94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB5000


SYNOPSIS AS INTRODUCED:

See Index

Creates the Tax-Exempt Hospital Responsibility Act. Sets forth the terms under which a hospital must provide full charity care and discounted care to Illinois residents in order to maintain the hospital's tax-exempt status under the Illinois Income Tax Act, the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and the Property Tax Code; amends each of those tax Acts to provide that a hospital may qualify for an exemption from the tax imposed by the Act only if the hospital is in compliance with the Tax-Exempt Hospital Responsibility Act. Sets forth uniform procedures for a hospital's provision of charity care. Sets forth patient rights and responsibilities in connection with hospital charity care. Requires a tax-exempt hospital to furnish aggregate annual charity care in an amount equal to at least 8% of the hospital's total operating costs. Requires hospitals to submit an annual report to the Attorney General. Makes the Attorney General responsible for implementing and enforcing the Tax-Exempt Hospital Responsibility Act. Provides that a home rule unit may not regulate hospitals in a manner inconsistent with the Tax-Exempt Hospital Responsibility Act. Creates the Tax-Exempt Hospital Responsibility Act Enforcement Fund, to be used in connection with enforcement of the Act, and amends the State Finance Act in connection therewith. Amends the Freedom of Information Act to make records of charity care applications and determinations under the Tax-Exempt Hospital Responsibility Act exempt from inspection and copying. Amends the Illinois Finance Authority Act; provides that none of the specified powers of the Illinois Finance Authority shall be exercised for the benefit of any hospital as defined in the Tax-Exempt Hospital Responsibility Act if that hospital is not in compliance with that Act. Amends the Community Benefits Act; makes changes including (i) adding references to the Tax-Exempt Hospital Responsibility Act, (ii) providing for a maximum late filing fee of $10,000 (instead of $100), and (iii) giving the Attorney General rulemaking authority. Effective immediately.

FISCAL NOTE ACT MAY APPLY
HOME RULE NOTE ACT MAY APPLY
AN ACT concerning regulation.

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

Section 1. Short title. This Act may be cited as the Tax-Exempt Hospital Responsibility Act.

Section 5. Purpose; findings.

(a) The purpose of this Act is to advance public health and welfare through the establishment, implementation, and enforcement of clear standards for delivery by Illinois tax-exempt hospitals of charity health care services to financially qualified persons.

(b) The Illinois General Assembly finds that:

(1) Numerous Illinois not-for-profit hospital organizations have been classified under Illinois law as charitable organizations and, as such, have benefited from various tax exemptions granted by the General Assembly.

(2) Article IX, Section 6 of the Illinois Constitution of 1970 states: "The General Assembly by law may exempt from taxation only . . . property used exclusively for . . . charitable purposes." The Illinois Supreme Court consistently has held that, in order to satisfy the constitutional requirement of Article IX, Section 6, a hospital claiming the benefit of a charitable exemption for its property must unequivocally demonstrate, among other things, that charity is dispensed to all who need and apply for it and that no obstacles of any character are placed in the way of those who need and would avail themselves of such benefits.

(3) In conferring a property tax exemption under Article IX, Section 6, the General Assembly may require hospitals claiming the benefit of this exemption to publicize the availability of charity care, to adhere to
various procedures in the delivery of charity care, to keep
records regarding the level of charity care provided, and
to report this information to the State.

(4) Increasingly, financially needy patients have
experienced significant obstacles to accessing charity
care at many Illinois hospitals benefiting from State tax
exemption.

(5) Many Illinois hospitals benefiting from State tax
exemption apply only a small portion of their overall costs
to the delivery of charity care services to financially
qualified patients.

(6) Patients, hospitals, and government bodies alike
will benefit from clearly-articulated standards regarding
the charity care obligations for tax-exempt Illinois
hospitals.

(7) The Attorney General, as the chief legal officer
for the State, should have primary authority and
responsibility for implementation and enforcement of this
Act.

Section 10. Definitions. In this Act, unless the context
requires otherwise:

"Bad debt" means an account receivable based on services
furnished to any patient which: (i) is regarded as
uncollectible following reasonable collection action; (ii) is
charged as a credit loss; (iii) is not the obligation of any
federal or State government unit; and (iv) is not charity care.

"Charge" means the price set by a hospital for a specific
service or supply provided by the hospital.

"Charity care" means medically necessary services provided
without charge or at a reduced charge to patients who meet
eligibility criteria no more restrictive than those set forth
in Sections 15 and 20 of this Act. Charity care must not be
recorded by a hospital or community medical center as revenue,
as an account receivable, or as bad debt, and the care must be
rendered with no expectation of payment. If the requirements
and procedures set forth in Sections 15 and 20 of this Act are followed, the care will be deemed rendered by a hospital with no expectation of payment. Categories of charity care include full charity care, discounted care, and crime victim discounted care.

"Collection action" means any activity by which a hospital, a designated agent or assignee of the hospital, or a purchaser of the patient account receivable requests payment for services from a patient or a patient's guarantor. Collection actions include, without limitation, pre-admission or pre-treatment deposits, billing statements, letters, electronic mail, telephone and personal contacts related to hospital bills, court summonses and complaints, and any other activity related to collecting a hospital bill.

"Community medical clinic" means a "community provider" as defined in Section 5 of the Community Health Center Expansion Act or a "free medical clinic" as defined in Section 30 of the Good Samaritan Act.

"Cost" means the actual expense a hospital incurs to provide each service or supply.

"Cost-to-charge ratio" means the ratio of a hospital's total cost of providing patient care to its total charges for patient care, as reported in its most recently settled Medicare Cost Report.

"Discounted care" means medically necessary services provided as charity care to a patient who meets the eligibility criteria set forth in subdivision (a)(2)(A) of Section 15 of this Act at discounted rates as set forth in subdivision (a)(2)(B) of Section 15 of this Act.

"Effective date of eligibility" means the later of the date on which medically necessary services are rendered or the date of discharge from the hospital.

"Family" means the patient, the patient's spouse, and any dependents living in the patient's household.

"Family income" means the sum of a family's annual earnings and cash benefits from all sources before taxes, less payments
made for alimony and child support or received as retirement
benefits.

"Federal poverty income guidelines" means the poverty
guidelines updated periodically in the Federal Register by the
United States Department of Health and Human Services under
authority of 42 U.S.C. 9902(2).

"Full charity care" means medically necessary services
provided as charity care at no charge to a patient in
accordance with subsection (a) of Section 15 of this Act.

"Hospital" means any institution required to be licensed by
the State of Illinois pursuant to the Hospital Licensing Act or
the University of Illinois Hospital Act, and any hospital
maintained by the State or any department or agency thereof.

"Medically necessary service" means a service or supply
that is reasonably expected to prevent, diagnose, prevent the
worsening of, alleviate, correct, or cure a condition that
endangers life, causes suffering or pain, causes physical
deformity or malfunction, threatens to cause or aggravate a
handicap, or results in illness or infirmity. "Medically
necessary service" includes any inpatient or outpatient
hospital service mandated under Title XIX of the federal Social
Security Act and emergency care. "Medically necessary service"
does not include any of the following:

(1) Non-medical services such as social and vocational
services.

(2) Elective cosmetic surgery, but not plastic surgery
designed to correct disfigurement caused by injury,
ilness, or congenital defect or deformity.

"Resident" means a person living in the State of Illinois,
regardless of United States citizenship status, with the
intention of remaining in Illinois indefinitely. A resident is
not required to maintain a fixed address. Relocation to
Illinois for the sole purpose of receiving health care benefits
does not satisfy the residency requirement.

"Tax-exempt hospital" means a hospital that has been
organized as a not-for-profit corporation or charitable trust
under Illinois law or the laws of any other state or country
and that has been deemed a charitable organization exempt under
Illinois law from State property tax, retailers' occupation
tax, income tax, use tax, service use tax, or service
occupation tax and eligible to issue tax exempt bonds under
Illinois law or the laws of any other state or country.

"Uninsured" or "uninsured patient" means a patient who is
not covered under a policy of health insurance and is not a
beneficiary under a public or private health insurance, health
benefit, or other health coverage program.

Section 15. Charity care service provision obligations for
tax-exempt hospitals. Unless exempted under Section 35 of this
Act, each tax-exempt hospital must provide charity care to
eligible Illinois residents as follows:

(a) Types of charity care.

(1) Full charity care.

(A) Eligibility. Tax-exempt hospitals must provide
full charity care to any uninsured Illinois residents
who apply for charity care and have family income equal
to or less than 150% of the federal poverty income
guidelines.

(B) Billing. Tax-exempt hospitals must not issue
or cause to be issued any bill or invoice statement to
any patient who qualifies for full charity care
pursuant to subdivision (a)(1)(A) of this Section 15.

(2) Discounted Care.

(A) Eligibility. Tax-exempt hospitals must provide
discounted care to any uninsured Illinois resident who
applies for charity care and has family income of more
than 150% and not more than 250% of the federal poverty
income guidelines. To the extent that the cost of
medically necessary services exceeds $10,000 in any
12-month period, the patient is eligible for full
charity care with respect to the amount of such cost
that exceeds $10,000 during that 12-month period.
(B) Billing. Tax-exempt hospitals must limit any bill or invoice statement sent to any patient who qualifies for discounted care pursuant to subdivision (a)(2)(A) of this Section 15 as follows:

(i) For a patient with a family income of more than 150% and not more than 175% of the federal poverty income guidelines, the amount billed to the patient for discounted care must not exceed 20% of the hospital's cost of providing medically necessary services to such patient.

(ii) For a patient with a family income of more than 175% and not more than 200% of the federal poverty income guidelines, the amount billed to the patient for discounted care must not exceed 25% of the hospital's cost of providing medically necessary services to such patient.

(iii) For a patient with a family income of more than 200% and not more than 225% of the federal poverty income guidelines, the amount billed to the patient for discounted care must not exceed 30% of the hospital's cost of providing medically necessary services to such patient.

(iv) For a patient with a family income of more than 225% and not more than 250% of the federal poverty income guidelines, the amount billed to the patient for discounted care must not exceed 35% of the hospital's cost of providing medically necessary services to such patient.

(C) Payment plan. If a patient has indicated an inability to pay the full amount of a bill or invoice for discounted care in one payment, the tax-exempt hospital must offer the patient a reasonable payment plan without interest. The hospital may require the patient to provide reasonable verification of his or her inability to pay the full amount of the bill or invoice in one payment.
(b) Uniform procedures for charity care service provision.

(1) Initial screening, identification of uninsured residents, and billing procedure. Tax-exempt hospitals must screen each patient, on or prior to the effective date of eligibility, to determine whether he or she is uninsured. If a patient is determined to be uninsured, the patient or the patient’s representative shall be provided an application for charity care no later than the effective date of eligibility. Tax-exempt hospitals must refrain from issuing any bill or invoice statement to a patient who is an uninsured Illinois resident until at least 60 days after the effective date of eligibility and, if the patient files a charity care application before the end of that 60 days, must further refrain from issuing any bill or invoice until the hospital determines the patient’s eligibility for charity care pursuant to this Act.

(2) Application for charity care.

(A) Tax-exempt hospitals must use an application form developed by the Attorney General to determine eligibility for charity care. The Attorney General shall ensure that the application form is easy to understand and that it requests only information that is reasonably necessary to determine eligibility. The Attorney General shall specify the documentation and information an applicant must submit in order to verify eligibility for charity care.

(B) Each hospital must translate and distribute the charity care application form in accordance with the Language Assistance Services Act and, in any event, must translate the application form into the non-English languages most frequently used in the service area of the hospital and make those translations of the form available, in accordance with standards adopted by rule of the Attorney General.

(3) Timing of charity care application. A patient, or the patient’s representative, may submit a charity care
application to a tax-exempt hospital within 60 days after
the effective date of eligibility.

(4) Determination of charity care eligibility. Each
tax-exempt hospital must deliver to the patient written
notice of a charity care eligibility determination within
14 days after receipt of a completed charity care
application. A tax-exempt hospital must not deny or delay
patient care while a patient's application for charity care
is pending.

(5) Notification. Tax-exempt hospitals must provide
notification of the availability of charity care as
follows:

(A) Each hospital must post signs in the inpatient,
outpatient, emergency, admissions, and registration
areas of the facility, and in the business office areas
that are customarily used by patients, that
conspicuously inform patients of the availability of
charity care and the location within the hospital at
which to apply for charity care. Signs must be in
English and also in the languages other than English
that are most frequently spoken in a hospital's service
area, in accordance with standards adopted by rule of
the Attorney General.

(B) Each hospital must post a notice in a prominent
place on its website that charity care is available at
the facility. The notice must include a brief
description of the charity care application process
and a copy of the application form. The notice must be
in the same languages as the signs that are required
pursuant to subdivision (b)(5)(A) of this Section 15.

(C) Each hospital must provide individual notice,
in the appropriate language, of the availability of
charity care to any patient who is identified as
uninsured.

(D) Each hospital must provide notice, or ensure
that notice is provided, of the availability of charity
care in any patient bill invoice statement or
collection action issued by the hospital or by a
collection agent, assignee, or account purchaser that
the hospital retains or with which the hospital has
contracted.

(E) Each hospital must, on a quarterly basis,
publish notice in a newspaper of general circulation in
the hospital's service area, indicating that charity
care is available at the facility. The notice must
include a brief description of the charity care
application process. Each hospital must provide a
similar notice to all community medical centers
located in its service area. These notices must be
provided in the same languages as the signs that are
required pursuant to subdivision (b)(5)(A) of this
Section 15.

(F) All of the notifications required by this
subdivision (b)(5) must include contact information
for the filing with the Attorney General's Office of
complaints regarding possible violations of this Act.

(G) All of the notifications required by this
subdivision (b)(5) must comply with requirements as to
text and form established by the Attorney General.

(c) Patient rights and responsibilities.

(1) Patient rights. Tax-exempt hospitals must
distribute to every patient, on or prior to the effective
date of eligibility, a written statement regarding charity
care in a form and with content developed by the Attorney
General's Office. This statement must include, without
limitation, each patient's right to:

(A) apply for charity care within 60 days after the
effective date of eligibility;

(B) receive a determination, in writing, on his or
her charity care application within 14 days after
submitting a completed application;

(C) enter into a payment plan if determined
eligible for discounted care; and

(D) register a complaint with the Attorney General pursuant to Section 40 of this Act.

(2) Patient responsibilities.

(A) Patients seeking or receiving charity care from any tax-exempt hospital must:

(i) Cooperate with the hospital to provide the information and documentation necessary to apply for other public or private existing programs or resources that may be available to pay for health care including, without limitation, Medicare, Medicaid, or the State Children's Health Insurance Program.

(ii) Promptly provide the hospital with accurate and complete documentation and information as required under this Act.

(iii) Promptly notify the hospital of any significant change in financial status that is likely to adversely affect eligibility for charity care.

(B) A patient who qualifies for discounted care must cooperate with the hospital to establish a reasonable payment plan that takes into account available income and assets, the amount of the discounted bill or bills, and any prior payments and must make a good faith effort to comply with this payment plan. The patient is responsible for promptly communicating to the hospital any change in financial situation that may impact his or her ability to pay the discounted hospital bills or to honor the provisions of the payment plan.

Section 20. Crime victim discounted care. If a tax-exempt hospital accepts payment for medically necessary services from an award to any patient pursuant to the Crime Victims Compensation Act, such payment shall be deemed to be in full
and final satisfaction of any outstanding charges owed by the
patient for those services, and the tax-exempt hospital shall
thereafter be prohibited from sending any bill or invoice
statement for those services.

Section 25. Aggregate annual charity care obligations for
tax-exempt hospitals.

(a) Unless exempted under Section 35, each tax-exempt
hospital shall furnish aggregate annual charity care in an
amount equal to at least 8% of the hospital’s total operating
costs as reported each year in the most recently settled
Medicare Cost Report.

(b) A tax-exempt hospital may for any fiscal year
demonstrate compliance with the requirement of subsection (a)
of this Section 25 by documenting the costs of one or more of
the following:

(1) Provision of charity care to eligible patients of
the hospital.

(2) Provision of charity care to eligible patients at
one or more community medical clinics operated by the
hospital.

(3) Provision by the hospital of charity care to
eligible patients, in a setting or settings other than the
hospital or a community medical clinic operated by the
hospital, provided each such setting is approved in advance
by the Attorney General. The Attorney General shall adopt
rules delineating this approval process.

(4) If a tax-exempt hospital accepts payment for
medically necessary services from an award to any patient
pursuant to the Crime Victims Compensation Act, that
portion of the tax-exempt hospital’s costs for those
medically necessary services which is not covered by the
award.

(5) If a tax-exempt hospital receives payments for
medically necessary services from the State of Illinois
pursuant to Section 5-5 of the Illinois Public Aid Code and
rules issued pursuant to that Section, that portion of the
tax-exempt hospital's costs for those medically necessary
services which is not covered by the payments.

Section 30. Charity care reporting.
(a) Not later than the last day of the sixth month after
the close of its fiscal year, each tax-exempt hospital must
submit an annual charity care report to the Attorney General,
with content and in a format specified by rule of the Attorney
General.
(b) The annual charity care report submitted by each
tax-exempt hospital must include, at a minimum, the following
information for the applicable fiscal year:
(1) The total number of charity care applications
submitted to the hospital, separately itemizing
applications for full charity care, discounted care, and
crime victim discounted care.
(2) The total number of charity care applications
approved by the hospital, separately itemizing approved
applications for full charity care, discounted care, and
crime victim discounted care.
(3) The total number of charity care applications
denied by the hospital and the reasons for such denials,
separately itemizing denied applications for full charity
care, discounted care, and crime victim discounted care.
(4) The total number of patients who received charity
care at the hospital, separately itemizing recipients of
full charity care, discounted care, and crime victim
discounted care, and categorizing services provided and
pertinent demographic attributes of recipients.
(5) A detailed description of the hospital's charity
care application process, including the identity of the
person or persons affiliated with the hospital responsible
for making determinations on charity care applications.
(6) The hospital's most recent complete set of audited
financial statements and its most recently filed and most
recently settled Medicare Cost Report.

(7) A statement that details the following:

(A) the aggregate dollar amount of charity care
furnished by the hospital, to be reported as the actual
cost of services provided based on the total
cost-to-charge ratio derived from the hospital's most
recently settled Medicare Cost Report;

(B) the amount of bad debt incurred by the hospital
in the reporting year, calculated at cost, which
identifies how much of the bad debt is attributable to
individual patients and how much is attributable to
private third party payers;

(C) the hospital's net patient service revenue and
its investment income; and

(D) the total amount of funds available from any
source apart from those derived from patient service
revenue which are available for use by the hospital to
subsidize the cost of charity care during the
applicable fiscal year, and the amount of those funds
that were actually used during the applicable fiscal
year to subsidize the cost of charity care.

(c) Records of charity care applications and
determinations shall be retained by tax-exempt hospitals for a
period of 7 years. All records concerning charity care
applications and determinations shall be confidential, except
that the Attorney General shall, upon written request, be
provided copies of such records by hospitals within 14 days of
receipt of a written request for such records and may provide
copies of the records to the Department of Revenue. Records of
charity care applications and determinations shall be exempt
from inspection and copying under the Freedom of Information
Act.

(d) Hospitals must report any other information that the
Attorney General deems necessary to ensure compliance with the
provisions of this Act.

(e) The Attorney General shall issue a report to the public
on an annual basis addressing the charity care information
reported by tax-exempt hospitals pursuant to this Section 30,
with a separate analysis for each hospital.

Section 35. Exemption for critical access hospitals. Each
hospital designated as a critical access hospital in accordance
with federal statutory and regulatory Medicare requirements is
exempt from the charity care requirements set forth in Sections
15, 20, 25, and 30 of this Act.

Section 40. Implementation and enforcement.
(a) Administration. The Attorney General shall be
responsible for administering and ensuring compliance with
this Act, including adoption or development of:
(1) any rules necessary for the implementation and
enforcement of this Act; and
(2) all forms, notifications, and applications
required to be provided by tax-exempt hospitals under this
Act.

The Illinois Administrative Procedure Act shall apply to
all rules adopted by the Attorney General under this Act.

(b) Complaints. The Attorney General shall develop and
implement a process for receiving and handling complaints from
individuals regarding possible violations of this Act.

(c) Investigation. The Attorney General may conduct any
investigation deemed necessary regarding possible violations
of this Act, including, without limitation, the issuance of
subpoenas to:
(1) require a tax-exempt hospital to file a statement
or report, or answer interrogatories, in writing as to all
information relevant to the alleged violations;
(2) examine under oath any person in connection with
the alleged violations; and
(3) examine any record, book, document, account, or
paper necessary to investigate such alleged violations.

(d) Injunctive relief; monetary penalties.
(1) If the Attorney General determines that there
exists a reasonable basis to believe that a tax-exempt
hospital has violated this Act, the Attorney General may
bring an action in the name of the People of the State
against such tax-exempt hospital to obtain temporary,
preliminary, or permanent injunctive relief for any act,
omission, policy, or practice by the tax-exempt hospital
that violates this Act. The Attorney General may seek the
removal and replacement of any director, officer, agent, or
employee of a tax-exempt hospital who has approved,
authorized, or acquiesced in, directly or indirectly, a
violation of this Act. The Attorney General may also seek
the assessment of one or more of the civil monetary
penalties provided in subdivision (d)(2) of this Section
40.

(2)(A) A tax-exempt hospital that fails to post any
notice or provide any notification required under this
Act is subject to a civil penalty of $1,000 per day for
each day that the required notice is not posted or
notification is not provided.

(B) A tax-exempt hospital that fails to provide
information to the public as required under this Act is
subject to a civil penalty of $1,000 per violation.

(C) A tax-exempt hospital that violates any
 provision of this Act other than the provisions of
Section 25 is subject to a civil penalty of $10,000 per
violation and also may be ordered by a circuit court to
do either of the following:

(i) to the extent that a patient eligible for
charity care under this Act paid any money toward
the satisfaction of the hospital's charges
contrary to the provisions of this Act, reimburse
that patient for the money paid by the patient,
with interest; or

(ii) credit the account of a patient eligible
for charity care under this Act for any hospital
charges that were improperly charged to the
patient's account contrary to the provisions of
this Act.

(D) A tax-exempt hospital that does not meet its
aggregate annual charity care obligation under Section
25 is subject to a civil penalty equal to the amount of
its unpaid obligation, plus interest on that amount
computed at the rate provided under Section 2-1303 of
the Code of Civil Procedure.

(3) In the event a circuit court grants relief against
a tax-exempt hospital for a violation of this Act, the
Attorney General shall refer the tax-exempt hospital to the
Illinois Department of Revenue for possible revocation of
the hospital's tax-exempt status under the Illinois Income
Tax Act, Use Tax Act, Service Use Tax Act, Service
Occupation Tax Act, Retailers' Occupation Tax Act, or
Property Tax Code and to the Illinois Finance Authority for
possible action regarding the hospital's eligibility to
benefit from any provisions of the Illinois Finance
Authority Act.

Section 45. Limitations. Nothing in this Act shall be used
by any private or public third-party payor as a basis for
reducing the third-party payor's rates or policies. Discounts
authorized under this Act shall not be used by any private or
public third-party payer to determine a hospital's usual and
customary charges for any health care service. Nothing in this
Act shall be construed as imposing an obligation on a hospital
to provide, or refrain from providing, any particular service
or treatment to an uninsured patient. Nothing in this Act shall
prohibit hospitals from providing charity care to patients who
do not meet the qualification criteria under this Act. Nothing
in this Act shall be construed as imposing an obligation on a
hospital to file a lawsuit to collect payment on a patient's
bill. This Act establishes new and additional legal obligations
for all tax-exempt hospitals in the State of Illinois. Nothing
in this Act shall be construed as relieving any hospital of any
other legal obligation under the Illinois Constitution, or
under any other statute or the common law, including, without
limitation, obligations of tax-exempt hospitals to furnish
charity care or community benefits, or as reducing any such
obligation on the part of any hospital. No provision of this
Act shall derogate from the common law or statutory authority
of the Attorney General, nor shall any provision be construed
as a limitation on the common law or statutory authority of the
Attorney General to investigate hospitals or initiate
enforcement actions against them, including, without
limitation, the authority to investigate at any time charitable
trusts for the purpose of determining and ascertaining whether
they are being administered in accordance with Illinois law and
with the terms and purposes thereof. No provision of this Act
shall be construed as a limitation on the application of the
doctrine of cy pres or any other legal doctrine applicable to
charitable assets or charitable trusts.

Section 50. Home rule. A home rule unit may not regulate
hospitals in a manner inconsistent with the provisions of this
Act. This Section is a limitation under subsection (i) of
Section 6 of Article VII of the Illinois Constitution on the
concurrent exercise by home rule units of powers and functions
exercised by the State.

Section 55. Tax-Exempt Hospital Responsibility Act
Enforcement Fund. There is hereby created the Tax-Exempt
Hospital Responsibility Act Enforcement Fund as a special fund
in the State treasury. All proceeds of an action or settlement
of a claim or action brought under this Act, but excluding any
moneys ordered paid to a patient or credited to a patient's
account under subdivision (d)(2)(C)(i) or (d)(2)(C)(ii) of
Section 40, shall be deposited in the Fund. Monies in the Fund
shall be allocated, subject to appropriation, to the Attorney
General's Office for enforcement of this Act.
Section 900. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7) (from Ch. 116, par. 207)
Sec. 7. Exemptions.
(1) The following shall be exempt from inspection and copying:
   (a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.
   (b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:
      (i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;
      (ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;
      (iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;
      (iv) information required of any taxpayer in connection with the assessment or collection of any tax
unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection; and

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of
incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.
(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:

   (i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

   (ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.
Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

Library circulation and order records identifying library users with specific materials.

Minutes of meetings of public bodies closed to the
public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to
real estate purchase negotiations until those negotiations
have been completed or otherwise terminated. With regard to
a parcel involved in a pending or actually and reasonably
contemplated eminent domain proceeding under Article VII
of the Code of Civil Procedure, records, documents and
information relating to that parcel shall be exempt except
as may be allowed under discovery rules adopted by the
Illinois Supreme Court. The records, documents and
information relating to a real estate sale shall be exempt
until a sale is consummated.

(t) Any and all proprietary information and records
related to the operation of an intergovernmental risk
management association or self-insurance pool or jointly
self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication
of student or employee grievance or disciplinary cases, to
the extent that disclosure would reveal the identity of the
student or employee and information concerning any public
body's adjudication of student or employee grievances or
disciplinary cases, except for the final outcome of the
cases.

(v) Course materials or research materials used by
faculty members.

(w) Information related solely to the internal
personnel rules and practices of a public body.

(x) Information contained in or related to
examination, operating, or condition reports prepared by,
on behalf of, or for the use of a public body responsible
for the regulation or supervision of financial
institutions or insurance companies, unless disclosure is
otherwise required by State law.

(y) Information the disclosure of which is restricted
under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to
establishment or collection of liability for any State tax
or that relate to investigations by a public body to
determine violation of any criminal law.

(aa) Applications, related documents, and medical
records received by the Experimental Organ Transplantation
Procedures Board and any and all documents or other records
prepared by the Experimental Organ Transplantation
Procedures Board or its staff relating to applications it
has received.

(bb) Insurance or self insurance (including any
intergovernmental risk management association or self
insurance pool) claims, loss or risk management
information, records, data, advice or communications.

(cc) Information and records held by the Department of
Public Health and its authorized representatives relating
to known or suspected cases of sexually transmissible
disease or any information the disclosure of which is
restricted under the Illinois Sexually Transmissible
Disease Control Act.

(dd) Information the disclosure of which is exempted
under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of
the Architectural, Engineering, and Land Surveying
Qualifications Based Selection Act.

(ff) Security portions of system safety program plans,
investigation reports, surveys, schedules, lists, data, or
information compiled, collected, or prepared by or for the
Regional Transportation Authority under Section 2.11 of
the Regional Transportation Authority Act or the St. Clair
County Transit District under the Bi-State Transit Safety
Act.

(gg) Information the disclosure of which is restricted
and exempted under Section 50 of the Illinois Prepaid
Tuition Act.

(hh) Information the disclosure of which is exempted
under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would
disclose or might lead to the disclosure of secret or
confidential information, codes, algorithms, programs, or
digital signatures under the Electronic Commerce Security
Act.

(jj) Information contained in a local emergency energy
plan submitted to a municipality in accordance with a local
emergency energy plan ordinance that is adopted under

(kk) Information and data concerning the distribution
of surcharge moneys collected and remitted by wireless
carriers under the Wireless Emergency Telephone Safety
Act.

(ll) Vulnerability assessments, security measures, and
response policies or plans that are designed to identify,
prevent, or respond to potential attacks upon a community's
population or systems, facilities, or installations, the
destruction or contamination of which would constitute a
clear and present danger to the health or safety of the
community, but only to the extent that disclosure could
reasonably be expected to jeopardize the effectiveness of
the measures or the safety of the personnel who implement
them or the public. Information exempt under this item may
include such things as details pertaining to the
mobilization or deployment of personnel or equipment, to
the operation of communication systems or protocols, or to
tactical operations.

(mm) Maps and other records regarding the location or
security of a utility's generation, transmission,
distribution, storage, gathering, treatment, or switching
facilities.

(nn) Law enforcement officer identification
information or driver identification information compiled
by a law enforcement agency or the Department of
Transportation under Section 11-212 of the Illinois
Vehicle Code.

(oo) Records and information provided to a residential
health care facility resident sexual assault and death
review team or the Residential Health Care Facility
Resident Sexual Assault and Death Review Teams Executive
Council under the Residential Health Care Facility
Resident Sexual Assault and Death Review Team Act.

(pp) Information provided to the predatory lending
database created pursuant to Article 3 of the Residential
Real Property Disclosure Act, except to the extent
authorized under that Article.

(qq) Defense budgets and petitions for
certification of compensation and expenses for court
appointed trial counsel as provided under Sections 10 and
15 of the Capital Crimes Litigation Act. This subsection
shall apply until the conclusion of the trial and
appeal of the case, even if the prosecution chooses not to
pursue the death penalty prior to trial or sentencing.

(rr) Records of charity care applications and
determinations under the Tax-Exempt Hospital
Responsibility Act.

(2) This Section does not authorize withholding of
information or limit the availability of records to the public,
except as stated in this Section or otherwise provided in this
Act.

(Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; revised
8-29-05.)

Section 902. The Illinois Finance Authority Act is amended
by changing Section 801-40 as follows:

(20 ILCS 3501/801-40)

Sec. 801-40. In addition to the powers otherwise authorized
by law and in addition to the foregoing general corporate
powers, the Authority shall also have the following additional
specific powers to be exercised in furtherance of the purposes
of this Act.

(a) The Authority shall have power (i) to accept grants,
loans or appropriations from the federal government or the
State, or any agency or instrumentality thereof, to be used for
the operating expenses of the Authority, or for any purposes of
the Authority, including the making of direct loans of such
funds with respect to projects, and (ii) to enter into any
agreement with the federal government or the State, or any
agency or instrumentality thereof, in relationship to such
grants, loans or appropriations.

(b) The Authority shall have power to procure and enter
into contracts for any type of insurance and indemnity
agreements covering loss or damage to property from any cause,
including loss of use and occupancy, or covering any other
insurable risk.

(c) The Authority shall have the continuing power to issue
bonds for its corporate purposes. Bonds may be issued by the
Authority in one or more series and may provide for the payment
of any interest deemed necessary on such bonds, of the costs of
issuance of such bonds, of any premium on any insurance, or of
the cost of any guarantees, letters of credit or other similar
documents, may provide for the funding of the reserves deemed
necessary in connection with such bonds, and may provide for
the refunding or advance refunding of any bonds or for accounts
deemed necessary in connection with any purpose of the
Authority. The bonds may bear interest payable at any time or
times and at any rate or rates, notwithstanding any other
provision of law to the contrary, and such rate or rates may be
established by an index or formula which may be implemented or
established by persons appointed or retained therefor by the
Authority, or may bear no interest or may bear interest payable
at maturity or upon redemption prior to maturity, may bear such
date or dates, may be payable at such time or times and at such
place or places, may mature at any time or times not later than
40 years from the date of issuance, may be sold at public or
private sale at such time or times and at such price or prices, may be secured by such pledges, reserves, guarantees, letters of credit, insurance contracts or other similar credit support or liquidity instruments, may be executed in such manner, may be subject to redemption prior to maturity, may provide for the registration of the bonds, and may be subject to such other terms and conditions all as may be provided by the resolution or indenture authorizing the issuance of such bonds. The holder or holders of any bonds issued by the Authority may bring suits at law or proceedings in equity to compel the performance and observance by any person or by the Authority or any of its agents or employees of any contract or covenant made with the holders of such bonds and to compel such person or the Authority and any of its agents or employees to perform any duties required to be performed for the benefit of the holders of any such bonds by the provision of the resolution authorizing their issuance, and to enjoin such person or the Authority and any of its agents or employees from taking any action in conflict with any such contract or covenant. Notwithstanding the form and tenor of any such bonds and in the absence of any express recital on the face thereof that it is non-negotiable, all such bonds shall be negotiable instruments. Pending the preparation and execution of any such bonds, temporary bonds may be issued as provided by the resolution. The bonds shall be sold by the Authority in such manner as it shall determine. The bonds may be secured as provided in the authorizing resolution by the receipts, revenues, income and other available funds of the Authority and by any amounts derived by the Authority from the loan agreement or lease agreement with respect to the project or projects; and bonds may be issued as general obligations of the Authority payable from such revenues, funds and obligations of the Authority as the bond resolution shall provide, or may be issued as limited obligations with a claim for payment solely from such revenues, funds and obligations as the bond resolution shall provide. The Authority may grant a specific
pledge or assignment of and lien on or security interest in such rights, revenues, income, or amounts and may grant a specific pledge or assignment of and lien on or security interest in any reserves, funds or accounts established in the resolution authorizing the issuance of bonds. Any such pledge, assignment, lien or security interest for the benefit of the holders of the Authority's bonds shall be valid and binding from the time the bonds are issued without any physical delivery or further act, and shall be valid and binding as against and prior to the claims of all other parties having claims against the Authority or any other person irrespective of whether the other parties have notice of the pledge, assignment, lien or security interest. As evidence of such pledge, assignment, lien and security interest, the Authority may execute and deliver a mortgage, trust agreement, indenture or security agreement or an assignment thereof. A remedy for any breach or default of the terms of any such agreement by the Authority may be by mandamus proceedings in any court of competent jurisdiction to compel the performance and compliance therewith, but the agreement may prescribe by whom or on whose behalf such action may be instituted. It is expressly understood that the Authority may, but need not, acquire title to any project with respect to which it exercises its authority.

(d) With respect to the powers granted by this Act, the Authority may adopt rules and regulations prescribing the procedures by which persons may apply for assistance under this Act. Nothing herein shall be deemed to preclude the Authority, prior to the filing of any formal application, from conducting preliminary discussions and investigations with respect to the subject matter of any prospective application.

(e) The Authority shall have power to acquire by purchase, lease, gift or otherwise any property or rights therein from any person useful for its purposes, whether improved for the purposes of any prospective project, or unimproved. The Authority may also accept any donation of funds for its
purposes from any such source. The Authority shall have no independent power of condemnation but may acquire any property or rights therein obtained upon condemnation by any other authority, governmental entity or unit of local government with such power.

(f) The Authority shall have power to develop, construct and improve either under its own direction, or through collaboration with any approved applicant, or to acquire through purchase or otherwise, any project, using for such purpose the proceeds derived from the sale of its bonds or from governmental loans or grants, and to hold title in the name of the Authority to such projects.

(g) The Authority shall have power to lease pursuant to a lease agreement any project so developed and constructed or acquired to the approved tenant on such terms and conditions as may be appropriate to further the purposes of this Act and to maintain the credit of the Authority. Any such lease may provide for either the Authority or the approved tenant to assume initially, in whole or in part, the costs of maintenance, repair and improvements during the leasehold period. In no case, however, shall the total rentals from any project during any initial leasehold period or the total loan repayments to be made pursuant to any loan agreement, be less than an amount necessary to return over such lease or loan period (1) all costs incurred in connection with the development, construction, acquisition or improvement of the project and for repair, maintenance and improvements thereto during the period of the lease or loan; provided, however, that the rentals or loan repayments need not include costs met through the use of funds other than those obtained by the Authority through the issuance of its bonds or governmental loans; (2) a reasonable percentage additive to be agreed upon by the Authority and the borrower or tenant to cover a properly allocable portion of the Authority's general expenses, including, but not limited to, administrative expenses, salaries and general insurance, and (3) an amount sufficient to
pay when due all principal of, interest and premium, if any on, any bonds issued by the Authority with respect to the project. The portion of total rentals payable under clause (3) of this subsection (g) shall be deposited in such special accounts, including all sinking funds, acquisition or construction funds, debt service and other funds as provided by any resolution, mortgage or trust agreement of the Authority pursuant to which any bond is issued.

(h) The Authority has the power, upon the termination of any leasehold period of any project, to sell or lease for a further term or terms such project on such terms and conditions as the Authority shall deem reasonable and consistent with the purposes of the Act. The net proceeds from all such sales and the revenues or income from such leases shall be used to satisfy any indebtedness of the Authority with respect to such project and any balance may be used to pay any expenses of the Authority or be used for the further development, construction, acquisition or improvement of projects. In the event any project is vacated by a tenant prior to the termination of the initial leasehold period, the Authority shall sell or lease the facilities of the project on the most advantageous terms available. The net proceeds of any such disposition shall be treated in the same manner as the proceeds from sales or the revenues or income from leases subsequent to the termination of any initial leasehold period.

(i) The Authority shall have the power to make loans to persons to finance a project, to enter into loan agreements with respect thereto, and to accept guarantees from persons of its loans or the resultant evidences of obligations of the Authority.

(j) The Authority may fix, determine, charge and collect any premiums, fees, charges, costs and expenses, including, without limitation, any application fees, commitment fees, program fees, financing charges or publication fees from any person in connection with its activities under this Act.

(k) In addition to the funds established as provided
herein, the Authority shall have the power to create and establish such reserve funds and accounts as may be necessary or desirable to accomplish its purposes under this Act and to deposit its available monies into the funds and accounts.

(l) At the request of the governing body of any unit of local government, the Authority is authorized to market such local government’s revenue bond offerings by preparing bond issues for sale, advertising for sealed bids, receiving bids at its offices, making the award to the bidder that offers the most favorable terms or arranging for negotiated placements or underwritings of such securities. The Authority may, at its discretion, offer for concurrent sale the revenue bonds of several local governments. Sales by the Authority of revenue bonds under this Section shall in no way imply State guarantee of such debt issue. The Authority may require such financial information from participating local governments as it deems necessary in order to carry out the purposes of this subsection (1).

(m) The Authority may make grants to any county to which Division 5-37 of the Counties Code is applicable to assist in the financing of capital development, construction and renovation of new or existing facilities for hospitals and health care facilities under that Act. Such grants may only be made from funds appropriated for such purposes from the Build Illinois Bond Fund.

(n) The Authority may establish an urban development action grant program for the purpose of assisting municipalities in Illinois which are experiencing severe economic distress to help stimulate economic development activities needed to aid in economic recovery. The Authority shall determine the types of activities and projects for which the urban development action grants may be used, provided that such projects and activities are broadly defined to include all reasonable projects and activities the primary objectives of which are the development of viable urban communities, including decent housing and a suitable living environment, and expansion of economic
opportunity, principally for persons of low and moderate incomes. The Authority shall enter into grant agreements from monies appropriated for such purposes from the Build Illinois Bond Fund. The Authority shall monitor the use of the grants, and shall provide for audits of the funds as well as recovery by the Authority of any funds determined to have been spent in violation of this subsection (n) or any rule or regulation promulgated hereunder. The Authority shall provide technical assistance with regard to the effective use of the urban development action grants. The Authority shall file an annual report to the General Assembly concerning the progress of the grant program.

(o) The Authority may establish a Housing Partnership Program whereby the Authority provides zero-interest loans to municipalities for the purpose of assisting in the financing of projects for the rehabilitation of affordable multi-family housing for low and moderate income residents. The Authority may provide such loans only upon a municipality's providing evidence that it has obtained private funding for the rehabilitation project. The Authority shall provide 3 State dollars for every 7 dollars obtained by the municipality from sources other than the State of Illinois. The loans shall be made from monies appropriated for such purpose from the Build Illinois Bond Fund. The total amount of loans available under the Housing Partnership Program shall not exceed $30,000,000. State loan monies under this subsection shall be used only for the acquisition and rehabilitation of existing buildings containing 4 or more dwelling units. The terms of any loan made by the municipality under this subsection shall require repayment of the loan to the municipality upon any sale or other transfer of the project.

(p) The Authority may award grants to universities and research institutions, research consortiums and other not-for-profit entities for the purposes of: remodeling or otherwise physically altering existing laboratory or research facilities, expansion or physical additions to existing
laboratory or research facilities, construction of new laboratory or research facilities or acquisition of modern equipment to support laboratory or research operations provided that such grants (i) be used solely in support of project and equipment acquisitions which enhance technology transfer, and (ii) not constitute more than 60 percent of the total project or acquisition cost.

(q) Grants may be awarded by the Authority to units of local government for the purpose of developing the appropriate infrastructure or defraying other costs to the local government in support of laboratory or research facilities provided that such grants may not exceed 40% of the cost to the unit of local government.

(r) The Authority may establish a Direct Loan Program to make loans to individuals, partnerships or corporations for the purpose of an industrial project, as defined in Section 801-10 of this Act. For the purposes of such program and not by way of limitation on any other program of the Authority, the Authority shall have the power to issue bonds, notes, or other evidences of indebtedness including commercial paper for purposes of providing a fund of capital from which it may make such loans. The Authority shall have the power to use any appropriations from the State made especially for the Authority's Direct Loan Program for additional capital to make such loans or for the purposes of reserve funds or pledged funds which secure the Authority's obligations of repayment of any bond, note or other form of indebtedness established for the purpose of providing capital for which it intends to make such loans under the Direct Loan Program. For the purpose of obtaining such capital, the Authority may also enter into agreements with financial institutions and other persons for the purpose of selling loans and developing a secondary market for such loans. Loans made under the Direct Loan Program may be in an amount not to exceed $300,000 and shall be made for a portion of an industrial project which does not exceed 50% of the total project. No loan may be made by the Authority unless approved by the affirmative
vote of at least 8 members of the board. The Authority shall
establish procedures and publish rules which shall provide for
the submission, review, and analysis of each direct loan
application and which shall preserve the ability of each board
member to reach an individual business judgment regarding the
propriety of making each direct loan. The collective discretion
of the board to approve or disapprove each loan shall be
unencumbered. The Authority may establish and collect such fees
and charges, determine and enforce such terms and conditions,
and charge such interest rates as it determines to be necessary
and appropriate to the successful administration of the Direct
Loan Program. The Authority may require such interests in
collateral and such guarantees as it determines are necessary
to project the Authority's interest in the repayment of the
principal and interest of each loan made under the Direct Loan
Program.

(s) The Authority may guarantee private loans to third
parties up to a specified dollar amount in order to promote
economic development in this State.

(t) The Authority may adopt rules and regulations as may be
necessary or advisable to implement the powers conferred by
this Act.

(u) The Authority shall have the power to issue bonds,
notes or other evidences of indebtedness, which may be used to
make loans to units of local government which are authorized to
enter into loan agreements and other documents and to issue
bonds, notes and other evidences of indebtedness for the
purpose of financing the protection of storm sewer outfalls,
the construction of adequate storm sewer outfalls, and the
provision for flood protection of sanitary sewage treatment
plans, in counties that have established a stormwater
management planning committee in accordance with Section
5-1062 of the Counties Code. Any such loan shall be made by the
Authority pursuant to the provisions of Section 820-5 to 820-60
of this Act. The unit of local government shall pay back to the
Authority the principal amount of the loan, plus annual
interest as determined by the Authority. The Authority shall have the power, subject to appropriations by the General Assembly, to subsidize or buy down a portion of the interest on such loans, up to 4% per annum.

(v) The Authority may accept security interests as provided in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

(w) Moral Obligation. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on its bonds during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal of and interest on the bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply only to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact shall also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal or interest on those bonds, the Chairperson of the Authority, as soon as practicable, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section. In addition to any other bonds authorized to be issued under Sections 825-60, 825-65(e), 830-25 and 845-5, the principal amount of Authority bonds outstanding issued under this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS
360/2-6(c), which have been assumed by the Authority, shall not exceed $150,000,000.

(x) No power of the Authority set forth in this Section shall be exercised for the benefit of any hospital as defined in the Tax-Exempt Hospital Responsibility Act if that hospital is not in compliance with that Act.

(Source: P.A. 93-205, eff. 1-1-04; 94-91, eff. 7-1-05.)

Section 903. The State Finance Act is amended by adding Section 5.665 as follows:

(30 ILCS 105/5.665 new)

Sec. 5.665. The Tax-Exempt Hospital Responsibility Act Enforcement Fund.

Section 905. The Illinois Income Tax Act is amended by changing Section 205 as follows:

(35 ILCS 5/205) (from Ch. 120, par. 2-205)

Sec. 205. Exempt organizations.

(a) Charitable, etc. organizations. The base income of an organization which is exempt from the federal income tax by reason of Section 501(a) of the Internal Revenue Code shall not be determined under section 203 of this Act, but shall be its unrelated business taxable income as determined under section 512 of the Internal Revenue Code, without any deduction for the tax imposed by this Act. The standard exemption provided by section 204 of this Act shall not be allowed in determining the net income of an organization to which this subsection applies. A hospital as defined in the Tax-Exempt Hospital Responsibility Act may qualify for the exemption under this subsection only if it is in compliance with that Act.

(b) Partnerships. A partnership as such shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act, but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall compute its
base income as described in subsection (d) of Section 203 of this Act. For taxable years ending on or after December 31, 2004, an investment partnership, as defined in Section 1501(a)(11.5) of this Act, shall not be subject to the tax imposed by subsections (c) and (d) of Section 201 of this Act. A partnership shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act. The partners in a partnership shall be liable for the replacement tax imposed by subsection 201 (c) and (d) of this Act on such partnership, to the extent such tax is not paid by the partnership, as provided under the laws of Illinois governing the liability of partners for the obligations of a partnership. Persons carrying on business as partners shall be liable for the tax imposed by subsection 201 (a) and (b) of this Act only in their separate or individual capacities.

(c) Subchapter S corporations. A Subchapter S corporation shall not be subject to the tax imposed by subsection 201 (a) and (b) of this Act but shall be subject to the replacement tax imposed by subsection 201 (c) and (d) of this Act and shall file such returns and other information at such time and in such manner as may be required under Article 5 of this Act.

(d) Combat zone death. An individual relieved from the federal income tax for any taxable year by reason of section 692 of the Internal Revenue Code shall not be subject to the tax imposed by this Act for such taxable year.

(e) Certain trusts. A common trust fund described in Section 584 of the Internal Revenue Code, and any other trust to the extent that the grantor is treated as the owner thereof under sections 671 through 678 of the Internal Revenue Code shall not be subject to the tax imposed by this Act.

(f) Certain business activities. A person not otherwise subject to the tax imposed by this Act shall not become subject to the tax imposed by this Act by reason of:

(1) that person's ownership of tangible personal property located at the premises of a printer in this State with which the person has contracted for printing, or
(2) activities of the person's employees or agents located solely at the premises of a printer and related to quality control, distribution, or printing services performed by a printer in the State with which the person has contracted for printing.

(g) A nonprofit risk organization that holds a certificate of authority under Article VIID of the Illinois Insurance Code is exempt from the tax imposed under this Act with respect to its activities or operations in furtherance of the powers conferred upon it under that Article VIID of the Illinois Insurance Code.

(Source: P.A. 93-840, eff. 7-30-04; 93-918, eff. 1-1-05; revised 10-25-04.)

Section 910. The Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or
services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. A hospital as defined in the Tax-Exempt Hospital Responsibility Act may qualify for the exemption under this paragraph only if it is in compliance with that Act. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if
the chemicals or chemicals acting as catalysts effect a direct
and immediate change upon a graphic arts product.

(7) Farm chemicals.

(8) Legal tender, currency, medallions, or gold or silver
coinage issued by the State of Illinois, the government of the
United States of America, or the government of any foreign
country, and bullion.

(9) Personal property purchased from a teacher-sponsored
student organization affiliated with an elementary or
secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor vehicle
of the second division that is a self-contained motor vehicle
designed or permanently converted to provide living quarters
for recreational, camping, or travel use, with direct walk
through to the living quarters from the driver's seat, or a
motor vehicle of the second division that is of the van
configuration designed for the transportation of not less than
7 nor more than 16 passengers, as defined in Section 1-146 of
the Illinois Vehicle Code, that is used for automobile renting,
as defined in the Automobile Renting Occupation and Use Tax
Act.

(11) Farm machinery and equipment, both new and used,
including that manufactured on special order, certified by the
purchaser to be used primarily for production agriculture or
State or federal agricultural programs, including individual
replacement parts for the machinery and equipment, including
machinery and equipment purchased for lease, and including
implements of husbandry defined in Section 1-130 of the
Illinois Vehicle Code, farm machinery and agricultural
chemical and fertilizer spreaders, and nurse wagons required to
be registered under Section 3-809 of the Illinois Vehicle Code,
but excluding other motor vehicles required to be registered
under the Illinois Vehicle Code. Horticultural polyhouses or
hoop houses used for propagating, growing, or overwintering
plants shall be considered farm machinery and equipment under
this item (11). Agricultural chemical tender tanks and dry
Boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, oil field exploration, drilling,
and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(16) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.
(19) Personal property delivered to a purchaser or purchaser's donee inside Illinois when the purchase order for that personal property was received by a florist located outside Illinois who has a florist located inside Illinois deliver the personal property.

(20) Semen used for artificial insemination of livestock for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.
(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer
line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes
parents and teachers of the school children. This paragraph
does not apply to fundraising events (i) for the benefit of
private home instruction or (ii) for which the fundraising
entity purchases the personal property sold at the events from
another individual or entity that sold the property for the
purpose of resale by the fundraising entity and that profits
from the sale to the fundraising entity. This paragraph is
exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31,
2001, new or used automatic vending machines that prepare and
serve hot food and beverages, including coffee, soup, and other
items, and replacement parts for these machines. Beginning
January 1, 2002 and through June 30, 2003, machines and parts
for machines used in commercial, coin-operated amusement and
vending business if a use or occupation tax is paid on the
gross receipts derived from the use of the commercial,
coin-operated amusement and vending machines. This paragraph
is exempt from the provisions of Section 3-90.

(30) Food for human consumption that is to be consumed off
the premises where it is sold (other than alcoholic beverages,
soft drinks, and food that has been prepared for immediate
consumption) and prescription and nonprescription medicines,
drugs, medical appliances, and insulin, urine testing
materials, syringes, and needles used by diabetics, for human
use, when purchased for use by a person receiving medical
assistance under Article 5 of the Illinois Public Aid Code who
resides in a licensed long-term care facility, as defined in
the Nursing Home Care Act.

(31) Beginning on the effective date of this amendatory Act
of the 92nd General Assembly, computers and communications
equipment utilized for any hospital purpose and equipment used
in the diagnosis, analysis, or treatment of hospital patients
purchased by a lessor who leases the equipment, under a lease
of one year or longer executed or in effect at the time the
lessor would otherwise be subject to the tax imposed by this
Act, to a hospital that has been issued an active tax exemption
identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that
amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04; 93-1033, eff. 9-3-04; revised 10-21-04.)

Section 915. The Service Use Tax Act is amended by changing Section 2 as follows:

(35 ILCS 110/2) (from Ch. 120, par. 439.32)

Sec. 2. "Use" means the exercise by any person of any right or power over tangible personal property incident to the ownership of that property, but does not include the sale or use for demonstration by him of that property in any form as
tangible personal property in the regular course of business. “Use” does not mean the interim use of tangible personal property nor the physical incorporation of tangible personal property, as an ingredient or constituent, into other tangible personal property, (a) which is sold in the regular course of business or (b) which the person incorporating such ingredient or constituent therein has undertaken at the time of such purchase to cause to be transported in interstate commerce to destinations outside the State of Illinois.

“Purchased from a serviceman” means the acquisition of the ownership of, or title to, tangible personal property through a sale of service. “Purchaser” means any person who, through a sale of service, acquires the ownership of, or title to, any tangible personal property. “Cost price” means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him or her by his or her subcontractor is equal to 50% of the subcontractor’s charges to the serviceman in the absence of proof of the consideration paid by the subcontractor for the purchase of such property. “Selling price” means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits and service, and shall be determined without any deduction on account of the serviceman's cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever, but does not include interest or finance charges which appear as separate items on the bill of sale or sales contract nor charges that are added to prices by sellers on account of the seller's duty to collect, from the
purchaser, the tax that is imposed by this Act.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of service" means any transaction except:

(1) a retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(2) a sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(3) except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body, or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. A hospital as defined in the Tax-Exempt Hospital Responsibility Act may qualify for the exemption under this paragraph only if it is in compliance with that Act.

(4) a sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or by lessors under a lease of one year or longer, executed or in effect at the time of purchase of
personal property, to interstate carriers for hire for use
as rolling stock moving in interstate commerce so long as
so used by such interstate carriers for hire, and equipment
operated by a telecommunications provider, licensed as a
common carrier by the Federal Communications Commission,
which is permanently installed in or affixed to aircraft
moving in interstate commerce.

(4a) a sale or transfer of tangible personal property
as an incident to the rendering of service for owners,
lessors, or shippers of tangible personal property which is
utilized by interstate carriers for hire for use as rolling
stock moving in interstate commerce so long as so used by
interstate carriers for hire, and equipment operated by a
telecommunications provider, licensed as a common carrier
by the Federal Communications Commission, which is
permanently installed in or affixed to aircraft moving in
interstate commerce.

(4a-5) on and after July 1, 2003 and through June 30,
2004, a sale or transfer of a motor vehicle of the second
division with a gross vehicle weight in excess of 8,000
pounds as an incident to the rendering of service if that
motor vehicle is subject to the commercial distribution fee
imposed under Section 3-815.1 of the Illinois Vehicle Code.
Beginning on July 1, 2004 and through June 30, 2005, the
use in this State of motor vehicles of the second division:
(i) with a gross vehicle weight rating in excess of 8,000
pounds; (ii) that are subject to the commercial
distribution fee imposed under Section 3-815.1 of the
Illinois Vehicle Code; and (iii) that are primarily used
for commercial purposes. Through June 30, 2005, this
exemption applies to repair and replacement parts added
after the initial purchase of such a motor vehicle if that
motor vehicle is used in a manner that would qualify for
the rolling stock exemption otherwise provided for in this
Act. For purposes of this paragraph, "used for commercial
purposes" means the transportation of persons or property
in furtherance of any commercial or industrial enterprise whether for-hire or not.

(5) a sale or transfer of machinery and equipment used primarily in the process of the manufacturing or assembling, either in an existing, an expanded or a new manufacturing facility, of tangible personal property for wholesale or retail sale or lease, whether such sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether such sale or lease is made apart from or as an incident to the seller's engaging in a service occupation and the applicable tax is a Service Use Tax or Service Occupation Tax, rather than Use Tax or Retailers' Occupation Tax.

(5a) the repairing, reconditioning or remodeling, for a common carrier by rail, of tangible personal property which belongs to such carrier for hire, and as to which such carrier receives the physical possession of the repaired, reconditioned or remodeled item of tangible personal property in Illinois, and which such carrier transports, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the person who repaired, reconditioned or remodeled the property to a destination outside Illinois, for use outside Illinois.

(5b) a sale or transfer of tangible personal property which is produced by the seller thereof on special order in such a way as to have made the applicable tax the Service Occupation Tax or the Service Use Tax, rather than the Retailers' Occupation Tax or the Use Tax, for an interstate carrier by rail which receives the physical possession of such property in Illinois, and which transports such property, or shares with another common carrier in the transportation of such property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of such property to a
destination outside Illinois, for use outside Illinois.

(6) until July 1, 2003, a sale or transfer of
distillation machinery and equipment, sold as a unit or kit
and assembled or installed by the retailer, which machinery
and equipment is certified by the user to be used only for
the production of ethyl alcohol that will be used for
consumption as motor fuel or as a component of motor fuel
for the personal use of such user and not subject to sale
or resale.

(7) at the election of any serviceman not required to
be otherwise registered as a retailer under Section 2a of
the Retailers' Occupation Tax Act, made for each fiscal
year sales of service in which the aggregate annual cost
price of tangible personal property transferred as an
incident to the sales of service is less than 35%, or 75%
in the case of servicemen transferring prescription drugs
or servicemen engaged in graphic arts production, of the
aggregate annual total gross receipts from all sales of
service. The purchase of such tangible personal property by
the serviceman shall be subject to tax under the Retailers'
Occupation Tax Act and the Use Tax Act. However, if a
primary serviceman who has made the election described in
this paragraph subcontracts service work to a secondary
serviceman who has also made the election described in this
paragraph, the primary serviceman does not incur a Use Tax
liability if the secondary serviceman (i) has paid or will
pay Use Tax on his or her cost price of any tangible
personal property transferred to the primary serviceman
and (ii) certifies that fact in writing to the primary
serviceman.

Tangible personal property transferred incident to the
completion of a maintenance agreement is exempt from the tax
imposed pursuant to this Act.

Exemption (5) also includes machinery and equipment used in
the general maintenance or repair of such exempt machinery and
equipment or for in-house manufacture of exempt machinery and
equipment. For the purposes of exemption (5), each of these
terms shall have the following meanings: (1) "manufacturing
process" shall mean the production of any article of tangible
personal property, whether such article is a finished product
or an article for use in the process of manufacturing or
assembling a different article of tangible personal property,
by procedures commonly regarded as manufacturing, processing,
fabricating, or refining which changes some existing material
or materials into a material with a different form, use or
name. In relation to a recognized integrated business composed
of a series of operations which collectively constitute
manufacturing, or individually constitute manufacturing
operations, the manufacturing process shall be deemed to
commence with the first operation or stage of production in the
series, and shall not be deemed to end until the completion of
the final product in the last operation or stage of production
in the series; and further, for purposes of exemption (5),
photoprocessing is deemed to be a manufacturing process of
tangible personal property for wholesale or retail sale; (2)
"assembling process" shall mean the production of any article
of tangible personal property, whether such article is a
finished product or an article for use in the process of
manufacturing or assembling a different article of tangible
personal property, by the combination of existing materials in
a manner commonly regarded as assembling which results in a
material of a different form, use or name; (3) "machinery"
shall mean major mechanical machines or major components of
such machines contributing to a manufacturing or assembling
process; and (4) "equipment" shall include any independent
device or tool separate from any machinery but essential to an
integrated manufacturing or assembly process; including
computers used primarily in a manufacturer's computer assisted
design, computer assisted manufacturing (CAD/CAM) system; or
any subunit or assembly comprising a component of any machinery
or auxiliary, adjunct or attachment parts of machinery, such as
tools, dies, jigs, fixtures, patterns and molds; or any parts
which require periodic replacement in the course of normal operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The user of such machinery and equipment and tools without an active resale registration number shall prepare a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit. The Department shall prescribe the form of the certificate.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (5) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (3) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.

The purchase, employment and transfer of such tangible personal property as newsprint and ink for the primary purpose of conveying news (with or without other information) is not a purchase, use or sale of service or of tangible personal
property within the meaning of this Act.

"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

"Serviceman maintaining a place of business in this State", or any like term, means and includes any serviceman:

1. having or maintaining within this State, directly or by a subsidiary, an office, distribution house, sales house, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the serviceman or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such serviceman or subsidiary is licensed to do business in this State;

2. soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this State;

3. pursuant to a contract with a broadcaster or publisher located in this State, soliciting orders for tangible personal property by means of advertising which is disseminated primarily to consumers located in this State and only secondarily to bordering jurisdictions;

4. soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this State or benefits from the location in this State of authorized installation, servicing, or repair facilities;
5. being owned or controlled by the same interests which own or control any retailer engaging in business in the same or similar line of business in this State;

6. having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this Section;

7. pursuant to a contract with a cable television operator located in this State, soliciting orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this State; or

8. engaging in activities in Illinois, which activities in the state in which the supply business engaging in such activities is located would constitute maintaining a place of business in that state.

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-1033, eff. 9-3-04.)

Section 920. The Service Occupation Tax Act is amended by changing Section 2 as follows:

(35 ILCS 115/2) (from Ch. 120, par. 439.102)

Sec. 2. "Transfer" means any transfer of the title to property or of the ownership of property whether or not the transferor retains title as security for the payment of amounts due him from the transferee.

"Cost Price" means the consideration paid by the serviceman for a purchase valued in money, whether paid in money or otherwise, including cash, credits and services, and shall be determined without any deduction on account of the supplier's cost of the property sold or on account of any other expense incurred by the supplier. When a serviceman contracts out part or all of the services required in his sale of service, it shall be presumed that the cost price to the serviceman of the property transferred to him by his or her subcontractor is equal to 50% of the subcontractor's charges to the serviceman.
in the absence of proof of the consideration paid by the subcontractor for the purchase of such property.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, and any receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Sale of Service" means any transaction except:

(a) A retail sale of tangible personal property taxable under the Retailers' Occupation Tax Act or under the Use Tax Act.

(b) A sale of tangible personal property for the purpose of resale made in compliance with Section 2c of the Retailers' Occupation Tax Act.

(c) Except as hereinafter provided, a sale or transfer of tangible personal property as an incident to the rendering of service for or by any governmental body or for or by any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes or any not-for-profit corporation, society, association, foundation, institution or organization which has no compensated officers or employees and which is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. A hospital as defined in the Tax-Exempt Hospital Responsibility Act may qualify for the exemption under this paragraph only if it is in compliance with that Act.

(d) A sale or transfer of tangible personal property as an incident to the rendering of service for interstate carriers for hire for use as rolling stock moving in interstate commerce or lessors under leases of one year or longer, executed or in effect at the time of purchase, to interstate carriers for hire.
for use as rolling stock moving in interstate commerce, and
equipment operated by a telecommunications provider, licensed
as a common carrier by the Federal Communications Commission,
which is permanently installed in or affixed to aircraft moving
in interstate commerce.

(d-1) A sale or transfer of tangible personal property as
an incident to the rendering of service for owners, lessors or
shippers of tangible personal property which is utilized by
interstate carriers for hire for use as rolling stock moving in
interstate commerce, and equipment operated by a
telecommunications provider, licensed as a common carrier by
the Federal Communications Commission, which is permanently
installed in or affixed to aircraft moving in interstate
commerce.

(d-1.1) On and after July 1, 2003 and through June 30,
2004, a sale or transfer of a motor vehicle of the second
division with a gross vehicle weight in excess of 8,000 pounds
as an incident to the rendering of service if that motor
vehicle is subject to the commercial distribution fee imposed
under Section 3-815.1 of the Illinois Vehicle Code. Beginning
on July 1, 2004 and through June 30, 2005, the use in this
State of motor vehicles of the second division: (i) with a
gross vehicle weight rating in excess of 8,000 pounds; (ii)
that are subject to the commercial distribution fee imposed
under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
that are primarily used for commercial purposes. Through June
30, 2005, this exemption applies to repair and replacement
parts added after the initial purchase of such a motor vehicle
if that motor vehicle is used in a manner that would qualify
for the rolling stock exemption otherwise provided for in this
Act. For purposes of this paragraph, "used for commercial
purposes" means the transportation of persons or property in
furtherance of any commercial or industrial enterprise whether
for-hire or not.

(d-2) The repairing, reconditioning or remodeling, for a
common carrier by rail, of tangible personal property which
belongs to such carrier for hire, and as to which such carrier
receives the physical possession of the repaired,
reconditioned or remodeled item of tangible personal property
in Illinois, and which such carrier transports, or shares with
another common carrier in the transportation of such property,
out of Illinois on a standard uniform bill of lading showing
the person who repaired, reconditioned or remodeled the
property as the shipper or consignor of such property to a
destination outside Illinois, for use outside Illinois.

(d-3) A sale or transfer of tangible personal property
which is produced by the seller thereof on special order in
such a way as to have made the applicable tax the Service
Occupation Tax or the Service Use Tax, rather than the
Retailers' Occupation Tax or the Use Tax, for an interstate
carrier by rail which receives the physical possession of such
property in Illinois, and which transports such property, or
shares with another common carrier in the transportation of
such property, out of Illinois on a standard uniform bill of
lading showing the seller of the property as the shipper or
consignor of such property to a destination outside Illinois,
for use outside Illinois.

(d-4) Until January 1, 1997, a sale, by a registered
serviceman paying tax under this Act to the Department, of
special order printed materials delivered outside Illinois and
which are not returned to this State, if delivery is made by
the seller or agent of the seller, including an agent who
causes the product to be delivered outside Illinois by a common
carrier or the U.S. postal service.

(e) A sale or transfer of machinery and equipment used
primarily in the process of the manufacturing or assembling,
either in an existing, an expanded or a new manufacturing
facility, of tangible personal property for wholesale or retail
sale or lease, whether such sale or lease is made directly by
the manufacturer or by some other person, whether the materials
used in the process are owned by the manufacturer or some other
person, or whether such sale or lease is made apart from or as
an incident to the seller's engaging in a service occupation
and the applicable tax is a Service Occupation Tax or Service
Use Tax, rather than Retailers' Occupation Tax or Use Tax.

(f) Until July 1, 2003, the sale or transfer of
distillation machinery and equipment, sold as a unit or kit and
assembled or installed by the retailer, which machinery and
equipment is certified by the user to be used only for the
production of ethyl alcohol that will be used for consumption
as motor fuel or as a component of motor fuel for the personal
use of such user and not subject to sale or resale.

(g) At the election of any serviceman not required to be
otherwise registered as a retailer under Section 2a of the
Retailers' Occupation Tax Act, made for each fiscal year sales
of service in which the aggregate annual cost price of tangible
personal property transferred as an incident to the sales of
service is less than 35% (75% in the case of servicemen
transferring prescription drugs or servicemen engaged in
graphic arts production) of the aggregate annual total gross
receipts from all sales of service. The purchase of such
tangible personal property by the serviceman shall be subject
to tax under the Retailers' Occupation Tax Act and the Use Tax
Act. However, if a primary serviceman who has made the election
described in this paragraph subcontracts service work to a
secondary serviceman who has also made the election described
in this paragraph, the primary serviceman does not incur a Use
Tax liability if the secondary serviceman (i) has paid or will
pay Use Tax on his or her cost price of any tangible personal
property transferred to the primary serviceman and (ii)
certifies that fact in writing to the primary serviceman.

Tangible personal property transferred incident to the
completion of a maintenance agreement is exempt from the tax
imposed pursuant to this Act.

Exemption (e) also includes machinery and equipment used in
the general maintenance or repair of such exempt machinery and
equipment or for in-house manufacture of exempt machinery and
equipment. For the purposes of exemption (e), each of these
terms shall have the following meanings: (1) "manufacturing process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by procedures commonly regarded as manufacturing, processing, fabricating, or refining which changes some existing material or materials into a material with a different form, use or name. In relation to a recognized integrated business composed of a series of operations which collectively constitute manufacturing, or individually constitute manufacturing operations, the manufacturing process shall be deemed to commence with the first operation or stage of production in the series, and shall not be deemed to end until the completion of the final product in the last operation or stage of production in the series; and further for purposes of exemption (e), photoprocessing is deemed to be a manufacturing process of tangible personal property for wholesale or retail sale; (2) "assembling process" shall mean the production of any article of tangible personal property, whether such article is a finished product or an article for use in the process of manufacturing or assembling a different article of tangible personal property, by the combination of existing materials in a manner commonly regarded as assembling which results in a material of a different form, use or name; (3) "machinery" shall mean major mechanical machines or major components of such machines contributing to a manufacturing or assembling process; and (4) "equipment" shall include any independent device or tool separate from any machinery but essential to an integrated manufacturing or assembly process; including computers used primarily in a manufacturer's computer assisted design, computer assisted manufacturing (CAD/CAM) system; or any subunit or assembly comprising a component of any machinery or auxiliary, adjunct or attachment parts of machinery, such as tools, dies, jigs, fixtures, patterns and molds; or any parts which require periodic replacement in the course of normal
operation; but shall not include hand tools. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a product being manufactured or assembled for wholesale or retail sale or lease. The purchaser of such machinery and equipment who has an active resale registration number shall furnish such number to the seller at the time of purchase. The purchaser of such machinery and equipment and tools without an active resale registration number shall furnish to the seller a certificate of exemption for each transaction stating facts establishing the exemption for that transaction, which certificate shall be available to the Department for inspection or audit.

Except as provided in Section 2d of this Act, the rolling stock exemption applies to rolling stock used by an interstate carrier for hire, even just between points in Illinois, if such rolling stock transports, for hire, persons whose journeys or property whose shipments originate or terminate outside Illinois.

Any informal rulings, opinions or letters issued by the Department in response to an inquiry or request for any opinion from any person regarding the coverage and applicability of exemption (e) to specific devices shall be published, maintained as a public record, and made available for public inspection and copying. If the informal ruling, opinion or letter contains trade secrets or other confidential information, where possible the Department shall delete such information prior to publication. Whenever such informal rulings, opinions, or letters contain any policy of general applicability, the Department shall formulate and adopt such policy as a rule in accordance with the provisions of the Illinois Administrative Procedure Act.

On and after July 1, 1987, no entity otherwise eligible under exemption (c) of this Section shall make tax free purchases unless it has an active exemption identification number issued by the Department.
"Serviceman" means any person who is engaged in the occupation of making sales of service.

"Sale at Retail" means "sale at retail" as defined in the Retailers' Occupation Tax Act.

"Supplier" means any person who makes sales of tangible personal property to servicemen for the purpose of resale as an incident to a sale of service.

(Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-1033, eff. 9-3-04.)

Section 925. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5) (from Ch. 120, par. 441-5)
Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the
tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk
through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property
was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. A hospital as defined in the Tax-Exempt Hospital Responsibility Act may qualify for the exemption under this paragraph only if it is in compliance with that Act. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department.

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the
commercial distribution fee imposed under Section 3-815.1 of
the Illinois Vehicle Code; and (iii) that are primarily used
for commercial purposes. Through June 30, 2005, this exemption
applies to repair and replacement parts added after the initial
purchase of such a motor vehicle if that motor vehicle is used
in a manner that would qualify for the rolling stock exemption
otherwise provided for in this Act. For purposes of this
paragraph, "used for commercial purposes" means the
transportation of persons or property in furtherance of any
commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of
tangible personal property that is utilized by interstate
carriers for hire for use as rolling stock moving in interstate
commerce and equipment operated by a telecommunications
provider, licensed as a common carrier by the Federal
Communications Commission, which is permanently installed in
or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the
purchaser, or a lessee of the purchaser, primarily in the
process of manufacturing or assembling tangible personal
property for wholesale or retail sale or lease, whether the
sale or lease is made directly by the manufacturer or by some
other person, whether the materials used in the process are
owned by the manufacturer or some other person, or whether the
sale or lease is made apart from or as an incident to the
seller's engaging in the service occupation of producing
machines, tools, dies, jigs, patterns, gauges, or other similar
items of no commercial value on special order for a particular
purchaser.

(15) Proceeds of mandatory service charges separately
stated on customers' bills for purchase and consumption of food
and beverages, to the extent that the proceeds of the service
charge are in fact turned over as tips or as a substitute for
tips to the employees who participate directly in preparing,
serving, hosting or cleaning up the food or beverage function
with respect to which the service charge is imposed.
(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(22) Fuel and petroleum products sold to or used by an air
carrier, certified by the carrier to be used for consumption,
shipment, or storage in the conduct of its business as an air
common carrier, for a flight destined for or returning from a
location or locations outside the United States without regard
to previous or subsequent domestic stopovers.

(23) A transaction in which the purchase order is received
by a florist who is located outside Illinois, but who has a
florist located in Illinois deliver the property to the
purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships,
barges, or vessels that are used primarily in or for the
transportation of property or the conveyance of persons for
hire on rivers bordering on this State if the fuel is delivered
by the seller to the purchaser's barge, ship, or vessel while
it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a
motor vehicle sold in this State to a nonresident even though
the motor vehicle is delivered to the nonresident in this
State, if the motor vehicle is not to be titled in this State,
and if a drive-away permit is issued to the motor vehicle as
provided in Section 3-603 of the Illinois Vehicle Code or if
the nonresident purchaser has vehicle registration plates to
transfer to the motor vehicle upon returning to his or her home
state. The issuance of the drive-away permit or having the
out-of-state registration plates to be transferred is prima
facie evidence that the motor vehicle will not be titled in
this State.

(25-5) The exemption under item (25) does not apply if the
state in which the motor vehicle will be titled does not allow
a reciprocal exemption for a motor vehicle sold and delivered
in that state to an Illinois resident but titled in Illinois.
The tax collected under this Act on the sale of a motor vehicle
in this State to a resident of another state that does not
allow a reciprocal exemption shall be imposed at a rate equal
to the state's rate of tax on taxable property in the state in
which the purchaser is a resident, except that the tax shall
not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes.

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the
property, under a lease of one year or longer executed or in
effect at the time of the purchase, to a governmental body that
has been issued an active tax exemption identification number
by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after
December 31, 1995 and ending with taxable years ending on or
before December 31, 2004, personal property that is donated for
disaster relief to be used in a State or federally declared
disaster area in Illinois or bordering Illinois by a
manufacturer or retailer that is registered in this State to a
corporation, society, association, foundation, or institution
that has been issued a sales tax exemption identification
number by the Department that assists victims of the disaster
who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after
December 31, 1995 and ending with taxable years ending on or
before December 31, 2004, personal property that is used in the
performance of infrastructure repairs in this State, including
but not limited to municipal roads and streets, access roads,
brides, sidewalks, waste disposal systems, water and sewer
line extensions, water distribution and purification
facilities, storm water drainage and retention facilities, and
sewage treatment facilities, resulting from a State or
federally declared disaster in Illinois or bordering Illinois
when such repairs are initiated on facilities located in the
declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a
"game breeding and hunting preserve area" or an "exotic game
hunting area" as those terms are used in the Wildlife Code or
at a hunting enclosure approved through rules adopted by the
Department of Natural Resources. This paragraph is exempt from
the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section
1-146 of the Illinois Vehicle Code, that is donated to a
corporation, limited liability company, society, association,
foundation, or institution that is determined by the Department
to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial,
coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured
into, attached to, or incorporated into other tangible personal
property to be transported outside this State and thereafter
used or consumed solely outside this State. The Director of
Revenue shall, pursuant to rules adopted in accordance with the
Illinois Administrative Procedure Act, issue a permit to any
taxpayer in good standing with the Department who is eligible
for the exemption under this paragraph (38). The permit issued
under this paragraph (38) shall authorize the holder, to the
extent and in the manner specified in the rules adopted under
this Act, to purchase tangible personal property from a
retailer exempt from the taxes imposed by this Act. Taxpayers
shall maintain all necessary books and records to substantiate
the use and consumption of all such tangible personal property
outside of the State of Illinois.

(Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)

Section 930. The Property Tax Code is amended by changing
Section 15-65 as follows:

(35 ILCS 200/15-65)

Sec. 15-65. Charitable purposes. All property of the
following is exempt when actually and exclusively used for
charitable or beneficent purposes, and not leased or otherwise
used with a view to profit:

(a) Institutions of public charity.

(b) Beneficent and charitable organizations
incorporated in any state of the United States, including
organizations whose owner, and no other person, uses the
property exclusively for the distribution, sale, or resale
of donated goods and related activities and uses all the
income from those activities to support the charitable,
religious or beneficent activities of the owner, whether or
not such activities occur on the property.

(c) Old people's homes, facilities for persons with a developmental disability, and not-for-profit organizations providing services or facilities related to the goals of educational, social and physical development, if, upon making application for the exemption, the applicant provides affirmative evidence that the home or facility or organization is an exempt organization under paragraph (3) of Section 501(c) of the Internal Revenue Code or its successor, and either: (i) the bylaws of the home or facility or not-for-profit organization provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services, or (ii) the home or facility is qualified, built or financed under Section 202 of the National Housing Act of 1959, as amended.

An applicant that has been granted an exemption under this subsection on the basis that its bylaws provide for a waiver or reduction, based on an individual's ability to pay, of any entrance fee, assignment of assets, or fee for services may be periodically reviewed by the Department to determine if the waiver or reduction was a past policy or is a current policy. The Department may revoke the exemption if it finds that the policy for waiver or reduction is no longer current.

If a not-for-profit organization leases property that is otherwise exempt under this subsection to an organization that conducts an activity on the leased premises that would entitle the lessee to an exemption from real estate taxes if the lessee were the owner of the property, then the leased property is exempt.

(d) Not-for-profit health maintenance organizations certified by the Director of the Illinois Department of Insurance under the Health Maintenance Organization Act, including any health maintenance organization that provides services to members at prepaid rates approved by
the Illinois Department of Insurance if the membership of
the organization is sufficiently large or of indefinite
classes so that the community is benefited by its
operation. No exemption shall apply to any hospital or
health maintenance organization which has been adjudicated
by a court of competent jurisdiction to have denied
admission to any person because of race, color, creed, sex
or national origin.

(e) All free public libraries.

(f) Historical societies.

Property otherwise qualifying for an exemption under this
Section shall not lose its exemption because the legal title is
held (i) by an entity that is organized solely to hold that
title and that qualifies under paragraph (2) of Section 501(c)
of the Internal Revenue Code or its successor, whether or not
that entity receives rent from the charitable organization for
the repair and maintenance of the property, (ii) by an entity
that is organized as a partnership, in which the charitable
organization, or an affiliate or subsidiary of the charitable
organization, is a general partner, for the purposes of owning
and operating a residential rental property that has received
an allocation of Low Income Housing Tax Credits for 100% of the
dwelling units under Section 42 of the Internal Revenue Code of
1986, or (iii) for any assessment year including and subsequent
to January 1, 1996 for which an application for exemption has
been filed and a decision on which has not become final and
nonappealable, by a limited liability company organized under
the Limited Liability Company Act provided that (A) the limited
liability company receives a notification from the Internal
Revenue Service that it qualifies under paragraph (2) or (3) of
Section 501(c) of the Internal Revenue Code; (B) the limited
liability company's sole members, as that term is used in
Section 1-5 of the Limited Liability Company Act, are the
institutions of public charity that actually and exclusively
use the property for charitable and beneficent purposes; and
(C) the limited liability company does not lease the property
or otherwise use it with a view to profit. A hospital as defined in the Tax-Exempt Hospital Responsibility Act may qualify for the exemption under this Section only if it is in compliance with that Act.

(Source: P.A. 91-416, eff. 8-6-99; 92-382, eff. 8-16-01.)

Section 935. The Community Benefits Act is amended by changing Sections 5, 10, 15, 20, and 25 and by adding Section 45 as follows:

(210 ILCS 76/5)
Sec. 5. Applicability. This Act does not apply to a hospital operated by a unit of government, a hospital located outside of a metropolitan statistical area, or a hospital with 100 or fewer beds. Hospitals that are owned or operated by or affiliated with a health system shall be deemed to be in compliance with this Act if the health system has met the requirements of this Act. Each hospital owned or operated by or affiliated with a health system must demonstrate compliance separately from any other hospital owned or operated by or affiliated with the health system.

(Source: P.A. 93-480, eff. 8-8-03.)

(210 ILCS 76/10)
Sec. 10. Definitions. As used in this Act:
"Charity care" means charity care as defined in the Tax-Exempt Hospital Responsibility Act care provided by a health care provider for which the provider does not expect to receive payment from the patient or a third party payer.

"Community benefits" means the unreimbursed cost to a hospital or health system of providing charity care, language assistant services, government-sponsored indigent health care, donations, volunteer services, education, government-sponsored program services, research, and subsidized health services and collecting bad debts. "Community benefits" does not include the cost of paying any taxes or other governmental assessments.
"Government sponsored indigent health care" means the unreimbursed cost to a hospital or health system of Medicare, providing health care services to recipients of Medicaid, and other federal, State, or local indigent health care programs, eligibility for which is based on financial need.

"Health system" means an entity that owns or operates at least one hospital.

"Nonprofit hospital" means a hospital that is organized as a not-for-profit nonprofit corporation, including religious organizations, or a charitable trust under Illinois law or the laws of any other state or country.

"Subsidized health services" means those services provided by a hospital in response to community needs for which the reimbursement is less than the hospital's cost of providing the services that must be subsidized by other hospital or nonprofit supporting entity revenue sources. "Subsidized health services" includes, but is not limited to, emergency and trauma care, neonatal intensive care, community health clinics, and collaborative efforts with local government or private agencies to prevent illness and improve wellness, such as immunization programs.

(Source: P.A. 93-480, eff. 8-8-03.)

(210 ILCS 76/15)

Sec. 15. Organizational mission statement; community benefits plan. A nonprofit hospital must develop:

(1) an organizational mission statement that identifies the hospital's commitment to serving the health care needs of the community; and

(2) a community benefits plan defined as an operational plan for serving the community's health care needs that:

(A) sets out goals and objectives for providing community benefits that include charity care and government sponsored indigent health care; and

(B) identifies the populations and communities served by the hospital.
Sec. 20. Annual charity care report and community benefits report plan.

(a) Each nonprofit hospital must prepare an annual charity care report in accordance with Section 30 of the Tax-Exempt Hospital Responsibility Act and an annual report of its community benefits plan. The annual report of the community benefits plan must include, in addition to the community benefits plan itself, all of the following background information:

1. The hospital's mission statement.
2. A disclosure of the health care needs of the community that were considered in developing the hospital's community benefits plan.
3. A disclosure of the amount and types of community benefits actually provided, including charity care. Charity care must be reported separate from other community benefits as part of the annual charity care report. In reporting charity care, the hospital must report the actual cost of services provided, based on the total cost to charge ratio derived from the hospital's Medicare cost report (CMS 2552-96 Worksheet C, Part 1, PPS Inpatient Ratios), not the charges for the services. The filing of an annual charity care report under Section 30 of the Tax-Exempt Hospital Responsibility Act shall satisfy a nonprofit hospital's charity care reporting requirements under this paragraph with respect to the provision of charity care.
4. Audited annual financial reports for its most recently completed fiscal year. Submission of a nonprofit hospital's most recent set of audited financial statements as part of the hospital's filing of its annual charity care report, as mandated by subdivision (b)(6) of Section 30 of the Tax-Exempt Hospital Responsibility Act, shall satisfy
the hospital's financial reporting requirements under this
paragraph.

(b) Each nonprofit hospital must annually file the
annual report of its community benefits plan with the
Attorney General. The report must be filed not later than the
last day of the sixth month after the close of the hospital's
fiscal year, beginning with the hospital fiscal year that ends
in 2004.

(c) Each nonprofit hospital shall prepare a statement that
notifies the public that the annual report of the community
benefits plan is:

   (1) public information;
   (2) filed with the Attorney General; and
   (3) available to the public on request from the
       Attorney General.

   This statement shall be made available to the public.

(d) The obligations of a hospital under this Act, except
for the filing of its audited financial report, shall take
effect beginning with the hospital's fiscal year that begins
after the effective date of this Act. Within 60 days of the
effective date of this Act, a hospital shall file the audited
annual financial report that has been completed for its most
recently completed fiscal year. Thereafter, a hospital shall
include its audited annual financial report for its most
recently completed fiscal year in its annual report of its
community benefits plan.

(Source: P.A. 93-480, eff. 8-8-03.)

(210 ILCS 76/25)

Sec. 25. Failure to file annual report. The Attorney
General may assess a late filing fee against a nonprofit
hospital that fails to make a report of the community benefits
plan as required under this Act in an amount not to exceed
$10,000. The Attorney General may grant extensions for
good cause. No penalty may be assessed against a hospital under
this Section until 30 business days have elapsed after written
notification to the hospital of its failure to file a report.
(Source: P.A. 93-480, eff. 8-8-03.)

(210 ILCS 76/45 new)
Sec. 45. Attorney General's rulemaking authority. The Attorney General has authority to adopt rules to implement and enforce the provisions of this Act.

Section 999. Effective date. This Act takes effect upon becoming law.
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