

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

New Regulations

Proposed Regulations

FRAUD HOT LINE

PROPERTY REPOSSESSION

DRIVER'S LICENSES

The OFFICE OF THE AUDITOR GENERAL (OAG) adopted amendments to "Code of Rules" (74 Ill Adm Code 440; 36 Ill Reg 3), effective 5/18/12, implementing Public Act 97-261 by establishing a hotline for the public to report fraud in the executive branch of State government. Allegations of fraud may be reported by use of the telephone hotline, the OAG website, or by U.S. mail. The rulemaking defines "fraud" as an intentional misrepresentation or omission of fact made in order to induce another person to act and upon which the other person relies with resulting injury or damage. The rulemaking establishes criteria for OAG review and referral of allegations and allows persons making allegations to remain anonymous to the general public, although a person's identity may be disclosed if an allegation is referred to a law enforcement agency for follow-up. The OAG must also keep a summary record of fraud allegations for 2 years following the date they are received.

The ILLINOIS COMMERCE COMMISSION adopted a new Part titled "Collateral Recovery" (92 Ill Adm Code 1480; 35 Ill Reg 19995), effective 6/1/12, implementing Public Act 97-576 that regulates individuals and entities engaged in the business of collateral recovery (repossession of vehicles or other property subject to a security, lease, or rental agreement). (For example, a "repossession agency" may engage in the recovery of lost or stolen property, securing evidence concerning repossession and recovery to be used before a court, inventorying recovered property, or prevention of misappropriation or concealment of property or documents.) Covered topics include repossession agency and recovery manager licensure, recovery permits, personnel registration, certification programs for recovery managers and repossession agency employees, maintenance and inspections of books and records, property inventory, main and branch offices and remote storage locations, insurance, requirements governing leasing and vehicle identification, enforcement proceedings, license or permit holder probation, administra-

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030; 36 Ill Reg 8227) that exclude medical examiner's certificate holders seeking duplicate or corrected CDL or CDL permits from completing a self-certification. The rulemaking clarifies the resubmission procedure in the event that SOS receives an incomplete medical examiner's certificate from the driver. Failure of the CDL holder to resubmit the medical examiner's certificate within 30 days after notification will result in cancellation of CDL privileges. With regard to drivers license written examinations, the current maximum of 35 questions is changed to a minimum of 35 questions. SOS is also removing a fee waiver for duplicate licenses or permits to any individual over 60 who presents SOS with a police report showing his or her license was stolen. The rulemaking also specifies which questions on the duplicate or corrected license application form a CDL and Non-CDL holder must complete.

Questions/requests for copies: Rebecca Patton, OAG, 740 E. Ash St., Springfield IL 62703, 217/782-6698, Fax 217/785-8222, TTY 888/261-2887.

(cont'd next page)

Questions/requests for copies/comments through 7/16/12: Jennifer Egizii,

(cont'd page 3)

NEW REGULATIONS: Rules adopted by agencies this week.

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

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

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

New Regulations

tive citations, and fees. Changes since 1st Notice include added definitions and other language clarifying permit and license renewals, registration of personnel, and other procedures. A requirement to identify remote locations with signs was removed. Repossession entities will be affected by this rule.

Questions/requests for copies: Katie Kowalska, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/524-4227, e-mail: kkowalska@icc.illinois.gov.

EARLY LEARNING GRANTS

The STATE BOARD OF EDUCATION adopted amendments to rules titled "Public Schools Evaluation, Recognition and Supervision" (23 Ill Adm Code 1; 35 Ill Reg 17388), effective 5/21/12, to modify its policy for birth to age 5 programs. The amendments request school districts offering kindergarten programs to participate in the administration of the Kindergarten Individual Development Survey (KIDS) on a limited Statewide basis (with school districts being chosen and invited by SBE) in the 2013-14 and 2014-15 school years, and require annual administration beginning in the 2015-16 school year if sufficient funds are available for the test administration. The Illinois Learning Standards in Part 1 are also updated to note which standards do not apply to kindergarten students. Since 1st Notice, the start date for districts to begin administering KIDS has been delayed and the limited statewide implementation phase has been lengthened to 2 years. Also, districts may opt not to participate in the limited implementation program or in a pilot program for the 2012-13 school year by submitting a written petition to SBE explaining the reasons why they wish to be excused.

Questions/requests for copies: Cindy Zumwalt, SBE, 100 N. First St., E-225, Springfield IL 62777-0001, 217/524-4835.

EDUCATOR EVALUATION

SBE also adopted a new Part titled "Evaluation of Certified Employees under Articles 24A and 34 of the School Code" (23 Ill Adm Code 50; 35 Ill Reg 19467), effective 5/21/12, to implement provisions in 3 public acts. Beginning 9/1/12, Public Act 96-861, the Performance Evaluation Reform Act of 2010 (PERA), requires consideration of student growth as a significant factor when rating a teacher's or principal's performance. In addition, PA 97-8 expands the use of these performance evaluations to non-tenured teachers, while PA 97-217 requires inclusion of assistant principals in this performance evaluation system. The rulemaking lists the minimum requirements for both teacher and principal/assistant principal performance evaluations, which must include procedures for developing the evaluation plan, student growth and professional practice components, and reporting requirements. Additional regulations establish a State model for teacher evaluation, but use of the model is optional except when teachers and the local committee cannot agree on some or all aspects of student growth, and implementation requirements for this State performance evaluation model do not apply to Chicago public schools. School districts may use an SBE-developed retraining program or their own. The rulemaking also establishes minimum requirements for prequalification and retraining programs developed by school districts themselves to train their own evaluators. An Appendix prescribes the standards for principal evaluation. Changes since 1st Notice require all districts (rather than only districts with certain implementation dates) to consider student growth for at least 25% of a performance evaluation rating during an evaluation system's first 2 years. Other changes clarify that the Chicago Public Schools must follow SBE rules for choosing assessments if it uses non-State assessments to evaluate teachers or principals. Also, formal observation during a unit of instruction is not limited to a single day, and con-

ditions under which the CPS committee overseeing the program may meet informally have been aligned with those that apply to other districts. Finally, non-Chicago school districts are no longer forbidden to use State assessment data to determine student growth.

Questions/requests for copies: Vicki Phillips, SBE, 100 N. First St., E-310, Springfield IL 62777-0001, 217/782-2948.

SCHOOL TECHNOLOGY PROGRAM

SBE also adopted amendments to its rules titled "School Technology Program" (23 Ill. Adm. Code 575; 36 Ill. Reg. 2052), effective 5/21/12, to maximize SBE's ability to make loan awards. Three new loan determination dates have been added, on 9/15, 3/15 and 5/15 each fiscal year (formerly 10/15 and 12/15). Due dates for loan repayments are based on the loan determination dates, i.e., recipients with 9/15 or 10/15 determination dates have 9/1 and 3/1 repayment dates; those with 12/15 determination dates have 12/1 and 6/1 repayment dates; those with 3/15 determination dates have 3/1 and 9/1 repayment dates; and those with 5/15 determination dates have 12/1 and 6/1 repayment dates. Nonpublic schools will be affected by this rulemaking.

Questions/requests for copies: David Andel, SBE, 100 N. First St., N-253, Springfield IL 62777, 217/782-5589.

FINANCIAL REGULATION

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted an amendment to "Corporate Fiduciary Receivership Account" (38 Ill Adm Code 398; 36 Ill. Reg. 3612), effective 6/1/12, changing the name of the Part to "Pledging Requirements for Illinois Trust Companies". The rulemaking implements Public Act 97-492, increasing from \$1 million to \$2 million the amount DFPR may require a trust company to pledge to cover costs in case of receivership.

New Regulations

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813 Fax: 217/557-4451.

are made more stringent per federal standards. Various forms for the Registry are being repealed because an electronic reporting system will be used instead, according to DPH. Those affected by this rulemaking include hospitals, laboratories, physicians, medical researchers, and others who create, maintain, or use the registries noted above.

at the time of application. An applicant's parent or guardian must not have received a post-secondary degree (this requirement does not apply if the student qualifies for free or reduced-price lunch programs), and the applicant and parent/guardian must sign a written College Planning Program agreement. The rulemaking outlines the goals and procedures of the program and lists information required on the program application. Non-public schools with students participating in this program will be affected by this rulemaking. New Part 2754 implements a federal program providing funds to states for student loan repayment assistance to persons who pursue careers as state or federal public defenders or as state prosecutors. The Part outlines eligibility requirements, program procedures, and other conditions for the program. Applicants must be licensed attorneys in good standing with the Illinois bar and can receive up to \$10,000 per year, or \$60,000 total, toward repayment of student loans.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson, 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

HEALTH REGISTRIES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Illinois Health and Hazardous Substances Registry" (77 Ill Adm Code 840; 36 Ill Reg 84), effective 5/18/12, changing the name of the Part to "Health and Hazardous Substances Registry Code". The rulemaking affects several different registries maintained by the Department. Under general provisions, several definitions are added or updated (e.g., elevated blood lead level is deemed elevated at a lower level), materials incorporated by reference are updated for the North American Assn. of Central Cancer Registries, and Freedom of Information Act (FOIA) exceptions are explained. Concerning adverse pregnancy outcome reporting, required data is listed in detail, and a new section explains the referral process for follow-up services and public health surveillance for listed conditions (e.g., cleft palate, spina bifida). Concerning the Occupational Disease Registry, blood lead level testing and reporting

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted 2 new Parts titled "College Planning Act" (23 Ill Adm Code 2774; 36 Ill Reg 543) and "John R. Justice Student Loan Program" (23 Ill Adm Code 2754; 36 Ill Reg 541), both effective 6/1/12. New Part 2774 implements Public Act 97-289 by providing services such as college and career counseling, scholarship and financial aid applications, and college admission counseling to low-income and first-generation future college attendees entering high school. Eligible participants must be Illinois residents enrolled in 8th grade

Questions/requests for copies of the 2 ISAC rulemakings above: Lynn Hynes, ISAC, 1755 Lake Cook Road, Deerfield IL 60015, 847/948-8500, ext. 2305, email: lynn.hynes@isac.illinois.gov.

Proposed Regulations

SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

in the same profession as the practitioners who have designated him or her as an alternate payee, will be subject to enhanced screening and verification by the DHFS Office of Inspector General. (Current rule limits individuals to serving as an alternate payee for no more than 4 practitioners, including themselves.) An exception is made for physicians who serve as alternate payees for advanced practice nurses in their employ. Corporations that serve as alternate payees will also be subject to additional scrutiny by the DHFS OIG if their shares of ownership are not publicly traded in a recognized U.S. stock exchange. Individual and corporate

owners of medical practices that serve medical assistance clients will be affected by this rulemaking.

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 36 Ill Reg 8081) concerning alternate medical assistance payees (entities other than the actual provider that are designated to receive medical assistance payments for the provider's services). The rulemaking provides that individual practitioners who employ and serve as alternate payees for more than 4 practitioners, or who are not licensed

DHFS proposed amendments to "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 36 Ill Reg 8106) eliminating bed hold payments for residents of supportive living facilities who leave those facilities temporarily. (Current rule requires DHFS to pay for temporary absences of up to 30 days per fiscal year.) A facility may voluntarily agree to hold an apartment for a resident during a temporary absence, but will not receive DHFS payment for that period. Supportive living facilities will be affected by this rulemaking.

Proposed Regulations

DHFS also proposed amendments to “Hospital Services” (89 Ill Adm Code 148; 36 Ill Reg 8117) that, effective 7/1/12, deny inpatient medical assistance payments for certain “provider preventable conditions” (PPCs). DHFS states that this rulemaking is the result of new federal rules at 42 CFR 447 forbidding payment of Medicaid matching funds to states for expenditures on treatment of PPCs. The rulemaking defines PPCs as conditions or events considered reasonably preventable through compliance with evidence-based guidelines. It divides PPCs into two categories, hospital-acquired conditions (e.g., infections) and other provider preventable conditions. To identify hospital acquired conditions, hospitals must code inpatient claims with a “present on admission” (POA) indicator noting whether or not the condition developed after the patient was admitted. Regarding other provider preventable conditions, the rulemaking requires hospitals to designate with supplementary diagnosis coding any instances of wrong surgical procedures performed on a patient, surgery performed on the wrong body part, or surgery performed on the wrong patient. DHFS will deny any claims related to these procedures, although hospitals must submit claims as a means of reporting these incidents. Hospitals will be affected by this rulemaking.

DHFS proposed an amendment to “Long Term Care Reimbursement Changes” (89 Ill Adm Code 153; 36 Ill Reg 8128) regarding changes in tax status and changes in the corresponding component of the capital rate when long term care facilities change ownership. In the case of non-profit facilities that become for-profit facilities and are added to local real estate tax rolls after 12/31/11, the rulemaking states that the facility must request in writing that the real estate tax component be added to its capital rate and must include a copy of the facility’s first notice of assessment or property tax bill. These documents must in-

clude the initial date of the tax assessment, and the addition of the real estate tax component will be effective as of that date provided the request is submitted to DHFS within 2 years after the change of ownership date recognized by the Department of Public Health. If the request is received more than 2 years after change of ownership, the real estate tax component will be added as of the first day of the following month. For facilities that had been assigned a median tax rate but have since begun paying their full tax rate, the facility must request DHFS in writing to update its rate and must also include a copy of the tax bill. The updated rate will be effective the first day of the month after DHFS receives the request. Long-term care facilities that have recently changed ownership may be affected by this rulemaking.

Questions/requests for copies/comments regarding the 4 DHFS rulemakings above through 7/16/12: Jeanette Badrov, DHFS, 200 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

INTERNET LOTTERY SALES

The DEPARTMENT OF THE LOTTERY proposed amendments to rules titled “Lottery (General)” (11 Ill Adm Code 1770; 36 Ill Reg 8136) that establish a pilot program for the sale of lottery tickets via the internet. A substantially similar emergency rulemaking was adopted at 36 Ill Reg 5856. The rulemaking authorizes establishment of Internet Lottery Player Accounts to keep records of an individual’s purchases, winnings and prize redemptions, as well as Lottery Internet Accounts individuals can use to hold money for purchasing tickets online or for receiving prize money. The rulemaking establishes procedures for identification, security, and eligibility verification of online lottery players and for purchase of individual tickets and subscriptions (automatic ticket purchases for each drawing of a specified game over a period of time). Internet lottery players must be at

least 18 years of age and must complete their purchases from computers located within Illinois. Prizes up to \$600 won by an internet player as the result of an online ticket purchase will be deposited automatically into the player’s Lottery Internet Account, while prizes between \$600 and \$25,000 will be posted to the account after Department verification. All prizes of more than \$25,000 will be paid by the Comptroller. The rulemaking also updates references to multi-state games in which the Illinois Lottery participates and extends the voluntary self-exclusion program (by which compulsive gamblers may bar themselves from purchasing tickets or receiving prizes) to internet purchases. A prize winner claiming a prize through a revocable living trust need not be named the initial trustee under the trust. The Part is updated to reflect the statutory addition of a private manager and the separation of the Lottery from the Department of Revenue; the definition of “prize” is clarified; and the \$50 sales agent application fee may be waived if no new background checks are required, in addition to the current waiver if the license period does not exceed 30 days. The rulemaking adds a statutory provision allowing the Lottery to issue special licenses to veteran service organizations so that they may sell specialty tickets on a year-round basis, with no requirement to sell other Lottery products. Lottery retailers will be required to conduct promotions as directed by DOL. Lottery sales may continue at a location, under the same license number, in the case of business transfer within an immediate family, under specified conditions. Proceeds from specially-designate games, payment to the private manager and transfers to Common School fund are ultimately transferred to the Capital Projects Fund are detailed. Further amendments are too detailed to describe in entirety. For further information, contact the agency individual noted below.

Questions/requests for copies/comments through 7/16/12: Lisa Crites,

Proposed Regulations

Lottery, 101 W. Jefferson St., MC 5-950, Springfield IL 62794, 217/524-5253, e-mail: Lisa.crites@illinois.gov.

CHARTER SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to its rules titled "Charter Schools" (23 Ill. Adm. Code 650; 36 Ill. Reg. 8063) to implement some provisions from Public Act 97-152 that created the State Charter School Commission, appointed by SBE, as an independent State agency with chartering jurisdiction and authority. SBE retains rulemaking authority for the Commission and responsibility for certifying a charter school. The Commission is responsible for considering appeals from charter school applicants whose applications were denied by their local school boards or whose school boards did not act upon the application in a timely manner and from charter schools whose renewal applications have been rejected or whose charters have been revoked by their local school boards. The proposed rules establish procedures for SBE review of local approvals separate from those of the Commission, for closing a charter school, for a charter school to appeal to or request consideration by the Commission, and for Commission review of those appeals or requests for consideration.

Questions/requests for copies/comments through 7/16/12: Shelley Helton, SBE, 100 N. First St., S-493, Springfield IL 62777, 217/782-5270, e-mail: rules@isbe.net.

GAS PIPELINES

The ILLINOIS COMMERCE COMMISSION proposed an amendment for "Reports of Accidents or Incidents by Persons Engaging in Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities" (83 Ill Adm Code 595; 35 Ill Reg 4861) that incorporates by reference the definition of "accident or incident" used by the U.S.

Department of Transportation's (USDOT) Pipeline and Hazardous Materials Safety Administration at 49 CFR 191.3 in place of the current definition. It defines "accident or incident" as an event that causes gas to escape from pipeline facilities or liquefied natural gas facilities. The Gas Pipeline Safety Act requires states that have been delegated the authority to carry out gas pipeline safety enforcement to have rules at least as stringent as, and compatible with, the minimum safety standards adopted by USDOT. Small businesses that own, operate, or repair gas pipelines may be affected by this rulemaking.

Questions/requests for copies/comments through 7/16/12: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

HUNTING AND TRAPPING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to hunting and trapping rules titled "Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting" (17 Ill Adm Code 530; 36 Ill Reg 8187) and "Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping" (17 Ill Adm Code 570; 36 Ill Reg 8216) In Part 530, the rulemaking makes site specific changes at 12 DNR properties and increases the pheasant fee/permits at 5 others. In Part 570, DNR is allowing the trapping of river otters and creating an extended spring season for muskrat and mink. A possession limit of 5 otters is established, a \$5 registration permit must be purchased within 48 hours of the catch, and failure to purchase a permit is a Class B misdemeanor. Federal US CITES tags must also be issued by DNR and permanently affixed to the hide of all green hides for export or transferred to another individual. It is a Class B misdemeanor to possess more US CITES tags than green hides

or to fail to affix the tag to the hide prior to transfer of ownership. The muskrat and mink extended spring season opens at sunset on 1/20 in the Northern Zone and 1/25 in the Southern Zone and closes at sunset on 2/15.

DNR VETERANS FEES

DNR also proposed amendments to "Illinois Resident Armed Forces Fee Exemptions and Illinois Resident Veteran Fee Reductions" (17 Ill Adm Code 2510; 34 Ill Reg 8223). The rulemaking clarifies that only Illinois resident veterans who have served abroad, or guard or reserve members who were mobilized by the President, are eligible to receive half priced fishing, hunting and sportsmen licenses.

Questions/requests for copies/comments on the 3 DNR rulemakings above through 7/16/12: George Sisk, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

VETERANS

The DEPARTMENT OF VETERANS' AFFAIRS proposed a new Part titled "Rules Governing Payment From the Disabled Veterans Property Tax Relief Fund" (95 Ill Adm Code 130; 36 Ill Reg 8241). The rulemaking distributes payments from the disabled Veterans Property Tax Relief Fund to 100% permanently disabled Illinois veterans. Eligible veterans must be current residents who have received a Notice of Approval for a Special Adapted Housing Grant from the VA. The Illinois DVA must also receive annual notice that the veteran receives the tax exemption for specially adapted housing. On October 1st of each year, DVA will divide the balance of the fund by the number of qualified veterans.

Questions/requests for copies/comments through 7/16/12: James Robideau, DVA, 100 W. Randolph St., Ste. 5-570 Chicago IL 60601-3219, 312/814-5391.

Second Notice

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's June 12, 2012 meeting.

ENVIRONMENTAL PROTECTION AGENCY

"Water Supply Operator Certification" (35 Ill Adm Code 680) proposed 3/16/12 (36 Ill Reg 4001)

"Alternate Fuels Program" (35 Ill Adm Code 275) proposed 1/13/12 (36 Ill Reg 441)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 4/6/12 (36 Ill Reg 4991)

DEPARTMENT OF PUBLIC HEALTH

"Emergency Medical Services and trauma Center Code" (77 Ill Adm Code 515) proposed 3/23/12 (36 Ill Reg 4347)

DEPARTMENT OF NATURAL RESOURCES

"Crossbow and Standing Vehicle Hunting Authorizations" (17 Ill Adm Code 760) proposed 3/23/12 (36 Ill Reg 4335)

"Off-Highway Vehicle Recreational Trails Grant Program" (17 Ill Adm Code 3045) proposed 3/23/12 (36 Ill Reg 4337)

POLLUTION CONTROL BOARD

"Maximum Setback Zones" (35 Ill Adm Code 618) proposed 3/16/12 (36 Ill Reg 4015)

ILLINOIS GAMING BOARD

"Video Gaming (General)" (11 Ill Adm Code 1800) proposed 3/16/12 (36 Ill Reg 4012)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Senator Maggie Crotty

Senator Don Harmon

Senator John O. Jones

Senator Dale A. Righter

Senator Ira Silverstein

Representative Greg Harris

Representative Lou Lang

Representative Don Moffitt

Representative Rosemary Mulligan

Representative Angelo "Skip" Saviano

Representative Andre Thapedi

**Vicki Thomas
Executive Director**