

*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

### ☞ DOT PUBLIC RECORDS

The DEPARTMENT OF TRANSPORTATION repealed a Part titled "Request for Public Records" (2 Ill Adm Code 1226; 37 Ill Reg 2475) and adopted a new Part titled "Access to Records of the Department of Transportation" (2 Ill Adm Code 1226; 37 Ill Reg 2477), both effective 2/8/13, in accordance with the required rulemaking process in Section 5-15 of the Illinois Administrative Procedure Act. The rulemakings implement Public Act 96-542 and PA 97-579, revisions of the Illinois Freedom of Information Act (FOIA) that affects what documents and information agencies must make public, the timelines for providing such information, and the appeals process when a request for information is denied. Information that must be disclosed includes records of funds, payrolls, settlement agreements, and some criminal history records. Information exempt from disclosure includes personal information (e.g., Social Security numbers, home addresses); certain personnel information exempt under the Personnel Record Review Act; attorney-client communications; minutes of closed meetings; and information that could compromise a person's or facility's

security, jeopardize a law enforcement investigation, or interfere with a person's right to a fair trial or impartial hearing. Other information exempt from disclosure includes records created in the course of enforcement proceedings, preliminary drafts or notes, proposals or bids on contracts or for real estate purchases not yet completed, matters related to ongoing collective bargaining, trade secrets and other proprietary information, and testing materials to be used by applicants for employment. Other provisions specify how and to whom a request for public information should be submitted, shorten the timeline for DOT response to a request from 7 to 5 business days, and list conditions under which the agency may extend the timeline (e.g., if a large number of records are sought or if they require an extensive search to locate). Provisions for appealing a denial of requested documents to the Attorney General's public access counselor and for filing legal actions seeking disclosure of records are also included. Original records may be inspected and copied at DOT headquarters and off-site copying may be allowed under the constant supervision of agency staff. Contractors, rather than agency personnel, may

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### ☞ PRE-NEED FUNERALS

The COMPTROLLER proposed amendments to the Part titled "Illinois Funeral or Burial Funds Act" (38 Ill Adm Code 610; 37 Ill Reg 2382) extensively revising the Comptroller's consumer protection guide for purchasers of pre-need funeral and burial contracts. The rulemaking adds a description of a pre-need sales contract (legal agreement between a consumer and insurance company, funeral home or cemetery for funeral or burial merchandise and services to be supplied in the future). It also cites examples of cemetery services and merchandise that are not governed by the Funeral or Burial Funds Act but by the Cemetery Care Act and Pre-Need Cemetery Sales Act (e.g., preparation of a plot, placement of a headstone, grave markers, mausoleums). Information that must be disclosed to consumers in a pre-need contract includes the name of the trustee or insurance provider that will fund the merchandise or services and the governmental entity that regulates the trustee or insurer. Also included is a more detailed explanation of "non-guaranteed" contracts, under which the price of funeral or burial merchandise or services will

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*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.*

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copy the records under certain conditions. The new Part also lists charges for copies made in various formats (black and white photocopies, color or oversized copies, microfilm, audio or video tapes, CD ROM) and specifies that the agency will not charge a fee if it fails to provide the material within the required timeline. New provisions for appealing a denial of requested documents to the Attorney General's Public Access Counselor are also included. Those affected by these rulemakings include individuals, groups, or business entities seek-

ing public information or documents from DOT.

Questions/requests for copies: Barbara Brush, DOT, 2300 S. Dirksen Pkwy., Room 300, Springfield IL 62764, 217/785-2965.

## ☞ WAGE REPORTING

The DEPARTMENT OF EMPLOYMENT SECURITY adopted emergency amendments to "Payment of Unemployment Contributions, Interest and Penalties" (56 Ill Adm Code 2765, 36 Ill

Reg 18968) effective 2/11/13 through 6/30/13 implementing Public Act 97-689 (SMART Act). The rule waives penalties for late filing of the January 2013 monthly wage reports for those required to electronically file. Those affected by this emergency rulemaking include employers required to file monthly wage reports electronically.

Questions/requests for copies: Gregory Ramel, IDES, 33 S. State St., Room 937, Chicago, IL 60603, 312/793-4240.

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be determined at the time of need, with advance payments reducing (but not eliminating) the final cost and the remaining balance to be paid by the consumer or his or her estate at the time of need. Such contracts must be clearly labeled as "non-guaranteed". If a non-guaranteed contract is set up to become a guaranteed contract at a later date, the contract must clearly state when or under what circumstances the contract becomes guaranteed and what is covered by the guarantee. Consumers must also be informed that should they fail to receive contracted-for items at the time of need, they or their estates may be able to recover losses from the State's consumer protection fund. Other topics addressed in this rulemaking include explanations of pre-need contracts funded by life insurance, annuities, and trusts; statements and notifications to be provided to consumers (e.g. annual trust account statements); penalties for contract cancellation by the consumer; and refunds to consumers for contracts cancelled by the funeral home, cemetery or insurance company. Funeral homes, cemeteries, and providers of trusts and annuities for pre-need funeral arrangements are affected by this rulemaking.

amendments to "Claim Eligible to be Offset" (74 Ill Adm Code 285; 37 Ill Reg 2393) concerning procedures for offsetting State payments to satisfy debts (e.g., withholding past-due child support or delinquent taxes from State income tax refunds). The rulemaking lowers from \$1,000 to \$250 the minimum amount of a debt to the State, more than 1 year past due, that can be reported to the Comptroller for offset. The amendments also extend from 30 to 60 days the time limit for persons to challenge an offset after the Comptroller has given notice of the offset. Those affected by this rulemaking include persons or businesses with past-due debts to the State.

Questions/requests for copies/comments for the 2 Comptroller rulemakings through 4/8/13: Alissa Camp, Office of the Comptroller, 325 W. Adams St., Springfield IL 62704, 217/782-6000, e-mail: [CampAJ@mail.ioc.state.il.us](mailto:CampAJ@mail.ioc.state.il.us).

## DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill Adm Code 1030, 37 Ill Reg 2450) implementing Public Acts 97-835, 97-847, 97-1064 and 97-1127. The proposed amendments add aphasia (inability to speak or understand spoken words) as a disability warranting a restriction listed on a driver's

license. Fees will be waived for the first 30 days after a declared natural disaster for residents of the affected area who need a duplicate driver's license or identification card. Also, the proposed amendments allow judges to protect their residence and business mailing addresses pursuant to the Judicial Privacy Act. Finally, applications for identification cards for persons with disabilities are only valid for 3 months from the date of the medical professional's signature. Those affected by this rulemaking include persons with disabilities, judicial officials and anyone who may be in a disaster area.

Questions/requests for copies/comments through 4/8/13: Jennifer Egizii, SOS, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

## ☞ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to "Video Gaming (General)" (11 Ill Adm Code 1800, 37 Ill Reg 2410). The rulemaking adds the definition "place of worship under the Religious Corporation Act" to clarify the places affected by the Act. Additionally, the rulemaking clarifies that only licensed technicians and licensed terminal handlers can service, repair or maintain video gaming terminals. A \$10 fee is proposed for replacement

## ☞ STATE FINANCE

The COMPTROLLER also proposed

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identification cards for licensed technicians and licensed terminal handlers. Identification cards must be returned to IGB when the licensed technician and licensed terminal handler resigns or is terminated. IGB may deny a license because one of the following people have put themselves on the self-exclusion list: the applicant, a person with significant influence of control over the applicant, a person with an ownership interest in the applicant of 5% or more, or a person involved in the operation or management of the applicant's business related to video gaming. IGB also establishes that an applicant who is denied a license may not reapply for one year. Finally, IGB sets guidelines for licenses when the licensee dies or when there is a change of ownership. Those affected by this rulemaking include terminal technicians and terminal handlers, applicant's for licenses and current licensees.

Questions/requests for copies/comments through 4/8/13: Emily Mattison, IGB, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253.

## PROFESSIONAL REGULATION

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to "Administrative Procedures for General Professional Regulation under the Administrative Code" (68 Ill Adm Code 1130, 37 Ill Reg 2405) establishing aggravating and mitigating factors DFPR will consider when determining disciplinary sanctions for violating any li-

censing act it administers. Aggravating factors include the seriousness or number of offenses, a prior disciplinary history, the impact of the offense on injured parties, or the vulnerability of an injured party (e.g., due to age, disability or mental illness). Mitigating factors include lack of a prior disciplinary history, cooperation with investigators, self-reporting of misconduct, contrition for the offense, or voluntary remedial actions (e.g., restitution to victims). Those affected by this rulemaking include anyone who holds a license regulated by DFPR and their representatives.

Questions/requests for copies/comments through 4/8/13 to: Craig Cellini, 320 W. Washington, 3<sup>rd</sup> Floor, Springfield IL 62786, 217/785-0813.

## VETERANS' HOMES

The DEPARTMENT OF VETERANS' AFFAIRS proposed amendments to "Payment of Maintenance Charges and Income Management at the Illinois Veterans Homes" (95 Ill Adm Code 108; 36 Ill Reg 2471). The amendments assess maintenance charges of 90% of all income (currently, 90% of all income in excess of \$100 per month) for residents of Illinois veterans' homes and establish a monthly personal allowance of \$100 per resident for every \$1,000 in paid monthly maintenance charges.

Questions/requests for copies/comments through 4/8/13: Jaime Martinez, DVA, 100 W. Randolph St., Ste. 5-570 Chicago IL 60601-3219, 312/814-5391.

## WATER QUALITY

The POLLUTION CONTROL BOARD proposed an amendment to "Water Quality Standards" (35 Ill Adm Code 302; 37 Ill Reg 2436) that correct typographical errors in the preceding rulemaking on the Part (36 Ill Reg 18871) in the reporting requirements for the standards for fluoride and manganese. In Section 302.208(b) the word "metals" should have been stricken throughout the Section, and in Section 302.208(e) under the category "manganese" the word "dissolved" should have been added.

Requests for copies/comments through 4/8/13: John T. Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. Questions, at the same address: Marie Tipsord, 312/814-4925, e-mail: [MarieTipsord@Illinois.Gov](mailto:MarieTipsord@Illinois.Gov). Please reference docket R11-18(B).

## SUCSS RULE WITHDRAWAL

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM withdrew proposed amendments to the Part titled "State Universities Civil Service System" (80 Ill Adm Code 250; 36 Ill Reg 3840) that were published in the 3/9/12 *Illinois Register*. The amendments would have allowed the University Civil Service Merit Board to delegate to the SUCSS executive director its authority to declare certain positions exempt from civil service rules. The Merit Board voted on 1/30/13 to withdraw this rulemaking.

## **Second Notices**

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's March 12, 2013 meeting.

### **SECRETARY OF STATE**

"Commercial Driver Training Schools" (92 Ill Adm Code 1060) proposed 12/21/12 (36 Ill Reg 17801)

### **DEPARTMENT OF HUMAN RIGHTS**

"Procedures Applicable to All Agencies" (44 Ill Adm Code 750) proposed 12/21/12 (36 Ill Reg 17686)

### **DEPARTMENT OF CENTRAL MANAGEMENT SERVICES**

"Extensions of Jurisdiction" (80 Ill Adm Code 305) proposed 12/21/12 (36 Ill Reg 17636)

### **DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

"Lending Limits" (38 Ill Adm Code 330) proposed 12/21/12 (36 Ill Reg 17671)

"Funeral Directors and Embalmers Licensing Code" (68 Ill Adm Code 1250) proposed 6/15/12 (36 Ill Reg 8557)

## ***Joint Committee on Administrative Rules***

**Senator Pamela Althoff**

**Representative Greg Harris**

**Senator Don Harmon**

**Representative Lou Lang**

**Senator Tony Munoz**

**Representative David Leitch**

**Senator Sue Rezin**

**Representative Don Moffitt**

**Senator Dale A. Righter**

**Representative Tim Schmitz**

**Senator Ira Silverstein**

**Representative Andre Thapedi**

**Vicki Thomas  
Executive Director**