



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3634

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Underground Utility Facilities Damage Prevention Act. Provides for additional required activities for an excavator who engages in nonemergency excavation or demolition under the Act. Modifies the requirements for an excavator who engages in emergency excavation or demolition under the Act. Provides notice requirements for damaged, dislocated, and exposed underground utility facilities. Provides additional requirements for record of notice and the marking of underground utility facilities. Modifies Sections concerning liability, financial responsibility, negligence, and penalties for violating the provisions of the Act. Repeals a Section concerning preconstruction conferences. Defines, modifies, and repeals terms. Makes certain provisions apply to home rule municipalities with a population over 1,000,000. Makes conforming and technical changes.

LRB100 06222 RJF 16257 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Underground Utility Facilities
5 Damage Prevention Act is amended by changing Sections 2, 2.1.3,
6 2.1.4, 2.1.5, 2.2, 2.3, 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 2.11, 3,
7 4, 6, 7, 8, 9, 10, 11, 11.3, 12, 13, and 14 and by adding
8 Sections 2.1.1, 2.1.2, 2.1.7, 2.1.8, 2.12, 2.13, and 7.5 as
9 follows:

10 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

11 Sec. 2. Definitions. As used in this Act, unless the
12 context clearly otherwise requires, the terms specified in
13 Sections 2.1.1 ~~2.1~~ through 2.13 ~~2.11~~ have the meanings ascribed
14 to them in those Sections.

15 (Source: P.A. 94-623, eff. 8-18-05.)

16 (220 ILCS 50/2.1.1 new)

17 Sec. 2.1.1. Excavator. "Excavator" means any person or
18 legal entity, public or private, that engages in excavation or
19 demolition work.

20 (220 ILCS 50/2.1.2 new)

21 Sec. 2.1.2. Pre-mark. "Pre-mark" means to use white paint,

1 stakes, or flags to delineate the work area at the site of the
2 proposed excavation or demolition area. An existing above
3 ground structure may be considered a pre-mark. A verbal
4 pre-mark is adequate when the scope requested to be marked is
5 narrow and explicit enough to prevent marking a large area
6 beyond the actual area of excavation or demolition. If
7 utilized, physical pre-marking for the area of the planned
8 excavation or demolition must be accomplished prior to
9 notifying the One-Call Notice System.

10 (220 ILCS 50/2.1.3)

11 Sec. 2.1.3. No show request. "No show request" means a
12 notice initiated by an excavator through the ~~State-Wide~~
13 One-Call Notice System to the owners or operators of
14 underground utility facilities notified in the prior locate
15 request that such facility owners or operators, as identified
16 by the excavator, either failed to mark their facilities or to
17 communicate their non-involvement with the excavation prior to
18 the requested dig start date and time.

19 (Source: P.A. 96-714, eff. 1-1-10.)

20 (220 ILCS 50/2.1.4)

21 Sec. 2.1.4. Incomplete request. "Incomplete request"
22 means a notice initiated by an excavator through the ~~State-Wide~~
23 One-Call Notice System to the owners or operators of
24 underground utility facilities notified in a prior locate

1 request that such facility owners or operators, as identified
2 by the excavator ~~person excavating~~, did not completely mark the
3 entire extent or the entire segment of the proposed excavation,
4 as identified ~~by the excavator~~ in the prior notice.

5 (Source: P.A. 96-714, eff. 1-1-10.)

6 (220 ILCS 50/2.1.5)

7 Sec. 2.1.5. Re-mark request. "Re-mark request" means a
8 notice initiated by an excavator through the ~~State-wide~~
9 One-Call Notice System to the owners or operators of
10 underground utility facilities notified in the initial locate
11 request requesting facility owners or operators to re-mark all
12 or part of the work area identified in the initial locate
13 request, because facility markings are becoming or have become
14 indistinguishable due to factors, including, but not limited
15 to, weather, fading, construction activity, or vandalism. Only
16 the affected areas where excavation or demolition is to
17 continue shall be requested to be re-marked.

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/2.1.7 new)

20 Sec. 2.1.7. Normal notice request. "Normal notice request"
21 means a request for locates that provides no less than 48
22 hours, but no more than 14 calendar days, advance notice of a
23 planned excavation or demolition. A normal notice request is
24 only valid for 28 calendar days from the date of the original

1 normal notice, unless a subsequent request for extension, as
2 described in subsection (g) of Section 4, is made.

3 (220 ILCS 50/2.1.8 new)

4 Sec. 2.1.8. One-Call Notice System. "One-Call Notice
5 System" means JULIE or the State-Wide One-Call Notice System
6 for all excavation or demolition performed and underground
7 facilities owned outside the jurisdiction of the city limits of
8 Chicago. "One-Call Notice System" also means the Chicago
9 Utility Alert Network or Digger for all excavation or
10 demolition performed and underground facilities owned within
11 the jurisdiction of the city limits of Chicago.

12 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

13 Sec. 2.2. Underground utility facilities.

14 (a) "Underground utility facilities" or "facilities" means
15 and includes wires, ducts, fiber optic cable, conduits, pipes,
16 sewers, and cables and their connected appurtenances existing
17 installed beneath the surface of the ground and owned or
18 operated by:

19 (1) a public utility as defined in the Public Utilities
20 Act;

21 (2) a municipally owned or mutually owned utility
22 providing a similar utility service;

23 (3) a pipeline entity transporting gases, crude oil,
24 petroleum products, or other hydrocarbon materials within

1 the State;

2 (4) a telecommunications carrier as defined in the
3 Universal Telephone Service Protection Law of 1985, or by a
4 company described in Section 1 of the Telephone Company
5 Act;

6 (5) a community antenna television system, as defined
7 in the Illinois Municipal Code or the Counties Code;

8 (6) a holder, as that term is defined in the Cable and
9 Video Competition Law of 2007;

10 (7) any other entity owning or operating underground
11 facilities that transport generated electrical power to
12 other utility owners or operators or transport generated
13 electrical power within the internal electric grid of a
14 wind turbine generation farm; ~~and~~

15 (8) an electric cooperative as defined in the Public
16 Utilities Act;~~:-~~

17 (9) an agency of the State of Illinois; and

18 (10) any other active member of a One-Call Notice
19 System.

20 (Source: P.A. 96-714, eff. 1-1-10.)

21 (220 ILCS 50/2.3) (from Ch. 111 2/3, par. 1602.3)

22 Sec. 2.3. Excavation. "Excavation" means any operation in
23 which earth, rock, or other material in or on the ground is
24 moved, removed, or otherwise displaced by means of any tools,
25 power equipment or explosives, and includes, without

1 limitation, grading, trenching, digging, ditching, drilling,
2 augering, boring, tunneling, scraping, cable or pipe plowing,
3 saw cutting when penetrating into the base or subbase of a
4 paved surface, and driving, but does not include:

5 (1) farm tillage operations; or

6 (2) railroad right-of-way maintenance; ~~or operations~~

7 or

8 (3) coal mining operations regulated under the Federal
9 Surface Mining Control and Reclamation Act of 1977 or any
10 State law or rules or regulations adopted under the federal
11 statute; ~~r~~ or

12 (4) land surveying operations as defined in the
13 Illinois Professional Land Surveyor Act of 1989 when
14 manually excavating to a depth not to exceed 24 inches; not
15 using power equipment, or

16 (5) roadway surface milling; ~~or-~~

17 (6) manually inserting a temporary ground or probe rod
18 as part of underground utility facility locating; or

19 (7) manually inserting a temporary probe rod for bar
20 holing to determine the area of a leaking underground
21 hazardous gas or liquid facility; or

22 (8) manually inserting a ground rod for the purpose of
23 grounding utility equipment when an emergency exists and no
24 other ground source is available.

25 An exclusion to this Section in no way prohibits a request
26 from being made for the marking of underground utility

1 facilities.

2 (Source: P.A. 94-623, eff. 8-18-05.)

3 (220 ILCS 50/2.4) (from Ch. 111 2/3, par. 1602.4)

4 Sec. 2.4. Demolition. "Demolition" means the wrecking,
5 razing, rending, moving, or removing of a structure by means of
6 any power tool, power equipment (exclusive of transportation
7 equipment) or explosives.

8 (Source: P.A. 86-674.)

9 (220 ILCS 50/2.5) (from Ch. 111 2/3, par. 1602.5)

10 Sec. 2.5. Damage. "Damage" means the contact or dislocation
11 of any underground utility facility ~~or CATS facility~~ during
12 excavation or demolition which necessitates immediate or
13 subsequent repair by the owner or operator of such facility due
14 to a weakening or the partial or complete destruction of the
15 facility, including, but not limited to, the protective
16 coating, lateral support, cathodic protection, or housing for
17 the line, device, or facility.

18 (Source: P.A. 86-674.)

19 (220 ILCS 50/2.7)

20 Sec. 2.7. Tolerance zone. "Tolerance zone" means: (i) if
21 the diameter of the facility is indicated, the distance of
22 one-half of the known diameter plus 1.5 feet on either side of
23 the designated center line of the utility marking; (ii) if the

1 diameter of the facility is not indicated, 1.5 feet on either
2 side of the outside edge of the utility marking; or (iii) for
3 subaqueous facilities, a distance of 10 feet on either side of
4 the indicated facility. For purposes of this Section,
5 "subaqueous" means a facility located under a lake, river, or
6 navigable waterway. The utility markings provided cannot
7 indicate that the width of the marked facility is any greater
8 than the actual width of the underground facility. The
9 tolerance zone shall also apply to visible utility structures,
10 including, but not limited to, poles with overhead to
11 underground transitions, pedestals, transformers, meters,
12 hydrants, and valve boxes; there shall be a 1.5 foot tolerance
13 zone entirely around such facilities ~~the approximate location~~
14 ~~of underground utility facilities or CATS facilities defined as~~
15 ~~a strip of land at least 3 feet wide, but not wider than the~~
16 ~~width of the underground facility or CATS facility plus 1 1/2~~
17 ~~feet on either side of such facility based upon the markings~~
18 ~~made by the owner or operator of the facility. Excavation~~
19 within the tolerance zone requires extra care and precaution
20 including, but not limited to, as set forth in Section 4.

21 (Source: P.A. 92-179, eff. 7-1-02.)

22 (220 ILCS 50/2.8)

23 Sec. 2.8. Approximate location. "Approximate location"
24 means the actual location of the marked underground facility
25 that lies entirely within the tolerance zone ~~a strip of land at~~

1 ~~least 3 feet wide, but not wider than the width of the~~
2 ~~underground facility or CATS facility plus 1.5 feet on either~~
3 ~~side of the facility.~~

4 (Source: P.A. 92-179, eff. 7-1-02.)

5 (220 ILCS 50/2.9)

6 Sec. 2.9. 48 Hours. "48 hours" ~~"Forty eight hours"~~ means 2
7 business days beginning at 8 a.m. and ending at 4 p.m.
8 (exclusive of Saturdays, Sundays, and holidays recognized by
9 the ~~State Wide One-Call Notice System or the municipal one call~~
10 ~~notice system~~). All requests for locates received after 4 p.m.
11 will be processed as if received at 8 a.m. the next business
12 day.

13 (Source: P.A. 94-623, eff. 8-18-05.)

14 (220 ILCS 50/2.10)

15 Sec. 2.10. Open cut utility locate. "Open cut utility
16 locate" means a method of locating underground utility
17 facilities that requires excavation by the owner, operator, or
18 agent of the underground facility.

19 (Source: P.A. 94-623, eff. 8-18-05.)

20 (220 ILCS 50/2.11)

21 Sec. 2.11. Roadway surface milling. "Roadway surface
22 milling" means the removal of a uniform pavement section by
23 rotomilling, grinding, saw cutting, or other means that does

1 not penetrate into ~~including~~ the roadway base or subbase.

2 (Source: P.A. 94-623, eff. 8-18-05.)

3 (220 ILCS 50/2.12 new)

4 Sec. 2.12. Damage notification. "Damage notification"
5 means a notice to the owners or operators that damage to an
6 underground line has occurred in the area of the excavation or
7 demolition.

8 (220 ILCS 50/2.13 new)

9 Sec. 2.13. Exposed notification. "Exposed notification"
10 means a notification to the owners or operators that a
11 previously unmarked underground line has been exposed, but not
12 damaged.

13 (220 ILCS 50/3) (from Ch. 111 2/3, par. 1603)

14 Sec. 3. One-Call Notice System membership. The owners or
15 operators of underground utility facilities are required to be
16 members of a One-Call Notice System ~~or CATS facilities that are~~
17 ~~not currently participants in the State Wide One Call Notice~~
18 ~~System shall, within 6 months of the effective date of this~~
19 ~~Act, join the State Wide One Call Notice System. This Section~~
20 ~~shall not apply to utilities operating facilities or CATS~~
21 ~~facilities exclusively within the boundaries of a municipality~~
22 ~~with a population of at least one million persons.~~

23 (Source: P.A. 86-674.)

1 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

2 Sec. 4. Required activities. Every excavator ~~person~~ who
3 engages in nonemergency excavation or demolition shall:

4 (a) take reasonable action to inform himself or herself
5 of the location of any underground utility facilities in
6 and near the area for which such operation is to be
7 conducted;

8 (b) plan the excavation or demolition to avoid or
9 minimize interference with underground utility facilities
10 within the tolerance zone by utilizing such precautions
11 that include, but are not limited to, hand excavation, or
12 vacuum excavation methods to the depth of the proposed
13 excavation or demolition, and visually inspecting the
14 excavation while in progress until clear of the existing
15 marked facility;

16 (c) pre-mark in accordance with Section 2.1.2 ~~if~~
17 ~~practical, use white paint, flags, stakes, or both, to~~
18 ~~outline the dig site;~~

19 (d) provide notice not less than 48 hours but no more
20 than 14 calendar days in advance of the start of the
21 excavation or demolition to the owners or operators of the
22 underground utility facilities in and near the excavation
23 or demolition area through the ~~State-Wide~~ One-Call Notice
24 System ~~or, in the case of nonemergency excavation or~~
25 ~~demolition within the boundaries of a municipality of at~~

1 ~~least one million persons which operates its own one-call~~
2 ~~notice system, through the one-call notice system which~~
3 ~~operates in that municipality.~~

4 At a minimum, the notice required under this subsection
5 (d) shall provide:

6 (1) the person's name, address, phone number at
7 which a person can be reached, and if available, a fax
8 number and email address, ~~if available;~~

9 (2) the start date and time of the planned
10 excavation or demolition;

11 (3) all counties, cities, or townships, or any
12 combination thereof, where the proposed excavation or
13 demolition shall take place;

14 (4) the address or location at which the excavation
15 or demolition shall take place;

16 (5) the type of work, and the ~~and~~ extent and
17 description of the area where excavation or demolition
18 is to occur ~~of the work involved; and~~

19 (6) the section or quarter sections when the
20 information in items (1) through (5) of this subsection
21 (d) does not allow the ~~State-Wide~~ One-Call Notice
22 System to determine the appropriate excavation or
23 demolition site. This item (6) does not apply to
24 residential property owners;

25 (7) an indication of whether directional boring or
26 horizontal drilling will be used;

1 (8) an indication of whether the excavation will
2 exceed 7 feet in depth;

3 (9) an indication of whether the proposed
4 excavation or demolition has been physically
5 pre-marked as defined in Section 2.1.2; and

6 (10) the latitude and longitude, if available. The
7 information specified in items (1) through (9) of this
8 subsection (d) is still required when providing
9 latitude and longitude;

10 (e) provide, during and following excavation or
11 demolition, such support for existing underground utility
12 facilities in and near the excavation or demolition area as
13 may be reasonably necessary for the protection of such
14 facilities unless otherwise agreed to by the owner or
15 operator of the underground facility;

16 (f) backfill all excavations in such manner and with
17 such materials as may be reasonably necessary for the
18 protection of existing underground utility facilities in
19 and near the excavation or demolition area;

20 (g) ~~after February 29, 2004,~~ when the excavation or
21 demolition project will extend past 28 calendar days from
22 the date of the original notice provided under clause (d),
23 the excavator shall provide a subsequent notice to the
24 owners or operators of the underground utility facilities
25 in and near the excavation or demolition area through the
26 ~~State Wide One-Call Notice System or, in the case of~~

1 ~~excavation or demolition within the boundaries of a~~
2 ~~municipality having a population of at least 1,000,000~~
3 ~~inhabitants that operates its own one-call notice system,~~
4 ~~through the one-call notice system that operates in that~~
5 ~~municipality informing utility owners and operators that~~
6 ~~additional time to complete the excavation or demolition~~
7 ~~project will be required.~~ The notice will provide the
8 excavator with an additional 28 calendar days from the date
9 of the subsequent notification to continue or complete the
10 excavation or demolition project. The excavator may not
11 provide a subsequent notice under this Section simply for
12 the purpose of keeping a prior notice open or valid without
13 continued excavation occurring within the period of that
14 subsequent notice;

15 (h) exercise due care at all times to protect
16 underground utility facilities. If, after proper
17 notification through a ~~the State Wide~~ One-Call Notice
18 System and upon arrival at the site of the proposed
19 excavation, the excavator observes clear evidence of the
20 presence of an unmarked or incompletely marked utility in
21 the area of the proposed excavation, the excavator shall
22 not begin excavating until all affected facilities have
23 been marked or 2 hours, whichever is shorter, after an
24 additional call is made to the ~~State Wide~~ One-Call Notice
25 System ~~for the area~~. The owner or operator of the utility
26 shall respond within 2 hours of the excavator's call to the

1 ~~State-Wide~~ One-Call Notice System; and

2 (i) when factors, including, but not limited to,
3 weather, construction activity, or vandalism, at the
4 excavation site have caused the utility markings to become
5 faded or indistinguishable, the excavator shall initiate a
6 remark request ~~provide an additional notice~~ through the
7 ~~State-Wide~~ One-Call Notice System requesting that only the
8 affected areas where excavation or demolition is to
9 continue be re-marked. Facility owners or operators must
10 respond to the notice to re-mark according to the
11 requirements of Section 10 of this Act.

12 If upon notice, a facility operator determines there is a
13 critical facility within the proposed excavation area and the
14 facility operator desires to have an authorized representative
15 present during excavation near the critical facility, the
16 facility operator shall contact the excavator prior to the
17 requested dig start time provided on the notice to schedule a
18 date and time for the facility operator to be present when
19 excavation will occur near the critical facility. All
20 excavators must comply with the facility operator's request to
21 be present during excavation near critical facilities. In lieu
22 of having an authorized representative present, the facility
23 operator may choose to complete a minimal excavation near the
24 critical facility to expose its location. However, it is
25 incumbent on the facility operator to comply with the
26 excavator's schedule for when excavation will occur near the

1 critical facility. For excavation that may be near critical
2 facilities intermittently during the course of the project, the
3 excavator shall provide notice to the facility operator not
4 less than one business day before excavation is expected to be
5 near the critical facility. Nothing in this Section shall
6 prohibit an excavator from excavating prudently and carefully
7 near a critical facility without the facility operator present,
8 provided the facility operator waives the request to be present
9 or to complete a minimal excavation exposing the critical
10 facility or is unable to comply with the excavator's schedule.

11 Nothing in this Section prohibits the use of any method of
12 excavation if conducted in a manner that would avoid
13 interference with underground utility facilities.

14 (Source: P.A. 96-714, eff. 1-1-10.)

15 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

16 Sec. 6. Emergency excavation or demolition.

17 (a) Every excavator ~~person~~ who engages in emergency
18 excavation or demolition ~~outside of the boundaries of a~~
19 ~~municipality of at least one million persons which operates its~~
20 ~~own one-call notice system~~ shall take all reasonable
21 precautions to avoid or minimize interference between the
22 emergency work and existing underground utility facilities in
23 and near the excavation or demolition area, ~~through the~~
24 ~~State Wide One-Call Notice System,~~ and shall notify, as far in
25 advance as possible, the owners or operators of such

1 underground utility facilities in and near the emergency
2 excavation or demolition area, through the ~~State-Wide~~ One-Call
3 Notice System. At a minimum, the notice required under this
4 subsection (a) shall provide:

5 (1) the person's name, address, and ~~(i)~~ phone number at
6 which a person can be reached and, if available, a (ii) fax
7 number and email address, ~~if available;~~

8 (2) the start date and time of the planned emergency
9 excavation or demolition;

10 (3) the address or location at which the excavation or
11 demolition will take place; ~~and~~

12 (4) the type of work, and the ~~and~~ extent and
13 description of the area where excavation or demolition is
14 to occur; and ~~of the work involved.~~

15 (5) all counties, cities, or townships, or any
16 combination thereof, where the emergency excavation or
17 demolition will take place.

18 There is a wait time of 2 hours or the date and time
19 requested on the notice, whichever is longer, after an
20 emergency locate notification request is made through the
21 ~~State-Wide~~ One-Call Notice System. If the conditions at the
22 site dictate an earlier start than the required wait time, it
23 is the responsibility of the excavator to demonstrate that site
24 conditions warranted this earlier start time.

25 Upon notice by the excavator ~~person~~ engaged in emergency
26 excavation or demolition, the owner or operator of an

1 underground utility facility in or near the excavation or
2 demolition area shall communicate with the excavator ~~person~~
3 engaged in emergency excavation or demolition within 2 hours or
4 by the date and time requested on the notice, whichever is
5 longer by (1) marking the approximate location of underground
6 facilities; (2) advising the excavator ~~person excavating~~ that
7 their underground facilities are not in conflict with the
8 emergency excavation; or (3) notifying the excavator ~~person~~
9 ~~excavating~~ that the owner or operator shall be delayed in
10 marking because of conditions as referenced in subsection (g)
11 of Section 11 of this Act.

12 The notice by the owner or operator to the excavator ~~person~~
13 ~~engaged in emergency excavation or demolition~~ may be provided
14 by phone or phone message or by marking the excavation or
15 demolition area. The owner or operator has discharged the
16 owner's or operator's obligation to provide notice under this
17 Section if the owner or operator attempts to provide notice by
18 telephone but is unable to do so because the excavator ~~person~~
19 ~~engaged in the emergency excavation or demolition~~ does not
20 answer his or her telephone or does not have an answering
21 machine, ~~or~~ answering service or voicemail to receive the
22 telephone call. If the owner or operator attempts to provide
23 notice by telephone ~~or by facsimile~~ but receives a busy signal,
24 that attempt shall not discharge the owner or operator from the
25 obligation to provide notice under this Section.

26 (b) Blank. ~~Every person who engages in emergency excavation~~

~~er demolition within the boundaries of a municipality of at least one million persons which operates its own one-call notice system shall take all reasonable precautions to avoid or minimize interference between the emergency work and existing underground utility facilities in and near the excavation or demolition area, through the municipality's one call notice system, and shall notify, as far in advance as possible, the owners and operators of underground utility facilities in and near the emergency excavation or demolition area, through the municipality's one call notice system.~~

(c) The reinstallation of traffic control devices shall be deemed an emergency for purposes of this Section.

(d) An open cut utility locate shall be deemed an emergency for purposes of this Section.

(e) During widespread emergency situations, as described in Section 2.6, where the owner or operator of underground utility facilities has a situation beyond their equipment or personnel capabilities to facilitate a timely repair or correction of the emergency, the facility owner or operator may utilize subcontractors to facilitate the work without a separate emergency locate request by the subcontractor. However, for the purposes of this Act, in such a situation, the facility owner or operator shall be responsible for the actions of their subcontractor, unless the subcontractor has obtained their own notice or has changed the excavators name in the original notice.

1 (f) Emergency notices provided through a One-Call Notice
2 System shall expire 14 calendar days after the date of the
3 initial notice.

4 (Source: P.A. 96-714, eff. 1-1-10.)

5 (220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

6 Sec. 7. Damage or dislocation. In the event of any damage
7 to or dislocation of any underground utility facilities in
8 connection with any excavation or demolition, emergency or
9 nonemergency, the excavator ~~person~~ responsible for the
10 excavation or demolition operations shall immediately notify
11 the affected utility and the ~~State-Wide One-Call Notice System~~
12 and cease excavation in the area of the damage when the damaged
13 facility is a threat to life or property or if otherwise
14 required by law ~~or, in the case of damage or dislocation in~~
15 ~~connection with any excavation or demolition within the~~
16 ~~boundaries of a municipality having a population of at least~~
17 ~~1,000,000 inhabitants that operates its own one call notice~~
18 ~~system, notify the affected utility and the one call notice~~
19 ~~system that operates in that municipality.~~ The excavator ~~person~~
20 responsible for the excavation or demolition shall not attempt
21 to repair, clamp, or constrict the damaged utility facility
22 unless under the supervision or advisement of the utility
23 facility owner or operator. At no time shall an excavator ~~a~~
24 ~~person~~ under this Act be required by a utility facility owner
25 or operator to attempt to repair, clamp, or constrict a damaged

1 utility facility. In the event of any damage to any underground
2 utility facility that results in the escape of any flammable,
3 toxic, or corrosive gas or liquid, the excavator person
4 responsible for the excavation or demolition shall call 9-1-1
5 and notify authorities of the damage. Owners and operators of
6 underground utility facilities that are damaged and the
7 excavator involved shall work in a cooperative and expeditious
8 manner to repair the affected utility.

9 At a minimum, the notice required under this Section shall
10 provide:

11 (1) a reference to the original excavation or
12 demolition notice, if one exists;

13 (2) the type of damaged underground utility facility;

14 (3) the name of the affected underground utility
15 facility owner, if known; and

16 (4) the location of the damaged underground line at the
17 excavation or demolition site.

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/7.5 new)

20 Sec. 7.5. Exposed facility. In the event of any previously
21 unmarked underground utility facility being exposed during
22 excavation or demolition, emergency or nonemergency, the
23 excavator responsible for the excavation or demolition
24 operations shall immediately notify the One-Call Notice
25 System.

1 At a minimum, the notice required under this Section shall
2 provide:

3 (1) a reference to the original excavation or
4 demolition notice, if one exists;

5 (2) the type of exposed underground utility facility;

6 (3) the name of the affected underground utility
7 facility owner, if known; and

8 (4) the location of the exposed underground line at the
9 excavation or demolition site.

10 (220 ILCS 50/8) (from Ch. 111 2/3, par. 1608)

11 Sec. 8. Liability or financial responsibility.

12 (a) Nothing in this Act shall be deemed to affect or
13 determine the financial responsibility for any operation under
14 this Act or liability of any entity or individual ~~person~~ for
15 any damages that occur unless specifically stated otherwise.

16 (b) Except for enforcement penalties authorized pursuant
17 to this Act, nothing ~~Nothing~~ in this Act shall be deemed to
18 provide for liability or financial responsibility of the
19 Department of Transportation, its officers and employees
20 concerning any underground utility facility ~~or CATS facility~~
21 located on highway right-of-way by permit issued under the
22 provisions of Section 9-113 of the Illinois Highway Code. It is
23 not the intent of this Act to change any remedies in law
24 regarding the duty of providing lateral support.

25 (c) Neither a ~~the State Wide~~ One-Call Notice System nor any

1 of its officers, agents, or employees shall be liable for
2 damages for injuries or death to persons or damage to property
3 caused by acts or omissions in the receipt, recording, or
4 transmission of locate requests or other information in the
5 performance of its duties as the ~~State Wide~~ One-Call Notice
6 System, unless the act or omission was the result of willful
7 and wanton misconduct.

8 (d) Any residential property owner who fails to comply with
9 any provision of this Act and damages underground utility
10 facilities ~~or CATS facilities~~ while engaging in excavation or
11 demolition on such residential property shall not be subject to
12 a penalty under this Act, but shall be liable for the damage
13 caused to the owner or operator of the damaged underground
14 utility facilities ~~or CATS facilities~~.

15 (Source: P.A. 92-179, eff. 7-1-02.)

16 (220 ILCS 50/9) (from Ch. 111 2/3, par. 1609)

17 Sec. 9. Negligence. When it is shown by competent evidence
18 in any action for damages to underground utility facilities ~~or~~
19 ~~CATS facilities~~ that such damages resulted from excavation or
20 demolition and that the excavator person engaged in such
21 excavation or demolition failed to comply with the provisions
22 of this Act, that excavator person shall be deemed prima facie
23 guilty of negligence.

24 When it is shown by competent evidence in any action for
25 damages to excavators persons, material or equipment brought by

1 persons undertaking excavation or demolition acting in
2 compliance with the provisions of this Act that such damages
3 resulted from the failure of owners and operators of
4 underground facilities ~~or CATS facilities~~ to comply with the
5 provisions of this Act, those owners and operators shall be
6 deemed prima facie guilty of negligence.

7 (Source: P.A. 86-674.)

8 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

9 Sec. 10. Record of notice; marking of facilities.

10 (a) Upon notice by the excavator ~~person engaged in~~
11 ~~excavation or demolition~~, the entity ~~person~~ owning or operating
12 underground utility facilities in or near the excavation or
13 demolition area shall cause a written record to be made of the
14 notice and shall mark, within 48 hours of receipt of notice or
15 by the requested date and time indicated on the notice,
16 whichever is later, the approximate locations of such
17 facilities so as to enable the excavator ~~person excavating or~~
18 ~~demolishing~~ to establish the location of the underground
19 utility facilities.

20 (b) Owners and operators of underground sewer facilities
21 ~~that are located outside the boundaries of a municipality~~
22 ~~having a population of at least 1,000,000 inhabitants~~ shall be
23 required to respond and mark the approximate location of those
24 sewer facilities when the excavator indicates, in the notice
25 required in Section 4, that the excavation or demolition

1 project will exceed a depth of 7 feet. "Depth", in this case,
2 is defined as the distance measured vertically from the surface
3 of the ground to the top of the sewer facility.

4 (c) Owners and operators of underground sewer facilities
5 ~~that are located outside the boundaries of a municipality~~
6 ~~having a population of at least 1,000,000 inhabitants~~ shall be
7 required at all times to locate the approximate location of
8 those sewer facilities when: (1) directional boring is the
9 indicated type of excavation work being performed within the
10 notice; (2) the underground sewer facilities owned are
11 non-gravity, pressurized force mains; or (3) the excavation
12 indicated will occur in the immediate proximity of known
13 underground sewer facilities that are less than 7 feet deep.

14 (d) Owners or operators of underground sewer facilities
15 ~~that are located outside the boundaries of a municipality~~
16 ~~having a population of at least 1,000,000 inhabitants~~ shall not
17 hold an excavator liable for damages that occur to sewer
18 facilities that were not required to be marked under this
19 Section, provided that prompt notice of the damage is made to
20 the ~~State-Wide One-Call Notice System and the utility owner~~ as
21 required in Section 7.

22 (e) All entities ~~persons~~ subject to the requirements of
23 this Act shall plan and conduct their work consistent with
24 reasonable business practices. Conditions may exist making it
25 unreasonable to request that locations be marked within 48
26 hours or by the requested date and time indicated on the

1 notice, whichever is later. It is unreasonable to request
2 owners and operators of underground utility facilities to
3 locate all of their facilities in an affected area upon short
4 notice in advance of a large ~~or extensive~~ nonemergency project,
5 or to request extensive locates in excess of a reasonable
6 excavation or demolition work schedule, or to request locates
7 under conditions where a repeat request is likely to be made
8 because of the passage of time or adverse job conditions.

9 (f) Owners and operators of underground utility facilities
10 must reasonably anticipate seasonal fluctuations in the number
11 of locate requests and staff accordingly.

12 (g) If an entity ~~a person~~ owning or operating underground
13 utility facilities receives a notice under this Section but
14 does not own or operate any underground utility facilities
15 within the proposed excavation or demolition area described in
16 the notice, that entity ~~person~~, within 48 hours or by the
17 requested date and time indicated on the notice, whichever is
18 later, after receipt of the notice, shall so notify the
19 excavator ~~person engaged in excavation or demolition who~~
20 ~~initiated the notice, unless the person who initiated the~~
21 ~~notice expressly waives the right to be notified that no~~
22 ~~facilities are located within the excavation or demolition~~
23 ~~area.~~

24 (h) The notification by the owner or operator of
25 underground utility facilities to the excavator ~~person engaged~~
26 ~~in excavation or demolition~~ may be provided in any reasonable

1 manner including, but not limited to, notification in any one
2 of the following ways:

3 (1) by face-to-face communication;

4 (2) by phone or phone message;

5 (3) by facsimile or email;

6 (4) by posting in the excavation or demolition area; or

7 (5) by marking the excavation or demolition area.

8 (i) The owner or operator of those facilities has
9 discharged the owner's or operator's obligation to provide
10 notice under this Section if the owner or operator attempts to
11 provide notice by one of the following ways:

12 (1) telephone ~~or by facsimile, if the person has~~
13 ~~supplied a facsimile number~~, but is unable to do so because
14 the excavator ~~person engaged in the excavation or~~
15 ~~demolition~~ does not answer his or her telephone and ~~or~~ does
16 not have the ability to receive telephone messages;

17 (2) facsimile, if the excavator has supplied a
18 facsimile number and does not have a facsimile machine in
19 operation to receive the facsimile transmission; or

20 (3) email, if the excavator has supplied an email
21 address and the message is electronically undeliverable ~~an~~
22 ~~answering machine or answering service to receive the~~
23 ~~telephone call or does not have a facsimile machine in~~
24 ~~operation to receive the facsimile transmission.~~

25 If the owner or operator attempts to provide notice by
26 telephone or by facsimile but receives a busy signal, that

1 attempt shall not serve to discharge the owner or operator of
2 the obligation to provide notice under this Section.

3 ~~A person engaged in excavation or demolition may expressly~~
4 ~~waive the right to notification from the owner or operator of~~
5 ~~underground utility facilities that the owner or operator has~~
6 ~~no facilities located in the proposed excavation or demolition~~
7 ~~area. Waiver of notice is only permissible in the case of~~
8 ~~regular or nonemergency locate requests. The waiver must be~~
9 ~~made at the time of the notice to the State Wide One Call~~
10 ~~Notice System. A waiver made under this Section is not~~
11 ~~admissible as evidence in any criminal or civil action that may~~
12 ~~arise out of, or is in any way related to, the excavation or~~
13 ~~demolition that is the subject of the waiver.~~

14 (j) For the purposes of this Act, the following color
15 coding shall be used to mark the approximate location of
16 underground utility facilities by the underground facility
17 operators who may utilize a combination of flags, stakes, or
18 and paint as ~~when possible on non paved surfaces and when dig~~
19 site and seasonal conditions warrant. ~~If the approximate~~
20 ~~location of an underground utility facility is marked with~~
21 ~~stakes or other physical means, the following color coding~~
22 ~~shall be employed:~~

23 Underground Facility Identification Color

24 Facility Owner or Agent Use Only

1	Electric Power, Distribution and	
2	Transmission	Safety Red
3	Municipal Electric Systems	Safety Red
4	Gas Distribution and Transmission	High Visibility Safety
5		Yellow
6	Oil Distribution and Transmission	High Visibility Safety
7		Yellow
8	Telephone and Telegraph Systems	Safety Alert Orange
9	Community Antenna Television Systems ..	Safety Alert Orange
10	Water Systems	Safety Precaution Blue
11	Sewer Systems	Safety Green
12	Non-potable Water and Slurry Lines	Safety Purple

13 Excavator Use Only

14	Temporary Survey	Safety Pink
15	Proposed Excavation.....	Safety White (Black
16		when snow is on the
17		ground)

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

20 Sec. 11. Penalties; liability; fund.

21 (a) Every excavator ~~person~~ who, while engaging in

22 excavation or demolition, ~~wilfully~~ fails to comply with the Act

1 by failing to provide the notice to the owners or operators of
2 the underground facilities near the excavation or demolition
3 area through the State-Wide One-Call Notice System as required
4 by Section 4 or 6 of this Act shall be subject to a penalty of
5 up to \$5,000 for each separate offense and shall be liable for
6 the damage caused to the owners or operators of the facility.
7 Every excavator ~~person~~ who fails to provide notice and
8 ~~willfully~~ fails to comply with other provisions of this Act
9 shall be subject to additional penalties of up to \$2,500 for
10 each separate offense and shall be liable for the damage caused
11 to the owners or operators of the facility.

12 (b) Every excavator ~~person~~ who has provided the notice to
13 the owners or operators of the underground utility facilities
14 in and near the excavation or demolition area through the
15 ~~State-Wide~~ One-Call Notice System as required by Section 4 or 6
16 of this Act, but otherwise ~~willfully~~ fails to comply with this
17 Act, shall be subject to a penalty of up to \$2,500 for each
18 separate offense and shall be liable for the damage caused to
19 the owners or operators of the facility.

20 (c) Every excavator ~~person~~ who, while engaging in
21 excavation or demolition, has provided the notice to the owners
22 or operators of the underground utility facilities in and near
23 the excavation or demolition area through the ~~State-Wide~~
24 One-Call Notice System as required by Section 4 or 6 of this
25 Act, but otherwise, while acting reasonably, damages any
26 underground utility facilities, shall not be subject to a

1 penalty, but shall be liable for the damage caused to the
2 owners or operators of the facility provided the underground
3 utility facility is properly marked as provided in Section 10
4 of this Act.

5 (d) Every excavator ~~person~~ who provides notice to the
6 owners or operators of the underground utility facilities
7 through the ~~State-Wide~~ One-Call Notice System as a no-show,
8 incomplete, or an emergency locate request and the locate
9 request is not a no-show, incomplete, or an emergency locate
10 request as defined in Section 2.1.3, 2.1.4, or 2.6 of this Act
11 shall be subject to a penalty of up to \$2,500 for each separate
12 offense.

13 (e) Owners and operators of underground utility facilities
14 who ~~willfully~~ fail to comply with this Act by a failure to mark
15 or respond with notice of all clear, respond with notice of
16 delay by the requested date and time indicated on the notice,
17 ~~respond~~ or mark the approximate location of an underground
18 utility as required by subsection (h) of Section 4, subsection
19 (a) of Section 6, or Section 10 of this Act after being
20 notified of planned excavation or demolition through the
21 ~~State-Wide~~ One-Call Notice System, shall be subject to a
22 penalty of up to \$5,000 for each separate offense. A facility
23 operator will not be subject to a penalty for failing to
24 properly mark the approximate location of an underground
25 facility provided that the facility operator marked, or
26 responded with notice of all clear, or responded with notice of

1 delay by the requested date and time indicated on the notice
2 and took reasonable precautions when locating the underground
3 facility.

4 (f) As provided in Section 3 of this Act, all owners or
5 operators of underground utility facilities who fail to join
6 the ~~State Wide One-Call Notice System~~ by January 1, 2003 shall
7 be subject to a penalty of \$100 per day for each separate
8 offense. Every day an owner or operator fails to join the
9 ~~State Wide One-Call Notice System~~ is a separate offense. ~~This~~
10 ~~subsection (f) does not apply to utilities operating facilities~~
11 ~~exclusively within the boundaries of a municipality with a~~
12 ~~population of at least 1,000,000 persons.~~

13 (g) No owner or operator of underground utility facilities
14 shall be subject to a penalty where a delay in marking or a
15 failure to mark or properly mark the location of an underground
16 utility is caused by conditions beyond the reasonable control
17 of such owner or operator. Any owners or operators receiving an
18 increase to the notice volume within any political subdivision
19 of the State that exceeds 20% of the same corresponding
20 calendar day's volume from the prior year for that political
21 subdivision which will result in a delay in marking shall
22 communicate with the excavator the increase for that political
23 subdivision and notify the entity of the volume increase in the
24 political subdivision, and indicate: (i) that a delay of up to
25 an additional 48 hours may be required to mark the requested
26 area; or (ii) that an additional 48 hours will not be

1 sufficient to mark the requested area and that a mutually
2 agreeable date and time is needed to complete the marking.

3 (h) Any entity that ~~person who~~ is neither an agent,
4 employee, or authorized locating contractor of the owner or
5 operator of the underground utility facility nor an excavator
6 involved in the excavation or demolition activity that ~~who~~
7 removes, alters, or otherwise damages markings, flags, or
8 stakes used to mark the location of an underground utility
9 other than during the course of the excavation or demolition
10 for which the markings were made or before completion of the
11 project shall be subject to a penalty up to \$1,000 for each
12 separate offense.

13 (i) (Blank).

14 (j) The Illinois Commerce Commission shall have the power
15 and jurisdiction to, and shall, enforce the provisions of this
16 Act. The Illinois Commerce Commission may impose
17 administrative penalties as provided in this Section. The
18 Illinois Commerce Commission may promulgate rules and develop
19 enforcement policies in the manner provided by the Public
20 Utilities Act in order to implement compliance with this Act.
21 When a penalty is warranted, the following criteria shall be
22 used in determining the magnitude of the penalty:

23 (1) gravity of noncompliance;

24 (2) culpability of offender;

25 (3) history of noncompliance for the 18 months prior to
26 the date of the incident; however, when determining

1 non-compliance, the alleged violator's roles as operator
2 or owner and the entity ~~person~~ engaged in excavating shall
3 be treated separately;

4 (4) ability to pay penalty;

5 (5) show of good faith of offender;

6 (6) ability to continue business; and

7 (7) other special circumstances.

8 (k) There is hereby created in the State treasury a special
9 fund to be known as the Illinois Underground Utility Facilities
10 Damage Prevention Fund. All penalties recovered by the Illinois
11 Commerce Commission in any action under this Section shall be
12 paid into the Fund and shall be distributed annually as a grant
13 to the ~~State-Wide~~ One-Call Notice System operated by JULIE to
14 be used in safety and informational programs to reduce the
15 number of incidents of damage to underground utility facilities
16 in Illinois. The distribution shall be made during January of
17 each calendar year based on the balance in the Illinois
18 Underground Utility Facilities Damage Prevention Fund as of
19 December 31 of the previous calendar year. In all such actions
20 under this Section, the procedure and rules of evidence shall
21 conform with the Code of Civil Procedure, and with rules of
22 courts governing civil trials.

23 (l) The Illinois Commerce Commission shall establish an
24 Advisory Committee consisting of a representative from each of
25 the following: utility operator, JULIE, excavator,
26 municipality, and the general public. The Advisory Committee

1 shall serve as a peer review panel for any contested penalties
2 resulting from the enforcement of this Act.

3 The members of the Advisory Committee shall be immune,
4 individually and jointly, from civil liability for any act or
5 omission done or made in performance of their duties while
6 serving as members of such Advisory Committee, unless the act
7 or omission was the result of willful and wanton misconduct.

8 (m) If, after the Advisory Committee has considered a
9 particular contested penalty and performed its review
10 functions under this Act and the Commission's rules, there
11 remains a dispute as to whether the Commission should impose a
12 penalty under this Act, the matter shall proceed in the manner
13 set forth in Article X of the Public Utilities Act, including
14 the provisions governing judicial review.

15 (Source: P.A. 96-714, eff. 1-1-10.)

16 (220 ILCS 50/11.3)

17 Sec. 11.3. Emergency telephone system outages;
18 reimbursement. Any excavator ~~person~~ who negligently damages an
19 underground facility ~~or CATS facility~~ causing an emergency
20 telephone system outage must reimburse the public safety agency
21 that provides personnel to answer calls or to maintain or
22 operate an emergency telephone system during the outage for the
23 agency's costs associated with answering calls or maintaining
24 or operating the system during the outage. For the purposes of
25 this Section, "public safety agency" means the same as in

1 Section 2.02 of the Emergency Telephone System Act.

2 (Source: P.A. 92-149, eff. 1-1-02.)

3 (220 ILCS 50/12) (from Ch. 111 2/3, par. 1612)

4 Sec. 12. Submittal of non-compliance report and
5 enforcement actions timeframes. No action may be brought under
6 Section 11 of this Act unless commenced within 2 years after
7 the date of violation of this Act.

8 (Source: P.A. 86-674.)

9 (220 ILCS 50/13) (from Ch. 111 2/3, par. 1613)

10 Sec. 13. Mandamus or injunction. Where public safety or the
11 preservation of uninterrupted, necessary utility service ~~or~~
12 ~~community antenna television system service~~ is endangered by
13 any excavator person engaging in excavation or demolition in a
14 negligent or unsafe manner which has resulted in or is likely
15 to result in damage to underground utility facilities ~~or CATS~~
16 ~~facilities~~ or proposing to use procedures for excavation or
17 demolition which are likely to result in damage to underground
18 utility facilities ~~or CATS facilities~~, or where the owner or
19 operator of underground utility facilities ~~or CATS facilities~~
20 endangers an excavator by willfully failing to respond to a
21 locate request, the owner or operator of such facilities or the
22 excavator or the State's Attorney or the Illinois Commerce
23 Commission at the request of the owner or operator of such
24 facilities or the excavator may commence an action in the

1 circuit court for the county in which the excavation or
2 demolition is occurring or is to occur, or in which the person
3 complained of has his principal place of business or resides,
4 for the purpose of having such negligent or unsafe excavation
5 or demolition stopped and prevented or to compel the marking of
6 underground utilities facilities ~~or CATS facilities~~, either by
7 mandamus or injunction.

8 (Source: P.A. 92-179, eff. 7-1-02.)

9 (220 ILCS 50/14) (from Ch. 111 2/3, par. 1614)

10 Sec. 14. Home rule. The regulation of underground utility
11 facilities ~~and CATS facilities~~ damage prevention, as provided
12 for in this Act, is an exclusive power and function of the
13 State. A home rule unit may not regulate underground utility
14 facilities ~~and CATS facilities~~ damage prevention, as provided
15 for in this Act. All units of local government, including home
16 rule units ~~that are not municipalities of more than 1,000,000~~
17 ~~persons~~, must comply with the provisions of this Act. To this
18 extent, this Section is a denial and limitation of home rule
19 powers and functions under subsection (h) of Section 6 of
20 Article VII of the Illinois Constitution. A home rule
21 municipality of more than 1,000,000 persons may regulate
22 underground utility facilities ~~and CATS facilities~~ damage
23 prevention enforcement only.

24 (Source: P.A. 99-121, eff. 7-23-15.)

1 (220 ILCS 50/2.1 rep.)

2 (220 ILCS 50/2.1.9 rep.)

3 (220 ILCS 50/5 rep.)

4 Section 10. The Illinois Underground Utility Facilities
5 Damage Prevention Act is amended by repealing Sections 2.1,
6 2.1.9, and 5.

1

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3 220 ILCS 50/2 from Ch. 111 2/3, par. 1602
4 220 ILCS 50/2.1.1 new
5 220 ILCS 50/2.1.2 new
6 220 ILCS 50/2.1.3
7 220 ILCS 50/2.1.4
8 220 ILCS 50/2.1.5
9 220 ILCS 50/2.1.7 new
10 220 ILCS 50/2.1.8 new
11 220 ILCS 50/2.2 from Ch. 111 2/3, par. 1602.2
12 220 ILCS 50/2.3 from Ch. 111 2/3, par. 1602.3
13 220 ILCS 50/2.4 from Ch. 111 2/3, par. 1602.4
14 220 ILCS 50/2.5 from Ch. 111 2/3, par. 1602.5
15 220 ILCS 50/2.7
16 220 ILCS 50/2.8
17 220 ILCS 50/2.9
18 220 ILCS 50/2.10
19 220 ILCS 50/2.11
20 220 ILCS 50/2.12 new
21 220 ILCS 50/2.13 new
22 220 ILCS 50/3 from Ch. 111 2/3, par. 1603
23 220 ILCS 50/4 from Ch. 111 2/3, par. 1604
24 220 ILCS 50/6 from Ch. 111 2/3, par. 1606
25 220 ILCS 50/7 from Ch. 111 2/3, par. 1607

- 1 220 ILCS 50/7.5 new
- 2 220 ILCS 50/8 from Ch. 111 2/3, par. 1608
- 3 220 ILCS 50/9 from Ch. 111 2/3, par. 1609
- 4 220 ILCS 50/10 from Ch. 111 2/3, par. 1610
- 5 220 ILCS 50/11 from Ch. 111 2/3, par. 1611
- 6 220 ILCS 50/11.3
- 7 220 ILCS 50/12 from Ch. 111 2/3, par. 1612
- 8 220 ILCS 50/13 from Ch. 111 2/3, par. 1613
- 9 220 ILCS 50/14 from Ch. 111 2/3, par. 1614
- 10 220 ILCS 50/2.1 rep.
- 11 220 ILCS 50/2.1.9 rep.
- 12 220 ILCS 50/5 rep.