



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 1739

2 AMENDMENT NO. _____. Amend Senate Bill 1739 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Income Tax Act is amended by
5 changing Section 304 as follows:

6 (35 ILCS 5/304) (from Ch. 120, par. 3-304)

7 Sec. 304. Business income of persons other than residents.

8 (a) In general. The business income of a person other than
9 a resident shall be allocated to this State if such person's
10 business income is derived solely from this State. If a person
11 other than a resident derives business income from this State
12 and one or more other states, then, for tax years ending on or
13 before December 30, 1998, and except as otherwise provided by
14 this Section, such person's business income shall be
15 apportioned to this State by multiplying the income by a
16 fraction, the numerator of which is the sum of the property

1 factor (if any), the payroll factor (if any) and 200% of the
2 sales factor (if any), and the denominator of which is 4
3 reduced by the number of factors other than the sales factor
4 which have a denominator of zero and by an additional 2 if the
5 sales factor has a denominator of zero. For tax years ending on
6 or after December 31, 1998, and except as otherwise provided by
7 this Section, persons other than residents who derive business
8 income from this State and one or more other states shall
9 compute their apportionment factor by weighting their
10 property, payroll, and sales factors as provided in subsection
11 (h) of this Section.

12 (1) Property factor.

13 (A) The property factor is a fraction, the numerator of
14 which is the average value of the person's real and
15 tangible personal property owned or rented and used in the
16 trade or business in this State during the taxable year and
17 the denominator of which is the average value of all the
18 person's real and tangible personal property owned or
19 rented and used in the trade or business during the taxable
20 year.

21 (B) Property owned by the person is valued at its
22 original cost. Property rented by the person is valued at 8
23 times the net annual rental rate. Net annual rental rate is
24 the annual rental rate paid by the person less any annual
25 rental rate received by the person from sub-rentals.

26 (C) The average value of property shall be determined

1 by averaging the values at the beginning and ending of the
2 taxable year but the Director may require the averaging of
3 monthly values during the taxable year if reasonably
4 required to reflect properly the average value of the
5 person's property.

6 (2) Payroll factor.

7 (A) The payroll factor is a fraction, the numerator of
8 which is the total amount paid in this State during the
9 taxable year by the person for compensation, and the
10 denominator of which is the total compensation paid
11 everywhere during the taxable year.

12 (B) Compensation is paid in this State if:

13 (i) The individual's service is performed entirely
14 within this State;

15 (ii) The individual's service is performed both
16 within and without this State, but the service
17 performed without this State is incidental to the
18 individual's service performed within this State; or

19 (iii) Some of the service is performed within this
20 State and either the base of operations, or if there is
21 no base of operations, the place from which the service
22 is directed or controlled is within this State, or the
23 base of operations or the place from which the service
24 is directed or controlled is not in any state in which
25 some part of the service is performed, but the
26 individual's residence is in this State.

1 (iv) Compensation paid to nonresident professional
2 athletes.

3 (a) General. The Illinois source income of a
4 nonresident individual who is a member of a
5 professional athletic team includes the portion of the
6 individual's total compensation for services performed
7 as a member of a professional athletic team during the
8 taxable year which the number of duty days spent within
9 this State performing services for the team in any
10 manner during the taxable year bears to the total
11 number of duty days spent both within and without this
12 State during the taxable year.

13 (b) Travel days. Travel days that do not involve
14 either a game, practice, team meeting, or other similar
15 team event are not considered duty days spent in this
16 State. However, such travel days are considered in the
17 total duty days spent both within and without this
18 State.

19 (c) Definitions. For purposes of this subpart
20 (iv):

21 (1) The term "professional athletic team"
22 includes, but is not limited to, any professional
23 baseball, basketball, football, soccer, or hockey
24 team.

25 (2) The term "member of a professional
26 athletic team" includes those employees who are

1 active players, players on the disabled list, and
2 any other persons required to travel and who travel
3 with and perform services on behalf of a
4 professional athletic team on a regular basis.
5 This includes, but is not limited to, coaches,
6 managers, and trainers.

7 (3) Except as provided in items (C) and (D) of
8 this subpart (3), the term "duty days" means all
9 days during the taxable year from the beginning of
10 the professional athletic team's official
11 pre-season training period through the last game
12 in which the team competes or is scheduled to
13 compete. Duty days shall be counted for the year in
14 which they occur, including where a team's
15 official pre-season training period through the
16 last game in which the team competes or is
17 scheduled to compete, occurs during more than one
18 tax year.

19 (A) Duty days shall also include days on
20 which a member of a professional athletic team
21 performs service for a team on a date that does
22 not fall within the foregoing period (e.g.,
23 participation in instructional leagues, the
24 "All Star Game", or promotional "caravans").
25 Performing a service for a professional
26 athletic team includes conducting training and

1 rehabilitation activities, when such
2 activities are conducted at team facilities.

3 (B) Also included in duty days are game
4 days, practice days, days spent at team
5 meetings, promotional caravans, preseason
6 training camps, and days served with the team
7 through all post-season games in which the team
8 competes or is scheduled to compete.

9 (C) Duty days for any person who joins a
10 team during the period from the beginning of
11 the professional athletic team's official
12 pre-season training period through the last
13 game in which the team competes, or is
14 scheduled to compete, shall begin on the day
15 that person joins the team. Conversely, duty
16 days for any person who leaves a team during
17 this period shall end on the day that person
18 leaves the team. Where a person switches teams
19 during a taxable year, a separate duty-day
20 calculation shall be made for the period the
21 person was with each team.

22 (D) Days for which a member of a
23 professional athletic team is not compensated
24 and is not performing services for the team in
25 any manner, including days when such member of
26 a professional athletic team has been

1 suspended without pay and prohibited from
2 performing any services for the team, shall not
3 be treated as duty days.

4 (E) Days for which a member of a
5 professional athletic team is on the disabled
6 list and does not conduct rehabilitation
7 activities at facilities of the team, and is
8 not otherwise performing services for the team
9 in Illinois, shall not be considered duty days
10 spent in this State. All days on the disabled
11 list, however, are considered to be included in
12 total duty days spent both within and without
13 this State.

14 (4) The term "total compensation for services
15 performed as a member of a professional athletic
16 team" means the total compensation received during
17 the taxable year for services performed:

18 (A) from the beginning of the official
19 pre-season training period through the last
20 game in which the team competes or is scheduled
21 to compete during that taxable year; and

22 (B) during the taxable year on a date which
23 does not fall within the foregoing period
24 (e.g., participation in instructional leagues,
25 the "All Star Game", or promotional caravans).
26 This compensation shall include, but is not

1 limited to, salaries, wages, bonuses as described
2 in this subpart, and any other type of compensation
3 paid during the taxable year to a member of a
4 professional athletic team for services performed
5 in that year. This compensation does not include
6 strike benefits, severance pay, termination pay,
7 contract or option year buy-out payments,
8 expansion or relocation payments, or any other
9 payments not related to services performed for the
10 team.

11 For purposes of this subparagraph, "bonuses"
12 included in "total compensation for services
13 performed as a member of a professional athletic
14 team" subject to the allocation described in
15 Section 302(c)(1) are: bonuses earned as a result
16 of play (i.e., performance bonuses) during the
17 season, including bonuses paid for championship,
18 playoff or "bowl" games played by a team, or for
19 selection to all-star league or other honorary
20 positions; and bonuses paid for signing a
21 contract, unless the payment of the signing bonus
22 is not conditional upon the signee playing any
23 games for the team or performing any subsequent
24 services for the team or even making the team, the
25 signing bonus is payable separately from the
26 salary and any other compensation, and the signing

1 bonus is nonrefundable.

2 (3) Sales factor.

3 (A) The sales factor is a fraction, the numerator of
4 which is the total sales of the person in this State during
5 the taxable year, and the denominator of which is the total
6 sales of the person everywhere during the taxable year.

7 (B) Sales of tangible personal property are in this
8 State if:

9 (i) The property is delivered or shipped to a
10 purchaser, other than the United States government,
11 within this State regardless of the f. o. b. point or
12 other conditions of the sale; or

13 (ii) The property is shipped from an office, store,
14 warehouse, factory or other place of storage in this
15 State and either the purchaser is the United States
16 government or the person is not taxable in the state of
17 the purchaser; provided, however, that premises owned
18 or leased by a person who has independently contracted
19 with the seller for the printing of newspapers,
20 periodicals or books shall not be deemed to be an
21 office, store, warehouse, factory or other place of
22 storage for purposes of this Section. Sales of tangible
23 personal property are not in this State if the seller
24 and purchaser would be members of the same unitary
25 business group but for the fact that either the seller
26 or purchaser is a person with 80% or more of total

1 business activity outside of the United States and the
2 property is purchased for resale.

3 (B-1) Patents, copyrights, trademarks, and similar
4 items of intangible personal property.

5 (i) Gross receipts from the licensing, sale, or
6 other disposition of a patent, copyright, trademark,
7 or similar item of intangible personal property, other
8 than gross receipts governed by paragraph (B-7) of this
9 item (3), are in this State to the extent the item is
10 utilized in this State during the year the gross
11 receipts are included in gross income.

12 (ii) Place of utilization.

13 (I) A patent is utilized in a state to the
14 extent that it is employed in production,
15 fabrication, manufacturing, or other processing in
16 the state or to the extent that a patented product
17 is produced in the state. If a patent is utilized
18 in more than one state, the extent to which it is
19 utilized in any one state shall be a fraction equal
20 to the gross receipts of the licensee or purchaser
21 from sales or leases of items produced,
22 fabricated, manufactured, or processed within that
23 state using the patent and of patented items
24 produced within that state, divided by the total of
25 such gross receipts for all states in which the
26 patent is utilized.

1 (II) A copyright is utilized in a state to the
2 extent that printing or other publication
3 originates in the state. If a copyright is utilized
4 in more than one state, the extent to which it is
5 utilized in any one state shall be a fraction equal
6 to the gross receipts from sales or licenses of
7 materials printed or published in that state
8 divided by the total of such gross receipts for all
9 states in which the copyright is utilized.

10 (III) Trademarks and other items of intangible
11 personal property governed by this paragraph (B-1)
12 are utilized in the state in which the commercial
13 domicile of the licensee or purchaser is located.

14 (iii) If the state of utilization of an item of
15 property governed by this paragraph (B-1) cannot be
16 determined from the taxpayer's books and records or
17 from the books and records of any person related to the
18 taxpayer within the meaning of Section 267(b) of the
19 Internal Revenue Code, 26 U.S.C. 267, the gross
20 receipts attributable to that item shall be excluded
21 from both the numerator and the denominator of the
22 sales factor.

23 (B-2) Gross receipts from the license, sale, or other
24 disposition of patents, copyrights, trademarks, and
25 similar items of intangible personal property, other than
26 gross receipts governed by paragraph (B-7) of this item

1 (3), may be included in the numerator or denominator of the
2 sales factor only if gross receipts from licenses, sales,
3 or other disposition of such items comprise more than 50%
4 of the taxpayer's total gross receipts included in gross
5 income during the tax year and during each of the 2
6 immediately preceding tax years; provided that, when a
7 taxpayer is a member of a unitary business group, such
8 determination shall be made on the basis of the gross
9 receipts of the entire unitary business group.

10 (B-5) For taxable years ending on or after December 31,
11 2008, except as provided in subsections (ii) through (vii),
12 receipts from the sale of telecommunications service or
13 mobile telecommunications service are in this State if the
14 customer's service address is in this State.

15 (i) For purposes of this subparagraph (B-5), the
16 follow terms have the following meanings:

17 "Ancillary services" means services that are
18 associated with or incidental to the provision of
19 "telecommunications services", including but not
20 limited to "detailed telecommunications billing",
21 "directory assistance", "vertical service", and "voice
22 mail services".

23 "Air-to-Ground Radiotelephone service" means a
24 radio service, as that term is defined in 47 CFR 22.99,
25 in which common carriers are authorized to offer and
26 provide radio telecommunications service for hire to

1 subscribers in aircraft.

2 "Call-by-call Basis" means any method of charging
3 for telecommunications services where the price is
4 measured by individual calls.

5 "Communications Channel" means a physical or
6 virtual path of communications over which signals are
7 transmitted between or among customer channel
8 termination points.

9 "Conference bridging service" means an "ancillary
10 service" that links two or more participants of an
11 audio or video conference call and may include the
12 provision of a telephone number. "Conference bridging
13 service" does not include the "telecommunications
14 services" used to reach the conference bridge.

15 "Customer Channel Termination Point" means the
16 location where the customer either inputs or receives
17 the communications.

18 "Detailed telecommunications billing service"
19 means an "ancillary service" of separately stating
20 information pertaining to individual calls on a
21 customer's billing statement.

22 "Directory assistance" means an "ancillary
23 service" of providing telephone number information,
24 and/or address information.

25 "Home service provider" means the facilities based
26 carrier or reseller with which the customer contracts

1 for the provision of mobile telecommunications
2 services.

3 "Mobile telecommunications service" means
4 commercial mobile radio service, as defined in Section
5 20.3 of Title 47 of the Code of Federal Regulations as
6 in effect on June 1, 1999.

7 "Place of primary use" means the street address
8 representative of where the customer's use of the
9 telecommunications service primarily occurs, which
10 must be the residential street address or the primary
11 business street address of the customer. In the case of
12 mobile telecommunications services, "place of primary
13 use" must be within the licensed service area of the
14 home service provider.

15 "Post-paid telecommunication service" means the
16 telecommunications service obtained by making a
17 payment on a call-by-call basis either through the use
18 of a credit card or payment mechanism such as a bank
19 card, travel card, credit card, or debit card, or by
20 charge made to a telephone number which is not
21 associated with the origination or termination of the
22 telecommunications service. A post-paid calling
23 service includes telecommunications service, except a
24 prepaid wireless calling service, that would be a
25 prepaid calling service except it is not exclusively a
26 telecommunication service.

1 "Prepaid telecommunication service" means the
2 right to access exclusively telecommunications
3 services, which must be paid for in advance and which
4 enables the origination of calls using an access number
5 or authorization code, whether manually or
6 electronically dialed, and that is sold in
7 predetermined units or dollars of which the number
8 declines with use in a known amount.

9 "Prepaid Mobile telecommunication service" means a
10 telecommunications service that provides the right to
11 utilize mobile wireless service as well as other
12 non-telecommunication services, including but not
13 limited to ancillary services, which must be paid for
14 in advance that is sold in predetermined units or
15 dollars of which the number declines with use in a
16 known amount.

17 "Private communication service" means a
18 telecommunication service that entitles the customer
19 to exclusive or priority use of a communications
20 channel or group of channels between or among
21 termination points, regardless of the manner in which
22 such channel or channels are connected, and includes
23 switching capacity, extension lines, stations, and any
24 other associated services that are provided in
25 connection with the use of such channel or channels.

26 "Service address" means:

1 (a) The location of the telecommunications
2 equipment to which a customer's call is charged and
3 from which the call originates or terminates,
4 regardless of where the call is billed or paid;

5 (b) If the location in line (a) is not known,
6 service address means the origination point of the
7 signal of the telecommunications services first
8 identified by either the seller's
9 telecommunications system or in information
10 received by the seller from its service provider
11 where the system used to transport such signals is
12 not that of the seller; and

13 (c) If the locations in line (a) and line (b)
14 are not known, the service address means the
15 location of the customer's place of primary use.

16 "Telecommunications service" means the electronic
17 transmission, conveyance, or routing of voice, data,
18 audio, video, or any other information or signals to a
19 point, or between or among points. The term
20 "telecommunications service" includes such
21 transmission, conveyance, or routing in which computer
22 processing applications are used to act on the form,
23 code or protocol of the content for purposes of
24 transmission, conveyance or routing without regard to
25 whether such service is referred to as voice over
26 Internet protocol services or is classified by the

1 Federal Communications Commission as enhanced or value
2 added. "Telecommunications service" does not include:

3 (a) Data processing and information services
4 that allow data to be generated, acquired, stored,
5 processed, or retrieved and delivered by an
6 electronic transmission to a purchaser when such
7 purchaser's primary purpose for the underlying
8 transaction is the processed data or information;

9 (b) Installation or maintenance of wiring or
10 equipment on a customer's premises;

11 (c) Tangible personal property;

12 (d) Advertising, including but not limited to
13 directory advertising.

14 (e) Billing and collection services provided
15 to third parties;

16 (f) Internet access service;

17 (g) Radio and television audio and video
18 programming services, regardless of the medium,
19 including the furnishing of transmission,
20 conveyance and routing of such services by the
21 programming service provider. Radio and television
22 audio and video programming services shall include
23 but not be limited to cable service as defined in
24 47 USC 522(6) and audio and video programming
25 services delivered by commercial mobile radio
26 service providers, as defined in 47 CFR 20.3;

1 (h) "Ancillary services"; or

2 (i) Digital products "delivered
3 electronically", including but not limited to
4 software, music, video, reading materials or ring
5 tones.

6 "Vertical service" means an "ancillary service"
7 that is offered in connection with one or more
8 "telecommunications services", which offers advanced
9 calling features that allow customers to identify
10 callers and to manage multiple calls and call
11 connections, including "conference bridging services".

12 "Voice mail service" means an "ancillary service"
13 that enables the customer to store, send or receive
14 recorded messages. "Voice mail service" does not
15 include any "vertical services" that the customer may
16 be required to have in order to utilize the "voice mail
17 service".

18 (ii) Receipts from the sale of telecommunications
19 service sold on an individual call-by-call basis are in
20 this State if either of the following applies:

21 (a) The call both originates and terminates in
22 this State.

23 (b) The call either originates or terminates
24 in this State and the service address is located in
25 this State.

26 (iii) Receipts from the sale of postpaid

1 telecommunications service at retail are in this State
2 if the origination point of the telecommunication
3 signal, as first identified by the service provider's
4 telecommunication system or as identified by
5 information received by the seller from its service
6 provider if the system used to transport
7 telecommunication signals is not the seller's, is
8 located in this State.

9 (iv) Receipts from the sale of prepaid
10 telecommunications service or prepaid mobile
11 telecommunications service at retail are in this State
12 if the purchaser obtains the prepaid card or similar
13 means of conveyance at a location in this State.
14 Receipts from recharging a prepaid telecommunications
15 service or mobile telecommunications service is in
16 this State if the purchaser's billing information
17 indicates a location in this State.

18 (v) Receipts from the sale of private
19 communication services are in this State as follows:

20 (a) 100% of receipts from charges imposed at
21 each channel termination point in this State.

22 (b) 100% of receipts from charges for the total
23 channel mileage between each channel termination
24 point in this State.

25 (c) 50% of the total receipts from charges for
26 service segments when those segments are between 2

1 customer channel termination points, 1 of which is
2 located in this State and the other is located
3 outside of this State, which segments are
4 separately charged.

5 (d) The receipts from charges for service
6 segments with a channel termination point located
7 in this State and in two or more other states, and
8 which segments are not separately billed, are in
9 this State based on a percentage determined by
10 dividing the number of customer channel
11 termination points in this State by the total
12 number of customer channel termination points.

13 (vi) Receipts from charges for ancillary services
14 for telecommunications service sold to customers at
15 retail are in this State if the customer's primary
16 place of use of telecommunications services associated
17 with those ancillary services is in this State. If the
18 seller of those ancillary services cannot determine
19 where the associated telecommunications are located,
20 then the ancillary services shall be based on the
21 location of the purchaser.

22 (vii) Receipts to access a carrier's network or
23 from the sale of telecommunication services or
24 ancillary services for resale are in this State as
25 follows:

26 (a) 100% of the receipts from access fees

1 attributable to intrastate telecommunications
2 service that both originates and terminates in
3 this State.

4 (b) 50% of the receipts from access fees
5 attributable to interstate telecommunications
6 service if the interstate call either originates
7 or terminates in this State.

8 (c) 100% of the receipts from interstate end
9 user access line charges, if the customer's
10 service address is in this State. As used in this
11 subdivision, "interstate end user access line
12 charges" includes, but is not limited to, the
13 surcharge approved by the federal communications
14 commission and levied pursuant to 47 CFR 69.

15 (d) Gross receipts from sales of
16 telecommunication services or from ancillary
17 services for telecommunications services sold to
18 other telecommunication service providers for
19 resale shall be sourced to this State using the
20 apportionment concepts used for non-resale
21 receipts of telecommunications services if the
22 information is readily available to make that
23 determination. If the information is not readily
24 available, then the taxpayer may use any other
25 reasonable and consistent method.

26 (B-7) For taxable years ending on or after December 31,

1 2008, receipts from the sale of broadcasting services are
2 in this State if the broadcasting services are received in
3 this State. For purposes of this paragraph (B-7), the
4 following terms have the following meanings:

5 "Advertising revenue" means consideration received
6 by the taxpayer in exchange for broadcasting services
7 or allowing the broadcasting of commercials or
8 announcements in connection with the broadcasting of
9 film or radio programming, from sponsorships of the
10 programming, or from product placements in the
11 programming.

12 "Audience factor" means the ratio that the
13 audience or subscribers located in this State of a
14 station, a network, or a cable system bears to the
15 total audience or total subscribers for that station,
16 network, or cable system. The audience factor for film
17 or radio programming shall be determined by reference
18 to the books and records of the taxpayer or by
19 reference to published rating statistics provided the
20 method used by the taxpayer is consistently used from
21 year to year for this purpose and fairly represents the
22 taxpayer's activity in this State.

23 "Broadcast" or "broadcasting" or "broadcasting
24 services" means the transmission or provision of film
25 or radio programming, whether through the public
26 airwaves, by cable, by direct or indirect satellite

1 transmission, or by any other means of communication,
2 either through a station, a network, or a cable system.

3 "Film" or "film programming" means the broadcast
4 on television of any and all performances, events, or
5 productions, including but not limited to news,
6 sporting events, plays, stories, or other literary,
7 commercial, educational, or artistic works, either
8 live or through the use of video tape, disc, or any
9 other type of format or medium. Each episode of a
10 series of films produced for television shall
11 constitute separate "film" notwithstanding that the
12 series relates to the same principal subject and is
13 produced during one or more tax periods.

14 "Radio" or "radio programming" means the broadcast
15 on radio of any and all performances, events, or
16 productions, including but not limited to news,
17 sporting events, plays, stories, or other literary,
18 commercial, educational, or artistic works, either
19 live or through the use of an audio tape, disc, or any
20 other format or medium. Each episode in a series of
21 radio programming produced for radio broadcast shall
22 constitute a separate "radio programming"
23 notwithstanding that the series relates to the same
24 principal subject and is produced during one or more
25 tax periods.

26 (i) In the case of advertising revenue from

1 broadcasting, the customer is the advertiser and
2 the service is received in this State if the
3 commercial domicile of the advertiser is in this
4 State.

5 (ii) In the case where film or radio
6 programming is broadcast by a station, a network,
7 or a cable system for a fee or other remuneration
8 received from the recipient of the broadcast, the
9 portion of the service that is received in this
10 State is measured by the portion of the recipients
11 of the broadcast located in this State.
12 Accordingly, the fee or other remuneration for
13 such service that is included in the Illinois
14 numerator of the sales factor is the total of those
15 fees or other remuneration received from
16 recipients in Illinois. For purposes of this
17 paragraph, a taxpayer may determine the location
18 of the recipients of its broadcast using the
19 address of the recipient shown in its contracts
20 with the recipient or using the billing address of
21 the recipient in the taxpayer's records.

22 (iii) In the case where film or radio
23 programming is broadcast by a station, a network,
24 or a cable system for a fee or other remuneration
25 from the person providing the programming, the
26 portion of the broadcast service that is received

1 by such station, network, or cable system in this
2 State is measured by the portion of recipients of
3 the broadcast located in this State. Accordingly,
4 the amount of revenue related to such an
5 arrangement that is included in the Illinois
6 numerator of the sales factor is the total fee or
7 other total remuneration from the person providing
8 the programming related to that broadcast
9 multiplied by the Illinois audience factor for
10 that broadcast.

11 (iv) In the case where film or radio
12 programming is provided by a taxpayer that is a
13 network or station to a customer for broadcast in
14 exchange for a fee or other remuneration from that
15 customer the broadcasting service is received at
16 the location of the office of the customer from
17 which the services were ordered in the regular
18 course of the customer's trade or business.
19 Accordingly, in such a case the revenue derived by
20 the taxpayer that is included in the taxpayer's
21 Illinois numerator of the sales factor is the
22 revenue from such customers who receive the
23 broadcasting service in Illinois.

24 (v) In the case where film or radio programming
25 is provided by a taxpayer that is not a network or
26 station to another person for broadcasting in

1 exchange for a fee or other remuneration from that
2 person, the broadcasting service is received at
3 the location of the office of the customer from
4 which the services were ordered in the regular
5 course of the customer's trade or business.
6 Accordingly, in such a case the revenue derived by
7 the taxpayer that is included in the taxpayer's
8 Illinois numerator of the sales factor is the
9 revenue from such customers who receive the
10 broadcasting service in Illinois.

11 (C) For taxable years ending before December 31, 2008,
12 sales, other than sales governed by paragraphs (B), (B-1),
13 and (B-2), are in this State if:

14 (i) The income-producing activity is performed in
15 this State; or

16 (ii) The income-producing activity is performed
17 both within and without this State and a greater
18 proportion of the income-producing activity is
19 performed within this State than without this State,
20 based on performance costs.

21 (C-5) For taxable years ending on or after December 31,
22 2008, sales, other than sales governed by paragraphs (B),
23 (B-1), (B-2), ~~and~~ (B-5), and (B-7), are in this State if
24 any of the following criteria are met:

25 (i) Sales from the sale or lease of real property
26 are in this State if the property is located in this

1 State.

2 (ii) Sales from the lease or rental of tangible
3 personal property are in this State if the property is
4 located in this State during the rental period. Sales
5 from the lease or rental of tangible personal property
6 that is characteristically moving property, including,
7 but not limited to, motor vehicles, rolling stock,
8 aircraft, vessels, or mobile equipment are in this
9 State to the extent that the property is used in this
10 State.

11 (iii) In the case of interest, net gains (but not
12 less than zero) and other items of income from
13 intangible personal property, the sale is in this State
14 if:

15 (a) in the case of a taxpayer who is a dealer
16 in the item of intangible personal property within
17 the meaning of Section 475 of the Internal Revenue
18 Code, the income or gain is received from a
19 customer in this State. For purposes of this
20 subparagraph, a customer is in this State if the
21 customer is an individual, trust or estate who is a
22 resident of this State and, for all other
23 customers, if the customer's commercial domicile
24 is in this State. Unless the dealer has actual
25 knowledge of the residence or commercial domicile
26 of a customer during a taxable year, the customer

1 shall be deemed to be a customer in this State if
2 the billing address of the customer, as shown in
3 the records of the dealer, is in this State; or

4 (b) in all other cases, if the
5 income-producing activity of the taxpayer is
6 performed in this State or, if the
7 income-producing activity of the taxpayer is
8 performed both within and without this State, if a
9 greater proportion of the income-producing
10 activity of the taxpayer is performed within this
11 State than in any other state, based on performance
12 costs.

13 (iv) Sales of services are in this State if the
14 services are received in this State. For the purposes
15 of this section, gross receipts from the performance of
16 services provided to a corporation, partnership, or
17 trust may only be attributed to a state where that
18 corporation, partnership, or trust has a fixed place of
19 business. If the state where the services are received
20 is not readily determinable or is a state where the
21 corporation, partnership, or trust receiving the
22 service does not have a fixed place of business, the
23 services shall be deemed to be received at the location
24 of the office of the customer from which the services
25 were ordered in the regular course of the customer's
26 trade or business. If the ordering office cannot be

1 determined, the services shall be deemed to be received
2 at the office of the customer to which the services are
3 billed. If the taxpayer is not taxable in the state in
4 which the services are received, the sale must be
5 excluded from both the numerator and the denominator of
6 the sales factor. The Department shall adopt rules
7 prescribing where specific types of service are
8 received, including, but not limited to, ~~broadcast,~~
9 ~~cable, advertising,~~ publishing, and utility service.

10 (D) For taxable years ending on or after December 31,
11 1995, the following items of income shall not be included
12 in the numerator or denominator of the sales factor:
13 dividends; amounts included under Section 78 of the
14 Internal Revenue Code; and Subpart F income as defined in
15 Section 952 of the Internal Revenue Code. No inference
16 shall be drawn from the enactment of this paragraph (D) in
17 construing this Section for taxable years ending before
18 December 31, 1995.

19 (E) Paragraphs (B-1) and (B-2) shall apply to tax years
20 ending on or after December 31, 1999, provided that a
21 taxpayer may elect to apply the provisions of these
22 paragraphs to prior tax years. Such election shall be made
23 in the form and manner prescribed by the Department, shall
24 be irrevocable, and shall apply to all tax years; provided
25 that, if a taxpayer's Illinois income tax liability for any
26 tax year, as assessed under Section 903 prior to January 1,

1 1999, was computed in a manner contrary to the provisions
2 of paragraphs (B-1) or (B-2), no refund shall be payable to
3 the taxpayer for that tax year to the extent such refund is
4 the result of applying the provisions of paragraph (B-1) or
5 (B-2) retroactively. In the case of a unitary business
6 group, such election shall apply to all members of such
7 group for every tax year such group is in existence, but
8 shall not apply to any taxpayer for any period during which
9 that taxpayer is not a member of such group.

10 (b) Insurance companies.

11 (1) In general. Except as otherwise provided by
12 paragraph (2), business income of an insurance company for
13 a taxable year shall be apportioned to this State by
14 multiplying such income by a fraction, the numerator of
15 which is the direct premiums written for insurance upon
16 property or risk in this State, and the denominator of
17 which is the direct premiums written for insurance upon
18 property or risk everywhere. For purposes of this
19 subsection, the term "direct premiums written" means the
20 total amount of direct premiums written, assessments and
21 annuity considerations as reported for the taxable year on
22 the annual statement filed by the company with the Illinois
23 Director of Insurance in the form approved by the National
24 Convention of Insurance Commissioners or such other form as
25 may be prescribed in lieu thereof.

26 (2) Reinsurance. If the principal source of premiums

1 written by an insurance company consists of premiums for
2 reinsurance accepted by it, the business income of such
3 company shall be apportioned to this State by multiplying
4 such income by a fraction, the numerator of which is the
5 sum of (i) direct premiums written for insurance upon
6 property or risk in this State, plus (ii) premiums written
7 for reinsurance accepted in respect of property or risk in
8 this State, and the denominator of which is the sum of
9 (iii) direct premiums written for insurance upon property
10 or risk everywhere, plus (iv) premiums written for
11 reinsurance accepted in respect of property or risk
12 everywhere. For taxable years ending before December 31,
13 2008, for purposes of this paragraph, premiums written for
14 reinsurance accepted in respect of property or risk in this
15 State, whether or not otherwise determinable, may, at the
16 election of the company, be determined on the basis of the
17 proportion which premiums written for reinsurance accepted
18 from companies commercially domiciled in Illinois bears to
19 premiums written for reinsurance accepted from all
20 sources, or, alternatively, in the proportion which the sum
21 of the direct premiums written for insurance upon property
22 or risk in this State by each ceding company from which
23 reinsurance is accepted bears to the sum of the total
24 direct premiums written by each such ceding company for the
25 taxable year.

26 (c) Financial organizations.

1 (1) In general. For taxable years ending before
2 December 31, 2008, business income of a financial
3 organization shall be apportioned to this State by
4 multiplying such income by a fraction, the numerator of
5 which is its business income from sources within this
6 State, and the denominator of which is its business income
7 from all sources. For the purposes of this subsection, the
8 business income of a financial organization from sources
9 within this State is the sum of the amounts referred to in
10 subparagraphs (A) through (E) following, but excluding the
11 adjusted income of an international banking facility as
12 determined in paragraph (2):

13 (A) Fees, commissions or other compensation for
14 financial services rendered within this State;

15 (B) Gross profits from trading in stocks, bonds or
16 other securities managed within this State;

17 (C) Dividends, and interest from Illinois
18 customers, which are received within this State;

19 (D) Interest charged to customers at places of
20 business maintained within this State for carrying
21 debit balances of margin accounts, without deduction
22 of any costs incurred in carrying such accounts; and

23 (E) Any other gross income resulting from the
24 operation as a financial organization within this
25 State. In computing the amounts referred to in
26 paragraphs (A) through (E) of this subsection, any

1 amount received by a member of an affiliated group
2 (determined under Section 1504(a) of the Internal
3 Revenue Code but without reference to whether any such
4 corporation is an "includible corporation" under
5 Section 1504(b) of the Internal Revenue Code) from
6 another member of such group shall be included only to
7 the extent such amount exceeds expenses of the
8 recipient directly related thereto.

9 (2) International Banking Facility. For taxable years
10 ending before December 31, 2008:

11 (A) Adjusted Income. The adjusted income of an
12 international banking facility is its income reduced
13 by the amount of the floor amount.

14 (B) Floor Amount. The floor amount shall be the
15 amount, if any, determined by multiplying the income of
16 the international banking facility by a fraction, not
17 greater than one, which is determined as follows:

18 (i) The numerator shall be:

19 The average aggregate, determined on a
20 quarterly basis, of the financial organization's
21 loans to banks in foreign countries, to foreign
22 domiciled borrowers (except where secured
23 primarily by real estate) and to foreign
24 governments and other foreign official
25 institutions, as reported for its branches,
26 agencies and offices within the state on its

1 "Consolidated Report of Condition", Schedule A,
2 Lines 2.c., 5.b., and 7.a., which was filed with
3 the Federal Deposit Insurance Corporation and
4 other regulatory authorities, for the year 1980,
5 minus

6 The average aggregate, determined on a
7 quarterly basis, of such loans (other than loans of
8 an international banking facility), as reported by
9 the financial institution for its branches,
10 agencies and offices within the state, on the
11 corresponding Schedule and lines of the
12 Consolidated Report of Condition for the current
13 taxable year, provided, however, that in no case
14 shall the amount determined in this clause (the
15 subtrahend) exceed the amount determined in the
16 preceding clause (the minuend); and

17 (ii) the denominator shall be the average
18 aggregate, determined on a quarterly basis, of the
19 international banking facility's loans to banks in
20 foreign countries, to foreign domiciled borrowers
21 (except where secured primarily by real estate)
22 and to foreign governments and other foreign
23 official institutions, which were recorded in its
24 financial accounts for the current taxable year.

25 (C) Change to Consolidated Report of Condition and
26 in Qualification. In the event the Consolidated Report

1 of Condition which is filed with the Federal Deposit
2 Insurance Corporation and other regulatory authorities
3 is altered so that the information required for
4 determining the floor amount is not found on Schedule
5 A, lines 2.c., 5.b. and 7.a., the financial institution
6 shall notify the Department and the Department may, by
7 regulations or otherwise, prescribe or authorize the
8 use of an alternative source for such information. The
9 financial institution shall also notify the Department
10 should its international banking facility fail to
11 qualify as such, in whole or in part, or should there
12 be any amendment or change to the Consolidated Report
13 of Condition, as originally filed, to the extent such
14 amendment or change alters the information used in
15 determining the floor amount.

16 (3) For taxable years ending on or after December 31,
17 2008, the business income of a financial organization shall
18 be apportioned to this State by multiplying such income by
19 a fraction, the numerator of which is its gross receipts
20 from sources in this State or otherwise attributable to
21 this State's marketplace and the denominator of which is
22 its gross receipts everywhere during the taxable year.
23 "Gross receipts" for purposes of this subparagraph (3)
24 means gross income, including net taxable gain on
25 disposition of assets, including securities and money
26 market instruments, when derived from transactions and

1 activities in the regular course of the financial
2 organization's trade or business. The following examples
3 are illustrative:

4 (i) Receipts from the lease or rental of real or
5 tangible personal property are in this State if the
6 property is located in this State during the rental
7 period. Receipts from the lease or rental of tangible
8 personal property that is characteristically moving
9 property, including, but not limited to, motor
10 vehicles, rolling stock, aircraft, vessels, or mobile
11 equipment are from sources in this State to the extent
12 that the property is used in this State.

13 (ii) Interest income, commissions, fees, gains on
14 disposition, and other receipts from assets in the
15 nature of loans that are secured primarily by real
16 estate or tangible personal property are from sources
17 in this State if the security is located in this State.

18 (iii) Interest income, commissions, fees, gains on
19 disposition, and other receipts from consumer loans
20 that are not secured by real or tangible personal
21 property are from sources in this State if the debtor
22 is a resident of this State.

23 (iv) Interest income, commissions, fees, gains on
24 disposition, and other receipts from commercial loans
25 and installment obligations that are not secured by
26 real or tangible personal property are from sources in

1 this State if the proceeds of the loan are to be
2 applied in this State. If it cannot be determined where
3 the funds are to be applied, the income and receipts
4 are from sources in this State if the office of the
5 borrower from which the loan was negotiated in the
6 regular course of business is located in this State. If
7 the location of this office cannot be determined, the
8 income and receipts shall be excluded from the
9 numerator and denominator of the sales factor.

10 (v) Interest income, fees, gains on disposition,
11 service charges, merchant discount income, and other
12 receipts from credit card receivables are from sources
13 in this State if the card charges are regularly billed
14 to a customer in this State.

15 (vi) Receipts from the performance of services,
16 including, but not limited to, fiduciary, advisory,
17 and brokerage services, are in this State if the
18 services are received in this State within the meaning
19 of subparagraph (a) (3) (C-5) (iv) of this Section.

20 (vii) Receipts from the issuance of travelers
21 checks and money orders are from sources in this State
22 if the checks and money orders are issued from a
23 location within this State.

24 (viii) Receipts from investment assets and
25 activities and trading assets and activities are
26 included in the receipts factor as follows:

1 (1) Interest, dividends, net gains (but not
2 less than zero) and other income from investment
3 assets and activities from trading assets and
4 activities shall be included in the receipts
5 factor. Investment assets and activities and
6 trading assets and activities include but are not
7 limited to: investment securities; trading account
8 assets; federal funds; securities purchased and
9 sold under agreements to resell or repurchase;
10 options; futures contracts; forward contracts;
11 notional principal contracts such as swaps;
12 equities; and foreign currency transactions. With
13 respect to the investment and trading assets and
14 activities described in subparagraphs (A) and (B)
15 of this paragraph, the receipts factor shall
16 include the amounts described in such
17 subparagraphs.

18 (A) The receipts factor shall include the
19 amount by which interest from federal funds
20 sold and securities purchased under resale
21 agreements exceeds interest expense on federal
22 funds purchased and securities sold under
23 repurchase agreements.

24 (B) The receipts factor shall include the
25 amount by which interest, dividends, gains and
26 other income from trading assets and

1 activities, including but not limited to
2 assets and activities in the matched book, in
3 the arbitrage book, and foreign currency
4 transactions, exceed amounts paid in lieu of
5 interest, amounts paid in lieu of dividends,
6 and losses from such assets and activities.

7 (2) The numerator of the receipts factor
8 includes interest, dividends, net gains (but not
9 less than zero), and other income from investment
10 assets and activities and from trading assets and
11 activities described in paragraph (1) of this
12 subsection that are attributable to this State.

13 (A) The amount of interest, dividends, net
14 gains (but not less than zero), and other
15 income from investment assets and activities
16 in the investment account to be attributed to
17 this State and included in the numerator is
18 determined by multiplying all such income from
19 such assets and activities by a fraction, the
20 numerator of which is the gross income from
21 such assets and activities which are properly
22 assigned to a fixed place of business of the
23 taxpayer within this State and the denominator
24 of which is the gross income from all such
25 assets and activities.

26 (B) The amount of interest from federal

1 funds sold and purchased and from securities
2 purchased under resale agreements and
3 securities sold under repurchase agreements
4 attributable to this State and included in the
5 numerator is determined by multiplying the
6 amount described in subparagraph (A) of
7 paragraph (1) of this subsection from such
8 funds and such securities by a fraction, the
9 numerator of which is the gross income from
10 such funds and such securities which are
11 properly assigned to a fixed place of business
12 of the taxpayer within this State and the
13 denominator of which is the gross income from
14 all such funds and such securities.

15 (C) The amount of interest, dividends,
16 gains, and other income from trading assets and
17 activities, including but not limited to
18 assets and activities in the matched book, in
19 the arbitrage book and foreign currency
20 transactions (but excluding amounts described
21 in subparagraphs (A) or (B) of this paragraph),
22 attributable to this State and included in the
23 numerator is determined by multiplying the
24 amount described in subparagraph (B) of
25 paragraph (1) of this subsection by a fraction,
26 the numerator of which is the gross income from

1 such trading assets and activities which are
2 properly assigned to a fixed place of business
3 of the taxpayer within this State and the
4 denominator of which is the gross income from
5 all such assets and activities.

6 (D) Properly assigned, for purposes of
7 this paragraph (2) of this subsection, means
8 the investment or trading asset or activity is
9 assigned to the fixed place of business with
10 which it has a preponderance of substantive
11 contacts. An investment or trading asset or
12 activity assigned by the taxpayer to a fixed
13 place of business without the State shall be
14 presumed to have been properly assigned if:

15 (i) the taxpayer has assigned, in the
16 regular course of its business, such asset
17 or activity on its records to a fixed place
18 of business consistent with federal or
19 state regulatory requirements;

20 (ii) such assignment on its records is
21 based upon substantive contacts of the
22 asset or activity to such fixed place of
23 business; and

24 (iii) the taxpayer uses such records
25 reflecting assignment of such assets or
26 activities for the filing of all state and

1 local tax returns for which an assignment
2 of such assets or activities to a fixed
3 place of business is required.

4 (E) The presumption of proper assignment
5 of an investment or trading asset or activity
6 provided in subparagraph (D) of paragraph (2)
7 of this subsection may be rebutted upon a
8 showing by the Department, supported by a
9 preponderance of the evidence, that the
10 preponderance of substantive contacts
11 regarding such asset or activity did not occur
12 at the fixed place of business to which it was
13 assigned on the taxpayer's records. If the
14 fixed place of business that has a
15 preponderance of substantive contacts cannot
16 be determined for an investment or trading
17 asset or activity to which the presumption in
18 subparagraph (D) of paragraph (2) of this
19 subsection does not apply or with respect to
20 which that presumption has been rebutted, that
21 asset or activity is properly assigned to the
22 state in which the taxpayer's commercial
23 domicile is located. For purposes of this
24 subparagraph (E), it shall be presumed,
25 subject to rebuttal, that taxpayer's
26 commercial domicile is in the state of the

1 United States or the District of Columbia to
2 which the greatest number of employees are
3 regularly connected with the management of the
4 investment or trading income or out of which
5 they are working, irrespective of where the
6 services of such employees are performed, as of
7 the last day of the taxable year.

8 (4) (Blank).

9 (5) (Blank).

10 (d) Transportation services. For taxable years ending
11 before December 31, 2008, business income derived from
12 furnishing transportation services shall be apportioned to
13 this State in accordance with paragraphs (1) and (2):

14 (1) Such business income (other than that derived from
15 transportation by pipeline) shall be apportioned to this
16 State by multiplying such income by a fraction, the
17 numerator of which is the revenue miles of the person in
18 this State, and the denominator of which is the revenue
19 miles of the person everywhere. For purposes of this
20 paragraph, a revenue mile is the transportation of 1
21 passenger or 1 net ton of freight the distance of 1 mile
22 for a consideration. Where a person is engaged in the
23 transportation of both passengers and freight, the
24 fraction above referred to shall be determined by means of
25 an average of the passenger revenue mile fraction and the
26 freight revenue mile fraction, weighted to reflect the

1 person's

2 (A) relative railway operating income from total
3 passenger and total freight service, as reported to the
4 Interstate Commerce Commission, in the case of
5 transportation by railroad, and

6 (B) relative gross receipts from passenger and
7 freight transportation, in case of transportation
8 other than by railroad.

9 (2) Such business income derived from transportation
10 by pipeline shall be apportioned to this State by
11 multiplying such income by a fraction, the numerator of
12 which is the revenue miles of the person in this State, and
13 the denominator of which is the revenue miles of the person
14 everywhere. For the purposes of this paragraph, a revenue
15 mile is the transportation by pipeline of 1 barrel of oil,
16 1,000 cubic feet of gas, or of any specified quantity of
17 any other substance, the distance of 1 mile for a
18 consideration.

19 (3) For taxable years ending on or after December 31,
20 2008, business income derived from providing
21 transportation services other than airline services shall
22 be apportioned to this State by using a fraction, (a) the
23 numerator of which shall be (i) all receipts from any
24 movement or shipment of people, goods, mail, oil, gas, or
25 any other substance (other than by airline) that both
26 originates and terminates in this State, plus (ii) that

1 portion of the person's gross receipts from movements or
2 shipments of people, goods, mail, oil, gas, or any other
3 substance (other than by airline) that originates in one
4 state or jurisdiction and terminates in another state or
5 jurisdiction, that is determined by the ratio that the
6 miles traveled in this State bears to total miles
7 everywhere and (b) the denominator of which shall be all
8 revenue derived from the movement or shipment of people,
9 goods, mail, oil, gas, or any other substance (other than
10 by airline). Where a taxpayer is engaged in the
11 transportation of both passengers and freight, the
12 fraction above referred to shall first be determined
13 separately for passenger miles and freight miles. Then an
14 average of the passenger miles fraction and the freight
15 miles fraction shall be weighted to reflect the taxpayer's:

16 (A) relative railway operating income from total
17 passenger and total freight service, as reported to the
18 Surface Transportation Board, in the case of
19 transportation by railroad; and

20 (B) relative gross receipts from passenger and
21 freight transportation, in case of transportation
22 other than by railroad.

23 (4) For taxable years ending on or after December 31,
24 2008, business income derived from furnishing airline
25 transportation services shall be apportioned to this State
26 by multiplying such income by a fraction, the numerator of

1 which is the revenue miles of the person in this State, and
2 the denominator of which is the revenue miles of the person
3 everywhere. For purposes of this paragraph, a revenue mile
4 is the transportation of one passenger or one net ton of
5 freight the distance of one mile for a consideration. If a
6 person is engaged in the transportation of both passengers
7 and freight, the fraction above referred to shall be
8 determined by means of an average of the passenger revenue
9 mile fraction and the freight revenue mile fraction,
10 weighted to reflect the person's relative gross receipts
11 from passenger and freight airline transportation.

12 (e) Combined apportionment. Where 2 or more persons are
13 engaged in a unitary business as described in subsection
14 (a)(27) of Section 1501, a part of which is conducted in this
15 State by one or more members of the group, the business income
16 attributable to this State by any such member or members shall
17 be apportioned by means of the combined apportionment method.

18 (f) Alternative allocation. If the allocation and
19 apportionment provisions of subsections (a) through (e) and of
20 subsection (h) do not fairly represent the extent of a person's
21 business activity in this State, the person may petition for,
22 or the Director may, without a petition, permit or require, in
23 respect of all or any part of the person's business activity,
24 if reasonable:

25 (1) Separate accounting;

26 (2) The exclusion of any one or more factors;

1 (3) The inclusion of one or more additional factors
2 which will fairly represent the person's business
3 activities in this State; or

4 (4) The employment of any other method to effectuate an
5 equitable allocation and apportionment of the person's
6 business income.

7 (g) Cross reference. For allocation of business income by
8 residents, see Section 301(a).

9 (h) For tax years ending on or after December 31, 1998, the
10 apportionment factor of persons who apportion their business
11 income to this State under subsection (a) shall be equal to:

12 (1) for tax years ending on or after December 31, 1998
13 and before December 31, 1999, $16 \frac{2}{3}\%$ of the property
14 factor plus $16 \frac{2}{3}\%$ of the payroll factor plus $66 \frac{2}{3}\%$ of
15 the sales factor;

16 (2) for tax years ending on or after December 31, 1999
17 and before December 31, 2000, $8 \frac{1}{3}\%$ of the property factor
18 plus $8 \frac{1}{3}\%$ of the payroll factor plus $83 \frac{1}{3}\%$ of the sales
19 factor;

20 (3) for tax years ending on or after December 31, 2000,
21 the sales factor.

22 If, in any tax year ending on or after December 31, 1998 and
23 before December 31, 2000, the denominator of the payroll,
24 property, or sales factor is zero, the apportionment factor
25 computed in paragraph (1) or (2) of this subsection for that
26 year shall be divided by an amount equal to 100% minus the

1 percentage weight given to each factor whose denominator is
2 equal to zero.

3 (Source: P.A. 94-247, eff. 1-1-06; 95-233, eff. 8-16-07;
4 95-707, eff. 1-11-08.)

5 Section 10. The Property Tax Code is amended by changing
6 Section 15-65 as follows:

7 (35 ILCS 200/15-65)

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

12 (a) Institutions of public charity.

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

21 (c) Old people's homes, facilities for persons with a
22 developmental disability, and not-for-profit organizations
23 providing services or facilities related to the goals of
24 educational, social and physical development, if, upon

1 making application for the exemption, the applicant
2 provides affirmative evidence that the home or facility or
3 organization is an exempt organization under paragraph (3)
4 of Section 501(c) of the Internal Revenue Code or its
5 successor, and either: (i) the bylaws of the home or
6 facility or not-for-profit organization provide for a
7 waiver or reduction, based on an individual's ability to
8 pay, of any entrance fee, assignment of assets, or fee for
9 services, or (ii) the home or facility is qualified, built
10 or financed under Section 202 of the National Housing Act
11 of 1959, as amended.

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

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

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

14 (e) All free public libraries.

15 (f) Historical societies.

16 Property otherwise qualifying for an exemption under this
17 Section shall not lose its exemption because the legal title is
18 held (i) by an entity that is organized solely to hold that
19 title and that qualifies under paragraph (2) of Section 501(c)
20 of the Internal Revenue Code or its successor, whether or not
21 that entity receives rent from the charitable organization for
22 the repair and maintenance of the property, (ii) by an entity
23 that is organized as a partnership or limited liability
24 company, in which the charitable organization, or an affiliate
25 or subsidiary of the charitable organization, is a general
26 partner of the partnership or managing member of the limited

1 liability company, for the purposes of owning and operating a
2 residential rental property that has received an allocation of
3 Low Income Housing Tax Credits for 100% of the dwelling units
4 under Section 42 of the Internal Revenue Code of 1986, as
5 amended, or (iii) for any assessment year including and
6 subsequent to January 1, 1996 for which an application for
7 exemption has been filed and a decision on which has not become
8 final and nonappealable, by a limited liability company
9 organized under the Limited Liability Company Act provided that
10 ~~(A) the limited liability company receives a notification from~~
11 ~~the Internal Revenue Service that it qualifies under paragraph~~
12 ~~(2) or (3) of Section 501(c) of the Internal Revenue Code; (B)~~
13 the limited liability company's sole member or members, as that
14 term is used in Section 1-5 of the Limited Liability Company
15 Act, are the institutions of public charity that actually and
16 exclusively use the property for charitable and beneficent
17 purposes; (B) the limited liability company is a disregarded
18 entity for federal and Illinois income tax purposes and, as a
19 result, the limited liability company is deemed exempt from
20 income tax liability by virtue of the Internal Revenue Code
21 Section 501(c)(3) status of its sole member or members; and (C)
22 the limited liability company does not lease the property or
23 otherwise use it with a view to profit.

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".