

1 AN ACT concerning regulation.

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

4 ARTICLE I. SHORT TITLE, PRIOR LAW, AND DEFINITIONS

5 Section 1-101. Short title. This Act may be cited as the
6 MR/DD Community Care Act.

7 Section 1-101.05. Prior law.

8 (a) This Act provides for licensure of intermediate care
9 facilities for the developmentally disabled and long-term care
10 for under age 22 facilities under this Act instead of under the
11 Nursing Home Care Act. On and after the effective date of this
12 Act, those facilities shall be governed by this Act instead of
13 the Nursing Home Care Act.

14 (b) If any other Act of the General Assembly changes, adds,
15 or repeals a provision of the Nursing Home Care Act that is the
16 same as or substantially similar to a provision of this Act,
17 then that change, addition, or repeal in the Nursing Home Care
18 Act shall be construed together with this Act.

19 (c) Nothing in this Act affects the validity or effect of
20 any finding, decision, or action made or taken by the
21 Department or the Director under the Nursing Home Care Act
22 before the effective date of this Act with respect to a

1 facility subject to licensure under this Act. That finding,
2 decision, or action shall continue to apply to the facility on
3 and after the effective date of this Act. Any finding,
4 decision, or action with respect to the facility made or taken
5 on or after the effective date of this Act shall be made or
6 taken as provided in this Act.

7 Section 1-102. Definitions. For the purposes of this Act,
8 unless the context otherwise requires, the terms defined in
9 this Article have the meanings ascribed to them herein.

10 Section 1-103. Abuse. "Abuse" means any physical or mental
11 injury or sexual assault inflicted on a resident other than by
12 accidental means in a facility.

13 Section 1-104. Access. "Access" means the right to:

14 (1) Enter any facility;

15 (2) Communicate privately and without restriction with
16 any resident who consents to the communication;

17 (3) Seek consent to communicate privately and without
18 restriction with any resident;

19 (4) Inspect the clinical and other records of a
20 resident with the express written consent of the resident;

21 or

22 (5) Observe all areas of the facility except the living
23 area of any resident who protests the observation.

1 Section 1-105. Administrator. "Administrator" means a
2 person who is charged with the general administration and
3 supervision of a facility and licensed, if required, under the
4 Nursing Home Administrators Licensing and Disciplinary Act, as
5 now or hereafter amended.

6 Section 1-106. Affiliate. "Affiliate" means:

7 (1) With respect to a partnership, each partner
8 thereof.

9 (2) With respect to a corporation, each officer,
10 director and stockholder thereof.

11 (3) With respect to a natural person: any person
12 related in the first degree of kinship to that person; each
13 partnership and each partner thereof of which that person
14 or any affiliate of that person is a partner; and each
15 corporation in which that person or any affiliate of that
16 person is an officer, director or stockholder.

17 Section 1-107. Applicant. "Applicant" means any person
18 making application for a license.

19 Section 1-108.1. Complaint classification. "Complaint
20 classification" means the Department shall categorize reports
21 about conditions, care or services in a facility into one of
22 three groups after an investigation:

1 (1) "An invalid report" means any report made under
2 this Act for which it is determined after an investigation
3 that no credible evidence of abuse, neglect or other
4 deficiency relating to the complaint exists;

5 (2) "A valid report" means a report made under this Act
6 if an investigation determines that some credible evidence
7 of the alleged abuse, neglect or other deficiency relating
8 to the complaint exists; and

9 (3) "An undetermined report" means a report made under
10 this Act in which it was not possible to initiate or
11 complete an investigation on the basis of information
12 provided to the Department.

13 Section 1-109. Department. "Department" means the
14 Department of Public Health.

15 Section 1-110. Director. "Director" means the Director of
16 Public Health or his or her designee.

17 Section 1-111. Discharge. "Discharge" means the full
18 release of any resident from a facility.

19 Section 1-112. Emergency. "Emergency" means a situation,
20 physical condition or one or more practices, methods or
21 operations which present imminent danger of death or serious
22 physical or mental harm to residents of a facility.

1 Section 1-113. Facility. "MR/DD facility" or "facility"
2 means an intermediate care facility for the developmentally
3 disabled or a long-term care for under age 22 facility, whether
4 operated for profit or not, which provides, through its
5 ownership or management, personal care or nursing for 3 or more
6 persons not related to the applicant or owner by blood or
7 marriage. It includes intermediate care facilities for the
8 mentally retarded as the term is defined in Title XVIII and
9 Title XIX of the federal Social Security Act.

10 "Facility" does not include the following:

11 (1) A home, institution, or other place operated by the
12 federal government or agency thereof, or by the State of
13 Illinois, other than homes, institutions, or other places
14 operated by or under the authority of the Illinois
15 Department of Veterans' Affairs;

16 (2) A hospital, sanitarium, or other institution whose
17 principal activity or business is the diagnosis, care, and
18 treatment of human illness through the maintenance and
19 operation as organized facilities therefore, which is
20 required to be licensed under the Hospital Licensing Act;

21 (3) Any "facility for child care" as defined in the
22 Child Care Act of 1969;

23 (4) Any "community living facility" as defined in the
24 Community Living Facilities Licensing Act;

25 (5) Any "community residential alternative" as defined

1 in the Community Residential Alternatives Licensing Act;

2 (6) Any nursing home or sanatorium operated solely by
3 and for persons who rely exclusively upon treatment by
4 spiritual means through prayer, in accordance with the
5 creed or tenets of any well recognized church or religious
6 denomination. However, such nursing home or sanatorium
7 shall comply with all local laws and rules relating to
8 sanitation and safety;

9 (7) Any facility licensed by the Department of Human
10 Services as a community integrated living arrangement as
11 defined in the Community Integrated Living Arrangements
12 Licensure and Certification Act;

13 (8) Any "supportive residence" licensed under the
14 Supportive Residences Licensing Act;

15 (9) Any "supportive living facility" in good standing
16 with the program established under Section 5-5.01a of the
17 Illinois Public Aid Code, except only for purposes of the
18 employment of persons in accordance with Section 3-206.01;

19 (10) Any assisted living or shared housing
20 establishment licensed under the Assisted Living and
21 Shared Housing Act, except only for purposes of the
22 employment of persons in accordance with Section 3-206.01;

23 (11) An Alzheimer's disease management center
24 alternative health care model licensed under the
25 Alternative Health Care Delivery Act; or

26 (12) A home, institution, or other place operated by or

1 under the authority of the Illinois Department of Veterans'
2 Affairs.

3 Section 1-114. Guardian. "Guardian" means a person
4 appointed as a guardian of the person or guardian of the
5 estate, or both, of a resident under the "Probate Act of 1975",
6 as now or hereafter amended.

7 Section 1-114.01. Identified offender. "Identified
8 offender" means a person who has been convicted of any felony
9 offense listed in Section 25 of the Health Care Worker
10 Background Check Act, is a registered sex offender, or is
11 serving a term of parole, mandatory supervised release, or
12 probation for a felony offense.

13 Section 1-114.1. Immediate family. "Immediate family"
14 means the spouse, an adult child, a parent, an adult brother or
15 sister, or an adult grandchild of a person.

16 Section 1-115. Licensee. "Licensee" means the individual
17 or entity licensed by the Department to operate the facility.

18 Section 1-116. Maintenance. "Maintenance" means food,
19 shelter and laundry services.

20 Section 1-116.5. Misappropriation of a resident's

1 property. "Misappropriation of a resident's property" means
2 the deliberate misplacement, exploitation, or wrongful
3 temporary or permanent use of a resident's belongings or money
4 without the resident's consent.

5 Section 1-117. Neglect. "Neglect" means a failure in a
6 facility to provide adequate medical or personal care or
7 maintenance, which failure results in physical or mental injury
8 to a resident or in the deterioration of a resident's physical
9 or mental condition.

10 Section 1-118. Nurse. "Nurse" means a registered nurse or a
11 licensed practical nurse as defined in the Nurse Practice Act.

12 Section 1-119. Owner. "Owner" means the individual,
13 partnership, corporation, association or other person who owns
14 a facility. In the event a facility is operated by a person who
15 leases the physical plant, which is owned by another person,
16 "owner" means the person who operates the facility, except that
17 if the person who owns the physical plant is an affiliate of
18 the person who operates the facility and has significant
19 control over the day to day operations of the facility, the
20 person who owns the physical plant shall incur jointly and
21 severally with the owner all liabilities imposed on an owner
22 under this Act.

1 Section 1-120. Personal care. "Personal care" means
2 assistance with meals, dressing, movement, bathing or other
3 personal needs or maintenance, or general supervision and
4 oversight of the physical and mental well being of an
5 individual, who is incapable of maintaining a private,
6 independent residence or who is incapable of managing his or
7 her person whether or not a guardian has been appointed for
8 such individual.

9 Section 1-121. Reasonable hour. "Reasonable hour" means
10 any time between the hours of 10 a.m. and 8 p.m. daily.

11 Section 1-122. Resident. "Resident" means a person
12 residing in and receiving personal care from a facility.

13 Section 1-123. Resident's representative. "Resident's
14 representative" means a person other than the owner, or an
15 agent or employee of a facility not related to the resident,
16 designated in writing by a resident to be his or her
17 representative, or the resident's guardian, or the parent of a
18 minor resident for whom no guardian has been appointed.

19 Section 1-125. Stockholder. "Stockholder" of a corporation
20 means any person who, directly or indirectly, beneficially
21 owns, holds or has the power to vote, at least 5% of any class
22 of securities issued by the corporation.

1 Section 1-125.1. Student intern. "Student intern" means
2 any person whose total term of employment in any facility
3 during any 12-month period is equal to or less than 90
4 continuous days, and whose term of employment is either:

5 (1) an academic credit requirement in a high school or
6 undergraduate institution, or

7 (2) immediately succeeds a full quarter, semester or
8 trimester of academic enrollment in either a high school or
9 undergraduate institution, provided that such person is
10 registered for another full quarter, semester or trimester
11 of academic enrollment in either a high school or
12 undergraduate institution which quarter, semester or
13 trimester will commence immediately following the term of
14 employment.

15 Section 1-126. Title XVIII. "Title XVIII" means Title XVIII
16 of the federal Social Security Act as now or hereafter amended.

17 Section 1-127. Title XIX. "Title XIX" means Title XIX of
18 the federal Social Security Act as now or hereafter amended.

19 Section 1-128. Transfer. "Transfer" means a change in
20 status of a resident's living arrangements from one facility to
21 another facility.

1 Section 1-129. Type 'A' violation. A "Type 'A' violation"
2 means a violation of this Act or of the rules promulgated
3 thereunder which creates a condition or occurrence relating to
4 the operation and maintenance of a facility presenting a
5 substantial probability that death or serious mental or
6 physical harm to a resident will result therefrom.

7 Section 1-130. Type 'B' violation. A "Type 'B' violation"
8 means a violation of this Act or of the rules promulgated
9 thereunder which creates a condition or occurrence relating to
10 the operation and maintenance of a facility directly
11 threatening to the health, safety or welfare of a resident.

12 ARTICLE II. RIGHTS AND RESPONSIBILITIES

13 PART 1. RESIDENT RIGHTS

14 Section 2-101. Constitutional and legal rights. No
15 resident shall be deprived of any rights, benefits, or
16 privileges guaranteed by law, the Constitution of the State of
17 Illinois, or the Constitution of the United States solely on
18 account of his or her status as a resident of a facility.

19 Section 2-101.1. Spousal impoverishment. All new residents
20 and their spouses shall be informed on admittance of their
21 spousal impoverishment rights as defined at Section 5-4 of the

1 Illinois Public Aid Code, as now or hereafter amended and at
2 Section 303 of Title III of the Medicare Catastrophic Coverage
3 Act of 1988 (P.L. 100 360).

4 Section 2-102. Financial affairs. A resident shall be
5 permitted to manage his or her own financial affairs unless he
6 or she or his or her guardian or if the resident is a minor, his
7 or her parent, authorizes the administrator of the facility in
8 writing to manage such resident's financial affairs under
9 Section 2-201 of this Act.

10 Section 2-103. Personal property. A resident shall be
11 permitted to retain and use or wear his or her personal
12 property in his or her immediate living quarters, unless deemed
13 medically inappropriate by a physician and so documented in the
14 resident's clinical record. If clothing is provided to the
15 resident by the facility, it shall be of a proper fit.

16 The facility shall provide adequate storage space for the
17 personal property of the resident. The facility shall provide a
18 means of safeguarding small items of value for its residents in
19 their rooms or in any other part of the facility so long as the
20 residents have daily access to such valuables. The facility
21 shall make reasonable efforts to prevent loss and theft of
22 residents' property. Those efforts shall be appropriate to the
23 particular facility and may include, but are not limited to,
24 staff training and monitoring, labeling property, and frequent

1 property inventories. The facility shall develop procedures
2 for investigating complaints concerning theft of residents'
3 property and shall promptly investigate all such complaints.

4 Section 2-104. Medical treatment; records.

5 (a) A resident shall be permitted to retain the services of
6 his or her own personal physician at his or her own expense or
7 under an individual or group plan of health insurance, or under
8 any public or private assistance program providing such
9 coverage. However, the facility is not liable for the
10 negligence of any such personal physician. Every resident shall
11 be permitted to obtain from his or her own physician or the
12 physician attached to the facility complete and current
13 information concerning his or her medical diagnosis, treatment
14 and prognosis in terms and language the resident can reasonably
15 be expected to understand. Every resident shall be permitted to
16 participate in the planning of his or her total care and
17 medical treatment to the extent that his or her condition
18 permits. No resident shall be subjected to experimental
19 research or treatment without first obtaining his or her
20 informed, written consent. The conduct of any experimental
21 research or treatment shall be authorized and monitored by an
22 institutional review committee appointed by the administrator
23 of the facility where such research and treatment is conducted.
24 The membership, operating procedures and review criteria for
25 institutional review committees shall be prescribed under

1 rules and regulations of the Department.

2 (b) All medical treatment and procedures shall be
3 administered as ordered by a physician. All new physician
4 orders shall be reviewed by the facility's director of nursing
5 or charge nurse designee within 24 hours after such orders have
6 been issued to assure facility compliance with such orders.

7 According to rules adopted by the Department, every woman
8 resident of child bearing age shall receive routine obstetrical
9 and gynecological evaluations as well as necessary prenatal
10 care.

11 (c) Every resident shall be permitted to refuse medical
12 treatment and to know the consequences of such action, unless
13 such refusal would be harmful to the health and safety of
14 others and such harm is documented by a physician in the
15 resident's clinical record. The resident's refusal shall free
16 the facility from the obligation to provide the treatment.

17 (d) Every resident, resident's guardian, or parent if the
18 resident is a minor shall be permitted to inspect and copy all
19 his or her clinical and other records concerning his or her
20 care and maintenance kept by the facility or by his or her
21 physician. The facility may charge a reasonable fee for
22 duplication of a record.

23 Section 2-104.1. Transfer of facility ownership after
24 license suspension or revocation. Whenever ownership of a
25 private facility is transferred to another private owner

1 following a final order for a suspension or revocation of the
2 facility's license, the new owner, if the Department so
3 determines, shall thoroughly evaluate the condition and needs
4 of each resident as if each resident were being newly admitted
5 to the facility. The evaluation shall include a review of the
6 medical record and the conduct of a physical examination of
7 each resident which shall be performed within 30 days after the
8 transfer of ownership.

9 Section 2-104.2. Do Not Resuscitate Orders. Every facility
10 licensed under this Act shall establish a policy for the
11 implementation of physician orders limiting resuscitation such
12 as those commonly referred to as "Do Not Resuscitate" orders.
13 This policy may only prescribe the format, method of
14 documentation and duration of any physician orders limiting
15 resuscitation. Any orders under this policy shall be honored by
16 the facility. The Department of Public Health Uniform DNR Order
17 form or a copy of that form shall be honored by the facility.

18 Section 2-105. Privacy. A resident shall be permitted
19 respect and privacy in his or her medical and personal care
20 program. Every resident's case discussion, consultation,
21 examination and treatment shall be confidential and shall be
22 conducted discreetly, and those persons not directly involved
23 in the resident's care must have the resident's permission to
24 be present.

1 Section 2-106. Restraints and confinements.

2 (a) For purposes of this Act:

3 (i) A physical restraint is any manual method or
4 physical or mechanical device, material, or equipment
5 attached or adjacent to a resident's body that the resident
6 cannot remove easily and restricts freedom of movement or
7 normal access to one's body. Devices used for positioning,
8 including but not limited to bed rails, gait belts, and
9 cushions, shall not be considered to be restraints for
10 purposes of this Section.

11 (ii) A chemical restraint is any drug used for
12 discipline or convenience and not required to treat medical
13 symptoms. The Department shall by rule, designate certain
14 devices as restraints, including at least all those devices
15 which have been determined to be restraints by the United
16 States Department of Health and Human Services in
17 interpretive guidelines issued for the purposes of
18 administering Titles XVIII and XIX of the Social Security
19 Act.

20 (b) Neither restraints nor confinements shall be employed
21 for the purpose of punishment or for the convenience of any
22 facility personnel. No restraints or confinements shall be
23 employed except as ordered by a physician who documents the
24 need for such restraints or confinements in the resident's
25 clinical record. Each facility licensed under this Act must

1 have a written policy to address the use of restraints and
2 seclusion. The Department shall establish by rule the
3 provisions that the policy must include, which, to the extent
4 practicable, should be consistent with the requirements for
5 participation in the federal Medicare program. Each policy
6 shall include periodic review of the use of restraints.

7 (c) A restraint may be used only with the informed consent
8 of the resident, the resident's guardian, or other authorized
9 representative. A restraint may be used only for specific
10 periods, if it is the least restrictive means necessary to
11 attain and maintain the resident's highest practicable
12 physical, mental or psychosocial well being, including brief
13 periods of time to provide necessary life saving treatment. A
14 restraint may be used only after consultation with appropriate
15 health professionals, such as occupational or physical
16 therapists, and a trial of less restrictive measures has led to
17 the determination that the use of less restrictive measures
18 would not attain or maintain the resident's highest practicable
19 physical, mental or psychosocial well being. However, if the
20 resident needs emergency care, restraints may be used for brief
21 periods to permit medical treatment to proceed unless the
22 facility has notice that the resident has previously made a
23 valid refusal of the treatment in question.

24 (d) A restraint may be applied only by a person trained in
25 the application of the particular type of restraint.

26 (e) Whenever a period of use of a restraint is initiated,

1 the resident shall be advised of his or her right to have a
2 person or organization of his or her choosing, including the
3 Guardianship and Advocacy Commission, notified of the use of
4 the restraint. A recipient who is under guardianship may
5 request that a person or organization of his or her choosing be
6 notified of the restraint, whether or not the guardian approves
7 the notice. If the resident so chooses, the facility shall make
8 the notification within 24 hours, including any information
9 about the period of time that the restraint is to be used.
10 Whenever the Guardianship and Advocacy Commission is notified
11 that a resident has been restrained, it shall contact the
12 resident to determine the circumstances of the restraint and
13 whether further action is warranted.

14 (f) Whenever a restraint is used on a resident whose
15 primary mode of communication is sign language, the resident
16 shall be permitted to have his or her hands free from restraint
17 for brief periods each hour, except when this freedom may
18 result in physical harm to the resident or others.

19 (g) The requirements of this Section are intended to
20 control in any conflict with the requirements of Sections 1-126
21 and 2-108 of the Mental Health and Developmental Disabilities
22 Code.

23 Section 2-106.1. Drug treatment.

24 (a) A resident shall not be given unnecessary drugs. An
25 unnecessary drug is any drug used in an excessive dose,

1 including in duplicative therapy; for excessive duration;
2 without adequate monitoring; without adequate indications for
3 its use; or in the presence of adverse consequences that
4 indicate the drugs should be reduced or discontinued. The
5 Department shall adopt, by rule, the standards for unnecessary
6 drugs contained in interpretive guidelines issued by the United
7 States Department of Health and Human Services for the purposes
8 of administering Titles XVIII and XIX of the Social Security
9 Act.

10 (b) Psychotropic medication shall not be prescribed
11 without the informed consent of the resident, the resident's
12 guardian, or other authorized representative. "Psychotropic
13 medication" means medication that is used for or listed as used
14 for antipsychotic, antidepressant, antimanic, or antianxiety
15 behavior modification or behavior management purposes in the
16 latest editions of the AMA Drug Evaluations or the Physician's
17 Desk Reference.

18 (c) The requirements of this Section are intended to
19 control in a conflict with the requirements of Sections 2-102
20 and 2-107.2 of the Mental Health and Developmental Disabilities
21 Code with respect to the administration of psychotropic
22 medication.

23 Section 2-106a. Resident identification wristlet. No
24 identification wristlets shall be employed except as ordered by
25 a physician who documents the need for such mandatory

1 identification in the resident's clinical record. When
2 identification bracelets are required, they must identify the
3 resident's name, and the name and address of the facility
4 issuing the identification wristlet.

5 Section 2-107. Abuse or neglect; duty to report. An owner,
6 licensee, administrator, employee or agent of a facility shall
7 not abuse or neglect a resident. It is the duty of any facility
8 employee or agent who becomes aware of such abuse or neglect to
9 report it as provided in the Abused and Neglected Long Term
10 Care Facility Residents Reporting Act.

11 Section 2-108. Communications; visits; married residents.
12 Every resident shall be permitted unimpeded, private and
13 uncensored communication of his or her choice by mail, public
14 telephone or visitation.

15 (a) The administrator shall ensure that correspondence is
16 conveniently received and mailed, and that telephones are
17 reasonably accessible.

18 (b) The administrator shall ensure that residents may have
19 private visits at any reasonable hour unless such visits are
20 not medically advisable for the resident as documented in the
21 resident's clinical record by the resident's physician.

22 (c) The administrator shall ensure that space for visits is
23 available and that facility personnel knock, except in an
24 emergency, before entering any resident's room.

1 (d) Unimpeded, private and uncensored communication by
2 mail, public telephone and visitation may be reasonably
3 restricted by a physician only in order to protect the resident
4 or others from harm, harassment or intimidation, provided that
5 the reason for any such restriction is placed in the resident's
6 clinical record by the physician and that notice of such
7 restriction shall be given to all residents upon admission.
8 However, all letters addressed by a resident to the Governor,
9 members of the General Assembly, Attorney General, judges,
10 state's attorneys, officers of the Department, or licensed
11 attorneys at law shall be forwarded at once to the persons to
12 whom they are addressed without examination by facility
13 personnel. Letters in reply from the officials and attorneys
14 mentioned above shall be delivered to the recipient without
15 examination by facility personnel.

16 (e) The administrator shall ensure that married residents
17 residing in the same facility be allowed to reside in the same
18 room within the facility unless there is no room available in
19 the facility or it is deemed medically inadvisable by the
20 residents' attending physician and so documented in the
21 residents' medical records.

22 Section 2-109. Religion. A resident shall be permitted the
23 free exercise of religion. Upon a resident's request, and if
24 necessary at the resident's expense, the administrator shall
25 make arrangements for a resident's attendance at religious

1 services of the resident's choice. However, no religious
2 beliefs or practices, or attendance at religious services, may
3 be imposed upon any resident.

4 Section 2-110. Access to residents.

5 (a) Any employee or agent of a public agency, any
6 representative of a community legal services program or any
7 other member of the general public shall be permitted access at
8 reasonable hours to any individual resident of any facility,
9 but only if there is neither a commercial purpose nor effect to
10 such access and if the purpose is to do any of the following:

11 (1) Visit, talk with and make personal, social and
12 legal services available to all residents;

13 (2) Inform residents of their rights and entitlements
14 and their corresponding obligations, under federal and
15 State laws, by means of educational materials and
16 discussions in groups and with individual residents;

17 (3) Assist residents in asserting their legal rights
18 regarding claims for public assistance, medical assistance
19 and social security benefits, as well as in all other
20 matters in which residents are aggrieved. Assistance may
21 include counseling and litigation; or

22 (4) Engage in other methods of asserting, advising and
23 representing residents so as to extend to them full
24 enjoyment of their rights.

25 (a-5) If a resident of a licensed facility is an identified

1 offender, any federal, State, or local law enforcement officer
2 or county probation officer shall be permitted reasonable
3 access to the individual resident to verify compliance with the
4 requirements of the Sex Offender Registration Act or to verify
5 compliance with applicable terms of probation, parole, or
6 mandatory supervised release.

7 (b) All persons entering a facility under this Section
8 shall promptly notify appropriate facility personnel of their
9 presence. They shall, upon request, produce identification to
10 establish their identity. No such person shall enter the
11 immediate living area of any resident without first identifying
12 himself or herself and then receiving permission from the
13 resident to enter. The rights of other residents present in the
14 room shall be respected. A resident may terminate at any time a
15 visit by a person having access to the resident's living area
16 under this Section.

17 (c) This Section shall not limit the power of the
18 Department or other public agency otherwise permitted or
19 required by law to enter and inspect a facility.

20 (d) Notwithstanding paragraph (a) of this Section, the
21 administrator of a facility may refuse access to the facility
22 to any person if the presence of that person in the facility
23 would be injurious to the health and safety of a resident or
24 would threaten the security of the property of a resident or
25 the facility, or if the person seeks access to the facility for
26 commercial purposes. Any person refused access to a facility

1 may within 10 days request a hearing under Section 3-703. In
2 that proceeding, the burden of proof as to the right of the
3 facility to refuse access under this Section shall be on the
4 facility.

5 Section 2-111. Discharge. A resident may be discharged from
6 a facility after he or she gives the administrator, a
7 physician, or a nurse of the facility written notice of his or
8 her desire to be discharged. If a guardian has been appointed
9 for a resident or if the resident is a minor, the resident
10 shall be discharged upon written consent of his or her guardian
11 or if the resident is a minor, his or her parent unless there
12 is a court order to the contrary. In such cases, upon the
13 resident's discharge, the facility is relieved from any
14 responsibility for the resident's care, safety or well being.

15 Section 2-112. Grievances. A resident shall be permitted to
16 present grievances on behalf of himself or herself or others to
17 the administrator, the Long-Term Care Facility Advisory Board
18 established under Section 2-204 of the Nursing Home Care Act,
19 the residents' advisory council, State governmental agencies
20 or other persons without threat of discharge or reprisal in any
21 form or manner whatsoever. The administrator shall provide all
22 residents or their representatives with the name, address, and
23 telephone number of the appropriate State governmental office
24 where complaints may be lodged.

1 or the resident's representative, if any, or the resident's
2 immediate family member, if any; such authorization shall be
3 attested to by a witness who has no pecuniary interest in the
4 facility or its operations, and who is not connected in any way
5 to facility personnel or the administrator in any manner
6 whatsoever.

7 (3) Shall maintain and allow, in order of priority, each
8 resident or the resident's guardian, if any, or the resident's
9 representative, if any, or the resident's immediate family
10 member, if any, access to a written record of all financial
11 arrangements and transactions involving the individual
12 resident's funds.

13 (4) Shall provide, in order of priority, each resident, or
14 the resident's guardian, if any, or the resident's
15 representative, if any, or the resident's immediate family
16 member, if any, with a written itemized statement at least
17 quarterly, of all financial transactions involving the
18 resident's funds.

19 (5) Shall purchase a surety bond, or otherwise provide
20 assurance satisfactory to the Departments of Public Health and
21 Financial and Professional Regulation that all residents'
22 personal funds deposited with the facility are secure against
23 loss, theft, and insolvency.

24 (6) Shall keep any funds received from a resident for
25 safekeeping in an account separate from the facility's funds,
26 and shall at no time withdraw any part or all of such funds for

1 any purpose other than to return the funds to the resident upon
2 the request of the resident or any other person entitled to
3 make such request, to pay the resident his or her allowance, or
4 to make any other payment authorized by the resident or any
5 other person entitled to make such authorization.

6 (7) Shall deposit any funds received from a resident in
7 excess of \$100 in an interest bearing account insured by
8 agencies of, or corporations chartered by, the State or federal
9 government. The account shall be in a form which clearly
10 indicates that the facility has only a fiduciary interest in
11 the funds and any interest from the account shall accrue to the
12 resident. The facility may keep up to \$100 of a resident's
13 money in a non-interest-bearing account or petty cash fund, to
14 be readily available for the resident's current expenditures.

15 (8) Shall return to the resident, or the person who
16 executed the written authorization required in subsection (2)
17 of this Section, upon written request, all or any part of the
18 resident's funds given the facility for safekeeping, including
19 the interest accrued from deposits.

20 (9) Shall (a) place any monthly allowance to which a
21 resident is entitled in that resident's personal account, or
22 give it to the resident, unless the facility has written
23 authorization from the resident or the resident's guardian or
24 if the resident is a minor, his parent, to handle it
25 differently, (b) take all steps necessary to ensure that a
26 personal needs allowance that is placed in a resident's

1 personal account is used exclusively by the resident or for the
2 benefit of the resident, and (c) where such funds are withdrawn
3 from the resident's personal account by any person other than
4 the resident, require such person to whom funds constituting
5 any part of a resident's personal needs allowance are released,
6 to execute an affidavit that such funds shall be used
7 exclusively for the benefit of the resident.

8 (10) Unless otherwise provided by State law, upon the death
9 of a resident, shall provide the executor or administrator of
10 the resident's estate with a complete accounting of all the
11 resident's personal property, including any funds of the
12 resident being held by the facility.

13 (11) If an adult resident is incapable of managing his or
14 her funds and does not have a resident's representative,
15 guardian, or an immediate family member, shall notify the
16 Office of the State Guardian of the Guardianship and Advocacy
17 Commission.

18 (12) If the facility is sold, shall provide the buyer with
19 a written verification by a public accountant of all residents'
20 monies and properties being transferred, and obtain a signed
21 receipt from the new owner.

22 Section 2-201.5. Screening prior to admission.

23 (a) All persons age 18 or older seeking admission to a
24 facility must be screened to determine the need for facility
25 services prior to being admitted, regardless of income, assets,

1 or funding source. In addition, any person who seeks to become
2 eligible for medical assistance from the Medical Assistance
3 Program under the Illinois Public Aid Code to pay for services
4 while residing in a facility must be screened prior to
5 receiving those benefits. Screening for facility services
6 shall be administered through procedures established by
7 administrative rule. Screening may be done by agencies other
8 than the Department as established by administrative rule.

9 (b) In addition to the screening required by subsection
10 (a), identified offenders who seek admission to a licensed
11 facility shall not be admitted unless the licensed facility
12 complies with the requirements of the Department's
13 administrative rules adopted pursuant to Section 3-202.3.

14 Section 2-202. Contract required.

15 (a) Before a person is admitted to a facility, or at the
16 expiration of the period of previous contract, or when the
17 source of payment for the resident's care changes from private
18 to public funds or from public to private funds, a written
19 contract shall be executed between a licensee and the following
20 in order of priority:

21 (1) the person, or if the person is a minor, his parent
22 or guardian; or

23 (2) the person's guardian, if any, or agent, if any, as
24 defined in Section 2-3 of the Illinois Power of Attorney
25 Act; or

1 (3) a member of the person's immediate family.

2 An adult person shall be presumed to have the capacity to
3 contract for admission to a long term care facility unless he
4 or she has been adjudicated a "disabled person" within the
5 meaning of Section 11a-2 of the Probate Act of 1975, or unless
6 a petition for such an adjudication is pending in a circuit
7 court of Illinois.

8 If there is no guardian, agent or member of the person's
9 immediate family available, able or willing to execute the
10 contract required by this Section and a physician determines
11 that a person is so disabled as to be unable to consent to
12 placement in a facility, or if a person has already been found
13 to be a "disabled person", but no order has been entered
14 allowing residential placement of the person, that person may
15 be admitted to a facility before the execution of a contract
16 required by this Section; provided that a petition for
17 guardianship or for modification of guardianship is filed
18 within 15 days of the person's admission to a facility, and
19 provided further that such a contract is executed within 10
20 days of the disposition of the petition.

21 No adult shall be admitted to a facility if he or she
22 objects, orally or in writing, to such admission, except as
23 otherwise provided in Chapters III and IV of the Mental Health
24 and Developmental Disabilities Code or Section 11a-14.1 of the
25 Probate Act of 1975.

26 Before a licensee enters a contract under this Section, it

1 shall provide the prospective resident and his or her guardian,
2 if any, with written notice of the licensee's policy regarding
3 discharge of a resident whose private funds for payment of care
4 are exhausted.

5 (b) A resident shall not be discharged or transferred at
6 the expiration of the term of a contract, except as provided in
7 Sections 3-401 through 3-423.

8 (c) At the time of the resident's admission to the
9 facility, a copy of the contract shall be given to the
10 resident, his or her guardian, if any, and any other person who
11 executed the contract.

12 (d) A copy of the contract for a resident who is supported
13 by nonpublic funds other than the resident's own funds shall be
14 made available to the person providing the funds for the
15 resident's support.

16 (e) The original or a copy of the contract shall be
17 maintained in the facility and be made available upon request
18 to representatives of the Department and the Department of
19 Healthcare and Family Services.

20 (f) The contract shall be written in clear and unambiguous
21 language and shall be printed in not less than 12-point type.
22 The general form of the contract shall be prescribed by the
23 Department.

24 (g) The contract shall specify:

25 (1) the term of the contract;

26 (2) the services to be provided under the contract and

1 the charges for the services;

2 (3) the services that may be provided to supplement the
3 contract and the charges for the services;

4 (4) the sources liable for payments due under the
5 contract;

6 (5) the amount of deposit paid; and

7 (6) the rights, duties and obligations of the resident,
8 except that the specification of a resident's rights may be
9 furnished on a separate document which complies with the
10 requirements of Section 2-211.

11 (h) The contract shall designate the name of the resident's
12 representative, if any. The resident shall provide the facility
13 with a copy of the written agreement between the resident and
14 the resident's representative which authorizes the resident's
15 representative to inspect and copy the resident's records and
16 authorizes the resident's representative to execute the
17 contract on behalf of the resident required by this Section.

18 (i) The contract shall provide that if the resident is
19 compelled by a change in physical or mental health to leave the
20 facility, the contract and all obligations under it shall
21 terminate on 7 days' notice. No prior notice of termination of
22 the contract shall be required, however, in the case of a
23 resident's death. The contract shall also provide that in all
24 other situations, a resident may terminate the contract and all
25 obligations under it with 30 days' notice. All charges shall be
26 prorated as of the date on which the contract terminates, and,

1 if any payments have been made in advance, the excess shall be
2 refunded to the resident. This provision shall not apply to
3 life care contracts through which a facility agrees to provide
4 maintenance and care for a resident throughout the remainder of
5 his life nor to continuing care contracts through which a
6 facility agrees to supplement all available forms of financial
7 support in providing maintenance and care for a resident
8 throughout the remainder of his or her life.

9 (j) In addition to all other contract specifications
10 contained in this Section admission contracts shall also
11 specify:

12 (1) whether the facility accepts Medicaid clients;

13 (2) whether the facility requires a deposit of the
14 resident or his or her family prior to the establishment of
15 Medicaid eligibility;

16 (3) in the event that a deposit is required, a clear
17 and concise statement of the procedure to be followed for
18 the return of such deposit to the resident or the
19 appropriate family member or guardian of the person;

20 (4) that all deposits made to a facility by a resident,
21 or on behalf of a resident, shall be returned by the
22 facility within 30 days of the establishment of Medicaid
23 eligibility, unless such deposits must be drawn upon or
24 encumbered in accordance with Medicaid eligibility
25 requirements established by the Department of Healthcare
26 and Family Services.

1 (k) It shall be a business offense for a facility to
2 knowingly and intentionally both retain a resident's deposit
3 and accept Medicaid payments on behalf of that resident.

4 Section 2-203. Residents' advisory council. Each facility
5 shall establish a residents' advisory council. The
6 administrator shall designate a member of the facility staff to
7 coordinate the establishment of, and render assistance to, the
8 council.

9 (a) The composition of the residents' advisory council
10 shall be specified by Department regulation, but no employee or
11 affiliate of a facility shall be a member of any council.

12 (b) The council shall meet at least once each month with
13 the staff coordinator who shall provide assistance to the
14 council in preparing and disseminating a report of each meeting
15 to all residents, the administrator, and the staff.

16 (c) Records of the council meetings will be maintained in
17 the office of the administrator.

18 (d) The residents' advisory council may communicate to the
19 administrator the opinions and concerns of the residents. The
20 council shall review procedures for implementing resident
21 rights, facility responsibilities and make recommendations for
22 changes or additions which will strengthen the facility's
23 policies and procedures as they affect residents' rights and
24 facility responsibilities.

25 (e) The council shall be a forum for:

- 1 (1) Obtaining and disseminating information;
- 2 (2) Soliciting and adopting recommendations for
3 facility programing and improvements;
- 4 (3) Early identification and for recommending orderly
5 resolution of problems.
- 6 (f) The council may present complaints as provided in
7 Section 3-702 on behalf of a resident to the Department, the
8 Long-Term Care Facility Advisory Board established under
9 Section 2-204 of the Nursing Home Care Act or to any other
10 person it considers appropriate.

11 Section 2-204. Long-Term Care Facility Advisory Board. The
12 Long-Term Care Facility Advisory Board established under
13 Section 2-204 of the Nursing Home Care Act shall advise the
14 Department of Public Health on all aspects of its
15 responsibilities under this Act, including the format and
16 content of any rules promulgated by the Department of Public
17 Health. Any such rules, except emergency rules promulgated
18 pursuant to Section 5-45 of the Illinois Administrative
19 Procedure Act, promulgated without obtaining the advice of the
20 Advisory Board are null and void. In the event that the
21 Department fails to follow the advice of the Board, the
22 Department shall, prior to the promulgation of such rules,
23 transmit a written explanation of the reason thereof to the
24 Board. During its review of rules, the Board shall analyze the
25 economic and regulatory impact of those rules. If the Advisory

1 Board, having been asked for its advice, fails to advise the
2 Department within 90 days, the rules shall be considered acted
3 upon.

4 Section 2-205. Disclosure of information to public. The
5 following information is subject to disclosure to the public
6 from the Department or the Department of Healthcare and Family
7 Services:

8 (1) Information submitted under Sections 3-103 and
9 3-207 except information concerning the remuneration of
10 personnel licensed, registered, or certified by the
11 Department of Financial and Professional Regulation (as
12 successor to the Department of Professional Regulation)
13 and monthly charges for an individual private resident;

14 (2) Records of license and certification inspections,
15 surveys, and evaluations of facilities, other reports of
16 inspections, surveys, and evaluations of resident care,
17 and reports concerning a facility prepared pursuant to
18 Titles XVIII and XIX of the Social Security Act, subject to
19 the provisions of the Social Security Act;

20 (3) Cost and reimbursement reports submitted by a
21 facility under Section 3-208, reports of audits of
22 facilities, and other public records concerning costs
23 incurred by, revenues received by, and reimbursement of
24 facilities; and

25 (4) Complaints filed against a facility and complaint

1 investigation reports, except that a complaint or
2 complaint investigation report shall not be disclosed to a
3 person other than the complainant or complainant's
4 representative before it is disclosed to a facility under
5 Section 3-702, and, further, except that a complainant or
6 resident's name shall not be disclosed except under Section
7 3-702. The Department shall disclose information under
8 this Section in accordance with provisions for inspection
9 and copying of public records required by the Freedom of
10 Information Act. However, the disclosure of information
11 described in subsection (1) shall not be restricted by any
12 provision of the Freedom of Information Act.

13 Section 2-206. Confidentiality of records.

14 (a) The Department shall respect the confidentiality of a
15 resident's record and shall not divulge or disclose the
16 contents of a record in a manner which identifies a resident,
17 except upon a resident's death to a relative or guardian, or
18 under judicial proceedings. This Section shall not be construed
19 to limit the right of a resident to inspect or copy the
20 resident's records.

21 (b) Confidential medical, social, personal, or financial
22 information identifying a resident shall not be available for
23 public inspection in a manner which identifies a resident.

24 Section 2-207. Directories for public health regions;

1 information concerning facility costs and policies.

2 (a) Each year the Department shall publish a Directory for
3 each public health region listing facilities to be made
4 available to the public and be available at all Department
5 offices. The Department may charge a fee for the Directory. The
6 Directory shall contain, at a minimum, the following
7 information:

8 (1) The name and address of the facility;

9 (2) The number and type of licensed beds;

10 (3) The name of the cooperating hospital, if any;

11 (4) The name of the administrator;

12 (5) The facility telephone number; and

13 (6) Membership in a provider association and
14 accreditation by any such organization.

15 (b) Detailed information concerning basic costs for care
16 and operating policies shall be available to the public upon
17 request at each facility. However, a facility may refuse to
18 make available any proprietary operating policies to the extent
19 such facility reasonably believes such policies may be revealed
20 to a competitor.

21 Section 2-208. Notice of imminent death. A facility shall
22 immediately notify the resident's next of kin, representative
23 and physician of the resident's death or when the resident's
24 death appears to be imminent.

1 Section 2-209. Number of residents. A facility shall admit
2 only that number of residents for which it is licensed.

3 Section 2-210. Policies and procedures. A facility shall
4 establish written policies and procedures to implement the
5 responsibilities and rights provided in this Article. The
6 policies shall include the procedure for the investigation and
7 resolution of resident complaints as set forth under Section
8 3-702. The policies and procedures shall be clear and
9 unambiguous and shall be available for inspection by any
10 person. A summary of the policies and procedures, printed in
11 not less than 12-point type, shall be distributed to each
12 resident and representative.

13 Section 2-211. Explanation of rights. Each resident and
14 resident's guardian or other person acting for the resident
15 shall be given a written explanation, prepared by the Office of
16 the State Long Term Care Ombudsman, of all the rights
17 enumerated in Part 1 of this Article and in Part 4 of Article
18 III. For residents of facilities participating in Title XVIII
19 or XIX of the Social Security Act, the explanation shall
20 include an explanation of residents' rights enumerated in that
21 Act. The explanation shall be given at the time of admission to
22 a facility or as soon thereafter as the condition of the
23 resident permits, but in no event later than 48 hours after
24 admission, and again at least annually thereafter. At the time

1 of the implementation of this Act each resident shall be given
2 a written summary of all the rights enumerated in Part 1 of
3 this Article.

4 If a resident is unable to read such written explanation,
5 it shall be read to the resident in a language the resident
6 understands. In the case of a minor or a person having a
7 guardian or other person acting for him or her, both the
8 resident and the parent, guardian or other person acting for
9 the resident shall be fully informed of these rights.

10 Section 2-212. Staff familiarity with rights and
11 responsibilities. The facility shall ensure that its staff is
12 familiar with and observes the rights and responsibilities
13 enumerated in this Article.

14 Section 2-213. Vaccinations.

15 (a) A facility shall annually administer or arrange for
16 administration of a vaccination against influenza to each
17 resident, in accordance with the recommendations of the
18 Advisory Committee on Immunization Practices of the Centers for
19 Disease Control and Prevention that are most recent to the time
20 of vaccination, unless the vaccination is medically
21 contraindicated or the resident has refused the vaccine.
22 Influenza vaccinations for all residents age 65 and over shall
23 be completed by November 30 of each year or as soon as
24 practicable if vaccine supplies are not available before

1 November 1. Residents admitted after November 30, during the
2 flu season, and until February 1 shall, as medically
3 appropriate, receive an influenza vaccination prior to or upon
4 admission or as soon as practicable if vaccine supplies are not
5 available at the time of the admission, unless the vaccine is
6 medically contraindicated or the resident has refused the
7 vaccine. In the event that the Advisory Committee on
8 Immunization Practices of the Centers for Disease Control and
9 Prevention determines that dates of administration other than
10 those stated in this Act are optimal to protect the health of
11 residents, the Department is authorized to develop rules to
12 mandate vaccinations at those times rather than the times
13 stated in this Act. A facility shall document in the resident's
14 medical record that an annual vaccination against influenza was
15 administered, arranged, refused or medically contraindicated.

16 (b) A facility shall administer or arrange for
17 administration of a pneumococcal vaccination to each resident
18 who is age 65 and over, in accordance with the recommendations
19 of the Advisory Committee on Immunization Practices of the
20 Centers for Disease Control and Prevention, who has not
21 received this immunization prior to or upon admission to the
22 facility, unless the resident refuses the offer for vaccination
23 or the vaccination is medically contraindicated. A facility
24 shall document in each resident's medical record that a
25 vaccination against pneumococcal pneumonia was offered and
26 administered, arranged, refused, or medically contraindicated.

1 Section 2-214. Consumer Choice Information Reports.

2 (a) Every facility shall complete a Consumer Choice
3 Information Report and shall file it with the Office of State
4 Long Term Care Ombudsman electronically as prescribed by the
5 Office. The Report shall be filed annually and upon request of
6 the Office of State Long Term Care Ombudsman. The Consumer
7 Choice Information Report must be completed by the facility in
8 full.

9 (b) A violation of any of the provisions of this Section
10 constitutes an unlawful practice under the Consumer Fraud and
11 Deceptive Business Practices Act. All remedies, penalties, and
12 authority granted to the Attorney General by the Consumer Fraud
13 and Deceptive Business Practices Act shall be available to him
14 or her for the enforcement of this Section.

15 (c) The Department of Public Health shall include
16 verification of the submission of a facility's current Consumer
17 Choice Information Report when conducting an inspection
18 pursuant to Section 3-212.

19 Section 2-216. Notification of identified offenders. If
20 identified offenders are residents of the licensed facility,
21 the licensed facility shall notify every resident or resident's
22 guardian in writing that such offenders are residents of the
23 licensed facility. The licensed facility shall also provide
24 notice to its employees and to visitors to the facility that

1 identified offenders are residents.

2 ARTICLE III. LICENSING, ENFORCEMENT, VIOLATIONS, PENALTIES AND
3 REMEDIES

4 PART 1. LICENSING

5 Section 3-101. Licensure system. The Department shall
6 establish a comprehensive system of licensure for facilities in
7 accordance with this Act for the purposes of:

8 (1) Protecting the health, welfare, and safety of
9 residents; and

10 (2) Assuring the accountability for reimbursed care
11 provided in certified facilities participating in a
12 federal or State health program.

13 Section 3-102. Necessity of license. No person may
14 establish, operate, maintain, offer or advertise a facility
15 within this State unless and until he or she obtains a valid
16 license therefore as hereinafter provided, which license
17 remains unsuspended, unrevoked and unexpired. No public
18 official or employee may place any person in, or recommend that
19 any person be placed in, or directly or indirectly cause any
20 person to be placed in any facility which is being operated
21 without a valid license.

1 Section 3-102.1. Denial of Department access to facility.
2 If the Department is denied access to a facility or any other
3 place which it reasonably believes is required to be licensed
4 as a facility under this Act, it shall request intervention of
5 local, county or State law enforcement agencies to seek an
6 appropriate court order or warrant to examine or interview the
7 residents of such facility. Any person or entity preventing the
8 Department from carrying out its duties under this Section
9 shall be guilty of a violation of this Act and shall be subject
10 to such penalties related thereto.

11 Section 3-103. Application for license; financial
12 statement. The procedure for obtaining a valid license shall be
13 as follows:

14 (1) Application to operate a facility shall be made to
15 the Department on forms furnished by the Department.

16 (2) All license applications shall be accompanied with
17 an application fee. The fee for an annual license shall be
18 \$995. Facilities that pay a fee or assessment pursuant to
19 Article V-C of the Illinois Public Aid Code shall be exempt
20 from the license fee imposed under this item (2). The fee
21 for a 2-year license shall be double the fee for the annual
22 license set forth in the preceding sentence. The fees
23 collected shall be deposited with the State Treasurer into
24 the Long Term Care Monitor/Receiver Fund, which has been
25 created as a special fund in the State treasury. This

1 special fund is to be used by the Department for expenses
2 related to the appointment of monitors and receivers as
3 contained in Sections 3-501 through 3-517. At the end of
4 each fiscal year, any funds in excess of \$1,000,000 held in
5 the Long Term Care Monitor/Receiver Fund shall be deposited
6 in the State's General Revenue Fund. The application shall
7 be under oath and the submission of false or misleading
8 information shall be a Class A misdemeanor. The application
9 shall contain the following information:

10 (a) The name and address of the applicant if an
11 individual, and if a firm, partnership, or
12 association, of every member thereof, and in the case
13 of a corporation, the name and address thereof and of
14 its officers and its registered agent, and in the case
15 of a unit of local government, the name and address of
16 its chief executive officer;

17 (b) The name and location of the facility for which
18 a license is sought;

19 (c) The name of the person or persons under whose
20 management or supervision the facility will be
21 conducted;

22 (d) The number and type of residents for which
23 maintenance, personal care, or nursing is to be
24 provided; and

25 (e) Such information relating to the number,
26 experience, and training of the employees of the

1 facility, any management agreements for the operation
2 of the facility, and of the moral character of the
3 applicant and employees as the Department may deem
4 necessary.

5 (3) Each initial application shall be accompanied by a
6 financial statement setting forth the financial condition
7 of the applicant and by a statement from the unit of local
8 government having zoning jurisdiction over the facility's
9 location stating that the location of the facility is not
10 in violation of a zoning ordinance. An initial application
11 for a new facility shall be accompanied by a permit as
12 required by the Illinois Health Facilities Planning Act.
13 After the application is approved, the applicant shall
14 advise the Department every 6 months of any changes in the
15 information originally provided in the application.

16 (4) Other information necessary to determine the
17 identity and qualifications of an applicant to operate a
18 facility in accordance with this Act shall be included in
19 the application as required by the Department in
20 regulations.

21 Section 3-104. Licensing and regulation by municipality.
22 Any city, village or incorporated town may by ordinance provide
23 for the licensing and regulation of a facility or any
24 classification of such facility, as defined herein, within such
25 municipality, provided that the ordinance requires compliance

1 with at least the minimum requirements established by the
2 Department under this Act. The licensing and enforcement
3 provisions of the municipality shall fully comply with this
4 Act, and the municipality shall make available information as
5 required by this Act. Such compliance shall be determined by
6 the Department subject to review as provided in Section 3-703.
7 Section 3-703 shall also be applicable to the judicial review
8 of final administrative decisions of the municipality under
9 this Act.

10 Section 3-105. Reports by municipality. Any city, village
11 or incorporated town which has or may have ordinances requiring
12 the licensing and regulation of facilities with at least the
13 minimum standards established by the Department under this Act,
14 shall make such periodic reports to the Department as the
15 Department deems necessary. This report shall include a list of
16 those facilities licensed by such municipality, the number of
17 beds of each facility and the date the license of each facility
18 is effective.

19 Section 3-106. Issuance of license to holder of municipal
20 license.

21 (a) Upon receipt of notice and proof from an applicant or
22 licensee that he has received a license or renewal thereof from
23 a city, village or incorporated town, accompanied by the
24 required license or renewal fees, the Department shall issue a

1 license or renewal license to such person. The Department shall
2 not issue a license hereunder to any person who has failed to
3 qualify for a municipal license. If the issuance of a license
4 by the Department antedates regulatory action by a
5 municipality, the municipality shall issue a local license
6 unless the standards and requirements under its ordinance or
7 resolution are greater than those prescribed under this Act.

8 (b) In the event that the standards and requirements under
9 the ordinance or resolution of the municipality are greater
10 than those prescribed under this Act, the license issued by the
11 Department shall remain in effect pending reasonable
12 opportunity provided by the municipality, which shall be not
13 less than 60 days, for the licensee to comply with the local
14 requirements. Upon notice by the municipality, or upon the
15 Department's own determination that the licensee has failed to
16 qualify for a local license, the Department shall revoke such
17 license.

18 Section 3-107. Inspection; fees. The Department and the
19 city, village or incorporated town shall have the right at any
20 time to visit and inspect the premises and personnel of any
21 facility for the purpose of determining whether the applicant
22 or licensee is in compliance with this Act or with the local
23 ordinances which govern the regulation of the facility. The
24 Department may survey any former facility which once held a
25 license to ensure that the facility is not again operating

1 without a license. Municipalities may charge a reasonable
2 license or renewal fee for the regulation of facilities, which
3 fees shall be in addition to the fees paid to the Department.

4 Section 3-107.1. Access by law enforcement officials and
5 agencies. Notwithstanding any other provision of this Act, the
6 Attorney General, the State's Attorneys and various law
7 enforcement agencies of this State and its political
8 subdivisions shall have full and open access to any facility
9 pursuant to Article 108 of the Code of Criminal Procedure of
10 1963 in the exercise of their investigatory and prosecutorial
11 powers in the enforcement of the criminal laws of this State.
12 Furthermore, the Attorney General, the State's Attorneys and
13 law enforcement agencies of this State shall inform the
14 Department of any violations of this Act of which they have
15 knowledge. Disclosure of matters before a grand jury shall be
16 made in accordance with Section 112-6 of the Code of Criminal
17 Procedure of 1963.

18 Section 3-108. Cooperation with State agencies. The
19 Department shall coordinate the functions within State
20 government affecting facilities licensed under this Act and
21 shall cooperate with other State agencies which establish
22 standards or requirements for facilities to assure necessary,
23 equitable, and consistent State supervision of licensees
24 without unnecessary duplication of survey, evaluation, and

1 consultation services or complaint investigations. The
2 Department shall cooperate with the Department of Human
3 Services in regard to facilities containing more than 20% of
4 residents for whom the Department of Human Services has
5 mandated follow up responsibilities under the Mental Health and
6 Developmental Disabilities Administrative Act. The Department
7 shall cooperate with the Department of Healthcare and Family
8 Services in regard to facilities where recipients of public aid
9 are residents. The Department shall immediately refer to the
10 Department of Financial and Professional Regulation (as
11 successor to the Department of Professional Regulation) for
12 investigation any credible evidence of which it has knowledge
13 that an individual licensed by that Department has violated
14 this Act or any rule issued under this Act. The Department
15 shall enter into agreements with other State Departments,
16 agencies or commissions to effectuate the purpose of this
17 Section.

18 Section 3-109. Issuance of license based on Director's
19 findings. Upon receipt and review of an application for a
20 license made under this Article and inspection of the applicant
21 facility under this Article, the Director shall issue a license
22 if he or she finds:

23 (1) That the individual applicant, or the corporation,
24 partnership or other entity if the applicant is not an
25 individual, is a person responsible and suitable to operate

1 or to direct or participate in the operation of a facility
2 by virtue of financial capacity, appropriate business or
3 professional experience, a record of compliance with
4 lawful orders of the Department and lack of revocation of a
5 license during the previous 5 years;

6 (2) That the facility is under the supervision of an
7 administrator who is licensed, if required, under the
8 Nursing Home Administrators Licensing and Disciplinary
9 Act, as now or hereafter amended; and

10 (3) That the facility is in substantial compliance with
11 this Act, and such other requirements for a license as the
12 Department by rule may establish under this Act.

13 Section 3-110. Contents and period of license.

14 (a) Any license granted by the Director shall state the
15 maximum bed capacity for which it is granted, the date the
16 license was issued, and the expiration date. Except as provided
17 in subsection (b), such licenses shall normally be issued for a
18 period of one year. However, the Director may issue licenses or
19 renewals for periods of not less than 6 months nor more than 18
20 months for facilities with annual licenses and not less than 18
21 months nor more than 30 months for facilities with 2-year
22 licenses in order to distribute the expiration dates of such
23 licenses throughout the calendar year, and fees for such
24 licenses shall be prorated on the basis of the portion of a
25 year for which they are issued. Each license shall be issued

1 only for the premises and persons named in the application and
2 shall not be transferable or assignable.

3 The Department shall require the licensee to comply with
4 the requirements of a court order issued under Section 3-515,
5 as a condition of licensing.

6 (b) A license for a period of 2 years shall be issued to a
7 facility if the facility:

8 (1) has not received a Type "A" violation within the
9 last 24 months;

10 (2) has not received a Type "B" violation within the
11 last 24 months;

12 (3) has not had an inspection, survey, or evaluation
13 that resulted in the issuance of 10 or more administrative
14 warnings in the last 24 months;

15 (4) has not had an inspection, survey, or evaluation
16 that resulted in an administrative warning issued for a
17 violation of Sections 3-401 through 3-413 in the last 24
18 months;

19 (5) has not been issued an order to reimburse a
20 resident for a violation of Article II under subsection (6)
21 of Section 3-305 in the last 24 months; and

22 (6) has not been subject to sanctions or
23 decertification for violations in relation to patient care
24 of a facility under Titles XVIII and XIX of the federal
25 Social Security Act within the last 24 months.

26 If a facility with a 2-year license fails to meet the

1 conditions in items (1) through (6) of this subsection, in
2 addition to any other sanctions that may be applied by the
3 Department under this Act, the facility's 2-year license shall
4 be replaced by a one year license until such time as the
5 facility again meets the conditions in items (1) through (6) of
6 this subsection.

7 Section 3-111. Issuance or renewal of license after notice
8 of violation. The issuance or renewal of a license after notice
9 of a violation has been sent shall not constitute a waiver by
10 the Department of its power to rely on the violation as the
11 basis for subsequent license revocation or other enforcement
12 action under this Act arising out of the notice of violation.

13 Section 3-112. Transfer of ownership; license.

14 (a) Whenever ownership of a facility is transferred from
15 the person named in the license to any other person, the
16 transferee must obtain a new probationary license. The
17 transferee shall notify the Department of the transfer and
18 apply for a new license at least 30 days prior to final
19 transfer.

20 (b) The transferor shall notify the Department at least 30
21 days prior to final transfer. The transferor shall remain
22 responsible for the operation of the facility until such time
23 as a license is issued to the transferee.

1 Section 3-113. Transferee; conditional license. The
2 license granted to the transferee shall be subject to the plan
3 of correction submitted by the previous owner and approved by
4 the Department and any conditions contained in a conditional
5 license issued to the previous owner. If there are outstanding
6 violations and no approved plan of correction has been
7 implemented, the Department may issue a conditional license and
8 plan of correction as provided in Sections 3-311 through 3-317.

9 Section 3-114. Transferor liable for penalties. The
10 transferor shall remain liable for all penalties assessed
11 against the facility which are imposed for violations occurring
12 prior to transfer of ownership.

13 Section 3-115. License renewal application. At least 120
14 days but not more than 150 days prior to license expiration,
15 the licensee shall submit an application for renewal of the
16 license in such form and containing such information as the
17 Department requires. If the application is approved, the
18 license shall be renewed in accordance with Section 3-110. The
19 renewal application for a facility shall not be approved unless
20 the applicant has provided to the Department an accurate
21 disclosure document in accordance with the Alzheimer's Special
22 Care Disclosure Act. If application for renewal is not timely
23 filed, the Department shall so inform the licensee.

1 Section 3-116. Probationary license. If the applicant has
2 not been previously licensed or if the facility is not in
3 operation at the time application is made, the Department shall
4 issue only a probationary license. A probationary license shall
5 be valid for 120 days unless sooner suspended or revoked under
6 Section 3-119. Within 30 days prior to the termination of a
7 probationary license, the Department shall fully and
8 completely inspect the facility and, if the facility meets the
9 applicable requirements for licensure, shall issue a license
10 under Section 3-109. If the Department finds that the facility
11 does not meet the requirements for licensure but has made
12 substantial progress toward meeting those requirements, the
13 license may be renewed once for a period not to exceed 120 days
14 from the expiration date of the initial probationary license.

15 Section 3-117. Denial of license; grounds. An application
16 for a license may be denied for any of the following reasons:

17 (1) Failure to meet any of the minimum standards set
18 forth by this Act or by rules and regulations promulgated
19 by the Department under this Act.

20 (2) Conviction of the applicant, or if the applicant is
21 a firm, partnership or association, of any of its members,
22 or if a corporation, the conviction of the corporation or
23 any of its officers or stockholders, or of the person
24 designated to manage or supervise the facility, of a
25 felony, or of 2 or more misdemeanors involving moral

1 turpitude, during the previous 5 years as shown by a
2 certified copy of the record of the court of conviction.

3 (3) Personnel insufficient in number or unqualified by
4 training or experience to properly care for the proposed
5 number and type of residents.

6 (4) Insufficient financial or other resources to
7 operate and conduct the facility in accordance with
8 standards promulgated by the Department under this Act.

9 (5) Revocation of a facility license during the
10 previous 5 years, if such prior license was issued to the
11 individual applicant, a controlling owner or controlling
12 combination of owners of the applicant; or any affiliate of
13 the individual applicant or controlling owner of the
14 applicant and such individual applicant, controlling owner
15 of the applicant or affiliate of the applicant was a
16 controlling owner of the prior license; provided, however,
17 that the denial of an application for a license pursuant to
18 this subsection must be supported by evidence that such
19 prior revocation renders the applicant unqualified or
20 incapable of meeting or maintaining a facility in
21 accordance with the standards and rules promulgated by the
22 Department under this Act.

23 (6) That the facility is not under the direct
24 supervision of a full time administrator, as defined by
25 regulation, who is licensed, if required, under the Nursing
26 Home Administrators Licensing and Disciplinary Act.

1 Section 3-118. Notice of denial; request for hearing.
2 Immediately upon the denial of any application or reapplication
3 for a license under this Article, the Department shall notify
4 the applicant in writing. Notice of denial shall include a
5 clear and concise statement of the violations of Section 3-117
6 on which denial is based and notice of the opportunity for a
7 hearing under Section 3-703. If the applicant desires to
8 contest the denial of a license, it shall provide written
9 notice to the Department of a request for a hearing within 10
10 days after receipt of the notice of denial. The Department
11 shall commence the hearing under Section 3-703.

12 Section 3-119. Suspension, revocation, or refusal to renew
13 license.

14 (a) The Department, after notice to the applicant or
15 licensee, may suspend, revoke or refuse to renew a license in
16 any case in which the Department finds any of the following:

17 (1) There has been a substantial failure to comply with
18 this Act or the rules and regulations promulgated by the
19 Department under this Act.

20 (2) Conviction of the licensee, or of the person
21 designated to manage or supervise the facility, of a
22 felony, or of 2 or more misdemeanors involving moral
23 turpitude, during the previous 5 years as shown by a
24 certified copy of the record of the court of conviction.

1 (3) Personnel is insufficient in number or unqualified
2 by training or experience to properly care for the number
3 and type of residents served by the facility.

4 (4) Financial or other resources are insufficient to
5 conduct and operate the facility in accordance with
6 standards promulgated by the Department under this Act.

7 (5) The facility is not under the direct supervision of
8 a full time administrator, as defined by regulation, who is
9 licensed, if required, under the Nursing Home
10 Administrators Licensing and Disciplinary Act.

11 (b) Notice under this Section shall include a clear and
12 concise statement of the violations on which the nonrenewal or
13 revocation is based, the statute or rule violated and notice of
14 the opportunity for a hearing under Section 3-703.

15 (c) If a facility desires to contest the nonrenewal or
16 revocation of a license, the facility shall, within 10 days
17 after receipt of notice under subsection (b) of this Section,
18 notify the Department in writing of its request for a hearing
19 under Section 3-703. Upon receipt of the request the Department
20 shall send notice to the facility and hold a hearing as
21 provided under Section 3-703.

22 (d) The effective date of nonrenewal or revocation of a
23 license by the Department shall be any of the following:

24 (1) Until otherwise ordered by the circuit court,
25 revocation is effective on the date set by the Department
26 in the notice of revocation, or upon final action after

1 hearing under Section 3-703, whichever is later.

2 (2) Until otherwise ordered by the circuit court,
3 nonrenewal is effective on the date of expiration of any
4 existing license, or upon final action after hearing under
5 Section 3-703, whichever is later; however, a license shall
6 not be deemed to have expired if the Department fails to
7 timely respond to a timely request for renewal under this
8 Act or for a hearing to contest nonrenewal under paragraph
9 (c).

10 (3) The Department may extend the effective date of
11 license revocation or expiration in any case in order to
12 permit orderly removal and relocation of residents.

13 The Department may refuse to issue or may suspend the
14 license of any person who fails to file a return, or to pay the
15 tax, penalty or interest shown in a filed return, or to pay any
16 final assessment of tax, penalty or interest, as required by
17 any tax Act administered by the Illinois Department of Revenue,
18 until such time as the requirements of any such tax Act are
19 satisfied.

20 PART 2. GENERAL PROVISIONS

21 Section 3-201. Medical treatment; no prescription by
22 Department. The Department shall not prescribe the course of
23 medical treatment provided to an individual resident by the
24 resident's physician in a facility.

1 Section 3-202. Standards for facilities. The Department
2 shall prescribe minimum standards for facilities. These
3 standards shall regulate:

4 (1) Location and construction of the facility,
5 including plumbing, heating, lighting, ventilation, and
6 other physical conditions which shall ensure the health,
7 safety, and comfort of residents and their protection from
8 fire hazard;

9 (2) Number and qualifications of all personnel,
10 including management and nursing personnel, having
11 responsibility for any part of the care given to residents;
12 specifically, the Department shall establish staffing
13 ratios for facilities which shall specify the number of
14 staff hours per resident of care that are needed for
15 professional nursing care for various types of facilities
16 or areas within facilities;

17 (3) All sanitary conditions within the facility and its
18 surroundings, including water supply, sewage disposal,
19 food handling, and general hygiene, which shall ensure the
20 health and comfort of residents;

21 (4) Diet related to the needs of each resident based on
22 good nutritional practice and on recommendations which may
23 be made by the physicians attending the resident;

24 (5) Equipment essential to the health and welfare of
25 the residents;

1 (6) A program of habilitation and rehabilitation for
2 those residents who would benefit from such programs;

3 (7) A program for adequate maintenance of physical
4 plant and equipment;

5 (8) Adequate accommodations, staff and services for
6 the number and types of residents for whom the facility is
7 licensed to care, including standards for temperature and
8 relative humidity within comfort zones determined by the
9 Department based upon a combination of air temperature,
10 relative humidity and air movement. Such standards shall
11 also require facility plans that provide for health and
12 comfort of residents at medical risk as determined by the
13 attending physician whenever the temperature and relative
14 humidity are outside such comfort zones established by the
15 Department. The standards must include a requirement that
16 areas of a facility used by residents of the facility be
17 air-conditioned and heated by means of operable
18 air-conditioning and heating equipment. The areas subject
19 to this air-conditioning and heating requirement include,
20 without limitation, bedrooms or common areas such as
21 sitting rooms, activity rooms, living rooms, community
22 rooms, and dining rooms;

23 (9) Development of evacuation and other appropriate
24 safety plans for use during weather, health, fire, physical
25 plant, environmental and national defense emergencies; and

26 (10) Maintenance of minimum financial or other

1 resources necessary to meet the standards established
2 under this Section, and to operate and conduct the facility
3 in accordance with this Act.

4 Section 3-202.1. Weather or hazard alert system. The
5 Department shall develop and implement a system of alerting and
6 educating facilities and their personnel as to the existence or
7 possibility of weather or other hazardous circumstances which
8 may endanger resident health or safety and designating any
9 precautions to prevent or minimize such danger. The Department
10 may assist any facility experiencing difficulty in dealing with
11 such emergencies. The Department may provide for announcement
12 to the public of the dangers posed to facility residents by
13 such existing or potential weather or hazardous circumstances.

14 Section 3-202.3. Identified offenders as residents. No
15 later than 30 days after July 11, 2005 (the effective date of
16 Public Act 94-163), the Department shall file with the Illinois
17 Secretary of State's Office, pursuant to the Illinois
18 Administrative Procedure Act, emergency rules regarding the
19 provision of services to identified offenders. The emergency
20 rules shall provide for, or include, but not be limited to the
21 following:

22 (1) A process for the identification of identified
23 offenders.

24 (2) A required risk assessment of identified

1 offenders.

2 (3) A requirement that a licensed facility be required,
3 within 10 days of the filing of the emergency rules, to
4 compare its residents against the Illinois Department of
5 Corrections and Illinois State Police registered sex
6 offender databases.

7 (4) A requirement that the licensed facility notify the
8 Department within 48 hours of determining that a resident
9 or residents of the licensed facility are listed on the
10 Illinois Department of Corrections or Illinois State
11 Police registered sex offender databases.

12 (5) The care planning of identified offenders, which
13 shall include, but not be limited to, a description of the
14 security measures necessary to protect facility residents
15 from the identified offender, including whether the
16 identified offender should be segregated from other
17 facility residents.

18 (6) For offenders serving terms of probation for felony
19 offenses, parole, or mandatory supervised release, the
20 facility shall acknowledge the terms of release as imposed
21 by the court or Illinois Prisoner Review Board.

22 (7) The discharge planning for identified offenders.

23 Section 3-202.4. Feasibility of segregating identified
24 offenders. The Department shall determine the feasibility of
25 requiring identified offenders that seek admission to a

1 licensed facility to be segregated from other residents.

2 Section 3-202.5. Facility plan review; fees.

3 (a) Before commencing construction of a new facility or
4 specified types of alteration or additions to an existing long
5 term care facility involving major construction, as defined by
6 rule by the Department, with an estimated cost greater than
7 \$100,000, architectural drawings and specifications for the
8 facility shall be submitted to the Department for review and
9 approval. A facility may submit architectural drawings and
10 specifications for other construction projects for Department
11 review according to subsection (b) that shall not be subject to
12 fees under subsection (d). Review of drawings and
13 specifications shall be conducted by an employee of the
14 Department meeting the qualifications established by the
15 Department of Central Management Services class specifications
16 for such an individual's position or by a person contracting
17 with the Department who meets those class specifications. Final
18 approval of the drawings and specifications for compliance with
19 design and construction standards shall be obtained from the
20 Department before the alteration, addition, or new
21 construction is begun.

22 (b) The Department shall inform an applicant in writing
23 within 10 working days after receiving drawings and
24 specifications and the required fee, if any, from the applicant
25 whether the applicant's submission is complete or incomplete.

1 Failure to provide the applicant with this notice within 10
2 working days shall result in the submission being deemed
3 complete for purposes of initiating the 60 day review period
4 under this Section. If the submission is incomplete, the
5 Department shall inform the applicant of the deficiencies with
6 the submission in writing. If the submission is complete the
7 required fee, if any, has been paid, the Department shall
8 approve or disapprove drawings and specifications submitted to
9 the Department no later than 60 days following receipt by the
10 Department. The drawings and specifications shall be of
11 sufficient detail, as provided by Department rule, to enable
12 the Department to render a determination of compliance with
13 design and construction standards under this Act. If the
14 Department finds that the drawings are not of sufficient detail
15 for it to render a determination of compliance, the plans shall
16 be determined to be incomplete and shall not be considered for
17 purposes of initiating the 60 day review period. If a
18 submission of drawings and specifications is incomplete, the
19 applicant may submit additional information. The 60 day review
20 period shall not commence until the Department determines that
21 a submission of drawings and specifications is complete or the
22 submission is deemed complete. If the Department has not
23 approved or disapproved the drawings and specifications within
24 60 days, the construction, major alteration, or addition shall
25 be deemed approved. If the drawings and specifications are
26 disapproved, the Department shall state in writing, with

1 specificity, the reasons for the disapproval. The entity
2 submitting the drawings and specifications may submit
3 additional information in response to the written comments from
4 the Department or request a reconsideration of the disapproval.
5 A final decision of approval or disapproval shall be made
6 within 45 days of the receipt of the additional information or
7 reconsideration request. If denied, the Department shall state
8 the specific reasons for the denial.

9 (c) The Department shall provide written approval for
10 occupancy pursuant to subsection (g) and shall not issue a
11 violation to a facility as a result of a licensure or complaint
12 survey based upon the facility's physical structure if:

13 (1) the Department reviewed and approved or deemed
14 approved the drawings and specifications for compliance
15 with design and construction standards;

16 (2) the construction, major alteration, or addition
17 was built as submitted;

18 (3) the law or rules have not been amended since the
19 original approval; and

20 (4) the conditions at the facility indicate that there
21 is a reasonable degree of safety provided for the
22 residents.

23 (d) The Department shall charge the following fees in
24 connection with its reviews conducted before June 30, 2004
25 under this Section:

26 (1) (Blank).

1 (2) (Blank).

2 (3) If the estimated dollar value of the alteration,
3 addition, or new construction is \$100,000 or more but less
4 than \$500,000, the fee shall be the greater of \$2,400 or
5 1.2% of that value.

6 (4) If the estimated dollar value of the alteration,
7 addition, or new construction is \$500,000 or more but less
8 than \$1,000,000, the fee shall be the greater of \$6,000 or
9 0.96% of that value.

10 (5) If the estimated dollar value of the alteration,
11 addition, or new construction is \$1,000,000 or more but
12 less than \$5,000,000, the fee shall be the greater of
13 \$9,600 or 0.22% of that value.

14 (6) If the estimated dollar value of the alteration,
15 addition, or new construction is \$5,000,000 or more, the
16 fee shall be the greater of \$11,000 or 0.11% of that value,
17 but shall not exceed \$40,000. The fees provided in this
18 subsection (d) shall not apply to major construction
19 projects involving facility changes that are required by
20 Department rule amendments. The fees provided in this
21 subsection (d) shall also not apply to major construction
22 projects if 51% or more of the estimated cost of the
23 project is attributed to capital equipment. For major
24 construction projects where 51% or more of the estimated
25 cost of the project is attributed to capital equipment, the
26 Department shall by rule establish a fee that is reasonably

1 related to the cost of reviewing the project. The
2 Department shall not commence the facility plan review
3 process under this Section until the applicable fee has
4 been paid.

5 (e) All fees received by the Department under this Section
6 shall be deposited into the Health Facility Plan Review Fund, a
7 special fund created in the State Treasury. All fees paid by
8 long term care facilities under subsection (d) shall be used
9 only to cover the costs relating to the Department's review of
10 long term care facility projects under this Section. Moneys
11 shall be appropriated from that Fund to the Department only to
12 pay the costs of conducting reviews under this Section or under
13 Section 3-202.5 of the Nursing Home Care Act. None of the
14 moneys in the Health Facility Plan Review Fund shall be used to
15 reduce the amount of General Revenue Fund moneys appropriated
16 to the Department for facility plan reviews conducted pursuant
17 to this Section.

18 (f) (Blank).

19 (g) The Department shall conduct an on site inspection of
20 the completed project no later than 30 days after notification
21 from the applicant that the project has been completed and all
22 certifications required by the Department have been received
23 and accepted by the Department. The Department shall provide
24 written approval for occupancy to the applicant within 5
25 working days of the Department's final inspection, provided the
26 applicant has demonstrated substantial compliance as defined

1 by Department rule. Occupancy of new major construction is
2 prohibited until Department approval is received, unless the
3 Department has not acted within the time frames provided in
4 this subsection (g), in which case the construction shall be
5 deemed approved. Occupancy shall be authorized after any
6 required health inspection by the Department has been
7 conducted.

8 (h) The Department shall establish, by rule, a procedure to
9 conduct interim on site review of large or complex construction
10 projects.

11 (i) The Department shall establish, by rule, an expedited
12 process for emergency repairs or replacement of like equipment.

13 (j) Nothing in this Section shall be construed to apply to
14 maintenance, upkeep, or renovation that does not affect the
15 structural integrity of the building, does not add beds or
16 services over the number for which the long term care facility
17 is licensed, and provides a reasonable degree of safety for the
18 residents.

19 Section 3-203. Standards for persons with developmental
20 disability or emotional or behavioral disorder. In licensing
21 any facility for persons with a developmental disability or
22 persons suffering from emotional or behavioral disorders, the
23 Department shall consult with the Department of Human Services
24 in developing minimum standards for such persons.

1 Section 3-204. License classifications. In addition to the
2 authority to prescribe minimum standards, the Department may
3 adopt license classifications of facilities according to the
4 levels of service, and if license classification is adopted the
5 applicable minimum standards shall define the classification.
6 In adopting classification of the license of facilities, the
7 Department may give recognition to the classification of
8 services defined or prescribed by federal statute or federal
9 rule or regulation. More than one classification of the license
10 may be issued to the same facility when the prescribed minimum
11 standards and regulations are met.

12 Section 3-205. Municipalities; license classifications.
13 Where licensing responsibilities are performed by a city,
14 village or incorporated town, the municipality shall use the
15 same classifications as the Department; and a facility may not
16 be licensed for a different classification by the Department
17 than by the municipality.

18 Section 3-206. Curriculum for training nursing assistants
19 and aides. The Department shall prescribe a curriculum for
20 training nursing assistants, habilitation aides, and child
21 care aides.

22 (a) No person, except a volunteer who receives no
23 compensation from a facility and is not included for the
24 purpose of meeting any staffing requirements set forth by the

1 Department, shall act as a nursing assistant, habilitation
2 aide, or child care aide in a facility, nor shall any person,
3 under any other title, not licensed, certified, or registered
4 to render medical care by the Department of Financial and
5 Professional Regulation, assist with the personal, medical, or
6 nursing care of residents in a facility, unless such person
7 meets the following requirements:

8 (1) Be at least 16 years of age, of temperate habits
9 and good moral character, honest, reliable and
10 trustworthy.

11 (2) Be able to speak and understand the English
12 language or a language understood by a substantial
13 percentage of the facility's residents.

14 (3) Provide evidence of employment or occupation, if
15 any, and residence for 2 years prior to his or her present
16 employment.

17 (4) Have completed at least 8 years of grade school or
18 provide proof of equivalent knowledge.

19 (5) Begin a current course of training for nursing
20 assistants, habilitation aides, or child care aides,
21 approved by the Department, within 45 days of initial
22 employment in the capacity of a nursing assistant,
23 habilitation aide, or child care aide at any facility. Such
24 courses of training shall be successfully completed within
25 120 days of initial employment in the capacity of nursing
26 assistant, habilitation aide, or child care aide at a

1 facility. Nursing assistants, habilitation aides, and
2 child care aides who are enrolled in approved courses in
3 community colleges or other educational institutions on a
4 term, semester or trimester basis, shall be exempt from the
5 120-day completion time limit. The Department shall adopt
6 rules for such courses of training. These rules shall
7 include procedures for facilities to carry on an approved
8 course of training within the facility.

9 The Department may accept comparable training in lieu
10 of the 120-hour course for student nurses, foreign nurses,
11 military personnel, or employees of the Department of Human
12 Services.

13 The facility shall develop and implement procedures,
14 which shall be approved by the Department, for an ongoing
15 review process, which shall take place within the facility,
16 for nursing assistants, habilitation aides, and child care
17 aides.

18 At the time of each regularly scheduled licensure
19 survey, or at the time of a complaint investigation, the
20 Department may require any nursing assistant, habilitation
21 aide, or child care aide to demonstrate, either through
22 written examination or action, or both, sufficient
23 knowledge in all areas of required training. If such
24 knowledge is inadequate the Department shall require the
25 nursing assistant, habilitation aide, or child care aide to
26 complete inservice training and review in the facility

1 until the nursing assistant, habilitation aide, or child
2 care aide demonstrates to the Department, either through
3 written examination or action, or both, sufficient
4 knowledge in all areas of required training; and

5 (6) Be familiar with and have general skills related to
6 resident care.

7 (a-0.5) An educational entity, other than a secondary
8 school, conducting a nursing assistant, habilitation aide, or
9 child care aide training program shall initiate a UCIA criminal
10 history record check prior to entry of an individual into the
11 training program. A secondary school may initiate a UCIA
12 criminal history record check prior to the entry of an
13 individual into a training program.

14 (a-1) Nursing assistants, habilitation aides, or child
15 care aides seeking to be included on the registry must
16 authorize the Department of Public Health or its designee that
17 tests nursing assistants to request a UCIA criminal history
18 check and submit all necessary information.

19 (b) Persons subject to this Section shall perform their
20 duties under the supervision of a nurse.

21 (c) It is unlawful for any facility to employ any person in
22 the capacity of nursing assistant, habilitation aide, or child
23 care aide, or under any other title, not licensed by the State
24 of Illinois to assist in the personal, medical, or nursing care
25 of residents in such facility unless such person has complied
26 with this Section.

1 (d) Proof of compliance by each employee with the
2 requirements set out in this Section shall be maintained for
3 each such employee by each facility in the individual personnel
4 folder of the employee.

5 (e) Each facility shall certify to the Department on a form
6 provided by the Department the name and residence address of
7 each employee, and that each employee subject to this Section
8 meets all the requirements of this Section.

9 (f) Any facility that is operated under Section 3-803 shall
10 be exempt from the requirements of this Section.

11 (g) Each skilled nursing and intermediate care facility
12 that admits persons who are diagnosed as having Alzheimer's
13 disease or related dementias shall require all nursing
14 assistants, habilitation aides, or child care aides, who did
15 not receive 12 hours of training in the care and treatment of
16 such residents during the training required under paragraph (5)
17 of subsection (a), to obtain 12 hours of in house training in
18 the care and treatment of such residents. If the facility does
19 not provide the training in house, the training shall be
20 obtained from other facilities, community colleges or other
21 educational institutions that have a recognized course for such
22 training. The Department shall, by rule, establish a recognized
23 course for such training.

24 The Department's rules shall provide that such training may
25 be conducted in house at each facility subject to the
26 requirements of this subsection, in which case such training

1 shall be monitored by the Department. The Department's rules
2 shall also provide for circumstances and procedures whereby any
3 person who has received training that meets the requirements of
4 this subsection shall not be required to undergo additional
5 training if he or she is transferred to or obtains employment
6 at a different facility but remains continuously employed as a
7 nursing assistant, habilitation aide, or child care aide.
8 Licensed sheltered care facilities shall be exempt from the
9 requirements of this Section.

10 Section 3-206.01. Health care worker registry.

11 (a) The Department shall establish and maintain a registry
12 of all individuals who have satisfactorily completed the
13 training required by Section 3-206. The registry shall include
14 the name of the nursing assistant, habilitation aide, or child
15 care aide, his or her current address, Social Security number,
16 and the date and location of the training course completed by
17 the individual, and the date of the individual's last criminal
18 records check. Any individual placed on the registry is
19 required to inform the Department of any change of address
20 within 30 days. A facility shall not employ an individual as a
21 nursing assistant, habilitation aide, or child care aide unless
22 the facility has inquired of the Department as to information
23 in the registry concerning the individual and shall not employ
24 anyone not on the registry unless the individual is enrolled in
25 a training program under paragraph (5) of subsection (a) of

1 Section 3-206 of this Act.

2 If the Department finds that a nursing assistant,
3 habilitation aide, or child care aide has abused a resident,
4 neglected a resident, or misappropriated resident property in a
5 facility, the Department shall notify the individual of this
6 finding by certified mail sent to the address contained in the
7 registry. The notice shall give the individual an opportunity
8 to contest the finding in a hearing before the Department or to
9 submit a written response to the findings in lieu of requesting
10 a hearing. If, after a hearing or if the individual does not
11 request a hearing, the Department finds that the individual
12 abused a resident, neglected a resident, or misappropriated
13 resident property in a facility, the finding shall be included
14 as part of the registry as well as a brief statement from the
15 individual, if he or she chooses to make such a statement. The
16 Department shall make information in the registry available to
17 the public. In the case of inquiries to the registry concerning
18 an individual listed in the registry, any information disclosed
19 concerning such a finding shall also include disclosure of any
20 statement in the registry relating to the finding or a clear
21 and accurate summary of the statement.

22 (b) The Department shall add to the health care worker
23 registry records of findings as reported by the Inspector
24 General or remove from the health care worker registry records
25 of findings as reported by the Department of Human Services,
26 under subsection (g-5) of Section 1-17 of the Department of

1 Human Services Act.

2 Section 3-206.02. Designation on registry for offense.

3 (a) The Department, after notice to the nursing assistant,
4 habilitation aide, or child care aide, may designate that the
5 Department has found any of the following:

6 (1) The nursing assistant, habilitation aide, or child
7 care aide has abused a resident.

8 (2) The nursing assistant, habilitation aide, or child
9 care aide has neglected a resident.

10 (3) The nursing assistant, habilitation aide, or child
11 care aide has misappropriated resident property.

12 (4) The nursing assistant, habilitation aide, or child
13 care aide has been convicted of (i) a felony, (ii) a
14 misdemeanor, an essential element of which is dishonesty,
15 or (iii) any crime that is directly related to the duties
16 of a nursing assistant, habilitation aide, or child care
17 aide.

18 (b) Notice under this Section shall include a clear and
19 concise statement of the grounds denoting abuse, neglect, or
20 theft and notice of the opportunity for a hearing to contest
21 the designation.

22 (c) The Department may designate any nursing assistant,
23 habilitation aide, or child care aide on the registry who fails
24 (i) to file a return, (ii) to pay the tax, penalty or interest
25 shown in a filed return, or (iii) to pay any final assessment

1 of tax, penalty or interest, as required by any tax Act
2 administered by the Illinois Department of Revenue, until the
3 time the requirements of the tax Act are satisfied.

4 (c-1) The Department shall document criminal background
5 check results pursuant to the requirements of the Health Care
6 Worker Background Check Act.

7 (d) At any time after the designation on the registry
8 pursuant to subsection (a), (b), or (c) of this Section, a
9 nursing assistant, habilitation aide, or child care aide may
10 petition the Department for removal of designation on the
11 registry. The Department may remove the designation of the
12 nursing assistant, habilitation aide, or child care aide on the
13 registry unless, after an investigation and a hearing, the
14 Department determines that removal of designation is not in the
15 public interest.

16 Section 3-206.03. Resident attendants.

17 (a) As used in this Section, "resident attendant" means an
18 individual who assists residents in a facility with the
19 following activities:

20 (1) eating and drinking; and

21 (2) personal hygiene limited to washing a resident's
22 hands and face, brushing and combing a resident's hair,
23 oral hygiene, shaving residents with an electric razor, and
24 applying makeup.

25 The term "resident attendant" does not include an

1 individual who:

2 (1) is a licensed health professional or a registered
3 dietitian;

4 (2) volunteers without monetary compensation;

5 (3) is a nurse assistant; or

6 (4) performs any nursing or nursing related services
7 for residents of a facility.

8 (b) A facility may employ resident attendants to assist the
9 nurse aides with the activities authorized under subsection
10 (a). The resident attendants shall not count in the minimum
11 staffing requirements under rules implementing this Act.

12 (c) A facility may not use on a full time or other paid
13 basis any individual as a resident attendant in the facility
14 unless the individual:

15 (1) has completed a training and competency evaluation
16 program encompassing the tasks the individual provides;
17 and

18 (2) is competent to provide feeding, hydration, and
19 personal hygiene services.

20 (d) The training and competency evaluation program may be
21 facility based. It may include one or more of the following
22 units:

23 (1) A feeding unit that is a maximum of 5 hours in
24 length.

25 (2) A hydration unit that is a maximum of 3 hours in
26 length.

1 (3) A personal hygiene unit that is a maximum of 5
2 hours in length. These programs must be reviewed and
3 approved by the Department every 2 years.

4 (f) A person seeking employment as a resident attendant is
5 subject to the Health Care Worker Background Check Act.

6 Section 3-206.1. Transfer of ownership following
7 suspension or revocation; discussion with new owner. Whenever
8 ownership of a private facility is transferred to another
9 private owner following a final order for a suspension or
10 revocation of the facility's license, the Department shall
11 discuss with the new owner all noted problems associated with
12 the facility and shall determine what additional training, if
13 any, is needed for the direct care staff.

14 Section 3-207. Statement of ownership.

15 (a) As a condition of the issuance or renewal of the
16 license of any facility, the applicant shall file a statement
17 of ownership. The applicant shall update the information
18 required in the statement of ownership within 10 days of any
19 change.

20 (b) The statement of ownership shall include the following:

21 (1) The name, address, telephone number, occupation or
22 business activity, business address and business telephone
23 number of the person who is the owner of the facility and
24 every person who owns the building in which the facility is

1 located, if other than the owner of the facility, which is
2 the subject of the application or license; and if the owner
3 is a partnership or corporation, the name of every partner
4 and stockholder of the owner;

5 (2) The name and address of any facility, wherever
6 located, any financial interest in which is owned by the
7 applicant, if the facility were required to be licensed if
8 it were located in this State;

9 (3) Other information necessary to determine the
10 identity and qualifications of an applicant or licensee to
11 operate a facility in accordance with this Act as required
12 by the Department in regulations.

13 (c) The information in the statement of ownership shall be
14 public information and shall be available from the Department.

15 Section 3-208. Annual financial statement.

16 (a) Each licensee shall file annually, or more often as the
17 Director shall by rule prescribe an attested financial
18 statement. The Director may order an audited financial
19 statement of a particular facility by an auditor of the
20 Director's choice, provided the cost of such audit is paid by
21 the Department.

22 (b) No public funds shall be expended for the maintenance
23 of any resident in a facility which has failed to file the
24 financial statement required under this Section and no public
25 funds shall be paid to or on behalf of a facility which has

1 failed to file a statement.

2 (c) The Director of Public Health and the Director of
3 Healthcare and Family Services shall promulgate under Sections
4 3-801 and 3-802, one set of regulations for the filing of these
5 financial statements, and shall provide in these regulations
6 for forms, required information, intervals and dates of filing
7 and such other provisions as they may deem necessary.

8 (d) The Director of Public Health and the Director of
9 Healthcare and Family Services shall seek the advice and
10 comments of other State and federal agencies which require the
11 submission of financial data from facilities licensed under
12 this Act and shall incorporate the information requirements of
13 these agencies so as to impose the least possible burden on
14 licensees. No other State agency may require submission of
15 financial data except as expressly authorized by law or as
16 necessary to meet requirements of federal statutes or
17 regulations. Information obtained under this Section shall be
18 made available, upon request, by the Department to any other
19 State agency or legislative commission to which such
20 information is necessary for investigations or required for the
21 purposes of State or federal law or regulation.

22 Section 3-209. Posting of information. Every facility
23 shall conspicuously post for display in an area of its offices
24 accessible to residents, employees, and visitors the
25 following:

- 1 (1) Its current license;
- 2 (2) A description, provided by the Department, of
3 complaint procedures established under this Act and the
4 name, address, and telephone number of a person authorized
5 by the Department to receive complaints;
- 6 (3) A copy of any order pertaining to the facility
7 issued by the Department or a court; and
- 8 (4) A list of the material available for public
9 inspection under Section 3-210.

10 Section 3-210. Materials for public inspection.

11 A facility shall retain the following for public
12 inspection:

- 13 (1) A complete copy of every inspection report of the
14 facility received from the Department during the past 5
15 years;
- 16 (2) A copy of every order pertaining to the facility
17 issued by the Department or a court during the past 5
18 years;
- 19 (3) A description of the services provided by the
20 facility and the rates charged for those services and items
21 for which a resident may be separately charged;
- 22 (4) A copy of the statement of ownership required by
23 Section 3-207;
- 24 (5) A record of personnel employed or retained by the
25 facility who are licensed, certified or registered by the

1 Department of Financial and Professional Regulation (as
2 successor to the Department of Professional Regulation);

3 (6) A complete copy of the most recent inspection
4 report of the facility received from the Department; and

5 (7) A copy of the current Consumer Choice Information
6 Report required by Section 2-214.

7 Section 3-211. No State or federal funds to unlicensed
8 facility. No State or federal funds which are appropriated by
9 the General Assembly or which pass through the General Revenue
10 Fund or any special fund in the State Treasury shall be paid to
11 a facility not having a license issued under this Act.

12 Section 3-212. Inspection of facility by Department;
13 report.

14 (a) The Department, whenever it deems necessary in
15 accordance with subsection (b), shall inspect, survey and
16 evaluate every facility to determine compliance with
17 applicable licensure requirements and standards. Submission of
18 a facility's current Consumer Choice Information Report
19 required by Section 2-214 shall be verified at the time of
20 inspection. An inspection should occur within 120 days prior to
21 license renewal. The Department may periodically visit a
22 facility for the purpose of consultation. An inspection,
23 survey, or evaluation, other than an inspection of financial
24 records, shall be conducted without prior notice to the

1 facility. A visit for the sole purpose of consultation may be
2 announced. The Department shall provide training to surveyors
3 about the appropriate assessment, care planning, and care of
4 persons with mental illness (other than Alzheimer's disease or
5 related disorders) to enable its surveyors to determine whether
6 a facility is complying with State and federal requirements
7 about the assessment, care planning, and care of those persons.

8 (a-1) An employee of a State or unit of local government
9 agency charged with inspecting, surveying, and evaluating
10 facilities who directly or indirectly gives prior notice of an
11 inspection, survey, or evaluation, other than an inspection of
12 financial records, to a facility or to an employee of a
13 facility is guilty of a Class A misdemeanor. An inspector or an
14 employee of the Department who intentionally prenotifies a
15 facility, orally or in writing, of a pending complaint
16 investigation or inspection shall be guilty of a Class A
17 misdemeanor. Superiors of persons who have prenotified a
18 facility shall be subject to the same penalties, if they have
19 knowingly allowed the prenotification. A person found guilty of
20 prenotifying a facility shall be subject to disciplinary action
21 by his or her employer. If the Department has a good faith
22 belief, based upon information that comes to its attention,
23 that a violation of this subsection has occurred, it must file
24 a complaint with the Attorney General or the State's Attorney
25 in the county where the violation took place within 30 days
26 after discovery of the information.

1 (a-2) An employee of a State or unit of local government
2 agency charged with inspecting, surveying, or evaluating
3 facilities who willfully profits from violating the
4 confidentiality of the inspection, survey, or evaluation
5 process shall be guilty of a Class 4 felony and that conduct
6 shall be deemed unprofessional conduct that may subject a
7 person to loss of his or her professional license. An action to
8 prosecute a person for violating this subsection (a-2) may be
9 brought by either the Attorney General or the State's Attorney
10 in the county where the violation took place.

11 (b) In determining whether to make more than the required
12 number of unannounced inspections, surveys and evaluations of a
13 facility the Department shall consider one or more of the
14 following: previous inspection reports; the facility's history
15 of compliance with standards, rules and regulations
16 promulgated under this Act and correction of violations,
17 penalties or other enforcement actions; the number and severity
18 of complaints received about the facility; any allegations of
19 resident abuse or neglect; weather conditions; health
20 emergencies; other reasonable belief that deficiencies exist.

21 (b-1) The Department shall not be required to determine
22 whether a facility certified to participate in the Medicare
23 program under Title XVIII of the Social Security Act, or the
24 Medicaid program under Title XIX of the Social Security Act,
25 and which the Department determines by inspection under this
26 Section or under Section 3-702 of this Act to be in compliance

1 with the certification requirements of Title XVIII or XIX, is
2 in compliance with any requirement of this Act that is less
3 stringent than or duplicates a federal certification
4 requirement. In accordance with subsection (a) of this Section
5 or subsection (d) of Section 3-702, the Department shall
6 determine whether a certified facility is in compliance with
7 requirements of this Act that exceed federal certification
8 requirements. If a certified facility is found to be out of
9 compliance with federal certification requirements, the
10 results of an inspection conducted pursuant to Title XVIII or
11 XIX of the Social Security Act may be used as the basis for
12 enforcement remedies authorized and commenced under this Act.
13 Enforcement of this Act against a certified facility shall be
14 commenced pursuant to the requirements of this Act, unless
15 enforcement remedies sought pursuant to Title XVIII or XIX of
16 the Social Security Act exceed those authorized by this Act. As
17 used in this subsection, "enforcement remedy" means a sanction
18 for violating a federal certification requirement or this Act.

19 (c) Upon completion of each inspection, survey and
20 evaluation, the appropriate Department personnel who conducted
21 the inspection, survey or evaluation shall submit a copy of
22 their report to the licensee upon exiting the facility, and
23 shall submit the actual report to the appropriate regional
24 office of the Department. Such report and any recommendations
25 for action by the Department under this Act shall be
26 transmitted to the appropriate offices of the associate

1 director of the Department, together with related comments or
2 documentation provided by the licensee which may refute
3 findings in the report, which explain extenuating
4 circumstances that the facility could not reasonably have
5 prevented, or which indicate methods and timetables for
6 correction of deficiencies described in the report. Without
7 affecting the application of subsection (a) of Section 3-303,
8 any documentation or comments of the licensee shall be provided
9 within 10 days of receipt of the copy of the report. Such
10 report shall recommend to the Director appropriate action under
11 this Act with respect to findings against a facility. The
12 Director shall then determine whether the report's findings
13 constitute a violation or violations of which the facility must
14 be given notice. Such determination shall be based upon the
15 severity of the finding, the danger posed to resident health
16 and safety, the comments and documentation provided by the
17 facility, the diligence and efforts to correct deficiencies,
18 correction of the reported deficiencies, the frequency and
19 duration of similar findings in previous reports and the
20 facility's general inspection history. Violations shall be
21 determined under this subsection no later than 60 days after
22 completion of each inspection, survey and evaluation.

23 (d) The Department shall maintain all inspection, survey
24 and evaluation reports for at least 5 years in a manner
25 accessible to and understandable by the public.

1 Section 3-213. Periodic reports to Department. The
2 Department shall require periodic reports and shall have access
3 to and may reproduce or photocopy at its cost any books,
4 records, and other documents maintained by the facility to the
5 extent necessary to carry out this Act and the rules
6 promulgated under this Act. The Department shall not divulge or
7 disclose the contents of a record under this Section in
8 violation of Section 2-206 or as otherwise prohibited by this
9 Act.

10 Section 3-214. Consent to Department inspection. Any
11 holder of a license or applicant for a license shall be deemed
12 to have given consent to any authorized officer, employee or
13 agent of the Department to enter and inspect the facility in
14 accordance with this Article. Refusal to permit such entry or
15 inspection shall constitute grounds for denial, nonrenewal or
16 revocation of a license as provided in Section 3-117 or 3-119
17 of this Act.

18 Section 3-215. Annual report on facility by Department. The
19 Department shall make at least one report on each facility in
20 the State annually, unless the facility has been issued a
21 2-year license under subsection (b) of Section 3-110 for which
22 the report shall be made every 2-years. All conditions and
23 practices not in compliance with applicable standards within
24 the report period shall be specifically stated. If a violation

1 is corrected or is subject to an approved plan of correction,
2 the same shall be specified in the report. The Department shall
3 send a copy to any person on receiving a written request. The
4 Department may charge a reasonable fee to cover copying costs.

5 PART 3. VIOLATIONS AND PENALTIES

6 Section 3-301. Notice of violation of Act or rules. If
7 after receiving the report specified in subsection (c) of
8 Section 3-212 the Director or his or her designee determines
9 that a facility is in violation of this Act or of any rule
10 promulgated thereunder, the Director or his or her designee
11 shall serve a notice of violation upon the licensee within 10
12 days thereafter. Each notice of violation shall be prepared in
13 writing and shall specify the nature of the violation, and the
14 statutory provision or rule alleged to have been violated. The
15 notice shall inform the licensee of any action the Department
16 may take under the Act, including the requirement of a facility
17 plan of correction under Section 3-303; placement of the
18 facility on a list prepared under Section 3-304; assessment of
19 a penalty under Section 3-305; a conditional license under
20 Sections 3-311 through 3-317; or license suspension or
21 revocation under Section 3-119. The Director or his or her
22 designee shall also inform the licensee of rights to a hearing
23 under Section 3-703.

1 Section 3-302. Each day a separate violation. Each day the
2 violation exists after the date upon which a notice of
3 violation is served under Section 3-301 shall constitute a
4 separate violation for purposes of assessing penalties or fines
5 under Section 3-305. The submission of a plan of correction
6 pursuant to subsection (b) of Section 3-303 does not prohibit
7 or preclude the Department from assessing penalties or fines
8 pursuant to Section 3-305 for those violations found to be
9 valid except as provided under Section 3-308 in relation to
10 Type "B" violations. No penalty or fine may be assessed for a
11 condition for which the facility has received a variance or
12 waiver of a standard.

13 Section 3-303. Correction of violations; hearing.

14 (a) The situation, condition or practice constituting a
15 Type "A" violation shall be abated or eliminated immediately
16 unless a fixed period of time, not exceeding 15 days, as
17 determined by the Department and specified in the notice of
18 violation, is required for correction.

19 (b) At the time of issuance of a notice of a Type "B"
20 violation, the Department shall request a plan of correction
21 which is subject to the Department's approval. The facility
22 shall have 10 days after receipt of notice of violation in
23 which to prepare and submit a plan of correction. The
24 Department may extend this period up to 30 days where
25 correction involves substantial capital improvement. The plan

1 shall include a fixed time period not in excess of 90 days
2 within which violations are to be corrected. If the Department
3 rejects a plan of correction, it shall send notice of the
4 rejection and the reason for the rejection to the facility. The
5 facility shall have 10 days after receipt of the notice of
6 rejection in which to submit a modified plan. If the modified
7 plan is not timely submitted, or if the modified plan is
8 rejected, the facility shall follow an approved plan of
9 correction imposed by the Department.

10 (c) If the violation has been corrected prior to submission
11 and approval of a plan of correction, the facility may submit a
12 report of correction in place of a plan of correction. Such
13 report shall be signed by the administrator under oath.

14 (d) Upon a licensee's petition, the Department shall
15 determine whether to grant a licensee's request for an extended
16 correction time. Such petition shall be served on the
17 Department prior to expiration of the correction time
18 originally approved. The burden of proof is on the petitioning
19 facility to show good cause for not being able to comply with
20 the original correction time approved.

21 (e) If a facility desires to contest any Department action
22 under this Section it shall send a written request for a
23 hearing under Section 3-703 to the Department within 10 days of
24 receipt of notice of the contested action. The Department shall
25 commence the hearing as provided under Section 3-703. Whenever
26 possible, all action of the Department under this Section

1 arising out of a violation shall be contested and determined at
2 a single hearing. Issues decided after a hearing may not be
3 reheard at subsequent hearings under this Section.

4 Section 3-303.1. Waiver of facility's compliance with rule
5 or standard. Upon application by a facility, the Director may
6 grant or renew the waiver of the facility's compliance with a
7 rule or standard for a period not to exceed the duration of the
8 current license or, in the case of an application for license
9 renewal, the duration of the renewal period. The waiver may be
10 conditioned upon the facility taking action prescribed by the
11 Director as a measure equivalent to compliance. In determining
12 whether to grant or renew a waiver, the Director shall consider
13 the duration and basis for any current waiver with respect to
14 the same rule or standard and the validity and effect upon
15 patient health and safety of extending it on the same basis,
16 the effect upon the health and safety of residents, the quality
17 of resident care, the facility's history of compliance with the
18 rules and standards of this Act and the facility's attempts to
19 comply with the particular rule or standard in question. The
20 Department may provide, by rule, for the automatic renewal of
21 waivers concerning physical plant requirements upon the
22 renewal of a license. The Department shall renew waivers
23 relating to physical plant standards issued pursuant to this
24 Section at the time of the indicated reviews, unless it can
25 show why such waivers should not be extended for the following

1 reasons:

2 (a) the condition of the physical plant has deteriorated or
3 its use substantially changed so that the basis upon which the
4 waiver was issued is materially different; or

5 (b) the facility is renovated or substantially remodeled in
6 such a way as to permit compliance with the applicable rules
7 and standards without substantial increase in cost. A copy of
8 each waiver application and each waiver granted or renewed
9 shall be on file with the Department and available for public
10 inspection. The Director shall annually review such file and
11 recommend to the Long-Term Care Facility Advisory Board
12 established under Section 2-204 of the Nursing Home Care Act
13 any modification in rules or standards suggested by the number
14 and nature of waivers requested and granted and the
15 difficulties faced in compliance by similarly situated
16 facilities.

17 Section 3-303.2. Administrative warning.

18 (a) If the Department finds a situation, condition or
19 practice which violates this Act or any rule promulgated
20 thereunder which does not directly threaten the health, safety
21 or welfare of a resident, the Department shall issue an
22 administrative warning. Any administrative warning shall be
23 served upon the facility in the same manner as the notice of
24 violation under Section 3-301. The facility shall be
25 responsible for correcting the situation, condition or

1 practice; however, no written plan of correction need be
2 submitted for an administrative warning, except for violations
3 of Sections 3-401 through 3-413 or the rules promulgated
4 thereunder. A written plan of correction is required to be
5 filed for an administrative warning issued for violations of
6 Sections 3-401 through 3-413 or the rules promulgated
7 thereunder.

8 (b) If, however, the situation, condition or practice which
9 resulted in the issuance of an administrative warning, with the
10 exception of administrative warnings issued pursuant to
11 Sections 3-401 through 3-413 or the rules promulgated
12 thereunder, is not corrected by the next on site inspection by
13 the Department which occurs no earlier than 90 days from the
14 issuance of the administrative warning, a written plan of
15 correction must be submitted in the same manner as provided in
16 subsection (b) of Section 3-303.

17 Section 3-304. Quarterly list of facilities against which
18 Department has taken action.

19 (a) The Department shall prepare on a quarterly basis a
20 list containing the names and addresses of all facilities
21 against which the Department during the previous quarter has:

22 (1) sent a notice under Section 3-307 regarding a
23 penalty assessment under subsection (1) of Section 3-305;

24 (2) sent a notice of license revocation under Section
25 3-119;

1 (3) sent a notice refusing renewal of a license under
2 Section 3-119;

3 (4) sent a notice to suspend a license under Section
4 3-119;

5 (5) issued a conditional license for violations that
6 have not been corrected under Section 3-303 or penalties or
7 fines described under Section 3-305 have been assessed
8 under Section 3-307 or 3-308;

9 (6) placed a monitor under subsections (a), (b) and (c)
10 of Section 3-501 and under subsection (d) of such Section
11 where license revocation or nonrenewal notices have also
12 been issued;

13 (7) initiated an action to appoint a receiver;

14 (8) recommended to the Director of Healthcare and
15 Family Services, or the Secretary of the United States
16 Department of Health and Human Services, the
17 decertification for violations in relation to patient care
18 of a facility pursuant to Titles XVIII and XIX of the
19 federal Social Security Act.

20 (b) In addition to the name and address of the facility,
21 the list shall include the name and address of the person or
22 licensee against whom the action has been initiated, a self
23 explanatory summary of the facts which warranted the initiation
24 of each action, the type of action initiated, the date of the
25 initiation of the action, the amount of the penalty sought to
26 be assessed, if any, and the final disposition of the action,

1 if completed.

2 (c) The list shall be available to any member of the public
3 upon oral or written request without charge.

4 Section 3-304.1. Public computer access to information.

5 (a) The Department must make information regarding nursing
6 homes in the State available to the public in electronic form
7 on the World Wide Web, including all of the following
8 information:

9 (1) who regulates facilities licensed under this Act;

10 (2) information in the possession of the Department
11 that is listed in Sections 3-210 and 3-304;

12 (3) deficiencies and plans of correction;

13 (4) enforcement remedies;

14 (5) penalty letters;

15 (6) designation of penalty monies;

16 (7) the U.S. Department of Health and Human Services'
17 Health Care Financing Administration special projects or
18 federally required inspections;

19 (8) advisory standards;

20 (9) deficiency free surveys; and

21 (10) enforcement actions and enforcement summaries.

22 (b) No fee or other charge may be imposed by the Department
23 as a condition of accessing the information.

24 (c) The electronic public access provided through the World
25 Wide Web shall be in addition to any other electronic or print

1 distribution of the information.

2 (d) The information shall be made available as provided in
3 this Section in the shortest practicable time after it is
4 publicly available in any other form.

5 Section 3-305. Penalties or fines. The license of a
6 facility which is in violation of this Act or any rule adopted
7 thereunder may be subject to the penalties or fines levied by
8 the Department as specified in this Section.

9 (1) Unless a greater penalty or fine is allowed under
10 subsection (3), a licensee who commits a Type "A" violation
11 as defined in Section 1-129 is automatically issued a
12 conditional license for a period of 6 months to coincide
13 with an acceptable plan of correction and assessed a fine
14 computed at a rate of \$5.00 per resident in the facility
15 plus 20 cents per resident for each day of the violation,
16 commencing on the date a notice of the violation is served
17 under Section 3-301 and ending on the date the violation is
18 corrected, or a fine of not less than \$5,000, or when
19 death, serious mental or physical harm, permanent
20 disability, or disfigurement results, a fine of not less
21 than \$10,000, whichever is greater.

22 (2) A licensee who commits a Type "B" violation or who
23 is issued an administrative warning for a violation of
24 Sections 3-401 through 3-413 or the rules promulgated
25 thereunder is subject to a penalty computed at a rate of \$3

1 per resident in the facility, plus 15 cents per resident
2 for each day of the violation, commencing on the date a
3 notice of the violation is served under Section 3-301 and
4 ending on the date the violation is corrected, or a fine
5 not less than \$500, whichever is greater. Such fine shall
6 be assessed on the date of notice of the violation and
7 shall be suspended for violations that continue after such
8 date upon completion of a plan of correction in accordance
9 with Section 3-308 in relation to the assessment of fines
10 and correction. Failure to correct such violation within
11 the time period approved under a plan of correction shall
12 result in a fine and conditional license as provided under
13 subsection (5).

14 (3) A licensee who commits a Type "A" violation as
15 defined in Section 1-129 which continues beyond the time
16 specified in paragraph (a) of Section 3 303 which is cited
17 as a repeat violation shall have its license revoked and
18 shall be assessed a fine of 3 times the fine computed per
19 resident per day under subsection (1).

20 (4) A licensee who fails to satisfactorily comply with
21 an accepted plan of correction for a Type "B" violation or
22 an administrative warning issued pursuant to Sections
23 3-401 through 3-413 or the rules promulgated thereunder
24 shall be automatically issued a conditional license for a
25 period of not less than 6 months. A second or subsequent
26 acceptable plan of correction shall be filed. A fine shall

1 be assessed in accordance with subsection (2) when cited
2 for the repeat violation. This fine shall be computed for
3 all days of the violation, including the duration of the
4 first plan of correction compliance time.

5 (5) For the purpose of computing a penalty under
6 subsections (2) through (4), the number of residents per
7 day shall be based on the average number of residents in
8 the facility during the 30 days preceding the discovery of
9 the violation.

10 (6) When the Department finds that a provision of
11 Article II has been violated with regard to a particular
12 resident, the Department shall issue an order requiring the
13 facility to reimburse the resident for injuries incurred,
14 or \$100, whichever is greater. In the case of a violation
15 involving any action other than theft of money belonging to
16 a resident, reimbursement shall be ordered only if a
17 provision of Article II has been violated with regard to
18 that or any other resident of the facility within the 2
19 years immediately preceding the violation in question.

20 (7) For purposes of assessing fines under this Section,
21 a repeat violation shall be a violation which has been
22 cited during one inspection of the facility for which an
23 accepted plan of correction was not complied with. A repeat
24 violation shall not be a new citation of the same rule,
25 unless the licensee is not substantially addressing the
26 issue routinely throughout the facility.

1 Section 3-306. Factors to be considered in determining
2 penalty. In determining whether a penalty is to be imposed and
3 in fixing the amount of the penalty to be imposed, if any, for
4 a violation, the Director shall consider the following factors:

5 (1) The gravity of the violation, including the
6 probability that death or serious physical or mental harm
7 to a resident will result or has resulted; the severity of
8 the actual or potential harm, and the extent to which the
9 provisions of the applicable statutes or regulations were
10 violated;

11 (2) The reasonable diligence exercised by the licensee
12 and efforts to correct violations;

13 (3) Any previous violations committed by the licensee;
14 and

15 (4) The financial benefit to the facility of committing
16 or continuing the violation.

17 Section 3-307. Assessment of penalties; notice. The
18 Director may directly assess penalties provided for under
19 Section 3-305 of this Act. If the Director determines that a
20 penalty should be assessed for a particular violation or for
21 failure to correct it, the Director shall send a notice to the
22 facility. The notice shall specify the amount of the penalty
23 assessed, the violation, the statute or rule alleged to have
24 been violated, and shall inform the licensee of the right to

1 hearing under Section 3-703 of this Act. If the violation is
2 continuing, the notice shall specify the amount of additional
3 assessment per day for the continuing violation.

4 Section 3-308. Time of assessment; plan of correction. In
5 the case of a Type "A" violation, a penalty may be assessed
6 from the date on which the violation is discovered. In the case
7 of a Type "B" or Type "C" violation or an administrative
8 warning issued pursuant to Sections 3-401 through 3-413 or the
9 rules promulgated thereunder, the facility shall submit a plan
10 of correction as provided in Section 3-303. In the case of a
11 Type "B" violation or an administrative warning issued pursuant
12 to Sections 3-401 through 3-413 or the rules promulgated
13 thereunder, a penalty shall be assessed on the date of notice
14 of the violation, but the Director may reduce the amount or
15 waive such payment for any of the following reasons:

16 (a) The facility submits a true report of correction within
17 10 days;

18 (b) The facility submits a plan of correction within 10
19 days and subsequently submits a true report of correction
20 within 15 days thereafter;

21 (c) The facility submits a plan of correction within 10
22 days which provides for a correction time that is less than or
23 equal to 30 days and the Department approves such plan; or

24 (d) The facility submits a plan of correction for
25 violations involving substantial capital improvements which

1 provides for correction within the initial 90 day limit
2 provided under Section 3-303. The Director shall consider the
3 following factors in determinations to reduce or waive such
4 penalties:

5 (1) The violation has not caused actual harm to a
6 resident;

7 (2) The facility has made a diligent effort to correct
8 the violation and to prevent its recurrence;

9 (3) The facility has no record of a pervasive pattern
10 of the same or similar violations; and

11 (4) The facility has a record of substantial compliance
12 with this Act and the regulations promulgated hereunder.

13 If a plan of correction is approved and carried out for a
14 Type "C" violation, the fine provided under Section 3-305 shall
15 be suspended for the time period specified in the approved plan
16 of correction. If a plan of correction is approved and carried
17 out for a Type "B" violation or an administrative warning
18 issued pursuant to Sections 3-401 through 3-413 or the rules
19 promulgated thereunder, with respect to a violation that
20 continues after the date of notice of violation, the fine
21 provided under Section 3-305 shall be suspended for the time
22 period specified in the approved plan of correction.

23 If a good faith plan of correction is not received within
24 the time provided by Section 3-303, a penalty may be assessed
25 from the date of the notice of the Type "B" or "C" violation or
26 an administrative warning issued pursuant to Sections 3-401

1 through 3-413 or the rules promulgated thereunder served under
2 Section 3-301 until the date of the receipt of a good faith
3 plan of correction, or until the date the violation is
4 corrected, whichever is earlier. If a violation is not
5 corrected within the time specified by an approved plan of
6 correction or any lawful extension thereof, a penalty may be
7 assessed from the date of notice of the violation, until the
8 date the violation is corrected.

9 Section 3-309. Contesting assessment of penalty. A
10 facility may contest an assessment of a penalty by sending a
11 written request to the Department for hearing under Section
12 3-703. Upon receipt of the request the Department shall hold a
13 hearing as provided under Section 3-703.

14 Section 3-310. Collection of penalties. All penalties
15 shall be paid to the Department within 10 days of receipt of
16 notice of assessment or, if the penalty is contested under
17 Section 3-309, within 10 days of receipt of the final decision,
18 unless the decision is appealed and the order is stayed by
19 court order under Section 3-713. A penalty assessed under this
20 Act shall be collected by the Department and shall be deposited
21 with the State Treasurer into the Long Term Care
22 Monitor/Receiver Fund. If the person or facility against whom a
23 penalty has been assessed does not comply with a written demand
24 for payment within 30 days, the Director shall issue an order

1 to do any of the following:

2 (1) Direct the State Treasurer to deduct the amount of
3 the fine from amounts otherwise due from the State for the
4 penalty and remit that amount to the Department;

5 (2) Add the amount of the penalty to the facility's
6 licensing fee; if the licensee refuses to make the payment
7 at the time of application for renewal of its license, the
8 license shall not be renewed; or

9 (3) Bring an action in circuit court to recover the
10 amount of the penalty.

11 With the approval of the federal centers for Medicaid and
12 Medicare services, the Director of Public Health shall set
13 aside 50% of the federal civil monetary penalties collected
14 each year to be used to award grants under the Innovations in
15 Long-term Care Quality Grants Act.

16 Section 3-311. Issuance of conditional license in addition
17 to penalties. In addition to the right to assess penalties
18 under this Act, the Director may issue a conditional license
19 under Section 3-305 to any facility if the Director finds that
20 either a Type "A" or Type "B" violation exists in such
21 facility. The issuance of a conditional license shall revoke
22 any license held by the facility.

23 Section 3-312. Plan of correction required before issuance
24 of conditional license. Prior to the issuance of a conditional

1 license, the Department shall review and approve a written plan
2 of correction. The Department shall specify the violations
3 which prevent full licensure and shall establish a time
4 schedule for correction of the deficiencies. Retention of the
5 license shall be conditional on the timely correction of the
6 deficiencies in accordance with the plan of correction.

7 Section 3-313. Notice of issuance of conditional license.
8 Written notice of the decision to issue a conditional license
9 shall be sent to the applicant or licensee together with the
10 specification of all violations of this Act and the rules
11 promulgated thereunder which prevent full licensure and which
12 form the basis for the Department's decision to issue a
13 conditional license and the required plan of correction. The
14 notice shall inform the applicant or licensee of its right to a
15 full hearing under Section 3-315 to contest the issuance of the
16 conditional license.

17 Section 3-315. Hearing on conditional license or plan of
18 correction. If the applicant or licensee desires to contest the
19 basis for issuance of a conditional license, or the terms of
20 the plan of correction, the applicant or licensee shall send a
21 written request for hearing to the Department within 10 days
22 after receipt by the applicant or licensee of the Department's
23 notice and decision to issue a conditional license. The
24 Department shall hold the hearing as provided under Section

1 3-703.

2 Section 3-316. Period of conditional license. A
3 conditional license shall be issued for a period specified by
4 the Department, but in no event for more than one year. The
5 Department shall periodically inspect any facility operating
6 under a conditional license. If the Department finds
7 substantial failure by the facility to timely correct the
8 violations which prevented full licensure and formed the basis
9 for the Department's decision to issue a conditional license in
10 accordance with the required plan of correction, the
11 conditional license may be revoked as provided under Section
12 3-119.

13 Section 3-318. Business offenses.

14 (a) No person shall:

15 (1) Intentionally fail to correct or interfere with the
16 correction of a Type "A" or Type "B" violation within the
17 time specified on the notice or approved plan of correction
18 under this Act as the maximum period given for correction,
19 unless an extension is granted and the corrections are made
20 before expiration of extension;

21 (2) Intentionally prevent, interfere with, or attempt
22 to impede in any way any duly authorized investigation and
23 enforcement of this Act;

24 (3) Intentionally prevent or attempt to prevent any

1 examination of any relevant books or records pertinent to
2 investigations and enforcement of this Act;

3 (4) Intentionally prevent or interfere with the
4 preservation of evidence pertaining to any violation of
5 this Act or the rules promulgated under this Act;

6 (5) Intentionally retaliate or discriminate against
7 any resident or employee for contacting or providing
8 information to any state official, or for initiating,
9 participating in, or testifying in an action for any remedy
10 authorized under this Act;

11 (6) Wilfully file any false, incomplete or
12 intentionally misleading information required to be filed
13 under this Act, or wilfully fail or refuse to file any
14 required information; or

15 (7) Open or operate a facility without a license.

16 (b) A violation of this Section is a business offense,
17 punishable by a fine not to exceed \$10,000, except as otherwise
18 provided in subsection (2) of Section 3-103 as to submission of
19 false or misleading information in a license application.

20 (c) The State's Attorney of the county in which the
21 facility is located, or the Attorney General, shall be notified
22 by the Director of any violations of this Section.

23 Section 3-320. Review under Administrative Review Law. All
24 final administrative decisions of the Department under this Act
25 are subject to judicial review under the Administrative Review

1 Law, as now or hereafter amended, and the rules adopted
2 pursuant thereto. The term "administrative decision" is
3 defined as in Section 3-101 of the Code of Civil Procedure.

4 PART 4. DISCHARGE AND TRANSFER

5 Section 3-401. Involuntary transfer or discharge of
6 resident. A facility may involuntarily transfer or discharge a
7 resident only for one or more of the following reasons:

8 (a) for medical reasons;

9 (b) for the resident's physical safety;

10 (c) for the physical safety of other residents, the
11 facility staff or facility visitors; or

12 (d) for either late payment or nonpayment for the
13 resident's stay, except as prohibited by Titles XVIII and XIX
14 of the federal Social Security Act. For purposes of this
15 Section, "late payment" means non receipt of payment after
16 submission of a bill. If payment is not received within 45 days
17 after submission of a bill, a facility may send a notice to the
18 resident and responsible party requesting payment within 30
19 days. If payment is not received within such 30 days, the
20 facility may thereupon institute transfer or discharge
21 proceedings by sending a notice of transfer or discharge to the
22 resident and responsible party by registered or certified mail.
23 The notice shall state, in addition to the requirements of
24 Section 3-403 of this Act, that the responsible party has the

1 right to pay the amount of the bill in full up to the date the
2 transfer or discharge is to be made and then the resident shall
3 have the right to remain in the facility. Such payment shall
4 terminate the transfer or discharge proceedings. This
5 subsection does not apply to those residents whose care is
6 provided for under the Illinois Public Aid Code. The Department
7 shall adopt rules setting forth the criteria and procedures to
8 be applied in cases of involuntary transfer or discharge
9 permitted under this Section.

10 Section 3-401.1. Medical assistance recipients.

11 (a) A facility participating in the Medical Assistance
12 Program is prohibited from failing or refusing to retain as a
13 resident any person because he or she is a recipient of or an
14 applicant for the Medical Assistance Program under Article V of
15 the Illinois Public Aid Code.

16 (a-5) A facility of which only a distinct part is certified
17 to participate in the Medical Assistance Program may refuse to
18 retain as a resident any person who resides in a part of the
19 facility that does not participate in the Medical Assistance
20 Program and who is unable to pay for his or her care in the
21 facility without Medical Assistance only if:

22 (1) the facility, no later than at the time of
23 admission and at the time of the resident's contract
24 renewal, explains to the resident (unless he or she is
25 incompetent), and to the resident's representative, and to

1 the person making payment on behalf of the resident for the
2 resident's stay, in writing, that the facility may
3 discharge the resident if the resident is no longer able to
4 pay for his or her care in the facility without Medical
5 Assistance;

6 (2) the resident (unless he or she is incompetent), the
7 resident's representative, and the person making payment
8 on behalf of the resident for the resident's stay,
9 acknowledge in writing that they have received the written
10 explanation.

11 (a-10) For the purposes of this Section, a recipient or
12 applicant shall be considered a resident in the facility during
13 any hospital stay totaling 10 days or less following a hospital
14 admission. The Department of Healthcare and Family Services
15 shall recoup funds from a facility when, as a result of the
16 facility's refusal to readmit a recipient after
17 hospitalization for 10 days or less, the recipient incurs
18 hospital bills in an amount greater than the amount that would
19 have been paid by that Department for care of the recipient in
20 the facility. The amount of the recoupment shall be the
21 difference between the Department of Healthcare and Family
22 Services' payment for hospital care and the amount that
23 Department would have paid for care in the facility.

24 (b) A facility which violates this Section shall be guilty
25 of a business offense and fined not less than \$500 nor more
26 than \$1,000 for the first offense and not less than \$1,000 nor

1 more than \$5,000 for each subsequent offense.

2 Section 3-402. Notice of involuntary transfer or
3 discharge. Involuntary transfer or discharge of a resident from
4 a facility shall be preceded by the discussion required under
5 Section 3-408 and by a minimum written notice of 21 days,
6 except in one of the following instances:

7 (a) when an emergency transfer or discharge is ordered by
8 the resident's attending physician because of the resident's
9 health care needs; or

10 (b) when the transfer or discharge is mandated by the
11 physical safety of other residents, the facility staff, or
12 facility visitors, as documented in the clinical record. The
13 Department shall be notified prior to any such involuntary
14 transfer or discharge. The Department shall immediately offer
15 transfer, or discharge and relocation assistance to residents
16 transferred or discharged under this subparagraph (b), and the
17 Department may place relocation teams as provided in Section
18 3-419 of this Act.

19 Section 3-403. Contents of notice; right to hearing. The
20 notice required by Section 3-402 shall be on a form prescribed
21 by the Department and shall contain all of the following:

22 (a) The stated reason for the proposed transfer or
23 discharge;

24 (b) The effective date of the proposed transfer or

1 discharge;

2 (c) A statement in not less than 12 point type, which
3 reads: "You have a right to appeal the facility's decision to
4 transfer or discharge you. If you think you should not have to
5 leave this facility, you may file a request for a hearing with
6 the Department of Public Health within 10 days after receiving
7 this notice. If you request a hearing, it will be held not
8 later than 10 days after your request, and you generally will
9 not be transferred or discharged during that time. If the
10 decision following the hearing is not in your favor, you
11 generally will not be transferred or discharged prior to the
12 expiration of 30 days following receipt of the original notice
13 of the transfer or discharge. A form to appeal the facility's
14 decision and to request a hearing is attached. If you have any
15 questions, call the Department of Public Health at the
16 telephone number listed below.";

17 (d) A hearing request form, together with a postage paid,
18 preaddressed envelope to the Department; and

19 (e) The name, address, and telephone number of the person
20 charged with the responsibility of supervising the transfer or
21 discharge.

22 Section 3-404. Request for hearing; effect on transfer. A
23 request for a hearing made under Section 3-403 shall stay a
24 transfer pending a hearing or appeal of the decision, unless a
25 condition which would have allowed transfer or discharge in

1 less than 21 days as described under paragraphs (a) and (b) of
2 Section 3-402 develops in the interim.

3 Section 3-405. Copy of notice in resident's record; copy to
4 Department. A copy of the notice required by Section 3-402
5 shall be placed in the resident's clinical record and a copy
6 shall be transmitted to the Department, the resident, the
7 resident's representative, and, if the resident's care is paid
8 for in whole or part through Title XIX, the Department of
9 Healthcare and Family Services.

10 Section 3-406. Medical assistance recipient; transfer or
11 discharge as result of action by Department of Healthcare and
12 Family Services. When the basis for an involuntary transfer or
13 discharge is the result of an action by the Department of
14 Healthcare and Family Services with respect to a recipient of
15 assistance under Title XIX of the Social Security Act and a
16 hearing request is filed with the Department of Healthcare and
17 Family Services, the 21-day written notice period shall not
18 begin until a final decision in the matter is rendered by the
19 Department of Healthcare and Family Services or a court of
20 competent jurisdiction and notice of that final decision is
21 received by the resident and the facility.

22 Section 3-407. Nonpayment as basis for transfer or
23 discharge. When nonpayment is the basis for involuntary

1 transfer or discharge, the resident shall have the right to
2 redeem up to the date that the discharge or transfer is to be
3 made and then shall have the right to remain in the facility.

4 Section 3-408. Discussion of planned transfer or
5 discharge. The planned involuntary transfer or discharge shall
6 be discussed with the resident, the resident's representative
7 and person or agency responsible for the resident's placement,
8 maintenance, and care in the facility. The explanation and
9 discussion of the reasons for involuntary transfer or discharge
10 shall include the facility administrator or other appropriate
11 facility representative as the administrator's designee. The
12 content of the discussion and explanation shall be summarized
13 in writing and shall include the names of the individuals
14 involved in the discussions and made a part of the resident's
15 clinical record.

16 Section 3-409. Counseling services. The facility shall
17 offer the resident counseling services before the transfer or
18 discharge of the resident.

19 Section 3-410. Request for hearing on transfer or
20 discharge. A resident subject to involuntary transfer or
21 discharge from a facility, the resident's guardian or if the
22 resident is a minor, his or her parent shall have the
23 opportunity to file a request for a hearing with the Department

1 within 10 days following receipt of the written notice of the
2 involuntary transfer or discharge by the facility.

3 Section 3-411. Hearing; time. The Department of Public
4 Health, when the basis for involuntary transfer or discharge is
5 other than action by the Department of Healthcare and Family
6 Services with respect to the Title XIX Medicaid recipient,
7 shall hold a hearing at the resident's facility not later than
8 10 days after a hearing request is filed, and render a decision
9 within 14 days after the filing of the hearing request.

10 Section 3-412. Conduct of hearing. The hearing before the
11 Department provided under Section 3-411 shall be conducted as
12 prescribed under Section 3-703. In determining whether a
13 transfer or discharge is authorized, the burden of proof in
14 this hearing rests on the person requesting the transfer or
15 discharge.

16 Section 3-413. Time for leaving facility. If the Department
17 determines that a transfer or discharge is authorized under
18 Section 3-401, the resident shall not be required to leave the
19 facility before the 34th day following receipt of the notice
20 required under Section 3-402, or the 10th day following receipt
21 of the Department's decision, whichever is later, unless a
22 condition which would have allowed transfer or discharge in
23 less than 21 days as described under paragraphs (a) and (b) of

1 Section 3-402 develops in the interim.

2 Section 3-414. Continuation of medical assistance funding.
3 The Department of Healthcare and Family Services shall continue
4 Title XIX Medicaid funding during the appeal, transfer, or
5 discharge period for those residents who are recipients of
6 assistance under Title XIX of the Social Security Act affected
7 by Section 3-401.

8 Section 3-415. Transfer or discharge by Department;
9 grounds. The Department may transfer or discharge any resident
10 from any facility required to be licensed under this Act when
11 any of the following conditions exist:

12 (a) Such facility is operating without a license;

13 (b) The Department has suspended, revoked or refused to
14 renew the license of the facility as provided under Section
15 3-119;

16 (c) The facility has requested the aid of the Department in
17 the transfer or discharge of the resident and the Department
18 finds that the resident consents to transfer or discharge;

19 (d) The facility is closing or intends to close and
20 adequate arrangement for relocation of the resident has not
21 been made at least 30 days prior to closure; or

22 (e) The Department determines that an emergency exists
23 which requires immediate transfer or discharge of the resident.

1 Section 3-416. Transfer or discharge by Department;
2 likelihood of serious harm. In deciding to transfer or
3 discharge a resident from a facility under Section 3-415, the
4 Department shall consider the likelihood of serious harm which
5 may result if the resident remains in the facility.

6 Section 3-417. Relocation assistance. The Department shall
7 offer transfer or discharge and relocation assistance to
8 residents transferred or discharged under Sections 3-401
9 through 3-415, including information on available alternative
10 placements. Residents shall be involved in planning the
11 transfer or discharge and shall choose among the available
12 alternative placements, except that where an emergency makes
13 prior resident involvement impossible the Department may make a
14 temporary placement until a final placement can be arranged.
15 Residents may choose their final alternative placement and
16 shall be given assistance in transferring to such place. No
17 resident may be forced to remain in a temporary or permanent
18 placement. Where the Department makes or participates in making
19 the relocation decision, consideration shall be given to
20 proximity to the resident's relatives and friends. The resident
21 shall be allowed 3 visits to potential alternative placements
22 prior to removal, except where medically contraindicated or
23 where the need for immediate transfer or discharge requires
24 reduction in the number of visits.

1 Section 3-418. Transfer or discharge plans. The Department
2 shall prepare resident transfer or discharge plans to assure
3 safe and orderly removals and protect residents' health,
4 safety, welfare and rights. In nonemergencies, and where
5 possible in emergencies, the Department shall design and
6 implement such plans in advance of transfer or discharge.

7 Section 3-419. Relocation teams. The Department may place
8 relocation teams in any facility from which residents are being
9 discharged or transferred for any reason, for the purpose of
10 implementing transfer or discharge plans.

11 Section 3-420. Transfer or discharge by Department;
12 notice. In any transfer or discharge conducted under Sections
13 3-415 through 3-418 the Department shall do the following:

14 (a) Provide written notice to the facility prior to the
15 transfer or discharge. The notice shall state the basis for the
16 order of transfer or discharge and shall inform the facility of
17 its right to an informal conference prior to transfer or
18 discharge under this Section, and its right to a subsequent
19 hearing under Section 3-422. If a facility desires to contest a
20 nonemergency transfer or discharge, prior to transfer or
21 discharge it shall, within 4 working days after receipt of the
22 notice, send a written request for an informal conference to
23 the Department. The Department shall, within 4 working days
24 from the receipt of the request, hold an informal conference in

1 the county in which the facility is located. Following this
2 conference, the Department may affirm, modify or overrule its
3 previous decision. Except in an emergency, transfer or
4 discharge may not begin until the period for requesting a
5 conference has passed or, if a conference is requested, until
6 after a conference has been held.

7 (b) Provide written notice to any resident to be removed,
8 to the resident's representative, if any, and to a member of
9 the resident's family, where practicable, prior to the removal.
10 The notice shall state the reason for which transfer or
11 discharge is ordered and shall inform the resident of the
12 resident's right to challenge the transfer or discharge under
13 Section 3-422. The Department shall hold an informal conference
14 with the resident or the resident's representative prior to
15 transfer or discharge at which the resident or the
16 representative may present any objections to the proposed
17 transfer or discharge plan or alternative placement.

18 Section 3-421. Notice of emergency. In any transfer or
19 discharge conducted under subsection (e) of Section 3-415, the
20 Department shall notify the facility and any resident to be
21 removed that an emergency has been found to exist and removal
22 has been ordered, and shall involve the residents in removal
23 planning if possible. Following emergency removal, the
24 Department shall provide written notice to the facility, to the
25 resident, to the resident's representative, if any, and to a

1 member of the resident's family, where practicable, of the
2 basis for the finding that an emergency existed and of the
3 right to challenge removal under Section 3-422.

4 Section 3-422. Hearing to challenge transfer or discharge.
5 Within 10 days following transfer or discharge, the facility or
6 any resident transferred or discharged may send a written
7 request to the Department for a hearing under Section 3-703 to
8 challenge the transfer or discharge. The Department shall hold
9 the hearing within 30 days of receipt of the request. The
10 hearing shall be held at the facility from which the resident
11 is being transferred or discharged, unless the resident or
12 resident's representative, requests an alternative hearing
13 site. If the facility prevails, it may file a claim against the
14 State under the Court of Claims Act for payments lost less
15 expenses saved as a result of the transfer or discharge. No
16 resident transferred or discharged may be held liable for the
17 charge for care which would have been made had the resident
18 remained in the facility. If a resident prevails, the resident
19 may file a claim against the State under the Court of Claims
20 Act for any excess expenses directly caused by the order to
21 transfer or discharge. The Department shall assist the resident
22 in returning to the facility if assistance is requested.

23 Section 3-423. Closure of facility; notice. Any owner of a
24 facility licensed under this Act shall give 90 days' notice

1 prior to voluntarily closing a facility or closing any part of
2 a facility, or prior to closing any part of a facility if
3 closing such part will require the transfer or discharge of
4 more than 10% of the residents. Such notice shall be given to
5 the Department, to any resident who must be transferred or
6 discharged, to the resident's representative, and to a member
7 of the resident's family, where practicable. Notice shall state
8 the proposed date of closing and the reason for closing. The
9 facility shall offer to assist the resident in securing an
10 alternative placement and shall advise the resident on
11 available alternatives. Where the resident is unable to choose
12 an alternate placement and is not under guardianship, the
13 Department shall be notified of the need for relocation
14 assistance. The facility shall comply with all applicable laws
15 and regulations until the date of closing, including those
16 related to transfer or discharge of residents. The Department
17 may place a relocation team in the facility as provided under
18 Section 3-419.

19 PART 5. MONITORS AND RECEIVERSHIP

20 Section 3-501. Monitor or receiver for facility; grounds.
21 The Department may place an employee or agent to serve as a
22 monitor in a facility or may petition the circuit court for
23 appointment of a receiver for a facility, or both, when any of
24 the following conditions exist:

- 1 (a) The facility is operating without a license;
- 2 (b) The Department has suspended, revoked or refused to
3 renew the existing license of the facility;
- 4 (c) The facility is closing or has informed the Department
5 that it intends to close and adequate arrangements for
6 relocation of residents have not been made at least 30 days
7 prior to closure;
- 8 (d) The Department determines that an emergency exists,
9 whether or not it has initiated revocation or nonrenewal
10 procedures, if because of the unwillingness or inability of the
11 licensee to remedy the emergency the Department believes a
12 monitor or receiver is necessary; or
- 13 (e) The Department is notified that the facility is
14 terminated or will not be renewed for participation in the
15 federal reimbursement program under either Title XVIII or Title
16 XIX of the Social Security Act. As used in subsection (d) and
17 Section 3-503, "emergency" means a threat to the health, safety
18 or welfare of a resident that the facility is unwilling or
19 unable to correct.

20 Section 3-502. Placement of monitor by Department. In any
21 situation described in Section 3-501, the Department may place
22 a qualified person to act as monitor in the facility. The
23 monitor shall observe operation of the facility, assist the
24 facility by advising it on how to comply with the State
25 regulations, and shall report periodically to the Department on

1 the operation of the facility.

2 Section 3-503. Emergency; petition for receiver. Where a
3 resident, a resident's representative or a resident's next of
4 kin believes that an emergency exists each of them,
5 collectively or separately, may file a verified petition to the
6 circuit court for the county in which the facility is located
7 for an order placing the facility under the control of a
8 receiver.

9 Section 3-504. Hearing on petition for receiver; grounds
10 for appointment of receiver. The court shall hold a hearing
11 within 5 days of the filing of the petition. The petition and
12 notice of the hearing shall be served on the owner,
13 administrator or designated agent of the facility as provided
14 under the Civil Practice Law, or the petition and notice of
15 hearing shall be posted in a conspicuous place in the facility
16 not later than 3 days before the time specified for the
17 hearing, unless a different period is fixed by order of the
18 court. The court shall appoint a receiver for a limited time
19 period, not to exceed 180 days, if it finds that:

20 (a) The facility is operating without a license;

21 (b) The Department has suspended, revoked or refused to
22 renew the existing license of a facility;

23 (c) The facility is closing or has informed the Department
24 that it intends to close and adequate arrangements for

1 relocation of residents have not been made at least 30 days
2 prior to closure; or

3 (d) An emergency exists, whether or not the Department has
4 initiated revocation or nonrenewal procedures, if because of
5 the unwillingness or inability of the licensee to remedy the
6 emergency the appointment of a receiver is necessary.

7 Section 3-505. Emergency; time for hearing. If a petition
8 filed under Section 3-503 alleges that the conditions set out
9 in subsection 3-504 (d) exist within a facility, the court may
10 set the matter for hearing at the earliest possible time. The
11 petitioner shall notify the licensee, administrator of the
12 facility, or registered agent of the licensee prior to the
13 hearing. Any form of written notice may be used. A receivership
14 shall not be established ex parte unless the court determines
15 that the conditions set out in subsection 3-504(d) exist in a
16 facility; that the licensee cannot be found; and that the
17 petitioner has exhausted all reasonable means of locating and
18 notifying the licensee, administrator or registered agent.

19 Section 3-506. Appointment of receiver. The court may
20 appoint any qualified person as a receiver, except it shall not
21 appoint any owner or affiliate of the facility which is in
22 receivership as its receiver. The Department shall maintain a
23 list of such persons to operate facilities which the court may
24 consider. The court shall give preference to licensed nursing

1 home administrators in appointing a receiver.

2 Section 3-507. Health, safety, and welfare of residents.
3 The receiver shall make provisions for the continued health,
4 safety and welfare of all residents of the facility.

5 Section 3-508. Receiver's powers and duties. A receiver
6 appointed under this Act:

7 (a) Shall exercise those powers and shall perform those
8 duties set out by the court.

9 (b) Shall operate the facility in such a manner as to
10 assure safety and adequate health care for the residents.

11 (c) Shall have the same rights to possession of the
12 building in which the facility is located and of all goods and
13 fixtures in the building at the time the petition for
14 receivership is filed as the owner would have had if the
15 receiver had not been appointed, and of all assets of the
16 facility. The receiver shall take such action as is reasonably
17 necessary to protect or conserve the assets or property of
18 which the receiver takes possession, or the proceeds from any
19 transfer thereof, and may use them only in the performance of
20 the powers and duties set forth in this Section and by order of
21 the court.

22 (d) May use the building, fixtures, furnishings and any
23 accompanying consumable goods in the provision of care and
24 services to residents and to any other persons receiving

1 services from the facility at the time the petition for
2 receivership was filed. The receiver shall collect payments for
3 all goods and services provided to residents or others during
4 the period of the receivership at the same rate of payment
5 charged by the owners at the time the petition for receivership
6 was filed.

7 (e) May correct or eliminate any deficiency in the
8 structure or furnishings of the facility which endangers the
9 safety or health of residents while they remain in the
10 facility, provided the total cost of correction does not exceed
11 \$3,000. The court may order expenditures for this purpose in
12 excess of \$3,000 on application from the receiver after notice
13 to the owner and hearing.

14 (f) May let contracts and hire agents and employees to
15 carry out the powers and duties of the receiver under this
16 Section.

17 (g) Except as specified in Section 3-510, shall honor all
18 leases, mortgages and secured transactions governing the
19 building in which the facility is located and all goods and
20 fixtures in the building of which the receiver has taken
21 possession, but only to the extent of payments which, in the
22 case of a rental agreement, are for the use of the property
23 during the period of the receivership, or which, in the case of
24 a purchase agreement, come due during the period of the
25 receivership.

26 (h) Shall have full power to direct and manage and to

1 discharge employees of the facility, subject to any contract
2 rights they may have. The receiver shall pay employees at the
3 same rate of compensation, including benefits, that the
4 employees would have received from the owner. Receivership does
5 not relieve the owner of any obligation to employees not
6 carried out by the receiver.

7 (i) Shall, if any resident is transferred or discharged,
8 follow the procedures set forth in Part 4 of this Article.

9 (j) Shall be entitled to and shall take possession of all
10 property or assets of residents which are in the possession of
11 a facility or its owner. The receiver shall preserve all
12 property, assets and records of residents of which the receiver
13 takes possession and shall provide for the prompt transfer of
14 the property, assets and records to the new placement of any
15 transferred resident.

16 (k) Shall report to the court on any actions he has taken
17 to bring the facility into compliance with this Act or with
18 Title XVIII or XIX of the Social Security Act that he believes
19 should be continued when the receivership is terminated in
20 order to protect the health, safety or welfare of the
21 residents.

22 Section 3-509. Payment for goods or services provided by
23 receiver.

24 (a) A person who is served with notice of an order of the
25 court appointing a receiver and of the receiver's name and

1 address shall be liable to pay the receiver for any goods or
2 services provided by the receiver after the date of the order
3 if the person would have been liable for the goods or services
4 as supplied by the owner. The receiver shall give a receipt for
5 each payment and shall keep a copy of each receipt on file. The
6 receiver shall deposit amounts received in a separate account
7 and shall use this account for all disbursements.

8 (b) The receiver may bring an action to enforce the
9 liability created by subsection (a) of this Section.

10 (c) A payment to the receiver of any sum owing to the
11 facility or its owner shall discharge any obligation to the
12 facility to the extent of the payment.

13 Section 3-510. Receiver's avoidance of obligations;
14 reasonable rental, price, or rate of interest to be paid by
15 receiver.

16 (a) A receiver may petition the court that he or she not be
17 required to honor any lease, mortgage, secured transaction or
18 other wholly or partially executory contract entered into by
19 the owner of the facility if the rent, price or rate of
20 interest required to be paid under the agreement was
21 substantially in excess of a reasonable rent, price or rate of
22 interest at the time the contract was entered into, or if any
23 material provision of the agreement was unreasonable.

24 (b) If the receiver is in possession of real estate or
25 goods subject to a lease, mortgage or security interest which

1 the receiver has obtained a court order to avoid under
2 subsection (a) of this Section, and if the real estate or goods
3 are necessary for the continued operation of the facility under
4 this Section, the receiver may apply to the court to set a
5 reasonable rental, price or rate of interest to be paid by the
6 receiver during the duration of the receivership. The court
7 shall hold a hearing on the application within 15 days. The
8 receiver shall send notice of the application to any known
9 persons who own the property involved at least 10 days prior to
10 the hearing. Payment by the receiver of the amount determined
11 by the court to be reasonable is a defense to any action
12 against the receiver for payment or for possession of the goods
13 or real estate subject to the lease, security interest or
14 mortgage involved by any person who received such notice, but
15 the payment does not relieve the owner of the facility of any
16 liability for the difference between the amount paid by the
17 receiver and the amount due under the original lease, security
18 interest or mortgage involved.

19 Section 3-511. Insufficient funds collected; reimbursement
20 of receiver by Department. If funds collected under Sections
21 3-508 and 3-509 are insufficient to meet the expenses of
22 performing the powers and duties conferred on the receiver, or
23 if there are insufficient funds on hand to meet those expenses,
24 the Department may reimburse the receiver for those expenses
25 from funds appropriated for its ordinary and contingent

1 expenses by the General Assembly after funds contained in the
2 Long Term Care Monitor/Receiver Fund have been exhausted.

3 Section 3-512. Receiver's compensation. The court shall
4 set the compensation of the receiver, which will be considered
5 a necessary expense of a receivership under Section 3-516.

6 Section 3-513. Action against receiver.

7 (a) In any action or special proceeding brought against a
8 receiver in the receiver's official capacity for acts committed
9 while carrying out powers and duties under this Article, the
10 receiver shall be considered a public employee under the Local
11 Governmental and Governmental Employees Tort Immunity Act, as
12 now or hereafter amended.

13 (b) A receiver may be held liable in a personal capacity
14 only for the receiver's own gross negligence, intentional acts
15 or breach of fiduciary duty.

16 (c) The court may require a receiver to post a bond.

17 Section 3-514. License to facility in receivership. Other
18 provisions of this Act notwithstanding, the Department may
19 issue a license to a facility placed in receivership. The
20 duration of a license issued under this Section is limited to
21 the duration of the receivership.

22 Section 3-515. Termination of receivership. The court may

1 terminate a receivership:

2 (a) If the time period specified in the order appointing
3 the receiver elapses and is not extended;

4 (b) If the court determines that the receivership is no
5 longer necessary because the conditions which gave rise to the
6 receivership no longer exist; or the Department grants the
7 facility a new license, whether the structure of the facility,
8 the right to operate the facility, or the land on which it is
9 located is under the same or different ownership; or

10 (c) If all of the residents in the facility have been
11 transferred or discharged. Before terminating a receivership,
12 the court may order the Department to require any licensee to
13 comply with the recommendations of the receiver made under
14 subsection (k) of Section 3-508. A licensee may petition the
15 court to be relieved of this requirement.

16 Section 3-516. Accounting by receiver; Department's lien.

17 (a) Within 30 days after termination, the receiver shall
18 give the court a complete accounting of all property of which
19 the receiver has taken possession, of all funds collected, and
20 of the expenses of the receivership.

21 (b) If the operating funds collected by the receiver under
22 Sections 3-508 and 3-509 exceed the reasonable expenses of the
23 receivership, the court shall order payment of the surplus to
24 the owner, after reimbursement of funds drawn from the
25 contingency fund under Section 3-511. If the operating funds

1 are insufficient to cover the reasonable expenses of the
2 receivership, the owner shall be liable for the deficiency.
3 Payment recovered from the owner shall be used to reimburse the
4 contingency fund for amounts drawn by the receiver under
5 Section 3-511.

6 (c) The Department shall have a lien for any payment made
7 under Section 3-511 upon any beneficial interest, direct or
8 indirect, of any owner in the following property:

9 (1) The building in which the facility is located;

10 (2) Any fixtures, equipment or goods used in the
11 operation of the facility;

12 (3) The land on which the facility is located; or

13 (4) The proceeds from any conveyance of property
14 described in subparagraphs (1), (2) or (3) above, made by
15 the owner within one year prior to the filing of the
16 petition for receivership.

17 (d) The lien provided by this Section is prior to any lien
18 or other interest which originates subsequent to the filing of
19 a petition for receivership under this Article, except for a
20 construction or mechanic's lien arising out of work performed
21 with the express consent of the receiver.

22 (e) The receiver shall, within 60 days after termination of
23 the receivership, file a notice of any lien created under this
24 Section. If the lien is on real property, the notice shall be
25 filed with the recorder. If the lien is on personal property,
26 the lien shall be filed with the Secretary of State. The notice

1 shall specify the name of the person against whom the lien is
2 claimed, the name of the receiver, the dates of the petition
3 for receivership and the termination of receivership, a
4 description of the property involved and the amount claimed. No
5 lien shall exist under this Article against any person, on any
6 property, or for any amount not specified in the notice filed
7 under this subsection (e).

8 Section 3-517. Civil and criminal liability during
9 receivership. Nothing in this Act shall be deemed to relieve
10 any owner, administrator or employee of a facility placed in
11 receivership of any civil or criminal liability incurred, or
12 any duty imposed by law, by reason of acts or omissions of the
13 owner, administrator, or employee prior to the appointment of a
14 receiver; nor shall anything contained in this Act be construed
15 to suspend during the receivership any obligation of the owner,
16 administrator, or employee for payment of taxes or other
17 operating and maintenance expenses of the facility nor of the
18 owner, administrator, employee or any other person for the
19 payment of mortgages or liens. The owner shall retain the right
20 to sell or mortgage any facility under receivership, subject to
21 approval of the court which ordered the receivership

22 PART 6. DUTIES

23 Section 3-601. Liability for injury to resident. The owner

1 and licensee are liable to a resident for any intentional or
2 negligent act or omission of their agents or employees which
3 injures the resident.

4 Section 3-602. Damages for violation of resident's rights.
5 The licensee shall pay the actual damages and costs and
6 attorney's fees to a facility resident whose rights, as
7 specified in Part 1 of Article II of this Act, are violated.

8 Section 3-603. Action by resident. A resident may maintain
9 an action under this Act for any other type of relief,
10 including injunctive and declaratory relief, permitted by law.

11 Section 3-604. Class action; remedies cumulative. Any
12 damages recoverable under Sections 3-601 through 3-607,
13 including minimum damages as provided by these Sections, may be
14 recovered in any action which a court may authorize to be
15 brought as a class action pursuant to the Civil Practice Law.
16 The remedies provided in Sections 3-601 through 3-607, are in
17 addition to and cumulative with any other legal remedies
18 available to a resident. Exhaustion of any available
19 administrative remedies shall not be required prior to
20 commencement of suit hereunder.

21 Section 3-605. Amount of damages; no effect on medical
22 assistance eligibility. The amount of damages recovered by a

1 resident in an action brought under Sections 3-601 through
2 3-607 shall be exempt for purposes of determining initial or
3 continuing eligibility for medical assistance under the
4 Illinois Public Aid Code, as now or hereafter amended, and
5 shall neither be taken into consideration nor required to be
6 applied toward the payment or partial payment of the cost of
7 medical care or services available under the Illinois Public
8 Aid Code.

9 Section 3-606. Waiver of resident's right to bring action
10 prohibited. Any waiver by a resident or his or her legal
11 representative of the right to commence an action under
12 Sections 3-601 through 3-607, whether oral or in writing, shall
13 be null and void, and without legal force or effect.

14 Section 3-607. Trial by jury. Any party to an action
15 brought under Sections 3-601 through 3-607 shall be entitled to
16 a trial by jury and any waiver of the right to a trial by a
17 jury, whether oral or in writing, prior to the commencement of
18 an action, shall be null and void, and without legal force or
19 effect.

20 Section 3-608. Retaliation against resident prohibited. A
21 licensee or its agents or employees shall not transfer,
22 discharge, evict, harass, dismiss, or retaliate against a
23 resident, a resident's representative, or an employee or agent

1 who makes a report under Section 2-107, brings or testifies in
2 an action under Sections 3-601 through 3-607, or files a
3 complaint under Section 3-702, because of the report,
4 testimony, or complaint.

5 Section 3-609. Immunity from liability for making report.
6 Any person, institution or agency, under this Act,
7 participating in good faith in the making of a report, or in
8 the investigation of such a report shall not be deemed to have
9 violated any privileged communication and shall have immunity
10 from any liability, civil, criminal or any other proceedings,
11 civil or criminal as a consequence of making such report. The
12 good faith of any persons required to report, or permitted to
13 report, cases of suspected resident abuse or neglect under this
14 Act, shall be presumed.

15 Section 3-610. Duty to report violations.

16 (a) A facility employee or agent who becomes aware of abuse
17 or neglect of a resident prohibited by Section 2-107 shall
18 immediately report the matter to the Department and to the
19 facility administrator. A facility administrator who becomes
20 aware of abuse or neglect of a resident prohibited by Section
21 2-107 shall immediately report the matter by telephone and in
22 writing to the resident's representative, and to the
23 Department. Any person may report a violation of Section 2-107
24 to the Department.

1 (b) A facility employee or agent who becomes aware of
2 another facility employee or agent's theft or misappropriation
3 of a resident's property must immediately report the matter to
4 the facility administrator. A facility administrator who
5 becomes aware of a facility employee or agent's theft or
6 misappropriation of a resident's property must immediately
7 report the matter by telephone and in writing to the resident's
8 representative, to the Department, and to the local law
9 enforcement agency. Neither a licensee nor its employees or
10 agents may dismiss or otherwise retaliate against a facility
11 employee or agent who reports the theft or misappropriation of
12 a resident's property under this subsection.

13 Section 3-611. Employee as perpetrator of abuse. When an
14 investigation of a report of suspected abuse of a recipient
15 indicates, based upon credible evidence, that an employee of a
16 long term care facility is the perpetrator of the abuse, that
17 employee shall immediately be barred from any further contact
18 with residents of the facility, pending the outcome of any
19 further investigation, prosecution or disciplinary action
20 against the employee.

21 Section 3-612. Resident as perpetrator of abuse. When an
22 investigation of a report of suspected abuse of a resident
23 indicates, based upon credible evidence, that another resident
24 of the long term care facility is the perpetrator of the abuse,

1 that resident's condition shall be immediately evaluated to
2 determine the most suitable therapy and placement for the
3 resident, considering the safety of that resident as well as
4 the safety of other residents and employees of the facility.

5 PART 7. COMPLAINT, HEARING, AND APPEAL

6 Section 3-701. Public nuisance; action for injunction. The
7 operation or maintenance of a facility in violation of this
8 Act, or of the rules and regulations promulgated by the
9 Department, is declared a public nuisance inimical to the
10 public welfare. The Director in the name of the people of the
11 State, through the Attorney General, or the State's Attorney of
12 the county in which the facility is located, or in respect to
13 any city, village or incorporated town which provides for the
14 licensing and regulation of any or all such facilities, the
15 Director or the mayor or president of the Board of Trustees, as
16 the case may require, of the city, village or incorporated
17 town, in the name of the people of the State, through the
18 Attorney General or State's attorney of the county in which the
19 facility is located, may, in addition to other remedies herein
20 provided, bring action for an injunction to restrain such
21 violation or to enjoin the future operation or maintenance of
22 any such facility.

23 Section 3-702. Request for investigation of violation.

1 (a) A person who believes that this Act or a rule
2 promulgated under this Act may have been violated may request
3 an investigation. The request may be submitted to the
4 Department in writing, by telephone, or by personal visit. An
5 oral complaint shall be reduced to writing by the Department.
6 The Department shall request information identifying the
7 complainant, including the name, address and telephone number,
8 to help enable appropriate follow up. The Department shall act
9 on such complaints via on-site visits or other methods deemed
10 appropriate to handle the complaints with or without such
11 identifying information, as otherwise provided under this
12 Section. The complainant shall be informed that compliance with
13 such request is not required to satisfy the procedures for
14 filing a complaint under this Act.

15 (b) The substance of the complaint shall be provided in
16 writing to the licensee, owner or administrator no earlier than
17 at the commencement of an on-site inspection of the facility
18 which takes place pursuant to the complaint.

19 (c) The Department shall not disclose the name of the
20 complainant unless the complainant consents in writing to the
21 disclosure or the investigation results in a judicial
22 proceeding, or unless disclosure is essential to the
23 investigation. The complainant shall be given the opportunity
24 to withdraw the complaint before disclosure. Upon the request
25 of the complainant, the Department may permit the complainant
26 or a representative of the complainant to accompany the person

1 making the on-site inspection of the facility.

2 (d) Upon receipt of a complaint, the Department shall
3 determine whether this Act or a rule promulgated under this Act
4 has been or is being violated. The Department shall investigate
5 all complaints alleging abuse or neglect within 7 days after
6 the receipt of the complaint except that complaints of abuse or
7 neglect which indicate that a resident's life or safety is in
8 imminent danger shall be investigated within 24 hours after
9 receipt of the complaint. All other complaints shall be
10 investigated within 30 days after the receipt of the complaint.
11 The Department employees investigating a complaint shall
12 conduct a brief, informal exit conference with the facility to
13 alert its administration of any suspected serious deficiency
14 that poses a direct threat to the health, safety or welfare of
15 a resident to enable an immediate correction for the
16 alleviation or elimination of such threat. Such information and
17 findings discussed in the brief exit conference shall become a
18 part of the investigating record but shall not in any way
19 constitute an official or final notice of violation as provided
20 under Section 3-301. All complaints shall be classified as "an
21 invalid report", "a valid report", or "an undetermined report".
22 For any complaint classified as "a valid report", the
23 Department must determine within 30 working days if any rule or
24 provision of this Act has been or is being violated.

25 (d-1) The Department shall, whenever possible, combine an
26 on site investigation of a complaint in a facility with other

1 inspections in order to avoid duplication of inspections.

2 (e) In all cases, the Department shall inform the
3 complainant of its findings within 10 days of its determination
4 unless otherwise indicated by the complainant, and the
5 complainant may direct the Department to send a copy of such
6 findings to another person. The Department's findings may
7 include comments or documentation provided by either the
8 complainant or the licensee pertaining to the complaint. The
9 Department shall also notify the facility of such findings
10 within 10 days of the determination, but the name of the
11 complainant or residents shall not be disclosed in this notice
12 to the facility. The notice of such findings shall include a
13 copy of the written determination; the correction order, if
14 any; the warning notice, if any; the inspection report; or the
15 State licensure form on which the violation is listed.

16 (f) A written determination, correction order, or warning
17 notice concerning a complaint, together with the facility's
18 response, shall be available for public inspection, but the
19 name of the complainant or resident shall not be disclosed
20 without his or her consent.

21 (g) A complainant who is dissatisfied with the
22 determination or investigation by the Department may request a
23 hearing under Section 3-703. The facility shall be given notice
24 of any such hearing and may participate in the hearing as a
25 party. If a facility requests a hearing under Section 3-703
26 which concerns a matter covered by a complaint, the complainant

1 shall be given notice and may participate in the hearing as a
2 party. A request for a hearing by either a complainant or a
3 facility shall be submitted in writing to the Department within
4 30 days after the mailing of the Department's findings as
5 described in subsection (e) of this Section. Upon receipt of
6 the request the Department shall conduct a hearing as provided
7 under Section 3-703.

8 (h) Any person who knowingly transmits a false report to
9 the Department commits the offense of disorderly conduct under
10 subsection (a) (8) of Section 26-1 of the Criminal Code of 1961.

11 Section 3-703. Hearing to contest decision; applicable
12 provisions. Any person requesting a hearing pursuant to
13 Sections 2-110, 3-115, 3-118, 3-119, 3-301, 3-303, 3-309,
14 3-410, 3-422 or 3-702 to contest a decision rendered in a
15 particular case may have such decision reviewed in accordance
16 with Sections 3-703 through 3-712.

17 Section 3-704. Hearing; notice; commencement. A request
18 for a hearing by aggrieved persons shall be taken to the
19 Department as follows:

20 (a) Upon the receipt of a request in writing for a hearing,
21 the Director or a person designated in writing by the Director
22 to act as a hearing officer shall conduct a hearing to review
23 the decision.

24 (b) Before the hearing is held, notice of the hearing shall

1 be sent by the Department to the person making the request for
2 the hearing and to the person making the decision which is
3 being reviewed. In the notice the Department shall specify the
4 date, time and place of the hearing which shall be held not
5 less than 10 days after the notice is mailed or delivered. The
6 notice shall designate the decision being reviewed. The notice
7 may be served by delivering it personally to the parties or
8 their representatives or by mailing it by certified mail to the
9 parties' addresses.

10 (c) The Department shall commence the hearing within 30
11 days of the receipt of request for hearing. The hearing shall
12 proceed as expeditiously as practicable, but in all cases shall
13 conclude within 90 days of commencement.

14 Section 3-705. Subpoenas. The Director or hearing officer
15 may compel by subpoena or subpoena duces tecum the attendance
16 and testimony of witnesses and the production of books and
17 papers, and administer oaths to witnesses.

18 Section 3-706. Appearance at hearing; depositions; record.
19 The Director or hearing officer shall permit any party to
20 appear in person and to be represented by counsel at the
21 hearing, at which time the applicant or licensee shall be
22 afforded an opportunity to present all relevant matter in
23 support of his position. In the event of the inability of any
24 party or the Department to procure the attendance of witnesses

1 to give testimony or produce books and papers, any party or the
2 Department may take the deposition of witnesses in accordance
3 with the provisions of the laws of this State. All testimony
4 taken at a hearing shall be reduced to writing, and all such
5 testimony and other evidence introduced at the hearing shall be
6 a part of the record of the hearing.

7 Section 3-707. Findings of fact; decision. The Director or
8 hearing officer shall make findings of fact in such hearing,
9 and the Director shall render his or her decision within 30
10 days after the termination of the hearing, unless additional
11 time not to exceed 90 days is required by him or her for a
12 proper disposition of the matter. When the hearing has been
13 conducted by a hearing officer, the Director shall review the
14 record and findings of fact before rendering a decision. All
15 decisions rendered by the Director shall be binding upon and
16 complied with by the Department, the facility or the persons
17 involved in the hearing, as appropriate to each case.

18 Section 3-708. Rules of evidence and procedure. The
19 Director or hearing officer shall not be bound by common law or
20 statutory rules of evidence, or by technical or formal rules of
21 procedure, but shall conduct hearings in the manner best
22 calculated to result in substantial justice.

23 Section 3-709. Service of subpoenas; witness fees. All

1 subpoenas issued by the Director or hearing officer may be
2 served as provided for in civil actions. The fees of witnesses
3 for attendance and travel shall be the same as the fees for
4 witnesses before the circuit court and shall be paid by the
5 party to such proceeding at whose request the subpoena is
6 issued. If such subpoena is issued at the request of the
7 Department or by a person proceeding in forma pauperis the
8 witness fee shall be paid by the Department as an
9 administrative expense.

10 Section 3-710. Compelling obedience to subpoena. In cases
11 of refusal of a witness to attend or testify or to produce
12 books or papers, concerning any matter upon which he might be
13 lawfully examined, the circuit court of the county wherein the
14 hearing is held, upon application of any party to the
15 proceeding, may compel obedience by a proceeding for contempt
16 as in cases of a like refusal to obey a similar order of the
17 court.

18 Section 3-711. Record of hearing; transcript. The
19 Department, at its expense, shall provide a stenographer to
20 take the testimony, or otherwise record the testimony, and
21 preserve a record of all proceedings under this Section. The
22 notice of hearing, the complaint and all other documents in the
23 nature of pleadings and written motions filed in the
24 proceedings, the transcript of testimony, and the findings and

1 decision shall be the record of the proceedings. The Department
2 shall furnish a transcript of such record to any person
3 interested in such hearing upon payment therefor of 70 cents
4 per page for each original transcript and 25 cents per page for
5 each certified copy thereof. However, the charge for any part
6 of such transcript ordered and paid for previous to the writing
7 of the original record shall be 25 cents per page.

8 Section 3-712. Certification of record; fee. The
9 Department shall not be required to certify any record or file
10 any answer or otherwise appear in any proceeding for judicial
11 review under Section 3-713 of this Act unless the party filing
12 the complaint deposits with the clerk of the court the sum of
13 95 cents per page, representing the costs of such
14 certification. Failure on the part of the plaintiff to make
15 such deposit shall be grounds for dismissal of the action;
16 provided, however, that persons proceeding in forma pauperis
17 with the approval of the circuit court shall not be required to
18 pay these fees.

19 Section 3-713. Judicial review; stay of enforcement of
20 Department's decision.

21 (a) Final administrative decisions after hearing shall be
22 subject to judicial review exclusively as provided in the
23 Administrative Review Law, as now or hereafter amended, except
24 that any petition for judicial review of Department action

1 under this Act shall be filed within 15 days after receipt of
2 notice of the final agency determination. The term
3 "administrative decision" has the meaning ascribed to it in
4 Section 3-101 of the Code of Civil Procedure.

5 (b) The court may stay enforcement of the Department's
6 final decision or toll the continuing accrual of a penalty
7 under Section 3-305 if a showing is made that there is a
8 substantial probability that the party seeking review will
9 prevail on the merits and will suffer irreparable harm if a
10 stay is not granted, and that the facility will meet the
11 requirements of this Act and the rules promulgated under this
12 Act during such stay. Where a stay is granted the court may
13 impose such conditions on the granting of the stay as may be
14 necessary to safeguard the lives, health, rights, safety and
15 welfare of residents, and to assure compliance by the facility
16 with the requirements of this Act, including an order for
17 transfer or discharge of residents under Sections 3-401 through
18 3-423 or for appointment of a receiver under Sections 3-501
19 through 3-517.

20 (c) Actions brought under this Act shall be set for trial
21 at the earliest possible date and shall take precedence on the
22 court calendar over all other cases except matters to which
23 equal or superior precedence is specifically granted by law.

24 Section 3-714. Remedies cumulative. The remedies provided
25 by this Act are cumulative and shall not be construed as

1 restricting any party from seeking any remedy, provisional or
2 otherwise, provided by law for the benefit of the party, from
3 obtaining additional relief based upon the same facts.

4 PART 8. MISCELLANEOUS PROVISIONS

5 Section 3-801. Rules and regulations. The Department shall
6 have the power to adopt rules and regulations to carry out the
7 purpose of this Act.

8 Section 3-801.05. Rules adopted under prior law. The
9 Department shall adopt rules to implement the changes
10 concerning licensure of facilities under this Act instead of
11 under the Nursing Home Care Act. Until the Department adopts
12 those rules, the rules adopted under the Nursing Home Care Act
13 that apply to facilities subject to licensure under this Act
14 shall continue to apply to those facilities.

15 Section 3-801.1. Access to records of resident with
16 developmental disabilities. Notwithstanding the other
17 provisions of this Act to the contrary, the agency designated
18 by the Governor under Section 1 of "An Act in relation to the
19 protection and advocacy of the rights of persons with
20 developmental disabilities, and amending Acts therein named",
21 enacted by the 84th General Assembly, shall have access to the
22 records of a person with developmental disabilities who resides

1 in a facility, subject to the limitations of this Act. The
2 agency shall also have access for the purpose of inspection and
3 copying, to the records of a person with developmental
4 disabilities who resides in any such facility if (1) a
5 complaint is received by such agency from or on behalf of the
6 person with a developmental disability, and (2) such person
7 does not have a guardian or the State or the designee of the
8 State is the guardian of such person. The designated agency
9 shall provide written notice to the person with developmental
10 disabilities and the State guardian of the nature of the
11 complaint based upon which the designated agency has gained
12 access to the records. No record or the contents of any record
13 shall be redisclosed by the designated agency unless the person
14 with developmental disabilities and the State guardian are
15 provided 7 days' advance written notice, except in emergency
16 situations, of the designated agency's intent to redisclose
17 such record, during which time the person with developmental
18 disabilities or the State guardian may seek to judicially
19 enjoin the designated agency's redisclosure of such record on
20 the grounds that such redisclosure is contrary to the interests
21 of the person with developmental disabilities. If a person with
22 developmental disabilities resides in such a facility and has a
23 guardian other than the State or the designee of the State, the
24 facility director shall disclose the guardian's name, address,
25 and telephone number to the designated agency at the agency's
26 request.

1 Upon request, the designated agency shall be entitled to
2 inspect and copy any records or other materials which may
3 further the agency's investigation of problems affecting
4 numbers of persons with developmental disabilities. When
5 required by law any personally identifiable information of
6 persons with a developmental disability shall be removed from
7 the records. However, the designated agency may not inspect or
8 copy any records or other materials when the removal of
9 personally identifiable information imposes an unreasonable
10 burden on the facility. For the purposes of this Section,
11 "developmental disability" means a severe, chronic disability
12 of a person which:

13 (A) is attributable to a mental or physical impairment
14 or combination of mental and physical impairments;

15 (B) is manifested before the person attains age 22;

16 (C) is likely to continue indefinitely;

17 (D) results in substantial functional limitations in 3
18 or more of the following areas of major life activity: (i)
19 self care, (ii) receptive and expressive language, (iii)
20 learning, (iv) mobility, (v) self direction, (vi) capacity
21 for independent living, and (vii) economic self
22 sufficiency; and

23 (E) reflects the person's need for combination and
24 sequence of special, interdisciplinary or generic care,
25 treatment or other services which are of lifelong or
26 extended duration and are individually planned and

1 coordinated.

2 Section 3-802. Illinois Administrative Procedure Act. The
3 provisions of the Illinois Administrative Procedure Act are
4 hereby expressly adopted and shall apply to all administrative
5 rules and procedures of the Department under this Act.

6 Section 3-803. Treatment by prayer or spiritual means.
7 Nothing in this Act or the rules and regulations adopted
8 pursuant thereto shall be construed as authorizing the medical
9 supervision, regulation, or control of the remedial care or
10 treatment of residents in any facility conducted for those who
11 rely upon treatment by prayer or spiritual means in accordance
12 with the creed or tenets of any well recognized church or
13 religious denomination.

14 Section 3-804. Report to General Assembly. The Department
15 shall report to the General Assembly by April 1 of each year
16 upon the performance of its inspection, survey and evaluation
17 duties under this Act, including the number and needs of the
18 Department personnel engaged in such activities. The report
19 shall also describe the Department's actions in enforcement of
20 this Act, including the number and needs of personnel so
21 engaged. The report shall also include the number of valid and
22 invalid complaints filed with the Department within the last
23 calendar year.

1 ARTICLE 90. AMENDATORY PROVISIONS

2 Section 90-2. The Election Code is amended by changing
3 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,
4 19-12.1, and 19-12.2 as follows:

5 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

6 Sec. 3-3. Every honorably discharged soldier or sailor who
7 is an inmate of any soldiers' and sailors' home within the
8 State of Illinois or any person who is a resident of a facility
9 licensed or certified pursuant to the Nursing Home Care Act or
10 the MR/DD Community Care Act for 30 days or longer, and who is
11 a citizen of the United States and has resided in this State
12 and in the election district 30 days next preceding any
13 election shall be entitled to vote in the election district in
14 which any such home in which he is an inmate or resident is
15 located, for all officers that now are or hereafter may be
16 elected by the people, and upon all questions that may be
17 submitted to the vote of the people: Provided, that he shall
18 declare upon oath, that it was his bona fide intention at the
19 time he entered said home to become a resident thereof.

20 (Source: P.A. 86-820.)

21 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

22 Sec. 4-6.3. The county clerk may establish a temporary

1 place of registration for such times and at such locations
2 within the county as the county clerk may select. However, no
3 temporary place of registration may be in operation during the
4 27 days preceding an election. Notice of the time and place of
5 registration under this Section shall be published by the
6 county clerk in a newspaper having a general circulation in the
7 county not less than 3 nor more than 15 days before the holding
8 of such registration.

9 Temporary places of registration shall be established so
10 that the areas of concentration of population or use by the
11 public are served, whether by facilities provided in places of
12 private business or in public buildings or in mobile units.
13 Areas which may be designated as temporary places of
14 registration include, but are not limited to, facilities
15 licensed or certified pursuant to the Nursing Home Care Act or
16 the MR/DD Community Care Act, Soldiers' and Sailors' Homes,
17 shopping centers, business districts, public buildings and
18 county fairs.

19 Temporary places of registration shall be available to the
20 public not less than 2 hours per year for each 1,000 population
21 or fraction thereof in the county.

22 All temporary places of registration shall be manned by
23 deputy county clerks or deputy registrars appointed pursuant to
24 Section 4-6.2.

25 (Source: P.A. 92-816, eff. 8-21-02.)

1 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

2 Sec. 4-10. Except as herein provided, no person shall be
3 registered, unless he applies in person to a registration
4 officer, answers such relevant questions as may be asked of him
5 by the registration officer, and executes the affidavit of
6 registration. The registration officer shall require the
7 applicant to furnish two forms of identification, and except in
8 the case of a homeless individual, one of which must include
9 his or her residence address. These forms of identification
10 shall include, but not be limited to, any of the following:
11 driver's license, social security card, public aid
12 identification card, utility bill, employee or student
13 identification card, credit card, or a civic, union or
14 professional association membership card. The registration
15 officer shall require a homeless individual to furnish evidence
16 of his or her use of the mailing address stated. This use may
17 be demonstrated by a piece of mail addressed to that individual
18 and received at that address or by a statement from a person
19 authorizing use of the mailing address. The registration
20 officer shall require each applicant for registration to read
21 or have read to him the affidavit of registration before
22 permitting him to execute the affidavit.

23 One of the registration officers or a deputy registration
24 officer, county clerk, or clerk in the office of the county
25 clerk, shall administer to all persons who shall personally
26 apply to register the following oath or affirmation:

1 "You do solemnly swear (or affirm) that you will fully and
2 truly answer all such questions as shall be put to you touching
3 your name, place of residence, place of birth, your
4 qualifications as an elector and your right as such to register
5 and vote under the laws of the State of Illinois."

6 The registration officer shall satisfy himself that each
7 applicant for registration is qualified to register before
8 registering him. If the registration officer has reason to
9 believe that the applicant is a resident of a Soldiers' and
10 Sailors' Home or any facility which is licensed or certified
11 pursuant to the Nursing Home Care Act or the MR/DD Community
12 Care Act, the following question shall be put, "When you
13 entered the home which is your present address, was it your
14 bona fide intention to become a resident thereof?" Any voter of
15 a township, city, village or incorporated town in which such
16 applicant resides, shall be permitted to be present at the
17 place of any precinct registration and shall have the right to
18 challenge any applicant who applies to be registered.

19 In case the officer is not satisfied that the applicant is
20 qualified he shall forthwith notify such applicant in writing
21 to appear before the county clerk to complete his registration.
22 Upon the card of such applicant shall be written the word
23 "incomplete" and no such applicant shall be permitted to vote
24 unless such registration is satisfactorily completed as
25 hereinafter provided. No registration shall be taken and marked
26 as incomplete if information to complete it can be furnished on

1 the date of the original application.

2 Any person claiming to be an elector in any election
3 precinct and whose registration card is marked "Incomplete" may
4 make and sign an application in writing, under oath, to the
5 county clerk in substance in the following form:

6 "I do solemnly swear that I,, did on (insert date)
7 make application to the board of registry of the precinct
8 of the township of (or to the county clerk of county)
9 and that said board or clerk refused to complete my
10 registration as a qualified voter in said precinct. That I
11 reside in said precinct, that I intend to reside in said
12 precinct, and am a duly qualified voter of said precinct and am
13 entitled to be registered to vote in said precinct at the next
14 election.

15 (Signature of applicant)"

16 All such applications shall be presented to the county
17 clerk or to his duly authorized representative by the
18 applicant, in person between the hours of 9:00 a.m. and 5:00
19 p.m. on any day after the days on which the 1969 and 1970
20 precinct re-registrations are held but not on any day within 27
21 days preceding the ensuing general election and thereafter for
22 the registration provided in Section 4-7 all such applications
23 shall be presented to the county clerk or his duly authorized
24 representative by the applicant in person between the hours of
25 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding

1 the ensuing general election. Such application shall be heard
2 by the county clerk or his duly authorized representative at
3 the time the application is presented. If the applicant for
4 registration has registered with the county clerk, such
5 application may be presented to and heard by the county clerk
6 or by his duly authorized representative upon the dates
7 specified above or at any time prior thereto designated by the
8 county clerk.

9 Any otherwise qualified person who is absent from his
10 county of residence either due to business of the United States
11 or because he is temporarily outside the territorial limits of
12 the United States may become registered by mailing an
13 application to the county clerk within the periods of
14 registration provided for in this Article, or by simultaneous
15 application for absentee registration and absentee ballot as
16 provided in Article 20 of this Code.

17 Upon receipt of such application the county clerk shall
18 immediately mail an affidavit of registration in duplicate,
19 which affidavit shall contain the following and such other
20 information as the State Board of Elections may think it proper
21 to require for the identification of the applicant:

22 Name. The name of the applicant, giving surname and first
23 or Christian name in full, and the middle name or the initial
24 for such middle name, if any.

25 Sex.

26 Residence. The name and number of the street, avenue or

1 other location of the dwelling, and such additional clear and
 2 definite description as may be necessary to determine the exact
 3 location of the dwelling of the applicant. Where the location
 4 cannot be determined by street and number, then the Section,
 5 congressional township and range number may be used, or such
 6 other information as may be necessary, including post office
 7 mailing address.

8 Term of residence in the State of Illinois and the
 9 precinct.

10 Nativity. The State or country in which the applicant was
 11 born.

12 Citizenship. Whether the applicant is native born or
 13 naturalized. If naturalized, the court, place and date of
 14 naturalization.

15 Age. Date of birth, by month, day and year.

16 Out of State address of

17 AFFIDAVIT OF REGISTRATION

18 State of)

19)ss

20 County of)

21 I hereby swear (or affirm) that I am a citizen of the
 22 United States; that on the day of the next election I shall
 23 have resided in the State of Illinois and in the election
 24 precinct 30 days; that I am fully qualified to vote, that I am
 25 not registered to vote anywhere else in the United States, that
 26 I intend to remain a resident of the State of Illinois and of

1 the election precinct, that I intend to return to the State of
2 Illinois, and that the above statements are true.

3
4 (His or her signature or mark)

5 Subscribed and sworn to before me, an officer qualified to
6 administer oaths, on (insert date).

7
8 Signature of officer administering oath.

9 Upon receipt of the executed duplicate affidavit of
10 Registration, the county clerk shall transfer the information
11 contained thereon to duplicate Registration Cards provided for
12 in Section 4-8 of this Article and shall attach thereto a copy
13 of each of the duplicate affidavit of registration and
14 thereafter such registration card and affidavit shall
15 constitute the registration of such person the same as if he
16 had applied for registration in person.

17 (Source: P.A. 91-357, eff. 7-29-99; 92-816, eff. 8-21-02.)

18 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

19 Sec. 5-9. Except as herein provided, no person shall be
20 registered unless he applies in person to registration officer,
21 answers such relevant questions as may be asked of him by the
22 registration officer, and executes the affidavit of
23 registration. The registration officer shall require the
24 applicant to furnish two forms of identification, and except in
25 the case of a homeless individual, one of which must include

1 his or her residence address. These forms of identification
2 shall include, but not be limited to, any of the following:
3 driver's license, social security card, public aid
4 identification card, utility bill, employee or student
5 identification card, credit card, or a civic, union or
6 professional association membership card. The registration
7 officer shall require a homeless individual to furnish evidence
8 of his or her use of the mailing address stated. This use may
9 be demonstrated by a piece of mail addressed to that individual
10 and received at that address or by a statement from a person
11 authorizing use of the mailing address. The registration
12 officer shall require each applicant for registration to read
13 or have read to him the affidavit of registration before
14 permitting him to execute the affidavit.

15 One of the Deputy Registrars, the Judge of Registration, or
16 an Officer of Registration, County Clerk, or clerk in the
17 office of the County Clerk, shall administer to all persons who
18 shall personally apply to register the following oath or
19 affirmation:

20 "You do solemnly swear (or affirm) that you will fully and
21 truly answer all such questions as shall be put to you touching
22 your place of residence, name, place of birth, your
23 qualifications as an elector and your right as such to register
24 and vote under the laws of the State of Illinois."

25 The Registration Officer shall satisfy himself that each
26 applicant for registration is qualified to register before

1 registering him. If the registration officer has reason to
2 believe that the applicant is a resident of a Soldiers' and
3 Sailors' Home or any facility which is licensed or certified
4 pursuant to the Nursing Home Care Act or the MR/DD Community
5 Care Act, the following question shall be put, "When you
6 entered the home which is your present address, was it your
7 bona fide intention to become a resident thereof?" Any voter of
8 a township, city, village or incorporated town in which such
9 applicant resides, shall be permitted to be present at the
10 place of precinct registration, and shall have the right to
11 challenge any applicant who applies to be registered.

12 In case the officer is not satisfied that the applicant is
13 qualified, he shall forthwith in writing notify such applicant
14 to appear before the County Clerk to furnish further proof of
15 his qualifications. Upon the card of such applicant shall be
16 written the word "Incomplete" and no such applicant shall be
17 permitted to vote unless such registration is satisfactorily
18 completed as hereinafter provided. No registration shall be
19 taken and marked as "incomplete" if information to complete it
20 can be furnished on the date of the original application.

21 Any person claiming to be an elector in any election
22 precinct in such township, city, village or incorporated town
23 and whose registration is marked "Incomplete" may make and sign
24 an application in writing, under oath, to the County Clerk in
25 substance in the following form:

26 "I do solemnly swear that I,, did on (insert

1 date) make application to the Board of Registry of the
 2 precinct of ward of the City of or of the
 3 District Town of (or to the
 4 County Clerk of) and County; that
 5 said Board or Clerk refused to complete my registration as a
 6 qualified voter in said precinct, that I reside in said
 7 precinct (or that I intend to reside in said precinct), am a
 8 duly qualified voter and entitled to vote in said precinct at
 9 the next election.

10
 11 (Signature of Applicant)"

12 All such applications shall be presented to the County
 13 Clerk by the applicant, in person between the hours of nine
 14 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of
 15 the third week subsequent to the weeks in which the 1961 and
 16 1962 precinct re-registrations are to be held, and thereafter
 17 for the registration provided in Section 5-17 of this Article,
 18 all such applications shall be presented to the County Clerk by
 19 the applicant in person between the hours of nine o'clock a.m.
 20 and nine o'clock p.m. on Monday and Tuesday of the third week
 21 prior to the date on which such election is to be held.

22 Any otherwise qualified person who is absent from his
 23 county of residence either due to business of the United States
 24 or because he is temporarily outside the territorial limits of
 25 the United States may become registered by mailing an
 26 application to the county clerk within the periods of

1 registration provided for in this Article or by simultaneous
2 application for absentee registration and absentee ballot as
3 provided in Article 20 of this Code.

4 Upon receipt of such application the county clerk shall
5 immediately mail an affidavit of registration in duplicate,
6 which affidavit shall contain the following and such other
7 information as the State Board of Elections may think it proper
8 to require for the identification of the applicant:

9 Name. The name of the applicant, giving surname and first
10 or Christian name in full, and the middle name or the initial
11 for such middle name, if any.

12 Sex.

13 Residence. The name and number of the street, avenue or
14 other location of the dwelling, and such additional clear and
15 definite description as may be necessary to determine the exact
16 location of the dwelling of the applicant. Where the location
17 cannot be determined by street and number, then the Section,
18 congressional township and range number may be used, or such
19 other information as may be necessary, including post office
20 mailing address.

21 Term of residence in the State of Illinois and the
22 precinct.

23 Nativity. The State or country in which the applicant was
24 born.

25 Citizenship. Whether the applicant is native born or
26 naturalized. If naturalized, the court, place and date of

1 naturalization.

2 Age. Date of birth, by month, day and year.

3 Out of State address of

4 AFFIDAVIT OF REGISTRATION

5 State of

6)ss

7 County of

8 I hereby swear (or affirm) that I am a citizen of the
9 United States; that on the day of the next election I shall
10 have resided in the State of Illinois for 6 months and in the
11 election precinct 30 days; that I am fully qualified to vote,
12 that I am not registered to vote anywhere else in the United
13 States, that I intend to remain a resident of the State of
14 Illinois and of the election precinct, that I intend to return
15 to the State of Illinois, and that the above statements are
16 true.

17

18 (His or her signature or mark)

19 Subscribed and sworn to before me, an officer qualified to
20 administer oaths, on (insert date).

21

22 Signature of officer administering oath.

23

24 Upon receipt of the executed duplicate affidavit of
25 Registration, the county clerk shall transfer the information

1 contained thereon to duplicate Registration Cards provided for
2 in Section 5-7 of this Article and shall attach thereto a copy
3 of each of the duplicate affidavit of registration and
4 thereafter such registration card and affidavit shall
5 constitute the registration of such person the same as if he
6 had applied for registration in person.

7 (Source: P.A. 91-357, eff. 7-29-99.)

8 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

9 Sec. 5-16.3. The county clerk may establish temporary
10 places of registration for such times and at such locations
11 within the county as the county clerk may select. However, no
12 temporary place of registration may be in operation during the
13 27 days preceding an election. Notice of time and place of
14 registration at any such temporary place of registration under
15 this Section shall be published by the county clerk in a
16 newspaper having a general circulation in the county not less
17 than 3 nor more than 15 days before the holding of such
18 registration.

19 Temporary places of registration shall be established so
20 that the areas of concentration of population or use by the
21 public are served, whether by facilities provided in places of
22 private business or in public buildings or in mobile units.
23 Areas which may be designated as temporary places of
24 registration include, but are not limited to, facilities
25 licensed or certified pursuant to the Nursing Home Care Act or

1 the MR/DD Community Care Act, Soldiers' and Sailors' Homes,
2 shopping centers, business districts, public buildings and
3 county fairs.

4 Temporary places of registration shall be available to the
5 public not less than 2 hours per year for each 1,000 population
6 or fraction thereof in the county.

7 All temporary places of registration shall be manned by
8 deputy county clerks or deputy registrars appointed pursuant to
9 Section 5-16.2.

10 (Source: P.A. 92-816, eff. 8-21-02.)

11 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

12 Sec. 6-50.3. The board of election commissioners may
13 establish temporary places of registration for such times and
14 at such locations as the board may select. However, no
15 temporary place of registration may be in operation during the
16 27 days preceding an election. Notice of the time and place of
17 registration at any such temporary place of registration under
18 this Section shall be published by the board of election
19 commissioners in a newspaper having a general circulation in
20 the city, village or incorporated town not less than 3 nor more
21 than 15 days before the holding of such registration.

22 Temporary places of registration shall be established so
23 that the areas of concentration of population or use by the
24 public are served, whether by facilities provided in places of
25 private business or in public buildings or in mobile units.

1 Areas which may be designated as temporary places of
2 registration include, but are not limited to facilities
3 licensed or certified pursuant to the Nursing Home Care Act or
4 the MR/DD Community Care Act, Soldiers' and Sailors' Homes,
5 shopping centers, business districts, public buildings and
6 county fairs.

7 Temporary places of registration shall be available to the
8 public not less than 2 hours per year for each 1,000 population
9 or fraction thereof in the county.

10 All temporary places of registration shall be manned by
11 employees of the board of election commissioners or deputy
12 registrars appointed pursuant to Section 6-50.2.

13 (Source: P.A. 92-816, eff. 8-21-02.)

14 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

15 Sec. 6-56. Not more than 30 nor less than 28 days before
16 any election under this Article, all owners, managers,
17 administrators or operators of hotels, lodging houses, rooming
18 houses, furnished apartments or facilities licensed or
19 certified under the Nursing Home Care Act, which house 4 or
20 more persons, outside the members of the family of such owner,
21 manager, administrator or operator, shall file with the board
22 of election commissioners a report, under oath, together with
23 one copy thereof, in such form as may be required by the board
24 of election commissioners, of the names and descriptions of all
25 lodgers, guests or residents claiming a voting residence at the

1 hotels, lodging houses, rooming houses, furnished apartments,
2 or facility licensed or certified under the Nursing Home Care
3 Act or the MR/DD Community Care Act under their control. In
4 counties having a population of 500,000 or more such report
5 shall be made on forms mailed to them by the board of election
6 commissioners. The board of election commissioners shall sort
7 and assemble the sworn copies of the reports in numerical order
8 according to ward and according to precincts within each ward
9 and shall, not later than 5 days after the last day allowed by
10 this Article for the filing of the reports, maintain one
11 assembled set of sworn duplicate reports available for public
12 inspection until 60 days after election days. Except as is
13 otherwise expressly provided in this Article, the board shall
14 not be required to perform any duties with respect to the sworn
15 reports other than to mail, sort, assemble, post and file them
16 as hereinabove provided.

17 Except in such cases where a precinct canvass is being
18 conducted by the Board of Election Commissioners prior to a
19 Primary or Election, the board of election commissioners shall
20 compare the original copy of each such report with the list of
21 registered voters from such addresses. Every person registered
22 from such address and not listed in such report or whose name
23 is different from any name so listed, shall immediately after
24 the last day of registration be sent a notice through the
25 United States mail, at the address appearing upon his
26 registration record card, requiring him to appear before the

1 board of election commissioners on one of the days specified in
2 Section 6-45 of this Article and show cause why his
3 registration should not be cancelled. The provisions of
4 Sections 6-45, 6-46 and 6-47 of this Article shall apply to
5 such hearing and proceedings subsequent thereto.

6 Any owner, manager or operator of any such hotel, lodging
7 house, rooming house or furnished apartment who shall fail or
8 neglect to file such statement and copy thereof as in this
9 Article provided, may, upon written information of the attorney
10 for the election commissioners, be cited by the election
11 commissioners or upon the complaint of any voter of such city,
12 village or incorporated town, to appear before them and furnish
13 such sworn statement and copy thereof and make such oral
14 statements under oath regarding such hotel, lodging house,
15 rooming house or furnished apartment, as the election
16 commissioners may require. The election commissioners shall
17 sit to hear such citations on the Friday of the fourth week
18 preceding the week in which such election is to be held. Such
19 citation shall be served not later than the day preceding the
20 day on which it is returnable.

21 (Source: P.A. 86-820.)

22 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

23 Sec. 19-4. Mailing or delivery of ballots - Time.)
24 Immediately upon the receipt of such application either by
25 mail, not more than 40 days nor less than 5 days prior to such

1 election, or by personal delivery not more than 40 days nor
2 less than one day prior to such election, at the office of such
3 election authority, it shall be the duty of such election
4 authority to examine the records to ascertain whether or not
5 such applicant is lawfully entitled to vote as requested,
6 including a verification of the applicant's signature by
7 comparison with the signature on the official registration
8 record card, and if found so to be entitled to vote, to post
9 within one business day thereafter the name, street address,
10 ward and precinct number or township and district number, as
11 the case may be, of such applicant given on a list, the pages
12 of which are to be numbered consecutively to be kept by such
13 election authority for such purpose in a conspicuous, open and
14 public place accessible to the public at the entrance of the
15 office of such election authority, and in such a manner that
16 such list may be viewed without necessity of requesting
17 permission therefor. Within one day after posting the name and
18 other information of an applicant for an absentee ballot, the
19 election authority shall transmit that name and other posted
20 information to the State Board of Elections, which shall
21 maintain those names and other information in an electronic
22 format on its website, arranged by county and accessible to
23 State and local political committees. Within 2 business days
24 after posting a name and other information on the list within
25 its office, the election authority shall mail, postage prepaid,
26 or deliver in person in such office an official ballot or

1 ballots if more than one are to be voted at said election. Mail
2 delivery of Temporarily Absent Student ballot applications
3 pursuant to Section 19-12.3 shall be by nonforwardable mail.
4 However, for the consolidated election, absentee ballots for
5 certain precincts may be delivered to applicants not less than
6 25 days before the election if so much time is required to have
7 prepared and printed the ballots containing the names of
8 persons nominated for offices at the consolidated primary. The
9 election authority shall enclose with each absentee ballot or
10 application written instructions on how voting assistance
11 shall be provided pursuant to Section 17-14 and a document,
12 written and approved by the State Board of Elections,
13 enumerating the circumstances under which a person is
14 authorized to vote by absentee ballot pursuant to this Article;
15 such document shall also include a statement informing the
16 applicant that if he or she falsifies or is solicited by
17 another to falsify his or her eligibility to cast an absentee
18 ballot, such applicant or other is subject to penalties
19 pursuant to Section 29-10 and Section 29-20 of the Election
20 Code. Each election authority shall maintain a list of the
21 name, street address, ward and precinct, or township and
22 district number, as the case may be, of all applicants who have
23 returned absentee ballots to such authority, and the name of
24 such absent voter shall be added to such list within one
25 business day from receipt of such ballot. If the absentee
26 ballot envelope indicates that the voter was assisted in

1 casting the ballot, the name of the person so assisting shall
2 be included on the list. The list, the pages of which are to be
3 numbered consecutively, shall be kept by each election
4 authority in a conspicuous, open, and public place accessible
5 to the public at the entrance of the office of the election
6 authority and in a manner that the list may be viewed without
7 necessity of requesting permission for viewing.

8 Each election authority shall maintain a list for each
9 election of the voters to whom it has issued absentee ballots.
10 The list shall be maintained for each precinct within the
11 jurisdiction of the election authority. Prior to the opening of
12 the polls on election day, the election authority shall deliver
13 to the judges of election in each precinct the list of
14 registered voters in that precinct to whom absentee ballots
15 have been issued by mail.

16 Each election authority shall maintain a list for each
17 election of voters to whom it has issued temporarily absent
18 student ballots. The list shall be maintained for each election
19 jurisdiction within which such voters temporarily abide.
20 Immediately after the close of the period during which
21 application may be made by mail for absentee ballots, each
22 election authority shall mail to each other election authority
23 within the State a certified list of all such voters
24 temporarily abiding within the jurisdiction of the other
25 election authority.

26 In the event that the return address of an application for

1 ballot by a physically incapacitated elector is that of a
2 facility licensed or certified under the Nursing Home Care Act
3 or the MR/DD Community Care Act, within the jurisdiction of the
4 election authority, and the applicant is a registered voter in
5 the precinct in which such facility is located, the ballots
6 shall be prepared and transmitted to a responsible judge of
7 election no later than 9 a.m. on the Saturday, Sunday or Monday
8 immediately preceding the election as designated by the
9 election authority under Section 19-12.2. Such judge shall
10 deliver in person on the designated day the ballot to the
11 applicant on the premises of the facility from which
12 application was made. The election authority shall by mail
13 notify the applicant in such facility that the ballot will be
14 delivered by a judge of election on the designated day.

15 All applications for absentee ballots shall be available at
16 the office of the election authority for public inspection upon
17 request from the time of receipt thereof by the election
18 authority until 30 days after the election, except during the
19 time such applications are kept in the office of the election
20 authority pursuant to Section 19-7, and except during the time
21 such applications are in the possession of the judges of
22 election.

23 (Source: P.A. 94-645, eff. 8-22-05; 94-1000, eff. 7-3-06.)

24 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

25 Sec. 19-12.1. Any qualified elector who has secured an

1 Illinois Disabled Person Identification Card in accordance
2 with The Illinois Identification Card Act, indicating that the
3 person named thereon has a Class 1A or Class 2 disability or
4 any qualified voter who has a permanent physical incapacity of
5 such a nature as to make it improbable that he will be able to
6 be present at the polls at any future election, or any voter
7 who is a resident of a facility licensed or certified pursuant
8 to the Nursing Home Care Act or the MR/DD Community Care Act
9 and has a condition or disability of such a nature as to make
10 it improbable that he will be able to be present at the polls
11 at any future election, may secure a disabled voter's or
12 nursing home resident's identification card, which will enable
13 him to vote under this Article as a physically incapacitated or
14 nursing home voter.

15 Application for a disabled voter's or nursing home
16 resident's identification card shall be made either: (a) in
17 writing, with voter's sworn affidavit, to the county clerk or
18 board of election commissioners, as the case may be, and shall
19 be accompanied by the affidavit of the attending physician
20 specifically describing the nature of the physical incapacity
21 or the fact that the voter is a nursing home resident and is
22 physically unable to be present at the polls on election days;
23 or (b) by presenting, in writing or otherwise, to the county
24 clerk or board of election commissioners, as the case may be,
25 proof that the applicant has secured an Illinois Disabled
26 Person Identification Card indicating that the person named

1 thereon has a Class 1A or Class 2 disability. Upon the receipt
2 of either the sworn-to application and the physician's
3 affidavit or proof that the applicant has secured an Illinois
4 Disabled Person Identification Card indicating that the person
5 named thereon has a Class 1A or Class 2 disability, the county
6 clerk or board of election commissioners shall issue a disabled
7 voter's or nursing home resident's identification card. Such
8 identification cards shall be issued for a period of 5 years,
9 upon the expiration of which time the voter may secure a new
10 card by making application in the same manner as is prescribed
11 for the issuance of an original card, accompanied by a new
12 affidavit of the attending physician. The date of expiration of
13 such five-year period shall be made known to any interested
14 person by the election authority upon the request of such
15 person. Applications for the renewal of the identification
16 cards shall be mailed to the voters holding such cards not less
17 than 3 months prior to the date of expiration of the cards.

18 Each disabled voter's or nursing home resident's
19 identification card shall bear an identification number, which
20 shall be clearly noted on the voter's original and duplicate
21 registration record cards. In the event the holder becomes
22 physically capable of resuming normal voting, he must surrender
23 his disabled voter's or nursing home resident's identification
24 card to the county clerk or board of election commissioners
25 before the next election.

26 The holder of a disabled voter's or nursing home resident's

1 identification card may make application by mail for an
2 official ballot within the time prescribed by Section 19-2.
3 Such application shall contain the same information as is
4 included in the form of application for ballot by a physically
5 incapacitated elector prescribed in Section 19-3 except that it
6 shall also include the applicant's disabled voter's
7 identification card number and except that it need not be sworn
8 to. If an examination of the records discloses that the
9 applicant is lawfully entitled to vote, he shall be mailed a
10 ballot as provided in Section 19-4. The ballot envelope shall
11 be the same as that prescribed in Section 19-5 for physically
12 disabled voters, and the manner of voting and returning the
13 ballot shall be the same as that provided in this Article for
14 other absentee ballots, except that a statement to be
15 subscribed to by the voter but which need not be sworn to shall
16 be placed on the ballot envelope in lieu of the affidavit
17 prescribed by Section 19-5.

18 Any person who knowingly subscribes to a false statement in
19 connection with voting under this Section shall be guilty of a
20 Class A misdemeanor.

21 For the purposes of this Section, "nursing home resident"
22 includes a resident of a facility licensed under the MR/DD
23 Community Care Act.

24 (Source: P.A. 86-820; 86-875; 86-1028.)

25 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

1 Sec. 19-12.2. Voting by physically incapacitated electors
2 who have made proper application to the election authority not
3 later than 5 days before the regular primary and general
4 election of 1980 and before each election thereafter shall be
5 conducted on the premises of facilities licensed or certified
6 pursuant to the Nursing Home Care Act or the MR/DD Community
7 Care Act for the sole benefit of residents of such facilities.
8 Such voting shall be conducted during any continuous period
9 sufficient to allow all applicants to cast their ballots
10 between the hours of 9 a.m. and 7 p.m. either on the Friday,
11 Saturday, Sunday or Monday immediately preceding the regular
12 election. This absentee voting on one of said days designated
13 by the election authority shall be supervised by two election
14 judges who must be selected by the election authority in the
15 following order of priority: (1) from the panel of judges
16 appointed for the precinct in which such facility is located,
17 or from a panel of judges appointed for any other precinct
18 within the jurisdiction of the election authority in the same
19 ward or township, as the case may be, in which the facility is
20 located or, only in the case where a judge or judges from the
21 precinct, township or ward are unavailable to serve, (3) from a
22 panel of judges appointed for any other precinct within the
23 jurisdiction of the election authority. The two judges shall be
24 from different political parties. Not less than 30 days before
25 each regular election, the election authority shall have
26 arranged with the chief administrative officer of each facility

1 in his or its election jurisdiction a mutually convenient time
2 period on the Friday, Saturday, Sunday or Monday immediately
3 preceding the election for such voting on the premises of the
4 facility and shall post in a prominent place in his or its
5 office a notice of the agreed day and time period for
6 conducting such voting at each facility; provided that the
7 election authority shall not later than noon on the Thursday
8 before the election also post the names and addresses of those
9 facilities from which no applications were received and in
10 which no supervised absentee voting will be conducted. All
11 provisions of this Code applicable to pollwatchers shall be
12 applicable herein. To the maximum extent feasible, voting
13 booths or screens shall be provided to insure the privacy of
14 the voter. Voting procedures shall be as described in Article
15 17 of this Code, except that ballots shall be treated as
16 absentee ballots and shall not be counted until the close of
17 the polls on the following day. After the last voter has
18 concluded voting, the judges shall seal the ballots in an
19 envelope and affix their signatures across the flap of the
20 envelope. Immediately thereafter, the judges shall bring the
21 sealed envelope to the office of the election authority who
22 shall deliver such ballots to the election authority's central
23 ballot counting location prior to the closing of the polls on
24 the day of election. The judges of election shall also report
25 to the election authority the name of any applicant in the
26 facility who, due to unforeseen circumstance or condition or

1 because of a religious holiday, was unable to vote. In this
2 event, the election authority may appoint a qualified person
3 from his or its staff to deliver the ballot to such applicant
4 on the day of election. This staff person shall follow the same
5 procedures prescribed for judges conducting absentee voting in
6 such facilities and shall return the ballot to the central
7 ballot counting location before the polls close. However, if
8 the facility from which the application was made is also used
9 as a regular precinct polling place for that voter, voting
10 procedures heretofore prescribed may be implemented by 2 of the
11 election judges of opposite party affiliation assigned to that
12 polling place during the hours of voting on the day of the
13 election. Judges of election shall be compensated not less than
14 \$25.00 for conducting absentee voting in such facilities.

15 Not less than 120 days before each regular election, the
16 Department of Public Health shall certify to the State Board of
17 Elections a list of the facilities licensed or certified
18 pursuant to the Nursing Home Care Act or the MR/DD Community
19 Care Act, and shall indicate the approved bed capacity and the
20 name of the chief administrative officer of each such facility,
21 and the State Board of Elections shall certify the same to the
22 appropriate election authority within 20 days thereafter.

23 (Source: P.A. 94-1000, eff. 7-3-06.)

24 Section 90-4. The Illinois Act on the Aging is amended by
25 changing Section 4.08 as follows:

1 (20 ILCS 105/4.08)

2 Sec. 4.08. Rural and small town meals program. Subject to
3 appropriation, the Department may establish a program to ensure
4 the availability of congregate or home-delivered meals in
5 communities with populations of under 5,000 that are not
6 located within the large urban counties of Cook, DuPage, Kane,
7 Lake, or Will.

8 The Department may meet these requirements by entering into
9 agreements with Area Agencies on Aging or Department designees,
10 which shall in turn enter into grants or contractual agreements
11 with such local entities as restaurants, cafes, churches,
12 facilities licensed under the Nursing Home Care Act, the MR/DD
13 Community Care Act, the Assisted Living and Shared Housing Act,
14 or the Hospital Licensing Act, facilities certified by the
15 Department of Healthcare and Family Services, senior centers,
16 or Older American Act designated nutrition service providers.

17 First consideration shall be given to entities that can
18 cost effectively meet the needs of seniors in the community by
19 preparing the food locally.

20 In no instance shall funds provided pursuant to this
21 Section be used to replace funds allocated to a given area or
22 program as of the effective date of this amendatory Act of the
23 95th General Assembly.

24 The Department shall establish guidelines and standards by
25 administrative rule, which shall include submission of an

1 expenditure plan by the recipient of the funds.

2 (Source: P.A. 95-68, eff. 8-13-07; 95-876, eff. 8-21-08.)

3 Section 90-5. The Department of Human Services Act is
4 amended by changing Section 1-17 as follows:

5 (20 ILCS 1305/1-17)

6 Sec. 1-17. Inspector General.

7 (a) Appointment; powers and duties. The Governor shall
8 appoint, and the Senate shall confirm, an Inspector General.
9 The Inspector General shall be appointed for a term of 4 years
10 and shall function within the Department of Human Services and
11 report to the Secretary of Human Services and the Governor. The
12 Inspector General shall function independently within the
13 Department of Human Services with respect to the operations of
14 the office, including the performance of investigations and
15 issuance of findings and recommendations. The appropriation
16 for the Office of Inspector General shall be separate from the
17 overall appropriation for the Department of Human Services. The
18 Inspector General shall investigate reports of suspected abuse
19 or neglect (as those terms are defined by the Department of
20 Human Services) of patients or residents in any mental health
21 or developmental disabilities facility operated by the
22 Department of Human Services and shall have authority to
23 investigate and take immediate action on reports of abuse or
24 neglect of recipients, whether patients or residents, in any

1 mental health or developmental disabilities facility or
2 program that is licensed or certified by the Department of
3 Human Services (as successor to the Department of Mental Health
4 and Developmental Disabilities) or that is funded by the
5 Department of Human Services (as successor to the Department of
6 Mental Health and Developmental Disabilities) and is not
7 licensed or certified by any agency of the State. The Inspector
8 General shall also have the authority to investigate alleged or
9 suspected cases of abuse, neglect, and exploitation of adults
10 with disabilities living in domestic settings in the community
11 pursuant to the Abuse of Adults with Disabilities Intervention
12 Act (20 ILCS 2435/). At the specific, written request of an
13 agency of the State other than the Department of Human Services
14 (as successor to the Department of Mental Health and
15 Developmental Disabilities), the Inspector General may
16 cooperate in investigating reports of abuse and neglect of
17 persons with mental illness or persons with developmental
18 disabilities. The Inspector General shall have no supervision
19 over or involvement in routine, programmatic, licensure, or
20 certification operations of the Department of Human Services or
21 any of its funded agencies.

22 The Inspector General shall promulgate rules establishing
23 minimum requirements for reporting allegations of abuse and
24 neglect and initiating, conducting, and completing
25 investigations. The promulgated rules shall clearly set forth
26 that in instances where 2 or more State agencies could

1 investigate an allegation of abuse or neglect, the Inspector
2 General shall not conduct an investigation that is redundant to
3 an investigation conducted by another State agency. The rules
4 shall establish criteria for determining, based upon the nature
5 of the allegation, the appropriate method of investigation,
6 which may include, but need not be limited to, site visits,
7 telephone contacts, or requests for written responses from
8 agencies. The rules shall also clarify how the Office of the
9 Inspector General shall interact with the licensing unit of the
10 Department of Human Services in investigations of allegations
11 of abuse or neglect. Any allegations or investigations of
12 reports made pursuant to this Act shall remain confidential
13 until a final report is completed. The resident or patient who
14 allegedly was abused or neglected and his or her legal guardian
15 shall be informed by the facility or agency of the report of
16 alleged abuse or neglect. Final reports regarding
17 unsubstantiated or unfounded allegations shall remain
18 confidential, except that final reports may be disclosed
19 pursuant to Section 6 of the Abused and Neglected Long Term
20 Care Facility Residents Reporting Act.

21 For purposes of this Section, "required reporter" means a
22 person who suspects, witnesses, or is informed of an allegation
23 of abuse and neglect at a State-operated facility or a
24 community agency and who is either: (i) a person employed at a
25 State-operated facility or a community agency on or off site
26 who is providing or monitoring services to an individual or

1 individuals or is providing services to the State-operated
2 facility or the community agency; or (ii) any person or
3 contractual agent of the Department of Human Services involved
4 in providing, monitoring, or administering mental health or
5 developmental services, including, but not limited to, payroll
6 personnel, contractors, subcontractors, and volunteers. A
7 required reporter shall report the allegation of abuse or
8 neglect, or cause a report to be made, to the Office of the
9 Inspector General (OIG) Hotline no later than 4 hours after the
10 initial discovery of the incident of alleged abuse or neglect.
11 A required reporter as defined in this paragraph who willfully
12 fails to comply with the reporting requirement is guilty of a
13 Class A misdemeanor.

14 For purposes of this Section, "State-operated facility"
15 means a mental health facility or a developmental disability
16 facility as defined in Sections 1-114 and 1-107 of the Mental
17 Health and Developmental Disabilities Code.

18 For purposes of this Section, "community agency" or
19 "agency" means any community entity or program providing mental
20 health or developmental disabilities services that is
21 licensed, certified, or funded by the Department of Human
22 Services and is not licensed or certified by an other human
23 services agency of the State (for example, the Department of
24 Public Health, the Department of Children and Family Services,
25 or the Department of Healthcare and Family Services).

26 When the Office of the Inspector General has substantiated

1 a case of abuse or neglect, the Inspector General shall include
2 in the final report any mitigating or aggravating circumstances
3 that were identified during the investigation. Upon
4 determination that a report of neglect is substantiated, the
5 Inspector General shall then determine whether such neglect
6 rises to the level of egregious neglect.

7 (b) Department of State Police. The Inspector General
8 shall, within 24 hours after determining that a reported
9 allegation of suspected abuse or neglect indicates that any
10 possible criminal act has been committed or that special
11 expertise is required in the investigation, immediately notify
12 the Department of State Police or the appropriate law
13 enforcement entity. The Department of State Police shall
14 investigate any report from a State-operated facility
15 indicating a possible murder, rape, or other felony. All
16 investigations conducted by the Inspector General shall be
17 conducted in a manner designed to ensure the preservation of
18 evidence for possible use in a criminal prosecution.

19 (b-5) Preliminary report of investigation; facility or
20 agency response. The Inspector General shall make a
21 determination to accept or reject a preliminary report of the
22 investigation of alleged abuse or neglect based on established
23 investigative procedures. Notice of the Inspector General's
24 determination must be given to the person who claims to be the
25 victim of the abuse or neglect, to the person or persons
26 alleged to have been responsible for abuse or neglect, and to

1 the facility or agency. The facility or agency or the person or
2 persons alleged to have been responsible for the abuse or
3 neglect and the person who claims to be the victim of the abuse
4 or neglect may request clarification or reconsideration based
5 on additional information. For cases where the allegation of
6 abuse or neglect is substantiated, the Inspector General shall
7 require the facility or agency to submit a written response.
8 The written response from a facility or agency shall address in
9 a concise and reasoned manner the actions that the agency or
10 facility will take or has taken to protect the resident or
11 patient from abuse or neglect, prevent reoccurrences, and
12 eliminate problems identified and shall include implementation
13 and completion dates for all such action.

14 (c) Inspector General's report; facility's or agency's
15 implementation reports. The Inspector General shall, within 10
16 calendar days after the transmittal date of a completed
17 investigation where abuse or neglect is substantiated or
18 administrative action is recommended, provide a complete
19 report on the case to the Secretary of Human Services and to
20 the agency in which the abuse or neglect is alleged to have
21 happened. The complete report shall include a written response
22 from the agency or facility operated by the State to the
23 Inspector General that addresses in a concise and reasoned
24 manner the actions that the agency or facility will take or has
25 taken to protect the resident or patient from abuse or neglect,
26 prevent reoccurrences, and eliminate problems identified and

1 shall include implementation and completion dates for all such
2 action. The Secretary of Human Services shall accept or reject
3 the response and establish how the Department will determine
4 whether the facility or program followed the approved response.
5 The Secretary may require Department personnel to visit the
6 facility or agency for training, technical assistance,
7 programmatic, licensure, or certification purposes.
8 Administrative action, including sanctions, may be applied
9 should the Secretary reject the response or should the facility
10 or agency fail to follow the approved response. Within 30 days
11 after the Secretary has approved a response, the facility or
12 agency making the response shall provide an implementation
13 report to the Inspector General on the status of the corrective
14 action implemented. Within 60 days after the Secretary has
15 approved the response, the facility or agency shall send notice
16 of the completion of the corrective action or shall send an
17 updated implementation report. The facility or agency shall
18 continue sending updated implementation reports every 60 days
19 until the facility or agency sends a notice of the completion
20 of the corrective action. The Inspector General shall review
21 any implementation plan that takes more than 120 days. The
22 Inspector General shall monitor compliance through a random
23 review of completed corrective actions. This monitoring may
24 include, but need not be limited to, site visits, telephone
25 contacts, or requests for written documentation from the
26 facility or agency to determine whether the facility or agency

1 is in compliance with the approved response. The facility or
2 agency shall inform the resident or patient and the legal
3 guardian whether the reported allegation was substantiated,
4 unsubstantiated, or unfounded. There shall be an appeals
5 process for any person or agency that is subject to any action
6 based on a recommendation or recommendations.

7 (d) Sanctions. The Inspector General may recommend to the
8 Departments of Public Health and Human Services sanctions to be
9 imposed against mental health and developmental disabilities
10 facilities under the jurisdiction of the Department of Human
11 Services for the protection of residents, including
12 appointment of on-site monitors or receivers, transfer or
13 relocation of residents, and closure of units. The Inspector
14 General may seek the assistance of the Attorney General or any
15 of the several State's Attorneys in imposing such sanctions.
16 Whenever the Inspector General issues any recommendations to
17 the Secretary of Human Services, the Secretary shall provide a
18 written response.

19 (e) Training programs. The Inspector General shall
20 establish and conduct periodic training programs for
21 Department of Human Services employees and community agency
22 employees concerning the prevention and reporting of neglect
23 and abuse.

24 (f) Access to facilities. The Inspector General shall at
25 all times be granted access to any mental health or
26 developmental disabilities facility operated by the Department

1 of Human Services, shall establish and conduct unannounced site
2 visits to those facilities at least once annually, and shall be
3 granted access, for the purpose of investigating a report of
4 abuse or neglect, to the records of the Department of Human
5 Services and to any facility or program funded by the
6 Department of Human Services that is subject under the
7 provisions of this Section to investigation by the Inspector
8 General for a report of abuse or neglect.

9 (g) Other investigations. Nothing in this Section shall
10 limit investigations by the Department of Human Services that
11 may otherwise be required by law or that may be necessary in
12 that Department's capacity as the central administrative
13 authority responsible for the operation of State mental health
14 and developmental disability facilities.

15 (g-5) Health care worker registry. After notice and an
16 opportunity for a hearing that is separate and distinct from
17 the Office of the Inspector General's appeals process as
18 implemented under subsection (c) of this Section, the Inspector
19 General shall report to the Department of Public Health's
20 health care worker registry under Section 3-206.01 of the MR/DD
21 Community Care Act ~~Nursing Home Care Act~~ the identity of
22 individuals against whom there has been a substantiated finding
23 of physical or sexual abuse or egregious neglect of a service
24 recipient.

25 Nothing in this subsection shall diminish or impair the
26 rights of a person who is a member of a collective bargaining

1 unit pursuant to the Illinois Public Labor Relations Act or
2 pursuant to any federal labor statute. An individual who is a
3 member of a collective bargaining unit as described above shall
4 not be reported to the Department of Public Health's health
5 care worker registry until the exhaustion of that individual's
6 grievance and arbitration rights, or until 3 months after the
7 initiation of the grievance process, whichever occurs first,
8 provided that the Department of Human Services' hearing under
9 this subsection regarding the reporting of an individual to the
10 Department of Public Health's health care worker registry has
11 concluded. Notwithstanding anything hereinafter or previously
12 provided, if an action taken by an employer against an
13 individual as a result of the circumstances that led to a
14 finding of physical or sexual abuse or egregious neglect is
15 later overturned under a grievance or arbitration procedure
16 provided for in Section 8 of the Illinois Public Labor
17 Relations Act or under a collective bargaining agreement, the
18 report must be removed from the registry.

19 The Department of Human Services shall promulgate or amend
20 rules as necessary or appropriate to establish procedures for
21 reporting to the registry, including the definition of
22 egregious neglect, procedures for notice to the individual and
23 victim, appeal and hearing procedures, and petition for removal
24 of the report from the registry. The portion of the rules
25 pertaining to hearings shall provide that, at the hearing, both
26 parties may present written and oral evidence. The Department

1 shall be required to establish by a preponderance of the
2 evidence that the Office of the Inspector General's finding of
3 physical or sexual abuse or egregious neglect warrants
4 reporting to the Department of Public Health's health care
5 worker registry under Section 3-206.01 of the MR/DD Community
6 Care Act ~~Nursing Home Care Act~~.

7 Notice to the individual shall include a clear and concise
8 statement of the grounds on which the report to the registry is
9 based and notice of the opportunity for a hearing to contest
10 the report. The Department of Human Services shall provide the
11 notice by certified mail to the last known address of the
12 individual. The notice shall give the individual an opportunity
13 to contest the report in a hearing before the Department of
14 Human Services or to submit a written response to the findings
15 instead of requesting a hearing. If the individual does not
16 request a hearing or if after notice and a hearing the
17 Department of Human Services finds that the report is valid,
18 the finding shall be included as part of the registry, as well
19 as a brief statement from the reported individual if he or she
20 chooses to make a statement. The Department of Public Health
21 shall make available to the public information reported to the
22 registry. In a case of inquiries concerning an individual
23 listed in the registry, any information disclosed concerning a
24 finding of abuse or neglect shall also include disclosure of
25 the individual's brief statement in the registry relating to
26 the reported finding or include a clear and accurate summary of

1 the statement.

2 At any time after the report of the registry, an individual
3 may petition the Department of Human Services for removal from
4 the registry of the finding against him or her. Upon receipt of
5 such a petition, the Department of Human Services shall conduct
6 an investigation and hearing on the petition. Upon completion
7 of the investigation and hearing, the Department of Human
8 Services shall report the removal of the finding to the
9 registry unless the Department of Human Services determines
10 that removal is not in the public interest.

11 (h) Quality Care Board. There is created, within the Office
12 of the Inspector General, a Quality Care Board to be composed
13 of 7 members appointed by the Governor with the advice and
14 consent of the Senate. One of the members shall be designated
15 as chairman by the Governor. Of the initial appointments made
16 by the Governor, 4 Board members shall each be appointed for a
17 term of 4 years and 3 members shall each be appointed for a
18 term of 2 years. Upon the expiration of each member's term, a
19 successor shall be appointed for a term of 4 years. In the case
20 of a vacancy in the office of any member, the Governor shall
21 appoint a successor for the remainder of the unexpired term.

22 Members appointed by the Governor shall be qualified by
23 professional knowledge or experience in the area of law,
24 investigatory techniques, or in the area of care of the
25 mentally ill or developmentally disabled. Two members
26 appointed by the Governor shall be persons with a disability or

1 a parent of a person with a disability. Members shall serve
2 without compensation, but shall be reimbursed for expenses
3 incurred in connection with the performance of their duties as
4 members.

5 The Board shall meet quarterly, and may hold other meetings
6 on the call of the chairman. Four members shall constitute a
7 quorum. The Board may adopt rules and regulations it deems
8 necessary to govern its own procedures.

9 (i) Scope and function of the Quality Care Board. The Board
10 shall monitor and oversee the operations, policies, and
11 procedures of the Inspector General to assure the prompt and
12 thorough investigation of allegations of neglect and abuse. In
13 fulfilling these responsibilities, the Board may do the
14 following:

15 (1) Provide independent, expert consultation to the
16 Inspector General on policies and protocols for
17 investigations of alleged neglect and abuse.

18 (2) Review existing regulations relating to the
19 operation of facilities under the control of the Department
20 of Human Services.

21 (3) Advise the Inspector General as to the content of
22 training activities authorized under this Section.

23 (4) Recommend policies concerning methods for
24 improving the intergovernmental relationships between the
25 Office of the Inspector General and other State or federal
26 agencies.

1 (j) Investigators. The Inspector General shall establish a
2 comprehensive program to ensure that every person employed or
3 newly hired to conduct investigations shall receive training on
4 an on-going basis concerning investigative techniques,
5 communication skills, and the appropriate means of contact with
6 persons admitted or committed to the mental health or
7 developmental disabilities facilities under the jurisdiction
8 of the Department of Human Services.

9 (k) Subpoenas; testimony; penalty. The Inspector General
10 shall have the power to subpoena witnesses and compel the
11 production of books and papers pertinent to an investigation
12 authorized by this Act, provided that the power to subpoena or
13 to compel the production of books and papers shall not extend
14 to the person or documents of a labor organization or its
15 representatives insofar as the person or documents of a labor
16 organization relate to the function of representing an employee
17 subject to investigation under this Act. Mental health records
18 of patients shall be confidential as provided under the Mental
19 Health and Developmental Disabilities Confidentiality Act. Any
20 person who fails to appear in response to a subpoena or to
21 answer any question or produce any books or papers pertinent to
22 an investigation under this Act, except as otherwise provided
23 in this Section, or who knowingly gives false testimony in
24 relation to an investigation under this Act is guilty of a
25 Class A misdemeanor.

26 (1) Annual report. The Inspector General shall provide to

1 the General Assembly and the Governor, no later than January 1
2 of each year, a summary of reports and investigations made
3 under this Act for the prior fiscal year with respect to
4 residents of institutions under the jurisdiction of the
5 Department of Human Services. The report shall detail the
6 imposition of sanctions and the final disposition of those
7 recommendations. The summaries shall not contain any
8 confidential or identifying information concerning the
9 subjects of the reports and investigations. The report shall
10 also include a trend analysis of the number of reported
11 allegations and their disposition, for each facility and
12 Department-wide, for the most recent 3-year time period and a
13 statement, for each facility, of the staffing-to-patient
14 ratios. The ratios shall include only the number of direct care
15 staff. The report shall also include detailed recommended
16 administrative actions and matters for consideration by the
17 General Assembly.

18 (m) Program audit. The Auditor General shall conduct a
19 biennial program audit of the Office of the Inspector General
20 in relation to the Inspector General's compliance with this
21 Act. The audit shall specifically include the Inspector
22 General's effectiveness in investigating reports of alleged
23 neglect or abuse of residents in any facility operated by the
24 Department of Human Services and in making recommendations for
25 sanctions to the Departments of Human Services and Public
26 Health. The Auditor General shall conduct the program audit

1 according to the provisions of the Illinois State Auditing Act
2 and shall report its findings to the General Assembly no later
3 than January 1 of each odd-numbered year.

4 (Source: P.A. 95-545, eff. 8-28-07.)

5 Section 90-10. The Mental Health and Developmental
6 Disabilities Administrative Act is amended by changing Section
7 15 as follows:

8 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

9 Sec. 15. Before any person is released from a facility
10 operated by the State pursuant to an absolute discharge or a
11 conditional discharge from hospitalization under this Act, the
12 facility director of the facility in which such person is
13 hospitalized shall determine that such person is not currently
14 in need of hospitalization and:

15 (a) is able to live independently in the community; or

16 (b) requires further oversight and supervisory care
17 for which arrangements have been made with responsible
18 relatives or supervised residential program approved by
19 the Department; or

20 (c) requires further personal care or general
21 oversight as defined by the MR/DD Community Care Act
22 ~~Nursing Home Care Act~~, for which placement arrangements
23 have been made with a suitable family home or other
24 licensed facility approved by the Department under this

1 Section; or

2 (d) requires community mental health services for
3 which arrangements have been made with a community mental
4 health provider in accordance with criteria, standards,
5 and procedures promulgated by rule.

6 Such determination shall be made in writing and shall
7 become a part of the facility record of such absolutely or
8 conditionally discharged person. When the determination
9 indicates that the condition of the person to be granted an
10 absolute discharge or a conditional discharge is described
11 under subparagraph (c) or (d) of this Section, the name and
12 address of the continuing care facility or home to which such
13 person is to be released shall be entered in the facility
14 record. Where a discharge from a mental health facility is made
15 under subparagraph (c), the Department shall assign the person
16 so discharged to an existing community based not-for-profit
17 agency for participation in day activities suitable to the
18 person's needs, such as but not limited to social and
19 vocational rehabilitation, and other recreational, educational
20 and financial activities unless the community based
21 not-for-profit agency is unqualified to accept such
22 assignment. Where the clientele of any not-for-profit agency
23 increases as a result of assignments under this amendatory Act
24 of 1977 by more than 3% over the prior year, the Department
25 shall fully reimburse such agency for the costs of providing
26 services to such persons in excess of such 3% increase. The

1 Department shall keep written records detailing how many
2 persons have been assigned to a community based not-for-profit
3 agency and how many persons were not so assigned because the
4 community based agency was unable to accept the assignments, in
5 accordance with criteria, standards, and procedures
6 promulgated by rule. Whenever a community based agency is found
7 to be unable to accept the assignments, the name of the agency
8 and the reason for the finding shall be included in the report.

9 Insofar as desirable in the interests of the former
10 recipient, the facility, program or home in which the
11 discharged person is to be placed shall be located in or near
12 the community in which the person resided prior to
13 hospitalization or in the community in which the person's
14 family or nearest next of kin presently reside. Placement of
15 the discharged person in facilities, programs or homes located
16 outside of this State shall not be made by the Department
17 unless there are no appropriate facilities, programs or homes
18 available within this State. Out-of-state placements shall be
19 subject to return of recipients so placed upon the availability
20 of facilities, programs or homes within this State to
21 accommodate these recipients, except where placement in a
22 contiguous state results in locating a recipient in a facility
23 or program closer to the recipient's home or family. If an
24 appropriate facility or program becomes available equal to or
25 closer to the recipient's home or family, the recipient shall
26 be returned to and placed at the appropriate facility or

1 program within this State.

2 To place any person who is under a program of the
3 Department at board in a suitable family home or in such other
4 facility or program as the Department may consider desirable.
5 The Department may place in licensed nursing homes, sheltered
6 care homes, or homes for the aged those persons whose
7 behavioral manifestations and medical and nursing care needs
8 are such as to be substantially indistinguishable from persons
9 already living in such facilities. Prior to any placement by
10 the Department under this Section, a determination shall be
11 made by the personnel of the Department, as to the capability
12 and suitability of such facility to adequately meet the needs
13 of the person to be discharged. When specialized programs are
14 necessary in order to enable persons in need of supervised
15 living to develop and improve in the community, the Department
16 shall place such persons only in specialized residential care
17 facilities which shall meet Department standards including
18 restricted admission policy, special staffing and programming
19 for social and vocational rehabilitation, in addition to the
20 requirements of the appropriate State licensing agency. The
21 Department shall not place any new person in a facility the
22 license of which has been revoked or not renewed on grounds of
23 inadequate programming, staffing, or medical or adjunctive
24 services, regardless of the pendency of an action for
25 administrative review regarding such revocation or failure to
26 renew. Before the Department may transfer any person to a

1 licensed nursing home, sheltered care home or home for the aged
2 or place any person in a specialized residential care facility
3 the Department shall notify the person to be transferred, or a
4 responsible relative of such person, in writing, at least 30
5 days before the proposed transfer, with respect to all the
6 relevant facts concerning such transfer, except in cases of
7 emergency when such notice is not required. If either the
8 person to be transferred or a responsible relative of such
9 person objects to such transfer, in writing to the Department,
10 at any time after receipt of notice and before the transfer,
11 the facility director of the facility in which the person was a
12 recipient shall immediately schedule a hearing at the facility
13 with the presence of the facility director, the person who
14 objected to such proposed transfer, and a psychiatrist who is
15 familiar with the record of the person to be transferred. Such
16 person to be transferred or a responsible relative may be
17 represented by such counsel or interested party as he may
18 appoint, who may present such testimony with respect to the
19 proposed transfer. Testimony presented at such hearing shall
20 become a part of the facility record of the
21 person-to-be-transferred. The record of testimony shall be
22 held in the person-to-be-transferred's record in the central
23 files of the facility. If such hearing is held a transfer may
24 only be implemented, if at all, in accordance with the results
25 of such hearing. Within 15 days after such hearing the facility
26 director shall deliver his findings based on the record of the

1 case and the testimony presented at the hearing, by registered
2 or certified mail, to the parties to such hearing. The findings
3 of the facility director shall be deemed a final administrative
4 decision of the Department. For purposes of this Section, "case
5 of emergency" means those instances in which the health of the
6 person to be transferred is imperiled and the most appropriate
7 mental health care or medical care is available at a licensed
8 nursing home, sheltered care home or home for the aged or a
9 specialized residential care facility.

10 Prior to placement of any person in a facility under this
11 Section the Department shall ensure that an appropriate
12 training plan for staff is provided by the facility. Said
13 training may include instruction and demonstration by
14 Department personnel qualified in the area of mental illness or
15 mental retardation, as applicable to the person to be placed.
16 Training may be given both at the facility from which the
17 recipient is transferred and at the facility receiving the
18 recipient, and may be available on a continuing basis
19 subsequent to placement. In a facility providing services to
20 former Department recipients, training shall be available as
21 necessary for facility staff. Such training will be on a
22 continuing basis as the needs of the facility and recipients
23 change and further training is required.

24 The Department shall not place any person in a facility
25 which does not have appropriately trained staff in sufficient
26 numbers to accommodate the recipient population already at the

1 facility. As a condition of further or future placements of
2 persons, the Department shall require the employment of
3 additional trained staff members at the facility where said
4 persons are to be placed. The Secretary, or his or her
5 designate, shall establish written guidelines for placement of
6 persons in facilities under this Act. The Department shall keep
7 written records detailing which facilities have been
8 determined to have staff who have been appropriately trained by
9 the Department and all training which it has provided or
10 required under this Section.

11 Bills for the support for a person boarded out shall be
12 payable monthly out of the proper maintenance funds and shall
13 be audited as any other accounts of the Department. If a person
14 is placed in a facility or program outside the Department, the
15 Department may pay the actual costs of residence, treatment or
16 maintenance in such facility and may collect such actual costs
17 or a portion thereof from the recipient or the estate of a
18 person placed in accordance with this Section.

19 Other than those placed in a family home the Department
20 shall cause all persons who are placed in a facility, as
21 defined by the MR/DD Community Care Act ~~Nursing Home Care Act~~,
22 or in designated community living situations or programs, to be
23 visited at least once during the first month following
24 placement, and once every month thereafter for the first year
25 following placement when indicated, but at least quarterly.
26 After the first year, the Department shall determine at what

1 point the appropriate licensing entity for the facility or
2 designated community living situation or program will assume
3 the responsibility of ensuring that appropriate services are
4 being provided to the resident. Once that responsibility is
5 assumed, the Department may discontinue such visits. If a long
6 term care facility has periodic care plan conferences, the
7 visitor may participate in those conferences, if such
8 participation is approved by the resident or the resident's
9 guardian. Visits shall be made by qualified and trained
10 Department personnel, or their designee, in the area of mental
11 health or developmental disabilities applicable to the person
12 visited, and shall be made on a more frequent basis when
13 indicated. The Department may not use as designee any personnel
14 connected with or responsible to the representatives of any
15 facility in which persons who have been transferred under this
16 Section are placed. In the course of such visit there shall be
17 consideration of the following areas, but not limited thereto:
18 effects of transfer on physical and mental health of the
19 person, sufficiency of nursing care and medical coverage
20 required by the person, sufficiency of staff personnel and
21 ability to provide basic care for the person, social,
22 recreational and programmatic activities available for the
23 person, and other appropriate aspects of the person's
24 environment.

25 A report containing the above observations shall be made to
26 the Department, to the licensing agency, and to any other

1 appropriate agency subsequent to each visitation. The report
2 shall contain recommendations to improve the care and treatment
3 of the resident, as necessary, which shall be reviewed by the
4 facility's interdisciplinary team and the resident or the
5 resident's legal guardian.

6 Upon the complaint of any person placed in accordance with
7 this Section or any responsible citizen or upon discovery that
8 such person has been abused, neglected, or improperly cared
9 for, or that the placement does not provide the type of care
10 required by the recipient's current condition, the Department
11 immediately shall investigate, and determine if the
12 well-being, health, care, or safety of any person is affected
13 by any of the above occurrences, and if any one of the above
14 occurrences is verified, the Department shall remove such
15 person at once to a facility of the Department or to another
16 facility outside the Department, provided such person's needs
17 can be met at said facility. The Department may also provide
18 any person placed in accordance with this Section who is
19 without available funds, and who is permitted to engage in
20 employment outside the facility, such sums for the
21 transportation, and other expenses as may be needed by him
22 until he receives his wages for such employment.

23 The Department shall promulgate rules and regulations
24 governing the purchase of care for persons who are wards of or
25 who are receiving services from the Department. Such rules and
26 regulations shall apply to all monies expended by any agency of

1 the State of Illinois for services rendered by any person,
2 corporate entity, agency, governmental agency or political
3 subdivision whether public or private outside of the Department
4 whether payment is made through a contractual, per-diem or
5 other arrangement. No funds shall be paid to any person,
6 corporation, agency, governmental entity or political
7 subdivision without compliance with such rules and
8 regulations.

9 The rules and regulations governing purchase of care shall
10 describe categories and types of service deemed appropriate for
11 purchase by the Department.

12 Any provider of services under this Act may elect to
13 receive payment for those services, and the Department is
14 authorized to arrange for that payment, by means of direct
15 deposit transmittals to the service provider's account
16 maintained at a bank, savings and loan association, or other
17 financial institution. The financial institution shall be
18 approved by the Department, and the deposits shall be in
19 accordance with rules and regulations adopted by the
20 Department.

21 (Source: P.A. 93-636, eff. 6-1-04.)

22 Section 90-15. The Department of Public Health Powers and
23 Duties Law of the Civil Administrative Code of Illinois is
24 amended by changing Sections 2310-550, 2310-560, 2310-565, and
25 2310-625 as follows:

1 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

2 Sec. 2310-550. Long-term care facilities. The Department
3 may perform, in all long-term care facilities, as defined in
4 the Nursing Home Care Act and all facilities as defined in the
5 MR/DD Community Care Act, all inspection, evaluation,
6 certification, and inspection of care duties that the federal
7 government may require the State of Illinois to perform or have
8 performed as a condition of participation in any programs under
9 Title XVIII or Title XIX of the federal Social Security Act.

10 (Source: P.A. 91-239, eff. 1-1-00.)

11 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

12 Sec. 2310-560. Advisory committees concerning construction
13 of facilities.

14 (a) The Director shall appoint an advisory committee. The
15 committee shall be established by the Department by rule. The
16 Director and the Department shall consult with the advisory
17 committee concerning the application of building codes and
18 Department rules related to those building codes to facilities
19 under the Ambulatory Surgical Treatment Center Act, ~~and~~ the
20 Nursing Home Care Act, and the MR/DD Community Care Act.

21 (b) The Director shall appoint an advisory committee to
22 advise the Department and to conduct informal dispute
23 resolution concerning the application of building codes for new
24 and existing construction and related Department rules and

1 standards under the Hospital Licensing Act, including without
2 limitation rules and standards for (i) design and construction,
3 (ii) engineering and maintenance of the physical plant, site,
4 equipment, and systems (heating, cooling, electrical,
5 ventilation, plumbing, water, sewer, and solid waste
6 disposal), and (iii) fire and safety. The advisory committee
7 shall be composed of all of the following members:

8 (1) The chairperson or an elected representative from
9 the Hospital Licensing Board under the Hospital Licensing
10 Act.

11 (2) Two health care architects with a minimum of 10
12 years of experience in institutional design and building
13 code analysis.

14 (3) Two engineering professionals (one mechanical and
15 one electrical) with a minimum of 10 years of experience in
16 institutional design and building code analysis.

17 (4) One commercial interior design professional with a
18 minimum of 10 years of experience.

19 (5) Two representatives from provider associations.

20 (6) The Director or his or her designee, who shall
21 serve as the committee moderator.

22 Appointments shall be made with the concurrence of the
23 Hospital Licensing Board. The committee shall submit
24 recommendations concerning the application of building codes
25 and related Department rules and standards to the Hospital
26 Licensing Board for review and comment prior to submission to

1 the Department. The committee shall submit recommendations
2 concerning informal dispute resolution to the Director. The
3 Department shall provide per diem and travel expenses to the
4 committee members.

5 (Source: P.A. 91-239, eff. 1-1-00; 92-803, eff. 8-16-02.)

6 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

7 Sec. 2310-565. Facility construction training program. The
8 Department shall conduct, at least annually, a joint in-service
9 training program for architects, engineers, interior
10 designers, and other persons involved in the construction of a
11 facility under the Ambulatory Surgical Treatment Center Act,
12 the Nursing Home Care Act, the MR/DD Community Care Act, or the
13 Hospital Licensing Act on problems and issues relating to the
14 construction of facilities under any of those Acts.

15 (Source: P.A. 90-327, eff. 8-8-97; 90-655, eff. 7-30-98;
16 91-239, eff. 1-1-00.)

17 (20 ILCS 2310/2310-625)

18 Sec. 2310-625. Emergency Powers.

19 (a) Upon proclamation of a disaster by the Governor, as
20 provided for in the Illinois Emergency Management Agency Act,
21 the Director of Public Health shall have the following powers,
22 which shall be exercised only in coordination with the Illinois
23 Emergency Management Agency and the Department of Financial and
24 Professional Regulation:

1 (1) The power to suspend the requirements for temporary
2 or permanent licensure or certification of persons who are
3 licensed or certified in another state and are working
4 under the direction of the Illinois Emergency Management
5 Agency and the Illinois Department of Public Health
6 pursuant to the declared disaster.

7 (2) The power to modify the scope of practice
8 restrictions under the Emergency Medical Services (EMS)
9 Systems Act for any persons who are licensed under that Act
10 for any person working under the direction of the Illinois
11 Emergency Management Agency and the Illinois Department of
12 Public Health pursuant to the declared disaster.

13 (3) The power to modify the scope of practice
14 restrictions under the Nursing Home Care Act or the MR/DD
15 Community Care Act for Certified Nursing Assistants for any
16 person working under the direction of the Illinois
17 Emergency Management Agency and the Illinois Department of
18 Public Health pursuant to the declared disaster.

19 (b) Persons exempt from licensure or certification under
20 paragraph (1) of subsection (a) and persons operating under
21 modified scope of practice provisions under paragraph (2) of
22 subsection (a) and paragraph (3) of subsection (a) shall be
23 exempt from licensure or certification or subject to modified
24 scope of practice only until the declared disaster has ended as
25 provided by law. For purposes of this Section, persons working
26 under the direction of an emergency services and disaster

1 agency accredited by the Illinois Emergency Management Agency
2 and a local public health department, pursuant to a declared
3 disaster, shall be deemed to be working under the direction of
4 the Illinois Emergency Management Agency and the Department of
5 Public Health.

6 (c) The Director shall exercise these powers by way of
7 proclamation.

8 (Source: P.A. 93-829, eff. 7-28-04; 94-733, eff. 4-27-06.)

9 Section 90-20. The Disabilities Services Act of 2003 is
10 amended by changing Section 52 as follows:

11 (20 ILCS 2407/52)

12 Sec. 52. Applicability; definitions. In accordance with
13 Section 6071 of the Deficit Reduction Act of 2005 (P.L.
14 109-171), as used in this Article:

15 "Departments". The term "Departments" means for the
16 purposes of this Act, the Department of Human Services, the
17 Department on Aging, Department of Healthcare and Family
18 Services and Department of Public Health, unless otherwise
19 noted.

20 "Home and community-based long-term care services". The
21 term "home and community-based long-term care services" means,
22 with respect to the State Medicaid program, a service aid, or
23 benefit, home and community-based services, including but not
24 limited to home health and personal care services, that are

1 provided to a person with a disability, and are voluntarily
2 accepted, as part of his or her long-term care that: (i) is
3 provided under the State's qualified home and community-based
4 program or that could be provided under such a program but is
5 otherwise provided under the Medicaid program; (ii) is
6 delivered in a qualified residence; and (iii) is necessary for
7 the person with a disability to live in the community.

8 "MR/DD community care ~~long term care~~ facility". The term
9 "MR/DD community care ~~long term care~~ facility", for the
10 purposes of this Article, means a skilled nursing or
11 intermediate long-term care facility subject to licensure by
12 the Department of Public Health under the MR/DD Community Care
13 Act ~~Nursing Home Care Act~~, an intermediate care facility for
14 the developmentally disabled (ICF-DDs), and a State-operated
15 developmental center or mental health center, whether publicly
16 or privately owned.

17 "Money Follows the Person" Demonstration. Enacted by the
18 Deficit Reduction Act of 2005, the Money Follows the Person
19 (MFP) Rebalancing Demonstration is part of a comprehensive,
20 coordinated strategy to assist states, in collaboration with
21 stakeholders, to make widespread changes to their long-term
22 care support systems. This initiative will assist states in
23 their efforts to reduce their reliance on institutional care
24 while developing community-based long-term care opportunities,
25 enabling the elderly and people with disabilities to fully
26 participate in their communities.

1 "Public funds" mean any funds appropriated by the General
2 Assembly to the Departments of Human Services, on Aging, of
3 Healthcare and Family Services and of Public Health for
4 settings and services as defined in this Article.

5 "Qualified residence". The term "qualified residence"
6 means, with respect to an eligible individual: (i) a home owned
7 or leased by the individual or the individual's authorized
8 representative (as defined by P.L. 109-171); (ii) an apartment
9 with an individual lease, with lockable access and egress, and
10 which includes living, sleeping, bathing, and cooking areas
11 over which the individual or the individual's family has domain
12 and control; or (iii) a residence, in a community-based
13 residential setting, in which no more than 4 unrelated
14 individuals reside. Where qualified residences are not
15 sufficient to meet the demand of eligible individuals,
16 time-limited exceptions to this definition may be developed
17 through administrative rule.

18 "Self-directed services". The term "self-directed
19 services" means, with respect to home and community-based
20 long-term services for an eligible individual, those services
21 for the individual that are planned and purchased under the
22 direction and control of the individual or the individual's
23 authorized representative, including the amount, duration,
24 scope, provider, and location of such services, under the State
25 Medicaid program consistent with the following requirements:

26 (a) Assessment: there is an assessment of the needs,

1 capabilities, and preference of the individual with
2 respect to such services.

3 (b) Individual service care or treatment plan: based on
4 the assessment, there is development jointly with such
5 individual or individual's authorized representative, a
6 plan for such services for the individual that (i)
7 specifies those services, if any, that the individual or
8 the individual's authorized representative would be
9 responsible for directing; (ii) identifies the methods by
10 which the individual or the individual's authorized
11 representative or an agency designated by an individual or
12 representative will select, manage, and dismiss providers
13 of such services.

14 (Source: P.A. 95-438, eff. 1-1-08.)

15 Section 90-25. The Abuse of Adults with Disabilities
16 Intervention Act is amended by changing Section 15 as follows:

17 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

18 Sec. 15. Definitions. As used in this Act:

19 "Abuse" means causing any physical, sexual, or mental
20 injury to an adult with disabilities, including exploitation of
21 the adult's financial resources. Nothing in this Act shall be
22 construed to mean that an adult with disabilities is a victim
23 of abuse or neglect for the sole reason that he or she is being
24 furnished with or relies upon treatment by spiritual means

1 through prayer alone, in accordance with the tenets and
2 practices of a recognized church or religious denomination.
3 Nothing in this Act shall be construed to mean that an adult
4 with disabilities is a victim of abuse because of health care
5 services provided or not provided by licensed health care
6 professionals.

7 "Adult with disabilities" means a person aged 18 through 59
8 who resides in a domestic living situation and whose physical
9 or mental disability impairs his or her ability to seek or
10 obtain protection from abuse, neglect, or exploitation.

11 "Department" means the Department of Human Services.

12 "Adults with Disabilities Abuse Project" or "project"
13 means that program within the Office of Inspector General
14 designated by the Department of Human Services to receive and
15 assess reports of alleged or suspected abuse, neglect, or
16 exploitation of adults with disabilities.

17 "Domestic living situation" means a residence where the
18 adult with disabilities lives alone or with his or her family
19 or household members, a care giver, or others or at a board and
20 care home or other community-based unlicensed facility, but is
21 not:

22 (1) A licensed facility as defined in Section 1-113 of
23 the Nursing Home Care Act or Section 1-113 of the MR/DD
24 Community Care Act.

25 (2) A life care facility as defined in the Life Care
26 Facilities Act.

1 (3) A home, institution, or other place operated by the
2 federal government, a federal agency, or the State.

3 (4) A hospital, sanitarium, or other institution, the
4 principal activity or business of which is the diagnosis,
5 care, and treatment of human illness through the
6 maintenance and operation of organized facilities and that
7 is required to be licensed under the Hospital Licensing
8 Act.

9 (5) A community living facility as defined in the
10 Community Living Facilities Licensing Act.

11 (6) A community-integrated living arrangement as
12 defined in the Community-Integrated Living Arrangements
13 Licensure and Certification Act or community residential
14 alternative as licensed under that Act.

15 "Emergency" means a situation in which an adult with
16 disabilities is in danger of death or great bodily harm.

17 "Exploitation" means the illegal, including tortious, use
18 of the assets or resources of an adult with disabilities.
19 Exploitation includes, but is not limited to, the
20 misappropriation of assets or resources of an adult with
21 disabilities by undue influence, by breach of a fiduciary
22 relationship, by fraud, deception, or extortion, or by the use
23 of the assets or resources in a manner contrary to law.

24 "Family or household members" means a person who as a
25 family member, volunteer, or paid care provider has assumed
26 responsibility for all or a portion of the care of an adult

1 with disabilities who needs assistance with activities of daily
2 living.

3 "Neglect" means the failure of another individual to
4 provide an adult with disabilities with or the willful
5 withholding from an adult with disabilities the necessities of
6 life, including, but not limited to, food, clothing, shelter,
7 or medical care.

8 Nothing in the definition of "neglect" shall be construed to
9 impose a requirement that assistance be provided to an adult
10 with disabilities over his or her objection in the absence of a
11 court order, nor to create any new affirmative duty to provide
12 support, assistance, or intervention to an adult with
13 disabilities. Nothing in this Act shall be construed to mean
14 that an adult with disabilities is a victim of neglect because
15 of health care services provided or not provided by licensed
16 health care professionals.

17 "Physical abuse" includes sexual abuse and means any of the
18 following:

19 (1) knowing or reckless use of physical force,
20 confinement, or restraint;

21 (2) knowing, repeated, and unnecessary sleep
22 deprivation; or

23 (3) knowing or reckless conduct which creates an
24 immediate risk of physical harm.

25 "Secretary" means the Secretary of Human Services.

26 "Sexual abuse" means touching, fondling, sexual threats,

1 sexually inappropriate remarks, or any other sexual activity
2 with an adult with disabilities when the adult with
3 disabilities is unable to understand, unwilling to consent,
4 threatened, or physically forced to engage in sexual behavior.

5 "Substantiated case" means a reported case of alleged or
6 suspected abuse, neglect, or exploitation in which the Adults
7 with Disabilities Abuse Project staff, after assessment,
8 determines that there is reason to believe abuse, neglect, or
9 exploitation has occurred.

10 (Source: P.A. 91-671, eff. 7-1-00.)

11 Section 90-30. The Illinois Finance Authority Act is
12 amended by changing Section 801-10 as follows:

13 (20 ILCS 3501/801-10)

14 Sec. 801-10. Definitions. The following terms, whenever
15 used or referred to in this Act, shall have the following
16 meanings, except in such instances where the context may
17 clearly indicate otherwise:

18 (a) The term "Authority" means the Illinois Finance
19 Authority created by this Act.

20 (b) The term "project" means an industrial project,
21 conservation project, housing project, public purpose project,
22 higher education project, health facility project, cultural
23 institution project, agricultural facility or agribusiness,
24 and "project" may include any combination of one or more of the

1 foregoing undertaken jointly by any person with one or more
2 other persons.

3 (c) The term "public purpose project" means any project or
4 facility including without limitation land, buildings,
5 structures, machinery, equipment and all other real and
6 personal property, which is authorized or required by law to be
7 acquired, constructed, improved, rehabilitated, reconstructed,
8 replaced or maintained by any unit of government or any other
9 lawful public purpose which is authorized or required by law to
10 be undertaken by any unit of government.

11 (d) The term "industrial project" means the acquisition,
12 construction, refurbishment, creation, development or
13 redevelopment of any facility, equipment, machinery, real
14 property or personal property for use by any instrumentality of
15 the State or its political subdivisions, for use by any person
16 or institution, public or private, for profit or not for
17 profit, or for use in any trade or business including, but not
18 limited to, any industrial, manufacturing or commercial
19 enterprise and which is (1) a capital project including but not
20 limited to: (i) land and any rights therein, one or more
21 buildings, structures or other improvements, machinery and
22 equipment, whether now existing or hereafter acquired, and
23 whether or not located on the same site or sites; (ii) all
24 appurtenances and facilities incidental to the foregoing,
25 including, but not limited to utilities, access roads, railroad
26 sidings, track, docking and similar facilities, parking

1 facilities, dockage, wharfage, railroad roadbed, track,
2 trestle, depot, terminal, switching and signaling or related
3 equipment, site preparation and landscaping; and (iii) all
4 non-capital costs and expenses relating thereto or (2) any
5 addition to, renovation, rehabilitation or improvement of a
6 capital project or (3) any activity or undertaking which the
7 Authority determines will aid, assist or encourage economic
8 growth, development or redevelopment within the State or any
9 area thereof, will promote the expansion, retention or
10 diversification of employment opportunities within the State
11 or any area thereof or will aid in stabilizing or developing
12 any industry or economic sector of the State economy. The term
13 "industrial project" also means the production of motion
14 pictures.

15 (e) The term "bond" or "bonds" shall include bonds, notes
16 (including bond, grant or revenue anticipation notes),
17 certificates and/or other evidences of indebtedness
18 representing an obligation to pay money, including refunding
19 bonds.

20 (f) The terms "lease agreement" and "loan agreement" shall
21 mean: (i) an agreement whereby a project acquired by the
22 Authority by purchase, gift or lease is leased to any person,
23 corporation or unit of local government which will use or cause
24 the project to be used as a project as heretofore defined upon
25 terms providing for lease rental payments at least sufficient
26 to pay when due all principal of, interest and premium, if any,

1 on any bonds of the Authority issued with respect to such
2 project, providing for the maintenance, insuring and operation
3 of the project on terms satisfactory to the Authority,
4 providing for disposition of the project upon termination of
5 the lease term, including purchase options or abandonment of
6 the premises, and such other terms as may be deemed desirable
7 by the Authority, or (ii) any agreement pursuant to which the
8 Authority agrees to loan the proceeds of its bonds issued with
9 respect to a project or other funds of the Authority to any
10 person which will use or cause the project to be used as a
11 project as heretofore defined upon terms providing for loan
12 repayment installments at least sufficient to pay when due all
13 principal of, interest and premium, if any, on any bonds of the
14 Authority, if any, issued with respect to the project, and
15 providing for maintenance, insurance and other matters as may
16 be deemed desirable by the Authority.

17 (g) The term "financial aid" means the expenditure of
18 Authority funds or funds provided by the Authority through the
19 issuance of its bonds, notes or other evidences of indebtedness
20 or from other sources for the development, construction,
21 acquisition or improvement of a project.

22 (h) The term "person" means an individual, corporation,
23 unit of government, business trust, estate, trust, partnership
24 or association, 2 or more persons having a joint or common
25 interest, or any other legal entity.

26 (i) The term "unit of government" means the federal

1 government, the State or unit of local government, a school
2 district, or any agency or instrumentality, office, officer,
3 department, division, bureau, commission, college or
4 university thereof.

5 (j) The term "health facility" means: (a) any public or
6 private institution, place, building, or agency required to be
7 licensed under the Hospital Licensing Act; (b) any public or
8 private institution, place, building, or agency required to be
9 licensed under the Nursing Home Care Act or the MR/DD Community
10 Care Act; (c) any public or licensed private hospital as
11 defined in the Mental Health and Developmental Disabilities
12 Code; (d) any such facility exempted from such licensure when
13 the Director of Public Health attests that such exempted
14 facility meets the statutory definition of a facility subject
15 to licensure; (e) any other public or private health service
16 institution, place, building, or agency which the Director of
17 Public Health attests is subject to certification by the
18 Secretary, U.S. Department of Health and Human Services under
19 the Social Security Act, as now or hereafter amended, or which
20 the Director of Public Health attests is subject to
21 standard-setting by a recognized public or voluntary
22 accrediting or standard-setting agency; (f) any public or
23 private institution, place, building or agency engaged in
24 providing one or more supporting services to a health facility;
25 (g) any public or private institution, place, building or
26 agency engaged in providing training in the healing arts,

1 including but not limited to schools of medicine, dentistry,
2 osteopathy, optometry, podiatry, pharmacy or nursing, schools
3 for the training of x-ray, laboratory or other health care
4 technicians and schools for the training of para-professionals
5 in the health care field; (h) any public or private congregate,
6 life or extended care or elderly housing facility or any public
7 or private home for the aged or infirm, including, without
8 limitation, any Facility as defined in the Life Care Facilities
9 Act; (i) any public or private mental, emotional or physical
10 rehabilitation facility or any public or private educational,
11 counseling, or rehabilitation facility or home, for those
12 persons with a developmental disability, those who are
13 physically ill or disabled, the emotionally disturbed, those
14 persons with a mental illness or persons with learning or
15 similar disabilities or problems; (j) any public or private
16 alcohol, drug or substance abuse diagnosis, counseling
17 treatment or rehabilitation facility, (k) any public or private
18 institution, place, building or agency licensed by the
19 Department of Children and Family Services or which is not so
20 licensed but which the Director of Children and Family Services
21 attests provides child care, child welfare or other services of
22 the type provided by facilities subject to such licensure; (l)
23 any public or private adoption agency or facility; and (m) any
24 public or private blood bank or blood center. "Health facility"
25 also means a public or private structure or structures suitable
26 primarily for use as a laboratory, laundry, nurses or interns

1 residence or other housing or hotel facility used in whole or
2 in part for staff, employees or students and their families,
3 patients or relatives of patients admitted for treatment or
4 care in a health facility, or persons conducting business with
5 a health facility, physician's facility, surgicenter,
6 administration building, research facility, maintenance,
7 storage or utility facility and all structures or facilities
8 related to any of the foregoing or required or useful for the
9 operation of a health facility, including parking or other
10 facilities or other supporting service structures required or
11 useful for the orderly conduct of such health facility.

12 (k) The term "participating health institution" means a
13 private corporation or association or public entity of this
14 State, authorized by the laws of this State to provide or
15 operate a health facility as defined in this Act and which,
16 pursuant to the provisions of this Act, undertakes the
17 financing, construction or acquisition of a project or
18 undertakes the refunding or refinancing of obligations, loans,
19 indebtedness or advances as provided in this Act.

20 (l) The term "health facility project", means a specific
21 health facility work or improvement to be financed or
22 refinanced (including without limitation through reimbursement
23 of prior expenditures), acquired, constructed, enlarged,
24 remodeled, renovated, improved, furnished, or equipped, with
25 funds provided in whole or in part hereunder, any accounts
26 receivable, working capital, liability or insurance cost or

1 operating expense financing or refinancing program of a health
2 facility with or involving funds provided in whole or in part
3 hereunder, or any combination thereof.

4 (m) The term "bond resolution" means the resolution or
5 resolutions authorizing the issuance of, or providing terms and
6 conditions related to, bonds issued under this Act and
7 includes, where appropriate, any trust agreement, trust
8 indenture, indenture of mortgage or deed of trust providing
9 terms and conditions for such bonds.

10 (n) The term "property" means any real, personal or mixed
11 property, whether tangible or intangible, or any interest
12 therein, including, without limitation, any real estate,
13 leasehold interests, appurtenances, buildings, easements,
14 equipment, furnishings, furniture, improvements, machinery,
15 rights of way, structures, accounts, contract rights or any
16 interest therein.

17 (o) The term "revenues" means, with respect to any project,
18 the rents, fees, charges, interest, principal repayments,
19 collections and other income or profit derived therefrom.

20 (p) The term "higher education project" means, in the case
21 of a private institution of higher education, an educational
22 facility to be acquired, constructed, enlarged, remodeled,
23 renovated, improved, furnished, or equipped, or any
24 combination thereof.

25 (q) The term "cultural institution project" means, in the
26 case of a cultural institution, a cultural facility to be

1 acquired, constructed, enlarged, remodeled, renovated,
2 improved, furnished, or equipped, or any combination thereof.

3 (r) The term "educational facility" means any property
4 located within the State constructed or acquired before or
5 after the effective date of this Act, which is or will be, in
6 whole or in part, suitable for the instruction, feeding,
7 recreation or housing of students, the conducting of research
8 or other work of a private institution of higher education, the
9 use by a private institution of higher education in connection
10 with any educational, research or related or incidental
11 activities then being or to be conducted by it, or any
12 combination of the foregoing, including, without limitation,
13 any such property suitable for use as or in connection with any
14 one or more of the following: an academic facility,
15 administrative facility, agricultural facility, assembly hall,
16 athletic facility, auditorium, boating facility, campus,
17 communication facility, computer facility, continuing
18 education facility, classroom, dining hall, dormitory,
19 exhibition hall, fire fighting facility, fire prevention
20 facility, food service and preparation facility, gymnasium,
21 greenhouse, health care facility, hospital, housing,
22 instructional facility, laboratory, library, maintenance
23 facility, medical facility, museum, offices, parking area,
24 physical education facility, recreational facility, research
25 facility, stadium, storage facility, student union, study
26 facility, theatre or utility.

1 (s) The term "cultural facility" means any property located
2 within the State constructed or acquired before or after the
3 effective date of this Act, which is or will be, in whole or in
4 part, suitable for the particular purposes or needs of a
5 cultural institution, including, without limitation, any such
6 property suitable for use as or in connection with any one or
7 more of the following: an administrative facility, aquarium,
8 assembly hall, auditorium, botanical garden, exhibition hall,
9 gallery, greenhouse, library, museum, scientific laboratory,
10 theater or zoological facility, and shall also include, without
11 limitation, books, works of art or music, animal, plant or
12 aquatic life or other items for display, exhibition or
13 performance. The term "cultural facility" includes buildings
14 on the National Register of Historic Places which are owned or
15 operated by nonprofit entities.

16 (t) "Private institution of higher education" means a
17 not-for-profit educational institution which is not owned by
18 the State or any political subdivision, agency,
19 instrumentality, district or municipality thereof, which is
20 authorized by law to provide a program of education beyond the
21 high school level and which:

22 (1) Admits as regular students only individuals having
23 a certificate of graduation from a high school, or the
24 recognized equivalent of such a certificate;

25 (2) Provides an educational program for which it awards
26 a bachelor's degree, or provides an educational program,

1 admission into which is conditioned upon the prior
2 attainment of a bachelor's degree or its equivalent, for
3 which it awards a postgraduate degree, or provides not less
4 than a 2-year program which is acceptable for full credit
5 toward such a degree, or offers a 2-year program in
6 engineering, mathematics, or the physical or biological
7 sciences which is designed to prepare the student to work
8 as a technician and at a semiprofessional level in
9 engineering, scientific, or other technological fields
10 which require the understanding and application of basic
11 engineering, scientific, or mathematical principles or
12 knowledge;

13 (3) Is accredited by a nationally recognized
14 accrediting agency or association or, if not so accredited,
15 is an institution whose credits are accepted, on transfer,
16 by not less than 3 institutions which are so accredited,
17 for credit on the same basis as if transferred from an
18 institution so accredited, and holds an unrevoked
19 certificate of approval under the Private College Act from
20 the Board of Higher Education, or is qualified as a "degree
21 granting institution" under the Academic Degree Act; and

22 (4) Does not discriminate in the admission of students
23 on the basis of race or color. "Private institution of
24 higher education" also includes any "academic
25 institution".

26 (u) The term "academic institution" means any

1 not-for-profit institution which is not owned by the State or
2 any political subdivision, agency, instrumentality, district
3 or municipality thereof, which institution engages in, or
4 facilitates academic, scientific, educational or professional
5 research or learning in a field or fields of study taught at a
6 private institution of higher education. Academic institutions
7 include, without limitation, libraries, archives, academic,
8 scientific, educational or professional societies,
9 institutions, associations or foundations having such
10 purposes.

11 (v) The term "cultural institution" means any
12 not-for-profit institution which is not owned by the State or
13 any political subdivision, agency, instrumentality, district
14 or municipality thereof, which institution engages in the
15 cultural, intellectual, scientific, educational or artistic
16 enrichment of the people of the State. Cultural institutions
17 include, without limitation, aquaria, botanical societies,
18 historical societies, libraries, museums, performing arts
19 associations or societies, scientific societies and zoological
20 societies.

21 (w) The term "affiliate" means, with respect to financing
22 of an agricultural facility or an agribusiness, any lender, any
23 person, firm or corporation controlled by, or under common
24 control with, such lender, and any person, firm or corporation
25 controlling such lender.

26 (x) The term "agricultural facility" means land, any

1 building or other improvement thereon or thereto, and any
2 personal properties deemed necessary or suitable for use,
3 whether or not now in existence, in farming, ranching, the
4 production of agricultural commodities (including, without
5 limitation, the products of aquaculture, hydroponics and
6 silviculture) or the treating, processing or storing of such
7 agricultural commodities when such activities are customarily
8 engaged in by farmers as a part of farming.

9 (y) The term "lender" with respect to financing of an
10 agricultural facility or an agribusiness, means any federal or
11 State chartered bank, Federal Land Bank, Production Credit
12 Association, Bank for Cooperatives, federal or State chartered
13 savings and loan association or building and loan association,
14 Small Business Investment Company or any other institution
15 qualified within this State to originate and service loans,
16 including, but without limitation to, insurance companies,
17 credit unions and mortgage loan companies. "Lender" also means
18 a wholly owned subsidiary of a manufacturer, seller or
19 distributor of goods or services that makes loans to businesses
20 or individuals, commonly known as a "captive finance company".

21 (z) The term "agribusiness" means any sole proprietorship,
22 limited partnership, co-partnership, joint venture,
23 corporation or cooperative which operates or will operate a
24 facility located within the State of Illinois that is related
25 to the processing of agricultural commodities (including,
26 without limitation, the products of aquaculture, hydroponics

1 and silviculture) or the manufacturing, production or
2 construction of agricultural buildings, structures, equipment,
3 implements, and supplies, or any other facilities or processes
4 used in agricultural production. Agribusiness includes but is
5 not limited to the following:

6 (1) grain handling and processing, including grain
7 storage, drying, treatment, conditioning, mailing and
8 packaging;

9 (2) seed and feed grain development and processing;

10 (3) fruit and vegetable processing, including
11 preparation, canning and packaging;

12 (4) processing of livestock and livestock products,
13 dairy products, poultry and poultry products, fish or
14 apiarian products, including slaughter, shearing,
15 collecting, preparation, canning and packaging;

16 (5) fertilizer and agricultural chemical
17 manufacturing, processing, application and supplying;

18 (6) farm machinery, equipment and implement
19 manufacturing and supplying;

20 (7) manufacturing and supplying of agricultural
21 commodity processing machinery and equipment, including
22 machinery and equipment used in slaughter, treatment,
23 handling, collecting, preparation, canning or packaging of
24 agricultural commodities;

25 (8) farm building and farm structure manufacturing,
26 construction and supplying;

1 (9) construction, manufacturing, implementation,
2 supplying or servicing of irrigation, drainage and soil and
3 water conservation devices or equipment;

4 (10) fuel processing and development facilities that
5 produce fuel from agricultural commodities or byproducts;

6 (11) facilities and equipment for processing and
7 packaging agricultural commodities specifically for
8 export;

9 (12) facilities and equipment for forestry product
10 processing and supplying, including sawmilling operations,
11 wood chip operations, timber harvesting operations, and
12 manufacturing of prefabricated buildings, paper, furniture
13 or other goods from forestry products;

14 (13) facilities and equipment for research and
15 development of products, processes and equipment for the
16 production, processing, preparation or packaging of
17 agricultural commodities and byproducts.

18 (aa) The term "asset" with respect to financing of any
19 agricultural facility or any agribusiness, means, but is not
20 limited to the following: cash crops or feed on hand; livestock
21 held for sale; breeding stock; marketable bonds and securities;
22 securities not readily marketable; accounts receivable; notes
23 receivable; cash invested in growing crops; net cash value of
24 life insurance; machinery and equipment; cars and trucks; farm
25 and other real estate including life estates and personal
26 residence; value of beneficial interests in trusts; government

1 payments or grants; and any other assets.

2 (bb) The term "liability" with respect to financing of any
3 agricultural facility or any agribusiness shall include, but
4 not be limited to the following: accounts payable; notes or
5 other indebtedness owed to any source; taxes; rent; amounts
6 owed on real estate contracts or real estate mortgages;
7 judgments; accrued interest payable; and any other liability.

8 (cc) The term "Predecessor Authorities" means those
9 authorities as described in Section 845-75.

10 (dd) The term "housing project" means a specific work or
11 improvement undertaken to provide residential dwelling
12 accommodations, including the acquisition, construction or
13 rehabilitation of lands, buildings and community facilities
14 and in connection therewith to provide nonhousing facilities
15 which are part of the housing project, including land,
16 buildings, improvements, equipment and all ancillary
17 facilities for use for offices, stores, retirement homes,
18 hotels, financial institutions, service, health care,
19 education, recreation or research establishments, or any other
20 commercial purpose which are or are to be related to a housing
21 development.

22 (ee) The term "conservation project" means any project
23 including the acquisition, construction, rehabilitation,
24 maintenance, operation, or upgrade that is intended to create
25 or expand open space or to reduce energy usage through
26 efficiency measures. For the purpose of this definition, "open

1 space" has the definition set forth under Section 10 of the
2 Illinois Open Land Trust Act.

3 (Source: P.A. 95-697, eff. 11-6-07.)

4 Section 90-35. The Illinois Health Facilities Planning Act
5 is amended by changing Sections 3, 12, 13, and 14.1 as follows:

6 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

7 (Section scheduled to be repealed on July 1, 2009)

8 Sec. 3. Definitions. As used in this Act:

9 "Health care facilities" means and includes the following
10 facilities and organizations:

11 1. An ambulatory surgical treatment center required to
12 be licensed pursuant to the Ambulatory Surgical Treatment
13 Center Act;

14 2. An institution, place, building, or agency required
15 to be licensed pursuant to the Hospital Licensing Act;

16 3. Skilled and intermediate long term care facilities
17 licensed under the Nursing Home Care Act;

18 3.5. Skilled and intermediate care facilities licensed
19 under the MR/DD Community Care Act;

20 4. Hospitals, nursing homes, ambulatory surgical
21 treatment centers, or kidney disease treatment centers
22 maintained by the State or any department or agency
23 thereof;

24 5. Kidney disease treatment centers, including a

1 free-standing hemodialysis unit required to be licensed
2 under the End Stage Renal Disease Facility Act; and

3 6. An institution, place, building, or room used for
4 the performance of outpatient surgical procedures that is
5 leased, owned, or operated by or on behalf of an
6 out-of-state facility.

7 This Act shall not apply to the construction of any new
8 facility or the renovation of any existing facility located on
9 any campus facility as defined in Section 5-5.8b of the
10 Illinois Public Aid Code, provided that the campus facility
11 encompasses 30 or more contiguous acres and that the new or
12 renovated facility is intended for use by a licensed
13 residential facility.

14 No federally owned facility shall be subject to the
15 provisions of this Act, nor facilities used solely for healing
16 by prayer or spiritual means.

17 No facility licensed under the Supportive Residences
18 Licensing Act or the Assisted Living and Shared Housing Act
19 shall be subject to the provisions of this Act.

20 A facility designated as a supportive living facility that
21 is in good standing with the program established under Section
22 5-5.01a of the Illinois Public Aid Code shall not be subject to
23 the provisions of this Act.

24 This Act does not apply to facilities granted waivers under
25 Section 3-102.2 of the Nursing Home Care Act. However, if a
26 demonstration project under that Act applies for a certificate

1 of need to convert to a nursing facility, it shall meet the
2 licensure and certificate of need requirements in effect as of
3 the date of application.

4 This Act does not apply to a dialysis facility that
5 provides only dialysis training, support, and related services
6 to individuals with end stage renal disease who have elected to
7 receive home dialysis. This Act does not apply to a dialysis
8 unit located in a licensed nursing home that offers or provides
9 dialysis-related services to residents with end stage renal
10 disease who have elected to receive home dialysis within the
11 nursing home. The Board, however, may require these dialysis
12 facilities and licensed nursing homes to report statistical
13 information on a quarterly basis to the Board to be used by the
14 Board to conduct analyses on the need for proposed kidney
15 disease treatment centers.

16 This Act shall not apply to the closure of an entity or a
17 portion of an entity licensed under the Nursing Home Care Act
18 or the MR/DD Community Care Act, with the exceptions of
19 facilities operated by a county or Illinois Veterans Homes,
20 that elects to convert, in whole or in part, to an assisted
21 living or shared housing establishment licensed under the
22 Assisted Living and Shared Housing Act.

23 This Act does not apply to any change of ownership of a
24 healthcare facility that is licensed under the Nursing Home
25 Care Act or the MR/DD Community Care Act, with the exceptions
26 of facilities operated by a county or Illinois Veterans Homes.

1 Changes of ownership of facilities licensed under the Nursing
2 Home Care Act must meet the requirements set forth in Sections
3 3-101 through 3-119 of the Nursing Home Care Act.

4 With the exception of those health care facilities
5 specifically included in this Section, nothing in this Act
6 shall be intended to include facilities operated as a part of
7 the practice of a physician or other licensed health care
8 professional, whether practicing in his individual capacity or
9 within the legal structure of any partnership, medical or
10 professional corporation, or unincorporated medical or
11 professional group. Further, this Act shall not apply to
12 physicians or other licensed health care professional's
13 practices where such practices are carried out in a portion of
14 a health care facility under contract with such health care
15 facility by a physician or by other licensed health care
16 professionals, whether practicing in his individual capacity
17 or within the legal structure of any partnership, medical or
18 professional corporation, or unincorporated medical or
19 professional groups. This Act shall apply to construction or
20 modification and to establishment by such health care facility
21 of such contracted portion which is subject to facility
22 licensing requirements, irrespective of the party responsible
23 for such action or attendant financial obligation.

24 "Person" means any one or more natural persons, legal
25 entities, governmental bodies other than federal, or any
26 combination thereof.

1 "Consumer" means any person other than a person (a) whose
2 major occupation currently involves or whose official capacity
3 within the last 12 months has involved the providing,
4 administering or financing of any type of health care facility,
5 (b) who is engaged in health research or the teaching of
6 health, (c) who has a material financial interest in any
7 activity which involves the providing, administering or
8 financing of any type of health care facility, or (d) who is or
9 ever has been a member of the immediate family of the person
10 defined by (a), (b), or (c).

11 "State Board" means the Health Facilities Planning Board.

12 "Construction or modification" means the establishment,
13 erection, building, alteration, reconstruction, modernization,
14 improvement, extension, discontinuation, change of ownership,
15 of or by a health care facility, or the purchase or acquisition
16 by or through a health care facility of equipment or service
17 for diagnostic or therapeutic purposes or for facility
18 administration or operation, or any capital expenditure made by
19 or on behalf of a health care facility which exceeds the
20 capital expenditure minimum; however, any capital expenditure
21 made by or on behalf of a health care facility for (i) the
22 construction or modification of a facility licensed under the
23 Assisted Living and Shared Housing Act or (ii) a conversion
24 project undertaken in accordance with Section 30 of the Older
25 Adult Services Act shall be excluded from any obligations under
26 this Act.

1 "Establish" means the construction of a health care
2 facility or the replacement of an existing facility on another
3 site.

4 "Major medical equipment" means medical equipment which is
5 used for the provision of medical and other health services and
6 which costs in excess of the capital expenditure minimum,
7 except that such term does not include medical equipment
8 acquired by or on behalf of a clinical laboratory to provide
9 clinical laboratory services if the clinical laboratory is
10 independent of a physician's office and a hospital and it has
11 been determined under Title XVIII of the Social Security Act to
12 meet the requirements of paragraphs (10) and (11) of Section
13 1861(s) of such Act. In determining whether medical equipment
14 has a value in excess of the capital expenditure minimum, the
15 value of studies, surveys, designs, plans, working drawings,
16 specifications, and other activities essential to the
17 acquisition of such equipment shall be included.

18 "Capital Expenditure" means an expenditure: (A) made by or
19 on behalf of a health care facility (as such a facility is
20 defined in this Act); and (B) which under generally accepted
21 accounting principles is not properly chargeable as an expense
22 of operation and maintenance, or is made to obtain by lease or
23 comparable arrangement any facility or part thereof or any
24 equipment for a facility or part; and which exceeds the capital
25 expenditure minimum.

26 For the purpose of this paragraph, the cost of any studies,

1 surveys, designs, plans, working drawings, specifications, and
2 other activities essential to the acquisition, improvement,
3 expansion, or replacement of any plant or equipment with
4 respect to which an expenditure is made shall be included in
5 determining if such expenditure exceeds the capital
6 expenditures minimum. Donations of equipment or facilities to a
7 health care facility which if acquired directly by such
8 facility would be subject to review under this Act shall be
9 considered capital expenditures, and a transfer of equipment or
10 facilities for less than fair market value shall be considered
11 a capital expenditure for purposes of this Act if a transfer of
12 the equipment or facilities at fair market value would be
13 subject to review.

14 "Capital expenditure minimum" means \$6,000,000, which
15 shall be annually adjusted to reflect the increase in
16 construction costs due to inflation, for major medical
17 equipment and for all other capital expenditures; provided,
18 however, that when a capital expenditure is for the
19 construction or modification of a health and fitness center,
20 "capital expenditure minimum" means the capital expenditure
21 minimum for all other capital expenditures in effect on March
22 1, 2000, which shall be annually adjusted to reflect the
23 increase in construction costs due to inflation.

24 "Non-clinical service area" means an area (i) for the
25 benefit of the patients, visitors, staff, or employees of a
26 health care facility and (ii) not directly related to the

1 diagnosis, treatment, or rehabilitation of persons receiving
2 services from the health care facility. "Non-clinical service
3 areas" include, but are not limited to, chapels; gift shops;
4 news stands; computer systems; tunnels, walkways, and
5 elevators; telephone systems; projects to comply with life
6 safety codes; educational facilities; student housing;
7 patient, employee, staff, and visitor dining areas;
8 administration and volunteer offices; modernization of
9 structural components (such as roof replacement and masonry
10 work); boiler repair or replacement; vehicle maintenance and
11 storage facilities; parking facilities; mechanical systems for
12 heating, ventilation, and air conditioning; loading docks; and
13 repair or replacement of carpeting, tile, wall coverings,
14 window coverings or treatments, or furniture. Solely for the
15 purpose of this definition, "non-clinical service area" does
16 not include health and fitness centers.

17 "Areawide" means a major area of the State delineated on a
18 geographic, demographic, and functional basis for health
19 planning and for health service and having within it one or
20 more local areas for health planning and health service. The
21 term "region", as contrasted with the term "subregion", and the
22 word "area" may be used synonymously with the term "areawide".

23 "Local" means a subarea of a delineated major area that on
24 a geographic, demographic, and functional basis may be
25 considered to be part of such major area. The term "subregion"
26 may be used synonymously with the term "local".

1 "Areawide health planning organization" or "Comprehensive
2 health planning organization" means the health systems agency
3 designated by the Secretary, Department of Health and Human
4 Services or any successor agency.

5 "Local health planning organization" means those local
6 health planning organizations that are designated as such by
7 the areawide health planning organization of the appropriate
8 area.

9 "Physician" means a person licensed to practice in
10 accordance with the Medical Practice Act of 1987, as amended.

11 "Licensed health care professional" means a person
12 licensed to practice a health profession under pertinent
13 licensing statutes of the State of Illinois.

14 "Director" means the Director of the Illinois Department of
15 Public Health.

16 "Agency" means the Illinois Department of Public Health.

17 "Comprehensive health planning" means health planning
18 concerned with the total population and all health and
19 associated problems that affect the well-being of people and
20 that encompasses health services, health manpower, and health
21 facilities; and the coordination among these and with those
22 social, economic, and environmental factors that affect
23 health.

24 "Alternative health care model" means a facility or program
25 authorized under the Alternative Health Care Delivery Act.

26 "Out-of-state facility" means a person that is both (i)

1 licensed as a hospital or as an ambulatory surgery center under
2 the laws of another state or that qualifies as a hospital or an
3 ambulatory surgery center under regulations adopted pursuant
4 to the Social Security Act and (ii) not licensed under the
5 Ambulatory Surgical Treatment Center Act, the Hospital
6 Licensing Act, or the Nursing Home Care Act. Affiliates of
7 out-of-state facilities shall be considered out-of-state
8 facilities. Affiliates of Illinois licensed health care
9 facilities 100% owned by an Illinois licensed health care
10 facility, its parent, or Illinois physicians licensed to
11 practice medicine in all its branches shall not be considered
12 out-of-state facilities. Nothing in this definition shall be
13 construed to include an office or any part of an office of a
14 physician licensed to practice medicine in all its branches in
15 Illinois that is not required to be licensed under the
16 Ambulatory Surgical Treatment Center Act.

17 "Change of ownership of a health care facility" means a
18 change in the person who has ownership or control of a health
19 care facility's physical plant and capital assets. A change in
20 ownership is indicated by the following transactions: sale,
21 transfer, acquisition, lease, change of sponsorship, or other
22 means of transferring control.

23 "Related person" means any person that: (i) is at least 50%
24 owned, directly or indirectly, by either the health care
25 facility or a person owning, directly or indirectly, at least
26 50% of the health care facility; or (ii) owns, directly or

1 indirectly, at least 50% of the health care facility.

2 "Charity care" means care provided by a health care
3 facility for which the provider does not expect to receive
4 payment from the patient or a third-party payer.

5 "Freestanding emergency center" means a facility subject
6 to licensure under Section 32.5 of the Emergency Medical
7 Services (EMS) Systems Act.

8 (Source: P.A. 94-342, eff. 7-26-05; 95-331, eff. 8-21-07;
9 95-543, eff. 8-28-07; 95-584, eff. 8-31-07; 95-727, eff.
10 6-30-08; 95-876, eff. 8-21-08.)

11 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

12 (Section scheduled to be repealed on July 1, 2009)

13 Sec. 12. Powers and duties of State Board. For purposes of
14 this Act, the State Board shall exercise the following powers
15 and duties:

16 (1) Prescribe rules, regulations, standards, criteria,
17 procedures or reviews which may vary according to the purpose
18 for which a particular review is being conducted or the type of
19 project reviewed and which are required to carry out the
20 provisions and purposes of this Act.

21 (2) Adopt procedures for public notice and hearing on all
22 proposed rules, regulations, standards, criteria, and plans
23 required to carry out the provisions of this Act.

24 (3) Prescribe criteria for recognition for areawide health
25 planning organizations, including, but not limited to,

1 standards for evaluating the scientific bases for judgments on
2 need and procedure for making these determinations.

3 (4) Develop criteria and standards for health care
4 facilities planning, conduct statewide inventories of health
5 care facilities, maintain an updated inventory on the
6 Department's web site reflecting the most recent bed and
7 service changes and updated need determinations when new census
8 data become available or new need formulae are adopted, and
9 develop health care facility plans which shall be utilized in
10 the review of applications for permit under this Act. Such
11 health facility plans shall be coordinated by the Agency with
12 the health care facility plans areawide health planning
13 organizations and with other pertinent State Plans.
14 Inventories pursuant to this Section of skilled or intermediate
15 care facilities licensed under the Nursing Home Care Act, skilled or intermediate care facilities licensed under the
16 MR/DD Community Care Act, or nursing homes licensed under the
17 Hospital Licensing Act shall be conducted on an annual basis no
18 later than July 1 of each year and shall include among the
19 information requested a list of all services provided by a
20 facility to its residents and to the community at large and
21 differentiate between active and inactive beds.

23 In developing health care facility plans, the State Board
24 shall consider, but shall not be limited to, the following:

25 (a) The size, composition and growth of the population
26 of the area to be served;

1 (b) The number of existing and planned facilities
2 offering similar programs;

3 (c) The extent of utilization of existing facilities;

4 (d) The availability of facilities which may serve as
5 alternatives or substitutes;

6 (e) The availability of personnel necessary to the
7 operation of the facility;

8 (f) Multi-institutional planning and the establishment
9 of multi-institutional systems where feasible;

10 (g) The financial and economic feasibility of proposed
11 construction or modification; and

12 (h) In the case of health care facilities established
13 by a religious body or denomination, the needs of the
14 members of such religious body or denomination may be
15 considered to be public need.

16 The health care facility plans which are developed and
17 adopted in accordance with this Section shall form the basis
18 for the plan of the State to deal most effectively with
19 statewide health needs in regard to health care facilities.

20 (5) Coordinate with other state agencies having
21 responsibilities affecting health care facilities, including
22 those of licensure and cost reporting.

23 (6) Solicit, accept, hold and administer on behalf of the
24 State any grants or bequests of money, securities or property
25 for use by the State Board or recognized areawide health
26 planning organizations in the administration of this Act; and

1 enter into contracts consistent with the appropriations for
2 purposes enumerated in this Act.

3 (7) The State Board shall prescribe, in consultation with
4 the recognized areawide health planning organizations,
5 procedures for review, standards, and criteria which shall be
6 utilized to make periodic areawide reviews and determinations
7 of the appropriateness of any existing health services being
8 rendered by health care facilities subject to the Act. The
9 State Board shall consider recommendations of the areawide
10 health planning organization and the Agency in making its
11 determinations.

12 (8) Prescribe, in consultation with the recognized
13 areawide health planning organizations, rules, regulations,
14 standards, and criteria for the conduct of an expeditious
15 review of applications for permits for projects of construction
16 or modification of a health care facility, which projects are
17 non-substantive in nature. Such rules shall not abridge the
18 right of areawide health planning organizations to make
19 recommendations on the classification and approval of
20 projects, nor shall such rules prevent the conduct of a public
21 hearing upon the timely request of an interested party. Such
22 reviews shall not exceed 60 days from the date the application
23 is declared to be complete by the Agency.

24 (9) Prescribe rules, regulations, standards, and criteria
25 pertaining to the granting of permits for construction and
26 modifications which are emergent in nature and must be

1 undertaken immediately to prevent or correct structural
2 deficiencies or hazardous conditions that may harm or injure
3 persons using the facility, as defined in the rules and
4 regulations of the State Board. This procedure is exempt from
5 public hearing requirements of this Act.

6 (10) Prescribe rules, regulations, standards and criteria
7 for the conduct of an expeditious review, not exceeding 60
8 days, of applications for permits for projects to construct or
9 modify health care facilities which are needed for the care and
10 treatment of persons who have acquired immunodeficiency
11 syndrome (AIDS) or related conditions.

12 (Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

13 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

14 (Section scheduled to be repealed on July 1, 2009)

15 Sec. 13. Investigation of applications for permits and
16 certificates of recognition. The Agency or the State Board
17 shall make or cause to be made such investigations as it or the
18 State Board deems necessary in connection with an application
19 for a permit or an application for a certificate of
20 recognition, or in connection with a determination of whether
21 or not construction or modification which has been commenced is
22 in accord with the permit issued by the State Board or whether
23 construction or modification has been commenced without a
24 permit having been obtained. The State Board may issue
25 subpoenas duces tecum requiring the production of records and

1 may administer oaths to such witnesses.

2 Any circuit court of this State, upon the application of
3 the State Board or upon the application of any party to such
4 proceedings, may, in its discretion, compel the attendance of
5 witnesses, the production of books, papers, records, or
6 memoranda and the giving of testimony before the State Board,
7 by a proceeding as for contempt, or otherwise, in the same
8 manner as production of evidence may be compelled before the
9 court.

10 The State Board shall require all health facilities
11 operating in this State to provide such reasonable reports at
12 such times and containing such information as is needed by it
13 to carry out the purposes and provisions of this Act. Prior to
14 collecting information from health facilities, the State Board
15 shall make reasonable efforts through a public process to
16 consult with health facilities and associations that represent
17 them to determine whether data and information requests will
18 result in useful information for health planning, whether
19 sufficient information is available from other sources, and
20 whether data requested is routinely collected by health
21 facilities and is available without retrospective record
22 review. Data and information requests shall not impose undue
23 paperwork burdens on health care facilities and personnel.
24 Health facilities not complying with this requirement shall be
25 reported to licensing, accrediting, certifying, or payment
26 agencies as being in violation of State law. Health care

1 facilities and other parties at interest shall have reasonable
2 access, under rules established by the State Board, to all
3 planning information submitted in accord with this Act
4 pertaining to their area.

5 Among the reports to be required by the State Board are
6 facility questionnaires for health care facilities licensed
7 under the Ambulatory Surgical Treatment Center Act, the
8 Hospital Licensing Act, the Nursing Home Care Act, the MR/DD
9 Community Care Act, or the End Stage Renal Disease Facility
10 Act. These questionnaires shall be conducted on an annual basis
11 and compiled by the Agency. For health care facilities licensed
12 under the Nursing Home Care Act or the MR/DD Community Care
13 Act, these reports shall include, but not be limited to, the
14 identification of specialty services provided by the facility
15 to patients, residents, and the community at large. For health
16 care facilities that contain long term care beds, the reports
17 shall also include the number of staffed long term care beds,
18 physical capacity for long term care beds at the facility, and
19 long term care beds available for immediate occupancy. For
20 purposes of this paragraph, "long term care beds" means beds
21 (i) licensed under the Nursing Home Care Act, (ii) licensed
22 under the MR/DD Community Care Act, or (iii) ~~(ii)~~ licensed
23 under the Hospital Licensing Act and certified as skilled
24 nursing or nursing facility beds under Medicaid or Medicare.
25 (Source: P.A. 93-41, eff. 6-27-03; 94-983, eff. 6-30-06.)

1 (20 ILCS 3960/14.1)

2 (Section scheduled to be repealed on July 1, 2009)

3 Sec. 14.1. Denial of permit; other sanctions.

4 (a) The State Board may deny an application for a permit or
5 may revoke or take other action as permitted by this Act with
6 regard to a permit as the State Board deems appropriate,
7 including the imposition of fines as set forth in this Section,
8 for any one or a combination of the following:

9 (1) The acquisition of major medical equipment without
10 a permit or in violation of the terms of a permit.

11 (2) The establishment, construction, or modification
12 of a health care facility without a permit or in violation
13 of the terms of a permit.

14 (3) The violation of any provision of this Act or any
15 rule adopted under this Act.

16 (4) The failure, by any person subject to this Act, to
17 provide information requested by the State Board or Agency
18 within 30 days after a formal written request for the
19 information.

20 (5) The failure to pay any fine imposed under this
21 Section within 30 days of its imposition.

22 (a-5) For facilities licensed under the Nursing Home Care
23 Act or the MR/DD Community Care Act, no permit shall be denied
24 on the basis of prior operator history, other than for actions
25 specified under item (2), (4), or (5) of Section 3-117 of the
26 Nursing Home Care Act or under item (2), (4), or (5) of Section

1 3-117 of the MR/DD Community Care Act.

2 (b) Persons shall be subject to fines as follows:

3 (1) A permit holder who fails to comply with the
4 requirements of maintaining a valid permit shall be fined
5 an amount not to exceed 1% of the approved permit amount
6 plus an additional 1% of the approved permit amount for
7 each 30-day period, or fraction thereof, that the violation
8 continues.

9 (2) A permit holder who alters the scope of an approved
10 project or whose project costs exceed the allowable permit
11 amount without first obtaining approval from the State
12 Board shall be fined an amount not to exceed the sum of (i)
13 the lesser of \$25,000 or 2% of the approved permit amount
14 and (ii) in those cases where the approved permit amount is
15 exceeded by more than \$1,000,000, an additional \$20,000 for
16 each \$1,000,000, or fraction thereof, in excess of the
17 approved permit amount.

18 (3) A person who acquires major medical equipment or
19 who establishes a category of service without first
20 obtaining a permit or exemption, as the case may be, shall
21 be fined an amount not to exceed \$10,000 for each such
22 acquisition or category of service established plus an
23 additional \$10,000 for each 30-day period, or fraction
24 thereof, that the violation continues.

25 (4) A person who constructs, modifies, or establishes a
26 health care facility without first obtaining a permit shall

1 be fined an amount not to exceed \$25,000 plus an additional
2 \$25,000 for each 30-day period, or fraction thereof, that
3 the violation continues.

4 (5) A person who discontinues a health care facility or
5 a category of service without first obtaining a permit
6 shall be fined an amount not to exceed \$10,000 plus an
7 additional \$10,000 for each 30-day period, or fraction
8 thereof, that the violation continues. For purposes of this
9 subparagraph (5), facilities licensed under the Nursing
10 Home Care Act or the MR/DD Community Care Act, with the
11 exceptions of facilities operated by a county or Illinois
12 Veterans Homes, are exempt from this permit requirement.
13 However, facilities licensed under the Nursing Home Care
14 Act or the MR/DD Community Care Act must comply with
15 Section 3-423 of the Nursing Home Care Act ~~that Act~~ or Section
16 3-423 of the MR/DD Community Care Act and must provide the
17 Board with 30-days' written notice of its intent to close.

18 (6) A person subject to this Act who fails to provide
19 information requested by the State Board or Agency within
20 30 days of a formal written request shall be fined an
21 amount not to exceed \$1,000 plus an additional \$1,000 for
22 each 30-day period, or fraction thereof, that the
23 information is not received by the State Board or Agency.

24 (c) Before imposing any fine authorized under this Section,
25 the State Board shall afford the person or permit holder, as
26 the case may be, an appearance before the State Board and an

1 opportunity for a hearing before a hearing officer appointed by
2 the State Board. The hearing shall be conducted in accordance
3 with Section 10.

4 (d) All fines collected under this Act shall be transmitted
5 to the State Treasurer, who shall deposit them into the
6 Illinois Health Facilities Planning Fund.

7 (Source: P.A. 95-543, eff. 8-28-07.)

8 Section 90-45. The Illinois Income Tax Act is amended by
9 changing Section 806 as follows:

10 (35 ILCS 5/806)

11 Sec. 806. Exemption from penalty. An individual taxpayer
12 shall not be subject to a penalty for failing to pay estimated
13 tax as required by Section 803 if the taxpayer is 65 years of
14 age or older and is a permanent resident of a nursing home. For
15 purposes of this Section, "nursing home" means a skilled
16 nursing or intermediate long term care facility that is subject
17 to licensure by the Illinois Department of Public Health under
18 the Nursing Home Care Act or the MR/DD Community Care Act.

19 (Source: P.A. 90-491, eff. 1-1-98.)

20 Section 90-50. The Use Tax Act is amended by changing
21 Section 3-5 as follows:

22 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

1 Sec. 3-5. Exemptions. Use of the following tangible
2 personal property is exempt from the tax imposed by this Act:

3 (1) Personal property purchased from a corporation,
4 society, association, foundation, institution, or
5 organization, other than a limited liability company, that is
6 organized and operated as a not-for-profit service enterprise
7 for the benefit of persons 65 years of age or older if the
8 personal property was not purchased by the enterprise for the
9 purpose of resale by the enterprise.

10 (2) Personal property purchased by a not-for-profit
11 Illinois county fair association for use in conducting,
12 operating, or promoting the county fair.

13 (3) Personal property purchased by a not-for-profit arts or
14 cultural organization that establishes, by proof required by
15 the Department by rule, that it has received an exemption under
16 Section 501(c)(3) of the Internal Revenue Code and that is
17 organized and operated primarily for the presentation or
18 support of arts or cultural programming, activities, or
19 services. These organizations include, but are not limited to,
20 music and dramatic arts organizations such as symphony
21 orchestras and theatrical groups, arts and cultural service
22 organizations, local arts councils, visual arts organizations,
23 and media arts organizations. On and after the effective date
24 of this amendatory Act of the 92nd General Assembly, however,
25 an entity otherwise eligible for this exemption shall not make
26 tax-free purchases unless it has an active identification

1 number issued by the Department.

2 (4) Personal property purchased by a governmental body, by
3 a corporation, society, association, foundation, or
4 institution organized and operated exclusively for charitable,
5 religious, or educational purposes, or by a not-for-profit
6 corporation, society, association, foundation, institution, or
7 organization that has no compensated officers or employees and
8 that is organized and operated primarily for the recreation of
9 persons 55 years of age or older. A limited liability company
10 may qualify for the exemption under this paragraph only if the
11 limited liability company is organized and operated
12 exclusively for educational purposes. On and after July 1,
13 1987, however, no entity otherwise eligible for this exemption
14 shall make tax-free purchases unless it has an active exemption
15 identification number issued by the Department.

16 (5) Until July 1, 2003, a passenger car that is a
17 replacement vehicle to the extent that the purchase price of
18 the car is subject to the Replacement Vehicle Tax.

19 (6) Until July 1, 2003 and beginning again on September 1,
20 2004, graphic arts machinery and equipment, including repair
21 and replacement parts, both new and used, and including that
22 manufactured on special order, certified by the purchaser to be
23 used primarily for graphic arts production, and including
24 machinery and equipment purchased for lease. Equipment
25 includes chemicals or chemicals acting as catalysts but only if
26 the chemicals or chemicals acting as catalysts effect a direct

1 and immediate change upon a graphic arts product.

2 (7) Farm chemicals.

3 (8) Legal tender, currency, medallions, or gold or silver
4 coinage issued by the State of Illinois, the government of the
5 United States of America, or the government of any foreign
6 country, and bullion.

7 (9) Personal property purchased from a teacher-sponsored
8 student organization affiliated with an elementary or
9 secondary school located in Illinois.

10 (10) A motor vehicle of the first division, a motor vehicle
11 of the second division that is a self-contained motor vehicle
12 designed or permanently converted to provide living quarters
13 for recreational, camping, or travel use, with direct walk
14 through to the living quarters from the driver's seat, or a
15 motor vehicle of the second division that is of the van
16 configuration designed for the transportation of not less than
17 7 nor more than 16 passengers, as defined in Section 1-146 of
18 the Illinois Vehicle Code, that is used for automobile renting,
19 as defined in the Automobile Renting Occupation and Use Tax
20 Act.

21 (11) Farm machinery and equipment, both new and used,
22 including that manufactured on special order, certified by the
23 purchaser to be used primarily for production agriculture or
24 State or federal agricultural programs, including individual
25 replacement parts for the machinery and equipment, including
26 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (11). Agricultural chemical tender tanks and dry
10 boxes shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed if the selling price of the
13 tender is separately stated.

14 Farm machinery and equipment shall include precision
15 farming equipment that is installed or purchased to be
16 installed on farm machinery and equipment including, but not
17 limited to, tractors, harvesters, sprayers, planters, seeders,
18 or spreaders. Precision farming equipment includes, but is not
19 limited to, soil testing sensors, computers, monitors,
20 software, global positioning and mapping systems, and other
21 such equipment.

22 Farm machinery and equipment also includes computers,
23 sensors, software, and related equipment used primarily in the
24 computer-assisted operation of production agriculture
25 facilities, equipment, and activities such as, but not limited
26 to, the collection, monitoring, and correlation of animal and

1 crop data for the purpose of formulating animal diets and
2 agricultural chemicals. This item (11) is exempt from the
3 provisions of Section 3-90.

4 (12) Fuel and petroleum products sold to or used by an air
5 common carrier, certified by the carrier to be used for
6 consumption, shipment, or storage in the conduct of its
7 business as an air common carrier, for a flight destined for or
8 returning from a location or locations outside the United
9 States without regard to previous or subsequent domestic
10 stopovers.

11 (13) Proceeds of mandatory service charges separately
12 stated on customers' bills for the purchase and consumption of
13 food and beverages purchased at retail from a retailer, to the
14 extent that the proceeds of the service charge are in fact
15 turned over as tips or as a substitute for tips to the
16 employees who participate directly in preparing, serving,
17 hosting or cleaning up the food or beverage function with
18 respect to which the service charge is imposed.

19 (14) Until July 1, 2003, oil field exploration, drilling,
20 and production equipment, including (i) rigs and parts of rigs,
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
22 tubular goods, including casing and drill strings, (iii) pumps
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any
24 individual replacement part for oil field exploration,
25 drilling, and production equipment, and (vi) machinery and
26 equipment purchased for lease; but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code.

2 (15) Photoprocessing machinery and equipment, including
3 repair and replacement parts, both new and used, including that
4 manufactured on special order, certified by the purchaser to be
5 used primarily for photoprocessing, and including
6 photoprocessing machinery and equipment purchased for lease.

7 (16) Until July 1, 2003, coal exploration, mining,
8 offhighway hauling, processing, maintenance, and reclamation
9 equipment, including replacement parts and equipment, and
10 including equipment purchased for lease, but excluding motor
11 vehicles required to be registered under the Illinois Vehicle
12 Code.

13 (17) Until July 1, 2003, distillation machinery and
14 equipment, sold as a unit or kit, assembled or installed by the
15 retailer, certified by the user to be used only for the
16 production of ethyl alcohol that will be used for consumption
17 as motor fuel or as a component of motor fuel for the personal
18 use of the user, and not subject to sale or resale.

19 (18) Manufacturing and assembling machinery and equipment
20 used primarily in the process of manufacturing or assembling
21 tangible personal property for wholesale or retail sale or
22 lease, whether that sale or lease is made directly by the
23 manufacturer or by some other person, whether the materials
24 used in the process are owned by the manufacturer or some other
25 person, or whether that sale or lease is made apart from or as
26 an incident to the seller's engaging in the service occupation

1 of producing machines, tools, dies, jigs, patterns, gauges, or
2 other similar items of no commercial value on special order for
3 a particular purchaser.

4 (19) Personal property delivered to a purchaser or
5 purchaser's donee inside Illinois when the purchase order for
6 that personal property was received by a florist located
7 outside Illinois who has a florist located inside Illinois
8 deliver the personal property.

9 (20) Semen used for artificial insemination of livestock
10 for direct agricultural production.

11 (21) Horses, or interests in horses, registered with and
12 meeting the requirements of any of the Arabian Horse Club
13 Registry of America, Appaloosa Horse Club, American Quarter
14 Horse Association, United States Trotting Association, or
15 Jockey Club, as appropriate, used for purposes of breeding or
16 racing for prizes. This item (21) is exempt from the provisions
17 of Section 3-90, and the exemption provided for under this item
18 (21) applies for all periods beginning May 30, 1995, but no
19 claim for credit or refund is allowed on or after January 1,
20 2008 for such taxes paid during the period beginning May 30,
21 2000 and ending on January 1, 2008.

22 (22) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients purchased by a
25 lessor who leases the equipment, under a lease of one year or
26 longer executed or in effect at the time the lessor would

1 otherwise be subject to the tax imposed by this Act, to a
2 hospital that has been issued an active tax exemption
3 identification number by the Department under Section 1g of the
4 Retailers' Occupation Tax Act. If the equipment is leased in a
5 manner that does not qualify for this exemption or is used in
6 any other non-exempt manner, the lessor shall be liable for the
7 tax imposed under this Act or the Service Use Tax Act, as the
8 case may be, based on the fair market value of the property at
9 the time the non-qualifying use occurs. No lessor shall collect
10 or attempt to collect an amount (however designated) that
11 purports to reimburse that lessor for the tax imposed by this
12 Act or the Service Use Tax Act, as the case may be, if the tax
13 has not been paid by the lessor. If a lessor improperly
14 collects any such amount from the lessee, the lessee shall have
15 a legal right to claim a refund of that amount from the lessor.
16 If, however, that amount is not refunded to the lessee for any
17 reason, the lessor is liable to pay that amount to the
18 Department.

19 (23) Personal property purchased by a lessor who leases the
20 property, under a lease of one year or longer executed or in
21 effect at the time the lessor would otherwise be subject to the
22 tax imposed by this Act, to a governmental body that has been
23 issued an active sales tax exemption identification number by
24 the Department under Section 1g of the Retailers' Occupation
25 Tax Act. If the property is leased in a manner that does not
26 qualify for this exemption or used in any other non-exempt

1 manner, the lessor shall be liable for the tax imposed under
2 this Act or the Service Use Tax Act, as the case may be, based
3 on the fair market value of the property at the time the
4 non-qualifying use occurs. No lessor shall collect or attempt
5 to collect an amount (however designated) that purports to
6 reimburse that lessor for the tax imposed by this Act or the
7 Service Use Tax Act, as the case may be, if the tax has not been
8 paid by the lessor. If a lessor improperly collects any such
9 amount from the lessee, the lessee shall have a legal right to
10 claim a refund of that amount from the lessor. If, however,
11 that amount is not refunded to the lessee for any reason, the
12 lessor is liable to pay that amount to the Department.

13 (24) Beginning with taxable years ending on or after
14 December 31, 1995 and ending with taxable years ending on or
15 before December 31, 2004, personal property that is donated for
16 disaster relief to be used in a State or federally declared
17 disaster area in Illinois or bordering Illinois by a
18 manufacturer or retailer that is registered in this State to a
19 corporation, society, association, foundation, or institution
20 that has been issued a sales tax exemption identification
21 number by the Department that assists victims of the disaster
22 who reside within the declared disaster area.

23 (25) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is used in the
26 performance of infrastructure repairs in this State, including

1 but not limited to municipal roads and streets, access roads,
2 bridges, sidewalks, waste disposal systems, water and sewer
3 line extensions, water distribution and purification
4 facilities, storm water drainage and retention facilities, and
5 sewage treatment facilities, resulting from a State or
6 federally declared disaster in Illinois or bordering Illinois
7 when such repairs are initiated on facilities located in the
8 declared disaster area within 6 months after the disaster.

9 (26) Beginning July 1, 1999, game or game birds purchased
10 at a "game breeding and hunting preserve area" or an "exotic
11 game hunting area" as those terms are used in the Wildlife Code
12 or at a hunting enclosure approved through rules adopted by the
13 Department of Natural Resources. This paragraph is exempt from
14 the provisions of Section 3-90.

15 (27) A motor vehicle, as that term is defined in Section
16 1-146 of the Illinois Vehicle Code, that is donated to a
17 corporation, limited liability company, society, association,
18 foundation, or institution that is determined by the Department
19 to be organized and operated exclusively for educational
20 purposes. For purposes of this exemption, "a corporation,
21 limited liability company, society, association, foundation,
22 or institution organized and operated exclusively for
23 educational purposes" means all tax-supported public schools,
24 private schools that offer systematic instruction in useful
25 branches of learning by methods common to public schools and
26 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and
2 vocational or technical schools or institutes organized and
3 operated exclusively to provide a course of study of not less
4 than 6 weeks duration and designed to prepare individuals to
5 follow a trade or to pursue a manual, technical, mechanical,
6 industrial, business, or commercial occupation.

7 (28) Beginning January 1, 2000, personal property,
8 including food, purchased through fundraising events for the
9 benefit of a public or private elementary or secondary school,
10 a group of those schools, or one or more school districts if
11 the events are sponsored by an entity recognized by the school
12 district that consists primarily of volunteers and includes
13 parents and teachers of the school children. This paragraph
14 does not apply to fundraising events (i) for the benefit of
15 private home instruction or (ii) for which the fundraising
16 entity purchases the personal property sold at the events from
17 another individual or entity that sold the property for the
18 purpose of resale by the fundraising entity and that profits
19 from the sale to the fundraising entity. This paragraph is
20 exempt from the provisions of Section 3-90.

21 (29) Beginning January 1, 2000 and through December 31,
22 2001, new or used automatic vending machines that prepare and
23 serve hot food and beverages, including coffee, soup, and other
24 items, and replacement parts for these machines. Beginning
25 January 1, 2002 and through June 30, 2003, machines and parts
26 for machines used in commercial, coin-operated amusement and

1 vending business if a use or occupation tax is paid on the
2 gross receipts derived from the use of the commercial,
3 coin-operated amusement and vending machines. This paragraph
4 is exempt from the provisions of Section 3-90.

5 (30) Beginning January 1, 2001 and through June 30, 2011,
6 food for human consumption that is to be consumed off the
7 premises where it is sold (other than alcoholic beverages, soft
8 drinks, and food that has been prepared for immediate
9 consumption) and prescription and nonprescription medicines,
10 drugs, medical appliances, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, when purchased for use by a person receiving medical
13 assistance under Article V 5 of the Illinois Public Aid Code
14 who resides in a licensed long-term care facility, as defined
15 in the Nursing Home Care Act, or in a licensed facility as
16 defined in the MR/DD Community Care Act.

17 (31) Beginning on the effective date of this amendatory Act
18 of the 92nd General Assembly, computers and communications
19 equipment utilized for any hospital purpose and equipment used
20 in the diagnosis, analysis, or treatment of hospital patients
21 purchased by a lessor who leases the equipment, under a lease
22 of one year or longer executed or in effect at the time the
23 lessor would otherwise be subject to the tax imposed by this
24 Act, to a hospital that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. If the equipment is leased in a

1 manner that does not qualify for this exemption or is used in
2 any other nonexempt manner, the lessor shall be liable for the
3 tax imposed under this Act or the Service Use Tax Act, as the
4 case may be, based on the fair market value of the property at
5 the time the nonqualifying use occurs. No lessor shall collect
6 or attempt to collect an amount (however designated) that
7 purports to reimburse that lessor for the tax imposed by this
8 Act or the Service Use Tax Act, as the case may be, if the tax
9 has not been paid by the lessor. If a lessor improperly
10 collects any such amount from the lessee, the lessee shall have
11 a legal right to claim a refund of that amount from the lessor.
12 If, however, that amount is not refunded to the lessee for any
13 reason, the lessor is liable to pay that amount to the
14 Department. This paragraph is exempt from the provisions of
15 Section 3-90.

16 (32) Beginning on the effective date of this amendatory Act
17 of the 92nd General Assembly, personal property purchased by a
18 lessor who leases the property, under a lease of one year or
19 longer executed or in effect at the time the lessor would
20 otherwise be subject to the tax imposed by this Act, to a
21 governmental body that has been issued an active sales tax
22 exemption identification number by the Department under
23 Section 1g of the Retailers' Occupation Tax Act. If the
24 property is leased in a manner that does not qualify for this
25 exemption or used in any other nonexempt manner, the lessor
26 shall be liable for the tax imposed under this Act or the

1 Service Use Tax Act, as the case may be, based on the fair
2 market value of the property at the time the nonqualifying use
3 occurs. No lessor shall collect or attempt to collect an amount
4 (however designated) that purports to reimburse that lessor for
5 the tax imposed by this Act or the Service Use Tax Act, as the
6 case may be, if the tax has not been paid by the lessor. If a
7 lessor improperly collects any such amount from the lessee, the
8 lessee shall have a legal right to claim a refund of that
9 amount from the lessor. If, however, that amount is not
10 refunded to the lessee for any reason, the lessor is liable to
11 pay that amount to the Department. This paragraph is exempt
12 from the provisions of Section 3-90.

13 (33) On and after July 1, 2003 and through June 30, 2004,
14 the use in this State of motor vehicles of the second division
15 with a gross vehicle weight in excess of 8,000 pounds and that
16 are subject to the commercial distribution fee imposed under
17 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
18 1, 2004 and through June 30, 2005, the use in this State of
19 motor vehicles of the second division: (i) with a gross vehicle
20 weight rating in excess of 8,000 pounds; (ii) that are subject
21 to the commercial distribution fee imposed under Section
22 3-815.1 of the Illinois Vehicle Code; and (iii) that are
23 primarily used for commercial purposes. Through June 30, 2005,
24 this exemption applies to repair and replacement parts added
25 after the initial purchase of such a motor vehicle if that
26 motor vehicle is used in a manner that would qualify for the

1 rolling stock exemption otherwise provided for in this Act. For
2 purposes of this paragraph, the term "used for commercial
3 purposes" means the transportation of persons or property in
4 furtherance of any commercial or industrial enterprise,
5 whether for-hire or not.

6 (34) Beginning January 1, 2008, tangible personal property
7 used in the construction or maintenance of a community water
8 supply, as defined under Section 3.145 of the Environmental
9 Protection Act, that is operated by a not-for-profit
10 corporation that holds a valid water supply permit issued under
11 Title IV of the Environmental Protection Act. This paragraph is
12 exempt from the provisions of Section 3-90.

13 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
14 eff. 1-1-08; 95-876, eff. 8-21-08.)

15 Section 90-55. The Service Use Tax Act is amended by
16 changing Sections 3-5 and 3-10 as follows:

17 (35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

18 Sec. 3-5. Exemptions. Use of the following tangible
19 personal property is exempt from the tax imposed by this Act:

20 (1) Personal property purchased from a corporation,
21 society, association, foundation, institution, or
22 organization, other than a limited liability company, that is
23 organized and operated as a not-for-profit service enterprise
24 for the benefit of persons 65 years of age or older if the

1 personal property was not purchased by the enterprise for the
2 purpose of resale by the enterprise.

3 (2) Personal property purchased by a non-profit Illinois
4 county fair association for use in conducting, operating, or
5 promoting the county fair.

6 (3) Personal property purchased by a not-for-profit arts or
7 cultural organization that establishes, by proof required by
8 the Department by rule, that it has received an exemption under
9 Section 501(c)(3) of the Internal Revenue Code and that is
10 organized and operated primarily for the presentation or
11 support of arts or cultural programming, activities, or
12 services. These organizations include, but are not limited to,
13 music and dramatic arts organizations such as symphony
14 orchestras and theatrical groups, arts and cultural service
15 organizations, local arts councils, visual arts organizations,
16 and media arts organizations. On and after the effective date
17 of this amendatory Act of the 92nd General Assembly, however,
18 an entity otherwise eligible for this exemption shall not make
19 tax-free purchases unless it has an active identification
20 number issued by the Department.

21 (4) Legal tender, currency, medallions, or gold or silver
22 coinage issued by the State of Illinois, the government of the
23 United States of America, or the government of any foreign
24 country, and bullion.

25 (5) Until July 1, 2003 and beginning again on September 1,
26 2004, graphic arts machinery and equipment, including repair

1 and replacement parts, both new and used, and including that
2 manufactured on special order or purchased for lease, certified
3 by the purchaser to be used primarily for graphic arts
4 production. Equipment includes chemicals or chemicals acting
5 as catalysts but only if the chemicals or chemicals acting as
6 catalysts effect a direct and immediate change upon a graphic
7 arts product.

8 (6) Personal property purchased from a teacher-sponsored
9 student organization affiliated with an elementary or
10 secondary school located in Illinois.

11 (7) Farm machinery and equipment, both new and used,
12 including that manufactured on special order, certified by the
13 purchaser to be used primarily for production agriculture or
14 State or federal agricultural programs, including individual
15 replacement parts for the machinery and equipment, including
16 machinery and equipment purchased for lease, and including
17 implements of husbandry defined in Section 1-130 of the
18 Illinois Vehicle Code, farm machinery and agricultural
19 chemical and fertilizer spreaders, and nurse wagons required to
20 be registered under Section 3-809 of the Illinois Vehicle Code,
21 but excluding other motor vehicles required to be registered
22 under the Illinois Vehicle Code. Horticultural polyhouses or
23 hoop houses used for propagating, growing, or overwintering
24 plants shall be considered farm machinery and equipment under
25 this item (7). Agricultural chemical tender tanks and dry boxes
26 shall include units sold separately from a motor vehicle

1 required to be licensed and units sold mounted on a motor
2 vehicle required to be licensed if the selling price of the
3 tender is separately stated.

4 Farm machinery and equipment shall include precision
5 farming equipment that is installed or purchased to be
6 installed on farm machinery and equipment including, but not
7 limited to, tractors, harvesters, sprayers, planters, seeders,
8 or spreaders. Precision farming equipment includes, but is not
9 limited to, soil testing sensors, computers, monitors,
10 software, global positioning and mapping systems, and other
11 such equipment.

12 Farm machinery and equipment also includes computers,
13 sensors, software, and related equipment used primarily in the
14 computer-assisted operation of production agriculture
15 facilities, equipment, and activities such as, but not limited
16 to, the collection, monitoring, and correlation of animal and
17 crop data for the purpose of formulating animal diets and
18 agricultural chemicals. This item (7) is exempt from the
19 provisions of Section 3-75.

20 (8) Fuel and petroleum products sold to or used by an air
21 common carrier, certified by the carrier to be used for
22 consumption, shipment, or storage in the conduct of its
23 business as an air common carrier, for a flight destined for or
24 returning from a location or locations outside the United
25 States without regard to previous or subsequent domestic
26 stopovers.

1 (9) Proceeds of mandatory service charges separately
2 stated on customers' bills for the purchase and consumption of
3 food and beverages acquired as an incident to the purchase of a
4 service from a serviceman, to the extent that the proceeds of
5 the service charge are in fact turned over as tips or as a
6 substitute for tips to the employees who participate directly
7 in preparing, serving, hosting or cleaning up the food or
8 beverage function with respect to which the service charge is
9 imposed.

10 (10) Until July 1, 2003, oil field exploration, drilling,
11 and production equipment, including (i) rigs and parts of rigs,
12 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
13 tubular goods, including casing and drill strings, (iii) pumps
14 and pump-jack units, (iv) storage tanks and flow lines, (v) any
15 individual replacement part for oil field exploration,
16 drilling, and production equipment, and (vi) machinery and
17 equipment purchased for lease; but excluding motor vehicles
18 required to be registered under the Illinois Vehicle Code.

19 (11) Proceeds from the sale of photoprocessing machinery
20 and equipment, including repair and replacement parts, both new
21 and used, including that manufactured on special order,
22 certified by the purchaser to be used primarily for
23 photoprocessing, and including photoprocessing machinery and
24 equipment purchased for lease.

25 (12) Until July 1, 2003, coal exploration, mining,
26 offhighway hauling, processing, maintenance, and reclamation

1 equipment, including replacement parts and equipment, and
2 including equipment purchased for lease, but excluding motor
3 vehicles required to be registered under the Illinois Vehicle
4 Code.

5 (13) Semen used for artificial insemination of livestock
6 for direct agricultural production.

7 (14) Horses, or interests in horses, registered with and
8 meeting the requirements of any of the Arabian Horse Club
9 Registry of America, Appaloosa Horse Club, American Quarter
10 Horse Association, United States Trotting Association, or
11 Jockey Club, as appropriate, used for purposes of breeding or
12 racing for prizes. This item (14) is exempt from the provisions
13 of Section 3-75, and the exemption provided for under this item
14 (14) applies for all periods beginning May 30, 1995, but no
15 claim for credit or refund is allowed on or after the effective
16 date of this amendatory Act of the 95th General Assembly for
17 such taxes paid during the period beginning May 30, 2000 and
18 ending on the effective date of this amendatory Act of the 95th
19 General Assembly.

20 (15) Computers and communications equipment utilized for
21 any hospital purpose and equipment used in the diagnosis,
22 analysis, or treatment of hospital patients purchased by a
23 lessor who leases the equipment, under a lease of one year or
24 longer executed or in effect at the time the lessor would
25 otherwise be subject to the tax imposed by this Act, to a
26 hospital that has been issued an active tax exemption

1 identification number by the Department under Section 1g of the
2 Retailers' Occupation Tax Act. If the equipment is leased in a
3 manner that does not qualify for this exemption or is used in
4 any other non-exempt manner, the lessor shall be liable for the
5 tax imposed under this Act or the Use Tax Act, as the case may
6 be, based on the fair market value of the property at the time
7 the non-qualifying use occurs. No lessor shall collect or
8 attempt to collect an amount (however designated) that purports
9 to reimburse that lessor for the tax imposed by this Act or the
10 Use Tax Act, as the case may be, if the tax has not been paid by
11 the lessor. If a lessor improperly collects any such amount
12 from the lessee, the lessee shall have a legal right to claim a
13 refund of that amount from the lessor. If, however, that amount
14 is not refunded to the lessee for any reason, the lessor is
15 liable to pay that amount to the Department.

16 (16) Personal property purchased by a lessor who leases the
17 property, under a lease of one year or longer executed or in
18 effect at the time the lessor would otherwise be subject to the
19 tax imposed by this Act, to a governmental body that has been
20 issued an active tax exemption identification number by the
21 Department under Section 1g of the Retailers' Occupation Tax
22 Act. If the property is leased in a manner that does not
23 qualify for this exemption or is used in any other non-exempt
24 manner, the lessor shall be liable for the tax imposed under
25 this Act or the Use Tax Act, as the case may be, based on the
26 fair market value of the property at the time the

1 non-qualifying use occurs. No lessor shall collect or attempt
2 to collect an amount (however designated) that purports to
3 reimburse that lessor for the tax imposed by this Act or the
4 Use Tax Act, as the case may be, if the tax has not been paid by
5 the lessor. If a lessor improperly collects any such amount
6 from the lessee, the lessee shall have a legal right to claim a
7 refund of that amount from the lessor. If, however, that amount
8 is not refunded to the lessee for any reason, the lessor is
9 liable to pay that amount to the Department.

10 (17) Beginning with taxable years ending on or after
11 December 31, 1995 and ending with taxable years ending on or
12 before December 31, 2004, personal property that is donated for
13 disaster relief to be used in a State or federally declared
14 disaster area in Illinois or bordering Illinois by a
15 manufacturer or retailer that is registered in this State to a
16 corporation, society, association, foundation, or institution
17 that has been issued a sales tax exemption identification
18 number by the Department that assists victims of the disaster
19 who reside within the declared disaster area.

20 (18) Beginning with taxable years ending on or after
21 December 31, 1995 and ending with taxable years ending on or
22 before December 31, 2004, personal property that is used in the
23 performance of infrastructure repairs in this State, including
24 but not limited to municipal roads and streets, access roads,
25 bridges, sidewalks, waste disposal systems, water and sewer
26 line extensions, water distribution and purification

1 facilities, storm water drainage and retention facilities, and
2 sewage treatment facilities, resulting from a State or
3 federally declared disaster in Illinois or bordering Illinois
4 when such repairs are initiated on facilities located in the
5 declared disaster area within 6 months after the disaster.

6 (19) Beginning July 1, 1999, game or game birds purchased
7 at a "game breeding and hunting preserve area" or an "exotic
8 game hunting area" as those terms are used in the Wildlife Code
9 or at a hunting enclosure approved through rules adopted by the
10 Department of Natural Resources. This paragraph is exempt from
11 the provisions of Section 3-75.

12 (20) A motor vehicle, as that term is defined in Section
13 1-146 of the Illinois Vehicle Code, that is donated to a
14 corporation, limited liability company, society, association,
15 foundation, or institution that is determined by the Department
16 to be organized and operated exclusively for educational
17 purposes. For purposes of this exemption, "a corporation,
18 limited liability company, society, association, foundation,
19 or institution organized and operated exclusively for
20 educational purposes" means all tax-supported public schools,
21 private schools that offer systematic instruction in useful
22 branches of learning by methods common to public schools and
23 that compare favorably in their scope and intensity with the
24 course of study presented in tax-supported schools, and
25 vocational or technical schools or institutes organized and
26 operated exclusively to provide a course of study of not less

1 than 6 weeks duration and designed to prepare individuals to
2 follow a trade or to pursue a manual, technical, mechanical,
3 industrial, business, or commercial occupation.

4 (21) Beginning January 1, 2000, personal property,
5 including food, purchased through fundraising events for the
6 benefit of a public or private elementary or secondary school,
7 a group of those schools, or one or more school districts if
8 the events are sponsored by an entity recognized by the school
9 district that consists primarily of volunteers and includes
10 parents and teachers of the school children. This paragraph
11 does not apply to fundraising events (i) for the benefit of
12 private home instruction or (ii) for which the fundraising
13 entity purchases the personal property sold at the events from
14 another individual or entity that sold the property for the
15 purpose of resale by the fundraising entity and that profits
16 from the sale to the fundraising entity. This paragraph is
17 exempt from the provisions of Section 3-75.

18 (22) Beginning January 1, 2000 and through December 31,
19 2001, new or used automatic vending machines that prepare and
20 serve hot food and beverages, including coffee, soup, and other
21 items, and replacement parts for these machines. Beginning
22 January 1, 2002 and through June 30, 2003, machines and parts
23 for machines used in commercial, coin-operated amusement and
24 vending business if a use or occupation tax is paid on the
25 gross receipts derived from the use of the commercial,
26 coin-operated amusement and vending machines. This paragraph

1 is exempt from the provisions of Section 3-75.

2 (23) Beginning August 23, 2001 and through June 30, 2011,
3 food for human consumption that is to be consumed off the
4 premises where it is sold (other than alcoholic beverages, soft
5 drinks, and food that has been prepared for immediate
6 consumption) and prescription and nonprescription medicines,
7 drugs, medical appliances, and insulin, urine testing
8 materials, syringes, and needles used by diabetics, for human
9 use, when purchased for use by a person receiving medical
10 assistance under Article V 5 of the Illinois Public Aid Code
11 who resides in a licensed long-term care facility, as defined
12 in the Nursing Home Care Act, or in a licensed facility as
13 defined in the MR/DD Community Care Act.

14 (24) Beginning on the effective date of this amendatory Act
15 of the 92nd General Assembly, computers and communications
16 equipment utilized for any hospital purpose and equipment used
17 in the diagnosis, analysis, or treatment of hospital patients
18 purchased by a lessor who leases the equipment, under a lease
19 of one year or longer executed or in effect at the time the
20 lessor would otherwise be subject to the tax imposed by this
21 Act, to a hospital that has been issued an active tax exemption
22 identification number by the Department under Section 1g of the
23 Retailers' Occupation Tax Act. If the equipment is leased in a
24 manner that does not qualify for this exemption or is used in
25 any other nonexempt manner, the lessor shall be liable for the
26 tax imposed under this Act or the Use Tax Act, as the case may

1 be, based on the fair market value of the property at the time
2 the nonqualifying use occurs. No lessor shall collect or
3 attempt to collect an amount (however designated) that purports
4 to reimburse that lessor for the tax imposed by this Act or the
5 Use Tax Act, as the case may be, if the tax has not been paid by
6 the lessor. If a lessor improperly collects any such amount
7 from the lessee, the lessee shall have a legal right to claim a
8 refund of that amount from the lessor. If, however, that amount
9 is not refunded to the lessee for any reason, the lessor is
10 liable to pay that amount to the Department. This paragraph is
11 exempt from the provisions of Section 3-75.

12 (25) Beginning on the effective date of this amendatory Act
13 of the 92nd General Assembly, personal property purchased by a
14 lessor who leases the property, under a lease of one year or
15 longer executed or in effect at the time the lessor would
16 otherwise be subject to the tax imposed by this Act, to a
17 governmental body that has been issued an active tax exemption
18 identification number by the Department under Section 1g of the
19 Retailers' Occupation Tax Act. If the property is leased in a
20 manner that does not qualify for this exemption or is used in
21 any other nonexempt manner, the lessor shall be liable for the
22 tax imposed under this Act or the Use Tax Act, as the case may
23 be, based on the fair market value of the property at the time
24 the nonqualifying use occurs. No lessor shall collect or
25 attempt to collect an amount (however designated) that purports
26 to reimburse that lessor for the tax imposed by this Act or the

1 Use Tax Act, as the case may be, if the tax has not been paid by
2 the lessor. If a lessor improperly collects any such amount
3 from the lessee, the lessee shall have a legal right to claim a
4 refund of that amount from the lessor. If, however, that amount
5 is not refunded to the lessee for any reason, the lessor is
6 liable to pay that amount to the Department. This paragraph is
7 exempt from the provisions of Section 3-75.

8 (26) Beginning January 1, 2008, tangible personal property
9 used in the construction or maintenance of a community water
10 supply, as defined under Section 3.145 of the Environmental
11 Protection Act, that is operated by a not-for-profit
12 corporation that holds a valid water supply permit issued under
13 Title IV of the Environmental Protection Act. This paragraph is
14 exempt from the provisions of Section 3-75.

15 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
16 eff. 1-1-08; 95-876, eff. 8-21-08.)

17 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

18 Sec. 3-10. Rate of tax. Unless otherwise provided in this
19 Section, the tax imposed by this Act is at the rate of 6.25% of
20 the selling price of tangible personal property transferred as
21 an incident to the sale of service, but, for the purpose of
22 computing this tax, in no event shall the selling price be less
23 than the cost price of the property to the serviceman.

24 Beginning on July 1, 2000 and through December 31, 2000,
25 with respect to motor fuel, as defined in Section 1.1 of the

1 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
2 the Use Tax Act, the tax is imposed at the rate of 1.25%.

3 With respect to gasohol, as defined in the Use Tax Act, the
4 tax imposed by this Act applies to (i) 70% of the selling price
5 of property transferred as an incident to the sale of service
6 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
7 of the selling price of property transferred as an incident to
8 the sale of service on or after July 1, 2003 and on or before
9 December 31, 2013, and (iii) 100% of the selling price
10 thereafter. If, at any time, however, the tax under this Act on
11 sales of gasohol, as defined in the Use Tax Act, is imposed at
12 the rate of 1.25%, then the tax imposed by this Act applies to
13 100% of the proceeds of sales of gasohol made during that time.

14 With respect to majority blended ethanol fuel, as defined
15 in the Use Tax Act, the tax imposed by this Act does not apply
16 to the selling price of property transferred as an incident to
17 the sale of service on or after July 1, 2003 and on or before
18 December 31, 2013 but applies to 100% of the selling price
19 thereafter.

20 With respect to biodiesel blends, as defined in the Use Tax
21 Act, with no less than 1% and no more than 10% biodiesel, the
22 tax imposed by this Act applies to (i) 80% of the selling price
23 of property transferred as an incident to the sale of service
24 on or after July 1, 2003 and on or before December 31, 2013 and
25 (ii) 100% of the proceeds of the selling price thereafter. If,
26 at any time, however, the tax under this Act on sales of

1 biodiesel blends, as defined in the Use Tax Act, with no less
2 than 1% and no more than 10% biodiesel is imposed at the rate
3 of 1.25%, then the tax imposed by this Act applies to 100% of
4 the proceeds of sales of biodiesel blends with no less than 1%
5 and no more than 10% biodiesel made during that time.

6 With respect to 100% biodiesel, as defined in the Use Tax
7 Act, and biodiesel blends, as defined in the Use Tax Act, with
8 more than 10% but no more than 99% biodiesel, the tax imposed
9 by this Act does not apply to the proceeds of the selling price
10 of property transferred as an incident to the sale of service
11 on or after July 1, 2003 and on or before December 31, 2013 but
12 applies to 100% of the selling price thereafter.

13 At the election of any registered serviceman made for each
14 fiscal year, sales of service in which the aggregate annual
15 cost price of tangible personal property transferred as an
16 incident to the sales of service is less than 35%, or 75% in
17 the case of servicemen transferring prescription drugs or
18 servicemen engaged in graphic arts production, of the aggregate
19 annual total gross receipts from all sales of service, the tax
20 imposed by this Act shall be based on the serviceman's cost
21 price of the tangible personal property transferred as an
22 incident to the sale of those services.

23 The tax shall be imposed at the rate of 1% on food prepared
24 for immediate consumption and transferred incident to a sale of
25 service subject to this Act or the Service Occupation Tax Act
26 by an entity licensed under the Hospital Licensing Act, the

1 Nursing Home Care Act, the MR/DD Community Care Act, or the
2 Child Care Act of 1969. The tax shall also be imposed at the
3 rate of 1% on food for human consumption that is to be consumed
4 off the premises where it is sold (other than alcoholic
5 beverages, soft drinks, and food that has been prepared for
6 immediate consumption and is not otherwise included in this
7 paragraph) and prescription and nonprescription medicines,
8 drugs, medical appliances, modifications to a motor vehicle for
9 the purpose of rendering it usable by a disabled person, and
10 insulin, urine testing materials, syringes, and needles used by
11 diabetics, for human use. For the purposes of this Section, the
12 term "soft drinks" means any complete, finished, ready-to-use,
13 non-alcoholic drink, whether carbonated or not, including but
14 not limited to soda water, cola, fruit juice, vegetable juice,
15 carbonated water, and all other preparations commonly known as
16 soft drinks of whatever kind or description that are contained
17 in any closed or sealed bottle, can, carton, or container,
18 regardless of size. "Soft drinks" does not include coffee, tea,
19 non-carbonated water, infant formula, milk or milk products as
20 defined in the Grade A Pasteurized Milk and Milk Products Act,
21 or drinks containing 50% or more natural fruit or vegetable
22 juice.

23 Notwithstanding any other provisions of this Act, "food for
24 human consumption that is to be consumed off the premises where
25 it is sold" includes all food sold through a vending machine,
26 except soft drinks and food products that are dispensed hot

1 from a vending machine, regardless of the location of the
2 vending machine.

3 If the property that is acquired from a serviceman is
4 acquired outside Illinois and used outside Illinois before
5 being brought to Illinois for use here and is taxable under
6 this Act, the "selling price" on which the tax is computed
7 shall be reduced by an amount that represents a reasonable
8 allowance for depreciation for the period of prior out-of-state
9 use.

10 (Source: P.A. 93-17, eff. 6-11-03.)

11 Section 90-60. The Service Occupation Tax Act is amended by
12 changing Sections 3-5 and 3-10 as follows:

13 (35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

14 Sec. 3-5. Exemptions. The following tangible personal
15 property is exempt from the tax imposed by this Act:

16 (1) Personal property sold by a corporation, society,
17 association, foundation, institution, or organization, other
18 than a limited liability company, that is organized and
19 operated as a not-for-profit service enterprise for the benefit
20 of persons 65 years of age or older if the personal property
21 was not purchased by the enterprise for the purpose of resale
22 by the enterprise.

23 (2) Personal property purchased by a not-for-profit
24 Illinois county fair association for use in conducting,

1 operating, or promoting the county fair.

2 (3) Personal property purchased by any not-for-profit arts
3 or cultural organization that establishes, by proof required by
4 the Department by rule, that it has received an exemption under
5 Section 501(c)(3) of the Internal Revenue Code and that is
6 organized and operated primarily for the presentation or
7 support of arts or cultural programming, activities, or
8 services. These organizations include, but are not limited to,
9 music and dramatic arts organizations such as symphony
10 orchestras and theatrical groups, arts and cultural service
11 organizations, local arts councils, visual arts organizations,
12 and media arts organizations. On and after the effective date
13 of this amendatory Act of the 92nd General Assembly, however,
14 an entity otherwise eligible for this exemption shall not make
15 tax-free purchases unless it has an active identification
16 number issued by the Department.

17 (4) Legal tender, currency, medallions, or gold or silver
18 coinage issued by the State of Illinois, the government of the
19 United States of America, or the government of any foreign
20 country, and bullion.

21 (5) Until July 1, 2003 and beginning again on September 1,
22 2004, graphic arts machinery and equipment, including repair
23 and replacement parts, both new and used, and including that
24 manufactured on special order or purchased for lease, certified
25 by the purchaser to be used primarily for graphic arts
26 production. Equipment includes chemicals or chemicals acting

1 as catalysts but only if the chemicals or chemicals acting as
2 catalysts effect a direct and immediate change upon a graphic
3 arts product.

4 (6) Personal property sold by a teacher-sponsored student
5 organization affiliated with an elementary or secondary school
6 located in Illinois.

7 (7) Farm machinery and equipment, both new and used,
8 including that manufactured on special order, certified by the
9 purchaser to be used primarily for production agriculture or
10 State or federal agricultural programs, including individual
11 replacement parts for the machinery and equipment, including
12 machinery and equipment purchased for lease, and including
13 implements of husbandry defined in Section 1-130 of the
14 Illinois Vehicle Code, farm machinery and agricultural
15 chemical and fertilizer spreaders, and nurse wagons required to
16 be registered under Section 3-809 of the Illinois Vehicle Code,
17 but excluding other motor vehicles required to be registered
18 under the Illinois Vehicle Code. Horticultural polyhouses or
19 hoop houses used for propagating, growing, or overwintering
20 plants shall be considered farm machinery and equipment under
21 this item (7). Agricultural chemical tender tanks and dry boxes
22 shall include units sold separately from a motor vehicle
23 required to be licensed and units sold mounted on a motor
24 vehicle required to be licensed if the selling price of the
25 tender is separately stated.

26 Farm machinery and equipment shall include precision

1 farming equipment that is installed or purchased to be
2 installed on farm machinery and equipment including, but not
3 limited to, tractors, harvesters, sprayers, planters, seeders,
4 or spreaders. Precision farming equipment includes, but is not
5 limited to, soil testing sensors, computers, monitors,
6 software, global positioning and mapping systems, and other
7 such equipment.

8 Farm machinery and equipment also includes computers,
9 sensors, software, and related equipment used primarily in the
10 computer-assisted operation of production agriculture
11 facilities, equipment, and activities such as, but not limited
12 to, the collection, monitoring, and correlation of animal and
13 crop data for the purpose of formulating animal diets and
14 agricultural chemicals. This item (7) is exempt from the
15 provisions of Section 3-55.

16 (8) Fuel and petroleum products sold to or used by an air
17 common carrier, certified by the carrier to be used for
18 consumption, shipment, or storage in the conduct of its
19 business as an air common carrier, for a flight destined for or
20 returning from a location or locations outside the United
21 States without regard to previous or subsequent domestic
22 stopovers.

23 (9) Proceeds of mandatory service charges separately
24 stated on customers' bills for the purchase and consumption of
25 food and beverages, to the extent that the proceeds of the
26 service charge are in fact turned over as tips or as a

1 substitute for tips to the employees who participate directly
2 in preparing, serving, hosting or cleaning up the food or
3 beverage function with respect to which the service charge is
4 imposed.

5 (10) Until July 1, 2003, oil field exploration, drilling,
6 and production equipment, including (i) rigs and parts of rigs,
7 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
8 tubular goods, including casing and drill strings, (iii) pumps
9 and pump-jack units, (iv) storage tanks and flow lines, (v) any
10 individual replacement part for oil field exploration,
11 drilling, and production equipment, and (vi) machinery and
12 equipment purchased for lease; but excluding motor vehicles
13 required to be registered under the Illinois Vehicle Code.

14 (11) Photoprocessing machinery and equipment, including
15 repair and replacement parts, both new and used, including that
16 manufactured on special order, certified by the purchaser to be
17 used primarily for photoprocessing, and including
18 photoprocessing machinery and equipment purchased for lease.

19 (12) Until July 1, 2003, coal exploration, mining,
20 offhighway hauling, processing, maintenance, and reclamation
21 equipment, including replacement parts and equipment, and
22 including equipment purchased for lease, but excluding motor
23 vehicles required to be registered under the Illinois Vehicle
24 Code.

25 (13) Beginning January 1, 1992 and through June 30, 2011,
26 food for human consumption that is to be consumed off the

1 premises where it is sold (other than alcoholic beverages, soft
2 drinks and food that has been prepared for immediate
3 consumption) and prescription and non-prescription medicines,
4 drugs, medical appliances, and insulin, urine testing
5 materials, syringes, and needles used by diabetics, for human
6 use, when purchased for use by a person receiving medical
7 assistance under Article V 5 of the Illinois Public Aid Code
8 who resides in a licensed long-term care facility, as defined
9 in the Nursing Home Care Act, or in a licensed facility as
10 defined in the MR/DD Community Care Act.

11 (14) Semen used for artificial insemination of livestock
12 for direct agricultural production.

13 (15) Horses, or interests in horses, registered with and
14 meeting the requirements of any of the Arabian Horse Club
15 Registry of America, Appaloosa Horse Club, American Quarter
16 Horse Association, United States Trotting Association, or
17 Jockey Club, as appropriate, used for purposes of breeding or
18 racing for prizes. This item (15) is exempt from the provisions
19 of Section 3-55, and the exemption provided for under this item
20 (15) applies for all periods beginning May 30, 1995, but no
21 claim for credit or refund is allowed on or after January 1,
22 2008 (the effective date of Public Act 95-88) for such taxes
23 paid during the period beginning May 30, 2000 and ending on
24 January 1, 2008 (the effective date of Public Act 95-88).

25 (16) Computers and communications equipment utilized for
26 any hospital purpose and equipment used in the diagnosis,

1 analysis, or treatment of hospital patients sold to a lessor
2 who leases the equipment, under a lease of one year or longer
3 executed or in effect at the time of the purchase, to a
4 hospital that has been issued an active tax exemption
5 identification number by the Department under Section 1g of the
6 Retailers' Occupation Tax Act.

7 (17) Personal property sold to a lessor who leases the
8 property, under a lease of one year or longer executed or in
9 effect at the time of the purchase, to a governmental body that
10 has been issued an active tax exemption identification number
11 by the Department under Section 1g of the Retailers' Occupation
12 Tax Act.

13 (18) Beginning with taxable years ending on or after
14 December 31, 1995 and ending with taxable years ending on or
15 before December 31, 2004, personal property that is donated for
16 disaster relief to be used in a State or federally declared
17 disaster area in Illinois or bordering Illinois by a
18 manufacturer or retailer that is registered in this State to a
19 corporation, society, association, foundation, or institution
20 that has been issued a sales tax exemption identification
21 number by the Department that assists victims of the disaster
22 who reside within the declared disaster area.

23 (19) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is used in the
26 performance of infrastructure repairs in this State, including

1 but not limited to municipal roads and streets, access roads,
2 bridges, sidewalks, waste disposal systems, water and sewer
3 line extensions, water distribution and purification
4 facilities, storm water drainage and retention facilities, and
5 sewage treatment facilities, resulting from a State or
6 federally declared disaster in Illinois or bordering Illinois
7 when such repairs are initiated on facilities located in the
8 declared disaster area within 6 months after the disaster.

9 (20) Beginning July 1, 1999, game or game birds sold at a
10 "game breeding and hunting preserve area" or an "exotic game
11 hunting area" as those terms are used in the Wildlife Code or
12 at a hunting enclosure approved through rules adopted by the
13 Department of Natural Resources. This paragraph is exempt from
14 the provisions of Section 3-55.

15 (21) A motor vehicle, as that term is defined in Section
16 1-146 of the Illinois Vehicle Code, that is donated to a
17 corporation, limited liability company, society, association,
18 foundation, or institution that is determined by the Department
19 to be organized and operated exclusively for educational
20 purposes. For purposes of this exemption, "a corporation,
21 limited liability company, society, association, foundation,
22 or institution organized and operated exclusively for
23 educational purposes" means all tax-supported public schools,
24 private schools that offer systematic instruction in useful
25 branches of learning by methods common to public schools and
26 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and
2 vocational or technical schools or institutes organized and
3 operated exclusively to provide a course of study of not less
4 than 6 weeks duration and designed to prepare individuals to
5 follow a trade or to pursue a manual, technical, mechanical,
6 industrial, business, or commercial occupation.

7 (22) Beginning January 1, 2000, personal property,
8 including food, purchased through fundraising events for the
9 benefit of a public or private elementary or secondary school,
10 a group of those schools, or one or more school districts if
11 the events are sponsored by an entity recognized by the school
12 district that consists primarily of volunteers and includes
13 parents and teachers of the school children. This paragraph
14 does not apply to fundraising events (i) for the benefit of
15 private home instruction or (ii) for which the fundraising
16 entity purchases the personal property sold at the events from
17 another individual or entity that sold the property for the
18 purpose of resale by the fundraising entity and that profits
19 from the sale to the fundraising entity. This paragraph is
20 exempt from the provisions of Section 3-55.

21 (23) Beginning January 1, 2000 and through December 31,
22 2001, new or used automatic vending machines that prepare and
23 serve hot food and beverages, including coffee, soup, and other
24 items, and replacement parts for these machines. Beginning
25 January 1, 2002 and through June 30, 2003, machines and parts
26 for machines used in commercial, coin-operated amusement and

1 vending business if a use or occupation tax is paid on the
2 gross receipts derived from the use of the commercial,
3 coin-operated amusement and vending machines. This paragraph
4 is exempt from the provisions of Section 3-55.

5 (24) Beginning on the effective date of this amendatory Act
6 of the 92nd General Assembly, computers and communications
7 equipment utilized for any hospital purpose and equipment used
8 in the diagnosis, analysis, or treatment of hospital patients
9 sold to a lessor who leases the equipment, under a lease of one
10 year or longer executed or in effect at the time of the
11 purchase, to a hospital that has been issued an active tax
12 exemption identification number by the Department under
13 Section 1g of the Retailers' Occupation Tax Act. This paragraph
14 is exempt from the provisions of Section 3-55.

15 (25) Beginning on the effective date of this amendatory Act
16 of the 92nd General Assembly, personal property sold to a
17 lessor who leases the property, under a lease of one year or
18 longer executed or in effect at the time of the purchase, to a
19 governmental body that has been issued an active tax exemption
20 identification number by the Department under Section 1g of the
21 Retailers' Occupation Tax Act. This paragraph is exempt from
22 the provisions of Section 3-55.

23 (26) Beginning on January 1, 2002 and through June 30,
24 2011, tangible personal property purchased from an Illinois
25 retailer by a taxpayer engaged in centralized purchasing
26 activities in Illinois who will, upon receipt of the property

1 in Illinois, temporarily store the property in Illinois (i) for
2 the purpose of subsequently transporting it outside this State
3 for use or consumption thereafter solely outside this State or
4 (ii) for the purpose of being processed, fabricated, or
5 manufactured into, attached to, or incorporated into other
6 tangible personal property to be transported outside this State
7 and thereafter used or consumed solely outside this State. The
8 Director of Revenue shall, pursuant to rules adopted in
9 accordance with the Illinois Administrative Procedure Act,
10 issue a permit to any taxpayer in good standing with the
11 Department who is eligible for the exemption under this
12 paragraph (26). The permit issued under this paragraph (26)
13 shall authorize the holder, to the extent and in the manner
14 specified in the rules adopted under this Act, to purchase
15 tangible personal property from a retailer exempt from the
16 taxes imposed by this Act. Taxpayers shall maintain all
17 necessary books and records to substantiate the use and
18 consumption of all such tangible personal property outside of
19 the State of Illinois.

20 (27) Beginning January 1, 2008, tangible personal property
21 used in the construction or maintenance of a community water
22 supply, as defined under Section 3.145 of the Environmental
23 Protection Act, that is operated by a not-for-profit
24 corporation that holds a valid water supply permit issued under
25 Title IV of the Environmental Protection Act. This paragraph is
26 exempt from the provisions of Section 3-55.

1 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538,
2 eff. 1-1-08; 95-876, eff. 8-21-08.)

3 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

4 Sec. 3-10. Rate of tax. Unless otherwise provided in this
5 Section, the tax imposed by this Act is at the rate of 6.25% of
6 the "selling price", as defined in Section 2 of the Service Use
7 Tax Act, of the tangible personal property. For the purpose of
8 computing this tax, in no event shall the "selling price" be
9 less than the cost price to the serviceman of the tangible
10 personal property transferred. The selling price of each item
11 of tangible personal property transferred as an incident of a
12 sale of service may be shown as a distinct and separate item on
13 the serviceman's billing to the service customer. If the
14 selling price is not so shown, the selling price of the
15 tangible personal property is deemed to be 50% of the
16 serviceman's entire billing to the service customer. When,
17 however, a serviceman contracts to design, develop, and produce
18 special order machinery or equipment, the tax imposed by this
19 Act shall be based on the serviceman's cost price of the
20 tangible personal property transferred incident to the
21 completion of the contract.

22 Beginning on July 1, 2000 and through December 31, 2000,
23 with respect to motor fuel, as defined in Section 1.1 of the
24 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
25 the Use Tax Act, the tax is imposed at the rate of 1.25%.

1 With respect to gasohol, as defined in the Use Tax Act, the
2 tax imposed by this Act shall apply to (i) 70% of the cost
3 price of property transferred as an incident to the sale of
4 service on or after January 1, 1990, and before July 1, 2003,
5 (ii) 80% of the selling price of property transferred as an
6 incident to the sale of service on or after July 1, 2003 and on
7 or before December 31, 2013, and (iii) 100% of the cost price
8 thereafter. If, at any time, however, the tax under this Act on
9 sales of gasohol, as defined in the Use Tax Act, is imposed at
10 the rate of 1.25%, then the tax imposed by this Act applies to
11 100% of the proceeds of sales of gasohol made during that time.

12 With respect to majority blended ethanol fuel, as defined
13 in the Use Tax Act, the tax imposed by this Act does not apply
14 to the selling price of property transferred as an incident to
15 the sale of service on or after July 1, 2003 and on or before
16 December 31, 2013 but applies to 100% of the selling price
17 thereafter.

18 With respect to biodiesel blends, as defined in the Use Tax
19 Act, with no less than 1% and no more than 10% biodiesel, the
20 tax imposed by this Act applies to (i) 80% of the selling price
21 of property transferred as an incident to the sale of service
22 on or after July 1, 2003 and on or before December 31, 2013 and
23 (ii) 100% of the proceeds of the selling price thereafter. If,
24 at any time, however, the tax under this Act on sales of
25 biodiesel blends, as defined in the Use Tax Act, with no less
26 than 1% and no more than 10% biodiesel is imposed at the rate

1 of 1.25%, then the tax imposed by this Act applies to 100% of
2 the proceeds of sales of biodiesel blends with no less than 1%
3 and no more than 10% biodiesel made during that time.

4 With respect to 100% biodiesel, as defined in the Use Tax
5 Act, and biodiesel blends, as defined in the Use Tax Act, with
6 more than 10% but no more than 99% biodiesel material, the tax
7 imposed by this Act does not apply to the proceeds of the
8 selling price of property transferred as an incident to the
9 sale of service on or after July 1, 2003 and on or before
10 December 31, 2013 but applies to 100% of the selling price
11 thereafter.

12 At the election of any registered serviceman made for each
13 fiscal year, sales of service in which the aggregate annual
14 cost price of tangible personal property transferred as an
15 incident to the sales of service is less than 35%, or 75% in
16 the case of servicemen transferring prescription drugs or
17 servicemen engaged in graphic arts production, of the aggregate
18 annual total gross receipts from all sales of service, the tax
19 imposed by this Act shall be based on the serviceman's cost
20 price of the tangible personal property transferred incident to
21 the sale of those services.

22 The tax shall be imposed at the rate of 1% on food prepared
23 for immediate consumption and transferred incident to a sale of
24 service subject to this Act or the Service Occupation Tax Act
25 by an entity licensed under the Hospital Licensing Act, the
26 Nursing Home Care Act, the MR/DD Community Care Act, or the

1 Child Care Act of 1969. The tax shall also be imposed at the
2 rate of 1% on food for human consumption that is to be consumed
3 off the premises where it is sold (other than alcoholic
4 beverages, soft drinks, and food that has been prepared for
5 immediate consumption and is not otherwise included in this
6 paragraph) and prescription and nonprescription medicines,
7 drugs, medical appliances, modifications to a motor vehicle for
8 the purpose of rendering it usable by a disabled person, and
9 insulin, urine testing materials, syringes, and needles used by
10 diabetics, for human use. For the purposes of this Section, the
11 term "soft drinks" means any complete, finished, ready-to-use,
12 non-alcoholic drink, whether carbonated or not, including but
13 not limited to soda water, cola, fruit juice, vegetable juice,
14 carbonated water, and all other preparations commonly known as
15 soft drinks of whatever kind or description that are contained
16 in any closed or sealed can, carton, or container, regardless
17 of size. "Soft drinks" does not include coffee, tea,
18 non-carbonated water, infant formula, milk or milk products as
19 defined in the Grade A Pasteurized Milk and Milk Products Act,
20 or drinks containing 50% or more natural fruit or vegetable
21 juice.

22 Notwithstanding any other provisions of this Act, "food for
23 human consumption that is to be consumed off the premises where
24 it is sold" includes all food sold through a vending machine,
25 except soft drinks and food products that are dispensed hot
26 from a vending machine, regardless of the location of the

1 vending machine.

2 (Source: P.A. 93-17, eff. 6-11-03.)

3 Section 90-65. The Retailers' Occupation Tax Act is amended
4 by changing Section 2-5 as follows:

5 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

6 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
7 sale of the following tangible personal property are exempt
8 from the tax imposed by this Act:

9 (1) Farm chemicals.

10 (2) Farm machinery and equipment, both new and used,
11 including that manufactured on special order, certified by the
12 purchaser to be used primarily for production agriculture or
13 State or federal agricultural programs, including individual
14 replacement parts for the machinery and equipment, including
15 machinery and equipment purchased for lease, and including
16 implements of husbandry defined in Section 1-130 of the
17 Illinois Vehicle Code, farm machinery and agricultural
18 chemical and fertilizer spreaders, and nurse wagons required to
19 be registered under Section 3-809 of the Illinois Vehicle Code,
20 but excluding other motor vehicles required to be registered
21 under the Illinois Vehicle Code. Horticultural polyhouses or
22 hoop houses used for propagating, growing, or overwintering
23 plants shall be considered farm machinery and equipment under
24 this item (2). Agricultural chemical tender tanks and dry boxes

1 shall include units sold separately from a motor vehicle
2 required to be licensed and units sold mounted on a motor
3 vehicle required to be licensed, if the selling price of the
4 tender is separately stated.

5 Farm machinery and equipment shall include precision
6 farming equipment that is installed or purchased to be
7 installed on farm machinery and equipment including, but not
8 limited to, tractors, harvesters, sprayers, planters, seeders,
9 or spreaders. Precision farming equipment includes, but is not
10 limited to, soil testing sensors, computers, monitors,
11 software, global positioning and mapping systems, and other
12 such equipment.

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (7) is exempt from the
20 provisions of Section 2-70.

21 (3) Until July 1, 2003, distillation machinery and
22 equipment, sold as a unit or kit, assembled or installed by the
23 retailer, certified by the user to be used only for the
24 production of ethyl alcohol that will be used for consumption
25 as motor fuel or as a component of motor fuel for the personal
26 use of the user, and not subject to sale or resale.

1 (4) Until July 1, 2003 and beginning again September 1,
2 2004, graphic arts machinery and equipment, including repair
3 and replacement parts, both new and used, and including that
4 manufactured on special order or purchased for lease, certified
5 by the purchaser to be used primarily for graphic arts
6 production. Equipment includes chemicals or chemicals acting
7 as catalysts but only if the chemicals or chemicals acting as
8 catalysts effect a direct and immediate change upon a graphic
9 arts product.

10 (5) A motor vehicle of the first division, a motor vehicle
11 of the second division that is a self contained motor vehicle
12 designed or permanently converted to provide living quarters
13 for recreational, camping, or travel use, with direct walk
14 through access to the living quarters from the driver's seat,
15 or a motor vehicle of the second division that is of the van
16 configuration designed for the transportation of not less than
17 7 nor more than 16 passengers, as defined in Section 1-146 of
18 the Illinois Vehicle Code, that is used for automobile renting,
19 as defined in the Automobile Renting Occupation and Use Tax
20 Act. This paragraph is exempt from the provisions of Section
21 2-70.

22 (6) Personal property sold by a teacher-sponsored student
23 organization affiliated with an elementary or secondary school
24 located in Illinois.

25 (7) Until July 1, 2003, proceeds of that portion of the
26 selling price of a passenger car the sale of which is subject

1 to the Replacement Vehicle Tax.

2 (8) Personal property sold to an Illinois county fair
3 association for use in conducting, operating, or promoting the
4 county fair.

5 (9) Personal property sold to a not-for-profit arts or
6 cultural organization that establishes, by proof required by
7 the Department by rule, that it has received an exemption under
8 Section 501(c)(3) of the Internal Revenue Code and that is
9 organized and operated primarily for the presentation or
10 support of arts or cultural programming, activities, or
11 services. These organizations include, but are not limited to,
12 music and dramatic arts organizations such as symphony
13 orchestras and theatrical groups, arts and cultural service
14 organizations, local arts councils, visual arts organizations,
15 and media arts organizations. On and after the effective date
16 of this amendatory Act of the 92nd General Assembly, however,
17 an entity otherwise eligible for this exemption shall not make
18 tax-free purchases unless it has an active identification
19 number issued by the Department.

20 (10) Personal property sold by a corporation, society,
21 association, foundation, institution, or organization, other
22 than a limited liability company, that is organized and
23 operated as a not-for-profit service enterprise for the benefit
24 of persons 65 years of age or older if the personal property
25 was not purchased by the enterprise for the purpose of resale
26 by the enterprise.

1 (11) Personal property sold to a governmental body, to a
2 corporation, society, association, foundation, or institution
3 organized and operated exclusively for charitable, religious,
4 or educational purposes, or to a not-for-profit corporation,
5 society, association, foundation, institution, or organization
6 that has no compensated officers or employees and that is
7 organized and operated primarily for the recreation of persons
8 55 years of age or older. A limited liability company may
9 qualify for the exemption under this paragraph only if the
10 limited liability company is organized and operated
11 exclusively for educational purposes. On and after July 1,
12 1987, however, no entity otherwise eligible for this exemption
13 shall make tax-free purchases unless it has an active
14 identification number issued by the Department.

15 (12) Tangible personal property sold to interstate
16 carriers for hire for use as rolling stock moving in interstate
17 commerce or to lessors under leases of one year or longer
18 executed or in effect at the time of purchase by interstate
19 carriers for hire for use as rolling stock moving in interstate
20 commerce and equipment operated by a telecommunications
21 provider, licensed as a common carrier by the Federal
22 Communications Commission, which is permanently installed in
23 or affixed to aircraft moving in interstate commerce.

24 (12-5) On and after July 1, 2003 and through June 30, 2004,
25 motor vehicles of the second division with a gross vehicle
26 weight in excess of 8,000 pounds that are subject to the

1 commercial distribution fee imposed under Section 3-815.1 of
2 the Illinois Vehicle Code. Beginning on July 1, 2004 and
3 through June 30, 2005, the use in this State of motor vehicles
4 of the second division: (i) with a gross vehicle weight rating
5 in excess of 8,000 pounds; (ii) that are subject to the
6 commercial distribution fee imposed under Section 3-815.1 of
7 the Illinois Vehicle Code; and (iii) that are primarily used
8 for commercial purposes. Through June 30, 2005, this exemption
9 applies to repair and replacement parts added after the initial
10 purchase of such a motor vehicle if that motor vehicle is used
11 in a manner that would qualify for the rolling stock exemption
12 otherwise provided for in this Act. For purposes of this
13 paragraph, "used for commercial purposes" means the
14 transportation of persons or property in furtherance of any
15 commercial or industrial enterprise whether for-hire or not.

16 (13) Proceeds from sales to owners, lessors, or shippers of
17 tangible personal property that is utilized by interstate
18 carriers for hire for use as rolling stock moving in interstate
19 commerce and equipment operated by a telecommunications
20 provider, licensed as a common carrier by the Federal
21 Communications Commission, which is permanently installed in
22 or affixed to aircraft moving in interstate commerce.

23 (14) Machinery and equipment that will be used by the
24 purchaser, or a lessee of the purchaser, primarily in the
25 process of manufacturing or assembling tangible personal
26 property for wholesale or retail sale or lease, whether the

1 sale or lease is made directly by the manufacturer or by some
2 other person, whether the materials used in the process are
3 owned by the manufacturer or some other person, or whether the
4 sale or lease is made apart from or as an incident to the
5 seller's engaging in the service occupation of producing
6 machines, tools, dies, jigs, patterns, gauges, or other similar
7 items of no commercial value on special order for a particular
8 purchaser.

9 (15) Proceeds of mandatory service charges separately
10 stated on customers' bills for purchase and consumption of food
11 and beverages, to the extent that the proceeds of the service
12 charge are in fact turned over as tips or as a substitute for
13 tips to the employees who participate directly in preparing,
14 serving, hosting or cleaning up the food or beverage function
15 with respect to which the service charge is imposed.

16 (16) Petroleum products sold to a purchaser if the seller
17 is prohibited by federal law from charging tax to the
18 purchaser.

19 (17) Tangible personal property sold to a common carrier by
20 rail or motor that receives the physical possession of the
21 property in Illinois and that transports the property, or
22 shares with another common carrier in the transportation of the
23 property, out of Illinois on a standard uniform bill of lading
24 showing the seller of the property as the shipper or consignor
25 of the property to a destination outside Illinois, for use
26 outside Illinois.

1 (18) Legal tender, currency, medallions, or gold or silver
2 coinage issued by the State of Illinois, the government of the
3 United States of America, or the government of any foreign
4 country, and bullion.

5 (19) Until July 1 2003, oil field exploration, drilling,
6 and production equipment, including (i) rigs and parts of rigs,
7 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
8 tubular goods, including casing and drill strings, (iii) pumps
9 and pump-jack units, (iv) storage tanks and flow lines, (v) any
10 individual replacement part for oil field exploration,
11 drilling, and production equipment, and (vi) machinery and
12 equipment purchased for lease; but excluding motor vehicles
13 required to be registered under the Illinois Vehicle Code.

14 (20) Photoprocessing machinery and equipment, including
15 repair and replacement parts, both new and used, including that
16 manufactured on special order, certified by the purchaser to be
17 used primarily for photoprocessing, and including
18 photoprocessing machinery and equipment purchased for lease.

19 (21) Until July 1, 2003, coal exploration, mining,
20 offhighway hauling, processing, maintenance, and reclamation
21 equipment, including replacement parts and equipment, and
22 including equipment purchased for lease, but excluding motor
23 vehicles required to be registered under the Illinois Vehicle
24 Code.

25 (22) Fuel and petroleum products sold to or used by an air
26 carrier, certified by the carrier to be used for consumption,

1 shipment, or storage in the conduct of its business as an air
2 common carrier, for a flight destined for or returning from a
3 location or locations outside the United States without regard
4 to previous or subsequent domestic stopovers.

5 (23) A transaction in which the purchase order is received
6 by a florist who is located outside Illinois, but who has a
7 florist located in Illinois deliver the property to the
8 purchaser or the purchaser's donee in Illinois.

9 (24) Fuel consumed or used in the operation of ships,
10 barges, or vessels that are used primarily in or for the
11 transportation of property or the conveyance of persons for
12 hire on rivers bordering on this State if the fuel is delivered
13 by the seller to the purchaser's barge, ship, or vessel while
14 it is afloat upon that bordering river.

15 (25) Except as provided in item (25-5) of this Section, a
16 motor vehicle sold in this State to a nonresident even though
17 the motor vehicle is delivered to the nonresident in this
18 State, if the motor vehicle is not to be titled in this State,
19 and if a drive-away permit is issued to the motor vehicle as
20 provided in Section 3-603 of the Illinois Vehicle Code or if
21 the nonresident purchaser has vehicle registration plates to
22 transfer to the motor vehicle upon returning to his or her home
23 state. The issuance of the drive-away permit or having the
24 out-of-state registration plates to be transferred is prima
25 facie evidence that the motor vehicle will not be titled in
26 this State.

1 (25-5) The exemption under item (25) does not apply if the
2 state in which the motor vehicle will be titled does not allow
3 a reciprocal exemption for a motor vehicle sold and delivered
4 in that state to an Illinois resident but titled in Illinois.
5 The tax collected under this Act on the sale of a motor vehicle
6 in this State to a resident of another state that does not
7 allow a reciprocal exemption shall be imposed at a rate equal
8 to the state's rate of tax on taxable property in the state in
9 which the purchaser is a resident, except that the tax shall
10 not exceed the tax that would otherwise be imposed under this
11 Act. At the time of the sale, the purchaser shall execute a
12 statement, signed under penalty of perjury, of his or her
13 intent to title the vehicle in the state in which the purchaser
14 is a resident within 30 days after the sale and of the fact of
15 the payment to the State of Illinois of tax in an amount
16 equivalent to the state's rate of tax on taxable property in
17 his or her state of residence and shall submit the statement to
18 the appropriate tax collection agency in his or her state of
19 residence. In addition, the retailer must retain a signed copy
20 of the statement in his or her records. Nothing in this item
21 shall be construed to require the removal of the vehicle from
22 this state following the filing of an intent to title the
23 vehicle in the purchaser's state of residence if the purchaser
24 titles the vehicle in his or her state of residence within 30
25 days after the date of sale. The tax collected under this Act
26 in accordance with this item (25-5) shall be proportionately

1 distributed as if the tax were collected at the 6.25% general
2 rate imposed under this Act.

3 (25-7) Beginning on July 1, 2007, no tax is imposed under
4 this Act on the sale of an aircraft, as defined in Section 3 of
5 the Illinois Aeronautics Act, if all of the following
6 conditions are met:

7 (1) the aircraft leaves this State within 15 days after
8 the later of either the issuance of the final billing for
9 the sale of the aircraft, or the authorized approval for
10 return to service, completion of the maintenance record
11 entry, and completion of the test flight and ground test
12 for inspection, as required by 14 C.F.R. 91.407;

13 (2) the aircraft is not based or registered in this
14 State after the sale of the aircraft; and

15 (3) the seller retains in his or her books and records
16 and provides to the Department a signed and dated
17 certification from the purchaser, on a form prescribed by
18 the Department, certifying that the requirements of this
19 item (25-7) are met. The certificate must also include the
20 name and address of the purchaser, the address of the
21 location where the aircraft is to be titled or registered,
22 the address of the primary physical location of the
23 aircraft, and other information that the Department may
24 reasonably require.

25 For purposes of this item (25-7):

26 "Based in this State" means hangared, stored, or otherwise

1 used, excluding post-sale customizations as defined in this
2 Section, for 10 or more days in each 12-month period
3 immediately following the date of the sale of the aircraft.

4 "Registered in this State" means an aircraft registered
5 with the Department of Transportation, Aeronautics Division,
6 or titled or registered with the Federal Aviation
7 Administration to an address located in this State.

8 This paragraph (25-7) is exempt from the provisions of
9 Section 2-70.

10 (26) Semen used for artificial insemination of livestock
11 for direct agricultural production.

12 (27) Horses, or interests in horses, registered with and
13 meeting the requirements of any of the Arabian Horse Club
14 Registry of America, Appaloosa Horse Club, American Quarter
15 Horse Association, United States Trotting Association, or
16 Jockey Club, as appropriate, used for purposes of breeding or
17 racing for prizes. This item (27) is exempt from the provisions
18 of Section 2-70, and the exemption provided for under this item
19 (27) applies for all periods beginning May 30, 1995, but no
20 claim for credit or refund is allowed on or after January 1,
21 2008 (the effective date of Public Act 95-88) for such taxes
22 paid during the period beginning May 30, 2000 and ending on
23 January 1, 2008 (the effective date of Public Act 95-88) .

24 (28) Computers and communications equipment utilized for
25 any hospital purpose and equipment used in the diagnosis,
26 analysis, or treatment of hospital patients sold to a lessor

1 who leases the equipment, under a lease of one year or longer
2 executed or in effect at the time of the purchase, to a
3 hospital that has been issued an active tax exemption
4 identification number by the Department under Section 1g of
5 this Act.

6 (29) Personal property sold to a lessor who leases the
7 property, under a lease of one year or longer executed or in
8 effect at the time of the purchase, to a governmental body that
9 has been issued an active tax exemption identification number
10 by the Department under Section 1g of this Act.

11 (30) Beginning with taxable years ending on or after
12 December 31, 1995 and ending with taxable years ending on or
13 before December 31, 2004, personal property that is donated for
14 disaster relief to be used in a State or federally declared
15 disaster area in Illinois or bordering Illinois by a
16 manufacturer or retailer that is registered in this State to a
17 corporation, society, association, foundation, or institution
18 that has been issued a sales tax exemption identification
19 number by the Department that assists victims of the disaster
20 who reside within the declared disaster area.

21 (31) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is used in the
24 performance of infrastructure repairs in this State, including
25 but not limited to municipal roads and streets, access roads,
26 bridges, sidewalks, waste disposal systems, water and sewer

1 line extensions, water distribution and purification
2 facilities, storm water drainage and retention facilities, and
3 sewage treatment facilities, resulting from a State or
4 federally declared disaster in Illinois or bordering Illinois
5 when such repairs are initiated on facilities located in the
6 declared disaster area within 6 months after the disaster.

7 (32) Beginning July 1, 1999, game or game birds sold at a
8 "game breeding and hunting preserve area" or an "exotic game
9 hunting area" as those terms are used in the Wildlife Code or
10 at a hunting enclosure approved through rules adopted by the
11 Department of Natural Resources. This paragraph is exempt from
12 the provisions of Section 2-70.

13 (33) A motor vehicle, as that term is defined in Section
14 1-146 of the Illinois Vehicle Code, that is donated to a
15 corporation, limited liability company, society, association,
16 foundation, or institution that is determined by the Department
17 to be organized and operated exclusively for educational
18 purposes. For purposes of this exemption, "a corporation,
19 limited liability company, society, association, foundation,
20 or institution organized and operated exclusively for
21 educational purposes" means all tax-supported public schools,
22 private schools that offer systematic instruction in useful
23 branches of learning by methods common to public schools and
24 that compare favorably in their scope and intensity with the
25 course of study presented in tax-supported schools, and
26 vocational or technical schools or institutes organized and

1 operated exclusively to provide a course of study of not less
2 than 6 weeks duration and designed to prepare individuals to
3 follow a trade or to pursue a manual, technical, mechanical,
4 industrial, business, or commercial occupation.

5 (34) Beginning January 1, 2000, personal property,
6 including food, purchased through fundraising events for the
7 benefit of a public or private elementary or secondary school,
8 a group of those schools, or one or more school districts if
9 the events are sponsored by an entity recognized by the school
10 district that consists primarily of volunteers and includes
11 parents and teachers of the school children. This paragraph
12 does not apply to fundraising events (i) for the benefit of
13 private home instruction or (ii) for which the fundraising
14 entity purchases the personal property sold at the events from
15 another individual or entity that sold the property for the
16 purpose of resale by the fundraising entity and that profits
17 from the sale to the fundraising entity. This paragraph is
18 exempt from the provisions of Section 2-70.

19 (35) Beginning January 1, 2000 and through December 31,
20 2001, new or used automatic vending machines that prepare and
21 serve hot food and beverages, including coffee, soup, and other
22 items, and replacement parts for these machines. Beginning
23 January 1, 2002 and through June 30, 2003, machines and parts
24 for machines used in commercial, coin-operated amusement and
25 vending business if a use or occupation tax is paid on the
26 gross receipts derived from the use of the commercial,

1 coin-operated amusement and vending machines. This paragraph
2 is exempt from the provisions of Section 2-70.

3 (35-5) Beginning August 23, 2001 and through June 30, 2011,
4 food for human consumption that is to be consumed off the
5 premises where it is sold (other than alcoholic beverages, soft
6 drinks, and food that has been prepared for immediate
7 consumption) and prescription and nonprescription medicines,
8 drugs, medical appliances, and insulin, urine testing
9 materials, syringes, and needles used by diabetics, for human
10 use, when purchased for use by a person receiving medical
11 assistance under Article V 5 of the Illinois Public Aid Code
12 who resides in a licensed long-term care facility, as defined
13 in the Nursing Home Care Act, or a licensed facility as defined
14 in the MR/DD Community Care Act.

15 (36) Beginning August 2, 2001, computers and
16 communications equipment utilized for any hospital purpose and
17 equipment used in the diagnosis, analysis, or treatment of
18 hospital patients sold to a lessor who leases the equipment,
19 under a lease of one year or longer executed or in effect at
20 the time of the purchase, to a hospital that has been issued an
21 active tax exemption identification number by the Department
22 under Section 1g of this Act. This paragraph is exempt from the
23 provisions of Section 2-70.

24 (37) Beginning August 2, 2001, personal property sold to a
25 lessor who leases the property, under a lease of one year or
26 longer executed or in effect at the time of the purchase, to a

1 governmental body that has been issued an active tax exemption
2 identification number by the Department under Section 1g of
3 this Act. This paragraph is exempt from the provisions of
4 Section 2-70.

5 (38) Beginning on January 1, 2002 and through June 30,
6 2011, tangible personal property purchased from an Illinois
7 retailer by a taxpayer engaged in centralized purchasing
8 activities in Illinois who will, upon receipt of the property
9 in Illinois, temporarily store the property in Illinois (i) for
10 the purpose of subsequently transporting it outside this State
11 for use or consumption thereafter solely outside this State or
12 (ii) for the purpose of being processed, fabricated, or
13 manufactured into, attached to, or incorporated into other
14 tangible personal property to be transported outside this State
15 and thereafter used or consumed solely outside this State. The
16 Director of Revenue shall, pursuant to rules adopted in
17 accordance with the Illinois Administrative Procedure Act,
18 issue a permit to any taxpayer in good standing with the
19 Department who is eligible for the exemption under this
20 paragraph (38). The permit issued under this paragraph (38)
21 shall authorize the holder, to the extent and in the manner
22 specified in the rules adopted under this Act, to purchase
23 tangible personal property from a retailer exempt from the
24 taxes imposed by this Act. Taxpayers shall maintain all
25 necessary books and records to substantiate the use and
26 consumption of all such tangible personal property outside of

1 the State of Illinois.

2 (39) Beginning January 1, 2008, tangible personal property
3 used in the construction or maintenance of a community water
4 supply, as defined under Section 3.145 of the Environmental
5 Protection Act, that is operated by a not-for-profit
6 corporation that holds a valid water supply permit issued under
7 Title IV of the Environmental Protection Act. This paragraph is
8 exempt from the provisions of Section 2-70.

9 (Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233,
10 eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08;
11 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)

12 Section 90-67. The Property Tax Code is amended by changing
13 Sections 15-168, 15-170, and 15-172 as follows:

14 (35 ILCS 200/15-168)

15 Sec. 15-168. Disabled persons' homestead exemption.

16 (a) Beginning with taxable year 2007, an annual homestead
17 exemption is granted to disabled persons in the amount of
18 \$2,000, except as provided in subsection (c), to be deducted
19 from the property's value as equalized or assessed by the
20 Department of Revenue. The disabled person shall receive the
21 homestead exemption upon meeting the following requirements:

22 (1) The property must be occupied as the primary
23 residence by the disabled person.

24 (2) The disabled person must be liable for paying the

1 real estate taxes on the property.

2 (3) The disabled person must be an owner of record of
3 the property or have a legal or equitable interest in the
4 property as evidenced by a written instrument. In the case
5 of a leasehold interest in property, the lease must be for
6 a single family residence.

7 A person who is disabled during the taxable year is
8 eligible to apply for this homestead exemption during that
9 taxable year. Application must be made during the application
10 period in effect for the county of residence. If a homestead
11 exemption has been granted under this Section and the person
12 awarded the exemption subsequently becomes a resident of a
13 facility licensed under the Nursing Home Care Act or the MR/DD
14 Community Care Act, then the exemption shall continue (i) so
15 long as the residence continues to be occupied by the
16 qualifying person's spouse or (ii) if the residence remains
17 unoccupied but is still owned by the person qualified for the
18 homestead exemption.

19 (b) For the purposes of this Section, "disabled person"
20 means a person unable to engage in any substantial gainful
21 activity by reason of a medically determinable physical or
22 mental impairment which can be expected to result in death or
23 has lasted or can be expected to last for a continuous period
24 of not less than 12 months. Disabled persons filing claims
25 under this Act shall submit proof of disability in such form
26 and manner as the Department shall by rule and regulation

1 prescribe. Proof that a claimant is eligible to receive
2 disability benefits under the Federal Social Security Act shall
3 constitute proof of disability for purposes of this Act.
4 Issuance of an Illinois Disabled Person Identification Card
5 stating that the claimant is under a Class 2 disability, as
6 defined in Section 4A of The Illinois Identification Card Act,
7 shall constitute proof that the person named thereon is a
8 disabled person for purposes of this Act. A disabled person not
9 covered under the Federal Social Security Act and not
10 presenting a Disabled Person Identification Card stating that
11 the claimant is under a Class 2 disability shall be examined by
12 a physician designated by the Department, and his status as a
13 disabled person determined using the same standards as used by
14 the Social Security Administration. The costs of any required
15 examination shall be borne by the claimant.

16 (c) For land improved with (i) an apartment building owned
17 and operated as a cooperative or (ii) a life care facility as
18 defined under Section 2 of the Life Care Facilities Act that is
19 considered to be a cooperative, the maximum reduction from the
20 value of the property, as equalized or assessed by the
21 Department, shall be multiplied by the number of apartments or
22 units occupied by a disabled person. The disabled person shall
23 receive the homestead exemption upon meeting the following
24 requirements:

25 (1) The property must be occupied as the primary
26 residence by the disabled person.

1 (2) The disabled person must be liable by contract with
2 the owner or owners of record for paying the apportioned
3 property taxes on the property of the cooperative or life
4 care facility. In the case of a life care facility, the
5 disabled person must be liable for paying the apportioned
6 property taxes under a life care contract as defined in
7 Section 2 of the Life Care Facilities Act.

8 (3) The disabled person must be an owner of record of a
9 legal or equitable interest in the cooperative apartment
10 building. A leasehold interest does not meet this
11 requirement.

12 If a homestead exemption is granted under this subsection, the
13 cooperative association or management firm shall credit the
14 savings resulting from the exemption to the apportioned tax
15 liability of the qualifying disabled person. The chief county
16 assessment officer may request reasonable proof that the
17 association or firm has properly credited the exemption. A
18 person who willfully refuses to credit an exemption to the
19 qualified disabled person is guilty of a Class B misdemeanor.

20 (d) The chief county assessment officer shall determine the
21 eligibility of property to receive the homestead exemption
22 according to guidelines established by the Department. After a
23 person has received an exemption under this Section, an annual
24 verification of eligibility for the exemption shall be mailed
25 to the taxpayer.

26 In counties with fewer than 3,000,000 inhabitants, the

1 chief county assessment officer shall provide to each person
2 granted a homestead exemption under this Section a form to
3 designate any other person to receive a duplicate of any notice
4 of delinquency in the payment of taxes assessed and levied
5 under this Code on the person's qualifying property. The
6 duplicate notice shall be in addition to the notice required to
7 be provided to the person receiving the exemption and shall be
8 given in the manner required by this Code. The person filing
9 the request for the duplicate notice shall pay an
10 administrative fee of \$5 to the chief county assessment
11 officer. The assessment officer shall then file the executed
12 designation with the county collector, who shall issue the
13 duplicate notices as indicated by the designation. A
14 designation may be rescinded by the disabled person in the
15 manner required by the chief county assessment officer.

16 (e) A taxpayer who claims an exemption under Section 15-165
17 or 15-169 may not claim an exemption under this Section.

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

19 (35 ILCS 200/15-170)

20 Sec. 15-170. Senior Citizens Homestead Exemption. An
21 annual homestead exemption limited, except as described here
22 with relation to cooperatives or life care facilities, to a
23 maximum reduction set forth below from the property's value, as
24 equalized or assessed by the Department, is granted for
25 property that is occupied as a residence by a person 65 years

1 of age or older who is liable for paying real estate taxes on
2 the property and is an owner of record of the property or has a
3 legal or equitable interest therein as evidenced by a written
4 instrument, except for a leasehold interest, other than a
5 leasehold interest of land on which a single family residence
6 is located, which is occupied as a residence by a person 65
7 years or older who has an ownership interest therein, legal,
8 equitable or as a lessee, and on which he or she is liable for
9 the payment of property taxes. Before taxable year 2004, the
10 maximum reduction shall be \$2,500 in counties with 3,000,000 or
11 more inhabitants and \$2,000 in all other counties. For taxable
12 years 2004 through 2005, the maximum reduction shall be \$3,000
13 in all counties. For taxable years 2006 and 2007, the maximum
14 reduction shall be \$3,500 and, for taxable years 2008 and
15 thereafter, the maximum reduction is \$4,000 in all counties.

16 For land improved with an apartment building owned and
17 operated as a cooperative, the maximum reduction from the value
18 of the property, as equalized by the Department, shall be
19 multiplied by the number of apartments or units occupied by a
20 person 65 years of age or older who is liable, by contract with
21 the owner or owners of record, for paying property taxes on the
22 property and is an owner of record of a legal or equitable
23 interest in the cooperative apartment building, other than a
24 leasehold interest. For land improved with a life care
25 facility, the maximum reduction from the value of the property,
26 as equalized by the Department, shall be multiplied by the

1 number of apartments or units occupied by persons 65 years of
2 age or older, irrespective of any legal, equitable, or
3 leasehold interest in the facility, who are liable, under a
4 contract with the owner or owners of record of the facility,
5 for paying property taxes on the property. In a cooperative or
6 a life care facility where a homestead exemption has been
7 granted, the cooperative association or the management firm of
8 the cooperative or facility shall credit the savings resulting
9 from that exemption only to the apportioned tax liability of
10 the owner or resident who qualified for the exemption. Any
11 person who willfully refuses to so credit the savings shall be
12 guilty of a Class B misdemeanor. Under this Section and
13 Sections 15-175, 15-176, and 15-177, "life care facility" means
14 a facility, as defined in Section 2 of the Life Care Facilities
15 Act, with which the applicant for the homestead exemption has a
16 life care contract as defined in that Act.

17 When a homestead exemption has been granted under this
18 Section and the person qualifying subsequently becomes a
19 resident of a facility licensed under the Nursing Home Care Act
20 or the MR/DD Community Care Act, the exemption shall continue
21 so long as the residence continues to be occupied by the
22 qualifying person's spouse if the spouse is 65 years of age or
23 older, or if the residence remains unoccupied but is still
24 owned by the person qualified for the homestead exemption.

25 A person who will be 65 years of age during the current
26 assessment year shall be eligible to apply for the homestead

1 exemption during that assessment year. Application shall be
2 made during the application period in effect for the county of
3 his residence.

4 Beginning with assessment year 2003, for taxes payable in
5 2004, property that is first occupied as a residence after
6 January 1 of any assessment year by a person who is eligible
7 for the senior citizens homestead exemption under this Section
8 must be granted a pro-rata exemption for the assessment year.
9 The amount of the pro-rata exemption is the exemption allowed
10 in the county under this Section divided by 365 and multiplied
11 by the number of days during the assessment year the property
12 is occupied as a residence by a person eligible for the
13 exemption under this Section. The chief county assessment
14 officer must adopt reasonable procedures to establish
15 eligibility for this pro-rata exemption.

16 The assessor or chief county assessment officer may
17 determine the eligibility of a life care facility to receive
18 the benefits provided by this Section, by affidavit,
19 application, visual inspection, questionnaire or other
20 reasonable methods in order to insure that the tax savings
21 resulting from the exemption are credited by the management
22 firm to the apportioned tax liability of each qualifying
23 resident. The assessor may request reasonable proof that the
24 management firm has so credited the exemption.

25 The chief county assessment officer of each county with
26 less than 3,000,000 inhabitants shall provide to each person

1 allowed a homestead exemption under this Section a form to
2 designate any other person to receive a duplicate of any notice
3 of delinquency in the payment of taxes assessed and levied
4 under this Code on the property of the person receiving the
5 exemption. The duplicate notice shall be in addition to the
6 notice required to be provided to the person receiving the
7 exemption, and shall be given in the manner required by this
8 Code. The person filing the request for the duplicate notice
9 shall pay a fee of \$5 to cover administrative costs to the
10 supervisor of assessments, who shall then file the executed
11 designation with the county collector. Notwithstanding any
12 other provision of this Code to the contrary, the filing of
13 such an executed designation requires the county collector to
14 provide duplicate notices as indicated by the designation. A
15 designation may be rescinded by the person who executed such
16 designation at any time, in the manner and form required by the
17 chief county assessment officer.

18 The assessor or chief county assessment officer may
19 determine the eligibility of residential property to receive
20 the homestead exemption provided by this Section by
21 application, visual inspection, questionnaire or other
22 reasonable methods. The determination shall be made in
23 accordance with guidelines established by the Department.

24 In counties with less than 3,000,000 inhabitants, the
25 county board may by resolution provide that if a person has
26 been granted a homestead exemption under this Section, the

1 person qualifying need not reapply for the exemption.

2 In counties with less than 3,000,000 inhabitants, if the
3 assessor or chief county assessment officer requires annual
4 application for verification of eligibility for an exemption
5 once granted under this Section, the application shall be
6 mailed to the taxpayer.

7 The assessor or chief county assessment officer shall
8 notify each person who qualifies for an exemption under this
9 Section that the person may also qualify for deferral of real
10 estate taxes under the Senior Citizens Real Estate Tax Deferral
11 Act. The notice shall set forth the qualifications needed for
12 deferral of real estate taxes, the address and telephone number
13 of county collector, and a statement that applications for
14 deferral of real estate taxes may be obtained from the county
15 collector.

16 Notwithstanding Sections 6 and 8 of the State Mandates Act,
17 no reimbursement by the State is required for the
18 implementation of any mandate created by this Section.

19 (Source: P.A. 94-794, eff. 5-22-06; 95-644, eff. 10-12-07;
20 95-876, eff. 8-21-08.)

21 (35 ILCS 200/15-172)

22 Sec. 15-172. Senior Citizens Assessment Freeze Homestead
23 Exemption.

24 (a) This Section may be cited as the Senior Citizens
25 Assessment Freeze Homestead Exemption.

1 (b) As used in this Section:

2 "Applicant" means an individual who has filed an
3 application under this Section.

4 "Base amount" means the base year equalized assessed value
5 of the residence plus the first year's equalized assessed value
6 of any added improvements which increased the assessed value of
7 the residence after the base year.

8 "Base year" means the taxable year prior to the taxable
9 year for which the applicant first qualifies and applies for
10 the exemption provided that in the prior taxable year the
11 property was improved with a permanent structure that was
12 occupied as a residence by the applicant who was liable for
13 paying real property taxes on the property and who was either
14 (i) an owner of record of the property or had legal or
15 equitable interest in the property as evidenced by a written
16 instrument or (ii) had a legal or equitable interest as a
17 lessee in the parcel of property that was single family
18 residence. If in any subsequent taxable year for which the
19 applicant applies and qualifies for the exemption the equalized
20 assessed value of the residence is less than the equalized
21 assessed value in the existing base year (provided that such
22 equalized assessed value is not based on an assessed value that
23 results from a temporary irregularity in the property that
24 reduces the assessed value for one or more taxable years), then
25 that subsequent taxable year shall become the base year until a
26 new base year is established under the terms of this paragraph.

1 For taxable year 1999 only, the Chief County Assessment Officer
2 shall review (i) all taxable years for which the applicant
3 applied and qualified for the exemption and (ii) the existing
4 base year. The assessment officer shall select as the new base
5 year the year with the lowest equalized assessed value. An
6 equalized assessed value that is based on an assessed value
7 that results from a temporary irregularity in the property that
8 reduces the assessed value for one or more taxable years shall
9 not be considered the lowest equalized assessed value. The
10 selected year shall be the base year for taxable year 1999 and
11 thereafter until a new base year is established under the terms
12 of this paragraph.

13 "Chief County Assessment Officer" means the County
14 Assessor or Supervisor of Assessments of the county in which
15 the property is located.

16 "Equalized assessed value" means the assessed value as
17 equalized by the Illinois Department of Revenue.

18 "Household" means the applicant, the spouse of the
19 applicant, and all persons using the residence of the applicant
20 as their principal place of residence.

21 "Household income" means the combined income of the members
22 of a household for the calendar year preceding the taxable
23 year.

24 "Income" has the same meaning as provided in Section 3.07
25 of the Senior Citizens and Disabled Persons Property Tax Relief
26 and Pharmaceutical Assistance Act, except that, beginning in

1 assessment year 2001, "income" does not include veteran's
2 benefits.

3 "Internal Revenue Code of 1986" means the United States
4 Internal Revenue Code of 1986 or any successor law or laws
5 relating to federal income taxes in effect for the year
6 preceding the taxable year.

7 "Life care facility that qualifies as a cooperative" means
8 a facility as defined in Section 2 of the Life Care Facilities
9 Act.

10 "Maximum income limitation" means:

- 11 (1) \$35,000 prior to taxable year 1999;
- 12 (2) \$40,000 in taxable years 1999 through 2003;
- 13 (3) \$45,000 in taxable years 2004 through 2005;
- 14 (4) \$50,000 in taxable years 2006 and 2007; and
- 15 (5) \$55,000 in taxable year 2008 and thereafter.

16 "Residence" means the principal dwelling place and
17 appurtenant structures used for residential purposes in this
18 State occupied on January 1 of the taxable year by a household
19 and so much of the surrounding land, constituting the parcel
20 upon which the dwelling place is situated, as is used for
21 residential purposes. If the Chief County Assessment Officer
22 has established a specific legal description for a portion of
23 property constituting the residence, then that portion of
24 property shall be deemed the residence for the purposes of this
25 Section.

26 "Taxable year" means the calendar year during which ad

1 valorem property taxes payable in the next succeeding year are
2 levied.

3 (c) Beginning in taxable year 1994, a senior citizens
4 assessment freeze homestead exemption is granted for real
5 property that is improved with a permanent structure that is
6 occupied as a residence by an applicant who (i) is 65 years of
7 age or older during the taxable year, (ii) has a household
8 income that does not exceed the maximum income limitation,
9 (iii) is liable for paying real property taxes on the property,
10 and (iv) is an owner of record of the property or has a legal or
11 equitable interest in the property as evidenced by a written
12 instrument. This homestead exemption shall also apply to a
13 leasehold interest in a parcel of property improved with a
14 permanent structure that is a single family residence that is
15 occupied as a residence by a person who (i) is 65 years of age
16 or older during the taxable year, (ii) has a household income
17 that does not exceed the maximum income limitation, (iii) has a
18 legal or equitable ownership interest in the property as
19 lessee, and (iv) is liable for the payment of real property
20 taxes on that property.

21 In counties of 3,000,000 or more inhabitants, the amount of
22 the exemption for all taxable years is the equalized assessed
23 value of the residence in the taxable year for which
24 application is made minus the base amount. In all other
25 counties, the amount of the exemption is as follows: (i)
26 through taxable year 2005 and for taxable year 2007 and

1 thereafter, the amount of this exemption shall be the equalized
2 assessed value of the residence in the taxable year for which
3 application is made minus the base amount; and (ii) for taxable
4 year 2006, the amount of the exemption is as follows:

5 (1) For an applicant who has a household income of
6 \$45,000 or less, the amount of the exemption is the
7 equalized assessed value of the residence in the taxable
8 year for which application is made minus the base amount.

9 (2) For an applicant who has a household income
10 exceeding \$45,000 but not exceeding \$46,250, the amount of
11 the exemption is (i) the equalized assessed value of the
12 residence in the taxable year for which application is made
13 minus the base amount (ii) multiplied by 0.8.

14 (3) For an applicant who has a household income
15 exceeding \$46,250 but not exceeding \$47,500, the amount of
16 the exemption is (i) the equalized assessed value of the
17 residence in the taxable year for which application is made
18 minus the base amount (ii) multiplied by 0.6.

19 (4) For an applicant who has a household income
20 exceeding \$47,500 but not exceeding \$48,750, the amount of
21 the exemption is (i) the equalized assessed value of the
22 residence in the taxable year for which application is made
23 minus the base amount (ii) multiplied by 0.4.

24 (5) For an applicant who has a household income
25 exceeding \$48,750 but not exceeding \$50,000, the amount of
26 the exemption is (i) the equalized assessed value of the

1 residence in the taxable year for which application is made
2 minus the base amount (ii) multiplied by 0.2.

3 When the applicant is a surviving spouse of an applicant
4 for a prior year for the same residence for which an exemption
5 under this Section has been granted, the base year and base
6 amount for that residence are the same as for the applicant for
7 the prior year.

8 Each year at the time the assessment books are certified to
9 the County Clerk, the Board of Review or Board of Appeals shall
10 give to the County Clerk a list of the assessed values of
11 improvements on each parcel qualifying for this exemption that
12 were added after the base year for this parcel and that
13 increased the assessed value of the property.

14 In the case of land improved with an apartment building
15 owned and operated as a cooperative or a building that is a
16 life care facility that qualifies as a cooperative, the maximum
17 reduction from the equalized assessed value of the property is
18 limited to the sum of the reductions calculated for each unit
19 occupied as a residence by a person or persons (i) 65 years of
20 age or older, (ii) with a household income that does not exceed
21 the maximum income limitation, (iii) who is liable, by contract
22 with the owner or owners of record, for paying real property
23 taxes on the property, and (iv) who is an owner of record of a
24 legal or equitable interest in the cooperative apartment
25 building, other than a leasehold interest. In the instance of a
26 cooperative where a homestead exemption has been granted under

1 this Section, the cooperative association or its management
2 firm shall credit the savings resulting from that exemption
3 only to the apportioned tax liability of the owner who
4 qualified for the exemption. Any person who willfully refuses
5 to credit that savings to an owner who qualifies for the
6 exemption is guilty of a Class B misdemeanor.

7 When a homestead exemption has been granted under this
8 Section and an applicant then becomes a resident of a facility
9 licensed under the Nursing Home Care Act or the MR/DD Community
10 Care Act, the exemption shall be granted in subsequent years so
11 long as the residence (i) continues to be occupied by the
12 qualified applicant's spouse or (ii) if remaining unoccupied,
13 is still owned by the qualified applicant for the homestead
14 exemption.

15 Beginning January 1, 1997, when an individual dies who
16 would have qualified for an exemption under this Section, and
17 the surviving spouse does not independently qualify for this
18 exemption because of age, the exemption under this Section
19 shall be granted to the surviving spouse for the taxable year
20 preceding and the taxable year of the death, provided that,
21 except for age, the surviving spouse meets all other
22 qualifications for the granting of this exemption for those
23 years.

24 When married persons maintain separate residences, the
25 exemption provided for in this Section may be claimed by only
26 one of such persons and for only one residence.

1 For taxable year 1994 only, in counties having less than
2 3,000,000 inhabitants, to receive the exemption, a person shall
3 submit an application by February 15, 1995 to the Chief County
4 Assessment Officer of the county in which the property is
5 located. In counties having 3,000,000 or more inhabitants, for
6 taxable year 1994 and all subsequent taxable years, to receive
7 the exemption, a person may submit an application to the Chief
8 County Assessment Officer of the county in which the property
9 is located during such period as may be specified by the Chief
10 County Assessment Officer. The Chief County Assessment Officer
11 in counties of 3,000,000 or more inhabitants shall annually
12 give notice of the application period by mail or by
13 publication. In counties having less than 3,000,000
14 inhabitants, beginning with taxable year 1995 and thereafter,
15 to receive the exemption, a person shall submit an application
16 by July 1 of each taxable year to the Chief County Assessment
17 Officer of the county in which the property is located. A
18 county may, by ordinance, establish a date for submission of
19 applications that is different than July 1. The applicant shall
20 submit with the application an affidavit of the applicant's
21 total household income, age, marital status (and if married the
22 name and address of the applicant's spouse, if known), and
23 principal dwelling place of members of the household on January
24 1 of the taxable year. The Department shall establish, by rule,
25 a method for verifying the accuracy of affidavits filed by
26 applicants under this Section, and the Chief County Assessment

1 Officer may conduct audits of any taxpayer claiming an
2 exemption under this Section to verify that the taxpayer is
3 eligible to receive the exemption. Each application shall
4 contain or be verified by a written declaration that it is made
5 under the penalties of perjury. A taxpayer's signing a
6 fraudulent application under this Act is perjury, as defined in
7 Section 32-2 of the Criminal Code of 1961. The applications
8 shall be clearly marked as applications for the Senior Citizens
9 Assessment Freeze Homestead Exemption and must contain a notice
10 that any taxpayer who receives the exemption is subject to an
11 audit by the Chief County Assessment Officer.

12 Notwithstanding any other provision to the contrary, in
13 counties having fewer than 3,000,000 inhabitants, if an
14 applicant fails to file the application required by this
15 Section in a timely manner and this failure to file is due to a
16 mental or physical condition sufficiently severe so as to
17 render the applicant incapable of filing the application in a
18 timely manner, the Chief County Assessment Officer may extend
19 the filing deadline for a period of 30 days after the applicant
20 regains the capability to file the application, but in no case
21 may the filing deadline be extended beyond 3 months of the
22 original filing deadline. In order to receive the extension
23 provided in this paragraph, the applicant shall provide the
24 Chief County Assessment Officer with a signed statement from
25 the applicant's physician stating the nature and extent of the
26 condition, that, in the physician's opinion, the condition was

1 so severe that it rendered the applicant incapable of filing
2 the application in a timely manner, and the date on which the
3 applicant regained the capability to file the application.

4 Beginning January 1, 1998, notwithstanding any other
5 provision to the contrary, in counties having fewer than
6 3,000,000 inhabitants, if an applicant fails to file the
7 application required by this Section in a timely manner and
8 this failure to file is due to a mental or physical condition
9 sufficiently severe so as to render the applicant incapable of
10 filing the application in a timely manner, the Chief County
11 Assessment Officer may extend the filing deadline for a period
12 of 3 months. In order to receive the extension provided in this
13 paragraph, the applicant shall provide the Chief County
14 Assessment Officer with a signed statement from the applicant's
15 physician stating the nature and extent of the condition, and
16 that, in the physician's opinion, the condition was so severe
17 that it rendered the applicant incapable of filing the
18 application in a timely manner.

19 In counties having less than 3,000,000 inhabitants, if an
20 applicant was denied an exemption in taxable year 1994 and the
21 denial occurred due to an error on the part of an assessment
22 official, or his or her agent or employee, then beginning in
23 taxable year 1997 the applicant's base year, for purposes of
24 determining the amount of the exemption, shall be 1993 rather
25 than 1994. In addition, in taxable year 1997, the applicant's
26 exemption shall also include an amount equal to (i) the amount

1 of any exemption denied to the applicant in taxable year 1995
2 as a result of using 1994, rather than 1993, as the base year,
3 (ii) the amount of any exemption denied to the applicant in
4 taxable year 1996 as a result of using 1994, rather than 1993,
5 as the base year, and (iii) the amount of the exemption
6 erroneously denied for taxable year 1994.

7 For purposes of this Section, a person who will be 65 years
8 of age during the current taxable year shall be eligible to
9 apply for the homestead exemption during that taxable year.
10 Application shall be made during the application period in
11 effect for the county of his or her residence.

12 The Chief County Assessment Officer may determine the
13 eligibility of a life care facility that qualifies as a
14 cooperative to receive the benefits provided by this Section by
15 use of an affidavit, application, visual inspection,
16 questionnaire, or other reasonable method in order to insure
17 that the tax savings resulting from the exemption are credited
18 by the management firm to the apportioned tax liability of each
19 qualifying resident. The Chief County Assessment Officer may
20 request reasonable proof that the management firm has so
21 credited that exemption.

22 Except as provided in this Section, all information
23 received by the chief county assessment officer or the
24 Department from applications filed under this Section, or from
25 any investigation conducted under the provisions of this
26 Section, shall be confidential, except for official purposes or

1 pursuant to official procedures for collection of any State or
2 local tax or enforcement of any civil or criminal penalty or
3 sanction imposed by this Act or by any statute or ordinance
4 imposing a State or local tax. Any person who divulges any such
5 information in any manner, except in accordance with a proper
6 judicial order, is guilty of a Class A misdemeanor.

7 Nothing contained in this Section shall prevent the
8 Director or chief county assessment officer from publishing or
9 making available reasonable statistics concerning the
10 operation of the exemption contained in this Section in which
11 the contents of claims are grouped into aggregates in such a
12 way that information contained in any individual claim shall
13 not be disclosed.

14 (d) Each Chief County Assessment Officer shall annually
15 publish a notice of availability of the exemption provided
16 under this Section. The notice shall be published at least 60
17 days but no more than 75 days prior to the date on which the
18 application must be submitted to the Chief County Assessment
19 Officer of the county in which the property is located. The
20 notice shall appear in a newspaper of general circulation in
21 the county.

22 Notwithstanding Sections 6 and 8 of the State Mandates Act,
23 no reimbursement by the State is required for the
24 implementation of any mandate created by this Section.

25 (Source: P.A. 94-794, eff. 5-22-06; 95-644, eff. 10-12-07.)

1 Section 90-70. The Regional Transportation Authority Act
2 is amended by changing Section 4.03 as follows:

3 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

4 Sec. 4.03. Taxes.

5 (a) In order to carry out any of the powers or purposes of
6 the Authority, the Board may by ordinance adopted with the
7 concurrence of 12 of the then Directors, impose throughout the
8 metropolitan region any or all of the taxes provided in this
9 Section. Except as otherwise provided in this Act, taxes
10 imposed under this Section and civil penalties imposed incident
11 thereto shall be collected and enforced by the State Department
12 of Revenue. The Department shall have the power to administer
13 and enforce the taxes and to determine all rights for refunds
14 for erroneous payments of the taxes. Nothing in this amendatory
15 Act of the 95th General Assembly is intended to invalidate any
16 taxes currently imposed by the Authority. The increased vote
17 requirements to impose a tax shall only apply to actions taken
18 after the effective date of this amendatory Act of the 95th
19 General Assembly.

20 (b) The Board may impose a public transportation tax upon
21 all persons engaged in the metropolitan region in the business
22 of selling at retail motor fuel for operation of motor vehicles
23 upon public highways. The tax shall be at a rate not to exceed
24 5% of the gross receipts from the sales of motor fuel in the
25 course of the business. As used in this Act, the term "motor

1 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
2 The Board may provide for details of the tax. The provisions of
3 any tax shall conform, as closely as may be practicable, to the
4 provisions of the Municipal Retailers Occupation Tax Act,
5 including without limitation, conformity to penalties with
6 respect to the tax imposed and as to the powers of the State
7 Department of Revenue to promulgate and enforce rules and
8 regulations relating to the administration and enforcement of
9 the provisions of the tax imposed, except that reference in the
10 Act to any municipality shall refer to the Authority and the
11 tax shall be imposed only with regard to receipts from sales of
12 motor fuel in the metropolitan region, at rates as limited by
13 this Section.

14 (c) In connection with the tax imposed under paragraph (b)
15 of this Section the Board may impose a tax upon the privilege
16 of using in the metropolitan region motor fuel for the
17 operation of a motor vehicle upon public highways, the tax to
18 be at a rate not in excess of the rate of tax imposed under
19 paragraph (b) of this Section. The Board may provide for
20 details of the tax.

21 (d) The Board may impose a motor vehicle parking tax upon
22 the privilege of parking motor vehicles at off-street parking
23 facilities in the metropolitan region at which a fee is
24 charged, and may provide for reasonable classifications in and
25 exemptions to the tax, for administration and enforcement
26 thereof and for civil penalties and refunds thereunder and may

1 provide criminal penalties thereunder, the maximum penalties
2 not to exceed the maximum criminal penalties provided in the
3 Retailers' Occupation Tax Act. The Authority may collect and
4 enforce the tax itself or by contract with any unit of local
5 government. The State Department of Revenue shall have no
6 responsibility for the collection and enforcement unless the
7 Department agrees with the Authority to undertake the
8 collection and enforcement. As used in this paragraph, the term
9 "parking facility" means a parking area or structure having
10 parking spaces for more than 2 vehicles at which motor vehicles
11 are permitted to park in return for an hourly, daily, or other
12 periodic fee, whether publicly or privately owned, but does not
13 include parking spaces on a public street, the use of which is
14 regulated by parking meters.

15 (e) The Board may impose a Regional Transportation
16 Authority Retailers' Occupation Tax upon all persons engaged in
17 the business of selling tangible personal property at retail in
18 the metropolitan region. In Cook County the tax rate shall be
19 1.25% of the gross receipts from sales of food for human
20 consumption that is to be consumed off the premises where it is
21 sold (other than alcoholic beverages, soft drinks and food that
22 has been prepared for immediate consumption) and prescription
23 and nonprescription medicines, drugs, medical appliances and
24 insulin, urine testing materials, syringes and needles used by
25 diabetics, and 1% of the gross receipts from other taxable
26 sales made in the course of that business. In DuPage, Kane,

1 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%
2 of the gross receipts from all taxable sales made in the course
3 of that business. The tax imposed under this Section and all
4 civil penalties that may be assessed as an incident thereof
5 shall be collected and enforced by the State Department of
6 Revenue. The Department shall have full power to administer and
7 enforce this Section; to collect all taxes and penalties so
8 collected in the manner hereinafter provided; and to determine
9 all rights to credit memoranda arising on account of the
10 erroneous payment of tax or penalty hereunder. In the
11 administration of, and compliance with this Section, the
12 Department and persons who are subject to this Section shall
13 have the same rights, remedies, privileges, immunities, powers
14 and duties, and be subject to the same conditions,
15 restrictions, limitations, penalties, exclusions, exemptions
16 and definitions of terms, and employ the same modes of
17 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
18 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
19 therein other than the State rate of tax), 2c, 3 (except as to
20 the disposition of taxes and penalties collected), 4, 5, 5a,
21 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
22 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
23 Section 3-7 of the Uniform Penalty and Interest Act, as fully
24 as if those provisions were set forth herein.

25 Persons subject to any tax imposed under the authority
26 granted in this Section may reimburse themselves for their

1 seller's tax liability hereunder by separately stating the tax
2 as an additional charge, which charge may be stated in
3 combination in a single amount with State taxes that sellers
4 are required to collect under the Use Tax Act, under any
5 bracket schedules the Department may prescribe.

6 Whenever the Department determines that a refund should be
7 made under this Section to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the warrant to be drawn for the
10 amount specified, and to the person named, in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the Regional Transportation Authority tax fund
13 established under paragraph (n) of this Section.

14 If a tax is imposed under this subsection (e), a tax shall
15 also be imposed under subsections (f) and (g) of this Section.

16 For the purpose of determining whether a tax authorized
17 under this Section is applicable, a retail sale by a producer
18 of coal or other mineral mined in Illinois, is a sale at retail
19 at the place where the coal or other mineral mined in Illinois
20 is extracted from the earth. This paragraph does not apply to
21 coal or other mineral when it is delivered or shipped by the
22 seller to the purchaser at a point outside Illinois so that the
23 sale is exempt under the Federal Constitution as a sale in
24 interstate or foreign commerce.

25 No tax shall be imposed or collected under this subsection
26 on the sale of a motor vehicle in this State to a resident of

1 another state if that motor vehicle will not be titled in this
2 State.

3 Nothing in this Section shall be construed to authorize the
4 Regional Transportation Authority to impose a tax upon the
5 privilege of engaging in any business that under the
6 Constitution of the United States may not be made the subject
7 of taxation by this State.

8 (f) If a tax has been imposed under paragraph (e), a
9 Regional Transportation Authority Service Occupation Tax shall
10 also be imposed upon all persons engaged, in the metropolitan
11 region in the business of making sales of service, who as an
12 incident to making the sales of service, transfer tangible
13 personal property within the metropolitan region, either in the
14 form of tangible personal property or in the form of real
15 estate as an incident to a sale of service. In Cook County, the
16 tax rate shall be: (1) 1.25% of the serviceman's cost price of
17 food prepared for immediate consumption and transferred
18 incident to a sale of service subject to the service occupation
19 tax by an entity licensed under the Hospital Licensing Act, ~~or~~
20 the Nursing Home Care Act, or the MR/DD Community Care Act that
21 is located in the metropolitan region; (2) 1.25% of the selling
22 price of food for human consumption that is to be consumed off
23 the premises where it is sold (other than alcoholic beverages,
24 soft drinks and food that has been prepared for immediate
25 consumption) and prescription and nonprescription medicines,
26 drugs, medical appliances and insulin, urine testing

1 materials, syringes and needles used by diabetics; and (3) 1%
2 of the selling price from other taxable sales of tangible
3 personal property transferred. In DuPage, Kane, Lake, McHenry
4 and Will Counties the rate shall be 0.75% of the selling price
5 of all tangible personal property transferred.

6 The tax imposed under this paragraph and all civil
7 penalties that may be assessed as an incident thereof shall be
8 collected and enforced by the State Department of Revenue. The
9 Department shall have full power to administer and enforce this
10 paragraph; to collect all taxes and penalties due hereunder; to
11 dispose of taxes and penalties collected in the manner
12 hereinafter provided; and to determine all rights to credit
13 memoranda arising on account of the erroneous payment of tax or
14 penalty hereunder. In the administration of and compliance with
15 this paragraph, the Department and persons who are subject to
16 this paragraph shall have the same rights, remedies,
17 privileges, immunities, powers and duties, and be subject to
18 the same conditions, restrictions, limitations, penalties,
19 exclusions, exemptions and definitions of terms, and employ the
20 same modes of procedure, as are prescribed in Sections 1a-1, 2,
21 2a, 3 through 3-50 (in respect to all provisions therein other
22 than the State rate of tax), 4 (except that the reference to
23 the State shall be to the Authority), 5, 7, 8 (except that the
24 jurisdiction to which the tax shall be a debt to the extent
25 indicated in that Section 8 shall be the Authority), 9 (except
26 as to the disposition of taxes and penalties collected, and

1 except that the returned merchandise credit for this tax may
2 not be taken against any State tax), 10, 11, 12 (except the
3 reference therein to Section 2b of the Retailers' Occupation
4 Tax Act), 13 (except that any reference to the State shall mean
5 the Authority), the first paragraph of Section 15, 16, 17, 18,
6 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
7 the Uniform Penalty and Interest Act, as fully as if those
8 provisions were set forth herein.

9 Persons subject to any tax imposed under the authority
10 granted in this paragraph may reimburse themselves for their
11 serviceman's tax liability hereunder by separately stating the
12 tax as an additional charge, that charge may be stated in
13 combination in a single amount with State tax that servicemen
14 are authorized to collect under the Service Use Tax Act, under
15 any bracket schedules the Department may prescribe.

16 Whenever the Department determines that a refund should be
17 made under this paragraph to a claimant instead of issuing a
18 credit memorandum, the Department shall notify the State
19 Comptroller, who shall cause the warrant to be drawn for the
20 amount specified, and to the person named in the notification
21 from the Department. The refund shall be paid by the State
22 Treasurer out of the Regional Transportation Authority tax fund
23 established under paragraph (n) of this Section.

24 Nothing in this paragraph shall be construed to authorize
25 the Authority to impose a tax upon the privilege of engaging in
26 any business that under the Constitution of the United States

1 may not be made the subject of taxation by the State.

2 (g) If a tax has been imposed under paragraph (e), a tax
3 shall also be imposed upon the privilege of using in the
4 metropolitan region, any item of tangible personal property
5 that is purchased outside the metropolitan region at retail
6 from a retailer, and that is titled or registered with an
7 agency of this State's government. In Cook County the tax rate
8 shall be 1% of the selling price of the tangible personal
9 property, as "selling price" is defined in the Use Tax Act. In
10 DuPage, Kane, Lake, McHenry and Will counties the tax rate
11 shall be 0.75% of the selling price of the tangible personal
12 property, as "selling price" is defined in the Use Tax Act. The
13 tax shall be collected from persons whose Illinois address for
14 titling or registration purposes is given as being in the
15 metropolitan region. The tax shall be collected by the
16 Department of Revenue for the Regional Transportation
17 Authority. The tax must be paid to the State, or an exemption
18 determination must be obtained from the Department of Revenue,
19 before the title or certificate of registration for the
20 property may be issued. The tax or proof of exemption may be
21 transmitted to the Department by way of the State agency with
22 which, or the State officer with whom, the tangible personal
23 property must be titled or registered if the Department and the
24 State agency or State officer determine that this procedure
25 will expedite the processing of applications for title or
26 registration.

1 The Department shall have full power to administer and
2 enforce this paragraph; to collect all taxes, penalties and
3 interest due hereunder; to dispose of taxes, penalties and
4 interest collected in the manner hereinafter provided; and to
5 determine all rights to credit memoranda or refunds arising on
6 account of the erroneous payment of tax, penalty or interest
7 hereunder. In the administration of and compliance with this
8 paragraph, the Department and persons who are subject to this
9 paragraph shall have the same rights, remedies, privileges,
10 immunities, powers and duties, and be subject to the same
11 conditions, restrictions, limitations, penalties, exclusions,
12 exemptions and definitions of terms and employ the same modes
13 of procedure, as are prescribed in Sections 2 (except the
14 definition of "retailer maintaining a place of business in this
15 State"), 3 through 3-80 (except provisions pertaining to the
16 State rate of tax, and except provisions concerning collection
17 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
18 19 (except the portions pertaining to claims by retailers and
19 except the last paragraph concerning refunds), 20, 21 and 22 of
20 the Use Tax Act, and are not inconsistent with this paragraph,
21 as fully as if those provisions were set forth herein.

22 Whenever the Department determines that a refund should be
23 made under this paragraph to a claimant instead of issuing a
24 credit memorandum, the Department shall notify the State
25 Comptroller, who shall cause the order to be drawn for the
26 amount specified, and to the person named in the notification

1 from the Department. The refund shall be paid by the State
2 Treasurer out of the Regional Transportation Authority tax fund
3 established under paragraph (n) of this Section.

4 (h) The Authority may impose a replacement vehicle tax of
5 \$50 on any passenger car as defined in Section 1-157 of the
6 Illinois Vehicle Code purchased within the metropolitan region
7 by or on behalf of an insurance company to replace a passenger
8 car of an insured person in settlement of a total loss claim.
9 The tax imposed may not become effective before the first day
10 of the month following the passage of the ordinance imposing
11 the tax and receipt of a certified copy of the ordinance by the
12 Department of Revenue. The Department of Revenue shall collect
13 the tax for the Authority in accordance with Sections 3-2002
14 and 3-2003 of the Illinois Vehicle Code.

15 The Department shall immediately pay over to the State
16 Treasurer, *ex officio*, as trustee, all taxes collected
17 hereunder. On or before the 25th day of each calendar month,
18 the Department shall prepare and certify to the Comptroller the
19 disbursement of stated sums of money to the Authority. The
20 amount to be paid to the Authority shall be the amount
21 collected hereunder during the second preceding calendar month
22 by the Department, less any amount determined by the Department
23 to be necessary for the payment of refunds. Within 10 days
24 after receipt by the Comptroller of the disbursement
25 certification to the Authority provided for in this Section to
26 be given to the Comptroller by the Department, the Comptroller

1 shall cause the orders to be drawn for that amount in
2 accordance with the directions contained in the certification.

3 (i) The Board may not impose any other taxes except as it
4 may from time to time be authorized by law to impose.

5 (j) A certificate of registration issued by the State
6 Department of Revenue to a retailer under the Retailers'
7 Occupation Tax Act or under the Service Occupation Tax Act
8 shall permit the registrant to engage in a business that is
9 taxed under the tax imposed under paragraphs (b), (e), (f) or
10 (g) of this Section and no additional registration shall be
11 required under the tax. A certificate issued under the Use Tax
12 Act or the Service Use Tax Act shall be applicable with regard
13 to any tax imposed under paragraph (c) of this Section.

14 (k) The provisions of any tax imposed under paragraph (c)
15 of this Section shall conform as closely as may be practicable
16 to the provisions of the Use Tax Act, including without
17 limitation conformity as to penalties with respect to the tax
18 imposed and as to the powers of the State Department of Revenue
19 to promulgate and enforce rules and regulations relating to the
20 administration and enforcement of the provisions of the tax
21 imposed. The taxes shall be imposed only on use within the
22 metropolitan region and at rates as provided in the paragraph.

23 (l) The Board in imposing any tax as provided in paragraphs
24 (b) and (c) of this Section, shall, after seeking the advice of
25 the State Department of Revenue, provide means for retailers,
26 users or purchasers of motor fuel for purposes other than those

1 with regard to which the taxes may be imposed as provided in
2 those paragraphs to receive refunds of taxes improperly paid,
3 which provisions may be at variance with the refund provisions
4 as applicable under the Municipal Retailers Occupation Tax Act.
5 The State Department of Revenue may provide for certificates of
6 registration for users or purchasers of motor fuel for purposes
7 other than those with regard to which taxes may be imposed as
8 provided in paragraphs (b) and (c) of this Section to
9 facilitate the reporting and nontaxability of the exempt sales
10 or uses.

11 (m) Any ordinance imposing or discontinuing any tax under
12 this Section shall be adopted and a certified copy thereof
13 filed with the Department on or before June 1, whereupon the
14 Department of Revenue shall proceed to administer and enforce
15 this Section on behalf of the Regional Transportation Authority
16 as of September 1 next following such adoption and filing.
17 Beginning January 1, 1992, an ordinance or resolution imposing
18 or discontinuing the tax hereunder shall be adopted and a
19 certified copy thereof filed with the Department on or before
20 the first day of July, whereupon the Department shall proceed
21 to administer and enforce this Section as of the first day of
22 October next following such adoption and filing. Beginning
23 January 1, 1993, an ordinance or resolution imposing,
24 increasing, decreasing, or discontinuing the tax hereunder
25 shall be adopted and a certified copy thereof filed with the
26 Department, whereupon the Department shall proceed to

1 administer and enforce this Section as of the first day of the
2 first month to occur not less than 60 days following such
3 adoption and filing. Any ordinance or resolution of the
4 Authority imposing a tax under this Section and in effect on
5 August 1, 2007 shall remain in full force and effect and shall
6 be administered by the Department of Revenue under the terms
7 and conditions and rates of tax established by such ordinance
8 or resolution until the Department begins administering and
9 enforcing an increased tax under this Section as authorized by
10 this amendatory Act of the 95th General Assembly. The tax rates
11 authorized by this amendatory Act of the 95th General Assembly
12 are effective only if imposed by ordinance of the Authority.

13 (n) The State Department of Revenue shall, upon collecting
14 any taxes as provided in this Section, pay the taxes over to
15 the State Treasurer as trustee for the Authority. The taxes
16 shall be held in a trust fund outside the State Treasury. On or
17 before the 25th day of each calendar month, the State
18 Department of Revenue shall prepare and certify to the
19 Comptroller of the State of Illinois and to the Authority (i)
20 the amount of taxes collected in each County other than Cook
21 County in the metropolitan region, (ii) the amount of taxes
22 collected within the City of Chicago, and (iii) the amount
23 collected in that portion of Cook County outside of Chicago,
24 each amount less the amount necessary for the payment of
25 refunds to taxpayers located in those areas described in items
26 (i), (ii), and (iii). Within 10 days after receipt by the

1 Comptroller of the certification of the amounts, the
2 Comptroller shall cause an order to be drawn for the payment of
3 two-thirds of the amounts certified in item (i) of this
4 subsection to the Authority and one-third of the amounts
5 certified in item (i) of this subsection to the respective
6 counties other than Cook County and the amount certified in
7 items (ii) and (iii) of this subsection to the Authority.

8 In addition to the disbursement required by the preceding
9 paragraph, an allocation shall be made in July 1991 and each
10 year thereafter to the Regional Transportation Authority. The
11 allocation shall be made in an amount equal to the average
12 monthly distribution during the preceding calendar year
13 (excluding the 2 months of lowest receipts) and the allocation
14 shall include the amount of average monthly distribution from
15 the Regional Transportation Authority Occupation and Use Tax
16 Replacement Fund. The distribution made in July 1992 and each
17 year thereafter under this paragraph and the preceding
18 paragraph shall be reduced by the amount allocated and
19 disbursed under this paragraph in the preceding calendar year.
20 The Department of Revenue shall prepare and certify to the
21 Comptroller for disbursement the allocations made in
22 accordance with this paragraph.

23 (o) Failure to adopt a budget ordinance or otherwise to
24 comply with Section 4.01 of this Act or to adopt a Five-year
25 Capital Program or otherwise to comply with paragraph (b) of
26 Section 2.01 of this Act shall not affect the validity of any

1 tax imposed by the Authority otherwise in conformity with law.

2 (p) At no time shall a public transportation tax or motor
3 vehicle parking tax authorized under paragraphs (b), (c) and
4 (d) of this Section be in effect at the same time as any
5 retailers' occupation, use or service occupation tax
6 authorized under paragraphs (e), (f) and (g) of this Section is
7 in effect.

8 Any taxes imposed under the authority provided in
9 paragraphs (b), (c) and (d) shall remain in effect only until
10 the time as any tax authorized by paragraphs (e), (f) or (g) of
11 this Section are imposed and becomes effective. Once any tax
12 authorized by paragraphs (e), (f) or (g) is imposed the Board
13 may not reimpose taxes as authorized in paragraphs (b), (c) and
14 (d) of the Section unless any tax authorized by paragraphs (e),
15 (f) or (g) of this Section becomes ineffective by means other
16 than an ordinance of the Board.

17 (q) Any existing rights, remedies and obligations
18 (including enforcement by the Regional Transportation
19 Authority) arising under any tax imposed under paragraphs (b),
20 (c) or (d) of this Section shall not be affected by the
21 imposition of a tax under paragraphs (e), (f) or (g) of this
22 Section.

23 (Source: P.A. 95-708, eff. 1-18-08.)

24 Section 90-73. The Alternative Health Care Delivery Act is
25 amended by changing Section 15 as follows:

1 (210 ILCS 3/15)

2 Sec. 15. License required. No health care facility or
3 program that meets the definition and scope of an alternative
4 health care model shall operate as such unless it is a
5 participant in a demonstration program under this Act and
6 licensed by the Department as an alternative health care model.
7 The provisions of this Section as they relate to subacute care
8 hospitals shall not apply to hospitals licensed under the
9 Illinois Hospital Licensing Act or skilled nursing facilities
10 licensed under the Illinois Nursing Home Care Act or the MR/DD
11 Community Care Act; provided, however, that the facilities
12 shall not hold themselves out to the public as subacute care
13 hospitals. The provisions of this Act concerning children's
14 respite care centers shall not apply to any facility licensed
15 under the Hospital Licensing Act, the Nursing Home Care Act,
16 the MR/DD Community Care Act, or the University of Illinois
17 Hospital Act that provides respite care services to children.
18 (Source: P.A. 95-331, eff. 8-21-07.)

19 Section 90-75. The Ambulatory Surgical Treatment Center
20 Act is amended by changing Section 3 as follows:

21 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

22 Sec. 3. As used in this Act, unless the context otherwise
23 requires, the following words and phrases shall have the

1 meanings ascribed to them:

2 (A) "Ambulatory surgical treatment center" means any
3 institution, place or building devoted primarily to the
4 maintenance and operation of facilities for the performance of
5 surgical procedures or any facility in which a medical or
6 surgical procedure is utilized to terminate a pregnancy,
7 irrespective of whether the facility is devoted primarily to
8 this purpose. Such facility shall not provide beds or other
9 accommodations for the overnight stay of patients; however,
10 facilities devoted exclusively to the treatment of children may
11 provide accommodations and beds for their patients for up to 23
12 hours following admission. Individual patients shall be
13 discharged in an ambulatory condition without danger to the
14 continued well being of the patients or shall be transferred to
15 a hospital.

16 The term "ambulatory surgical treatment center" does not
17 include any of the following:

18 (1) Any institution, place, building or agency
19 required to be licensed pursuant to the "Hospital Licensing
20 Act", approved July 1, 1953, as amended.

21 (2) Any person or institution required to be licensed
22 pursuant to the "Nursing Home Care Act or the MR/DD
23 Community Care Act", ~~approved August 23, 1979, as amended.~~

24 (3) Hospitals or ambulatory surgical treatment centers
25 maintained by the State or any department or agency
26 thereof, where such department or agency has authority

1 under law to establish and enforce standards for the
2 hospitals or ambulatory surgical treatment centers under
3 its management and control.

4 (4) Hospitals or ambulatory surgical treatment centers
5 maintained by the Federal Government or agencies thereof.

6 (5) Any place, agency, clinic, or practice, public or
7 private, whether organized for profit or not, devoted
8 exclusively to the performance of dental or oral surgical
9 procedures.

10 (B) "Person" means any individual, firm, partnership,
11 corporation, company, association, or joint stock association,
12 or the legal successor thereof.

13 (C) "Department" means the Department of Public Health of
14 the State of Illinois.

15 (D) "Director" means the Director of the Department of
16 Public Health of the State of Illinois.

17 (E) "Physician" means a person licensed to practice
18 medicine in all of its branches in the State of Illinois.

19 (F) "Dentist" means a person licensed to practice dentistry
20 under the Illinois Dental Practice Act.

21 (G) "Podiatrist" means a person licensed to practice
22 podiatry under the Podiatric Medical Practice Act of 1987.

23 (Source: P.A. 88-371; 88-441; 88-490; 88-670, eff. 12-2-94.)

24 Section 90-80. The Assisted Living and Shared Housing Act
25 is amended by changing Sections 10, 35, 55, and 145 as follows:

1 (210 ILCS 9/10)

2 Sec. 10. Definitions. For purposes of this Act:

3 "Activities of daily living" means eating, dressing,
4 bathing, toileting, transferring, or personal hygiene.

5 "Advisory Board" means the Assisted Living and Shared
6 Housing Standards and Quality of Life Advisory Board.

7 "Assisted living establishment" or "establishment" means a
8 home, building, residence, or any other place where sleeping
9 accommodations are provided for at least 3 unrelated adults, at
10 least 80% of whom are 55 years of age or older and where the
11 following are provided consistent with the purposes of this
12 Act:

13 (1) services consistent with a social model that is
14 based on the premise that the resident's unit in assisted
15 living and shared housing is his or her own home;

16 (2) community-based residential care for persons who
17 need assistance with activities of daily living, including
18 personal, supportive, and intermittent health-related
19 services available 24 hours per day, if needed, to meet the
20 scheduled and unscheduled needs of a resident;

21 (3) mandatory services, whether provided directly by
22 the establishment or by another entity arranged for by the
23 establishment, with the consent of the resident or
24 resident's representative; and

25 (4) a physical environment that is a homelike setting

1 that includes the following and such other elements as
2 established by the Department in conjunction with the
3 Assisted Living and Shared Housing Standards and Quality of
4 Life Advisory Board: individual living units each of which
5 shall accommodate small kitchen appliances and contain
6 private bathing, washing, and toilet facilities, or
7 private washing and toilet facilities with a common bathing
8 room readily accessible to each resident. Units shall be
9 maintained for single occupancy except in cases in which 2
10 residents choose to share a unit. Sufficient common space
11 shall exist to permit individual and group activities.

12 "Assisted living establishment" or "establishment" does
13 not mean any of the following:

14 (1) A home, institution, or similar place operated by
15 the federal government or the State of Illinois.

16 (2) A long term care facility licensed under the
17 Nursing Home Care Act or a facility licensed under the
18 MR/DD Community Care Act. However, a ~~long term care~~
19 facility licensed under either of those Acts may convert
20 distinct parts of the facility to assisted living. If the
21 ~~long term care~~ facility elects to do so, the facility shall
22 retain the Certificate of Need for its nursing and
23 sheltered care beds that were converted.

24 (3) A hospital, sanitarium, or other institution, the
25 principal activity or business of which is the diagnosis,
26 care, and treatment of human illness and that is required

1 to be licensed under the Hospital Licensing Act.

2 (4) A facility for child care as defined in the Child
3 Care Act of 1969.

4 (5) A community living facility as defined in the
5 Community Living Facilities Licensing Act.

6 (6) A nursing home or sanitarium operated solely by and
7 for persons who rely exclusively upon treatment by
8 spiritual means through prayer in accordance with the creed
9 or tenants of a well-recognized church or religious
10 denomination.

11 (7) A facility licensed by the Department of Human
12 Services as a community-integrated living arrangement as
13 defined in the Community-Integrated Living Arrangements
14 Licensure and Certification Act.

15 (8) A supportive residence licensed under the
16 Supportive Residences Licensing Act.

17 (9) The portion of a life care facility as defined in
18 the Life Care Facilities Act not licensed as an assisted
19 living establishment under this Act; a life care facility
20 may apply under this Act to convert sections of the
21 community to assisted living.

22 (10) A free-standing hospice facility licensed under
23 the Hospice Program Licensing Act.

24 (11) A shared housing establishment.

25 (12) A supportive living facility as described in
26 Section 5-5.01a of the Illinois Public Aid Code.

1 "Department" means the Department of Public Health.

2 "Director" means the Director of Public Health.

3 "Emergency situation" means imminent danger of death or
4 serious physical harm to a resident of an establishment.

5 "License" means any of the following types of licenses
6 issued to an applicant or licensee by the Department:

7 (1) "Probationary license" means a license issued to an
8 applicant or licensee that has not held a license under
9 this Act prior to its application or pursuant to a license
10 transfer in accordance with Section 50 of this Act.

11 (2) "Regular license" means a license issued by the
12 Department to an applicant or licensee that is in
13 substantial compliance with this Act and any rules
14 promulgated under this Act.

15 "Licensee" means a person, agency, association,
16 corporation, partnership, or organization that has been issued
17 a license to operate an assisted living or shared housing
18 establishment.

19 "Licensed health care professional" means a registered
20 professional nurse, an advanced practice nurse, a physician
21 assistant, and a licensed practical nurse.

22 "Mandatory services" include the following:

23 (1) 3 meals per day available to the residents prepared
24 by the establishment or an outside contractor;

25 (2) housekeeping services including, but not limited
26 to, vacuuming, dusting, and cleaning the resident's unit;

1 (3) personal laundry and linen services available to
2 the residents provided or arranged for by the
3 establishment;

4 (4) security provided 24 hours each day including, but
5 not limited to, locked entrances or building or contract
6 security personnel;

7 (5) an emergency communication response system, which
8 is a procedure in place 24 hours each day by which a
9 resident can notify building management, an emergency
10 response vendor, or others able to respond to his or her
11 need for assistance; and

12 (6) assistance with activities of daily living as
13 required by each resident.

14 "Negotiated risk" is the process by which a resident, or
15 his or her representative, may formally negotiate with
16 providers what risks each are willing and unwilling to assume
17 in service provision and the resident's living environment. The
18 provider assures that the resident and the resident's
19 representative, if any, are informed of the risks of these
20 decisions and of the potential consequences of assuming these
21 risks.

22 "Owner" means the individual, partnership, corporation,
23 association, or other person who owns an assisted living or
24 shared housing establishment. In the event an assisted living
25 or shared housing establishment is operated by a person who
26 leases or manages the physical plant, which is owned by another

1 person, "owner" means the person who operates the assisted
2 living or shared housing establishment, except that if the
3 person who owns the physical plant is an affiliate of the
4 person who operates the assisted living or shared housing
5 establishment and has significant control over the day to day
6 operations of the assisted living or shared housing
7 establishment, the person who owns the physical plant shall
8 incur jointly and severally with the owner all liabilities
9 imposed on an owner under this Act.

10 "Physician" means a person licensed under the Medical
11 Practice Act of 1987 to practice medicine in all of its
12 branches.

13 "Resident" means a person residing in an assisted living or
14 shared housing establishment.

15 "Resident's representative" means a person, other than the
16 owner, agent, or employee of an establishment or of the health
17 care provider unless related to the resident, designated in
18 writing by a resident to be his or her representative. This
19 designation may be accomplished through the Illinois Power of
20 Attorney Act, pursuant to the guardianship process under the
21 Probate Act of 1975, or pursuant to an executed designation of
22 representative form specified by the Department.

23 "Self" means the individual or the individual's designated
24 representative.

25 "Shared housing establishment" or "establishment" means a
26 publicly or privately operated free-standing residence for 16

1 or fewer persons, at least 80% of whom are 55 years of age or
2 older and who are unrelated to the owners and one manager of
3 the residence, where the following are provided:

4 (1) services consistent with a social model that is
5 based on the premise that the resident's unit is his or her
6 own home;

7 (2) community-based residential care for persons who
8 need assistance with activities of daily living, including
9 housing and personal, supportive, and intermittent
10 health-related services available 24 hours per day, if
11 needed, to meet the scheduled and unscheduled needs of a
12 resident; and

13 (3) mandatory services, whether provided directly by
14 the establishment or by another entity arranged for by the
15 establishment, with the consent of the resident or the
16 resident's representative.

17 "Shared housing establishment" or "establishment" does not
18 mean any of the following:

19 (1) A home, institution, or similar place operated by
20 the federal government or the State of Illinois.

21 (2) A long term care facility licensed under the
22 Nursing Home Care Act or a facility licensed under the
23 MR/DD Community Care Act. A ~~long term care~~ facility
24 licensed under either of those Acts may, however, convert
25 sections of the facility to assisted living. If the ~~long~~
26 ~~term care~~ facility elects to do so, the facility shall

1 retain the Certificate of Need for its nursing beds that
2 were converted.

3 (3) A hospital, sanitarium, or other institution, the
4 principal activity or business of which is the diagnosis,
5 care, and treatment of human illness and that is required
6 to be licensed under the Hospital Licensing Act.

7 (4) A facility for child care as defined in the Child
8 Care Act of 1969.

9 (5) A community living facility as defined in the
10 Community Living Facilities Licensing Act.

11 (6) A nursing home or sanitarium operated solely by and
12 for persons who rely exclusively upon treatment by
13 spiritual means through prayer in accordance with the creed
14 or tenants of a well-recognized church or religious
15 denomination.

16 (7) A facility licensed by the Department of Human
17 Services as a community-integrated living arrangement as
18 defined in the Community-Integrated Living Arrangements
19 Licensure and Certification Act.

20 (8) A supportive residence licensed under the
21 Supportive Residences Licensing Act.

22 (9) A life care facility as defined in the Life Care
23 Facilities Act; a life care facility may apply under this
24 Act to convert sections of the community to assisted
25 living.

26 (10) A free-standing hospice facility licensed under

1 the Hospice Program Licensing Act.

2 (11) An assisted living establishment.

3 (12) A supportive living facility as described in
4 Section 5-5.01a of the Illinois Public Aid Code.

5 "Total assistance" means that staff or another individual
6 performs the entire activity of daily living without
7 participation by the resident.

8 (Source: P.A. 95-216, eff. 8-16-07.)

9 (210 ILCS 9/35)

10 Sec. 35. Issuance of license.

11 (a) Upon receipt and review of an application for a license
12 and review of the applicant establishment, the Director may
13 issue a license if he or she finds:

14 (1) that the individual applicant, or the corporation,
15 partnership, or other entity if the applicant is not an
16 individual, is a person responsible and suitable to operate
17 or to direct or participate in the operation of an
18 establishment by virtue of financial capacity, appropriate
19 business or professional experience, a record of lawful
20 compliance with lawful orders of the Department and lack of
21 revocation of a license issued under this Act, ~~or~~ the
22 Nursing Home Care Act, or the MR/DD Community Care Act
23 during the previous 5 years;

24 (2) that the establishment is under the supervision of
25 a full-time director who is at least 21 years of age and

1 has a high school diploma or equivalent plus either:

2 (A) 2 years of management experience or 2 years of
3 experience in positions of progressive responsibility
4 in health care, housing with services, or adult day
5 care or providing similar services to the elderly; or

6 (B) 2 years of management experience or 2 years of
7 experience in positions of progressive responsibility
8 in hospitality and training in health care and housing
9 with services management as defined by rule;

10 (3) that the establishment has staff sufficient in
11 number with qualifications, adequate skills, education,
12 and experience to meet the 24 hour scheduled and
13 unscheduled needs of residents and who participate in
14 ongoing training to serve the resident population;

15 (4) that all employees who are subject to the Health
16 Care Worker Background Check Act meet the requirements of
17 that Act;

18 (5) that the applicant is in substantial compliance
19 with this Act and such other requirements for a license as
20 the Department by rule may establish under this Act;

21 (6) that the applicant pays all required fees;

22 (7) that the applicant has provided to the Department
23 an accurate disclosure document in accordance with the
24 Alzheimer's Special Care Disclosure Act and in substantial
25 compliance with Section 150 of this Act.

26 In addition to any other requirements set forth in this

1 Act, as a condition of licensure under this Act, the director
2 of an establishment must participate in at least 20 hours of
3 training every 2 years to assist him or her in better meeting
4 the needs of the residents of the establishment and managing
5 the operation of the establishment.

6 Any license issued by the Director shall state the physical
7 location of the establishment, the date the license was issued,
8 and the expiration date. All licenses shall be valid for one
9 year, except as provided in Sections 40 and 45. Each license
10 shall be issued only for the premises and persons named in the
11 application, and shall not be transferable or assignable.

12 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;
13 95-628, eff. 9-25-07; 95-876, eff. 8-21-08.)

14 (210 ILCS 9/55)

15 Sec. 55. Grounds for denial of a license. An application
16 for a license may be denied for any of the following reasons:

17 (1) failure to meet any of the standards set forth in
18 this Act or by rules adopted by the Department under this
19 Act;

20 (2) conviction of the applicant, or if the applicant is
21 a firm, partnership, or association, of any of its members,
22 or if a corporation, the conviction of the corporation or
23 any of its officers or stockholders, or of the person
24 designated to manage or supervise the establishment, of a
25 felony or of 2 or more misdemeanors involving moral

1 turpitude during the previous 5 years as shown by a
2 certified copy of the record of the court of conviction;

3 (3) personnel insufficient in number or unqualified by
4 training or experience to properly care for the residents;

5 (4) insufficient financial or other resources to
6 operate and conduct the establishment in accordance with
7 standards adopted by the Department under this Act;

8 (5) revocation of a license during the previous 5
9 years, if such prior license was issued to the individual
10 applicant, a controlling owner or controlling combination
11 of owners of the applicant; or any affiliate of the
12 individual applicant or controlling owner of the applicant
13 and such individual applicant, controlling owner of the
14 applicant or affiliate of the applicant was a controlling
15 owner of the prior license; provided, however, that the
16 denial of an application for a license pursuant to this
17 Section must be supported by evidence that the prior
18 revocation renders the applicant unqualified or incapable
19 of meeting or maintaining an establishment in accordance
20 with the standards and rules adopted by the Department
21 under this Act; or

22 (6) the establishment is not under the direct
23 supervision of a full-time director, as defined by rule.

24 The Department shall deny an application for a license if 6
25 months after submitting its initial application the applicant
26 has not provided the Department with all of the information

1 required for review and approval or the applicant is not
2 actively pursuing the processing of its application. In
3 addition, the Department shall determine whether the applicant
4 has violated any provision of the Nursing Home Care Act or the
5 MR/DD Community Care Act.

6 (Source: P.A. 93-1003, eff. 8-23-04.)

7 (210 ILCS 9/145)

8 Sec. 145. Conversion of facilities. Entities licensed as
9 facilities under the Nursing Home Care Act or the MR/DD
10 Community Care Act may elect to convert to a license under this
11 Act. Any facility that chooses to convert, in whole or in part,
12 shall follow the requirements in the Nursing Home Care Act or
13 the MR/DD Community Care Act, as applicable, and rules
14 promulgated under those Acts ~~that Act~~ regarding voluntary
15 closure and notice to residents. Any conversion of existing
16 beds licensed under the Nursing Home Care Act or the MR/DD
17 Community Care Act to licensure under this Act is exempt from
18 review by the Health Facilities Planning Board.

19 (Source: P.A. 91-656, eff. 1-1-01.)

20 Section 90-85. The Abuse Prevention Review Team Act is
21 amended by changing Sections 10 and 50 as follows:

22 (210 ILCS 28/10)

23 Sec. 10. Definitions. As used in this Act, unless the

1 context requires otherwise:

2 "Department" means the Department of Public Health.

3 "Director" means the Director of Public Health.

4 "Executive Council" means the Illinois Residential Health
5 Care Facility Resident Sexual Assault and Death Review Teams
6 Executive Council.

7 "Resident" means a person residing in and receiving
8 personal care from a facility licensed under the Nursing Home
9 Care Act or the MR/DD Community Care Act.

10 "Review team" means a residential health care facility
11 resident sexual assault and death review team appointed under
12 this Act.

13 (Source: P.A. 93-577, eff. 8-21-03.)

14 (210 ILCS 28/50)

15 Sec. 50. Funding. Notwithstanding any other provision of
16 law, to the extent permitted by federal law, the Department
17 shall use moneys from fines paid by facilities licensed under
18 the Nursing Home Care Act or the MR/DD Community Care Act for
19 violating requirements for certification under Titles XVIII
20 and XIX of the Social Security Act to implement the provisions
21 of this Act. The Department shall use moneys deposited in the
22 Long Term Care Monitor/Receiver Fund to pay the costs of
23 implementing this Act that cannot be met by the use of federal
24 civil monetary penalties.

25 (Source: P.A. 94-931, eff. 6-26-06.)

1 Section 90-90. The Abused and Neglected Long Term Care
2 Facility Residents Reporting Act is amended by changing
3 Sections 3, 4, and 6 as follows:

4 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

5 Sec. 3. As used in this Act unless the context otherwise
6 requires:

7 a. "Department" means the Department of Public Health of
8 the State of Illinois.

9 b. "Resident" means a person residing in and receiving
10 personal care from a long term care facility, or residing in a
11 mental health facility or developmental disability facility as
12 defined in the Mental Health and Developmental Disabilities
13 Code.

14 c. "Long term care facility" has the same meaning ascribed
15 to such term in the Nursing Home Care Act, except that the term
16 as used in this Act shall include any mental health facility or
17 developmental disability facility as defined in the Mental
18 Health and Developmental Disabilities Code. The term also
19 includes any facility licensed under the MR/DD Community Care
20 Act.

21 d. "Abuse" means any physical injury, sexual abuse or
22 mental injury inflicted on a resident other than by accidental
23 means.

24 e. "Neglect" means a failure in a long term care facility

1 to provide adequate medical or personal care or maintenance,
2 which failure results in physical or mental injury to a
3 resident or in the deterioration of a resident's physical or
4 mental condition.

5 f. "Protective services" means services provided to a
6 resident who has been abused or neglected, which may include,
7 but are not limited to alternative temporary institutional
8 placement, nursing care, counseling, other social services
9 provided at the nursing home where the resident resides or at
10 some other facility, personal care and such protective services
11 of voluntary agencies as are available.

12 g. Unless the context otherwise requires, direct or
13 indirect references in this Act to the programs, personnel,
14 facilities, services, service providers, or service recipients
15 of the Department of Human Services shall be construed to refer
16 only to those programs, personnel, facilities, services,
17 service providers, or service recipients that pertain to the
18 Department of Human Services' mental health and developmental
19 disabilities functions.

20 (Source: P.A. 89-507, eff. 7-1-97.)

21 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

22 Sec. 4. Any long term care facility administrator, agent or
23 employee or any physician, hospital, surgeon, dentist,
24 osteopath, chiropractor, podiatrist, accredited religious
25 practitioner who provides treatment by spiritual means alone

1 through prayer in accordance with the tenets and practices of
2 the accrediting church, coroner, social worker, social
3 services administrator, registered nurse, law enforcement
4 officer, field personnel of the Department of Healthcare and
5 Family Services, field personnel of the Illinois Department of
6 Public Health and County or Municipal Health Departments,
7 personnel of the Department of Human Services (acting as the
8 successor to the Department of Mental Health and Developmental
9 Disabilities or the Department of Public Aid), personnel of the
10 Guardianship and Advocacy Commission, personnel of the State
11 Fire Marshal, local fire department inspectors or other
12 personnel, or personnel of the Illinois Department on Aging, or
13 its subsidiary Agencies on Aging, or employee of a facility
14 licensed under the Assisted Living and Shared Housing Act,
15 having reasonable cause to believe any resident with whom they
16 have direct contact has been subjected to abuse or neglect
17 shall immediately report or cause a report to be made to the
18 Department. Persons required to make reports or cause reports
19 to be made under this Section include all employees of the
20 State of Illinois who are involved in providing services to
21 residents, including professionals providing medical or
22 rehabilitation services and all other persons having direct
23 contact with residents; and further include all employees of
24 community service agencies who provide services to a resident
25 of a public or private long term care facility outside of that
26 facility. Any long term care surveyor of the Illinois

1 Department of Public Health who has reasonable cause to believe
2 in the course of a survey that a resident has been abused or
3 neglected and initiates an investigation while on site at the
4 facility shall be exempt from making a report under this
5 Section but the results of any such investigation shall be
6 forwarded to the central register in a manner and form
7 described by the Department.

8 The requirement of this Act shall not relieve any long term
9 care facility administrator, agent or employee of
10 responsibility to report the abuse or neglect of a resident
11 under Section 3-610 of the Nursing Home Care Act or under
12 Section 3-610 of the MR/DD Community Care Act.

13 In addition to the above persons required to report
14 suspected resident abuse and neglect, any other person may make
15 a report to the Department, or to any law enforcement officer,
16 if such person has reasonable cause to suspect a resident has
17 been abused or neglected.

18 This Section also applies to residents whose death occurs
19 from suspected abuse or neglect before being found or brought
20 to a hospital.

21 A person required to make reports or cause reports to be
22 made under this Section who fails to comply with the
23 requirements of this Section is guilty of a Class A
24 misdemeanor.

25 (Source: P.A. 94-853, eff. 6-13-06.)

1 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

2 Sec. 6. All reports of suspected abuse or neglect made
3 under this Act shall be made immediately by telephone to the
4 Department's central register established under Section 14 on
5 the single, State-wide, toll-free telephone number established
6 under Section 13, or in person or by telephone through the
7 nearest Department office. No long term care facility
8 administrator, agent or employee, or any other person, shall
9 screen reports or otherwise withhold any reports from the
10 Department, and no long term care facility, department of State
11 government, or other agency shall establish any rules,
12 criteria, standards or guidelines to the contrary. Every long
13 term care facility, department of State government and other
14 agency whose employees are required to make or cause to be made
15 reports under Section 4 shall notify its employees of the
16 provisions of that Section and of this Section, and provide to
17 the Department documentation that such notification has been
18 given. The Department of Human Services shall train all of its
19 mental health and developmental disabilities employees in the
20 detection and reporting of suspected abuse and neglect of
21 residents. Reports made to the central register through the
22 State-wide, toll-free telephone number shall be transmitted to
23 appropriate Department offices and municipal health
24 departments that have responsibility for licensing long term
25 care facilities under the Nursing Home Care Act or the MR/DD
26 Community Care Act. All reports received through offices of the

1 Department shall be forwarded to the central register, in a
2 manner and form described by the Department. The Department
3 shall be capable of receiving reports of suspected abuse and
4 neglect 24 hours a day, 7 days a week. Reports shall also be
5 made in writing deposited in the U.S. mail, postage prepaid,
6 within 24 hours after having reasonable cause to believe that
7 the condition of the resident resulted from abuse or neglect.
8 Such reports may in addition be made to the local law
9 enforcement agency in the same manner. However, in the event a
10 report is made to the local law enforcement agency, the
11 reporter also shall immediately so inform the Department. The
12 Department shall initiate an investigation of each report of
13 resident abuse and neglect under this Act, whether oral or
14 written, as provided for in Section 3-702 of the Nursing Home
15 Care Act or Section 3-702 of the MR/DD Community Care Act,
16 except that reports of abuse which indicate that a resident's
17 life or safety is in imminent danger shall be investigated
18 within 24 hours of such report. The Department may delegate to
19 law enforcement officials or other public agencies the duty to
20 perform such investigation.

21 With respect to investigations of reports of suspected
22 abuse or neglect of residents of mental health and
23 developmental disabilities institutions under the jurisdiction
24 of the Department of Human Services, the Department shall
25 transmit copies of such reports to the Department of State
26 Police, the Department of Human Services, and the Inspector

1 General appointed under Section 1-17 of the Department of Human
2 Services Act. If the Department receives a report of suspected
3 abuse or neglect of a recipient of services as defined in
4 Section 1-123 of the Mental Health and Developmental
5 Disabilities Code, the Department shall transmit copies of such
6 report to the Inspector General and the Directors of the
7 Guardianship and Advocacy Commission and the agency designated
8 by the Governor pursuant to the Protection and Advocacy for
9 Developmentally Disabled Persons Act. When requested by the
10 Director of the Guardianship and Advocacy Commission, the
11 agency designated by the Governor pursuant to the Protection
12 and Advocacy for Developmentally Disabled Persons Act, or the
13 Department of Financial and Professional Regulation, the
14 Department, the Department of Human Services and the Department
15 of State Police shall make available a copy of the final
16 investigative report regarding investigations conducted by
17 their respective agencies on incidents of suspected abuse or
18 neglect of residents of mental health and developmental
19 disabilities institutions or individuals receiving services at
20 community agencies under the jurisdiction of the Department of
21 Human Services. Such final investigative report shall not
22 contain witness statements, investigation notes, draft
23 summaries, results of lie detector tests, investigative files
24 or other raw data which was used to compile the final
25 investigative report. Specifically, the final investigative
26 report of the Department of State Police shall mean the

1 Director's final transmittal letter. The Department of Human
2 Services shall also make available a copy of the results of
3 disciplinary proceedings of employees involved in incidents of
4 abuse or neglect to the Directors. All identifiable information
5 in reports provided shall not be further disclosed except as
6 provided by the Mental Health and Developmental Disabilities
7 Confidentiality Act. Nothing in this Section is intended to
8 limit or construe the power or authority granted to the agency
9 designated by the Governor pursuant to the Protection and
10 Advocacy for Developmentally Disabled Persons Act, pursuant to
11 any other State or federal statute.

12 With respect to investigations of reported resident abuse
13 or neglect, the Department shall effect with appropriate law
14 enforcement agencies formal agreements concerning methods and
15 procedures for the conduct of investigations into the criminal
16 histories of any administrator, staff assistant or employee of
17 the nursing home or other person responsible for the residents
18 care, as well as for other residents in the nursing home who
19 may be in a position to abuse, neglect or exploit the patient.
20 Pursuant to the formal agreements entered into with appropriate
21 law enforcement agencies, the Department may request
22 information with respect to whether the person or persons set
23 forth in this paragraph have ever been charged with a crime and
24 if so, the disposition of those charges. Unless the criminal
25 histories of the subjects involved crimes of violence or
26 resident abuse or neglect, the Department shall be entitled

1 only to information limited in scope to charges and their
2 dispositions. In cases where prior crimes of violence or
3 resident abuse or neglect are involved, a more detailed report
4 can be made available to authorized representatives of the
5 Department, pursuant to the agreements entered into with
6 appropriate law enforcement agencies. Any criminal charges and
7 their disposition information obtained by the Department shall
8 be confidential and may not be transmitted outside the
9 Department, except as required herein, to authorized
10 representatives or delegates of the Department, and may not be
11 transmitted to anyone within the Department who is not duly
12 authorized to handle resident abuse or neglect investigations.

13 The Department shall effect formal agreements with
14 appropriate law enforcement agencies in the various counties
15 and communities to encourage cooperation and coordination in
16 the handling of resident abuse or neglect cases pursuant to
17 this Act. The Department shall adopt and implement methods and
18 procedures to promote statewide uniformity in the handling of
19 reports of abuse and neglect under this Act, and those methods
20 and procedures shall be adhered to by personnel of the
21 Department involved in such investigations and reporting. The
22 Department shall also make information required by this Act
23 available to authorized personnel within the Department, as
24 well as its authorized representatives.

25 The Department shall keep a continuing record of all
26 reports made pursuant to this Act, including indications of the

1 final determination of any investigation and the final
2 disposition of all reports.

3 The Department shall report annually to the General
4 Assembly on the incidence of abuse and neglect of long term
5 care facility residents, with special attention to residents
6 who are mentally disabled. The report shall include but not be
7 limited to data on the number and source of reports of
8 suspected abuse or neglect filed under this Act, the nature of
9 any injuries to residents, the final determination of
10 investigations, the type and number of cases where abuse or
11 neglect is determined to exist, and the final disposition of
12 cases.

13 (Source: P.A. 94-852, eff. 6-13-06; 95-545, eff. 8-28-07.)

14 Section 90-95. The Nursing Home Care Act is amended by
15 changing Sections 1-113 and 3-202.5 as follows:

16 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

17 Sec. 1-113. "Facility" or "long-term care facility" means a
18 private home, institution, building, residence, or any other
19 place, whether operated for profit or not, or a county home for
20 the infirm and chronically ill operated pursuant to Division
21 5-21 or 5-22 of the Counties Code, or any similar institution
22 operated by a political subdivision of the State of Illinois,
23 which provides, through its ownership or management, personal
24 care, sheltered care or nursing for 3 or more persons, not

1 related to the applicant or owner by blood or marriage. It
2 includes skilled nursing facilities and intermediate care
3 facilities as those terms are defined in Title XVIII and Title
4 XIX of the Federal Social Security Act. It also includes homes,
5 institutions, or other places operated by or under the
6 authority of the Illinois Department of Veterans' Affairs.

7 "Facility" does not include the following:

8 (1) A home, institution, or other place operated by the
9 federal government or agency thereof, or by the State of
10 Illinois, other than homes, institutions, or other places
11 operated by or under the authority of the Illinois
12 Department of Veterans' Affairs;

13 (2) A hospital, sanitarium, or other institution whose
14 principal activity or business is the diagnosis, care, and
15 treatment of human illness through the maintenance and
16 operation as organized facilities therefor, which is
17 required to be licensed under the Hospital Licensing Act;

18 (3) Any "facility for child care" as defined in the
19 Child Care Act of 1969;

20 (4) Any "Community Living Facility" as defined in the
21 Community Living Facilities Licensing Act;

22 (5) Any "community residential alternative" as defined
23 in the Community Residential Alternatives Licensing Act;

24 (6) Any nursing home or sanatorium operated solely by
25 and for persons who rely exclusively upon treatment by
26 spiritual means through prayer, in accordance with the

1 creed or tenets of any well-recognized church or religious
2 denomination. However, such nursing home or sanatorium
3 shall comply with all local laws and rules relating to
4 sanitation and safety;

5 (7) Any facility licensed by the Department of Human
6 Services as a community-integrated living arrangement as
7 defined in the Community-Integrated Living Arrangements
8 Licensure and Certification Act;

9 (8) Any "Supportive Residence" licensed under the
10 Supportive Residences Licensing Act;

11 (9) Any "supportive living facility" in good standing
12 with the program established under Section 5-5.01a of the
13 Illinois Public Aid Code, except only for purposes of the
14 employment of persons in accordance with Section 3-206.01;

15 (10) Any assisted living or shared housing
16 establishment licensed under the Assisted Living and
17 Shared Housing Act, except only for purposes of the
18 employment of persons in accordance with Section 3-206.01;

19 ~~or~~

20 (11) An Alzheimer's disease management center
21 alternative health care model licensed under the
22 Alternative Health Care Delivery Act; or-

23 (12) A facility licensed under the MR/DD Community Care
24 Act.

25 (Source: P.A. 94-342, eff. 7-26-05; 95-380, eff. 8-23-07.)

1 (210 ILCS 45/3-202.5)

2 Sec. 3-202.5. Facility plan review; fees.

3 (a) Before commencing construction of a new facility or
4 specified types of alteration or additions to an existing long
5 term care facility involving major construction, as defined by
6 rule by the Department, with an estimated cost greater than
7 \$100,000, architectural drawings and specifications for the
8 facility shall be submitted to the Department for review and
9 approval. A facility may submit architectural drawings and
10 specifications for other construction projects for Department
11 review according to subsection (b) that shall not be subject to
12 fees under subsection (d). Review of drawings and
13 specifications shall be conducted by an employee of the
14 Department meeting the qualifications established by the
15 Department of Central Management Services class specifications
16 for such an individual's position or by a person contracting
17 with the Department who meets those class specifications. Final
18 approval of the drawings and specifications for compliance with
19 design and construction standards shall be obtained from the
20 Department before the alteration, addition, or new
21 construction is begun.

22 (b) The Department shall inform an applicant in writing
23 within 10 working days after receiving drawings and
24 specifications and the required fee, if any, from the applicant
25 whether the applicant's submission is complete or incomplete.
26 Failure to provide the applicant with this notice within 10

1 working days shall result in the submission being deemed
2 complete for purposes of initiating the 60-day review period
3 under this Section. If the submission is incomplete, the
4 Department shall inform the applicant of the deficiencies with
5 the submission in writing. If the submission is complete the
6 required fee, if any, has been paid, the Department shall
7 approve or disapprove drawings and specifications submitted to
8 the Department no later than 60 days following receipt by the
9 Department. The drawings and specifications shall be of
10 sufficient detail, as provided by Department rule, to enable
11 the Department to render a determination of compliance with
12 design and construction standards under this Act. If the
13 Department finds that the drawings are not of sufficient detail
14 for it to render a determination of compliance, the plans shall
15 be determined to be incomplete and shall not be considered for
16 purposes of initiating the 60 day review period. If a
17 submission of drawings and specifications is incomplete, the
18 applicant may submit additional information. The 60-day review
19 period shall not commence until the Department determines that
20 a submission of drawings and specifications is complete or the
21 submission is deemed complete. If the Department has not
22 approved or disapproved the drawings and specifications within
23 60 days, the construction, major alteration, or addition shall
24 be deemed approved. If the drawings and specifications are
25 disapproved, the Department shall state in writing, with
26 specificity, the reasons for the disapproval. The entity

1 submitting the drawings and specifications may submit
2 additional information in response to the written comments from
3 the Department or request a reconsideration of the disapproval.
4 A final decision of approval or disapproval shall be made
5 within 45 days of the receipt of the additional information or
6 reconsideration request. If denied, the Department shall state
7 the specific reasons for the denial.

8 (c) The Department shall provide written approval for
9 occupancy pursuant to subsection (g) and shall not issue a
10 violation to a facility as a result of a licensure or complaint
11 survey based upon the facility's physical structure if:

12 (1) the Department reviewed and approved or deemed
13 approved the drawings and specifications for compliance
14 with design and construction standards;

15 (2) the construction, major alteration, or addition
16 was built as submitted;

17 (3) the law or rules have not been amended since the
18 original approval; and

19 (4) the conditions at the facility indicate that there
20 is a reasonable degree of safety provided for the
21 residents.

22 (d) The Department shall charge the following fees in
23 connection with its reviews conducted before June 30, 2004
24 under this Section:

25 (1) (Blank).

26 (2) (Blank).

1 (3) If the estimated dollar value of the alteration,
2 addition, or new construction is \$100,000 or more but less
3 than \$500,000, the fee shall be the greater of \$2,400 or
4 1.2% of that value.

5 (4) If the estimated dollar value of the alteration,
6 addition, or new construction is \$500,000 or more but less
7 than \$1,000,000, the fee shall be the greater of \$6,000 or
8 0.96% of that value.

9 (5) If the estimated dollar value of the alteration,
10 addition, or new construction is \$1,000,000 or more but
11 less than \$5,000,000, the fee shall be the greater of
12 \$9,600 or 0.22% of that value.

13 (6) If the estimated dollar value of the alteration,
14 addition, or new construction is \$5,000,000 or more, the
15 fee shall be the greater of \$11,000 or 0.11% of that value,
16 but shall not exceed \$40,000.

17 The fees provided in this subsection (d) shall not apply to
18 major construction projects involving facility changes that
19 are required by Department rule amendments.

20 The fees provided in this subsection (d) shall also not
21 apply to major construction projects if 51% or more of the
22 estimated cost of the project is attributed to capital
23 equipment. For major construction projects where 51% or more of
24 the estimated cost of the project is attributed to capital
25 equipment, the Department shall by rule establish a fee that is
26 reasonably related to the cost of reviewing the project.

1 The Department shall not commence the facility plan review
2 process under this Section until the applicable fee has been
3 paid.

4 (e) All fees received by the Department under this Section
5 shall be deposited into the Health Facility Plan Review Fund, a
6 special fund created in the State Treasury. All fees paid by
7 long-term care facilities under subsection (d) shall be used
8 only to cover the costs relating to the Department's review of
9 long-term care facility projects under this Section. Moneys
10 shall be appropriated from that Fund to the Department only to
11 pay the costs of conducting reviews under this Section or under
12 Section 3-202.5 of the MR/DD Community Care Act. None of the
13 moneys in the Health Facility Plan Review Fund shall be used to
14 reduce the amount of General Revenue Fund moneys appropriated
15 to the Department for facility plan reviews conducted pursuant
16 to this Section.

17 (f) (1) The provisions of this amendatory Act of 1997
18 concerning drawings and specifications shall apply only to
19 drawings and specifications submitted to the Department on
20 or after October 1, 1997.

21 (2) On and after the effective date of this amendatory
22 Act of 1997 and before October 1, 1997, an applicant may
23 submit or resubmit drawings and specifications to the
24 Department and pay the fees provided in subsection (d). If
25 an applicant pays the fees provided in subsection (d) under
26 this paragraph (2), the provisions of subsection (b) shall

1 apply with regard to those drawings and specifications.

2 (g) The Department shall conduct an on-site inspection of
3 the completed project no later than 30 days after notification
4 from the applicant that the project has been completed and all
5 certifications required by the Department have been received
6 and accepted by the Department. The Department shall provide
7 written approval for occupancy to the applicant within 5
8 working days of the Department's final inspection, provided the
9 applicant has demonstrated substantial compliance as defined
10 by Department rule. Occupancy of new major construction is
11 prohibited until Department approval is received, unless the
12 Department has not acted within the time frames provided in
13 this subsection (g), in which case the construction shall be
14 deemed approved. Occupancy shall be authorized after any
15 required health inspection by the Department has been
16 conducted.

17 (h) The Department shall establish, by rule, a procedure to
18 conduct interim on-site review of large or complex construction
19 projects.

20 (i) The Department shall establish, by rule, an expedited
21 process for emergency repairs or replacement of like equipment.

22 (j) Nothing in this Section shall be construed to apply to
23 maintenance, upkeep, or renovation that does not affect the
24 structural integrity of the building, does not add beds or
25 services over the number for which the long-term care facility
26 is licensed, and provides a reasonable degree of safety for the

1 residents.

2 (Source: P.A. 90-327, eff. 8-8-97; 90-600, eff. 6-25-98;
3 91-712, eff. 7-1-00.)

4 Section 90-100. The Home Health, Home Services, and Home
5 Nursing Agency Licensing Act is amended by changing Section
6 2.08 as follows:

7 (210 ILCS 55/2.08)

8 Sec. 2.08. "Home services agency" means an agency that
9 provides services directly, or acts as a placement agency, for
10 the purpose of placing individuals as workers providing home
11 services for consumers in their personal residences. "Home
12 services agency" does not include agencies licensed under the
13 Nurse Agency Licensing Act, the Hospital Licensing Act, the
14 Nursing Home Care Act, the MR/DD Community Care Act, or the
15 Assisted Living and Shared Housing Act and does not include an
16 agency that limits its business exclusively to providing
17 housecleaning services. Programs providing services
18 exclusively through the Community Care Program of the Illinois
19 Department on Aging or the Department of Human Services Office
20 of Rehabilitation Services are not considered to be a home
21 services agency under this Act.

22 (Source: P.A. 94-379, eff. 1-1-06.)

23 Section 90-105. The Hospice Program Licensing Act is

1 amended by changing Sections 3 and 4 as follows:

2 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

3 Sec. 3. Definitions. As used in this Act, unless the
4 context otherwise requires:

5 (a) "Bereavement" means the period of time during which the
6 hospice patient's family experiences and adjusts to the death
7 of the hospice patient.

8 (a-5) "Bereavement services" means counseling services
9 provided to an individual's family after the individual's
10 death.

11 (a-10) "Attending physician" means a physician who:

12 (1) is a doctor of medicine or osteopathy; and

13 (2) is identified by an individual, at the time the
14 individual elects to receive hospice care, as having the
15 most significant role in the determination and delivery of
16 the individual's medical care.

17 (b) "Department" means the Illinois Department of Public
18 Health.

19 (c) "Director" means the Director of the Illinois
20 Department of Public Health.

21 (d) "Hospice care" means a program of palliative care that
22 provides for the physical, emotional, and spiritual care needs
23 of a terminally ill patient and his or her family. The goal of
24 such care is to achieve the highest quality of life as defined
25 by the patient and his or her family through the relief of

1 suffering and control of symptoms.

2 (e) "Hospice care team" means an interdisciplinary group or
3 groups composed of individuals who provide or supervise the
4 care and services offered by the hospice.

5 (f) "Hospice patient" means a terminally ill person
6 receiving hospice services.

7 (g) "Hospice patient's family" means a hospice patient's
8 immediate family consisting of a spouse, sibling, child, parent
9 and those individuals designated as such by the patient for the
10 purposes of this Act.

11 (g-1) "Hospice residence" means a separately licensed
12 home, apartment building, or similar building providing living
13 quarters:

14 (1) that is owned or operated by a person licensed to
15 operate as a comprehensive hospice; and

16 (2) at which hospice services are provided to facility
17 residents.

18 A building that is licensed under the Hospital Licensing
19 Act, ~~or~~ the Nursing Home Care Act, or the MR/DD Community Care
20 Act is not a hospice residence.

21 (h) "Hospice services" means a range of professional and
22 other supportive services provided to a hospice patient and his
23 or her family. These services may include, but are not limited
24 to, physician services, nursing services, medical social work
25 services, spiritual counseling services, bereavement services,
26 and volunteer services.

1 (h-5) "Hospice program" means a licensed public agency or
2 private organization, or a subdivision of either of those, that
3 is primarily engaged in providing care to terminally ill
4 individuals through a program of home care or inpatient care,
5 or both home care and inpatient care, utilizing a medically
6 directed interdisciplinary hospice care team of professionals
7 or volunteers, or both professionals and volunteers. A hospice
8 program may be licensed as a comprehensive hospice program or a
9 volunteer hospice program.

10 (h-10) "Comprehensive hospice" means a program that
11 provides hospice services and meets the minimum standards for
12 certification under the Medicare program set forth in the
13 Conditions of Participation in 42 CFR Part 418 but is not
14 required to be Medicare-certified.

15 (i) "Palliative care" means the management of pain and
16 other distressing symptoms that incorporates medical, nursing,
17 psychosocial, and spiritual care according to the needs,
18 values, beliefs, and culture or cultures of the patient and his
19 or her family. The evaluation and treatment is
20 patient-centered, with a focus on the central role of the
21 family unit in decision-making.

22 (j) "Hospice service plan" means a plan detailing the
23 specific hospice services offered by a comprehensive or
24 volunteer hospice program, and the administrative and direct
25 care personnel responsible for those services. The plan shall
26 include but not be limited to:

1 (1) Identification of the person or persons
2 administratively responsible for the program.

3 (2) The estimated average monthly patient census.

4 (3) The proposed geographic area the hospice will
5 serve.

6 (4) A listing of those hospice services provided
7 directly by the hospice, and those hospice services
8 provided indirectly through a contractual agreement.

9 (5) The name and qualifications of those persons or
10 entities under contract to provide indirect hospice
11 services.

12 (6) The name and qualifications of those persons
13 providing direct hospice services, with the exception of
14 volunteers.

15 (7) A description of how the hospice plans to utilize
16 volunteers in the provision of hospice services.

17 (8) A description of the program's record keeping
18 system.

19 (k) "Terminally ill" means a medical prognosis by a
20 physician licensed to practice medicine in all of its branches
21 that a patient has an anticipated life expectancy of one year
22 or less.

23 (l) "Volunteer" means a person who offers his or her
24 services to a hospice without compensation. Reimbursement for a
25 volunteer's expenses in providing hospice service shall not be
26 considered compensation.

1 (1-5) "Employee" means a paid or unpaid member of the staff
2 of a hospice program, or, if the hospice program is a
3 subdivision of an agency or organization, of the agency or
4 organization, who is appropriately trained and assigned to the
5 hospice program. "Employee" also means a volunteer whose duties
6 are prescribed by the hospice program and whose performance of
7 those duties is supervised by the hospice program.

8 (1-10) "Representative" means an individual who has been
9 authorized under State law to terminate an individual's medical
10 care or to elect or revoke the election of hospice care on
11 behalf of a terminally ill individual who is mentally or
12 physically incapacitated.

13 (m) "Volunteer hospice" means a program which provides
14 hospice services to patients regardless of their ability to
15 pay, with emphasis on the utilization of volunteers to provide
16 services, under the administration of a not-for-profit agency.
17 This definition does not prohibit the employment of staff.

18 (Source: P.A. 93-319, eff. 7-23-03; 94-570, eff. 8-12-05.)

19 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

20 Sec. 4. License.

21 (a) No person shall establish, conduct or maintain a
22 comprehensive or volunteer hospice program without first
23 obtaining a license from the Department. A hospice residence
24 may be operated only at the locations listed on the license. A
25 comprehensive hospice program owning or operating a hospice

1 residence is not subject to the provisions of the Nursing Home
2 Care Act or the MR/DD Community Care Act in owning or operating
3 a hospice residence.

4 (b) No public or private agency shall advertise or present
5 itself to the public as a comprehensive or volunteer hospice
6 program which provides hospice services without meeting the
7 provisions of subsection (a).

8 (c) The license shall be valid only in the possession of
9 the hospice to which it was originally issued and shall not be
10 transferred or assigned to any other person, agency, or
11 corporation.

12 (d) The license shall be renewed annually.

13 (e) The license shall be displayed in a conspicuous place
14 inside the hospice program office.

15 (Source: P.A. 93-319, eff. 7-23-03; 94-570, eff. 8-12-05.)

16 Section 90-110. The Hospital Licensing Act is amended by
17 changing Sections 3 and 6.09 as follows:

18 (210 ILCS 85/3) (from Ch. 111 1/2, par. 144)

19 Sec. 3. As used in this Act:

20 (A) "Hospital" means any institution, place, building, or
21 agency, public or private, whether organized for profit or not,
22 devoted primarily to the maintenance and operation of
23 facilities for the diagnosis and treatment or care of 2 or more
24 unrelated persons admitted for overnight stay or longer in

1 order to obtain medical, including obstetric, psychiatric and
2 nursing, care of illness, disease, injury, infirmity, or
3 deformity.

4 The term "hospital", without regard to length of stay,
5 shall also include:

6 (a) any facility which is devoted primarily to
7 providing psychiatric and related services and programs
8 for the diagnosis and treatment or care of 2 or more
9 unrelated persons suffering from emotional or nervous
10 diseases;

11 (b) all places where pregnant females are received,
12 cared for, or treated during delivery irrespective of the
13 number of patients received.

14 The term "hospital" includes general and specialized
15 hospitals, tuberculosis sanitarium, mental or psychiatric
16 hospitals and sanitarium, and includes maternity homes,
17 lying-in homes, and homes for unwed mothers in which care is
18 given during delivery.

19 The term "hospital" does not include:

20 (1) any person or institution required to be licensed
21 pursuant to the Nursing Home Care Act or the MR/DD
22 Community Care Act, ~~as amended~~;

23 (2) hospitalization or care facilities maintained by
24 the State or any department or agency thereof, where such
25 department or agency has authority under law to establish
26 and enforce standards for the hospitalization or care

1 facilities under its management and control;

2 (3) hospitalization or care facilities maintained by
3 the federal government or agencies thereof;

4 (4) hospitalization or care facilities maintained by
5 any university or college established under the laws of
6 this State and supported principally by public funds raised
7 by taxation;

8 (5) any person or facility required to be licensed
9 pursuant to the Alcoholism and Other Drug Abuse and
10 Dependency Act;

11 (6) any facility operated solely by and for persons who
12 rely exclusively upon treatment by spiritual means through
13 prayer, in accordance with the creed or tenets of any
14 well-recognized church or religious denomination; or

15 (7) An Alzheimer's disease management center
16 alternative health care model licensed under the
17 Alternative Health Care Delivery Act.

18 (B) "Person" means the State, and any political subdivision
19 or municipal corporation, individual, firm, partnership,
20 corporation, company, association, or joint stock association,
21 or the legal successor thereof.

22 (C) "Department" means the Department of Public Health of
23 the State of Illinois.

24 (D) "Director" means the Director of Public Health of the
25 State of Illinois.

26 (E) "Perinatal" means the period of time between the

1 conception of an infant and the end of the first month after
2 birth.

3 (F) "Federally designated organ procurement agency" means
4 the organ procurement agency designated by the Secretary of the
5 U.S. Department of Health and Human Services for the service
6 area in which a hospital is located; except that in the case of
7 a hospital located in a county adjacent to Wisconsin which
8 currently contracts with an organ procurement agency located in
9 Wisconsin that is not the organ procurement agency designated
10 by the U.S. Secretary of Health and Human Services for the
11 service area in which the hospital is located, if the hospital
12 applies for a waiver pursuant to 42 USC 1320b-8(a), it may
13 designate an organ procurement agency located in Wisconsin to
14 be thereafter deemed its federally designated organ
15 procurement agency for the purposes of this Act.

16 (G) "Tissue bank" means any facility or program operating
17 in Illinois that is certified by the American Association of
18 Tissue Banks or the Eye Bank Association of America and is
19 involved in procuring, furnishing, donating, or distributing
20 corneas, bones, or other human tissue for the purpose of
21 injecting, transfusing, or transplanting any of them into the
22 human body. "Tissue bank" does not include a licensed blood
23 bank. For the purposes of this Act, "tissue" does not include
24 organs.

25 (Source: P.A. 91-838, eff. 6-16-00.)

1 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

2 Sec. 6.09. (a) In order to facilitate the orderly
3 transition of aged and disabled patients from hospitals to
4 post-hospital care, whenever a patient who qualifies for the
5 federal Medicare program is hospitalized, the patient shall be
6 notified of discharge at least 24 hours prior to discharge from
7 the hospital. With regard to pending discharges to a skilled
8 nursing facility, the hospital must notify the case
9 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
10 least 24 hours prior to discharge or, if home health services
11 are ordered, the hospital must inform its designated case
12 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of
13 the pending discharge and must provide the patient with the
14 case coordination unit's telephone number and other contact
15 information.

16 (b) Every hospital shall develop procedures for a physician
17 with medical staff privileges at the hospital or any
18 appropriate medical staff member to provide the discharge
19 notice prescribed in subsection (a) of this Section. The
20 procedures must include prohibitions against discharging or
21 referring a patient to any of the following if unlicensed,
22 uncertified, or unregistered: (i) a board and care facility, as
23 defined in the Board and Care Home Act; (ii) an assisted living
24 and shared housing establishment, as defined in the Assisted
25 Living and Shared Housing Act; (iii) a facility licensed under
26 the Nursing Home Care Act or the MR/DD Community Care Act; (iv)

1 a supportive living facility, as defined in Section 5-5.01a of
2 the Illinois Public Aid Code; or (v) a free-standing hospice
3 facility licensed under the Hospice Program Licensing Act if
4 licensure, certification, or registration is required. The
5 Department of Public Health shall annually provide hospitals
6 with a list of licensed, certified, or registered board and
7 care facilities, assisted living and shared housing
8 establishments, nursing homes, supportive living facilities,
9 facilities licensed under the MR/DD Community Care Act, and
10 hospice facilities. Reliance upon this list by a hospital shall
11 satisfy compliance with this requirement. The procedure may
12 also include a waiver for any case in which a discharge notice
13 is not feasible due to a short length of stay in the hospital
14 by the patient, or for any case in which the patient
15 voluntarily desires to leave the hospital before the expiration
16 of the 24 hour period.

17 (c) At least 24 hours prior to discharge from the hospital,
18 the patient shall receive written information on the patient's
19 right to appeal the discharge pursuant to the federal Medicare
20 program, including the steps to follow to appeal the discharge
21 and the appropriate telephone number to call in case the
22 patient intends to appeal the discharge.

23 (Source: P.A. 94-335, eff. 7-26-05; 95-80, eff. 8-13-07;
24 95-651, eff. 10-11-07; 95-876, eff. 8-21-08.)

25 Section 90-115. The Language Assistance Services Act is

1 amended by changing Section 10 as follows:

2 (210 ILCS 87/10)

3 Sec. 10. Definitions. As used in this Act:

4 "Department" means the Department of Public Health.

5 "Interpreter" means a person fluent in English and in the
6 necessary language of the patient who can accurately speak,
7 read, and readily interpret the necessary second language, or a
8 person who can accurately sign and read sign language.
9 Interpreters shall have the ability to translate the names of
10 body parts and to describe completely symptoms and injuries in
11 both languages. Interpreters may include members of the medical
12 or professional staff.

13 "Language or communication barriers" means either of the
14 following:

15 (1) With respect to spoken language, barriers that are
16 experienced by limited-English-speaking or
17 non-English-speaking individuals who speak the same
18 primary language, if those individuals constitute at least
19 5% of the patients served by the health facility annually.

20 (2) With respect to sign language, barriers that are
21 experienced by individuals who are deaf and whose primary
22 language is sign language.

23 "Health facility" means a hospital licensed under the
24 Hospital Licensing Act, ~~or~~ a long-term care facility licensed
25 under the Nursing Home Care Act, or a facility licensed under

1 the MR/DD Community Care Act.

2 (Source: P.A. 93-564, eff. 1-1-04.)

3 Section 90-120. The Community-Integrated Living
4 Arrangements Licensure and Certification Act is amended by
5 changing Section 4 as follows:

6 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

7 Sec. 4. (a) Any community mental health or developmental
8 services agency who wishes to develop and support a variety of
9 community-integrated living arrangements may do so pursuant to
10 a license issued by the Department under this Act. However,
11 programs established under or otherwise subject to the Child
12 Care Act of 1969, ~~or~~ the Nursing Home Care Act, or the MR/DD
13 Community Care Act, as now or hereafter amended, shall remain
14 subject thereto, and this Act shall not be construed to limit
15 the application of those Acts.

16 (b) The system of licensure established under this Act
17 shall be for the purposes of:

18 (1) Insuring that all recipients residing in
19 community-integrated living arrangements are receiving
20 appropriate community-based services, including treatment,
21 training and habilitation or rehabilitation;

22 (2) Insuring that recipients' rights are protected and that
23 all programs provided to and placements arranged for recipients
24 comply with this Act, the Mental Health and Developmental

1 Disabilities Code, and applicable Department rules and
2 regulations;

3 (3) Maintaining the integrity of communities by requiring
4 regular monitoring and inspection of placements and other
5 services provided in community-integrated living arrangements.

6 The licensure system shall be administered by a quality
7 assurance unit within the Department which shall be
8 administratively independent of units responsible for funding
9 of agencies or community services.

10 (c) As a condition of being licensed by the Department as a
11 community mental health or developmental services agency under
12 this Act, the agency shall certify to the Department that:

13 (1) All recipients residing in community-integrated living
14 arrangements are receiving appropriate community-based
15 services, including treatment, training and habilitation or
16 rehabilitation;

17 (2) All programs provided to and placements arranged for
18 recipients are supervised by the agency; and

19 (3) All programs provided to and placements arranged for
20 recipients comply with this Act, the Mental Health and
21 Developmental Disabilities Code, and applicable Department
22 rules and regulations.

23 (d) An applicant for licensure as a community mental health
24 or developmental services agency under this Act shall submit an
25 application pursuant to the application process established by
26 the Department by rule and shall pay an application fee in an

1 amount established by the Department, which amount shall not be
2 more than \$200.

3 (e) If an applicant meets the requirements established by
4 the Department to be licensed as a community mental health or
5 developmental services agency under this Act, after payment of
6 the licensing fee, the Department shall issue a license valid
7 for 3 years from the date thereof unless suspended or revoked
8 by the Department or voluntarily surrendered by the agency.

9 (f) Upon application to the Department, the Department may
10 issue a temporary permit to an applicant for a 6-month period
11 to allow the holder of such permit reasonable time to become
12 eligible for a license under this Act.

13 (g) (1) The Department may conduct site visits to an agency
14 licensed under this Act, or to any program or placement
15 certified by the agency, and inspect the records or premises,
16 or both, of such agency, program or placement as it deems
17 appropriate, for the purpose of determining compliance with
18 this Act, the Mental Health and Developmental Disabilities
19 Code, and applicable Department rules and regulations.

20 (2) If the Department determines that an agency licensed
21 under this Act is not in compliance with this Act or the rules
22 and regulations promulgated under this Act, the Department
23 shall serve a notice of violation upon the licensee. Each
24 notice of violation shall be prepared in writing and shall
25 specify the nature of the violation, the statutory provision or
26 rule alleged to have been violated, and that the licensee

1 submit a plan of correction to the Department if required. The
2 notice shall also inform the licensee of any other action which
3 the Department might take pursuant to this Act and of the right
4 to a hearing.

5 (h) Upon the expiration of any license issued under this
6 Act, a license renewal application shall be required of and a
7 license renewal fee in an amount established by the Department
8 shall be charged to a community mental health or developmental
9 services agency, provided that such fee shall not be more than
10 \$200.

11 (Source: P.A. 86-820.)

12 Section 90-125. The Child Care Act of 1969 is amended by
13 changing Section 2.06 as follows:

14 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

15 Sec. 2.06. "Child care institution" means a child care
16 facility where more than 7 children are received and maintained
17 for the purpose of providing them with care or training or
18 both. The term "child care institution" includes residential
19 schools, primarily serving ambulatory handicapped children,
20 and those operating a full calendar year, but does not include:

21 (a) Any State-operated institution for child care
22 established by legislative action;

23 (b) Any juvenile detention or shelter care home established
24 and operated by any county or child protection district

1 established under the "Child Protection Act";

2 (c) Any institution, home, place or facility operating
3 under a license pursuant to the Nursing Home Care Act or the
4 MR/DD Community Care Act;

5 (d) Any bona fide boarding school in which children are
6 primarily taught branches of education corresponding to those
7 taught in public schools, grades one through 12, or taught in
8 public elementary schools, high schools, or both elementary and
9 high schools, and which operates on a regular academic school
10 year basis; or

11 (e) Any facility licensed as a "group home" as defined in
12 this Act.

13 (Source: P.A. 86-820.)

14 Section 90-130. The Health Care Worker Background Check Act
15 is amended by changing Section 15 as follows:

16 (225 ILCS 46/15)

17 Sec. 15. Definitions. In this Act:

18 "Applicant" means an individual seeking employment with a
19 health care employer who has received a bona fide conditional
20 offer of employment.

21 "Conditional offer of employment" means a bona fide offer
22 of employment by a health care employer to an applicant, which
23 is contingent upon the receipt of a report from the Department
24 of Public Health indicating that the applicant does not have a

1 record of conviction of any of the criminal offenses enumerated
2 in Section 25.

3 "Direct care" means the provision of nursing care or
4 assistance with feeding, dressing, movement, bathing,
5 toileting, or other personal needs, including home services as
6 defined in the Home Health, Home Services, and Home Nursing
7 Agency Licensing Act. The entity responsible for inspecting and
8 licensing, certifying, or registering the health care employer
9 may, by administrative rule, prescribe guidelines for
10 interpreting this definition with regard to the health care
11 employers that it licenses.

12 "Disqualifying offenses" means those offenses set forth in
13 Section 25 of this Act.

14 "Employee" means any individual hired, employed, or
15 retained to which this Act applies.

16 "Fingerprint-based criminal history records check" means a
17 livescan fingerprint-based criminal history records check
18 submitted as a fee applicant inquiry in the form and manner
19 prescribed by the Department of State Police.

20 "Health care employer" means:

21 (1) the owner or licensee of any of the following:

22 (i) a community living facility, as defined in the
23 Community Living Facilities Act;

24 (ii) a life care facility, as defined in the Life
25 Care Facilities Act;

26 (iii) a long-term care facility;

1 (iv) a home health agency, home services agency, or
2 home nursing agency as defined in the Home Health, Home
3 Services, and Home Nursing Agency Licensing Act;

4 (v) a hospice care program or volunteer hospice
5 program, as defined in the Hospice Program Licensing
6 Act;

7 (vi) a hospital, as defined in the Hospital
8 Licensing Act;

9 (vii) (blank);

10 (viii) a nurse agency, as defined in the Nurse
11 Agency Licensing Act;

12 (ix) a respite care provider, as defined in the
13 Respite Program Act;

14 (ix-a) an establishment licensed under the
15 Assisted Living and Shared Housing Act;

16 (x) a supportive living program, as defined in the
17 Illinois Public Aid Code;

18 (xi) early childhood intervention programs as
19 described in 59 Ill. Adm. Code 121;

20 (xii) the University of Illinois Hospital,
21 Chicago;

22 (xiii) programs funded by the Department on Aging
23 through the Community Care Program;

24 (xiv) programs certified to participate in the
25 Supportive Living Program authorized pursuant to
26 Section 5-5.01a of the Illinois Public Aid Code;

1 (xv) programs listed by the Emergency Medical
2 Services (EMS) Systems Act as Freestanding Emergency
3 Centers;

4 (xvi) locations licensed under the Alternative
5 Health Care Delivery Act;

6 (2) a day training program certified by the Department
7 of Human Services;

8 (3) a community integrated living arrangement operated
9 by a community mental health and developmental service
10 agency, as defined in the Community-Integrated Living
11 Arrangements Licensing and Certification Act; or

12 (4) the State Long Term Care Ombudsman Program,
13 including any regional long term care ombudsman programs
14 under Section 4.04 of the Illinois Act on the Aging, only
15 for the purpose of securing background checks.

16 "Initiate" means obtaining from a student, applicant, or
17 employee his or her social security number, demographics, a
18 disclosure statement, and an authorization for the Department
19 of Public Health or its designee to request a fingerprint-based
20 criminal history records check; transmitting this information
21 electronically to the Department of Public Health; conducting
22 Internet searches on certain web sites, including without
23 limitation the Illinois Sex Offender Registry, the Department
24 of Corrections' Sex Offender Search Engine, the Department of
25 Corrections' Inmate Search Engine, the Department of
26 Corrections Wanted Fugitives Search Engine, the National Sex

1 Offender Public Registry, and the website of the Health and
2 Human Services Office of Inspector General to determine if the
3 applicant has been adjudicated a sex offender, has been a
4 prison inmate, or has committed Medicare or Medicaid fraud, or
5 conducting similar searches as defined by rule; and having the
6 student, applicant, or employee's fingerprints collected and
7 transmitted electronically to the Department of State Police.

8 "Livescan vendor" means an entity whose equipment has been
9 certified by the Department of State Police to collect an
10 individual's demographics and inkless fingerprints and, in a
11 manner prescribed by the Department of State Police and the
12 Department of Public Health, electronically transmit the
13 fingerprints and required data to the Department of State
14 Police and a daily file of required data to the Department of
15 Public Health. The Department of Public Health shall negotiate
16 a contract with one or more vendors that effectively
17 demonstrate that the vendor has 2 or more years of experience
18 transmitting fingerprints electronically to the Department of
19 State Police and that the vendor can successfully transmit the
20 required data in a manner prescribed by the Department of
21 Public Health. Vendor authorization may be further defined by
22 administrative rule.

23 "Long-term care facility" means a facility licensed by the
24 State or certified under federal law as a long-term care
25 facility, including without limitation facilities licensed
26 under the Nursing Home Care Act or the MR/DD Community Care

1 Act, a supportive living facility, an assisted living
2 establishment, or a shared housing establishment or registered
3 as a board and care home.

4 (Source: P.A. 94-379, eff. 1-1-06; 94-570, eff. 8-12-05;
5 94-665, eff. 1-1-06; 95-120, eff. 8-13-07; 95-331, eff.
6 8-21-07.)

7 Section 90-135. The Nursing Home Administrators Licensing
8 and Disciplinary Act is amended by changing Sections 4 and 17
9 as follows:

10 (225 ILCS 70/4) (from Ch. 111, par. 3654)

11 (Section scheduled to be repealed on January 1, 2018)

12 Sec. 4. Definitions. For purposes of this Act, the
13 following definitions shall have the following meanings,
14 except where the context requires otherwise:

15 (1) "Act" means the Nursing Home Administrators
16 Licensing and Disciplinary Act.

17 (2) "Department" means the Department of Financial and
18 Professional Regulation.

19 (3) "Secretary" means the Secretary of Financial and
20 Professional Regulation.

21 (4) "Board" means the Nursing Home Administrators
22 Licensing and Disciplinary Board appointed by the
23 Governor.

24 (5) "Nursing home administrator" means the individual

1 licensed under this Act and directly responsible for
2 planning, organizing, directing and supervising the
3 operation of a nursing home, or who in fact performs such
4 functions, whether or not such functions are delegated to
5 one or more other persons.

6 (6) "Nursing home" or "facility" means any entity that
7 is required to be licensed by the Department of Public
8 Health under the Nursing Home Care Act, as amended, other
9 than a sheltered care home as defined thereunder, and
10 includes private homes, institutions, buildings,
11 residences, or other places, whether operated for profit or
12 not, irrespective of the names attributed to them, county
13 homes for the infirm and chronically ill operated pursuant
14 to the County Nursing Home Act, as amended, and any similar
15 institutions operated by a political subdivision of the
16 State of Illinois that provide, though their ownership or
17 management, maintenance, personal care, and nursing for 3
18 or more persons, not related to the owner by blood or
19 marriage, or any similar facilities in which maintenance is
20 provided to 3 or more persons who by reason of illness of
21 physical infirmity require personal care and nursing. The
22 term also means any facility licensed under the MR/DD
23 Community Care Act.

24 (7) "Maintenance" means food, shelter and laundry.

25 (8) "Personal care" means assistance with meals,
26 dressing, movement, bathing, or other personal needs, or

1 general supervision of the physical and mental well-being
2 of an individual who because of age, physical, or mental
3 disability, emotion or behavior disorder, or mental
4 retardation is incapable of managing his or her person,
5 whether or not a guardian has been appointed for such
6 individual. For the purposes of this Act, this definition
7 does not include the professional services of a nurse.

8 (9) "Nursing" means professional nursing or practical
9 nursing, as those terms are defined in the Nurse Practice
10 Act, for sick or infirm persons who are under the care and
11 supervision of licensed physicians or dentists.

12 (10) "Disciplinary action" means revocation,
13 suspension, probation, supervision, reprimand, required
14 education, fines or any other action taken by the
15 Department against a person holding a license.

16 (11) "Impaired" means the inability to practice with
17 reasonable skill and safety due to physical or mental
18 disabilities as evidenced by a written determination or
19 written consent based on clinical evidence including
20 deterioration through the aging process or loss of motor
21 skill, or abuse of drugs or alcohol, of sufficient degree
22 to diminish a person's ability to administer a nursing
23 home.

24 (12) "Address of record" means the designated address
25 recorded by the Department in the applicant's or licensee's
26 application file or license file maintained by the

1 Department's licensure maintenance unit. It is the duty of
2 the applicant or licensee to inform the Department of any
3 change of address, and such changes must be made either
4 through the Department's website or by contacting the
5 Department's licensure maintenance unit.

6 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;
7 revised 1-7-08.)

8 (225 ILCS 70/17) (from Ch. 111, par. 3667)

9 (Section scheduled to be repealed on January 1, 2018)

10 Sec. 17. Grounds for disciplinary action.

11 (a) The Department may impose fines not to exceed \$10,000
12 or may refuse to issue or to renew, or may revoke, suspend,
13 place on probation, censure, reprimand or take other
14 disciplinary or non-disciplinary action with regard to the
15 license of any person, for any one or combination of the
16 following causes:

17 (1) Intentional material misstatement in furnishing
18 information to the Department.

19 (2) Conviction of or entry of a plea of guilty or nolo
20 contendere to any crime that is a felony under the laws of
21 the United States or any state or territory thereof or a
22 misdemeanor of which an essential element is dishonesty or
23 that is directly related to the practice of the profession
24 of nursing home administration.

25 (3) Making any misrepresentation for the purpose of

1 obtaining a license, or violating any provision of this
2 Act.

3 (4) Immoral conduct in the commission of any act, such
4 as sexual abuse or sexual misconduct, related to the
5 licensee's practice.

6 (5) Failing to respond within 30 days, to a written
7 request made by the Department for information.

8 (6) Engaging in dishonorable, unethical or
9 unprofessional conduct of a character likely to deceive,
10 defraud or harm the public.

11 (7) Habitual use or addiction to alcohol, narcotics,
12 stimulants, or any other chemical agent or drug which
13 results in the inability to practice with reasonable
14 judgment, skill or safety.

15 (8) Discipline by another U.S. jurisdiction if at least
16 one of the grounds for the discipline is the same or
17 substantially equivalent to those set forth herein.

18 (9) A finding by the Department that the licensee,
19 after having his or her license placed on probationary
20 status has violated the terms of probation.

21 (10) Willfully making or filing false records or
22 reports in his or her practice, including but not limited
23 to false records filed with State agencies or departments.

24 (11) Physical illness, mental illness, or other
25 impairment or disability, including, but not limited to,
26 deterioration through the aging process, or loss of motor

1 skill that results in the inability to practice the
2 profession with reasonable judgment, skill or safety.

3 (12) Disregard or violation of this Act or of any rule
4 issued pursuant to this Act.

5 (13) Aiding or abetting another in the violation of
6 this Act or any rule or regulation issued pursuant to this
7 Act.

8 (14) Allowing one's license to be used by an unlicensed
9 person.

10 (15) (Blank).

11 (16) Professional incompetence in the practice of
12 nursing home administration.

13 (17) Conviction of a violation of Section 12-19 of the
14 Criminal Code of 1961 for the abuse and gross neglect of a
15 long term care facility resident.

16 (18) Violation of the Nursing Home Care Act or the
17 MR/DD Community Care Act or of any rule issued under the
18 Nursing Home Care Act or the MR/DD Community Care Act.

19 All proceedings to suspend, revoke, place on probationary
20 status, or take any other disciplinary action as the Department
21 may deem proper, with regard to a license on any of the
22 foregoing grounds, must be commenced within 5 years next after
23 receipt by the Department of (i) a complaint alleging the
24 commission of or notice of the conviction order for any of the
25 acts described herein or (ii) a referral for investigation
26 under Section 3-108 of the Nursing Home Care Act.

1 The entry of an order or judgment by any circuit court
2 establishing that any person holding a license under this Act
3 is a person in need of mental treatment operates as a
4 suspension of that license. That person may resume their
5 practice only upon the entry of a Department order based upon a
6 finding by the Board that they have been determined to be
7 recovered from mental illness by the court and upon the Board's
8 recommendation that they be permitted to resume their practice.

9 The Department, upon the recommendation of the Board, may
10 adopt rules which set forth standards to be used in determining
11 what constitutes:

12 (i) when a person will be deemed sufficiently
13 rehabilitated to warrant the public trust;

14 (ii) dishonorable, unethical or unprofessional conduct
15 of a character likely to deceive, defraud, or harm the
16 public;

17 (iii) immoral conduct in the commission of any act
18 related to the licensee's practice; and

19 (iv) professional incompetence in the practice of
20 nursing home administration.

21 However, no such rule shall be admissible into evidence in
22 any civil action except for review of a licensing or other
23 disciplinary action under this Act.

24 In enforcing this Section, the Department or Board, upon a
25 showing of a possible violation, may compel any individual
26 licensed to practice under this Act, or who has applied for

1 licensure pursuant to this Act, to submit to a mental or
2 physical examination, or both, as required by and at the
3 expense of the Department. The examining physician or
4 physicians shall be those specifically designated by the
5 Department or Board. The Department or Board may order the
6 examining physician to present testimony concerning this
7 mental or physical examination of the licensee or applicant. No
8 information shall be excluded by reason of any common law or
9 statutory privilege relating to communications between the
10 licensee or applicant and the examining physician. The
11 individual to be examined may have, at his or her own expense,
12 another physician of his or her choice present during all
13 aspects of the examination. Failure of any individual to submit
14 to mental or physical examination, when directed, shall be
15 grounds for suspension of his or her license until such time as
16 the individual submits to the examination if the Department
17 finds, after notice and hearing, that the refusal to submit to
18 the examination was without reasonable cause.

19 If the Department or Board finds an individual unable to
20 practice because of the reasons set forth in this Section, the
21 Department or Board shall require such individual to submit to
22 care, counseling, or treatment by physicians approved or
23 designated by the Department or Board, as a condition, term, or
24 restriction for continued, reinstated, or renewed licensure to
25 practice; or in lieu of care, counseling, or treatment, the
26 Department may file, or the Board may recommend to the

1 Department to file, a complaint to immediately suspend, revoke,
2 or otherwise discipline the license of the individual. Any
3 individual whose license was granted pursuant to this Act or
4 continued, reinstated, renewed, disciplined or supervised,
5 subject to such terms, conditions or restrictions who shall
6 fail to comply with such terms, conditions or restrictions
7 shall be referred to the Secretary for a determination as to
8 whether the licensee shall have his or her license suspended
9 immediately, pending a hearing by the Department. In instances
10 in which the Secretary immediately suspends a license under
11 this Section, a hearing upon such person's license must be
12 convened by the Board within 30 days after such suspension and
13 completed without appreciable delay. The Department and Board
14 shall have the authority to review the subject administrator's
15 record of treatment and counseling regarding the impairment, to
16 the extent permitted by applicable federal statutes and
17 regulations safeguarding the confidentiality of medical
18 records.

19 An individual licensed under this Act, affected under this
20 Section, shall be afforded an opportunity to demonstrate to the
21 Department or Board that he or she can resume practice in
22 compliance with acceptable and prevailing standards under the
23 provisions of his or her license.

24 (b) Any individual or organization acting in good faith,
25 and not in a wilful and wanton manner, in complying with this
26 Act by providing any report or other information to the

1 Department, or assisting in the investigation or preparation of
2 such information, or by participating in proceedings of the
3 Department, or by serving as a member of the Board, shall not,
4 as a result of such actions, be subject to criminal prosecution
5 or civil damages.

6 (c) Members of the Board, and persons retained under
7 contract to assist and advise in an investigation, shall be
8 indemnified by the State for any actions occurring within the
9 scope of services on or for the Board, done in good faith and
10 not wilful and wanton in nature. The Attorney General shall
11 defend all such actions unless he or she determines either that
12 there would be a conflict of interest in such representation or
13 that the actions complained of were not in good faith or were
14 wilful and wanton.

15 Should the Attorney General decline representation, a
16 person entitled to indemnification under this Section shall
17 have the right to employ counsel of his or her choice, whose
18 fees shall be provided by the State, after approval by the
19 Attorney General, unless there is a determination by a court
20 that the member's actions were not in good faith or were wilful
21 and wanton.

22 A person entitled to indemnification under this Section
23 must notify the Attorney General within 7 days of receipt of
24 notice of the initiation of any action involving services of
25 the Board. Failure to so notify the Attorney General shall
26 constitute an absolute waiver of the right to a defense and

1 indemnification.

2 The Attorney General shall determine within 7 days after
3 receiving such notice, whether he or she will undertake to
4 represent a person entitled to indemnification under this
5 Section.

6 (d) The determination by a circuit court that a licensee is
7 subject to involuntary admission or judicial admission as
8 provided in the Mental Health and Developmental Disabilities
9 Code, as amended, operates as an automatic suspension. Such
10 suspension will end only upon a finding by a court that the
11 patient is no longer subject to involuntary admission or
12 judicial admission and issues an order so finding and
13 discharging the patient; and upon the recommendation of the
14 Board to the Secretary that the licensee be allowed to resume
15 his or her practice.

16 (e) The Department may refuse to issue or may suspend the
17 license of any person who fails to file a return, or to pay the
18 tax, penalty or interest shown in a filed return, or to pay any
19 final assessment of tax, penalty or interest, as required by
20 any tax Act administered by the Department of Revenue, until
21 such time as the requirements of any such tax Act are
22 satisfied.

23 (f) The Department of Public Health shall transmit to the
24 Department a list of those facilities which receive an "A"
25 violation as defined in Section 1-129 of the Nursing Home Care
26 Act.

1 (Source: P.A. 95-703, eff. 12-31-07.)

2 Section 90-140. The Pharmacy Practice Act is amended by
3 changing Section 3 as follows:

4 (225 ILCS 85/3) (from Ch. 111, par. 4123)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 3. Definitions. For the purpose of this Act, except
7 where otherwise limited therein:

8 (a) "Pharmacy" or "drugstore" means and includes every
9 store, shop, pharmacy department, or other place where
10 pharmacist care is provided by a pharmacist (1) where drugs,
11 medicines, or poisons are dispensed, sold or offered for sale
12 at retail, or displayed for sale at retail; or (2) where
13 prescriptions of physicians, dentists, advanced practice
14 nurses, physician assistants, veterinarians, podiatrists, or
15 optometrists, within the limits of their licenses, are
16 compounded, filled, or dispensed; or (3) which has upon it or
17 displayed within it, or affixed to or used in connection with
18 it, a sign bearing the word or words "Pharmacist", "Druggist",
19 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",
20 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",
21 "Medicines", or any word or words of similar or like import,
22 either in the English language or any other language; or (4)
23 where the characteristic prescription sign (Rx) or similar
24 design is exhibited; or (5) any store, or shop, or other place

1 with respect to which any of the above words, objects, signs or
2 designs are used in any advertisement.

3 (b) "Drugs" means and includes (1) articles recognized in
4 the official United States Pharmacopoeia/National Formulary
5 (USP/NF), or any supplement thereto and being intended for and
6 having for their main use the diagnosis, cure, mitigation,
7 treatment or prevention of disease in man or other animals, as
8 approved by the United States Food and Drug Administration, but
9 does not include devices or their components, parts, or
10 accessories; and (2) all other articles intended for and having
11 for their main use the diagnosis, cure, mitigation, treatment
12 or prevention of disease in man or other animals, as approved
13 by the United States Food and Drug Administration, but does not
14 include devices or their components, parts, or accessories; and
15 (3) articles (other than food) having for their main use and
16 intended to affect the structure or any function of the body of
17 man or other animals; and (4) articles having for their main
18 use and intended for use as a component or any articles
19 specified in clause (1), (2) or (3); but does not include
20 devices or their components, parts or accessories.

21 (c) "Medicines" means and includes all drugs intended for
22 human or veterinary use approved by the United States Food and
23 Drug Administration.

24 (d) "Practice of pharmacy" means (1) the interpretation and
25 the provision of assistance in the monitoring, evaluation, and
26 implementation of prescription drug orders; (2) the dispensing

1 of prescription drug orders; (3) participation in drug and
2 device selection; (4) drug administration limited to the
3 administration of oral, topical, injectable, and inhalation as
4 follows: in the context of patient education on the proper use
5 or delivery of medications; vaccination of patients 14 years of
6 age and older pursuant to a valid prescription or standing
7 order, by a physician licensed to practice medicine in all its
8 branches, upon completion of appropriate training, including
9 how to address contraindications and adverse reactions set
10 forth by rule, with notification to the patient's physician and
11 appropriate record retention, or pursuant to hospital pharmacy
12 and therapeutics committee policies and procedures; (5) drug
13 regimen review; (6) drug or drug-related research; (7) the
14 provision of patient counseling; (8) the practice of
15 telepharmacy; (9) the provision of those acts or services
16 necessary to provide pharmacist care; (10) medication therapy
17 management; and (11) the responsibility for compounding and
18 labeling of drugs and devices (except labeling by a
19 manufacturer, repackager, or distributor of non-prescription
20 drugs and commercially packaged legend drugs and devices),
21 proper and safe storage of drugs and devices, and maintenance
22 of required records. A pharmacist who performs any of the acts
23 defined as the practice of pharmacy in this State must be
24 actively licensed as a pharmacist under this Act.

25 (e) "Prescription" means and includes any written, oral,
26 facsimile, or electronically transmitted order for drugs or

1 medical devices, issued by a physician licensed to practice
2 medicine in all its branches, dentist, veterinarian, or
3 podiatrist, or optometrist, within the limits of their
4 licenses, by a physician assistant in accordance with
5 subsection (f) of Section 4, or by an advanced practice nurse
6 in accordance with subsection (g) of Section 4, containing the
7 following: (1) name of the patient; (2) date when prescription
8 was issued; (3) name and strength of drug or description of the
9 medical device prescribed; and (4) quantity, (5) directions for
10 use, (6) prescriber's name, address and signature, and (7) DEA
11 number where required, for controlled substances. DEA numbers
12 shall not be required on inpatient drug orders.

13 (f) "Person" means and includes a natural person,
14 copartnership, association, corporation, government entity, or
15 any other legal entity.

16 (g) "Department" means the Department of Financial and
17 Professional Regulation.

18 (h) "Board of Pharmacy" or "Board" means the State Board of
19 Pharmacy of the Department of Financial and Professional
20 Regulation.

21 (i) "Secretary" means the Secretary of Financial and
22 Professional Regulation.

23 (j) "Drug product selection" means the interchange for a
24 prescribed pharmaceutical product in accordance with Section
25 25 of this Act and Section 3.14 of the Illinois Food, Drug and
26 Cosmetic Act.

1 (k) "Inpatient drug order" means an order issued by an
2 authorized prescriber for a resident or patient of a facility
3 licensed under the Nursing Home Care Act, the MR/DD Community
4 Care Act, or the Hospital Licensing Act, or "An Act in relation
5 to the founding and operation of the University of Illinois
6 Hospital and the conduct of University of Illinois health care
7 programs", approved July 3, 1931, as amended, or a facility
8 which is operated by the Department of Human Services (as
9 successor to the Department of Mental Health and Developmental
10 Disabilities) or the Department of Corrections.

11 (k-5) "Pharmacist" means an individual health care
12 professional and provider currently licensed by this State to
13 engage in the practice of pharmacy.

14 (l) "Pharmacist in charge" means the licensed pharmacist
15 whose name appears on a pharmacy license and who is responsible
16 for all aspects of the operation related to the practice of
17 pharmacy.

18 (m) "Dispense" or "dispensing" means the interpretation,
19 evaluation, and implementation of a prescription drug order,
20 including the preparation and delivery of a drug or device to a
21 patient or patient's agent in a suitable container
22 appropriately labeled for subsequent administration to or use
23 by a patient in accordance with applicable State and federal
24 laws and regulations. "Dispense" or "dispensing" does not mean
25 the physical delivery to a patient or a patient's
26 representative in a home or institution by a designee of a

1 pharmacist or by common carrier. "Dispense" or "dispensing"
2 also does not mean the physical delivery of a drug or medical
3 device to a patient or patient's representative by a
4 pharmacist's designee within a pharmacy or drugstore while the
5 pharmacist is on duty and the pharmacy is open.

6 (n) "Nonresident pharmacy" means a pharmacy that is located
7 in a state, commonwealth, or territory of the United States,
8 other than Illinois, that delivers, dispenses, or distributes,
9 through the United States Postal Service, commercially
10 acceptable parcel delivery service, or other common carrier, to
11 Illinois residents, any substance which requires a
12 prescription.

13 (o) "Compounding" means the preparation and mixing of
14 components, excluding flavorings, (1) as the result of a
15 prescriber's prescription drug order or initiative based on the
16 prescriber-patient-pharmacist relationship in the course of
17 professional practice or (2) for the purpose of, or incident
18 to, research, teaching, or chemical analysis and not for sale
19 or dispensing. "Compounding" includes the preparation of drugs
20 or devices in anticipation of receiving prescription drug
21 orders based on routine, regularly observed dispensing
22 patterns. Commercially available products may be compounded
23 for dispensing to individual patients only if all of the
24 following conditions are met: (i) the commercial product is not
25 reasonably available from normal distribution channels in a
26 timely manner to meet the patient's needs and (ii) the

1 prescribing practitioner has requested that the drug be
2 compounded.

3 (p) (Blank).

4 (q) (Blank).

5 (r) "Patient counseling" means the communication between a
6 pharmacist or a pharmacy intern under the supervision of a
7 pharmacist and a patient or the patient's representative about
8 the patient's medication or device for the purpose of
9 optimizing proper use of prescription medications or devices.
10 "Patient counseling" may include without limitation (1)
11 obtaining a medication history; (2) acquiring a patient's
12 allergies and health conditions; (3) facilitation of the
13 patient's understanding of the intended use of the medication;
14 (4) proper directions for use; (5) significant potential
15 adverse events; (6) potential food-drug interactions; and (7)
16 the need to be compliant with the medication therapy. A
17 pharmacy technician may only participate in the following
18 aspects of patient counseling under the supervision of a
19 pharmacist: (1) obtaining medication history; (2) providing
20 the offer for counseling by a pharmacist or intern; and (3)
21 acquiring a patient's allergies and health conditions.

22 (s) "Patient profiles" or "patient drug therapy record"
23 means the obtaining, recording, and maintenance of patient
24 prescription information, including prescriptions for
25 controlled substances, and personal information.

26 (t) (Blank).

1 (u) "Medical device" means an instrument, apparatus,
2 implement, machine, contrivance, implant, in vitro reagent, or
3 other similar or related article, including any component part
4 or accessory, required under federal law to bear the label
5 "Caution: Federal law requires dispensing by or on the order of
6 a physician". A seller of goods and services who, only for the
7 purpose of retail sales, compounds, sells, rents, or leases
8 medical devices shall not, by reasons thereof, be required to
9 be a licensed pharmacy.

10 (v) "Unique identifier" means an electronic signature,
11 handwritten signature or initials, thumb print, or other
12 acceptable biometric or electronic identification process as
13 approved by the Department.

14 (w) "Current usual and customary retail price" means the
15 price that a pharmacy charges to a non-third-party payor .

16 (x) "Automated pharmacy system" means a mechanical system
17 located within the confines of the pharmacy or remote location
18 that performs operations or activities, other than compounding
19 or administration, relative to storage, packaging, dispensing,
20 or distribution of medication, and which collects, controls,
21 and maintains all transaction information.

22 (y) "Drug regimen review" means and includes the evaluation
23 of prescription drug orders and patient records for (1) known
24 allergies; (2) drug or potential therapy contraindications;
25 (3) reasonable dose, duration of use, and route of
26 administration, taking into consideration factors such as age,

1 gender, and contraindications; (4) reasonable directions for
2 use; (5) potential or actual adverse drug reactions; (6)
3 drug-drug interactions; (7) drug-food interactions; (8)
4 drug-disease contraindications; (9) therapeutic duplication;
5 (10) patient laboratory values when authorized and available;
6 (11) proper utilization (including over or under utilization)
7 and optimum therapeutic outcomes; and (12) abuse and misuse.

8 (z) "Electronic transmission prescription" means any
9 prescription order for which a facsimile or electronic image of
10 the order is electronically transmitted from a licensed
11 prescriber to a pharmacy. "Electronic transmission
12 prescription" includes both data and image prescriptions.

13 (aa) "Medication therapy management services" means a
14 distinct service or group of services offered by licensed
15 pharmacists, physicians licensed to practice medicine in all
16 its branches, advanced practice nurses authorized in a written
17 agreement with a physician licensed to practice medicine in all
18 its branches, or physician assistants authorized in guidelines
19 by a supervising physician that optimize therapeutic outcomes
20 for individual patients through improved medication use. In a
21 retail or other non-hospital pharmacy, medication therapy
22 management services shall consist of the evaluation of
23 prescription drug orders and patient medication records to
24 resolve conflicts with the following:

25 (1) known allergies;

26 (2) drug or potential therapy contraindications;

1 (3) reasonable dose, duration of use, and route of
2 administration, taking into consideration factors such as
3 age, gender, and contraindications;

4 (4) reasonable directions for use;

5 (5) potential or actual adverse drug reactions;

6 (6) drug-drug interactions;

7 (7) drug-food interactions;

8 (8) drug-disease contraindications;

9 (9) identification of therapeutic duplication;

10 (10) patient laboratory values when authorized and
11 available;

12 (11) proper utilization (including over or under
13 utilization) and optimum therapeutic outcomes; and

14 (12) drug abuse and misuse.

15 "Medication therapy management services" includes the
16 following:

17 (1) documenting the services delivered and
18 communicating the information provided to patients'
19 prescribers within an appropriate time frame, not to exceed
20 48 hours;

21 (2) providing patient counseling designed to enhance a
22 patient's understanding and the appropriate use of his or
23 her medications; and

24 (3) providing information, support services, and
25 resources designed to enhance a patient's adherence with
26 his or her prescribed therapeutic regimens.

1 "Medication therapy management services" may also include
2 patient care functions authorized by a physician licensed to
3 practice medicine in all its branches for his or her identified
4 patient or groups of patients under specified conditions or
5 limitations in a standing order from the physician.

6 "Medication therapy management services" in a licensed
7 hospital may also include the following:

8 (1) reviewing assessments of the patient's health
9 status; and

10 (2) following protocols of a hospital pharmacy and
11 therapeutics committee with respect to the fulfillment of
12 medication orders.

13 (bb) "Pharmacist care" means the provision by a pharmacist
14 of medication therapy management services, with or without the
15 dispensing of drugs or devices, intended to achieve outcomes
16 that improve patient health, quality of life, and comfort and
17 enhance patient safety.

18 (cc) "Protected health information" means individually
19 identifiable health information that, except as otherwise
20 provided, is:

21 (1) transmitted by electronic media;

22 (2) maintained in any medium set forth in the
23 definition of "electronic media" in the federal Health
24 Insurance Portability and Accountability Act; or

25 (3) transmitted or maintained in any other form or
26 medium.

1 "Protected health information" does not include individually
2 identifiable health information found in:

3 (1) education records covered by the federal
4 Family Educational Right and Privacy Act; or

5 (2) employment records held by a licensee in its
6 role as an employer.

7 (dd) "Standing order" means a specific order for a patient
8 or group of patients issued by a physician licensed to practice
9 medicine in all its branches in Illinois.

10 (ee) "Address of record" means the address recorded by the
11 Department in the applicant's or licensee's application file or
12 license file, as maintained by the Department's licensure
13 maintenance unit.

14 (ff) "Home pharmacy" means the location of a pharmacy's
15 primary operations.

16 (Source: P.A. 94-459, eff. 1-1-06; 95-689, eff. 10-29-07.)

17 Section 90-145. The Nurse Agency Licensing Act is amended
18 by changing Section 3 as follows:

19 (225 ILCS 510/3) (from Ch. 111, par. 953)

20 Sec. 3. Definitions. As used in this Act:

21 (a) "Certified nurse aide" means an individual certified as
22 defined in Section 3-206 of the Nursing Home Care Act or
23 Section 3-206 of the MR/DD Community Care Act, as now or
24 hereafter amended.

1 (b) "Department" means the Department of Labor.

2 (c) "Director" means the Director of Labor.

3 (d) "Health care facility" is defined as in Section 3 of
4 the Illinois Health Facilities Planning Act, as now or
5 hereafter amended.

6 (e) "Licensee" means any nursing agency which is properly
7 licensed under this Act.

8 (f) "Nurse" means a registered nurse or a licensed
9 practical nurse as defined in the Nurse Practice Act.

10 (g) "Nurse agency" means any individual, firm,
11 corporation, partnership or other legal entity that employs,
12 assigns or refers nurses or certified nurse aides to a health
13 care facility for a fee. The term "nurse agency" includes
14 nurses registries. The term "nurse agency" does not include
15 services provided by home health agencies licensed and operated
16 under the Home Health, Home Services, and Home Nursing Agency
17 Licensing Act or a licensed or certified individual who
18 provides his or her own services as a regular employee of a
19 health care facility, nor does it apply to a health care
20 facility's organizing nonsalaried employees to provide
21 services only in that facility.

22 (Source: P.A. 94-379, eff. 1-1-06; 95-639, eff. 10-5-07.)

23 Section 90-150. The Illinois Public Aid Code is amended by
24 changing Sections 5-5.4, 5-5.7, 5-6, 5B-1, 5E-5, and 8A-11 as
25 follows:

1 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

2 Sec. 5-5.4. Standards of Payment - Department of Healthcare
3 and Family Services. The Department of Healthcare and Family
4 Services shall develop standards of payment of skilled nursing
5 and intermediate care services in facilities providing such
6 services under this Article which:

7 (1) Provide for the determination of a facility's payment
8 for skilled nursing and intermediate care services on a
9 prospective basis. The amount of the payment rate for all
10 nursing facilities certified by the Department of Public Health
11 under the MR/DD Community Care Act or the Nursing Home Care Act
12 as Intermediate Care for the Developmentally Disabled
13 facilities, Long Term Care for Under Age 22 facilities, Skilled
14 Nursing facilities, or Intermediate Care facilities under the
15 medical assistance program shall be prospectively established
16 annually on the basis of historical, financial, and statistical
17 data reflecting actual costs from prior years, which shall be
18 applied to the current rate year and updated for inflation,
19 except that the capital cost element for newly constructed
20 facilities shall be based upon projected budgets. The annually
21 established payment rate shall take effect on July 1 in 1984
22 and subsequent years. No rate increase and no update for
23 inflation shall be provided on or after July 1, 1994 and before
24 July 1, 2009, unless specifically provided for in this Section.
25 The changes made by Public Act 93-841 extending the duration of

1 the prohibition against a rate increase or update for inflation
2 are effective retroactive to July 1, 2004.

3 For facilities licensed by the Department of Public Health
4 under the Nursing Home Care Act as Intermediate Care for the
5 Developmentally Disabled facilities or Long Term Care for Under
6 Age 22 facilities, the rates taking effect on July 1, 1998
7 shall include an increase of 3%. For facilities licensed by the
8 Department of Public Health under the Nursing Home Care Act as
9 Skilled Nursing facilities or Intermediate Care facilities,
10 the rates taking effect on July 1, 1998 shall include an
11 increase of 3% plus \$1.10 per resident-day, as defined by the
12 Department. For facilities licensed by the Department of Public
13 Health under the Nursing Home Care Act as Intermediate Care
14 Facilities for the Developmentally Disabled or Long Term Care
15 for Under Age 22 facilities, the rates taking effect on January
16 1, 2006 shall include an increase of 3%. For facilities
17 licensed by the Department of Public Health under the Nursing
18 Home Care Act as Intermediate Care Facilities for the
19 Developmentally Disabled or Long Term Care for Under Age 22
20 facilities, the rates taking effect on January 1, 2009 shall
21 include an increase sufficient to provide a \$0.50 per hour wage
22 increase for non-executive staff.

23 For facilities licensed by the Department of Public Health
24 under the Nursing Home Care Act as Intermediate Care for the
25 Developmentally Disabled facilities or Long Term Care for Under
26 Age 22 facilities, the rates taking effect on July 1, 1999

1 shall include an increase of 1.6% plus \$3.00 per resident-day,
2 as defined by the Department. For facilities licensed by the
3 Department of Public Health under the Nursing Home Care Act as
4 Skilled Nursing facilities or Intermediate Care facilities,
5 the rates taking effect on July 1, 1999 shall include an
6 increase of 1.6% and, for services provided on or after October
7 1, 1999, shall be increased by \$4.00 per resident-day, as
8 defined by the Department.

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as Intermediate Care for the
11 Developmentally Disabled facilities or Long Term Care for Under
12 Age 22 facilities, the rates taking effect on July 1, 2000
13 shall include an increase of 2.5% per resident-day, as defined
14 by the Department. For facilities licensed by the Department of
15 Public Health under the Nursing Home Care Act as Skilled
16 Nursing facilities or Intermediate Care facilities, the rates
17 taking effect on July 1, 2000 shall include an increase of 2.5%
18 per resident-day, as defined by the Department.

19 For facilities licensed by the Department of Public Health
20 under the Nursing Home Care Act as skilled nursing facilities
21 or intermediate care facilities, a new payment methodology must
22 be implemented for the nursing component of the rate effective
23 July 1, 2003. The Department of Public Aid (now Healthcare and
24 Family Services) shall develop the new payment methodology
25 using the Minimum Data Set (MDS) as the instrument to collect
26 information concerning nursing home resident condition

1 necessary to compute the rate. The Department shall develop the
2 new payment methodology to meet the unique needs of Illinois
3 nursing home residents while remaining subject to the
4 appropriations provided by the General Assembly. A transition
5 period from the payment methodology in effect on June 30, 2003
6 to the payment methodology in effect on July 1, 2003 shall be
7 provided for a period not exceeding 3 years and 184 days after
8 implementation of the new payment methodology as follows:

9 (A) For a facility that would receive a lower nursing
10 component rate per patient day under the new system than
11 the facility received effective on the date immediately
12 preceding the date that the Department implements the new
13 payment methodology, the nursing component rate per
14 patient day for the facility shall be held at the level in
15 effect on the date immediately preceding the date that the
16 Department implements the new payment methodology until a
17 higher nursing component rate of reimbursement is achieved
18 by that facility.

19 (B) For a facility that would receive a higher nursing
20 component rate per patient day under the payment
21 methodology in effect on July 1, 2003 than the facility
22 received effective on the date immediately preceding the
23 date that the Department implements the new payment
24 methodology, the nursing component rate per patient day for
25 the facility shall be adjusted.

26 (C) Notwithstanding paragraphs (A) and (B), the

1 nursing component rate per patient day for the facility
2 shall be adjusted subject to appropriations provided by the
3 General Assembly.

4 For facilities licensed by the Department of Public Health
5 under the Nursing Home Care Act as Intermediate Care for the
6 Developmentally Disabled facilities or Long Term Care for Under
7 Age 22 facilities, the rates taking effect on March 1, 2001
8 shall include a statewide increase of 7.85%, as defined by the
9 Department.

10 Notwithstanding any other provision of this Section, for
11 facilities licensed by the Department of Public Health under
12 the Nursing Home Care Act as skilled nursing facilities or
13 intermediate care facilities, the numerator of the ratio used
14 by the Department of Healthcare and Family Services to compute
15 the rate payable under this Section using the Minimum Data Set
16 (MDS) methodology shall incorporate the following annual
17 amounts as the additional funds appropriated to the Department
18 specifically to pay for rates based on the MDS nursing
19 component methodology in excess of the funding in effect on
20 December 31, 2006:

21 (i) For rates taking effect January 1, 2007,
22 \$60,000,000.

23 (ii) For rates taking effect January 1, 2008,
24 \$110,000,000.

25 (iii) For rates taking effect January 1, 2009,
26 \$194,000,000.

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

9 For facilities licensed by the Department of Public Health
10 under the Nursing Home Care Act as Intermediate Care for the
11 Developmentally Disabled facilities or Long Term Care for Under
12 Age 22 facilities, the rates taking effect on April 1, 2002
13 shall include a statewide increase of 2.0%, as defined by the
14 Department. This increase terminates on July 1, 2002; beginning
15 July 1, 2002 these rates are reduced to the level of the rates
16 in effect on March 31, 2002, as defined by the Department.

17 For facilities licensed by the Department of Public Health
18 under the Nursing Home Care Act as skilled nursing facilities
19 or intermediate care facilities, the rates taking effect on
20 July 1, 2001 shall be computed using the most recent cost
21 reports on file with the Department of Public Aid no later than
22 April 1, 2000, updated for inflation to January 1, 2001. For
23 rates effective July 1, 2001 only, rates shall be the greater
24 of the rate computed for July 1, 2001 or the rate effective on
25 June 30, 2001.

26 Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under
2 the Nursing Home Care Act as skilled nursing facilities or
3 intermediate care facilities, the Illinois Department shall
4 determine by rule the rates taking effect on July 1, 2002,
5 which shall be 5.9% less than the rates in effect on June 30,
6 2002.

7 Notwithstanding any other provision of this Section, for
8 facilities licensed by the Department of Public Health under
9 the Nursing Home Care Act as skilled nursing facilities or
10 intermediate care facilities, if the payment methodologies
11 required under Section 5A-12 and the waiver granted under 42
12 CFR 433.68 are approved by the United States Centers for
13 Medicare and Medicaid Services, the rates taking effect on July
14 1, 2004 shall be 3.0% greater than the rates in effect on June
15 30, 2004. These rates shall take effect only upon approval and
16 implementation of the payment methodologies required under
17 Section 5A-12.

18 Notwithstanding any other provisions of this Section, for
19 facilities licensed by the Department of Public Health under
20 the Nursing Home Care Act as skilled nursing facilities or
21 intermediate care facilities, the rates taking effect on
22 January 1, 2005 shall be 3% more than the rates in effect on
23 December 31, 2004.

24 Notwithstanding any other provision of this Section, for
25 facilities licensed by the Department of Public Health under
26 the Nursing Home Care Act as skilled nursing facilities or

1 intermediate care facilities, effective January 1, 2009, the
2 per diem support component of the rates effective on January 1,
3 2008, computed using the most recent cost reports on file with
4 the Department of Healthcare and Family Services no later than
5 April 1, 2005, updated for inflation to January 1, 2006, shall
6 be increased to the amount that would have been derived using
7 standard Department of Healthcare and Family Services methods,
8 procedures, and inflators.

9 Notwithstanding any other provisions of this Section, for
10 facilities licensed by the Department of Public Health under
11 the Nursing Home Care Act as intermediate care facilities that
12 are federally defined as Institutions for Mental Disease, a
13 socio-development component rate equal to 6.6% of the
14 facility's nursing component rate as of January 1, 2006 shall
15 be established and paid effective July 1, 2006. The
16 socio-development component of the rate shall be increased by a
17 factor of 2.53 on the first day of the month that begins at
18 least 45 days after January 11, 2008 (the effective date of
19 Public Act 95-707). As of August 1, 2008, the socio-development
20 component rate shall be equal to 6.6% of the facility's nursing
21 component rate as of January 1, 2006, multiplied by a factor of
22 3.53. The Illinois Department may by rule adjust these
23 socio-development component rates, but in no case may such
24 rates be diminished.

25 For facilities licensed by the Department of Public Health
26 under the Nursing Home Care Act as Intermediate Care for the

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

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

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

25 Rates established effective each July 1 shall govern
26 payment for services rendered throughout that fiscal year,

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

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

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

26 (4) Shall take into account the actual costs incurred by

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

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

16 (Source: P.A. 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697,
17 eff. 11-21-05; 94-838, eff. 6-6-06; 94-964, eff. 6-28-06;
18 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08;
19 95-744, eff. 7-18-08.)

20 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

21 Sec. 5-5.7. Cost Reports - Audits. The Department of
22 Healthcare and Family Services shall work with the Department
23 of Public Health to use cost report information currently being
24 collected under provisions of the "Nursing Home Care Act and
25 the MR/DD Community Care Act", ~~approved August 23, 1979, as~~

1 ~~amended~~. The Department of Healthcare and Family Services may,
2 in conjunction with the Department of Public Health, develop in
3 accordance with generally accepted accounting principles a
4 uniform chart of accounts which each facility providing
5 services under the medical assistance program shall adopt,
6 after a reasonable period.

7 Nursing homes licensed under the Nursing Home Care Act or
8 the MR/DD Community Care Act and providers of adult
9 developmental training services certified by the Department of
10 Human Services pursuant to Section 15.2 of the Mental Health
11 and Developmental Disabilities Administrative Act which
12 provide services to clients eligible for medical assistance
13 under this Article are responsible for submitting the required
14 annual cost report to the Department of Healthcare and Family
15 Services.

16 The Department of Healthcare and Family Services shall
17 audit the financial and statistical records of each provider
18 participating in the medical assistance program as a skilled
19 nursing or intermediate care facility over a 3 year period,
20 beginning with the close of the first cost reporting year.
21 Following the end of this 3-year term, audits of the financial
22 and statistical records will be performed each year in at least
23 20% of the facilities participating in the medical assistance
24 program with at least 10% being selected on a random sample
25 basis, and the remainder selected on the basis of exceptional
26 profiles. All audits shall be conducted in accordance with

1 generally accepted auditing standards.

2 The Department of Healthcare and Family Services shall
3 establish prospective payment rates for categories of service
4 needed within the skilled nursing and intermediate care levels
5 of services, in order to more appropriately recognize the
6 individual needs of patients in nursing facilities.

7 The Department of Healthcare and Family Services shall
8 provide, during the process of establishing the payment rate
9 for skilled nursing and intermediate care services, or when a
10 substantial change in rates is proposed, an opportunity for
11 public review and comment on the proposed rates prior to their
12 becoming effective.

13 (Source: P.A. 95-331, eff. 8-21-07.)

14 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

15 Sec. 5-6. Obligations incurred prior to death of a
16 recipient. Obligations incurred but not paid for at the time of
17 a recipient's death for services authorized under Section 5-5,
18 including medical and other care in group care facilities as
19 defined in the "Nursing Home Care Act or the MR/DD Community
20 Care Act", ~~approved August 23, 1979, as amended~~, or in like
21 facilities not required to be licensed under that Act, may be
22 paid, subject to the rules and regulations of the Illinois
23 Department, after the death of the recipient.

24 (Source: P.A. 86-820.)

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

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

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

5 "Long-term care facility" means (i) a skilled nursing or
6 intermediate long term care facility, whether public or private
7 and whether organized for profit or not-for-profit, that is
8 subject to licensure by the Illinois Department of Public
9 Health under the Nursing Home Care Act or the MR/DD Community
10 Care Act, including a county nursing home directed and
11 maintained under Section 5-1005 of the Counties Code, and (ii)
12 a part of a hospital in which skilled or intermediate long-term
13 care services within the meaning of Title XVIII or XIX of the
14 Social Security Act are provided; except that the term
15 "long-term care facility" does not include a facility operated
16 solely as an intermediate care facility for the mentally
17 retarded within the meaning of Title XIX of the Social Security
18 Act.

19 "Long-term care provider" means (i) a person licensed by
20 the Department of Public Health to operate and maintain a
21 skilled nursing or intermediate long-term care facility or (ii)
22 a hospital provider that provides skilled or intermediate
23 long-term care services within the meaning of Title XVIII or
24 XIX of the Social Security Act. For purposes of this paragraph,
25 "person" means any political subdivision of the State,
26 municipal corporation, individual, firm, partnership,

1 corporation, company, limited liability company, association,
2 joint stock association, or trust, or a receiver, executor,
3 trustee, guardian, or other representative appointed by order
4 of any court. "Hospital provider" means a person licensed by
5 the Department of Public Health to conduct, operate, or
6 maintain a hospital.

7 "Occupied bed days" shall be computed separately for each
8 long-term care facility operated or maintained by a long-term
9 care provider, and means the sum for all beds of the number of
10 days during the year on which each bed is occupied by a
11 resident (other than a resident receiving care at an
12 intermediate care facility for the mentally retarded within the
13 meaning of Title XIX of the Social Security Act).

14 "Intergovernmental transfer payment" means the payments
15 established under Section 15-3 of this Code, and includes
16 without limitation payments payable under that Section for
17 July, August, and September of 1992.

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

19 (305 ILCS 5/5E-5)

20 Sec. 5E-5. Definitions. As used in this Article, unless the
21 context requires otherwise:

22 "Nursing home" means (i) a skilled nursing or intermediate
23 long-term care facility, whether public or private and whether
24 organized for profit or not-for-profit, that is subject to
25 licensure by the Illinois Department of Public Health under the

1 Nursing Home Care Act or the MR/DD Community Care Act,
2 including a county nursing home directed and maintained under
3 Section 5-1005 of the Counties Code, and (ii) a part of a
4 hospital in which skilled or intermediate long-term care
5 services within the meaning of Title XVIII or XIX of the Social
6 Security Act are provided; except that the term "nursing home"
7 does not include a facility operated solely as an intermediate
8 care facility for the mentally retarded within the meaning of
9 Title XIX of the Social Security Act.

10 "Nursing home provider" means (i) a person licensed by the
11 Department of Public Health to operate and maintain a skilled
12 nursing or intermediate long-term care facility which charges
13 its residents, a third party payor, Medicaid, or Medicare for
14 skilled nursing or intermediate long-term care services, or
15 (ii) a hospital provider that provides skilled or intermediate
16 long-term care services within the meaning of Title XVIII or
17 XIX of the Social Security Act. For purposes of this paragraph,
18 "person" means any political subdivision of the State,
19 municipal corporation, individual, firm, partnership,
20 corporation, company, limited liability company, association,
21 joint stock association, or trust, or a receiver, executor,
22 trustee, guardian, or other representative appointed by order
23 of any court. "Hospital provider" means a person licensed by
24 the Department of Public Health to conduct, operate, or
25 maintain a hospital.

26 "Licensed bed days" shall be computed separately for each

1 nursing home operated or maintained by a nursing home provider
2 and means, with respect to a nursing home provider, the sum for
3 all nursing home beds of the number of days during a calendar
4 quarter on which each bed is covered by a license issued to
5 that provider under the Nursing Home Care Act or the Hospital
6 Licensing Act.

7 (Source: P.A. 88-88.)

8 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

9 Sec. 8A-11. (a) No person shall:

10 (1) Knowingly charge a resident of a nursing home for any
11 services provided pursuant to Article V of the Illinois Public
12 Aid Code, money or other consideration at a rate in excess of
13 the rates established for covered services by the Illinois
14 Department pursuant to Article V of The Illinois Public Aid
15 Code; or

16 (2) Knowingly charge, solicit, accept or receive, in
17 addition to any amount otherwise authorized or required to be
18 paid pursuant to Article V of The Illinois Public Aid Code, any
19 gift, money, donation or other consideration:

20 (i) As a precondition to admitting or expediting the
21 admission of a recipient or applicant, pursuant to Article V of
22 The Illinois Public Aid Code, to a long-term care facility as
23 defined in Section 1-113 of the Nursing Home Care Act or a
24 facility as defined in Section 1-113 of the MR/DD Community
25 Care Act; and

1 (ii) As a requirement for the recipient's or applicant's
2 continued stay in such facility when the cost of the services
3 provided therein to the recipient is paid for, in whole or in
4 part, pursuant to Article V of The Illinois Public Aid Code.

5 (b) Nothing herein shall prohibit a person from making a
6 voluntary contribution, gift or donation to a long-term care
7 facility.

8 (c) This paragraph shall not apply to agreements to provide
9 continuing care or life care between a life care facility as
10 defined by the Life Care Facilities Act, and a person
11 financially eligible for benefits pursuant to Article V of The
12 Illinois Public Aid Code.

13 (d) Any person who violates this Section shall be guilty of
14 a business offense and fined not less than \$5,000 nor more than
15 \$25,000.

16 (e) "Person", as used in this Section, means an individual,
17 corporation, partnership, or unincorporated association.

18 (f) The State's Attorney of the county in which the
19 facility is located and the Attorney General shall be notified
20 by the Illinois Department of any alleged violations of this
21 Section known to the Department.

22 (g) The Illinois Department shall adopt rules and
23 regulations to carry out the provisions of this Section.

24 (Source: P.A. 86-820.)

25 Section 90-155. The Nursing Home Grant Assistance Act is

1 amended by changing Section 5 as follows:

2 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

3 Sec. 5. Definitions. As used in this Act, unless the
4 context requires otherwise:

5 "Applicant" means an eligible individual who makes a
6 payment of at least \$1 in a quarter to a nursing home.

7 "Application" means the receipt by a nursing home of at
8 least \$1 from an eligible individual that is a resident of the
9 home.

10 "Department" means the Department of Revenue.

11 "Director" means the Director of the Department of Revenue.

12 "Distribution agent" means a nursing home that is residence
13 to one or more eligible individuals, which receives an
14 application from one or more applicants for participation in
15 the Nursing Home Grant Assistance Program provided for by this
16 Act, and is thereby designated as distributing agent by such
17 applicant or applicants, and which is thereby authorized by
18 virtue of its license to receive from the Department and
19 distribute to eligible individuals residing in the nursing home
20 Nursing Home Grant Assistance payments under this Act.

21 "Qualified distribution agent" means a distribution agent
22 that the Department of Public Health has certified to the
23 Department of Revenue to be a licensed nursing home in good
24 standing.

25 "Eligible individual" means an individual eligible for a

1 nursing home grant assistance payment because he or she meets
2 each of the following requirements:

3 (1) The individual resides, after June 30, 1992, in a
4 nursing home as defined in this Act.

5 (2) For each day for which nursing home grant
6 assistance is sought, the individual's nursing home care
7 was not paid for, in whole or in part, by a federal, State,
8 or combined federal-State medical care program; the
9 receipt of Medicare Part B benefits does not make a person
10 ineligible for nursing home grant assistance.

11 (3) The individual's annual adjusted gross income,
12 after payment of any expenses for nursing home care, does
13 not exceed 250% of the federal poverty guidelines for an
14 individual as published annually by the U.S. Department of
15 Health and Human Services for purposes of determining
16 Medicaid eligibility.

17 "Fund" means the Nursing Home Grant Assistance Fund.

18 "Nursing home" means a skilled nursing or intermediate long
19 term care facility that is subject to licensure by the Illinois
20 Department of Public Health under the Nursing Home Care Act or
21 the MR/DD Community Care Act.

22 "Occupied bed days" means the sum for all beds of the
23 number of days during a quarter for which grant assistance is
24 sought under this Act on which a bed is occupied by an
25 individual.

26 (Source: P.A. 87-863.)

1 Section 90-157. The Elder Abuse and Neglect Act is amended
2 by changing Section 2 as follows:

3 (320 ILCS 20/2) (from Ch. 23, par. 6602)

4 Sec. 2. Definitions. As used in this Act, unless the
5 context requires otherwise:

6 (a) "Abuse" means causing any physical, mental or sexual
7 injury to an eligible adult, including exploitation of such
8 adult's financial resources.

9 Nothing in this Act shall be construed to mean that an
10 eligible adult is a victim of abuse, neglect, or self-neglect
11 for the sole reason that he or she is being furnished with or
12 relies upon treatment by spiritual means through prayer alone,
13 in accordance with the tenets and practices of a recognized
14 church or religious denomination.

15 Nothing in this Act shall be construed to mean that an
16 eligible adult is a victim of abuse because of health care
17 services provided or not provided by licensed health care
18 professionals.

19 (a-5) "Abuser" means a person who abuses, neglects, or
20 financially exploits an eligible adult.

21 (a-7) "Caregiver" means a person who either as a result of
22 a family relationship, voluntarily, or in exchange for
23 compensation has assumed responsibility for all or a portion of
24 the care of an eligible adult who needs assistance with

1 activities of daily living.

2 (b) "Department" means the Department on Aging of the State
3 of Illinois.

4 (c) "Director" means the Director of the Department.

5 (d) "Domestic living situation" means a residence where the
6 eligible adult lives alone or with his or her family or a
7 caregiver, or others, or a board and care home or other
8 community-based unlicensed facility, but is not:

9 (1) A licensed facility as defined in Section 1-113 of
10 the Nursing Home Care Act;

11 (1.5) A facility licensed under the MR/DD Community
12 Care Act;

13 (2) A "life care facility" as defined in the Life Care
14 Facilities Act;

15 (3) A home, institution, or other place operated by the
16 federal government or agency thereof or by the State of
17 Illinois;

18 (4) A hospital, sanitarium, or other institution, the
19 principal activity or business of which is the diagnosis,
20 care, and treatment of human illness through the
21 maintenance and operation of organized facilities
22 therefor, which is required to be licensed under the
23 Hospital Licensing Act;

24 (5) A "community living facility" as defined in the
25 Community Living Facilities Licensing Act;

26 (6) A "community residential alternative" as defined

1 in the Community Residential Alternatives Licensing Act;

2 (7) A "community-integrated living arrangement" as
3 defined in the Community-Integrated Living Arrangements
4 Licensure and Certification Act;

5 (8) An assisted living or shared housing establishment
6 as defined in the Assisted Living and Shared Housing Act;
7 or

8 (9) A supportive living facility as described in
9 Section 5-5.01a of the Illinois Public Aid Code.

10 (e) "Eligible adult" means a person 60 years of age or
11 older who resides in a domestic living situation and is, or is
12 alleged to be, abused, neglected, or financially exploited by
13 another individual or who neglects himself or herself.

14 (f) "Emergency" means a situation in which an eligible
15 adult is living in conditions presenting a risk of death or
16 physical, mental or sexual injury and the provider agency has
17 reason to believe the eligible adult is unable to consent to
18 services which would alleviate that risk.

19 (f-5) "Mandated reporter" means any of the following
20 persons while engaged in carrying out their professional
21 duties:

22 (1) a professional or professional's delegate while
23 engaged in: (i) social services, (ii) law enforcement,
24 (iii) education, (iv) the care of an eligible adult or
25 eligible adults, or (v) any of the occupations required to
26 be licensed under the Clinical Psychologist Licensing Act,

1 the Clinical Social Work and Social Work Practice Act, the
2 Illinois Dental Practice Act, the Dietetic and Nutrition
3 Services Practice Act, the Marriage and Family Therapy
4 Licensing Act, the Medical Practice Act of 1987, the
5 Naprapathic Practice Act, the Nurse Practice Act, the
6 Nursing Home Administrators Licensing and Disciplinary
7 Act, the Illinois Occupational Therapy Practice Act, the
8 Illinois Optometric Practice Act of 1987, the Pharmacy
9 Practice Act, the Illinois Physical Therapy Act, the
10 Physician Assistant Practice Act of 1987, the Podiatric
11 Medical Practice Act of 1987, the Respiratory Care Practice
12 Act, the Professional Counselor and Clinical Professional
13 Counselor Licensing Act, the Illinois Speech-Language
14 Pathology and Audiology Practice Act, the Veterinary
15 Medicine and Surgery Practice Act of 2004, and the Illinois
16 Public Accounting Act;

17 (2) an employee of a vocational rehabilitation
18 facility prescribed or supervised by the Department of
19 Human Services;

20 (3) an administrator, employee, or person providing
21 services in or through an unlicensed community based
22 facility;

23 (4) any religious practitioner who provides treatment
24 by prayer or spiritual means alone in accordance with the
25 tenets and practices of a recognized church or religious
26 denomination, except as to information received in any

1 confession or sacred communication enjoined by the
2 discipline of the religious denomination to be held
3 confidential;

4 (5) field personnel of the Department of Healthcare and
5 Family Services, Department of Public Health, and
6 Department of Human Services, and any county or municipal
7 health department;

8 (6) personnel of the Department of Human Services, the
9 Guardianship and Advocacy Commission, the State Fire
10 Marshal, local fire departments, the Department on Aging
11 and its subsidiary Area Agencies on Aging and provider
12 agencies, and the Office of State Long Term Care Ombudsman;

13 (7) any employee of the State of Illinois not otherwise
14 specified herein who is involved in providing services to
15 eligible adults, including professionals providing medical
16 or rehabilitation services and all other persons having
17 direct contact with eligible adults;

18 (8) a person who performs the duties of a coroner or
19 medical examiner; or

20 (9) a person who performs the duties of a paramedic or
21 an emergency medical technician.

22 (g) "Neglect" means another individual's failure to
23 provide an eligible adult with or willful withholding from an
24 eligible adult the necessities of life including, but not
25 limited to, food, clothing, shelter or health care. This
26 subsection does not create any new affirmative duty to provide

1 support to eligible adults. Nothing in this Act shall be
2 construed to mean that an eligible adult is a victim of neglect
3 because of health care services provided or not provided by
4 licensed health care professionals.

5 (h) "Provider agency" means any public or nonprofit agency
6 in a planning and service area appointed by the regional
7 administrative agency with prior approval by the Department on
8 Aging to receive and assess reports of alleged or suspected
9 abuse, neglect, or financial exploitation.

10 (i) "Regional administrative agency" means any public or
11 nonprofit agency in a planning and service area so designated
12 by the Department, provided that the designated Area Agency on
13 Aging shall be designated the regional administrative agency if
14 it so requests. The Department shall assume the functions of
15 the regional administrative agency for any planning and service
16 area where another agency is not so designated.

17 (i-5) "Self-neglect" means a condition that is the result
18 of an eligible adult's inability, due to physical or mental
19 impairments, or both, or a diminished capacity, to perform
20 essential self-care tasks that substantially threaten his or
21 her own health, including: providing essential food, clothing,
22 shelter, and health care; and obtaining goods and services
23 necessary to maintain physical health, mental health,
24 emotional well-being, and general safety.

25 (j) "Substantiated case" means a reported case of alleged
26 or suspected abuse, neglect, financial exploitation, or

1 self-neglect in which a provider agency, after assessment,
2 determines that there is reason to believe abuse, neglect, or
3 financial exploitation has occurred.

4 (Source: P.A. 94-1064, eff. 1-1-07; 95-639, eff. 10-5-07;
5 95-689, eff. 10-29-07; 95-876, eff. 8-21-08.)

6 Section 90-158. The Older Adult Services Act is amended by
7 changing Section 10 as follows:

8 (320 ILCS 42/10)

9 Sec. 10. Definitions. In this Act:

10 "Advisory Committee" means the Older Adult Services
11 Advisory Committee.

12 "Certified nursing home" means any nursing home licensed
13 under the Nursing Home Care Act or the MR/DD Community Care Act
14 and certified under Title XIX of the Social Security Act to
15 participate as a vendor in the medical assistance program under
16 Article V of the Illinois Public Aid Code.

17 "Comprehensive case management" means the assessment of
18 needs and preferences of an older adult at the direction of the
19 older adult or the older adult's designated representative and
20 the arrangement, coordination, and monitoring of an optimum
21 package of services to meet the needs of the older adult.

22 "Consumer-directed" means decisions made by an informed
23 older adult from available services and care options, which may
24 range from independently making all decisions and managing

1 services directly to limited participation in decision-making,
2 based upon the functional and cognitive level of the older
3 adult.

4 "Coordinated point of entry" means an integrated access
5 point where consumers receive information and assistance,
6 assessment of needs, care planning, referral, assistance in
7 completing applications, authorization of services where
8 permitted, and follow-up to ensure that referrals and services
9 are accessed.

10 "Department" means the Department on Aging, in
11 collaboration with the departments of Public Health and
12 Healthcare and Family Services and other relevant agencies and
13 in consultation with the Advisory Committee, except as
14 otherwise provided.

15 "Departments" means the Department on Aging, the
16 departments of Public Health and Healthcare and Family
17 Services, and other relevant agencies in collaboration with
18 each other and in consultation with the Advisory Committee,
19 except as otherwise provided.

20 "Family caregiver" means an adult family member or another
21 individual who is an uncompensated provider of home-based or
22 community-based care to an older adult.

23 "Health services" means activities that promote, maintain,
24 improve, or restore mental or physical health or that are
25 palliative in nature.

26 "Older adult" means a person age 60 or older and, if

1 appropriate, the person's family caregiver.

2 "Person-centered" means a process that builds upon an older
3 adult's strengths and capacities to engage in activities that
4 promote community life and that reflect the older adult's
5 preferences, choices, and abilities, to the extent
6 practicable.

7 "Priority service area" means an area identified by the
8 Departments as being less-served with respect to the
9 availability of and access to older adult services in Illinois.
10 The Departments shall determine by rule the criteria and
11 standards used to designate such areas.

12 "Priority service plan" means the plan developed pursuant
13 to Section 25 of this Act.

14 "Provider" means any supplier of services under this Act.

15 "Residential setting" means the place where an older adult
16 lives.

17 "Restructuring" means the transformation of Illinois'
18 comprehensive system of older adult services from funding
19 primarily a facility-based service delivery system to
20 primarily a home-based and community-based system, taking into
21 account the continuing need for 24-hour skilled nursing care
22 and congregate housing with services.

23 "Services" means the range of housing, health, financial,
24 and supportive services, other than acute health care services,
25 that are delivered to an older adult with functional or
26 cognitive limitations, or socialization needs, who requires

1 assistance to perform activities of daily living, regardless of
2 the residential setting in which the services are delivered.

3 "Supportive services" means non-medical assistance given
4 over a period of time to an older adult that is needed to
5 compensate for the older adult's functional or cognitive
6 limitations, or socialization needs, or those services
7 designed to restore, improve, or maintain the older adult's
8 functional or cognitive abilities.

9 (Source: P.A. 95-331, eff. 8-21-07.)

10 Section 90-160. The Mental Health and Developmental
11 Disabilities Code is amended by changing Section 2-107 as
12 follows:

13 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

14 Sec. 2-107. Refusal of services; informing of risks.

15 (a) An adult recipient of services or the recipient's
16 guardian, if the recipient is under guardianship, and the
17 recipient's substitute decision maker, if any, must be informed
18 of the recipient's right to refuse medication or
19 electroconvulsive therapy. The recipient and the recipient's
20 guardian or substitute decision maker shall be given the
21 opportunity to refuse generally accepted mental health or
22 developmental disability services, including but not limited
23 to medication or electroconvulsive therapy. If such services
24 are refused, they shall not be given unless such services are

1 necessary to prevent the recipient from causing serious and
2 imminent physical harm to the recipient or others and no less
3 restrictive alternative is available. The facility director
4 shall inform a recipient, guardian, or substitute decision
5 maker, if any, who refuses such services of alternate services
6 available and the risks of such alternate services, as well as
7 the possible consequences to the recipient of refusal of such
8 services.

9 (b) Psychotropic medication or electroconvulsive therapy
10 may be administered under this Section for up to 24 hours only
11 if the circumstances leading up to the need for emergency
12 treatment are set forth in writing in the recipient's record.

13 (c) Administration of medication or electroconvulsive
14 therapy may not be continued unless the need for such treatment
15 is redetermined at least every 24 hours based upon a personal
16 examination of the recipient by a physician or a nurse under
17 the supervision of a physician and the circumstances
18 demonstrating that need are set forth in writing in the
19 recipient's record.

20 (d) Neither psychotropic medication nor electroconvulsive
21 therapy may be administered under this Section for a period in
22 excess of 72 hours, excluding Saturdays, Sundays, and holidays,
23 unless a petition is filed under Section 2-107.1 and the
24 treatment continues to be necessary under subsection (a) of
25 this Section. Once the petition has been filed, treatment may
26 continue in compliance with subsections (a), (b), and (c) of

1 this Section until the final outcome of the hearing on the
2 petition.

3 (e) The Department shall issue rules designed to insure
4 that in State-operated mental health facilities psychotropic
5 medication and electroconvulsive therapy are administered in
6 accordance with this Section and only when appropriately
7 authorized and monitored by a physician or a nurse under the
8 supervision of a physician in accordance with accepted medical
9 practice. The facility director of each mental health facility
10 not operated by the State shall issue rules designed to insure
11 that in that facility psychotropic medication and
12 electroconvulsive therapy are administered in accordance with
13 this Section and only when appropriately authorized and
14 monitored by a physician or a nurse under the supervision of a
15 physician in accordance with accepted medical practice. Such
16 rules shall be available for public inspection and copying
17 during normal business hours.

18 (f) The provisions of this Section with respect to the
19 emergency administration of psychotropic medication and
20 electroconvulsive therapy do not apply to facilities licensed
21 under the Nursing Home Care Act or the MR/DD Community Care
22 Act.

23 (g) Under no circumstances may long-acting psychotropic
24 medications be administered under this Section.

25 (h) Whenever psychotropic medication or electroconvulsive
26 therapy is refused pursuant to subsection (a) of this Section

1 at least once that day, the physician shall determine and state
2 in writing the reasons why the recipient did not meet the
3 criteria for administration of medication or electroconvulsive
4 therapy under subsection (a) and whether the recipient meets
5 the standard for administration of psychotropic medication or
6 electroconvulsive therapy under Section 2-107.1 of this Code.
7 If the physician determines that the recipient meets the
8 standard for administration of psychotropic medication or
9 electroconvulsive therapy under Section 2-107.1, the facility
10 director or his or her designee shall petition the court for
11 administration of psychotropic medication or electroconvulsive
12 therapy pursuant to that Section unless the facility director
13 or his or her designee states in writing in the recipient's
14 record why the filing of such a petition is not warranted. This
15 subsection (h) applies only to State-operated mental health
16 facilities.

17 (i) The Department shall conduct annual trainings for all
18 physicians and registered nurses working in State-operated
19 mental health facilities on the appropriate use of emergency
20 administration of psychotropic medication and
21 electroconvulsive therapy, standards for their use, and the
22 methods of authorization under this Section.

23 (Source: P.A. 94-1066, eff. 8-1-06; 95-172, eff. 8-14-07.)

24 Section 90-165. The Protection and Advocacy for
25 Developmentally Disabled Persons Act is amended by changing

1 Section 1 as follows:

2 (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

3 Sec. 1. The Governor may designate a private not-for-profit
4 corporation as the agency to administer a State plan to protect
5 and advocate the rights of persons with developmental
6 disabilities pursuant to the requirements of the federal
7 Developmental Disabilities Assistance and Bill of Rights Act,
8 42 U.S.C. 6001 to 6081, as now or hereafter amended. The
9 designated agency may pursue legal, administrative, and other
10 appropriate remedies to ensure the protection of the rights of
11 such persons who are receiving treatment, services or
12 habilitation within this State. The agency designated by the
13 Governor shall be independent of any agency which provides
14 treatment, services, guardianship, or habilitation to persons
15 with developmental disabilities, and such agency shall not be
16 administered by the Governor's Planning Council on
17 Developmental Disabilities or any successor State Planning
18 Council organized pursuant to federal law.

19 The designated agency may receive and expend funds to
20 protect and advocate the rights of persons with developmental
21 disabilities. In order to properly exercise its powers and
22 duties, such agency shall have access to developmental
23 disability facilities and mental health facilities, as defined
24 under Sections 1-107 and 1-114 of the Mental Health and
25 Developmental Disabilities Code, and facilities as defined in

1 Section 1-113 of the Nursing Home Care Act or Section 1-113 of
2 the MR/DD Community Care Act. Such access shall be granted for
3 the purposes of meeting with residents and staff, informing
4 them of services available from the agency, distributing
5 written information about the agency and the rights of persons
6 with developmental disabilities, conducting scheduled and
7 unscheduled visits, and performing other activities designed
8 to protect the rights of persons with developmental
9 disabilities. The agency also shall have access, for the
10 purpose of inspection and copying, to the records of a person
11 with developmental disabilities who resides in any such
12 facility subject to the limitations of this Act, the Mental
13 Health and Developmental Disabilities Confidentiality Act, ~~and~~
14 the Nursing Home Care Act, and the MR/DD Community Care Act.
15 The agency also shall have access, for the purpose of
16 inspection and copying, to the records of a person with
17 developmental disabilities who resides in any such facility if
18 (1) a complaint is received by the agency from or on behalf of
19 the person with a developmental disability, and (2) such person
20 does not have a legal guardian or the State or the designee of
21 the State is the legal guardian of such person. The designated
22 agency shall provide written notice to the person with
23 developmental disabilities and the State guardian of the nature
24 of the complaint based upon which the designated agency has
25 gained access to the records. No record or the contents of any
26 record shall be redisclosed by the designated agency unless the

1 person with developmental disabilities and the State guardian
2 are provided 7 days advance written notice, except in emergency
3 situations, of the designated agency's intent to redisclose
4 such record, during which time the person with developmental
5 disabilities or the State guardian may seek to judicially
6 enjoin the designated agency's redisclosure of such record on
7 the grounds that such redisclosure is contrary to the interests
8 of the person with developmental disabilities. Any person who
9 in good faith complains to the designated agency on behalf of a
10 person with developmental disabilities, or provides
11 information or participates in the investigation of any such
12 complaint shall have immunity from any liability, civil,
13 criminal or otherwise, and shall not be subject to any
14 penalties, sanctions, restrictions or retaliation as a
15 consequence of making such complaint, providing such
16 information or participating in such investigation.

17 Upon request, the designated agency shall be entitled to
18 inspect and copy any records or other materials which may
19 further the agency's investigation of problems affecting
20 numbers of persons with developmental disabilities. When
21 required by law any personally identifiable information of
22 persons with developmental disabilities shall be removed from
23 the records. However, the designated agency may not inspect or
24 copy any records or other materials when the removal of
25 personally identifiable information imposes an unreasonable
26 burden on mental health and developmental disabilities

1 facilities pursuant to the Mental Health and Developmental
2 Disabilities Code or facilities as defined in the Nursing Home
3 Care Act or the MR/DD Community Care Act.

4 The Governor shall not redesignate the agency to administer
5 the State plan to protect and advocate the rights of persons
6 with developmental disabilities unless there is good cause for
7 the redesignation and unless notice of the intent to make such
8 redesignation is given to persons with developmental
9 disabilities or their representatives, the federal Secretary
10 of Health and Human Services, and the General Assembly at least
11 60 days prior thereto.

12 As used in this Act, the term "developmental disability"
13 means a severe, chronic disability of a person which:

14 (A) is attributable to a mental or physical impairment
15 or combination of mental and physical impairments;

16 (B) is manifested before the person attains age 22;

17 (C) is likely to continue indefinitely;

18 (D) results in substantial functional limitations in 3
19 or more of the following areas of major life activity: (i)
20 self-care, (ii) receptive and expressive language, (iii)
21 learning, (iv) mobility, (v) self-direction, (vi) capacity
22 for independent living, and (vii) economic
23 self-sufficiency; and

24 (E) reflects the person's need for combination and
25 sequence of special, interdisciplinary or generic care,
26 treatment or other services which are of lifelong or

1 extended duration and are individually planned and
2 coordinated.

3 (Source: P.A. 88-380.)

4 Section 90-167. The Protection and Advocacy for Mentally
5 Ill Persons Act is amended by changing Section 3 as follows:

6 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

7 Sec. 3. Powers and Duties.

8 (A) In order to properly exercise its powers and duties,
9 the agency shall have the authority to:

10 (1) Investigate incidents of abuse and neglect of
11 mentally ill persons if the incidents are reported to the
12 agency or if there is probable cause to believe that the
13 incidents occurred. In case of conflict with provisions of
14 the Abused and Neglected Child Reporting Act or the Nursing
15 Home Care Act, the provisions of those Acts shall apply.

16 (2) Pursue administrative, legal and other appropriate
17 remedies to ensure the protection of the rights of mentally
18 ill persons who are receiving care and treatment in this
19 State.

20 (3) Pursue administrative, legal and other remedies on
21 behalf of an individual who:

22 (a) was a mentally ill individual; and

23 (b) is a resident of this State, but only with
24 respect to matters which occur within 90 days after the

1 date of the discharge of such individual from a
2 facility providing care and treatment.

3 (4) Establish a board which shall:

4 (a) advise the protection and advocacy system on
5 policies and priorities to be carried out in protecting
6 and advocating the rights of mentally ill individuals;
7 and

8 (b) include attorneys, mental health
9 professionals, individuals from the public who are
10 knowledgeable about mental illness, a provider of
11 mental health services, individuals who have received
12 or are receiving mental health services and family
13 members of such individuals. At least one-half the
14 members of the board shall be individuals who have
15 received or are receiving mental health services or who
16 are family members of such individuals.

17 (5) On January 1, 1988, and on January 1 of each
18 succeeding year, prepare and transmit to the Secretary of
19 the United States Department of Health and Human Services
20 and to the Illinois Secretary of Human Services a report
21 describing the activities, accomplishments and
22 expenditures of the protection and advocacy system during
23 the most recently completed fiscal year.

24 (B) The agency shall have access to all mental health
25 facilities as defined in Sections 1-107 and 1-114 of the Mental
26 Health and Developmental Disabilities Code, all facilities as

1 defined in Section 1-113 of the Nursing Home Care Act, all
2 facilities as defined in Section 1-113 of the MR/DD Community
3 Care Act, all facilities as defined in Section 2.06 of the
4 Child Care Act of 1969, as now or hereafter amended, and all
5 other facilities providing care or treatment to mentally ill
6 persons. Such access shall be granted for the purposes of
7 meeting with residents and staff, informing them of services
8 available from the agency, distributing written information
9 about the agency and the rights of persons who are mentally
10 ill, conducting scheduled and unscheduled visits, and
11 performing other activities designed to protect the rights of
12 mentally ill persons.

13 (C) The agency shall have access to all records of mentally
14 ill persons who are receiving care or treatment from a
15 facility, subject to the limitations of this Act, the Mental
16 Health and Developmental Disabilities Confidentiality Act, the
17 Nursing Home Care Act and the Child Care Act of 1969, as now or
18 hereafter amended. If the mentally ill person has a legal
19 guardian other than the State or a designee of the State, the
20 facility director shall disclose the guardian's name, address
21 and telephone number to the agency upon its request. In cases
22 of conflict with provisions of the Abused and Neglected Child
23 Reporting Act and the Nursing Home Care Act, the provisions of
24 the Abused and Neglected Child Reporting Act and the Nursing
25 Home Care Act shall apply. The agency shall also have access,
26 for the purpose of inspection and copying, to the records of a

1 mentally ill person (i) who by reason of his or her mental or
2 physical condition is unable to authorize the agency to have
3 such access; (ii) who does not have a legal guardian or for
4 whom the State or a designee of the State is the legal
5 guardian; and (iii) with respect to whom a complaint has been
6 received by the agency or with respect to whom there is
7 probable cause to believe that such person has been subjected
8 to abuse or neglect.

9 The agency shall provide written notice to the mentally ill
10 person and the State guardian of the nature of the complaint
11 based upon which the agency has gained access to the records.
12 No record or the contents of the record shall be redisclosed by
13 the agency unless the person who is mentally ill and the State
14 guardian are provided 7 days advance written notice, except in
15 emergency situations, of the agency's intent to redisclose such
16 record. Within such 7-day period, the mentally ill person or
17 the State guardian may seek an injunction prohibiting the
18 agency's redisclosure of such record on the grounds that such
19 redisclosure is contrary to the interests of the mentally ill
20 person.

21 Upon request, the authorized agency shall be entitled to
22 inspect and copy any clinical or trust fund records of mentally
23 ill persons which may further the agency's investigation of
24 alleged problems affecting numbers of mentally ill persons.
25 When required by law, any personally identifiable information
26 of mentally ill persons shall be removed from the records.

1 However, the agency may not inspect or copy any records or
2 other materials when the removal of personally identifiable
3 information imposes an unreasonable burden on any facility as
4 defined by the Mental Health and Developmental Disabilities
5 Code, the Nursing Home Care Act or the Child Care Act of 1969,
6 or any other facility providing care or treatment to mentally
7 ill persons.

8 (D) Prior to instituting any legal action in a federal or
9 State court on behalf of a mentally ill individual, an eligible
10 protection and advocacy system, or a State agency or nonprofit
11 organization which entered into a contract with such an
12 eligible system under Section 104(a) of the federal Protection
13 and Advocacy for Mentally Ill Individuals Act of 1986, shall
14 exhaust in a timely manner all administrative remedies where
15 appropriate. If, in pursuing administrative remedies, the
16 system, State agency or organization determines that any matter
17 with respect to such individual will not be resolved within a
18 reasonable time, the system, State agency or organization may
19 pursue alternative remedies, including the initiation of
20 appropriate legal action.

21 (Source: P.A. 89-507, eff. 7-1-97.)

22 Section 90-170. The Developmental Disability and Mental
23 Disability Services Act is amended by changing Sections 2-3 and
24 5-1 as follows:

1 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

2 Sec. 2-3. As used in this Article, unless the context
3 requires otherwise:

4 (a) "Agency" means an agency or entity licensed by the
5 Department pursuant to this Article or pursuant to the
6 Community Residential Alternatives Licensing Act.

7 (b) "Department" means the Department of Human Services, as
8 successor to the Department of Mental Health and Developmental
9 Disabilities.

10 (c) "Home-based services" means services provided to a
11 mentally disabled adult who lives in his or her own home. These
12 services include but are not limited to:

13 (1) home health services;

14 (2) case management;

15 (3) crisis management;

16 (4) training and assistance in self-care;

17 (5) personal care services;

18 (6) habilitation and rehabilitation services;

19 (7) employment-related services;

20 (8) respite care; and

21 (9) other skill training that enables a person to
22 become self-supporting.

23 (d) "Legal guardian" means a person appointed by a court of
24 competent jurisdiction to exercise certain powers on behalf of
25 a mentally disabled adult.

26 (e) "Mentally disabled adult" means a person over the age

1 of 18 years who lives in his or her own home; who needs
2 home-based services, but does not require 24-hour-a-day
3 supervision; and who has one of the following conditions:
4 severe autism, severe mental illness, severe or profound mental
5 retardation, or severe and multiple impairments.

6 (f) In one's "own home" means that a mentally disabled
7 adult lives alone; or that a mentally disabled adult is in
8 full-time residence with his or her parents, legal guardian, or
9 other relatives; or that a mentally disabled adult is in
10 full-time residence in a setting not subject to licensure under
11 the Nursing Home Care Act, the MR/DD Community Care Act, or the
12 Child Care Act of 1969, as now or hereafter amended, with 3 or
13 fewer other adults unrelated to the mentally disabled adult who
14 do not provide home-based services to the mentally disabled
15 adult.

16 (g) "Parent" means the biological or adoptive parent of a
17 mentally disabled adult, or a person licensed as a foster
18 parent under the laws of this State who acts as a mentally
19 disabled adult's foster parent.

20 (h) "Relative" means any of the following relationships by
21 blood, marriage or adoption: parent, son, daughter, brother,
22 sister, grandparent, uncle, aunt, nephew, niece, great
23 grandparent, great uncle, great aunt, stepbrother, stepsister,
24 stepson, stepdaughter, stepparent or first cousin.

25 (i) "Severe autism" means a lifelong developmental
26 disability which is typically manifested before 30 months of

1 age and is characterized by severe disturbances in reciprocal
2 social interactions; verbal and nonverbal communication and
3 imaginative activity; and repertoire of activities and
4 interests. A person shall be determined severely autistic, for
5 purposes of this Article, if both of the following are present:

6 (1) Diagnosis consistent with the criteria for
7 autistic disorder in the current edition of the Diagnostic
8 and Statistical Manual of Mental Disorders.

9 (2) Severe disturbances in reciprocal social
10 interactions; verbal and nonverbal communication and
11 imaginative activity; repertoire of activities and
12 interests. A determination of severe autism shall be based
13 upon a comprehensive, documented assessment with an
14 evaluation by a licensed clinical psychologist or
15 psychiatrist. A determination of severe autism shall not be
16 based solely on behaviors relating to environmental,
17 cultural or economic differences.

18 (j) "Severe mental illness" means the manifestation of all
19 of the following characteristics:

20 (1) A primary diagnosis of one of the major mental
21 disorders in the current edition of the Diagnostic and
22 Statistical Manual of Mental Disorders listed below:

23 (A) Schizophrenia disorder.

24 (B) Delusional disorder.

25 (C) Schizo-affective disorder.

26 (D) Bipolar affective disorder.

1 (E) Atypical psychosis.

2 (F) Major depression, recurrent.

3 (2) The individual's mental illness must substantially
4 impair his or her functioning in at least 2 of the
5 following areas:

6 (A) Self-maintenance.

7 (B) Social functioning.

8 (C) Activities of community living.

9 (D) Work skills.

10 (3) Disability must be present or expected to be
11 present for at least one year.

12 A determination of severe mental illness shall be based
13 upon a comprehensive, documented assessment with an evaluation
14 by a licensed clinical psychologist or psychiatrist, and shall
15 not be based solely on behaviors relating to environmental,
16 cultural or economic differences.

17 (k) "Severe or profound mental retardation" means a
18 manifestation of all of the following characteristics:

19 (1) A diagnosis which meets Classification in Mental
20 Retardation or criteria in the current edition of the
21 Diagnostic and Statistical Manual of Mental Disorders for
22 severe or profound mental retardation (an IQ of 40 or
23 below). This must be measured by a standardized instrument
24 for general intellectual functioning.

25 (2) A severe or profound level of disturbed adaptive
26 behavior. This must be measured by a standardized adaptive

1 behavior scale or informal appraisal by the professional in
2 keeping with illustrations in Classification in Mental
3 Retardation, 1983.

4 (3) Disability diagnosed before age of 18.

5 A determination of severe or profound mental retardation
6 shall be based upon a comprehensive, documented assessment with
7 an evaluation by a licensed clinical psychologist or certified
8 school psychologist or a psychiatrist, and shall not be based
9 solely on behaviors relating to environmental, cultural or
10 economic differences.

11 (1) "Severe and multiple impairments" means the
12 manifestation of all of the following characteristics:

13 (1) The evaluation determines the presence of a
14 developmental disability which is expected to continue
15 indefinitely, constitutes a substantial handicap and is
16 attributable to any of the following:

17 (A) Mental retardation, which is defined as
18 general intellectual functioning that is 2 or more
19 standard deviations below the mean concurrent with
20 impairment of adaptive behavior which is 2 or more
21 standard deviations below the mean. Assessment of the
22 individual's intellectual functioning must be measured
23 by a standardized instrument for general intellectual
24 functioning.

25 (B) Cerebral palsy.

26 (C) Epilepsy.

1 (D) Autism.

2 (E) Any other condition which results in
3 impairment similar to that caused by mental
4 retardation and which requires services similar to
5 those required by mentally retarded persons.

6 (2) The evaluation determines multiple handicaps in
7 physical, sensory, behavioral or cognitive functioning
8 which constitute a severe or profound impairment
9 attributable to one or more of the following:

10 (A) Physical functioning, which severely impairs
11 the individual's motor performance that may be due to:

12 (i) Neurological, psychological or physical
13 involvement resulting in a variety of disabling
14 conditions such as hemiplegia, quadriplegia or
15 ataxia,

16 (ii) Severe organ systems involvement such as
17 congenital heart defect,

18 (iii) Physical abnormalities resulting in the
19 individual being non-mobile and non-ambulatory or
20 confined to bed and receiving assistance in
21 transferring, or

22 (iv) The need for regular medical or nursing
23 supervision such as gastrostomy care and feeding.

24 Assessment of physical functioning must be based
25 on clinical medical assessment by a physician licensed
26 to practice medicine in all its branches, using the

1 appropriate instruments, techniques and standards of
2 measurement required by the professional.

3 (B) Sensory, which involves severe restriction due
4 to hearing or visual impairment limiting the
5 individual's movement and creating dependence in
6 completing most daily activities. Hearing impairment
7 is defined as a loss of 70 decibels aided or speech
8 discrimination of less than 50% aided. Visual
9 impairment is defined as 20/200 corrected in the better
10 eye or a visual field of 20 degrees or less. Sensory
11 functioning must be based on clinical medical
12 assessment by a physician licensed to practice
13 medicine in all its branches using the appropriate
14 instruments, techniques and standards of measurement
15 required by the professional.

16 (C) Behavioral, which involves behavior that is
17 maladaptive and presents a danger to self or others, is
18 destructive to property by deliberately breaking,
19 destroying or defacing objects, is disruptive by
20 fighting, or has other socially offensive behaviors in
21 sufficient frequency or severity to seriously limit
22 social integration. Assessment of behavioral
23 functioning may be measured by a standardized scale or
24 informal appraisal by a clinical psychologist or
25 psychiatrist.

26 (D) Cognitive, which involves intellectual

1 functioning at a measured IQ of 70 or below. Assessment
2 of cognitive functioning must be measured by a
3 standardized instrument for general intelligence.

4 (3) The evaluation determines that development is
5 substantially less than expected for the age in cognitive,
6 affective or psychomotor behavior as follows:

7 (A) Cognitive, which involves intellectual
8 functioning at a measured IQ of 70 or below. Assessment
9 of cognitive functioning must be measured by a
10 standardized instrument for general intelligence.

11 (B) Affective behavior, which involves over and
12 under responding to stimuli in the environment and may
13 be observed in mood, attention to awareness, or in
14 behaviors such as euphoria, anger or sadness that
15 seriously limit integration into society. Affective
16 behavior must be based on clinical assessment using the
17 appropriate instruments, techniques and standards of
18 measurement required by the professional.

19 (C) Psychomotor, which includes a severe
20 developmental delay in fine or gross motor skills so
21 that development in self-care, social interaction,
22 communication or physical activity will be greatly
23 delayed or restricted.

24 (4) A determination that the disability originated
25 before the age of 18 years.

26 A determination of severe and multiple impairments shall be

1 based upon a comprehensive, documented assessment with an
2 evaluation by a licensed clinical psychologist or
3 psychiatrist.

4 If the examiner is a licensed clinical psychologist,
5 ancillary evaluation of physical impairment, cerebral palsy or
6 epilepsy must be made by a physician licensed to practice
7 medicine in all its branches.

8 Regardless of the discipline of the examiner, ancillary
9 evaluation of visual impairment must be made by an
10 ophthalmologist or a licensed optometrist.

11 Regardless of the discipline of the examiner, ancillary
12 evaluation of hearing impairment must be made by an
13 otolaryngologist or an audiologist with a certificate of
14 clinical competency.

15 The only exception to the above is in the case of a person
16 with cerebral palsy or epilepsy who, according to the
17 eligibility criteria listed below, has multiple impairments
18 which are only physical and sensory. In such a case, a
19 physician licensed to practice medicine in all its branches may
20 serve as the examiner.

21 (m) "Twenty-four-hour-a-day supervision" means
22 24-hour-a-day care by a trained mental health or developmental
23 disability professional on an ongoing basis.

24 (Source: P.A. 89-507, eff. 7-1-97.)

25 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

1 Sec. 5-1. As the mental health and developmental
2 disabilities or mental retardation authority for the State of
3 Illinois, the Department of Human Services shall have the
4 authority to license, certify and prescribe standards
5 governing the programs and services provided under this Act, as
6 well as all other agencies or programs which provide home-based
7 or community-based services to the mentally disabled, except
8 those services, programs or agencies established under or
9 otherwise subject to the Child Care Act of 1969 or the MR/DD
10 Community Care Act ~~Nursing Home Care Act~~, as now or hereafter
11 amended, and this Act shall not be construed to limit the
12 application of those Acts.

13 (Source: P.A. 89-507, eff. 7-1-97.)

14 Section 90-175. The Facilities Requiring Smoke Detectors
15 Act is amended by changing Section 1 as follows:

16 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

17 Sec. 1. For purposes of this Act, unless the context
18 requires otherwise:

19 (a) "Facility" means:

20 (1) Any long-term care facility as defined in Section 1-113
21 of the Nursing Home Care Act or any facility as defined in
22 Section 1-113 of the MR/DD Community Care Act, as amended;

23 (2) Any community residential alternative as defined in
24 paragraph (4) of Section 3 of the Community Residential

1 Alternatives Licensing Act, as amended; and

2 (3) Any child care facility as defined in Section 2.05 of
3 the Child Care Act of 1969, as amended.

4 (b) "Approved smoke detector" or "detector" means a smoke
5 detector of the ionization or photoelectric type which complies
6 with all the requirements of the rules and regulations of the
7 Illinois State Fire Marshal.

8 (Source: P.A. 86-820.)

9 Section 90-180. The Criminal Code of 1961 is amended by
10 changing Sections 12-19, 12-21, and 26-1 as follows:

11 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

12 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
13 Facility Resident.

14 (a) Any person or any owner or licensee of a long term care
15 facility who abuses a long term care facility resident is
16 guilty of a Class 3 felony. Any person or any owner or licensee
17 of a long term care facility who criminally neglects a long
18 term care facility resident is guilty of a Class 4 felony. A
19 person whose criminal neglect of a long term care facility
20 resident results in the resident's death is guilty of a Class 3
21 felony. However, nothing herein shall be deemed to apply to a
22 physician licensed to practice medicine in all its branches or
23 a duly licensed nurse providing care within the scope of his or
24 her professional judgment and within the accepted standards of

1 care within the community.

2 (b) Notwithstanding the penalties in subsections (a) and
3 (c) and in addition thereto, if a licensee or owner of a long
4 term care facility or his or her employee has caused neglect of
5 a resident, the licensee or owner is guilty of a petty offense.
6 An owner or licensee is guilty under this subsection (b) only
7 if the owner or licensee failed to exercise reasonable care in
8 the hiring, training, supervising or providing of staff or
9 other related routine administrative responsibilities.

10 (c) Notwithstanding the penalties in subsections (a) and
11 (b) and in addition thereto, if a licensee or owner of a long
12 term care facility or his or her employee has caused gross
13 neglect of a resident, the licensee or owner is guilty of a
14 business offense for which a fine of not more than \$10,000 may
15 be imposed. An owner or licensee is guilty under this
16 subsection (c) only if the owner or licensee failed to exercise
17 reasonable care in the hiring, training, supervising or
18 providing of staff or other related routine administrative
19 responsibilities.

20 (d) For the purpose of this Section:

21 (1) "Abuse" means intentionally or knowingly causing
22 any physical or mental injury or committing any sexual
23 offense set forth in this Code.

24 (2) "Criminal neglect" means an act whereby a person
25 recklessly (i) performs acts that cause an elderly person's
26 or person with a disability's life to be endangered, health

1 to be injured, or pre-existing physical or mental condition
2 to deteriorate, or (ii) fails to perform acts that he or
3 she knows or reasonably should know are necessary to
4 maintain or preserve the life or health of an elderly
5 person or person with a disability, and that failure causes
6 the elderly person's or person with a disability's life to
7 be endangered, health to be injured, or pre-existing
8 physical or mental condition to deteriorate, or (iii)
9 abandons an elderly person or person with a disability.

10 (3) "Neglect" means negligently failing to provide
11 adequate medical or personal care or maintenance, which
12 failure results in physical or mental injury or the
13 deterioration of a physical or mental condition.

14 (4) "Resident" means a person residing in a long term
15 care facility.

16 (5) "Owner" means the person who owns a long term care
17 facility as provided under the Nursing Home Care Act, a
18 facility as provided under the MR/DD Community Care Act, or
19 an assisted living or shared housing establishment under
20 the Assisted Living and Shared Housing Act.

21 (6) "Licensee" means the individual or entity licensed
22 to operate a facility under the Nursing Home Care Act, the
23 MR/DD Community Care Act, or the Assisted Living and Shared
24 Housing Act.

25 (7) "Facility" or "long term care facility" means a
26 private home, institution, building, residence, or any

1 other place, whether operated for profit or not, or a
2 county home for the infirm and chronically ill operated
3 pursuant to Division 5-21 or 5-22 of the Counties Code, or
4 any similar institution operated by the State of Illinois
5 or a political subdivision thereof, which provides,
6 through its ownership or management, personal care,
7 sheltered care or nursing for 3 or more persons not related
8 to the owner by blood or marriage. The term also includes
9 skilled nursing facilities and intermediate care
10 facilities as defined in Title XVIII and Title XIX of the
11 federal Social Security Act and assisted living
12 establishments and shared housing establishments licensed
13 under the Assisted Living and Shared Housing Act.

14 (e) Nothing contained in this Section shall be deemed to
15 apply to the medical supervision, regulation or control of the
16 remedial care or treatment of residents in a facility conducted
17 for those who rely upon treatment by prayer or spiritual means
18 in accordance with the creed or tenets of any well recognized
19 church or religious denomination and which is licensed in
20 accordance with Section 3-803 of the Nursing Home Care Act or
21 Section 3-803 of the MR/DD Community Care Act.

22 (Source: P.A. 93-301, eff. 1-1-04.)

23 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

24 Sec. 12-21. Criminal abuse or neglect of an elderly person
25 or person with a disability.

1 (a) A person commits the offense of criminal abuse or
2 neglect of an elderly person or person with a disability when
3 he or she is a caregiver and he or she knowingly:

4 (1) performs acts that cause the elderly person or
5 person with a disability's life to be endangered, health to
6 be injured, or pre-existing physical or mental condition to
7 deteriorate; or

8 (2) fails to perform acts that he or she knows or
9 reasonably should know are necessary to maintain or
10 preserve the life or health of the elderly person or person
11 with a disability and such failure causes the elderly
12 person or person with a disability's life to be endangered,
13 health to be injured or pre-existing physical or mental
14 condition to deteriorate; or

15 (3) abandons the elderly person or person with a
16 disability; or

17 (4) physically abuses, harasses, intimidates, or
18 interferes with the personal liberty of the elderly person
19 or person with a disability or exposes the elderly person
20 or person with a disability to willful deprivation.

21 Criminal abuse or neglect of an elderly person or person
22 with a disability is a Class 3 felony. Criminal neglect of an
23 elderly person or person with a disability is a Class 2 felony
24 if the criminal neglect results in the death of the person
25 neglected for which the defendant, if sentenced to a term of
26 imprisonment, shall be sentenced to a term of not less than 3

1 years and not more than 14 years.

2 (b) For purposes of this Section:

3 (1) "Elderly person" means a person 60 years of age or
4 older who is incapable of adequately providing for his own
5 health and personal care.

6 (2) "Person with a disability" means a person who
7 suffers from a permanent physical or mental impairment,
8 resulting from disease, injury, functional disorder or
9 congenital condition which renders such person incapable
10 of adequately providing for his own health and personal
11 care.

12 (3) "Caregiver" means a person who has a duty to
13 provide for an elderly person or person with a disability's
14 health and personal care, at such person's place of
15 residence, including but not limited to, food and
16 nutrition, shelter, hygiene, prescribed medication and
17 medical care and treatment.

18 "Caregiver" shall include:

19 (A) a parent, spouse, adult child or other relative
20 by blood or marriage who resides with or resides in the
21 same building with or regularly visits the elderly
22 person or person with a disability, knows or reasonably
23 should know of such person's physical or mental
24 impairment and knows or reasonably should know that
25 such person is unable to adequately provide for his own
26 health and personal care;

1 (B) a person who is employed by the elderly person
2 or person with a disability or by another to reside
3 with or regularly visit the elderly person or person
4 with a disability and provide for such person's health
5 and personal care;

6 (C) a person who has agreed for consideration to
7 reside with or regularly visit the elderly person or
8 person with a disability and provide for such person's
9 health and personal care; and

10 (D) a person who has been appointed by a private or
11 public agency or by a court of competent jurisdiction
12 to provide for the elderly person or person with a
13 disability's health and personal care.

14 "Caregiver" shall not include a long-term care
15 facility licensed or certified under the Nursing Home Care
16 Act or a facility licensed or certified under the MR/DD
17 Community Care Act, or any administrative, medical or other
18 personnel of such a facility, or a health care provider who
19 is licensed under the Medical Practice Act of 1987 and
20 renders care in the ordinary course of his profession.

21 (4) "Abandon" means to desert or knowingly forsake an
22 elderly person or person with a disability under
23 circumstances in which a reasonable person would continue
24 to provide care and custody.

25 (5) "Willful deprivation" has the meaning ascribed to
26 it in paragraph (15) of Section 103 of the Illinois

1 Domestic Violence Act of 1986.

2 (c) Nothing in this Section shall be construed to limit the
3 remedies available to the victim under the Illinois Domestic
4 Violence Act.

5 (d) Nothing in this Section shall be construed to impose
6 criminal liability on a person who has made a good faith effort
7 to provide for the health and personal care of an elderly
8 person or person with a disability, but through no fault of his
9 own has been unable to provide such care.

10 (e) Nothing in this Section shall be construed as
11 prohibiting a person from providing treatment by spiritual
12 means through prayer alone and care consistent therewith in
13 lieu of medical care and treatment in accordance with the
14 tenets and practices of any church or religious denomination of
15 which the elderly person or person with a disability is a
16 member.

17 (f) It is not a defense to criminal abuse or neglect of an
18 elderly person or person with a disability that the accused
19 reasonably believed that the victim was not an elderly person
20 or person with a disability.

21 (Source: P.A. 92-328, eff. 1-1-02; 93-301, eff. 1-1-04.)

22 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

23 Sec. 26-1. Elements of the Offense.

24 (a) A person commits disorderly conduct when he knowingly:

25 (1) Does any act in such unreasonable manner as to

1 alarm or disturb another and to provoke a breach of the
2 peace; or

3 (2) Transmits or causes to be transmitted in any manner
4 to the fire department of any city, town, village or fire
5 protection district a false alarm of fire, knowing at the
6 time of such transmission that there is no reasonable
7 ground for believing that such fire exists; or

8 (3) Transmits or causes to be transmitted in any manner
9 to another a false alarm to the effect that a bomb or other
10 explosive of any nature or a container holding poison gas,
11 a deadly biological or chemical contaminant, or
12 radioactive substance is concealed in such place that its
13 explosion or release would endanger human life, knowing at
14 the time of such transmission that there is no reasonable
15 ground for believing that such bomb, explosive or a
16 container holding poison gas, a deadly biological or
17 chemical contaminant, or radioactive substance is
18 concealed in such place; or

19 (4) Transmits or causes to be transmitted in any manner
20 to any peace officer, public officer or public employee a
21 report to the effect that an offense will be committed, is
22 being committed, or has been committed, knowing at the time
23 of such transmission that there is no reasonable ground for
24 believing that such an offense will be committed, is being
25 committed, or has been committed; or

26 (5) Enters upon the property of another and for a lewd

1 or unlawful purpose deliberately looks into a dwelling on
2 the property through any window or other opening in it; or

3 (6) While acting as a collection agency as defined in
4 the "Collection Agency Act" or as an employee of such
5 collection agency, and while attempting to collect an
6 alleged debt, makes a telephone call to the alleged debtor
7 which is designed to harass, annoy or intimidate the
8 alleged debtor; or

9 (7) Transmits or causes to be transmitted a false
10 report to the Department of Children and Family Services
11 under Section 4 of the "Abused and Neglected Child
12 Reporting Act"; or

13 (8) Transmits or causes to be transmitted a false
14 report to the Department of Public Health under the Nursing
15 Home Care Act or the MR/DD Community Care Act; or

16 (9) Transmits or causes to be transmitted in any manner
17 to the police department or fire department of any
18 municipality or fire protection district, or any privately
19 owned and operated ambulance service, a false request for
20 an ambulance, emergency medical technician-ambulance or
21 emergency medical technician-paramedic knowing at the time
22 there is no reasonable ground for believing that such
23 assistance is required; or

24 (10) Transmits or causes to be transmitted a false
25 report under Article II of "An Act in relation to victims
26 of violence and abuse", approved September 16, 1984, as

1 amended; or

2 (11) Transmits or causes to be transmitted a false
3 report to any public safety agency without the reasonable
4 grounds necessary to believe that transmitting such a
5 report is necessary for the safety and welfare of the
6 public; or

7 (12) Calls the number "911" for the purpose of making
8 or transmitting a false alarm or complaint and reporting
9 information when, at the time the call or transmission is
10 made, the person knows there is no reasonable ground for
11 making the call or transmission and further knows that the
12 call or transmission could result in the emergency response
13 of any public safety agency.

14 (b) Sentence. A violation of subsection (a)(1) of this
15 Section is a Class C misdemeanor. A violation of subsection
16 (a)(5), (a)(11), or (a)(12) of this Section is a Class A
17 misdemeanor. A violation of subsection (a)(8) or (a)(10) of
18 this Section is a Class B misdemeanor. A violation of
19 subsection (a)(2), (a)(4), (a)(7), or (a)(9) of this Section is
20 a Class 4 felony. A violation of subsection (a)(3) of this
21 Section is a Class 3 felony, for which a fine of not less than
22 \$3,000 and no more than \$10,000 shall be assessed in addition
23 to any other penalty imposed.

24 A violation of subsection (a)(6) of this Section is a
25 Business Offense and shall be punished by a fine not to exceed
26 \$3,000. A second or subsequent violation of subsection (a)(7),

1 (a)(11), or (a)(12) of this Section is a Class 4 felony. A
2 third or subsequent violation of subsection (a)(5) of this
3 Section is a Class 4 felony.

4 (c) In addition to any other sentence that may be imposed,
5 a court shall order any person convicted of disorderly conduct
6 to perform community service for not less than 30 and not more
7 than 120 hours, if community service is available in the
8 jurisdiction and is funded and approved by the county board of
9 the county where the offense was committed. In addition,
10 whenever any person is placed on supervision for an alleged
11 offense under this Section, the supervision shall be
12 conditioned upon the performance of the community service.

13 This subsection does not apply when the court imposes a
14 sentence of incarceration.

15 (Source: P.A. 92-16, eff. 6-28-01; 92-502, eff. 12-19-01;
16 93-431, eff. 8-5-03.)

17 Section 90-185. The Unified Code of Corrections is amended
18 by changing Section 5-5-3.2 as follows:

19 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

20 Sec. 5-5-3.2. Factors in Aggravation.

21 (a) The following factors shall be accorded weight in favor
22 of imposing a term of imprisonment or may be considered by the
23 court as reasons to impose a more severe sentence under Section
24 5-8-1:

1 (1) the defendant's conduct caused or threatened
2 serious harm;

3 (2) the defendant received compensation for committing
4 the offense;

5 (3) the defendant has a history of prior delinquency or
6 criminal activity;

7 (4) the defendant, by the duties of his office or by
8 his position, was obliged to prevent the particular offense
9 committed or to bring the offenders committing it to
10 justice;

11 (5) the defendant held public office at the time of the
12 offense, and the offense related to the conduct of that
13 office;

14 (6) the defendant utilized his professional reputation
15 or position in the community to commit the offense, or to
16 afford him an easier means of committing it;

17 (7) the sentence is necessary to deter others from
18 committing the same crime;

19 (8) the defendant committed the offense against a
20 person 60 years of age or older or such person's property;

21 (9) the defendant committed the offense against a
22 person who is physically handicapped or such person's
23 property;

24 (10) by reason of another individual's actual or
25 perceived race, color, creed, religion, ancestry, gender,
26 sexual orientation, physical or mental disability, or

1 national origin, the defendant committed the offense
2 against (i) the person or property of that individual; (ii)
3 the person or property of a person who has an association
4 with, is married to, or has a friendship with the other
5 individual; or (iii) the person or property of a relative
6 (by blood or marriage) of a person described in clause (i)
7 or (ii). For the purposes of this Section, "sexual
8 orientation" means heterosexuality, homosexuality, or
9 bisexuality;

10 (11) the offense took place in a place of worship or on
11 the grounds of a place of worship, immediately prior to,
12 during or immediately following worship services. For
13 purposes of this subparagraph, "place of worship" shall
14 mean any church, synagogue or other building, structure or
15 place used primarily for religious worship;

16 (12) the defendant was convicted of a felony committed
17 while he was released on bail or his own recognizance
18 pending trial for a prior felony and was convicted of such
19 prior felony, or the defendant was convicted of a felony
20 committed while he was serving a period of probation,
21 conditional discharge, or mandatory supervised release
22 under subsection (d) of Section 5-8-1 for a prior felony;

23 (13) the defendant committed or attempted to commit a
24 felony while he was wearing a bulletproof vest. For the
25 purposes of this paragraph (13), a bulletproof vest is any
26 device which is designed for the purpose of protecting the

1 wearer from bullets, shot or other lethal projectiles;

2 (14) the defendant held a position of trust or
3 supervision such as, but not limited to, family member as
4 defined in Section 12-12 of the Criminal Code of 1961,
5 teacher, scout leader, baby sitter, or day care worker, in
6 relation to a victim under 18 years of age, and the
7 defendant committed an offense in violation of Section
8 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
9 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
10 against that victim;

11 (15) the defendant committed an offense related to the
12 activities of an organized gang. For the purposes of this
13 factor, "organized gang" has the meaning ascribed to it in
14 Section 10 of the Streetgang Terrorism Omnibus Prevention
15 Act;

16 (16) the defendant committed an offense in violation of
17 one of the following Sections while in a school, regardless
18 of the time of day or time of year; on any conveyance
19 owned, leased, or contracted by a school to transport
20 students to or from school or a school related activity; on
21 the real property of a school; or on a public way within
22 1,000 feet of the real property comprising any school:
23 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
24 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
25 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
26 33A-2 of the Criminal Code of 1961;

1 (16.5) the defendant committed an offense in violation
2 of one of the following Sections while in a day care
3 center, regardless of the time of day or time of year; on
4 the real property of a day care center, regardless of the
5 time of day or time of year; or on a public way within
6 1,000 feet of the real property comprising any day care
7 center, regardless of the time of day or time of year:
8 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
9 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
10 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
11 33A-2 of the Criminal Code of 1961;

12 (17) the defendant committed the offense by reason of
13 any person's activity as a community policing volunteer or
14 to prevent any person from engaging in activity as a
15 community policing volunteer. For the purpose of this
16 Section, "community policing volunteer" has the meaning
17 ascribed to it in Section 2-3.5 of the Criminal Code of
18 1961;

19 (18) the defendant committed the offense in a nursing
20 home or on the real property comprising a nursing home. For
21 the purposes of this paragraph (18), "nursing home" means a
22 skilled nursing or intermediate long term care facility
23 that is subject to license by the Illinois Department of
24 Public Health under the Nursing Home Care Act or the MR/DD
25 Community Care Act;

26 (19) the defendant was a federally licensed firearm

1 dealer and was previously convicted of a violation of
2 subsection (a) of Section 3 of the Firearm Owners
3 Identification Card Act and has now committed either a
4 felony violation of the Firearm Owners Identification Card
5 Act or an act of armed violence while armed with a firearm;

6 (20) the defendant (i) committed the offense of
7 reckless homicide under Section 9-3 of the Criminal Code of
8 1961 or the offense of driving under the influence of
9 alcohol, other drug or drugs, intoxicating compound or
10 compounds or any combination thereof under Section 11-501
11 of the Illinois Vehicle Code or a similar provision of a
12 local ordinance and (ii) was operating a motor vehicle in
13 excess of 20 miles per hour over the posted speed limit as
14 provided in Article VI of Chapter 11 of the Illinois
15 Vehicle Code;

16 (21) the defendant (i) committed the offense of
17 reckless driving or aggravated reckless driving under
18 Section 11-503 of the Illinois Vehicle Code and (ii) was
19 operating a motor vehicle in excess of 20 miles per hour
20 over the posted speed limit as provided in Article VI of
21 Chapter 11 of the Illinois Vehicle Code;

22 (22) the defendant committed the offense against a
23 person that the defendant knew, or reasonably should have
24 known, was a member of the Armed Forces of the United
25 States serving on active duty. For purposes of this clause
26 (22), the term "Armed Forces" means any of the Armed Forces

1 of the United States, including a member of any reserve
2 component thereof or National Guard unit called to active
3 duty; ~~or~~

4 (23) the defendant committed the offense against a
5 person who was elderly, disabled, or infirm by taking
6 advantage of a family or fiduciary relationship with the
7 elderly, disabled, or infirm person; or ~~or~~

8 (24) ~~(22)~~ the defendant committed any offense under
9 Section 11-20.1 of the Criminal Code of 1961 and possessed
10 100 or more images.

11 For the purposes of this Section:

12 "School" is defined as a public or private elementary or
13 secondary school, community college, college, or university.

14 "Day care center" means a public or private State certified
15 and licensed day care center as defined in Section 2.09 of the
16 Child Care Act of 1969 that displays a sign in plain view
17 stating that the property is a day care center.

18 (b) The following factors may be considered by the court as
19 reasons to impose an extended term sentence under Section 5-8-2
20 upon any offender:

21 (1) When a defendant is convicted of any felony, after
22 having been previously convicted in Illinois or any other
23 jurisdiction of the same or similar class felony or greater
24 class felony, when such conviction has occurred within 10
25 years after the previous conviction, excluding time spent
26 in custody, and such charges are separately brought and

1 tried and arise out of different series of acts; or

2 (2) When a defendant is convicted of any felony and the
3 court finds that the offense was accompanied by
4 exceptionally brutal or heinous behavior indicative of
5 wanton cruelty; or

6 (3) When a defendant is convicted of voluntary
7 manslaughter, second degree murder, involuntary
8 manslaughter or reckless homicide in which the defendant
9 has been convicted of causing the death of more than one
10 individual; or

11 (4) When a defendant is convicted of any felony
12 committed against:

13 (i) a person under 12 years of age at the time of
14 the offense or such person's property;

15 (ii) a person 60 years of age or older at the time
16 of the offense or such person's property; or

17 (iii) a person physically handicapped at the time
18 of the offense or such person's property; or

19 (5) In the case of a defendant convicted of aggravated
20 criminal sexual assault or criminal sexual assault, when
21 the court finds that aggravated criminal sexual assault or
22 criminal sexual assault was also committed on the same
23 victim by one or more other individuals, and the defendant
24 voluntarily participated in the crime with the knowledge of
25 the participation of the others in the crime, and the
26 commission of the crime was part of a single course of

1 conduct during which there was no substantial change in the
2 nature of the criminal objective; or

3 (6) When a defendant is convicted of any felony and the
4 offense involved any of the following types of specific
5 misconduct committed as part of a ceremony, rite,
6 initiation, observance, performance, practice or activity
7 of any actual or ostensible religious, fraternal, or social
8 group:

9 (i) the brutalizing or torturing of humans or
10 animals;

11 (ii) the theft of human corpses;

12 (iii) the kidnapping of humans;

13 (iv) the desecration of any cemetery, religious,
14 fraternal, business, governmental, educational, or
15 other building or property; or

16 (v) ritualized abuse of a child; or

17 (7) When a defendant is convicted of first degree
18 murder, after having been previously convicted in Illinois
19 of any offense listed under paragraph (c)(2) of Section
20 5-5-3, when such conviction has occurred within 10 years
21 after the previous conviction, excluding time spent in
22 custody, and such charges are separately brought and tried
23 and arise out of different series of acts; or

24 (8) When a defendant is convicted of a felony other
25 than conspiracy and the court finds that the felony was
26 committed under an agreement with 2 or more other persons

1 to commit that offense and the defendant, with respect to
2 the other individuals, occupied a position of organizer,
3 supervisor, financier, or any other position of management
4 or leadership, and the court further finds that the felony
5 committed was related to or in furtherance of the criminal
6 activities of an organized gang or was motivated by the
7 defendant's leadership in an organized gang; or

8 (9) When a defendant is convicted of a felony violation
9 of Section 24-1 of the Criminal Code of 1961 and the court
10 finds that the defendant is a member of an organized gang;
11 or

12 (10) When a defendant committed the offense using a
13 firearm with a laser sight attached to it. For purposes of
14 this paragraph (10), "laser sight" has the meaning ascribed
15 to it in Section 24.6-5 of the Criminal Code of 1961; or

16 (11) When a defendant who was at least 17 years of age
17 at the time of the commission of the offense is convicted
18 of a felony and has been previously adjudicated a
19 delinquent minor under the Juvenile Court Act of 1987 for
20 an act that if committed by an adult would be a Class X or
21 Class 1 felony when the conviction has occurred within 10
22 years after the previous adjudication, excluding time
23 spent in custody; or

24 (12) When a defendant commits an offense involving the
25 illegal manufacture of a controlled substance under
26 Section 401 of the Illinois Controlled Substances Act, the

1 illegal manufacture of methamphetamine under Section 25 of
2 the Methamphetamine Control and Community Protection Act,
3 or the illegal possession of explosives and an emergency
4 response officer in the performance of his or her duties is
5 killed or injured at the scene of the offense while
6 responding to the emergency caused by the commission of the
7 offense. In this paragraph (12), "emergency" means a
8 situation in which a person's life, health, or safety is in
9 jeopardy; and "emergency response officer" means a peace
10 officer, community policing volunteer, fireman, emergency
11 medical technician-ambulance, emergency medical
12 technician-intermediate, emergency medical
13 technician-paramedic, ambulance driver, other medical
14 assistance or first aid personnel, or hospital emergency
15 room personnel; or

16 (13) When a defendant commits any felony and the
17 defendant used, possessed, exercised control over, or
18 otherwise directed an animal to assault a law enforcement
19 officer engaged in the execution of his or her official
20 duties or in furtherance of the criminal activities of an
21 organized gang in which the defendant is engaged.

22 (b-1) For the purposes of this Section, "organized gang"
23 has the meaning ascribed to it in Section 10 of the Illinois
24 Streetgang Terrorism Omnibus Prevention Act.

25 (c) The court may impose an extended term sentence under
26 Section 5-8-2 upon any offender who was convicted of aggravated

1 criminal sexual assault or predatory criminal sexual assault of
2 a child under subsection (a)(1) of Section 12-14.1 of the
3 Criminal Code of 1961 where the victim was under 18 years of
4 age at the time of the commission of the offense.

5 (d) The court may impose an extended term sentence under
6 Section 5-8-2 upon any offender who was convicted of unlawful
7 use of weapons under Section 24-1 of the Criminal Code of 1961
8 for possessing a weapon that is not readily distinguishable as
9 one of the weapons enumerated in Section 24-1 of the Criminal
10 Code of 1961.

11 (e) The court may impose an extended term sentence under
12 Section 5-8-2 upon an offender who has been convicted of first
13 degree murder when the offender has previously been convicted
14 of domestic battery or aggravated domestic battery committed
15 against the murdered individual or has previously been
16 convicted of violation of an order of protection in which the
17 murdered individual was the protected person.

18 (Source: P.A. 94-131, eff. 7-7-05; 94-375, eff. 1-1-06; 94-556,
19 eff. 9-11-05; 94-819, eff. 5-31-06; 95-85, eff. 1-1-08; 95-362,
20 eff. 1-1-08; 95-569, eff. 6-1-08; 95-876, eff. 8-21-08; 95-942,
21 eff. 1-1-09; revised 9-23-08.)

22 Section 90-187. The Secure Residential Youth Care Facility
23 Licensing Act is amended by changing Section 45-10 as follows:

24 (730 ILCS 175/45-10)

1 Sec. 45-10. Definitions. As used in this Act:

2 "Department" means the Illinois Department of Corrections.

3 "Director" means the Director of Corrections.

4 "Secure residential youth care facility" means a facility
5 (1) where youth are placed and reside for care, treatment, and
6 custody; (2) that is designed and operated so as to ensure that
7 all entrances and exits from the facility, or from a building
8 or distinct part of a building within the facility, are under
9 the exclusive control of the staff of the facility, whether or
10 not the youth has freedom of movement within the perimeter of
11 the facility or within the perimeter of a building or distinct
12 part of a building within the facility; and (3) that uses
13 physically restrictive construction including, but not limited
14 to, locks, bolts, gates, doors, bars, fences, and screen
15 barriers. This definition does not include jails, prisons,
16 detention centers, or other such correctional facilities;
17 State operated mental health facilities; or facilities
18 operating as psychiatric hospitals under a license pursuant to
19 the MR/DD Community Care Act, the Nursing Home Care Act, or the
20 Hospital Licensing Act.

21 "Youth" means an adjudicated delinquent who is 18 years of
22 age or under and is transferred to the Department pursuant to
23 Section 3-10-11 of the Unified Code of Corrections.

24 (Source: P.A. 88-680, eff. 1-1-95.)

25 Section 90-190. The Code of Civil Procedure is amended by

1 changing Section 2-203 as follows:

2 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

3 Sec. 2-203. Service on individuals.

4 (a) Except as otherwise expressly provided, service of
5 summons upon an individual defendant shall be made (1) by
6 leaving a copy of the summons with the defendant personally,
7 (2) by leaving a copy at the defendant's usual place of abode,
8 with some person of the family or a person residing there, of
9 the age of 13 years or upwards, and informing that person of
10 the contents of the summons, provided the officer or other
11 person making service shall also send a copy of the summons in
12 a sealed envelope with postage fully prepaid, addressed to the
13 defendant at his or her usual place of abode, or (3) as
14 provided in Section 1-2-9.2 of the Illinois Municipal Code with
15 respect to violation of an ordinance governing parking or
16 standing of vehicles in cities with a population over 500,000.
17 The certificate of the officer or affidavit of the person that
18 he or she has sent the copy in pursuance of this Section is
19 evidence that he or she has done so. No employee of a facility
20 licensed under the Nursing Home Care Act or the MR/DD Community
21 Care Act shall obstruct an officer or other person making
22 service in compliance with this Section.

23 (b) The officer, in his or her certificate or in a record
24 filed and maintained in the Sheriff's office, or other person
25 making service, in his or her affidavit or in a record filed

1 and maintained in his or her employer's office, shall (1)
2 identify as to sex, race, and approximate age the defendant or
3 other person with whom the summons was left and (2) state the
4 place where (whenever possible in terms of an exact street
5 address) and the date and time of the day when the summons was
6 left with the defendant or other person.

7 (c) Any person who knowingly sets forth in the certificate
8 or affidavit any false statement, shall be liable in civil
9 contempt. When the court holds a person in civil contempt under
10 this Section, it shall award such damages as it determines to
11 be just and, when the contempt is prosecuted by a private
12 attorney, may award reasonable attorney's fees.

13 (Source: P.A. 95-858, eff. 8-18-08.)

14 Section 90-195. The Consumer Fraud and Deceptive Business
15 Practices Act is amended by changing Section 2BBB as follows:

16 (815 ILCS 505/2BBB)

17 Sec. 2BBB ~~2ZZ~~. Long term care or MR/DD facility; Consumer
18 Choice Information Report. A long term care facility that fails
19 to comply with Section 2-214 of the Nursing Home Care Act or a
20 facility that fails to comply with Section 2-214 of the MR/DD
21 Community Care Act commits an unlawful practice within the
22 meaning of this Act.

23 (Source: P.A. 95-823, eff. 1-1-09; revised 9-25-08.)

1

ARTICLE 99. EFFECTIVE DATE

2

Section 99-99. Effective date. This Act takes effect July

3

1, 2010.

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4	20 ILCS 1305/1-17	
5	20 ILCS 1705/15	from Ch. 91 1/2, par. 100-15
6	20 ILCS 2310/2310-550	was 20 ILCS 2310/55.40
7	20 ILCS 2310/2310-560	was 20 ILCS 2310/55.87
8	20 ILCS 2310/2310-565	was 20 ILCS 2310/55.88
9	20 ILCS 2310/2310-625	
10	20 ILCS 2407/52	
11	20 ILCS 2435/15	from Ch. 23, par. 3395-15
12	20 ILCS 3501/801-10	
13	20 ILCS 3960/3	from Ch. 111 1/2, par. 1153
14	20 ILCS 3960/12	from Ch. 111 1/2, par. 1162
15	20 ILCS 3960/13	from Ch. 111 1/2, par. 1163
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17	30 ILCS 772/10	
18	35 ILCS 5/806	
19	35 ILCS 105/3-5	from Ch. 120, par. 439.3-5
20	35 ILCS 110/3-5	from Ch. 120, par. 439.33-5
21	35 ILCS 110/3-10	from Ch. 120, par. 439.33-10
22	35 ILCS 115/3-5	from Ch. 120, par. 439.103-5
23	35 ILCS 115/3-10	from Ch. 120, par. 439.103-10
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1	210 ILCS 5/3	from Ch. 111 1/2, par. 157-8.3
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5	210 ILCS 9/75	
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9	210 ILCS 30/4	from Ch. 111 1/2, par. 4164
10	210 ILCS 30/6	from Ch. 111 1/2, par. 4166
11	210 ILCS 45/1-113	from Ch. 111 1/2, par. 4151-113
12	210 ILCS 45/3-202.5	
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14	210 ILCS 55/2.08	
15	210 ILCS 60/3	from Ch. 111 1/2, par. 6103
16	210 ILCS 60/4	from Ch. 111 1/2, par. 6104
17	210 ILCS 85/3	from Ch. 111 1/2, par. 144
18	210 ILCS 85/6.09	from Ch. 111 1/2, par. 147.09
19	210 ILCS 87/10	
20	210 ILCS 135/4	from Ch. 91 1/2, par. 1704
21	225 ILCS 10/2.06	from Ch. 23, par. 2212.06
22	225 ILCS 46/15	
23	225 ILCS 70/4	from Ch. 111, par. 3654
24	225 ILCS 70/17	from Ch. 111, par. 3667
25	225 ILCS 85/3	from Ch. 111, par. 4123
26	225 ILCS 510/3	from Ch. 111, par. 953

1	305 ILCS 5/5-5.4	from Ch. 23, par. 5-5.4
2	305 ILCS 5/5-5.7	from Ch. 23, par. 5-5.7
3	305 ILCS 5/5-6	from Ch. 23, par. 5-6
4	305 ILCS 5/5B-1	from Ch. 23, par. 5B-1
5	305 ILCS 5/5B-8	from Ch. 23, par. 5B-8
6	305 ILCS 5/5E-5	
7	305 ILCS 5/8A-11	from Ch. 23, par. 8A-11
8	305 ILCS 40/5	from Ch. 23, par. 7100-5
9	405 ILCS 5/2-107	from Ch. 91 1/2, par. 2-107
10	405 ILCS 40/1	from Ch. 91 1/2, par. 1151
11	405 ILCS 80/2-3	from Ch. 91 1/2, par. 1802-3
12	405 ILCS 80/5-1	from Ch. 91 1/2, par. 1805-1
13	425 ILCS 10/1	from Ch. 127 1/2, par. 821
14	720 ILCS 5/12-19	from Ch. 38, par. 12-19
15	720 ILCS 5/12-21	from Ch. 38, par. 12-21
16	720 ILCS 5/26-1	from Ch. 38, par. 26-1
17	730 ILCS 5/5-5-3.2	from Ch. 38, par. 1005-5-3.2
18	735 ILCS 5/2-203	from Ch. 110, par. 2-203
19	815 ILCS 505/2BBB	