

25 (1) "Hospital" means any institution, place, building,
26 buildings on a campus, or other health care facility

1 located in Illinois that is licensed under the Hospital
2 Licensing Act and has a hospital owner.

3 (2) "Hospital owner" means a not-for-profit
4 corporation that is the titleholder of a hospital, or the
5 owner of the beneficial interest in an Illinois land trust
6 that is the titleholder of a hospital.

7 (3) "Hospital affiliate" means any corporation,
8 partnership, limited partnership, joint venture, limited
9 liability company, association or other organization,
10 other than a hospital owner, that directly or indirectly
11 controls, is controlled by, or is under common control with
12 one or more hospital owners and that supports, is supported
13 by, or acts in furtherance of the exempt health care
14 purposes of at least one of those hospital owners'
15 hospitals.

16 (4) "Hospital system" means a hospital and one or more
17 other hospitals or hospital affiliates related by common
18 control or ownership.

19 (5) "Control" relating to hospital owners, hospital
20 affiliates, or hospital systems means possession, direct
21 or indirect, of the power to direct or cause the direction
22 of the management and policies of the entity, whether
23 through ownership of assets, membership interest, other
24 voting or governance rights, by contract or otherwise.

25 (6) "Hospital applicant" means a hospital owner or
26 hospital affiliate that files an application for an

1 exemption or renewal of exemption under this Section.

2 (7) "Relevant hospital entity" means (A) the hospital
3 owner, in the case of a hospital applicant that is a
4 hospital owner, and (B) at the election of a hospital
5 applicant that is a hospital affiliate, either (i) the
6 hospital affiliate or (ii) the hospital system to which the
7 hospital applicant belongs, including any hospitals or
8 hospital affiliates that are related by common control or
9 ownership.

10 (8) "Subject property" means property used for the
11 calculation under subsection (b) of this Section.

12 (9) "Hospital year" means the fiscal year of the
13 relevant hospital entity, or the fiscal year of one of the
14 hospital owners in the hospital system if the relevant
15 hospital entity is a hospital system with members with
16 different fiscal years, that ends in the year for which the
17 exemption is sought.

18 Section 5-30. The Cigarette Tax Act is amended by changing
19 Sections 1 and 2 as follows:

20 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

21 Sec. 1. For the purposes of this Act:

22 "Brand Style" means a variety of cigarettes distinguished
23 by the tobacco used, tar and nicotine content, flavoring used,
24 size of the cigarette, filtration on the cigarette or

1 packaging.

2 Until July 1, 2012, "cigarette" ~~"Cigarette"~~, means any roll
3 for smoking made wholly or in part of tobacco irrespective of
4 size or shape and whether or not such tobacco is flavored,
5 adulterated or mixed with any other ingredient, and the wrapper
6 or cover of which is made of paper or any other substance or
7 material except tobacco.

8 "Cigarette", beginning on and after July 1, 2012, means any
9 roll for smoking made wholly or in part of tobacco irrespective
10 of size or shape and whether or not such tobacco is flavored,
11 adulterated, or mixed with any other ingredient, and the
12 wrapper or cover of which is made of paper.

13 "Cigarette", beginning on and after July 1, 2012, also
14 shall mean: Any roll for smoking made wholly or in part of
15 tobacco labeled as anything other than a cigarette or not
16 bearing a label, if it meets two or more of the following
17 criteria:

18 (a) the product is sold in packs similar to cigarettes;

19 (b) the product is available for sale in cartons of ten
20 packs;

21 (c) the product is sold in soft packs, hard packs,
22 flip-top boxes, clam shells, or other cigarette-type
23 boxes;

24 (d) the product is of a length and diameter similar to
25 commercially manufactured cigarettes;

26 (e) the product has a cellulose acetate or other

1 integrated filter;

2 (f) the product is marketed or advertised to consumers
3 as a cigarette or cigarette substitute; or

4 (g) other evidence that the product fits within the
5 definition of cigarette.

6 "Contraband cigarettes" means:

7 (a) cigarettes that do not bear a required tax stamp
8 under this Act;

9 (b) cigarettes for which any required federal taxes
10 have not been paid;

11 (c) cigarettes that bear a counterfeit tax stamp;

12 (d) cigarettes that are manufactured, fabricated,
13 assembled, processed, packaged, or labeled by any person
14 other than (i) the owner of the trademark rights in the
15 cigarette brand or (ii) a person that is directly or
16 indirectly authorized by such owner;

17 (e) cigarettes imported into the United States, or
18 otherwise distributed, in violation of the federal
19 Imported Cigarette Compliance Act of 2000 (Title IV of
20 Public Law 106-476);

21 (f) cigarettes that have false manufacturing labels;

22 (g) cigarettes identified in Section 3-10(a)(1) of
23 this Act; ~~or~~

24 (h) cigarettes that are improperly tax stamped,
25 including cigarettes that bear a tax stamp of another state
26 or taxing jurisdiction; or ~~or~~

1 (i) cigarettes made or fabricated by a person holding a
2 cigarette machine operator license under Section 1-20 of
3 the Cigarette Machine Operators' Occupation Tax Act in the
4 possession of manufacturers, distributors, secondary
5 distributors, manufacturer representatives or other
6 retailers for the purpose of resale, regardless of whether
7 the tax has been paid on such cigarettes.

8 "Person" means any natural individual, firm, partnership,
9 association, joint stock company, joint adventure, public or
10 private corporation, however formed, limited liability
11 company, or a receiver, executor, administrator, trustee,
12 guardian or other representative appointed by order of any
13 court.

14 "Prior Continuous Compliance Taxpayer" means any person
15 who is licensed under this Act and who, having been a licensee
16 for a continuous period of 5 years, is determined by the
17 Department not to have been either delinquent or deficient in
18 the payment of tax liability during that period or otherwise in
19 violation of this Act. Also, any taxpayer who has, as verified
20 by the Department, continuously complied with the condition of
21 his bond or other security under provisions of this Act for a
22 period of 5 consecutive years shall be considered to be a
23 "Prior continuous compliance taxpayer". In calculating the
24 consecutive period of time described herein for qualification
25 as a "prior continuous compliance taxpayer", a consecutive
26 period of time of qualifying compliance immediately prior to

1 the effective date of this amendatory Act of 1987 shall be
2 credited to any licensee who became licensed on or before the
3 effective date of this amendatory Act of 1987.

4 "Department" means the Department of Revenue.

5 "Sale" means any transfer, exchange or barter in any manner
6 or by any means whatsoever for a consideration, and includes
7 and means all sales made by any person.

8 "Original Package" means the individual packet, box or
9 other container whatsoever used to contain and to convey
10 cigarettes to the consumer.

11 "Distributor" means any and each of the following:

12 (1) Any person engaged in the business of selling
13 cigarettes in this State who brings or causes to be brought
14 into this State from without this State any original
15 packages of cigarettes, on which original packages there is
16 no authorized evidence underneath a sealed transparent
17 wrapper showing that the tax liability imposed by this Act
18 has been paid or assumed by the out-of-State seller of such
19 cigarettes, for sale or other disposition in the course of
20 such business.

21 (2) Any person who makes, manufactures or fabricates
22 cigarettes in this State for sale in this State, except a
23 person who makes, manufactures or fabricates cigarettes as
24 a part of a correctional industries program for sale to
25 residents incarcerated in penal institutions or resident
26 patients of a State-operated mental health facility.

1 (3) Any person who makes, manufactures or fabricates
2 cigarettes outside this State, which cigarettes are placed
3 in original packages contained in sealed transparent
4 wrappers, for delivery or shipment into this State, and who
5 elects to qualify and is accepted by the Department as a
6 distributor under Section 4b of this Act.

7 "Place of business" shall mean and include any place where
8 cigarettes are sold or where cigarettes are manufactured,
9 stored or kept for the purpose of sale or consumption,
10 including any vessel, vehicle, airplane, train or vending
11 machine.

12 "Manufacturer representative" means a director, officer,
13 or employee of a manufacturer who has obtained authority from
14 the Department under Section 4f to maintain representatives in
15 Illinois that provide or sell original packages of cigarettes
16 made, manufactured, or fabricated by the manufacturer to
17 retailers in compliance with Section 4f of this Act to promote
18 cigarettes made, manufactured, or fabricated by the
19 manufacturer.

20 "Business" means any trade, occupation, activity or
21 enterprise engaged in for the purpose of selling cigarettes in
22 this State.

23 "Retailer" means any person who engages in the making of
24 transfers of the ownership of, or title to, cigarettes to a
25 purchaser for use or consumption and not for resale in any
26 form, for a valuable consideration. "Retailer" does not include

1 a person:

2 (1) who transfers to residents incarcerated in penal
3 institutions or resident patients of a State-operated
4 mental health facility ownership of cigarettes made,
5 manufactured, or fabricated as part of a correctional
6 industries program; or

7 (2) who transfers cigarettes to a not-for-profit
8 research institution that conducts tests concerning the
9 health effects of tobacco products and who does not offer
10 the cigarettes for resale.

11 "Retailer" shall be construed to include any person who
12 engages in the making of transfers of the ownership of, or
13 title to, cigarettes to a purchaser, for use or consumption by
14 any other person to whom such purchaser may transfer the
15 cigarettes without a valuable consideration, except a person
16 who transfers to residents incarcerated in penal institutions
17 or resident patients of a State-operated mental health facility
18 ownership of cigarettes made, manufactured or fabricated as
19 part of a correctional industries program.

20 "Secondary distributor" means any person engaged in the
21 business of selling cigarettes who purchases stamped original
22 packages of cigarettes from a licensed distributor under this
23 Act or the Cigarette Use Tax Act, sells 75% or more of those
24 cigarettes to retailers for resale, and maintains an
25 established business where a substantial stock of cigarettes is
26 available to retailers for resale.

1 "Stamp" or "stamps" mean the indicia required to be affixed
2 on a pack of cigarettes that evidence payment of the tax on
3 cigarettes under Section 2 of this Act.

4 "Related party" means any person that is associated with
5 any other person because he or she:

6 (a) is an officer or director of a business; or

7 (b) is legally recognized as a partner in business.

8 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;
9 97-587, eff. 8-26-11.)

10 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

11 Sec. 2. Tax imposed; rate; collection, payment, and
12 distribution; discount.

13 (a) A tax is imposed upon any person engaged in business as
14 a retailer of cigarettes in this State at the rate of 5 1/2
15 mills per cigarette sold, or otherwise disposed of in the
16 course of such business in this State. In addition to any other
17 tax imposed by this Act, a tax is imposed upon any person
18 engaged in business as a retailer of cigarettes in this State
19 at a rate of 1/2 mill per cigarette sold or otherwise disposed
20 of in the course of such business in this State on and after
21 January 1, 1947, and shall be paid into the Metropolitan Fair
22 and Exposition Authority Reconstruction Fund or as otherwise
23 provided in Section 29. On and after December 1, 1985, in
24 addition to any other tax imposed by this Act, a tax is imposed
25 upon any person engaged in business as a retailer of cigarettes

1 in this State at a rate of 4 mills per cigarette sold or
2 otherwise disposed of in the course of such business in this
3 State. Of the additional tax imposed by this amendatory Act of
4 1985, \$9,000,000 of the moneys received by the Department of
5 Revenue pursuant to this Act shall be paid each month into the
6 Common School Fund. On and after the effective date of this
7 amendatory Act of 1989, in addition to any other tax imposed by
8 this Act, a tax is imposed upon any person engaged in business
9 as a retailer of cigarettes at the rate of 5 mills per
10 cigarette sold or otherwise disposed of in the course of such
11 business in this State. On and after the effective date of this
12 amendatory Act of 1993, in addition to any other tax imposed by
13 this Act, a tax is imposed upon any person engaged in business
14 as a retailer of cigarettes at the rate of 7 mills per
15 cigarette sold or otherwise disposed of in the course of such
16 business in this State. On and after December 15, 1997, in
17 addition to any other tax imposed by this Act, a tax is imposed
18 upon any person engaged in business as a retailer of cigarettes
19 at the rate of 7 mills per cigarette sold or otherwise disposed
20 of in the course of such business of this State. All of the
21 moneys received by the Department of Revenue pursuant to this
22 Act and the Cigarette Use Tax Act from the additional taxes
23 imposed by this amendatory Act of 1997, shall be paid each
24 month into the Common School Fund. On and after July 1, 2002,
25 in addition to any other tax imposed by this Act, a tax is
26 imposed upon any person engaged in business as a retailer of

1 cigarettes at the rate of 20.0 mills per cigarette sold or
2 otherwise disposed of in the course of such business in this
3 State. Beginning on June 24, 2012, in addition to any other tax
4 imposed by this Act, a tax is imposed upon any person engaged
5 in business as a retailer of cigarettes at the rate of 50 mills
6 per cigarette sold or otherwise disposed of in the course of
7 such business in this State. All moneys received by the
8 Department of Revenue under this Act and the Cigarette Use Tax
9 Act from the additional taxes imposed by this amendatory Act of
10 the 97th General Assembly shall be paid each month into the
11 Healthcare Provider Relief Fund. The payment of such taxes
12 shall be evidenced by a stamp affixed to each original package
13 of cigarettes, or an authorized substitute for such stamp
14 imprinted on each original package of such cigarettes
15 underneath the sealed transparent outside wrapper of such
16 original package, as hereinafter provided. However, such taxes
17 are not imposed upon any activity in such business in
18 interstate commerce or otherwise, which activity may not under
19 the Constitution and statutes of the United States be made the
20 subject of taxation by this State.

21 Beginning on the effective date of this amendatory Act of
22 the 92nd General Assembly and through June 30, 2006, all of the
23 moneys received by the Department of Revenue pursuant to this
24 Act and the Cigarette Use Tax Act, other than the moneys that
25 are dedicated to the Common School Fund, shall be distributed
26 each month as follows: first, there shall be paid into the

1 General Revenue Fund an amount which, when added to the amount
2 paid into the Common School Fund for that month, equals
3 \$33,300,000, except that in the month of August of 2004, this
4 amount shall equal \$83,300,000; then, from the moneys
5 remaining, if any amounts required to be paid into the General
6 Revenue Fund in previous months remain unpaid, those amounts
7 shall be paid into the General Revenue Fund; then, beginning on
8 April 1, 2003, from the moneys remaining, \$5,000,000 per month
9 shall be paid into the School Infrastructure Fund; then, if any
10 amounts required to be paid into the School Infrastructure Fund
11 in previous months remain unpaid, those amounts shall be paid
12 into the School Infrastructure Fund; then the moneys remaining,
13 if any, shall be paid into the Long-Term Care Provider Fund. To
14 the extent that more than \$25,000,000 has been paid into the
15 General Revenue Fund and Common School Fund per month for the
16 period of July 1, 1993 through the effective date of this
17 amendatory Act of 1994 from combined receipts of the Cigarette
18 Tax Act and the Cigarette Use Tax Act, notwithstanding the
19 distribution provided in this Section, the Department of
20 Revenue is hereby directed to adjust the distribution provided
21 in this Section to increase the next monthly payments to the
22 Long Term Care Provider Fund by the amount paid to the General
23 Revenue Fund and Common School Fund in excess of \$25,000,000
24 per month and to decrease the next monthly payments to the
25 General Revenue Fund and Common School Fund by that same excess
26 amount.

1 Beginning on July 1, 2006, all of the moneys received by
2 the Department of Revenue pursuant to this Act and the
3 Cigarette Use Tax Act, other than the moneys that are dedicated
4 to the Common School Fund and, beginning on the effective date
5 of this amendatory Act of the 97th General Assembly, other than
6 the moneys from the additional taxes imposed by this amendatory
7 Act of the 97th General Assembly that must be paid each month
8 into the Healthcare Provider Relief Fund, shall be distributed
9 each month as follows: first, there shall be paid into the
10 General Revenue Fund an amount that, when added to the amount
11 paid into the Common School Fund for that month, equals
12 \$29,200,000; then, from the moneys remaining, if any amounts
13 required to be paid into the General Revenue Fund in previous
14 months remain unpaid, those amounts shall be paid into the
15 General Revenue Fund; then from the moneys remaining,
16 \$5,000,000 per month shall be paid into the School
17 Infrastructure Fund; then, if any amounts required to be paid
18 into the School Infrastructure Fund in previous months remain
19 unpaid, those amounts shall be paid into the School
20 Infrastructure Fund; then the moneys remaining, if any, shall
21 be paid into the Long-Term Care Provider Fund.

22 When any tax imposed herein terminates or has terminated,
23 distributors who have bought stamps while such tax was in
24 effect and who therefore paid such tax, but who can show, to
25 the Department's satisfaction, that they sold the cigarettes to
26 which they affixed such stamps after such tax had terminated

1 and did not recover the tax or its equivalent from purchasers,
2 shall be allowed by the Department to take credit for such
3 absorbed tax against subsequent tax stamp purchases from the
4 Department by such distributor.

5 The impact of the tax levied by this Act is imposed upon
6 the retailer and shall be prepaid or pre-collected by the
7 distributor for the purpose of convenience and facility only,
8 and the amount of the tax shall be added to the price of the
9 cigarettes sold by such distributor. Collection of the tax
10 shall be evidenced by a stamp or stamps affixed to each
11 original package of cigarettes, as hereinafter provided.

12 Each distributor shall collect the tax from the retailer at
13 or before the time of the sale, shall affix the stamps as
14 hereinafter required, and shall remit the tax collected from
15 retailers to the Department, as hereinafter provided. Any
16 distributor who fails to properly collect and pay the tax
17 imposed by this Act shall be liable for the tax. Any
18 distributor having cigarettes to which stamps have been affixed
19 in his possession for sale on the effective date of this
20 amendatory Act of 1989 shall not be required to pay the
21 additional tax imposed by this amendatory Act of 1989 on such
22 stamped cigarettes. Any distributor having cigarettes to which
23 stamps have been affixed in his or her possession for sale at
24 12:01 a.m. on the effective date of this amendatory Act of
25 1993, is required to pay the additional tax imposed by this
26 amendatory Act of 1993 on such stamped cigarettes. This

1 payment, less the discount provided in subsection (b), shall be
2 due when the distributor first makes a purchase of cigarette
3 tax stamps after the effective date of this amendatory Act of
4 1993, or on the first due date of a return under this Act after
5 the effective date of this amendatory Act of 1993, whichever
6 occurs first. Any distributor having cigarettes to which stamps
7 have been affixed in his possession for sale on December 15,
8 1997 shall not be required to pay the additional tax imposed by
9 this amendatory Act of 1997 on such stamped cigarettes.

10 Any distributor having cigarettes to which stamps have been
11 affixed in his or her possession for sale on July 1, 2002 shall
12 not be required to pay the additional tax imposed by this
13 amendatory Act of the 92nd General Assembly on those stamped
14 cigarettes.

15 Any retailer having cigarettes in his or her possession on
16 June 24, 2012 to which tax stamps have been affixed is not
17 required to pay the additional tax that begins on June 24, 2012
18 imposed by this amendatory Act of the 97th General Assembly on
19 those stamped cigarettes. Any distributor having cigarettes in
20 his or her possession on June 24, 2012 to which tax stamps have
21 been affixed, and any distributor having stamps in his or her
22 possession on June 24, 2012 that have not been affixed to
23 packages of cigarettes before June 24, 2012, is required to pay
24 the additional tax that begins on June 24, 2012 imposed by this
25 amendatory Act of the 97th General Assembly to the extent the
26 calendar year 2012 average monthly volume of cigarette stamps

1 in the distributor's possession exceeds the average monthly
2 volume of cigarette stamps purchased by the distributor in
3 calendar year 2011. This payment, less the discount provided in
4 subsection (b), is due when the distributor first makes a
5 purchase of cigarette stamps on or after June 24, 2012 or on
6 the first due date of a return under this Act occurring on or
7 after June 24, 2012, whichever occurs first. Those distributors
8 may elect to pay the additional tax on packages of cigarettes
9 to which stamps have been affixed and on any stamps in the
10 distributor's possession that have not been affixed to packages
11 of cigarettes over a period not to exceed 12 months from the
12 due date of the additional tax by notifying the Department in
13 writing. The first payment for distributors making such
14 election is due when the distributor first makes a purchase of
15 cigarette tax stamps on or after June 24, 2012 or on the first
16 due date of a return under this Act occurring on or after June
17 24, 2012, whichever occurs first. Distributors making such an
18 election are not entitled to take the discount provided in
19 subsection (b) on such payments.

20 Distributors making sales of cigarettes to secondary
21 distributors shall add the amount of the tax to the price of
22 the cigarettes sold by the distributors. Secondary
23 distributors making sales of cigarettes to retailers shall
24 include the amount of the tax in the price of the cigarettes
25 sold to retailers. The amount of tax shall not be less than the
26 amount of taxes imposed by the State and all local

1 jurisdictions. The amount of local taxes shall be calculated
2 based on the location of the retailer's place of business shown
3 on the retailer's certificate of registration or
4 sub-registration issued to the retailer pursuant to Section 2a
5 of the Retailers' Occupation Tax Act. The original packages of
6 cigarettes sold to the retailer shall bear all the required
7 stamps, or other indicia, for the taxes included in the price
8 of cigarettes.

9 The amount of the Cigarette Tax imposed by this Act shall
10 be separately stated, apart from the price of the goods, by
11 distributors, manufacturer representatives, secondary
12 distributors, and retailers, in all bills and sales invoices.

13 (b) The distributor shall be required to collect the taxes
14 provided under paragraph (a) hereof, and, to cover the costs of
15 such collection, shall be allowed a discount during any year
16 commencing July 1st and ending the following June 30th in
17 accordance with the schedule set out hereinbelow, which
18 discount shall be allowed at the time of purchase of the stamps
19 when purchase is required by this Act, or at the time when the
20 tax is remitted to the Department without the purchase of
21 stamps from the Department when that method of paying the tax
22 is required or authorized by this Act. Prior to December 1,
23 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
24 and including the first \$700,000 paid hereunder by such
25 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
26 the next \$700,000 of tax or any part thereof, paid hereunder by

1 such distributor to the Department during any such year; 1% of
2 the next \$700,000 of tax, or any part thereof, paid hereunder
3 by such distributor to the Department during any such year, and
4 2/3 of 1% of the amount of any additional tax paid hereunder by
5 such distributor to the Department during any such year shall
6 apply. On and after December 1, 1985, a discount equal to 1.75%
7 of the amount of the tax payable under this Act up to and
8 including the first \$3,000,000 paid hereunder by such
9 distributor to the Department during any such year and 1.5% of
10 the amount of any additional tax paid hereunder by such
11 distributor to the Department during any such year shall apply.

12 Two or more distributors that use a common means of
13 affixing revenue tax stamps or that are owned or controlled by
14 the same interests shall be treated as a single distributor for
15 the purpose of computing the discount.

16 (c) The taxes herein imposed are in addition to all other
17 occupation or privilege taxes imposed by the State of Illinois,
18 or by any political subdivision thereof, or by any municipal
19 corporation.

20 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11.)

21 Section 5-45. The Cigarette Use Tax Act is amended by
22 changing Sections 1 and 2 as follows:

23 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

24 Sec. 1. For the purpose of this Act, unless otherwise

1 required by the context:

2 "Use" means the exercise by any person of any right or
3 power over cigarettes incident to the ownership or possession
4 thereof, other than the making of a sale thereof in the course
5 of engaging in a business of selling cigarettes and shall
6 include the keeping or retention of cigarettes for use, except
7 that "use" does not include the use of cigarettes by a
8 not-for-profit research institution conducting tests
9 concerning the health effects of tobacco products, provided the
10 cigarettes are not offered for resale.

11 "Brand Style" means a variety of cigarettes distinguished
12 by the tobacco used, tar and nicotine content, flavoring used,
13 size of the cigarette, filtration on the cigarette or
14 packaging.

15 Until July 1, 2012, "cigarette" ~~"Cigarette"~~ means any roll
16 for smoking made wholly or in part of tobacco irrespective of
17 size or shape and whether or not such tobacco is flavored,
18 adulterated or mixed with any other ingredient, and the wrapper
19 or cover of which is made of paper or any other substance or
20 material except tobacco.

21 "Cigarette", beginning on and after July 1, 2012, means any
22 roll for smoking made wholly or in part of tobacco irrespective
23 of size or shape and whether or not such tobacco is flavored,
24 adulterated or mixed with any other ingredient, and the wrapper
25 or cover of which is made of paper.

26 "Cigarette", beginning on and after July 1, 2012, also

1 shall mean: Any roll for smoking made wholly or in part of
2 tobacco labeled as anything other than a cigarette or not
3 bearing a label, if it meets two or more of the following
4 criteria:

5 (a) the product is sold in packs similar to cigarettes;

6 (b) the product is available for sale in cartons of ten
7 packs;

8 (c) the product is sold in soft packs, hard packs,
9 flip-top boxes, clam shells, or other cigarette-type
10 boxes;

11 (d) the product is of a length and diameter similar to
12 commercially manufactured cigarettes;

13 (e) the product has a cellulose acetate or other
14 integrated filter;

15 (f) the product is marketed or advertised to consumers
16 as a cigarette or cigarette substitute; or

17 (g) other evidence that the product fits within the
18 definition of cigarette.

19 "Contraband cigarettes" means:

20 (a) cigarettes that do not bear a required tax stamp
21 under this Act;

22 (b) cigarettes for which any required federal taxes
23 have not been paid;

24 (c) cigarettes that bear a counterfeit tax stamp;

25 (d) cigarettes that are manufactured, fabricated,
26 assembled, processed, packaged, or labeled by any person

1 other than (i) the owner of the trademark rights in the
2 cigarette brand or (ii) a person that is directly or
3 indirectly authorized by such owner;

4 (e) cigarettes imported into the United States, or
5 otherwise distributed, in violation of the federal
6 Imported Cigarette Compliance Act of 2000 (Title IV of
7 Public Law 106-476);

8 (f) cigarettes that have false manufacturing labels;

9 (g) cigarettes identified in Section 3-10(a)(1) of
10 this Act; ~~or~~

11 (h) cigarettes that are improperly tax stamped,
12 including cigarettes that bear a tax stamp of another state
13 or taxing jurisdiction; or -

14 (i) cigarettes made or fabricated by a person holding a
15 cigarette machine operator license under Section 1-20 of
16 the Cigarette Machine Operators' Occupation Tax Act in the
17 possession of manufacturers, distributors, secondary
18 distributors, manufacturer representatives or other
19 retailers for the purpose of resale, regardless of whether
20 the tax has been paid on such cigarettes.

21 "Person" means any natural individual, firm, partnership,
22 association, joint stock company, joint adventure, public or
23 private corporation, however formed, limited liability
24 company, or a receiver, executor, administrator, trustee,
25 guardian or other representative appointed by order of any
26 court.

1 "Department" means the Department of Revenue.

2 "Sale" means any transfer, exchange or barter in any manner
3 or by any means whatsoever for a consideration, and includes
4 and means all sales made by any person.

5 "Original Package" means the individual packet, box or
6 other container whatsoever used to contain and to convey
7 cigarettes to the consumer.

8 "Distributor" means any and each of the following:

9 a. Any person engaged in the business of selling
10 cigarettes in this State who brings or causes to be brought
11 into this State from without this State any original
12 packages of cigarettes, on which original packages there is
13 no authorized evidence underneath a sealed transparent
14 wrapper showing that the tax liability imposed by this Act
15 has been paid or assumed by the out-of-State seller of such
16 cigarettes, for sale in the course of such business.

17 b. Any person who makes, manufactures or fabricates
18 cigarettes in this State for sale, except a person who
19 makes, manufactures or fabricates cigarettes for sale to
20 residents incarcerated in penal institutions or resident
21 patients or a State-operated mental health facility.

22 c. Any person who makes, manufactures or fabricates
23 cigarettes outside this State, which cigarettes are placed
24 in original packages contained in sealed transparent
25 wrappers, for delivery or shipment into this State, and who
26 elects to qualify and is accepted by the Department as a

1 distributor under Section 7 of this Act.

2 "Distributor" does not include any person who transfers
3 cigarettes to a not-for-profit research institution that
4 conducts tests concerning the health effects of tobacco
5 products and who does not offer the cigarettes for resale.

6 "Distributor maintaining a place of business in this
7 State", or any like term, means any distributor having or
8 maintaining within this State, directly or by a subsidiary, an
9 office, distribution house, sales house, warehouse or other
10 place of business, or any agent operating within this State
11 under the authority of the distributor or its subsidiary,
12 irrespective of whether such place of business or agent is
13 located here permanently or temporarily, or whether such
14 distributor or subsidiary is licensed to transact business
15 within this State.

16 "Business" means any trade, occupation, activity or
17 enterprise engaged in or conducted in this State for the
18 purpose of selling cigarettes.

19 "Prior Continuous Compliance Taxpayer" means any person
20 who is licensed under this Act and who, having been a licensee
21 for a continuous period of 5 years, is determined by the
22 Department not to have been either delinquent or deficient in
23 the payment of tax liability during that period or otherwise in
24 violation of this Act. Also, any taxpayer who has, as verified
25 by the Department, continuously complied with the condition of
26 his bond or other security under provisions of this Act of a

1 period of 5 consecutive years shall be considered to be a
2 "prior continuous compliance taxpayer". In calculating the
3 consecutive period of time described herein for qualification
4 as a "prior continuous compliance taxpayer", a consecutive
5 period of time of qualifying compliance immediately prior to
6 the effective date of this amendatory Act of 1987 shall be
7 credited to any licensee who became licensed on or before the
8 effective date of this amendatory Act of 1987.

9 "Secondary distributor" means any person engaged in the
10 business of selling cigarettes who purchases stamped original
11 packages of cigarettes from a licensed distributor under this
12 Act or the Cigarette Tax Act, sells 75% or more of those
13 cigarettes to retailers for resale, and maintains an
14 established business where a substantial stock of cigarettes is
15 available to retailers for resale.

16 "Secondary distributor maintaining a place of business in
17 this State", or any like term, means any secondary distributor
18 having or maintaining within this State, directly or by a
19 subsidiary, an office, distribution house, sales house,
20 warehouse, or other place of business, or any agent operating
21 within this State under the authority of the secondary
22 distributor or its subsidiary, irrespective of whether such
23 place of business or agent is located here permanently or
24 temporarily, or whether such secondary distributor or
25 subsidiary is licensed to transact business within this State.

26 "Stamp" or "stamps" mean the indicia required to be affixed

1 on a pack of cigarettes that evidence payment of the tax on
2 cigarettes under Section 2 of this Act.

3 "Related party" means any person that is associated with
4 any other person because he or she:

5 (a) is an officer or director of a business; or

6 (b) is legally recognized as a partner in business.

7 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
8 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

9 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

10 Sec. 2. A tax is imposed upon the privilege of using
11 cigarettes in this State, at the rate of 6 mills per cigarette
12 so used. On and after December 1, 1985, in addition to any
13 other tax imposed by this Act, a tax is imposed upon the
14 privilege of using cigarettes in this State at a rate of 4
15 mills per cigarette so used. On and after the effective date of
16 this amendatory Act of 1989, in addition to any other tax
17 imposed by this Act, a tax is imposed upon the privilege of
18 using cigarettes in this State at the rate of 5 mills per
19 cigarette so used. On and after the effective date of this
20 amendatory Act of 1993, in addition to any other tax imposed by
21 this Act, a tax is imposed upon the privilege of using
22 cigarettes in this State at a rate of 7 mills per cigarette so
23 used. On and after December 15, 1997, in addition to any other
24 tax imposed by this Act, a tax is imposed upon the privilege of
25 using cigarettes in this State at a rate of 7 mills per

1 cigarette so used. On and after July 1, 2002, in addition to
2 any other tax imposed by this Act, a tax is imposed upon the
3 privilege of using cigarettes in this State at a rate of 20.0
4 mills per cigarette so used. Beginning on June 24, 2012, in
5 addition to any other tax imposed by this Act, a tax is imposed
6 upon the privilege of using cigarettes in this State at a rate
7 of 50 mills per cigarette so used. The taxes herein imposed
8 shall be in addition to all other occupation or privilege taxes
9 imposed by the State of Illinois or by any political
10 subdivision thereof or by any municipal corporation.

11 When any tax imposed herein terminates or has terminated,
12 distributors who have bought stamps while such tax was in
13 effect and who therefore paid such tax, but who can show, to
14 the Department's satisfaction, that they sold the cigarettes to
15 which they affixed such stamps after such tax had terminated
16 and did not recover the tax or its equivalent from purchasers,
17 shall be allowed by the Department to take credit for such
18 absorbed tax against subsequent tax stamp purchases from the
19 Department by such distributors.

20 When the word "tax" is used in this Act, it shall include
21 any tax or tax rate imposed by this Act and shall mean the
22 singular of "tax" or the plural "taxes" as the context may
23 require.

24 Any distributor having cigarettes to which stamps have been
25 affixed in his possession for sale on the effective date of
26 this amendatory Act of 1989 shall not be required to pay the

1 additional tax imposed by this amendatory Act of 1989 on such
2 stamped cigarettes. Any distributor having cigarettes to which
3 stamps have been affixed in his or her possession for sale at
4 12:01 a.m. on the effective date of this amendatory Act of
5 1993, is required to pay the additional tax imposed by this
6 amendatory Act of 1993 on such stamped cigarettes. This payment
7 shall be due when the distributor first makes a purchase of
8 cigarette tax stamps after the effective date of this
9 amendatory Act of 1993, or on the first due date of a return
10 under this Act after the effective date of this amendatory Act
11 of 1993, whichever occurs first. Once a distributor tenders
12 payment of the additional tax to the Department, the
13 distributor may purchase stamps from the Department. Any
14 distributor having cigarettes to which stamps have been affixed
15 in his possession for sale on December 15, 1997 shall not be
16 required to pay the additional tax imposed by this amendatory
17 Act of 1997 on such stamped cigarettes.

18 Any distributor having cigarettes to which stamps have been
19 affixed in his or her possession for sale on July 1, 2002 shall
20 not be required to pay the additional tax imposed by this
21 amendatory Act of the 92nd General Assembly on those stamped
22 cigarettes.

23 Any retailer having cigarettes in his or her possession on
24 June 24, 2012 to which tax stamps have been affixed is not
25 required to pay the additional tax that begins on June 24, 2012
26 imposed by this amendatory Act of the 97th General Assembly on

1 those stamped cigarettes. Any distributor having cigarettes in
2 his or her possession on June 24, 2012 to which tax stamps have
3 been affixed, and any distributor having stamps in his or her
4 possession on June 24, 2012 that have not been affixed to
5 packages of cigarettes before June 24, 2012, is required to pay
6 the additional tax that begins on June 24, 2012 imposed by this
7 amendatory Act of the 97th General Assembly to the extent the
8 calendar year 2012 average monthly volume of cigarette stamps
9 in the distributor's possession exceeds the average monthly
10 volume of cigarette stamps purchased by the distributor in
11 calendar year 2011. This payment, less the discount provided in
12 Section 3, is due when the distributor first makes a purchase
13 of cigarette stamps on or after June 24, 2012 or on the first
14 due date of a return under this Act occurring on or after June
15 24, 2012, whichever occurs first. Those distributors may elect
16 to pay the additional tax on packages of cigarettes to which
17 stamps have been affixed and on any stamps in the distributor's
18 possession that have not been affixed to packages of cigarettes
19 over a period not to exceed 12 months from the due date of the
20 additional tax by notifying the Department in writing. The
21 first payment for distributors making such election is due when
22 the distributor first makes a purchase of cigarette tax stamps
23 on or after June 24, 2012 or on the first due date of a return
24 under this Act occurring on or after June 24, 2012, whichever
25 occurs first. Distributors making such an election are not
26 entitled to take the discount provided in Section 3 on such

1 payments.

2 (Source: P.A. 92-536, eff. 6-6-02.)

3 Section 5-50. The Tobacco Products Tax Act of 1995 is
4 amended by changing Sections 10-5, 10-10, and 10-30 as follows:

5 (35 ILCS 143/10-5)

6 Sec. 10-5. Definitions. For purposes of this Act:

7 "Business" means any trade, occupation, activity, or
8 enterprise engaged in, at any location whatsoever, for the
9 purpose of selling tobacco products.

10 "Cigarette" has the meaning ascribed to the term in Section
11 1 of the Cigarette Tax Act.

12 "Correctional Industries program" means a program run by a
13 State penal institution in which residents of the penal
14 institution produce tobacco products for sale to persons
15 incarcerated in penal institutions or resident patients of a
16 State operated mental health facility.

17 "Department" means the Illinois Department of Revenue.

18 "Distributor" means any of the following:

19 (1) Any manufacturer or wholesaler in this State
20 engaged in the business of selling tobacco products who
21 sells, exchanges, or distributes tobacco products to
22 retailers or consumers in this State.

23 (2) Any manufacturer or wholesaler engaged in the
24 business of selling tobacco products from without this

1 State who sells, exchanges, distributes, ships, or
2 transports tobacco products to retailers or consumers
3 located in this State, so long as that manufacturer or
4 wholesaler has or maintains within this State, directly or
5 by subsidiary, an office, sales house, or other place of
6 business, or any agent or other representative operating
7 within this State under the authority of the person or
8 subsidiary, irrespective of whether the place of business
9 or agent or other representative is located here
10 permanently or temporarily.

11 (3) Any retailer who receives tobacco products on which
12 the tax has not been or will not be paid by another
13 distributor.

14 "Distributor" does not include any person, wherever
15 resident or located, who makes, manufactures, or fabricates
16 tobacco products as part of a Correctional Industries program
17 for sale to residents incarcerated in penal institutions or
18 resident patients of a State operated mental health facility.

19 "Manufacturer" means any person, wherever resident or
20 located, who manufactures and sells tobacco products, except a
21 person who makes, manufactures, or fabricates tobacco products
22 as a part of a Correctional Industries program for sale to
23 persons incarcerated in penal institutions or resident
24 patients of a State operated mental health facility.

25 Beginning on January 1, 2013, "moist snuff" means any
26 finely cut, ground, or powdered tobacco that is not intended to

1 be smoked, but shall not include any finely cut, ground, or
2 powdered tobacco that is intended to be placed in the nasal
3 cavity.

4 "Person" means any natural individual, firm, partnership,
5 association, joint stock company, joint venture, limited
6 liability company, or public or private corporation, however
7 formed, or a receiver, executor, administrator, trustee,
8 conservator, or other representative appointed by order of any
9 court.

10 "Place of business" means and includes any place where
11 tobacco products are sold or where tobacco products are
12 manufactured, stored, or kept for the purpose of sale or
13 consumption, including any vessel, vehicle, airplane, train,
14 or vending machine.

15 "Retailer" means any person in this State engaged in the
16 business of selling tobacco products to consumers in this
17 State, regardless of quantity or number of sales.

18 "Sale" means any transfer, exchange, or barter in any
19 manner or by any means whatsoever for a consideration and
20 includes all sales made by persons.

21 "Tobacco products" means any cigars; cheroots; stogies;
22 periques; granulated, plug cut, crimp cut, ready rubbed, and
23 other smoking tobacco; snuff (including moist snuff) or snuff
24 flour; cavendish; plug and twist tobacco; fine-cut and other
25 chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
26 and sweeping of tobacco; and other kinds and forms of tobacco,

1 prepared in such manner as to be suitable for chewing or
2 smoking in a pipe or otherwise, or both for chewing and
3 smoking; but does not include cigarettes or tobacco purchased
4 for the manufacture of cigarettes by cigarette distributors and
5 manufacturers defined in the Cigarette Tax Act and persons who
6 make, manufacture, or fabricate cigarettes as a part of a
7 Correctional Industries program for sale to residents
8 incarcerated in penal institutions or resident patients of a
9 State operated mental health facility.

10 "Wholesale price" means the established list price for
11 which a manufacturer sells tobacco products to a distributor,
12 before the allowance of any discount, trade allowance, rebate,
13 or other reduction. In the absence of such an established list
14 price, the manufacturer's invoice price at which the
15 manufacturer sells the tobacco product to unaffiliated
16 distributors, before any discounts, trade allowances, rebates,
17 or other reductions, shall be presumed to be the wholesale
18 price.

19 "Wholesaler" means any person, wherever resident or
20 located, engaged in the business of selling tobacco products to
21 others for the purpose of resale.

22 (Source: P.A. 92-231, eff. 8-2-01.)

23 (35 ILCS 143/10-10)

24 Sec. 10-10. Tax imposed. On the first day of the third
25 month after the month in which this Act becomes law, a tax is

1 imposed on any person engaged in business as a distributor of
2 tobacco products, as defined in Section 10-5, at the rate of
3 (i) 18% of the wholesale price of tobacco products sold or
4 otherwise disposed of to retailers or consumers located in this
5 State prior to July 1, 2012 and (ii) 36% of the wholesale price
6 of tobacco products sold or otherwise disposed of to retailers
7 or consumers located in this State beginning on July 1, 2012;
8 except that, beginning on January 1, 2013, the tax on moist
9 snuff shall be imposed at a rate of \$0.30 per ounce, and a
10 proportionate tax at the like rate on all fractional parts of
11 an ounce, sold or otherwise disposed of to retailers or
12 consumers located in this State. The tax is in addition to all
13 other occupation or privilege taxes imposed by the State of
14 Illinois, by any political subdivision thereof, or by any
15 municipal corporation. However, the tax is not imposed upon any
16 activity in that business in interstate commerce or otherwise,
17 to the extent to which that activity may not, under the
18 Constitution and Statutes of the United States, be made the
19 subject of taxation by this State. The tax is also not imposed
20 on sales made to the United States or any entity thereof.

21 Beginning on January 1, 2013, the tax rate imposed per
22 ounce of moist snuff may not exceed 15% of the tax imposed upon
23 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

24 All moneys received by the Department under this Act from
25 sales occurring prior to July 1, 2012 shall be paid into the
26 Long-Term Care Provider Fund of the State Treasury. Of the

1 moneys received by the Department from sales occurring on or
2 after July 1, 2012, 50% shall be paid into the Long-Term Care
3 Provider Fund and 50% shall be paid into the Healthcare
4 Provider Relief Fund.

5 (Source: P.A. 92-231, eff. 8-2-01.)

6 (35 ILCS 143/10-30)

7 Sec. 10-30. Returns. Every distributor shall, on or before
8 the 15th day of each month, file a return with the Department
9 covering the preceding calendar month. The return shall
10 disclose the wholesale price for all tobacco products and the
11 quantity of moist snuff sold or otherwise disposed of and other
12 information that the Department may reasonably require. The
13 return shall be filed upon a form prescribed and furnished by
14 the Department.

15 At the time when any return of any distributor is due to be
16 filed with the Department, the distributor shall also remit to
17 the Department the tax liability that the distributor has
18 incurred for transactions occurring in the preceding calendar
19 month.

20 (Source: P.A. 89-21, eff. 6-6-95.)

21 Section 5-55. The Property Tax Code is amended by changing
22 Section 15-10 and by adding Section 15-86 as follows:

23 (35 ILCS 200/15-10)

1 Sec. 15-10. Exempt property; procedures for certification.

2 (a) All property granted an exemption by the Department
3 pursuant to the requirements of Section 15-5 and described in
4 the Sections following Section 15-30 and preceding Section
5 16-5, to the extent therein limited, is exempt from taxation.
6 In order to maintain that exempt status, the titleholder or the
7 owner of the beneficial interest of any property that is exempt
8 must file with the chief county assessment officer, on or
9 before January 31 of each year (May 31 in the case of property
10 exempted by Section 15-170), an affidavit stating whether there
11 has been any change in the ownership or use of the property, ~~or~~
12 the status of the owner-resident, the satisfaction by a
13 relevant hospital entity of the condition for an exemption
14 under Section 15-86, or that a disabled veteran who qualifies
15 under Section 15-165 owned and used the property as of January
16 1 of that year. The nature of any change shall be stated in the
17 affidavit. Failure to file an affidavit shall, in the
18 discretion of the assessment officer, constitute cause to
19 terminate the exemption of that property, notwithstanding any
20 other provision of this Code. Owners of 5 or more such exempt
21 parcels within a county may file a single annual affidavit in
22 lieu of an affidavit for each parcel. The assessment officer,
23 upon request, shall furnish an affidavit form to the owners, in
24 which the owner may state whether there has been any change in
25 the ownership or use of the property or status of the owner or
26 resident as of January 1 of that year. The owner of 5 or more

1 exempt parcels shall list all the properties giving the same
2 information for each parcel as required of owners who file
3 individual affidavits.

4 (b) However, titleholders or owners of the beneficial
5 interest in any property exempted under any of the following
6 provisions are not required to submit an annual filing under
7 this Section:

8 (1) Section 15-45 (burial grounds) in counties of less
9 than 3,000,000 inhabitants and owned by a not-for-profit
10 organization.

11 (2) Section 15-40.

12 (3) Section 15-50 (United States property).

13 (c) If there is a change in use or ownership, however,
14 notice must be filed pursuant to Section 15-20.

15 (d) An application for homestead exemptions shall be filed
16 as provided in Section 15-170 (senior citizens homestead
17 exemption), Section 15-172 (senior citizens assessment freeze
18 homestead exemption), and Sections 15-175 (general homestead
19 exemption), 15-176 (general alternative homestead exemption),
20 and 15-177 (long-time occupant homestead exemption),
21 respectively.

22 (e) For purposes of determining satisfaction of the
23 condition for an exemption under Section 15-86:

24 (1) The "year for which exemption is sought" is the
25 year prior to the year in which the affidavit is due.

26 (2) The "hospital year" is the fiscal year of the

1 relevant hospital entity, or the fiscal year of one of the
2 hospitals in the hospital system if the relevant hospital
3 entity is a hospital system with members with different
4 fiscal years, that ends in the year prior to the year in
5 which the affidavit is due. However, if that fiscal year
6 ends 3 months or less before the date on which the
7 affidavit is due, the relevant hospital entity shall file
8 an interim affidavit based on the currently available
9 information, and shall file a supplemental affidavit
10 within 90 days of date on which the application was due, if
11 the information in the relevant hospital entity's audited
12 financial statements changes the interim affidavit's
13 statement concerning the entity's compliance with the
14 calculation required by Section 15-86.

15 (3) The affidavit shall be accompanied by an exhibit
16 prepared by the relevant hospital entity showing (A) the
17 value of the relevant hospital entity's services and
18 activities, if any, under items (1) through (7) of
19 subsection (e) of Section 15-86, stated separately for each
20 item, and (B) the value relating to the relevant hospital
21 entity's estimated property tax liability under paragraphs
22 (A), (B), and (C) of item (1) of subsection (g) of Section
23 15-86; under paragraphs (A), (B), and (C) of item (2) of
24 subsection (g) of Section 15-86; and under item (3) of
25 subsection (g) of Section 15-86.

26 (Source: P.A. 95-644, eff. 10-12-07.)

1 (35 ILCS 200/15-86 new)

2 Sec. 15-86. Exemptions related to access to hospital and
3 health care services by low-income and underserved
4 individuals.

5 (a) The General Assembly finds:

6 (1) Despite the Supreme Court's decision in *Provena*
7 *Covenant Medical Center v. Dept. of Revenue*, 236 Ill.2d
8 368, there is considerable uncertainty surrounding the
9 test for charitable property tax exemption, especially
10 regarding the application of a quantitative or monetary
11 threshold. In *Provena*, the Department stated that the
12 primary basis for its decision was the hospital's
13 inadequate amount of charitable activity, but the
14 Department has not articulated what constitutes an
15 adequate amount of charitable activity. After *Provena*, the
16 Department denied property tax exemption applications of 3
17 more hospitals, and, on the effective date of this
18 amendatory Act of the 97th General Assembly, at least 20
19 other hospitals are awaiting rulings on applications for
20 property tax exemption.

21 (2) In *Provena*, two Illinois Supreme Court justices
22 opined that "setting a monetary or quantum standard is a
23 complex decision which should be left to our legislature,
24 should it so choose". The Appellate Court in *Provena*
25 stated: "The language we use in the State of Illinois to

1 determine whether real property is used for a charitable
2 purpose has its genesis in our 1870 Constitution. It is
3 obvious that such language may be difficult to apply to the
4 modern face of our nation's health care delivery systems".
5 The court noted the many significant changes in the health
6 care system since that time, but concluded that taking
7 these changes into account is a matter of public policy,
8 and "it is the legislature's job, not ours, to make public
9 policy".

10 (3) It is essential to ensure that tax exemption law
11 relating to hospitals accounts for the complexities of the
12 modern health care delivery system. Health care is moving
13 beyond the walls of the hospital. In addition to treating
14 individual patients, hospitals are assuming responsibility
15 for improving the health status of communities and
16 populations. Low-income and underserved communities
17 benefit disproportionately by these activities.

18 (4) The Supreme Court has explained that: "the
19 fundamental ground upon which all exemptions in favor of
20 charitable institutions are based is the benefit conferred
21 upon the public by them, and a consequent relief, to some
22 extent, of the burden upon the state to care for and
23 advance the interests of its citizens". Hospitals relieve
24 the burden of government in many ways, but most
25 significantly through their participation in and
26 substantial financial subsidization of the Illinois

1 Medicaid program, which could not operate without the
2 participation and partnership of Illinois hospitals.

3 (5) Working with the Illinois hospital community and
4 other interested parties, the General Assembly has
5 developed a comprehensive combination of related
6 legislation that addresses hospital property tax
7 exemption, significantly increases access to free health
8 care for indigent persons, and strengthens the Medical
9 Assistance program. It is the intent of the General
10 Assembly to establish a new category of ownership for
11 charitable property tax exemption to be applied to
12 not-for-profit hospitals and hospital affiliates in lieu
13 of the existing ownership category of "institutions of
14 public charity". It is also the intent of the General
15 Assembly to establish quantifiable standards for the
16 issuance of charitable exemptions for such property. It is
17 not the intent of the General Assembly to declare any
18 property exempt ipso facto, but rather to establish
19 criteria to be applied to the facts on a case-by-case
20 basis.

21 (b) For the purpose of this Section and Section 15-10, the
22 following terms shall have the meanings set forth below:

23 (1) "Hospital" means any institution, place, building,
24 buildings on a campus, or other health care facility
25 located in Illinois that is licensed under the Hospital
26 Licensing Act and has a hospital owner.

1 (2) "Hospital owner" means a not-for-profit
2 corporation that is the titleholder of a hospital, or the
3 owner of the beneficial interest in an Illinois land trust
4 that is the titleholder of a hospital.

5 (3) "Hospital affiliate" means any corporation,
6 partnership, limited partnership, joint venture, limited
7 liability company, association or other organization,
8 other than a hospital owner, that directly or indirectly
9 controls, is controlled by, or is under common control with
10 one or more hospital owners and that supports, is supported
11 by, or acts in furtherance of the exempt health care
12 purposes of at least one of those hospital owners'
13 hospitals.

14 (4) "Hospital system" means a hospital and one or more
15 other hospitals or hospital affiliates related by common
16 control or ownership.

17 (5) "Control" relating to hospital owners, hospital
18 affiliates, or hospital systems means possession, direct
19 or indirect, of the power to direct or cause the direction
20 of the management and policies of the entity, whether
21 through ownership of assets, membership interest, other
22 voting or governance rights, by contract or otherwise.

23 (6) "Hospital applicant" means a hospital owner or
24 hospital affiliate that files an application for a property
25 tax exemption pursuant to Section 15-5 and this Section.

26 (7) "Relevant hospital entity" means (A) the hospital

1 owner, in the case of a hospital applicant that is a
2 hospital owner, and (B) at the election of a hospital
3 applicant that is a hospital affiliate, either (i) the
4 hospital affiliate or (ii) the hospital system to which the
5 hospital applicant belongs, including any hospitals or
6 hospital affiliates that are related by common control or
7 ownership.

8 (8) "Subject property" means property for which a
9 hospital applicant files an application for an exemption
10 pursuant to Section 15-5 and this Section.

11 (9) "Hospital year" means the fiscal year of the
12 relevant hospital entity, or the fiscal year of one of the
13 hospital owners in the hospital system if the relevant
14 hospital entity is a hospital system with members with
15 different fiscal years, that ends in the year for which the
16 exemption is sought.

17 (c) A hospital applicant satisfies the conditions for an
18 exemption under this Section with respect to the subject
19 property, and shall be issued a charitable exemption for that
20 property, if the value of services or activities listed in
21 subsection (e) for the hospital year equals or exceeds the
22 relevant hospital entity's estimated property tax liability,
23 as determined under subsection (g), for the year for which
24 exemption is sought. For purposes of making the calculations
25 required by this subsection (c), if the relevant hospital
26 entity is a hospital owner that owns more than one hospital,

1 the value of the services or activities listed in subsection
2 (e) shall be calculated on the basis of only those services and
3 activities relating to the hospital that includes the subject
4 property, and the relevant hospital entity's estimated
5 property tax liability shall be calculated only with respect to
6 the properties comprising that hospital. In the case of a
7 multi-state hospital system or hospital affiliate, the value of
8 the services or activities listed in subsection (e) shall be
9 calculated on the basis of only those services and activities
10 that occur in Illinois and the relevant hospital entity's
11 estimated property tax liability shall be calculated only with
12 respect to its property located in Illinois.

13 Notwithstanding any other provisions of this Act, any
14 parcel or portion thereof, that is owned by a for-profit entity
15 whether part of the hospital system or not, or that is leased,
16 licensed or operated by a for-profit entity regardless of
17 whether healthcare services are provided on that parcel shall
18 not qualify for exemption. If a parcel has both exempt and
19 non-exempt uses, an exemption may be granted for the qualifying
20 portion of that parcel. In the case of parking lots and common
21 areas serving both exempt and non-exempt uses those parcels or
22 portions thereof may qualify for an exemption in proportion to
23 the amount of qualifying use.

24 (d) The hospital applicant shall include information in its
25 exemption application establishing that it satisfies the
26 requirements of subsection (c). For purposes of making the

1 calculations required by subsection (c), the hospital
2 applicant may for each year elect to use either (1) the value
3 of the services or activities listed in subsection (e) for the
4 hospital year or (2) the average value of those services or
5 activities for the 3 fiscal years ending with the hospital
6 year. If the relevant hospital entity has been in operation for
7 less than 3 completed fiscal years, then the latter
8 calculation, if elected, shall be performed on a pro rata
9 basis.

10 (e) Services that address the health care needs of
11 low-income or underserved individuals or relieve the burden of
12 government with regard to health care services. The following
13 services and activities shall be considered for purposes of
14 making the calculations required by subsection (c):

15 (1) Charity care. Free or discounted services provided
16 pursuant to the relevant hospital entity's financial
17 assistance policy, measured at cost, including discounts
18 provided under the Hospital Uninsured Patient Discount
19 Act.

20 (2) Health services to low-income and underserved
21 individuals. Other unreimbursed costs of the relevant
22 hospital entity for providing without charge, paying for,
23 or subsidizing goods, activities, or services for the
24 purpose of addressing the health of low-income or
25 underserved individuals. Those activities or services may
26 include, but are not limited to: financial or in-kind

1 support to affiliated or unaffiliated hospitals, hospital
2 affiliates, community clinics, or programs that treat
3 low-income or underserved individuals; paying for or
4 subsidizing health care professionals who care for
5 low-income or underserved individuals; providing or
6 subsidizing outreach or educational services to low-income
7 or underserved individuals for disease management and
8 prevention; free or subsidized goods, supplies, or
9 services needed by low-income or underserved individuals
10 because of their medical condition; and prenatal or
11 childbirth outreach to low-income or underserved persons.

12 (3) Subsidy of State or local governments. Direct or
13 indirect financial or in-kind subsidies of State or local
14 governments by the relevant hospital entity that pay for or
15 subsidize activities or programs related to health care for
16 low-income or underserved individuals.

17 (4) Support for State health care programs for
18 low-income individuals. At the election of the hospital
19 applicant for each applicable year, either (A) 10% of
20 payments to the relevant hospital entity and any hospital
21 affiliate designated by the relevant hospital entity
22 (provided that such hospital affiliate's operations
23 provide financial or operational support for or receive
24 financial or operational support from the relevant
25 hospital entity) under Medicaid or other means-tested
26 programs, including, but not limited to, General

1 Assistance, the Covering ALL KIDS Health Insurance Act, and
2 the State Children's Health Insurance Program or (B) the
3 amount of subsidy provided by the relevant hospital entity
4 and any hospital affiliate designated by the relevant
5 hospital entity (provided that such hospital affiliate's
6 operations provide financial or operational support for or
7 receive financial or operational support from the relevant
8 hospital entity) to State or local government in treating
9 Medicaid recipients and recipients of means-tested
10 programs, including but not limited to General Assistance,
11 the Covering ALL KIDS Health Insurance Act, and the State
12 Children's Health Insurance Program. The amount of subsidy
13 for purposes of this item (4) is calculated in the same
14 manner as unreimbursed costs are calculated for Medicaid
15 and other means-tested government programs in the Schedule
16 H of IRS Form 990 in effect on the effective date of this
17 amendatory Act of the 97th General Assembly; provided,
18 however, that in any event unreimbursed costs shall be net
19 of fee-for-services payments, payments pursuant to an
20 assessment, quarterly payments, and all other payments
21 included on the schedule H of the IRS form 990.

22 (5) Dual-eligible subsidy. The amount of subsidy
23 provided to government by treating dual-eligible
24 Medicare/Medicaid patients. The amount of subsidy for
25 purposes of this item (5) is calculated by multiplying the
26 relevant hospital entity's unreimbursed costs for

1 Medicare, calculated in the same manner as determined in
2 the Schedule H of IRS Form 990 in effect on the effective
3 date of this amendatory Act of the 97th General Assembly,
4 by the relevant hospital entity's ratio of dual-eligible
5 patients to total Medicare patients.

6 (6) Relief of the burden of government related to
7 health care of low-income individuals. Except to the extent
8 otherwise taken into account in this subsection, the
9 portion of unreimbursed costs of the relevant hospital
10 entity attributable to providing, paying for, or
11 subsidizing goods, activities, or services that relieve
12 the burden of government related to health care for
13 low-income individuals. Such activities or services shall
14 include, but are not limited to, providing emergency,
15 trauma, burn, neonatal, psychiatric, rehabilitation, or
16 other special services; providing medical education; and
17 conducting medical research or training of health care
18 professionals. The portion of those unreimbursed costs
19 attributable to benefiting low-income individuals shall be
20 determined using the ratio calculated by adding the
21 relevant hospital entity's costs attributable to charity
22 care, Medicaid, other means-tested government programs,
23 disabled Medicare patients under age 65, and dual-eligible
24 Medicare/Medicaid patients and dividing that total by the
25 relevant hospital entity's total costs. Such costs for the
26 numerator and denominator shall be determined by

1 multiplying gross charges by the cost to charge ratio taken
2 from the hospitals' most recently filed Medicare cost
3 report (CMS 2252-10 Worksheet C, Part I). In the case of
4 emergency services, the ratio shall be calculated using
5 costs (gross charges multiplied by the cost to charge ratio
6 taken from the hospitals' most recently filed Medicare cost
7 report (CMS 2252-10 Worksheet C, Part I)) of patients
8 treated in the relevant hospital entity's emergency
9 department.

10 (7) Any other activity by the relevant hospital entity
11 that the Department determines relieves the burden of
12 government or addresses the health of low-income or
13 underserved individuals.

14 (f) For purposes of making the calculations required by
15 subsections (c) and (e):

16 (1) particular services or activities eligible for
17 consideration under any of the paragraphs (1) through (7)
18 of subsection (e) may not be counted under more than one of
19 those paragraphs; and

20 (2) the amount of unreimbursed costs and the amount of
21 subsidy shall not be reduced by restricted or unrestricted
22 payments received by the relevant hospital entity as
23 contributions deductible under Section 170(a) of the
24 Internal Revenue Code.

25 (g) Estimation of Exempt Property Tax Liability. The
26 estimated property tax liability used for the determination in

1 subsection (c) shall be calculated as follows:

2 (1) "Estimated property tax liability" means the
3 estimated dollar amount of property tax that would be owed,
4 with respect to the exempt portion of each of the relevant
5 hospital entity's properties that are already fully or
6 partially exempt, or for which an exemption in whole or in
7 part is currently being sought, and then aggregated as
8 applicable, as if the exempt portion of those properties
9 were subject to tax, calculated with respect to each such
10 property by multiplying:

11 (A) the lesser of (i) the actual assessed value, if
12 any, of the portion of the property for which an
13 exemption is sought or (ii) an estimated assessed value
14 of the exempt portion of such property as determined in
15 item (2) of this subsection (g), by:

16 (B) the applicable State equalization rate
17 (yielding the equalized assessed value), by

18 (C) the applicable tax rate.

19 (2) The estimated assessed value of the exempt portion
20 of the property equals the sum of (i) the estimated fair
21 market value of buildings on the property, as determined in
22 accordance with subparagraphs (A) and (B) of this item (2),
23 multiplied by the applicable assessment factor, and (ii)
24 the estimated assessed value of the land portion of the
25 property, as determined in accordance with subparagraph
26 (C).

1 (A) The "estimated fair market value of buildings
2 on the property" means the replacement value of any
3 exempt portion of buildings on the property, minus
4 depreciation, determined utilizing the cost
5 replacement method whereby the exempt square footage
6 of all such buildings is multiplied by the replacement
7 cost per square foot for Class A Average building found
8 in the most recent edition of the Marshall & Swift
9 Valuation Services Manual, adjusted by any appropriate
10 current cost and local multipliers.

11 (B) Depreciation, for purposes of calculating the
12 estimated fair market value of buildings on the
13 property, is applied by utilizing a weighted mean life
14 for the buildings based on original construction and
15 assuming a 40-year life for hospital buildings and the
16 applicable life for other types of buildings as
17 specified in the American Hospital Association
18 publication "Estimated Useful Lives of Depreciable
19 Hospital Assets". In the case of hospital buildings,
20 the remaining life is divided by 40 and this ratio is
21 multiplied by the replacement cost of the buildings to
22 obtain an estimated fair market value of buildings. If
23 a hospital building is older than 35 years, a remaining
24 life of 5 years for residual value is assumed; and if a
25 building is less than 8 years old, a remaining life of
26 32 years is assumed.

1 (C) The estimated assessed value of the land
2 portion of the property shall be determined by
3 multiplying (i) the per square foot average of the
4 assessed values of three parcels of land (not including
5 farm land, and excluding the assessed value of the
6 improvements thereon) reasonably comparable to the
7 property, by (ii) the number of square feet comprising
8 the exempt portion of the property's land square
9 footage.

10 (3) The assessment factor, State equalization rate,
11 and tax rate (including any special factors such as
12 Enterprise Zones) used in calculating the estimated
13 property tax liability shall be for the most recent year
14 that is publicly available from the applicable chief county
15 assessment officer or officers at least 90 days before the
16 end of the hospital year.

17 (4) The method utilized to calculate estimated
18 property tax liability for purposes of this Section 15-86
19 shall not be utilized for the actual valuation, assessment,
20 or taxation of property pursuant to the Property Tax Code.

21 (h) Application. Each hospital applicant applying for a
22 property tax exemption pursuant to Section 15-5 and this
23 Section shall use an application form provided by the
24 Department. The application form shall specify the records
25 required in support of the application and those records shall
26 be submitted to the Department with the application form. Each

1 application or affidavit shall contain a verification by the
2 Chief Executive Officer of the hospital applicant under oath or
3 affirmation stating that each statement in the application or
4 affidavit and each document submitted with the application or
5 affidavit are true and correct. The records submitted with the
6 application pursuant to this Section shall include an exhibit
7 prepared by the relevant hospital entity showing (A) the value
8 of the relevant hospital entity's services and activities, if
9 any, under paragraphs (1) through (7) of subsection (e) of this
10 Section stated separately for each paragraph, and (B) the value
11 relating to the relevant hospital entity's estimated property
12 tax liability under subsections (g) (1) (A), (B), and (C),
13 subsections (g) (2) (A), (B), and (C), and subsection (g) (3) of
14 this Section stated separately for each item. Such exhibit will
15 be made available to the public by the chief county assessment
16 officer. Nothing in this Section shall be construed as limiting
17 the Attorney General's authority under the Illinois False
18 Claims Act.

19 (i) Nothing in this Section shall be construed to limit the
20 ability of otherwise eligible hospitals, hospital owners,
21 hospital affiliates, or hospital systems to obtain or maintain
22 property tax exemptions pursuant to a provision of the Property
23 Tax Code other than this Section.

24 Section 5-60. The Illinois Public Aid Code is amended by
25 changing Sections 5A-1, 5A-2, 5A-4, 5A-5, 5A-8, 5A-10, 5A-13,

1 and 5A-14 and by adding Sections 5A-12.4 and 5A-15 as follows:

2 (305 ILCS 5/5A-1) (from Ch. 23, par. 5A-1)

3 Sec. 5A-1. Definitions. As used in this Article, unless
4 the context requires otherwise:

5 ~~"Adjusted gross hospital revenue" shall be determined~~
6 ~~separately for inpatient and outpatient services for each~~
7 ~~hospital conducted, operated or maintained by a hospital~~
8 ~~provider, and means the hospital provider's total gross~~
9 ~~revenues less: (i) gross revenue attributable to non hospital~~
10 ~~based services including home dialysis services, durable~~
11 ~~medical equipment, ambulance services, outpatient clinics and~~
12 ~~any other non-hospital based services as determined by the~~
13 ~~Illinois Department by rule; and (ii) gross revenues~~
14 ~~attributable to the routine services provided to persons~~
15 ~~receiving skilled or intermediate long term care services~~
16 ~~within the meaning of Title XVIII or XIX of the Social Security~~
17 ~~Act; and (iii) Medicare gross revenue (excluding the Medicare~~
18 ~~gross revenue attributable to clauses (i) and (ii) of this~~
19 ~~paragraph and the Medicare gross revenue attributable to the~~
20 ~~routine services provided to patients in a psychiatric~~
21 ~~hospital, a rehabilitation hospital, a distinct part~~
22 ~~psychiatric unit, a distinct part rehabilitation unit, or swing~~
23 ~~beds). Adjusted gross hospital revenue shall be determined~~
24 ~~using the most recent data available from each hospital's 2003~~
25 ~~Medicare cost report as contained in the Healthcare Cost Report~~

1 ~~Information System file, for the quarter ending on December 31,~~
2 ~~2004, without regard to any subsequent adjustments or changes~~
3 ~~to such data. If a hospital's 2003 Medicare cost report is not~~
4 ~~contained in the Healthcare Cost Report Information System, the~~
5 ~~hospital provider shall furnish such cost report or the data~~
6 ~~necessary to determine its adjusted gross hospital revenue as~~
7 ~~required by rule by the Illinois Department.~~

8 "Fund" means the Hospital Provider Fund.

9 "Hospital" means an institution, place, building, or
10 agency located in this State that is subject to licensure by
11 the Illinois Department of Public Health under the Hospital
12 Licensing Act, whether public or private and whether organized
13 for profit or not-for-profit.

14 "Hospital provider" means a person licensed by the
15 Department of Public Health to conduct, operate, or maintain a
16 hospital, regardless of whether the person is a Medicaid
17 provider. For purposes of this paragraph, "person" means any
18 political subdivision of the State, municipal corporation,
19 individual, firm, partnership, corporation, company, limited
20 liability company, association, joint stock association, or
21 trust, or a receiver, executor, trustee, guardian, or other
22 representative appointed by order of any court.

23 "Medicare bed days" means, for each hospital, the sum of
24 the number of days that each bed was occupied by a patient who
25 was covered by Title XVIII of the Social Security Act,
26 excluding days attributable to the routine services provided to

1 persons receiving skilled or intermediate long term care
2 services. Medicare bed days shall be computed separately for
3 each hospital operated or maintained by a hospital provider.

4 "Occupied bed days" means the sum of the number of days
5 that each bed was occupied by a patient for all beds, excluding
6 days attributable to the routine services provided to persons
7 receiving skilled or intermediate long term care services.
8 Occupied bed days shall be computed separately for each
9 hospital operated or maintained by a hospital provider.

10 "Outpatient gross revenue" means, for each hospital, its
11 total gross charges attributed to outpatient services as
12 reported on the Medicare cost report at Worksheet C, Part I,
13 Column 7, line 101, less the sum of lines 45, 60, 63, 64, 65,
14 66, 67, and 68 (and any subsets of those lines).

15 ~~"Proration factor" means a fraction, the numerator of which~~
16 ~~is 53 and the denominator of which is 365.~~

17 (Source: P.A. 94-242, eff. 7-18-05; 95-859, eff. 8-19-08.)

18 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

19 (Section scheduled to be repealed on July 1, 2014)

20 Sec. 5A-2. Assessment.

21 (a) ~~Subject to Sections 5A-3 and 5A-10, an annual~~
22 ~~assessment on inpatient services is imposed on each hospital~~
23 ~~provider in an amount equal to the hospital's occupied bed days~~
24 ~~multiplied by \$84.19 multiplied by the proration factor for~~
25 ~~State fiscal year 2004 and the hospital's occupied bed days~~

1 ~~multiplied by \$84.19 for State fiscal year 2005.~~

2 ~~For State fiscal years 2004 and 2005, the Department of~~
3 ~~Healthcare and Family Services shall use the number of occupied~~
4 ~~bed days as reported by each hospital on the Annual Survey of~~
5 ~~Hospitals conducted by the Department of Public Health to~~
6 ~~calculate the hospital's annual assessment. If the sum of a~~
7 ~~hospital's occupied bed days is not reported on the Annual~~
8 ~~Survey of Hospitals or if there are data errors in the reported~~
9 ~~sum of a hospital's occupied bed days as determined by the~~
10 ~~Department of Healthcare and Family Services (formerly~~
11 ~~Department of Public Aid), then the Department of Healthcare~~
12 ~~and Family Services may obtain the sum of occupied bed days~~
13 ~~from any source available, including, but not limited to,~~
14 ~~records maintained by the hospital provider, which may be~~
15 ~~inspected at all times during business hours of the day by the~~
16 ~~Department of Healthcare and Family Services or its duly~~
17 ~~authorized agents and employees.~~

18 ~~Subject to Sections 5A 3 and 5A 10, for the privilege of~~
19 ~~engaging in the occupation of hospital provider, beginning~~
20 ~~August 1, 2005, an annual assessment is imposed on each~~
21 ~~hospital provider for State fiscal years 2006, 2007, and 2008,~~
22 ~~in an amount equal to 2.5835% of the hospital provider's~~
23 ~~adjusted gross hospital revenue for inpatient services and~~
24 ~~2.5835% of the hospital provider's adjusted gross hospital~~
25 ~~revenue for outpatient services. If the hospital provider's~~
26 ~~adjusted gross hospital revenue is not available, then the~~

1 ~~Illinois Department may obtain the hospital provider's~~
2 ~~adjusted gross hospital revenue from any source available,~~
3 ~~including, but not limited to, records maintained by the~~
4 ~~hospital provider, which may be inspected at all times during~~
5 ~~business hours of the day by the Illinois Department or its~~
6 ~~duly authorized agents and employees.~~

7 Subject to Sections 5A-3 and 5A-10, for State fiscal years
8 2009 through 2014, and from July 1, 2014 through December 31,
9 2014, an annual assessment on inpatient services is imposed on
10 each hospital provider in an amount equal to \$218.38 multiplied
11 by the difference of the hospital's occupied bed days less the
12 hospital's Medicare bed days.

13 For State fiscal years 2009 through 2014, and after a
14 hospital's occupied bed days and Medicare bed days shall be
15 determined using the most recent data available from each
16 hospital's 2005 Medicare cost report as contained in the
17 Healthcare Cost Report Information System file, for the quarter
18 ending on December 31, 2006, without regard to any subsequent
19 adjustments or changes to such data. If a hospital's 2005
20 Medicare cost report is not contained in the Healthcare Cost
21 Report Information System, then the Illinois Department may
22 obtain the hospital provider's occupied bed days and Medicare
23 bed days from any source available, including, but not limited
24 to, records maintained by the hospital provider, which may be
25 inspected at all times during business hours of the day by the
26 Illinois Department or its duly authorized agents and

1 employees.

2 (b) (Blank).

3 (b-5) Subject to Sections 5A-3 and 5A-10, for State fiscal
4 years 2013 through 2014, and July 1, 2014 through December 31,
5 2014, an annual assessment on outpatient services is imposed on
6 each hospital provider in an amount equal to .008766 multiplied
7 by the hospital's outpatient gross revenue.

8 For State fiscal years 2013 through 2014, and July 1, 2014
9 through December 31, 2014, a hospital's outpatient gross
10 revenue shall be determined using the most recent data
11 available from each hospital's 2009 Medicare cost report as
12 contained in the Healthcare Cost Report Information System
13 file, for the quarter ending on June 30, 2011, without regard
14 to any subsequent adjustments or changes to such data. If a
15 hospital's 2009 Medicare cost report is not contained in the
16 Healthcare Cost Report Information System, then the Department
17 may obtain the hospital provider's outpatient gross revenue
18 from any source available, including, but not limited to,
19 records maintained by the hospital provider, which may be
20 inspected at all times during business hours of the day by the
21 Department or its duly authorized agents and employees.

22 (c) (Blank).

23 (d) Notwithstanding any of the other provisions of this
24 Section, the Department is authorized, ~~during this 94th General~~
25 ~~Assembly,~~ to adopt rules to reduce the rate of any annual
26 assessment imposed under this Section, as authorized by Section

1 5-46.2 of the Illinois Administrative Procedure Act.

2 (e) Notwithstanding any other provision of this Section,
3 any plan providing for an assessment on a hospital provider as
4 a permissible tax under Title XIX of the federal Social
5 Security Act and Medicaid-eligible payments to hospital
6 providers from the revenues derived from that assessment shall
7 be reviewed by the Illinois Department of Healthcare and Family
8 Services, as the Single State Medicaid Agency required by
9 federal law, to determine whether those assessments and
10 hospital provider payments meet federal Medicaid standards. If
11 the Department determines that the elements of the plan may
12 meet federal Medicaid standards and a related State Medicaid
13 Plan Amendment is prepared in a manner and form suitable for
14 submission, that State Plan Amendment shall be submitted in a
15 timely manner for review by the Centers for Medicare and
16 Medicaid Services of the United States Department of Health and
17 Human Services and subject to approval by the Centers for
18 Medicare and Medicaid Services of the United States Department
19 of Health and Human Services. No such plan shall become
20 effective without approval by the Illinois General Assembly by
21 the enactment into law of related legislation. Notwithstanding
22 any other provision of this Section, the Department is
23 authorized to adopt rules to reduce the rate of any annual
24 assessment imposed under this Section. Any such rules may be
25 adopted by the Department under Section 5-50 of the Illinois
26 Administrative Procedure Act.

1 (Source: P.A. 95-859, eff. 8-19-08; 96-1530, eff. 2-16-11.)

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

3 Sec. 5A-4. Payment of assessment; penalty.

4 (a) ~~The annual assessment imposed by Section 5A-2 for State~~
5 ~~fiscal year 2004 shall be due and payable on June 18 of the~~
6 ~~year. The assessment imposed by Section 5A-2 for State fiscal~~
7 ~~year 2005 shall be due and payable in quarterly installments,~~
8 ~~each equalling one fourth of the assessment for the year, on~~
9 ~~July 19, October 19, January 18, and April 19 of the year. The~~
10 ~~assessment imposed by Section 5A-2 for State fiscal years 2006~~
11 ~~through 2008 shall be due and payable in quarterly~~
12 ~~installments, each equaling one fourth of the assessment for~~
13 ~~the year, on the fourteenth State business day of September,~~
14 ~~December, March, and May. Except as provided in subsection~~
15 ~~(a-5) of this Section, the assessment imposed by Section 5A-2~~
16 ~~for State fiscal year 2009 and each subsequent State fiscal~~
17 ~~year shall be due and payable in monthly installments, each~~
18 ~~equaling one-twelfth of the assessment for the year, on the~~
19 ~~fourteenth State business day of each month. No installment~~
20 ~~payment of an assessment imposed by Section 5A-2 shall be due~~
21 ~~and payable, however, until after the Comptroller has issued~~
22 ~~the payments required under this Article: (i) ~~the Department~~~~
23 ~~~~notifies the hospital provider, in writing, that the payment~~~~
24 ~~~~methodologies to hospitals required under Section 5A-12,~~~~
25 ~~~~Section 5A 12.1, or Section 5A 12.2, whichever is applicable~~~~

1 ~~for that fiscal year, have been approved by the Centers for~~
2 ~~Medicare and Medicaid Services of the U.S. Department of Health~~
3 ~~and Human Services and the waiver under 42 CFR 433.68 for the~~
4 ~~assessment imposed by Section 5A-2, if necessary, has been~~
5 ~~granted by the Centers for Medicare and Medicaid Services of~~
6 ~~the U.S. Department of Health and Human Services; and (ii) the~~
7 ~~Comptroller has issued the payments required under Section~~
8 ~~5A-12, Section 5A-12.1, or Section 5A-12.2, whichever is~~
9 ~~applicable for that fiscal year. Upon notification to the~~
10 ~~Department of approval of the payment methodologies required~~
11 ~~under Section 5A-12, Section 5A-12.1, or Section 5A-12.2,~~
12 ~~whichever is applicable for that fiscal year, and the waiver~~
13 ~~granted under 42 CFR 433.68, all installments otherwise due~~
14 ~~under Section 5A-2 prior to the date of notification shall be~~
15 ~~due and payable to the Department upon written direction from~~
16 ~~the Department and issuance by the Comptroller of the payments~~
17 ~~required under Section 5A-12.1 or Section 5A-12.2, whichever is~~
18 ~~applicable for that fiscal year.~~

19 Except as provided in subsection (a-5) of this Section, the
20 assessment imposed by subsection (b-5) of Section 5A-2 for
21 State fiscal year 2013 and each subsequent State fiscal year
22 shall be due and payable in monthly installments, each equaling
23 one-twelfth of the assessment for the year, on the 14th State
24 business day of each month. No installment payment of an
25 assessment imposed by subsection (b-5) of Section 5A-2 shall be
26 due and payable, however, until after: (i) the Department

1 notifies the hospital provider, in writing, that the payment
2 methodologies to hospitals required under Section 5A-12.4,
3 have been approved by the Centers for Medicare and Medicaid
4 Services of the U.S. Department of Health and Human Services,
5 and the waiver under 42 CFR 433.68 for the assessment imposed
6 by subsection (b-5) of Section 5A-2, if necessary, has been
7 granted by the Centers for Medicare and Medicaid Services of
8 the U.S. Department of Health and Human Services; and (ii) the
9 Comptroller has issued the payments required under Section
10 5A-12.4. Upon notification to the Department of approval of the
11 payment methodologies required under Section 5A-12.4 and the
12 waiver granted under 42 CFR 433.68, if necessary, all
13 installments otherwise due under subsection (b-5) of Section
14 5A-2 prior to the date of notification shall be due and payable
15 to the Department upon written direction from the Department
16 and issuance by the Comptroller of the payments required under
17 Section 5A-12.4.

18 (a-5) The Illinois Department may, ~~for the purpose of~~
19 ~~maximizing federal revenue,~~ accelerate the schedule upon which
20 assessment installments are due and payable by hospitals with a
21 payment ratio greater than or equal to one. Such acceleration
22 of due dates for payment of the assessment may be made only in
23 conjunction with a corresponding acceleration in access
24 payments identified in Section 5A-12.2 or Section 5A-12.4 to
25 the same hospitals. For the purposes of this subsection (a-5),
26 a hospital's payment ratio is defined as the quotient obtained

1 by dividing the total payments for the State fiscal year, as
2 authorized under Section 5A-12.2 or Section 5A-12.4, by the
3 total assessment for the State fiscal year imposed under
4 Section 5A-2 or subsection (b-5) of Section 5A-2.

5 (b) The Illinois Department is authorized to establish
6 delayed payment schedules for hospital providers that are
7 unable to make installment payments when due under this Section
8 due to financial difficulties, as determined by the Illinois
9 Department.

10 (c) If a hospital provider fails to pay the full amount of
11 an installment when due (including any extensions granted under
12 subsection (b)), there shall, unless waived by the Illinois
13 Department for reasonable cause, be added to the assessment
14 imposed by Section 5A-2 a penalty assessment equal to the
15 lesser of (i) 5% of the amount of the installment not paid on
16 or before the due date plus 5% of the portion thereof remaining
17 unpaid on the last day of each 30-day period thereafter or (ii)
18 100% of the installment amount not paid on or before the due
19 date. For purposes of this subsection, payments will be
20 credited first to unpaid installment amounts (rather than to
21 penalty or interest), beginning with the most delinquent
22 installments.

23 (d) Any assessment amount that is due and payable to the
24 Illinois Department more frequently than once per calendar
25 quarter shall be remitted to the Illinois Department by the
26 hospital provider by means of electronic funds transfer. The

1 Illinois Department may provide for remittance by other means
2 if (i) the amount due is less than \$10,000 or (ii) electronic
3 funds transfer is unavailable for this purpose.

4 (Source: P.A. 95-331, eff. 8-21-07; 95-859, eff. 8-19-08;
5 96-821, eff. 11-20-09.)

6 (305 ILCS 5/5A-5) (from Ch. 23, par. 5A-5)

7 Sec. 5A-5. Notice; penalty; maintenance of records.

8 (a) The Illinois Department ~~of Healthcare and Family~~
9 ~~Services~~ shall send a notice of assessment to every hospital
10 provider subject to assessment under this Article. The notice
11 of assessment shall notify the hospital of its assessment and
12 shall be sent after receipt by the Department of notification
13 from the Centers for Medicare and Medicaid Services of the U.S.
14 Department of Health and Human Services that the payment
15 methodologies required under this Article ~~Section 5A 12,~~
16 ~~Section 5A 12.1, or Section 5A 12.2, whichever is applicable~~
17 ~~for that fiscal year,~~ and, if necessary, the waiver granted
18 under 42 CFR 433.68 have been approved. The notice shall be on
19 a form prepared by the Illinois Department and shall state the
20 following:

21 (1) The name of the hospital provider.

22 (2) The address of the hospital provider's principal
23 place of business from which the provider engages in the
24 occupation of hospital provider in this State, and the name
25 and address of each hospital operated, conducted, or

1 maintained by the provider in this State.

2 (3) The occupied bed days, occupied bed days less
3 Medicare days, ~~or~~ adjusted gross hospital revenue, or
4 outpatient gross revenue of the hospital provider
5 (whichever is applicable), the amount of assessment
6 imposed under Section 5A-2 for the State fiscal year for
7 which the notice is sent, and the amount of each
8 installment to be paid during the State fiscal year.

9 (4) (Blank).

10 (5) Other reasonable information as determined by the
11 Illinois Department.

12 (b) If a hospital provider conducts, operates, or maintains
13 more than one hospital licensed by the Illinois Department of
14 Public Health, the provider shall pay the assessment for each
15 hospital separately.

16 (c) Notwithstanding any other provision in this Article, in
17 the case of a person who ceases to conduct, operate, or
18 maintain a hospital in respect of which the person is subject
19 to assessment under this Article as a hospital provider, the
20 assessment for the State fiscal year in which the cessation
21 occurs shall be adjusted by multiplying the assessment computed
22 under Section 5A-2 by a fraction, the numerator of which is the
23 number of days in the year during which the provider conducts,
24 operates, or maintains the hospital and the denominator of
25 which is 365. Immediately upon ceasing to conduct, operate, or
26 maintain a hospital, the person shall pay the assessment for

1 the year as so adjusted (to the extent not previously paid).

2 (d) Notwithstanding any other provision in this Article, a
3 provider who commences conducting, operating, or maintaining a
4 hospital, upon notice by the Illinois Department, shall pay the
5 assessment computed under Section 5A-2 and subsection (e) in
6 installments on the due dates stated in the notice and on the
7 regular installment due dates for the State fiscal year
8 occurring after the due dates of the initial notice.

9 ~~(e) Notwithstanding any other provision in this Article,~~
10 ~~for State fiscal years 2004 and 2005, in the case of a hospital~~
11 ~~provider that did not conduct, operate, or maintain a hospital~~
12 ~~throughout calendar year 2001, the assessment for that State~~
13 ~~fiscal year shall be computed on the basis of hypothetical~~
14 ~~occupied bed days for the full calendar year as determined by~~
15 ~~the Illinois Department. Notwithstanding any other provision~~
16 ~~in this Article, for State fiscal years 2006 through 2008, in~~
17 ~~the case of a hospital provider that did not conduct, operate,~~
18 ~~or maintain a hospital in 2003, the assessment for that State~~
19 ~~fiscal year shall be computed on the basis of hypothetical~~
20 ~~adjusted gross hospital revenue for the hospital's first full~~
21 ~~fiscal year as determined by the Illinois Department (which may~~
22 ~~be based on annualization of the provider's actual revenues for~~
23 ~~a portion of the year, or revenues of a comparable hospital for~~
24 ~~the year, including revenues realized by a prior provider of~~
25 ~~the same hospital during the year).~~ Notwithstanding any other
26 provision in this Article, for State fiscal years 2009 through

1 2014, in the case of a hospital provider that did not conduct,
2 operate, or maintain a hospital in 2005, the assessment for
3 that State fiscal year shall be computed on the basis of
4 hypothetical occupied bed days for the full calendar year as
5 determined by the Illinois Department. Notwithstanding any
6 other provision in this Article, for State fiscal years 2013
7 through 2014, and for July 1, 2014 through December 31, 2014,
8 in the case of a hospital provider that did not conduct,
9 operate, or maintain a hospital in 2009, the assessment under
10 subsection (b-5) of Section 5A-2 for that State fiscal year
11 shall be computed on the basis of hypothetical gross outpatient
12 revenue for the full calendar year as determined by the
13 Illinois Department.

14 (f) Every hospital provider subject to assessment under
15 this Article shall keep sufficient records to permit the
16 determination of adjusted gross hospital revenue for the
17 hospital's fiscal year. All such records shall be kept in the
18 English language and shall, at all times during regular
19 business hours of the day, be subject to inspection by the
20 Illinois Department or its duly authorized agents and
21 employees.

22 (g) The Illinois Department may, by rule, provide a
23 hospital provider a reasonable opportunity to request a
24 clarification or correction of any clerical or computational
25 errors contained in the calculation of its assessment, but such
26 corrections shall not extend to updating the cost report

1 information used to calculate the assessment.

2 (h) (Blank).

3 (Source: P.A. 95-331, eff. 8-21-07; 95-859, eff. 8-19-08;
4 96-1530, eff. 2-16-11.)

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

6 Sec. 5A-8. Hospital Provider Fund.

7 (a) There is created in the State Treasury the Hospital
8 Provider Fund. Interest earned by the Fund shall be credited to
9 the Fund. The Fund shall not be used to replace any moneys
10 appropriated to the Medicaid program by the General Assembly.

11 (b) The Fund is created for the purpose of receiving moneys
12 in accordance with Section 5A-6 and disbursing moneys only for
13 the following purposes, notwithstanding any other provision of
14 law:

15 (1) For making payments to hospitals as required under
16 ~~Articles V, V A, VI, and XIV of this Code, under the~~
17 ~~Children's Health Insurance Program Act, under the~~
18 ~~Covering ALL KIDS Health Insurance Act, and under the Long~~
19 ~~Term Acute Care Hospital Quality Improvement Transfer~~
20 ~~Program Senior Citizens and Disabled Persons Property Tax~~
21 ~~Relief and Pharmaceutical Assistance Act.~~

22 (2) For the reimbursement of moneys collected by the
23 Illinois Department from hospitals or hospital providers
24 through error or mistake in performing the activities
25 authorized under ~~this Article and Article V of this Code.~~

1 (3) For payment of administrative expenses incurred by
2 the Illinois Department or its agent in performing the
3 activities authorized by this Code, under the Children's
4 Health Insurance Program Act, under the Covering ALL KIDS
5 Health Insurance Act, and under the Long Term Acute Care
6 Hospital Quality Improvement Transfer Program Act.
7 ~~Article.~~

8 (4) For payments of any amounts which are reimbursable
9 to the federal government for payments from this Fund which
10 are required to be paid by State warrant.

11 (5) For making transfers, as those transfers are
12 authorized in the proceedings authorizing debt under the
13 Short Term Borrowing Act, but transfers made under this
14 paragraph (5) shall not exceed the principal amount of debt
15 issued in anticipation of the receipt by the State of
16 moneys to be deposited into the Fund.

17 (6) For making transfers to any other fund in the State
18 treasury, but transfers made under this paragraph (6) shall
19 not exceed the amount transferred previously from that
20 other fund into the Hospital Provider Fund.

21 (6.5) For making transfers to the Healthcare Provider
22 Relief Fund, except that transfers made under this
23 paragraph (6.5) shall not exceed \$60,000,000 in the
24 aggregate.

25 (7) For making transfers not exceeding the following
26 amounts, in State fiscal years 2013 and 2014, to the

1 following designated funds:

2	<u>Health and Human Services Medicaid Trust</u>	
3	<u>Fund</u>	<u>\$20,000,000</u>
4	<u>Long-Term Care Provider Fund</u>	<u>\$30,000,000</u>
5	<u>General Revenue Fund</u>	<u>\$80,000,000.</u>

6 Transfers under this paragraph shall be made within 7 days
7 after the payments have been received pursuant to the
8 schedule of payments provided in subsection (a) of Section
9 5A-4.

10 (7.1) For making transfers not exceeding the following
11 amounts, in State fiscal year 2015, to the following
12 designated funds:

13	<u>Health and Human Services Medicaid Trust</u>	
14	<u>Fund</u>	<u>\$10,000,000</u>
15	<u>Long-Term Care Provider Fund</u>	<u>\$15,000,000</u>
16	<u>General Revenue Fund</u>	<u>\$40,000,000.</u>

17 Transfers under this paragraph shall be made within 7 days
18 after the payments have been received pursuant to the
19 schedule of payments provided in subsection (a) of Section
20 5A-4. For State fiscal years 2004 and 2005 for making
21 transfers to the Health and Human Services Medicaid Trust
22 Fund, including 20% of the moneys received from hospital
23 providers under Section 5A-4 and transferred into the
24 Hospital Provider Fund under Section 5A-6. For State fiscal
25 year 2006 for making transfers to the Health and Human
26 Services Medicaid Trust Fund of up to \$130,000,000 per year

1 ~~of the moneys received from hospital providers under~~
 2 ~~Section 5A-4 and transferred into the Hospital Provider~~
 3 ~~Fund under Section 5A-6. Transfers under this paragraph~~
 4 ~~shall be made within 7 days after the payments have been~~
 5 ~~received pursuant to the schedule of payments provided in~~
 6 ~~subsection (a) of Section 5A-4.~~

7 (7.5) (Blank). ~~For State fiscal year 2007 for making~~
 8 ~~transfers of the moneys received from hospital providers~~
 9 ~~under Section 5A-4 and transferred into the Hospital~~
 10 ~~Provider Fund under Section 5A-6 to the designated funds~~
 11 ~~not exceeding the following amounts in that State fiscal~~
 12 ~~year:~~

13 ~~Health and Human Services~~

14	Medicaid Trust Fund	-\$20,000,000
15	Long-Term Care Provider Fund	-\$30,000,000
16	General Revenue Fund	-\$80,000,000.

17 ~~Transfers under this paragraph shall be made within 7~~
 18 ~~days after the payments have been received pursuant to the~~
 19 ~~schedule of payments provided in subsection (a) of Section~~
 20 ~~5A-4.~~

21 (7.8) (Blank). ~~For State fiscal year 2008, for making~~
 22 ~~transfers of the moneys received from hospital providers~~
 23 ~~under Section 5A-4 and transferred into the Hospital~~
 24 ~~Provider Fund under Section 5A-6 to the designated funds~~
 25 ~~not exceeding the following amounts in that State fiscal~~
 26 ~~year:~~

1 ~~Health and Human Services~~

2 ~~Medicaid Trust Fund~~ ~~\$40,000,000~~

3 ~~Long Term Care Provider Fund~~ ~~\$60,000,000~~

4 ~~General Revenue Fund~~ ~~\$160,000,000.~~

5 ~~Transfers under this paragraph shall be made within 7~~
6 ~~days after the payments have been received pursuant to the~~
7 ~~schedule of payments provided in subsection (a) of Section~~
8 ~~5A-4.~~

9 (7.9) (Blank). ~~For State fiscal years 2009 through~~
10 ~~2014, for making transfers of the moneys received from~~
11 ~~hospital providers under Section 5A-4 and transferred into~~
12 ~~the Hospital Provider Fund under Section 5A-6 to the~~
13 ~~designated funds not exceeding the following amounts in~~
14 ~~that State fiscal year:~~

15 ~~Health and Human Services~~

16 ~~Medicaid Trust Fund~~ ~~\$20,000,000~~

17 ~~Long Term Care Provider Fund~~ ~~\$30,000,000~~

18 ~~General Revenue Fund~~ ~~\$80,000,000.~~

19 ~~Except as provided under this paragraph, transfers~~
20 ~~under this paragraph shall be made within 7 business days~~
21 ~~after the payments have been received pursuant to the~~
22 ~~schedule of payments provided in subsection (a) of Section~~
23 ~~5A-4. For State fiscal year 2009, transfers to the General~~
24 ~~Revenue Fund under this paragraph shall be made on or~~
25 ~~before June 30, 2009, as sufficient funds become available~~
26 ~~in the Hospital Provider Fund to both make the transfers~~

1 ~~and continue hospital payments.~~

2 (7.10) For State fiscal years 2013 and 2014, for making
3 transfers of the moneys resulting from the assessment under
4 subsection (b-5) of Section 5A-2 and received from hospital
5 providers under Section 5A-4 and transferred into the
6 Hospital Provider Fund under Section 5A-6 to the designated
7 funds not exceeding the following amounts in that State
8 fiscal year:

9 Health Care Provider Relief Fund \$50,000,000

10 Transfers under this paragraph shall be made within 7
11 days after the payments have been received pursuant to the
12 schedule of payments provided in subsection (a) of Section
13 5A-4.

14 (7.11) For State fiscal year 2015, for making transfers
15 of the moneys resulting from the assessment under
16 subsection (b-5) of Section 5A-2 and received from hospital
17 providers under Section 5A-4 and transferred into the
18 Hospital Provider Fund under Section 5A-6 to the designated
19 funds not exceeding the following amounts in that State
20 fiscal year:

21 Health Care Provider Relief Fund \$25,000,000

22 Transfers under this paragraph shall be made within 7
23 days after the payments have been received pursuant to the
24 schedule of payments provided in subsection (a) of Section
25 5A-4.

26 (8) For making refunds to hospital providers pursuant

1 to Section 5A-10.

2 Disbursements from the Fund, other than transfers
3 authorized under paragraphs (5) and (6) of this subsection,
4 shall be by warrants drawn by the State Comptroller upon
5 receipt of vouchers duly executed and certified by the Illinois
6 Department.

7 (c) The Fund shall consist of the following:

8 (1) All moneys collected or received by the Illinois
9 Department from the hospital provider assessment imposed
10 by this Article.

11 (2) All federal matching funds received by the Illinois
12 Department as a result of expenditures made by the Illinois
13 Department that are attributable to moneys deposited in the
14 Fund.

15 (3) Any interest or penalty levied in conjunction with
16 the administration of this Article.

17 (4) Moneys transferred from another fund in the State
18 treasury.

19 (5) All other moneys received for the Fund from any
20 other source, including interest earned thereon.

21 (d) (Blank).

22 (Source: P.A. 95-707, eff. 1-11-08; 95-859, eff. 8-19-08; 96-3,
23 eff. 2-27-09; 96-45, eff. 7-15-09; 96-821, eff. 11-20-09;
24 96-1530, eff. 2-16-11.)

25 (305 ILCS 5/5A-10) (from Ch. 23, par. 5A-10)

1 Sec. 5A-10. Applicability.

2 (a) The assessment imposed by subsection (a) of Section
3 5A-2 shall not take effect or shall cease to be imposed, and
4 any moneys remaining in the Fund shall be refunded to hospital
5 providers in proportion to the amounts paid by them, if:

6 (1) The payments to hospitals required under this
7 Article are not eligible for federal matching funds under
8 Title XIX or XXI of the Social Security Act; ~~The sum of the~~
9 ~~appropriations for State fiscal years 2004 and 2005 from~~
10 ~~the General Revenue Fund for hospital payments under the~~
11 ~~medical assistance program is less than \$4,500,000,000 or~~
12 ~~the appropriation for each of State fiscal years 2006, 2007~~
13 ~~and 2008 from the General Revenue Fund for hospital~~
14 ~~payments under the medical assistance program is less than~~
15 ~~\$2,500,000,000 increased annually to reflect any increase~~
16 ~~in the number of recipients, or the annual appropriation~~
17 ~~for State fiscal years 2009, 2010, 2011, 2013, and 2014,~~
18 ~~from the General Revenue Fund combined with the Hospital~~
19 ~~Provider Fund as authorized in Section 5A-8 for hospital~~
20 ~~payments under the medical assistance program, is less than~~
21 ~~the amount appropriated for State fiscal year 2009,~~
22 ~~adjusted annually to reflect any change in the number of~~
23 ~~recipients, excluding State fiscal year 2009 supplemental~~
24 ~~appropriations made necessary by the enactment of the~~
25 ~~American Recovery and Reinvestment Act of 2009; or~~

26 ~~(2) For State fiscal years prior to State fiscal year~~

1 ~~2009, the Department of Healthcare and Family Services~~
2 ~~(formerly Department of Public Aid) makes changes in its~~
3 ~~rules that reduce the hospital inpatient or outpatient~~
4 ~~payment rates, including adjustment payment rates, in~~
5 ~~effect on October 1, 2004, except for hospitals described~~
6 ~~in subsection (b) of Section 5A-3 and except for changes in~~
7 ~~the methodology for calculating outlier payments to~~
8 ~~hospitals for exceptionally costly stays, so long as those~~
9 ~~changes do not reduce aggregate expenditures below the~~
10 ~~amount expended in State fiscal year 2005 for such~~
11 ~~services; or~~

12 (2) (2.1) For State fiscal years 2009 through 2014, and
13 July 1, 2014 through December 31, 2014, the Department of
14 Healthcare and Family Services adopts any administrative
15 rule change to reduce payment rates or alters any payment
16 methodology that reduces any payment rates made to
17 operating hospitals under the approved Title XIX or Title
18 XXI State plan in effect January 1, 2008 except for:

19 (A) any changes for hospitals described in
20 subsection (b) of Section 5A-3; ~~or~~

21 (B) any rates for payments made under this Article
22 V-A; ~~or~~

23 (C) any changes proposed in State plan amendment
24 transmittal numbers 08-01, 08-02, 08-04, 08-06, and
25 08-07; or

26 (D) in relation to any admissions on or after

1 January 1, 2011, a modification in the methodology for
2 calculating outlier payments to hospitals for
3 exceptionally costly stays, for hospitals reimbursed
4 under the diagnosis-related grouping methodology in
5 effect on July 1, 2011; provided that the Department
6 shall be limited to one such modification during the
7 36-month period after the effective date of this
8 amendatory Act of the 96th General Assembly; or

9 (3) The payments to hospitals required under Section
10 5A-12 or Section 5A-12.2 are changed or are not eligible
11 for federal matching funds under Title XIX or XXI of the
12 Social Security Act.

13 (b) The assessment imposed by Section 5A-2 shall not take
14 effect or shall cease to be imposed, and the Department's
15 obligation to make payments shall immediately cease, if the
16 assessment is determined to be an impermissible tax under Title
17 XIX of the Social Security Act. Moneys in the Hospital Provider
18 Fund derived from assessments imposed prior thereto shall be
19 disbursed in accordance with Section 5A-8 to the extent federal
20 financial participation is not reduced due to the
21 impermissibility of the assessments, and any remaining moneys
22 shall be refunded to hospital providers in proportion to the
23 amounts paid by them.

24 (c) The assessments imposed by subsection (b-5) of Section
25 5A-2 shall not take effect or shall cease to be imposed, the
26 Department's obligation to make payments shall immediately

1 cease, and any moneys remaining in the Fund shall be refunded
2 to hospital providers in proportion to the amounts paid by
3 them, if the payments to hospitals required under Section
4 5A-12.4 are not eligible for federal matching funds under Title
5 XIX of the Social Security Act.

6 (d) The assessments imposed by Section 5A-2 shall not take
7 effect or shall cease to be imposed, the Department's
8 obligation to make payments shall immediately cease, and any
9 moneys remaining in the Fund shall be refunded to hospital
10 providers in proportion to the amounts paid by them, if:

11 (1) for State fiscal years 2013 through 2014, and July
12 1, 2014 through December 31, 2014, the Department reduces
13 any payment rates to hospitals as in effect on May 1, 2012,
14 or alters any payment methodology as in effect on May 1,
15 2012, that has the effect of reducing payment rates to
16 hospitals, except for any changes affecting hospitals
17 authorized in Senate Bill 2840 of the 97th General Assembly
18 in the form in which it becomes law, and except for any
19 changes authorized under Section 5A-15; or

20 (2) for State fiscal years 2013 through 2014, and July
21 1, 2014 through December 31, 2014, the Department reduces
22 any supplemental payments made to hospitals below the
23 amounts paid for services provided in State fiscal year
24 2011 as implemented by administrative rules adopted and in
25 effect on or prior to June 30, 2011, except for any changes
26 affecting hospitals authorized in Senate Bill 2840 of the

1 97th General Assembly in the form in which it becomes law,
2 and except for any changes authorized under Section 5A-15.
3 (Source: P.A. 96-8, eff. 4-28-09; 96-1530, eff. 2-16-11; 97-72,
4 eff. 7-1-11; 97-74, eff. 6-30-11.)

5 (305 ILCS 5/5A-12.4 new)

6 Sec. 5A-12.4. Hospital access improvement payments on or
7 after July 1, 2012.

8 (a) Hospital access improvement payments. To preserve and
9 improve access to hospital services, for hospital and physician
10 services rendered on or after July 1, 2012, the Illinois
11 Department shall, except for hospitals described in subsection
12 (b) of Section 5A-3, make payments to hospitals as set forth in
13 this Section. These payments shall be paid in 12 equal
14 installments on or before the 7th State business day of each
15 month, except that no payment shall be due within 100 days
16 after the later of the date of notification of federal approval
17 of the payment methodologies required under this Section or any
18 waiver required under 42 CFR 433.68, at which time the sum of
19 amounts required under this Section prior to the date of
20 notification is due and payable. Payments under this Section
21 are not due and payable, however, until (i) the methodologies
22 described in this Section are approved by the federal
23 government in an appropriate State Plan amendment and (ii) the
24 assessment imposed under subsection (b-5) of Section 5A-2 of
25 this Article is determined to be a permissible tax under Title

1 XIX of the Social Security Act. The Illinois Department shall
2 take all actions necessary to implement the payments under this
3 Section effective July 1, 2012, including but not limited to
4 providing public notice pursuant to federal requirements, the
5 filing of a State Plan amendment, and the adoption of
6 administrative rules.

7 (a-5) Accelerated schedule. The Illinois Department may,
8 when practicable, accelerate the schedule upon which payments
9 authorized under this Section are made.

10 (b) Magnet and perinatal hospital adjustment. In addition
11 to rates paid for inpatient hospital services, the Department
12 shall pay to each Illinois general acute care hospital that, as
13 of August 25, 2011, was recognized as a Magnet hospital by the
14 American Nurses Credentialing Center and that, as of September
15 14, 2011, was designated as a level III perinatal center
16 amounts as follows:

17 (1) For hospitals with a case mix index equal to or
18 greater than the 80th percentile of case mix indices for
19 all Illinois hospitals, \$470 for each Medicaid general
20 acute care inpatient day of care provided by the hospital
21 during State fiscal year 2009.

22 (2) For all other hospitals, \$170 for each Medicaid
23 general acute care inpatient day of care provided by the
24 hospital during State fiscal year 2009.

25 (c) Trauma level II adjustment. In addition to rates paid
26 for inpatient hospital services, the Department shall pay to

1 each Illinois general acute care hospital that, as of July 1,
2 2011, was designated as a level II trauma center amounts as
3 follows:

4 (1) For hospitals with a case mix index equal to or
5 greater than the 50th percentile of case mix indices for
6 all Illinois hospitals, \$470 for each Medicaid general
7 acute care inpatient day of care provided by the hospital
8 during State fiscal year 2009.

9 (2) For all other hospitals, \$170 for each Medicaid
10 general acute care inpatient day of care provided by the
11 hospital during State fiscal year 2009.

12 (3) For the purposes of this adjustment, hospitals
13 located in the same city that alternate their trauma center
14 designation as defined in 89 Ill. Adm. Code 148.295(a) (2)
15 shall have the adjustment provided under this Section
16 divided between the 2 hospitals.

17 (d) Dual-eligible adjustment. In addition to rates paid for
18 inpatient services, the Department shall pay each Illinois
19 general acute care hospital that had a ratio of crossover days
20 to total inpatient days for programs under Title XIX of the
21 Social Security Act administered by the Department (utilizing
22 information from 2009 paid claims) greater than 50%, and a case
23 mix index equal to or greater than the 75th percentile of case
24 mix indices for all Illinois hospitals, a rate of \$400 for each
25 Medicaid inpatient day during State fiscal year 2009 including
26 crossover days.

1 (e) Medicaid volume adjustment. In addition to rates paid
2 for inpatient hospital services, the Department shall pay to
3 each Illinois general acute care hospital that provided more
4 than 10,000 Medicaid inpatient days of care in State fiscal
5 year 2009, has a Medicaid inpatient utilization rate of at
6 least 29.05% as calculated by the Department for the Rate Year
7 2011 Disproportionate Share determination, and is not eligible
8 for Medicaid Percentage Adjustment payments in rate year 2011
9 an amount equal to \$135 for each Medicaid inpatient day of care
10 provided during State fiscal year 2009.

11 (f) Outpatient service adjustment. In addition to the rates
12 paid for outpatient hospital services, the Department shall pay
13 each Illinois hospital an amount at least equal to \$100
14 multiplied by the hospital's outpatient ambulatory procedure
15 listing services (excluding categories 3B and 3C) and by the
16 hospital's end stage renal disease treatment services provided
17 for State fiscal year 2009.

18 (g) Ambulatory service adjustment.

19 (1) In addition to the rates paid for outpatient
20 hospital services provided in the emergency department,
21 the Department shall pay each Illinois hospital an amount
22 equal to \$105 multiplied by the hospital's outpatient
23 ambulatory procedure listing services for categories 3A,
24 3B, and 3C for State fiscal year 2009.

25 (2) In addition to the rates paid for outpatient
26 hospital services, the Department shall pay each Illinois

1 freestanding psychiatric hospital an amount equal to \$200
2 multiplied by the hospital's ambulatory procedure listing
3 services for category 5A for State fiscal year 2009.

4 (h) Specialty hospital adjustment. In addition to the rates
5 paid for outpatient hospital services, the Department shall pay
6 each Illinois long term acute care hospital and each Illinois
7 hospital devoted exclusively to the treatment of cancer, an
8 amount equal to \$700 multiplied by the hospital's outpatient
9 ambulatory procedure listing services and by the hospital's end
10 stage renal disease treatment services (including services
11 provided to individuals eligible for both Medicaid and
12 Medicare) provided for State fiscal year 2009.

13 (h-1) ER Safety Net Payments. In addition to rates paid for
14 outpatient services, the Department shall pay to each Illinois
15 general acute care hospital with an emergency room ratio equal
16 to or greater than 55%, that is not eligible for Medicaid
17 percentage adjustments payments in rate year 2011, with a case
18 mix index equal to or greater than the 20th percentile, and
19 that is not designated as a trauma center by the Illinois
20 Department of Public Health on July 1, 2011, as follows:

21 (1) Each hospital with an emergency room ratio equal to
22 or greater than 74% shall receive a rate of \$225 for each
23 outpatient ambulatory procedure listing and end-stage
24 renal disease treatment service provided for State fiscal
25 year 2009.

26 (2) For all other hospitals, \$65 shall be paid for each

1 outpatient ambulatory procedure listing and end-stage
2 renal disease treatment service provided for State fiscal
3 year 2009.

4 (i) Physician supplemental adjustment. In addition to the
5 rates paid for physician services, the Department shall make an
6 adjustment payment for services provided by physicians as
7 follows:

8 (1) Physician services eligible for the adjustment
9 payment are those provided by physicians employed by or who
10 have a contract to provide services to patients of the
11 following hospitals: (i) Illinois general acute care
12 hospitals that provided at least 17,000 Medicaid inpatient
13 days of care in State fiscal year 2009 and are eligible for
14 Medicaid Percentage Adjustment Payments in rate year 2011;
15 and (ii) Illinois freestanding children's hospitals, as
16 defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

17 (2) The amount of the adjustment for each eligible
18 hospital under this subsection (i) shall be determined by
19 rule by the Department to spend a total pool of at least
20 \$6,960,000 annually. This pool shall be allocated among the
21 eligible hospitals based on the difference between the
22 upper payment limit for what could have been paid under
23 Medicaid for physician services provided during State
24 fiscal year 2009 by physicians employed by or who had a
25 contract with the hospital and the amount that was paid
26 under Medicaid for such services, provided however, that in

1 no event shall physicians at any individual hospital
2 collectively receive an annual, aggregate adjustment in
3 excess of \$435,000, except that any amount that is not
4 distributed to a hospital because of the upper payment
5 limit shall be reallocated among the remaining eligible
6 hospitals that are below the upper payment limitation, on a
7 proportionate basis.

8 (i-5) For any children's hospital which did not charge for
9 its services during the base period, the Department shall use
10 data supplied by the hospital to determine payments using
11 similar methodologies for freestanding children's hospitals
12 under this Section or Section 12.2.

13 (j) For purposes of this Section, a hospital that is
14 enrolled to provide Medicaid services during State fiscal year
15 2009 shall have its utilization and associated reimbursements
16 annualized prior to the payment calculations being performed
17 under this Section.

18 (k) For purposes of this Section, the terms "Medicaid
19 days", "ambulatory procedure listing services", and
20 "ambulatory procedure listing payments" do not include any
21 days, charges, or services for which Medicare or a managed care
22 organization reimbursed on a capitated basis was liable for
23 payment, except where explicitly stated otherwise in this
24 Section.

25 (l) Definitions. Unless the context requires otherwise or
26 unless provided otherwise in this Section, the terms used in

1 this Section for qualifying criteria and payment calculations
2 shall have the same meanings as those terms have been given in
3 the Illinois Department's administrative rules as in effect on
4 October 1, 2011. Other terms shall be defined by the Illinois
5 Department by rule.

6 As used in this Section, unless the context requires
7 otherwise:

8 "Case mix index" means, for a given hospital, the sum of
9 the per admission (DRG) relative weighting factors in effect on
10 January 1, 2005, for all general acute care admissions for
11 State fiscal year 2009, excluding Medicare crossover
12 admissions and transplant admissions reimbursed under 89 Ill.
13 Adm. Code 148.82, divided by the total number of general acute
14 care admissions for State fiscal year 2009, excluding Medicare
15 crossover admissions and transplant admissions reimbursed
16 under 89 Ill. Adm. Code 148.82.

17 "Emergency room ratio" means, for a given hospital, a
18 fraction, the denominator of which is the number of the
19 hospital's outpatient ambulatory procedure listing and
20 end-stage renal disease treatment services provided for State
21 fiscal year 2009 and the numerator of which is the hospital's
22 outpatient ambulatory procedure listing services for
23 categories 3A, 3B, and 3C for State fiscal year 2009.

24 "Medicaid inpatient day" means, for a given hospital, the
25 sum of days of inpatient hospital days provided to recipients
26 of medical assistance under Title XIX of the federal Social

1 Security Act, excluding days for individuals eligible for
2 Medicare under Title XVIII of that Act (Medicaid/Medicare
3 crossover days), as tabulated from the Department's paid claims
4 data for admissions occurring during State fiscal year 2009
5 that was adjudicated by the Department through June 30, 2010.

6 "Outpatient ambulatory procedure listing services" means,
7 for a given hospital, ambulatory procedure listing services, as
8 described in 89 Ill. Adm. Code 148.140(b), provided to
9 recipients of medical assistance under Title XIX of the federal
10 Social Security Act, excluding services for individuals
11 eligible for Medicare under Title XVIII of the Act
12 (Medicaid/Medicare crossover days), as tabulated from the
13 Department's paid claims data for services occurring in State
14 fiscal year 2009 that were adjudicated by the Department
15 through September 2, 2010.

16 "Outpatient end-stage renal disease treatment services"
17 means, for a given hospital, the services, as described in 89
18 Ill. Adm. Code 148.140(c), provided to recipients of medical
19 assistance under Title XIX of the federal Social Security Act,
20 excluding payments for individuals eligible for Medicare under
21 Title XVIII of the Act (Medicaid/Medicare crossover days), as
22 tabulated from the Department's paid claims data for services
23 occurring in State fiscal year 2009 that were adjudicated by
24 the Department through September 2, 2010.

25 (m) The Department may adjust payments made under this
26 Section 5A-12.4 to comply with federal law or regulations

1 regarding hospital-specific payment limitations on
2 government-owned or government-operated hospitals.

3 (n) Notwithstanding any of the other provisions of this
4 Section, the Department is authorized to adopt rules that
5 change the hospital access improvement payments specified in
6 this Section, but only to the extent necessary to conform to
7 any federally approved amendment to the Title XIX State plan.
8 Any such rules shall be adopted by the Department as authorized
9 by Section 5-50 of the Illinois Administrative Procedure Act.
10 Notwithstanding any other provision of law, any changes
11 implemented as a result of this subsection (n) shall be given
12 retroactive effect so that they shall be deemed to have taken
13 effect as of the effective date of this Section.

14 (o) The Department of Healthcare and Family Services must
15 submit a State Medicaid Plan Amendment to the Centers of
16 Medicare and Medicaid Services to implement the payments under
17 this Section within 30 days of the effective date of this Act.

18 (305 ILCS 5/5A-13)

19 Sec. 5A-13. Emergency rulemaking.

20 (a) The Department of Healthcare and Family Services
21 (formerly Department of Public Aid) may adopt rules necessary
22 to implement this amendatory Act of the 94th General Assembly
23 through the use of emergency rulemaking in accordance with
24 Section 5-45 of the Illinois Administrative Procedure Act. For
25 purposes of that Act, the General Assembly finds that the

1 adoption of rules to implement this amendatory Act of the 94th
2 General Assembly is deemed an emergency and necessary for the
3 public interest, safety, and welfare.

4 (b) The Department of Healthcare and Family Services may
5 adopt rules necessary to implement this amendatory Act of the
6 97th General Assembly through the use of emergency rulemaking
7 in accordance with Section 5-45 of the Illinois Administrative
8 Procedure Act. For purposes of that Act, the General Assembly
9 finds that the adoption of rules to implement this amendatory
10 Act of the 97th General Assembly is deemed an emergency and
11 necessary for the public interest, safety, and welfare.

12 (Source: P.A. 94-242, eff. 7-18-05; 95-331, eff. 8-21-07.)

13 (305 ILCS 5/5A-14)

14 Sec. 5A-14. Repeal of assessments and disbursements.

15 (a) Section 5A-2 is repealed on January 1, 2015 ~~July 1,~~
16 ~~2014.~~

17 (b) Section 5A-12 is repealed on July 1, 2005.

18 (c) Section 5A-12.1 is repealed on July 1, 2008.

19 (d) Section 5A-12.2 and Section 5A-12.4 are ~~is~~ repealed on
20 January 1, 2015 ~~July 1, 2014.~~

21 (e) Section 5A-12.3 is repealed on July 1, 2011.

22 (Source: P.A. 95-859, eff. 8-19-08; 96-821, eff. 11-20-09;
23 96-1530, eff. 2-16-11.)

24 (305 ILCS 5/5A-15 new)

1 Sec. 5A-15. Protection of federal revenue.

2 (a) If the federal Centers for Medicare and Medicaid
3 Services finds that any federal upper payment limit applicable
4 to the payments under this Article is exceeded then:

5 (1) the payments under this Article that exceed the
6 applicable federal upper payment limit shall be reduced
7 uniformly to the extent necessary to comply with the
8 applicable federal upper payment limit; and

9 (2) any assessment rate imposed under this Article
10 shall be reduced such that the aggregate assessment is
11 reduced by the same percentage reduction applied in
12 paragraph (1); and

13 (3) any transfers from the Hospital Provider Fund under
14 Section 5A-8 shall be reduced by the same percentage
15 reduction applied in paragraph (1).

16 (b) Any payment reductions made under the authority granted
17 in this Section are exempt from the requirements and actions
18 under Section 5A-10.

19 Section 5-65. The Cigarette Fire Safety Standard Act is
20 amended by adding Section 65 as follows:

21 (425 ILCS 8/65 new)

22 Sec. 65. Cigarette Machine Operators. Cigarettes made or
23 fabricated by cigarette machine operators possessing valid
24 licenses under Section 20 of the Cigarette Machine Operators'

1 Occupation Tax Act are exempt from the provisions of this Act.

2 ARTICLE 99. APPLICABILITY, SEVERABILITY, AND EFFECTIVE DATE

3 Section 90. Applicability. The changes made by this
4 amendatory Act of the 97th General Assembly to the Property Tax
5 Code, the Illinois Income Tax Act, the Use Tax Act, the Service
6 Occupation Tax Act, and the Retailers' Occupation Tax Act shall
7 apply to: (1) all decisions by the Department on or after the
8 effective date of this amendatory Act of the 97th General
9 Assembly regarding entitlement or continued entitlement by
10 hospitals, hospital owners, hospital affiliates, or hospital
11 systems to charitable property tax exemptions; (2) all
12 applications for property tax exemption filed by hospitals,
13 hospital owners, hospital affiliates, or hospital systems on or
14 after the effective date of this amendatory Act of the 97th
15 General Assembly; (3) all applications for property tax
16 exemption filed by hospitals, hospital owners, hospital
17 affiliates, or hospital systems that have either not been
18 decided by the Department before the effective date of this
19 amendatory Act of the 97th General Assembly, or for which any
20 such Department decisions are not final and non-appealable as
21 of that date; (4) all decisions by the Department, on or after
22 the effective date of this amendatory Act of the 97th General
23 Assembly, regarding entitlement by hospitals, hospital owners
24 or hospital affiliates to an exemption or renewal of exemption

1 from the Use Tax Act, the Service Use Tax Act, the Service
2 Occupation Tax Act, and the Retailers' Occupation Tax Act; (5)
3 all applications for exemption or renewal of exemption from the
4 Use Tax Act, the Service Use Tax Act, the Service Occupation
5 Tax Act, and the Retailers' Occupation Tax Act filed by
6 hospitals, hospital owners or hospital affiliates on or after
7 the effective date of this amendatory Act of the 97th General
8 Assembly; and (6) all applications for exemption or renewal of
9 exemption from the Use Tax Act, the Service Use Tax Act, the
10 Service Occupation Tax Act, and the Retailers' Occupation Tax
11 Act filed by hospitals, hospital owners, or hospital affiliates
12 that have either not been decided by the Department before the
13 effective date of this amendatory Act of the 97th General
14 Assembly or for which any such Department decisions are not
15 final and non-appealable as of that date.

16 Section 95. No acceleration or delay. Where this Act makes
17 changes in a statute that is represented in this Act by text
18 that is not yet or no longer in effect (for example, a Section
19 represented by multiple versions), the use of that text does
20 not accelerate or delay the taking effect of (i) the changes
21 made by this Act or (ii) provisions derived from any other
22 Public Act.

23 Section 97. Severability. The provisions of this Act are
24 severable under Section 1.31 of the Statute on Statutes.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.