

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

☞ CPA LICENSURE

The BOARD OF EXAMINERS adopted amendments to "Certificate of Certified Public Accountant" (CPA) (23 Ill Adm Code 1400; 35 Ill Reg 9204), effective 9/26/11, that clarify the educational requirements CPA candidates must meet in order to take the Uniform CPA Examination for licensure. The rulemaking outlines examination qualifications that will become effective on 7/1/13, such as proof of completion of 150 semester credit hours of college or university study that includes a concentration in accounting and a baccalaureate or higher degree. The amendments also provide alternative methods for meeting the examination admittance educational requirement (e.g., degree in accounting or business with various combinations of coursework in the two fields). The rulemaking specifies course content for accounting and business courses, proof of satisfactory completion of educational requirements prior to testing, and provisional approval of in-progress courses. Further amendments specify how the Board will evaluate foreign academic credentials, allow candidates prior to 7/1/13 to

take 120 days rather than 60 days to prove they completed "in-progress" coursework, and specify that candidates who took the CPA exam at least once before 1/1/13 may take the exam again under the qualifications that were in effect when the exam was first taken. This rulemaking may impact higher education institutions that provide accounting and business degree programs and businesses that employ certified public accountants.

Questions/requests for copies: Russ Friedewald, BOE, 100 Trade Center Dr., Ste. 403, Champaign IL 61820, 217/531-0950, e-mail: rfriedewald@ilboa.org.

STATE BANKING BOARD

The STATE BANKING BOARD repealed its rules titled "Hearing for Removal or Prohibition of Directors, Officers, Employees or Agents of a State Bank or a Branch of an Out-of-State Bank, Subsidiary or Holding Company of a State Bank or a Branch of an Out-of-State Bank, or Corporate Fiduciary, Subsidiary or Parent Company of a Corporate Fiduciary" (38 Ill Adm Code 900; 35 Ill Reg 10175),

☞ SPINAL CORD RESEARCH GRANT

The DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled "Spinal Cord Injury Paralysis Cure Research Code" (77 Ill Adm Code 570; 35 Ill Reg 15959) implementing Public Act 91-737, which authorizes DPH to make grants from a specified trust fund to Illinois research facilities funding research to find a cure for spinal cord injury paralysis. Covered topics include grant eligibility criteria, awards, terms, and conditions; research requirements; proper use of grant funds; and conditions under which grants may be terminated. Affected entities include Illinois non-profit medical research institutions desiring to apply for the research grants.

Questions/requests for copies/comments through 11/21/11: Susan Meister at the DPH address and telephone number below.

☞ SPORT FISHING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "Sport Fishing Regulations for the

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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.

New Regulations

effective 9/20/11. Public Act 96-1163 amended Section 48 of the Illinois Banking Act to eliminate the hearing procedure before the Board that is covered in Part 900 (only one hearing had ever been held) and permit the Secretary of the Department of Financial and Professional Regulation to make any finding of regulatory action over a bank.

Questions/requests for copies: Craig Cellini, DFPR (on behalf of the State Banking Bd.), 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

was not based on a recommendation of the insurance company or producer. Time-of-sale paperwork is specified. Insurance companies must establish a system to oversee the company and/or producer's compliance with this rule (e.g., training manuals, product-specific training materials that explain all material features of annuity products, recommendation review procedures, an annual report submitted to senior management of the insurance company that details a review with appropriate testing, and corrective action taken). Continuing education (CE) requirements and CE provider qualifications are specified, also. Parties not in compliance with this rule may be subject to Department discipline as set out in the Illinois Insurance Code. Changes since 1st Notice include referencing rules in Part 3119 for continuing education and verification requirements, specifying that long-term care (LTC) insurance training is necessary for persons who sell annuities with accelerated benefits for LTC, and adding a 7/1/12 compliance deadline for training requirements. This rulemaking may affect small businesses that are insurance producers.

Questions/requests for copies: Kelly Kruger, DOI, 320 W. Washington, Springfield IL 62767-0001, 217/785-2263.

SNAP PROGRAM

The DEPARTMENT OF HUMAN SERVICES adopted preemptory amendments to "Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121; 35 Ill Reg 16118), effective 10/1/11. DHS increases the maximum net and gross monthly income allowed under the eligibility standards for program participation in compliance with federal regulations. The rulemaking also increases the standard deduction for a household of 1 through 3 persons from \$141 to \$147 and standard deductions for families of 4, 5, and 6 or more persons from \$153 to \$155, \$179 to \$181, and \$205

to \$208, respectively. (SNAP applicants are allowed to claim deductions from their income for certain regular expenses when calculating their eligibility for SNAP benefits. The above changes will increase the maximum monthly SNAP benefit amounts for qualifying families.)

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

AIDS DRUG ASSISTANCE

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments for "AIDS Drug Assistance Program" (ADAP) (77 Ill Adm Code 692; 35 Ill Reg 16105), effective 9/26/11, for a maximum of 150 days. An identical proposed rulemaking is published in this week's issue of the *Illinois Register* at 35 Ill Reg 15976. The amendments reflect federally required changes in DPH's grant program under the federal Ryan White HIV/AIDS Treatment Extension Act. (The program provides medications by mail order for low-income Illinois citizens who are infected with HIV/AIDS.) In conformance with federal requirements, the rulemaking provides that persons enrolled in the program must reapply every 6 months rather than annually. Also, applicants with no active prescription insurance coverage at the time of enrollment must be at or below 300% of the federal poverty level guidelines, and applicants with active prescription insurance coverage must be at or below 500%. Additional assistance programs, including Medicare Part D, Medigap, Extra Help, and Illinois Cares Rx, are referenced and application requirements for ADAP participants are added. An Appendix listing poverty income guidelines is repealed.

Questions/requests for copies/comments concerning the proposed rulemaking through 11/21/11: Susan Meister, DPH, 535 W. Jefferson, 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: dph.rules@illinois.gov.

ANNUITIES

The DEPARTMENT OF INSURANCE adopted amendments to "Suitability in Annuity Transactions" (50 Ill Adm Code 3120; 35 Ill Reg 4868), effective 9/26/11, in accordance with recent changes made in the National Association of Insurance Commissioners (NAIC) model rule. The amendments define the new terms "replacement" for an annuity policy and "suitability information", which details types of appropriate information needed for an insurer's recommendation and advice (e.g., age, annual income, financial experience, liquid net worth). Insurance companies or insurance producers (agents, salesmen) must have reasonable grounds for recommending an annuity based on information disclosed to them, including the consumer's suitability information, and grounded on a reasonable belief the consumer has been informed of features of the annuity, such as a potential tax penalty or surrender charge, market risk, and tax-deferred growth. An insurance company or producer that offers an annuity has no obligation toward a consumer if no recommendation was made, if a recommendation was made based on materially inaccurate information provided by the consumer, the consumer refused to provide relevant suitability information, the annuity transaction was not recommended, or a consumer entered into an annuity transaction that

Proposed Regulations

Waters of Illinois" (17 Ill Adm Code 810; 35 Ill Reg 15868) that designates the June free fishing days for 2012 and make site-specific changes at 22 different water bodies (e.g., five Bloomington Park District lakes are added to the list of waters where site-specific regulations apply). Those affected by this rulemaking include municipalities that allow public fishing on their lakes or ponds.

Questions/requests for copies/comments through 11/21/11: George Sisk, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

ELEVATOR SAFETY

The ELEVATOR SAFETY REVIEW BOARD proposed amendments to "Illinois Elevator Safety Rules" (41 Ill Adm Code 1000; 35 Ill Reg 15819) to implement Public Act 96-54. The rulemaking concerns local authority to enforce safety rules, licensing and registration requirements, and procedures for dealing with safety violations. The amendments include the addition, modification, clarification, and elimination of various definitions, and text concerning local regulation is rewritten to give the local authority more autonomy and to update applicable safety codes and standards. Additional amendments give the Office of the State Fire Marshal or the local administrator greater authority to make exceptions to codes, standards, or regulations in cases where the exception will not jeopardize public safety. All variance requests must indicate the specific code or standard from which relief is sought. Licensure fees and various registration fees throughout the Part are increased by \$25 to \$100, and several new fees are created. Also, permit fees for a new installation or material alteration are doubled. Manufacturers of new certified technologies must notify the Board before offering the new elevator component/system to the general public and include all relevant information needed for inspection purposes. The rulemaking also creates a

new type of OSFM approval called "temporary limited authority" that allows an individual deemed qualified by OSFM to work on a specific type of conveyance, but the individual must then become licensed within one year. Additional covered topics include continuing education requirements, a "contractor license designee" for conveyance work and other changes to conveyance regulations, increased fines and penalties, complaints, and investigations of alleged violations. The amendments to this Part are too numerous to all be included in this summary. For more details, contact the agency person listed below. Those affected by this rulemaking include small businesses that install, repair, or maintain regulated conveyances; municipalities that inspect regulated conveyances; and any owners of buildings containing regulated conveyances.

Questions/requests for copies/comments through 11/21/11: Bob Capuani, Elevator Safety Division, OSFM, 100 W. Randolph, Ste. 4-600, Chicago IL 60601, 312/814-8734, Fax 312/814-3459.

BANKING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION (Banking Division) proposed amendments to "Bank Branches" (38 Ill Adm Code 305; 35 Ill Reg 15863) reducing regulatory requirements. The rulemaking adds definitions of terms used in this Part. For example, an "eligible bank" is a state bank (one regulated by the DFPR rather than federal authority) that is well capitalized under federal rule or is operating in compliance with a capital plan approved by DFPR, has received a 1 or 2 rating by the Uniform Financial Institutions Rating System, and is not operating under a cease-and-desist order or memorandum of understanding from a federal or State regulatory entity. Only a bank deemed not to be an eligible bank must file a notice with DFPR in order to establish a bank branch. Also, a state bank desiring to establish a subsidiary to manage real estate

matters in satisfaction of a debt previously contracted may do so upon mailing a notice to DFPR.

Questions/requests for copies/comments through 11/21/11: Craig Cellini at the DFPR address and telephone number above.

DOT PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF TRANSPORTATION (CPO) proposed amendments to "Chief Procurement Officer for Department of Transportation - Contract Procurement" (44 Ill Adm Code 6; 35 Ill Reg 16052) implementing Public Act 97-228. The rulemaking details the Department's target market program for certified disadvantaged business enterprises (DBEs), which typically are minority-owned or female-owned businesses (MFBs). DOT is required to review any and all evidence of egregious race or gender discrimination related to the performance of all contracts awarded for transportation construction projects each fiscal year and must determine and define a compelling interest in remedying the identified discrimination by documenting evidence disclosed by its review (e.g., the utilization and availability of qualified DBEs and MFBs in DOT's geographic market areas and specific construction markets). DOT may issue findings indicating there is a compelling interest present to remedy egregious discrimination against a specific group and that the only remedy for the discrimination is a narrowly tailored target market remedial action. If the CPO concurs with the DOT findings, a public hearing will be held at which MFB contractors and other parties may appear. The CPO, in consultation with DOT, will make a written determination either to implement a narrowly tailored target remedial action or to discontinue further action. Target market remedial actions may include designation of specific contract work reserved solely for DBEs or MFBs, separate MFB participation goals, establishment of bid incentives for

Proposed Regulations

achievement of MFB or DBE goals, or advertisement of specific set-asides. No contract will be eligible for inclusion in any target market action unless there are at least 3 eligible businesses interested in the contract. Participation in the target market program is limited to MFBs certified as disadvantaged under Illinois law and federal certification requirements available from the CPO. This rulemaking may affect small businesses seeking DOT contracts.

Questions/requests for copies/comments through 11/21/11: Bill Grunloh, CPO, 2300 S. Dirksen Pkwy., Rm. 200, Springfield IL 62764, 217/558-5434.

SECURITIES

The SECRETARY OF STATE (Department of Securities) proposed amendments to "Regulations under Illinois Securities Law of 1953" (14 Ill Adm Code 130; 35 Ill Reg 15979). The rulemaking adds a definition for the Financial Industry Regulatory Authority (FINRA), which is the successor for the National Association of Security Dealers. Outdated references to federal law or regulations are updated, and obsolete references are stricken. Individuals wishing to deal in investment banking will be affected by this rulemaking.

Questions/requests for copies/comments through 11/21/11: Tanya Solov, SOS, 69 W. Washington, Ste. 1220, Chicago IL 60602, 312/793-2525.

TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION proposed amendments to 6 Parts and 2 new Parts implementing provisions of Public Act 96-927, which is the update of the Telecommunications Article of the Public Utilities Act. The Parts being amended are "Standards of Service for Local Exchange Telecom-

munications Carriers" (83 Ill Adm Code 730; 35 Ill Reg 15695), "Customer Credits" (83 Ill Adm Code 732; 35 Ill Reg 15718), "Tariff Filings" (83 Ill Adm Code 745; 35 Ill Reg 15753), "Telecommunications Access for Persons with Disabilities" (83 Ill Adm Code 755; 35 Ill Reg 15764), "Telecommunications Relay Services" (83 Ill Adm Code 756; 35 Ill Reg 15793), and "Cost of Service" (83 Ill Adm Code 791; 35 Ill Reg 15801). The new Parts are "Standards of Service and Customer Credits For Electing Providers" (83 Ill Adm Code 737; 35 Ill Reg 15727) and "Competition Reporting" (83 Ill Adm Code 793; 35 Ill Reg 15807). Amendments to Part 730 require telecommunications carriers (telcos) to report to ICC the percentage of lines that are out of service for more than 30 hours (now, 24) and to clear up 95% of all out-of-service troubles affecting the customer network interface within 30 hours (now, 24) after a customer reports the problem. Options for alternative telephone service are stricken, and timeframes for customer notification of a telco's inability to keep a scheduled appointment are modified to provide that the customer must be notified no later than 8:00 p.m. of the day prior to the appointment. Amendments to Part 732 specify that the Part is not applicable to "electing providers" (telcos subject to one of 3 types of regulation and that elect to have the rates, terms, and conditions of their competitive retail service solely determined and regulated pursuant to the terms of the Telecommunications Article of the statute). Other amendments provide that credits for out-of-service conditions apply after 30 hours (now, 24), the option for alternative telephone service is eliminated, the credit for missed appointments is reduced from \$50 to \$25 per occurrence, and the 24-hour notice period requirement for missed appointments is changed to no later than 8:00 p.m. of the day prior to the scheduled appointment. Amendments to Part 745 require electing providers to file tariffs and require local exchange carriers (LECs) that elect market regulation for their competitive retail services to file tariffs for those services, also. Further

changes specify that general publication and filing requirements do not apply to electing providers, telcos must make all tariffs available electronically to the public, and prepaid calling services and customer-owned pay telephone services must be classified as tariffed services. The rulemaking also specifies that some tariff errors may be temporarily corrected, notices of competitive rate increases must be provided to customers no later than the prior billing cycle, electronic notice to customers who have elected electronic billing is allowed, and telcos that maintain a website must provide certain information through those websites and provide a toll-free telephone number for inquiries. Amendments to Part 755 implement the requirement that new fixed or non-nomadic, interconnected voice-over internet protocol (VoIP) providers must register with ICC at least 30 days before providing service in Illinois. Amendments to both Part 755 and Part 756 require VoIP providers to collect and remit customer assessments to ICC programs to provide telecommunications access for persons with disabilities. Amendments to Part 791 exempt electing providers from the Part's requirements and eliminate long-run service incremental cost of a service (LRSIC) as a circumstance under which telcos are required to submit cost studies for the purposes of performing imputation tests. New Part 737 implements statutory requirements under which telcos may become electing providers, requires them to continue to provide certain service packages to residential customers, and defines electing provider service quality and customer credit requirements for basic local exchange service. New Part 793 establishes the manner in which LECs and VoIPs must report service information to ICC.

Questions/requests for copies/comments through 11/21/11: Elizabeth

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Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

RESIDENTIAL MORTGAGES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION announced a public hearing for proposed amendments to

rules titled "Residential Mortgage License Act of 1987" (38 Ill Adm Code 1050; 35 Ill Reg 14574) that were published in the 9/2/11 *Illinois Register*. The hearing will be held on Monday, October 17th, 1:00 p.m. to 3:00 p.m., at 9511 Harrison St. (The LGI Room) in Des Plaines. The proposed amendments raise fees, revise reporting and new regulatory provisions regarding

mortgage loan originators, and update regulatory requirements in conformity with Public Act 96-112. This rulemaking will affect mortgage loan originators and mortgage brokers.

Questions/requests for copies: Craig Cellini at the DFPR address and telephone number above.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The Pollution Control Board rulemakings will be considered at JCAR's October 11th meeting, and the remainder will be considered at the November 8th meeting.

POLLUTION CONTROL BOARD

"Nitrogen Oxides Emissions" (35 Ill Adm Code 217) proposed 11/19/10 (34 Ill Reg 217)

"Standards and Limitations for Organic Material Emissions for Area Sources" (35 Ill Adm Code 223) proposed 11/19/10 (34 Ill Reg 17525)

"Air Quality Standards" (35 Ill Adm Code 243) proposed 11/19/10 (34 Ill Reg 17537)

"Organic Material Emission Standards and Limitations for the Metro East Area" (35 Ill Adm Code 219) proposed 7/1/11 (35 Ill Reg 10207)

"Organic Material Emission Standards and Limitations for the Chicago Area" (35 Ill Adm Code 218) proposed 7/1/11 (35 Ill Reg 10189)

ILLINOIS COMMERCE COMMISSION

"Reports of Accidents or Incidents by Persons Engaging in the Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities" (83 Ill Adm Code 595) proposed 4/1/11 (35 Ill Reg 4861)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

"Reports of Child Abuse and Neglect" (89 Ill Adm Code 300) proposed 5/27/11 (35 Ill Reg 8005)

"Placement and Visitation Services" (89 Ill Adm Code 301) proposed 5/27/11 (35 Ill Reg 8018)

"Services Delivered by the Department of Children and Family Services" (89 Ill Adm Code 302) proposed 5/27/11 (35 Ill Reg 8027)

"Access to and Eligibility for Child Welfare Services" (89 Ill Adm Code 304) proposed 5/27/11 (35 Ill Reg 8037)

"Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible" (89 Ill Adm Code 309) proposed 5/27/11 (35 Ill Reg 8047)

"Permanency Planning" (89 Ill Adm Code 315) proposed 5/27/11 (35 Ill Reg 8051)

"Administrative Case Reviews and Court Hearings" (89 Ill Adm Code 316) proposed 5/17/11 (35 Ill Adm Code 8060)

"Licensing Standards for Foster Family Homes" (89 Ill Adm Code 402) proposed 5/27/11 (35 Ill Reg 8064)

"Licensing Standards for Day Care Homes" (89 Ill Adm Code 406) proposed 5/27/11 (35 Ill Reg 8082)

"Licensing Standards for Group Day Care Homes" (89 Ill Adm Code 408) proposed 5/27/11 (35 Ill Reg 8093)

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**Illinois
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Illinois General Assembly

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