

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

## Emergency Rules

### UNEMPLOYMENT BENEFITS

The DEPARTMENT OF EMPLOYMENT SECURITY adopted emergency amendments to Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 45 Ill Reg 2267) and Recovery of Benefits (56 IAC 2835; 45 Ill Reg 2274) effective 2/8/21 for a maximum of 150 days. These emergency rules implement provisions of the federal Continued Assistance Act (PL 116-260) that provide states with various options for extending Pandemic Emergency Unemployment Compensation (PEUC) beyond the 2020 benefit year and for waiving recovery of overpaid benefits. Amendments to Part 2720 provide that persons who qualify for PEUC may continue to receive those benefits in place of regular benefits for weeks beginning 12/27/20 and later if their regular benefit amount is at least \$25 per week less than

### COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

what they would receive in PEUC. If the individual has not yet exhausted eligibility for regular benefits, a new benefit year will be established for those benefits, but payment of the regular benefits will be deferred until the individual's PEUC is exhausted. The Part 2835 emergency rule provides that DES will, upon request of an individual, waive its right to recover

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## Proposed Rulemakings

### SALES TAX EXEMPTIONS

The DEPARTMENT OF REVENUE proposed amendments to Retailers' Occupation Tax (86 IAC 130; 45 Ill Reg 2216) listing the conditions and documentation required for tax-free purchases by employees and representatives of exempt entities (e.g., governmental bodies; religious, charitable and educational organizations; non-profit, all-volunteer senior recreational organizations). The rulemaking requires exempt entities to have an active exemption identification number (E-number) on file with DOR in order to make tax-free purchases. E-numbers must be renewed every 5 years and may only be used to make tax-free purchases in furtherance of the organization's purpose. In order for the ROT exemption to apply, an exempt

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**ADOPTED RULES:** Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.  
**PROPOSED RULES:** Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.  
**PEREMPTORY RULES:** Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.  
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.  
**QUESTIONS/COMMENTS:** Submit mail, email or phone calls to the agency personnel listed below each summary.  
**RULE TEXT:** Available on the Secretary of State ([www.cyberdriveillinois.com](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://www.ilga.gov)) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

## Adopted Rules

### TANF BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to Temporary Assistance for Needy Families (89 IAC 112; 44 Ill Reg 16400) effective 2/5/21, replacing an emergency amendment effective 10/1/20. The rulemaking implements the annual TANF benefit increase under PA 101-103, which requires monthly benefits to be equal to at least 30% of the most recent Federal Poverty Level income guidelines for the applicable household size. The minimum child-only TANF grant is now \$239 (formerly \$234) per month for one child and the minimum TANF grant for a single child and caretaker relative is \$431 (formerly \$423) per month.

*Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.*

### SURS TRUSTEES

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted an amendment to Universities Retirement (80 IAC 1600; 44 Ill Reg 15979), effective 2/5/21, establishing the procedure for SURS trustee elections in which the number of winning candidates exceed the number of seats allotted to persons affiliated with the University of Illinois as either current employees or retirees. (Existing statute and rule limits current UI employees to 2 seats and retired UI employees to 1

seat.) If the number of candidates with the highest vote totals exceed these limits (e.g., the top 3 vote getters are all UI retirees) the candidates shall be seated in order beginning with the longest term available until the limit is reached; then, remaining UI affiliated candidates will be disqualified and remaining seats will be filled by non-UI candidates receiving the highest number of votes for that seat.

*Questions/requests for copies: Albert J. Lee, SURS, 1901 Fox Drive, Champaign IL 61820, 217/378-8861 or 217/378-8813.*

## Emergency Rules

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overpayments of PEUC and other forms of pandemic unemployment assistance if it determines that the overpayment was not the fault of the recipient and that recovery would be “contrary to equity and good conscience”. The latter condition will be deemed to have been met if recovery would cause financial hardship to the recipient; if the recipient relinquished a valuable right, or changed positions for the worse, based on those benefits or on a notice of those benefits; or if recovery could be unconscionable under the circumstances. If DES has previously recovered pandemic unemployment benefits from an individual who subsequently receives a waiver under the

emergency rule, those benefits will be refunded. A request for waiver of recovery of any form of federal pandemic unemployment assistance will be treated as a waiver request applying to all forms of this assistance. However, the waiver request will not apply to recoveries of regular or non-pandemic related unemployment assistance. Persons receiving PEUC or other forms of pandemic unemployment assistance are affected by these emergency rules.

*Questions/requests for copies of the 2 DES emergency rules: Kevin Lovellette, DES, 33 S. State St., Room 930, Chicago IL 60603, 312/793-1224, [Kevin.Lovellette@illinois.gov](mailto:Kevin.Lovellette@illinois.gov)*

### ■ BUSINESS FILINGS

The SECRETARY OF STATE adopted emergency amendments to the Parts titled General Not For Profit Corporations (14 IAC 160; 45 Ill Reg 2280), Uniform Limited Partnership Act (2001) (14 IAC 171; 45 Ill Reg 2285) and Limited Liability Company Act (14 IAC 178; 45 Ill Reg 2290) all effective 2/5/21 for a maximum of 150 days. Identical proposed amendments appear in this week’s *Illinois Register* at 45 Ill Reg 2237, 2240 and 2243. These amendments clarify that, although filing deadlines for business documents required under each of these Acts for non-profit corporations, limited

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# Proposed Rulemakings

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entity must make its purchase via a credit card billed directly to the exempt entity and issued in its name; a check drawn on an account belonging only to the exempt entity; or by use of a purchase order billed directly to the exempt entity. Items that are registered or titled by a State agency (e.g., motor vehicles) must be titled/registered only in the name of the exempt entity in order for the purchase to be tax exempt. An exempt entity that knowingly allows its E-number to be used improperly will have its E-number revoked; the entity and any person who knowingly uses the E-number to make purchases for their own benefit will be liable for any taxes and fines, and will also be subject to criminal penalties. Retailers who make tax-exempt sales to exempt entities must keep on file a copy of the entity's tax exemption letter from DOR with its E-number, along with records of all sales to the exempt entity, and must check periodically to verify that the E-number is still active. Retailers must also note the method of payment for each sale for which the ROT exemption is claimed. Employees/representatives of an exempt entity may make limited tax exempt purchases in furtherance of the entity's organizational purpose with their own funds (cash, check or credit cards) provided that the employee/representative annually presents a signed certification letter to each retailer from which these purchases will be made, presents personal identification upon making these purchases, and no

single transaction exceeds \$400. A retailer that fails to keep or provide the documentation required for tax-exempt sales cannot claim the ROT exemption on those sales. Those affected by this rulemaking include non-profit organizations, governmental organizations (including small municipalities), and small businesses that make sales to tax exempt organizations.

*Questions/requests for copies/comments through 4/5/21: Richard S. Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.*

## ■ RENTAL ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed amendments to Rental Housing Support Program (47 IAC 380; 45 Ill Reg 2169) aligning the Part with the Rental Housing Support Program Act and clarifying the responsibilities of landlords, developers, and Local Administering Agencies (LAAs) under the Act. The rulemaking provides that IHDA may award additional allocations to coordinating LAAs that provide technical and administrative assistance to localities that do not have the capacity to administer an allocation. LAAs and developers must establish annually the amount of the tenant contribution to his or her rent, based on the schedule provided by IHDA; a tenant's contribution may increase when this schedule changes. If a landlord disputes any information contained in the quarterly certification form provided by the

LAA, it must specify in writing the information believed to be erroneous and return the form to the LAA within the specified time period. The dispute will be resolved as outlined in IHDA's Program Guide. For an LAA project containing more than 10 (currently, 6) units, no more than 50% (currently, 30%) of the units in that building may receive rental assistance. For projects containing 10 or fewer units, there is no restriction on the number of units receiving rental assistance. For buildings containing 20 or more permanent supportive housing units (for persons at risk of homelessness or institutionalization, or who have disabilities), 100% of units must be rental assistance units. For a Long Term Operating Support (LTOS) new development project containing more than 25 units, no more than 30% of the units may receive rental assistance; for projects containing more than 25 permanent supportive housing units, 100% of units must be rental assistance units. For LTOS projects containing 25 or fewer units, there is no restriction on the number of units that may receive rental assistance. If a tenant's income increases beyond the "extremely low income" limit (30% or less of area median income) during the term of a 12-month lease, the tenant may continue to receive rental assistance for a full 12 months, while contributing a transitional contribution amount set by IHDA. When a tenant's income increases from "severely

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## Proposed Rulemakings

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low income” (15% or less of area median income) to “extremely low income”, the landlord or development shall make every effort to reserve an additional unit for a severely low income tenant. Specific examples of conditions that pose a serious threat to tenant health and safety and which must be corrected within 72 hours (other deficiencies must be corrected within 30 days), are added, including propane or natural gas leaks; exposed electrical wires or open electrical panels; water leaks near electrical equipment; blocked emergency exits, egress or ladders; unusable fire escapes; carbon monoxide hazards; and any other conditions IHDA or an LAA finds to be a health or safety threat. If these deficiencies are not addressed within the specified time period, the landlord/developer must find a replacement unit for the tenant. Landlords and developers must perform a reconciliation every quarter (currently, every 6 months) to determine if they have received

funds in excess of the amount required for rental assistance, and return any excess funds to the funding agency within 30 days. They must maintain the required amount of property insurance for any building that contains one or more units receiving rental assistance and must provide proof of insurance. An LAA's failure to perform to the standards of its commitment to IHDA may prompt IHDA to revoke that commitment prior to its expiration, or to not renew the commitment when it expires. IHDA shall inform the LAA of the reasons for revocation or non-renewal, and the LAA has 30 days to submit a written appeal. If a commitment is revoked or not renewed, the LAA shall pay any remaining amount due to IHDA within 10 days. Similar provisions for IHDA to revoke or not renew its commitment to a developer who fails to perform to its standards are also added. Those affected by this rulemaking include tenants, landlords, municipalities, and developers that participate in the Rental Housing Support Program.

*Questions/requests for copies/ comments through 4/5/21: Susan Kim, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601.*

### SNAP BENEFITS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 45 Ill Reg 2204) that return the current minimum and maximum monthly SNAP benefit levels (enacted by peremptory rule effective 1/29/21) to their FY 2020 levels (minimum benefit of \$16 for 1- or 2-person households; maximums of \$204 for 1 person, \$374 for 2 persons, etc.) DHS is proposing this rulemaking because the current federally mandated benefit increases will expire on 6/30/21 unless extended by federal law or regulations.

*Questions/requests for copies/ comments through 4/5/21: Tracie Drew, DHS, 100 S. Grand Avenue East, 3<sup>rd</sup> Floor, Springfield IL 62762, 217/785-9772.*

## Emergency Rules

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partnerships and LLCs have been extended until 90 days after the expiration of the final COVID-19 Gubernatorial Disaster Proclamation, all statutorily required fees are due at the time of filing and late filing fees are no longer being waived. Non-profits, limited partnerships and limited liability corporations are affected by these emergency rules.

*Questions/requests for copies of the 3 SOS emergency rules: Terry McConville, SOS, 100 W. Randolph St., Suite 5-400, Chicago IL 60601, [tmccconville@ilsos.gov](mailto:tmccconville@ilsos.gov). Comments on the proposed rulemakings through 4/5/21: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, [pwright@ilsos.gov](mailto:pwright@ilsos.gov)*

### JCAR MEMBERSHIP CHANGE

The Joint Committee on Administrative Rules welcomes new member Sen. Donald DeWitte, R-St. Charles. He succeeds former Sen. Paul Schimpf, R-Waterloo.

## Second Notices

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be listed in next week's *Illinois Register* and considered at the March 16, 2021 JCAR meeting. Other items not listed in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### **POLLUTION CONTROL BOARD**

Standards for the Disposal of Coal Combustion Residuals in Surface Impoundments (35 IAC 845; 44 Ill Reg 6696) proposed 5/1/20

### **TORTURE INQUIRY & RELIEF COMMISSION**

Organization, Public Information, Procedures and Rulemaking (2 IAC 3500; 44 Ill Reg 17392) proposed 10/30/20

## JCAR Meeting Action

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At its 2/17/21 meeting, the Joint Committee on Administrative Rules took the following actions:

currently on extended Second Notice, to the 3/16/21 meeting agenda.

### **RECOMMENDATION**

With regard to the Department of Financial and Professional Regulation's rulemaking titled Illinois Roofing Industry Licensing Act (68 IAC 1460; 44 Ill Reg 18546), JCAR recommends that the Department be more timely in implementing new statute. The underlying statute (PA 99-469) became effective on 8/26/15.

### **POSTPONEMENT**

JCAR postponed action on the DFPR rulemaking titled Illinois Professional Land Surveyor Act of 1989 (68 IAC 1270; 44 Ill Reg 16065), which is

### **OTHER**

A motion to object to and prohibit filing of the State Board of Education rulemaking titled Standards for All Illinois Teachers (23 IAC 24; 44 Ill Reg 14574) received 6 yes votes (Sens. Curran, DeWitte, and Rezin; Reps. Demmer, Reick and Wheeler) and 5 no votes (Sens. Cunningham and Munoz; Reps. Halpin, Hurley and Thapedi). However, this motion failed because Sec. 5-115(a) of the Illinois Administrative Procedure Act requires a filing prohibition to be affirmed by at least 3/5 of all appointed members (i.e., 8 out of 12). The rulemaking remained on the No Objection list.

## **Joint Committee on Administrative Rules**

**Senator Bill Cunningham, *co-chair***  
**Senator John F. Curran**  
**Senator Donald DeWitte**  
**Senator Kimberly Lightford**  
**Senator Tony Muñoz**  
**Senator Sue Rezin**

**Representative Tom Demmer**  
**Representative Michael Halpin**  
**Representative Frances Ann Hurley**  
**Representative Steven Reick**  
**Representative André Thapedi**  
**Representative Keith Wheeler, *co-chair***

**Kim Schultz**  
**Executive Director**