



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3660

Introduced 2/24/2009, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Swimming Facility Act. Changes the statement of purpose and changes and adds definitions. Changes and adds provisions regarding: licensing of a swimming facility; swimming facility contractor licenses; swimming facility designer licenses; permits for construction, development, installation, or major alteration of swimming facilities; license renewal; fees; rules; violations; civil and criminal penalties; hearings and determinations; facility closure; applicability; and other matters. Makes other changes. Effective immediately.

LRB096 07886 KTG 17989 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning health facilities.

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

4 Section 5. The Swimming Facility Act is amended by changing  
5 Sections 2, 3, 3.12, 4, 5, 6, 8, 13, 14, 15, 16, 21, 22, and 23  
6 and by adding Sections 3.13, 3.14, 3.15, 4.1, 4.2, and 4.3 as  
7 follows:

8 (210 ILCS 125/2) (from Ch. 111 1/2, par. 1202)

9 Sec. 2. Legislative purpose. It is found that there exists,  
10 and may in the future exist, within the State of Illinois  
11 public swimming pools, spas, water slides, public bathing  
12 beaches, and other swimming facilities ~~aquatic features~~ which  
13 are substandard in one or more important features of safety,  
14 cleanliness or sanitation. Such conditions adversely affect  
15 the public health, safety and general welfare of persons.

16 Therefore, the purpose of this Act is to protect, promote  
17 and preserve the public health, safety and general welfare by  
18 providing for the establishment and enforcement of minimum  
19 standards for safety, cleanliness and general sanitation for  
20 all swimming pools, spas, water slides, public bathing beaches,  
21 and other aquatic features now in existence or hereafter  
22 constructed, developed, or altered and to provide for  
23 inspection and licensing of all such facilities.

1 (Source: P.A. 92-18, eff. 6-28-01.)

2 (210 ILCS 125/3) (from Ch. 111 1/2, par. 1203)

3 Sec. 3. Definitions. As used in this Act, unless the  
4 context otherwise requires, the terms specified in Sections  
5 3.01 through 3.15 ~~3.12~~ have the meanings ascribed to them in  
6 those Sections.

7 (Source: P.A. 92-18, eff. 6-28-01.)

8 (210 ILCS 125/3.12)

9 Sec. 3.12. Swimming facility. "Swimming Facility" means a  
10 swimming pool, spa, public bathing beach, water slide, lazy  
11 river, spray pool, or other ~~similar~~ aquatic feature that exists  
12 for the purpose of providing recreation or therapeutic services  
13 to the public. It does not include isolation or flotation  
14 tanks.

15 (Source: P.A. 92-18, eff. 6-28-01.)

16 (210 ILCS 125/3.13 new)

17 Sec. 3.13. Spray pool. "Spray pool" means an aquatic  
18 recreational facility that is not a swimming pool and that has  
19 structures or fittings for spraying, dumping, or shooting  
20 water. The term does not include facilities having as a source  
21 of water a public water supply that is regulated by the  
22 Illinois Environmental Protection Agency or the Illinois  
23 Department of Public Health and that has no capacity to recycle

1 water.

2 (210 ILCS 125/3.14 new)

3 Sec. 3.14. Swimming facility designer. "Swimming facility  
4 designer" means an individual who is licensed by the Department  
5 to design swimming facilities or major alterations thereto, as  
6 limited by the Illinois Architecture Practice Act of 1989, the  
7 Structural Engineering Practice Act of 1989, or the  
8 Professional Engineering Practice Act of 1989.

9 (210 ILCS 125/3.15 new)

10 Sec. 3.15. Swimming facility contractor. "Swimming  
11 facility contractor" means a person licensed by the Department  
12 to construct, install, modify, or repair swimming facilities.

13 (210 ILCS 125/4) (from Ch. 111 1/2, par. 1204)

14 Sec. 4. License to operate. After May 1, 2002, it shall be  
15 unlawful for any person to open, establish, maintain or operate  
16 a swimming facility ~~pool, water slide, or bathing beach~~ within  
17 this State without first obtaining a license therefor from the  
18 Department. ~~After May 1, 2003, it shall be unlawful for any~~  
19 ~~person to open, establish, maintain, or operate a spa within~~  
20 ~~this State without first obtaining a license from the~~  
21 ~~Department.~~ Licenses for swimming facilities shall expire May  
22 1, next following the swimming season for which the license was  
23 issued, except that an original license for a swimming facility

1 issued after February 1 and before May 1 shall expire on May 1  
2 of the following year. ~~Licenses for indoor pools that expire~~  
3 ~~December 1, 2001 shall be renewed for a \$75 fee for a license~~  
4 ~~that will expire on May 1, 2003.~~ Applications for original  
5 licenses shall be made on forms furnished by the Department.  
6 Each application to the Department shall be signed by the  
7 applicant and accompanied by an affidavit of the applicant as  
8 to the truth of the application and, ~~except in the case of an~~  
9 ~~application by an organization incorporated under the General~~  
10 ~~Not for Profit Corporation Act, as amended,~~ by the payment of a  
11 license application fee of \$500 per swimming facility ~~\$50~~.  
12 License fees are not refundable. Each application shall  
13 contain: the name and address of the applicant, or names and  
14 addresses of the partners if the applicant is a partnership, or  
15 the name and addresses of the officers if the applicant is a  
16 corporation or the names and addresses of all persons having an  
17 interest therein if the applicant is a group of individuals,  
18 association, or trust; and the location of the swimming  
19 facility. A license shall be valid only in the possession of  
20 the person to whom it is issued and shall not be the subject of  
21 sale, assignment, or other transfer, voluntary, or  
22 involuntary, nor shall the license be valid for any premises  
23 other than those for which originally issued. Upon receipt of  
24 an application for an original license the Department shall  
25 inspect such swimming facility to insure compliance with this  
26 Act.

1 (Source: P.A. 92-18, eff. 6-28-01.)

2 (210 ILCS 125/4.1 new)

3 Sec. 4.1. Swimming facility contractor license. No person  
4 shall offer or perform construction, installation,  
5 modification, or repair of a swimming facility unless that  
6 individual or entity is licensed as a swimming facility  
7 contractor by the Department; however, this requirement does  
8 not apply to maintenance workers employed by the facility owner  
9 or facility operator. Individuals and entities wishing to be  
10 licensed shall make application on forms prescribed and  
11 furnished by the Department and pay a licensing fee of \$500. A  
12 license shall expire annually according to a schedule  
13 determined by the Department. Applications for renewal of  
14 licenses shall be filed with the Department at least 30 days  
15 before the expiration date. When a licensure examination is  
16 required, the application for licensure shall be submitted to  
17 the Department at least 30 days prior to the date of the  
18 scheduled examination. The Department shall evaluate each  
19 application based on its minimum standards for licensure,  
20 promulgated as rules, and render a decision. Such standards may  
21 include a requirement for the successful completion of a course  
22 of training approved by the Department. If the Department  
23 denies the application, the applicant may appeal such decision  
24 pursuant to the provisions of the Administrative Review Law.

1 (210 ILCS 125/4.2 new)

2 Sec. 4.2. Swimming facility designer license. No person  
3 shall offer or perform design of a swimming facility unless  
4 that person is licensed as a swimming facility designer by the  
5 Department. Persons wishing to be licensed shall make  
6 application on forms prescribed and furnished by the Department  
7 and pay a licensing fee of \$250. A license shall expire  
8 annually according to a schedule determined by the Department.  
9 Applications for renewal of licenses shall be filed with the  
10 Department at least 30 days before the expiration date. When a  
11 licensure examination is required, the application for  
12 licensure shall be submitted to the Department at least 30 days  
13 prior to the date of the scheduled examination. The Department  
14 shall evaluate each application based on its minimum standards  
15 for licensure, promulgated as rules, and render a decision.  
16 Such standards may include a requirement for the successful  
17 completion of a course of training approved by the Department.  
18 If the Department denies the application, the applicant may  
19 appeal such decision pursuant to the provisions of the  
20 Administrative Review Law.

21 (210 ILCS 125/4.3 new)

22 Sec. 4.3. Construction, installation, and alterations. All  
23 construction, installation, and major alterations of swimming  
24 facilities, other than water slides and bathing beaches, shall  
25 be performed by a licensed swimming facility contractor.

1 (210 ILCS 125/5) (from Ch. 111 1/2, par. 1205)

2 Sec. 5. Permit for construction or major alteration. No  
3 swimming facility shall be constructed, developed, installed,  
4 or altered in a major manner until plans, specifications, and  
5 other information relative to such swimming facility and  
6 appurtenant facilities as may be requested by the Department  
7 are submitted to and reviewed by the Department and found to  
8 comply with minimum sanitary and safety requirements and design  
9 criteria, and until a permit for the construction or  
10 development is issued by the Department. ~~Construction permits~~  
11 ~~for spas are not required until January 1, 2003.~~ Permits are  
12 valid for a period of one year from date of issue. They may be  
13 reissued upon application to the Department and payment of the  
14 permit fee as provided in this Act. An application for a permit  
15 shall be made by a swimming facility designer who is licensed  
16 by the Department. The swimming facility designer shall ensure  
17 that the application and accompanying plans, specifications,  
18 and certifications conform to standards established by the  
19 Department.

20 The fee to be paid by an applicant, ~~other than an~~  
21 ~~organization incorporated under the General Not for Profit~~  
22 ~~Corporation Act, as now or hereafter amended,~~ for a permit for  
23 construction, development, major alteration, or installation  
24 of each swimming facility is \$1,000 ~~\$50~~, which shall accompany  
25 such application. If more than one submission of plans to the



1 Department is required prior to issuance of a permit, each  
2 submission shall be accompanied by a fee of \$300 for each  
3 swimming facility.

4 (Source: P.A. 92-18, eff. 6-28-01.)

5 (210 ILCS 125/6) (from Ch. 111 1/2, par. 1206)

6 Sec. 6. License renewal. Applications for renewal of the  
7 license shall be made in writing by the holder of the license,  
8 on forms furnished by the Department and, ~~except in the case of~~  
9 ~~an application by an organization incorporated under the~~  
10 ~~General Not for Profit Corporation Act, as now or hereafter~~  
11 ~~amended,~~ shall be accompanied by a license application fee of  
12 \$500 per swimming facility ~~\$50~~, which shall not be refundable,  
13 and shall contain any change in the information submitted since  
14 the original license was issued or the latest renewal granted.  
15 In addition to any other fees required under this Act, a late  
16 fee of \$250 per swimming facility ~~\$20~~ shall be charged when any  
17 renewal application is received by the Department after the  
18 license has expired; however, educational institutions and  
19 units of State or local government shall not be required to pay  
20 late fees. If, after inspection, the Department is satisfied  
21 that the swimming facility is in substantial compliance with  
22 the provisions of this Act and the rules and regulations issued  
23 thereunder, the Department shall issue the renewal license.

24 (Source: P.A. 92-18, eff. 6-28-01.)

1 (210 ILCS 125/8) (from Ch. 111 1/2, par. 1208)

2 Sec. 8. Payment of fees; display of licenses. All fees and  
3 penalties generated under the authority of this Act shall be  
4 deposited into the Facility Licensing Fund and, subject to  
5 appropriation, shall be used by the Department in the  
6 administration of this Act. All fees and penalties shall be  
7 submitted in the form of a check or money order or by other  
8 means authorized by the Department. All licenses provided for  
9 in this Act shall be displayed in a conspicuous place for  
10 public view, within or on such premises. In case of revocation  
11 or suspension, the owner or operator or both shall cause the  
12 license to be removed and to post the notice of revocation or  
13 suspension issued by the Department.

14 (Source: P.A. 92-18, eff. 6-28-01.)

15 (210 ILCS 125/13) (from Ch. 111 1/2, par. 1213)

16 Sec. 13. Rules. The Department shall promulgate, publish,  
17 adopt and amend such rules and regulations as may be necessary  
18 for the proper enforcement of this Act, to protect the health  
19 and safety of the public using such pools and beaches, spas,  
20 and other appurtenances, and may, when necessary, utilize the  
21 services of any other state agencies to assist in carrying out  
22 the purposes of this Act. These regulations shall include but  
23 are not limited to design criteria for swimming facility areas  
24 and bather preparation facilities, standards relating to  
25 sanitation, cleanliness, plumbing, water supply, sewage and

1 solid waste disposal, design and construction of all equipment,  
2 buildings, rodent and insect control, communicable disease  
3 control, safety and sanitation of appurtenant swimming  
4 facilities. The regulations must include provisions for the  
5 prevention of bather entrapment or entanglement at new and  
6 existing swimming facilities. The regulations shall establish  
7 standards for licensing of swimming facility designers and  
8 swimming facility contractors. ~~The Department may adopt less~~  
9 ~~stringent requirements for spas existing prior to January 1,~~  
10 ~~2003 than for new spas, provided minimum safety features,~~  
11 ~~including provisions to protect against bather entrapment, are~~  
12 ~~provided.~~ Bather preparation facilities consisting of dressing  
13 room space, toilets and showers shall be available for use of  
14 patrons of swimming facilities, except as provided by  
15 Department regulations.

16 (Source: P.A. 92-18, eff. 6-28-01.)

17 (210 ILCS 125/14) (from Ch. 111 1/2, par. 1214)

18 Sec. 14. Whenever the Department determines that there are  
19 reasonable grounds to believe that there has been violation of  
20 any provision of this Act or the rules and regulations issued  
21 hereunder, the Department shall give notice of such alleged  
22 violation to the person to whom the license was issued, as  
23 herein provided. Such notice shall:

24 (a) be in writing;

25 (b) include a statement of the reasons for the issuance of

1 the notice; and

2 (c) (blank) ~~allow reasonable time as determined by the~~  
3 ~~Department for the performance of any act it requires;~~

4 (d) be served upon the owner, operator or licensee as the  
5 case may require; provided that such notice or order shall be  
6 deemed to have been properly served upon such owner, operator  
7 or licensee when a copy thereof has been sent by registered or  
8 certified mail to his last known address as furnished to the  
9 Department; or, when he has been served with such notice by any  
10 other method authorized by the laws of this State. †

11 (e) (blank) ~~contain an outline of remedial action, which,~~  
12 ~~if taken, will be required to effect compliance with the~~  
13 ~~provisions of this Act and the rules and regulations issued~~  
14 ~~hereunder.~~

15 (Source: P.A. 78-1149.)

16 (210 ILCS 125/15) (from Ch. 111 1/2, par. 1215)

17 Sec. 15. Civil penalties. The Department is empowered to  
18 assess civil penalties, not to exceed \$5,000 per violation, for  
19 violations of this Act or the rules promulgated under this Act.  
20 The Department shall establish rules for such penalties. Each  
21 date a violation exists shall constitute a separate violation.  
22 ~~The Department shall in any proceeding to suspend, revoke or~~  
23 ~~refuse to issue a license or permit, first serve or cause to be~~  
24 ~~served upon the applicant or licensee a written notice~~  
25 ~~specifying the way or ways in which such applicant or licensee~~

1 ~~has failed to comply with this Act, or any rules, regulations~~  
2 ~~or standard promulgated by the Department pertaining thereto.~~  
3 ~~In the case of a revocation or suspension, this notice shall~~  
4 ~~require the licensee to remove or abate such violation,~~  
5 ~~insanitary or objectionable condition, specified in such~~  
6 ~~notice, within 5 days or within a longer period of time as may~~  
7 ~~be allowed by the Department; if the licensee fails to comply~~  
8 ~~with the terms and conditions of the notice, within the time~~  
9 ~~specified or such extended period of time, the Department may~~  
10 ~~revoke or suspend such license or permit. If an applicant fails~~  
11 ~~to comply with the Act, rules or regulations or standards~~  
12 ~~promulgated thereunder, the Department may refuse to issue a~~  
13 ~~license.~~

14 (Source: P.A. 78-1149.)

15 (210 ILCS 125/16) (from Ch. 111 1/2, par. 1216)

16 Sec. 16. After giving a party notice and opportunity for a  
17 hearing, the Director may deny, suspend, or revoke a license or  
18 permit, or assess a civil penalty, if the Director finds that  
19 there has been a substantial failure to comply with the  
20 provisions of this Act or the standards or rules established  
21 under it. Notice shall be sent by certified mail, return  
22 receipt requested, or served personally and by fixing a date,  
23 not less than 15 days from the date of such mailing or service,  
24 at which time the applicant or license holder shall be given an  
25 opportunity to serve a written request for hearing upon the

1 Department. The hearing shall be conducted by the Director or  
2 by an individual designated in writing by the Director as a  
3 Hearing Officer. On the basis of any such hearing, or upon  
4 default of the applicant or license holder, the Director shall  
5 make a determination specifying the Director's findings and  
6 conclusions. A copy of the determination shall be sent by  
7 certified mail, return receipt requested, or served personally  
8 upon the applicant or license holder. ~~The Department shall give~~  
9 ~~written notice by certified or registered mail to any person~~  
10 ~~refused a license or whose license is suspended or revoked;~~  
11 ~~such person has a right to a hearing before the Department;~~  
12 ~~however, a written notice of a request for such a hearing shall~~  
13 ~~be served on the Department within 10 days of notice of such~~  
14 ~~refusal of a license or suspension or revocation thereof. The~~  
15 ~~hearing shall be conducted by the Director, or a Hearing~~  
16 ~~Officer designated in writing by the Director, to conduct the~~  
17 ~~hearing. A stenographic record shall be made of the hearing and~~  
18 ~~the cost borne by the Department; however, a transcription of~~  
19 ~~the hearing will be made only if a party requests and shall be~~  
20 ~~transcribed at the cost of such party.~~

21 ~~The hearing shall be conducted at such place as designated~~  
22 ~~by the Department. The Director shall give written notice of~~  
23 ~~the time and place of hearing, by registered or certified mail,~~  
24 ~~to the owner, operator, licensee, or applicant, as the case may~~  
25 ~~be, at least 20 days before such hearing. The Director or~~  
26 ~~Hearing Officer shall permit the owner, operator, licensee or~~

1 ~~applicant to appear in person or to be represented by counsel~~  
2 ~~at the hearing at which time such party shall be afforded an~~  
3 ~~opportunity to present all relevant matter in support of his~~  
4 ~~application for license or in resisting the revocation or~~  
5 ~~suspension thereof.~~

6 (Source: P.A. 78-1149.)

7 (210 ILCS 125/21) (from Ch. 111 1/2, par. 1221)

8 Sec. 21. Closure of facility. Whenever the Department finds  
9 that any violation any of this Act or the rules promulgated by  
10 the Department presents an emergency or risk to public health,  
11 ~~the conditions hereinafter set forth~~ it shall, without prior  
12 notice or hearing, issue a by written notice, immediately  
13 ordering order the owner, operator or licensee to close the  
14 swimming facility and prohibiting to prohibit any person from  
15 using such facilities. Notwithstanding any other provisions of  
16 this Act, such order shall be effective immediately. †

17 ~~(1) If conditions at a swimming facility and~~  
18 ~~appurtenances, including bathhouse facilities, upon~~  
19 ~~inspection and investigation by a representative of the~~  
20 ~~Department, create an immediate danger to health or safety,~~  
21 ~~including conditions that could lead to bather entrapment~~  
22 ~~or entanglement; or~~

23 ~~(2) When the Department, upon review of results of~~  
24 ~~bacteriological analyses of water samples collected from a~~  
25 ~~swimming facility, finds that such water does not conform~~

1 ~~to the bacteriological standards promulgated by the~~  
2 ~~Department for proper swimming water quality; or~~

3 ~~(3) When an environmental survey of an area shows~~  
4 ~~evidence of sewage or other pollutational or toxic materials~~  
5 ~~being discharged to waters tributary to a beach creating an~~  
6 ~~immediate danger to health or safety; or~~

7 ~~(4) When the Department finds by observation or test~~  
8 ~~for water clarity of the swimming facility water a higher~~  
9 ~~turbidity level than permitted in the standards for~~  
10 ~~physical quality as promulgated by the Department; or~~

11 ~~(5) When in such cases as it is required, the presence~~  
12 ~~of a satisfactory disinfectant residual, prescribed by~~  
13 ~~rule as promulgated by the Department, is absent.~~

14 The notice shall state the reasons prompting the closing of  
15 the facilities and a copy of the notice must be posted  
16 conspicuously at the pool or beach by the owner, operator or  
17 licensee.

18 The State's Attorney and Sheriff of the county in which the  
19 swimming facility is located shall enforce the closing order  
20 after receiving notice thereof.

21 Any owner, operator or licensee affected by such an order  
22 is entitled, upon written request to the Department, to a  
23 hearing as provided in this Act.

24 When such violations ~~conditions~~ are abated ~~or when the~~  
25 ~~results of analyses of water samples collected from the~~  
26 ~~swimming facility,~~ in the opinion of the Department, ~~comply~~



1 ~~with the Department's bacteriological standards for acceptable~~  
2 ~~water quality, or when the turbidity decreases to the~~  
3 ~~permissible limit, or when the disinfectant residual reaches a~~  
4 ~~satisfactory level as prescribed by rule,~~ the Department may  
5 authorize reopening the swimming facility ~~pool or beach. When~~  
6 ~~sources of sewage, pollution, or toxic materials discovered as~~  
7 ~~a result of an environmental survey are eliminated, the~~  
8 ~~Department may authorize reopening of such beach.~~

9 (Source: P.A. 92-18, eff. 6-28-01.)

10 (210 ILCS 125/22) (from Ch. 111 1/2, par. 1222)

11 Sec. 22.

12 Any person who violates this Act or any rule or regulation  
13 adopted by the Department, or who violates any determination or  
14 order of the Department under this Act shall be guilty of a  
15 Class A misdemeanor.

16 Any person who knowingly violates this Act or the  
17 regulations adopted by the Department shall be guilty of a  
18 Class 4 felony.

19 Each day's violation constitutes a separate offense. The  
20 State's Attorney of the county in which the violation occurred,  
21 or the Attorney General shall bring such actions in the name of  
22 the people of the State of Illinois, or may in addition to  
23 other remedies provided in this Act, bring action for an  
24 injunction to restrain such violation, or to enjoin the  
25 operation of any such establishment.

1 (Source: P.A. 78-1149.)

2 (210 ILCS 125/23) (from Ch. 111 1/2, par. 1223)

3 Sec. 23. Applicability of Act. Nothing in this Act shall be  
4 construed to exclude the State of Illinois and Departments and  
5 educational institutions thereof and units of local government  
6 except that the provisions in this Act for fees or late fees,  
7 or both, for licenses and permits, and the provisions for fine  
8 and imprisonment shall not apply to the State of Illinois, to  
9 Departments and educational institutions thereof, or units of  
10 local government. ~~This Act shall not apply to beaches operated~~  
11 ~~by units of local government located on Lake Michigan.~~

12 (Source: P.A. 92-18, eff. 6-28-01.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.

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