



Rep. Barbara Flynn Currie

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1 AMENDMENT TO SENATE BILL 2194

2 AMENDMENT NO. _____. Amend Senate Bill 2194, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "ARTICLE 1. CIGARETTE MACHINE OPERATORS' OCCUPATION TAX ACT

6 Section 1-1. Short title. This Act may be cited as the
7 Cigarette Machine Operators' Occupation Tax Act.

8 Section 1-5. Definitions. As used in this Act:

9 "Business" means any trade, occupation, activity or
10 enterprise engaged in for the purpose of selling cigarettes in
11 this State.

12 "Cigarette" means any roll for smoking made wholly or in
13 part of tobacco, irrespective of size or shape and whether or
14 not such tobacco is flavored, adulterated or mixed with any
15 other ingredient, and the wrapper or cover of which is made of

1 paper or any other substance or material except tobacco.

2 "Cigarette machine" means any machine, equipment or device
3 used to make or fabricate cigarettes.

4 "Cigarette machine" shall not include a handheld manually
5 operated device used by consumers to make roll-your-own
6 cigarettes for personal consumption.

7 "Cigarette machine operator" means any person who is
8 engaged in the business of operating a cigarette machine in
9 this State and is licensed by the Department as a cigarette
10 machine operator under Section 1-15 of this Act.

11 "Contraband cigarettes" means:

12 (1) cigarettes for which any required federal taxes
13 have not been paid;

14 (2) cigarettes that do not meet the requirements of
15 this Act;

16 (3) cigarettes that are made or fabricated by a person
17 holding a cigarette machine operator license under Section
18 1-15 of this Act and that are in the possession of
19 manufacturers, distributors, secondary distributors,
20 manufacturer representatives, or retailers, all as defined
21 by the Cigarette Tax Act, for the purpose of resale;

22 (4) cigarettes that are in the possession of a
23 cigarette machine operator and that are made or fabricated
24 with cigarette tubes that do not meet the requirements of
25 Section 1-30 of this Act;

26 (5) cigarettes that are in the possession of an

1 individual and that are made or fabricated with cigarette
2 tubes that do not meet the requirements of Section 1-30 of
3 this Act, unless the cigarettes were made or fabricated by
4 an individual for the individual's own use and consumption
5 without the aid or use of a cigarette machine in the
6 possession of a cigarette machine operator holding a
7 license under Section 1-15 of this Act; or

8 (6) cigarettes that (i) are made or fabricated by a
9 person holding a cigarette machine operator license under
10 Section 1-15 of this Act, (ii) are in the possession of a
11 person, and (iii) contain tobacco of a brand family and
12 manufacturer that are not identified on the State of
13 Illinois Directory of Participating Manufacturers or the
14 Illinois Directory of Compliant Non-Participating
15 Manufacturers maintained by the Office of the Attorney
16 General.

17 "Department" means the Department of Revenue.

18 "Operate or operating a cigarette machine" means to possess
19 a cigarette machine for the purpose of engaging in the business
20 of making the cigarette machine available to individuals who
21 use the cigarette machine to make or fabricate cigarettes for
22 their own use or consumption, and not for resale. For purposes
23 of this Act, the cigarette machine is operated by the person
24 possessing the cigarette machine. For purposes of this Act,
25 cigarettes made or fabricated by the use of a cigarette machine
26 in the possession of a cigarette machine operator holding a

1 license under Section 1-15 of this Act are considered to be
2 made or fabricated by the person holding the cigarette machine
3 operator license and not the individual.

4 "Original package" means the individual packet, box, or
5 other container used to contain and convey cigarettes to the
6 consumer.

7 "Person" means any natural individual, firm, partnership,
8 association, joint stock company, joint adventure, public or
9 private corporation, however formed, limited liability
10 company, or a receiver, executor, administrator, trustee,
11 guardian, or other representative appointed by order of any
12 court.

13 "Place of business" means any place where cigarettes are
14 made or fabricated by a cigarette machine operator holding a
15 license under Section 1-15 of this Act.

16 "Possess or possessing a cigarette machine" means to own,
17 lease, rent or have on one's premises a cigarette machine for
18 the purpose of engaging in the business of making the cigarette
19 machine available to individuals who use the cigarette machine
20 to make or fabricate cigarettes for their own use or
21 consumption, and not for resale.

22 "Prior continuous compliance taxpayer" means any person
23 who is licensed under this Act and who, having been a licensee
24 for a continuous period of 5 years, is determined by the
25 Department not to have been either delinquent or deficient in
26 the payment of tax liability during that period or otherwise in

1 violation of this Act. "Prior continuous compliance taxpayer"
2 also means any taxpayer who has, as verified by the Department,
3 continuously complied with the condition of his bond or other
4 security under provisions of this Act for a period of 5
5 consecutive years.

6 "Retailer" means any person who engages in the making of
7 transfers of the ownership of, or title to, tobacco or
8 cigarettes to a purchaser for use or consumption and not for
9 resale in any form, for a valuable consideration.

10 "Sale" means any transfer, exchange, or barter in any
11 manner or by any means whatsoever for a consideration, and
12 includes and means all sales made by any person.

13 Section 1-10. Tax imposed.

14 (a) Beginning August 1, 2012, a tax is imposed upon all
15 persons engaged in the business of operating a cigarette
16 machine. The tax is imposed at the rate of 99 mills per
17 cigarette made or fabricated by a cigarette machine possessed
18 by a cigarette machine operator.

19 (b) If, after July 1, 2012, the General Assembly increases
20 the rate of tax imposed under Section 2 of the Cigarette Tax
21 Act, then the tax imposed under subsection (a) of this Section
22 shall be increased by the same amount beginning on the
23 effective date of the Cigarette Tax increase, but not earlier
24 than August 1, 2012.

25 (c) The tax herein imposed shall be in addition to all

1 other occupation or privilege taxes imposed by the State of
2 Illinois or by any municipal corporation or political
3 subdivision thereof.

4 (d) Persons subject to the tax imposed by this Act may
5 reimburse themselves for their tax liability under this Act by
6 separately stating such tax, less any credit the machine
7 operator claims under subsection (b) of Section 1-40 of this
8 Act on tobacco sold to and used by users of a cigarette machine
9 to make or fabricate cigarettes, as an additional charge to
10 users of cigarette machines.

11 (e) If any cigarette machine operator collects an amount
12 (however designated) which purports to reimburse such operator
13 for his or her cigarette machine operators' occupation tax
14 liability under this Act with respect to cigarettes that are
15 not subject to cigarette machine operators' occupation tax
16 under this Act, or if any cigarette machine operator, in
17 collecting an amount (however designated) which purports to
18 reimburse such operator for his or her cigarette machine
19 operators' occupation tax liability measured by cigarettes
20 made or fabricated by a cigarette machine that are subject to
21 tax under this Act, collects more from the customer than the
22 cigarette machine operators' cigarette machine operators'
23 occupation tax liability in the transaction, the customer shall
24 have a legal right to claim a refund of that amount from the
25 cigarette machine operator. However, if such amount is not
26 refunded to the customer for any reason, the cigarette machine

1 operator is liable to pay such amount to the Department.

2 Section 1-15. Cigarette machine operator license. No
3 person may engage in the business of operating a cigarette
4 machine in this State on or after August 1, 2012 without first
5 having obtained a license from the Department. Application for
6 a license shall be made to the Department on a form furnished
7 and prescribed by the Department. Each applicant for a license
8 under this Section shall furnish the following information to
9 the Department on a form signed and verified by the applicant
10 under penalty of perjury:

11 (1) the name and address of the applicant;

12 (2) the address of the location at which the applicant
13 proposes to engage in the business of operating a cigarette
14 machine in this State; and

15 (3) any other additional information the Department
16 may reasonably require.

17 The annual license fee payable to the Department for each
18 cigarette machine operator license is \$250. Each applicant for
19 a license shall pay that fee to the Department at the time of
20 submitting an application for license to the Department.

21 Every applicant who is required to procure a cigarette
22 machine operator license shall file with his or her application
23 a joint and several bond. Such bond shall be executed to the
24 Department of Revenue, with good and sufficient surety or
25 sureties residing or licensed to do business within the State

1 of Illinois, in the amount of \$2,500, conditioned upon the true
2 and faithful compliance by the licensee with all of the
3 provisions of this Act. Such bond, or a reissue thereof, or a
4 substitute therefore, shall be kept in effect during the entire
5 period covered by the license. A separate application for
6 license shall be made, a separate annual license fee paid, and
7 a separate bond filed, for each place of business at which a
8 person who is required to procure a cigarette machine operator
9 license under this Section proposes to engage in business as a
10 cigarette machine operator in Illinois under this Act.

11 The following are ineligible to receive a cigarette machine
12 operator license under this Act:

13 (1) a person who is not of good character and
14 reputation in the community in which he resides;

15 (2) a person who has been convicted of a felony under
16 any federal or State law, if the Department, after
17 investigation and a hearing, if requested by the applicant,
18 determines that such person has not been sufficiently
19 rehabilitated to warrant the public trust;

20 (3) a corporation, if any officer, manager, or director
21 thereof, or any stockholder or stockholders owning in the
22 aggregate more than 5% of the stock of such corporation,
23 would not be eligible to receive a license under this Act
24 for any reason; or

25 (4) a person, or any person who owns more than 15% of
26 the ownership interests in an entity or a related party,

1 who:

2 (A) owes, at the time of application, any
3 delinquent cigarette taxes or tobacco taxes that have
4 been determined by law to be due and unpaid, unless the
5 license applicant has entered into an agreement
6 approved by the Department to pay the amount due;

7 (B) has had a license under this Act, the Cigarette
8 Tax Act, the Cigarette Use Tax Act, or the Tobacco
9 Products Tax Act of 1995 revoked within the past 2
10 years by the Department for misconduct relating to
11 stolen or contraband cigarettes or has been convicted
12 of a State or federal crime, punishable by imprisonment
13 of one year or more, relating to stolen or contraband
14 cigarettes;

15 (C) has been found by the Department, after notice
16 and a hearing, to have imported or caused to be
17 imported into the United States for sale or
18 distribution any cigarette in violation of 19 U.S.C.
19 1681a;

20 (D) has been found by the Department, after notice
21 and a hearing, to have imported or caused to be
22 imported into the United States for sale or
23 distribution, or manufactured for sale or distribution
24 in the United States, any cigarette that does not fully
25 comply with the Federal Cigarette Labeling and
26 Advertising Act (15 U.S.C. 1331, et seq.); or

1 (E) has been found by the Department, after notice
2 and a hearing, to have made a material false statement
3 in the application or has failed to produce records
4 required to be maintained by this Act.

5 The Department, upon receipt of an application, license
6 fee, and bond in proper form from a person who is eligible to
7 receive a cigarette machine operator license under this Act,
8 shall issue to such applicant a license in a form as prescribed
9 by the Department. That license shall permit the applicant to
10 whom it is issued to engage in business as a cigarette machine
11 operator at the place shown in his or her application. All
12 licenses issued by the Department under this Section shall be
13 valid for a period not to exceed one year after issuance unless
14 sooner revoked, canceled, or suspended as provided in this Act.
15 No license issued under this Section is transferable or
16 assignable. Such license shall be conspicuously displayed in
17 the place of business conducted by the licensee in Illinois
18 under such license. No cigarette machine operator acquires any
19 vested interest or compensable property right in a license
20 issued under this Act.

21 A cigarette machine operator shall notify the Department of
22 any change in the information contained on the application
23 form, including any change in ownership, and shall do so within
24 30 days after that change.

25 Every prior continuous compliance taxpayer shall be exempt
26 from all requirements under this Section concerning the

1 furnishing of bond as a condition precedent to his being
2 authorized to engage in the business licensed under this Act.
3 This exemption shall continue for each prior continuous
4 compliance taxpayer until such time as he may be determined by
5 the Department to be delinquent in the filing of any returns,
6 or is determined by the Department (either through the
7 Department's issuance of a final assessment which has become
8 final under the Act, or by the taxpayer's filing of a return
9 which admits tax to be due that is not paid) to be delinquent
10 or deficient in the paying of any tax under this Act, at which
11 time that taxpayer shall become subject to the bond
12 requirements of this Section and, as a condition of being
13 allowed to continue to engage in the business licensed under
14 this Act, shall be required to furnish bond to the Department
15 in such form as provided in this Section. The taxpayer shall
16 furnish such bond for a period of 2 years, after which, if the
17 taxpayer has not been delinquent in the filing of any returns,
18 or delinquent or deficient in the paying of any tax under this
19 Act, the Department may reinstate that person as a prior
20 continuance compliance taxpayer. Any taxpayer who fails to pay
21 an admitted or established liability under this Act may also be
22 required by the Department to post bond or other acceptable
23 security with the Department guaranteeing the payment of that
24 admitted or established liability.

25 The Department shall discharge any surety and shall release
26 and return any bond or security deposited, assigned, pledged,

1 or otherwise provided to it by a taxpayer under this Section
2 within 30 days after:

3 (1) that taxpayer becomes a prior continuous
4 compliance taxpayer; or

5 (2) that taxpayer has ceased to collect receipts on
6 which he is required to remit tax to the Department, has
7 filed a final tax return, and has paid to the Department an
8 amount sufficient to discharge his remaining tax liability
9 as determined by the Department under this Act. The
10 Department shall make a final determination of the
11 taxpayer's outstanding tax liability as expeditiously as
12 possible after his final tax return has been filed. If the
13 Department cannot make the final determination within 45
14 days after receiving the final tax return, it shall so
15 notify the taxpayer within that period, stating its reasons
16 therefore.

17 Any person aggrieved by any decision of the Department
18 under this Section may, within 20 days after receiving notice
19 of the decision, protest and request a hearing. Upon receiving
20 a written request for a hearing, the Department shall give
21 notice to the person requesting the hearing of the time and
22 place fixed for the hearing and shall hold a hearing in
23 conformity with the provisions of this Act and then issue its
24 final administrative decision in the matter to that person. In
25 the absence of a protest and request for a hearing within 20
26 days, the Department's decision shall become final without any

1 further determination being made or notice given.

2 Section 1-20. Revocation, cancellation, or suspension of
3 license. The Department may, after notice and hearing as
4 provided for by this Act, revoke, cancel, or suspend the
5 license of any cigarette machine operator for the violation of
6 any provision of this Act, or for noncompliance with the
7 provisions of this Act, or for any noncompliance with any
8 lawful rule or regulation promulgated by the Department under
9 this Act, or because the licensee is determined to be
10 ineligible for a cigarette machine operator's license for any
11 one or more of the reasons provided for in Section 1-15 of this
12 Act.

13 Any cigarette machine operator aggrieved by any decision of
14 the Department under this Section may, within 20 days after
15 notice of the decision, protest and request a hearing. Upon
16 receiving a written request for a hearing, the Department shall
17 give notice in writing to the cigarette machine operator
18 requesting the hearing that contains a statement of the charges
19 preferred against the cigarette machine operator and that
20 states the time and place fixed for the hearing. The Department
21 shall hold the hearing in conformity with the provisions of
22 this Act and then issue its final administrative decision in
23 the matter to the cigarette machine operator. In the absence of
24 a written protest and request for a hearing within 20 days, the
25 Department's decision shall become final without any further

1 determination being made or notice given.

2 No license so revoked shall be reissued to any cigarette
3 machine operator for a period of 6 months after the date of the
4 final determination of such revocation. No license shall be
5 reissued at all so long as the person who would receive the
6 license is ineligible to receive a cigarette machine operator's
7 license under this Act for any one or more of the reasons
8 provided for in Section 1-15 of this Act.

9 The Department, upon complaint filed in the circuit court,
10 may, by injunction, restrain any person who fails or refuses to
11 comply with any of the provisions of this Act from acting as a
12 cigarette machine operator in this State.

13 Section 1-25. Restriction on tobacco used in cigarette
14 machines.

15 (a) Only roll-your-own tobacco products of a brand family
16 and manufacturer identified on the State of Illinois Directory
17 of Participating Manufacturers or the Illinois Directory of
18 Compliant Non-Participating Manufacturers maintained by the
19 Office of the Attorney General may be sold by cigarette machine
20 operators to customers for use in cigarette machines possessed
21 by the cigarette machine operator.

22 (b) Only roll-your-own tobacco products meeting the
23 requirements of subsection (a) and purchased at the place of
24 business of the cigarette machine operator may be used in a
25 cigarette machine at that location.

1 Section 1-30. Cigarette tubes used in cigarette machines.

2 (a) All cigarette tubes used in cigarette machines in the
3 possession of cigarette machine operators licensed under
4 Section 1-15 of this Act shall be constructed of paper of a
5 type determined by the Attorney General, pursuant to rules
6 promulgated by the Attorney General under the provisions of the
7 Administrative Procedure Act, to reduce the likely ignition
8 propensity of cigarettes made by those tubes.

9 (b) A cigarette machine operator is not required to comply
10 with subsection (a) of this Section until the Attorney General
11 has promulgated rules implementing subsection (a) and the rules
12 have become effective. The effective date for such rules shall
13 be no earlier than January 1, 2014.

14 Section 1-35. Cigarette machine operators; sale of
15 cigarettes.

16 (a) The cigarette machine operator is responsible for
17 complying with all State and federal laws and regulations
18 regarding packaging and labeling of original packages of
19 cigarettes.

20 (b) A person possessing a cigarette machine operator
21 license may not purchase unstamped cigarettes from an in-State
22 or out-of-State manufacturer or distributor of cigarettes.

23 (c) Cigarettes made or fabricated by a cigarette machine
24 may not be sold or distributed to, or possessed by,

1 manufacturers, distributors, secondary distributors,
2 manufacturer representatives, or retailers, except the
3 cigarette machine operator.

4 (d) A cigarette machine possessed by a cigarette machine
5 operator shall have a secure meter that counts the number of
6 cigarettes made or fabricated by the cigarette machine and that
7 cannot be accessed, altered, or reset by the machine operator,
8 except for the sole purpose of taking meter readings.

9 Section 1-40. Returns.

10 (a) Cigarette machine operators shall file a return and
11 remit the tax imposed by Section 1-10 by the 15th day of each
12 month covering the preceding calendar month. Each such return
13 shall show: the quantity of cigarettes made or fabricated
14 during the period covered by the return; the beginning and
15 ending meter reading for each cigarette machine for the period
16 covered by the return; the quantity of such cigarettes sold or
17 otherwise disposed of during the period covered by the return;
18 the brand family and manufacturer and quantity of tobacco
19 products used to make or fabricate cigarettes by use of a
20 cigarette machine; the license number of each distributor from
21 whom tobacco products are purchased; the type and quantity of
22 cigarette tubes purchased for use in a cigarette machine; the
23 type and quantity of cigarette tubes used in a cigarette
24 machine; and such other information as the Department may
25 require. Such returns shall be filed on forms prescribed and

1 furnished by the Department. The Department may promulgate
2 rules to require that the cigarette machine operator's return
3 be accompanied by appropriate computer-generated magnetic
4 media supporting schedule data in the format required by the
5 Department, unless, as provided by rule, the Department grants
6 an exception upon petition of a cigarette machine operator.

7 Cigarette machine operators shall send a copy of those
8 returns, together with supporting schedule data, to the
9 Attorney General's Office by the 15th day of each month for the
10 period covering the preceding calendar month.

11 (b) Cigarette machine operators may take a credit against
12 any tax due under Section 1-10 of this Act for taxes imposed
13 and paid under the Tobacco Products Tax Act of 1995 on tobacco
14 products sold to a customer and used in a rolling machine
15 located at the cigarette machine operator's place of business.
16 To be eligible for such credit, the tobacco product must meet
17 the requirements of subsection (a) of Section 1-25 of this Act.
18 This subsection (b) is exempt from the provisions of Section
19 1-155 of this Act.

20 Section 1-45. Examination and correction of returns.

21 (a) As soon as practicable after any return is filed, the
22 Department shall examine that return and shall correct the
23 return according to its best judgment and information, which
24 return so corrected by the Department shall be prima facie
25 correct and shall be prima facie evidence of the correctness of

1 the amount of tax due, as shown on the corrected return.
2 Instead of requiring the cigarette machine operator to file an
3 amended return, the Department may simply notify the cigarette
4 machine operator of the correction or corrections it has made.
5 Proof of the correction by the Department may be made at any
6 hearing before the Department or in any legal proceeding by a
7 reproduced copy of the Department's record relating thereto in
8 the name of the Department under the certificate of the
9 Director of Revenue. Such reproduced copy shall, without
10 further proof, be admitted into evidence before the Department
11 or in any legal proceeding and shall be prima facie proof of
12 the correctness of the amount of tax due, as shown on the
13 reproduced copy. If the Department finds that any amount of tax
14 is due from the cigarette machine operator, the Department
15 shall issue the cigarette machine operator a notice of tax
16 liability for the amount of tax claimed by the Department to be
17 due, together with a penalty in an amount determined in
18 accordance with Sections 3-3, 3-5 and 3-6 of the Uniform
19 Penalty and Interest Act. If, in administering the provisions
20 of this Act, comparison of a return or returns of a cigarette
21 machine operator with the books, records, and inventories of
22 such cigarette machine operator discloses a deficiency that
23 cannot be allocated by the Department to a particular month or
24 months, the Department shall issue the cigarette machine
25 operator a notice of tax liability for the amount of tax
26 claimed by the Department to be due for a given period, but

1 without any obligation upon the Department to allocate that
2 deficiency to any particular month or months, together with a
3 penalty in an amount determined in accordance with Sections
4 3-3, 3-5, and 3-6 of the Uniform Penalty and Interest Act,
5 under which circumstances the aforesaid notice of tax liability
6 shall be prima facie correct and shall be prima facie evidence
7 of the correctness of the amount of tax due, as shown therein;
8 and proof of such correctness may be made in accordance with,
9 and the admissibility of a reproduced copy of such notice of
10 tax liability shall be governed by, all the provisions of this
11 Act applicable to corrected returns. If any cigarette machine
12 operator filing any return dies or becomes a person under legal
13 disability at any time before the Department issues its notice
14 of tax liability, such notice shall be issued to the
15 administrator, executor, or other legal representative of the
16 cigarette machine operator.

17 (b) If, within 60 days after such notice of tax liability,
18 the cigarette machine operator or his or her legal
19 representative files a written protest to such notice of tax
20 liability and requests a hearing thereon, the Department shall
21 give notice to such cigarette machine operator or legal
22 representative of the time and place fixed for such hearing,
23 and shall hold a hearing in conformity with the provisions of
24 this Act, and pursuant thereto shall issue a final assessment
25 to such cigarette machine operator or legal representative for
26 the amount found to be due as a result of such hearing. If a

1 written protest to the notice of tax liability and a request
2 for a hearing thereon is not filed within 60 days after such
3 notice of tax liability, such notice of tax liability shall
4 become final without the necessity of a final assessment being
5 issued and shall be deemed to be a final assessment.

6 (c) In case of failure to pay the tax, or any portion
7 thereof, or any penalty provided for in this Act, when due, the
8 Department may bring suit to recover the amount of such tax, or
9 portion thereof, or penalty; or, if the taxpayer dies or
10 becomes incompetent, by filing claim therefore against his or
11 her estate; provided that no such action with respect to any
12 tax, or portion thereof, or penalty, shall be instituted more
13 than 2 years after the cause of action accrues, except with the
14 consent of the person from whom such tax or penalty is due.

15 After the expiration of the period within which the person
16 assessed may file an action for judicial review under the
17 Administrative Review Law without such an action being filed, a
18 certified copy of the final assessment or revised final
19 assessment of the Department may be filed with the circuit
20 court of the county in which the taxpayer has his or her
21 principal place of business, or of Sangamon County in those
22 cases in which the taxpayer does not have his or her principal
23 place of business in this State. The certified copy of the
24 final assessment or revised final assessment shall be
25 accompanied by a certification which recites facts that are
26 sufficient to show that the Department complied with the

1 jurisdictional requirements of the law in arriving at its final
2 assessment or its revised final assessment and that the
3 taxpayer had his or her opportunity for an administrative
4 hearing and for judicial review, whether he or she availed
5 himself or herself of either or both of these opportunities or
6 not. If the court is satisfied that the Department complied
7 with the jurisdictional requirements of the law in arriving at
8 its final assessment or its revised final assessment and that
9 the taxpayer had his or her opportunity for an administrative
10 hearing and for judicial review, whether he or she availed
11 himself or herself of either or both of these opportunities or
12 not, the court shall enter judgment in favor of the Department
13 and against the taxpayer for the amount shown to be due by the
14 final assessment or the revised final assessment, and such
15 judgment shall be filed of record in the court. Such judgment
16 shall bear the rate of interest set in the Uniform Penalty and
17 Interest Act, but otherwise shall have the same effect as other
18 judgments. The judgment may be enforced, and all laws
19 applicable to sales for the enforcement of a judgment shall be
20 applicable to sales made under such judgments. The Department
21 shall file the certified copy of its assessment, as herein
22 provided, with the circuit court within 2 years after such
23 assessment becomes final except when the taxpayer consents in
24 writing to an extension of such filing period.

25 If, when the cause of action for a proceeding in court
26 accrues against a person, he or she is out of the State, the

1 action may be commenced within the times herein limited, after
2 his or her coming into or returning to the State; and if, after
3 the cause of action accrues, he or she departs from and remains
4 out of the State, the time of his or her absence is no part of
5 the time limited for the commencement of the action; but the
6 foregoing provisions concerning absence from the State shall
7 not apply to any case in which, at the time the cause of action
8 accrues, the party against whom the cause of action accrues is
9 not a resident of this State. The time within which a court
10 action is to be commenced by the Department hereunder shall not
11 run while the taxpayer is a debtor in any proceeding under the
12 federal Bankruptcy Code nor thereafter until 90 days after the
13 Department is notified by such debtor of being discharged in
14 bankruptcy.

15 No claim shall be filed against the estate of any deceased
16 person or a person under legal disability for any tax or
17 penalty or part of either except in the manner prescribed and
18 within the time limited by the Probate Act of 1975.

19 The remedies provided for herein shall not be exclusive,
20 but all remedies available to creditors for the collection of
21 debts shall be available for the collection of any tax or
22 penalty due hereunder.

23 The collection of tax or penalty by any means provided for
24 herein shall not be a bar to any prosecution under this Act.

25 The certificate of the Director of the Department to the
26 effect that a tax or amount required to be paid by this Act has

1 not been paid, that a return has not been filed, or that
2 information has not been supplied pursuant to the provisions of
3 this Act, shall be prima facie evidence thereof.

4 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
5 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
6 not inconsistent with this Act, shall apply, as far as
7 practicable, to the subject matter of this Act to the same
8 extent as if such provisions were included herein. References
9 in such incorporated Sections of the Retailers' Occupation Tax
10 Act to retailers, to sellers, or to persons engaged in the
11 business of selling tangible personal property shall mean
12 cigarette machine operator when used in this Act.

13 Section 1-50. Failure to file return or pay tax; penalty;
14 protest.

15 In case any person who is required to file a return under
16 this Act fails to file a return, or files a return and fails to
17 remit the correct amount of tax, the Department shall determine
18 the amount of tax due from him according to its best judgment
19 and information, which amount so fixed by the Department shall
20 be prima facie correct and shall be prima facie evidence of the
21 correctness of the amount of tax due, as shown in such
22 determination. Proof of such determination by the Department
23 may be made at any hearing before the Department or in any
24 legal proceeding by a reproduced copy of the Department's
25 record relating thereto in the name of the Department under the

1 certificate of the Director of Revenue. Such reproduced copy
2 shall, without further proof, be admitted into evidence before
3 the Department or in any legal proceeding and shall be prima
4 facie proof of the correctness of the amount of tax due, as
5 shown therein. The Department shall issue such person a notice
6 of tax liability for the amount of tax claimed by the
7 Department to be due, together with a penalty in an amount
8 determined in accordance with Sections 3-3, 3-5 and 3-6 of the
9 Uniform Penalty and Interest Act. If such person or the legal
10 representative of such person, within 60 days after such
11 notice, files a written protest to such notice of tax liability
12 and requests a hearing thereon, the Department shall give
13 notice to such person or the legal representative of such
14 person of the time and place fixed for such hearing and shall
15 hold a hearing in conformity with the provisions of this Act,
16 and pursuant thereto shall issue a final assessment to such
17 person or to the legal representative of such person for the
18 amount found to be due as a result of such hearing. If a
19 written protest to the notice of tax liability and a request
20 for a hearing thereon is not filed within 60 days after such
21 notice of tax liability, such notice of tax liability shall
22 become final without the necessity of a final assessment being
23 issued and shall be deemed to be a final assessment.

24 Section 1-55. Claims; credit memorandum or refunds. If it
25 appears, after claim is filed with the Department, that an

1 amount of tax or penalty has been paid which was not due under
2 this Act, whether as the result of a mistake of fact or an
3 error of law, except as hereinafter provided, then the
4 Department shall issue a credit memorandum or refund to the
5 person who made the erroneous payment or, if that person has
6 died or become a person under legal disability, to his or her
7 legal representative.

8 If it is determined that the Department should issue a
9 credit or refund under this Act, the Department may first apply
10 the amount thereof against any amount of tax or penalty due
11 under this Act, the Cigarette Tax Act, the Cigarette Use Tax
12 Act, or the Tobacco Products Act of 1995 from the person
13 entitled to that credit or refund. For this purpose, if
14 proceedings are pending to determine whether or not any tax or
15 penalty is due under this Act or under the Cigarette Tax Act,
16 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
17 the person, the Department may withhold issuance of the credit
18 or refund pending the final disposition of such proceedings and
19 may apply such credit or refund against any amount found to be
20 due to the Department under this Act, the Cigarette Tax Act,
21 the Cigarette Use Tax Act, or the Tobacco Products Act of 1995
22 as a result of such proceedings. The balance, if any, of the
23 credit or refund shall be issued to the person entitled
24 thereto.

25 If no tax or penalty is due and no proceeding is pending to
26 determine whether such taxpayer is indebted to the Department

1 for the payment of a tax or penalty, the credit memorandum or
2 refund shall be issued to the claimant; or (in the case of a
3 credit memorandum) the credit memorandum may be assigned and
4 set over by the lawful holder thereof, subject to reasonable
5 rules of the Department, to any other person who is subject to
6 this Act, the Cigarette Tax Act, the Cigarette Use Tax Act, or
7 the Tobacco Products Act of 1995, and the amount thereof shall
8 be applied by the Department against any tax or penalty due or
9 to become due under this Act, the Cigarette Tax Act, the
10 Cigarette Use Tax Act, or the Tobacco Products Act of 1995 from
11 such assignee.

12 As to any claim filed hereunder with the Department on and
13 after each January 1 and July 1, no amount of tax or penalty
14 erroneously paid (either in total or partial liquidation of a
15 tax or penalty under this Act) more than 3 years prior to such
16 January 1 and July 1, respectively, shall be credited or
17 refunded, except that, if both the Department and the taxpayer
18 have agreed to an extension of time to issue a notice of tax
19 liability under this Act, the claim may be filed at any time
20 prior to the expiration of the period agreed upon.

21 Any credit or refund that is allowed under this Act shall
22 bear interest at the rate and in the manner set forth in the
23 Uniform Penalty and Interest Act.

24 In case the Department determines that the claimant is
25 entitled to a refund, such refund shall be made only from
26 appropriations available for that purpose. If it appears

1 unlikely that the amount appropriated would permit everyone
2 having a claim allowed during the period covered by such
3 appropriation to elect to receive a cash refund, the
4 Department, by rule or regulation, shall provide for the
5 payment of refunds in hardship cases and shall define what
6 types of cases qualify as hardship cases.

7 The provisions of Sections 6a, 6b, and 6c of the Retailers'
8 Occupation Tax Act which are not inconsistent with this Act
9 shall apply, as far as practicable, to the subject matter of
10 this Act to the same extent as if such provisions were included
11 herein.

12 Section 1-60. Investigations and hearings. The Department,
13 or any officer or employee designated in writing by the
14 Director thereof, for the purpose of administering and
15 enforcing the provisions of this Act, may hold investigations
16 and hearings concerning any matters covered by this Act, and
17 may examine books, papers, records, or memoranda bearing upon
18 the sale or other disposition of cigarettes or tobacco products
19 by a cigarette machine operator, and may issue subpoenas
20 requiring the attendance of a cigarette machine operator, or
21 any officer or employee of a cigarette machine operator, or any
22 person having knowledge of the facts, and may take testimony
23 and require proof, and may issue subpoenas duces tecum to
24 compel the production of relevant books, papers, records, and
25 memoranda, for the information of the Department.

1 In the conduct of any investigation or hearing provided for
2 by this Act, neither the Department, nor any officer or
3 employee thereof, shall be bound by the technical rules of
4 evidence, and no informality in the proceedings nor in the
5 manner of taking testimony shall invalidate any rule, order,
6 decision, or regulation made, approved, or confirmed by the
7 Department.

8 The Director of Revenue, or any duly authorized officer or
9 employee of the Department, shall have the power to administer
10 oaths to such persons required by this Act to give testimony
11 before the Department.

12 The books, papers, records, and memoranda of the
13 Department, or parts thereof, may be proved in any hearing,
14 investigation or legal proceeding by a reproduced copy thereof
15 under the certificate of the Director of Revenue. Such
16 reproduced copy shall, without further proof, be admitted into
17 evidence before the Department or in any legal proceeding.

18 Section 1-65. Testimony and production of documents;
19 immunity. No person shall be excused from testifying or from
20 producing any books, papers, records, or memoranda in any
21 investigation or upon any hearing, when ordered to do so by the
22 Department or any officer or employee thereof, upon the ground
23 that the testimony or evidence, documentary or otherwise, may
24 tend to incriminate him or subject him to a criminal penalty,
25 but no person shall be prosecuted or subjected to any criminal

1 penalty for or on account of the subject matter of his or her
2 testimony or the evidence produced before the Department or an
3 officer or employee of the Department; provided that such
4 immunity shall extend only to a natural person who, in
5 obedience to a subpoena, gives testimony under oath or produces
6 evidence under oath. No person so testifying shall be exempt
7 from prosecution and punishment for perjury committed in so
8 testifying.

9 Section 1-70. Confidentiality; official purposes. All
10 information received by the Department from returns or reports
11 filed under this Act, or from any investigation conducted under
12 this Act, shall be confidential, except for official purposes,
13 and any person who divulges any such information in any manner,
14 except in accordance with a proper judicial order or as
15 otherwise provided by law, shall be guilty of a Class A
16 misdemeanor.

17 Nothing in this Act prevents the Director of Revenue from
18 publishing or making available to the public the names and
19 addresses of persons filing returns or reports under this Act,
20 or reasonable statistics concerning the operation of the tax by
21 grouping the contents of returns or reports so that the
22 information in any individual return or report is not
23 disclosed.

24 Nothing in this Act prevents the Director of Revenue from
25 divulging to the United States government or the government of

1 any other state, or any officer or agency thereof, for
2 exclusively official purposes, information received by the
3 Department in administering this Act, provided that such other
4 governmental agency agrees to divulge requested tax
5 information to the Department.

6 The furnishing upon request of the Auditor General, or his
7 authorized agents, for official use, of returns or reports
8 filed and information related thereto under this Act is deemed
9 to be an official purpose within the meaning of this Section.

10 The furnishing of financial information to a home rule unit
11 with a population in excess of 2,000,000 that has imposed a tax
12 similar to that imposed by this Act under its home rule powers,
13 upon request of the Chief Executive of the home rule unit, is
14 an official purpose within the meaning of this Section,
15 provided the home rule unit agrees in writing to the
16 requirements of this Section. Information so provided is
17 subject to all confidentiality provisions of this Section. The
18 written agreement shall provide for reciprocity, limitations
19 on access, disclosure, and procedures for requesting
20 information.

21 The Director may make available to any State agency,
22 including the Illinois Supreme Court, that licenses persons to
23 engage in any occupation, information that a person licensed by
24 such agency has failed to file returns under this Act or pay
25 the tax, penalty, and interest shown therein, or has failed to
26 pay any final assessment of tax, penalty, or interest due under

1 this Act or has failed to file reports under this Act. An
2 assessment is final when all proceedings in court for review of
3 such assessment have terminated or the time for the taking
4 thereof has expired without such proceedings being instituted.

5 The Director shall make available for public inspection in
6 the Department's principal office and for publication, at cost,
7 administrative decisions issued on or after January 1, 2013.
8 These decisions are to be made available in a manner so that
9 the following taxpayer or licensee information is not
10 disclosed:

11 (1) The names, addresses, and identification numbers
12 of the taxpayer or licensee, related entities, and
13 employees.

14 (2) At the sole discretion of the Director, trade
15 secrets or other confidential information identified as
16 such by the taxpayer or licensee no later than 30 days
17 after receipt of an administrative decision, by such means
18 as the Department shall provide by rule.

19 The Director shall determine the appropriate extent of the
20 deletions allowed in paragraph (2). In the event the taxpayer
21 or licensee does not submit deletions, the Director shall make
22 only the deletions specified in paragraph (1).

23 The Director shall make available for public inspection and
24 publication each administrative decision within 180 days after
25 the issuance of the administrative decision. The term
26 "administrative decision" has the same meaning as defined in

1 Section 3-101 of the Code of Civil Procedure. Costs collected
2 under this Section shall be paid into the Tax Compliance and
3 Administration Fund.

4 Nothing contained in this Act shall prevent the Director
5 from divulging information to any person pursuant to a request
6 or authorization made by the taxpayer or licensee or by an
7 authorized representative of the taxpayer or licensee.

8 Section 1-75. Records. Every cigarette machine operator
9 who is required to procure a license under this Act shall keep
10 within Illinois, at his licensed address: complete and accurate
11 records of the quantity of such cigarettes made or fabricated;
12 meter readings for each cigarette machine; the quantity of such
13 cigarettes sold or otherwise disposed of; the brand family and
14 manufacturer and quantity of tobacco products purchased and the
15 brand family and manufacturer and quantity of tobacco products
16 used to make or fabricate cigarettes by use of a cigarette
17 machine; the name, address, and license number of each
18 distributor from whom the cigarette machine operator purchases
19 tobacco products; the type and quantity of cigarette tubes
20 purchased for use in a cigarette machine; the type and quantity
21 of cigarette tubes used in a cigarette machine; and such other
22 information as the Department may require, and shall preserve
23 and keep within Illinois at his licensed address all invoices,
24 bills of lading, sales records, copies of bills of sale,
25 inventory at the close of each period for which a return is

1 required of all cigarettes, tobacco products and cigarette
2 tubes on hand, and other pertinent papers and documents
3 relating to the manufacture, purchase, sale, or disposition of
4 cigarettes and tobacco products. All books and records and
5 other papers and documents that are required by this Act to be
6 kept shall be kept in the English language, and shall, at all
7 times during the usual business hours of the day, be subject to
8 inspection by the Department or its duly authorized agents and
9 employees. The Department may adopt rules that establish
10 requirements, including record forms and formats, for records
11 required to be kept and maintained by taxpayers. For purposes
12 of this Section, "records" means all data maintained by the
13 taxpayer, including data on paper, microfilm, microfiche or any
14 type of machine-sensible data compilation. Those books,
15 records, papers and documents shall be preserved for a period
16 of at least 3 years after the date of the documents, or the
17 date of the entries appearing in the records, unless the
18 Department, in writing, authorizes their destruction or
19 disposal at an earlier date. At all times during the usual
20 business hours of the day any duly authorized agent or employee
21 of the Department may enter any place of business of the
22 cigarette machine operator, without a search warrant, and
23 inspect the premises and the stock or packages of cigarettes,
24 tobacco products, cigarette tubes, and the cigarette machines
25 therein contained, to determine whether any of the provisions
26 of this Act are being violated. If such agent or employee is

1 denied free access or is hindered or interfered with in making
2 such examination as herein provided, the license of the
3 cigarette machine operator at such premises shall be subject to
4 revocation by the Department.

5 Section 1-80. Subpoenas and witnesses; depositions. The
6 Department, or any officer or employee of the Department
7 designated in writing by the Director, shall, at its, his, or
8 her own instance, or on the written request of any cigarette
9 machine operator or other interested party to the proceeding,
10 issue subpoenas requiring the attendance of and the giving of
11 testimony by witnesses, and subpoenas duces tecum requiring the
12 production of books, papers, records or memoranda. All
13 subpoenas and subpoenas duces tecum issued under the terms of
14 this Act may be served by any person of full age. The fees of
15 witnesses for attendance and travel shall be the same as the
16 fees of witnesses before the circuit court of this State; such
17 fees to be paid when the witness is excused from further
18 attendance. When the witness is subpoenaed at the instance of
19 the Department or any officer or employee thereof, such fees
20 shall be paid in the same manner as other expenses of the
21 Department, and when the witness is subpoenaed at the instance
22 of any other party to any such proceeding, the cost of service
23 of the subpoena or subpoena duces tecum and the fee of the
24 witness shall be borne by the party at whose instance the
25 witness is summoned. In such case, the Department, in its

1 discretion, may require a deposit to cover the cost of such
2 service and witness fees. A subpoena or subpoena duces tecum so
3 issued shall be served in the same manner as a subpoena or
4 subpoena duces tecum issued out of a court.

5 Any circuit court of this State, upon the application of
6 the Department or any officer or employee thereof, or upon the
7 application of any other party to the proceeding, may, in its
8 discretion, compel the attendance of witnesses, the production
9 of books, papers, records or memoranda and the giving of
10 testimony before the Department or any officer or employee
11 thereof conducting an investigation or holding a hearing
12 authorized by this Act, by an attachment for contempt, or
13 otherwise, in the same manner as production of evidence may be
14 compelled before the court.

15 The Department or any officer or employee thereof, or any
16 other party in an investigation or hearing before the
17 Department, may cause the depositions of witnesses within the
18 State to be taken in the manner prescribed by law for like
19 depositions, or depositions for discovery in civil actions in
20 courts of this State, and to that end compel the attendance of
21 witnesses and the production of books, papers, records or
22 memoranda, in the same manner provided herein.

23 Section 1-85. Regulations and rules; notice; hearings. The
24 Department may adopt and enforce such reasonable rules and
25 regulations relating to the administration and enforcement of

1 this Act as may be deemed expedient.

2 Whenever notice is required by this Act, such notice may be
3 given by United States certified or registered mail, addressed
4 to the person concerned at his last known address, and proof of
5 such mailing shall be sufficient for the purposes of this Act.
6 Notice of any hearing provided for by this Act shall be so
7 given not less than 7 days prior to the day fixed for the
8 hearing.

9 Hearings provided for in this Act shall be held:

10 (1) in Cook County, if the taxpayer's or licensee's
11 principal place of business is in that county;

12 (2) at the Department's office nearest the taxpayer's
13 or licensee's principal place of business, if the
14 taxpayer's or licensee's principal place of business is in
15 Illinois but outside Cook County; or

16 (3) in Sangamon County, if the taxpayer's or licensee's
17 principal place of business is outside Illinois.

18 The circuit court of the county wherein the hearing is held
19 has power to review all final administrative decisions of the
20 Department in administering this Act. The provisions of the
21 Administrative Review Law, and all amendments and
22 modifications thereof, and the rules adopted pursuant thereto,
23 shall apply to and govern all proceedings for the judicial
24 review of final administrative decisions of the Department
25 under this Act. The term "administrative decision" is defined
26 as in Section 3-101 of the Code of Civil Procedure.

1 Service upon the Director of Revenue or Assistant Director
2 of Revenue of summons issued in any action to review a final
3 administrative decision shall be service upon the Department.
4 The Department shall certify the record of its proceedings if
5 the cigarette machine operator pays to it the sum of 75¢ per
6 page of testimony taken before the Department and 25¢ per page
7 of all other matters contained in such record, except that
8 these charges may be waived where the Department is satisfied
9 that the aggrieved party is an indigent person who cannot
10 afford to pay such charges. Before the delivery of such record
11 to the person applying for it, payment of these charges must be
12 made, and if the record is not paid for within 30 days after
13 notice that such record is available, the complaint may be
14 dismissed by the court upon motion of the Department.

15 No stay order shall be entered by the circuit court unless
16 the cigarette machine operator files with the court a bond, in
17 an amount fixed and approved by the court, to indemnify the
18 State against all loss and injury which may be sustained by it
19 on account of the review proceedings and to secure all costs
20 which may be occasioned by such proceedings.

21 Whenever any proceeding provided by this Act is begun
22 before the Department, either by the Department or by a person
23 subject to this Act, and such person thereafter dies or becomes
24 a person under legal disability before such proceeding is
25 concluded, the legal representative of the deceased person or
26 of the person under legal disability shall notify the

1 Department of such death or legal disability. Such legal
2 representative, as such, shall then be substituted by the
3 Department for such person. If the legal representative fails
4 to notify the Department of his or her appointment as such
5 legal representative, the Department may, upon its own motion,
6 substitute such legal representative in the proceeding pending
7 before the Department for the person who died or became a
8 person under legal disability.

9 Section 1-90. The Illinois Administrative Procedure Act.
10 The Illinois Administrative Procedure Act is hereby expressly
11 adopted and shall apply to all administrative rules and
12 procedures of the Department of Revenue under this Act, except
13 that: (1) paragraph (b) of Section 5-10 of the Illinois
14 Administrative Procedure Act does not apply to final orders,
15 decisions and opinions of the Department; (2) subparagraph
16 (a)(ii) of Section 5-10 of the Illinois Administrative
17 Procedure Act does not apply to forms established by the
18 Department for use under this Act; and (3) the provisions of
19 Section 10-45 of the Illinois Administrative Procedure Act
20 regarding proposals for decision are excluded and not
21 applicable to the Department under this Act.

22 Section 1-95. Legal proceedings. All legal proceedings
23 under this Act, whether civil or criminal, shall be instituted
24 and prosecuted by the Attorney General or by the State's

1 Attorney for the county in which an offense under this Act is
2 committed, and all civil actions may be brought in the name of
3 the Department of Revenue.

4 Section 1-100. Arrest and seizure. Any duly authorized
5 employee of the Department may: arrest without warrant any
6 person committing in his presence a violation of any of the
7 provisions of this Act; may without a search warrant inspect
8 all cigarettes and cigarette machines located in any place of
9 business; and may seize any contraband cigarettes and any
10 cigarette machines in which such contraband cigarettes may be
11 found or may be made, and such packages or cigarette machines
12 so seized shall be subject to confiscation and forfeiture as
13 provided in Section 1-105 of this Act.

14 Section 1-105. Hearings regarding seized cigarettes and
15 cigarette machines. After seizing any cigarettes or cigarette
16 machines, as provided in Section 1-100 of this Act, the
17 Department shall hold a hearing and shall determine whether
18 such cigarettes, at the time of their seizure by the
19 Department, were contraband cigarettes, or whether such
20 cigarette machines, at the time of their seizure by the
21 Department, contained or made contraband cigarettes. The
22 Department shall give not less than 7 days' notice of the time
23 and place of such hearing to the owner of such property, if he
24 is known, and also to the person in whose possession the

1 property so taken was found, if such person is known and if
2 such person in possession is not the owner of said property. In
3 case neither the owner nor the person in possession of such
4 property is known, the Department shall cause publication of
5 the time and place of such hearing to be made at least once in
6 each week for 3 weeks successively in a newspaper of general
7 circulation in the county where such hearing is to be held.

8 If, as the result of such hearing, the Department
9 determines that the cigarettes seized were, at the time of
10 seizure, contraband cigarettes, or that any cigarette machine
11 at the time of its seizure contained or made contraband
12 cigarettes, the Department shall enter an order declaring such
13 cigarettes or such cigarette machine confiscated and forfeited
14 to the State, and to be held by the Department for disposal as
15 provided in this Section. The Department shall give notice of
16 such order to the owner of such property if he is known, and
17 also to the person in whose possession the property so taken
18 was found, if such person is known, and if such person in
19 possession is not the owner of the property. In case neither
20 the owner nor the person in possession of such property is
21 known, the Department shall cause publication of such order to
22 be made at least once in each week for 3 weeks successively in
23 a newspaper of general circulation in the county where such
24 hearing was held.

25 When any cigarettes or any cigarette machine shall have
26 been declared forfeited to the State by the Department, as

1 provided hereunder, and when all proceedings for the judicial
2 review of the Department's decision have terminated, the
3 Department shall, to the extent that its decision is sustained
4 on review, destroy or maintain and use such property in an
5 undercover capacity.

6 Section 1-110. Filing of a complaint.

7 Whenever any peace officer of the State or any duly
8 authorized officer or employee of the Department shall have
9 reason to believe that any violation of this Act has occurred
10 and that the person so violating the Act has in that person's
11 possession contraband cigarettes, or any cigarette machine
12 containing or making contraband cigarettes, he or she may file
13 or cause to be filed his complaint in writing, verified by
14 affidavit, with any court within whose jurisdiction the
15 premises to be searched are situated, stating the facts upon
16 which such belief is founded, the premises to be searched, and
17 the property to be seized, and procure a search warrant and
18 execute the same. Upon the execution of such search warrant,
19 the peace officer, or officer or employee of the Department,
20 executing such search warrant shall make due return thereof to
21 the court issuing the same, together with an inventory of the
22 property taken thereunder. The court shall thereupon issue
23 process against the owner of such property if he is known;
24 otherwise, such process shall be issued against the person in
25 whose possession the property so taken is found, if such person

1 is known. In case of inability to serve such process upon the
2 owner or the person in possession of the property at the time
3 of its seizure, notice of the proceedings before the court
4 shall be given as required by the statutes of the State
5 governing cases of attachment. Upon the return of the process
6 duly served or upon the posting or publishing of notice made,
7 as herein provided, the court or jury, if a jury shall be
8 demanded, shall proceed to determine whether or not such
9 property so seized was held or possessed in violation of this
10 Act, or whether, if a cigarette machine has been so seized, it
11 contained or was making at the time of its seizure contraband
12 cigarettes. In case of a finding that any cigarette machine so
13 seized contained or was making at the time of its seizure
14 contraband cigarettes, judgment shall be entered confiscating
15 and forfeiting the property to the State and ordering its
16 delivery to the Department, and, in addition thereto, the court
17 shall have power to tax and assess the costs of the
18 proceedings.

19 When any cigarettes or any cigarette machine is declared
20 forfeited to the State by any court, and when such confiscated
21 and forfeited property is delivered to the Department as
22 provided in this Act, the Department shall destroy or maintain
23 and use such property in an undercover capacity.

24 Section 1-115. False or fraudulent reports. Any person
25 required by this Act to make, file, render, sign, or verify any

1 report or return, or any officer, agent, or employee of that
2 person, who makes any false or fraudulent report or return or
3 files any false or fraudulent report or return, or who fails to
4 make such report or return or file such report or return when
5 due, is guilty of a Class 4 felony.

6 Section 1-120. Possession of more than 200 contraband
7 cigarettes; penalty. Any person possessing more than 200
8 contraband cigarettes is liable to pay, to the Department, for
9 deposit into the Tax Compliance and Administration Fund, a
10 penalty of \$1 for each such cigarette in excess of 200, unless
11 reasonable cause can be established by the person upon whom the
12 penalty is imposed. This penalty is in addition to the taxes
13 imposed by this Act. Reasonable cause shall be determined in
14 each situation in accordance with rules adopted by the
15 Department. The provisions of the Uniform Penalty and Interest
16 Act do not apply to this Section.

17 Section 1-125. Possession of not less than 20 and not more
18 than 200 contraband cigarettes; penalty. Any person possessing
19 not less than 20 and not more than 200 contraband cigarettes is
20 liable to pay to the Department, for deposit into the Tax
21 Compliance and Administration Fund, a penalty of \$0.50 for each
22 such cigarette, unless reasonable cause can be established by
23 the person upon whom the penalty is imposed. Reasonable cause
24 shall be determined in each situation in accordance with rules

1 adopted by the Department. The provisions of the Uniform
2 Penalty and Interest Act do not apply to this Section.

3 Section 1-130. Punishment for sale or possession of
4 contraband cigarettes.

5 (a) Possession or sale of 200 or less contraband
6 cigarettes. Any person who has in his or her possession or
7 sells 200 or less contraband cigarettes is guilty of a Class A
8 misdemeanor.

9 (b) Possession or sale of more than 200 and not more 1000
10 contraband cigarettes. Any person who has in his or her
11 possession or sells more than 200 and not more than 1000
12 contraband cigarettes is guilty of a Class A misdemeanor for a
13 first offense and a Class 4 felony for each subsequent offense.

14 (c) Possession or sale of more than 1000 contraband
15 cigarettes. Any person who has in his or her possession or
16 sells more than 1000 contraband cigarettes is guilty of a Class
17 4 felony.

18 Section 1-135. Unlawful operation of cigarette machines.
19 Whoever operates a cigarette machine without a license is
20 guilty of a Class 4 felony. Notwithstanding this Section, and
21 any other provisions of this Act, an individual may own a
22 cigarette machine for that individual's own use, and not for
23 the purpose of resale of cigarettes.

1 Section 1-140. Failure to keep records; penalty. Any person
2 required by this Act to keep records of any kind, who fails to
3 keep the required records or falsifies those records, is guilty
4 of a Class 4 felony.

5 Section 1-145. Failure to preserve records; penalty. Any
6 person who fails to safely preserve the records required by
7 Section 1-75 of this Act for the period of 3 years, as required
8 by that Section, in such manner as to insure permanency and
9 accessibility for inspection by the Department, shall be guilty
10 of a business offense and may be fined up to \$5,000.

11 Section 1-150. Forfeit of bond. If a cigarette machine
12 operator is convicted of the violation of any of the provisions
13 of this Act, or if his or her license is revoked and no review
14 is had of the order or revocation, or if on review thereof the
15 decision is adverse to the cigarette machine operator, or if a
16 cigarette machine operator fails to pay an assessment as to
17 which no judicial review is sought and which has become final,
18 or pursuant to which, upon review thereof, the circuit court
19 has entered a judgment that is in favor of the Department and
20 that has become final, the bond filed pursuant to this Act
21 shall thereupon be forfeited, and the Department may institute
22 a suit upon such bond in its own name for the entire amount of
23 such bond and costs. Such suit upon the bond shall be in
24 addition to any other remedy provided for herein.

1 Section 1-155. Sunset of exemptions, credits, and
2 deductions. The application of every exemption, credit, and
3 deduction against tax imposed by this Act that becomes law
4 after the effective date of this Act shall be limited by a
5 reasonable and appropriate sunset date. A taxpayer is not
6 entitled to take the exemption, credit, or deduction beginning
7 on the sunset date and thereafter. If a reasonable and
8 appropriate sunset date is not specified in the Public Act that
9 creates the exemption, credit, or deduction, a taxpayer shall
10 not be entitled to take the exemption, credit, or deduction
11 beginning 5 years after the effective date of the Public Act
12 creating the exemption, credit, or deduction and thereafter.

13 Section 1-160. Distribution of receipts by the Department.
14 All moneys received by the Department under this Act shall be
15 deposited into the Healthcare Provider Relief Fund.

16 Section 1-165. Exemption. Persons who are not operating
17 cigarette machines as defined in this Act and are engaged in
18 the business of renting, leasing or selling cigarette machines
19 to persons are exempt from the provisions of this Act.

20 Section 1-170. Notice. Any person who distributes or offers
21 for sale or rent a cigarette machine in this State shall
22 provide notice to any potential purchaser, lessee, or lessor of

1 that cigarette machine or any retail space containing a
2 cigarette machine. The notice shall contain information about
3 this Act, including: (i) licensure requirements for cigarette
4 machine operators; (ii) tax collection and remittance duties of
5 cigarette machine operators; (iii) any product limitations
6 imposed on cigarette machines by this Act; and (iv) packaging
7 and labeling requirements.

8 ARTICLE 5. AMENDATORY PROVISIONS

9 Section 5-5. The Illinois Income Tax Act is amended by
10 adding Section 223 as follows:

11 (35 ILCS 5/223 new)

12 Sec. 223. Hospital credit.

13 (a) For tax years ending on or after December 31, 2012, a
14 taxpayer that is the owner of a hospital licensed under the
15 Hospital Licensing Act, but not including an organization that
16 is exempt from federal income taxes under the Internal Revenue
17 Code, is entitled to a credit against the taxes imposed under
18 subsections (a) and (b) of Section 201 of this Act in an amount
19 equal to the lesser of the amount of real property taxes paid
20 during the tax year on real property used for hospital purposes
21 during the prior tax year or the cost of free or discounted
22 services provided during the tax year pursuant to the
23 hospital's charitable financial assistance policy, measured at

1 cost.

2 (b) If the taxpayer is a partnership or Subchapter S
3 corporation, the credit is allowed to the partners or
4 shareholders in accordance with the determination of income and
5 distributive share of income under Sections 702 and 704 and
6 Subchapter S of the Internal Revenue Code. A transfer of this
7 credit may be made by the taxpayer earning the credit within
8 one year after the credit is earned in accordance with rules
9 adopted by the Department. The Department shall prescribe rules
10 to enforce and administer provisions of this Section. If the
11 amount of the credit exceeds the tax liability for the year,
12 then the excess credit may be carried forward and applied to
13 the tax liability of the 5 taxable years following the excess
14 credit year. The credit shall be applied to the earliest year
15 for which there is a tax liability. If there are credits from
16 more than one tax year that are available to offset a
17 liability, the earlier credit shall be applied first. In no
18 event shall a credit under this Section reduce the taxpayer's
19 liability to less than zero.

20 Section 5-10. The Use Tax Act is amended by adding Section
21 3-8 as follows:

22 (35 ILCS 105/3-8 new)

23 Sec. 3-8. Hospital exemption.

24 (a) Tangible personal property sold to or used by a

1 hospital owner that owns one or more hospitals licensed under
2 the Hospital Licensing Act or operated under the University of
3 Illinois Hospital Act, or a hospital affiliate that is not
4 already exempt under another provision of this Act and meets
5 the criteria for an exemption under this Section, is exempt
6 from taxation under this Act.

7 (b) A hospital owner or hospital affiliate satisfies the
8 conditions for an exemption under this Section if the value of
9 qualified services or activities listed in subsection (c) of
10 this Section for the hospital year equals or exceeds the
11 relevant hospital entity's estimated property tax liability,
12 without regard to any property tax exemption granted under
13 Section 15-86 of the Property Tax Code, for the calendar year
14 in which exemption or renewal of exemption is sought. For
15 purposes of making the calculations required by this subsection
16 (b), if the relevant hospital entity is a hospital owner that
17 owns more than one hospital, the value of the services or
18 activities listed in subsection (c) shall be calculated on the
19 basis of only those services and activities relating to the
20 hospital that includes the subject property, and the relevant
21 hospital entity's estimated property tax liability shall be
22 calculated only with respect to the properties comprising that
23 hospital. In the case of a multi-state hospital system or
24 hospital affiliate, the value of the services or activities
25 listed in subsection (c) shall be calculated on the basis of
26 only those services and activities that occur in Illinois and

1 the relevant hospital entity's estimated property tax
2 liability shall be calculated only with respect to its property
3 located in Illinois.

4 (c) The following services and activities shall be
5 considered for purposes of making the calculations required by
6 subsection (b):

7 (1) Charity care. Free or discounted services provided
8 pursuant to the relevant hospital entity's financial
9 assistance policy, measured at cost, including discounts
10 provided under the Hospital Uninsured Patient Discount
11 Act.

12 (2) Health services to low-income and underserved
13 individuals. Other unreimbursed costs of the relevant
14 hospital entity for providing without charge, paying for,
15 or subsidizing goods, activities, or services for the
16 purpose of addressing the health of low-income or
17 underserved individuals. Those activities or services may
18 include, but are not limited to: financial or in-kind
19 support to affiliated or unaffiliated hospitals, hospital
20 affiliates, community clinics, or programs that treat
21 low-income or underserved individuals; paying for or
22 subsidizing health care professionals who care for
23 low-income or underserved individuals; providing or
24 subsidizing outreach or educational services to low-income
25 or underserved individuals for disease management and
26 prevention; free or subsidized goods, supplies, or

1 services needed by low-income or underserved individuals
2 because of their medical condition; and prenatal or
3 childbirth outreach to low-income or underserved persons.

4 (3) Subsidy of State or local governments. Direct or
5 indirect financial or in-kind subsidies of State or local
6 governments by the relevant hospital entity that pay for or
7 subsidize activities or programs related to health care for
8 low-income or underserved individuals.

9 (4) Support for State health care programs for
10 low-income individuals. At the election of the hospital
11 applicant for each applicable year, either (A) 10% of
12 payments to the relevant hospital entity and any hospital
13 affiliate designated by the relevant hospital entity
14 (provided that such hospital affiliate's operations
15 provide financial or operational support for or receive
16 financial or operational support from the relevant
17 hospital entity) under Medicaid or other means-tested
18 programs, including, but not limited, to General
19 Assistance, the Covering ALL KIDS Health Insurance Act, and
20 the State Children's Health Insurance Program or (B) the
21 amount of subsidy provided by the relevant hospital entity
22 and any hospital affiliate designated by the relevant
23 hospital entity (provided that such hospital affiliate's
24 operations provide financial or operational support for or
25 receive financial or operational support from the relevant
26 hospital entity) to State or local government in treating

1 Medicaid recipients and recipients of means-tested
2 programs, including but not limited to General Assistance,
3 the Covering ALL KIDS Health Insurance Act, and the State
4 Children's Health Insurance Program. The amount of subsidy
5 for purpose of this item (4) is calculated in the same
6 manner as unreimbursed costs are calculated for Medicaid
7 and other means-tested government programs in the Schedule
8 H of IRS Form 990 in effect on the effective date of this
9 amendatory Act of the 97th General Assembly.

10 (5) Dual-eligible subsidy. The amount of subsidy
11 provided to government by treating dual-eligible
12 Medicare/Medicaid patients. The amount of subsidy for
13 purposes of this item (5) is calculated by multiplying the
14 relevant hospital entity's unreimbursed costs for
15 Medicare, calculated in the same manner as determined in
16 the Schedule H of IRS Form 990 in effect on the effective
17 date of this amendatory Act of the 97th General Assembly,
18 by the relevant hospital entity's ratio of dual-eligible
19 patients to total Medicare patients.

20 (6) Relief of the burden of government related to
21 health care. Except to the extent otherwise taken into
22 account in this subsection, the portion of unreimbursed
23 costs of the relevant hospital entity attributable to
24 providing, paying for, or subsidizing goods, activities,
25 or services that relieve the burden of government related
26 to health care for low-income individuals. Such activities

1 or services shall include, but are not limited to,
2 providing emergency, trauma, burn, neonatal, psychiatric,
3 rehabilitation, or other special services; providing
4 medical education; and conducting medical research or
5 training of health care professionals. The portion of those
6 unreimbursed costs attributable to benefiting low-income
7 individuals shall be determined using the ratio calculated
8 by adding the relevant hospital entity's costs
9 attributable to charity care, Medicaid, other means-tested
10 government programs, disabled Medicare patients under age
11 65, and dual-eligible Medicare/Medicaid patients and
12 dividing that total by the relevant hospital entity's total
13 costs. Such costs for the numerator and denominator shall
14 be determined by multiplying gross charges by the cost to
15 charge ratio taken from the hospital's most recently filed
16 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
17 the case of emergency services, the ratio shall be
18 calculated using costs (gross charges multiplied by the
19 cost to charge ratio taken from the hospital's most
20 recently filed Medicare cost report (CMS 2252-10
21 Worksheet, Part I)) of patients treated in the relevant
22 hospital entity's emergency department.

23 (7) Any other activity by the relevant hospital entity
24 that the Department determines relieves the burden of
25 government or addresses the health of low-income or
26 underserved individuals.

1 (d) The hospital applicant shall include information in its
2 exemption application establishing that it satisfies the
3 requirements of subsection (b). For purposes of making the
4 calculations required by subsection (b), the hospital
5 applicant may for each year elect to use either (1) the value
6 of the services or activities listed in subsection (e) for the
7 hospital year or (2) the average value of those services or
8 activities for the 3 fiscal years ending with the hospital
9 year. If the relevant hospital entity has been in operation for
10 less than 3 completed fiscal years, then the latter
11 calculation, if elected, shall be performed on a pro rata
12 basis.

13 (e) For purposes of making the calculations required by
14 this Section:

15 (1) particular services or activities eligible for
16 consideration under any of the paragraphs (1) through (7)
17 of subsection (c) may not be counted under more than one of
18 those paragraphs; and

19 (2) the amount of unreimbursed costs and the amount of
20 subsidy shall not be reduced by restricted or unrestricted
21 payments received by the relevant hospital entity as
22 contributions deductible under Section 170(a) of the
23 Internal Revenue Code.

24 (g) Estimation of Exempt Property Tax Liability. The
25 estimated property tax liability used for the determination in
26 subsection (b) shall be calculated as follows:

1 (1) "Estimated property tax liability" means the
2 estimated dollar amount of property tax that would be owed,
3 with respect to the exempt portion of each of the relevant
4 hospital entity's properties that are already fully or
5 partially exempt, or for which an exemption in whole or in
6 part is currently being sought, and then aggregated as
7 applicable, as if the exempt portion of those properties
8 were subject to tax, calculated with respect to each such
9 property by multiplying:

10 (A) the lesser of (i) the actual assessed value, if
11 any, of the portion of the property for which an
12 exemption is sought or (ii) an estimated assessed value
13 of the exempt portion of such property as determined in
14 item (2) of this subsection (g), by

15 (B) the applicable State equalization rate
16 (yielding the equalized assessed value), by

17 (C) the applicable tax rate.

18 (2) The estimated assessed value of the exempt portion
19 of the property equals the sum of (i) the estimated fair
20 market value of buildings on the property, as determined in
21 accordance with subparagraphs (A) and (B) of this item (2),
22 multiplied by the applicable assessment factor, and (ii)
23 the estimated assessed value of the land portion of the
24 property, as determined in accordance with subparagraph
25 (C).

26 (A) The "estimated fair market value of buildings

1 on the property" means the replacement value of any
2 exempt portion of buildings on the property, minus
3 depreciation, determined utilizing the cost
4 replacement method whereby the exempt square footage
5 of all such buildings is multiplied by the replacement
6 cost per square foot for Class A Average building found
7 in the most recent edition of the Marshall & Swift
8 Valuation Services Manual, adjusted by any appropriate
9 current cost and local multipliers.

10 (B) Depreciation, for purposes of calculating the
11 estimated fair market value of buildings on the
12 property, is applied by utilizing a weighted mean life
13 for the buildings based on original construction and
14 assuming a 40-year life for hospital buildings and the
15 applicable life for other types of buildings as
16 specified in the American Hospital Association
17 publication "Estimated Useful Lives of Depreciable
18 Hospital Assets". In the case of hospital buildings,
19 the remaining life is divided by 40 and this ratio is
20 multiplied by the replacement cost of the buildings to
21 obtain an estimated fair market value of buildings. If
22 a hospital building is older than 35 years, a remaining
23 life of 5 years for residual value is assumed; and if a
24 building is less than 8 years old, a remaining life of
25 32 years is assumed.

26 (C) The estimated assessed value of the land

1 portion of the property shall be determined by
2 multiplying (i) the per square foot average of the
3 assessed values of three parcels of land (not including
4 farm land, and excluding the assessed value of the
5 improvements thereon) reasonably comparable to the
6 property, by (ii) the number of square feet comprising
7 the exempt portion of the property's land square
8 footage.

9 (3) The assessment factor, State equalization rate,
10 and tax rate (including any special factors such as
11 Enterprise Zones) used in calculating the estimated
12 property tax liability shall be for the most recent year
13 that is publicly available from the applicable chief county
14 assessment officer or officers at least 90 days before the
15 end of the hospital year.

16 (4) The method utilized to calculate estimated
17 property tax liability for purposes of this Section 15-86
18 shall not be utilized for the actual valuation, assessment,
19 or taxation of property pursuant to the Property Tax Code.

20 (h) For the purpose of this Section, the following terms
21 shall have the meanings set forth below:

22 (1) "Hospital" means any institution, place, building,
23 buildings on a campus, or other health care facility
24 located in Illinois that is licensed under the Hospital
25 Licensing Act and has a hospital owner.

26 (2) "Hospital owner" means a not-for-profit

1 corporation that is the titleholder of a hospital, or the
2 owner of the beneficial interest in an Illinois land trust
3 that is the titleholder of a hospital.

4 (3) "Hospital affiliate" means any corporation,
5 partnership, limited partnership, joint venture, limited
6 liability company, association or other organization,
7 other than a hospital owner, that directly or indirectly
8 controls, is controlled by, or is under common control with
9 one or more hospital owners and that supports, is supported
10 by, or acts in furtherance of the exempt health care
11 purposes of at least one of those hospital owners'
12 hospitals.

13 (4) "Hospital system" means a hospital and one or more
14 other hospitals or hospital affiliates related by common
15 control or ownership.

16 (5) "Control" relating to a hospital owners, hospital
17 affiliates, or hospital systems means possession, direct
18 or indirect, of the power to direct or cause the direction
19 of the management and policies of the entity, whether
20 through ownership of assets, membership interest, other
21 voting or governance rights, by contract or otherwise.

22 (6) "Hospital applicant" means a hospital owner or
23 hospital affiliate that files an application for an
24 exemption or renewal of exemption under this Section.

25 (7) "Relevant hospital entity" means (A) the hospital
26 owner, in the case of a hospital applicant that is a

1 hospital owner, and (B) at the election of a hospital
2 applicant that is a hospital affiliate, either (i) the
3 hospital affiliate or (ii) the hospital system to which the
4 hospital applicant belongs, including any hospitals or
5 hospital affiliates that are related by common control or
6 ownership.

7 (8) "Subject property" means property used for the
8 calculation under subsection (b) of this Section.

9 (9) "Hospital year" means the fiscal year of the
10 relevant hospital entity, or the fiscal year of one of the
11 hospital owners in the hospital system if the relevant
12 hospital entity is a hospital system with members with
13 different fiscal years, that ends in the year for which the
14 exemption is sought.

15 Section 5-15. The Service Use Tax Act is amended by adding
16 Section 3-8 as follows:

17 (35 ILCS 110/3-8 new)

18 Sec. 3-8. Hospital exemption.

19 (a) Tangible personal property sold to or used by a
20 hospital owner that owns one or more hospitals licensed under
21 the Hospital Licensing Act or operated under the University of
22 Illinois Hospital Act, or a hospital affiliate that is not
23 already exempt under another provision of this Act and meets
24 the criteria for an exemption under this Section, is exempt

1 from taxation under this Act.

2 (b) A hospital owner or hospital affiliate satisfies the
3 conditions for an exemption under this Section if the value of
4 qualified services or activities listed in subsection (c) of
5 this Section for the hospital year equals or exceeds the
6 relevant hospital entity's estimated property tax liability,
7 without regard to any property tax exemption granted under
8 Section 15-86 of the Property Tax Code, for the calendar year
9 in which exemption or renewal of exemption is sought. For
10 purposes of making the calculations required by this subsection
11 (b), if the relevant hospital entity is a hospital owner that
12 owns more than one hospital, the value of the services or
13 activities listed in subsection (c) shall be calculated on the
14 basis of only those services and activities relating to the
15 hospital that includes the subject property, and the relevant
16 hospital entity's estimated property tax liability shall be
17 calculated only with respect to the properties comprising that
18 hospital. In the case of a multi-state hospital system or
19 hospital affiliate, the value of the services or activities
20 listed in subsection (c) shall be calculated on the basis of
21 only those services and activities that occur in Illinois and
22 the relevant hospital entity's estimated property tax
23 liability shall be calculated only with respect to its property
24 located in Illinois.

25 (c) The following services and activities shall be
26 considered for purposes of making the calculations required by

1 subsection (b):

2 (1) Charity care. Free or discounted services provided
3 pursuant to the relevant hospital entity's financial
4 assistance policy, measured at cost, including discounts
5 provided under the Hospital Uninsured Patient Discount
6 Act.

7 (2) Health services to low-income and underserved
8 individuals. Other unreimbursed costs of the relevant
9 hospital entity for providing without charge, paying for,
10 or subsidizing goods, activities, or services for the
11 purpose of addressing the health of low-income or
12 underserved individuals. Those activities or services may
13 include, but are not limited to: financial or in-kind
14 support to affiliated or unaffiliated hospitals, hospital
15 affiliates, community clinics, or programs that treat
16 low-income or underserved individuals; paying for or
17 subsidizing health care professionals who care for
18 low-income or underserved individuals; providing or
19 subsidizing outreach or educational services to low-income
20 or underserved individuals for disease management and
21 prevention; free or subsidized goods, supplies, or
22 services needed by low-income or underserved individuals
23 because of their medical condition; and prenatal or
24 childbirth outreach to low-income or underserved persons.

25 (3) Subsidy of State or local governments. Direct or
26 indirect financial or in-kind subsidies of State or local

1 governments by the relevant hospital entity that pay for or
2 subsidize activities or programs related to health care for
3 low-income or underserved individuals.

4 (4) Support for State health care programs for
5 low-income individuals. At the election of the hospital
6 applicant for each applicable year, either (A) 10% of
7 payments to the relevant hospital entity and any hospital
8 affiliate designated by the relevant hospital entity
9 (provided that such hospital affiliate's operations
10 provide financial or operational support for or receive
11 financial or operational support from the relevant
12 hospital entity) under Medicaid or other means-tested
13 programs, including, but not limited, to General
14 Assistance, the Covering ALL KIDS Health Insurance Act, and
15 the State Children's Health Insurance Program or (B) the
16 amount of subsidy provided by the relevant hospital entity
17 and any hospital affiliate designated by the relevant
18 hospital entity (provided that such hospital affiliate's
19 operations provide financial or operational support for or
20 receive financial or operational support from the relevant
21 hospital entity) to State or local government in treating
22 Medicaid recipients and recipients of means-tested
23 programs, including but not limited to General Assistance,
24 the Covering ALL KIDS Health Insurance Act, and the State
25 Children's Health Insurance Program. The amount of subsidy
26 for purpose of this item (4) is calculated in the same

1 manner as unreimbursed costs are calculated for Medicaid
2 and other means-tested government programs in the Schedule
3 H of IRS Form 990 in effect on the effective date of this
4 amendatory Act of the 97th General Assembly.

5 (5) Dual-eligible subsidy. The amount of subsidy
6 provided to government by treating dual-eligible
7 Medicare/Medicaid patients. The amount of subsidy for
8 purposes of this item (5) is calculated by multiplying the
9 relevant hospital entity's unreimbursed costs for
10 Medicare, calculated in the same manner as determined in
11 the Schedule H of IRS Form 990 in effect on the effective
12 date of this amendatory Act of the 97th General Assembly,
13 by the relevant hospital entity's ratio of dual-eligible
14 patients to total Medicare patients.

15 (6) Relief of the burden of government related to
16 health care. Except to the extent otherwise taken into
17 account in this subsection, the portion of unreimbursed
18 costs of the relevant hospital entity attributable to
19 providing, paying for, or subsidizing goods, activities,
20 or services that relieve the burden of government related
21 to health care for low-income individuals. Such activities
22 or services shall include, but are not limited to,
23 providing emergency, trauma, burn, neonatal, psychiatric,
24 rehabilitation, or other special services; providing
25 medical education; and conducting medical research or
26 training of health care professionals. The portion of those

1 unreimbursed costs attributable to benefiting low-income
2 individuals shall be determined using the ratio calculated
3 by adding the relevant hospital entity's costs
4 attributable to charity care, Medicaid, other means-tested
5 government programs, disabled Medicare patients under age
6 65, and dual-eligible Medicare/Medicaid patients and
7 dividing that total by the relevant hospital entity's total
8 costs. Such costs for the numerator and denominator shall
9 be determined by multiplying gross charges by the cost to
10 charge ratio taken from the hospital's most recently filed
11 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
12 the case of emergency services, the ratio shall be
13 calculated using costs (gross charges multiplied by the
14 cost to charge ratio taken from the hospital's most
15 recently filed Medicare cost report (CMS 2252-10
16 Worksheet, Part I)) of patients treated in the relevant
17 hospital entity's emergency department.

18 (7) Any other activity by the relevant hospital entity
19 that the Department determines relieves the burden of
20 government or addresses the health of low-income or
21 underserved individuals.

22 (d) The hospital applicant shall include information in its
23 exemption application establishing that it satisfies the
24 requirements of subsection (b). For purposes of making the
25 calculations required by subsection (b), the hospital
26 applicant may for each year elect to use either (1) the value

1 of the services or activities listed in subsection (e) for the
2 hospital year or (2) the average value of those services or
3 activities for the 3 fiscal years ending with the hospital
4 year. If the relevant hospital entity has been in operation for
5 less than 3 completed fiscal years, then the latter
6 calculation, if elected, shall be performed on a pro rata
7 basis.

8 (e) For purposes of making the calculations required by
9 this Section:

10 (1) particular services or activities eligible for
11 consideration under any of the paragraphs (1) through (7)
12 of subsection (c) may not be counted under more than one of
13 those paragraphs; and

14 (2) the amount of unreimbursed costs and the amount of
15 subsidy shall not be reduced by restricted or unrestricted
16 payments received by the relevant hospital entity as
17 contributions deductible under Section 170(a) of the
18 Internal Revenue Code.

19 (g) Estimation of Exempt Property Tax Liability. The
20 estimated property tax liability used for the determination in
21 subsection (b) shall be calculated as follows:

22 (1) "Estimated property tax liability" means the
23 estimated dollar amount of property tax that would be owed,
24 with respect to the exempt portion of each of the relevant
25 hospital entity's properties that are already fully or
26 partially exempt, or for which an exemption in whole or in

1 part is currently being sought, and then aggregated as
2 applicable, as if the exempt portion of those properties
3 were subject to tax, calculated with respect to each such
4 property by multiplying:

5 (A) the lesser of (i) the actual assessed value, if
6 any, of the portion of the property for which an
7 exemption is sought or (ii) an estimated assessed value
8 of the exempt portion of such property as determined in
9 item (2) of this subsection (g), by

10 (B) the applicable State equalization rate
11 (yielding the equalized assessed value), by

12 (C) the applicable tax rate.

13 (2) The estimated assessed value of the exempt portion
14 of the property equals the sum of (i) the estimated fair
15 market value of buildings on the property, as determined in
16 accordance with subparagraphs (A) and (B) of this item (2),
17 multiplied by the applicable assessment factor, and (ii)
18 the estimated assessed value of the land portion of the
19 property, as determined in accordance with subparagraph
20 (C).

21 (A) The "estimated fair market value of buildings
22 on the property" means the replacement value of any
23 exempt portion of buildings on the property, minus
24 depreciation, determined utilizing the cost
25 replacement method whereby the exempt square footage
26 of all such buildings is multiplied by the replacement

1 cost per square foot for Class A Average building found
2 in the most recent edition of the Marshall & Swift
3 Valuation Services Manual, adjusted by any appropriate
4 current cost and local multipliers.

5 (B) Depreciation, for purposes of calculating the
6 estimated fair market value of buildings on the
7 property, is applied by utilizing a weighted mean life
8 for the buildings based on original construction and
9 assuming a 40-year life for hospital buildings and the
10 applicable life for other types of buildings as
11 specified in the American Hospital Association
12 publication "Estimated Useful Lives of Depreciable
13 Hospital Assets". In the case of hospital buildings,
14 the remaining life is divided by 40 and this ratio is
15 multiplied by the replacement cost of the buildings to
16 obtain an estimated fair market value of buildings. If
17 a hospital building is older than 35 years, a remaining
18 life of 5 years for residual value is assumed; and if a
19 building is less than 8 years old, a remaining life of
20 32 years is assumed.

21 (C) The estimated assessed value of the land
22 portion of the property shall be determined by
23 multiplying (i) the per square foot average of the
24 assessed values of three parcels of land (not including
25 farm land, and excluding the assessed value of the
26 improvements thereon) reasonably comparable to the

1 property, by (ii) the number of square feet comprising
2 the exempt portion of the property's land square
3 footage.

4 (3) The assessment factor, State equalization rate,
5 and tax rate (including any special factors such as
6 Enterprise Zones) used in calculating the estimated
7 property tax liability shall be for the most recent year
8 that is publicly available from the applicable chief county
9 assessment officer or officers at least 90 days before the
10 end of the hospital year.

11 (4) The method utilized to calculate estimated
12 property tax liability for purposes of this Section 15-86
13 shall not be utilized for the actual valuation, assessment,
14 or taxation of property pursuant to the Property Tax Code.

15 (h) For the purpose of this Section, the following terms
16 shall have the meanings set forth below:

17 (1) "Hospital" means any institution, place, building,
18 buildings on a campus, or other health care facility
19 located in Illinois that is licensed under the Hospital
20 Licensing Act and has a hospital owner.

21 (2) "Hospital owner" means a not-for-profit
22 corporation that is the titleholder of a hospital, or the
23 owner of the beneficial interest in an Illinois land trust
24 that is the titleholder of a hospital.

25 (3) "Hospital affiliate" means any corporation,
26 partnership, limited partnership, joint venture, limited

1 liability company, association or other organization,
2 other than a hospital owner, that directly or indirectly
3 controls, is controlled by, or is under common control with
4 one or more hospital owners and that supports, is supported
5 by, or acts in furtherance of the exempt health care
6 purposes of at least one of those hospital owners'
7 hospitals.

8 (4) "Hospital system" means a hospital and one or more
9 other hospitals or hospital affiliates related by common
10 control or ownership.

11 (5) "Control" relating to a hospital owners, hospital
12 affiliates, or hospital systems means possession, direct
13 or indirect, of the power to direct or cause the direction
14 of the management and policies of the entity, whether
15 through ownership of assets, membership interest, other
16 voting or governance rights, by contract or otherwise.

17 (6) "Hospital applicant" means a hospital owner or
18 hospital affiliate that files an application for an
19 exemption or renewal of exemption under this Section.

20 (7) "Relevant hospital entity" means (A) the hospital
21 owner, in the case of a hospital applicant that is a
22 hospital owner, and (B) at the election of a hospital
23 applicant that is a hospital affiliate, either (i) the
24 hospital affiliate or (ii) the hospital system to which the
25 hospital applicant belongs, including any hospitals or
26 hospital affiliates that are related by common control or

1 ownership.

2 (8) "Subject property" means property used for the
3 calculation under subsection (b) of this Section.

4 (9) "Hospital year" means the fiscal year of the
5 relevant hospital entity, or the fiscal year of one of the
6 hospital owners in the hospital system if the relevant
7 hospital entity is a hospital system with members with
8 different fiscal years, that ends in the year for which the
9 exemption is sought.

10 Section 5-20. The Service Occupation Tax Act is amended by
11 adding Section 3-8 as follows:

12 (35 ILCS 115/3-8 new)

13 Sec. 3-8. Hospital exemption.

14 (a) Tangible personal property sold to or used by a
15 hospital owner that owns one or more hospitals licensed under
16 the Hospital Licensing Act or operated under the University of
17 Illinois Hospital Act, or a hospital affiliate that is not
18 already exempt under another provision of this Act and meets
19 the criteria for an exemption under this Section, is exempt
20 from taxation under this Act.

21 (b) A hospital owner or hospital affiliate satisfies the
22 conditions for an exemption under this Section if the value of
23 qualified services or activities listed in subsection (c) of
24 this Section for the hospital year equals or exceeds the

1 relevant hospital entity's estimated property tax liability,
2 without regard to any property tax exemption granted under
3 Section 15-86 of the Property Tax Code, for the calendar year
4 in which exemption or renewal of exemption is sought. For
5 purposes of making the calculations required by this subsection
6 (b), if the relevant hospital entity is a hospital owner that
7 owns more than one hospital, the value of the services or
8 activities listed in subsection (c) shall be calculated on the
9 basis of only those services and activities relating to the
10 hospital that includes the subject property, and the relevant
11 hospital entity's estimated property tax liability shall be
12 calculated only with respect to the properties comprising that
13 hospital. In the case of a multi-state hospital system or
14 hospital affiliate, the value of the services or activities
15 listed in subsection (c) shall be calculated on the basis of
16 only those services and activities that occur in Illinois and
17 the relevant hospital entity's estimated property tax
18 liability shall be calculated only with respect to its property
19 located in Illinois.

20 (c) The following services and activities shall be
21 considered for purposes of making the calculations required by
22 subsection (b):

23 (1) Charity care. Free or discounted services provided
24 pursuant to the relevant hospital entity's financial
25 assistance policy, measured at cost, including discounts
26 provided under the Hospital Uninsured Patient Discount

1 Act.

2 (2) Health services to low-income and underserved
3 individuals. Other unreimbursed costs of the relevant
4 hospital entity for providing without charge, paying for,
5 or subsidizing goods, activities, or services for the
6 purpose of addressing the health of low-income or
7 underserved individuals. Those activities or services may
8 include, but are not limited to: financial or in-kind
9 support to affiliated or unaffiliated hospitals, hospital
10 affiliates, community clinics, or programs that treat
11 low-income or underserved individuals; paying for or
12 subsidizing health care professionals who care for
13 low-income or underserved individuals; providing or
14 subsidizing outreach or educational services to low-income
15 or underserved individuals for disease management and
16 prevention; free or subsidized goods, supplies, or
17 services needed by low-income or underserved individuals
18 because of their medical condition; and prenatal or
19 childbirth outreach to low-income or underserved persons.

20 (3) Subsidy of State or local governments. Direct or
21 indirect financial or in-kind subsidies of State or local
22 governments by the relevant hospital entity that pay for or
23 subsidize activities or programs related to health care for
24 low-income or underserved individuals.

25 (4) Support for State health care programs for
26 low-income individuals. At the election of the hospital

1 applicant for each applicable year, either (A) 10% of
2 payments to the relevant hospital entity and any hospital
3 affiliate designated by the relevant hospital entity
4 (provided that such hospital affiliate's operations
5 provide financial or operational support for or receive
6 financial or operational support from the relevant
7 hospital entity) under Medicaid or other means-tested
8 programs, including, but not limited, to General
9 Assistance, the Covering ALL KIDS Health Insurance Act, and
10 the State Children's Health Insurance Program or (B) the
11 amount of subsidy provided by the relevant hospital entity
12 and any hospital affiliate designated by the relevant
13 hospital entity (provided that such hospital affiliate's
14 operations provide financial or operational support for or
15 receive financial or operational support from the relevant
16 hospital entity) to State or local government in treating
17 Medicaid recipients and recipients of means-tested
18 programs, including but not limited to General Assistance,
19 the Covering ALL KIDS Health Insurance Act, and the State
20 Children's Health Insurance Program. The amount of subsidy
21 for purpose of this item (4) is calculated in the same
22 manner as unreimbursed costs are calculated for Medicaid
23 and other means-tested government programs in the Schedule
24 H of IRS Form 990 in effect on the effective date of this
25 amendatory Act of the 97th General Assembly.

26 (5) Dual-eligible subsidy. The amount of subsidy

1 provided to government by treating dual-eligible
2 Medicare/Medicaid patients. The amount of subsidy for
3 purposes of this item (5) is calculated by multiplying the
4 relevant hospital entity's unreimbursed costs for
5 Medicare, calculated in the same manner as determined in
6 the Schedule H of IRS Form 990 in effect on the effective
7 date of this amendatory Act of the 97th General Assembly,
8 by the relevant hospital entity's ratio of dual-eligible
9 patients to total Medicare patients.

10 (6) Relief of the burden of government related to
11 health care. Except to the extent otherwise taken into
12 account in this subsection, the portion of unreimbursed
13 costs of the relevant hospital entity attributable to
14 providing, paying for, or subsidizing goods, activities,
15 or services that relieve the burden of government related
16 to health care for low-income individuals. Such activities
17 or services shall include, but are not limited to,
18 providing emergency, trauma, burn, neonatal, psychiatric,
19 rehabilitation, or other special services; providing
20 medical education; and conducting medical research or
21 training of health care professionals. The portion of those
22 unreimbursed costs attributable to benefiting low-income
23 individuals shall be determined using the ratio calculated
24 by adding the relevant hospital entity's costs
25 attributable to charity care, Medicaid, other means-tested
26 government programs, disabled Medicare patients under age

1 65, and dual-eligible Medicare/Medicaid patients and
2 dividing that total by the relevant hospital entity's total
3 costs. Such costs for the numerator and denominator shall
4 be determined by multiplying gross charges by the cost to
5 charge ratio taken from the hospital's most recently filed
6 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
7 the case of emergency services, the ratio shall be
8 calculated using costs (gross charges multiplied by the
9 cost to charge ratio taken from the hospital's most
10 recently filed Medicare cost report (CMS 2252-10
11 Worksheet, Part I)) of patients treated in the relevant
12 hospital entity's emergency department.

13 (7) Any other activity by the relevant hospital entity
14 that the Department determines relieves the burden of
15 government or addresses the health of low-income or
16 underserved individuals.

17 (d) The hospital applicant shall include information in its
18 exemption application establishing that it satisfies the
19 requirements of subsection (b). For purposes of making the
20 calculations required by subsection (b), the hospital
21 applicant may for each year elect to use either (1) the value
22 of the services or activities listed in subsection (e) for the
23 hospital year or (2) the average value of those services or
24 activities for the 3 fiscal years ending with the hospital
25 year. If the relevant hospital entity has been in operation for
26 less than 3 completed fiscal years, then the latter

1 calculation, if elected, shall be performed on a pro rata
2 basis.

3 (e) For purposes of making the calculations required by
4 this Section:

5 (1) particular services or activities eligible for
6 consideration under any of the paragraphs (1) through (7)
7 of subsection (c) may not be counted under more than one of
8 those paragraphs; and

9 (2) the amount of unreimbursed costs and the amount of
10 subsidy shall not be reduced by restricted or unrestricted
11 payments received by the relevant hospital entity as
12 contributions deductible under Section 170(a) of the
13 Internal Revenue Code.

14 (g) Estimation of Exempt Property Tax Liability. The
15 estimated property tax liability used for the determination in
16 subsection (b) shall be calculated as follows:

17 (1) "Estimated property tax liability" means the
18 estimated dollar amount of property tax that would be owed,
19 with respect to the exempt portion of each of the relevant
20 hospital entity's properties that are already fully or
21 partially exempt, or for which an exemption in whole or in
22 part is currently being sought, and then aggregated as
23 applicable, as if the exempt portion of those properties
24 were subject to tax, calculated with respect to each such
25 property by multiplying:

26 (A) the lesser of (i) the actual assessed value, if

1 any, of the portion of the property for which an
2 exemption is sought or (ii) an estimated assessed value
3 of the exempt portion of such property as determined in
4 item (2) of this subsection (g), by

5 (B) the applicable State equalization rate
6 (yielding the equalized assessed value), by

7 (C) the applicable tax rate.

8 (2) The estimated assessed value of the exempt portion
9 of the property equals the sum of (i) the estimated fair
10 market value of buildings on the property, as determined in
11 accordance with subparagraphs (A) and (B) of this item (2),
12 multiplied by the applicable assessment factor, and (ii)
13 the estimated assessed value of the land portion of the
14 property, as determined in accordance with subparagraph
15 (C).

16 (A) The "estimated fair market value of buildings
17 on the property" means the replacement value of any
18 exempt portion of buildings on the property, minus
19 depreciation, determined utilizing the cost
20 replacement method whereby the exempt square footage
21 of all such buildings is multiplied by the replacement
22 cost per square foot for Class A Average building found
23 in the most recent edition of the Marshall & Swift
24 Valuation Services Manual, adjusted by any appropriate
25 current cost and local multipliers.

26 (B) Depreciation, for purposes of calculating the

1 estimated fair market value of buildings on the
2 property, is applied by utilizing a weighted mean life
3 for the buildings based on original construction and
4 assuming a 40-year life for hospital buildings and the
5 applicable life for other types of buildings as
6 specified in the American Hospital Association
7 publication "Estimated Useful Lives of Depreciable
8 Hospital Assets". In the case of hospital buildings,
9 the remaining life is divided by 40 and this ratio is
10 multiplied by the replacement cost of the buildings to
11 obtain an estimated fair market value of buildings. If
12 a hospital building is older than 35 years, a remaining
13 life of 5 years for residual value is assumed; and if a
14 building is less than 8 years old, a remaining life of
15 32 years is assumed.

16 (C) The estimated assessed value of the land
17 portion of the property shall be determined by
18 multiplying (i) the per square foot average of the
19 assessed values of three parcels of land (not including
20 farm land, and excluding the assessed value of the
21 improvements thereon) reasonably comparable to the
22 property, by (ii) the number of square feet comprising
23 the exempt portion of the property's land square
24 footage.

25 (3) The assessment factor, State equalization rate,
26 and tax rate (including any special factors such as

1 Enterprise Zones) used in calculating the estimated
2 property tax liability shall be for the most recent year
3 that is publicly available from the applicable chief county
4 assessment officer or officers at least 90 days before the
5 end of the hospital year.

6 (4) The method utilized to calculate estimated
7 property tax liability for purposes of this Section 15-86
8 shall not be utilized for the actual valuation, assessment,
9 or taxation of property pursuant to the Property Tax Code.

10 (h) For the purpose of this Section, the following terms
11 shall have the meanings set forth below:

12 (1) "Hospital" means any institution, place, building,
13 buildings on a campus, or other health care facility
14 located in Illinois that is licensed under the Hospital
15 Licensing Act and has a hospital owner.

16 (2) "Hospital owner" means a not-for-profit
17 corporation that is the titleholder of a hospital, or the
18 owner of the beneficial interest in an Illinois land trust
19 that is the titleholder of a hospital.

20 (3) "Hospital affiliate" means any corporation,
21 partnership, limited partnership, joint venture, limited
22 liability company, association or other organization,
23 other than a hospital owner, that directly or indirectly
24 controls, is controlled by, or is under common control with
25 one or more hospital owners and that supports, is supported
26 by, or acts in furtherance of the exempt health care

1 purposes of at least one of those hospital owners'
2 hospitals.

3 (4) "Hospital system" means a hospital and one or more
4 other hospitals or hospital affiliates related by common
5 control or ownership.

6 (5) "Control" relating to a hospital owners, hospital
7 affiliates, or hospital systems means possession, direct
8 or indirect, of the power to direct or cause the direction
9 of the management and policies of the entity, whether
10 through ownership of assets, membership interest, other
11 voting or governance rights, by contract or otherwise.

12 (6) "Hospital applicant" means a hospital owner or
13 hospital affiliate that files an application for an
14 exemption or renewal of exemption under this Section.

15 (7) "Relevant hospital entity" means (A) the hospital
16 owner, in the case of a hospital applicant that is a
17 hospital owner, and (B) at the election of a hospital
18 applicant that is a hospital affiliate, either (i) the
19 hospital affiliate or (ii) the hospital system to which the
20 hospital applicant belongs, including any hospitals or
21 hospital affiliates that are related by common control or
22 ownership.

23 (8) "Subject property" means property used for the
24 calculation under subsection (b) of this Section.

25 (9) "Hospital year" means the fiscal year of the
26 relevant hospital entity, or the fiscal year of one of the

1 hospital owners in the hospital system if the relevant
2 hospital entity is a hospital system with members with
3 different fiscal years, that ends in the year for which the
4 exemption is sought.

5 Section 5-25. The Retailers' Occupation Tax Act is amended
6 by adding Section 2-9 as follows:

7 (35 ILCS 120/2-9 new)

8 Sec. 2-9. Hospital exemption.

9 (a) Tangible personal property sold to or used by a
10 hospital owner that owns one or more hospitals licensed under
11 the Hospital Licensing Act or operated under the University of
12 Illinois Hospital Act, or a hospital affiliate that is not
13 already exempt under another provision of this Act and meets
14 the criteria for an exemption under this Section, is exempt
15 from taxation under this Act.

16 (b) A hospital owner or hospital affiliate satisfies the
17 conditions for an exemption under this Section if the value of
18 qualified services or activities listed in subsection (c) of
19 this Section for the hospital year equals or exceeds the
20 relevant hospital entity's estimated property tax liability,
21 without regard to any property tax exemption granted under
22 Section 15-86 of the Property Tax Code, for the calendar year
23 in which exemption or renewal of exemption is sought. For
24 purposes of making the calculations required by this subsection

1 (b), if the relevant hospital entity is a hospital owner that
2 owns more than one hospital, the value of the services or
3 activities listed in subsection (c) shall be calculated on the
4 basis of only those services and activities relating to the
5 hospital that includes the subject property, and the relevant
6 hospital entity's estimated property tax liability shall be
7 calculated only with respect to the properties comprising that
8 hospital. In the case of a multi-state hospital system or
9 hospital affiliate, the value of the services or activities
10 listed in subsection (c) shall be calculated on the basis of
11 only those services and activities that occur in Illinois and
12 the relevant hospital entity's estimated property tax
13 liability shall be calculated only with respect to its property
14 located in Illinois.

15 (c) The following services and activities shall be
16 considered for purposes of making the calculations required by
17 subsection (b):

18 (1) Charity care. Free or discounted services provided
19 pursuant to the relevant hospital entity's financial
20 assistance policy, measured at cost, including discounts
21 provided under the Hospital Uninsured Patient Discount
22 Act.

23 (2) Health services to low-income and underserved
24 individuals. Other unreimbursed costs of the relevant
25 hospital entity for providing without charge, paying for,
26 or subsidizing goods, activities, or services for the

1 purpose of addressing the health of low-income or
2 underserved individuals. Those activities or services may
3 include, but are not limited to: financial or in-kind
4 support to affiliated or unaffiliated hospitals, hospital
5 affiliates, community clinics, or programs that treat
6 low-income or underserved individuals; paying for or
7 subsidizing health care professionals who care for
8 low-income or underserved individuals; providing or
9 subsidizing outreach or educational services to low-income
10 or underserved individuals for disease management and
11 prevention; free or subsidized goods, supplies, or
12 services needed by low-income or underserved individuals
13 because of their medical condition; and prenatal or
14 childbirth outreach to low-income or underserved persons.

15 (3) Subsidy of State or local governments. Direct or
16 indirect financial or in-kind subsidies of State or local
17 governments by the relevant hospital entity that pay for or
18 subsidize activities or programs related to health care for
19 low-income or underserved individuals.

20 (4) Support for State health care programs for
21 low-income individuals. At the election of the hospital
22 applicant for each applicable year, either (A) 10% of
23 payments to the relevant hospital entity and any hospital
24 affiliate designated by the relevant hospital entity
25 (provided that such hospital affiliate's operations
26 provide financial or operational support for or receive

1 financial or operational support from the relevant
2 hospital entity) under Medicaid or other means-tested
3 programs, including, but not limited, to General
4 Assistance, the Covering ALL KIDS Health Insurance Act, and
5 the State Children's Health Insurance Program or (B) the
6 amount of subsidy provided by the relevant hospital entity
7 and any hospital affiliate designated by the relevant
8 hospital entity (provided that such hospital affiliate's
9 operations provide financial or operational support for or
10 receive financial or operational support from the relevant
11 hospital entity) to State or local government in treating
12 Medicaid recipients and recipients of means-tested
13 programs, including but not limited to General Assistance,
14 the Covering ALL KIDS Health Insurance Act, and the State
15 Children's Health Insurance Program. The amount of subsidy
16 for purpose of this item (4) is calculated in the same
17 manner as unreimbursed costs are calculated for Medicaid
18 and other means-tested government programs in the Schedule
19 H of IRS Form 990 in effect on the effective date of this
20 amendatory Act of the 97th General Assembly.

21 (5) Dual-eligible subsidy. The amount of subsidy
22 provided to government by treating dual-eligible
23 Medicare/Medicaid patients. The amount of subsidy for
24 purposes of this item (5) is calculated by multiplying the
25 relevant hospital entity's unreimbursed costs for
26 Medicare, calculated in the same manner as determined in

1 the Schedule H of IRS Form 990 in effect on the effective
2 date of this amendatory Act of the 97th General Assembly,
3 by the relevant hospital entity's ratio of dual-eligible
4 patients to total Medicare patients.

5 (6) Relief of the burden of government related to
6 health care. Except to the extent otherwise taken into
7 account in this subsection, the portion of unreimbursed
8 costs of the relevant hospital entity attributable to
9 providing, paying for, or subsidizing goods, activities,
10 or services that relieve the burden of government related
11 to health care for low-income individuals. Such activities
12 or services shall include, but are not limited to,
13 providing emergency, trauma, burn, neonatal, psychiatric,
14 rehabilitation, or other special services; providing
15 medical education; and conducting medical research or
16 training of health care professionals. The portion of those
17 unreimbursed costs attributable to benefiting low-income
18 individuals shall be determined using the ratio calculated
19 by adding the relevant hospital entity's costs
20 attributable to charity care, Medicaid, other means-tested
21 government programs, disabled Medicare patients under age
22 65, and dual-eligible Medicare/Medicaid patients and
23 dividing that total by the relevant hospital entity's total
24 costs. Such costs for the numerator and denominator shall
25 be determined by multiplying gross charges by the cost to
26 charge ratio taken from the hospital's most recently filed

1 Medicare cost report (CMS 2252-10 Worksheet, Part I). In
2 the case of emergency services, the ratio shall be
3 calculated using costs (gross charges multiplied by the
4 cost to charge ratio taken from the hospital's most
5 recently filed Medicare cost report (CMS 2252-10
6 Worksheet, Part I)) of patients treated in the relevant
7 hospital entity's emergency department.

8 (7) Any other activity by the relevant hospital entity
9 that the Department determines relieves the burden of
10 government or addresses the health of low-income or
11 underserved individuals.

12 (d) The hospital applicant shall include information in its
13 exemption application establishing that it satisfies the
14 requirements of subsection (b). For purposes of making the
15 calculations required by subsection (b), the hospital
16 applicant may for each year elect to use either (1) the value
17 of the services or activities listed in subsection (e) for the
18 hospital year or (2) the average value of those services or
19 activities for the 3 fiscal years ending with the hospital
20 year. If the relevant hospital entity has been in operation for
21 less than 3 completed fiscal years, then the latter
22 calculation, if elected, shall be performed on a pro rata
23 basis.

24 (e) For purposes of making the calculations required by
25 this Section:

26 (1) particular services or activities eligible for

1 consideration under any of the paragraphs (1) through (7)
2 of subsection (c) may not be counted under more than one of
3 those paragraphs; and

4 (2) the amount of unreimbursed costs and the amount of
5 subsidy shall not be reduced by restricted or unrestricted
6 payments received by the relevant hospital entity as
7 contributions deductible under Section 170(a) of the
8 Internal Revenue Code.

9 (g) Estimation of Exempt Property Tax Liability. The
10 estimated property tax liability used for the determination in
11 subsection (b) shall be calculated as follows:

12 (1) "Estimated property tax liability" means the
13 estimated dollar amount of property tax that would be owed,
14 with respect to the exempt portion of each of the relevant
15 hospital entity's properties that are already fully or
16 partially exempt, or for which an exemption in whole or in
17 part is currently being sought, and then aggregated as
18 applicable, as if the exempt portion of those properties
19 were subject to tax, calculated with respect to each such
20 property by multiplying:

21 (A) the lesser of (i) the actual assessed value, if
22 any, of the portion of the property for which an
23 exemption is sought or (ii) an estimated assessed value
24 of the exempt portion of such property as determined in
25 item (2) of this subsection (g), by

26 (B) the applicable State equalization rate

1 (yielding the equalized assessed value), by

2 (C) the applicable tax rate.

3 (2) The estimated assessed value of the exempt portion
4 of the property equals the sum of (i) the estimated fair
5 market value of buildings on the property, as determined in
6 accordance with subparagraphs (A) and (B) of this item (2),
7 multiplied by the applicable assessment factor, and (ii)
8 the estimated assessed value of the land portion of the
9 property, as determined in accordance with subparagraph
10 (C).

11 (A) The "estimated fair market value of buildings
12 on the property" means the replacement value of any
13 exempt portion of buildings on the property, minus
14 depreciation, determined utilizing the cost
15 replacement method whereby the exempt square footage
16 of all such buildings is multiplied by the replacement
17 cost per square foot for Class A Average building found
18 in the most recent edition of the Marshall & Swift
19 Valuation Services Manual, adjusted by any appropriate
20 current cost and local multipliers.

21 (B) Depreciation, for purposes of calculating the
22 estimated fair market value of buildings on the
23 property, is applied by utilizing a weighted mean life
24 for the buildings based on original construction and
25 assuming a 40-year life for hospital buildings and the
26 applicable life for other types of buildings as

1 specified in the American Hospital Association
2 publication "Estimated Useful Lives of Depreciable
3 Hospital Assets". In the case of hospital buildings,
4 the remaining life is divided by 40 and this ratio is
5 multiplied by the replacement cost of the buildings to
6 obtain an estimated fair market value of buildings. If
7 a hospital building is older than 35 years, a remaining
8 life of 5 years for residual value is assumed; and if a
9 building is less than 8 years old, a remaining life of
10 32 years is assumed.

11 (C) The estimated assessed value of the land
12 portion of the property shall be determined by
13 multiplying (i) the per square foot average of the
14 assessed values of three parcels of land (not including
15 farm land, and excluding the assessed value of the
16 improvements thereon) reasonably comparable to the
17 property, by (ii) the number of square feet comprising
18 the exempt portion of the property's land square
19 footage.

20 (3) The assessment factor, State equalization rate,
21 and tax rate (including any special factors such as
22 Enterprise Zones) used in calculating the estimated
23 property tax liability shall be for the most recent year
24 that is publicly available from the applicable chief county
25 assessment officer or officers at least 90 days before the
26 end of the hospital year.

1 (4) The method utilized to calculate estimated
2 property tax liability for purposes of this Section 15-86
3 shall not be utilized for the actual valuation, assessment,
4 or taxation of property pursuant to the Property Tax Code.

5 (h) For the purpose of this Section, the following terms
6 shall have the meanings set forth below:

7 (1) "Hospital" means any institution, place, building,
8 buildings on a campus, or other health care facility
9 located in Illinois that is licensed under the Hospital
10 Licensing Act and has a hospital owner.

11 (2) "Hospital owner" means a not-for-profit
12 corporation that is the titleholder of a hospital, or the
13 owner of the beneficial interest in an Illinois land trust
14 that is the titleholder of a hospital.

15 (3) "Hospital affiliate" means any corporation,
16 partnership, limited partnership, joint venture, limited
17 liability company, association or other organization,
18 other than a hospital owner, that directly or indirectly
19 controls, is controlled by, or is under common control with
20 one or more hospital owners and that supports, is supported
21 by, or acts in furtherance of the exempt health care
22 purposes of at least one of those hospital owners'
23 hospitals.

24 (4) "Hospital system" means a hospital and one or more
25 other hospitals or hospital affiliates related by common
26 control or ownership.

1 (5) "Control" relating to a hospital owners, hospital
2 affiliates, or hospital systems means possession, direct
3 or indirect, of the power to direct or cause the direction
4 of the management and policies of the entity, whether
5 through ownership of assets, membership interest, other
6 voting or governance rights, by contract or otherwise.

7 (6) "Hospital applicant" means a hospital owner or
8 hospital affiliate that files an application for an
9 exemption or renewal of exemption under this Section.

10 (7) "Relevant hospital entity" means (A) the hospital
11 owner, in the case of a hospital applicant that is a
12 hospital owner, and (B) at the election of a hospital
13 applicant that is a hospital affiliate, either (i) the
14 hospital affiliate or (ii) the hospital system to which the
15 hospital applicant belongs, including any hospitals or
16 hospital affiliates that are related by common control or
17 ownership.

18 (8) "Subject property" means property used for the
19 calculation under subsection (b) of this Section.

20 (9) "Hospital year" means the fiscal year of the
21 relevant hospital entity, or the fiscal year of one of the
22 hospital owners in the hospital system if the relevant
23 hospital entity is a hospital system with members with
24 different fiscal years, that ends in the year for which the
25 exemption is sought.

1 Section 5-30. The Cigarette Tax Act is amended by changing
2 Sections 1 and 2 as follows:

3 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

4 Sec. 1. For the purposes of this Act:

5 "Brand Style" means a variety of cigarettes distinguished
6 by the tobacco used, tar and nicotine content, flavoring used,
7 size of the cigarette, filtration on the cigarette or
8 packaging.

9 Until July 1, 2012, "cigarette" ~~"Cigarette"~~, means any roll
10 for smoking made wholly or in part of tobacco irrespective of
11 size or shape and whether or not such tobacco is flavored,
12 adulterated or mixed with any other ingredient, and the wrapper
13 or cover of which is made of paper or any other substance or
14 material except tobacco.

15 "Cigarette", beginning on and after July 1, 2012, means any
16 roll for smoking made wholly or in part of tobacco irrespective
17 of size or shape and whether or not such tobacco is flavored,
18 adulterated, or mixed with any other ingredient, and the
19 wrapper or cover of which is made of paper.

20 "Cigarette" beginning on and after July 1, 2012, also shall
21 mean: Any roll for smoking made wholly or in part of tobacco
22 labeled as anything other than a cigarette or not bearing a
23 label, if it meets two or more of the following criteria:

24 (a) the product is sold in packs similar to cigarettes;

25 (b) the product is available for sale in cartons of ten

1 packs;

2 (c) the product is sold in soft packs, hard packs,
3 flip-top boxes, clam shells, or other cigarette-type
4 boxes;

5 (d) the product is of a length and diameter similar to
6 commercially-manufactured cigarettes;

7 (e) the product has a cellulose acetate or other
8 integrated filter;

9 (f) the product is marketed or advertised to consumers
10 as a cigarette or cigarette substitute; or

11 (g) other evidence that the product fits within the
12 definition of cigarette.

13 "Contraband cigarettes" means:

14 (a) cigarettes that do not bear a required tax stamp
15 under this Act;

16 (b) cigarettes for which any required federal taxes
17 have not been paid;

18 (c) cigarettes that bear a counterfeit tax stamp;

19 (d) cigarettes that are manufactured, fabricated,
20 assembled, processed, packaged, or labeled by any person
21 other than (i) the owner of the trademark rights in the
22 cigarette brand or (ii) a person that is directly or
23 indirectly authorized by such owner;

24 (e) cigarettes imported into the United States, or
25 otherwise distributed, in violation of the federal
26 Imported Cigarette Compliance Act of 2000 (Title IV of

1 Public Law 106-476);

2 (f) cigarettes that have false manufacturing labels;

3 (g) cigarettes identified in Section 3-10(a)(1) of
4 this Act; ~~or~~

5 (h) cigarettes that are improperly tax stamped,
6 including cigarettes that bear a tax stamp of another state
7 or taxing jurisdiction; or ~~or~~

8 (i) cigarettes made or fabricated by a person holding a
9 cigarette machine operator license under Section 1-20 of
10 the Cigarette Machine Operators' Occupation Tax Act in the
11 possession of manufacturers, distributors, secondary
12 distributors, manufacturer representatives or other
13 retailers for the purpose of resale, regardless of whether
14 the tax has been paid on such cigarettes.

15 "Person" means any natural individual, firm, partnership,
16 association, joint stock company, joint adventure, public or
17 private corporation, however formed, limited liability
18 company, or a receiver, executor, administrator, trustee,
19 guardian or other representative appointed by order of any
20 court.

21 "Prior Continuous Compliance Taxpayer" means any person
22 who is licensed under this Act and who, having been a licensee
23 for a continuous period of 5 years, is determined by the
24 Department not to have been either delinquent or deficient in
25 the payment of tax liability during that period or otherwise in
26 violation of this Act. Also, any taxpayer who has, as verified

1 by the Department, continuously complied with the condition of
2 his bond or other security under provisions of this Act for a
3 period of 5 consecutive years shall be considered to be a
4 "Prior continuous compliance taxpayer". In calculating the
5 consecutive period of time described herein for qualification
6 as a "prior continuous compliance taxpayer", a consecutive
7 period of time of qualifying compliance immediately prior to
8 the effective date of this amendatory Act of 1987 shall be
9 credited to any licensee who became licensed on or before the
10 effective date of this amendatory Act of 1987.

11 "Department" means the Department of Revenue.

12 "Sale" means any transfer, exchange or barter in any manner
13 or by any means whatsoever for a consideration, and includes
14 and means all sales made by any person.

15 "Original Package" means the individual packet, box or
16 other container whatsoever used to contain and to convey
17 cigarettes to the consumer.

18 "Distributor" means any and each of the following:

19 (1) Any person engaged in the business of selling
20 cigarettes in this State who brings or causes to be brought
21 into this State from without this State any original
22 packages of cigarettes, on which original packages there is
23 no authorized evidence underneath a sealed transparent
24 wrapper showing that the tax liability imposed by this Act
25 has been paid or assumed by the out-of-State seller of such
26 cigarettes, for sale or other disposition in the course of

1 such business.

2 (2) Any person who makes, manufactures or fabricates
3 cigarettes in this State for sale in this State, except a
4 person who makes, manufactures or fabricates cigarettes as
5 a part of a correctional industries program for sale to
6 residents incarcerated in penal institutions or resident
7 patients of a State-operated mental health facility.

8 (3) Any person who makes, manufactures or fabricates
9 cigarettes outside this State, which cigarettes are placed
10 in original packages contained in sealed transparent
11 wrappers, for delivery or shipment into this State, and who
12 elects to qualify and is accepted by the Department as a
13 distributor under Section 4b of this Act.

14 "Place of business" shall mean and include any place where
15 cigarettes are sold or where cigarettes are manufactured,
16 stored or kept for the purpose of sale or consumption,
17 including any vessel, vehicle, airplane, train or vending
18 machine.

19 "Manufacturer representative" means a director, officer,
20 or employee of a manufacturer who has obtained authority from
21 the Department under Section 4f to maintain representatives in
22 Illinois that provide or sell original packages of cigarettes
23 made, manufactured, or fabricated by the manufacturer to
24 retailers in compliance with Section 4f of this Act to promote
25 cigarettes made, manufactured, or fabricated by the
26 manufacturer.

1 "Business" means any trade, occupation, activity or
2 enterprise engaged in for the purpose of selling cigarettes in
3 this State.

4 "Retailer" means any person who engages in the making of
5 transfers of the ownership of, or title to, cigarettes to a
6 purchaser for use or consumption and not for resale in any
7 form, for a valuable consideration. "Retailer" does not include
8 a person:

9 (1) who transfers to residents incarcerated in penal
10 institutions or resident patients of a State-operated
11 mental health facility ownership of cigarettes made,
12 manufactured, or fabricated as part of a correctional
13 industries program; or

14 (2) who transfers cigarettes to a not-for-profit
15 research institution that conducts tests concerning the
16 health effects of tobacco products and who does not offer
17 the cigarettes for resale.

18 "Retailer" shall be construed to include any person who
19 engages in the making of transfers of the ownership of, or
20 title to, cigarettes to a purchaser, for use or consumption by
21 any other person to whom such purchaser may transfer the
22 cigarettes without a valuable consideration, except a person
23 who transfers to residents incarcerated in penal institutions
24 or resident patients of a State-operated mental health facility
25 ownership of cigarettes made, manufactured or fabricated as
26 part of a correctional industries program.

1 "Secondary distributor" means any person engaged in the
2 business of selling cigarettes who purchases stamped original
3 packages of cigarettes from a licensed distributor under this
4 Act or the Cigarette Use Tax Act, sells 75% or more of those
5 cigarettes to retailers for resale, and maintains an
6 established business where a substantial stock of cigarettes is
7 available to retailers for resale.

8 "Stamp" or "stamps" mean the indicia required to be affixed
9 on a pack of cigarettes that evidence payment of the tax on
10 cigarettes under Section 2 of this Act.

11 "Related party" means any person that is associated with
12 any other person because he or she:

13 (a) is an officer or director of a business; or

14 (b) is legally recognized as a partner in business.

15 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10;
16 97-587, eff. 8-26-11.)

17 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

18 Sec. 2. Tax imposed; rate; collection, payment, and
19 distribution; discount.

20 (a) A tax is imposed upon any person engaged in business as
21 a retailer of cigarettes in this State at the rate of 5 1/2
22 mills per cigarette sold, or otherwise disposed of in the
23 course of such business in this State. In addition to any other
24 tax imposed by this Act, a tax is imposed upon any person
25 engaged in business as a retailer of cigarettes in this State

1 at a rate of 1/2 mill per cigarette sold or otherwise disposed
2 of in the course of such business in this State on and after
3 January 1, 1947, and shall be paid into the Metropolitan Fair
4 and Exposition Authority Reconstruction Fund or as otherwise
5 provided in Section 29. On and after December 1, 1985, in
6 addition to any other tax imposed by this Act, a tax is imposed
7 upon any person engaged in business as a retailer of cigarettes
8 in this State at a rate of 4 mills per cigarette sold or
9 otherwise disposed of in the course of such business in this
10 State. Of the additional tax imposed by this amendatory Act of
11 1985, \$9,000,000 of the moneys received by the Department of
12 Revenue pursuant to this Act shall be paid each month into the
13 Common School Fund. On and after the effective date of this
14 amendatory Act of 1989, in addition to any other tax imposed by
15 this Act, a tax is imposed upon any person engaged in business
16 as a retailer of cigarettes at the rate of 5 mills per
17 cigarette sold or otherwise disposed of in the course of such
18 business in this State. On and after the effective date of this
19 amendatory Act of 1993, in addition to any other tax imposed by
20 this Act, a tax is imposed upon any person engaged in business
21 as a retailer of cigarettes at the rate of 7 mills per
22 cigarette sold or otherwise disposed of in the course of such
23 business in this State. On and after December 15, 1997, in
24 addition to any other tax imposed by this Act, a tax is imposed
25 upon any person engaged in business as a retailer of cigarettes
26 at the rate of 7 mills per cigarette sold or otherwise disposed

1 of in the course of such business of this State. All of the
2 moneys received by the Department of Revenue pursuant to this
3 Act and the Cigarette Use Tax Act from the additional taxes
4 imposed by this amendatory Act of 1997, shall be paid each
5 month into the Common School Fund. On and after July 1, 2002,
6 in addition to any other tax imposed by this Act, a tax is
7 imposed upon any person engaged in business as a retailer of
8 cigarettes at the rate of 20.0 mills per cigarette sold or
9 otherwise disposed of in the course of such business in this
10 State. Beginning on June 24, 2012, in addition to any other tax
11 imposed by this Act, a tax is imposed upon any person engaged
12 in business as a retailer of cigarettes at the rate of 50 mills
13 per cigarette sold or otherwise disposed of in the course of
14 such business in this State. All moneys received by the
15 Department of Revenue under this Act and the Cigarette Use Tax
16 Act from the additional taxes imposed by this amendatory Act of
17 the 97th General Assembly shall be paid each month into the
18 Healthcare Provider Relief Fund. The payment of such taxes
19 shall be evidenced by a stamp affixed to each original package
20 of cigarettes, or an authorized substitute for such stamp
21 imprinted on each original package of such cigarettes
22 underneath the sealed transparent outside wrapper of such
23 original package, as hereinafter provided. However, such taxes
24 are not imposed upon any activity in such business in
25 interstate commerce or otherwise, which activity may not under
26 the Constitution and statutes of the United States be made the

1 subject of taxation by this State.

2 Beginning on the effective date of this amendatory Act of
3 the 92nd General Assembly and through June 30, 2006, all of the
4 moneys received by the Department of Revenue pursuant to this
5 Act and the Cigarette Use Tax Act, other than the moneys that
6 are dedicated to the Common School Fund, shall be distributed
7 each month as follows: first, there shall be paid into the
8 General Revenue Fund an amount which, when added to the amount
9 paid into the Common School Fund for that month, equals
10 \$33,300,000, except that in the month of August of 2004, this
11 amount shall equal \$83,300,000; then, from the moneys
12 remaining, if any amounts required to be paid into the General
13 Revenue Fund in previous months remain unpaid, those amounts
14 shall be paid into the General Revenue Fund; then, beginning on
15 April 1, 2003, from the moneys remaining, \$5,000,000 per month
16 shall be paid into the School Infrastructure Fund; then, if any
17 amounts required to be paid into the School Infrastructure Fund
18 in previous months remain unpaid, those amounts shall be paid
19 into the School Infrastructure Fund; then the moneys remaining,
20 if any, shall be paid into the Long-Term Care Provider Fund. To
21 the extent that more than \$25,000,000 has been paid into the
22 General Revenue Fund and Common School Fund per month for the
23 period of July 1, 1993 through the effective date of this
24 amendatory Act of 1994 from combined receipts of the Cigarette
25 Tax Act and the Cigarette Use Tax Act, notwithstanding the
26 distribution provided in this Section, the Department of

1 Revenue is hereby directed to adjust the distribution provided
2 in this Section to increase the next monthly payments to the
3 Long Term Care Provider Fund by the amount paid to the General
4 Revenue Fund and Common School Fund in excess of \$25,000,000
5 per month and to decrease the next monthly payments to the
6 General Revenue Fund and Common School Fund by that same excess
7 amount.

8 Beginning on July 1, 2006, all of the moneys received by
9 the Department of Revenue pursuant to this Act and the
10 Cigarette Use Tax Act, other than the moneys that are dedicated
11 to the Common School Fund and, beginning on the effective date
12 of this amendatory Act of the 97th General Assembly, other than
13 the moneys from the additional taxes imposed by this amendatory
14 Act of the 97th General Assembly that must be paid each month
15 into the Healthcare Provider Relief Fund, shall be distributed
16 each month as follows: first, there shall be paid into the
17 General Revenue Fund an amount that, when added to the amount
18 paid into the Common School Fund for that month, equals
19 \$29,200,000; then, from the moneys remaining, if any amounts
20 required to be paid into the General Revenue Fund in previous
21 months remain unpaid, those amounts shall be paid into the
22 General Revenue Fund; then from the moneys remaining,
23 \$5,000,000 per month shall be paid into the School
24 Infrastructure Fund; then, if any amounts required to be paid
25 into the School Infrastructure Fund in previous months remain
26 unpaid, those amounts shall be paid into the School

1 Infrastructure Fund; then the moneys remaining, if any, shall
2 be paid into the Long-Term Care Provider Fund.

3 When any tax imposed herein terminates or has terminated,
4 distributors who have bought stamps while such tax was in
5 effect and who therefore paid such tax, but who can show, to
6 the Department's satisfaction, that they sold the cigarettes to
7 which they affixed such stamps after such tax had terminated
8 and did not recover the tax or its equivalent from purchasers,
9 shall be allowed by the Department to take credit for such
10 absorbed tax against subsequent tax stamp purchases from the
11 Department by such distributor.

12 The impact of the tax levied by this Act is imposed upon
13 the retailer and shall be prepaid or pre-collected by the
14 distributor for the purpose of convenience and facility only,
15 and the amount of the tax shall be added to the price of the
16 cigarettes sold by such distributor. Collection of the tax
17 shall be evidenced by a stamp or stamps affixed to each
18 original package of cigarettes, as hereinafter provided.

19 Each distributor shall collect the tax from the retailer at
20 or before the time of the sale, shall affix the stamps as
21 hereinafter required, and shall remit the tax collected from
22 retailers to the Department, as hereinafter provided. Any
23 distributor who fails to properly collect and pay the tax
24 imposed by this Act shall be liable for the tax. Any
25 distributor having cigarettes to which stamps have been affixed
26 in his possession for sale on the effective date of this

1 amendatory Act of 1989 shall not be required to pay the
2 additional tax imposed by this amendatory Act of 1989 on such
3 stamped cigarettes. Any distributor having cigarettes to which
4 stamps have been affixed in his or her possession for sale at
5 12:01 a.m. on the effective date of this amendatory Act of
6 1993, is required to pay the additional tax imposed by this
7 amendatory Act of 1993 on such stamped cigarettes. This
8 payment, less the discount provided in subsection (b), shall be
9 due when the distributor first makes a purchase of cigarette
10 tax stamps after the effective date of this amendatory Act of
11 1993, or on the first due date of a return under this Act after
12 the effective date of this amendatory Act of 1993, whichever
13 occurs first. Any distributor having cigarettes to which stamps
14 have been affixed in his possession for sale on December 15,
15 1997 shall not be required to pay the additional tax imposed by
16 this amendatory Act of 1997 on such stamped cigarettes.

17 Any distributor having cigarettes to which stamps have been
18 affixed in his or her possession for sale on July 1, 2002 shall
19 not be required to pay the additional tax imposed by this
20 amendatory Act of the 92nd General Assembly on those stamped
21 cigarettes.

22 Any retailer having cigarettes in his or her possession on
23 June 24, 2012 to which tax stamps have been affixed is not
24 required to pay the additional tax that begins on June 24, 2012
25 imposed by this amendatory Act of the 97th General Assembly on
26 those stamped cigarettes. Any distributor having cigarettes in

1 his or her possession on June 24, 2012 to which tax stamps have
2 been affixed, and any distributor having stamps in his or her
3 possession on June 24, 2012 that have not been affixed to
4 packages of cigarettes before June 24, 2012, is required to pay
5 the additional tax that begins on June 24, 2012 imposed by this
6 amendatory Act of the 97th General Assembly to the extent the
7 calendar year 2012 average monthly volume of cigarette stamps
8 in the distributor's possession exceeds the average monthly
9 volume of cigarette stamps purchased by the distributor in
10 calendar year 2011. This payment, less the discount provided in
11 subsection (b), is due when the distributor first makes a
12 purchase of cigarette stamps on or after June 24, 2012 or on
13 the first due date of a return under this Act occurring on or
14 after June 24, 2012, whichever occurs first. Those distributors
15 may elect to pay the additional tax on packages of cigarettes
16 to which stamps have been affixed and on any stamps in the
17 distributor's possession that have not been affixed to packages
18 of cigarettes over a period not to exceed 12 months from the
19 due date of the additional tax by notifying the Department in
20 writing. The first payment for distributors making such
21 election is due when the distributor first makes a purchase of
22 cigarette tax stamps on or after June 24, 2012 or on the first
23 due date of a return under this Act occurring on or after June
24 24, 2012, whichever occurs first. Distributors making such an
25 election are not entitled to take the discount provided in
26 subsection (b) on such payments.

1 Distributors making sales of cigarettes to secondary
2 distributors shall add the amount of the tax to the price of
3 the cigarettes sold by the distributors. Secondary
4 distributors making sales of cigarettes to retailers shall
5 include the amount of the tax in the price of the cigarettes
6 sold to retailers. The amount of tax shall not be less than the
7 amount of taxes imposed by the State and all local
8 jurisdictions. The amount of local taxes shall be calculated
9 based on the location of the retailer's place of business shown
10 on the retailer's certificate of registration or
11 sub-registration issued to the retailer pursuant to Section 2a
12 of the Retailers' Occupation Tax Act. The original packages of
13 cigarettes sold to the retailer shall bear all the required
14 stamps, or other indicia, for the taxes included in the price
15 of cigarettes.

16 The amount of the Cigarette Tax imposed by this Act shall
17 be separately stated, apart from the price of the goods, by
18 distributors, manufacturer representatives, secondary
19 distributors, and retailers, in all bills and sales invoices.

20 (b) The distributor shall be required to collect the taxes
21 provided under paragraph (a) hereof, and, to cover the costs of
22 such collection, shall be allowed a discount during any year
23 commencing July 1st and ending the following June 30th in
24 accordance with the schedule set out hereinbelow, which
25 discount shall be allowed at the time of purchase of the stamps
26 when purchase is required by this Act, or at the time when the

1 tax is remitted to the Department without the purchase of
2 stamps from the Department when that method of paying the tax
3 is required or authorized by this Act. Prior to December 1,
4 1985, a discount equal to 1 2/3% of the amount of the tax up to
5 and including the first \$700,000 paid hereunder by such
6 distributor to the Department during any such year; 1 1/3% of
7 the next \$700,000 of tax or any part thereof, paid hereunder by
8 such distributor to the Department during any such year; 1% of
9 the next \$700,000 of tax, or any part thereof, paid hereunder
10 by such distributor to the Department during any such year, and
11 2/3 of 1% of the amount of any additional tax paid hereunder by
12 such distributor to the Department during any such year shall
13 apply. On and after December 1, 1985, a discount equal to 1.75%
14 of the amount of the tax payable under this Act up to and
15 including the first \$3,000,000 paid hereunder by such
16 distributor to the Department during any such year and 1.5% of
17 the amount of any additional tax paid hereunder by such
18 distributor to the Department during any such year shall apply.

19 Two or more distributors that use a common means of
20 affixing revenue tax stamps or that are owned or controlled by
21 the same interests shall be treated as a single distributor for
22 the purpose of computing the discount.

23 (c) The taxes herein imposed are in addition to all other
24 occupation or privilege taxes imposed by the State of Illinois,
25 or by any political subdivision thereof, or by any municipal
26 corporation.

1 (Source: P.A. 96-1027, eff. 7-12-10; 97-587, eff. 8-26-11.)

2 Section 5-45. The Cigarette Use Tax Act is amended by
3 changing Sections 1 and 2 as follows:

4 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

5 Sec. 1. For the purpose of this Act, unless otherwise
6 required by the context:

7 "Use" means the exercise by any person of any right or
8 power over cigarettes incident to the ownership or possession
9 thereof, other than the making of a sale thereof in the course
10 of engaging in a business of selling cigarettes and shall
11 include the keeping or retention of cigarettes for use, except
12 that "use" does not include the use of cigarettes by a
13 not-for-profit research institution conducting tests
14 concerning the health effects of tobacco products, provided the
15 cigarettes are not offered for resale.

16 "Brand Style" means a variety of cigarettes distinguished
17 by the tobacco used, tar and nicotine content, flavoring used,
18 size of the cigarette, filtration on the cigarette or
19 packaging.

20 Until July 1, 2012, "cigarette" ~~"Cigarette"~~ means any roll
21 for smoking made wholly or in part of tobacco irrespective of
22 size or shape and whether or not such tobacco is flavored,
23 adulterated or mixed with any other ingredient, and the wrapper
24 or cover of which is made of paper or any other substance or

1 material except tobacco.

2 "Cigarette", beginning on and after July 1, 2012, means any
3 roll for smoking made wholly or in part of tobacco irrespective
4 of size or shape and whether or not such tobacco is flavored,
5 adulterated or mixed with any other ingredient, and the wrapper
6 or cover of which is made of paper.

7 "Cigarette" beginning on and after July 1, 2012, also shall
8 mean: Any roll for smoking made wholly or in part of tobacco
9 labeled as anything other than a cigarette or not bearing a
10 label, if it meets two or more of the following criteria:

11 (a) the product is sold in packs similar to cigarettes;

12 (b) the product is available for sale in cartons of ten
13 packs;

14 (c) the product is sold in soft packs, hard packs,
15 flip-top boxes, clam shells, or other cigarette-type
16 boxes;

17 (d) the product is of a length and diameter similar to
18 commercially-manufactured cigarettes;

19 (e) the product has a cellulose acetate or other
20 integrated filter;

21 (f) the product is marketed or advertised to consumers
22 as a cigarette or cigarette substitute; or

23 (g) other evidence that the product fits within the
24 definition of cigarette.

25 "Contraband cigarettes" means:

26 (a) cigarettes that do not bear a required tax stamp

1 under this Act;

2 (b) cigarettes for which any required federal taxes
3 have not been paid;

4 (c) cigarettes that bear a counterfeit tax stamp;

5 (d) cigarettes that are manufactured, fabricated,
6 assembled, processed, packaged, or labeled by any person
7 other than (i) the owner of the trademark rights in the
8 cigarette brand or (ii) a person that is directly or
9 indirectly authorized by such owner;

10 (e) cigarettes imported into the United States, or
11 otherwise distributed, in violation of the federal
12 Imported Cigarette Compliance Act of 2000 (Title IV of
13 Public Law 106-476);

14 (f) cigarettes that have false manufacturing labels;

15 (g) cigarettes identified in Section 3-10(a)(1) of
16 this Act; ~~or~~

17 (h) cigarettes that are improperly tax stamped,
18 including cigarettes that bear a tax stamp of another state
19 or taxing jurisdiction; or -

20 (i) cigarettes made or fabricated by a person holding a
21 cigarette machine operator license under Section 1-20 of
22 the Cigarette Machine Operators' Occupation Tax Act in the
23 possession of manufacturers, distributors, secondary
24 distributors, manufacturer representatives or other
25 retailers for the purpose of resale, regardless of whether
26 the tax has been paid on such cigarettes.

1 "Person" means any natural individual, firm, partnership,
2 association, joint stock company, joint adventure, public or
3 private corporation, however formed, limited liability
4 company, or a receiver, executor, administrator, trustee,
5 guardian or other representative appointed by order of any
6 court.

7 "Department" means the Department of Revenue.

8 "Sale" means any transfer, exchange or barter in any manner
9 or by any means whatsoever for a consideration, and includes
10 and means all sales made by any person.

11 "Original Package" means the individual packet, box or
12 other container whatsoever used to contain and to convey
13 cigarettes to the consumer.

14 "Distributor" means any and each of the following:

15 a. Any person engaged in the business of selling
16 cigarettes in this State who brings or causes to be brought
17 into this State from without this State any original
18 packages of cigarettes, on which original packages there is
19 no authorized evidence underneath a sealed transparent
20 wrapper showing that the tax liability imposed by this Act
21 has been paid or assumed by the out-of-State seller of such
22 cigarettes, for sale in the course of such business.

23 b. Any person who makes, manufactures or fabricates
24 cigarettes in this State for sale, except a person who
25 makes, manufactures or fabricates cigarettes for sale to
26 residents incarcerated in penal institutions or resident

1 patients or a State-operated mental health facility.

2 c. Any person who makes, manufactures or fabricates
3 cigarettes outside this State, which cigarettes are placed
4 in original packages contained in sealed transparent
5 wrappers, for delivery or shipment into this State, and who
6 elects to qualify and is accepted by the Department as a
7 distributor under Section 7 of this Act.

8 "Distributor" does not include any person who transfers
9 cigarettes to a not-for-profit research institution that
10 conducts tests concerning the health effects of tobacco
11 products and who does not offer the cigarettes for resale.

12 "Distributor maintaining a place of business in this
13 State", or any like term, means any distributor having or
14 maintaining within this State, directly or by a subsidiary, an
15 office, distribution house, sales house, warehouse or other
16 place of business, or any agent operating within this State
17 under the authority of the distributor or its subsidiary,
18 irrespective of whether such place of business or agent is
19 located here permanently or temporarily, or whether such
20 distributor or subsidiary is licensed to transact business
21 within this State.

22 "Business" means any trade, occupation, activity or
23 enterprise engaged in or conducted in this State for the
24 purpose of selling cigarettes.

25 "Prior Continuous Compliance Taxpayer" means any person
26 who is licensed under this Act and who, having been a licensee

1 for a continuous period of 5 years, is determined by the
2 Department not to have been either delinquent or deficient in
3 the payment of tax liability during that period or otherwise in
4 violation of this Act. Also, any taxpayer who has, as verified
5 by the Department, continuously complied with the condition of
6 his bond or other security under provisions of this Act of a
7 period of 5 consecutive years shall be considered to be a
8 "prior continuous compliance taxpayer". In calculating the
9 consecutive period of time described herein for qualification
10 as a "prior continuous compliance taxpayer", a consecutive
11 period of time of qualifying compliance immediately prior to
12 the effective date of this amendatory Act of 1987 shall be
13 credited to any licensee who became licensed on or before the
14 effective date of this amendatory Act of 1987.

15 "Secondary distributor" means any person engaged in the
16 business of selling cigarettes who purchases stamped original
17 packages of cigarettes from a licensed distributor under this
18 Act or the Cigarette Tax Act, sells 75% or more of those
19 cigarettes to retailers for resale, and maintains an
20 established business where a substantial stock of cigarettes is
21 available to retailers for resale.

22 "Secondary distributor maintaining a place of business in
23 this State", or any like term, means any secondary distributor
24 having or maintaining within this State, directly or by a
25 subsidiary, an office, distribution house, sales house,
26 warehouse, or other place of business, or any agent operating

1 within this State under the authority of the secondary
2 distributor or its subsidiary, irrespective of whether such
3 place of business or agent is located here permanently or
4 temporarily, or whether such secondary distributor or
5 subsidiary is licensed to transact business within this State.

6 "Stamp" or "stamps" mean the indicia required to be affixed
7 on a pack of cigarettes that evidence payment of the tax on
8 cigarettes under Section 2 of this Act.

9 "Related party" means any person that is associated with
10 any other person because he or she:

11 (a) is an officer or director of a business; or

12 (b) is legally recognized as a partner in business.

13 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
14 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

15 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

16 Sec. 2. A tax is imposed upon the privilege of using
17 cigarettes in this State, at the rate of 6 mills per cigarette
18 so used. On and after December 1, 1985, in addition to any
19 other tax imposed by this Act, a tax is imposed upon the
20 privilege of using cigarettes in this State at a rate of 4
21 mills per cigarette so used. On and after the effective date of
22 this amendatory Act of 1989, in addition to any other tax
23 imposed by this Act, a tax is imposed upon the privilege of
24 using cigarettes in this State at the rate of 5 mills per
25 cigarette so used. On and after the effective date of this

1 amendatory Act of 1993, in addition to any other tax imposed by
2 this Act, a tax is imposed upon the privilege of using
3 cigarettes in this State at a rate of 7 mills per cigarette so
4 used. On and after December 15, 1997, in addition to any other
5 tax imposed by this Act, a tax is imposed upon the privilege of
6 using cigarettes in this State at a rate of 7 mills per
7 cigarette so used. On and after July 1, 2002, in addition to
8 any other tax imposed by this Act, a tax is imposed upon the
9 privilege of using cigarettes in this State at a rate of 20.0
10 mills per cigarette so used. Beginning on June 24, 2012, in
11 addition to any other tax imposed by this Act, a tax is imposed
12 upon the privilege of using cigarettes in this State at a rate
13 of 50 mills per cigarette so used. The taxes herein imposed
14 shall be in addition to all other occupation or privilege taxes
15 imposed by the State of Illinois or by any political
16 subdivision thereof or by any municipal corporation.

17 When any tax imposed herein terminates or has terminated,
18 distributors who have bought stamps while such tax was in
19 effect and who therefore paid such tax, but who can show, to
20 the Department's satisfaction, that they sold the cigarettes to
21 which they affixed such stamps after such tax had terminated
22 and did not recover the tax or its equivalent from purchasers,
23 shall be allowed by the Department to take credit for such
24 absorbed tax against subsequent tax stamp purchases from the
25 Department by such distributors.

26 When the word "tax" is used in this Act, it shall include

1 any tax or tax rate imposed by this Act and shall mean the
2 singular of "tax" or the plural "taxes" as the context may
3 require.

4 Any distributor having cigarettes to which stamps have been
5 affixed in his possession for sale on the effective date of
6 this amendatory Act of 1989 shall not be required to pay the
7 additional tax imposed by this amendatory Act of 1989 on such
8 stamped cigarettes. Any distributor having cigarettes to which
9 stamps have been affixed in his or her possession for sale at
10 12:01 a.m. on the effective date of this amendatory Act of
11 1993, is required to pay the additional tax imposed by this
12 amendatory Act of 1993 on such stamped cigarettes. This payment
13 shall be due when the distributor first makes a purchase of
14 cigarette tax stamps after the effective date of this
15 amendatory Act of 1993, or on the first due date of a return
16 under this Act after the effective date of this amendatory Act
17 of 1993, whichever occurs first. Once a distributor tenders
18 payment of the additional tax to the Department, the
19 distributor may purchase stamps from the Department. Any
20 distributor having cigarettes to which stamps have been affixed
21 in his possession for sale on December 15, 1997 shall not be
22 required to pay the additional tax imposed by this amendatory
23 Act of 1997 on such stamped cigarettes.

24 Any distributor having cigarettes to which stamps have been
25 affixed in his or her possession for sale on July 1, 2002 shall
26 not be required to pay the additional tax imposed by this

1 amendatory Act of the 92nd General Assembly on those stamped
2 cigarettes.

3 Any retailer having cigarettes in his or her possession on
4 June 24, 2012 to which tax stamps have been affixed is not
5 required to pay the additional tax that begins on June 24, 2012
6 imposed by this amendatory Act of the 97th General Assembly on
7 those stamped cigarettes. Any distributor having cigarettes in
8 his or her possession on June 24, 2012 to which tax stamps have
9 been affixed, and any distributor having stamps in his or her
10 possession on June 24, 2012 that have not been affixed to
11 packages of cigarettes before June 24, 2012, is required to pay
12 the additional tax that begins on June 24, 2012 imposed by this
13 amendatory Act of the 97th General Assembly to the extent the
14 calendar year 2012 average monthly volume of cigarette stamps
15 in the distributor's possession exceeds the average monthly
16 volume of cigarette stamps purchased by the distributor in
17 calendar year 2011. This payment, less the discount provided in
18 Section 3, is due when the distributor first makes a purchase
19 of cigarette stamps on or after June 24, 2012 or on the first
20 due date of a return under this Act occurring on or after June
21 24, 2012, whichever occurs first. Those distributors may elect
22 to pay the additional tax on packages of cigarettes to which
23 stamps have been affixed and on any stamps in the distributor's
24 possession that have not been affixed to packages of cigarettes
25 over a period not to exceed 12 months from the due date of the
26 additional tax by notifying the Department in writing. The

1 first payment for distributors making such election is due when
2 the distributor first makes a purchase of cigarette tax stamps
3 on or after June 24, 2012 or on the first due date of a return
4 under this Act occurring on or after June 24, 2012, whichever
5 occurs first. Distributors making such an election are not
6 entitled to take the discount provided in Section 3 on such
7 payments.

8 (Source: P.A. 92-536, eff. 6-6-02.)

9 Section 5-50. The Tobacco Products Tax Act of 1995 is
10 amended by changing Sections 10-5, 10-10, and 10-30 as follows:

11 (35 ILCS 143/10-5)

12 Sec. 10-5. Definitions. For purposes of this Act:

13 "Business" means any trade, occupation, activity, or
14 enterprise engaged in, at any location whatsoever, for the
15 purpose of selling tobacco products.

16 "Cigarette" has the meaning ascribed to the term in Section
17 1 of the Cigarette Tax Act.

18 "Correctional Industries program" means a program run by a
19 State penal institution in which residents of the penal
20 institution produce tobacco products for sale to persons
21 incarcerated in penal institutions or resident patients of a
22 State operated mental health facility.

23 "Department" means the Illinois Department of Revenue.

24 "Distributor" means any of the following:

1 (1) Any manufacturer or wholesaler in this State
2 engaged in the business of selling tobacco products who
3 sells, exchanges, or distributes tobacco products to
4 retailers or consumers in this State.

5 (2) Any manufacturer or wholesaler engaged in the
6 business of selling tobacco products from without this
7 State who sells, exchanges, distributes, ships, or
8 transports tobacco products to retailers or consumers
9 located in this State, so long as that manufacturer or
10 wholesaler has or maintains within this State, directly or
11 by subsidiary, an office, sales house, or other place of
12 business, or any agent or other representative operating
13 within this State under the authority of the person or
14 subsidiary, irrespective of whether the place of business
15 or agent or other representative is located here
16 permanently or temporarily.

17 (3) Any retailer who receives tobacco products on which
18 the tax has not been or will not be paid by another
19 distributor.

20 "Distributor" does not include any person, wherever
21 resident or located, who makes, manufactures, or fabricates
22 tobacco products as part of a Correctional Industries program
23 for sale to residents incarcerated in penal institutions or
24 resident patients of a State operated mental health facility.

25 "Manufacturer" means any person, wherever resident or
26 located, who manufactures and sells tobacco products, except a

1 person who makes, manufactures, or fabricates tobacco products
2 as a part of a Correctional Industries program for sale to
3 persons incarcerated in penal institutions or resident
4 patients of a State operated mental health facility.

5 Beginning on January 1, 2013, "moist snuff" means any
6 finely cut, ground, or powdered tobacco that is not intended to
7 be smoked, but shall not include any finely cut, ground, or
8 powdered tobacco that is intended to be placed in the nasal
9 cavity.

10 "Person" means any natural individual, firm, partnership,
11 association, joint stock company, joint venture, limited
12 liability company, or public or private corporation, however
13 formed, or a receiver, executor, administrator, trustee,
14 conservator, or other representative appointed by order of any
15 court.

16 "Place of business" means and includes any place where
17 tobacco products are sold or where tobacco products are
18 manufactured, stored, or kept for the purpose of sale or
19 consumption, including any vessel, vehicle, airplane, train,
20 or vending machine.

21 "Retailer" means any person in this State engaged in the
22 business of selling tobacco products to consumers in this
23 State, regardless of quantity or number of sales.

24 "Sale" means any transfer, exchange, or barter in any
25 manner or by any means whatsoever for a consideration and
26 includes all sales made by persons.

1 "Tobacco products" means any cigars; cheroots; stogies;
2 periques; granulated, plug cut, crimp cut, ready rubbed, and
3 other smoking tobacco; snuff (including moist snuff) or snuff
4 flour; cavendish; plug and twist tobacco; fine-cut and other
5 chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
6 and sweeping of tobacco; and other kinds and forms of tobacco,
7 prepared in such manner as to be suitable for chewing or
8 smoking in a pipe or otherwise, or both for chewing and
9 smoking; but does not include cigarettes or tobacco purchased
10 for the manufacture of cigarettes by cigarette distributors and
11 manufacturers defined in the Cigarette Tax Act and persons who
12 make, manufacture, or fabricate cigarettes as a part of a
13 Correctional Industries program for sale to residents
14 incarcerated in penal institutions or resident patients of a
15 State operated mental health facility.

16 "Wholesale price" means the established list price for
17 which a manufacturer sells tobacco products to a distributor,
18 before the allowance of any discount, trade allowance, rebate,
19 or other reduction. In the absence of such an established list
20 price, the manufacturer's invoice price at which the
21 manufacturer sells the tobacco product to unaffiliated
22 distributors, before any discounts, trade allowances, rebates,
23 or other reductions, shall be presumed to be the wholesale
24 price.

25 "Wholesaler" means any person, wherever resident or
26 located, engaged in the business of selling tobacco products to

1 others for the purpose of resale.

2 (Source: P.A. 92-231, eff. 8-2-01.)

3 (35 ILCS 143/10-10)

4 Sec. 10-10. Tax imposed. On the first day of the third
5 month after the month in which this Act becomes law, a tax is
6 imposed on any person engaged in business as a distributor of
7 tobacco products, as defined in Section 10-5, at the rate of
8 (i) 18% of the wholesale price of tobacco products sold or
9 otherwise disposed of to retailers or consumers located in this
10 State prior to July 1, 2012 and (ii) 36% of the wholesale price
11 of tobacco products sold or otherwise disposed of to retailers
12 or consumers located in this State beginning on July 1, 2012;
13 except that, beginning on January 1, 2013, the tax on moist
14 snuff shall be imposed at a rate of \$0.30 per ounce, and a
15 proportionate tax at the like rate on all fractional parts of
16 an ounce, sold or otherwise disposed of to retailers or
17 consumers located in this State. The tax is in addition to all
18 other occupation or privilege taxes imposed by the State of
19 Illinois, by any political subdivision thereof, or by any
20 municipal corporation. However, the tax is not imposed upon any
21 activity in that business in interstate commerce or otherwise,
22 to the extent to which that activity may not, under the
23 Constitution and Statutes of the United States, be made the
24 subject of taxation by this State. The tax is also not imposed
25 on sales made to the United States or any entity thereof.

1 Beginning on January 1, 2013, the tax rate imposed per
2 ounce of moist snuff may not exceed 15% of the tax imposed upon
3 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

4 All moneys received by the Department under this Act from
5 sales occurring prior to July 1, 2012 shall be paid into the
6 Long-Term Care Provider Fund of the State Treasury. Of the
7 moneys received by the Department from sales occurring on or
8 after July 1, 2012, 50% shall be paid into the Long-Term Care
9 Provider Fund and 50% shall be paid into the Healthcare
10 Provider Relief Fund.

11 (Source: P.A. 92-231, eff. 8-2-01.)

12 (35 ILCS 143/10-30)

13 Sec. 10-30. Returns. Every distributor shall, on or before
14 the 15th day of each month, file a return with the Department
15 covering the preceding calendar month. The return shall
16 disclose the wholesale price for all tobacco products and the
17 quantity of moist snuff sold or otherwise disposed of and other
18 information that the Department may reasonably require. The
19 return shall be filed upon a form prescribed and furnished by
20 the Department.

21 At the time when any return of any distributor is due to be
22 filed with the Department, the distributor shall also remit to
23 the Department the tax liability that the distributor has
24 incurred for transactions occurring in the preceding calendar
25 month.

1 (Source: P.A. 89-21, eff. 6-6-95.)

2 Section 5-55. The Property Tax Code is amended by changing
3 Section 15-10 and by adding Section 15-86 as follows:

4 (35 ILCS 200/15-10)

5 Sec. 15-10. Exempt property; procedures for certification.

6 (a) All property granted an exemption by the Department
7 pursuant to the requirements of Section 15-5 and described in
8 the Sections following Section 15-30 and preceding Section
9 16-5, to the extent therein limited, is exempt from taxation.
10 In order to maintain that exempt status, the titleholder or the
11 owner of the beneficial interest of any property that is exempt
12 must file with the chief county assessment officer, on or
13 before January 31 of each year (May 31 in the case of property
14 exempted by Section 15-170), an affidavit stating whether there
15 has been any change in the ownership or use of the property, ~~or~~
16 the status of the owner-resident, the satisfaction by a
17 relevant hospital entity of the condition for an exemption
18 under Section 15-86, or that a disabled veteran who qualifies
19 under Section 15-165 owned and used the property as of January
20 1 of that year. The nature of any change shall be stated in the
21 affidavit. Failure to file an affidavit shall, in the
22 discretion of the assessment officer, constitute cause to
23 terminate the exemption of that property, notwithstanding any
24 other provision of this Code. Owners of 5 or more such exempt

1 parcels within a county may file a single annual affidavit in
2 lieu of an affidavit for each parcel. The assessment officer,
3 upon request, shall furnish an affidavit form to the owners, in
4 which the owner may state whether there has been any change in
5 the ownership or use of the property or status of the owner or
6 resident as of January 1 of that year. The owner of 5 or more
7 exempt parcels shall list all the properties giving the same
8 information for each parcel as required of owners who file
9 individual affidavits.

10 (b) However, titleholders or owners of the beneficial
11 interest in any property exempted under any of the following
12 provisions are not required to submit an annual filing under
13 this Section:

14 (1) Section 15-45 (burial grounds) in counties of less
15 than 3,000,000 inhabitants and owned by a not-for-profit
16 organization.

17 (2) Section 15-40.

18 (3) Section 15-50 (United States property).

19 (c) If there is a change in use or ownership, however,
20 notice must be filed pursuant to Section 15-20.

21 (d) An application for homestead exemptions shall be filed
22 as provided in Section 15-170 (senior citizens homestead
23 exemption), Section 15-172 (senior citizens assessment freeze
24 homestead exemption), and Sections 15-175 (general homestead
25 exemption), 15-176 (general alternative homestead exemption),
26 and 15-177 (long-time occupant homestead exemption),

1 respectively.

2 (e) For purposes of determining satisfaction of the
3 condition for an exemption under Section 15-86:

4 (1) The "year for which exemption is sought" is the
5 year prior to the year in which the affidavit is due.

6 (2) The "hospital year" is the fiscal year of the
7 relevant hospital entity, or the fiscal year of one of the
8 hospitals in the hospital system if the relevant hospital
9 entity is a hospital system with members with different
10 fiscal years, that ends in the year prior to the year in
11 which the affidavit is due. However, if that fiscal year
12 ends 3 months or less before the date on which the
13 affidavit is due, the relevant hospital entity shall file
14 an interim affidavit based on the currently available
15 information, and shall file a supplemental affidavit
16 within 90 days of date on which the application was due, if
17 the information in the relevant hospital entity's audited
18 financial statements changes the interim affidavit's
19 statement concerning the entity's compliance with the
20 calculation required by Section 15-86.

21 (3) The affidavit shall be accompanied by an exhibit
22 prepared by the relevant hospital entity showing (A) the
23 value of the relevant hospital entity's services and
24 activities, if any, under items (1) through (7) of
25 subsection (e) of Section 15-86, stated separately for each
26 item, and (B) the value relating to the relevant hospital

1 entity's estimated property tax liability under paragraphs
2 (A), (B), and (C) of item (1) of subsection (g) of Section
3 15-86; under paragraphs (A), (B), and (C) of item (2) of
4 subsection (g) of Section 15-86; and under item (3) of
5 subsection (g) of Section 15-86.

6 (Source: P.A. 95-644, eff. 10-12-07.)

7 (35 ILCS 200/15-86 new)
8 Sec. 15-86. Exemptions related to access to hospital and
9 health care services by low-income and underserved
10 individuals.

11 (a) The General Assembly finds:

12 (1) Despite the Supreme Court's decision in *Provena*
13 *Covenant Medical Center v. Dept. of Revenue*, 236 Ill.2d
14 368, there is considerable uncertainty surrounding the
15 test for charitable property tax exemption, especially
16 regarding the application of a quantitative or monetary
17 threshold. In *Provena*, the Department stated that the
18 primary basis for its decision was the hospital's
19 inadequate amount of charitable activity, but the
20 Department has not articulated what constitutes an
21 adequate amount of charitable activity. After *Provena*, the
22 Department denied property tax exemption applications of 3
23 more hospitals, and, on the effective date of this
24 amendatory Act of the 97th General Assembly, at least 20
25 other hospitals are awaiting rulings on applications for

1 property tax exemption.

2 (2) In *Provena*, two Illinois Supreme Court justices
3 opined that, "setting a monetary or quantum standard is a
4 complex decision which should be left to our legislature,
5 should it so choose". The Appellate Court in *Provena*
6 stated: "The language we use in the State of Illinois to
7 determine whether real property is used for a charitable
8 purpose has its genesis in our 1870 Constitution. It is
9 obvious that such language may be difficult to apply to the
10 modern face of our nation's health care delivery systems".
11 The court noted the many significant changes in the health
12 care system since that time, but concluded that taking
13 these changes into account is a matter of public policy,
14 and "it is the legislature's job, not ours, to make public
15 policy".

16 (3) It is essential to ensure that tax exemption law
17 relating to hospitals accounts for the complexities of the
18 modern health care delivery system. Health care is moving
19 beyond the walls of the hospital. In addition to treating
20 individual patients, hospitals are assuming responsibility
21 for improving the health status of communities and
22 populations. Low-income and underserved communities
23 benefit disproportionately by these activities.

24 (4) The Supreme Court has explained that: "the
25 fundamental ground upon which all exemptions in favor of
26 charitable institutions are based is the benefit conferred

1 upon the public by them, and a consequent relief, to some
2 extent, of the burden upon the state to care for and
3 advance the interests of its citizens". Hospitals relieve
4 the burden of government in many ways, but most
5 significantly through their participation in and
6 substantial financial subsidization of the Illinois
7 Medicaid program, which could not operate without the
8 participation and partnership of Illinois hospitals.

9 (5) Working with the Illinois hospital community and
10 other interested parties, the General Assembly has
11 developed a comprehensive combination of related
12 legislation that addresses hospital property tax
13 exemption, significantly increases access to free health
14 care for indigent persons, and strengthens the Medical
15 Assistance program. It is the intent of the General
16 Assembly to establish a new category of ownership for
17 charitable property tax exemption to be applied to
18 not-for-profit hospitals and hospital affiliates in lieu
19 of the existing ownership category of "institutions of
20 public charity". It is also the intent of the General
21 Assembly to establish quantifiable standards for the
22 issuance of charitable exemptions for such property. It is
23 not the intent of the General Assembly to declare any
24 property exempt ipso facto, but rather to establish
25 criteria to be applied to the facts on a case-by-case
26 basis.

1 (b) For the purpose of this Section and Section 15-10, the
2 following terms shall have the meanings set forth below:

3 (1) "Hospital" means any institution, place, building,
4 buildings on a campus, or other health care facility
5 located in Illinois that is licensed under the Hospital
6 Licensing Act and has a hospital owner.

7 (2) "Hospital owner" means a not-for-profit
8 corporation that is the titleholder of a hospital, or the
9 owner of the beneficial interest in an Illinois land trust
10 that is the titleholder of a hospital.

11 (3) "Hospital affiliate" means any corporation,
12 partnership, limited partnership, joint venture, limited
13 liability company, association or other organization,
14 other than a hospital owner, that directly or indirectly
15 controls, is controlled by, or is under common control with
16 one or more hospital owners and that supports, is supported
17 by, or acts in furtherance of the exempt health care
18 purposes of at least one of those hospital owners'
19 hospitals.

20 (4) "Hospital system" means a hospital and one or more
21 other hospitals or hospital affiliates related by common
22 control or ownership.

23 (5) "Control" relating to a hospital owners, hospital
24 affiliates, or hospital systems means possession, direct
25 or indirect, of the power to direct or cause the direction
26 of the management and policies of the entity, whether

1 through ownership of assets, membership interest, other
2 voting or governance rights, by contract or otherwise.

3 (6) "Hospital applicant" means a hospital owner or
4 hospital affiliate that files an application for a property
5 tax exemption pursuant to Section 15-5 and this Section.

6 (7) "Relevant hospital entity" means (A) the hospital
7 owner, in the case of a hospital applicant that is a
8 hospital owner, and (B) at the election of a hospital
9 applicant that is a hospital affiliate, either (i) the
10 hospital affiliate or (ii) the hospital system to which the
11 hospital applicant belongs, including any hospitals or
12 hospital affiliates that are related by common control or
13 ownership.

14 (8) "Subject property" means property for which a
15 hospital applicant files an application for an exemption
16 pursuant to Section 15-5 and this Section.

17 (9) "Hospital year" means the fiscal year of the
18 relevant hospital entity, or the fiscal year of one of the
19 hospital owners in the hospital system if the relevant
20 hospital entity is a hospital system with members with
21 different fiscal years, that ends in the year for which the
22 exemption is sought.

23 (c) A hospital applicant satisfies the conditions for an
24 exemption under this Section with respect to the subject
25 property, and shall be issued a charitable exemption for that
26 property, if the value of services or activities listed in

1 subsection (e) for the hospital year equals or exceeds the
2 relevant hospital entity's estimated property tax liability,
3 as determined under subsection (g), for the year for which
4 exemption is sought. For purposes of making the calculations
5 required by this subsection (c), if the relevant hospital
6 entity is a hospital owner that owns more than one hospital,
7 the value of the services or activities listed in subsection
8 (e) shall be calculated on the basis of only those services and
9 activities relating to the hospital that includes the subject
10 property, and the relevant hospital entity's estimated
11 property tax liability shall be calculated only with respect to
12 the properties comprising that hospital. In the case of a
13 multi-state hospital system or hospital affiliate, the value of
14 the services or activities listed in subsection (e) shall be
15 calculated on the basis of only those services and activities
16 that occur in Illinois and the relevant hospital entity's
17 estimated property tax liability shall be calculated only with
18 respect to its property located in Illinois.

19 Notwithstanding any other provisions of this Act, any
20 parcel or portion thereof, that is owned by a for-profit entity
21 whether part of the hospital system or not, or that is leased,
22 licensed or operated by a for-profit entity regardless of
23 whether healthcare services are provided on that parcel shall
24 not qualify for exemption. If a parcel has both exempt and
25 non-exempt uses, an exemption may be granted for the qualifying
26 portion of that parcel. In the case of parking lots and common

1 areas serving both exempt and non-exempt uses those parcels or
2 portions thereof may qualify for an exemption in proportion to
3 the amount of qualifying use.

4 (d) The hospital applicant shall include information in its
5 exemption application establishing that it satisfies the
6 requirements of subsection (c). For purposes of making the
7 calculations required by subsection (c), the hospital
8 applicant may for each year elect to use either (1) the value
9 of the services or activities listed in subsection (e) for the
10 hospital year or (2) the average value of those services or
11 activities for the 3 fiscal years ending with the hospital
12 year. If the relevant hospital entity has been in operation for
13 less than 3 completed fiscal years, then the latter
14 calculation, if elected, shall be performed on a pro rata
15 basis.

16 (e) Services that address the health care needs of
17 low-income or underserved individuals or relieve the burden of
18 government with regard to health care services. The following
19 services and activities shall be considered for purposes of
20 making the calculations required by subsection (c):

21 (1) Charity care. Free or discounted services provided
22 pursuant to the relevant hospital entity's financial
23 assistance policy, measured at cost, including discounts
24 provided under the Hospital Uninsured Patient Discount
25 Act.

26 (2) Health services to low-income and underserved

1 individuals. Other unreimbursed costs of the relevant
2 hospital entity for providing without charge, paying for,
3 or subsidizing goods, activities, or services for the
4 purpose of addressing the health of low-income or
5 underserved individuals. Those activities or services may
6 include, but are not limited to: financial or in-kind
7 support to affiliated or unaffiliated hospitals, hospital
8 affiliates, community clinics, or programs that treat
9 low-income or underserved individuals; paying for or
10 subsidizing health care professionals who care for
11 low-income or underserved individuals; providing or
12 subsidizing outreach or educational services to low-income
13 or underserved individuals for disease management and
14 prevention; free or subsidized goods, supplies, or
15 services needed by low-income or underserved individuals
16 because of their medical condition; and prenatal or
17 childbirth outreach to low-income or underserved persons.

18 (3) Subsidy of State or local governments. Direct or
19 indirect financial or in-kind subsidies of State or local
20 governments by the relevant hospital entity that pay for or
21 subsidize activities or programs related to health care for
22 low-income or underserved individuals.

23 (4) Support for State health care programs for
24 low-income individuals. At the election of the hospital
25 applicant for each applicable year, either (A) 10% of
26 payments to the relevant hospital entity and any hospital

1 affiliate designated by the relevant hospital entity
2 (provided that such hospital affiliate's operations
3 provide financial or operational support for or receive
4 financial or operational support from the relevant
5 hospital entity) under Medicaid or other means-tested
6 programs, including, but not limited, to General
7 Assistance, the Covering ALL KIDS Health Insurance Act, and
8 the State Children's Health Insurance Program or (B) the
9 amount of subsidy provided by the relevant hospital entity
10 and any hospital affiliate designated by the relevant
11 hospital entity (provided that such hospital affiliate's
12 operations provide financial or operational support for or
13 receive financial or operational support from the relevant
14 hospital entity) to State or local government in treating
15 Medicaid recipients and recipients of means-tested
16 programs, including but not limited to General Assistance,
17 the Covering ALL KIDS Health Insurance Act, and the State
18 Children's Health Insurance Program. The amount of subsidy
19 for purpose of this item (4) is calculated in the same
20 manner as unreimbursed costs are calculated for Medicaid
21 and other means-tested government programs in the Schedule
22 H of IRS Form 990 in effect on the effective date of this
23 amendatory Act of the 97th General Assembly; provided,
24 however, that in any event unreimbursed costs shall be net
25 of fee-for-services payments, payments pursuant to an
26 assessment, quarterly payments, and all other payments

1 included on the schedule H of the IRS form 990.

2 (5) Dual-eligible subsidy. The amount of subsidy
3 provided to government by treating dual-eligible
4 Medicare/Medicaid patients. The amount of subsidy for
5 purposes of this item (5) is calculated by multiplying the
6 relevant hospital entity's unreimbursed costs for
7 Medicare, calculated in the same manner as determined in
8 the Schedule H of IRS Form 990 in effect on the effective
9 date of this amendatory Act of the 97th General Assembly,
10 by the relevant hospital entity's ratio of dual-eligible
11 patients to total Medicare patients.

12 (6) Relief of the burden of government related to
13 health care of low-income individuals. Except to the extent
14 otherwise taken into account in this subsection, the
15 portion of unreimbursed costs of the relevant hospital
16 entity attributable to providing, paying for, or
17 subsidizing goods, activities, or services that relieve
18 the burden of government related to health care for
19 low-income individuals. Such activities or services shall
20 include, but are not limited to, providing emergency,
21 trauma, burn, neonatal, psychiatric, rehabilitation, or
22 other special services; providing medical education; and
23 conducting medical research or training of health care
24 professionals. The portion of those unreimbursed costs
25 attributable to benefiting low-income individuals shall be
26 determined using the ratio calculated by adding the

1 relevant hospital entity's costs attributable to charity
2 care, Medicaid, other means-tested government programs,
3 disabled Medicare patients under age 65, and dual-eligible
4 Medicare/Medicaid patients and dividing that total by the
5 relevant hospital entity's total costs. Such costs for the
6 numerator and denominator shall be determined by
7 multiplying gross charges by the cost to charge ratio taken
8 from the hospitals most recently filed Medicare cost report
9 (CMS 2252-10 Worksheet C, Part I). In the case of emergency
10 services, the ratio shall be calculated using costs (gross
11 charges multiplied by the cost to charge ratio taken from
12 the hospitals most recently filed Medicare cost report (CMS
13 2252-10 Worksheet C, Part I)) of patients treated in the
14 relevant hospital entity's emergency department.

15 (7) Any other activity by the relevant hospital entity
16 that the Department determines relieves the burden of
17 government or addresses the health of low-income or
18 underserved individuals.

19 (f) For purposes of making the calculations required by
20 subsections (c) and (e):

21 (1) particular services or activities eligible for
22 consideration under any of the paragraphs (1) through (7)
23 of subsection (e) may not be counted under more than one of
24 those paragraphs; and

25 (2) the amount of unreimbursed costs and the amount of
26 subsidy shall not be reduced by restricted or unrestricted

1 payments received by the relevant hospital entity as
2 contributions deductible under Section 170(a) of the
3 Internal Revenue Code.

4 (g) Estimation of Exempt Property Tax Liability. The
5 estimated property tax liability used for the determination in
6 subsection (c) shall be calculated as follows:

7 (1) "Estimated property tax liability" means the
8 estimated dollar amount of property tax that would be owed,
9 with respect to the exempt portion of each of the relevant
10 hospital entity's properties that are already fully or
11 partially exempt, or for which an exemption in whole or in
12 part is currently being sought, and then aggregated as
13 applicable, as if the exempt portion of those properties
14 were subject to tax, calculated with respect to each such
15 property by multiplying:

16 (A) the lesser of (i) the actual assessed value, if
17 any, of the portion of the property for which an
18 exemption is sought or (ii) an estimated assessed value
19 of the exempt portion of such property as determined in
20 item (2) of this subsection (g), by:

21 (B) the applicable State equalization rate
22 (yielding the equalized assessed value), by

23 (C) the applicable tax rate.

24 (2) The estimated assessed value of the exempt portion
25 of the property equals the sum of (i) the estimated fair
26 market value of buildings on the property, as determined in

1 accordance with subparagraphs (A) and (B) of this item (2),
2 multiplied by the applicable assessment factor, and (ii)
3 the estimated assessed value of the land portion of the
4 property, as determined in accordance with subparagraph
5 (C).

6 (A) The "estimated fair market value of buildings
7 on the property" means the replacement value of any
8 exempt portion of buildings on the property, minus
9 depreciation, determined utilizing the cost
10 replacement method whereby the exempt square footage
11 of all such buildings is multiplied by the replacement
12 cost per square foot for Class A Average building found
13 in the most recent edition of the Marshall & Swift
14 Valuation Services Manual, adjusted by any appropriate
15 current cost and local multipliers.

16 (B) Depreciation, for purposes of calculating the
17 estimated fair market value of buildings on the
18 property, is applied by utilizing a weighted mean life
19 for the buildings based on original construction and
20 assuming a 40-year life for hospital buildings and the
21 applicable life for other types of buildings as
22 specified in the American Hospital Association
23 publication "Estimated Useful Lives of Depreciable
24 Hospital Assets". In the case of hospital buildings,
25 the remaining life is divided by 40 and this ratio is
26 multiplied by the replacement cost of the buildings to

1 obtain an estimated fair market value of buildings. If
2 a hospital building is older than 35 years, a remaining
3 life of 5 years for residual value is assumed; and if a
4 building is less than 8 years old, a remaining life of
5 32 years is assumed.

6 (C) The estimated assessed value of the land
7 portion of the property shall be determined by
8 multiplying (i) the per square foot average of the
9 assessed values of three parcels of land (not including
10 farm land, and excluding the assessed value of the
11 improvements thereon) reasonably comparable to the
12 property, by (ii) the number of square feet comprising
13 the exempt portion of the property's land square
14 footage.

15 (3) The assessment factor, State equalization rate,
16 and tax rate (including any special factors such as
17 Enterprise Zones) used in calculating the estimated
18 property tax liability shall be for the most recent year
19 that is publicly available from the applicable chief county
20 assessment officer or officers at least 90 days before the
21 end of the hospital year.

22 (4) The method utilized to calculate estimated
23 property tax liability for purposes of this Section 15-86
24 shall not be utilized for the actual valuation, assessment,
25 or taxation of property pursuant to the Property Tax Code.

26 (h) Application. Each hospital applicant applying for a

1 property tax exemption pursuant to Section 15-5 and this
2 Section shall use an application form provided by the
3 Department. The application form shall specify the records
4 required in support of the application and those records shall
5 be submitted to the Department with the application form. Each
6 application or affidavit shall contain a verification by the
7 Chief Executive Officer of the hospital applicant under oath or
8 affirmation stating that each statement in the application or
9 affidavit and each document submitted with the application or
10 affidavit are true and correct. The records submitted with the
11 application pursuant this Section shall include an exhibit
12 prepared by the relevant hospital entity showing (A) the value
13 of the relevant hospital entity's services and activities, if
14 any, under paragraphs (1) through (7) of subsection (e) of this
15 Section stated separately for each paragraph, and (B) the value
16 relating to the relevant hospital entity's estimated property
17 tax liability under subsections (g) (1) (A), (B), and (C),
18 subsections (g) (2) (A), (B), and (C), and subsection (g) (3) of
19 this Section stated separately for each item. Such exhibit will
20 be made available to the public by the chief county assessment
21 officer. Nothing in this Section shall be construed as limiting
22 the Attorney General's authority under the Illinois False
23 Claims Act.

24 (i) Nothing in this Section shall be construed to limit the
25 ability of otherwise eligible hospitals, hospital owners,
26 hospital affiliates, or hospital systems to obtain or maintain

1 property tax exemptions pursuant to a provision of the Property
2 Tax Code other than this Section.

3 Section 5-60. The Illinois Public Aid Code is amended by
4 changing Sections 5A-1, 5A-2, 5A-4, 5A-5, 5A-8, 5A-10, 5A-13,
5 and 5A-14 and by adding Sections 5A-12.4 and 5A-15 as follows:

6 (305 ILCS 5/5A-1) (from Ch. 23, par. 5A-1)

7 Sec. 5A-1. Definitions. As used in this Article, unless
8 the context requires otherwise:

9 ~~"Adjusted gross hospital revenue" shall be determined~~
10 ~~separately for inpatient and outpatient services for each~~
11 ~~hospital conducted, operated or maintained by a hospital~~
12 ~~provider, and means the hospital provider's total gross~~
13 ~~revenues less: (i) gross revenue attributable to non hospital~~
14 ~~based services including home dialysis services, durable~~
15 ~~medical equipment, ambulance services, outpatient clinics and~~
16 ~~any other non hospital based services as determined by the~~
17 ~~Illinois Department by rule; and (ii) gross revenues~~
18 ~~attributable to the routine services provided to persons~~
19 ~~receiving skilled or intermediate long term care services~~
20 ~~within the meaning of Title XVIII or XIX of the Social Security~~
21 ~~Act; and (iii) Medicare gross revenue (excluding the Medicare~~
22 ~~gross revenue attributable to clauses (i) and (ii) of this~~
23 ~~paragraph and the Medicare gross revenue attributable to the~~
24 ~~routine services provided to patients in a psychiatric~~

1 ~~hospital, a rehabilitation hospital, a distinct part~~
2 ~~psychiatric unit, a distinct part rehabilitation unit, or swing~~
3 ~~beds). Adjusted gross hospital revenue shall be determined~~
4 ~~using the most recent data available from each hospital's 2003~~
5 ~~Medicare cost report as contained in the Healthcare Cost Report~~
6 ~~Information System file, for the quarter ending on December 31,~~
7 ~~2004, without regard to any subsequent adjustments or changes~~
8 ~~to such data. If a hospital's 2003 Medicare cost report is not~~
9 ~~contained in the Healthcare Cost Report Information System, the~~
10 ~~hospital provider shall furnish such cost report or the data~~
11 ~~necessary to determine its adjusted gross hospital revenue as~~
12 ~~required by rule by the Illinois Department.~~

13 "Fund" means the Hospital Provider Fund.

14 "Hospital" means an institution, place, building, or
15 agency located in this State that is subject to licensure by
16 the Illinois Department of Public Health under the Hospital
17 Licensing Act, whether public or private and whether organized
18 for profit or not-for-profit.

19 "Hospital provider" means a person licensed by the
20 Department of Public Health to conduct, operate, or maintain a
21 hospital, regardless of whether the person is a Medicaid
22 provider. For purposes of this paragraph, "person" means any
23 political subdivision of the State, municipal corporation,
24 individual, firm, partnership, corporation, company, limited
25 liability company, association, joint stock association, or
26 trust, or a receiver, executor, trustee, guardian, or other

1 representative appointed by order of any court.

2 "Medicare bed days" means, for each hospital, the sum of
3 the number of days that each bed was occupied by a patient who
4 was covered by Title XVIII of the Social Security Act,
5 excluding days attributable to the routine services provided to
6 persons receiving skilled or intermediate long term care
7 services. Medicare bed days shall be computed separately for
8 each hospital operated or maintained by a hospital provider.

9 "Occupied bed days" means the sum of the number of days
10 that each bed was occupied by a patient for all beds, excluding
11 days attributable to the routine services provided to persons
12 receiving skilled or intermediate long term care services.
13 Occupied bed days shall be computed separately for each
14 hospital operated or maintained by a hospital provider.

15 "Outpatient gross revenue" means, for each hospital, its
16 total gross charges attributed to outpatient services as
17 reported on the Medicare cost report at Worksheet C, Part I,
18 Column 7, line 101, less the sum of lines 45, 60, 63, 64, 65,
19 66, 67, and 68 (and any subsets of those lines).

20 ~~"Proration factor" means a fraction, the numerator of which~~
21 ~~is 53 and the denominator of which is 365.~~

22 (Source: P.A. 94-242, eff. 7-18-05; 95-859, eff. 8-19-08.)

23 (305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

24 (Section scheduled to be repealed on July 1, 2014)

25 Sec. 5A-2. Assessment.

1 ~~(a) Subject to Sections 5A-3 and 5A-10, an annual~~
2 ~~assessment on inpatient services is imposed on each hospital~~
3 ~~provider in an amount equal to the hospital's occupied bed days~~
4 ~~multiplied by \$84.19 multiplied by the proration factor for~~
5 ~~State fiscal year 2004 and the hospital's occupied bed days~~
6 ~~multiplied by \$84.19 for State fiscal year 2005.~~

7 ~~For State fiscal years 2004 and 2005, the Department of~~
8 ~~Healthcare and Family Services shall use the number of occupied~~
9 ~~bed days as reported by each hospital on the Annual Survey of~~
10 ~~Hospitals conducted by the Department of Public Health to~~
11 ~~calculate the hospital's annual assessment. If the sum of a~~
12 ~~hospital's occupied bed days is not reported on the Annual~~
13 ~~Survey of Hospitals or if there are data errors in the reported~~
14 ~~sum of a hospital's occupied bed days as determined by the~~
15 ~~Department of Healthcare and Family Services (formerly~~
16 ~~Department of Public Aid), then the Department of Healthcare~~
17 ~~and Family Services may obtain the sum of occupied bed days~~
18 ~~from any source available, including, but not limited to,~~
19 ~~records maintained by the hospital provider, which may be~~
20 ~~inspected at all times during business hours of the day by the~~
21 ~~Department of Healthcare and Family Services or its duly~~
22 ~~authorized agents and employees.~~

23 ~~Subject to Sections 5A-3 and 5A-10, for the privilege of~~
24 ~~engaging in the occupation of hospital provider, beginning~~
25 ~~August 1, 2005, an annual assessment is imposed on each~~
26 ~~hospital provider for State fiscal years 2006, 2007, and 2008,~~

1 ~~in an amount equal to 2.5835% of the hospital provider's~~
2 ~~adjusted gross hospital revenue for inpatient services and~~
3 ~~2.5835% of the hospital provider's adjusted gross hospital~~
4 ~~revenue for outpatient services. If the hospital provider's~~
5 ~~adjusted gross hospital revenue is not available, then the~~
6 ~~Illinois Department may obtain the hospital provider's~~
7 ~~adjusted gross hospital revenue from any source available,~~
8 ~~including, but not limited to, records maintained by the~~
9 ~~hospital provider, which may be inspected at all times during~~
10 ~~business hours of the day by the Illinois Department or its~~
11 ~~duly authorized agents and employees.~~

12 Subject to Sections 5A-3 and 5A-10, for State fiscal years
13 2009 through 2014, and from July 1, 2014 through December 31,
14 2014, an annual assessment on inpatient services is imposed on
15 each hospital provider in an amount equal to \$218.38 multiplied
16 by the difference of the hospital's occupied bed days less the
17 hospital's Medicare bed days.

18 For State fiscal years 2009 through 2014, and after a
19 hospital's occupied bed days and Medicare bed days shall be
20 determined using the most recent data available from each
21 hospital's 2005 Medicare cost report as contained in the
22 Healthcare Cost Report Information System file, for the quarter
23 ending on December 31, 2006, without regard to any subsequent
24 adjustments or changes to such data. If a hospital's 2005
25 Medicare cost report is not contained in the Healthcare Cost
26 Report Information System, then the Illinois Department may

1 obtain the hospital provider's occupied bed days and Medicare
2 bed days from any source available, including, but not limited
3 to, records maintained by the hospital provider, which may be
4 inspected at all times during business hours of the day by the
5 Illinois Department or its duly authorized agents and
6 employees.

7 (b) (Blank).

8 (b-5) Subject to Sections 5A-3 and 5A-10, for State fiscal
9 years 2013 through 2014, and July 1, 2014 through December 31,
10 2014, an annual assessment on outpatient services is imposed on
11 each hospital provider in an amount equal to .008766 multiplied
12 by the hospital's outpatient gross revenue.

13 For State fiscal years 2013 through 2014, and July 1, 2014
14 through December 31, 2014, a hospital's outpatient gross
15 revenue shall be determined using the most recent data
16 available from each hospital's 2009 Medicare cost report as
17 contained in the Healthcare Cost Report Information System
18 file, for the quarter ending on June 30, 2011, without regard
19 to any subsequent adjustments or changes to such data. If a
20 hospital's 2009 Medicare cost report is not contained in the
21 Healthcare Cost Report Information System, then the Department
22 may obtain the hospital provider's outpatient gross revenue
23 from any source available, including, but not limited to,
24 records maintained by the hospital provider, which may be
25 inspected at all times during business hours of the day by the
26 Department or its duly authorized agents and employees.

1 (c) (Blank).

2 (d) Notwithstanding any of the other provisions of this
3 Section, the Department is authorized, ~~during this 94th General~~
4 ~~Assembly,~~ to adopt rules to reduce the rate of any annual
5 assessment imposed under this Section, as authorized by Section
6 5-46.2 of the Illinois Administrative Procedure Act.

7 (e) Notwithstanding any other provision of this Section,
8 any plan providing for an assessment on a hospital provider as
9 a permissible tax under Title XIX of the federal Social
10 Security Act and Medicaid-eligible payments to hospital
11 providers from the revenues derived from that assessment shall
12 be reviewed by the Illinois Department of Healthcare and Family
13 Services, as the Single State Medicaid Agency required by
14 federal law, to determine whether those assessments and
15 hospital provider payments meet federal Medicaid standards. If
16 the Department determines that the elements of the plan may
17 meet federal Medicaid standards and a related State Medicaid
18 Plan Amendment is prepared in a manner and form suitable for
19 submission, that State Plan Amendment shall be submitted in a
20 timely manner for review by the Centers for Medicare and
21 Medicaid Services of the United States Department of Health and
22 Human Services and subject to approval by the Centers for
23 Medicare and Medicaid Services of the United States Department
24 of Health and Human Services. No such plan shall become
25 effective without approval by the Illinois General Assembly by
26 the enactment into law of related legislation. Notwithstanding

1 any other provision of this Section, the Department is
2 authorized to adopt rules to reduce the rate of any annual
3 assessment imposed under this Section. Any such rules may be
4 adopted by the Department under Section 5-50 of the Illinois
5 Administrative Procedure Act.

6 (Source: P.A. 95-859, eff. 8-19-08; 96-1530, eff. 2-16-11.)

7 (305 ILCS 5/5A-4) (from Ch. 23, par. 5A-4)

8 Sec. 5A-4. Payment of assessment; penalty.

9 (a) ~~The annual assessment imposed by Section 5A-2 for State~~
10 ~~fiscal year 2004 shall be due and payable on June 18 of the~~
11 ~~year. The assessment imposed by Section 5A-2 for State fiscal~~
12 ~~year 2005 shall be due and payable in quarterly installments,~~
13 ~~each equalling one fourth of the assessment for the year, on~~
14 ~~July 19, October 19, January 18, and April 19 of the year. The~~
15 ~~assessment imposed by Section 5A-2 for State fiscal years 2006~~
16 ~~through 2008 shall be due and payable in quarterly~~
17 ~~installments, each equaling one fourth of the assessment for~~
18 ~~the year, on the fourteenth State business day of September,~~
19 ~~December, March, and May. Except as provided in subsection~~
20 ~~(a-5) of this Section, the assessment imposed by Section 5A-2~~
21 ~~for State fiscal year 2009 and each subsequent State fiscal~~
22 ~~year shall be due and payable in monthly installments, each~~
23 ~~equaling one-twelfth of the assessment for the year, on the~~
24 ~~fourteenth State business day of each month. No installment~~
25 ~~payment of an assessment imposed by Section 5A-2 shall be due~~

1 and payable, however, until after the Comptroller has issued
2 the payments required under this Article: ~~(i) the Department~~
3 ~~notifies the hospital provider, in writing, that the payment~~
4 ~~methodologies to hospitals required under Section 5A-12,~~
5 ~~Section 5A 12.1, or Section 5A 12.2, whichever is applicable~~
6 ~~for that fiscal year, have been approved by the Centers for~~
7 ~~Medicare and Medicaid Services of the U.S. Department of Health~~
8 ~~and Human Services and the waiver under 42 CFR 433.68 for the~~
9 ~~assessment imposed by Section 5A-2, if necessary, has been~~
10 ~~granted by the Centers for Medicare and Medicaid Services of~~
11 ~~the U.S. Department of Health and Human Services; and (ii) the~~
12 ~~Comptroller has issued the payments required under Section~~
13 ~~5A-12, Section 5A-12.1, or Section 5A-12.2, whichever is~~
14 ~~applicable for that fiscal year. Upon notification to the~~
15 ~~Department of approval of the payment methodologies required~~
16 ~~under Section 5A 12, Section 5A 12.1, or Section 5A 12.2,~~
17 ~~whichever is applicable for that fiscal year, and the waiver~~
18 ~~granted under 42 CFR 433.68, all installments otherwise due~~
19 ~~under Section 5A 2 prior to the date of notification shall be~~
20 ~~due and payable to the Department upon written direction from~~
21 ~~the Department and issuance by the Comptroller of the payments~~
22 ~~required under Section 5A-12.1 or Section 5A-12.2, whichever is~~
23 ~~applicable for that fiscal year.~~

24 Except as provided in subsection (a-5) of this Section, the
25 assessment imposed by subsection (b-5) of Section 5A-2 for
26 State fiscal year 2013 and each subsequent State fiscal year

1 shall be due and payable in monthly installments, each equaling
2 one-twelfth of the assessment for the year, on the 14th State
3 business day of each month. No installment payment of an
4 assessment imposed by subsection (b-5) of Section 5A-2 shall be
5 due and payable, however, until after: (i) the Department
6 notifies the hospital provider, in writing, that the payment
7 methodologies to hospitals required under Section 5A-12.4,
8 have been approved by the Centers for Medicare and Medicaid
9 Services of the U.S. Department of Health and Human Services,
10 and the waiver under 42 CFR 433.68 for the assessment imposed
11 by subsection (b-5) of Section 5A-2, if necessary, has been
12 granted by the Centers for Medicare and Medicaid Services of
13 the U.S. Department of Health and Human Services; and (ii) the
14 Comptroller has issued the payments required under Section
15 5A-12.4. Upon notification to the Department of approval of the
16 payment methodologies required under Section 5A-12.4 and the
17 waiver granted under 42 CFR 433.68, if necessary, all
18 installments otherwise due under subsection (b-5) of Section
19 5A-2 prior to the date of notification shall be due and payable
20 to the Department upon written direction from the Department
21 and issuance by the Comptroller of the payments required under
22 Section 5A-12.4.

23 (a-5) The Illinois Department may, ~~for the purpose of~~
24 ~~maximizing federal revenue,~~ accelerate the schedule upon which
25 assessment installments are due and payable by hospitals with a
26 payment ratio greater than or equal to one. Such acceleration

1 of due dates for payment of the assessment may be made only in
2 conjunction with a corresponding acceleration in access
3 payments identified in Section 5A-12.2 or Section 5A-12.4 to
4 the same hospitals. For the purposes of this subsection (a-5),
5 a hospital's payment ratio is defined as the quotient obtained
6 by dividing the total payments for the State fiscal year, as
7 authorized under Section 5A-12.2 or Section 5A-12.4, by the
8 total assessment for the State fiscal year imposed under
9 Section 5A-2 or subsection (b-5) of Section 5A-2.

10 (b) The Illinois Department is authorized to establish
11 delayed payment schedules for hospital providers that are
12 unable to make installment payments when due under this Section
13 due to financial difficulties, as determined by the Illinois
14 Department.

15 (c) If a hospital provider fails to pay the full amount of
16 an installment when due (including any extensions granted under
17 subsection (b)), there shall, unless waived by the Illinois
18 Department for reasonable cause, be added to the assessment
19 imposed by Section 5A-2 a penalty assessment equal to the
20 lesser of (i) 5% of the amount of the installment not paid on
21 or before the due date plus 5% of the portion thereof remaining
22 unpaid on the last day of each 30-day period thereafter or (ii)
23 100% of the installment amount not paid on or before the due
24 date. For purposes of this subsection, payments will be
25 credited first to unpaid installment amounts (rather than to
26 penalty or interest), beginning with the most delinquent

1 installments.

2 (d) Any assessment amount that is due and payable to the
3 Illinois Department more frequently than once per calendar
4 quarter shall be remitted to the Illinois Department by the
5 hospital provider by means of electronic funds transfer. The
6 Illinois Department may provide for remittance by other means
7 if (i) the amount due is less than \$10,000 or (ii) electronic
8 funds transfer is unavailable for this purpose.

9 (Source: P.A. 95-331, eff. 8-21-07; 95-859, eff. 8-19-08;
10 96-821, eff. 11-20-09.)

11 (305 ILCS 5/5A-5) (from Ch. 23, par. 5A-5)

12 Sec. 5A-5. Notice; penalty; maintenance of records.

13 (a) The Illinois Department ~~of Healthcare and Family~~
14 ~~Services~~ shall send a notice of assessment to every hospital
15 provider subject to assessment under this Article. The notice
16 of assessment shall notify the hospital of its assessment and
17 shall be sent after receipt by the Department of notification
18 from the Centers for Medicare and Medicaid Services of the U.S.
19 Department of Health and Human Services that the payment
20 methodologies required under this Article ~~Section 5A-12,~~
21 ~~Section 5A-12.1, or Section 5A-12.2, whichever is applicable~~
22 ~~for that fiscal year,~~ and, if necessary, the waiver granted
23 under 42 CFR 433.68 have been approved. The notice shall be on
24 a form prepared by the Illinois Department and shall state the
25 following:

1 (1) The name of the hospital provider.

2 (2) The address of the hospital provider's principal
3 place of business from which the provider engages in the
4 occupation of hospital provider in this State, and the name
5 and address of each hospital operated, conducted, or
6 maintained by the provider in this State.

7 (3) The occupied bed days, occupied bed days less
8 Medicare days, ~~or~~ adjusted gross hospital revenue, or
9 outpatient gross revenue of the hospital provider
10 (whichever is applicable), the amount of assessment
11 imposed under Section 5A-2 for the State fiscal year for
12 which the notice is sent, and the amount of each
13 installment to be paid during the State fiscal year.

14 (4) (Blank).

15 (5) Other reasonable information as determined by the
16 Illinois Department.

17 (b) If a hospital provider conducts, operates, or maintains
18 more than one hospital licensed by the Illinois Department of
19 Public Health, the provider shall pay the assessment for each
20 hospital separately.

21 (c) Notwithstanding any other provision in this Article, in
22 the case of a person who ceases to conduct, operate, or
23 maintain a hospital in respect of which the person is subject
24 to assessment under this Article as a hospital provider, the
25 assessment for the State fiscal year in which the cessation
26 occurs shall be adjusted by multiplying the assessment computed

1 under Section 5A-2 by a fraction, the numerator of which is the
2 number of days in the year during which the provider conducts,
3 operates, or maintains the hospital and the denominator of
4 which is 365. Immediately upon ceasing to conduct, operate, or
5 maintain a hospital, the person shall pay the assessment for
6 the year as so adjusted (to the extent not previously paid).

7 (d) Notwithstanding any other provision in this Article, a
8 provider who commences conducting, operating, or maintaining a
9 hospital, upon notice by the Illinois Department, shall pay the
10 assessment computed under Section 5A-2 and subsection (e) in
11 installments on the due dates stated in the notice and on the
12 regular installment due dates for the State fiscal year
13 occurring after the due dates of the initial notice.

14 ~~(e) Notwithstanding any other provision in this Article,~~
15 ~~for State fiscal years 2004 and 2005, in the case of a hospital~~
16 ~~provider that did not conduct, operate, or maintain a hospital~~
17 ~~throughout calendar year 2001, the assessment for that State~~
18 ~~fiscal year shall be computed on the basis of hypothetical~~
19 ~~occupied bed days for the full calendar year as determined by~~
20 ~~the Illinois Department. Notwithstanding any other provision~~
21 ~~in this Article, for State fiscal years 2006 through 2008, in~~
22 ~~the case of a hospital provider that did not conduct, operate,~~
23 ~~or maintain a hospital in 2003, the assessment for that State~~
24 ~~fiscal year shall be computed on the basis of hypothetical~~
25 ~~adjusted gross hospital revenue for the hospital's first full~~
26 ~~fiscal year as determined by the Illinois Department (which may~~

1 ~~be based on annualization of the provider's actual revenues for~~
2 ~~a portion of the year, or revenues of a comparable hospital for~~
3 ~~the year, including revenues realized by a prior provider of~~
4 ~~the same hospital during the year).~~ Notwithstanding any other
5 provision in this Article, for State fiscal years 2009 through
6 2014, in the case of a hospital provider that did not conduct,
7 operate, or maintain a hospital in 2005, the assessment for
8 that State fiscal year shall be computed on the basis of
9 hypothetical occupied bed days for the full calendar year as
10 determined by the Illinois Department. Notwithstanding any
11 other provision in this Article, for State fiscal years 2013
12 through 2014, and for July 1, 2014 through December 31, 2014,
13 in the case of a hospital provider that did not conduct,
14 operate, or maintain a hospital in 2009, the assessment under
15 subsection (b-5) of Section 5A-2 for that State fiscal year
16 shall be computed on the basis of hypothetical gross outpatient
17 revenue for the full calendar year as determined by the
18 Illinois Department.

19 (f) Every hospital provider subject to assessment under
20 this Article shall keep sufficient records to permit the
21 determination of adjusted gross hospital revenue for the
22 hospital's fiscal year. All such records shall be kept in the
23 English language and shall, at all times during regular
24 business hours of the day, be subject to inspection by the
25 Illinois Department or its duly authorized agents and
26 employees.

1 (g) The Illinois Department may, by rule, provide a
2 hospital provider a reasonable opportunity to request a
3 clarification or correction of any clerical or computational
4 errors contained in the calculation of its assessment, but such
5 corrections shall not extend to updating the cost report
6 information used to calculate the assessment.

7 (h) (Blank).

8 (Source: P.A. 95-331, eff. 8-21-07; 95-859, eff. 8-19-08;
9 96-1530, eff. 2-16-11.)

10 (305 ILCS 5/5A-8) (from Ch. 23, par. 5A-8)

11 Sec. 5A-8. Hospital Provider Fund.

12 (a) There is created in the State Treasury the Hospital
13 Provider Fund. Interest earned by the Fund shall be credited to
14 the Fund. The Fund shall not be used to replace any moneys
15 appropriated to the Medicaid program by the General Assembly.

16 (b) The Fund is created for the purpose of receiving moneys
17 in accordance with Section 5A-6 and disbursing moneys only for
18 the following purposes, notwithstanding any other provision of
19 law:

20 (1) For making payments to hospitals as required under
21 ~~Articles V, V-A, VI, and XIV of this Code, under the~~
22 Children's Health Insurance Program Act, under the
23 Covering ALL KIDS Health Insurance Act, and under the Long
24 Term Acute Care Hospital Quality Improvement Transfer
25 Program ~~Senior Citizens and Disabled Persons Property Tax~~

1 ~~Relief and Pharmaceutical Assistance Act.~~

2 (2) For the reimbursement of moneys collected by the
3 Illinois Department from hospitals or hospital providers
4 through error or mistake in performing the activities
5 authorized under ~~this Article and Article V~~ of this Code.

6 (3) For payment of administrative expenses incurred by
7 the Illinois Department or its agent in performing the
8 activities authorized by this Code, under the Children's
9 Health Insurance Program Act, under the Covering ALL KIDS
10 Health Insurance Act, and under the Long Term Acute Care
11 Hospital Quality Improvement Transfer Program Act.
12 ~~Article.~~

13 (4) For payments of any amounts which are reimbursable
14 to the federal government for payments from this Fund which
15 are required to be paid by State warrant.

16 (5) For making transfers, as those transfers are
17 authorized in the proceedings authorizing debt under the
18 Short Term Borrowing Act, but transfers made under this
19 paragraph (5) shall not exceed the principal amount of debt
20 issued in anticipation of the receipt by the State of
21 moneys to be deposited into the Fund.

22 (6) For making transfers to any other fund in the State
23 treasury, but transfers made under this paragraph (6) shall
24 not exceed the amount transferred previously from that
25 other fund into the Hospital Provider Fund.

26 (6.5) For making transfers to the Healthcare Provider

1 Relief Fund, except that transfers made under this
2 paragraph (6.5) shall not exceed \$60,000,000 in the
3 aggregate.

4 (7) For making transfers not exceeding the following
5 amounts, in State Fiscal Years 2013 and 2014, to the
6 following designated funds:

7	<u>Health and Human Services Medicaid Trust</u>	
8	<u>Fund</u>	<u>\$20,000,000</u>
9	<u>Long-Term Care Provider Fund</u>	<u>\$30,000,000</u>
10	<u>General Revenue Fund</u>	<u>\$80,000,000.</u>

11 Transfers under this paragraph shall be made within 7 days
12 after the payments have been received pursuant to the
13 schedule of payments provided in subsection (a) of Section
14 5A-4.

15 (7.1) For making transfers not exceeding the following
16 amounts, in State Fiscal Year 2015, to the following
17 designated funds:

18	<u>Health and Human Services Medicaid Trust</u>	
19	<u>Fund</u>	<u>\$10,000,000</u>
20	<u>Long-Term Care Provider Fund</u>	<u>\$15,000,000</u>
21	<u>General Revenue Fund</u>	<u>\$40,000,000.</u>

22 Transfers under this paragraph shall be made within 7 days
23 after the payments have been received pursuant to the
24 schedule of payments provided in subsection (a) of Section
25 5A-4. For State fiscal years 2004 and 2005 for making

26 ~~transfers to the Health and Human Services Medicaid Trust~~

1 ~~Fund, including 20% of the moneys received from hospital~~
 2 ~~providers under Section 5A-4 and transferred into the~~
 3 ~~Hospital Provider Fund under Section 5A-6. For State fiscal~~
 4 ~~year 2006 for making transfers to the Health and Human~~
 5 ~~Services Medicaid Trust Fund of up to \$130,000,000 per year~~
 6 ~~of the moneys received from hospital providers under~~
 7 ~~Section 5A-4 and transferred into the Hospital Provider~~
 8 ~~Fund under Section 5A-6. Transfers under this paragraph~~
 9 ~~shall be made within 7 days after the payments have been~~
 10 ~~received pursuant to the schedule of payments provided in~~
 11 ~~subsection (a) of Section 5A-4.~~

12 (7.5) (Blank). ~~For State fiscal year 2007 for making~~
 13 ~~transfers of the moneys received from hospital providers~~
 14 ~~under Section 5A-4 and transferred into the Hospital~~
 15 ~~Provider Fund under Section 5A-6 to the designated funds~~
 16 ~~not exceeding the following amounts in that State fiscal~~
 17 ~~year:~~

18 ~~Health and Human Services~~

19	Medicaid Trust Fund	-\$20,000,000
20	Long-Term Care Provider Fund	-\$30,000,000
21	General Revenue Fund	-\$80,000,000.

22 ~~Transfers under this paragraph shall be made within 7~~
 23 ~~days after the payments have been received pursuant to the~~
 24 ~~schedule of payments provided in subsection (a) of Section~~
 25 ~~5A-4.~~

26 (7.8) (Blank). ~~For State fiscal year 2008, for making~~

1 ~~transfers of the moneys received from hospital providers~~
 2 ~~under Section 5A-4 and transferred into the Hospital~~
 3 ~~Provider Fund under Section 5A-6 to the designated funds~~
 4 ~~not exceeding the following amounts in that State fiscal~~
 5 ~~year:~~

6 ~~Health and Human Services~~

7	Medicaid Trust Fund	\$40,000,000
8	Long Term Care Provider Fund	\$60,000,000
9	General Revenue Fund	\$160,000,000.

10 ~~Transfers under this paragraph shall be made within 7~~
 11 ~~days after the payments have been received pursuant to the~~
 12 ~~schedule of payments provided in subsection (a) of Section~~
 13 ~~5A-4.~~

14 (7.9) (Blank). ~~For State fiscal years 2009 through~~
 15 ~~2014, for making transfers of the moneys received from~~
 16 ~~hospital providers under Section 5A-4 and transferred into~~
 17 ~~the Hospital Provider Fund under Section 5A-6 to the~~
 18 ~~designated funds not exceeding the following amounts in~~
 19 ~~that State fiscal year:~~

20 ~~Health and Human Services~~

21	Medicaid Trust Fund	\$20,000,000
22	Long Term Care Provider Fund	\$30,000,000
23	General Revenue Fund	\$80,000,000.

24 ~~Except as provided under this paragraph, transfers~~
 25 ~~under this paragraph shall be made within 7 business days~~
 26 ~~after the payments have been received pursuant to the~~

1 ~~schedule of payments provided in subsection (a) of Section~~
2 ~~5A-4. For State fiscal year 2009, transfers to the General~~
3 ~~Revenue Fund under this paragraph shall be made on or~~
4 ~~before June 30, 2009, as sufficient funds become available~~
5 ~~in the Hospital Provider Fund to both make the transfers~~
6 ~~and continue hospital payments.~~

7 (7.10) For State fiscal years 2013 and 2014, for making
8 transfers of the moneys resulting from the assessment under
9 subsection (b-5) of Section 5A-2 and received from hospital
10 providers under Section 5A-4 and transferred into the
11 Hospital Provider Fund under Section 5A-6 to the designated
12 funds not exceeding the following amounts in that State
13 fiscal year:

14 Health Care Provider Relief Fund \$50,000,000

15 Transfers under this paragraph shall be made within 7
16 days after the payments have been received pursuant to the
17 schedule of payments provided in subsection (a) of Section
18 5A-4.

19 (7.11) For State Fiscal Year 2015, for making transfers
20 of the moneys resulting from the assessment under
21 subsection (b-5) of Section 5A-2 and received from hospital
22 providers under Section 5A-4 and transferred into the
23 Hospital Provider Fund under Section 5A-6 to the designated
24 funds not exceeding the following amounts in that State
25 fiscal year:

26 Health Care Provider Relief Fund \$25,000,000

1 Transfers under this paragraph shall be made within 7
2 days after the payments have been received pursuant to the
3 schedule of payments provided in subsection (a) of Section
4 5A-4.

5 (8) For making refunds to hospital providers pursuant
6 to Section 5A-10.

7 Disbursements from the Fund, other than transfers
8 authorized under paragraphs (5) and (6) of this subsection,
9 shall be by warrants drawn by the State Comptroller upon
10 receipt of vouchers duly executed and certified by the Illinois
11 Department.

12 (c) The Fund shall consist of the following:

13 (1) All moneys collected or received by the Illinois
14 Department from the hospital provider assessment imposed
15 by this Article.

16 (2) All federal matching funds received by the Illinois
17 Department as a result of expenditures made by the Illinois
18 Department that are attributable to moneys deposited in the
19 Fund.

20 (3) Any interest or penalty levied in conjunction with
21 the administration of this Article.

22 (4) Moneys transferred from another fund in the State
23 treasury.

24 (5) All other moneys received for the Fund from any
25 other source, including interest earned thereon.

26 (d) (Blank).

1 (Source: P.A. 95-707, eff. 1-11-08; 95-859, eff. 8-19-08; 96-3,
2 eff. 2-27-09; 96-45, eff. 7-15-09; 96-821, eff. 11-20-09;
3 96-1530, eff. 2-16-11.)

4 (305 ILCS 5/5A-10) (from Ch. 23, par. 5A-10)

5 Sec. 5A-10. Applicability.

6 (a) The assessment imposed by subsection (a) of Section
7 5A-2 shall not take effect or shall cease to be imposed, and
8 any moneys remaining in the Fund shall be refunded to hospital
9 providers in proportion to the amounts paid by them, if:

10 (1) The payments to hospitals required under this
11 Article are not eligible for federal matching funds under
12 Title XIX or XXI of the Social Security Act ~~The sum of the~~
13 ~~appropriations for State fiscal years 2004 and 2005 from~~
14 ~~the General Revenue Fund for hospital payments under the~~
15 ~~medical assistance program is less than \$4,500,000,000 or~~
16 ~~the appropriation for each of State fiscal years 2006, 2007~~
17 ~~and 2008 from the General Revenue Fund for hospital~~
18 ~~payments under the medical assistance program is less than~~
19 ~~\$2,500,000,000 increased annually to reflect any increase~~
20 ~~in the number of recipients, or the annual appropriation~~
21 ~~for State fiscal years 2009, 2010, 2011, 2013, and 2014,~~
22 ~~from the General Revenue Fund combined with the Hospital~~
23 ~~Provider Fund as authorized in Section 5A-8 for hospital~~
24 ~~payments under the medical assistance program, is less than~~
25 ~~the amount appropriated for State fiscal year 2009,~~

1 ~~adjusted annually to reflect any change in the number of~~
2 ~~recipients, excluding State fiscal year 2009 supplemental~~
3 ~~appropriations made necessary by the enactment of the~~
4 ~~American Recovery and Reinvestment Act of 2009; or~~

5 ~~(2) For State fiscal years prior to State fiscal year~~
6 ~~2009, the Department of Healthcare and Family Services~~
7 ~~(formerly Department of Public Aid) makes changes in its~~
8 ~~rules that reduce the hospital inpatient or outpatient~~
9 ~~payment rates, including adjustment payment rates, in~~
10 ~~effect on October 1, 2004, except for hospitals described~~
11 ~~in subsection (b) of Section 5A-3 and except for changes in~~
12 ~~the methodology for calculating outlier payments to~~
13 ~~hospitals for exceptionally costly stays, so long as those~~
14 ~~changes do not reduce aggregate expenditures below the~~
15 ~~amount expended in State fiscal year 2005 for such~~
16 ~~services; or~~

17 (2) ~~(2.1)~~ For State fiscal years 2009 through 2014, and
18 July 1, 2014 through December 31, 2014, the Department of
19 Healthcare and Family Services adopts any administrative
20 rule change to reduce payment rates or alters any payment
21 methodology that reduces any payment rates made to
22 operating hospitals under the approved Title XIX or Title
23 XXI State plan in effect January 1, 2008 except for:

24 (A) any changes for hospitals described in
25 subsection (b) of Section 5A-3; ~~or~~

26 (B) any rates for payments made under this Article

1 V-A; ~~or~~

2 (C) any changes proposed in State plan amendment
3 transmittal numbers 08-01, 08-02, 08-04, 08-06, and
4 08-07; or

5 (D) in relation to any admissions on or after
6 January 1, 2011, a modification in the methodology for
7 calculating outlier payments to hospitals for
8 exceptionally costly stays, for hospitals reimbursed
9 under the diagnosis-related grouping methodology in
10 effect on July 1, 2011; provided that the Department
11 shall be limited to one such modification during the
12 36-month period after the effective date of this
13 amendatory Act of the 96th General Assembly; or

14 (3) The payments to hospitals required under Section
15 5A-12 or Section 5A-12.2 are changed or are not eligible
16 for federal matching funds under Title XIX or XXI of the
17 Social Security Act.

18 (b) The assessment imposed by Section 5A-2 shall not take
19 effect or shall cease to be imposed, and the Department's
20 obligation to make payments shall immediately cease, if the
21 assessment is determined to be an impermissible tax under Title
22 XIX of the Social Security Act. Moneys in the Hospital Provider
23 Fund derived from assessments imposed prior thereto shall be
24 disbursed in accordance with Section 5A-8 to the extent federal
25 financial participation is not reduced due to the
26 impermissibility of the assessments, and any remaining moneys

1 shall be refunded to hospital providers in proportion to the
2 amounts paid by them.

3 (c) The assessments imposed by subsection (b-5) of Section
4 5A-2 shall not take effect or shall cease to be imposed, the
5 Department's obligation to make payments shall immediately
6 cease, and any moneys remaining in the Fund shall be refunded
7 to hospital providers in proportion to the amounts paid by
8 them, if the payments to hospitals required under Section
9 5A-12.4 are not eligible for federal matching funds under Title
10 XIX of the Social Security Act.

11 (d) The assessments imposed by Section 5A-2 shall not take
12 effect or shall cease to be imposed, the Department's
13 obligation to make payments shall immediately cease, and any
14 moneys remaining in the Fund shall be refunded to hospital
15 providers in proportion to the amounts paid by them, if:

16 (1) for State fiscal years 2013 through 2014, and July
17 1, 2014 through December 31, 2014, the Department reduces
18 any payment rates to hospitals as in effect on May 1, 2012,
19 or alters any payment methodology as in effect on May 1,
20 2012, that has the effect of reducing payment rates to
21 hospitals, except for any changes affecting hospitals
22 authorized in Senate Bill 2840 of the 97th General Assembly
23 in the form in which it becomes law, and except for any
24 changes authorized under Section 5A-15; or

25 (2) for State fiscal years 2013 through 2014, and July
26 1, 2014 through December 31, 2014, the Department reduces

1 any supplemental payments made to hospitals below the
2 amounts paid for services provided in State fiscal year
3 2011 as implemented by administrative rules adopted and in
4 effect on or prior to June 30, 2011, except for any changes
5 affecting hospitals authorized in Senate Bill 2840 of the
6 97th General Assembly in the form in which it becomes law,
7 and except for any changes authorized under Section 5A-15.

8 (Source: P.A. 96-8, eff. 4-28-09; 96-1530, eff. 2-16-11; 97-72,
9 eff. 7-1-11; 97-74, eff. 6-30-11.)

10 (305 ILCS 5/5A-12.4 new)

11 Sec. 5A-12.4. Hospital access improvement payments on or
12 after July 1, 2012.

13 (a) Hospital access improvement payments. To preserve and
14 improve access to hospital services, for hospital and physician
15 services rendered on or after July 1, 2012, the Illinois
16 Department shall, except for hospitals described in subsection
17 (b) of Section 5A-3, make payments to hospitals as set forth in
18 this Section. These payments shall be paid in 12 equal
19 installments on or before the 7th State business day of each
20 month, except that no payment shall be due within 100 days
21 after the later of the date of notification of federal approval
22 of the payment methodologies required under this Section or any
23 waiver required under 42 CFR 433.68, at which time the sum of
24 amounts required under this Section prior to the date of
25 notification is due and payable. Payments under this Section

1 are not due and payable, however, until (i) the methodologies
2 described in this Section are approved by the federal
3 government in an appropriate State Plan amendment and (ii) the
4 assessment imposed under subsection (b-5) of Section 5A-2 of
5 this Article is determined to be a permissible tax under Title
6 XIX of the Social Security Act. The Illinois Department shall
7 take all actions necessary to implement the payments under this
8 Section effective July 1, 2012, including but not limited to
9 providing public notice pursuant to federal requirements, the
10 filing of a State Plan amendment, and the adoption of
11 administrative rules.

12 (a-5) Accelerated schedule. The Illinois Department may,
13 when practicable, accelerate the schedule upon which payments
14 authorized under this Section are made.

15 (b) Magnet and perinatal hospital adjustment. In addition
16 to rates paid for inpatient hospital services, the Department
17 shall pay to each Illinois general acute care hospital that, as
18 of August 25, 2011, was recognized as a Magnet hospital by the
19 American Nurses Credentialing Center and that, as of September
20 14, 2011, was designated as a level III perinatal center
21 amounts as follows:

22 (1) For hospitals with a case mix index equal to or
23 greater than the 80th percentile of case mix indices for
24 all Illinois hospitals, \$470 for each Medicaid general
25 acute care inpatient day of care provided by the hospital
26 during State fiscal year 2009.

1 (2) For all other hospitals, \$170 for each Medicaid
2 general acute care inpatient day of care provided by the
3 hospital during State fiscal year 2009.

4 (c) Trauma level II adjustment. In addition to rates paid
5 for inpatient hospital services, the Department shall pay to
6 each Illinois general acute care hospital that, as of July 1,
7 2011, was designated as a level II trauma center amounts as
8 follows:

9 (1) For hospitals with a case mix index equal to or
10 greater than the 50th percentile of case mix indices for
11 all Illinois hospitals, \$470 for each Medicaid general
12 acute care inpatient day of care provided by the hospital
13 during State fiscal year 2009.

14 (2) For all other hospitals, \$170 for each Medicaid
15 general acute care inpatient day of care provided by the
16 hospital during State fiscal year 2009.

17 (3) For the purposes of this adjustment, hospitals
18 located in the same city that alternate their trauma center
19 designation as defined in 89 Ill. Adm. Code 148.295(a)(2)
20 shall have the adjustment provided under this section
21 divided between the 2 hospitals.

22 (d) Dual eligible adjustment. In addition to rates paid for
23 inpatient services, the Department shall pay each Illinois
24 general acute care hospital that had a ratio of crossover days
25 to total inpatient days for programs under Title XIX of the
26 Social Security Act administered by the Department (utilizing

1 information from 2009 paid claims) greater than 50%, and a case
2 mix index equal to or greater than the 75th percentile of case
3 mix indices for all Illinois hospitals, a rate of \$400 for each
4 Medicaid inpatient day during State fiscal year 2009 including
5 crossover days.

6 (e) Medicaid volume adjustment. In addition to rates paid
7 for inpatient hospital services, the Department shall pay to
8 each Illinois general acute care hospital that provided more
9 than 10,000 Medicaid inpatient days of care in State fiscal
10 year 2009, has a Medicaid inpatient utilization rate of at
11 least 29.05% as calculated by the Department for the Rate Year
12 2011 Disproportionate Share determination, and is not eligible
13 for Medicaid Percentage Adjustment payments in rate year 2011
14 an amount equal to \$135 for each Medicaid inpatient day of care
15 provided during State fiscal year 2009.

16 (f) Outpatient service adjustment. In addition to the rates
17 paid for outpatient hospital services, the Department shall pay
18 each Illinois hospital an amount at least equal to \$100
19 multiplied by the hospital's outpatient ambulatory procedure
20 listing services (excluding categories 3B and 3C) and by the
21 hospital's end stage renal disease treatment services provided
22 for State fiscal year 2009.

23 (g) Ambulatory service adjustment.

24 (1) In addition to the rates paid for outpatient
25 hospital services provided in the emergency department,
26 the Department shall pay each Illinois hospital an amount

1 equal to \$105 multiplied by the hospital's outpatient
2 ambulatory procedure listing services for categories 3A,
3 3B, and 3C for State fiscal year 2009.

4 (2) In addition to the rates paid for outpatient
5 hospital services, the Department shall pay each Illinois
6 freestanding psychiatric hospital an amount equal to \$200
7 multiplied by the hospital's ambulatory procedure listing
8 services for category 5A for State fiscal year 2009.

9 (h) Specialty hospital adjustment. In addition to the rates
10 paid for outpatient hospital services, the Department shall pay
11 each Illinois long term acute care hospital and each Illinois
12 hospital devoted exclusively to the treatment of cancer, an
13 amount equal to \$700 multiplied by the hospital's outpatient
14 ambulatory procedure listing services and by the hospital's end
15 stage renal disease treatment services (including services
16 provided to individuals eligible for both Medicaid and
17 Medicare) provided for State fiscal year 2009.

18 (h-1) ER Safety Net Payments. In addition to rates paid for
19 outpatient services, the Department shall pay to each Illinois
20 general acute care hospital with an emergency room ratio equal
21 to or greater than 55%, that is not eligible for Medicaid
22 percentage adjustments payments in rate year 2011, with a case
23 mix index equal to or greater than the 20th percentile, and
24 that is not designated as a trauma center by the Illinois
25 Department of Public Health on July 1, 2011, as follows:

26 (1) Each hospital with an emergency room ratio equal to

1 or greater than 74% shall receive a rate of \$225 for each
2 outpatient ambulatory procedure listing and end-stage
3 renal disease treatment service provided for State fiscal
4 year 2009.

5 (2) For all other hospitals, \$65 shall be paid for each
6 outpatient ambulatory procedure listing and end-stage
7 renal disease treatment service provided for State fiscal
8 year 2009.

9 (i) Physician supplemental adjustment. In addition to the
10 rates paid for physician services, the Department shall make an
11 adjustment payment for services provided by physicians as
12 follows:

13 (1) Physician services eligible for the adjustment
14 payment are those provided by physicians employed by or who
15 have a contract to provide services to patients of the
16 following hospitals: (i) Illinois general acute care
17 hospitals that provided at least 17,000 Medicaid inpatient
18 days of care in State fiscal year 2009 and are eligible for
19 Medicaid Percentage Adjustment Payments in rate year 2011;
20 and (ii) Illinois freestanding children's hospitals, as
21 defined in 89 Ill. Adm. Code 149.50(c)(3)(A).

22 (2) The amount of the adjustment for each eligible
23 hospital under this subsection (i) shall be determined by
24 rule by the Department to spend a total pool of at least
25 \$6,960,000 annually. This pool shall be allocated among the
26 eligible hospitals based on the difference between the

1 upper payment limit for what could have been paid under
2 Medicaid for physician services provided during State
3 fiscal year 2009 by physicians employed by or who had a
4 contract with the hospital and the amount that was paid
5 under Medicaid for such services, provided however, that in
6 no event shall physicians at any individual hospital
7 collectively receive an annual, aggregate adjustment in
8 excess of \$435,000, except that any amount that is not
9 distributed to a hospital because of the upper payment
10 limit shall be reallocated among the remaining eligible
11 hospitals that are below the upper payment limitation, on a
12 proportionate basis.

13 (i-5) For any children's hospital which did not charge for
14 its services during the base period, the Department shall use
15 data supplied by the hospital to determine payments using
16 similar methodologies for freestanding children's hospitals
17 under this Section or Section 12.2.

18 (j) For purposes of this Section, a hospital that is
19 enrolled to provide Medicaid services during State fiscal year
20 2009 shall have its utilization and associated reimbursements
21 annualized prior to the payment calculations being performed
22 under this Section.

23 (k) For purposes of this Section, the terms "Medicaid
24 days", "ambulatory procedure listing services", and
25 "ambulatory procedure listing payments" do not include any
26 days, charges, or services for which Medicare or a managed care

1 organization reimbursed on a capitated basis was liable for
2 payment, except where explicitly stated otherwise in this
3 Section.

4 (1) Definitions. Unless the context requires otherwise or
5 unless provided otherwise in this Section, the terms used in
6 this Section for qualifying criteria and payment calculations
7 shall have the same meanings as those terms have been given in
8 the Illinois Department's administrative rules as in effect on
9 October 1, 2011. Other terms shall be defined by the Illinois
10 Department by rule.

11 As used in this Section, unless the context requires
12 otherwise:

13 "Case mix index" means, for a given hospital, the sum of
14 the per admission (DRG) relative weighting factors in effect on
15 January 1, 2005, for all general acute care admissions for
16 State fiscal year 2009, excluding Medicare crossover
17 admissions and transplant admissions reimbursed under 89 Ill.
18 Adm. Code 148.82, divided by the total number of general acute
19 care admissions for State fiscal year 2009, excluding Medicare
20 crossover admissions and transplant admissions reimbursed
21 under 89 Ill. Adm. Code 148.82.

22 "Emergency room ratio" means, for a given hospital, a
23 fraction, the denominator of which is the number of the
24 hospital's outpatient ambulatory procedure listing and
25 end-stage renal disease treatment services provided for State
26 fiscal year 2009 and the numerator of which is the hospital's

1 outpatient ambulatory procedure listing services for
2 categories 3A, 3B, and 3C for State fiscal year 2009.

3 "Medicaid inpatient day" means, for a given hospital, the
4 sum of days of inpatient hospital days provided to recipients
5 of medical assistance under Title XIX of the federal Social
6 Security Act, excluding days for individuals eligible for
7 Medicare under Title XVIII of that Act (Medicaid/Medicare
8 crossover days), as tabulated from the Department's paid claims
9 data for admissions occurring during State fiscal year 2009
10 that was adjudicated by the Department through June 30, 2010.

11 "Outpatient ambulatory procedure listing services" means,
12 for a given hospital, ambulatory procedure listing services, as
13 described in 89 Ill. Adm. Code 148.140(b), provided to
14 recipients of medical assistance under Title XIX of the federal
15 Social Security Act, excluding services for individuals
16 eligible for Medicare under Title XVIII of the Act
17 (Medicaid/Medicare crossover days), as tabulated from the
18 Department's paid claims data for services occurring in State
19 fiscal year 2009 that were adjudicated by the Department
20 through September 2, 2010.

21 "Outpatient end-stage renal disease treatment services"
22 means, for a given hospital, the services, as described in 89
23 Ill. Adm. Code 148.140(c), provided to recipients of medical
24 assistance under Title XIX of the federal Social Security Act,
25 excluding payments for individuals eligible for Medicare under
26 Title XVIII of the Act (Medicaid/Medicare crossover days), as

1 tabulated from the Department's paid claims data for services
2 occurring in State fiscal year 2009 that were adjudicated by
3 the Department through September 2, 2010.

4 (m) The Department may adjust payments made under this
5 Section 5A-12.4 to comply with federal law or regulations
6 regarding hospital-specific payment limitations on
7 government-owned or government-operated hospitals.

8 (n) Notwithstanding any of the other provisions of this
9 Section, the Department is authorized to adopt rules that
10 change the hospital access improvement payments specified in
11 this Section, but only to the extent necessary to conform to
12 any federally approved amendment to the Title XIX State plan.
13 Any such rules shall be adopted by the Department as authorized
14 by Section 5-50 of the Illinois Administrative Procedure Act.
15 Notwithstanding any other provision of law, any changes
16 implemented as a result of this subsection (n) shall be given
17 retroactive effect so that they shall be deemed to have taken
18 effect as of the effective date of this Section.

19 (o) The Department of Healthcare and Family Services must
20 submit a State Medicaid Plan Amendment to the Centers of
21 Medicare and Medicaid Services to implement the payments under
22 this Section within 30 days of the effective date of this Act.

23 (305 ILCS 5/5A-13)

24 Sec. 5A-13. Emergency rulemaking.

25 (a) The Department of Healthcare and Family Services

1 (formerly Department of Public Aid) may adopt rules necessary
2 to implement this amendatory Act of the 94th General Assembly
3 through the use of emergency rulemaking in accordance with
4 Section 5-45 of the Illinois Administrative Procedure Act. For
5 purposes of that Act, the General Assembly finds that the
6 adoption of rules to implement this amendatory Act of the 94th
7 General Assembly is deemed an emergency and necessary for the
8 public interest, safety, and welfare.

9 (b) The Department of Healthcare and Family Services may
10 adopt rules necessary to implement this amendatory Act of the
11 97th General Assembly through the use of emergency rulemaking
12 in accordance with Section 5-45 of the Illinois Administrative
13 Procedure Act. For purposes of that Act, the General Assembly
14 finds that the adoption of rules to implement this amendatory
15 Act of the 97th General Assembly is deemed an emergency and
16 necessary for the public interest, safety, and welfare.

17 (Source: P.A. 94-242, eff. 7-18-05; 95-331, eff. 8-21-07.)

18 (305 ILCS 5/5A-14)

19 Sec. 5A-14. Repeal of assessments and disbursements.

20 (a) Section 5A-2 is repealed on January 1, 2015 ~~July 1,~~
21 ~~2014.~~

22 (b) Section 5A-12 is repealed on July 1, 2005.

23 (c) Section 5A-12.1 is repealed on July 1, 2008.

24 (d) Section 5A-12.2 and Section 5A-12.4 are ~~is~~ repealed on
25 January 1, 2015 ~~July 1, 2014.~~

1 (e) Section 5A-12.3 is repealed on July 1, 2011.

2 (Source: P.A. 95-859, eff. 8-19-08; 96-821, eff. 11-20-09;
3 96-1530, eff. 2-16-11.)

4 (305 ILCS 5/5A-15 new)

5 Sec. 5A-15. Protection of federal revenue.

6 (a) If the federal Centers for Medicare and Medicaid
7 Services finds that any federal upper payment limit applicable
8 to the payments under this Article is exceeded then:

9 (1) the payments under this Article that exceed the
10 applicable federal upper payment limit shall be reduced
11 uniformly to the extent necessary to comply with the
12 applicable federal upper payment limit; and

13 (2) any assessment rate imposed under this Article
14 shall be reduced such that the aggregate assessment is
15 reduced by the same percentage reduction applied in
16 paragraph (1); and

17 (3) any transfers from the Hospital Provider Fund under
18 Section 5A-8 shall be reduced by the same percentage
19 reduction applied in paragraph (1).

20 (b) Any payment reductions made under the authority granted
21 in this Section are exempt from the requirements and actions
22 under Section 5A-10.

23 Section 5-65. The Cigarette Fire Safety Standard Act is
24 amended by adding Section 65 as follows:

1 (425 ILCS 8/65 new)

2 Sec. 65. Cigarette Machine Operators. Cigarettes made or
3 fabricated by cigarette machine operators possessing valid
4 licenses under Section 20 of the Cigarette Machine Operators'
5 Occupation Tax Act are exempt from the provisions of this Act.

6 ARTICLE 99. APPLICABILITY, SEVERABILITY, AND EFFECTIVE DATE

7 Section 90. Applicability. The changes made by this
8 amendatory Act of the 97th General Assembly to the Property Tax
9 Code, the Illinois Income Tax Act, the Use Tax Act, the Service
10 Occupation Tax Act, and the Retailers' Occupation Tax Act shall
11 apply to: (1) all decisions by the Department on or after the
12 effective date of this amendatory Act of the 97th General
13 Assembly regarding entitlement or continued entitlement by
14 hospitals, hospital owners, hospital affiliates, or hospital
15 systems to charitable property tax exemptions; (2) all
16 applications for property tax exemption filed by hospitals,
17 hospital owners, hospital affiliates, or hospital systems on or
18 after the effective date of this amendatory Act of the 97th
19 General Assembly; (3) all applications for property tax
20 exemption filed by hospitals, hospital owners, hospital
21 affiliates, or hospital systems that have either not been
22 decided by the Department before the effective date of this
23 amendatory Act of the 97th General Assembly, or for which any

1 such Department decisions are not final and non-appealable as
2 of that date; (4) all decisions by the Department, on or after
3 the effective date of this amendatory Act of the 97th General
4 Assembly, regarding entitlement by hospitals, hospital owners
5 or hospital affiliates to an exemption or renewal of exemption
6 from the Use Tax Act, the Service Use Tax Act, the Service
7 Occupation Tax Act, and the Retailers' Occupation Tax Act; (5)
8 all applications for exemption or renewal of exemption from the
9 Use Tax Act, the Service Use Tax Act, the Service Occupation
10 Tax Act, and the Retailers' Occupation Tax Act filed by
11 hospitals, hospital owners or hospital affiliates on or after
12 the effective date of this amendatory Act of the 97th General
13 Assembly; and (6) all applications for exemption or renewal of
14 exemption from the Use Tax Act, the Service Use Tax Act, the
15 Service Occupation Tax Act, and the Retailers' Occupation Tax
16 Act filed by hospitals, hospital owners, or hospital affiliates
17 that have either not been decided by the Department before the
18 effective date of this amendatory Act of the 97th General
19 Assembly or for which any such Department decisions are not
20 final and non-appealable as of that date.

21 Section 95. No acceleration or delay. Where this Act makes
22 changes in a statute that is represented in this Act by text
23 that is not yet or no longer in effect (for example, a Section
24 represented by multiple versions), the use of that text does
25 not accelerate or delay the taking effect of (i) the changes

1 made by this Act or (ii) provisions derived from any other
2 Public Act.

3 Section 97. Severability. The provisions of this Act are
4 severable under Section 1.31 of the Statute on Statutes.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.".