



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-SIXTH GENERAL ASSEMBLY**

**70TH LEGISLATIVE DAY**

**THURSDAY, OCTOBER 29, 2009**

**11:02 O'CLOCK A.M.**

**SENATE**  
**Daily Journal Index**  
**70th Legislative Day**

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The Senate met pursuant to adjournment.  
Senator James F. Clayborne, Belleville, Illinois, presiding.  
Prayer by Reverend Mark Gifford, Parkway Christian Church, Springfield, Illinois.  
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Wednesday, October 28, 2009, be postponed, pending arrival of the printed Journal.  
The motion prevailed.

**REPORT RECEIVED**

The Secretary placed before the Senate the following report:

Personal Information Protection Act Report, submitted by Eastern Illinois University.

The foregoing report was ordered received and placed on file in the Secretary's Office.

**MESSAGE FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

October 29, 2009

Ms. Jillayne Rock  
Secretary of the Senate  
Room 403 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish December 31, 2009 as the 3<sup>rd</sup> Reading deadline for HB 4628.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Republican Leader Christine Radogno

**MESSAGE FROM THE HOUSE**

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 806

A bill for AN ACT concerning education.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 806

Senate Amendment No. 2 to HOUSE BILL NO. 806

Concurred in by the House, October 28, 2009.

[October 29, 2009]

MARK MAHONEY, Clerk of the House

**LEGISLATIVE MEASURES FILED**

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to House Bill 607  
 Senate Floor Amendment No. 2 to House Bill 1526  
 Senate Floor Amendment No. 3 to House Bill 2652  
 Senate Floor Amendment No. 2 to House Bill 3997

**PRESENTATION OF RESOLUTIONS**

**SENATE RESOLUTION NO. 494**

Offered by Senator Link and all Senators:  
 Mourns the death of Jennifer Lynne Berg of Antioch.

**SENATE RESOLUTION NO. 496**

Offered by Senator Clayborne and all Senators:  
 Mourns the death of Ruth Naomi Ulmer.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Sandoval offered the following Senate Resolution, which was referred to the Committee on Assignments:

**SENATE RESOLUTION NO. 495**

WHEREAS, Both the public and numerous states have shown great interest in high-speed rail as an efficient and environmentally friendly means of moving people and creating economic activity; and

WHEREAS, A 2,250-mile Midwestern high-speed rail network as envisioned under the United States Department of Transportation's high-speed corridor designations could create more than 1 million permanent jobs and more than 450,000 construction jobs in the region; and

WHEREAS, Outside of California, the Midwest has the highest concentration of cities with a population of more than 300,000; most of those cities, including Chicago, Detroit, Indianapolis, Milwaukee, Cleveland, Minneapolis, St. Louis, and Cincinnati, could be served by a Midwest high-speed rail network; these metropolitan areas alone represent nearly 10% of the U.S. population and the Midwest region is home to one-third of the U.S. population; and

WHEREAS, In 2009, President Obama and the United States Congress demonstrated leadership and vision by jumpstarting high speed rail plans in the United States with an \$8 billion allocation for high speed rail funding in the American Recovery and Reinvestment Act; and

WHEREAS, The Federal Rail Administration received pre-applications from 40 states totaling \$103 billion this year and ultimately received 45 applications from 23 states totaling \$50 billion, as well as an additional \$7 billion in requests for corridor studies; these figures ultimately dwarfed the \$8 billion to be allocated under the American Recovery and Reinvestment Act; and

WHEREAS, In order to meet the demonstrated demand for high speed rail of at least \$57 billion, the federal government needs to spend \$8 billion every year for the next 7 years; and

[October 29, 2009]

WHEREAS, The United States Congress is currently debating the amount of high speed rail funding to put into the annual budget this fall; while the U.S. House of Representatives appropriated \$4 billion in the 2010 transportation appropriations bill (H.R. 3288), the U.S. Senate only appropriated \$1.2 billion in its version; and

WHEREAS, A conference committee is set to finalize the allocation of high speed rail funding in the FY2010 federal budget; and

WHEREAS, The amount of high speed rail funding in the first federal budget since passage of the stimulus bill will determine whether or not the nation will continue to aggressively invest in high speed rail; the difference between the House's \$4 billion allocation for high speed rail and the Senate's \$1.2 billion for high speed rail is dramatic; and

WHEREAS, The State of Illinois has appropriated funds for high speed rail; the Illinois General Assembly has allocated more than \$850 million for railroad infrastructure in the capital bill, the single largest legislative-enacted appropriation of any state in the history of the nation for railroad infrastructure; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we urge the United States Senate to agree with the United States House of Representatives and spend \$4 billion on high speed rail in the FY2010 budget in order to match the commitment to high speed rail demonstrated by the State of Illinois; and be it further

RESOLVED, That we specifically urge U.S. Senators Dick Durbin and Roland Burris to push for a \$4 billion allocation for high speed rail in the FY2010 budget; and be it further

RESOLVED, That suitable copies of this resolution be presented to the Majority and Minority Leaders of the United States Senate and United States Senators Dick Durbin and Roland Burris.

### INTRODUCTION OF BILLS

**SENATE BILL NO. 2493.** Introduced by Senator Link, a bill for AN ACT concerning insurance.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2494.** Introduced by Senator Meeks, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2495.** Introduced by Senator Meeks, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2496.** Introduced by Senator Meeks, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

### READING BILLS OF THE HOUSE OF REPRESENTATIVE A SECOND TIME

On motion of Senator Koehler, **House Bill No. 1188** having been printed, was taken up and read by title a second time.

[October 29, 2009]

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

**AMENDMENT NO. 1 TO HOUSE BILL 1188**

AMENDMENT NO. 1. Amend House Bill 1188 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-5.4 as follows:  
(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Healthcare and Family Services. ~~The~~ ~~The~~ Department of Healthcare and Family Services shall develop standards of payment of skilled nursing and intermediate care services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for skilled nursing and intermediate care services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2009, unless specifically provided for in this Section. The changes made by Public Act 93-841 extending the duration of the prohibition against a rate increase or update for inflation are effective retroactive to July 1, 2004.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus \$1.10 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2006 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care Facilities for the Developmentally Disabled or Long Term Care for Under Age 22 facilities, the rates taking effect on January 1, 2009 shall include an increase sufficient to provide a \$0.50 per hour wage increase for non-executive staff.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus \$3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by \$4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of the rate effective July 1, 2003. The Department of Public Aid (now Healthcare and Family Services) shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 3 years and 184 days after implementation of the new payment methodology as follows:

[October 29, 2009]

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the numerator of the ratio used by the Department of Healthcare and Family Services to compute the rate payable under this Section using the Minimum Data Set (MDS) methodology shall incorporate the following annual amounts as the additional funds appropriated to the Department specifically to pay for rates based on the MDS nursing component methodology in excess of the funding in effect on December 31, 2006:

- (i) For rates taking effect January 1, 2007, \$60,000,000.
- (ii) For rates taking effect January 1, 2008, \$110,000,000.
- (iii) For rates taking effect January 1, 2009, \$194,000,000.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the support component of the rates taking effect on January 1, 2008 shall be computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, if the payment methodologies required under Section 5A-12 and the waiver granted under 42 CFR 433.68 are approved by the United States Centers for Medicare and Medicaid Services, the rates taking effect on July 1, 2004 shall be 3.0% greater than the rates in effect on June 30, 2004. These rates shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on January 1, 2005 shall be 3% more than the rates in effect on December 31, 2004.

Notwithstanding any other provision of this Section, for facilities licensed by the

Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2009, the per diem support component of the rates

effective on January 1, 2008, computed using the most recent cost reports on file with the Department of Healthcare and Family Services no later than April 1, 2005, updated for inflation to January 1, 2006, shall be increased to the amount that would have been derived using standard Department of Healthcare and Family Services methods, procedures, and inflators.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as intermediate care facilities that are federally defined as Institutions for Mental Disease, a socio-development component rate equal to 6.6% of the facility's nursing component rate as of January 1, 2006 shall be established and paid effective July 1, 2006. The socio-development component of the rate shall be increased by a factor of 2.53 on the first day of the month that begins at least 45 days after January 11, 2008 (the effective date of Public Act 95-707). As of August 1, 2008, the socio-development component rate shall be equal to 6.6% of the facility's nursing component rate as of January 1, 2006, multiplied by a factor of 3.53. The Illinois Department may by rule adjust these socio-development component rates, but in no case may such rates be diminished.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or as long-term care facilities for residents under 22 years of age, the rates taking effect on July 1, 2003 shall include a statewide increase of 4%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on the first day of the month that begins at least 45 days after the effective date of this amendatory Act of the 95th General Assembly shall include a statewide increase of 2.5%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2005, facility rates shall be increased by the difference between (i) a facility's per diem property, liability, and malpractice insurance costs as reported in the cost report filed with the Department of Public Aid and used to establish rates effective July 1, 2001 and (ii) those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations, except for adjustments required under normal auditing procedures.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Healthcare and Family Services shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

(Source: P.A. 94-48, eff. 7-1-05; 94-85, eff. 6-28-05; 94-697, eff. 11-21-05; 94-838, eff. 6-6-06; 94-964, eff. 6-28-06; 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08; 95-744, eff. 7-18-08.)"

There being no further amendments, the bill, as amended, was ordered to a third reading.

[October 29, 2009]

On motion of Senator Lightford, **House Bill No. 4638** was taken up, read by title a second time and ordered to a third reading.

### INTRODUCTION OF BILLS

**SENATE BILL NO. 2497.** Introduced by Senator Forby, a bill for AN ACT concerning government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2498.** Introduced by Senator Jacobs, a bill for AN ACT concerning transportation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

### MOTION IN WRITING

Senator Dillard submitted the following Motion in Writing:

I move that House Bill 2279 do pass, notwithstanding the specific recommendations of the Governor.

10-29-09  
DATE

s/Kirk Dillard  
SENATOR

The foregoing Motion in Writing was filed with the Secretary and ordered placed on the Senate Calendar.

### CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Dahl, **Senate Bill No. 227**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Dahl moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAY 1; Present 1.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Clayborne	Harmon	McCarter	Steans
Collins	Hendon	Meeks	Sullivan
Cronin	Holmes	Millner	Syverson
Crotty	Hultgren	Muñoz	Trotter
Dahl	Hunter	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Radogno	Mr. President
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	

[October 29, 2009]

The following voted in the negative:

Burzynski

The following voted present:

Lightford

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 227**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator DeLeo, **Senate Bill No. 932**, with House Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator DeLeo moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 40; NAYS 18.

The following voted in the affirmative:

Bond	Haine	Link	Silverstein
Clayborne	Harmon	Maloney	Steans
Collins	Hendon	Martinez	Sullivan
Crotty	Holmes	Meeks	Trotter
DeLeo	Hunter	Millner	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Dillard	Jones, E.	Raoul	
Forby	Koehler	Risinger	
Frerichs	Kotowski	Sandoval	
Garrett	Lightford	Schoenberg	

The following voted in the negative:

Althoff	Cronin	Lauzen	Righter
Bivins	Dahl	Luechtefeld	Rutherford
Bomke	Duffy	McCarter	Syverson
Brady	Hultgren	Murphy	
Burzynski	Jones, J.	Pankau	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 2 to **Senate Bill No. 932**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Crotty, **Senate Bill No. 1371**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Crotty moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

[October 29, 2009]

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1371**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Schoenberg, **Senate Bill No. 1732**, with House Amendments numbered 1 and 3 on the Secretary's Desk, was taken up for immediate consideration.

Senator Schoenberg moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 37; NAYS 21.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Sullivan
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Meeks	Viverito
Delgado	Hutchinson	Muñoz	Wilhelmi
Demuzio	Jacobs	Noland	Mr. President
Forby	Jones, E.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Dahl	Luechtefeld	Risinger
Bivins	Dillard	McCarter	Rutherford
Bomke	Duffy	Millner	Syverson
Brady	Hultgren	Murphy	
Burzynski	Jones, J.	Pankau	
Cronin	Lauzen	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 3 to **Senate Bill No. 1732**.

Ordered that the Secretary inform the House of Representatives thereof.

[October 29, 2009]

On motion of Senator Haine, **Senate Bill No. 1894**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS 2; Present 3.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Link	Risinger
Bomke	Frerichs	Luechtefeld	Rutherford
Bond	Garrett	Maloney	Sandoval
Brady	Haine	Martinez	Schoenberg
Burzynski	Harmon	McCarter	Silverstein
Clayborne	Hendon	Meeks	Steans
Collins	Holmes	Millner	Syverson
Cronin	Hunter	Muñoz	Trotter
Crotty	Hutchinson	Murphy	Viverito
Dahl	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The following voted in the negative:

Hultgren  
Lauzen

The following voted present:

DeLeo  
Sullivan  
Mr. President

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1894**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Forby, **Senate Bill No. 2106**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Forby moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 49; NAYS 8.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Sandoval
Bivins	Garrett	Link	Schoenberg
Bomke	Haine	Luechtefeld	Silverstein
Brady	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	Meeks	Syverson

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Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Raoul	Mr. President
Demuzio	Jones, J.	Righter	
Dillard	Koehler	Risinger	
Forby	Kotowski	Rutherford	

The following voted in the negative:

Burzynski	Hultgren	Millner
Cronin	Lauzen	Pankau
Duffy	McCarter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2106**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Demuzio, **Senate Bill No. 2148**, with House Amendments numbered 1 and 5 on the Secretary's Desk, was taken up for immediate consideration.

Senator Demuzio moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 5 to **Senate Bill No. 2148**.

Ordered that the Secretary inform the House of Representatives thereof.

#### MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 146

[October 29, 2009]

A bill for AN ACT concerning elections.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 146

House Amendment No. 3 to SENATE BILL NO. 146

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 146**

AMENDMENT NO. 1. Amend Senate Bill 146 on page 3, by replacing lines 4 and 5 with the following:

"(d) Notwithstanding any other provision of this Section, a person or entity may not telephone or cause to be"; and

on page 3, by replacing lines 11 and 12 with the following:

"candidate for a State or local office, unless such message includes the statement: "paid for" or "sponsored by"; and

on page 3, by inserting immediately below line 25 the following:

"A violation of this subsection is subject to a fine assessed by the State Board of Elections."

**AMENDMENT NO. 3 TO SENATE BILL 146**

AMENDMENT NO. 3. Amend Senate Bill 146, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. If and only if House Bill 723 of the 96th General Assembly becomes law, the Election Code is amended by changing Section 7-61 as follows:

(10 ILCS 5/7-61) (from Ch. 46, par. 7-61)

Sec. 7-61. Whenever a special election is necessary the provisions of this Article are applicable to the nomination of candidates to be voted for at such special election.

In cases where a primary election is required the officer or board or commission whose duty it is under the provisions of this Act relating to general elections to call an election, shall fix a date for the primary for the nomination of candidates to be voted for at such special election. Notice of such primary shall be given at least 15 days prior to the maximum time provided for the filing of petitions for such a primary as provided in Section 7-12.

Any vacancy in nomination under the provisions of this Article 7 occurring on or after the primary and prior to certification of candidates by the certifying board or officer, must be filled prior to the date of certification. Any vacancy in nomination occurring after certification but prior to 15 days before the general election shall be filled within 8 days after the event creating the vacancy. The resolution filling the vacancy shall be sent by U. S. mail or personal delivery to the certifying officer or board within 3 days of the action by which the vacancy was filled; provided, if such resolution is sent by mail and the U. S. postmark on the envelope containing such resolution is dated prior to the expiration of such 3 day limit, the resolution shall be deemed filed within such 3 day limit. Failure to so transmit the resolution within the time specified in this Section shall authorize the certifying officer or board to certify the original candidate. Vacancies shall be filled by the officers of a local municipal or township political party as specified in subsection (h) of Section 7-8, other than a statewide political party, that is established only within a municipality or township and the managing committee (or legislative committee in case of a candidate for State Senator or representative committee in the case of a candidate for State Representative in the General Assembly or State central committee in the case of a candidate for statewide office, including but not limited to the office of United States Senator) of the respective political party for the territorial area in which such vacancy occurs.

The resolution to fill a vacancy in nomination shall be duly acknowledged before an officer qualified to take acknowledgements of deeds and shall include, upon its face, the following information:

- (a) the name of the original nominee and the office vacated;
- (b) the date on which the vacancy occurred;

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(c) the name and address of the nominee selected to fill the vacancy and the date of selection.

The resolution to fill a vacancy in nomination shall be accompanied by a Statement of Candidacy, as prescribed in Section 7-10, completed by the selected nominee and a receipt indicating that such nominee has filed a statement of economic interests as required by the Illinois Governmental Ethics Act.

The provisions of Section 10-8 through 10-10.1 relating to objections to certificates of nomination and nomination papers, hearings on objections, and judicial review, shall apply to and govern objections to resolutions for filling a vacancy in nomination.

Any vacancy in nomination occurring 15 days or less before the consolidated election or the general election shall not be filled. In this event, the certification of the original candidate shall stand and his name shall appear on the official ballot to be voted at the general election.

A vacancy in nomination occurs when a candidate who has been nominated under the provisions of this Article 7 dies before the election (whether death occurs prior to, on or after the day of the primary), or declines the nomination; provided that nominations may become vacant for other reasons.

If the name of no established political party candidate was printed on the consolidated primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be created which may be filled in accordance with the requirements of this Section. If the name of no established political party candidate was printed on the general primary ballot for a particular office and if no person was nominated as a write-in candidate for such office, a vacancy in nomination shall be filled only by a person designated by the appropriate committee of the political party and only if that designated person files nominating petitions with the number of signatures required for an established party candidate for that office within 75 days after the day of the general primary. The circulation period for those petitions begins on the day the appropriate committee designates that person. The person shall file his or her nominating petitions, statements of candidacy, notice of appointment by the appropriate committee, and receipt of filing his or her statement of economic interests together. These documents shall be filed at the same location as provided in Section 7-12. The electoral boards having jurisdiction under Section 10-9 to hear and pass upon objections to nominating petitions also ~~State Board of Elections~~ shall hear and pass upon ~~all~~ objections to nomination petitions filed by candidates under this paragraph.

A candidate for whom a nomination paper has been filed as a partisan candidate at a primary election, and who is defeated for his or her nomination at such primary election, is ineligible to be listed on the ballot at that general or consolidated election as a candidate of another political party.

A candidate seeking election to an office for which candidates of political parties are nominated by caucus who is a participant in the caucus and who is defeated for his or her nomination at such caucus, is ineligible to be listed on the ballot at that general or consolidated election as a candidate of another political party.

In the proceedings to nominate a candidate to fill a vacancy or to fill a vacancy in the nomination, each precinct, township, ward, county or congressional district, as the case may be, shall through its representative on such central or managing committee, be entitled to one vote for each ballot voted in such precinct, township, ward, county or congressional district, as the case may be, by the primary electors of its party at the primary election immediately preceding the meeting at which such vacancy is to be filled.

For purposes of this Section, the words "certify" and "certification" shall refer to the act of officially declaring the names of candidates entitled to be printed upon the official ballot at an election and directing election authorities to place the names of such candidates upon the official ballot. "Certifying officers or board" shall refer to the local election official, election authority or the State Board of Elections, as the case may be, with whom nomination papers, including certificates of nomination and resolutions to fill vacancies in nomination, are filed and whose duty it is to "certify" candidates. (Source: P.A. 94-645, eff. 8-22-05; 96HB0723enr.)

Section 10. The Illinois Procurement Code is amended by changing Sections 20-160 and 50-37 as follows:

(30 ILCS 500/20-160)

Sec. 20-160. Business entities; certification; registration with the State Board of Elections.

(a) For purposes of this Section, the terms "business entity", "contract", "State contract", "contract with a State agency", "State agency", "affiliated entity", and "affiliated person" have the meanings ascribed to those terms in Section 50-37.

(b) Every bid submitted to and every contract executed by the State on or after January 1, 2009 (the effective date of Public this amendatory Act 95-971) ~~of the 95th General Assembly~~ shall contain (1) a certification by the bidder or contractor that either (i) the bidder or contractor is not required to register

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as a business entity with the State Board of Elections pursuant to this Section or (ii) the bidder or contractor has registered as a business entity with the State Board of Elections and acknowledges a continuing duty to update the registration and (2) a statement that the contract is voidable under Section 50-60 for the bidder's or contractor's failure to comply with this Section.

(c) Within 30 days after the effective date of this amendatory Act of the 95th General Assembly, each business entity (i) whose aggregate bids and proposals on State contracts annually total more than \$50,000, (ii) whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, or (iii) whose contracts with State agencies, in the aggregate, annually total more than \$50,000 shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code. A business entity required to register under this subsection shall submit a copy of the certificate of registration to the applicable chief procurement officer within 90 days after the effective date of this amendatory Act of the 95th General Assembly. A business entity required to register under this subsection due to item (i) or (ii) has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded; any change in information must be reported to the State Board of Elections within 2 business days following such change. A business entity required to register under this subsection due to item (iii) has a continuing duty to ensure that the registration is accurate in accordance with subsection (e) ~~(f)~~.

(d) Any business entity, not required under subsection (c) to register within 30 days after the effective date of this amendatory Act of the 95th General Assembly, whose aggregate bids and proposals on State contracts annually total more than \$50,000, or whose aggregate bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, shall register with the State Board of Elections in accordance with Section 9-35 of the Election Code prior to submitting to a State agency the bid or proposal whose value causes the business entity to fall within the monetary description of this subsection. A business entity required to register under this subsection has a continuing duty to ensure that the registration is accurate during the period beginning on the date of registration and ending on the day after the date the contract is awarded. Any change in information must be reported to the State Board of Elections within 5 ~~2~~ business days following such change or no later than a day before the contract is awarded, whichever date is earlier.

(e) A business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000 must maintain its registration under this Section and has a continuing duty to ensure that the registration is accurate for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer. A business entity, required to register under this subsection, has a continuing duty to report any changes on a quarterly basis to the State Board of Elections within 10 business days following the last day of January, April, July, and October of each year. Any update pursuant to this paragraph that is received beyond that date is presumed late and the civil penalty authorized by subsection (e) of Section 9-35 of the Election Code (10 ILCS 5/9-35) may be assessed.

~~Also, Any change in information shall be reported to the State Board of Elections within 10 days following such change; however,~~ if a business entity required to register under this subsection has a pending bid or proposal, any change in information shall be reported to the State Board of Elections within 5 ~~2~~ business days or no later than a day before the contract is awarded, whichever date is earlier.

(f) A business entity's continuing duty under this Section to ensure the accuracy of its registration includes the requirement that the business entity notify the State Board of Elections of any change in information, including but not limited to changes of affiliated entities or affiliated persons.

(g) A copy of a certificate of registration must accompany any bid or proposal for a contract with a State agency by a business entity required to register under this Section. A chief procurement officer shall not accept a bid or proposal unless the certificate is submitted to the agency with the bid or proposal.

(h) A registration, and any changes to a registration, must include the business entity's verification of accuracy and subjects the business entity to the penalties of the laws of this State for perjury.

In addition to any penalty under Section 9-35 of the Election Code, intentional, willful, or material failure to disclose information required for registration shall render the contract, bid, proposal, or other procurement relationship voidable by the chief procurement officer if he or she deems it to be in the best interest of the State of Illinois.

(i) This Section applies regardless of the method of source selection used in awarding the contract. (Source: P.A. 95-971, eff. 1-1-09.)

(30 ILCS 500/50-37)

Sec. 50-37. Prohibition of political contributions.

[October 29, 2009]

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care agreements as defined in Section 1-15.68 of this Code; contracts for projects eligible for full or partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9-1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9-3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse ~~and minor children~~ of any such persons. "Affiliated person" does not include a person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Affiliated entity" means (i) any corporate parent and each operating subsidiary of the bidding or contracting business entity, (ii) each operating subsidiary of the corporate parent of the bidding or contracting business entity any member of the same unitary business group, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity. "Affiliated entity" does not include an entity prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under item (ii) of this definition ~~, or other employee with executive decision-making authority over the long term and day to day affairs of the entity employing the employee, or an employee whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee.~~ "Executive employee" does not include any person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

(b) Any business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the

candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and proposals on State contracts total more than \$50,000, or whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or proposal during the period beginning on the date the invitation for bids or request for proposals is issued and ending on the day after the date the contract is awarded.

(d) All contracts between State agencies and a business entity that violate subsection (b) or (c) shall be voidable under Section 50-60. If a business entity violates subsection (b) 3 or more times within a 36-month period, then all contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b) or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

(Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09.)

Section 15. If and only if Senate Bill 51 of the 96th General Assembly, as enrolled, becomes law, then the Illinois Procurement Code is amended by changing Section 50-37 as follows:

(30 ILCS 500/50-37)

Sec. 50-37. Prohibition of political contributions.

(a) As used in this Section:

The terms "contract", "State contract", and "contract with a State agency" each mean any contract, as defined in this Code, between a business entity and a State agency let or awarded pursuant to this Code. The terms "contract", "State contract", and "contract with a State agency" do not include cost reimbursement contracts; purchase of care agreements as defined in Section 1-15.68 of this Code; contracts for projects eligible for full or partial federal-aid funding reimbursements authorized by the Federal Highway Administration; grants, including but are not limited to grants for job training or transportation; and grants, loans, or tax credit agreements for economic development purposes.

"Contribution" means a contribution as defined in Section 9-1.4 of the Election Code.

"Declared candidate" means a person who has filed a statement of candidacy and petition for nomination or election in the principal office of the State Board of Elections.

"State agency" means and includes all boards, commissions, agencies, institutions, authorities, and bodies politic and corporate of the State, created by or in accordance with the Illinois Constitution or State statute, of the executive branch of State government and does include colleges, universities, public employee retirement systems, and institutions under the jurisdiction of the governing boards of the University of Illinois, Southern Illinois University, Illinois State University, Eastern Illinois University, Northern Illinois University, Western Illinois University, Chicago State University, Governors State University, Northeastern Illinois University, and the Illinois Board of Higher Education.

"Officeholder" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, or Treasurer. The Governor shall be considered the officeholder responsible for awarding all contracts by all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

"Sponsoring entity" means a sponsoring entity as defined in Section 9-3 of the Election Code.

"Affiliated person" means (i) any person with any ownership interest or distributive share of the bidding or contracting business entity in excess of 7.5%, (ii) executive employees of the bidding or contracting business entity, and (iii) the spouse of any such persons. "Affiliated person"

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does not include a person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Affiliated entity" means (i) any corporate parent and each operating subsidiary of the bidding or contracting business entity, (ii) each operating subsidiary of the corporate parent of the bidding or contracting business entity, (iii) any organization recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law) established by the bidding or contracting business entity, any affiliated entity of that business entity, or any affiliated person of that business entity, or (iv) any political committee for which the bidding or contracting business entity, or any 501(c) organization described in item (iii) related to that business entity, is the sponsoring entity. "Affiliated entity" does not include an entity prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

"Business entity" means any entity doing business for profit, whether organized as a corporation, partnership, sole proprietorship, limited liability company or partnership, or otherwise.

"Executive employee" means (i) the President, Chairman, or Chief Executive Officer of a business entity and any other individual that fulfills equivalent duties as the President, Chairman of the Board, or Chief Executive Officer of a business entity; and (ii) any employee of a business entity whose compensation is determined directly, in whole or in part, by the award or payment of contracts by a State agency to the entity employing the employee. A regular salary that is paid irrespective of the award or payment of a contract with a State agency shall not constitute "compensation" under item (ii) of this definition. "Executive employee" does not include any person prohibited by federal law from making contributions or expenditures in connection with a federal, state, or local election.

(b) Any business entity whose contracts with State agencies, in the aggregate, annually total more than \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committees established to promote the candidacy of (i) the officeholder responsible for awarding the contracts or (ii) any other declared candidate for that office. This prohibition shall be effective for the duration of the term of office of the incumbent officeholder awarding the contracts or for a period of 2 years following the expiration or termination of the contracts, whichever is longer.

(c) Any business entity whose aggregate pending bids and proposals on State contracts total more than \$50,000, or whose aggregate pending bids and proposals on State contracts combined with the business entity's aggregate annual total value of State contracts exceed \$50,000, and any affiliated entities or affiliated persons of such business entity, are prohibited from making any contributions to any political committee established to promote the candidacy of the officeholder responsible for awarding the contract on which the business entity has submitted a bid or proposal during the period beginning on the date the invitation for bids or request for proposals is issued and ending on the day after the date the contract is awarded.

(d) All contracts between State agencies and a business entity that violate subsection (b) or (c) shall be voidable under Section 50-60. If a business entity violates subsection (b) 3 or more times within a 36-month period, then all contracts between State agencies and that business entity shall be void, and that business entity shall not bid or respond to any invitation to bid or request for proposals from any State agency or otherwise enter into any contract with any State agency for 3 years from the date of the last violation. A notice of each violation and the penalty imposed shall be published in both the Procurement Bulletin and the Illinois Register.

(e) Any political committee that has received a contribution in violation of subsection (b) or (c) shall pay an amount equal to the value of the contribution to the State no more than 30 days after notice of the violation concerning the contribution appears in the Illinois Register. Payments received by the State pursuant to this subsection shall be deposited into the general revenue fund.

(Source: P.A. 95-971, eff. 1-1-09; 95-1038, eff. 3-11-09; 09600SB0051enr.)

Section 99. Effective date. This Act takes effect January 1, 2010, except that Section 15 takes effect July 1, 2010."

Under the rules, the foregoing **Senate Bill No. 146**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

[October 29, 2009]

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1896

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1896

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1896**

AMENDMENT NO. 1. Amend Senate Bill 1896 by replacing everything after the enacting clause with the following:

"Section 5. The Rights of Crime Victims and Witnesses Act is amended by changing Sections 3 and 4.5 as follows:

(725 ILCS 120/3) (from Ch. 38, par. 1403)

Sec. 3. The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

(a) "Crime victim" and "victim" mean ~~means~~ (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended or (6) in proceedings under the Juvenile Court Act of 1987, both parents, legal guardians, foster parents, or a single adult representative of a minor or disabled person who is a crime victim.

(b) "Witness" means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime.

(c) "Violent Crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1 or 11-20.3 of the Criminal Code of 1961, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, "personal injury" shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2 and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.

(e) "Court proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial, sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

(f) "Concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.

(Source: P.A. 95-591, eff. 6-1-08; 95-876, eff. 8-21-08; 96-292, eff. 1-1-10.)

(725 ILCS 120/4.5)

Sec. 4.5. Procedures to implement the rights of crime victims. To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

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(a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.

(b) The office of the State's Attorney:

(1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for a violent crime;

(2) shall provide notice of the date, time, and place of trial;

(3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;

(4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or other purposes returned as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;

(5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;

(6) shall provide information whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or juveniles accused of a violent crime, and their families and friends;

(7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings and, in compliance with the federal Americans with Disabilities Act of 1990, the right to communications access through a sign language interpreter or by other means;

(8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;

(9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney, is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case;

(10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section;

(11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law; and

(12) shall, upon the court entering a verdict of not guilty by reason of insanity, inform the victim of the notification services available from the Department of Human Services, including the statewide telephone number, under subparagraph (d)(2) of this Section.

(c) At the written request of the crime victim, the office of the State's Attorney shall:

(1) provide notice a reasonable time in advance of the following court proceedings:

preliminary hearing, any hearing the effect of which may be the release of defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to prevent an unnecessary appearance in court;

(2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for a violent crime;

(3) explain in nontechnical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for a violent crime;

(4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;

(5) provide notice of the ultimate disposition of the cases arising from an indictment or an information, or a petition to have a juvenile adjudicated as a delinquent for a violent crime;

(6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;

(7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given in advance;

(8) forward a copy of any statement presented under Section 6 to the Prisoner Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

(d) (1) The Prisoner Review Board shall inform a victim or any other concerned citizen, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a violent crime from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall provide to a victim or any other concerned citizen a recent photograph of any person convicted of a felony, upon his or her release from custody. The Prisoner Review Board, upon written request, shall inform a victim or any other concerned citizen when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim or any other concerned citizen, the State's Attorney shall notify the person once of the times and dates of release of a prisoner sentenced to periodic imprisonment. Notification shall be based on the most recent information as to victim's or other concerned citizen's residence or other location available to the notifying authority. ~~For purposes of this paragraph (1) of subsection (d), "concerned citizen" includes relatives of the victim, friends of the victim, witnesses to the crime, or any other person associated with the victim or prisoner.~~

(2) When the defendant has been committed to the Department of Human Services pursuant to Section 5-2-4 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the defendant's furloughs, temporary release, or final discharge from State custody. The Department of Human Services shall establish and maintain a statewide telephone number to be used by victims to make notification requests under these provisions and shall publicize this telephone number on its website and to the State's Attorney of each county.

(3) In the event of an escape from State custody, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most recent information as to the victim's residence or other location available to the Board. When no such information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections or the Department of Juvenile Justice immediately shall notify the Prisoner Review Board and the Board shall notify the victim.

(4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than ~~30~~ 45 days prior to the parole ~~interview hearing~~ and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole ~~interview hearing~~ or if a victim of a violent crime, by calling the toll-free number established in subsection (f) of this Section, information for consideration by the Prisoner Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole and shall be informed of the right to inspect the registry of parole decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act.

(5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

(6) At the written request of the victim of the crime for which the prisoner was sentenced or the State's Attorney of the county where the person seeking parole was prosecuted, the Prisoner Review Board shall notify the victim and the State's Attorney of the county where the person seeking parole was prosecuted of the death of the prisoner if the prisoner died while on parole or mandatory supervised release.

(7) When a defendant who has been committed to the Department of Corrections, the Department of Juvenile Justice, or the Department of Human Services is released or discharged and subsequently committed to the Department of Human Services as a sexually violent person and the victim had requested to be notified by the releasing authority of the defendant's discharge from State custody, the releasing authority shall provide to the Department of Human Services such information

that would allow the Department of Human Services to contact the victim.

(8) When a defendant has been convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act and has been sentenced to the Department of Corrections or the Department of Juvenile Justice, the Prisoner Review Board shall notify the victim of the sex offense of the prisoner's eligibility for release on parole, mandatory supervised release, electronic detention, work release, international transfer or exchange, or by the custodian of the discharge of any individual who was adjudicated a delinquent for a sex offense from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The notification shall be made to the victim at least 30 days, whenever possible, before release of the sex offender.

(e) The officials named in this Section may satisfy some or all of their obligations to provide notices and other information through participation in a statewide victim and witness notification system established by the Attorney General under Section 8.5 of this Act.

(f) To permit a victim of a violent crime to provide information to the Prisoner Review Board for consideration by the Board at a parole hearing of a person who committed the crime against the victim in accordance with clause (d)(4) of this Section or at a proceeding to determine the conditions of mandatory supervised release of a person sentenced to a determinate sentence or at a hearing on revocation of mandatory supervised release of a person sentenced to a determinate sentence, the Board shall establish a toll-free number that may be accessed by the victim of a violent crime to present that information to the Board.

(Source: P.A. 95-317, eff. 8-21-07; 95-896, eff. 1-1-09; 95-897, eff. 1-1-09; 95-904, eff. 1-1-09; 96-328, eff. 8-11-09.)

Section 10. The Unified Code of Corrections is amended by changing Sections 3-3-2, 3-3-4, and 3-3-5 as follows:

(730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)

Sec. 3-3-2. Powers and Duties.

(a) The Parole and Pardon Board is abolished and the term "Parole and Pardon Board" as used in any law of Illinois, shall read "Prisoner Review Board." After the effective date of this amendatory Act of 1977, the Prisoner Review Board shall provide by rule for the orderly transition of all files, records, and documents of the Parole and Pardon Board and for such other steps as may be necessary to effect an orderly transition and shall:

(1) hear by at least one member and through a panel of at least 3 members decide, cases of prisoners who were sentenced under the law in effect prior to the effective date of this amendatory Act of 1977, and who are eligible for parole;

(2) hear by at least one member and through a panel of at least 3 members decide, the conditions of parole and the time of discharge from parole, impose sanctions for violations of parole, and revoke parole for those sentenced under the law in effect prior to this amendatory Act of 1977; provided that the decision to parole and the conditions of parole for all prisoners who were sentenced for first degree murder or who received a minimum sentence of 20 years or more under the law in effect prior to February 1, 1978 shall be determined by a majority vote of the Prisoner Review Board. One representative supporting parole and one representative opposing parole will be allowed to speak. Their comments shall be limited to making corrections and filling in omissions to the Board's presentation and discussion;

(3) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, impose sanctions for violations of mandatory supervised release, and revoke mandatory supervised release for those sentenced under the law in effect after the effective date of this amendatory Act of 1977;

(3.5) hear by at least one member and through a panel of at least 3 members decide, the conditions of mandatory supervised release and the time of discharge from mandatory supervised release, to impose sanctions for violations of mandatory supervised release and revoke mandatory supervised release for those serving extended supervised release terms pursuant to paragraph (4) of subsection (d) of Section 5-8-1;

(4) hear by at least 1 member and through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for alleged violation of Department rules with respect to good conduct credits pursuant to Section 3-6-3 of this Code in which the Department seeks to revoke good conduct credits, if the amount of time at issue exceeds 30 days or when, during any 12 month period, the cumulative amount of credit revoked exceeds 30 days except where the infraction is committed or discovered within 60 days of scheduled

release. In such cases, the Department of Corrections may revoke up to 30 days of good conduct credit. The Board may subsequently approve the revocation of additional good conduct credit, if the Department seeks to revoke good conduct credit in excess of thirty days. However, the Board shall not be empowered to review the Department's decision with respect to the loss of 30 days of good conduct credit for any prisoner or to increase any penalty beyond the length requested by the Department;

(5) hear by at least one member and through a panel of at least 3 members decide, the release dates for certain prisoners sentenced under the law in existence prior to the effective date of this amendatory Act of 1977, in accordance with Section 3-3-2.1 of this Code;

(6) hear by at least one member and through a panel of at least 3 members decide, all requests for pardon, reprieve or commutation, and make confidential recommendations to the Governor;

(7) comply with the requirements of the Open Parole Hearings Act;

(8) hear by at least one member and, through a panel of at least 3 members, decide cases brought by the Department of Corrections against a prisoner in the custody of the Department for court dismissal of a frivolous lawsuit pursuant to Section 3-6-3(d) of this Code in which the Department seeks to revoke up to 180 days of good conduct credit, and if the prisoner has not accumulated 180 days of good conduct credit at the time of the dismissal, then all good conduct credit accumulated by the prisoner shall be revoked; and

(9) hear by at least 3 members, and, through a panel of at least 3 members, decide whether to grant certificates of relief from disabilities or certificates of good conduct as provided in Article 5.5 of Chapter V.

(a-5) The Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall implement a pilot project in 3 correctional institutions providing for the conduct of hearings under paragraphs (1) and (4) of subsection (a) of this Section through interactive video conferences. The project shall be implemented within 6 months after the effective date of this amendatory Act of 1996. Within 6 months after the implementation of the pilot project, the Prisoner Review Board, with the cooperation of and in coordination with the Department of Corrections and the Department of Central Management Services, shall report to the Governor and the General Assembly regarding the use, costs, effectiveness, and future viability of interactive video conferences for Prisoner Review Board hearings.

(b) Upon recommendation of the Department the Board may restore good conduct credit previously revoked.

(c) The Board shall cooperate with the Department in promoting an effective system of parole and mandatory supervised release.

(d) The Board shall promulgate rules for the conduct of its work, and the Chairman shall file a copy of such rules and any amendments thereto with the Director and with the Secretary of State.

(e) The Board shall keep records of all of its official actions and shall make them accessible in accordance with law and the rules of the Board.

(f) The Board or one who has allegedly violated the conditions of his parole or mandatory supervised release may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter under investigation or hearing. The Chairman of the Board may sign subpoenas which shall be served by any agent or public official authorized by the Chairman of the Board, or by any person lawfully authorized to serve a subpoena under the laws of the State of Illinois. The attendance of witnesses, and the production of documentary evidence, may be required from any place in the State to a hearing location in the State before the Chairman of the Board or his designated agent or agents or any duly constituted Committee or Subcommittee of the Board. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the circuit courts of the State, and witnesses whose depositions are taken and the persons taking those depositions are each entitled to the same fees as are paid for like services in actions in the circuit courts of the State. Fees and mileage shall be vouchered for payment when the witness is discharged from further attendance.

In case of disobedience to a subpoena, the Board may petition any circuit court of the State for an order requiring the attendance and testimony of witnesses or the production of documentary evidence or both. A copy of such petition shall be served by personal service or by registered or certified mail upon the person who has failed to obey the subpoena, and such person shall be advised in writing that a hearing upon the petition will be requested in a court room to be designated in such notice before the judge hearing motions or extraordinary remedies at a specified time, on a specified date, not less than 10 nor more than 15 days after the deposit of the copy of the written notice and petition in the U.S. mails addressed to the person at his last known address or after the personal service of the copy of the notice and petition upon such person. The court upon the filing of such a petition, may order the person

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refusing to obey the subpoena to appear at an investigation or hearing, or to there produce documentary evidence, if so ordered, or to give evidence relative to the subject matter of that investigation or hearing. Any failure to obey such order of the circuit court may be punished by that court as a contempt of court.

Each member of the Board and any hearing officer designated by the Board shall have the power to administer oaths and to take the testimony of persons under oath.

(g) Except under subsection (a) of this Section, a majority of the members then appointed to the Prisoner Review Board shall constitute a quorum for the transaction of all business of the Board.

(h) The Prisoner Review Board shall annually transmit to the Director a detailed report of its work for the preceding calendar year. The annual report shall also be transmitted to the Governor for submission to the Legislature.

(Source: P.A. 93-207, eff. 1-1-04; 94-165, eff. 7-11-05.)

(730 ILCS 5/3-3-4) (from Ch. 38, par. 1003-3-4)

Sec. 3-3-4. Preparation for Parole Hearing.

(a) The Prisoner Review Board shall consider the parole of each eligible person committed to the Adult Division at least 30 days prior to the date he shall first become eligible for parole, and shall consider the parole of each person committed to the Department of Juvenile Justice as a delinquent at least 30 days prior to the expiration of the first year of confinement.

(b) A person eligible for parole shall, no less than 15 days in advance of his parole ~~interview hearing~~, prepare a parole plan in accordance with the rules of the Prisoner Review Board. The person shall be assisted in preparing his parole plan by personnel of the Department of Corrections, or the Department of Juvenile Justice in the case of a person committed to that Department, and may, for this purpose, be released on furlough under Article 11 or on authorized absence under Section 3-9-4. The appropriate Department shall also provide assistance in obtaining information and records helpful to the individual for his parole hearing. If the person eligible for parole has a petition or any written submissions prepared on his or her behalf by an attorney or other representative, the attorney or representative for the person eligible for parole must serve by certified mail the State's Attorney of the county where he or she was prosecuted with the petition or any written submissions 15 days after his or her parole interview. The State's Attorney shall provide the attorney for the person eligible for parole with a copy of his or her letter in opposition to parole via certified mail within 5 business days of the en banc hearing.

(c) Any member ~~The members~~ of the Board shall have access at all reasonable times to any committed person and to his master record file within the Department, and the Department shall furnish such a report ~~reports~~ to the Board ~~as the Board may require~~ concerning the conduct and character of any such person prior to his or her parole interview.

(d) In making its determination of parole, the Board shall consider:

(1) material transmitted to the Department of Juvenile Justice by the clerk of the committing court under Section 5-4-1 or Section 5-10 of the Juvenile Court Act or Section 5-750 of the Juvenile Court Act of 1987;

(2) the report under Section 3-8-2 or 3-10-2;

(3) a report by the Department and any report by the chief administrative officer of the institution or facility;

(4) a parole progress report;

(5) a medical and psychological report, if requested by the Board;

(6) material in writing, or on film, video tape or other electronic means in the form of a recording submitted by the person whose parole is being considered; and

(7) material in writing, or on film, video tape or other electronic means in the form of a recording or testimony submitted by the State's Attorney and the victim or a concerned citizen pursuant to the Rights of Crime Victims and Witnesses Act.

(e) The prosecuting State's Attorney's office shall receive from the Board reasonable written notice not less than 30 ~~45~~ days prior to the parole ~~interview hearing~~ and may submit relevant information by oral argument or testimony of victims and concerned citizens, or both, in writing, or on film, video tape or other electronic means or in the form of a recording to the Board for its consideration. Upon written request of the State's Attorney's office, the Prisoner Review Board shall hear protests to parole, except in counties of 1,500,000 or more inhabitants where there shall be standing objections to all such petitions. If a State's Attorney who represents a county of less than 1,500,000 inhabitants requests a protest hearing, the inmate's counsel or other representative shall also receive notice of such request. This hearing shall take place the month following the inmate's parole interview. If the inmate's parole interview is rescheduled then the Prisoner Review Board shall promptly notify the State's Attorney of the new date. The person eligible for parole shall be heard at the next scheduled en banc hearing date. If the case is to be continued, the State's Attorney's office and the attorney or representative for the person

eligible for parole will be notified of any continuance within 5 business days. The State's Attorney may waive the written notice.

(f) The victim of the violent crime for which the prisoner has been sentenced shall receive notice of a parole hearing as provided in paragraph (4) of subsection (d) of Section 4.5 of the Rights of Crime Victims and Witnesses Act.

(g) Any recording considered under the provisions of subsection (d)(6), (d)(7) or (e) of this Section shall be in the form designated by the Board. Such recording shall be both visual and aural. Every voice on the recording and person present shall be identified and the recording shall contain either a visual or aural statement of the person submitting such recording, the date of the recording and the name of the person whose parole eligibility is being considered. Such recordings shall be ~~if~~ retained by the Board and shall be deemed to be submitted at any subsequent parole hearing if the victim or State's Attorney submits in writing a declaration clearly identifying such recording as representing the present position of the victim or State's Attorney regarding the issues to be considered at the parole hearing.

(Source: P.A. 94-696, eff. 6-1-06.)

(730 ILCS 5/3-3-5) (from Ch. 38, par. 1003-3-5)

Sec. 3-3-5. Hearing and Determination.

(a) The Prisoner Review Board shall meet as often as need requires to consider the cases of persons eligible for parole. Except as otherwise provided in paragraph (2) of subsection (a) of Section 3-3-2 of this Act, the Prisoner Review Board may meet and order its actions in panels of 3 or more members. The action of a majority of the panel shall be the action of the Board. In consideration of persons committed to the Department of Juvenile Justice, the panel shall have at least a majority of members experienced in juvenile matters.

(b) If the person under consideration for parole is in the custody of the Department, at least one member of the Board shall interview him, and a report of that interview shall be available for the Board's consideration. However, in the discretion of the Board, the interview need not be conducted if a psychiatric examination determines that the person could not meaningfully contribute to the Board's consideration. The Board may in its discretion parole a person who is then outside the jurisdiction on his record without an interview. The Board need not hold a hearing or interview a person who is paroled under paragraphs (d) or (e) of this Section or released on Mandatory release under Section 3-3-10.

(c) The Board shall not parole a person eligible for parole if it determines that:

- (1) there is a substantial risk that he will not conform to reasonable conditions of parole; or
- (2) his release at that time would deprecate the seriousness of his offense or promote disrespect for the law; or
- (3) his release would have a substantially adverse effect on institutional discipline.

(d) A person committed under the Juvenile Court Act or the Juvenile Court Act of 1987 who has not been sooner released shall be paroled on or before his 20th birthday to begin serving a period of parole under Section 3-3-8.

(e) A person who has served the maximum term of imprisonment imposed at the time of sentencing less time credit for good behavior shall be released on parole to serve a period of parole under Section 5-8-1.

(f) The Board shall render its decision within a reasonable time after hearing and shall state the basis therefor both in the records of the Board and in written notice to the person on whose application it has acted. In its decision, the Board shall set the person's time for parole, or if it denies parole it shall provide for a rehearing not less frequently than once every year, except that the Board may, after denying parole, schedule a rehearing no later than 3 years from the date of the parole denial, if the Board finds that it is not reasonable to expect that parole would be granted at a hearing prior to the scheduled rehearing date. If the Board shall parole a person, and, if he is not released within 90 days from the effective date of the order granting parole, the matter shall be returned to the Board for review.

(g) The Board shall maintain a registry of decisions in which parole has been granted, which shall include the name and case number of the prisoner, the highest charge for which the prisoner was sentenced, the length of sentence imposed, the date of the sentence, the date of the parole, and the basis for the decision of the Board to grant parole and the vote of the Board on any such decisions. The registry shall be made available for public inspection and copying during business hours and shall be a public record pursuant to the provisions of the Freedom of Information Act.

(h) The Board shall promulgate rules regarding the exercise of its discretion under this Section.  
(Source: P.A. 94-696, eff. 6-1-06.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in

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this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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

Under the rules, the foregoing **Senate Bill No. 1896**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 332

A bill for AN ACT concerning government.

SENATE BILL NO. 595

A bill for AN ACT concerning local government.

Passed the House, October 29, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 395

A bill for AN ACT concerning State government.

SENATE BILL NO. 728

A bill for AN ACT concerning regulation.

SENATE BILL NO. 747

A bill for AN ACT concerning liquor.

SENATE BILL NO. 2188

A bill for AN ACT concerning local government.

Passed the House, October 29, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 760

A bill for AN ACT concerning public aid.

Passed the House, October 29, 2009.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 2239

A bill for AN ACT in relation to budget implementation.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 2239

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Concurred in by the House, October 29, 2009.

MARK MAHONEY, Clerk of the House

### LEGISLATIVE MEASURE FILED

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 4 to House Bill 2652

### MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1942

A bill for AN ACT concerning revenue.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1942

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

### AMENDMENT NO. 1 TO SENATE BILL 1942

AMENDMENT NO. 1. Amend Senate Bill 1942 by replacing everything after the enacting clause with the following:

"Section 5. The Property Tax Code is amended by changing Section 6-25 as follows:  
(35 ILCS 200/6-25)

Sec. 6-25. Additional members. In counties with a board of review appointed under Section 6-5, when the county board declares by resolution that the number of complaints filed with the board of review has created an emergency situation and caused a need for an expanded board of review, the chairman of the county board may appoint additional qualified members to the board of review for the sole purpose of holding to hold separate hearings on complaints. The additional members shall not take part in the intracounty equalization process of the board of review under Section 16-60 or Section 16-65. If a board of review is expanded under this Section in Lake, DuPage, McHenry, or Kane County, then the chairman of that county board may appoint qualified residents of counties that are directly adjacent to that chairman's county to serve as additional members of the expanded board of review.

(Source: P.A. 86-905; 87-1189; 88-455.)

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

Under the rules, the foregoing **Senate Bill No. 1942**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2109

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

[October 29, 2009]

House Amendment No. 1 to SENATE BILL NO. 2109  
 House Amendment No. 3 to SENATE BILL NO. 2109  
 Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 2109**

AMENDMENT NO. 1. Amend Senate Bill 2109 by replacing everything after the enacting clause with the following:

"Section 5. The Lobbyist Registration Act is amended by changing Section 1 as follows:

(25 ILCS 170/1) (from Ch. 63, par. 171)

Sec. 1. Short title. This Act shall be known as the ~~the~~ Lobbyist Registration Act.

(Source: P.A. 76-1848)."

**AMENDMENT NO. 3 TO SENATE BILL 2109**

AMENDMENT NO. 3. Amend Senate Bill 2109, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Task Force on Inventorying Employment Restrictions Act is amended by changing Sections 15 and 20 as follows:

(20 ILCS 5000/15)

Sec. 15. Task Force.

(a) The Task Force on Inventorying Employment Restrictions is hereby created in the Illinois Criminal Justice Information Authority. The purpose of the Task Force is to review the statutes, administrative rules, policies and practices that restrict employment of persons with a criminal history, as set out in subsection (c) of this Section, and to report to the Governor and the General Assembly those employment restrictions and their impact on employment opportunities for people with criminal records.

(b) Within 60 days after the effective date of this Act, the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each appoint 2 members to the Task Force. The Governor shall appoint the Task Force chairperson. In addition, the Director or Secretary of each of the following, or his or her designee, are members: the Department of Human Services, the Department of Corrections, the Department of Commerce and Economic Opportunity, the Department of Children and Family Services, the Department of Human Rights, the Department of Central Management Services, the Department of Employment Security, the Department of Public Health, the Department of State Police, the Illinois State Board of Education, the Illinois Board of Higher Education, and the Illinois Community College Board. Members shall not receive compensation. The Illinois Criminal Justice Information Authority shall provide staff and other assistance to the Task Force.

(c) On or before September 1, 2010, all State agencies shall produce a report for the Task Force that describes the employment restrictions that are based on criminal records for each occupation under the agency's jurisdiction and that of its boards, if any, including, but not limited to, employment within the agency; employment in facilities licensed, regulated, supervised, or funded by the agency; employment pursuant to contracts with the agency; and employment in occupations that the agency licenses or provides certifications to practice. For each occupation subject to a criminal records-based restriction, the agency shall set forth the following:

(1) the job title, occupation, job classification, or restricted place of employment, including the range of occupations affected in such places;

(2) the statute, regulation, policy, and procedure that authorizes the restriction of applicants for employment and licensure, current employees, and current licenses;

(3) the substance and terms of the restriction, and

(A) if the statute, regulation, policy or practice enumerates disqualifying offenses, a list of each disqualifying offense, the time limits for each offense, and the point in time when the time limit begins;

(B) if the statute, regulation, policy or practice does not enumerate disqualifying offenses and instead provides for agency discretion in determining disqualifying offenses, the criteria the agency has adopted to apply the disqualification to individual cases. Restrictions based on agency discretion include, but are not limited to, restrictions based on an offense "related to" the practice of a given profession; an offense or act of "moral turpitude"; and an offense evincing a lack

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of "good moral character".

(4) the procedures used by the agency to identify an individual's criminal history, including but not limited to disclosures on applications and background checks conducted by law enforcement or private entities;

(5) the procedures used by the agency to determine and review whether an individual's criminal history disqualifies that individual;

(6) the year the restriction was adopted, and its rationale;

(7) any exemption, waiver, or review mechanisms available to seek relief from the disqualification based on a showing of rehabilitation or otherwise, including the terms of the mechanism, the nature of the relief it affords, and whether an administrative and judicial appeal is authorized;

(8) any statute, rule, policy and practice that requires an individual convicted of a felony to have his civil rights restored to become qualified for the job; and 9 copies of the following documents:

(A) forms, applications, and instructions provided to applicants and those denied or terminated from jobs or licenses based on their criminal record;

(B) forms, rules, and procedures that the agency employs to provide notice of disqualification, to review applications subject to disqualification, and to provide for exemptions and appeals of disqualification;

(C) memos, guidance, instructions to staff, scoring criteria and other materials used by the agency to evaluate the criminal histories of applicants, licensees, and employees; and

(D) forms and notices used to explain waiver, exemption and appeals procedures for denial, suspensions and terminations of employment or licensure based on criminal history.

(d) Each ~~State executive~~ agency shall participate in a review to determine the impact of the employment

restrictions based on criminal records and the effectiveness of existing case-by-case review mechanisms. For each occupation under the agency's jurisdiction for which there are employment restrictions based on criminal records, each State agency must provide the Task Force with a report, on or before ~~March 1, 2010~~ ~~November 1, 2009~~, for the previous 2-year period, setting forth:

(1) the total number of people currently employed in the occupation whose employment or licensure required criminal history disclosure, background checks or restrictions;

(2) the number and percentage of individuals who underwent a criminal history background check;

(3) the number and percentage of individuals who were merely required to disclose their criminal history without a criminal history background check;

(4) the number and percentage of individuals who were found disqualified based on criminal history disclosure by the applicant;

(5) the number and percentage of individuals who were found disqualified based on a criminal history background check;

(6) the number and percentage of individuals who sought an exemption or waiver from the disqualification;

(7) the number and percentage of individuals who sought an exemption or waiver who were subsequently granted the exemption or waiver at the first level of agency review (if multiple levels of review are available);

(8) the number and percentage of individuals who sought an exemption or waiver who were subsequently granted the exemption or waiver at the next level of agency review (if multiple levels of review are available);

(9) the number and percentage of individuals who were denied an exemption or waiver at the final level of agency review, and then sought review through an administrative appeal;

(10) the number and percentage of individuals who were denied an exemption or waiver at the final level of agency review, and then sought review through an administrative appeal and were then found qualified after such a review;

(11) the number and percentage of individuals who were found disqualified where no waiver or exemption process is available;

(12) the number and percentage of individuals who were found disqualified where no waiver or exemption process is available and who sought administrative review and then were found qualified; and

(13) if the agency maintains records of active licenses or certifications, the executive agency shall provide the total number of employees in occupations subject to criminal history

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restrictions.

(e) The Task Force shall report its findings and recommendations to the Governor and the General Assembly by December 31, 2010.

(Source: P.A. 96-593, eff. 8-18-09.)

(20 ILCS 5000/20)

Sec. 20. Act subject to ~~available resources~~ ~~appropriation~~. The provisions of this Act are subject to ~~resources being made available~~ ~~an appropriation being made~~ to the Illinois Criminal Justice Information Authority to implement this Act.

(Source: P.A. 96-593, eff. 8-18-09.)

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

Under the rules, the foregoing **Senate Bill No. 2109**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 390

A bill for AN ACT concerning State government.

SENATE BILL NO. 931

A bill for AN ACT concerning civil law.

Passed the House, October 29, 2009.

MARK MAHONEY, Clerk of the House

At the hour of 12:43 o'clock p.m., President Cullerton, presiding, for the purpose of an introduction.

At the hour of 12:50 o'clock p.m., Senator Hendon, presiding.

#### CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Trotter moved that **Senate Resolution No. 432**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Trotter moved that Senate Resolution No. 432 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi

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Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.  
And the resolution was adopted.

Senator Hutchinson moved that **Senate Resolution No. 434**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Hutchinson moved that Senate Resolution No. 434 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Duffy	Laufen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Delgado	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The following voted present:

Hendon

The motion prevailed.  
And the resolution was adopted.

Senator Garrett moved that **Senate Joint Resolution No. 74**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Garrett moved that Senate Joint Resolution No. 74 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein

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Collins	Holmes	McCarter	Stears
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Steans moved that **House Joint Resolution No. 28**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Steans moved that House Joint Resolution No. 28 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Stears
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Frerichs moved that **House Joint Resolution No. 45**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Frerichs moved that House Joint Resolution No. 45 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford

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Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Harmon moved that **House Joint Resolution No. 51**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Harmon moved that House Joint Resolution No. 51 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Maloney moved that **House Joint Resolution No. 54**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Maloney moved that House Joint Resolution No. 54 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Collins moved that **House Joint Resolution No. 63**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Collins moved that House Joint Resolution No. 63 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 41; NAYS 14.

The following voted in the affirmative:

Althoff	Garrett	Lightford	Schoenberg
Bond	Haine	Link	Silverstein
Clayborne	Harmon	Maloney	Steans
Collins	Hendon	Martinez	Sullivan
Cronin	Holmes	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
DeLeo	Hutchinson	Muñoz	Wilhelmi
Delgado	Jacobs	Noland	Mr. President
Demuzio	Jones, E.	Pankau	
Forby	Koehler	Raoul	
Frerichs	Kotowski	Sandoval	

The following voted in the negative:

Bivins	Duffy	Luechtefeld	Risinger
Brady	Hultgren	McCarter	Rutherford
Burzynski	Jones, J.	Murphy	
Dahl	Lauzen	Righter	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Maloney moved that **House Joint Resolution No. 75**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Maloney moved that House Joint Resolution No. 75 be adopted.

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And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Stears
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Frerichs moved that **House Joint Resolution No. 76**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Frerichs moved that House Joint Resolution No. 76 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Bivins	Forby	Kotowski	Radogno
Bomke	Frerichs	Lauzen	Raoul
Bond	Garrett	Lightford	Righter
Brady	Haine	Link	Risinger
Clayborne	Harmon	Luechtefeld	Schoenberg
Collins	Hendon	Maloney	Silverstein
Cronin	Holmes	Martinez	Stears
Crotty	Hultgren	McCarter	Sullivan
Dahl	Hunter	Meeks	Trotter
DeLeo	Hutchinson	Millner	Viverito
Delgado	Jacobs	Muñoz	Wilhelmi
Demuzio	Jones, E.	Murphy	Mr. President
Dillard	Jones, J.	Noland	
Duffy	Koehler	Pankau	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Meeks moved that **House Joint Resolution No. 77**, on the Secretary's Desk, be taken up for immediate consideration.

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The motion prevailed.

Senator Meeks moved that House Joint Resolution No. 77 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 36; NAYS 19; Present 1.

The following voted in the affirmative:

Bond	Haine	Lightford	Silverstein
Clayborne	Harmon	Link	Steans
Collins	Hendon	Maloney	Trotter
Crotty	Holmes	Martinez	Viverito
DeLeo	Hunter	Meeks	Wilhelmi
Delgado	Hutchinson	Muñoz	Mr. President
Demuzio	Jacobs	Noland	
Dillard	Jones, E.	Raoul	
Forby	Koehler	Sandoval	
Frerichs	Kotowski	Schoenberg	

The following voted in the negative:

Althoff	Cronin	Jones, J.	Murphy
Bivins	Dahl	Lauzen	Pankau
Bomke	Duffy	Luechtefeld	Rutherford
Brady	Garrett	McCarter	Syverson
Burzynski	Hultgren	Millner	

The following voted present:

Risinger

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 1:13 o'clock p.m., Senator Harmon, presiding.

Senator Delgado moved that **Senate Resolution No. 433**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Delgado moved that Senate Resolution No. 433 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson

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Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.  
And the resolution was adopted.

Senator Link asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Syverson asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 1:17 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

#### **AFTER RECESS**

At the hour of 2:18 o'clock p.m., the Senate resumed consideration of business.  
Senator Hendon, presiding.

#### **LEGISLATIVE MEASURE FILED**

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 2 to House Bill 5

#### **PRESENTATION OF RESOLUTION**

Senator Lightford offered the following Senate Joint Resolution, which was referred to the Committee on Assignments:

#### **SENATE JOINT RESOLUTION NO. 80**

WHEREAS, Studies have shown that children provided with recess are more focused, on-task, and able to concentrate on educational material than those who are not afforded a recess period; cognitive function improves when a child has the opportunity for physical exercise and active play; and

WHEREAS, Obesity rates among children have skyrocketed in recent years, with one in 3 American children now being considered overweight or obese; recess provides children with the opportunity for physical exercise during the school day; and

WHEREAS, Recess is essential for providing students with a less structured period of time in which to engage in social interactions and develop interpersonal relationships with peers; it is often during this time that children improve their leadership and conflict resolution skills; and

WHEREAS, A large number of students go every school day with no opportunity for a recess period; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there is

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created a Recess in Schools Task Force; and be it further

RESOLVED, That the Task Force shall be charged with examining the barriers facing schools in providing daily recess to every age-appropriate student and making recommendations for overcoming those obstacles; and be it further

RESOLVED, That the Task force shall be comprised of the following 15 members:

- (1) 2 members appointed by the Governor, one of whom shall be a medical professional with expertise in children's health issues;
- (2) one member appointed by the President of the Senate;
- (3) one member appointed by the Senate Minority Leader;
- (4) one member appointed by the Speaker of the House of Representatives;
- (5) one member appointed by the House Minority Leader;
- (6) one member appointed by the Chicago Board of Education;
- (7) one member appointed by the education labor organization representing Chicago public school teachers;
- (8) one member appointed by a State-wide education labor organization;
- (9) one member appointed by another State-wide education labor organization;
- (10) one member appointed by an organization representing principals;
- (11) one member appointed by a Chicago-based coalition of low-income mothers and grandmothers focusing on family issues;
- (12) one member appointed by a parent-teacher organization;
- (13) one member appointed by an organization advocating for juvenile justice reform;
- (14) one member appointed by an organization that advocates for healthy school environments; and be it further

RESOLVED, That the Task Force shall meet regularly and submit a final report to the General Assembly by June 30, 2010 with its recommendations for bringing recess back to the maximum number of students.

#### **INTRODUCTION OF BILL**

**SENATE BILL NO. 2499.** Introduced by Senator Noland, a bill for AN ACT concerning education.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

#### **MESSAGE FROM THE HOUSE**

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2248

A bill for AN ACT concerning transportation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2248

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

#### **AMENDMENT NO. 1 TO SENATE BILL 2248**

AMENDMENT NO. 1. Amend Senate Bill 2248 by replacing everything after the enacting clause with the following:

[October 29, 2009]

"Section 1. The General Assembly finds that the use of any motor vehicle, snowmobile or watercraft while under the influence of alcohol or other drugs is inherently dangerous. Further, the General Assembly finds that there is an unacceptable risk to the public safety and welfare that an offender who drives or operates any one of these devices while under the influence will continue to drive or operate another of these devices while under the influence. Further, the General Assembly finds that increased, enhanced, and coordinated legislative, law enforcement, and administrative measures are needed to improve this State's efforts to deter this unlawful activity. Finally, the General Assembly finds that the public safety and welfare can be better served and protected by harmonizing and integrating this State's statutes related to driving, boating, and snowmobiling while under the influence of alcohol and other drugs, and that it is with this intent that this legislation is enacted.

Section 5. The Illinois Vehicle Code is amended by changing Sections 1-197.5, 2-118.1, 6-113, 6-203.1, 6-205, 6-206, 6-208.1, 6-208.2, 6-303, 6-304.1, 6-514, 11-501, 11-501.01, 11-501.1, 11-501.2, 11-501.5, 11-501.6, and 11-501.8 and by adding Sections 1-189.5, 1-225, 1-226, and 6-208.3 as follows:

(625 ILCS 5/1-189.5 new)

Sec. 1-189.5. Snowmobile. The same meaning ascribed to the term "snowmobile" by Section 1-2.15 of the Snowmobile Registration and Safety Act.

(625 ILCS 5/1-197.5) (from Ch. 95 1/2, par. 1-203.1)

Sec. 1-197.5. Statutory summary ~~alcohol or other drug related~~ suspension of driving, snowmobile operating, and watercraft operating driver's privileges. The ~~suspension withdrawal~~ by the Secretary of State or Department of Natural Resources of a person's license or privilege to ~~drive~~ ~~operate~~ a motor vehicle on the public highways, operate a snowmobile, or operate a watercraft for the periods provided in Section 6-208.1. Reinstatement after the suspension period shall occur after all appropriate fees have been paid. The bases for this ~~suspension withdrawal~~ of driving, snowmobile operating, and watercraft operating privileges shall be the individual's refusal to submit to or failure to complete a chemical test or tests following an arrest for the offense of driving or operating under the influence of alcohol, other drugs, or intoxicating compounds, or any combination thereof, or submission to such a test or tests indicating an alcohol concentration of 0.08 or more as provided in Section 11-501.1 of this Code.

(Source: P.A. 96-607, eff. 8-24-09.)

(625 ILCS 5/1-225 new)

Sec. 1-225. Watercraft. The same meaning ascribed to the term "watercraft" by Section 1-2 of the Boat Registration and Safety Act.

(625 ILCS 5/1-226 new)

Sec. 1-226. Waters of this State. The same meaning ascribed to the term "waters of this State" by Section 1-2 of the Boat Registration and Safety Act.

(625 ILCS 5/2-118.1) (from Ch. 95 1/2, par. 2-118.1)

Sec. 2-118.1. Opportunity for hearing; statutory summary ~~alcohol or other drug related~~ suspension.

(a) A statutory summary suspension of driving, snowmobile operating, and watercraft operating privileges under Section 11-501.1 shall not become effective until the person is notified in writing of the impending suspension and informed that he may request a hearing in the circuit court of venue under paragraph (b) of this Section and the statutory summary suspension shall become effective as provided in Section 11-501.1.

(b) Within 90 days after the notice of statutory summary suspension served under Section 11-501.1, the person may make a written request for a judicial hearing in the circuit court of venue. The request to the circuit court shall state the grounds upon which the person seeks to have the statutory summary suspension rescinded. Within 30 days after receipt of the written request or the first appearance date on the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint issued pursuant to a violation of Section 11-501, or a similar provision of a local ordinance, the hearing shall be conducted by the circuit court having jurisdiction. This judicial hearing, request, or process shall not stay or delay the statutory summary suspension. The hearings shall proceed in the court in the same manner as in other civil proceedings.

The hearing may be conducted upon a review of the law enforcement officer's own official reports; provided however, that the person may subpoena the officer. Failure of the officer to answer the subpoena shall be considered grounds for a continuance if in the court's discretion the continuance is appropriate.

The scope of the hearing shall be limited to the issues of:

1. Whether the person was placed under arrest for an offense as defined in Section 11-501, or a similar provision of a local ordinance, as evidenced by the issuance of a Uniform Traffic Ticket or Illinois Conservation Citation and Complaint, or issued a Uniform Traffic Ticket or Illinois

Conservation Citation and Complaint out of state as provided in subsection (a) of Section 11-501.1; and

2. Whether the officer had reasonable grounds to believe that the person was driving, operating, or in actual physical control of a (i) motor vehicle upon a highway, (ii) snowmobile in this State, or (iii) watercraft upon the waters of this State while under the influence of alcohol, other drug, or combination of both; and

3. Whether the person, after being advised by the officer that the privilege to drive operate a motor vehicle, operate a snowmobile, and operate a watercraft would be suspended if the person refused to submit to and complete the test or tests, did refuse to submit to or complete the test or tests to determine the person's alcohol or drug concentration; or

4. Whether the person, after being advised by the officer that the privilege to drive operate a motor vehicle, operate a snowmobile, and operate a watercraft would be suspended if the person submits to a chemical test, or tests, and the test discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, and the person did submit to and complete the test or tests that determined an alcohol concentration of 0.08 or more.

Upon the conclusion of the judicial hearing, the circuit court shall sustain or rescind the statutory summary suspension and immediately notify the Secretary of State and the Department of Natural Resources. Reports received by the Secretary of State and the Department of Natural Resources under this Section shall be privileged information and for use only by the courts, police officers, the Department of Natural Resources, and Secretary of State.

(Source: P.A. 95-355, eff. 1-1-08.)

(625 ILCS 5/6-113) (from Ch. 95 1/2, par. 6-113)

Sec. 6-113. Restricted licenses and permits.

(a) The Secretary of State upon issuing a drivers license or permit shall have the authority whenever good cause appears to impose restrictions suitable to the licensee's driving ability with respect to the type of, or special mechanical control devices required on, a motor vehicle which the licensee may operate or such other restrictions applicable to the licensee as the Secretary of State may determine to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The Secretary of State may either issue a special restricted license or permit or may set forth such restrictions upon the usual license or permit form.

(c) The Secretary of State may issue a probationary license to a person whose driving privileges have been suspended pursuant to subsection (d) of this Section or subsections (a)(2), (a)(19) and (a)(20) of Section 6-206 of this Code. This subsection (c) does not apply to any driver required to possess a CDL for the purpose of operating a commercial motor vehicle. The Secretary of State shall promulgate rules pursuant to the Illinois Administrative Procedure Act, setting forth the conditions and criteria for the issuance and cancellation of probationary licenses.

(d) The Secretary of State may upon receiving satisfactory evidence of any violation of the restrictions of such license or permit suspend, revoke or cancel the same without preliminary hearing, but the licensee or permittee shall be entitled to a hearing as in the case of a suspension or revocation.

(e) It is unlawful for any person to drive operate a motor vehicle in any manner in violation of the restrictions imposed on a restricted license or permit issued to him.

(f) Whenever the holder of a restricted driving permit is issued a citation for any of the following offenses including similar local ordinances, the restricted driving permit is immediately invalidated:

1. Reckless homicide resulting from the operation of a motor vehicle;

2. Violation of Section 11-501 of this Act relating to driving the operation of a motor vehicle operating a snowmobile, or operating a watercraft while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof intoxicating liquor or narcotic drugs;

3. Violation of Section 11-401 of this Act relating to the offense of leaving the scene of a traffic accident involving death or injury;

4. Violation of Section 11-504 of this Act relating to the offense of drag racing; or

5. Violation of Section 11-506 of this Act relating to the offense of street racing.

The police officer issuing the citation shall confiscate the restricted driving permit and forward it, along with the citation, to the Clerk of the Circuit Court of the county in which the citation was issued.

(g) The Secretary of State may issue a special restricted license for a period of 12 months to

individuals using vision aid arrangements other than standard eyeglasses or contact lenses, allowing the operation of a motor vehicle during nighttime hours. The Secretary of State shall adopt rules defining the terms and conditions by which the individual may obtain and renew this special restricted license. At a minimum, all drivers must meet the following requirements:

1. Possess a valid driver's license and have driven ~~operated~~ a motor vehicle during daylight hours for a period of 12 months using vision aid arrangements other than standard eyeglasses or contact lenses.
2. Have a driving record that does not include any traffic accidents that occurred during nighttime hours, for which the driver has been found to be at fault, during the 12 months before he or she applied for the special restricted license.
3. Successfully complete a road test administered during nighttime hours.

At a minimum, all drivers renewing this license must meet the following requirements:

1. Successfully complete a road test administered during nighttime hours.
2. Have a driving record that does not include any traffic accidents that occurred during nighttime hours, for which the driver has been found to be at fault, during the 12 months before he or she applied for the special restricted license.

(h) Any driver issued a special restricted license as defined in subsection (g) whose privilege to drive during nighttime hours has been suspended due to an accident occurring during nighttime hours may request a hearing as provided in Section 2-118 of this Code to contest that suspension. If it is determined that the accident for which the driver was at fault was not influenced by the driver's use of vision aid arrangements other than standard eyeglasses or contact lenses, the Secretary may reinstate that driver's privilege to drive during nighttime hours.

(Source: P.A. 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; 95-876, eff. 8-21-08.)

(625 ILCS 5/6-203.1) (from Ch. 95 1/2, par. 6-203.1)

Sec. 6-203.1.

(a) The Secretary of State is authorized to suspend, for the period set forth in Section 6-208.1, the driving privileges and the Department of Natural Resources is authorized to suspend the snowmobile operating and watercraft operating privileges of persons arrested in another state for driving or operating a motor vehicle, snowmobile, or watercraft under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, or a similar provision, and who has refused to submit to a chemical test or tests under the provisions of implied consent.

(b) When ~~a driving privileges have privilege has~~ been suspended for a refusal as provided in paragraph (a) of this Section and the person is subsequently convicted of the underlying charge, for the same incident, any period served on suspension shall be credited toward the minimum period of revocation of driving privileges imposed pursuant to Section 6-206.

(c) When snowmobile and watercraft operating privileges have been suspended for refusal as provided in paragraph (a) of this Section and the person is subsequently convicted of the underlying charge, for the same incident, any period served on the suspension shall be credited toward the minimum period of revocation of snowmobile and watercraft operating privileges imposed pursuant to Section 6-208.3.

(Source: P.A. 96-607, eff. 8-24-09.)

(625 ILCS 5/6-205) (from Ch. 95 1/2, par. 6-205)

Sec. 6-205. Mandatory revocation of license or permit; Hardship cases.

(a) Except as provided in this Section, the Secretary of State shall immediately revoke the license, permit, or driving privileges of any driver upon receiving a report of the driver's conviction of any of the following offenses:

1. Reckless homicide resulting from the operation of a motor vehicle;
2. Violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of driving, operating, or being in actual physical control of a vehicle, snowmobile, or watercraft while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof;
3. Any felony under the laws of any State or the federal government in the commission of which a motor vehicle was used;
4. Violation of Section 11-401 of this Code relating to the offense of leaving the scene of a traffic accident involving death or personal injury;
5. Perjury or the making of a false affidavit or statement under oath to the Secretary of State under this Code or under any other law relating to the ownership or operation of motor vehicles;

6. Conviction upon 3 charges of violation of Section 11-503 of this Code relating to the offense of reckless driving committed within a period of 12 months;

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7. Conviction of any offense defined in Section 4-102 of this Code;
  8. Violation of Section 11-504 of this Code relating to the offense of drag racing;
  9. Violation of Chapters 8 and 9 of this Code;
  10. Violation of Section 12-5 of the Criminal Code of 1961 arising from the use of a motor vehicle;
  11. Violation of Section 11-204.1 of this Code relating to aggravated fleeing or attempting to elude a peace officer;
  12. Violation of paragraph (1) of subsection (b) of Section 6-507, or a similar law of any other state, relating to the unlawful operation of a commercial motor vehicle;
  13. Violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance if the driver has been previously convicted of a violation of that Section or a similar provision of a local ordinance and the driver was less than 21 years of age at the time of the offense;
  14. Violation of paragraph (a) of Section 11-506 of this Code or a similar provision of a local ordinance relating to the offense of street racing;
  15. A second or subsequent conviction of driving while the person's driver's license, permit or privileges was revoked for reckless homicide or a similar out-of-state offense.
- (b) The Secretary of State shall also immediately revoke the license or permit of any driver in the following situations:
1. Of any minor upon receiving the notice provided for in Section 5-901 of the Juvenile Court Act of 1987 that the minor has been adjudicated under that Act as having committed an offense relating to motor vehicles prescribed in Section 4-103 of this Code;
  2. Of any person when any other law of this State requires either the revocation or suspension of a license or permit;
  3. Of any person adjudicated under the Juvenile Court Act of 1987 based on an offense determined to have been committed in furtherance of the criminal activities of an organized gang as provided in Section 5-710 of that Act, and that involved the operation or use of a motor vehicle or the use of a driver's license or permit. The revocation shall remain in effect for the period determined by the court. ~~Upon the direction of the court, the Secretary shall issue the person a judicial driving permit, also known as a JDP. The JDP shall be subject to the same terms as a JDP issued under Section 6-206.1, except that the court may direct that a JDP issued under this subdivision (b)(3) be effective immediately.~~
- (c)(1) ~~Whenever~~ Except as provided in subsection (e-5), whenever a person is convicted of any of the offenses enumerated in this Section, the court may recommend and the Secretary of State in his discretion, without regard to whether the recommendation is made by the court may, upon application, issue to the person a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow the petitioner to transport himself or herself or a family member of the petitioner's household to a medical facility for the receipt of necessary medical care or to allow the petitioner to transport himself or herself to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or to allow the petitioner to transport himself or herself or a family member of the petitioner's household to classes, as a student, at an accredited educational institution, or to allow the petitioner to transport children living in the petitioner's household to and from daycare; if the petitioner is able to demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare; provided that the Secretary's discretion shall be limited to cases where undue hardship, as defined by the rules of the Secretary of State, would result from a failure to issue the restricted driving permit. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.
- (2) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not ~~drive operate~~ operate a motor vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.
- (3) A person, if issued a restricted driving permit, may not operate a motor vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1, if:
- (A) a person's license or permit is revoked or suspended 2 or more times within a 10

year period due to any combination of:

- (i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or
- (ii) a statutory summary suspension under Section 11-501.1; or
- (iii) a suspension pursuant to Section 6-203.1;

arising out of separate occurrences; or

(B) a person has been convicted of one violation of Section 6-303 of this Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide where the use of alcohol or other drugs was recited as an element of the offense, or a similar provision of a law of another state;

~~that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129-1.~~

(4) The person issued a permit conditioned on the use of an ignition interlock device must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$30 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(5) If the restricted driving permit is issued for employment purposes, then the prohibition against ~~driving operating~~ a motor vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(6) In each case the Secretary of State may issue a restricted driving permit for a period he deems appropriate, except that the permit shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of these offenses, if the offense involved the use of a motor vehicle, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the petitioner to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program. However, if an individual's driving privileges have been revoked in accordance with paragraph 13 of subsection (a) of this Section, no restricted driving permit shall be issued until the individual has served 6 months of the revocation period.

(c-5) (Blank).

(c-6) If a person is convicted of a second violation of ~~driving operating~~ a motor vehicle while the person's driver's license, permit or privilege was revoked, where the revocation was for a violation of Section 9-3 of the Criminal Code of 1961 relating to the offense of reckless homicide or a similar out-of-state offense, the person's driving privileges shall be revoked pursuant to subdivision (a)(15) of this Section. The person may not make application for a license or permit until the expiration of five years from the effective date of the revocation or the expiration of five years from the date of release from a term of imprisonment, whichever is later.

(c-7) If a person is convicted of a third or subsequent violation of ~~driving operating~~ a motor vehicle while the person's driver's license, permit or privilege was revoked, where the revocation was for a violation of Section 9-3 of the Criminal Code of 1961 relating to the offense of reckless homicide or a similar out-of-state offense, the person may never apply for a license or permit.

(d)(1) Whenever a person under the age of 21 is convicted under Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, the Secretary of State shall revoke the driving privileges of that person. One year after the date of revocation, and upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety or welfare, issue a restricted driving permit granting the privilege of driving a motor

vehicle only between the hours of 5 a.m. and 9 p.m. or as otherwise provided by this Section for a period of one year. After this one year period, and upon reapplication for a license as provided in Section 6-106, upon payment of the appropriate reinstatement fee provided under paragraph (b) of Section 6-118, the Secretary of State, in his discretion, may reinstate the petitioner's driver's license and driving privileges, or extend the restricted driving permit as many times as the Secretary of State deems appropriate, by additional periods of not more than 12 months each.

(2) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not ~~drive~~ ~~operate~~ a motor vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(3) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(A) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(B) a statutory summary suspension under Section 11-501.1; or

(C) a suspension pursuant to Section 6-203.1;

arising out of separate occurrences, that person, if issued a restricted driving permit, may not ~~drive~~ ~~operate~~ a motor vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(4) The person issued a permit conditioned upon the use of an interlock device must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$30 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(5) If the restricted driving permit is issued for employment purposes, then the prohibition against driving a motor vehicle that is not equipped with an ignition interlock device does not apply to the operation of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(6) A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit.

(d-5) The revocation of the license, permit, or driving privileges of a person convicted of a third or subsequent violation of Section 6-303 of this Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state, is permanent. The Secretary may not, at any time, issue a license or permit to that person.

(e) This Section is subject to the provisions of the Driver License Compact.

(f) Any revocation imposed upon any person under subsections 2 and 3 of paragraph (b) that is in effect on December 31, 1988 shall be converted to a suspension for a like period of time.

(g) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been revoked under any provisions of this Code.

(h) The Secretary of State shall require the use of ignition interlock devices on all vehicles owned by a person who has been convicted of a second or subsequent offense under Section 11-501 of this Code or a similar provision of a local ordinance. The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$30 for each month that he or she uses the device. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system, the amount of the fee, and the procedures, terms, and conditions relating to these fees.

(i) (Blank).

(j) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been revoked, suspended, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 95-310, eff. 1-1-08; 95-337, eff. 6-1-08; 95-377, eff. 1-1-08; 95-382, eff. 8-23-07; 95-627,

eff. 6-1-08; 95-848, eff. 1-1-09; 95-876, eff. 8-21-08; 96-328, eff. 8-11-09; 96-607, eff. 8-24-09.)  
(625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;
2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;
3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;
4. Has by the unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;
5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;
6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;
7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;
8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;
9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;
10. Has possessed, displayed, or attempted to fraudulently use any license, identification card, or permit not issued to the person;
11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a monitoring device driving permit, judicial driving permit issued prior to January 1, 2009, probationary license to drive, or a restricted driving permit issued under this Code;
12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;
13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;
14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;
15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;
16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;
17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;
18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;
19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;
20. Has been convicted of violating Section 6-104 relating to classification of driver's license;
21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension

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shall be for one year;

22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;

23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;

24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;

25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;

26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;

27. Has violated Section 6-16 of the Liquor Control Act of 1934;

28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;

29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, an intoxicating compound as listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code that resulted in damage to the property of another or the death or injury of another;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934

or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code;

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code;

41. Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days;

42. Has committed a violation of subsection (a-1) of Section 11-1301.3 of this Code;

43. Has received a disposition of court supervision for a violation of subsection (a), (d), or (e) of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance, in which case the suspension shall be for a period of 3 months;

44. Is under the age of 21 years at the time of arrest and has been convicted of an offense against traffic regulations governing the movement of vehicles after having previously had his or her driving privileges suspended or revoked pursuant to subparagraph 36 of this Section; or

45. Has, in connection with or during the course of a formal hearing conducted under Section 2-118 of this Code: (i) committed perjury; (ii) submitted fraudulent or falsified documents; (iii) submitted documents that have been materially altered; or (iv) submitted, as his or her own, documents that were in fact prepared or composed for another person.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to ~~drive operate~~ a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while ~~driving operating~~ a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to ~~driving operating~~ a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while ~~driving operating~~ a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to ~~drive operate~~ a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to possess a CDL for the purpose of ~~driving operating~~ a commercial motor vehicle.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship (as defined by the rules of the Secretary of State), issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of the petitioner's employment related duties, or to allow the petitioner to transport himself or herself, or a family member of the petitioner's household to a medical

facility, to receive necessary medical care, to allow the petitioner to transport himself or herself to and from alcohol or drug remedial or rehabilitative activity recommended by a licensed service provider, or to allow the petitioner to transport himself or herself or a family member of the petitioner's household to classes, as a student, at an accredited educational institution, or to allow the petitioner to transport children living in the petitioner's household to and from daycare. The petitioner must demonstrate that no alternative means of transportation is reasonably available and that the petitioner will not endanger the public safety or welfare. Those multiple offenders identified in subdivision (b)4 of Section 6-208 of this Code, however, shall not be eligible for the issuance of a restricted driving permit.

(A) If a person's license or permit is revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense, or a combination of these offenses, arising out of separate occurrences, that person, if issued a restricted driving permit, may not ~~drive~~ ~~operate~~ a motor vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(B) If a person's license or permit is revoked or suspended 2 or more times within a 10 year period due to any combination of:

(i) a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or a similar out-of-state offense; or

(ii) a statutory summary suspension under Section 11-501.1; or

(iii) a suspension under Section 6-203.1;

arising out of separate occurrences; that person, if issued a restricted driving permit, may not ~~drive~~ ~~operate~~ a motor vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

(C) The person issued a permit conditioned upon the use of an ignition interlock device must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$30 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees.

(D) If the restricted driving permit is issued for employment purposes, then the prohibition against ~~driving~~ ~~operating~~ a motor vehicle that is not equipped with an ignition interlock device does not apply to the ~~driving operation~~ of an occupational vehicle owned or leased by that person's employer when used solely for employment purposes.

(E) In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance or any similar out-of-state offense, or Section 9-3 of the Criminal Code of 1961, where the use of alcohol or other drugs is recited as an element of the offense, or any similar out-of-state offense, or any combination of those offenses, if the offense involved the use of a motor vehicle, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-3) In the case of a suspension under paragraph 43 of subsection (a), reports received by the Secretary of State under this Section shall, except during the actual time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the driver licensing administrator of any other state, the Secretary of State, or the parent or legal guardian of a driver under the age of 18. However, beginning January 1, 2008, if the person is a CDL holder, the suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon

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request.

(c-4) In the case of a suspension under paragraph 43 of subsection (a), the Secretary of State shall notify the person by mail that his or her driving privileges and driver's license will be suspended one month after the date of the mailing of the notice.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 21 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(f) In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit to drive for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified under any provisions of this Code.

(Source: P.A. 95-166, eff. 1-1-08; 95-310, eff. 1-1-08; 95-382, eff. 8-23-07; 95-400, eff. 1-1-09; 95-627, eff. 6-1-08; 95-848, eff. 1-1-09; 95-876, eff. 8-21-08; 95-894, eff. 1-1-09; 96-328, eff. 8-11-09; 96-607, eff. 8-24-09.)

(625 ILCS 5/6-208.1) (from Ch. 95 1/2, par. 6-208.1)

Sec. 6-208.1. Period of statutory summary ~~alcohol, other drug, or intoxicating compound related~~ suspension.

(a) Unless the statutory summary suspension has been rescinded, any person whose privileges ~~privilege~~ to (1) drive a motor vehicle on the public highways, (2) operate a snowmobile in this State, or (3) operate a watercraft upon the waters of this State ~~have~~ has been summarily suspended, pursuant to Section 11-501.1, shall not be eligible for restoration of the privilege until the expiration of:

1. Twelve months from the effective date of the statutory summary suspension for a refusal or failure to complete a test or tests to determine the alcohol, drug, or intoxicating compound concentration, pursuant to Section 11-501.1; or

2. Six months from the effective date of the statutory summary suspension imposed following the person's submission to a chemical test which disclosed an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in such person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, pursuant to Section 11-501.1; or

3. Three years from the effective date of the statutory summary suspension for any person other than a first offender who refuses or fails to complete a test or tests to determine the alcohol, drug, or intoxicating compound concentration pursuant to Section 11-501.1; or

4. One year from the effective date of the summary suspension imposed for any person other than a first offender following submission to a chemical test which disclosed an alcohol concentration of 0.08 or more pursuant to Section 11-501.1 or any amount of a drug, substance or compound in such person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) Following a statutory summary suspension of the privilege to drive a motor vehicle, operate a snowmobile, and operate a watercraft under Section 11-501.1, driving privileges shall be restored unless the person is otherwise suspended, revoked, or cancelled by this Code. If the court has reason to believe that the person's privileges ~~driving privilege~~ should not be restored, the court shall notify the Secretary of State and Department of Natural Resources prior to the expiration of the statutory summary suspension so appropriate action may be taken pursuant to this Code.

(c) Driving privileges may not be restored until all applicable reinstatement fees, as provided by this Code, have been paid to the Secretary of State and the appropriate entry made to the driver's record.

(d) Where ~~a driving, snowmobile operating, and watercraft operating privileges have~~ privilege has been summarily suspended under Section 11-501.1 and the person is subsequently convicted of violating Section 11-501, or a similar provision of a local ordinance, for the same incident, any period served on statutory summary suspension shall be credited toward the minimum period of revocation of driving, snowmobile operating, and watercraft operating privileges imposed pursuant to Section 6-205 or 6-208.3 of this Code.

(e) Following a statutory summary suspension of driving privileges pursuant to Section 11-501.1, for a

first offender, the circuit court shall, unless the offender has opted in writing not to have a monitoring device driving permit issued, order the Secretary of State to issue a monitoring device driving permit as provided in Section 6-206.1. A monitoring device driving permit shall not be effective prior to the 31st day of the statutory summary suspension.

(f) (Blank).

(g) Following a statutory summary suspension of driving privileges pursuant to Section 11-501.1 where the person was not a first offender, as defined in Section 11-500, the Secretary of State may not issue a restricted driving permit.

(h) (Blank).

(Source: P.A. 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-876, eff. 8-21-08.)

(625 ILCS 5/6-208.2)

Sec. 6-208.2. Restoration of driving, snowmobile operating, and watercraft operating privileges; persons under age 21.

(a) Unless the suspension based upon consumption of alcohol by a minor or refusal to submit to testing has been rescinded ~~by the Secretary of State~~ in accordance with subsection (e-6) or (e-8) of Section 11-501.8 ~~item (e)(3) of Section 6-206~~ of this Code, a person whose privileges privilege to (i) drive a motor vehicle on the public highways, (ii) operate a snowmobile in this State, and (iii) operate a watercraft upon the waters of this State have ~~has~~ been suspended under Section 11-501.8 is not eligible for restoration of the privileges privilege until the expiration of:

1. Six months from the effective date of the suspension for a refusal or failure to complete a test or tests to determine the alcohol concentration under Section 11-501.8;

2. Three months from the effective date of the suspension imposed following the person's submission to a chemical test which disclosed an alcohol concentration greater than 0.00 under Section 11-501.8;

3. Two years from the effective date of the suspension for a person who has been previously suspended under Section 11-501.8 and who refuses or fails to complete a test or tests to determine the alcohol concentration under Section 11-501.8; or

4. One year from the effective date of the suspension imposed for a person who has been previously suspended under Section 11-501.8 following submission to a chemical test that disclosed an alcohol concentration greater than 0.00 under Section 11-501.8.

(b) Following a suspension of privileges the privilege to drive a motor vehicle, operate a snowmobile, and operate a watercraft under Section 11-501.8, full driving privileges shall be restored unless the person is otherwise suspended, revoked, or cancelled ~~disqualified by law~~ this Code.

(c) Full driving privileges may not be restored until all applicable reinstatement fees, as provided by this Code, have been paid to the Secretary of State and the appropriate entry made to the driver's record. The Secretary of State may also, as a condition of the reissuance of a driver's license or permit to an individual under the age of 18 years whose driving privileges have been suspended pursuant to Section 11-501.8, require the applicant to participate in a driver remedial education course and be retested under Section 6-109.

(d) Where ~~a~~ driving, snowmobile operating, and watercraft operating privileges ~~have~~ privilege has been suspended under Section 11-501.8 and the person is subsequently convicted of violating Section 11-501, or a similar provision of a local ordinance, for the same incident, any period served on that suspension shall be credited toward the minimum period of revocation of driving, snowmobile operating, and watercraft operating privileges imposed under Section 6-205 or 6-208.3 of this Code.

(e) Following a suspension of driving privileges under Section 11-501.8 for a person who has not had his or her driving privileges previously suspended under that Section, the Secretary of State may issue a restricted driving permit after at least 30 days from the effective date of the suspension.

(f) Following a second or subsequent suspension of driving privileges under Section 11-501.8, the Secretary of State may issue a restricted driving permit after at least 12 months from the effective date of the suspension.

(g) (Blank).

(h) Any restricted driving permit considered under this Section is subject to the provisions of subsections (e-6) and (e-8) ~~item (e)~~ of Section 11-501.8.

(Source: P.A. 92-248, eff. 8-3-01.)

(625 ILCS 5/6-208.3 new)

Sec. 6-208.3. Special Provisions related to the operation of snowmobiles and watercraft.

(a) In addition to any criminal penalties imposed under this Chapter, the Department of Natural Resources shall revoke the snowmobile and watercraft privileges of a person convicted of Section 11-501, a similar provision of a local ordinance, or a similar out of state offense, as provided in the

following paragraphs:

- (1) For a period of one year upon a first conviction;
- (2) For a period of five years upon a second conviction within 20 years;
- (3) For a period of ten years upon a third conviction; and
- (4) For life upon a fourth or subsequent conviction.

(b) The 20-year period in paragraph (2) of subsection (a) of this Section shall be computed by using the dates the offenses were committed.

(c) The Department of Natural Resources shall promulgate administrative rules regarding the standards and procedures that will govern the reinstatement of watercraft and snowmobile privileges.

(625 ILCS 5/6-303) (from Ch. 95 1/2, par. 6-303)

Sec. 6-303. Driving while driver's license, permit or privilege to ~~drive~~ ~~operate~~ a motor vehicle is suspended or revoked.

(a) Except as otherwise provided in subsection (a-5), any person who drives or is in actual physical control of a motor vehicle on any highway of this State at a time when such person's driver's license, permit or privilege to do so or the privilege to obtain a driver's license or permit is revoked or suspended as provided by this Code or the law of another state, except as may be specifically allowed by a judicial driving permit issued prior to January 1, 2009, monitoring device driving permit, family financial responsibility driving permit, probationary license to drive, or a restricted driving permit issued pursuant to this Code or under the law of another state, shall be guilty of a Class A misdemeanor.

(a-5) Any person who violates this Section as provided in subsection (a) while his or her driver's license, permit or privilege is revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide or a similar provision of a law of another state, is guilty of a Class 4 felony. The person shall be required to undergo a professional evaluation, as provided in Section 11-501 of this Code, to determine if an alcohol, drug, or intoxicating compound problem exists and the extent of the problem, and to undergo the imposition of treatment as appropriate.

(b) (Blank).

(b-1) Upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle during the time when the person's driver's license, permit or privilege was suspended by the Secretary of State or the driver's licensing administrator of another state, except as specifically allowed by a probationary license, judicial driving permit, restricted driving permit or monitoring device driving permit the Secretary shall extend the suspension for the same period of time as the originally imposed suspension unless the suspension has already expired, in which case the Secretary shall be authorized to suspend the person's driving privileges for the same period of time as the originally imposed suspension.

(b-2) Except as provided in subsection (b-6), upon receiving a report of the conviction of any violation indicating a person was operating a motor vehicle when the person's driver's license, permit or privilege was revoked by the Secretary of State or the driver's license administrator of any other state, except as specifically allowed by a restricted driving permit issued pursuant to this Code or the law of another state, the Secretary shall not issue a driver's license for an additional period of one year from the date of such conviction indicating such person was operating a vehicle during such period of revocation.

(b-3) (Blank).

(b-4) When the Secretary of State receives a report of a conviction of any violation indicating a person was ~~driving~~ ~~operating~~ a motor vehicle that was not equipped with an ignition interlock device during a time when the person was prohibited from operating a motor vehicle not equipped with such a device, the Secretary shall not issue a driver's license to that person for an additional period of one year from the date of the conviction.

(b-5) Any person convicted of violating this Section shall serve a minimum term of imprisonment of 30 consecutive days or 300 hours of community service when the person's driving privilege was revoked or suspended as a result of a violation of Section 9-3 of the Criminal Code of 1961, as amended, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(b-6) Upon receiving a report of a first conviction of operating a motor vehicle while the person's driver's license, permit or privilege was revoked where the revocation was for a violation of Section 9-3 of the Criminal Code of 1961 relating to the offense of reckless homicide or a similar out-of-state offense, the Secretary shall not issue a driver's license for an additional period of three years from the date of such conviction.

(c) Except as provided in subsections (c-3) and (c-4), any person convicted of violating this Section shall serve a minimum term of imprisonment of 10 consecutive days or 30 days of community service when the person's driving privilege was revoked or suspended as a result of:

- (1) a violation of Section 11-501 of this Code or a similar provision of a local

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ordinance relating to the offense of ~~driving operating~~ or being in actual physical control of a motor vehicle, snowmobile, or watercraft while under the influence of alcohol, any other drug or any combination thereof; or

(2) a violation of paragraph (b) of Section 11-401 of this Code or a similar provision of a local ordinance relating to the offense of leaving the scene of a motor vehicle accident involving personal injury or death; or

(3) a statutory summary suspension under Section 11-501.1 of this Code.

Such sentence of imprisonment or community service shall not be subject to suspension in order to reduce such sentence.

(c-1) Except as provided in subsections (c-5) and (d), any person convicted of a second violation of this Section shall be ordered by the court to serve a minimum of 100 hours of community service.

(c-2) In addition to other penalties imposed under this Section, the court may impose on any person convicted a fourth time of violating this Section any of the following:

(1) Seizure of the license plates of the person's vehicle.

(2) Immobilization of the person's vehicle for a period of time to be determined by the court.

(c-3) Any person convicted of a violation of this Section during a period of summary suspension imposed pursuant to Section 11-501.1 when the person was eligible for a MDDP shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-4) Any person who has been issued a MDDP and who is convicted of a violation of this Section as a result of ~~driving operating~~ or being in actual physical control of a motor vehicle not equipped with an ignition interlock device at the time of the offense shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days.

(c-5) Any person convicted of a second violation of this Section is guilty of a Class 2 felony, is not eligible for probation or conditional discharge, and shall serve a mandatory term of imprisonment, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d) Any person convicted of a second violation of this Section shall be guilty of a Class 4 felony and shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, if the original revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-1) Except as provided in subsections (d-2), (d-2.5), and (d-3), any person convicted of a third or subsequent violation of this Section shall serve a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court.

(d-2) Any person convicted of a third violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 30 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-2.5) Any person convicted of a third violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense. The person's driving privileges shall be revoked for the remainder of the person's life.

(d-3) Any person convicted of a fourth, fifth, sixth, seventh, eighth, or ninth violation of this Section is guilty of a Class 4 felony and must serve a minimum term of imprisonment of 180 days if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-3.5) Any person convicted of a fourth or subsequent violation of this Section is guilty of a Class 1 felony, is not eligible for probation or conditional discharge, and must serve a mandatory term of imprisonment, and is eligible for an extended term, if the revocation or suspension was for a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar out-of-state offense.

(d-4) Any person convicted of a tenth, eleventh, twelfth, thirteenth, or fourteenth violation of this Section is guilty of a Class 3 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(d-5) Any person convicted of a fifteenth or subsequent violation of this Section is guilty of a Class 2 felony, and is not eligible for probation or conditional discharge, if the revocation or suspension was for a violation of Section 11-401 or 11-501 of this Code, or a similar out-of-state offense, or a similar provision of a local ordinance, or a statutory summary suspension under Section 11-501.1 of this Code.

(e) Any person in violation of this Section who is also in violation of Section 7-601 of this Code relating to mandatory insurance requirements, in addition to other penalties imposed under this Section, shall have his or her motor vehicle immediately impounded by the arresting law enforcement officer. The motor vehicle may be released to any licensed driver upon a showing of proof of insurance for the vehicle that was impounded and the notarized written consent for the release by the vehicle owner.

(f) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(g) The motor vehicle used in a violation of this Section is subject to seizure and forfeiture as provided in Sections 36-1 and 36-2 of the Criminal Code of 1961 if the person's driving privilege was revoked or suspended as a result of a violation listed in paragraph (1) or (2) of subsection (c) of this Section, as a result of a summary suspension as provided in paragraph (3) of subsection (c) of this Section, or as a result of a violation of Section 9-3 of the Criminal Code of 1961 relating to the offense of reckless homicide.

(Source: P.A. 95-27, eff. 1-1-08; 95-377, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 95-876, eff. 8-21-08; 95-991, eff. 6-1-09; 96-502, eff. 1-1-10; 96-607, eff. 8-24-09; revised 9-15-09.)

(625 ILCS 5/6-304.1) (from Ch. 95 1/2, par. 6-304.1)

Sec. 6-304.1. Permitting a person under the influence to drive or operate a motor vehicle, snowmobile, or watercraft.

(a) ~~Permitting a driver under the influence to operate a motor vehicle.~~ No person shall knowingly cause, authorize, or permit a motor vehicle owned by, or under the control of, such person to be driven or operated upon a highway by anyone who is under the influence of alcohol, any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, or any other drugs, or combination thereof. This provision shall not apply to a spouse of the person who owns or has control of, or a co-owner of, a motor vehicle or to a bailee for hire.

(b) No person shall knowingly cause, authorize or permit a snowmobile or watercraft owned by, or under the control of, such person to be driven or operated within this State by anyone who is under the influence of alcohol, any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, or any combination thereof. This provision shall not apply to a spouse of the person who owns or has control of, or a co-owner of, a snowmobile or watercraft.

(c) Any person convicted of violating this Section shall be guilty of a Class A misdemeanor.

(Source: P.A. 84-1394.)

(625 ILCS 5/6-514) (from Ch. 95 1/2, par. 6-514)

Sec. 6-514. Commercial Driver's License (CDL) - Disqualifications.

(a) A person shall be disqualified from driving a commercial motor vehicle for a period of not less than 12 months for the first violation of:

(1) Refusing to submit to or failure to complete a test or tests to determine the driver's blood concentration of alcohol, other drug, or both, while driving a commercial motor vehicle or, if the driver is a CDL holder, while driving a non-CMV; or

(2) Driving Operating a commercial motor vehicle while the alcohol concentration of the person's blood,

breath or urine is at least 0.04, or any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as indicated by a police officer's sworn report or other verified evidence; or driving operating a non-commercial motor vehicle while the alcohol concentration of the person's blood, breath, or urine was above the legal limit defined in Section 11-501.1, 11-501.6, or 11-501.8 or any amount of a drug, substance, or compound in the person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, or

methamphetamine as listed in the Methamphetamine Control and Community Protection Act as indicated by a police officer's sworn report or other verified evidence while holding a commercial driver's license; or

(3) Conviction for a first violation of:

(i) Driving a commercial motor vehicle or, if the driver is a CDL holder, driving a non-CMV while under the influence of alcohol, or any other drug, or combination of drugs to a degree which renders such person incapable of safely driving; or

(ii) Knowingly and wilfully leaving the scene of an accident while ~~driving operating~~ a commercial

motor vehicle or, if the driver is a CDL holder, while driving a non-CMV; or

(iii) Driving a commercial motor vehicle or, if the driver is a CDL holder, driving a non-CMV while committing any felony; or

(iv) Driving a commercial motor vehicle while the person's driving privileges or driver's license or permit is revoked, suspended, or cancelled or the driver is disqualified from operating a commercial motor vehicle; or

(v) Causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of motor vehicle manslaughter, homicide by a motor vehicle, and negligent homicide.

As used in this subdivision (a)(3)(v), "motor vehicle manslaughter" means the offense of involuntary manslaughter if committed by means of a vehicle; "homicide by a motor vehicle" means the offense of first degree murder or second degree murder, if either offense is committed by means of a vehicle; and "negligent homicide" means reckless homicide under Section 9-3 of the Criminal Code of 1961 and aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof under subdivision (d)(1)(F) of Section 11-501 of this Code.

If any of the above violations or refusals occurred while transporting hazardous material(s) required to be placarded, the person shall be disqualified for a period of not less than 3 years.

(b) A person is disqualified for life for a second conviction of any of the offenses specified in paragraph (a), or any combination of those offenses, arising from 2 or more separate incidents.

(c) A person is disqualified from driving a commercial motor vehicle for life if the person either (i) uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute or dispense a controlled substance or (ii) if the person is a CDL holder, uses a non-CMV in the commission of a felony involving any of those activities.

(d) The Secretary of State may, when the United States Secretary of Transportation so authorizes, issue regulations in which a disqualification for life under paragraph (b) may be reduced to a period of not less than 10 years. If a reinstated driver is subsequently convicted of another disqualifying offense, as specified in subsection (a) of this Section, he or she shall be permanently disqualified for life and shall be ineligible to again apply for a reduction of the lifetime disqualification.

(e) A person is disqualified from driving a commercial motor vehicle for a period of not less than 2 months if convicted of 2 serious traffic violations, committed in a commercial motor vehicle, arising from separate incidents, occurring within a 3 year period. However, a person will be disqualified from driving a commercial motor vehicle for a period of not less than 4 months if convicted of 3 serious traffic violations, committed in a commercial motor vehicle, arising from separate incidents, occurring within a 3 year period.

(e-1) A person is disqualified from driving a commercial motor vehicle for a period of not less than 2 months if convicted of 2 serious traffic violations committed in a non-CMV while holding a CDL, arising from separate incidents, occurring within a 3 year period, if the convictions would result in the suspension or revocation of the CDL holder's non-CMV privileges. A person shall be disqualified from driving a commercial motor vehicle for a period of not less than 4 months, however, if he or she is convicted of 3 or more serious traffic violations committed in a non-CMV while holding a CDL, arising from separate incidents, occurring within a 3 year period, if the convictions would result in the suspension or revocation of the CDL holder's non-CMV privileges.

(f) Notwithstanding any other provision of this Code, any driver disqualified from ~~driving operating~~ a commercial motor vehicle, pursuant to this UCCLA, shall not be eligible for restoration of commercial driving privileges during any such period of disqualification.

(g) After suspending, revoking, or cancelling a commercial driver's license, the Secretary of State must update the driver's records to reflect such action within 10 days. After suspending or revoking the

driving privilege of any person who has been issued a CDL or commercial driver instruction permit from another jurisdiction, the Secretary shall originate notification to such issuing jurisdiction within 10 days.

(h) The "disqualifications" referred to in this Section shall not be imposed upon any commercial motor vehicle driver, by the Secretary of State, unless the prohibited action(s) occurred after March 31, 1992.

(i) A person is disqualified from driving a commercial motor vehicle in accordance with the following:

(1) For 6 months upon a first conviction of paragraph (2) of subsection (b) or subsection (b-3) of Section 6-507 of this Code.

(2) For 2 years upon a second conviction of paragraph (2) of subsection (b) or subsection (b-3) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the second conviction is a violation of paragraph (2) of subsection (b) or subsection (b-3).

(3) For 3 years upon a third or subsequent conviction of paragraph (2) of subsection (b) or subsection (b-3) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the third or subsequent conviction is a violation of paragraph (2) of subsection (b) or subsection (b-3).

(4) For one year upon a first conviction of paragraph (3) of subsection (b) or subsection (b-5) of Section 6-507 of this Code.

(5) For 3 years upon a second conviction of paragraph (3) of subsection (b) or subsection (b-5) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the second conviction is a violation of paragraph (3) of subsection (b) or (b-5).

(6) For 5 years upon a third or subsequent conviction of paragraph (3) of subsection (b) or subsection (b-5) or any combination of paragraphs (2) or (3) of subsection (b) or subsections (b-3) or (b-5) of Section 6-507 of this Code within a 10-year period if the third or subsequent conviction is a violation of paragraph (3) of subsection (b) or (b-5).

(j) Disqualification for railroad-highway grade crossing violation.

(1) General rule. A driver who is convicted of a violation of a federal, State, or local law or regulation pertaining to one of the following 6 offenses at a railroad-highway grade crossing must be disqualified from ~~driving operating~~ a commercial motor vehicle for the period of time specified in paragraph (2) of this subsection (j) if the offense was committed while ~~driving operating~~ a commercial motor vehicle:

(i) For drivers who are not required to always stop, failing to slow down and check that the tracks are clear of an approaching train, as described in subsection (a-5) of Section 11-1201 of this Code;

(ii) For drivers who are not required to always stop, failing to stop before reaching the crossing, if the tracks are not clear, as described in subsection (a) of Section 11-1201 of this Code;

(iii) For drivers who are always required to stop, failing to stop before driving onto the crossing, as described in Section 11-1202 of this Code;

(iv) For all drivers, failing to have sufficient space to drive completely through the crossing without stopping, as described in subsection (b) of Section 11-1425 of this Code;

(v) For all drivers, failing to obey a traffic control device or the directions of an enforcement official at the crossing, as described in subdivision (a)2 of Section 11-1201 of this Code;

(vi) For all drivers, failing to negotiate a crossing because of insufficient undercarriage clearance, as described in subsection (d-1) of Section 11-1201 of this Code.

(2) Duration of disqualification for railroad-highway grade crossing violation.

(i) First violation. A driver must be disqualified from ~~driving operating~~ a commercial motor vehicle for not less than 60 days if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had no convictions for a violation described in paragraph (1) of this subsection (j).

(ii) Second violation. A driver must be disqualified from ~~driving operating~~ a commercial motor vehicle for not less than 120 days if the driver is convicted of a violation described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had one other conviction for a violation described in paragraph (1) of this subsection (j) that was committed in a separate incident.

(iii) Third or subsequent violation. A driver must be disqualified from ~~driving operating~~ a commercial motor vehicle for not less than one year if the driver is convicted of a violation

described in paragraph (1) of this subsection (j) and, in the three-year period preceding the conviction, the driver had 2 or more other convictions for violations described in paragraph (1) of this subsection (j) that were committed in separate incidents.

(k) Upon notification of a disqualification of a driver's commercial motor vehicle privileges imposed by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, in accordance with 49 C.F.R. 383.52, the Secretary of State shall immediately record to the driving record the notice of disqualification and confirm to the driver the action that has been taken.

(Source: P.A. 95-382, eff. 8-23-07; 96-544, eff. 1-1-10.)

(625 ILCS 5/11-501) (from Ch. 95 1/2, par. 11-501)

Sec. 11-501. Driving or operating while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

(a) A person shall not drive, operate, or be in actual physical control of any vehicle, snowmobile, or watercraft within this State while:

(1) the alcohol concentration in the person's blood or breath is 0.08 or more based on the definition of blood and breath units in Section 11-501.2;

(2) under the influence of alcohol;

(3) under the influence of any intoxicating compound or combination of intoxicating compounds to a degree that renders the person incapable of driving a vehicle, operating a snowmobile, or operating a watercraft safely;

(4) under the influence of any other drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle, operating a snowmobile, or operating a watercraft safely;

(5) under the combined influence of alcohol, other drug or drugs, or intoxicating compound or compounds to a degree that renders the person incapable of safely driving a vehicle, operating a snowmobile, or operating a watercraft safely; or

(6) there is any amount of a drug, substance, or compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(b) The fact that any person charged with violating this Section is or has been legally entitled to use alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof, shall not constitute a defense against any charge of violating this Section.

(c) Penalties.

(1) Except as otherwise provided in this Section, any person convicted of violating subsection (a) of this Section is guilty of a Class A misdemeanor.

(2) A person who violates subsection (a) or a similar provision a second time shall be sentenced to a mandatory minimum term of either 5 days of imprisonment or 240 hours of community service in addition to any other criminal or administrative sanction.

(3) A person who violates subsection (a) is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children if the person was transporting a person under the age of 16 at the time of the violation.

(4) A person who violates subsection (a) a first time, if the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 100 hours of community service and a mandatory minimum fine of \$500.

(5) A person who violates subsection (a) a second time, if at the time of the second violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, shall be subject, in addition to any other penalty that may be imposed, to a mandatory minimum of 2 days of imprisonment and a mandatory minimum fine of \$1,250.

(d) Aggravated driving or operating under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof.

(1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving or operating under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

(A) the person committed a violation of subsection (a) or a similar provision for the third or subsequent time;

(B) the person committed a violation of subsection (a) while driving a school bus with persons 18 years of age or younger on board;

(C) the person in committing a violation of subsection (a) was involved in a motor vehicle, snowmobile, or watercraft accident that resulted in great bodily harm or permanent disability or disfigurement to another, when the violation was a proximate cause of the injuries;

(D) the person committed a violation of subsection (a) and has been previously convicted of violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide in which the person was determined to have been under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds as an element of the offense or the person has previously been convicted under subparagraph (C) or subparagraph (F) of this paragraph (1);

(E) the person, in committing a violation of subsection (a) while driving at any speed in a school speed zone at a time when a speed limit of 20 miles per hour was in effect under subsection (a) of Section 11-605 of this Code, was involved in a motor vehicle accident that resulted in bodily harm, other than great bodily harm or permanent disability or disfigurement, to another person, when the violation of subsection (a) was a proximate cause of the bodily harm;

(F) the person, in committing a violation of subsection (a), was involved in a motor vehicle, snowmobile, all-terrain vehicle, or watercraft accident that resulted in the death of another person, when the violation of subsection (a) was a proximate cause of the death;

(G) the person committed a violation of subsection (a) during a period in which the defendant's driving privileges are revoked or suspended, where the revocation or suspension was for a violation of subsection (a) or a similar provision, Section 11-501.1, paragraph (b) of Section 11-401, or for reckless homicide as defined in Section 9-3 of the Criminal Code of 1961;

(H) the person committed the violation while he or she did not possess a driver's license or permit or a restricted driving permit or a judicial driving permit or a monitoring device driving permit as required by law;

(I) the person committed the violation while he or she knew or should have known that the vehicle he or she was driving was not covered by a liability insurance policy;

(J) the person in committing a violation of subsection (a) was involved in a motor vehicle, snowmobile, or watercraft accident that resulted in bodily harm, but not great bodily harm, to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury; or

(K) the person in committing a second violation of subsection (a) or a similar provision was transporting a person under the age of 16.

(2)(A) Except as provided otherwise, a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony.

(B) A third violation of this Section or a similar provision is a Class 2 felony. If at the time of the third violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the third violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(C) A fourth violation of this Section or a similar provision is a Class 2 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fourth violation, the defendant was transporting a person under the age of 16 a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(D) A fifth violation of this Section or a similar provision is a Class 1 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the fifth violation, the defendant was transporting a person under the age of 16, a mandatory fine of

\$25,000, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(E) A sixth or subsequent violation of this Section or similar provision is a Class X felony. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. If at the time of the violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(F) For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years.

(G) A violation of subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (i) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (ii) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

(H) For a violation of subparagraph (J) of paragraph (1) of this subsection (d), a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(I) A violation of subparagraph (K) of paragraph (1) of this subsection (d), is a Class 2 felony and a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction. If the child being transported suffered bodily harm, but not great bodily harm, in a motor vehicle, snowmobile, or watercraft accident, and the violation was the proximate cause of that injury, a mandatory fine of \$5,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(J) A violation of subparagraph (D) of paragraph (1) of this subsection (d) is a Class 3 felony, for which a sentence of probation or conditional discharge may not be imposed.

(3) Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge in addition to any other criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(f) The imposition of a mandatory term of imprisonment or assignment of community service for a violation of this Section shall not be suspended or reduced by the court.

(g) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

(Source: P.A. 95-149, eff. 8-14-07; 95-355, eff. 1-1-08; 95-400, eff. 1-1-09; 95-578, eff. 6-1-08; 95-778, eff. 8-4-08; 95-876, eff. 8-21-08; 96-289, eff. 8-11-09.)  
(625 ILCS 5/11-501.01)

Sec. 11-501.01. Additional administrative sanctions.

(a) After a finding of guilt and prior to any final sentencing or an order for supervision, for an offense based upon an arrest for a violation of Section 11-501 or a similar provision of a local ordinance, individuals shall be required to undergo a professional evaluation to determine if an alcohol, drug, or intoxicating compound abuse problem exists and the extent of the problem, and undergo the imposition of treatment as appropriate. Programs conducting these evaluations shall be licensed by the Department of Human Services. The cost of any professional evaluation shall be paid for by the individual required to undergo the professional evaluation.

(b) Any person who is found guilty of or pleads guilty to violating Section 11-501, including any person receiving a disposition of court supervision for violating that Section, may be required by the Court to attend a victim impact panel offered by, or under contract with, a county State's Attorney's office, a probation and court services department, Mothers Against Drunk Driving, or the Alliance

Against Intoxicated Motorists. All costs generated by the victim impact panel shall be paid from fees collected from the offender or as may be determined by the court.

(c) Every person found guilty of violating Section 11-501, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of that Section proximately caused any incident resulting in an appropriate emergency response, shall be liable for the expense of an emergency response as provided in subsection (i) of this Section.

(d) ~~(Blank). The Secretary of State shall revoke the driving privileges of any person convicted under Section 11-501 or a similar provision of a local ordinance.~~

(e) The Secretary of State shall require the use of ignition interlock devices on all motor vehicles owned by a person who has been convicted of a second or subsequent offense of Section 11-501 or a similar provision of a local ordinance. The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$30 for each month that he or she uses the device. The Secretary shall establish by rule and regulation the procedures for certification and use of the interlock system, the amount of the fee, and the procedures, terms, and conditions relating to these fees.

(f) In addition to any other penalties and liabilities, a person who is found guilty of or pleads guilty to violating Section 11-501, including any person placed on court supervision for violating Section 11-501, shall be assessed \$500, payable to the circuit clerk, who shall distribute the money as follows: 20% to the law enforcement agency that made the arrest, and 80% shall be forwarded to the State Treasurer for deposit into the General Revenue Fund. If the person has been previously convicted of violating Section 11-501 or a similar provision of a local ordinance, the fine shall be \$1,000. In the event that more than one agency is responsible for the arrest, the amount payable to law enforcement agencies shall be shared equally. Any moneys received by a law enforcement agency under this subsection (f) shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State. This shall include, but is not limited to, in-car video cameras, radar and laser speed detection devices, and alcohol breath testers. Any moneys received by the Department of State Police under this subsection (f) shall be deposited into the State Police DUI Fund and shall be used to purchase law enforcement equipment that will assist in the prevention of alcohol related criminal violence throughout the State.

(g) The Secretary of State Police DUI Fund is created as a special fund in the State treasury. All moneys received by the Secretary of State Police under subsection (f) of this Section shall be deposited into the Secretary of State Police DUI Fund and, subject to appropriation, shall be used to purchase law enforcement equipment to assist in the prevention of alcohol related criminal violence throughout the State.

(h) Whenever an individual is sentenced for an offense based upon an arrest for a violation of Section 11-501 or a similar provision of a local ordinance, and the professional evaluation recommends remedial or rehabilitative treatment or education, neither the treatment nor the education shall be the sole disposition and either or both may be imposed only in conjunction with another disposition. The court shall monitor compliance with any remedial education or treatment recommendations contained in the professional evaluation. Programs conducting alcohol or other drug evaluation or remedial education must be licensed by the Department of Human Services. If the individual is not a resident of Illinois, however, the court may accept an alcohol or other drug evaluation or remedial education program in the individual's state of residence. Programs providing treatment must be licensed under existing applicable alcoholism and drug treatment licensure standards.

(i) In addition to any other fine or penalty required by law, an individual convicted of a violation of Section 11-501, Section 5-7 of the Snowmobile Registration and Safety Act prior to the effective date of this amendatory Act of the 96th General Assembly, Section 5-16 of the Boat Registration and Safety Act prior to the effective date of this amendatory Act of the 96th General Assembly, or a similar provision, whose operation of a motor vehicle, snowmobile, or watercraft while in violation of Section 11-501, Section 5-7 of the Snowmobile Registration and Safety Act prior to the effective date of this amendatory Act of the 96th General Assembly, Section 5-16 of the Boat Registration and Safety Act prior to the effective date of this amendatory Act of the 96th General Assembly, or a similar provision proximately caused an incident resulting in an appropriate emergency response, shall be required to make restitution to a public agency for the costs of that emergency response. The restitution may not exceed \$1,000 per public agency for each emergency response. As used in this subsection (i), "emergency response" means any incident requiring a response by a police officer, a firefighter carried on the rolls of a regularly constituted fire department, or an ambulance.

(Source: P.A. 95-578, eff. 6-1-08; 95-848, eff. 1-1-09.)

(625 ILCS 5/11-501.1) (from Ch. 95 1/2, par. 11-501.1)

Sec. 11-501.1. Suspension of drivers license, snowmobile operating privileges, and watercraft

~~operating privileges; statutory summary alcohol, other drug or drugs, or intoxicating compound or compounds related suspension; implied consent.~~

(a) Any person who (1) drives or is in actual physical control of a motor vehicle upon the public highways of this State, (2) operates or is in actual physical control of a snowmobile in this State, or (3) ~~operates or is in actual physical control of any watercraft upon the waters of this State~~ shall be deemed to have given consent, subject to the provisions of Section 11-501.2, to a chemical test or tests of blood, breath, or urine for the purpose of determining the content of alcohol, other drug or drugs, or intoxicating compound or compounds or any combination thereof in the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket or Illinois Conservation Citation and Complaint, for any offense as defined in Section 11-501 or a similar provision of a local ordinance, or if arrested for violating Section 11-401.

(1) The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

(2) For purposes of this Section, an Illinois law enforcement officer of this State who is investigating the person for any offense defined in Section 11-501 may travel into an adjoining state, where the person has been transported for medical care, to complete an investigation and to request that the person submit to the test or tests set forth in this Section. The requirements of this Section that the person be arrested are inapplicable, but the officer shall issue the person a Uniform Traffic Ticket or Illinois Conservation Citation and Complaint for an offense as defined in Section 11-501 or a similar provision of a local ordinance prior to requesting that the person submit to the test or tests. The issuance of the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint shall not constitute an arrest, but shall be for the purpose of notifying the person that he or she is subject to the provisions of this Section and of the officer's belief of the existence of probable cause to arrest. Upon returning to this State, the officer shall file the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint with the Circuit Clerk of the county where the offense was committed, and shall seek the issuance of an arrest warrant or a summons for the person.

(b) Any person who is dead, unconscious, or who is otherwise in a condition rendering the person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section and the test or tests may be administered, subject to the provisions of Section 11-501.2.

(c) A person requested to submit to a test as provided above who was driving or in actual physical control of a motor vehicle on the public highways shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test or if the person submits to a test or tests provided in paragraph (a) of this Section that discloses an alcohol concentration in the person's blood or breath of 0.08 or greater, or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is detected in the person's blood or urine will result in the statutory summary suspension of the person's privilege to ~~drive operate~~ a motor vehicle, operate a snowmobile, and operate a watercraft, as provided in Section 6-208.1 of this Code, and will also result in the disqualification of the person's privilege to ~~drive operate~~ a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL holder. ~~The person shall also be warned by the law enforcement officer that if the person submits to the test or tests provided in paragraph (a) of this Section and the alcohol concentration in the person's blood or breath is 0.08 or greater, or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is detected in the person's blood or urine, a statutory summary suspension of the person's privilege to operate a motor vehicle, as provided in Sections 6-208.1 and 11-501.1 of this Code, and a disqualification of the person's privilege to operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL holder, will be imposed.~~

(c-2) A person requested to submit to a test as provided above who was operating a snowmobile or watercraft on public property shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test or if the person submits to the test or tests provided in paragraph (a) of this Section that discloses an alcohol concentration in the person's blood or breath of 0.08 or greater, or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis

as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is detected in the person's blood or urine will result in the statutory summary suspension of the person's privilege to drive a motor vehicle, operate a snowmobile, and operate a watercraft as provided in Section 6-208.1 of this Code.

(c-4) A person requested to submit to a test as provided above who was operating a snowmobile or watercraft on private property shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test or if the person submits to the test or tests provided in paragraph (a) of this Section that discloses an alcohol concentration of the person's blood or breath is 0.08 or greater, or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is detected in the person's blood or urine will result in the statutory summary suspension of the person's privilege to operate a snowmobile and watercraft as provided in Section 6-208.1 of this Code.

(c-6) A person who is under the age of 21 at the time the person is requested to submit to a test as provided above shall, in addition to the warnings provided for in this Section, be further warned by the law enforcement officer requesting the test that if the person submits to the test or tests provided in paragraph (a) of this Section and the alcohol concentration in the person's blood or breath is greater than 0.00 and less than 0.08, a suspension of the person's privilege to ~~drive~~ operate a motor vehicle, operate a snowmobile, and operate a watercraft, as provided under Sections 6-208.2 and 11-501.8 of this Code, will be imposed.

(c-8) The results of a ~~this~~ test administered under this Section shall be admissible in a civil or criminal action or proceeding arising from an arrest for an offense as defined in Section 11-501 of this Code or a similar provision of a local ordinance or pursuant to Section 11-501.4 in prosecutions for reckless homicide brought under the Criminal Code of 1961. These test results, however, shall be admissible only in actions or proceedings directly related to the incident upon which the test request was made.

(d) If the person refuses testing or submits to a test that discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in the person's breath, blood, or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, the law enforcement officer shall immediately submit a sworn report to the circuit court of venue, the Department of Natural Resources, and the Secretary of State, certifying that the test or tests was or were requested under paragraph (a) and the person refused to submit to a test, or tests, or submitted to testing that disclosed an alcohol concentration of 0.08 or more.

(e) Upon receipt of the sworn report of a law enforcement officer submitted under paragraph (d), the Secretary of State shall enter the statutory summary suspension and, if applicable, disqualification of driving privileges if the sworn reports indicates the offense occurred on public property, and the Department of Natural Resources shall enter the statutory summary suspension of snowmobile and watercraft privileges for the periods specified in Sections 6-208.1 and 6-514, respectively, and effective as provided in paragraph (g). Upon receipt of the sworn report of a law enforcement officer submitted under paragraph (d) indicating the offense took place on private property, the Secretary of State shall not enter a statutory summary suspension of driving privileges, but the Department of Natural Resources shall enter the statutory summary suspension of snowmobile and watercraft operating privileges for the period of time specified in Section 6-208.1.

If the person is a first offender as defined in Section 11-500 of this Code, and is not convicted of a violation of Section 11-501 of this Code or a similar provision of a local ordinance, then reports received by the Secretary of State and the Department of Natural Resources under this Section shall, except during the actual time the statutory summary suspension ~~Statutory Summary Suspension~~ is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the Department of Natural Resources, or the Secretary of State. However, beginning January 1, 2008, if the person is a CDL holder, the statutory summary suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request. Reports received by the Secretary of State under this Section shall also be made available to the parent or guardian of a person under the age of 18 years that holds an instruction permit or a graduated driver's license, regardless of whether the statutory suspension is in effect.

(f) The law enforcement officer submitting the sworn report under paragraph (d) shall serve immediate notice of the statutory summary suspension on the person and the suspension and, if applicable, disqualification shall be effective as provided in paragraph (g). In cases where the blood alcohol concentration of 0.08 or greater or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act is established by a subsequent analysis of blood or urine collected at the time of arrest, the arresting officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of the notice in an envelope with postage prepaid and addressed to the person at his address as shown on the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint and the statutory summary suspension and, if applicable, disqualification shall begin as provided in paragraph (g). The officer shall confiscate any Illinois driver's license or permit on the person at the time of arrest. If the person has a valid driver's license or permit, the officer shall issue the person a receipt, in a form prescribed by the Secretary of State, that will allow that person to drive during the periods provided for in paragraph (g). The officer shall immediately forward the driver's license or permit to the circuit court of venue along with the sworn report provided for in paragraph (d).

(g) The statutory summary suspension and, if applicable, disqualification referred to in this Section shall take effect on the 46th day following the date the notice of the statutory summary suspension was given to the person.

(h) To provide notice to the court and the person as to whether the person is a first offender, the ~~The~~ following procedure shall apply whenever a person is arrested for any offense as defined in Section 11-501 or a similar provision of a local ordinance:

Upon receipt of the sworn report from the law enforcement officer indicating the offense took place on public property, the Secretary of State shall confirm the statutory summary suspension of driving, snowmobile operating, and watercraft operating privileges by mailing a notice of the effective date of the suspension to the person, the Department of Natural Resources, and the court of venue. If applicable, the ~~The~~ Secretary of State shall also mail notice of the effective date of the disqualification to the person. If the sworn report from the law enforcement officer indicates the offense took place on private property, the Department of Natural Resources shall confirm the statutory summary suspension of snowmobile and watercraft privileges by mailing a notice of the effective date of the suspension to the person and court of venue. However, should the sworn report be defective by not containing sufficient information or be completed in error, the confirmation of the statutory summary suspension shall not be mailed to the person or entered to the record; instead, the sworn report shall be forwarded to the court of venue with a copy returned to the issuing agency identifying any defect. The issuing law enforcement agency may cure a sworn report returned as defective by either completing a new sworn report or amending the defective report. The law enforcement officer shall give notice of the new or amended sworn report to the person by personal service or by depositing a copy of the new or amended sworn report in the United States mail with postage prepaid and addressed to such person at his address as shown on the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint. The suspension and, if applicable, disqualification shall be effective on the 46th day following the date notice was given.

(Source: P.A. 94-115, eff. 1-1-06; 95-201, eff. 1-1-08; 95-382, eff. 8-23-07; 95-876, eff. 8-21-08.)

(625 ILCS 5/11-501.2) (from Ch. 95 1/2, par. 11-501.2)

Sec. 11-501.2. Chemical and other tests.

(a) Upon the trial of any civil or criminal action or proceeding arising out of an arrest for an offense as defined in Section 11-501 or a similar local ordinance or proceedings pursuant to Section 2-118.1, evidence of the concentration of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof in a person's blood or breath at the time alleged, as determined by analysis of the person's blood, urine, breath or other bodily substance, shall be admissible. Where such test is made the following provisions shall apply:

1. Chemical analyses of the person's blood, urine, breath or other bodily substance to be considered valid under the provisions of this Section shall have been performed according to standards promulgated by the Department of State Police by a licensed physician, registered nurse, trained phlebotomist, certified paramedic, or other individual possessing a valid permit issued by that Department for this purpose. The Director of State Police is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct such analyses, to issue permits which shall be subject to termination or revocation at the discretion of that Department and to certify the accuracy of breath testing equipment. The Department of State Police shall prescribe regulations as necessary to implement this Section.

2. When a person in this State shall submit to a blood test at the request of a law enforcement officer under the provisions of Section 11-501.1, only a physician authorized to practice medicine, a registered nurse, trained phlebotomist, or certified paramedic, or other qualified person approved by the Department of State Police may withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content therein. This limitation shall not apply to the taking of breath or urine specimens.

When a blood test of a person who has been taken to an adjoining state for medical treatment is requested by an Illinois law enforcement officer, the blood may be withdrawn only by a physician authorized to practice medicine in the adjoining state, a registered nurse, a trained phlebotomist acting under the direction of the physician, or certified paramedic. The law enforcement officer requesting the test shall take custody of the blood sample, and the blood sample shall be analyzed by a laboratory certified by the Department of State Police for that purpose.

3. The person tested may have a physician, or a qualified technician, chemist, registered nurse, or other qualified person of their own choosing administer a chemical test or tests in addition to any administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the admission of evidence relating to the test or tests taken at the direction of a law enforcement officer.

4. Upon the request of the person who shall submit to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to the person or such person's attorney.

5. Alcohol concentration shall mean either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

(b) Upon the trial of any civil or criminal action or proceeding arising out of acts alleged to have been committed by any person while driving, operating, or in actual physical control of a vehicle, snowmobile, or watercraft while under the influence of alcohol, the concentration of alcohol in the person's blood or breath at the time alleged as shown by analysis of the person's blood, urine, breath, or other bodily substance shall give rise to the following presumptions:

1. If there was at that time an alcohol concentration of 0.05 or less, it shall be presumed that the person was not under the influence of alcohol.

2. If there was at that time an alcohol concentration in excess of 0.05 but less than 0.08, such facts shall not give rise to any presumption that the person was or was not under the influence of alcohol, but such fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol.

3. If there was at that time an alcohol concentration of 0.08 or more, it shall be presumed that the person was under the influence of alcohol.

4. The foregoing provisions of this Section shall not be construed as limiting the introduction of any other relevant evidence bearing upon the question whether the person was under the influence of alcohol.

(c) 1. If a person under arrest refuses to submit to a chemical test under the provisions of Section 11-501.1, evidence of refusal shall be admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof was driving, operating, or in actual physical control of a motor vehicle, snowmobile, or watercraft.

2. Notwithstanding any ability to refuse under this Code to submit to these tests or any ability to revoke the implied consent to these tests, if a law enforcement officer has probable cause to believe that a motor vehicle, snowmobile, or watercraft driven or operated by or in actual physical control of a person under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof has caused the death or personal injury to another, that person shall submit, upon the request of a law enforcement officer, to a chemical test or tests of his or her blood, breath or urine for the purpose of determining the alcohol content thereof or the presence of any other drug or combination of both.

This provision does not affect the applicability of or imposition of driver's license, snowmobile operating, or watercraft operating sanctions under Section 11-501.1 of this Code.

3. For purposes of this Section, a personal injury includes any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or a medical facility. A Type A injury includes severe bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(Source: P.A. 96-289, eff. 8-11-09.)

(625 ILCS 5/11-501.5) (from Ch. 95 1/2, par. 11-501.5)

Sec. 11-501.5. Preliminary Breath Screening Test.

(a) If a law enforcement officer has reasonable suspicion to believe that a person is violating or has violated Section 11-501 or a similar provision of a local ordinance, the officer, prior to an arrest, may request the person to provide a sample of his or her breath for a preliminary breath screening test using a portable device approved by the Department of State Police. The person may refuse the test. The results of this preliminary breath screening test may be used by the law enforcement officer for the purpose of assisting with the determination of whether to require a chemical test as authorized under Sections 11-501.1 and 11-501.2, and the appropriate type of test to request. Any chemical test authorized under Sections 11-501.1 and 11-501.2 may be requested by the officer regardless of the result of the preliminary breath screening test, if probable cause for an arrest exists. The result of a preliminary breath screening test may be used by the defendant as evidence in any administrative or court proceeding involving a violation of Section 11-501 or 11-501.1.

(b) ~~(Blank). The Department of State Police shall create a pilot program to establish the effectiveness of pupillometer technology (the measurement of the pupil's reaction to light) as a noninvasive technique to detect and measure possible impairment of any person who drives or is in actual physical control of a motor vehicle resulting from the suspected usage of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof. This technology shall also be used to detect fatigue levels of the operator of a Commercial Motor Vehicle as defined in Section 6-500(6), pursuant to Section 18b-105 (Part 395 Hours of Service of Drivers) of the Illinois Vehicle Code. A State Police officer may request that the operator of a commercial motor vehicle have his or her eyes examined or tested with a pupillometer device. The person may refuse the examination or test. The State Police officer shall have the device readily available to limit undue delays.~~

~~If a State Police officer has reasonable suspicion to believe that a person is violating or has violated Section 11-501, the officer may use the pupillometer technology, when available. The officer, prior to an arrest, may request the person to have his or her eyes examined or tested with a pupillometer device. The person may refuse the examination or test. The results of this examination or test may be used by the officer for the purpose of assisting with the determination of whether to require a chemical test as authorized under Sections 11-501.1 and 11-501.2 and the appropriate type of test to request. Any chemical test authorized under Sections 11-501.1 and 11-501.2 may be requested by the officer regardless of the result of the pupillometer examination or test, if probable cause for an arrest exists. The result of the examination or test may be used by the defendant as evidence in any administrative or court proceeding involving a violation of 11-501 or 11-501.1.~~

~~The pilot program shall last for a period of 18 months and involve the testing of 15 pupillometer devices. Within 90 days of the completion of the pilot project, the Department of State Police shall file a report with the President of the Senate and Speaker of the House evaluating the project.~~

~~(Source: P.A. 91-828, eff. 1-1-01; 91-881, eff. 6-30-00; 92-16, eff. 6-28-01.)~~

(625 ILCS 5/11-501.6) (from Ch. 95 1/2, par. 11-501.6)

Sec. 11-501.6. Driver or operator involvement in personal injury or fatal motor vehicle, snowmobile, or watercraft accident - chemical test.

(a) Any person who (1) drives or is in actual physical control of a motor vehicle upon the public highways of this State, (2) operates or is in actual physical control of a snowmobile in this State, or (3) operates or is in actual physical control of a watercraft upon the waters of this State, and who has been involved in a personal injury or fatal motor vehicle, snowmobile, or watercraft accident, shall be deemed to have given consent to a breath test using a portable device as approved by the Department of State Police or to a chemical test or tests of blood, breath, or urine for the purpose of determining the content of alcohol, other drug or drugs, or intoxicating compound or compounds of such person's blood if arrested as evidenced by the issuance of a Uniform Traffic Ticket or Illinois Conservation Citation and Complaint for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, with the exception of equipment violations contained in Chapter 12 of this Code, any violation of Article V of the Illinois Snowmobile Registration and Safety Act, or any violation of Article V of the Illinois Boat Registration and Safety Act or similar provisions of local ordinances. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered. Compliance with this Section does not relieve such person from the requirements of Section 11-501.1 of this Code.

(b) Any person who is dead, unconscious or who is otherwise in a condition rendering such person incapable of refusal shall be deemed not to have withdrawn the consent provided by subsection (a) of this Section. In addition, if a driver or operator of a motor vehicle, snowmobile, or watercraft is

receiving medical treatment as a result of a motor vehicle, snowmobile, or watercraft accident, any physician licensed to practice medicine, registered nurse or a phlebotomist acting under the direction of a licensed physician shall withdraw blood for testing purposes to ascertain the presence of alcohol, other drug or drugs, or intoxicating compound or compounds, upon the specific request of a law enforcement officer. However, no such testing shall be performed until, in the opinion of the medical personnel on scene, the withdrawal can be made without interfering with or endangering the well-being of the patient.

(c) A person requested to submit to a test as provided above, who was driving or in actual physical control a motor vehicle on the public highways, shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound resulting from the unlawful use or consumption of cannabis, as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as detected in such person's blood or urine, may result in the suspension of such person's privilege to ~~drive~~ operate a motor vehicle, operate a snowmobile, and operate a watercraft and may result in the disqualification of the person's privilege to drive operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL holder. The length of the suspension shall be the same as outlined in Section 6-208.1 of this Code regarding statutory summary suspensions.

(c-3) A person requested to submit to a test as provided above, who was operating a snowmobile or watercraft on public property, shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound resulting from the unlawful use or consumption of cannabis, as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as detected in such person's blood or urine, may result in the suspension of such person's privilege to drive a motor vehicle, operate a snowmobile, and operate a watercraft. The length of the suspension shall be the same as outlined in Section 6-208.1 of this Code regarding statutory summary suspensions.

(c-6) A person requested to submit to a test as provided above, who was operating a snowmobile or watercraft on private property, shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound resulting from the unlawful use or consumption of cannabis, as covered by the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act as detected in such person's blood or urine, may result in the suspension of such person's privilege to operate a snowmobile and watercraft. The length of the suspension shall be the same as outlined in Section 6-208.1 of this Code regarding statutory summary suspensions.

(d)(1) If the person refuses testing or submits to a test which discloses an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in such person's blood or urine resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, the law enforcement officer shall immediately submit a sworn report to the Secretary of State and Department of Natural Resources on a form prescribed by the Secretary, certifying that the test or tests were requested pursuant to subsection (a) and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound in such person's blood or urine, resulting from the unlawful use or consumption of cannabis listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act.

(2) Upon receipt of the sworn report of a law enforcement officer, the Secretary shall enter the suspension and, if applicable, disqualification of driving privileges if the sworn report indicates the offense occurred on public property, to the individual's driving record and the Department of Natural Resources shall enter the suspension of snowmobile and watercraft privileges and the suspension and disqualification shall be effective on the 46th day following the date notice of the suspension was given

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to the person.

(3) Upon receipt of the sworn report of a law enforcement officer that indicates the offense took place on private property, the Secretary of State shall not enter a suspension or disqualification of driving privileges, and the Department of Natural Resources shall enter the suspension of snowmobile and watercraft operating privileges.

(4) The law enforcement officer submitting the sworn report shall serve immediate notice of this suspension on the person and such suspension and disqualification shall be effective on the 46th day following the date notice was given.

(5) In cases where the blood alcohol concentration of 0.08 or more, or any amount of a drug, substance, or intoxicating compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance listed in the Illinois Controlled Substances Act, an intoxicating compound listed in the Use of Intoxicating Compounds Act, or methamphetamine as listed in the Methamphetamine Control and Community Protection Act, is established by a subsequent analysis of blood or urine collected at the time of arrest, the arresting officer shall give notice as provided in this Section or by deposit in the United States mail of such notice in an envelope with postage prepaid and addressed to such person at his address as shown on the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint and the suspension and, if applicable, disqualification shall be effective on the 46th day following the date notice was given.

(6) Upon receipt of the sworn report of a law enforcement officer indicating the offense occurred on public property, the Secretary shall ~~also~~ give notice of the suspension of driving, snowmobile operating, and watercraft operating privileges and, if applicable, disqualification to the driver by mailing a notice of the effective date of the suspension and disqualification to the individual. If the sworn report indicates the offense occurred on private property, the Department of Natural Resources shall give notice of the suspension of snowmobile and watercraft operating privileges. However, should the sworn report be defective by not containing sufficient information or be completed in error, the notice of the suspension and disqualification shall not be mailed to the person or entered to the driving record, but rather the sworn report shall be returned to the issuing law enforcement agency. The issuing law enforcement agency may cure a sworn report returned as defective by either completing a new sworn report or amending the defective report. The law enforcement officer shall give notice of the new or amended sworn report to the person by personal service or by depositing a copy of the new or amended sworn report in the United States mail with postage prepaid and addressed to such person at his address as shown on the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint. The suspension and, if applicable, disqualification, shall be effective on the 46th day following the date notice was given.

(e) If the person was driving a motor vehicle when involved in an accident resulting in personal injury or fatality, the person ~~A driver~~ may contest this suspension of his or her driving, snowmobile operating, and watercraft operating privileges and disqualification of his or her CDL privileges by requesting an administrative hearing with the Secretary in accordance with Section 2-118 of this Code. At the conclusion of a hearing held under Section 2-118 of this Code, the Secretary may rescind, continue, or modify the orders of suspension and disqualification. If rescission is granted, driving, snowmobile operating, and watercraft operating privileges shall be restored. The Secretary shall notify the Department of Natural Resources if the suspension and disqualification are rescinded. If the Secretary does not rescind the orders of suspension and disqualification, a restricted driving permit to drive a motor vehicle may be granted by the Secretary upon application being made and good cause shown. A restricted driving permit may be granted to relieve undue hardship in accordance with to allow driving for employment, educational, and medical purposes as outlined in Section 6-206 of this Code. ~~The provisions of Section 6-206 of this Code shall apply.~~ In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit to drive for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified.

(e-5) If the person was operating a snowmobile or watercraft when involved in an accident resulting in personal injury or fatality, that person may contest this suspension of his or her driving, snowmobile operating, and watercraft operating privileges by requesting an administrative hearing with the Department of Natural Resources. The Department of Natural Resources shall have all authority provided for in Section 2-118 of this Code when conducting these hearings. At the conclusion of a hearing, the Department of Natural Resources may rescind, continue or modify the order of suspension. If rescission is granted, driving, snowmobile operating, and watercraft operating privileges shall be restored. The Department of Natural Resources shall notify the Secretary if the suspension is rescinded. If the Department of Natural Resources does not rescind the order of suspension and the person wishes

to apply for a restricted driving permit to drive a motor vehicle, the person must make such application to the Secretary of State. A restricted driving permit may be granted to relieve undue hardship in accordance with Section 6-206 of this Code. In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit for the operation of a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled, or disqualified.

(f) (Blank).

(g) For the purposes of this Section, a personal injury shall include any type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or a medical facility. A type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

(Source: P.A. 95-382, eff. 8-23-07.)

(625 ILCS 5/11-501.8)

Sec. 11-501.8. Suspension of driver's license, snowmobile operating privileges, and watercraft operating privileges; persons under age 21.

(a) A person who is less than 21 years of age and who (1) drives or is in actual physical control of a motor vehicle upon the public highways of this State, (2) operates or is in actual physical control of a snowmobile in this State, or (3) operates or is in actual physical control of a watercraft upon the waters of this State shall be deemed to have given consent to a chemical test or tests of blood, breath, or urine for the purpose of determining the alcohol content of the person's blood if arrested, as evidenced by the issuance of a Uniform Traffic Ticket or an Illinois Conservation Citation and Complaint for any violation of the Illinois Vehicle Code or a similar provision of a local ordinance, if a police officer has probable cause to believe that the driver or operator has consumed any amount of an alcoholic beverage based upon evidence of the driver's or operator's physical condition or other first hand knowledge of the police officer. The test or tests shall be administered at the direction of the arresting officer. The law enforcement agency employing the officer shall designate which of the aforesaid tests shall be administered. A urine test may be administered even after a blood or breath test or both has been administered.

(b) A person who is dead, unconscious, or who is otherwise in a condition rendering that person incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this Section, and the test or tests may be administered subject to the following provisions:

~~(i) Chemical analysis of the person's blood, urine, breath, or other bodily substance, to be considered valid under the provisions of this Section, shall have been performed according to standards promulgated by the Department of State Police by an individual possessing a valid permit issued by that Department for this purpose. The Director of State Police is authorized to approve satisfactory techniques or methods, to ascertain the qualifications and competence of individuals to conduct analyses, to issue permits that shall be subject to termination or revocation at the direction of that Department, and to certify the accuracy of breath testing equipment. The Department of State Police shall prescribe regulations as necessary.~~

~~(ii) When a person submits to a blood test at the request of a law enforcement officer under the provisions of this Section, only a physician authorized to practice medicine, a registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician may withdraw blood for the purpose of determining the alcohol content therein. This limitation does not apply to the taking of breath or urine specimens.~~

~~(iii) The person tested may have a physician, qualified technician, chemist, registered nurse, or other qualified person of his or her own choosing administer a chemical test or tests in addition to any test or tests administered at the direction of a law enforcement officer. The failure or inability to obtain an additional test by a person shall not preclude the consideration of the previously performed chemical test.~~

~~(iv) Upon a request of the person who submits to a chemical test or tests at the request of a law enforcement officer, full information concerning the test or tests shall be made available to the person or that person's attorney.~~

~~(v) Alcohol concentration means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.~~

~~(vi) If a driver is receiving medical treatment as a result of a motor vehicle accident, a physician licensed to practice medicine, registered nurse, or other qualified person trained in venipuncture and acting under the direction of a licensed physician shall withdraw blood for testing purposes to ascertain the presence of alcohol upon the specific request of a law enforcement officer. However, that testing shall not be performed until, in the opinion of the medical personnel on scene, the withdrawal can be made without interfering with or endangering the well-being of the patient.~~

(b-5) Chemical analysis of the person's blood, urine, breath or bodily substance shall be conducted in accordance with Section 11-501.2 of this Code.

(c) A person requested to submit to a test as provided above who was driving or in actual physical control a motor vehicle on public property shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to drive operate a motor vehicle, operate a snowmobile, and operate a watercraft and may result in the disqualification of the person's privilege to drive operate a commercial motor vehicle, as provided in Section 6-514 of this Code, if the person is a CDL holder. The loss of driving, snowmobile operating, and watercraft operating privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(c-3) A person requested to submit to a test as provided above who was operating a snowmobile or watercraft on public property shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to drive a motor vehicle, operate a snowmobile, and operate a watercraft. The loss of driving, snowmobile operating, and watercraft operating privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(c-6) A person requested to submit to a test as provided above who was operating a snowmobile or watercraft on private property shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test, or submission to the test resulting in an alcohol concentration of more than 0.00, may result in the loss of that person's privilege to operate a snowmobile and watercraft. The loss of snowmobile and watercraft operating privileges shall be imposed in accordance with Section 6-208.2 of this Code.

(d)(1) If the person refuses testing or submits to a test that discloses an alcohol concentration of more than 0.00, the law enforcement officer shall immediately submit a sworn report to the Secretary of State and Department of Natural Resources on a form prescribed by the Secretary of State, certifying that the test or tests were requested under subsection (a) and the person refused to submit to a test or tests or submitted to testing which disclosed an alcohol concentration of more than 0.00. The law enforcement officer shall submit the same sworn report when a person under the age of 21 submits to testing under Section 11-501.1 of this Code and the testing discloses an alcohol concentration of more than 0.00 and less than 0.08.

(2) Upon receipt of the sworn report of a law enforcement officer, the Secretary of State shall enter the suspension of driving privileges and, if applicable, disqualification, if the offense occurred on public property, on the individual's driving record, and the Department of Natural Resources shall enter the suspension of snowmobile and watercraft operating privileges and the suspension and disqualification shall be effective on the 46th day following the date notice of the suspension was given to the person. If this suspension is the individual's first driver's license suspension under this Section, reports received by the Secretary of State and Department of Natural Resources under this Section shall, except during the time the suspension is in effect, be privileged information and for use only by the courts, police officers, prosecuting authorities, the Secretary of State, the Department of Natural Resources, or the individual personally. However, beginning January 1, 2008, if the person is a CDL holder, the report of suspension shall also be made available to the driver licensing administrator of any other state, the U.S. Department of Transportation, and the affected driver or motor carrier or prospective motor carrier upon request. Reports received by the Secretary of State under this Section shall also be made available to the parent or guardian of a person under the age of 18 years that holds an instruction permit or a graduated driver's license, regardless of whether the suspension is in effect.

(3) The law enforcement officer submitting the sworn report shall serve immediate notice of this suspension on the person and the suspension and disqualification shall be effective on the 46th day following the date notice was given.

(4) In cases where the blood alcohol concentration of more than 0.00 is established by a subsequent analysis of blood or urine, the police officer or arresting agency shall give notice as provided in this Section or by deposit in the United States mail of that notice in an envelope with postage prepaid and addressed to that person at his last known address and the loss of driving, snowmobile operating, and watercraft operating privileges shall be effective on the 46th day following the date notice was given.

(5) Upon receipt of the sworn report of a law enforcement officer indicating the offense occurred on public property, the Secretary of State shall ~~also~~ give notice of the suspension and, if applicable, disqualification of snowmobile and watercraft operating privileges ~~to the driver~~ by mailing a notice of the effective date of the suspension and disqualification to the individual. If the sworn report indicates the offense occurred on private property, the Department of Natural Resources shall give notice to the driver of the suspension of snowmobile and watercraft operating privileges. However, should the sworn

report be defective by not containing sufficient information or be completed in error, the notice of the suspension and disqualification shall not be mailed to the person or entered to the driving record, but rather the sworn report shall be returned to the issuing law enforcement agency. The issuing law enforcement agency may cure a sworn report returned as effective by either completing a new sworn report or amending the defective report. The law enforcement officer shall give notice of the new or amended sworn report to the person by personal service or by depositing a copy of the new or amended sworn report in the United States mail with postage prepaid and addressed to such person at his address as shown on the Uniform Traffic Ticket or Illinois Conservation Citation and Complaint. The suspension and, if applicable, disqualification shall be effective on the 46th day following the date notice was given.

(e) If the person was operating a motor vehicle, the person ~~A driver~~ may contest this suspension and disqualification of driving privileges and the suspension of snowmobile and watercraft operating privileges by requesting an administrative hearing with the Secretary of State in accordance with Section 2-118 of this Code. An individual whose blood alcohol concentration is shown to be more than 0.00 is not subject to this Section if he or she consumed alcohol in the performance of a religious service or ceremony. An individual whose blood alcohol concentration is shown to be more than 0.00 shall not be subject to this Section if the individual's blood alcohol concentration resulted only from ingestion of the prescribed or recommended dosage of medicine that contained alcohol. The petition for that hearing shall not stay or delay the effective date of the impending suspension.

(e-2) If the person was operating a snowmobile or watercraft, the person may contest the suspension of driving, snowmobile operating, and watercraft operating privileges by requesting an administrative hearing with the Department of Natural Resources. The Department of Natural Resources shall have all authority provided for in Section 2-118 of this Code when conducting of these hearings. An individual whose blood alcohol concentration is shown to be more than 0.00 is not subject to this Section if he or she consumed alcohol in the performance of a religious service or ceremony. An individual whose blood alcohol concentration is shown to be more than 0.00 shall not be subject to this Section if the individual's blood alcohol concentration resulted only from ingestion of the prescribed or recommended dosage of medicine that contained alcohol. The petition for hearing shall not stay or delay the effective date of the impending suspension.

(e-4) The scope of this hearing shall be limited to the issues of:

(1) whether the police officer had probable cause to believe that the person was driving operating, or in actual physical control of (1) a motor vehicle upon the public highways of the State, (2) a snowmobile in this State, or (3) a watercraft upon the waters of this State and the police officer had reason to believe that the person was in violation of any provision of the Illinois Vehicle Code or a similar provision of a local ordinance; and

(2) whether the person was issued a Uniform Traffic Ticket or an Illinois Conservation Citation and Complaint for any violation of the

Illinois Vehicle Code or a similar provision of a local ordinance; and

(3) whether the police officer had probable cause to believe that the driver or operator had consumed any amount of an alcoholic beverage based upon the driver's or operator's physical actions or other first-hand knowledge of the police officer; and

(4) whether the person, after being advised by the officer that the privilege to drive operate a motor vehicle, operate a snowmobile, and operate a watercraft would be suspended if the person refused to submit to and complete the test or tests, did refuse to submit to or complete the test or tests to determine the person's alcohol concentration; and

(5) whether the person, after being advised by the officer that the privileges to drive operate a motor vehicle, operate a snowmobile, and operate a watercraft would be suspended if the person submits to a chemical test or tests and the test or tests disclose an alcohol concentration of more than 0.00, did submit to and complete the test or tests that determined an alcohol concentration of more than 0.00; and

(6) whether the test result of an alcohol concentration of more than 0.00 was based upon the person's consumption of alcohol in the performance of a religious service or ceremony; and

(7) whether the test result of an alcohol concentration of more than 0.00 was based upon the person's consumption of alcohol through ingestion of the prescribed or recommended dosage of medicine.

(e-6) At the conclusion of the hearing before the Secretary of State held under Section 2-118 of this Code, the Secretary of State may rescind, continue, or modify the suspension and disqualification. If the Secretary of State does not rescind the suspension and disqualification, a restricted driving permit may be granted by the Secretary of State upon application being made and good cause shown. A restricted driving permit may be granted to relieve undue hardship in accordance with ~~by allowing driving for~~

~~employment, educational, and medical purposes as outlined in item (3) of part (e) of Section 6-206 of this Code. The provisions of item (3) of part (e) of Section 6-206 of this Code and of subsection (f) of that Section shall apply. The Secretary of State shall promulgate rules providing for participation in an alcohol education and awareness program or activity, a drug education and awareness program or activity, or both as a condition to the issuance of a restricted driving permit for suspensions imposed under this Section.~~

(e-8) At the conclusion of the hearing before Department of Natural Resources held under Section 2-118 of this Code, the Department of Natural Resources may rescind, continue, or modify the suspension. If rescission is granted, driving, snowmobile operating, and watercraft operating privileges shall be restored. The Department of Natural Resources shall notify the Secretary of State of any rescission. If the Department of Natural Resources does not rescind the suspension and the person wishes to apply for a restricted driving permit to drive a motor vehicle, the person must make such application to the Secretary of State. A restricted driving permit may be granted to relieve undue hardship in accordance with Section 6-206 of this Code. In accordance with 49 C.F.R. 384, the Secretary of State may not issue a restricted driving permit to drive a commercial motor vehicle to a person holding a CDL whose driving privileges have been suspended, revoked, cancelled or disqualified.

(e-10) The Secretary of State shall promulgate rules providing for participation in an alcohol education and awareness program or activity, a drug education and awareness program or activity, or both as a condition to the issuance of a restricted driving permit for suspensions imposed under this Section.

(f) The results of any chemical testing performed in accordance with subsection (a) of this Section are not admissible in any civil or criminal proceeding, except that the results of the testing may be considered at a hearing held under Section 2-118 of this Code. However, the results of the testing may not be used to impose driver's license sanctions under Section 11-501.1 of this Code. A law enforcement officer may, however, pursue a statutory summary suspension of driving privileges under Section 11-501.1 of this Code if other physical evidence or first hand knowledge forms the basis of that suspension.

(g) This Section applies only to drivers who are under age 21 at the time of the issuance of a Uniform Traffic Ticket or an Illinois Conservation Citation and Complaint for a violation of the Illinois Vehicle Code or a similar provision of a local ordinance, and a chemical test request is made under this Section.

(h) The action of the Secretary of State or Department of Natural Resources in suspending, revoking, cancelling, or disqualifying any license, privilege, or permit shall be subject to judicial review in the Circuit Court of Sangamon County or in the Circuit Court of Cook County or in the Circuit Court of Jefferson County, and the provisions of the Administrative Review Law and its rules are hereby adopted and shall apply to and govern every action for the judicial review of final acts or decisions of the Secretary of State and Department of Natural Resources under this Section.

(Source: P.A. 94-307, eff. 9-30-05; 95-201, eff. 1-1-08; 95-382, eff. 8-23-07; 95-627, eff. 6-1-08; 95-876, eff. 8-21-08.)

Section 10. The Snowmobile Registration and Safety Act is amended by changing Sections 2-2, 5-7.3, 10-1, and 10-2 as follows:

(625 ILCS 40/2-2) (from Ch. 95 1/2, par. 602-2)

Sec. 2-2. Inspection; seizure; impoundment.

(a) Agents of the Department or other duly authorized police officers may stop and inspect any snowmobile at any time for the purpose of determining if the provisions of this Act are being complied with. If the inspecting officer or agent discovers any violation of the provisions of this Act, he must issue a summons to the operator of such snowmobile requiring that the operator appear before the circuit court for the county within which the offense was committed.

(b) Every snowmobile subject to this Act, if under way and upon being hailed by a designated law enforcement officer, must stop immediately.

(c) Agents of the Department and other duly authorized police officers may seize and impound, at the owner's expense, any snowmobile involved in an accident or a violation of subsection B of Section 5-1 or of Section 11-501 of the Illinois Vehicle Code ~~5-7 of this Act~~.

(d) If a snowmobile is causing a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction.

(e) Whenever a peace officer reasonably believes that a person under arrest for a violation of subsection B of Section 5-1 or Section 11-501 of the Illinois Vehicle Code ~~5-7 of this Act~~ or similar

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provision of a local ordinance, is likely, upon release, to commit a subsequent violation of subsection B of Section 5-1 or 11-501 of the Illinois Vehicle Code ~~Section 5-7~~ or a similar provision of a local ordinance, the arresting officer shall have the snowmobile which the person was operating at the time of the arrest impounded for a period of not more than 12 hours after the time of the arrest. The snowmobile may be released by the arresting law enforcement agency without impoundment, or may be released prior to the end of the impoundment period, however, if:

(1) the snowmobile was not owned by the person under arrest, and the lawful owner requesting release of the snowmobile possesses proof of ownership, and would not, as determined by the arresting law enforcement agency: (i) indicate a lack of ability to operate a snowmobile in a safe manner, or (ii) otherwise, by operating the snowmobile, be in violation of this Act; or

(2) the snowmobile is owned by the person under arrest, and the person under arrest gives permission to another person to operate the snowmobile, and the other person would not, as determined by the arresting law enforcement agency: (i) indicate a lack of ability to operate a snowmobile in a safe manner, or (ii) otherwise, by operating the snowmobile, be in violation of this Act.

(f) Whenever a registered owner of a snowmobile is taken into custody for operating the snowmobile in violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, a law enforcement officer may have the snowmobile immediately impounded for a period not less than:

(1) 24 hours for a second violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) 48 hours for a third violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

The snowmobile may be released sooner if the snowmobile is owned by the person under arrest and the person under arrest gives permission to another person to operate the snowmobile and that other person possesses valid snowmobile privileges and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a snowmobile in a safe manner or would otherwise, by operating the snowmobile, be in violation of the Illinois Vehicle Code or this Act.

(Source: P.A. 93-156, eff. 1-1-04.)

(625 ILCS 40/10-1) (from Ch. 95 1/2, par. 610-1)

Sec. 10-1. Violations.

(a) Except as otherwise provided in this Act, a person who violates any of the provisions of this Act is guilty of a Class C misdemeanor.

(b) A person who violates subsection (B) of Section 5-1 of this Act is guilty of a Class B misdemeanor.

(c) A person who violates Section 2-4 or ~~Section 5-7.3~~ of this Act is guilty of a Class A misdemeanor. (Source: P.A. 89-55, eff. 1-1-96.)

(625 ILCS 40/10-2)

Sec. 10-2. Denial of operating privilege. A person who is convicted of a violation of subsection (B) of Section 5-1 or ~~Section 5-7~~ of this Act, in addition to other penalties authorized in this Act, may in the discretion of the court be refused the privilege to operate a snowmobile in this State for a period of one year or more.

(Source: P.A. 89-55, eff. 1-1-96.)

Section 20. The Boat Registration and Safety Act is amended by changing Sections 2-2 and 5-22 as follows:

(625 ILCS 45/2-2) (from Ch. 95 1/2, par. 312-2)

Sec. 2-2. Inspection; removal; impoundment.

(a) Agents of the Department or other duly authorized police officers may board and inspect any boat at any time for the purpose of determining if this Act is being complied with. If the boarding officer or agent discovers any violation of this Act, he may issue a summons to the operator of the boat requiring that the operator appear before the circuit court for the county within which the offense was committed.

(b) Every vessel subject to this Act, if under way and upon being hailed by a designated law enforcement officer, must stop immediately and lay to.

(c) Agents of the Department and other duly authorized police officers may enforce all federal laws and regulations which have been mutually agreed upon by the federal and state governments and are applicable to the operation of watercraft on navigable waters and federal impoundments where concurrent jurisdiction exists between the federal and state governments.

(d) Agents of the Department and other duly authorized police officers may seize and impound, at the owner's or operator's expense, any watercraft involved in a boating accident or a violation of Section

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3A-21, 5-1, or 5-2, ~~or 5-16~~ of this Act or Section 11-501 of the Illinois Vehicle Code while operating a watercraft.

(e) If a watercraft is causing a traffic hazard because of its position on a waterway or its physical appearance is causing the impeding of traffic, its immediate removal from the waterway by a towing service may be authorized by a law enforcement agency having jurisdiction.

(f) Whenever a peace officer reasonably believes that a person under arrest for a violation of Section 5-1, ~~or 5-2 or 5-16~~ of this Act, Section 11-501 of the Illinois Vehicle Code, or similar provision of a local ordinance, is likely, upon release, to commit a subsequent violation of Section 5-1 ~~or~~ 5-2 of this Act, Section 11-501 of the Illinois Vehicle Code, or 5-16 or a similar provision of a local ordinance, the arresting officer shall have the watercraft which the person was operating at the time of the arrest impounded for a period of not more than 12 hours after the time of the arrest. The watercraft may be released by the arresting law enforcement agency without impoundment, or may be released prior to the end of the impoundment period, however, if:

(1) the watercraft was not owned by the person under arrest, and the lawful owner requesting release possesses proof of ownership, and would not, as determined by the arresting law enforcement agency: (i) indicate a lack of ability to operate a watercraft in a safe manner, or (ii) otherwise, by operating the watercraft, be in violation of this Act; or

(2) the watercraft is owned by the person under arrest, and the person under arrest gives permission to another person to operate the watercraft, and the other person would not, as determined by the arresting law enforcement agency: (i) indicate a lack of ability to operate a watercraft in a safe manner, or (ii) otherwise, by operating the watercraft, be in violation of this Act.

(g) Whenever a registered owner of a watercraft is taken into custody for operating the watercraft in violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, a law enforcement officer may have the watercraft immediately impounded for a period not less than:

(1) 24 hours for a second violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(2) 48 hours for a third violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

The watercraft may be released sooner if the watercraft is owned by the person under arrest and the person under arrest gives permission to another person to operate the watercraft and that other person possesses valid watercraft privileges and would not, as determined by the arresting law enforcement agency, indicate a lack of ability to operate a watercraft in a safe manner or would otherwise, by operating the watercraft, be in violation of the Illinois Vehicle Code or this Act.

(Source: P.A. 93-156, eff. 1-1-04.)

(625 ILCS 45/5-22)

Sec. 5-22. Operation of watercraft upon the approach of an authorized emergency watercraft.

(a) As used in this Section, "authorized emergency watercraft" includes any watercraft operated by the Illinois Department of Natural Resources Police, the Illinois Department of State Police, a county sheriff, a local law enforcement agency, a fire department, a provider of emergency medical services, or the United States Coast Guard, equipped with alternately flashing red, red and white, red and blue, or red in combination with white or blue lights, while engaged in official duties. Any authorized emergency watercraft must be clearly emblazoned with markings identifying it as a watercraft operated by the qualifying agency.

(b) Upon the immediate approach of an authorized emergency watercraft making use of rotating or flashing visual signals and lawfully making use of a visual signal, the operator of every other watercraft shall yield the right-of-way and shall immediately reduce the speed of the watercraft, so as not to create a wake, and shall yield way to the emergency watercraft, moving to the right to permit the safe passage of the emergency watercraft, and shall stop and remain in that position until the authorized emergency watercraft has passed, unless otherwise directed by a police officer.

(c) Upon approaching a stationary authorized emergency watercraft, when the authorized emergency watercraft is giving a signal by displaying rotating or alternately flashing red, red and white, red and blue, or red in combination with white or blue lights, a person operating an approaching watercraft shall proceed with due caution at no-wake speed and yield the right-of-way by moving safely away from that authorized emergency watercraft, proceeding with due caution at a no-wake speed with due regard to safety and water conditions, maintaining no-wake speed until sufficiently away from the emergency watercraft so as not to create a wake that would otherwise rock or otherwise disturb the authorized emergency watercraft.

(d) This Section shall not operate to relieve the operator of an authorized emergency watercraft from the duty to operate that watercraft with due regard for the safety of all persons using the waterway.

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(e) A person who violates this Section commits a business offense punishable by a fine of not less than \$100 or more than \$10,000. It is a factor in aggravation if the person committed the offense while in violation of Section 11-501 of the Illinois Vehicle Code while operating a watercraft ~~5-16 of this Act.~~

(f) If a violation of this Section results in damage to the property of another person, in addition to any other penalty imposed, the person's watercraft operating privileges shall be suspended for a fixed period of not less than 90 days and not more than one year.

(g) If a violation of this Section results in injury to another person, in addition to any other penalty imposed, the person's watercraft operating privileges shall be suspended for a fixed period of not less than 180 days and not more than 2 years.

(h) If a violation of subsection (c) of this Section results in great bodily harm or permanent disability or disfigurement to, or the death of, another person, in addition to any other penalty imposed, the person's watercraft operating privileges shall be suspended for 2 years.

(i) The Department of Natural Resources shall, upon receiving a record of a judgment entered against a person under this Section:

(1) suspend the person's watercraft operating privileges for the mandatory period; or

(2) extend the period of an existing suspension by the appropriate mandatory period.

(Source: P.A. 95-107, eff. 1-1-08.)

Section 30. The Unified Code of Corrections is amended by changing Section 5-5-3 as follows:

(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition.

(a) (Blank-) .

(b) (Blank-) .

~~(10) If the defendant is convicted of arson, aggravated arson, residential arson, or place of worship arson, an order directing the offender to reimburse the local emergency response department for the costs of responding to the fire that the offender was convicted of setting in accordance with the Emergency Services Response Reimbursement for Criminal Convictions Act.~~

(c) (1) (Blank-) .

(2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

(A) First degree murder where the death penalty is not imposed.

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

(J) A forcible felony if the offense was related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has

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the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

(L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.

(M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.

(N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.

(O) A violation of Section 12-6.1 of the Criminal Code of 1961.

(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

(R) A violation of Section 24-3A of the Criminal Code of 1961.

(S) (Blank).

(T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.

(U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(V) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(W) A violation of Section 24-3.5 of the Criminal Code of 1961.

(X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961.

(3) (Blank).

(4) A minimum term of imprisonment of not less than 10 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of the Illinois Vehicle Code.

(4.1) (Blank).

(4.2) Except as provided in paragraphs (4.3) and (4.8) of this subsection (c), a minimum of 100 hours of community service shall be imposed for a second violation of Section 6-303 of the Illinois Vehicle Code.

(4.3) A minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a second violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.4) Except as provided in paragraphs (4.5), (4.6), and (4.9) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

(4.5) A minimum term of imprisonment of 30 days shall be imposed for a third violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.6) Except as provided in paragraph (4.10) of this subsection (c), a minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.7) A minimum term of imprisonment of not less than 30 consecutive days, or 300 hours of community service, shall be imposed for a violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (b-5) of that Section.

(4.8) A mandatory prison sentence shall be imposed for a second violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (c-5) of that Section. The person's driving privileges shall be revoked for a period of not less than 5 years from the date of his or her release from prison.

(4.9) A mandatory prison sentence of not less than 4 and not more than 15 years shall be imposed for a third violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-2.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(4.10) A mandatory prison sentence for a Class 1 felony shall be imposed, and the person shall be eligible for an extended term sentence, for a fourth or subsequent violation of subsection (a-5)

of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-3.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(5) The court may sentence a corporation or unincorporated association convicted of any offense to:

- (A) a period of conditional discharge;
- (B) a fine;

(C) make restitution to the victim under Section 5-5-6 of this Code.

(5.1) In addition to any other penalties imposed, and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any other penalties imposed, and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any other penalties imposed, a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(5.4) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 3 months and until he or she has paid a reinstatement fee of \$100.

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank-) \_

(7) (Blank-) \_

(8) (Blank-) \_

(9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

~~(12) (Blank). A person may not receive a disposition of court supervision for a violation of Section 5-16 of the Boat Registration and Safety Act if that person has previously received a disposition of court supervision for a violation of that Section.~~

(13) A person convicted of or placed on court supervision for an assault or aggravated assault when the victim and the offender are family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986 or convicted of domestic battery or aggravated domestic battery may be required to attend a Partner Abuse Intervention Program under protocols set forth by the Illinois Department of Human Services under such terms and conditions imposed by the court. The costs of such classes shall be paid by the offender.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory

maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

(1) the court finds (A) or (B) or both are appropriate:

(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or

(B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

(2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) (Blank) \_

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has

been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank)

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General

of the United States or his or her designated agent to be deported when:

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

Otherwise, the defendant shall be sentenced as provided in this Chapter V.

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (1) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(n) The court may sentence a person convicted of a violation of Section 12-19, 12-21, or 16-1.3 of the Criminal Code of 1961 (i) to an impact incarceration program if the person is otherwise eligible for that program under Section 5-8-1.1, (ii) to community service, or (iii) if the person is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse program licensed under that Act.

(o) Whenever a person is convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, the defendant's driver's license or permit shall be subject to renewal on an annual basis in accordance with the provisions of license renewal established by the Secretary of State.

(Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; revised 9-4-09.)

(625 ILCS 40/5-7 rep.) (625 ILCS 40/5-7.1 rep.) (625 ILCS 40/5-7.2 rep.) (625 ILCS 40/5-7.3 rep.) (625 ILCS 40/5-7.4 rep.) (625 ILCS 40/5-7.5 rep.) (625 ILCS 40/5-7.6 rep.)

Section 35. The Snowmobile Registration and Safety Act is amended by repealing Sections 5-7, 5-7.1, 5-7.2, 5-7.3, 5-7.4, 5-7.5, and 5-7.6.

(625 ILCS 45/5-16 rep.) (625 ILCS 45/5-16a rep.) (625 ILCS 45/5-16a.1 rep.) (625 ILCS 45/5-16b rep.)

Section 40. The Boat Registration and Safety Act is amended by repealing Sections 5-16, 5-16a, 5-16a.1, and 5-16b.

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

Section 99. Effective date. This Act takes effect January 1, 2011."

Under the rules, the foregoing **Senate Bill No. 2248**, with House Amendment No. 1, was referred to the Secretary's Desk.

[October 29, 2009]

**JOINT ACTION MOTIONS FILED**

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 1896  
 Motion to Concur in House Amendment 1 to Senate Bill 2248

**MOTION IN WRITING**

Senator Hultgren submitted the following Motion in Writing:

I move that House Bill 4096 do pass, notwithstanding the specific recommendations of the Governor.

10-29-09  
 DATE

s/Randall Hultgren  
 SENATOR

The foregoing Motion in Writing was filed with the Secretary and ordered placed on the Senate Calendar.

**REPORT FROM STANDING COMMITTEE**

Senator Muñoz, Chairperson of the Committee on Executive Appointments, moved that the Senate resolve itself into Executive Session to consider the report of that Committee relative to the Governor's and Treasurer's Message appointments.

The motion prevailed.

**EXECUTIVE SESSION**

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of June 8, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**DEPARTMENT OF CORRECTIONS**

To be Director of the Department of Corrections for a term commencing June 8, 2009 and ending January 17, 2011:

Michael Randle  
 Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Raoul
Bomke	Frerichs	Lauzen	Righter
Bond	Garrett	Lightford	Rutherford
Brady	Haine	Link	Sandoval
Burzynski	Harmon	Luechtefeld	Schoenberg
Clayborne	Hendon	Maloney	Silverstein
Collins	Holmes	Martinez	Steans
Crotty	Hultgren	McCarter	Sullivan

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Dahl	Hunter	Millner	Syverson
DeLeo	Hutchinson	Muñoz	Trotter
Delgado	Jacobs	Murphy	Viverito
Demuzio	Jones, E.	Noland	Wilhelmi
Dillard	Jones, J.	Pankau	Mr. President
Duffy	Koehler	Radogno	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator J. Jones asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the negative on the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of June 18, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**CENTRAL MANAGEMENT SERVICES**

To be Assistant Director of the Department of Central Management Services for a term commencing June 24, 2009 and ending January 17, 2011:

Steve McCurdy  
Salaried

To be Assistant Director of the Department of Central Management Services for a term commencing June 23, 2009 and ending January 17, 2011:

Christine A. Cegelis  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Righter
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Koehler	Pankau	Mr. President
Duffy	Kotowski	Radogno	
Forby	Lauzen	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

[October 29, 2009]

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of June 22, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**ILLINOIS COURT OF CLAIMS**

To be a Judge of the Illinois Court of Claims for a term commencing July 1, 2009 and ending January 19, 2015:

Mary Patricia Burns  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lightford	Rutherford
Bivins	Forby	Link	Sandoval
Bomke	Frerichs	Luechtefeld	Schoenberg
Bond	Garrett	Maloney	Silverstein
Brady	Haine	Martinez	Steans
Burzynski	Hendon	McCarter	Sullivan
Clayborne	Holmes	Meeks	Syverson
Collins	Hultgren	Millner	Trotter
Cronin	Hunter	Muñoz	Viverito
Crotty	Hutchinson	Murphy	Wilhelmi
Dahl	Jacobs	Noland	Mr. President
DeLeo	Jones, E.	Pankau	
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of June 29, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**ILLINOIS DEPARTMENT OF INSURANCE**

To be Director of the Illinois Department of Insurance for a term commencing July 1, 2009 and ending January 17, 2011:

Michael McRaith  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
			[October 29, 2009]

Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Meeks	Syverson
Cronin	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Steans asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the affirmative on the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of July 6, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

To be Secretary of the Illinois Department of Financial and Professional Regulation for a term commencing July 1, 2009 and ending January 17, 2011:

Brent E. Adams  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

[October 29, 2009]

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of July 17, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**CENTRAL MANAGEMENT SERVICES**

To be Director of the Department of Central Management Services for a term commencing July 17, 2009 and ending January 17, 2011:

James P. Sledge  
Salaried

**NATURAL RESOURCES, DEPARTMENT OF**

To be Assistant Director of the Department of Natural Resources for a term commencing July 17, 2009 and ending January 17, 2011:

John D. Rogner  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Raoul
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Delgado	Koehler	Pankau	Mr. President
Demuzio	Kotowski	Radogno	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of August 13, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**ILLINOIS STATE TOLL HIGHWAY AUTHORITY**

To be a Member of the Illinois State Toll Highway Authority for a term commencing August 13, 2009 and ending May 1, 2011:

William B. Morris  
Salaried

[October 29, 2009]

To be a Member of the Illinois State Toll Highway Authority for a term commencing August 13, 2009 and ending May 1, 2011:

Thomas J. Weisner  
Salaried

To be a Member and Chairperson of the Illinois State Toll Highway Authority for a term commencing August 13, 2009 and ending May 1, 2013:

Paula Wolff  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	Meeks	Steans
Collins	Holmes	Millner	Sullivan
Cronin	Hultgren	Muñoz	Syverson
Crotty	Hunter	Murphy	Trotter
Dahl	Hutchinson	Noland	Viverito
DeLeo	Jacobs	Pankau	Wilhelmi
Delgado	Jones, E.	Radogno	Mr. President
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	
Forby	Lauzen	Risinger	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of August 20, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**CHICAGO TRANSIT AUTHORITY BOARD OF TRUSTEES**

To be a member of the Chicago Transit Authority Board of Trustees for a term commencing August 20, 2009 and ending September 1, 2014:

Jacquelyne D. Grimshaw  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford

[October 29, 2009]

Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Delgado	Koehler	Pankau	Mr. President
Demuzio	Kotowski	Radogno	
Forby	Lauzen	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of September 4, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**PROPERTY TAX APPEAL BOARD**

To be a Member of the Property Tax Appeal Board for a term commencing September 4, 2009 and ending January 19, 2015:

Michael J. (Mickey) Goral  
Salaried

To be a Member and Chair of the Property Tax Appeal Board for a term commencing October 1, 2009 and ending January 19, 2015:

Donald R. Crist  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bomke	Haine	Luechtefeld	Sandoval
Bond	Harmon	Maloney	Schoenberg
Brady	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Murphy	Wilhelmi
DeLeo	Jones, E.	Noland	Mr. President
Delgado	Koehler	Pankau	
Demuzio	Kotowski	Radogno	
Forby	Lauzen	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

[October 29, 2009]

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of September 17, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY**

To be Executive Director of the Illinois Criminal Justice Information Authority for a term commencing September 17, 2009.

John M. "Jack" Cutrone  
Salaried

**ILLINOIS LABOR RELATIONS BOARD – STATE PANEL**

To be a member of the Illinois Labor Relations Board (State Panel) for a term commencing October 5, 2009 and ending January 28, 2012.

Jacalyn Joy Zimmerman  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hunter	Meeks	Sullivan
Cronin	Hutchinson	Millner	Syverson
Crotty	Jacobs	Muñoz	Trotter
Dahl	Jones, E.	Murphy	Viverito
DeLeo	Jones, J.	Noland	Wilhelmi
Delgado	Koehler	Pankau	Mr. President
Demuzio	Kotowski	Radogno	
Forby	Lauzen	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of September 28, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**ILLINOIS COURT OF CLAIMS**

To be a member and Chief Justice of the Illinois Court of Claims for a term commencing September 24, 2009 and ending January 19, 2015:

Robert J. Sprague  
Salaried

[October 29, 2009]

**ILLINOIS INTERNATIONAL PORT DISTRICT BOARD**

To be a member of the Illinois International Port District Board for a term commencing upon Senate confirmation and ending June 1, 2014:

Terrence J. Sullivan  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Rutherford
Bivins	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Brady	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Forby	Lauzen	Risinger	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of September 30, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**EXECUTIVE ETHICS COMMISSION**

To be a member of the Illinois Executive Ethics Commission for a term commencing October 1, 2009 and ending June 30, 2012

Gayl S. Pyatt  
Salaried

**LIQUOR CONTROL COMMISSION**

To be a member of the Illinois Liquor Control Commission for a term commencing October 1, 2009 and ending February 1, 2012:

Donald G. O'Connell  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 52; NAYS None.

[October 29, 2009]

The following voted in the affirmative:

Althoff	Frerichs	Link	Rutherford
Bivins	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jones, E.	Noland	Mr. President
Delgado	Koehler	Pankau	
Demuzio	Kotowski	Radogno	
Dillard	Laufen	Raoul	
Forby	Lightford	Risinger	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of October 13, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**HUMAN SERVICES, ILLINOIS DEPARTMENT OF**

To be Secretary of the Illinois Department of Human Services for a term commencing October 13, 2009 and ending January 17, 2011:

Michelle R.B. Saddler  
Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment.  
And on that motion, a call of the roll was had resulting as follows:

YEAS 52; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	
Demuzio	Koehler	Pankau	
Dillard	Kotowski	Radogno	
Forby	Laufen	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

[October 29, 2009]

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of April 16, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**NORTHERN ILLINOIS UNIVERSITY BOARD OF TRUSTEES**

To be a member of the Northern Illinois University Board of Trustees for a term commencing April 15, 2009 and ending January 21, 2013:

Manuel Sanchez  
Expenses

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Dillard	Kotowski	Radogno
Bivins	Forby	Lauzen	Raoul
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Koehler	Pankau	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of May 4, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**EDUCATION FUNDING ADVISORY BOARD**

To be a member and Chairman of the Education Funding Advisory Board for a term commencing May 4, 2009 and ending January 20, 2014:

Sylvia M. Puente  
Expenses

To be a member of the Education Funding Advisory Board for a term commencing May 4, 2009 and ending January 16, 2012:

Edward J. Geppert, Jr.  
Expenses

To be a member of the Education Funding Advisory Board for a term commencing May 4, 2009 and ending January 21, 2013:

[October 29, 2009]

Dean E. Clark  
Expenses

To be a member of the Education Funding Advisory Board for a term commencing May 4, 2009 and ending January 18, 2010:

Arthur R. Culver  
Expenses

To be a member of the Education Funding Advisory Board for a term commencing May 4, 2009 and ending January 16, 2012:

Kenneth B. Swanson  
Expenses

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Raoul
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Brady	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Koehler	Pankau	
Dillard	Kotowski	Radogno	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of June 8, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

#### **STATE BOARD OF INVESTMENT**

To be a member of the Illinois State Board of Investment for a term commencing June 2, 2009 and ending June 2, 2012:

John W. Casey  
Expenses

To be a member of the Illinois State Board of Investment for a term commencing June 2, 2009 and ending June 2, 2013:

Michele Benaé Bush  
Expenses

[October 29, 2009]

To be a member of the Illinois State Board of Investment for a term commencing June 2, 2009 and ending June 2, 2013:

Fred H. Montgomery  
Expenses

To be a member of the Illinois State Board of Investment for a term commencing June 2, 2009 and ending June 2, 2010:

Heather Parish  
Expenses

To be a member of the Illinois State Board of Investment for a term commencing June 2, 2009 and ending June 2, 2011:

Ronald E. Powell  
Expenses

### **TEACHERS' RETIREMENT SYSTEM BOARD OF TRUSTEES**

To be a member of the Teachers' Retirement System Board of Trustees for a term commencing June 2, 2009 and ending July 14, 2014:

Matthew H. Berns  
Expenses

To be a member of the Teachers' Retirement System Board of Trustees for a term commencing June 2, 2009 and ending July 14, 2014:

Livia M. Kiser  
Expenses

To be a member of the Teachers' Retirement System Board of Trustees for a term commencing June 2, 2009 and ending July 14, 2014:

Sidney Marder  
Expenses

To be a member of the Teachers' Retirement System Board of Trustees for a term commencing June 2, 2009 and ending July 14, 2012:

Michael D. Busby  
Expenses

To be a member of the Teachers' Retirement System Board of Trustees for a term commencing June 2, 2009 and ending July 14, 2012:

Ms. Janice I. Reedus  
Expenses

To be a member of the Teachers' Retirement System Board of Trustees for a term commencing June 2, 2009 and ending July 14, 2012:

Sonia Walwyn  
Expenses

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments.  
And on that motion, a call of the roll was had resulting as follows:

[October 29, 2009]

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Brady	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of June 29, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**STATE EMPLOYEES RETIREMENT SYSTEM BOARD OF TRUSTEES**

To be a member of the State Employees Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2014:

Danny J. Silverthorn  
Non-Salaried

To be a member of the State Employees Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2014:

Harold W. Sullivan, Jr.  
Non-Salaried

To be a member of the State Employees Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2014:

Maria Palez Peterson  
Non-Salaried

To be a member of the State Employees Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2012:

Michael Noser  
Non-Salaried

To be a member of the State Employees Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2012:

Renee Friedman  
Non-Salaried

[October 29, 2009]

To be a member of the State Employees Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2012:

Thomas Allison  
Non-Salaried

**STATE UNIVERSITIES RETIREMENT SYSTEM BOARD OF TRUSTEES**

To be a member of the State Universities Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2012:

Steven Rogers  
Non-Salaried

To be a member of the State Universities Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2012:

Patricia Cassidy  
Non-Salaried

To be a member of the State Universities Retirement System Board of Trustees. For a term commencing June 29, 2009 and ending June 29, 2015:

Marva E. Williams  
Non-Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Noland	Viverito
DeLeo	Jones, E.	Pankau	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of August 13, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**ILLINOIS STUDENT ASSISTANCE COMMISSION**

[October 29, 2009]

To be the Student Member of the Illinois Student Assistance Commission for a term commencing August 13, 2009 and ending June 30, 2011:

Johnathan J. Wilson  
Non-Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of August 25, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

### **COMMUNITY COLLEGE BOARD**

To be a Member of the Community College Board for a term commencing August 25, 2009 and ending June 30, 2015:

Guy Alongi  
Non-Salaried

To be a Member of the Community College Board for a term commencing August 25, 2009 and ending June 30, 2015:

Rudolph J. Papa  
Non-Salaried

To be a Member of the Community College Board for a term commencing August 25, 2009 and ending June 30, 2015:

Suzanne Morris  
Non-Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

[October 29, 2009]

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of September 9, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

#### **UNIVERSITY OF ILLINOIS BOARD OF TRUSTEES**

To be a member of the University of Illinois Board of Trustees for a term commencing September 4, 2009 and ending January 14, 2013:

Lawrence Oliver  
Non-salaried

To be a member of the University of Illinois Board of Trustees for a term commencing September 4, 2009 and ending January 12, 2015:

Christopher Kennedy  
Non-salaried

To be a member of the University of Illinois Board of Trustees for a term commencing September 9, 2009 and ending January 19, 2015:

Pam Strobel  
Non-salaried

To be a member of the University of Illinois Board of Trustees for a term commencing September 9, 2009 and ending January 10, 2011:

Karen Hasara  
Non-salaried

To be a member of the University of Illinois Board of Trustees for a term commencing September 9, 2009 and ending January 14, 2013:

Dr. Timothy Koritz  
Non-salaried

[October 29, 2009]

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of October 5, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

**METROPOLITAN PIER AND EXPOSITION AUTHORITY**

To be a member of the Metropolitan Pier and Exposition Authority for a term commencing October 5, 2009 and ending June 1, 2013

Peter J. O'Brien, Sr.

Non-salaried

To be a member of the Metropolitan Pier and Exposition Authority for a term commencing October 5, 2009 and ending June 1, 2014

James V. Riley

Non-salaried

To be a member of the Metropolitan Pier and Exposition Authority for a term commencing October 5, 2009 and ending June 1, 2010

Devon C. Bruce

Non-salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments. And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Dillard	Lauzen	Righter
Bivins	Forby	Lightford	Risinger

[October 29, 2009]

Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of October 13, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**SPINAL CORD AND HEAD INJURIES, ADVISORY COUNCIL ON**

To be a Member of the Advisory Council on Spinal Cord and Head Injuries for a term commencing October 13, 2009 and ending October 13, 2012:

Marshall Witzel  
Non-Salaried

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Treasurer's Message to the Senate of May 27, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

[October 29, 2009]

**CHARITABLE TRUST STABILIZATION COMMITTEE**

To be a member of the Charitable Trust Stabilization Committee commencing on June 1, 2009 for a term ending June 1, 2015:

Bruce Karmazin  
(Non-Salaried)

To be a member of the Charitable Trust Stabilization Committee commencing on June 1, 2009 for a term ending June 1, 2015:

Trinita Logue  
(Non-Salaried)

To be a member of the Charitable Trust Stabilization Committee commencing on June 1, 2009 for a term ending June 1, 2015:

William Isaac McCoy  
(Non-Salaried)

To be a member of the Charitable Trust Stabilization Committee commencing on June 1, 2009 for a term ending June 1, 2015:

John Stremsterfer  
(Non-Salaried)

Senator Muñoz moved that the Senate advise and consent to the foregoing appointments.  
And on that motion, a call of the roll was had resulting as follows:

YEAS 54; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senator Muñoz, Chairperson of the Committee on Executive Appointments, to which was referred the Treasurer's Message to the Senate of August 7, 2009, reported the same back with the recommendation that the Senate advise and consent to the following appointment:

**CHARITABLE TRUST STABILIZATION COMMITTEE**

[October 29, 2009]

To be a member of the Charitable Trust Stabilization Committee commencing on June 1, 2009 for a term ending June 1, 2015:

Marcia Lipetz, Ph.D.  
(Non-Salaried)

Senator Muñoz moved that the Senate advise and consent to the foregoing appointment. And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bomke	Haine	Luechtefeld	Sandoval
Bond	Harmon	Maloney	Schoenberg
Brady	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Forby	Lauzen	Righter	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointment.

On motion of Senator Muñoz, the Executive Session arose and the Senate resumed consideration of business.

Senator Hendon, presiding.

### COMMUNICATION

ILLINOIS STATE SENATE  
DON HARMON  
ASSISTANT MAJORITY LEADER  
STATE SENATOR · 39<sup>TH</sup> DISTRICT

October 29, 2009

The Honorable Jillayne Rock  
Secretary of the Senate  
Room 403 Capitol Building  
Springfield, IL 62704

Madame Secretary:

Today, the Senate consented to the appointment by the Governor of Mary Patricia Burns to the office of Judge of the Illinois Court of Claims. Ms. Burns is a principal in the law firm that employs me. Accordingly, to avoid the appearance of conflict of interest, I abstained from voting on the question of Ms. Burns's confirmation and I hereby disclose that fact to the Senate.

Sincerely,  
s/Don Harmon

[October 29, 2009]

ILLINOIS STATE SENATE  
DON HARMON  
ASSISTANT MAJORITY LEADER  
STATE SENATOR · 39<sup>TH</sup> DISTRICT

October 29, 2009

The Honorable Jillayne Rock  
Secretary of the Senate  
Room 403 Capitol Building  
Springfield, IL 62704

Madame Secretary:

Today, the Senate consented to the appointment by the Governor of members of the State University Retirement System Board of Trustees. Other lawyers in the law firm that employs me provide legal service to the Board. Accordingly, to avoid the appearance of conflict of interest, I abstained from voting on the question of the confirmation of the Board members and I hereby disclose that fact to the Senate.

Sincerely,  
s/Don Harmon

**READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Forby, **House Bill No. 303**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Righter
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Holmes	McCarter	Sullivan
Collins	Hultgren	Meeks	Syverson
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Murphy	Wilhelmi
DeLeo	Jones, E.	Noland	Mr. President
Delgado	Jones, J.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

[October 29, 2009]

At the hour of 3:06 o'clock p.m., Senator Clayborne, presiding.

On motion of Senator Delgado, **House Bill No. 342**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 50; NAYS 6.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Clayborne	Harmon	Maloney	Silverstein
Collins	Hendon	Martinez	Steans
Cronin	Holmes	McCarter	Sullivan
Crotty	Hultgren	Meeks	Syverson
Dahl	Hunter	Millner	Trotter
DeLeo	Hutchinson	Muñoz	Viverito
Delgado	Jacobs	Noland	Wilhelmi
Demuzio	Jones, E.	Pankau	Mr. President
Dillard	Koehler	Raoul	
Forby	Kotowski	Righter	

The following voted in the negative:

Bivins	Duffy	Murphy
Burzynski	Lauzen	Rutherford

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Haine, **House Bill No. 644**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 49; NAYS 8.

The following voted in the affirmative:

Althoff	Frerichs	Kotowski	Sandoval
Bomke	Garrett	Lightford	Schoenberg
Bond	Haine	Link	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	McCarter	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Viverito
DeLeo	Hutchinson	Murphy	Wilhelmi
Delgado	Jacobs	Noland	Mr. President

[October 29, 2009]

Demuzio	Jones, E.	Pankau
Duffy	Jones, J.	Raoul
Forby	Koehler	Risinger

The following voted in the negative:

Bivins	Lauzen	Righter
Dahl	Millner	Rutherford
Dillard	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a). Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Raoul, **House Bill No. 1800**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 43; NAYS 12; Present 1.

The following voted in the affirmative:

Bond	Garrett	Lightford	Rutherford
Clayborne	Haine	Link	Sandoval
Collins	Harmon	Maloney	Schoenberg
Cronin	Hendon	Martinez	Silverstein
Crotty	Holmes	Meeks	Steans
DeLeo	Hunter	Millner	Sullivan
Delgado	Hutchinson	Muñoz	Trotter
Demuzio	Jacobs	Noland	Viverito
Dillard	Jones, E.	Pankau	Wilhelmi
Forby	Koehler	Radogno	Mr. President
Frerichs	Kotowski	Raoul	

The following voted in the negative:

Althoff	Burzynski	Lauzen
Bivins	Dahl	McCarter
Bomke	Duffy	Murphy
Brady	Hultgren	Righter

The following voted present:

Syverson

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a). Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Collins, **House Bill No. 1801**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

[October 29, 2009]

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syerson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Frerichs, **House Bill No. 1802**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syerson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Althoff, **House Bill No. 1911**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

[October 29, 2009]

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Delgado, **House Bill No. 1995**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Radogno
Bivins	Duffy	Kotowski	Raoul
Bomke	Forby	Lauzen	Righter
Bond	Frerichs	Lightford	Risinger
Brady	Garrett	Link	Rutherford
Burzynski	Haine	Luechtefeld	Schoenberg
Clayborne	Harmon	Maloney	Silverstein
Collins	Hendon	Martinez	Steans
Cronin	Holmes	McCarter	Sullivan
Crotty	Hultgren	Meeks	Syverson
Dahl	Hunter	Millner	Trotter
DeLeo	Hutchinson	Muñoz	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

#### REPORTS FROM COMMITTEE ON ASSIGNMENTS

[October 29, 2009]

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 29, 2009 meeting, reported the following House Resolutions have been assigned to the indicated Standing Committee of the Senate:

State Government and Veterans Affairs: **House Joint Resolutions Numbered 66 and 72.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 29, 2009 meeting, to which was referred **House Bills Numbered 1306 and 1597** on August 15, 2009, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **House Bills Numbered 1306 and 1597** were returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 29, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Floor Amendment No. 2 to House Bill 5; Senate Floor Amendment No. 1 to House Bill 607; Senate Floor Amendment No. 4 to House Bill 1306; Senate Floor Amendment No. 2 to House Bill 1597; Senate Floor Amendment No. 4 to House Bill 2652; Senate Floor Amendment No. 2 to House Bill 3997.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 29, 2009 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 1896**

#### **COMMITTEE MEETING ANNOUNCEMENT**

The Chair announced that the Committee on Executive will meet in Room 212 at 5:00 o'clock p.m.

#### **LEGISLATIVE MEASURES FILED**

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 3 to House Bill 1306  
Senate Floor Amendment No. 4 to House Bill 1306  
Senate Floor Amendment No. 2 to House Bill 1597

#### **MESSAGE FROM THE PRESIDENT**

#### **OFFICE OF THE SENATE PRESIDENT STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

October 29, 2009

[October 29, 2009]

Ms. Jillayne Rock  
 Secretary of the Senate  
 Room 403 State House  
 Springfield, IL 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish December 31, 2009 as the 3<sup>rd</sup> Reading deadline for HB 1306 and HB 1597.

Sincerely,  
 s/John J. Cullerton  
 Senate President

cc: Senate Republican Leader Christine Radogno

### HOUSE BILL RECALLED

On motion of Senator Raoul, **House Bill No. 2414** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was held in the Committee on Assignments.

Senator Raoul offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 2414

AMENDMENT NO. 2. Amend House Bill 2414 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by adding Sections 606 and 807 as follows:  
 (35 ILCS 5/606 new)

Sec. 606. EDGE payment. A payment includes a payment provided for in subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act.

(35 ILCS 5/807 new)

Sec. 807. EDGE payment. A payment includes a payment provided for in subsection (f) of Section 5-15 of the Economic Development for a Growing Economy Tax Credit Act.

Section 10. The Economic Development for a Growing Economy Tax Credit Act is amended by changing Section 5-15 as follows:

(35 ILCS 10/5-15)

Sec. 5-15. Tax Credit Awards. Subject to the conditions set forth in this Act, a Taxpayer is entitled to a Credit against or, as described in subsection (f) of this Section, a payment towards taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act that may be imposed on the Taxpayer for a taxable year beginning on or after January 1, 1999, if the Taxpayer is awarded a Credit by the Department under this Act for that taxable year.

(a) The Department shall make Credit awards under this Act to foster job creation and retention in Illinois.

(b) A person that proposes a project to create new jobs in Illinois must enter into an Agreement with the Department for the Credit under this Act.

(c) The Credit shall be claimed for the taxable years specified in the Agreement.

(d) The Credit shall not exceed the Incremental Income Tax attributable to the project that is the subject of the Agreement.

(e) Nothing herein shall prohibit a Tax Credit Award to an Applicant that uses a PEO if all other award criteria are satisfied.

(f) A pass-through entity that has been awarded a credit under this Act, its shareholders, or its partners may treat some or all of the credit awarded pursuant to this Act as a tax payment for purposes of the Illinois Income Tax Act. The term "tax payment" means a payment as described in Article 6 or Article 8 of the Illinois Income Tax Act or a composite payment made by a pass-through entity on behalf of any of its shareholders or partners to satisfy such shareholders' or partners' taxes imposed pursuant to subsections (a) and (b) of Section 201 of the Illinois Income Tax Act. In no event shall the amount of the

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award credited pursuant to this Act exceed the Illinois income tax liability of the pass-through entity or its shareholders or partners for the taxable year.

(Source: P.A. 95-375, eff. 8-23-07.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Raoul, **House Bill No. 2414**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Meeks	Syverson
Cronin	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

On motion of Senator Kotowski, **House Bill No. 4625**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 48; NAY 1; Present 8.

The following voted in the affirmative:

Althoff	Frerichs	Luechtefeld	Sandoval
Bivins	Garrett	Maloney	Schoenberg
Bomke	Haine	McCarter	Silverstein
Bond	Harmon	Meeks	Steans

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Brady	Hendon	Millner	Sullivan
Burzynski	Holmes	Muñoz	Syverson
Clayborne	Hultgren	Murphy	Viverito
Cronin	Hutchinson	Noland	Wilhelmi
Crotty	Jones, J.	Pankau	Mr. President
DeLeo	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Laufen	Righter	
Duffy	Link	Rutherford	

The following voted in the negative:

Jacobs

The following voted present:

Collins	Hunter	Martinez
Dahl	Jones, E.	Trotter
Delgado	Lightford	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 4:30 o'clock p.m., Senator DeLeo, presiding.

On motion of Senator Clayborne, **House Bill No. 4628**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAY 1; Present 1.

The following voted in the affirmative:

Althoff	Duffy	Laufen	Righter
Bivins	Forby	Lightford	Sandoval
Bomke	Frerichs	Link	Schoenberg
Bond	Garrett	Luechtefeld	Silverstein
Brady	Haine	Maloney	Steans
Burzynski	Harmon	Martinez	Sullivan
Clayborne	Hendon	McCarter	Syverson
Collins	Holmes	Meeks	Trotter
Cronin	Hultgren	Millner	Viverito
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Hutchinson	Murphy	Mr. President
DeLeo	Jones, E.	Noland	
Delgado	Jones, J.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The following voted in the negative:

Rutherford

The following voted present:

[October 29, 2009]

Jacobs

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### CONSIDERATION OF RESOLUTION ON SECRETARY'S DESK

Senator Haine moved that **House Joint Resolution No. 31**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Haine moved that House Joint Resolution No. 31 be adopted.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	

The motion prevailed.

And the resolution was adopted.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 4:42 o'clock p.m., Senator Clayborne, presiding.

### SENATE BILL RECALLED

On motion of Senator Hunter, **Senate Bill No. 380** was recalled from the order of third reading to the order of second reading.

Senator Hunter offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 380

AMENDMENT NO. 1. Amend Senate Bill 380 by replacing everything after the enacting clause with the following:

"Section 5. The Commission to Study Disproportionate Justice Impact Act is amended by changing Section 20 as follows:

(20 ILCS 4085/20)

(This Section may contain text from a Public Act with a delayed effective date)

[October 29, 2009]

Sec. 20. Meetings; report. The Commission shall hold one or more public hearings, at which public testimony shall be heard. The Commission shall report its findings and recommendations to the General Assembly on or before December 31, ~~2010~~ 2009, after which the Commission shall dissolve. (Source: P.A. 95-995, eff. 6-1-09.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Hunter, **Senate Bill No. 380**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Kotowski, **Senate Bill No. 660** was recalled from the order of third reading to the order of second reading.

Senator Kotowski offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 660

AMENDMENT NO. 1. Amend Senate Bill 660 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Insurance Code is amended by adding Article XLV as follows:

(215 ILCS 5/Art. XLV heading new)

[October 29, 2009]

ARTICLE XLV. PUBLIC ADJUSTERS

(215 ILCS 5/1501 new)

Sec. 1501. Short title. This Article may be cited as the Public Adjusters Law.

(215 ILCS 5/1505 new)

Sec. 1505. Purpose and scope. This Article governs the qualifications and procedures for the licensing of public adjusters. It specifies the duties of and restrictions on public adjusters, which include limiting their licensure to assisting insureds in first party claims.

(215 ILCS 5/1510 new)

Sec. 1510. Definitions. In this Article:

"Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

"Director" means the Director of the Division of Insurance of the Department of Financial and Professional Regulation.

"Division" means the Division of Insurance of the Department of Financial and Professional Regulation.

"Fingerprints" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or in ink converted to electronic format.

"Home state" means the District of Columbia and any state or territory of the United States where the public adjuster's principal place of residence or principal place of business is located. If neither the state in which the public adjuster maintains the principal place of residence nor the state in which the public adjuster maintains the principal place of business has a substantially similar law governing public adjusters, the public adjuster may declare another state in which it becomes licensed and acts as a public adjuster to be the home state.

"Individual" means a natural person.

"Person" means an individual or a business entity.

"Public adjuster" means any person who, for compensation or any other thing of value on behalf of the insured:

(i) acts or aids, solely in relation to first party claims arising under insurance contracts that insure the real or personal property of the insured, on behalf of an insured in negotiating for, or effecting the settlement of, a claim for loss or damage covered by an insurance contract;

(ii) advertises for employment as an public adjuster of insurance claims or solicits business or represents himself or herself to the public as an public adjuster of first party insurance claims for losses or damages arising out of policies of insurance that insure real or personal property; or

(iii) directly or indirectly solicits business, investigates or adjusts losses, consults, or advises an insured about first party claims for losses or damages arising out of policies of insurance that insure real or personal property for another person engaged in the business of adjusting losses or damages covered by an insurance policy for the insured.

"Uniform individual application" means the current version of the National Association of Directors (NAIC) Uniform Individual Application for resident and nonresident individuals.

"Uniform business entity application" means the current version of the National Association of Insurance Commissioners (NAIC) Uniform Business Entity Application for resident and nonresident business entities.

(215 ILCS 5/1515 new)

Sec. 1515. License required.

(a) A person shall not act or hold himself out as a public adjuster in this State unless the person is licensed as a public adjuster in accordance with this Article.

(b) A person licensed as a public adjuster shall not misrepresent to a claimant that he or she is an adjuster representing an insurer in any capacity, including acting as an employee of the insurer or acting as an independent adjuster unless so appointed by an insurer in writing to act on the insurer's behalf for that specific claim or purpose. A licensed public adjuster is prohibited from charging that specific claimant a fee when appointed by the insurer and the appointment is accepted by the public adjuster.

(c) A business entity acting as a public adjuster is required to obtain a public adjuster license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the Director shall find that:

(1) the business entity has paid the required fees to be registered as a business entity in this State; and

(2) all officers, shareholders, and persons with ownership interests in the business entity are licensed public adjusters responsible for the business entity's compliance with the insurance laws, rules, and regulations of this State.

(d) Notwithstanding subsections (a) through (c) of this Section, a license as a public adjuster shall not be required of the following:

(1) an attorney admitted to practice in this State, when acting in his or her professional capacity as an attorney;

(2) a person who negotiates or settles claims arising under a life or health insurance policy or an annuity contract;

(3) a person employed only for the purpose of obtaining facts surrounding a loss or furnishing technical assistance to a licensed public adjuster, including photographers, estimators, private investigators, engineers, and handwriting experts;

(4) a licensed health care provider, or employee of a licensed health care provider, who prepares or files a health claim form on behalf of a patient; or

(5) a person who settles subrogation claims between insurers.

(215 ILCS 5/1520 new)

Sec. 1520. Application for license.

(a) A person applying for a public adjuster license shall make application to the Director on the appropriate uniform application or other application prescribed by the Director.

(b) The applicant shall declare under penalty of perjury and under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the applicant's knowledge and belief.

(c) In order to make a determination of license eligibility, the Director is authorized to require fingerprints of applicants and submit such fingerprints and the fee required to perform the criminal history record checks to the Illinois State Police and the Federal Bureau of Investigation (FBI) for State and national criminal history record checks.

(d) The Director may adopt rules to establish procedures necessary to carry out the requirements of subsection (c) of this Section.

(e) The Director is authorized to submit electronic fingerprint records and necessary identifying information to the NAIC, its affiliates, or subsidiaries for permanent retention in a centralized repository. The purpose of such a centralized repository is to provide Directors with access to fingerprint records in order to perform criminal history record checks.

(215 ILCS 5/1525 new)

Sec. 1525. Resident license.

(a) Before issuing a public adjuster license to an applicant under this Section, the Director shall find that the applicant:

(1) is eligible to designate this State as his or her home state or is a nonresident who is not eligible for a license under Section 1540;

(2) has not committed any act that is a ground for denial, suspension, or revocation of a license as set forth in Section 1555;

(3) is trustworthy, reliable, competent, and of good reputation, evidence of which may be determined by the Director;

(4) is financially responsible to exercise the license and has provided proof of financial responsibility as required in Section 1560 of this Article; and

(5) maintains an office in the home state of residence with public access by reasonable appointment or regular business hours. This includes a designated office within a home state of residence.

(b) In addition to satisfying the requirements of subsection (a) of this Section, an individual shall

(1) be at least 18 years of age;

(2) have successfully passed the public adjuster examination;

(3) designate a licensed individual public adjuster responsible for the business entity's compliance with the insurance laws, rules, and regulations of this State; and

(4) designate only licensed individual public adjusters to exercise the business entity's license.

(c) The Director may require any documents reasonably necessary to verify the information contained in the application.

(215 ILCS 5/1530 new)

Sec. 1530. Examination.

(a) An individual applying for a public adjuster license under this Article must pass a written examination unless he or she is exempt pursuant to Section 1535 of this Article. The examination shall test the knowledge of the individual concerning the duties and responsibilities of a public adjuster and the insurance laws and regulations of this State. Examinations required by this Section shall be developed and conducted under rules and regulations prescribed by the Director.

(b) The Director may make arrangements, including contracting with an outside testing service, for

administering examinations and collecting the nonrefundable fee. Each individual applying for an examination shall remit a non-refundable fee as prescribed by the Director. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination. An individual who fails to pass the examination must wait 90 days prior to rescheduling an examination.

(215 ILCS 5/1535 new)

Sec. 1535. Exemptions from examination.

(a) An individual who applies for a public adjuster license in this State who was previously licensed as a public adjuster in another state based on an public adjuster examination shall not be required to complete any preclicensing education. This exemption is only available if (i) the person is currently licensed in that state or if the application is received within 12 months of the cancellation of the applicant's previous license; and (ii) if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's producer database records or records maintained by the NAIC, its affiliates, or subsidiaries, indicate that the public adjuster is or was licensed in good standing.

(b) A person licensed as a public adjuster in another state based on a public adjuster examination who moves to this State shall submit an application within 90 days of establishing legal residence to become a resident licensee pursuant to Section 1525 of this Article. No preclicensing examination shall be required of that person to obtain a public adjuster license.

(c) An individual who applies for a public adjuster license in this State who was previously licensed as a public adjuster in this State shall not be required to complete any preclicensing examination. This exemption is only available if the application is received within 12 months of the cancellation of the applicant's previous license in this State and if, at the time of cancellation, the applicant was in good standing in this State.

(215 ILCS 5/1540 new)

Sec. 1540. Nonresident license reciprocity.

(a) Unless denied licensure pursuant to Section 1555 of this Article, a nonresident person shall receive a nonresident public adjuster license if:

(1) the person is currently licensed as a resident public adjuster and in good standing in his or her home state;

(2) the person has submitted the proper request for licensure and has provided proof of financial responsibility as required in Section 1560 of this Article;

(3) the person has submitted or transmitted to the Director the appropriate completed application for licensure; and

(4) the person's home state awards non-resident public adjuster licenses to residents of this State on the same basis.

(b) The Director may verify the public adjuster's licensing status through the producer database maintained by the NAIC, its affiliates, or subsidiaries.

(c) As a condition to continuation of a public adjuster license issued under this Section, the licensee shall maintain a resident public adjuster license in his or her home state. The non-resident public adjuster license issued under this Section shall terminate and be surrendered immediately to the Director if the home state public adjuster license terminates for any reason, unless the public adjuster has been issued a license as a resident public adjuster in his or her new home state. Notification to the state or states where the non-resident license is issued must be made as soon as possible, yet no later than 30 days of change in new state resident license. The licensee shall include his or her new and old address on the notification. A new state resident license is required for non-resident licenses to remain valid. The new state resident license must have reciprocity with the licensing non-resident state or states for the non-resident license not to terminate.

(215 ILCS 5/1545 new)

Sec. 1545. License.

(a) Unless denied licensure under this Article, persons who have met the requirements of this Article shall be issued a public adjuster license.

(b) A public adjuster license shall remain in effect unless revoked, terminated, or suspended as long as the requirements for license renewal are met by the due date.

(c) The licensee shall inform the Director by any means acceptable to the Director of a change of address, change of legal name, or change of information submitted on the application within 30 days of the change.

(d) A licensed public adjuster shall be subject to Article XXVI of this Code.

(e) A public adjuster who allows his or her license to lapse may, within 12 months from the due date

of the renewal, be issued a new public adjuster license without necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for the issue of the new public adjuster license.

(f) A licensed public adjuster that is unable to comply with license renewal procedures due to military service or a long-term medical disability may request a waiver of the procedures in subsection (e) of this Section. The public adjuster may also request a waiver of any examination requirement, fine, or other sanction imposed for failure to comply with renewal procedures.

(g) The license shall contain the licensee's name, city and state of business address, personal identification number, the date of issuance, the expiration date, and any other information the Director deems necessary.

(h) In order to assist in the performance of the Director's duties, the Director may contract with non-governmental entities, including the NAIC or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees and data, related to licensing that the Director may deem appropriate.

(215 ILCS 5/1555 new)

Sec. 1555. License denial, non-renewal, or revocation

(a) The Director may place on probation, suspend, revoke, deny, or refuse to issue or renew a public adjuster's license or may levy a civil penalty or any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) violating any insurance laws, or violating any regulation, subpoena, or order of the Director or of another state's Director;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony;

(7) having admitted or been found to have committed any insurance unfair trade practice or insurance fraud;

(8) using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this State or elsewhere;

(9) having an insurance license or public adjuster license or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license or public adjuster license;

(12) knowingly accepting insurance business from or transacting business with an individual who is not licensed but who is required to be licensed by the Director;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay State income tax or comply with any administrative or court order directing payment of State income tax;

(15) failing to comply with or having violated any of the standards set forth in Section 1590 of this Law; or

(16) failing to maintain the records required by Section 1585 of this Law.

(b) If the action by the Director is to nonrenew, suspend, or revoke a license or to deny an application for a license, the Director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the suspension, revocation, denial, or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to 50 Ill. Adm. Code 2402.

(c) The license of a business entity may be suspended, revoked, or refused if the Director finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the business entity and the violation was neither reported to the Director, nor corrective action taken.

(d) In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person

may, after hearing, be subject to a civil penalty. In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil penalty of up to \$10,000 for each cause for denial, suspension, or revocation, however, the civil penalty may total no more than \$100,000.

(e) The Director shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Article even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Any individual whose public adjuster's license is revoked or whose application is denied pursuant to this Section shall be ineligible to apply for a public adjuster's license for 5 years. A suspension pursuant to this Section may be for any period of time up to 5 years.

(215 ILCS 5/1560 new)

Sec. 1560. Bond or letter of credit.

(a) Prior to the issuance of a license as a public adjuster and for the duration of the license, the applicant shall secure evidence of financial responsibility in a format prescribed by the Director through a surety bond or irrevocable letter of credit, subject to all of the following requirements:

(1) A surety bond executed and issued by an insurer authorized to issue surety bonds in this State, which bond:

(A) shall be in the minimum amount of \$20,000;

(B) shall be in favor of this State and shall specifically authorize recovery by the Director on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices in his or her capacity as a public adjuster; and

(C) shall not be terminated unless at least 30 days' prior written notice will have been filed with the Director and given to the licensee; and

(2) An irrevocable letter of credit issued by a qualified financial institution, which letter of credit

(A) shall be in the minimum amount of \$20,000;

(B) shall be to an account to the Director and subject to lawful levy of execution on behalf of any person to whom the public adjuster has been found to be legally liable as the result of erroneous acts, failure to act, fraudulent acts, or unfair practices in his or her capacity as a public adjuster; and

(C) shall not be terminated unless at least 30 days' prior written notice will have been filed with the and given to the licensee.

(b) The issuer of the evidence of financial responsibility shall notify the Director upon termination of the bond or letter of credit, unless otherwise directed by the Director.

(c) The Director may ask for the evidence of financial responsibility at any time he or she deems relevant.

(d) The authority to act as a public adjuster shall automatically terminate if the evidence of financial responsibility terminates or becomes impaired.

(215 ILCS 5/1565 new)

Sec. 1565. Continuing education.

(a) An individual who holds a public adjuster license and who is not exempt under subsection (b) of this Section shall satisfactorily complete a minimum of 24 hours of continuing education courses, including 3 hours of classroom ethics instruction, reported on a biennial basis in conjunction with the license renewal cycle.

The Director may not approve a course of study unless the course provides for classroom, seminar, or self-study instruction methods. A course given in a combination instruction method of classroom or seminar and self-study shall be deemed to be a self-study course unless the classroom or seminar certified hours meets or exceeds two-thirds of the total hours certified for the course. The self-study material used in the combination course must be directly related to and complement the classroom portion of the course in order to be considered for credit. An instruction method other than classroom or seminar shall be considered as self-study methodology. Self-study credit hours require the successful completion of an examination covering the self-study material. The examination may not be self-evaluated. However, if the self-study material is completed through the use of an approved computerized interactive format whereby the computer validates the successful completion of the self-study material, no additional examination is required. The self-study credit hours contained in a certified course shall be considered classroom hours when at least two-thirds of the hours are given as classroom or seminar instruction.

The public adjuster must complete the course in advance of the renewal date to allow the education provider time to report the credit to the Department.

(b) This Section shall not apply to:

(1) licensees not licensed for one full year prior to the end of the applicable continuing education biennium; or

(2) licensees holding nonresident public adjuster licenses who have met the continuing education requirements of their home state and whose home state gives credit to residents of this State on the same basis.

(c) Only continuing education courses approved by the Director shall be used to satisfy the continuing education requirement of subsection (a) of this Section.

(215 ILCS 5/1570 new)

Sec. 1570. Public adjuster fees.

(a) A public adjuster shall not pay a commission, service fee, or other valuable consideration to a person for investigating or settling claims in this State if that person is required to be licensed under this Article and is not so licensed.

(b) A person shall not accept a commission, service fee, or other valuable consideration for investigating or settling claims in this State if that person is required to be licensed under this Article and is not so licensed.

(c) A public adjuster may pay or assign commission, service fees, or other valuable consideration to persons who do not investigate or settle claims in this State, unless the payment would violate State law.

(215 ILCS 5/1575 new)

Sec. 1575. Contract between public adjuster and insured.

(a) Public adjusters shall ensure that all contracts for their services are in writing and contain the following terms:

(1) legible full name of the adjuster signing the contract, as specified in Department records;

(2) permanent home state business address and phone number;

(3) license number;

(4) title of "Public Adjuster Contract";

(5) the insured's full name, street address, insurance company name, and policy number, if known or upon notification;

(6) a description of the loss and its location, if applicable;

(7) description of services to be provided to the insured;

(8) signatures of the public adjuster and the insured;

(9) date contract was signed by the public adjuster and date the contract was signed by the insured;

(10) attestation language stating that the public adjuster is fully bonded pursuant to State law; and

(11) full salary, fee, commission, compensation, or other considerations the public adjuster is to receive for services.

(b) The contract may specify that the public adjuster shall be named as a co-payee on an insurer's payment of a claim.

(1) If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified.

(2) Initial expenses to be reimbursed to the public adjuster from the proceeds of the claim payment shall be specified by type, with dollar estimates set forth in the contract and with any additional expenses first approved by the insured.

(3) Compensation provisions in a public adjusting contract shall not be redacted in any copy of the contract provided to the Director.

(c) If the insurer, not later than 5 business days after the date on which the loss is reported to the insurer, either pays or commits in writing to pay to the insured the policy limit of the insurance policy, the public adjuster shall:

(1) not receive a commission consisting of a percentage of the total amount paid by an insurer to resolve a claim;

(2) inform the insured that loss recovery amount might not be increased by insurer; and

(3) be entitled only to reasonable compensation from the insured for services provided by the public adjuster on behalf of the insured, based on the time spent on a claim and expenses incurred by the public adjuster, until the claim is paid or the insured receives a written commitment to pay from the insurer.

(d) A public adjuster shall provide the insured a written disclosure concerning any direct or indirect financial interest that the public adjuster has with any other party who is involved in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, including, but not limited to, any ownership of or any compensation expected to be received from, any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm which that provides estimates for work, or that performs any work, in conjunction with damages caused by the insured loss on which the public adjuster is engaged. The word "firm" shall

include any corporation, partnership, association, joint-stock company, or person.

(e) A public adjuster contract may not contain any contract term that:

(1) allows the public adjuster's percentage fee to be collected when money is due from an insurance company, but not paid, or that allows a public adjuster to collect the entire fee from the first check issued by an insurance company, rather than as percentage of each check issued by an insurance company;

(2) requires the insured to authorize an insurance company to issue a check only in the name of the public adjuster; or

(3) precludes a public adjuster or an insured from pursuing civil remedies.

(f) The following provisions apply to a contract between a public adjuster and an insured:

(1) Prior to the signing of the contract, the public adjuster shall provide the insured with a separate signed and dated disclosure document regarding the claim process that states:

"Property insurance policies obligate the insured to present a claim to his or her insurance company for consideration. There are 3 types of adjusters that could be involved in that process. The definitions of the 3 types are as follows:

(A) "Company adjuster" means the insurance adjusters who are employees of an insurance company. They represent the interest of the insurance company and are paid by the insurance company. They will not charge you a fee.

(B) "Independent adjuster" means the insurance adjusters who are hired on a contract basis by an insurance company to represent the insurance company's interest in the settlement of the claim. They are paid by your insurance company. They will not charge you a fee.

(C) "Public adjuster" means the insurance adjusters who do not work for any insurance company. They work for the insured to assist in the preparation, presentation and settlement of the claim. The insured hires them by signing a contract agreeing to pay them a fee or commission based on a percentage of the settlement, or other method of compensation."

(2) The insured is not required to hire a public adjuster to help the insured meet his or her obligations under the policy, but has the right to do so.

(3) The insured has the right to initiate direct communications with the insured's attorney, the insurer, the insurer's adjuster, and the insurer's attorney, or any other person regarding the settlement of the insured's claim. Once a public adjuster has been retained, the company adjuster or other insurance representative may not communicate directly with the insured without the permission or consent of the public adjuster or the insured's legal counsel.

(4) The public adjuster is not a representative or employee of the insurer.

(5) The salary, fee, commission, or other consideration is the obligation of the insured, not the insurer, except when rights have been assigned to the public adjuster by the insured.

(g) The contracts shall be executed in duplicate to provide an original contract to the public adjuster, and an original contract to the insured. The public adjuster's original contract shall be available at all times for inspection without notice by the Director.

(h) The public adjuster shall provide the insurer with an exact copy of the contract by the insured, authorizing the public adjuster to represent the insured's interest.

(i) The public adjuster shall give the insured written notice of the insured's rights as a consumer under the law of this State.

(j) A public adjuster shall not provide services until a written contract with the insured has been executed, on a form filed with and approved by the Director. At the option of the insured, any such contract that is executed within 5 business days after conclusion of the loss producing occurrence shall be voidable for 10 days after execution. The insured may void the contract by notifying the public adjuster in writing by (i) registered or certified mail, return receipt requested, to the address shown on the contract or (ii) personally serving the notice on the public adjuster.

(k) If the insured exercises the right to rescind the contract, anything of value given by the insured under the contract will be returned to the insured within 15 business days following the receipt by the public adjuster of the cancellation notice.

(215 ILCS 5/1580 new)

Sec. 1580. Escrow or trust accounts. A public adjuster who receives, accepts, or holds any funds on behalf of an insured towards the settlement of a claim for loss or damage shall deposit the funds in a non-interest bearing escrow or trust account in a financial institution that is insured by an agency of the federal government in the public adjuster's home state or where the loss occurred.

(215 ILCS 5/1585 new)

Sec. 1585. Record retention.

(a) A public adjuster shall maintain a complete record of each transaction as a public adjuster. The records required by this Section shall include the following:

- (1) name of the insured;
  - (2) date, location and amount of the loss;
  - (3) a copy of the contract between the public adjuster and insured and a copy of the separate disclosure document;
  - (4) name of the insurer, amount, expiration date and number of each policy carried with respect to the loss;
  - (5) itemized statement of the insured's recoveries;
  - (6) itemized statement of all compensation received by the public adjuster, from any source whatsoever, in connection with the loss;
  - (7) a register of all monies received, deposited, disbursed, or withdrawn in connection with a transaction with an insured, including fees transfers and disbursements from a trust account and all transactions concerning all interest bearing accounts;
  - (8) name of public adjuster who executed the contract;
  - (9) name of the attorney representing the insured, if applicable, and the name of the claims representatives of the insurance company; and
  - (10) evidence of financial responsibility in a format prescribed by the Director.
- (b) Records shall be maintained for at least 7 years after the termination of the transaction with an insured and shall be open to examination by the Director at all times.
- (c) Records submitted to the Director in accordance with this Section that contain information identified in writing as proprietary by the public adjuster shall be treated as confidential by the Director and shall not be subject to the Freedom of Information Act.

(215 ILCS 5/1590 new)

Sec. 1590. Standards of conduct of public adjuster.

(a) A public adjuster is obligated, under his or her license, to serve with objectivity and complete loyalty for the interests of his client alone, and to render to the insured such information, counsel, and service, as within the knowledge, understanding, and opinion in good faith of the licensee, as will best serve the insured's insurance claim needs and interest.

(b) A public adjuster may not propose or attempt to propose to any person that the public adjuster represent that person while a loss-producing occurrence is continuing, nor while the fire department or its representatives are engaged at the damaged premises, nor between the hours of 7:00 p.m. and 8:00 a.m.

(c) A public adjuster shall not permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this Article.

(d) A public adjuster shall not have a direct or indirect financial interest in any aspect of the claim, other than the salary, fee, commission, or other consideration established in the written contract with the insured, unless full written disclosure has been made to the insured as set forth in subsection (g) of Section 1575.

(e) A public adjuster shall not acquire any interest in the salvage of property subject to the contract with the insured unless the public adjuster obtains written permission from the insured after settlement of the claim with the insurer as set forth in subsection (g) of Section 1575 of this Article.

(f) The public adjuster shall abstain from referring or directing the insured to get needed repairs or services in connection with a loss from any person, unless disclosed to the insured:

(1) with whom the public adjuster has a financial interest; or

(2) from whom the public adjuster may receive direct or indirect compensation for the referral.

(g) The public adjuster shall disclose to an insured if he or she has any interest or will be compensated by any construction firm, salvage firm, building appraisal firm, motor vehicle repair shop, or any other firm that performs any work in conjunction with damages caused by the insured loss. The word "firm" shall include any corporation, partnership, association, joint-stock company or individual as set forth in Section 1575 of this Article.

(h) Any compensation or anything of value in connection with an insured's specific loss that will be received by a public adjuster shall be disclosed by the public adjuster to the insured in writing including the source and amount of any such compensation.

(i) In all cases where the loss giving rise to the claim for which the public adjuster was retained arise from damage to a personal residence, the insurance proceeds shall be delivered in person to the named insured or his or her designee. Where proceeds paid by an insurance company are paid jointly to the insured and the public adjuster, the insured shall release such portion of the proceeds that are due the public adjuster within 30 calendar days after the insured's receipt of the insurance company's check, money order, draft, or release of funds. If the proceeds are not so released to the insured within 30 calendar days, the insured shall provide the public adjuster with a written explanation of the reason for

the delay.

(j) Public adjusters shall adhere to the following general ethical requirements:

(1) a public adjuster shall not undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the public adjuster's current expertise;

(2) a public adjuster shall not knowingly make any oral or written material misrepresentations or statements which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured client or potential insured client;

(3) no public adjuster, while so licensed by the Department, may represent or act as a company adjuster or independent adjuster on the same claim;

(4) the contract shall not be construed to prevent an insured from pursuing any civil remedy after the 3-business day revocation or cancellation period;

(5) a public adjuster shall not enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the persons who shall perform repair work;

(6) a public adjuster shall ensure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement; and

(7) a public adjuster shall not advance money or any valuable consideration, except emergency services to an insured pending adjustment of a claim.

(k) A public adjuster may not agree to any loss settlement without the insured's knowledge and consent.

(215 ILCS 5/1595 new)

Sec. 1595. Reporting of actions.

(a) The public adjuster shall report to the Director any administrative action taken against the public adjuster in another jurisdiction or by another governmental agency in this State within 30 days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

(b) Within 30 days of the initial pretrial hearing date, the public adjuster shall report to the Director any criminal prosecution of the public adjuster taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

(215 ILCS 5/1600 new)

Sec. 1600. Examinations.

(a) The Director shall have the power to examine any applicant or any person licensed or registered pursuant to this Article.

(b) Every person being examined and its officers, directors, and members must provide to the Director convenient and free access, at all reasonable hours, to all books, records, documents, and other papers relating to its public adjusting affairs. The officers, directors, members, and employees must facilitate and aid in such examinations so far as it is in their power to do so.

(c) Examiners may be designated by the Director. Such examiners shall make their reports to the Director pursuant to this Section. Any report alleging substantive violations shall be in writing and shall be based upon the facts ascertained from the books, records, documents, papers, and other evidence obtained by the examiners or ascertained from the testimony of the officers, directors, members, or other individuals examined under oath or ascertained by notarized affidavits received by the examiners. The reports shall be verified by the examiners.

(215 ILCS 5/1605 new)

Sec. 1605. Injunctive relief. Any person who acts as or holds himself out to be a public adjuster without holding a valid and current license to do so is hereby declared to be inimical to the public welfare and to constitute a public nuisance. The Director may report such practice to the Attorney General of the State of Illinois whose duty it is to apply forthwith by complaint on relation of the Director in the name of the people of the State of Illinois, as plaintiff, for injunctive relief in the circuit court of the county where such practice occurred to enjoin the person from engaging in such practice; and upon the filing of a verified petition in such court, the court, if satisfied by affidavit or otherwise that the person has been engaged in such practice without a valid and current license to do so, may enter a temporary restraining order without notice or bond enjoining the defendant from such further practice. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases. If it is established that the defendant has been or is engaged in such unlawful practice, then the court may enter an order or judgment perpetually enjoining the defendant from such further practice. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including the costs of filing the complaint, service of

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process, witness fees and expenses, court reporter charges, and reasonable attorney fees. In case of violation of any injunctive order entered under the provisions of this Section, the court may try and punish the offender for contempt of court. Such injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies.

(215 ILCS 5/1610 new)

Sec. 1610. Additional penalties. In addition to any other penalty set forth in this Article, any person violating Section 1605 of this Code shall be guilty of a Class A misdemeanor and any person misappropriating or converting any monies collected as a public adjuster, whether licensed or not, shall be guilty of a Class 4 felony.

(215 ILCS 5/1615 new)

Sec. 1615. Rules. The Director shall promulgate reasonable rules as are necessary or proper to carry out the purposes of this Article.

(215 ILCS 5/Art. XXXI.75 rep.)

Section 910. The Illinois Insurance Code is amended by repealing Article XXXI.75.

Section 997. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

#### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Kotowski, **Senate Bill No. 660**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Laufen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

**SENATE BILL RECALLED**

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On motion of Senator Collins, **Senate Bill No. 2101** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 3 was held in the Committee on Assignments.

Senator Collins offered the following amendment and moved its adoption:

**AMENDMENT NO. 4 TO SENATE BILL 2101**

AMENDMENT NO. 4. Amend Senate Bill 2101 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Bank Examiners' Education Foundation Act is amended by changing Sections 1, 3.01, 4, 5, and 8 and by adding Section 3.07 as follows:

(20 ILCS 3210/1) (from Ch. 17, par. 401)

Sec. 1. The Illinois Bank Examiners' Education Foundation is hereby created for the purpose of providing a means through which funds may be raised, invested and disbursed for continuing education and professional training activity for the examination employees of the Division of Banking whose responsibilities include the supervision and regulation of commercial banks, foreign banking offices, trust companies, and their information technology service providers ~~Commissioner's office.~~

(Source: P.A. 84-1127.)

(20 ILCS 3210/3.01) (from Ch. 17, par. 403.1)

Sec. 3.01. "Board" means the State Banking Board of Illinois ~~Board of Trustees of the Illinois Bank Examiners' Education Foundation created by the Illinois Banking Act this Act.~~

(Source: P.A. 84-1127.)

(20 ILCS 3210/3.07 new)

Sec. 3.07. Division of Banking. "Division of Banking" means the Division of Banking of the Department of Financial and Professional Regulation.

(20 ILCS 3210/4) (from Ch. 17, par. 404)

Sec. 4. The Foundation shall establish an endowment fund with the monies in the Illinois Bank Examiners' Education Fund. The income from such Fund shall be used to pay for continuing education and professional training activity for the examination employees of the Division of Banking whose responsibilities include the supervision and regulation of commercial banks, foreign banking offices, trust companies, and their information technology service providers ~~Commissioner's office authorized by the Board of the Illinois Bank Examiners' Education Program~~ and to pay for reasonable expenses incurred by the Board in the course of its official duties. The continuing education and professional training activity to be funded by the Foundation shall be a supplement to the education and training expenditures regularly being made from the Bank & Trust Company Fund for such purposes.

(Source: P.A. 84-1127.)

(20 ILCS 3210/5) (from Ch. 17, par. 405)

Sec. 5. The Foundation shall be governed by the State Banking Board of Illinois ~~a Board of Trustees. The Board shall consist of the following trustees: the Commissioner, who shall be its chairman; one Class A member and three Class B members from the State Banking Board of Illinois, appointed by the Governor.~~

~~The terms of the trustees of the Foundation who are members of the State Banking Board of Illinois are to be coextensive with their terms on the State Banking Board of Illinois. An appointment to fill a vacancy shall be for the unexpired term of the trustee whose term is being filled. Trustees shall receive no compensation for service on the Board, but shall be reimbursed for all reasonable and necessary expenditures incurred in the performance of their official duties.~~

(Source: P.A. 84-1127.)

(20 ILCS 3210/8) (from Ch. 17, par. 408)

Sec. 8. ~~No Neither the Commissioner nor any~~ member of the Board shall be subject to any civil liability or penalty, whether for damages or otherwise, on account of or for any action taken or omitted to be taken in their respective official capacities, except when such acts or omissions to act are corrupt or malicious or unless such action is taken or omitted to be taken not in good faith and without reasonable grounds.

(Source: P.A. 84-1127.)

Section 10. The Illinois Banking Act is amended by changing Sections 2, 48, 78, 79, 80, and 82 as follows:

(205 ILCS 5/2) (from Ch. 17, par. 302)

Sec. 2. General definitions. In this Act, unless the context otherwise requires, the following words and

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phrases shall have the following meanings:

"Accommodation party" shall have the meaning ascribed to that term in Section 3-419 of the Uniform Commercial Code.

"Action" in the sense of a judicial proceeding includes recoupments, counterclaims, set-off, and any other proceeding in which rights are determined.

"Affiliate facility" of a bank means a main banking premises or branch of another commonly owned bank. The main banking premises or any branch of a bank may be an "affiliate facility" with respect to one or more other commonly owned banks.

"Appropriate federal banking agency" means the Federal Deposit Insurance Corporation, the Federal Reserve Bank of Chicago, or the Federal Reserve Bank of St. Louis, as determined by federal law.

"Bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction.

A "banking house", "branch", "branch bank" or "branch office" shall mean any place of business of a bank at which deposits are received, checks paid, or loans made, but shall not include any place at which only records thereof are made, posted, or kept. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office if the place of business is adjacent to and connected with the main banking premises, or if it is separated from the main banking premises by not more than an alley; provided always that (i) if the place of business is separated by an alley from the main banking premises there is a connection between the two by public or private way or by subterranean or overhead passage, and (ii) if the place of business is in a building not wholly occupied by the bank, the place of business shall not be within any office or room in which any other business or service of any kind or nature other than the business of the bank is conducted or carried on. A place of business at which deposits are received, checks paid, or loans made shall not be deemed to be a branch, branch bank, or branch office (i) of any bank if the place is a terminal established and maintained in accordance with paragraph (17) of Section 5 of this Act, or (ii) of a commonly owned bank by virtue of transactions conducted at that place on behalf of the other commonly owned bank under paragraph (23) of Section 5 of this Act if the place is an affiliate facility with respect to the other bank.

"Branch of an out-of-state bank" means a branch established or maintained in Illinois by an out-of-state bank as a result of a merger between an Illinois bank and the out-of-state bank that occurs on or after May 31, 1997, or any branch established by the out-of-state bank following the merger.

"Bylaws" means the bylaws of a bank that are adopted by the bank's board of directors or shareholders for the regulation and management of the bank's affairs. If the bank operates as a limited liability company, however, "bylaws" means the operating agreement of the bank.

"Call report fee" means the fee to be paid to the Commissioner by each State bank pursuant to paragraph (a) of subsection (3) of Section 48 of this Act.

"Capital" includes the aggregate of outstanding capital stock and preferred stock.

"Cash flow reserve account" means the account within the books and records of the Commissioner of Banks and Real Estate used to record funds designated to maintain a reasonable Bank and Trust Company Fund operating balance to meet agency obligations on a timely basis.

"Charter" includes the original charter and all amendments thereto and articles of merger or consolidation.

"Commissioner" means the Commissioner of Banks and Real Estate, except that beginning on April 6, 2009 (the effective date of Public Act 95-1047) ~~this amendatory Act of the 95th General Assembly~~, all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

"Commonly owned banks" means 2 or more banks that each qualify as a bank subsidiary of the same bank holding company pursuant to Section 18 of the Federal Deposit Insurance Act; "commonly owned bank" refers to one of a group of commonly owned banks but only with respect to one or more of the other banks in the same group.

"Community" means a city, village, or incorporated town and also includes the area served by the banking offices of a bank, but need not be limited or expanded to conform to the geographic boundaries of units of local government.

"Company" means a corporation, limited liability company, partnership, business trust, association, or similar organization and, unless specifically excluded, includes a "State bank" and a "bank".

"Consolidating bank" means a party to a consolidation.

"Consolidation" takes place when 2 or more banks, or a trust company and a bank, are extinguished and by the same process a new bank is created, taking over the assets and assuming the liabilities of the banks or trust company passing out of existence.

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"Continuing bank" means a merging bank, the charter of which becomes the charter of the resulting bank.

"Converting bank" means a State bank converting to become a national bank, or a national bank converting to become a State bank.

"Converting trust company" means a trust company converting to become a State bank.

"Court" means a court of competent jurisdiction.

"Director" means a member of the board of directors of a bank. In the case of a manager-managed limited liability company, however, "director" means a manager of the bank and, in the case of a member-managed limited liability company, "director" means a member of the bank. The term "director" does not include an advisory director, honorary director, director emeritus, or similar person, unless the person is otherwise performing functions similar to those of a member of the board of directors.

"Director of Banking" means the Director of the Division of Banking of the Department of Financial and Professional Regulation.

"Eligible depository institution" means an insured savings association that is in default, an insured savings association that is in danger of default, a State or national bank that is in default or a State or national bank that is in danger of default, as those terms are defined in this Section, or a new bank as that term defined in Section 11(m) of the Federal Deposit Insurance Act or a bridge bank as that term is defined in Section 11(n) of the Federal Deposit Insurance Act or a new federal savings association authorized under Section 11(d)(2)(f) of the Federal Deposit Insurance Act.

"Fiduciary" means trustee, agent, executor, administrator, committee, guardian for a minor or for a person under legal disability, receiver, trustee in bankruptcy, assignee for creditors, or any holder of similar position of trust.

"Financial institution" means a bank, savings bank, savings and loan association, credit union, or any licensee under the Consumer Installment Loan Act or the Sales Finance Agency Act and, for purposes of Section 48.3, any proprietary network, funds transfer corporation, or other entity providing electronic funds transfer services, or any corporate fiduciary, its subsidiaries, affiliates, parent company, or contractual service provider that is examined by the Commissioner. For purposes of Section 5c and subsection (b) of Section 13 of this Act, "financial institution" includes any proprietary network, funds transfer corporation, or other entity providing electronic funds transfer services, and any corporate fiduciary.

"Foundation" means the Illinois Bank Examiners' Education Foundation.

"General obligation" means a bond, note, debenture, security, or other instrument evidencing an obligation of the government entity that is the issuer that is supported by the full available resources of the issuer, the principal and interest of which is payable in whole or in part by taxation.

"Guarantee" means an undertaking or promise to answer for payment of another's debt or performance of another's duty, liability, or obligation whether "payment guaranteed" or "collection guaranteed".

"In danger of default" means a State or national bank, a federally chartered insured savings association or an Illinois state chartered insured savings association with respect to which the Commissioner or the appropriate federal banking agency has advised the Federal Deposit Insurance Corporation that:

(1) in the opinion of the Commissioner or the appropriate federal banking agency,

(A) the State or national bank or insured savings association is not likely to be able to meet the demands of the State or national bank's or savings association's obligations in the normal course of business; and

(B) there is no reasonable prospect that the State or national bank or insured savings association will be able to meet those demands or pay those obligations without federal assistance; or

(2) in the opinion of the Commissioner or the appropriate federal banking agency,

(A) the State or national bank or insured savings association has incurred or is likely to incur losses that will deplete all or substantially all of its capital; and

(B) there is no reasonable prospect that the capital of the State or national bank or insured savings association will be replenished without federal assistance.

"In default" means, with respect to a State or national bank or an insured savings association, any adjudication or other official determination by any court of competent jurisdiction, the Commissioner, the appropriate federal banking agency, or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed for a State or national bank or an insured savings association.

"Insured savings association" means any federal savings association chartered under Section 5 of the federal Home Owners' Loan Act and any State savings association chartered under the Illinois Savings and Loan Act of 1985 or a predecessor Illinois statute, the deposits of which are insured by the Federal

Deposit Insurance Corporation. The term also includes a savings bank organized or operating under the Savings Bank Act.

"Insured savings association in recovery" means an insured savings association that is not an eligible depository institution and that does not meet the minimum capital requirements applicable with respect to the insured savings association.

"Issuer" means for purposes of Section 33 every person who shall have issued or proposed to issue any security; except that (1) with respect to certificates of deposit, voting trust certificates, collateral-trust certificates, and certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions), "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust, agreement, or instrument under which the securities are issued; (2) with respect to trusts other than those specified in clause (1) above, where the trustee is a corporation authorized to accept and execute trusts, "issuer" means the entrusters, depositors, or creators of the trust and any manager or committee charged with the general direction of the affairs of the trust pursuant to the provisions of the agreement or instrument creating the trust; and (3) with respect to equipment trust certificates or like securities, "issuer" means the person to whom the equipment or property is or is to be leased or conditionally sold.

"Letter of credit" and "customer" shall have the meanings ascribed to those terms in Section 5-102 of the Uniform Commercial Code.

"Main banking premises" means the location that is designated in a bank's charter as its main office.

"Maker or obligor" means for purposes of Section 33 the issuer of a security, the promisor in a debenture or other debt security, or the mortgagor or grantor of a trust deed or similar conveyance of a security interest in real or personal property.

"Merged bank" means a merging bank that is not the continuing, resulting, or surviving bank in a consolidation or merger.

"Merger" includes consolidation.

"Merging bank" means a party to a bank merger.

"Merging trust company" means a trust company party to a merger with a State bank.

"Mid-tier bank holding company" means a corporation that (a) owns 100% of the issued and outstanding shares of each class of stock of a State bank, (b) has no other subsidiaries, and (c) 100% of the issued and outstanding shares of the corporation are owned by a parent bank holding company.

"Municipality" means any municipality, political subdivision, school district, taxing district, or agency.

"National bank" means a national banking association located in this State and after May 31, 1997, means a national banking association without regard to its location.

"Out-of-state bank" means a bank chartered under the laws of a state other than Illinois, a territory of the United States, or the District of Columbia.

"Parent bank holding company" means a corporation that is a bank holding company as that term is defined in the Illinois Bank Holding Company Act of 1957 and owns 100% of the issued and outstanding shares of a mid-tier bank holding company.

"Person" means an individual, corporation, limited liability company, partnership, joint venture, trust, estate, or unincorporated association.

"Public agency" means the State of Illinois, the various counties, townships, cities, towns, villages, school districts, educational service regions, special road districts, public water supply districts, fire protection districts, drainage districts, levee districts, sewer districts, housing authorities, the Illinois Bank Examiners' Education Foundation, the Chicago Park District, and all other political corporations or subdivisions of the State of Illinois, whether now or hereafter created, whether herein specifically mentioned or not, and shall also include any other state or any political corporation or subdivision of another state.

"Public funds" or "public money" means current operating funds, special funds, interest and sinking funds, and funds of any kind or character belonging to, in the custody of, or subject to the control or regulation of the United States or a public agency. "Public funds" or "public money" shall include funds held by any of the officers, agents, or employees of the United States or of a public agency in the course of their official duties and, with respect to public money of the United States, shall include Postal Savings funds.

"Published" means, unless the context requires otherwise, the publishing of the notice or instrument referred to in some newspaper of general circulation in the community in which the bank is located at least once each week for 3 successive weeks. Publishing shall be accomplished by, and at the expense of, the bank required to publish. Where publishing is required, the bank shall submit to the Commissioner

that evidence of the publication as the Commissioner shall deem appropriate.

"Qualified financial contract" means any security contract, commodity contract, forward contract, including spot and forward foreign exchange contracts, repurchase agreement, swap agreement, and any similar agreement, any option to enter into any such agreement, including any combination of the foregoing, and any master agreement for such agreements. A master agreement, together with all supplements thereto, shall be treated as one qualified financial contract. The contract, option, agreement, or combination of contracts, options, or agreements shall be reflected upon the books, accounts, or records of the bank, or a party to the contract shall provide documentary evidence of such agreement.

"Recorded" means the filing or recording of the notice or instrument referred to in the office of the Recorder of the county wherein the bank is located.

"Resulting bank" means the bank resulting from a merger or conversion.

"Secretary" means the Secretary of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

"Securities" means stocks, bonds, debentures, notes, or other similar obligations.

"Stand-by letter of credit" means a letter of credit under which drafts are payable upon the condition the customer has defaulted in performance of a duty, liability, or obligation.

"State bank" means any banking corporation that has a banking charter issued by the Commissioner under this Act.

"State Banking Board" means the State Banking Board of Illinois.

"Subsidiary" with respect to a specified company means a company that is controlled by the specified company. For purposes of paragraphs (8) and (12) of Section 5 of this Act, "control" means the exercise of operational or managerial control of a corporation by the bank, either alone or together with other affiliates of the bank.

"Surplus" means the aggregate of (i) amounts paid in excess of the par value of capital stock and preferred stock; (ii) amounts contributed other than for capital stock and preferred stock and allocated to the surplus account; and (iii) amounts transferred from undivided profits.

"Tier 1 Capital" and "Tier 2 Capital" have the meanings assigned to those terms in regulations promulgated for the appropriate federal banking agency of a state bank, as those regulations are now or hereafter amended.

"Trust company" means a limited liability company or corporation incorporated in this State for the purpose of accepting and executing trusts.

"Undivided profits" means undistributed earnings less discretionary transfers to surplus.

"Unimpaired capital and unimpaired surplus", for the purposes of paragraph (21) of Section 5 and Sections 32, 33, 34, 35.1, 35.2, and 47 of this Act means the sum of the state bank's Tier 1 Capital and Tier 2 Capital plus such other shareholder equity as may be included by regulation of the Commissioner. Unimpaired capital and unimpaired surplus shall be calculated on the basis of the date of the last quarterly call report filed with the Commissioner preceding the date of the transaction for which the calculation is made, provided that: (i) when a material event occurs after the date of the last quarterly call report filed with the Commissioner that reduces or increases the bank's unimpaired capital and unimpaired surplus by 10% or more, then the unimpaired capital and unimpaired surplus shall be calculated from the date of the material event for a transaction conducted after the date of the material event; and (ii) if the Commissioner determines for safety and soundness reasons that a state bank should calculate unimpaired capital and unimpaired surplus more frequently than provided by this paragraph, the Commissioner may by written notice direct the bank to calculate unimpaired capital and unimpaired surplus at a more frequent interval. In the case of a state bank newly chartered under Section 13 or a state bank resulting from a merger, consolidation, or conversion under Sections 21 through 26 for which no preceding quarterly call report has been filed with the Commissioner, unimpaired capital and unimpaired surplus shall be calculated for the first calendar quarter on the basis of the effective date of the charter, merger, consolidation, or conversion.

(Source: P.A. 95-924, eff. 8-26-08; 95-1047, eff. 4-6-09; revised 4-14-09.)

(205 ILCS 5/48) (from Ch. 17, par. 359)

Sec. 48. Secretary's powers; duties. The Secretary shall have the powers and authority, and is charged with the duties and responsibilities designated in this Act, and a State bank shall not be subject to any other visitorial power other than as authorized by this Act, except those vested in the courts, or upon prior consultation with the Secretary, a foreign bank regulator with an appropriate supervisory interest in the parent or affiliate of a state bank. In the performance of the Secretary's duties:

(1) The Commissioner shall call for statements from all State banks as provided in Section 47 at least one time during each calendar quarter.

(2) (a) The Commissioner, as often as the Commissioner shall deem necessary or proper, and no less

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frequently than 18 months following the preceding examination, shall appoint a suitable person or persons to make an examination of the affairs of every State bank, except that for every eligible State bank, as defined by regulation, the Commissioner in lieu of the examination may accept on an alternating basis the examination made by the eligible State bank's appropriate federal banking agency pursuant to Section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991, provided the appropriate federal banking agency has made such an examination. A person so appointed shall not be a stockholder or officer or employee of any bank which that person may be directed to examine, and shall have powers to make a thorough examination into all the affairs of the bank and in so doing to examine any of the officers or agents or employees thereof on oath and shall make a full and detailed report of the condition of the bank to the Commissioner. In making the examination the examiners shall include an examination of the affairs of all the affiliates of the bank, as defined in subsection (b) of Section 35.2 of this Act, or subsidiaries of the bank as shall be necessary to disclose fully the conditions of the subsidiaries or affiliates, the relations between the bank and the subsidiaries or affiliates and the effect of those relations upon the affairs of the bank, and in connection therewith shall have power to examine any of the officers, directors, agents, or employees of the subsidiaries or affiliates on oath. After May 31, 1997, the Commissioner may enter into cooperative agreements with state regulatory authorities of other states to provide for examination of State bank branches in those states, and the Commissioner may accept reports of examinations of State bank branches from those state regulatory authorities. These cooperative agreements may set forth the manner in which the other state regulatory authorities may be compensated for examinations prepared for and submitted to the Commissioner.

(b) After May 31, 1997, the Commissioner is authorized to examine, as often as the Commissioner shall deem necessary or proper, branches of out-of-state banks. The Commissioner may establish and may assess fees to be paid to the Commissioner for examinations under this subsection (b). The fees shall be borne by the out-of-state bank, unless the fees are borne by the state regulatory authority that chartered the out-of-state bank, as determined by a cooperative agreement between the Commissioner and the state regulatory authority that chartered the out-of-state bank.

(2.5) Whenever any State bank, any subsidiary or affiliate of a State bank, or after May 31, 1997, any branch of an out-of-state bank causes to be performed, by contract or otherwise, any bank services for itself, whether on or off its premises:

(a) that performance shall be subject to examination by the Commissioner to the same extent as if services were being performed by the bank or, after May 31, 1997, branch of the out-of-state bank itself on its own premises; and

(b) the bank or, after May 31, 1997, branch of the out-of-state bank shall notify the Commissioner of the existence of a service relationship. The notification shall be submitted with the first statement of condition (as required by Section 47 of this Act) due after the making of the service contract or the performance of the service, whichever occurs first. The Commissioner shall be notified of each subsequent contract in the same manner.

For purposes of this subsection (2.5), the term "bank services" means services such as sorting and posting of checks and deposits, computation and posting of interest and other credits and charges, preparation and mailing of checks, statements, notices, and similar items, or any other clerical, bookkeeping, accounting, statistical, or similar functions performed for a State bank, including but not limited to electronic data processing related to those bank services.

(3) The expense of administering this Act, including the expense of the examinations of State banks as provided in this Act, shall to the extent of the amounts resulting from the fees provided for in paragraphs (a), (a-2), and (b) of this subsection (3) be assessed against and borne by the State banks:

(a) Each bank shall pay to the Secretary a Call Report Fee which shall be paid in quarterly installments equal to one-fourth of the sum of the annual fixed fee of \$800, plus a variable fee based on the assets shown on the quarterly statement of condition delivered to the Secretary in accordance with Section 47 for the preceding quarter according to the following schedule: 16¢ per \$1,000 of the first \$5,000,000 of total assets, 15¢ per \$1,000 of the next \$20,000,000 of total assets, 13¢ per \$1,000 of the next \$75,000,000 of total assets, 9¢ per \$1,000 of the next \$400,000,000 of total assets, 7¢ per \$1,000 of the next \$500,000,000 of total assets, and 5¢ per \$1,000 of all assets in excess of \$1,000,000,000, of the State bank. The Call Report Fee shall be calculated by the Secretary and billed to the banks for remittance at the time of the quarterly statements of condition provided for in Section 47. The Secretary may require payment of the fees provided in this Section by an electronic transfer of funds or an automatic debit of an account of each of the State banks. In case more than one examination of any bank is deemed by the Secretary to be necessary in any examination frequency cycle specified in subsection 2(a) of this Section, and is performed at his direction, the Secretary may

assess a reasonable additional fee to recover the cost of the additional examination; provided, however, that an examination conducted at the request of the State Treasurer pursuant to the Uniform Disposition of Unclaimed Property Act shall not be deemed to be an additional examination under this Section. In lieu of the method and amounts set forth in this paragraph (a) for the calculation of the Call Report Fee, the Secretary may specify by rule that the Call Report Fees provided by this Section may be assessed semiannually or some other period and may provide in the rule the formula to be used for calculating and assessing the periodic Call Report Fees to be paid by State banks.

(a-1) If in the opinion of the Commissioner an emergency exists or appears likely, the Commissioner may assign an examiner or examiners to monitor the affairs of a State bank with whatever frequency he deems appropriate, including but not limited to a daily basis. The reasonable and necessary expenses of the Commissioner during the period of the monitoring shall be borne by the subject bank. The Commissioner shall furnish the State bank a statement of time and expenses if requested to do so within 30 days of the conclusion of the monitoring period.

(a-2) On and after January 1, 1990, the reasonable and necessary expenses of the Commissioner during examination of the performance of electronic data processing services under subsection (2.5) shall be borne by the banks for which the services are provided. An amount, based upon a fee structure prescribed by the Commissioner, shall be paid by the banks or, after May 31, 1997, branches of out-of-state banks receiving the electronic data processing services along with the Call Report Fee assessed under paragraph (a) of this subsection (3).

(a-3) After May 31, 1997, the reasonable and necessary expenses of the Commissioner during examination of the performance of electronic data processing services under subsection (2.5) at or on behalf of branches of out-of-state banks shall be borne by the out-of-state banks, unless those expenses are borne by the state regulatory authorities that chartered the out-of-state banks, as determined by cooperative agreements between the Commissioner and the state regulatory authorities that chartered the out-of-state banks.

(b) "Fiscal year" for purposes of this Section 48 is defined as a period beginning July 1 of any year and ending June 30 of the next year. The Commissioner shall receive for each fiscal year, commencing with the fiscal year ending June 30, 1987, a contingent fee equal to the lesser of the aggregate of the fees paid by all State banks under paragraph (a) of subsection (3) for that year, or the amount, if any, whereby the aggregate of the administration expenses, as defined in paragraph (c), for that fiscal year exceeds the sum of the aggregate of the fees payable by all State banks for that year under paragraph (a) of subsection (3), plus any amounts transferred into the Bank and Trust Company Fund from the State Pensions Fund for that year, plus all other amounts collected by the Commissioner for that year under any other provision of this Act, plus the aggregate of all fees collected for that year by the Commissioner under the Corporate Fiduciary Act, excluding the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act, and the Foreign Banking Office Act. The aggregate amount of the contingent fee thus arrived at for any fiscal year shall be apportioned amongst, assessed upon, and paid by the State banks and foreign banking corporations, respectively, in the same proportion that the fee of each under paragraph (a) of subsection (3), respectively, for that year bears to the aggregate for that year of the fees collected under paragraph (a) of subsection (3). The aggregate amount of the contingent fee, and the portion thereof to be assessed upon each State bank and foreign banking corporation, respectively, shall be determined by the Commissioner and shall be paid by each, respectively, within 120 days of the close of the period for which the contingent fee is computed and is payable, and the Commissioner shall give 20 days advance notice of the amount of the contingent fee payable by the State bank and of the date fixed by the Commissioner for payment of the fee.

(c) The "administration expenses" for any fiscal year shall mean the ordinary and contingent expenses for that year incident to making the examinations provided for by, and for otherwise administering, this Act, the Corporate Fiduciary Act, excluding the expenses paid from the Corporate Fiduciary Receivership account in the Bank and Trust Company Fund, the Foreign Banking Office Act, the Electronic Fund Transfer Act, and the Illinois Bank Examiners' Education Foundation Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State, including the Commissioner and the Deputy Commissioners, all expenditures for telephone and telegraph charges, postage and postal charges, office stationery, supplies and services, and office furniture and equipment, including typewriters and copying and duplicating machines and filing equipment, surety bond premiums, and travel expenses of those officers and employees, employees, expenditures or charges for the acquisition, enlargement or improvement of, or for the use of, any office space, building, or structure, or expenditures for the maintenance thereof or for furnishing heat, light, or power with respect thereto, all to the extent that

those expenditures are directly incidental to such examinations or administration. The Commissioner shall not be required by paragraphs (c) or (d-1) of this subsection (3) to maintain in any fiscal year's budget appropriated reserves for accrued vacation and accrued sick leave that is required to be paid to employees of the Commissioner upon termination of their service with the Commissioner in an amount that is more than is reasonably anticipated to be necessary for any anticipated turnover in employees, whether due to normal attrition or due to layoffs, terminations, or resignations.

(d) The aggregate of all fees collected by the Secretary under this Act, the Corporate Fiduciary Act, or the Foreign Banking Office Act on and after July 1, 1979, shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in a special fund to be known as the "Bank and Trust Company Fund", except as provided in paragraph (c) of subsection (11) of this Section. All earnings received from investments of funds in the Bank and Trust Company Fund shall be deposited in the Bank and Trust Company Fund and may be used for the same purposes as fees deposited in that Fund. The amount from time to time deposited into the Bank and Trust Company Fund shall be used: (i) to offset the ordinary administrative expenses of the Secretary as defined in this Section or (ii) as a credit against fees under paragraph (d-1) of this subsection (3). Nothing in this amendatory Act of 1979 shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance premiums of State officers by appropriations from the General Revenue Fund. However, the General Revenue Fund shall be reimbursed for those payments made on and after July 1, 1979, by an annual transfer of funds from the Bank and Trust Company Fund. Moneys in the Bank and Trust Company Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the sum of \$18,788,847 shall be transferred from the Bank and Trust Company Fund to the Financial Institutions Settlement of 2008 Fund on the effective date of this amendatory Act of the 95th General Assembly, or as soon thereafter as practical.

Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the Governor may, during any fiscal year through January 10, 2011, from time to time direct the State Treasurer and Comptroller to transfer a specified sum not exceeding 10% of the revenues to be deposited into the Bank and Trust Company Fund during that fiscal year from that Fund to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. Notwithstanding provisions in the State Finance Act, as now or hereafter amended, or any other law to the contrary, the total sum transferred during any fiscal year through January 10, 2011, from the Bank and Trust Company Fund to the General Revenue Fund pursuant to this provision shall not exceed during any fiscal year 10% of the revenues to be deposited into the Bank and Trust Company Fund during that fiscal year. The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Governor.

(d-1) Adequate funds shall be available in the Bank and Trust Company Fund to permit the timely payment of administration expenses. In each fiscal year the total administration expenses shall be deducted from the total fees collected by the Commissioner and the remainder transferred into the Cash Flow Reserve Account, unless the balance of the Cash Flow Reserve Account prior to the transfer equals or exceeds one-fourth of the total initial appropriations from the Bank and Trust Company Fund for the subsequent year, in which case the remainder shall be credited to State banks and foreign banking corporations and applied against their fees for the subsequent year. The amount credited to each State bank and foreign banking corporation shall be in the same proportion as the Call Report Fees paid by each for the year bear to the total Call Report Fees collected for the year. If, after a transfer to the Cash Flow Reserve Account is made or if no remainder is available for transfer, the balance of the Cash Flow Reserve Account is less than one-fourth of the total initial appropriations for the subsequent year and the amount transferred is less than 5% of the total Call Report Fees for the year, additional amounts needed to make the transfer equal to 5% of the total Call Report Fees for the year shall be apportioned amongst, assessed upon, and paid by the State banks and foreign banking corporations in the same proportion that the Call Report Fees of each, respectively, for the year bear to the total Call Report Fees collected for the year. The additional amounts assessed shall be transferred into the Cash Flow Reserve Account. For purposes of this paragraph (d-1), the calculation of the fees collected by the Commissioner shall exclude the receivership fees provided for in Section 5-10 of the Corporate Fiduciary Act.

(e) The Commissioner may upon request certify to any public record in his keeping and shall have authority to levy a reasonable charge for issuing certifications of any public record in his

keeping.

(f) In addition to fees authorized elsewhere in this Act, the Commissioner may, in connection with a review, approval, or provision of a service, levy a reasonable charge to recover the cost of the review, approval, or service.

(4) Nothing contained in this Act shall be construed to limit the obligation relative to examinations and reports of any State bank, deposits in which are to any extent insured by the United States or any agency thereof, nor to limit in any way the powers of the Commissioner with reference to examinations and reports of that bank.

(5) The nature and condition of the assets in or investment of any bonus, pension, or profit sharing plan for officers or employees of every State bank or, after May 31, 1997, branch of an out-of-state bank shall be deemed to be included in the affairs of that State bank or branch of an out-of-state bank subject to examination by the Commissioner under the provisions of subsection (2) of this Section, and if the Commissioner shall find from an examination that the condition of or operation of the investments or assets of the plan is unlawful, fraudulent, or unsafe, or that any trustee has abused his trust, the Commissioner shall, if the situation so found by the Commissioner shall not be corrected to his satisfaction within 60 days after the Commissioner has given notice to the board of directors of the State bank or out-of-state bank of his findings, report the facts to the Attorney General who shall thereupon institute proceedings against the State bank or out-of-state bank, the board of directors thereof, or the trustees under such plan as the nature of the case may require.

(6) The Commissioner shall have the power:

(a) To promulgate reasonable rules for the purpose of administering the provisions of this Act.

(a-5) To impose conditions on any approval issued by the Commissioner if he determines that the conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Commissioner.

(b) To issue orders against any person, if the Commissioner has reasonable cause to believe that an unsafe or unsound banking practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Commissioner, or for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act.

(b-1) To enter into agreements with a bank establishing a program to correct the condition of the bank or its practices.

(c) To appoint hearing officers to execute any of the powers granted to the Commissioner under this Section for the purpose of administering this Act and any rule promulgated in accordance with this Act and otherwise to authorize, in writing, an officer or employee of the Office of Banks and Real Estate to exercise his powers under this Act.

(d) To subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath, and to require the production of any relevant books, papers, accounts, and documents in the course of and pursuant to any investigation being conducted, or any action being taken, by the Commissioner in respect of any matter relating to the duties imposed upon, or the powers vested in, the Commissioner under the provisions of this Act or any rule promulgated in accordance with this Act.

(e) To conduct hearings.

(7) Whenever, in the opinion of the ~~Secretary Commissioner~~, any director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank or, after May 31, 1997, of any branch of an out-of-state bank or any subsidiary or bank holding company of the bank shall have violated any law, rule, or order relating to that bank or any subsidiary or bank holding company of the bank, shall have obstructed or impeded any examination or investigation by the ~~Secretary Commissioner~~, shall have engaged in an unsafe or unsound practice in conducting the business of that bank or any subsidiary or bank holding company of the bank, or shall have violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the State bank, the ~~Secretary Commissioner~~ may issue an order of removal. If, in the opinion of the ~~Secretary Commissioner~~, any former director, officer, employee, or agent of a State bank or any subsidiary or bank holding company of the bank, prior to the termination of his or her service with that bank or any subsidiary or bank holding company of the bank, violated any law, rule, or order relating to that State bank or any subsidiary or bank holding company of the bank, obstructed or impeded any examination or investigation by the ~~Secretary Commissioner~~, engaged in an unsafe or unsound practice in conducting the business of that bank or any

subsidiary or bank holding company of the bank, or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the State bank, the Secretary Commissioner may issue an order prohibiting that person from further service with a bank or any subsidiary or bank holding company of the bank as a director, officer, employee, or agent. An order issued pursuant to this subsection shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the bank affected by registered mail. ~~The person affected by the action may request a hearing before the State Banking Board within 10 days after receipt of the order. The hearing shall be held by the Board within 30 days after the request has been received by the Board. The Board shall make a determination approving, modifying, or disapproving the order of the Commissioner as its final administrative decision. If a hearing is held by the Board, the Board shall make its determination within 60 days from the conclusion of the hearing. Any person affected by a decision of the Board under this subsection (7) of Section 48 of this Act may have the decision reviewed only under and in accordance with the Administrative Review Law and the rules adopted pursuant thereto.~~ A copy of the order shall also be served upon the bank of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, or agent of that bank. The Secretary Commissioner may institute a civil action against the director, officer, or agent of the State bank or, after May 31, 1997, of the branch of the out-of-state bank against whom any order provided for by this subsection (7) of this Section 48 has been issued, and against the State bank or, after May 31, 1997, out-of-state bank, to enforce compliance with or to enjoin any violation of the terms of the order. Any person who has been the subject of an order of removal or an order of prohibition issued by the Secretary Commissioner under this subsection or Section 5-6 of the Corporate Fiduciary Act may not thereafter serve as director, officer, employee, or agent of any State bank or of any branch of any out-of-state bank, or of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate Fiduciary Act, or of any other entity that is subject to licensure or regulation by the ~~Division of Banking Commissioner or the Office of Banks and Real Estate~~ unless the Secretary Commissioner has granted prior approval in writing.

For purposes of this paragraph (7), "bank holding company" has the meaning prescribed in Section 2 of the Illinois Bank Holding Company Act of 1957.

(8) The Commissioner may impose civil penalties of up to \$10,000 against any person for each violation of any provision of this Act, any rule promulgated in accordance with this Act, any order of the Commissioner, or any other action which in the Commissioner's discretion is an unsafe or unsound banking practice.

(9) The Commissioner may impose civil penalties of up to \$100 against any person for the first failure to comply with reporting requirements set forth in the report of examination of the bank and up to \$200 for the second and subsequent failures to comply with those reporting requirements.

(10) All final administrative decisions of the Commissioner hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law. For matters involving administrative review, venue shall be in either Sangamon County or Cook County.

(11) The endowment fund for the Illinois Bank Examiners' Education Foundation shall be administered as follows:

(a) (Blank).

(b) The Foundation is empowered to receive voluntary contributions, gifts, grants, bequests, and donations on behalf of the Illinois Bank Examiners' Education Foundation from national banks and other persons for the purpose of funding the endowment of the Illinois Bank Examiners' Education Foundation.

(c) The aggregate of all special educational fees collected by the ~~Secretary Commissioner~~ and property

received by the Secretary Commissioner on behalf of the Illinois Bank Examiners' Education Foundation under this subsection (11) on or after June 30, 1986, shall be either (i) promptly paid after receipt of the same, accompanied by a detailed statement thereof, into the State Treasury and shall be set apart in a special fund to be known as "The Illinois Bank Examiners' Education Fund" to be invested by either the Treasurer of the State of Illinois in the Public Treasurers' Investment Pool or in any other investment he is authorized to make or by the Illinois State Board of Investment as the ~~State Banking Board of Illinois board of trustees of the Illinois Bank Examiners' Education Foundation~~ may direct or (ii) deposited into an account maintained in a commercial bank or corporate fiduciary in the name of the Illinois Bank Examiners' Education Foundation pursuant to the order and direction of the Board of Trustees of the Illinois Bank Examiners' Education Foundation.

(12) (Blank).

(Source: P.A. 94-91, eff. 7-1-05; 95-1047, eff. 4-6-09.)

(205 ILCS 5/78) (from Ch. 17, par. 390)

Sec. 78. Board of banks and trust companies; creation, members, appointment. There is created a Board which shall be known as the State Banking Board of Illinois which shall consist of the Director of Banking Commissioner, who shall be its chairman, and 11 ~~46~~ additional members. The Board shall be comprised of individuals interested in the banking industry. Two members shall be from State banks having total assets of not more than \$75,000,000 at the time of their appointment; 2 members shall be from State banks having total assets of more than \$75,000,000, but not more than \$150,000,000 at the time of their appointment; 2 members shall be from State banks having total assets of more than \$150,000,000, but not more than \$500,000,000 at the time of their appointment; 2 members shall be from State banks having total assets of more than \$500,000,000, but not more than \$2,000,000,000 at the time of their appointment, and one member shall be from a State bank having total assets of more than \$2,000,000,000 at the time of his or her appointment. There shall be 2 public members, neither of whom shall be an officer or director of or owner, whether directly or indirectly, of more than 5% of the outstanding capital stock of any bank, divided into 3 classes designated Class A members, Class B members, and Class C members who are appointed by the Governor by and with the advice and consent of the Senate and made up as follows:

Class A shall consist of 4 persons, none of whom shall be an officer or director of or owner, whether direct or indirect, of more than 5% of the outstanding capital stock of any bank.

Class B shall consist of 10 persons who at the time of their respective appointments shall have had not less than 10 years banking experience. Of the 10 Class B members, 2 shall be from State banks having total assets of not more than \$20,000,000 at the time of their appointment, 2 shall be from State banks having total assets of more than \$20,000,000 but not more than \$50,000,000 at the time of their appointment, 2 shall be from State banks having total assets of more than \$50,000,000, but not more than \$125,000,000 at the time of their appointment, one shall be from a State bank having total assets of more than \$125,000,000 but not more than \$250,000,000 at the time of appointment, one shall be from a State bank having total assets of more than \$250,000,000 but not more than \$1,000,000,000 at the time of appointment, one shall be from a State bank having total assets of more than \$1,000,000,000 at the time of appointment and one shall be from a foreign banking corporation certificated pursuant to the Foreign Banking Office Act.

Class C shall consist of 2 persons who shall be at large members representing the banking industry generally.

(Source: P.A. 91-798, eff. 7-9-00.)

(205 ILCS 5/79) (from Ch. 17, par. 391)

Sec. 79. Board, terms of office. The terms of office of the Class A and Class B members of the State Banking Board of Illinois shall be 4 years, except that the initial Board appointments shall be staggered with the Governor initially appointing, with advice and consent of the Senate, 3 members to serve 2-year terms, 4 members to serve 3-year terms, and 4 members to serve 4-year terms. Members shall continue to serve on the Board until their replacement is appointed and qualified. Vacancies shall be filled by appointment by the Governor with advice and consent of the Senate. Board of Banks and Trust Companies who are in office on the effective date of this Amendatory Act of 1985 shall expire on December 31, 1985. The terms of office of Class A, Class B, and Class C members of the State Banking Board shall be as follows:

(a) The terms of office of all Class A and Class B members of the State Banking Board shall begin on January 1, 1986.

(b) The persons first appointed as the Class A members of the State Banking Board shall have the following terms as designated by the Governor; one person for a term of one year, one person for a term of 2 years, one person for a term of 3 years and one person for a term of 4 years. Thereafter, the term of office of each Class A member shall be 4 years, except that an appointment to fill a vacancy shall be for the unexpired term of the member whose term is being filled.

(c) The persons first appointed as Class B members of the State Banking Board shall have the following terms as designated by the Governor; one member for a term of one year, 3 members for a term of 2 years, 3 members for a term of 3 years, and 3 members for a term of 4 years. Thereafter, the term of office of each Class B member shall be 4 years, except that an appointment to fill a vacancy shall be for the unexpired term of the member whose term is being filled.

(c-5) The initial term of office of each Class C member of the State Banking Board appointed pursuant to this amendatory Act of the 91st General Assembly shall expire on January 1, 2004. Thereafter, the term of office of each Class C member shall be 4 years, except that an appointment to fill a vacancy shall be for the unexpired term of the member whose term is being filled.

(d) No ~~Class A, Class B, or Class C~~ State Banking Board member shall serve more than 2 full 4-year terms of office.

~~(e) The term of office of a State Banking Board member shall terminate automatically when the member no longer meets the qualifications for the member's appointment to the Board provided that an increase or decrease in the asset size of the member's bank during the member's term of office on the State Banking Board shall not result in the termination of the member's term of office.~~

(Source: P.A. 90-301, eff. 8-1-97; 91-798, eff. 7-9-00.)

(205 ILCS 5/80) (from Ch. 17, par. 392)

Sec. 80. Board; powers. The Board shall have the following powers in addition to any others that may be granted to it by law:

(a) ~~(Blank). To make, alter, and amend rules and regulations proposed for adoption by the Commissioner with respect to the following matters:~~

~~(i) The scope and nature of showings to be furnished and evidence to be presented in connection with the granting of charters of new banks, and in connection with the approval by the Commissioner of mergers, conversions, consolidations and changes of location, and the forms upon which any of such showings may be made.~~

~~(ii) The steps to be taken and the showings to be furnished in connection with voluntary dissolutions under Sections 68 to 74, inclusive, of this Act, and the forms upon which such showing are to be made.~~

~~(iii) The form, content and nature of the reports to be furnished to the Commissioner under Section 47 of this Act, and the definition of the scope of examinations and the data to be furnished in connection with examinations by the Commissioner under subsection (2) and subsection (5) of Section 48 of this Act.~~

(b) To review, consider, and make recommendations to the Director of Banking Commissioner upon any banking matters.

(c) ~~(Blank). To require the Commissioner to report periodically to the Board on any banking matters, including the following:~~

~~(i) Data with respect to banks whose condition or practices are being critically considered or reviewed by the Commissioner pursuant to Section 51 of this Act, and data with respect to banks to which any notice has been given by the Commissioner pursuant to said Section 51; and~~

~~(ii) The extent and nature of all disciplinary action taken by the Commissioner against any bank or any officer or director thereof, and information with respect to the manner or extent of the remedial action, if any, taken by the criticized bank or director or officer; and~~

~~(iii) The extent and nature of all action taken by the Commissioner under or pursuant to Section 52 of this Act; and~~

~~(iv) The extent and nature of all action taken by the Commissioner under or pursuant to Section 31 of this Act.~~

~~(d) (Blank). To require the Commissioner to furnish the Board reports in respect of the granting or of the denial of new charters, mergers, changes of location, conversions or consolidations, including the findings made and the basis for the action taken by the Commissioner in connection therewith.~~

(e) To review, consider, and submit to the Director of Banking Commissioner and to the Governor proposals for amendments to this Act or for changes in or additions to the administration thereof which in the opinion of the Board are necessary or desirable in order to assure the safe and sound conduct of the banking business.

~~(f) (Blank). To require the Commissioner to furnish the Board space for meetings to be held by the Board as well as to require the Commissioner to provide such clerical and technical assistance as the Board may require.~~

(g) To adopt its own by-laws with respect to Board meetings and procedures. Such by-laws shall provide that:

(i) A majority of the whole Board constitutes a quorum.

(ii) A majority of the quorum shall constitute effective action except that a vote of a majority of the whole Board shall be necessary for ~~the approval of rules and regulations proposed for adoption by the Commissioner under Section 80(a), (i), (ii) and (iii) of this Act and shall be necessary for recommendations made to the Director of Banking Commissioner and to the Governor with regard to proposed amendments to this Act or to the administrative practices hereunder.~~

(iii) The Board shall meet at least once in each calendar year and upon the call of the Director of Banking Commissioner or a majority of the Board. The Director of Banking Commissioner or a majority of the Board may call such special or additional meetings as may be deemed necessary or desirable.

~~(h) (Blank). To make rules to regulate the method of selecting candidates for consideration by the Governor to fill a vacancy in the Office of the Commissioner and the deputy commissioners.~~

~~(i) (Blank). To make rules to regulate the method of selecting candidates for consideration by the Governor to fill a vacancy in the office of any of the 10 Class B members of the Board.~~

~~(j) (Blank). To make rules to regulate the conduct of hearings under subsection (7) of Section 48 of this Act.~~

~~(k) (Blank). To subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath and to require the production of any relevant books, papers, accounts and documents in the course of and pursuant to any hearing being conducted under subsection (7) of Section 48 of this Act.~~

~~(l) (Blank). To appoint hearing officers to conduct hearings under subsection (7) of Section 48 of this Act.~~

~~(m) To authorize the transfer of funds from the Illinois Bank Examiners' Education Fund to the Bank and Trust Company Fund. Any amount transferred shall be retransferred to the Illinois Bank Examiners' Education Fund from the Bank and Trust Company Fund within 3 years.~~

~~(n) To maintain and direct the investments of the Illinois Bank Examiners' Education Fund.~~

~~(o) To evaluate various courses, programs, curricula, and schools of continuing education and professional training that are available from within the United States for state banking department examination personnel and develop a program known as the Illinois Bank Examiners' Education Program. The Board shall determine which courses, programs, curricula, and schools will be included in the Program to be funded by the Foundation.~~

(Source: P.A. 89-508, eff. 7-3-96.)

(205 ILCS 5/82) (from Ch. 17, par. 394)

Sec. 82. Commissioner, board; civil liability. Neither the Secretary, Director of Banking, Commissioner, any deputy commissioner, any member of the Board of Banks and Trust Companies, any member of the State Banking Board of Illinois, nor any examiner, assistant examiner or other employee of the Division of Banking Commissioner's office shall be subject to any civil liability or penalty, whether for damages or otherwise, on account of or for any action taken or omitted to be taken in their respective official capacities, except when such acts or omissions to act are corrupt or malicious or unless such action is taken or omitted to be taken not in good faith and without reasonable grounds.

(Source: P.A. 85-204.)

Section 15. The Illinois Bank Holding Company Act of 1957 is amended by changing Sections 2 and 3.074 as follows:

(205 ILCS 10/2) (from Ch. 17, par. 2502)

Sec. 2. Unless the context requires otherwise:

(a) "Bank" means any national banking association or any bank, banking association or savings bank, whether organized under the laws of Illinois, another state, the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, which (1) accepts deposits that the depositor has a legal right to withdraw on demand by check or other negotiable order and (2) engages in the business of making commercial loans. "Bank" does not include any organization operating under Sections 25 or 25 (a) of the Federal Reserve Act, or any organization which does not do business within the United States except as an incident to its activities outside the United States or any foreign bank.

(b) "Bank holding company" means any company that controls or has control over any bank or over any company that is or becomes a bank holding company by virtue of this Act.

(c) "Banking office" means the principal office of a bank, any branch of a bank, or any other office at which a bank accepts deposits, provided, however, that "banking office" shall not mean:

(1) unmanned automatic teller machines, point of sale terminals or other similar

unmanned electronic banking facilities at which deposits may be accepted; or

(2) offices located outside the United States.

(d) "Cause to be chartered", with respect to a specified bank, means the acquisition of control of such bank prior to the time it commences to engage in the banking business.

(e) "Commissioner" means the Commissioner of Banks and Real Estate or a person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead, except that beginning on the effective date of this amendatory Act of the 96th General Assembly, all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(f) "Community" means the contiguous area served by the banking offices of a bank, but need not be

limited or expanded to conform to the geographic boundaries of units of local government.

(g) "Company" means any corporation, business trust, voting trust, association, partnership, joint venture, similar organization or any other trust unless by its terms it must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, but shall not include (1) an individual or (2) any corporation the majority of the shares of which are owned by the United States or by any state or any corporation or community chest fund, organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, no part of the net earnings of which inure to the benefit of any private shareholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.

(h) A company "controls or has control over" a bank or company if (1) it directly or indirectly owns or controls or has the power to vote, 25% or more of the voting shares of any class of voting securities of such bank or company or (2) it controls in any manner the election of a majority of the directors or trustees of such bank or company or (3) a trustee holds for the benefit of its shareholders, members or employees, 25% or more of the voting shares of such bank or company or (4) it directly or indirectly exercises a controlling influence over the management or policies of such bank or company that is a bank holding company and the Board of Governors of the Federal Reserve System has so determined under the federal Bank Holding Company Act. In determining whether any company controls or has control over a bank or company: (i) shares owned or controlled by any subsidiary of a company shall be deemed to be indirectly owned or controlled by such company; (ii) shares held or controlled, directly or indirectly, by a trustee or trustees for the benefit of a company, the shareholders or members of a company or the employees (whether exclusively or not) of a company, shall be deemed to be controlled by such company; and (iii) shares transferred, directly or indirectly, by any bank holding company (or by any company which, but for such transfer, would be a bank holding company) to any transferee that is indebted to the transferor or that has one or more officers, directors, trustees or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor unless the Board of Governors of the Federal Reserve System has determined, under the federal Bank Holding Company Act, that the transferor is not in fact capable of controlling the transferee. Notwithstanding the foregoing, no company shall be deemed to have control of or over a bank or bank holding company (A) by virtue of its ownership or control of shares in a fiduciary capacity arising in the ordinary course of its business; (B) by virtue of its ownership or control of shares acquired by it in connection with its underwriting of securities which are held only for such period of time as will permit the sale thereof upon a reasonable basis; (C) by virtue of its holding any shares as collateral taken in the ordinary course of securing a debt or other obligation; (D) by virtue of its ownership or control of shares acquired in the ordinary course of collecting a debt or other obligation previously contracted in good faith, until 5 years after the date acquired; or (E) by virtue of its voting rights with respect to shares of any bank or bank holding company acquired in the course of a proxy solicitation in the case of a company formed and operated for the sole purpose of participating in a proxy solicitation.

(h-5) "Division of Banking" means the Division of Banking of the Department of Financial and Professional Regulation.

(i) "Federal Bank Holding Company Act" means the federal Bank Holding Company Act of 1956, as now or hereafter amended.

(j) "Foreign bank" means any company organized under the laws of a foreign country which engages in the business of banking or any subsidiary or affiliate of any such company, organized under such laws. "Foreign bank" includes, without limitation, foreign merchant banks and other foreign institutions that engage in banking activities usual in connection with the business of banking in the countries where such foreign institutions are organized or operating.

(k) "Home state" means the home state of a foreign bank as determined pursuant to the federal International Banking Act of 1978.

(l) "Illinois bank" means a bank:

- (1) that is organized under the laws of this State or of the United States; and
- (2) whose main banking premises is located in Illinois.

(m) "Illinois bank holding company" means a bank holding company:

- (1) whose principal place of business is Illinois; and

(2) that is not directly or indirectly controlled by another bank holding company whose principal place of business is a state other than Illinois or by a foreign bank whose Home State is a state other than Illinois.

An out of state bank holding company that acquires control of one or more Illinois banks or Illinois bank holding companies pursuant to Sections 3.061 or 3.071 shall not be deemed an Illinois bank holding company.

(n) "Main banking premises" means the location that is designated in a bank's charter as its main office and that is within the state in which the total deposits held by all of the banking offices of such bank are the largest, as shown in the most recent reports of condition or similar reports filed by such bank with state or federal regulatory authorities.

(o) "Out of state bank" means a bank:

- (1) that is not an Illinois bank; and
- (2) whose main banking premises is located in a state other than Illinois.

(p) "Out of state bank holding company" means a bank holding company:

- (1) that is not an Illinois bank holding company;
- (2) whose principal place of business is a state other than Illinois the laws of which

expressly authorize the acquisition by an Illinois bank holding company of a bank or bank holding company in that state under qualifications and conditions which are not unduly restrictive, as determined by the Secretary Commissioner, when compared to those imposed by the laws of Illinois.

(q) "Principal place of business" means, with respect to a bank holding company, the state in which the total deposits held by all of the banking offices of all of the bank subsidiaries of such bank holding company are the largest, as shown in the most recent reports of condition or similar reports filed by the bank holding company's bank subsidiaries with state or federal regulatory authorities.

(q-5) "Secretary" means the Secretary of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

(r) "State" or "states" when used in this Act means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands.

(s) "Subsidiary", with respect to a specified bank holding company, means any bank or company controlled by such bank holding company.

(Source: P.A. 89-508, eff. 7-3-96.)

(205 ILCS 10/3.074) (from Ch. 17, par. 2510.04)

Sec. 3.074. Powers; administrative review.

(a) The Secretary Commissioner shall have the power and authority:

(1) to promulgate reasonable procedural rules for the purposes of administering the provisions of this Act. The Secretary Commissioner shall specify the form of any application, report or document that is required to be filed with the Secretary Commissioner pursuant to this Act;

- (2) to issue orders for the purpose of administering the provisions of this Act and any rule promulgated in accordance with this Act;
- (3) to appoint hearing officers to execute any of the powers granted to the Secretary Commissioner

under

this Section for the purpose of administering this Act or any rule promulgated in accordance with this Act; and

(4) to subpoena witnesses, to compel their attendance, to administer an oath, to examine any person under oath and to require the production of any relevant books, papers, accounts and documents in the course of and pursuant to any investigation or hearing being conducted or any action being taken by the Secretary Commissioner in respect to any matter relating to the duties imposed upon or the powers vested in the Secretary Commissioner under the provisions of this Act or any rule promulgated in accordance with this Act.

(b) Whenever, in the opinion of the Secretary Commissioner, any director, officer, employee, or agent of any bank holding company or subsidiary or affiliate of that company shall have violated any law, rule, or order relating to that bank holding company or subsidiary or affiliate of that company, shall have obstructed or impeded any examination or investigation by the Secretary Commissioner, shall have engaged in an unsafe or unsound practice in conducting the business of that bank holding company or subsidiary or affiliate of that company, or shall have violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the bank holding company, the Secretary Commissioner may issue an order of removal. If, in the opinion of the Secretary Commissioner, any former director, officer, employee, or agent of a bank holding company or subsidiary or affiliate of that company, prior to the termination of his or her service with that holding company or subsidiary or affiliate of that company, violated any law, rule, or order relating to that bank holding company or subsidiary or affiliate of that company, obstructed or impeded any examination or investigation by the Secretary Commissioner, engaged in an unsafe or unsound practice in conducting the business of that bank holding company or subsidiary or affiliate of that company, or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the

character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the bank holding company, the ~~Secretary Commissioner~~ may issue an order prohibiting that person from further service with a bank holding company or subsidiary or affiliate of that company as a director, officer, employee, or agent.

An order issued pursuant to this subsection shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the bank holding company affected by registered mail. ~~The person affected by the action may request a hearing before the State Banking Board within 10 days after receipt of the order. The hearing shall be held by the State Banking Board within 30 days after the request has been received by the State Banking Board. The State Banking Board shall make a determination approving, modifying, or disapproving the order of the Commissioner as its final administrative decision. If a hearing is held by the State Banking Board, the State Banking Board shall make its determination within 60 days from the conclusion of the hearing. Any person affected by a decision of the State Banking Board under this subsection may have the decision reviewed only under and in accordance with the Administrative Review Law and the rules adopted pursuant thereto.~~ A copy of the order shall also be served upon the bank holding company of which he is a director, officer, employee, or agent, whereupon he shall cease to be a director, officer, employee, or agent of that bank holding company.

The ~~Secretary Commissioner~~ may institute a civil action against the director, officer, employee, or agent of the bank holding company, against whom any order provided for by this subsection has been issued, to enforce compliance with or to enjoin any violation of the terms of the order.

Any person who has been the subject of an order of removal or an order of prohibition issued by the ~~Secretary Commissioner~~ under this subsection, subdivision (7) of Section 48 of the Illinois Banking Act, or Section 5-6 of the Corporate Fiduciary Act may not thereafter serve as director, officer, employee, or agent of any holding company, State bank, or branch of any out-of-state bank, of any corporate fiduciary, as defined in Section 1-5.05 of the Corporate Fiduciary Act, or of any other entity that is subject to licensure or regulation by the ~~Division of Banking Commissioner or the Office of Banks and Real Estate~~ unless the ~~Secretary Commissioner~~ has granted prior approval in writing.

(c) All final administrative decisions of the ~~Secretary Commissioner~~ under this Act shall be subject to judicial review pursuant to provisions of the Administrative Review Law. For matters involving administrative review, venue shall be in either Sangamon County or Cook County.

(Source: P.A. 92-483, eff. 8-23-01.)

Section 20. The Corporate Fiduciary Act is amended by changing Sections 1-5.03, 5-6, and 5-8 and by adding Sections 1-5.07a and 1-5.09a as follows:

(205 ILCS 620/1-5.03) (from Ch. 17, par. 1551-5.03)

Sec. 1-5.03. "Commissioner" means the Commissioner of Banks and Real Estate or a person authorized by the Commissioner, the Office of Banks and Real Estate Act, or this Act to act in the Commissioner's stead, except that beginning on the effective date of this amendatory Act of the 96th General Assembly, all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(Source: P.A. 89-508, eff. 7-3-96.)

(205 ILCS 620/1-5.07a new)

Sec. 1-5.07a. Division of Banking. "Division of Banking" means the Division of Banking of the Department of Financial and Professional Regulation.

(205 ILCS 620/1-5.09a new)

Sec. 1-5.09a. Secretary. "Secretary" means the Secretary of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

(205 ILCS 620/5-6) (from Ch. 17, par. 1555-6)

Sec. 5-6. Removal orders. Whenever, in the opinion of the ~~Secretary Commissioner~~, any director, officer, employee, or agent of a corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary shall have violated any law, rule, or order relating to the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary, shall have engaged in an unsafe or unsound practice in conducting the business of the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary, or shall have violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent does not assure reasonable promise of safe and sound operation of the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary, the ~~Secretary Commissioner~~ may issue an order of removal. If in the opinion of the ~~Secretary Commissioner~~, any former director, officer, employee, or agent of a corporate fiduciary or subsidiary or corporate parent of

the corporate fiduciary, prior to the termination of his or her service with the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary, violated any law, rule, or order relating to the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary or engaged in an unsafe or unsound practice in conducting the business of the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary or violated any law or engaged or participated in any unsafe or unsound practice in connection with any financial institution or other business entity such that the character and fitness of the director, officer, employee, or agent would not have assured reasonable promise of safe and sound operation of the corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary, the ~~Secretary Commissioner~~ may issue an order prohibiting that person from further service with a corporate fiduciary or subsidiary or corporate parent of the corporate fiduciary as a director, officer, employee, or agent. An order issued pursuant to this Section shall be served upon the director, officer, employee, or agent. A copy of the order shall be sent to each director of the corporate fiduciary affected by personal service, certified mail return receipt requested, or any other method that provides proof of service and receipt. ~~The person affected by the action may request a hearing before the State Banking Board of Illinois, hereafter "the Board", within 10 days after receipt of the order of removal or prohibition. The hearing shall be held by the Board according to the same procedures used pursuant to Section 48 of the Illinois Banking Act, and the hearing shall be held within 30 days after the request has been received by the Board. After concluding the hearing, the Board shall make a determination approving, modifying, or disapproving the order of the Commissioner as its final administrative decision.~~ A copy of the order shall be served upon the corporate fiduciary of which the person is a director, officer, employee, or agent, whereupon the person shall cease to be a director, officer, employee, or agent of the corporate fiduciary. Any person who has been removed or prohibited by an order of the ~~Secretary Commissioner~~ under this Section or subsection (7) of Section 48 of the Illinois Banking Act may not thereafter serve as director, officer, employee, or agent of any State bank or corporate fiduciary, or of any other entity that is subject to licensure or regulation by the Division of Banking Commissioner or the Office of Banks and Real Estate unless the ~~Secretary Commissioner~~ has granted prior approval in writing. The ~~Secretary Commissioner~~ may institute a civil action against the director, officer, employee, or agent subject to an order issued under this Section and against the corporate fiduciary to enforce compliance with or to enjoin any violation of the terms of the order.

(Source: P.A. 92-483, eff. 8-23-01.)

(205 ILCS 620/5-8) (from Ch. 17, par. 1555-8)

Sec. 5-8. All final administrative decisions of the ~~Secretary Commissioner, or of the State Banking Board of Illinois where this Act provides a hearing before such Board to review a decision of the Commissioner,~~ shall be subject to review pursuant to the provisions of the Administrative Review Law, as now or hereafter amended, and the rules adopted pursuant thereto. For matters involving administrative review, venue shall be in either Sangamon County or Cook County.  
(Source: P.A. 86-754.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 4 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Collins, **Senate Bill No. 2101**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg

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Brady	Harmon	Maloney	Silverstein
Burzynski	Hendon	Martinez	Steans
Clayborne	Holmes	McCarter	Sullivan
Collins	Hultgren	Meeks	Syverson
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Murphy	Wilhelmi
DeLeo	Jones, E.	Noland	Mr. President
Delgado	Jones, J.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### HOUSE BILL RECALLED

On motion of Senator Muñoz, **House Bill No. 4124** was recalled from the order of third reading to the order of second reading.

Senator Muñoz offered the following amendment and moved its adoption:

#### AMENDMENT NO. 3 TO HOUSE BILL 4124

AMENDMENT NO. 3. Amend House Bill 4124 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 24-1.6 and by adding Section 24-1.8 as follows:

(720 ILCS 5/24-1.6)

Sec. 24-1.6. Aggravated unlawful use of a weapon.

(a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; or

(2) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his or her own land or in his or her own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; and

(3) One of the following factors is present:

(A) the firearm possessed was uncased, loaded and immediately accessible at the time of the offense; or

(B) the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense; or

(C) the person possessing the firearm has not been issued a currently valid Firearm Owner's Identification Card; or

(D) the person possessing the weapon was previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a felony; or

(E) the person possessing the weapon was engaged in a misdemeanor violation of the Cannabis Control Act, in a misdemeanor violation of the Illinois Controlled Substances Act, or in a misdemeanor violation of the Methamphetamine Control and Community Protection Act; or

(F) ~~(blank) the person possessing the weapon is a member of a street gang or is engaged in street gang related activity, as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;~~ or

(G) the person possessing the weapon had a order of protection issued against him

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or her within the previous 2 years; or

(H) the person possessing the weapon was engaged in the commission or attempted commission of a misdemeanor involving the use or threat of violence against the person or property of another; or

(I) the person possessing the weapon was under 21 years of age and in possession of a handgun as defined in Section 24-3, unless the person under 21 is engaged in lawful activities under the Wildlife Code or described in subsection 24-2(b)(1), (b)(3), or 24-2(f).

(b) "Stun gun or taser" as used in this Section has the same definition given to it in Section 24-1 of this Code.

(c) This Section does not apply to or affect the transportation or possession of weapons that:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

(d) Sentence. Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years. Aggravated unlawful use of a weapon by a person who has been previously convicted of a felony in this State or another jurisdiction is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years. Aggravated unlawful use of a weapon while wearing or in possession of body armor as defined in Section 33F-1 by a person who has not been issued a valid Firearms Owner's Identification Card in accordance with Section 5 of the Firearm Owners Identification Card Act is a Class X felony. The possession of each firearm in violation of this Section constitutes a single and separate violation. (Source: P.A. 95-331, eff. 8-21-07; 96-742, eff. 8-25-09.)

(720 ILCS 5/24-1.8 new)

Sec. 24-1.8. Unlawful possession of a firearm by a street gang member.

(a) A person commits unlawful possession of a firearm by a street gang member when he or she knowingly:

(1) possesses, carries, or conceals on or about his or her person a firearm and firearm ammunition while on any street, road, alley, gangway, sidewalk, or any other lands, except when inside his or her own abode or inside his or her fixed place of business, and has not been issued a currently valid Firearm Owner's Identification Card and is a member of a street gang; or

(2) possesses or carries in any vehicle a firearm and firearm ammunition which are both immediately accessible at the time of the offense while on any street, road, alley, or any other lands, except when inside his or her own abode or garage, and has not been issued a currently valid Firearm Owner's Identification Card and is a member of a street gang.

(b) Unlawful possession of a firearm by a street gang member is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to no less than 3 years and no more than 10 years. A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the offense of unlawful possession of a firearm by a street gang member when the firearm was loaded or contained firearm ammunition and the court shall sentence the offender to not less than the minimum term of imprisonment authorized for the Class 2 felony.

(c) For purposes of this Section:

"Street gang" or "gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

"Street gang member" or "gang member" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

Section 10. The Unified Code of Corrections is amended by changing Section 5-5-3 as follows:

(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition.

(a) (Blank-) \_

(b) (Blank-) \_

~~(10) If the defendant is convicted of arson, aggravated arson, residential arson, or place of worship arson, an order directing the offender to reimburse the local emergency response department for the costs of responding to the fire that the offender was convicted of setting in accordance with the Emergency Services Response Reimbursement for Criminal Convictions Act.~~

(c) (1) (Blank-) \_

(2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

- (A) First degree murder where the death penalty is not imposed.
- (B) Attempted first degree murder.
- (C) A Class X felony.
- (D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.
- (E) A violation of Section 5.1 or 9 of the Cannabis Control Act.
- (F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.
- (F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.
- (G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.
- (H) Criminal sexual assault.
- (I) Aggravated battery of a senior citizen.
- (J) A forcible felony if the offense was related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

- (K) Vehicular hijacking.
- (L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.
- (M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.
- (N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.
- (O) A violation of Section 12-6.1 of the Criminal Code of 1961.
- (P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.
- (Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.
- (R) A violation of Section 24-3A of the Criminal Code of 1961.
- (S) (Blank).
- (T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.
- (U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.
- (V) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.
- (W) A violation of Section 24-3.5 of the Criminal Code of 1961.
- (X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961.
- (Y) A conviction for unlawful possession of a firearm by a street gang member when the firearm was loaded or contained firearm ammunition.

(3) (Blank).

(4) A minimum term of imprisonment of not less than 10 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of the Illinois Vehicle Code.

(4.1) (Blank).

(4.2) Except as provided in paragraphs (4.3) and (4.8) of this subsection (c), a minimum of 100 hours of community service shall be imposed for a second violation of Section 6-303 of the Illinois Vehicle Code.

(4.3) A minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a second violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.4) Except as provided in paragraphs (4.5), (4.6), and (4.9) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

(4.5) A minimum term of imprisonment of 30 days shall be imposed for a third violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.6) Except as provided in paragraph (4.10) of this subsection (c), a minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.7) A minimum term of imprisonment of not less than 30 consecutive days, or 300 hours of community service, shall be imposed for a violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (b-5) of that Section.

(4.8) A mandatory prison sentence shall be imposed for a second violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (c-5) of that Section. The person's driving privileges shall be revoked for a period of not less than 5 years from the date of his or her release from prison.

(4.9) A mandatory prison sentence of not less than 4 and not more than 15 years shall be imposed for a third violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-2.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(4.10) A mandatory prison sentence for a Class 1 felony shall be imposed, and the person shall be eligible for an extended term sentence, for a fourth or subsequent violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-3.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(5) The court may sentence a corporation or unincorporated association convicted of any offense to:

(A) a period of conditional discharge;

(B) a fine;

(C) make restitution to the victim under Section 5-5-6 of this Code.

(5.1) In addition to any other penalties imposed, and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any other penalties imposed, and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any other penalties imposed, a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(5.4) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 3 months and until he or she has paid a reinstatement fee of \$100.

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank-) \_

(7) (Blank-) \_

(8) (Blank-) \_

(9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

(12) A person may not receive a disposition of court supervision for a violation of Section 5-16 of the Boat Registration and Safety Act if that person has previously received a disposition of court supervision for a violation of that Section.

(13) A person convicted of or placed on court supervision for an assault or aggravated assault when the victim and the offender are family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986 or convicted of domestic battery or aggravated domestic battery may be required to attend a Partner Abuse Intervention Program under protocols set forth by the Illinois Department of Human Services under such terms and conditions imposed by the court. The costs of such classes shall be paid by the offender.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

(1) the court finds (A) or (B) or both are appropriate:

(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or

(B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

(2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to

them in Section 12-12 of the Criminal Code of 1961.

(f) (Blank-)

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection

Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank-)

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

Otherwise, the defendant shall be sentenced as provided in this Chapter V.

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (l) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building,

shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(n) The court may sentence a person convicted of a violation of Section 12-19, 12-21, or 16-1.3 of the Criminal Code of 1961 (i) to an impact incarceration program if the person is otherwise eligible for that program under Section 5-8-1.1, (ii) to community service, or (iii) if the person is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse program licensed under that Act.

(o) Whenever a person is convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, the defendant's driver's license or permit shall be subject to renewal on an annual basis in accordance with the provisions of license renewal established by the Secretary of State.

(Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; revised 9-4-09.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Muñoz, **House Bill No. 4124**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Rutherford
Bivins	Frerichs	Lightford	Sandoval
Bomke	Garrett	Link	Schoenberg
Brady	Haine	Luechtefeld	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	McCarter	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Noland	
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

At the hour of 5:09 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

**AFTER RECESS**

[October 29, 2009]

At the hour of 6:49 o'clock p.m., the Senate resumed consideration of business.  
 Senator DeLeo, presiding.

### **LEGISLATIVE MEASURE FILED**

The following Floor amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 3 to House Bill 1597

### **REPORT FROM STANDING COMMITTEE**

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 5  
 Senate Amendment No. 1 to House Bill 607  
 Senate Amendment No. 4 to House Bill 1306  
 Senate Amendment No. 2 to House Bill 1597  
 Senate Amendment No. 4 to House Bill 2652  
 Senate Amendment No. 2 to House Bill 3997

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1896

Under the rules, the foregoing motion is eligible for consideration by the Senate.

### **REPORT FROM COMMITTEE ON ASSIGNMENTS**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 29, 2009 meeting, reported that the following Legislative Measure has been approved for consideration:

#### **Senate Floor Amendment No. 3 to House Bill 1597**

The foregoing floor amendment was placed on the Secretary's Desk.

### **MESSAGE FROM THE HOUSE**

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 253

A bill for AN ACT concerning property.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 253

Passed the House, as amended, October 29, 2009.

[October 29, 2009]

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 253**

AMENDMENT NO. 1. Amend Senate Bill 253 by replacing everything after the enacting clause with the following:

"Section 5. The Mortgage Escrow Account Act is amended by adding Section 6.5 as follows:  
(765 ILCS 910/6.5 new)

Sec. 6.5. Homeownership preservation program.

(a) For purposes of this Section,

"Homeownership Preservation Program" means

(1) a program that is expressly intended to assist homeowners by refinancing or restructuring existing mortgage obligations either (i) to avoid default or foreclosure, or both, or (ii) to lower interest rates, and that is sponsored by a federal, state, or local government authority or a non-profit organization; or

(2) a lender-sponsored program that is expressly intended to assist homeowners by restructuring existing mortgage obligations to avoid default or foreclosure, or both.

"Subprime Mortgage Lender" means a mortgage lender that has, for at least 2 of the prior 3 reporting years, reported the rate spread, as required under 12 C.F.R. § 203.4(a)(12), for at least 75% of the loans reported by the mortgage lender in the Loan/Application Register filed in compliance with the federal Home Mortgage Disclosure Act, 12 U.S.C. 2801 et seq., and implementing Regulation C, 12 C.F.R. 201 et seq.

(b) Section 6 shall not apply:

(1) to a mortgage loan made by a subprime mortgage lender in compliance with the requirements for higher-priced mortgage loans established in Regulation Z 12 C.F.R. Part 226, issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, whether or not the mortgage loan is a higher-priced mortgage loan, provided that:

(A) for loans that are not higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower; and

(B) for loans that are higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than the following conditions:

(i) the escrow termination requirements established in Regulation Z are satisfied;

(ii) the borrower has maintained a satisfactory payment history (no payments more than 30 days late) for the 12 months prior to the mortgage lender's receipt of the borrower's termination request; and

(iii) the borrower has reimbursed the mortgage lender for any escrow advances or escrow deficiencies existing at the time of the borrower's termination request.

(2) to a refinance or modification made by a subprime mortgage lender under a homeownership preservation program that requires establishment of an escrow account as a condition or requirement of the refinance or modification, provided that the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than the following conditions:

(A) termination is permitted under the terms of the government or non-profit sponsored homeownership preservation program, if applicable, and the borrower complies with all conditions or requirements for termination established by or allowed under such program;

(B) the borrower has maintained a satisfactory payment history (no payments more than 30 days late) for the 12 months prior to the mortgage lender's receipt of the borrower's termination request; and

(C) the borrower has reimbursed the mortgage lender for any escrow advances or escrow deficiencies existing at the time of the borrower's termination request.

Termination may not be denied for failure to reimburse escrow advances or escrow deficiencies under item (iii) of subparagraph (B) of paragraph (1) of subsection (b), or subparagraph (C) of paragraph (2) of subsection (b) if the borrower claims, in writing, that there is an error with such advances or deficiencies. In such case, the lender must terminate the escrow account if all other conditions of termination are satisfied; however, such termination will not alter or affect any other rights of the mortgage lender or the borrower with respect to the collection of such escrow advances or escrow deficiencies.

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

[October 29, 2009]

Under the rules, the foregoing **Senate Bill No. 253**, with House Amendment No. 1, was referred to the Secretary's Desk.

**JOINT ACTION MOTIONS FILED**

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendments 1 and 3 to Senate Bill 146  
Motion to Concur in House Amendment 1 to Senate Bill 253

**PRESENTATION OF RESOLUTION**

Senators Syverson - Burzynski - Lauzen offered the following Senate Resolution, which was referred to the Committee on Assignments:

**SENATE RESOLUTION NO. 497**

WHEREAS, Former Illinois Governor Rod Blagojevich has been indicted on 16 racketeering, fraud, and extortion charges; and

WHEREAS, Authorities have accused him of embarking on a "wide-ranging scheme to deprive the people of Illinois of honest government"; and

WHEREAS, The charges against him include seeking the sale of President Barack Obama's former United States Senate seat to the highest bidder; and

WHEREAS, The severity of the charges against Rod Blagojevich led the Illinois General Assembly to impeach him and remove him from the Governor's Office; and

WHEREAS, The Illinois Senate vote to remove him from office was unanimous; and

WHEREAS, The former Governor's poor fiscal management of the State of Illinois has led to record-breaking budget deficits and debt; and

WHEREAS, Through his reckless and selfish actions, Rod Blagojevich damaged the reputation of Illinois and its government; and

WHEREAS, The name "Rod Blagojevich" will forever be associated with "play-to-pay" corruption scandals; and

WHEREAS, Illinois State government has tried to turn the page on the Blagojevich years through his removal from office and the pursuit of enhanced ethics laws; and

WHEREAS, The NBC network is considering allowing Rod Blagojevich to appear on "The Celebrity Apprentice" television program, hosted by Donald Trump; and

WHEREAS, Prosecutors have expressed concern that Rod Blagojevich's appearance on the show will prejudice the potential jury pool for his upcoming trial; and

WHEREAS, The people of the State of Illinois are entitled to see justice be done; and

WHEREAS, Mr. Blagojevich deserves to receive a free and fair trial, without a tainted jury pool; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE  
[October 29, 2009]

STATE OF ILLINOIS, that lawmakers appeal to the NBC television network and "The Celebrity Apprentice" host Donald Trump to reject the use of Rod Blagojevich as a contestant on that program.

**HOUSE BILL RECALLED**

On motion of Senator Harmon, **House Bill No. 1306** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment Nos. 2 and 3 were held in the Committee on Assignments.

Senator Harmon offered the following amendment and moved its adoption:

**AMENDMENT NO. 4 TO HOUSE BILL 1306**

AMENDMENT NO. 4. Amend House Bill 1306, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Video Gaming Act is amended by changing Sections 27 and 70 as follows:  
(230 ILCS 40/27)

Sec. 27. Prohibition of video gaming by political subdivision. A municipality may pass an ordinance prohibiting video gaming within the corporate limits of the municipality, except that each existing licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment covered by the ordinance may continue to conduct video gaming for up to 2 years after the date of the approval of the ordinance. A county board may, for the unincorporated area of the county, pass an ordinance prohibiting video gaming within the unincorporated area of the county, except that each existing licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment covered by the ordinance may continue to conduct video gaming for up to 2 years after the date of the approval of the ordinance.

(Source: P.A. 96-34, eff. 7-13-09.)

(230 ILCS 40/70)

Sec. 70. Referendum. Upon the filing in the office of the clerk, at least 90 days before an election in any municipality or county, as the case may be, of a petition directed to such clerk, containing the signatures of not less than 25% of the legal voters of that municipality or county, the clerk shall certify such proposition to the proper election officials, who shall submit the proposition at such election to the voters of such municipality or county. The proposition shall be in the following form:

-----

Shall video gaming	YES
be prohibited in	-----
.....?	NO

-----

If a majority of the voters voting upon such last mentioned proposition in any municipality or county vote "YES", such video gaming shall be prohibited in such municipality or county, except that each existing licensed establishment, licensed fraternal establishment, licensed veterans establishment, or licensed truck stop establishment covered by the proposition may continue to conduct video gaming for up to 2 years after the date of the approval of the proposition. The petition mentioned in this Section shall be a public document and shall be subject to inspection by the public.

(Source: P.A. 96-34, eff. 7-13-09.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Harmon, **House Bill No. 1306**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, “Shall this bill pass?” it was decided in the affirmative by the following vote:

YEAS 40; NAYS 12.

The following voted in the affirmative:

Althoff	Haine	Lightford	Silverstein
Bomke	Harmon	Link	Steans
Bond	Hendon	Maloney	Sullivan
Clayborne	Holmes	Martinez	Syverson
Crotty	Hunter	Muñoz	Trotter
DeLeo	Hutchinson	Noland	Viverito
Delgado	Jacobs	Pankau	Wilhelmi
Demuzio	Jones, E.	Radogno	
Forby	Jones, J.	Raoul	
Frerichs	Koehler	Sandoval	
Garrett	Kotowski	Schoenberg	

The following voted in the negative:

Bivins	Duffy	Millner
Burzynski	Hultgren	Murphy
Cronin	Lauzen	Righter
Dillard	McCarter	Rutherford

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

#### CONSIDERATION OF HOUSE AMENDMENT TO SENATE BILL ON SECRETARY’S DESK

On motion of Senator Haine, **Senate Bill No. 1896**, with House Amendment No. 1 on the Secretary’s Desk, was taken up for immediate consideration.

Senator Haine moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Righter
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Holmes	McCarter	Sullivan
Collins	Hultgren	Meeks	Syverson
Cronin	Hunter	Millner	Trotter
Crotty	Hutchinson	Muñoz	Viverito
Dahl	Jacobs	Murphy	Wilhelmi
DeLeo	Jones, E.	Noland	Mr. President
Delgado	Jones, J.	Pankau	
Demuzio	Koehler	Radogno	

[October 29, 2009]

Dillard

Kotowski

Raoul

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1896**.

Ordered that the Secretary inform the House of Representatives thereof.

### CONSIDERATION OF HOUSE BILL VETOED BY THE GOVERNOR

Pursuant to the Motion in Writing filed on Thursday, October 29, 2009 and journalized Thursday, October 29, 2009, Senator Dillard moved that **House Bill No. 2279** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Rutherford
Bivins	Forby	Lightford	Sandoval
Bomke	Frerichs	Link	Schoenberg
Bond	Garrett	Luechtefeld	Silverstein
Brady	Haine	Maloney	Steans
Burzynski	Harmon	Martinez	Sullivan
Clayborne	Hendon	McCarter	Syverson
Collins	Holmes	Meeks	Trotter
Cronin	Hultgren	Millner	Viverito
Crotty	Hunter	Muñoz	Wilhelmi
Dahl	Hutchinson	Murphy	Mr. President
DeLeo	Jones, E.	Noland	
Delgado	Jones, J.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Righter	

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof.

### HOUSE BILL RECALLED

On motion of Senator Harmon, **House Bill No. 5** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

#### AMENDMENT NO. 2 TO HOUSE BILL 5

AMENDMENT NO. 2. Amend House Bill 5, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Secretary of State Act is amended by changing Section 14 as follows:  
(15 ILCS 305/14)

Sec. 14. Inspector General.

(a) The Secretary of State must, with the advice and consent of the Senate, appoint an Inspector General for the purpose of detection, deterrence, and prevention of fraud, corruption, mismanagement, gross or aggravated misconduct, or misconduct that may be criminal in nature in the Office of the Secretary of State. The Inspector General shall serve a 5-year term. If no successor is appointed and qualified upon the expiration of the Inspector General's term, the Office of Inspector General is deemed vacant and the powers and duties under this Section may be exercised only by an appointed and qualified

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interim Inspector General until a successor Inspector General is appointed and qualified. If the General Assembly is not in session when a vacancy in the Office of Inspector General occurs, the Secretary of State may appoint an interim Inspector General whose term shall expire 2 weeks after the next regularly scheduled session day of the Senate.

(b) The Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has either (A) 5 or more years of service with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) 5 or more years of service as a federal, State, or local prosecutor; or (C) 5 or more years of service as a senior manager or executive of a federal, State, or local agency.

(c) The Inspector General may review, coordinate, and recommend methods and procedures to increase the integrity of the Office of the Secretary of State. The duties of the Inspector General shall supplement and not supplant the duties of the Chief Auditor for the Secretary of State's Office or any other Inspector General that may be authorized by law. The Inspector General must report directly to the Secretary of State.

(d) In addition to the authority otherwise provided by this Section, but only when investigating the Office of the Secretary of State, its employees, or their actions for fraud, corruption, mismanagement, gross or aggravated misconduct, or misconduct that may be criminal in nature, the Inspector General is authorized:

(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available that relate to programs and operations with respect to which the Inspector General has responsibilities under this Section.

(2) To make any investigations and reports relating to the administration of the programs and operations of the Office of the Secretary of State that are, in the judgment of the Inspector General, necessary or desirable.

(3) To request any information or assistance that may be necessary for carrying out the duties and responsibilities provided by this Section from any local, State, or federal governmental agency or unit thereof.

(4) To require by subpoena the appearance of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Section, with the exception of subsection (c) and with the exception of records of a labor organization authorized and recognized under the Illinois Public Labor Relations Act to be the exclusive bargaining representative of employees of the Secretary of State, including, but not limited to, records of representation of employees and the negotiation of collective bargaining agreements. A subpoena may be issued under this paragraph (4) only by the Inspector General and not by members of the Inspector General's staff. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction, unless (i) the testimony, documents, or other items are covered by the attorney-client privilege or any other privilege or right recognized by law or (ii) the testimony, documents, or other items concern the representation of employees and the negotiation of collective bargaining agreements by a labor organization authorized and recognized under the Illinois Public Labor Relations Act to be the exclusive bargaining representative of employees of the Secretary of State. Nothing in this Section limits a person's right to protection against self-incrimination under the Fifth Amendment of the United States Constitution or Article I, Section 10, of the Constitution of the State of Illinois.

(5) To have direct and prompt access to the Secretary of State for any purpose pertaining to the performance of functions and responsibilities under this Section.

(d-5) In addition to the authority otherwise provided by this Section, the Secretary of State Inspector General shall have jurisdiction to investigate complaints and allegations of wrongdoing by any person or entity related to the Lobbyist Registration Act. When investigating those complaints and allegations, the Inspector General is authorized:

(1) To have access to all records, reports, audits, reviews, documents, papers, recommendations, or other materials available that relate to programs and operations with respect to which the Inspector General has responsibilities under this Section.

(2) To request any information or assistance that may be necessary for carrying out the duties and responsibilities provided by this Section from any local, State, or federal governmental

agency or unit thereof.

(3) To require by subpoena the appearance of witnesses and the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence necessary in the performance of the functions assigned by this Section. A subpoena may be issued under this paragraph (3) only by the Inspector General and not by members of the Inspector General's staff. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction, unless the testimony, documents, or other items are covered by the attorney-client privilege or any other privilege or right recognized by law. Nothing in this Section limits a person's right to protection against self-incrimination under the Fifth Amendment of the United States Constitution or Section 10 of Article I of the Constitution of the State of Illinois.

(4) To have direct and prompt access to the Secretary of State for any purpose pertaining to the performance of functions and responsibilities under this Section.

(e) ~~The Inspector General may receive and investigate complaints or information from an employee of the Secretary of State~~ concerning the possible existence of an activity constituting a violation of law, rules, or regulations; mismanagement; abuse of authority; or substantial and specific danger to the public health and safety. Any person who knowingly files a false complaint or files a complaint with reckless disregard for the truth or the falsity of the facts underlying the complaint may be subject to discipline as set forth in the rules of the Department of Personnel of the Secretary of State or the Inspector General may refer the matter to a State's Attorney or the Attorney General.

The Inspector General may not, after receipt of a complaint or information, disclose the identity of the source without the consent of the source, unless the Inspector General determines that disclosure of the identity is reasonable and necessary for the furtherance of the investigation.

Any employee who has the authority to recommend or approve any personnel action or to direct others to recommend or approve any personnel action may not, with respect to that authority, take or threaten to take any action against any employee as a reprisal for making a complaint or disclosing information to the Inspector General, unless the complaint was made or the information disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

(f) The Inspector General must adopt rules, in accordance with the provisions of the Illinois Administrative Procedure Act, establishing minimum requirements for initiating, conducting, and completing investigations. The rules must establish criteria for determining, based upon the nature of the allegation, the appropriate method of investigation, which may include, but is not limited to, site visits, telephone contacts, personal interviews, or requests for written responses. The rules must also clarify how the Office of the Inspector General shall interact with other local, State, and federal law enforcement investigations.

Any employee of the Secretary of State subject to investigation or inquiry by the Inspector General or any agent or representative of the Inspector General concerning misconduct that is criminal in nature shall have the right to be notified of the right to remain silent during the investigation or inquiry and the right to be represented in the investigation or inquiry by an attorney or a representative of a labor organization that is the exclusive collective bargaining representative of employees of the Secretary of State. Any investigation or inquiry by the Inspector General or any agent or representative of the Inspector General must be conducted with an awareness of the provisions of a collective bargaining agreement that applies to the employees of the Secretary of State and with an awareness of the rights of the employees as set forth in State and federal law and applicable judicial decisions. Any recommendations for discipline or any action taken against any employee by the Inspector General or any representative or agent of the Inspector General must comply with the provisions of the collective bargaining agreement that applies to the employee.

(g) On or before January 1 of each year, the Inspector General shall report to the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives on the types of investigations and the activities undertaken by the Office of the Inspector General during the previous calendar year.

(Source: P.A. 96-555, eff. 1-1-10.)

Section 10. The Lobbyist Registration Act is amended by changing Sections 2, 3, 3.1, 4.5, 5, 6, 7, 11, and 11.3 as follows:

(25 ILCS 170/2) (from Ch. 63, par. 172)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Person" means any individual, firm, partnership, committee, association, corporation, or any other

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organization or group of persons.

(b) "Expenditure" means a payment, distribution, loan, advance, deposit, or gift of money or anything of value, and includes a contract, promise, or agreement, whether or not legally enforceable, to make an expenditure, for the ultimate purpose of influencing executive, legislative, or administrative action, other than compensation as defined in subsection (d).

(c) "Official" means:

(1) the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Comptroller;

(2) Chiefs of Staff for officials described in item (1);

(3) Cabinet members of any elected constitutional officer, including Directors, Assistant Directors and Chief Legal Counsel or General Counsel;

(4) Members of the General Assembly; and -

(5) Members of any board, commission, or authority authorized or created by law or by executive order of the Governor.

(d) "Compensation" means any money, thing of value or financial benefits received or to be received in return for services rendered or to be rendered, for lobbying as defined in subsection (e).

Monies paid to members of the General Assembly by the State as remuneration for performance of their Constitutional and statutory duties as members of the General Assembly shall not constitute compensation as defined by this Act.

(e) "Lobby" and "lobbying" means any communication with an official of the executive or legislative branch of State government as defined in subsection (c) for the ultimate purpose of influencing any executive, legislative, or administrative action.

(f) "Influencing" means any communication, action, reportable expenditure as prescribed in Section 6 or other means used to promote, support, affect, modify, oppose or delay any executive, legislative or administrative action or to promote goodwill with officials as defined in subsection (c).

(g) "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a State entity of a rule, regulation, order, decision, determination, contractual arrangement, purchasing agreement or other quasi-legislative or quasi-judicial action or proceeding.

(h) "Legislative action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment, or passage or defeat of any bill, amendment, resolution, report, nomination, administrative rule or other matter by either house of the General Assembly or a committee thereof, or by a legislator. Legislative action also means the action of the Governor in approving or vetoing any bill or portion thereof, and the action of the Governor or any agency in the development of a proposal for introduction in the legislature.

(i) "Administrative action" means the execution or rejection of any rule, regulation, legislative rule, standard, fee, rate, contractual arrangement, purchasing agreement or other delegated legislative or quasi-legislative action to be taken or withheld by any executive agency, department, board or commission of the State.

(j) "Lobbyist" means any natural person who undertakes to lobby State government as provided in subsection (e).

(k) "Lobbying entity" means any entity that hires, retains, employs, or compensates a natural person to lobby State government as provided in subsection (e).

(l) "Authorized agent" means the person designated by an entity or lobbyist registered under this Act as the person responsible for submission and retention of reports required under this Act.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/3) (from Ch. 63, par. 173)

Sec. 3. Persons required to register.

(a) Except as provided in Section 9, any natural person who, for compensation or otherwise, undertakes to lobby, or any person or entity who employs another person for the purposes of lobbying, shall register with the Secretary of State as provided in this Act, unless that person or entity qualifies for one or more of the following exemptions.

(1) Persons or entities who, for the purpose of influencing any executive, legislative, or administrative action and who do not make expenditures that are reportable pursuant to Section 6, appear without compensation or promise thereof only as witnesses before committees of the House and Senate for the purpose of explaining or arguing for or against the passage of or action upon any legislation then pending before those committees, or who seek without compensation or promise thereof the approval or veto of any legislation by the Governor.

(1.4) A unit of local government or a school district.

(1.5) An elected or appointed official or an employee of a unit of local government or school district who, in the scope of his or her public office or employment, seeks to influence executive, legislative, or administrative action exclusively on behalf of that unit of local government or school district.

(2) Persons or entities who own, publish, or are employed by a newspaper or other regularly published periodical, or who own or are employed by a radio station, television station, or other bona fide news medium that in the ordinary course of business disseminates news, editorial or other comment, or paid advertisements that directly urge the passage or defeat of legislation. This exemption is not applicable to such an individual insofar as he or she receives additional compensation or expenses from some source other than the bona fide news medium for the purpose of influencing executive, legislative, or administrative action. This exemption does not apply to newspapers and periodicals owned by or published by trade associations and not-for-profit corporations engaged primarily in endeavors other than dissemination of news.

(3) Persons or entities performing professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending legislation when those professional services are not otherwise, directly or indirectly, connected with executive, legislative, or administrative action.

(4) Persons or entities who are employees of departments, divisions, or agencies of State government and who appear before committees of the House and Senate for the purpose of explaining how the passage of or action upon any legislation then pending before those committees will affect those departments, divisions, or agencies of State government.

(5) Employees of the General Assembly, legislators, legislative agencies, and legislative commissions who, in the course of their official duties only, engage in activities that otherwise qualify as lobbying.

(6) Persons or entities in possession of technical skills and knowledge relevant to certain areas of executive, legislative, or administrative actions, whose skills and knowledge would be helpful to officials when considering those actions, whose activities are limited to making occasional appearances for or communicating on behalf of a registrant, and who do not make expenditures that are reportable pursuant to Section 6 even though receiving expense reimbursement for those occasional appearances.

(7) Any full-time employee of a bona fide church or religious organization who represents that organization solely for the purpose of protecting the right of the members thereof to practice the religious doctrines of that church or religious organization, or any such bona fide church or religious organization.

(8) Persons or entities that ~~who~~ receive no compensation other than reimbursement for expenses of up to \$500 per year while engaged in lobbying State government, unless those persons make expenditures that are reportable under Section 6.

(9) Any attorney or group or firm of attorneys in the course of representing a client in any administrative or judicial proceeding, or any witness providing testimony in any administrative or judicial proceeding, in which ex parte communications are not allowed and who does not make expenditures that are reportable pursuant to Section 6.

(10) Persons or entities who, in the scope of their employment as a vendor, offer or solicit an official for the purchase of any goods or services when (1) the solicitation is limited to either an oral inquiry or written advertisements and informative literature; or (2) the goods and services are subject to competitive bidding requirements of the Illinois Procurement Code; or (3) the goods and services are for sale at a cost not to exceed \$5,000; and (4) the persons or entities do not make expenditures that are reportable under Section 6.

(b) It is a violation of this Act to engage in lobbying or to employ any person for the purpose of lobbying who is not registered with the Office of the Secretary of State, except upon condition that the person register and the person does in fact register within 2 business days after being employed or retained for lobbying services.

(c) The Secretary may require a person or entity claiming an exemption under this Section to certify the person or entity is not required to register under this Act.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/3.1)

Sec. 3.1. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, but not before that date, a person required to be registered under this Act, his or her spouse, and his or her immediate family members living with that person may not

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serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor if the lobbyist is engaged in the same subject area ~~as defined in Section 5(c-6)~~ as the board or commission, as disclosed on the registration or entity report; except that this restriction does not apply to any of the following:

- (1) a registered lobbyist, his or her spouse, or any immediate family member living with the registered lobbyist, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and
- (2) a registered lobbyist, his or her spouse, or any immediate family member living with the registered lobbyist, who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/4.5)

Sec. 4.5. Ethics training. Each natural person required to register as a lobbyist under this Act must complete a program of ethics training provided by the Secretary of State. A natural person registered under this Act must complete the training program within 30 days after registration or renewal under this Act during each calendar year the person remains registered. If the Secretary of State uses the ethics training developed in accordance with Section 5-10 of the State Officials and Employees Ethics Act, that training must be expanded to include appropriate information about the requirements, responsibilities, and opportunities imposed by or arising under this Act, including reporting requirements.

The Secretary of State shall adopt rules for the implementation of this Section.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/5)

Sec. 5. Lobbyist registration and disclosure. Every natural person and every entity required to register under ~~this Act Section 3~~ shall before any service is performed which requires the natural person or entity to register, but in any event not later than 2 business days after being employed or retained, ~~and on or before each January 31 and July 31 thereafter~~, file in the Office of the Secretary of State a statement in a format prescribed by the Secretary of State containing the following information with respect to each person or entity employing or retaining the natural person or entity required to register:

(a) The registrant's name, permanent address, e-mail address, if any, fax number, if any, business telephone number, and temporary address, if the registrant has a temporary address while lobbying.

(a-5) If the registrant is an ~~organization or business~~ entity, the information required under subsection (a) for

each natural person associated with the registrant who will be lobbying, regardless of whether lobbying is a significant part of his or her duties.

(b) The name and address of the client or clients ~~person or persons~~ employing or retaining the registrant to perform such

services or on whose behalf the registrant appears.

(c) A brief description of the executive, legislative, or administrative action in reference to which such service is to be rendered.

(c-5) Each executive and legislative branch agency the registrant expects to lobby during the registration period.

(c-6) The nature of the client's business, by indicating all of the following categories

that apply: (1) banking and financial services, (2) manufacturing, (3) education, (4) environment, (5) healthcare, (6) insurance, (7) community interests, (8) labor, (9) public relations or advertising, (10) marketing or sales, (11) hospitality, (12) engineering, (13) information or technology products or services, (14) social services, (15) public utilities, (16) racing or wagering, (17) real estate or construction, (18) telecommunications, (19) trade or professional association, (20) travel or tourism, (21) transportation, (22) agriculture, and (23) (22) other (setting forth the nature of that other business).

Every natural person and every entity required to register under this Act shall annually submit the registration required by this Section on or before each January 31. The registrant has a continuing duty to report any substantial change or addition to the information contained in the registration. ~~must file an amendment to the statement within 14 calendar days to report any substantial change or addition to the information previously filed, except that a registrant must file an amendment to the statement to disclose a new agreement to retain the registrant for lobbying services before any service is performed which requires the person to register, but in any event not later than 2 business days after entering into the retainer agreement.~~

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The Secretary of State shall make all filed statements and amendments to statements publicly available by means of a searchable database that is accessible through the World Wide Web. The Secretary of State shall provide all software necessary to comply with this provision to all natural persons and entities required to file. The Secretary of State shall implement a plan to provide computer access and assistance to natural persons and entities required to file electronically.

All natural persons and entities required to register under this Act shall remit a single, annual, and nonrefundable \$1,000 registration fee. Each natural person individual required to register under this Act shall submit, on an annual basis, a picture of the registrant. A registrant may, in lieu of submitting a picture on an annual basis, authorize the Secretary of State to use any photo identification available in any database maintained by the Secretary of State for other purposes. Of each registration fee collected for registrations on or after July 1, 2003, \$50 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act and is intended to be used to implement and maintain electronic filing of reports under this Act, the next \$100 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act, and any balance shall be deposited into the General Revenue Fund, except that amounts resulting from the fee increase of this amendatory Act of the 96th General Assembly shall be deposited into the Lobbyist Registration Administration Fund to be used for the costs of monitoring compliance reviewing and investigating allegations of violations of this Act.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/6) (from Ch. 63, par. 176)

#### Sec. 6. Reports.

(a) Lobbyist reports. Except as otherwise provided in this Section, every lobbyist registered under this Act who is solely employed by a lobbying entity shall file an affirmation, verified under oath pursuant to Section 1-109 of the Code of Civil Procedure, with the Secretary of State attesting to the accuracy of any reports filed pursuant to subsection (b) as those reports pertain to work performed by the lobbyist. Any lobbyist registered under this Act who is not solely employed by a lobbying entity shall personally file reports required of lobbying entities pursuant to subsection (b). A lobbyist may, if authorized so to do by a lobbying entity by whom he or she is employed or retained, file lobbying entity reports pursuant to subsection (b) provided that the lobbying entity may delegate the filing of the lobbying entity report to only one lobbyist in any reporting period.

(b) Lobbying entity reports. ~~Every. Except as otherwise provided in this Section, every~~ lobbying entity registered under this Act shall report expenditures related to lobbying. The report shall itemize each individual expenditure or transaction and shall include the name of the official on whose behalf the expenditure was made, the name of the client if the expenditure was made on behalf of a client on whose behalf the expenditure was made, if applicable, the total amount of the expenditure, a description of the expenditure, the address and location of the expenditure if the expenditure was for an intangible item such as lodging, the date on which the expenditure occurred and the subject matter of the lobbying activity, if any. Each expenditure required to be reported shall include all expenses made for or on behalf of an official or his or her immediate family member living with the official.

(b-1) The report shall include any change or addition to the client list information, required in Section 5 for registration, since the last report, including the names and addresses of all clients who retained the lobbying entity together with an itemized description for each client of the following: (1) lobbying regarding executive action, including the name of any executive agency lobbied and the subject matter; (2) lobbying regarding legislative action, including the General Assembly and any other agencies lobbied and the subject matter; and (3) lobbying regarding administrative action, including the agency lobbied and the subject matter. Registrants who made no reportable expenditures during a reporting period shall file a report stating that no expenditures were incurred.

(b-2) Expenditures attributable to lobbying officials shall be listed and reported according to the following categories:

(1) travel and lodging on behalf of others, including, but not limited to, all travel and living accommodations made for or on behalf of State officials in the State capital during sessions of the General Assembly.

(2) meals, beverages and other entertainment.

(3) gifts (indicating which, if any, are on the basis of personal friendship).

(4) honoraria.

(5) any other thing or service of value not listed under categories (1) through (4), setting forth a description of the expenditure. The category travel and lodging includes, but is not limited to, all travel and living accommodations made for or on behalf of State officials in the State capital during sessions of the General Assembly.

(b-3) Expenditures incurred for hosting receptions, benefits and other large gatherings held for purposes of goodwill or otherwise to influence executive, legislative or administrative action to which there are 25 or more State officials invited shall be reported listing only the total amount of the expenditure, the date of the event, and the estimated number of officials in attendance.

~~(b-5) A gift or honorarium returned or reimbursed to the registrant shall not be included in the report unless the registrant informed the official, contemporaneously with the receipt of the gift or honorarium, that the gift or honorarium is a reportable expenditure pursuant to this Act. Any official included on a report may contest the disclosure of a gift or honorarium by submitting a letter to the registrant and Secretary of State. Each individual expenditure required to be reported shall include all expenses made for or on behalf of State officials and their immediate family members.~~

(b-7) Matters excluded from reports. The following items need not be included in the report:

(1) Reasonable and bona fide expenditures made by the registrant who is a member of a legislative or State study commission or committee while attending and participating in meetings and hearings of such commission or committee ~~need not be reported.~~

(2) Reasonable and bona fide expenditures made by the registrant for personal sustenance, lodging, travel, office expenses and clerical or support staff ~~need not be reported.~~

(3) Salaries, fees, and other compensation paid to the registrant for the purposes of lobbying ~~need not be reported.~~

(4) Any contributions required to be reported under Article 9 of the Election Code ~~need not be reported.~~

~~A gift or honorarium returned or reimbursed to the registrant within 10 days after the official receives a copy of a report pursuant to Section 6.5 shall not be included in the final report unless the registrant informed the official, contemporaneously with the receipt of the gift or honorarium, that the gift or honorarium is a reportable expenditure pursuant to this Act.~~

(c) A registrant who terminates employment or duties which required him to register under this Act shall give the Secretary of State, within 30 days after the date of such termination, written notice of such termination and shall include therewith a report of the expenditures described herein, covering the period of time since the filing of his last report to the date of termination of employment. Such notice and report shall be final and relieve such registrant of further reporting under this Act, unless and until he later takes employment or assumes duties requiring him to again register under this Act.

(d) Failure to file any such report within the time designated or the reporting of incomplete information shall constitute a violation of this Act.

A registrant shall preserve for a period of 2 years all receipts and records used in preparing reports under this Act.

(e) Within 30 days after a filing deadline or as provided by rule, the lobbyist shall notify each official on whose behalf an expenditure has been reported. Notification shall include the name of the registrant, the total amount of the expenditure, a description of the expenditure, the date on which the expenditure occurred, and the subject matter of the lobbying activity.

~~(f) A report for the period beginning January 1, 2010 and ending on June 30, 2010 shall be filed on July 15, 2010. Beginning July 1, 2010, reports shall be filed semi-monthly as follows: (i) for the period beginning the first day of the month through the 15th day of the month, the report shall be filed on the 20th day of the month and (ii) for the period beginning on the 16th day of the month through the last day of the month, the report shall be filed on the 5th day of the following month. Lobbyist and lobbying entity reports shall be filed weekly when the General Assembly is in session and monthly otherwise, in accordance with rules the Secretary of State shall adopt for the implementation of this subsection. A report filed under this Act is due in the Office of the Secretary of State no later than the close of business on the date on which it is required to be filed.~~

(g) All reports filed under this Act shall be filed in a format or on forms prescribed by the Secretary of State.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/7) (from Ch. 63, par. 177)

Sec. 7. Duties of the Secretary of State.

(a) It shall be the duty of the Secretary of State to provide appropriate forms for the registration and reporting of information required by this Act and to keep such registrations and reports on file in his office for 3 years from the date of filing. He shall also provide and maintain a register with appropriate blanks and indexes so that the information required in Sections 5 and 6 of this Act may be accordingly entered. Such records shall be considered public information and open to public inspection.

(b) Within 5 business ~~10~~ days after a filing deadline, the Secretary of State shall notify persons he determines are required to file but have failed to do so.

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(c) The Secretary of State shall provide adequate software to the persons required to file under this Act, and all registrations, reports, statements, and amendments required to be filed shall be filed electronically. The Secretary of State shall promptly make all filed reports publicly available by means of a searchable database that is accessible through the World Wide Web. The Secretary of State shall provide all software necessary to comply with this provision to all persons required to file. The Secretary of State shall implement a plan to provide computer access and assistance to persons required to file electronically.

~~(d) The Not later than 12 months after the effective date of this amendatory Act of the 93rd General Assembly, the Secretary of State shall include registrants' pictures when publishing or posting on his or her website the information required in Section 5.~~

(e) The Secretary of State shall receive and investigate allegations of violations of this Act. Any employee of the Secretary of State who receives an allegation shall immediately transmit it to the Secretary of State Inspector General.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/11) (from Ch. 63, par. 181)

Sec. 11. Enforcement.

(a) The Secretary of State Inspector General appointed under Section 14 of the Secretary of State Act shall initiate investigations of violations of this Act upon receipt of an allegation. If the Inspector General finds credible evidence of a violation, he or she shall make the information available to the public and transmit copies of the evidence to the alleged violator. If the violator does not correct the violation within 30 calendar days, the Inspector General shall transmit the full record of the investigation to any appropriate State's Attorney or to the Attorney General. However, if the violator is working in conjunction with the Inspector General to correct the violation, the Inspector General may extend this time period for an additional 30 calendar days.

(b) Any violation of this Act may be prosecuted in the county where the offense is committed or in Sangamon County. In addition to the State's Attorney of the appropriate county, the Attorney General of Illinois also is authorized to prosecute any violation of this Act.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/11.3)

Sec. 11.3. Compensation from a State agency. It is a violation of this Act for a person registered or required to be registered under this Act to accept or agree to accept compensation from a State agency for the purpose of lobbying legislative action.

This Section does not apply to compensation (i) that is a portion of the salary of a full-time employee of a State agency whose responsibility or authority includes, but is not limited to, lobbying executive, legislative, or administrative action or (ii) to an individual who is contractually retained by a State agency that is not listed in Section 5-15 of the Civil Administrative Code of Illinois.

For the purpose of this Section, "State agency" is defined as in the Civil Administrative Code of Illinois State Auditing Act.

(Source: P.A. 96-555, eff. 1-1-10.)

(25 ILCS 170/6.5 rep.)

Section 15. The Lobbyist Registration Act is amended by repealing Section 6.5 as of July 1, 2010.

Section 99. Effective date. This Act takes effect January 1, 2010."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Harmon, **House Bill No. 5**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 48; NAYS 8.

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The following voted in the affirmative:

Althoff	Haine	Martinez	Schoenberg
Bomke	Harmon	McCarter	Silverstein
Bond	Hendon	Meeks	Steans
Clayborne	Holmes	Millner	Sullivan
Collins	Hunter	Muñoz	Syverson
Cronin	Hutchinson	Murphy	Trotter
Crotty	Jones, E.	Noland	Viverito
DeLeo	Koehler	Pankau	Wilhelmi
Delgado	Kotowski	Radogno	Mr. President
Demuzio	Lightford	Raoul	
Forby	Link	Righter	
Frerichs	Luechtefeld	Rutherford	
Garrett	Maloney	Sandoval	

The following voted in the negative:

Bivins	Dillard	Jones, J.
Burzynski	Duffy	Lauzen
Dahl	Jacobs	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

#### HOUSE BILL RECALLED

On motion of Senator Cullerton, **House Bill No. 607** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 607

AMENDMENT NO. 1. Amend House Bill 607 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Lottery Law is amended by changing Sections 3, 7.12, 7.15, and 9.1 as follows:

(20 ILCS 1605/3) (from Ch. 120, par. 1153)

Sec. 3. For the purposes of this Act:

- a. "Lottery" or "State Lottery" means the lottery or lotteries established and operated pursuant to this Act.
- b. "Board" means the Lottery Control Board created by this Act.
- c. "Department" means the Department of Revenue.
- d. "Director" means the Director of Revenue.
- e. "Chairman" means the Chairman of the Lottery Control Board.
- f. "Multi-state game directors" means such persons, including the Superintendent, as may be designated by an agreement between the Division and one or more additional lotteries operated under the laws of another state or states.
- g. "Division" means the Division of the State Lottery of the Department of Revenue.
- h. "Superintendent" means the Superintendent of the Division of the State Lottery of the Department of Revenue.
- i. "Management agreement" means an agreement or contract between the Department on behalf of the State with a private manager, as an independent contractor, whereby the private manager provides management services to the Lottery in exchange for compensation that may consist of, among other things, a fee for services and a performance-based bonus of the receipt of no more than 5% of Lottery profits so long as the Department continues to exercise actual control over all significant business

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decisions made by the private manager as set forth in Section 9.1.

j. "Person" means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, or other legal entity, group, or combination.

k. "Private manager" means a person that provides management services to the Lottery on behalf of the Department under a management agreement.

l. "Profits" means total revenues accruing from the sale of lottery tickets or shares and related proceeds minus (1) the payment of prizes and retailer bonuses and (2) the payment of costs incurred in the operation and administration of the lottery, excluding costs of services directly rendered by a private manager.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09.)

(20 ILCS 1605/7.12)

Sec. 7.12. Internet pilot program. The General Assembly finds that:

(1) the consumer market in Illinois has changed since the creation of the Illinois State Lottery in 1974;

(2) the Internet has become an integral part of everyday life for a significant number of Illinois residents not only in regards to their professional life, but also in regards to personal business and communication; and

(3) the current practices of selling lottery tickets does not appeal to the new form of market participants who prefer to make purchases on the internet at their own convenience.

It is the intent of the General Assembly to create an Internet pilot program for the sale of lottery tickets to capture this new form of market participant.

The Department shall create a pilot program that allows an individual 18 years of age or older to purchase lottery tickets or shares on the Internet without using a Lottery retailer with on-line status, as those terms are defined by rule. The Department shall restrict the sale of lottery tickets on the Internet to transactions initiated and received or otherwise made exclusively within the State of Illinois. The Department shall adopt rules necessary for the administration of this program. These rules shall include requirements for marketing of the Lottery to infrequent players. The provisions of this Act and the rules adopted under this Act shall apply to the sale of lottery tickets or shares under this program.

Before beginning the pilot program, the Department of Revenue must submit a request to the United States Department of Justice for review of the State's plan to implement a pilot program for the sale of lottery tickets on the Internet and its propriety under federal law. The Department shall implement the Internet pilot program only if the Department of Justice does not object to the implementation of the program within a reasonable period of time after its review. seek a clarifying memorandum from the federal Department of Justice that it is legal for Illinois residents and non Illinois residents to purchase and the private company to sell lottery tickets on the Internet on behalf of the State of Illinois under the federal Unlawful Internet Gambling Enforcement Act of 2006.

The Department shall limit the individuals authorized to purchase lottery tickets on the Internet to individuals who are 18 years of age or older and Illinois residents, unless the clarifying memorandum from the federal Department of Justice indicates that it is legal for non Illinois residents to purchase lottery tickets on the Internet, and shall set a limitation on the monthly purchases that may be made through any one individual's lottery account. The Department is obligated to implement the pilot program set forth in this Section and Sections 7.15 and 7.16, and 7.17 only at such time, and to such extent, that the Department of Justice does not object to the implementation of the program within a reasonable period of time after its review. While the Illinois Lottery may only offer Lotto and Mega Millions games through the pilot program, the Department shall request review from the federal Department of Justice for the Illinois Lottery to sell lottery tickets on the Internet on behalf of the State of Illinois that are not limited to just these games issues a clarifying memorandum finding such program to be permitted under federal law. Only Lotto and Mega Million games offered by the Illinois Lottery may be offered through the pilot program.

The Department shall authorize the private manager to implement and administer the program pursuant to the management agreement entered into under Section 9.1 and in a manner consistent with the provisions of this Section. If a private manager has not been selected pursuant to Section 9.1 at the time the Department is obligated to implement the pilot program, then the Department shall not proceed with the pilot program until after the selection of the private manager, at which time the Department shall authorize the private manager to implement and administer the program pursuant to the management agreement entered into under Section 9.1 and in a manner consistent with the provisions of this Section. The pilot program must be conducted pursuant to a contract with a private vendor that has the expertise, technical capability, and knowledge of the Illinois lottery marketplace to conduct the program. The Department of the Lottery must seek cooperation from existing vendors for the program.

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The pilot program shall last for not less than 36 months, but not more than 48 months from the date of its initial operation.

Nothing in this Section shall be construed as prohibiting the Department from implementing and operating a website portal whereby individuals who are 18 years of age or older with an Illinois mailing address may apply to purchase lottery tickets via subscription.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09.)

(20 ILCS 1605/7.15)

Sec. 7.15. ~~Verification of age and residency~~ for Internet program; security for Internet lottery accounts. The Department must establish a procedure to verify that an individual is 18 years of age or older and that the sale of lottery tickets on the Internet is limited to transactions that are initiated and received or otherwise made exclusively within the State of Illinois, unless the federal Department of Justice indicates that it is legal for the transactions to originate in states other than Illinois. An individual must satisfy the verification procedure before he or she an Illinois resident before he or she may establish one Internet lottery account and purchase lottery tickets or shares through the Internet pilot program. ~~Non residents of Illinois shall only be allowed to participate in the pilot program if the federal Department of Justice indicates that it is legal for non residents to do so.~~ By rule, the Department shall establish funding procedures for Internet lottery accounts and shall provide a mechanism ~~for each Internet lottery account to have a personal identification number~~ to prevent the unauthorized use of Internet lottery accounts. If any participant in the pilot program violates any provisions of this amendatory Act of the 96th General Assembly or rule established by the Department, the participant's all such winnings shall be forfeited. Such forfeited winnings shall be deposited in the Common School Fund.

(Source: P.A. 96-34, eff. 7-13-09.)

(20 ILCS 1605/9.1)

Sec. 9.1. Private manager and management agreement.

(a) As used in this Section:

"Offeror" means a person or group of persons that responds to a request for qualifications under this Section.

"Request for qualifications" means all materials and documents prepared by the Department to solicit the following from offerors:

(1) Statements of qualifications.

(2) Proposals to enter into a management agreement, including the identity of any prospective vendor or vendors that the offeror intends to initially engage to assist the offeror in performing its obligations under the management agreement.

"Final offer" means the last proposal submitted by an offeror in response to the request for qualifications, including the identity of any prospective vendor or vendors that the offeror intends to initially engage to assist the offeror in performing its obligations under the management agreement.

"Final offeror" means the offeror ultimately selected by the Governor to be the private manager for the Lottery under subsection (h) of this Section.

(b) ~~By September 15, 2010 March 1, 2010, the Governor Department shall select enter into a management agreement with~~ a private manager for the total management of the Lottery with integrated functions, such as lottery game design, supply of goods and services, and advertising and as specified in this Section.

(c) Pursuant to the terms of this subsection, the Department shall endeavor to expeditiously terminate the existing contracts in support of the Lottery in effect on the effective date of this amendatory Act of the 96th General Assembly in connection with the selection of the private manager. As part of its obligation to terminate these contracts and select the private manager, the Department shall establish a mutually agreeable timetable to transfer the functions of existing contractors to the private manager so that existing Lottery operations are not materially diminished or impaired during the transition. To that end, the Department shall do the following:

(1) where such contracts contain a provision authorizing termination upon notice, the Department shall provide notice of termination to occur upon the mutually agreed timetable for transfer of functions;

(2) upon the expiration of any initial term or renewal term of the current Lottery contracts, the Department shall not renew such contract for a term extending beyond the mutually agreed timetable for transfer of functions; or

(3) in the event any current contract provides for termination of that contract upon the implementation of a contract with the private manager, the Department shall perform all necessary actions to terminate the contract on the date that coincides with the mutually agreed timetable for

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transfer of functions.

If the contracts to support the current operation of the Lottery in effect on the effective date of this amendatory Act of the 96th General Assembly are not subject to termination as provided for in this subsection (c), then the Department may include a provision in the contract with the private manager specifying a mutually agreeable methodology for incorporation.

(c-5) The Department shall include provisions in the management agreement whereby the private manager shall, for a fee, and pursuant to a contract negotiated with the Department (the "Employee Use Contract"), utilize the services of current Department employees to assist in the administration and operation of the Lottery. The Department shall be the employer of all such bargaining unit employees assigned to perform such work for the private manager, and such employees shall be State employees, as defined by the Personnel Code. Department employees shall operate under the same employment policies, rules, regulations, and procedures, as other employees of the Department. In addition, neither historical representation rights under the Illinois Public Labor Relations Act, nor existing collective bargaining agreements, shall be disturbed by the management agreement with the private manager for the management of the Lottery.

(d) The management agreement with the private manager shall include all of the following:

(1) A term not to exceed 10 years, including any renewals.

(2) A provision specifying that the Department:

(A) shall exercise actual control over all significant business decisions;

(A-5) has the authority to direct or countermand operating decisions by the private manager at any time;

(B) has ready access at any time to information regarding Lottery operations;

(C) has the right to demand and receive information from the private manager concerning any aspect of the Lottery operations at any time; and

(D) retains ownership of all trade names, trademarks, and intellectual property associated with the Lottery.

(3) A provision imposing an affirmative duty on the private manager to provide the Department with material information and with any information the private manager reasonably believes the Department would want to know to enable the Department to conduct the Lottery.

(4) A provision requiring the private manager to provide the Department with advance notice of any operating decision that bears significantly on the public interest, including, but not limited to, decisions on the kinds of games to be offered to the public and decisions affecting the relative risk and reward of the games being offered, so the Department has a reasonable opportunity to evaluate and countermand that decision.

(5) A provision providing for compensation of the private manager that may consist of, among other things, a fee for services and a performance based bonus as with a percentage, not to exceed 5%, of Lottery profits in consideration for managing the Lottery, including terms that may provide the private manager with an increase in compensation if Lottery revenues grow by a specified percentage in a given year.

(6) (Blank).

(7) A provision requiring the deposit of all Lottery proceeds to be deposited into the State Lottery Fund.

(8) A provision requiring the private manager to locate its principal office within the State.

(8-5) A provision encouraging that at least 20% of the cost of contracts entered into for goods and services by the private manager in connection with its management of the Lottery, other than contracts with sales agents or technical advisors, be awarded to businesses that are a minority owned business, a female owned business, or a business owned by a person with disability, as those terms are defined in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(9) A requirement that so long as the private manager complies with all the conditions of the agreement under the oversight of the Department, the private manager shall have the following duties and obligations with respect to the management of the Lottery:

(A) The right to use equipment and other assets used in the operation of the Lottery.

(B) The rights and obligations under contracts with retailers and vendors.

(C) The implementation of a comprehensive security program by the private manager.

(D) The implementation of a comprehensive system of internal audits.

(E) The implementation of a program by the private manager to curb compulsive gambling by persons playing the Lottery.

(F) A system for determining (i) the type of Lottery games, (ii) the method of selecting winning tickets, (iii) the manner of payment of prizes to holders of winning tickets, (iv) the frequency of drawings of winning tickets, (v) the method to be used in selling tickets, (vi) a system for verifying the validity of tickets claimed to be winning tickets, (vii) the basis upon which retailer commissions are established by the manager, and (viii) minimum payouts.

(10) A requirement that advertising and promotion must be consistent with Section 7.8a of this Act.

(11) A requirement that the private manager market the Lottery to those residents who are new, infrequent, or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the Internet as permitted by law.

(12) A code of ethics for the private manager's officers and employees.

(13) A requirement that the Department monitor and oversee the private manager's practices and take action that the Department considers appropriate to ensure that the private manager is in compliance with the terms of the management agreement, while allowing the manager, unless specifically prohibited by law or the management agreement, to negotiate and sign its own contracts with vendors.

(14) A provision requiring the private manager to periodically file, at least on an annual basis, appropriate financial statements in a form and manner acceptable to the Department.

(15) Cash reserves requirements.

(16) Procedural requirements for obtaining the prior approval of the Department when a management agreement or an interest in a management agreement is sold, assigned, transferred, or pledged as collateral to secure financing.

(17) Grounds for the termination of the management agreement by the Department or the private manager.

(18) Procedures for amendment of the agreement.

(19) A provision requiring the private manager to engage in an open and competitive bidding process for any procurement having a cost in excess of \$50,000 that is not a part of the private manager's final offer. The process shall favor the selection of a vendor deemed to have submitted a proposal that provides the Lottery with the best overall value. The process shall not be subject to the provisions of the Illinois Procurement Code, unless specifically required by the management agreement. ~~(Blank)~~

(20) The transition of rights and obligations, including any associated equipment or other assets used in the operation of the Lottery, from the manager to any successor manager of the lottery, including the Department, following the termination of or foreclosure upon the management agreement.

(21) Right of use of copyrights, trademarks, and service marks held by the Department in the name of the State. The agreement must provide that any use of them by the manager shall only be for the purpose of fulfilling its obligations under the management agreement during the term of the agreement.

(e) Notwithstanding any other law to the contrary, the Department shall select a private manager through a competitive request for qualifications process consistent with Section 20-35 of the Illinois Procurement Code, which shall take into account:

(1) the offeror's ability to market the Lottery to those residents who are new, infrequent, or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the Internet;

(2) the offeror's ability to address the State's concern with the social effects of gambling on those who can least afford to do so;

(3) the offeror's ability to provide the most successful management of the Lottery for the benefit of the people of the State based on current and past business practices or plans of the offeror; and

(4) the offeror's poor or inadequate past performance in servicing, equipping, operating or managing a lottery on behalf of Illinois, another State or foreign government and attracting persons who are not currently regular players of a lottery.

(f) The Department may retain the services of an advisor or advisors with significant experience in financial services or the management, operation, and procurement of goods, services, and equipment for a government-run lottery to assist in the preparation of the terms of the request for qualifications and selection of the private manager. Any prospective advisor seeking to provide services under this subsection (f) shall disclose any material business or financial relationship during the past 3 years with any potential offeror, or with a contractor or subcontractor presently providing goods, services, or equipment to the Department to support the Lottery. The Department shall evaluate the material business

or financial relationship of each prospective advisor. The Department shall not select any prospective advisor with a substantial business or financial relationship that the Department deems to impair the objectivity of the services to be provided by the prospective advisor. During the course of the advisor's engagement by the Department, and for a period of one year thereafter, the advisor shall not enter into any business or financial relationship with any offeror or any vendor identified to assist an offeror in performing its obligations under the management agreement. Any advisor retained by the Department shall be disqualified from being an offeror. No advisor or advisors retained may have any prior or present affiliation with any potential offeror, or with a contractor or subcontractor presently providing goods, services or equipment to the Department to support the Lottery. The Department shall not include terms in the request for qualifications that provide a material advantage whether directly or indirectly to any potential offeror, or any contractor or subcontractor presently providing goods, services, or equipment to the Department to support the Lottery, including terms contained in previous a contractor or subcontractor's responses to requests for proposals or qualifications submitted to Illinois, another State or foreign government when those terms are uniquely associated with a particular potential offeror, contractor, or subcontractor. The request for proposals offered by the Department on December 22, 2008 as "LOT08GAMESYS" and reference number "22016176" is declared void.

(g) The Department shall select at least 2 offerors as finalists to potentially serve as the private manager no later than August 9, 2010 ~~February 1, 2010~~. Upon making preliminary selections, the Department shall schedule a public hearing on the finalists' proposals and provide public notice of the hearing at least 7 calendar days before the hearing. The notice must include all of the following:

- (1) The date, time, and place of the hearing.
- (2) The subject matter of the hearing.
- (3) A brief description of the management agreement to be awarded.
- (4) The identity of the offerors that have been selected as finalists to serve as the private manager.

(5) The address and telephone number of the Department.

(h) At the public hearing, the Department shall (i) provide sufficient time for each finalist to present and explain its proposal to the Department and the Governor or the Governor's designee, including an opportunity to respond to questions posed by the Department, Governor, or designee and (ii) allow the public and non-selected offerors to comment on the presentations. The Governor or a designee shall attend the public hearing. After the public hearing, the Department shall have 14 calendar days to recommend to the Governor whether a management agreement should be entered into with a particular finalist. After reviewing the Department's recommendation, the Governor may accept or reject the Department's recommendation, and shall select a final offeror as the private manager by publication of a notice in the Illinois Procurement Bulletin on or before September 15, 2010. The Governor shall include in the notice a detailed explanation and the reasons why the final offeror is superior to other offerors and will provide management services in a manner that best achieves the objectives of this Section. ~~The Governor shall designate a final offeror as the private manager with sufficient time for the Department to enter into a management agreement on or before March 1, 2010.~~ The Governor shall also sign the management agreement with the private manager.

(i) Any action to contest the private manager selected by the Governor ~~validity of a management agreement entered into~~ under this Section must be brought within 7 ~~44~~ calendar days after the publication of the notice of the designation of the private manager as provided in subsection (h) of this Section.

(j) The Lottery shall remain, for so long as a private manager manages the Lottery in accordance with provisions of this Act, a Lottery conducted by the State, and the State shall not be authorized to sell or transfer the Lottery to a third party.

(k) Any tangible personal property used exclusively in connection with the lottery that is owned by the Department and leased to the private manager shall be owned by the Department in the name of the State and shall be considered to be public property devoted to an essential public and governmental function.

(l) The Department may exercise any of its powers under this Section or any other law as necessary or desirable for the execution of the Department's powers under this Section.

(m) Neither this Section nor any management agreement entered into under this Section prohibits the General Assembly from authorizing forms of gambling that are not in direct competition with the Lottery.

(n) The private manager shall be subject to a complete investigation in the third, seventh, and tenth years of the agreement (if the agreement is for a 10-year term) by the Department in cooperation with the Auditor General to determine whether the private manager has complied with this Section and the management agreement. The private manager shall bear the cost of an investigation or reinvestigation of

the private manager under this subsection.

(o) The powers conferred by this Section are in addition and supplemental to the powers conferred by any other law. If any other law or rule is inconsistent with this Section, including, but not limited to, provisions of the Illinois Procurement Code, then this Section controls as to any management agreement entered into under this Section. This Section and any rules adopted under this Section contain full and complete authority for a management agreement between the Department and a private manager. No law, procedure, proceeding, publication, notice, consent, approval, order, or act by the Department or any other officer, Department, agency, or instrumentality of the State or any political subdivision is required for the Department to enter into a management agreement under this Section. This Section contains full and complete authority for the Department to approve any contracts subcontracts entered into by a private manager with a vendor providing goods, services, or both goods and services to the private manager under the terms of the a management agreement.

Except as provided in Sections 21.2, 21.5, 21.6, 21.7, and 21.8, the Department shall distribute all proceeds of lottery tickets and shares sold in the following priority and manner:

(1) The payment of prizes and retailer bonuses.

(2) The payment of costs incurred in the operation and administration of the Lottery, including the payment of sums due to the private manager under the management agreement with the Department and payment of sums due to the private vendor for lottery tickets and shares sold on the Internet via the pilot program as compensation under its contract with the Department.

(3) On the last day of each month or as soon thereafter as possible, the State Comptroller shall direct and the State Treasurer shall transfer from the Lottery Fund to the Common School Fund an amount that is equal to the proceeds transferred in the corresponding month of fiscal year 2009, as adjusted for inflation, to the Common School Fund.

(4) On or before the last day of each fiscal year, deposit any remaining proceeds, subject to payments under items (1), (2), and (3) into the Capital Projects Fund each fiscal year.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09.)

Section 10. The Illinois Procurement Code is amended by changing Section 1-10 as follows:

(30 ILCS 500/1-10)

Sec. 1-10. Application.

(a) This Code applies only to procurements for which contractors were first solicited on or after July 1, 1998. This Code shall not be construed to affect or impair any contract, or any provision of a contract, entered into based on a solicitation prior to the implementation date of this Code as described in Article 99, including but not limited to any covenant entered into with respect to any revenue bonds or similar instruments. All procurements for which contracts are solicited between the effective date of Articles 50 and 99 and July 1, 1998 shall be substantially in accordance with this Code and its intent.

(b) This Code shall apply regardless of the source of the funds with which the contracts are paid, including federal assistance moneys. This Code shall not apply to:

(1) Contracts between the State and its political subdivisions or other governments, or between State governmental bodies except as specifically provided in this Code.

(2) Grants, except for the filing requirements of Section 20-80.

(3) Purchase of care.

(4) Hiring of an individual as employee and not as an independent contractor, whether pursuant to an employment code or policy or by contract directly with that individual.

(5) Collective bargaining contracts.

(6) Purchase of real estate, except that notice of this type of contract with a value of more than \$25,000 must be published in the Procurement Bulletin within 7 days after the deed is recorded in the county of jurisdiction. The notice shall identify the real estate purchased, the names of all parties to the contract, the value of the contract, and the effective date of the contract.

(7) Contracts necessary to prepare for anticipated litigation, enforcement actions, or investigations, provided that the chief legal counsel to the Governor shall give his or her prior approval when the procuring agency is one subject to the jurisdiction of the Governor, and provided that the chief legal counsel of any other procuring entity subject to this Code shall give his or her prior approval when the procuring entity is not one subject to the jurisdiction of the Governor.

(8) Contracts for services to Northern Illinois University by a person, acting as an independent contractor, who is qualified by education, experience, and technical ability and is selected by negotiation for the purpose of providing non-credit educational service activities or products by means of specialized programs offered by the university.

(9) Procurement expenditures by the Illinois Conservation Foundation when only private

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funds are used.

(c) This Code does not apply to the electric power procurement process provided for under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act.

(d) Except for Section 20-160 and Article 50 of this Code, and as expressly required by Section 9.1 of the Illinois Lottery Law, the provisions of this Code do not apply to the procurement process provided for under Section 9.1 of the Illinois Lottery Law.

(Source: P.A. 95-481, eff. 8-28-07; 95-615, eff. 9-11-07; 95-876, eff. 8-21-08.)

(20 ILCS 1605/7.17 rep.)

Section 15. The Illinois Lottery Law is amended by repealing Section 7.17.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Cullerton, **House Bill No. 607**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 36; NAYS 20.

The following voted in the affirmative:

Bond	Harmon	Link	Sullivan
Clayborne	Hendon	Maloney	Syverson
Crotty	Holmes	Martinez	Trotter
DeLeo	Hunter	Muñoz	Viverito
Delgado	Hutchinson	Noland	Wilhelmi
Demuzio	Jacobs	Raoul	Mr. President
Forby	Jones, E.	Sandoval	
Frerichs	Koehler	Schoenberg	
Garrett	Kotowski	Silverstein	
Haine	Lightford	Steans	

The following voted in the negative:

Bivins	Dahl	Luechtefeld	Righter
Bomke	Dillard	McCarter	Rutherford
Brady	Duffy	Meeks	
Burzynski	Hultgren	Millner	
Collins	Jones, J.	Murphy	
Cronin	Lauzen	Pankau	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Link, **House Bill No. 3997** was recalled from the order of third reading to the order of second reading.

[October 29, 2009]

Senator Link offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO HOUSE BILL 3997**

AMENDMENT NO. 2. Amend House Bill 3997 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Revenue Law of the Civil Administrative Code of Illinois is amended by changing Section 2505-305 as follows:

(20 ILCS 2505/2505-305) (was 20 ILCS 2505/39b15.1)

Sec. 2505-305. Investigators.

(a) The Department has the power to appoint investigators to conduct all investigations, searches, seizures, arrests, and other duties imposed under the provisions of any law administered by the Department, ~~the Illinois Liquor Control Commission, or the Illinois Racing Board. These ~~Except as provided in subsection (c), these~~ investigators have and may exercise all the powers of peace officers only as provided in this Section. An investigator may exercise the powers of a peace officer while ~~solely for the purpose of enforcing taxing or other measures administered by the Department, the Illinois Liquor Control Commission, or the Illinois Racing Board. An investigator may also exercise the powers of a peace officer when he or she discovers any criminal offense or violation while enforcing any measure administered by the Department, the Illinois Liquor Control Commission, or the Illinois Racing Board if (i) the criminal offense or violation creates a threat to the life or safety of the investigator or any other person and (ii) the investigator notifies the proper local law enforcement agency as soon as is practical.~~~~

(b) The Director must authorize to each investigator employed under this Section and to any other employee of the Department exercising the powers of a peace officer a distinct badge that, on its face, (i) clearly states that the badge is authorized by the Department and (ii) contains a unique identifying number. No other badge shall be authorized by the Department.

(c) The Department may enter into agreements with the Illinois Gaming Board providing that investigators appointed under this Section shall exercise the peace officer powers set forth in paragraph (20.6) of subsection (c) of Section 5 of the Riverboat Gambling Act.

(Source: P.A. 96-37, eff. 7-13-09.)

Section 10. The Riverboat Gambling Act is amended by changing Sections 4, 5, 5.1, 6, 7, 9, 11, 12, 13, 15, and 18 and by adding Section 5.2 as follows:

(230 ILCS 10/4) (from Ch. 120, par. 2404)

Sec. 4. Definitions. As used in this Act:

(a) "Board" means the Illinois Gaming Board.

(b) "Occupational license" means a license issued by the Board to a person or entity to perform an occupation which the Board has identified as requiring a license to engage in riverboat gambling in Illinois.

(c) "Gambling game" includes, but is not limited to, baccarat, twenty-one, poker, craps, slot machine, video game of chance, roulette wheel, klondike table, punchboard, faro layout, keno layout, numbers ticket, push card, jar ticket, or pull tab which is authorized by the Board as a wagering device under this Act.

(d) "Riverboat" means a self-propelled excursion boat, a permanently moored barge, or permanently moored barges that are permanently fixed together to operate as one vessel, on which lawful gambling is authorized and licensed as provided in this Act.

(e) "Managers license" means a license issued by the Board to a person or entity to manage gambling operations conducted by the State pursuant to Section 7.3.

(f) "Dock" means the location where a riverboat moors for the purpose of embarking passengers for and disembarking passengers from the riverboat.

(g) "Gross receipts" means the total amount of money exchanged for the purchase of chips, tokens or electronic cards by riverboat patrons.

(h) "Adjusted gross receipts" means the gross receipts less winnings paid to wagerers.

(i) "Cheat" means to alter the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.

(j) (Blank) "Department" means the Department of Revenue.

(k) "Gambling operation" means the conduct of authorized gambling games upon a riverboat.

(l) "License bid" means the lump sum amount of money that an applicant bids and agrees to pay the State in return for an owners license that is re-issued on or after July 1, 2003.

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(m) The terms "minority person", ~~and "female"~~ and "person with a disability" shall have the same meaning as defined in Section 2 of the Business Enterprise for Minorities, Females, and Persons with Disabilities Act.

(Source: P.A. 95-331, eff. 8-21-07.)

(230 ILCS 10/5) (from Ch. 120, par. 2405)

Sec. 5. Gaming Board.

(a) (1) There is hereby established ~~the within the Department of Revenue an~~ Illinois Gaming Board, which shall have the powers and duties specified in this Act, and all other powers necessary and proper to fully and effectively execute this Act for the purpose of administering, regulating, and enforcing the system of riverboat gambling established by this Act. Its jurisdiction shall extend under this Act to every person, association, corporation, partnership and trust involved in riverboat gambling operations in the State of Illinois.

(2) The Board shall consist of 5 members to be appointed by the Governor with the advice and consent of the Senate, one of whom shall be designated by the Governor to be chairman. Each member shall have a reasonable knowledge of the practice, procedure and principles of gambling operations. Each member shall either be a resident of Illinois or shall certify that he will become a resident of Illinois before taking office. At least one member shall be experienced in law enforcement and criminal investigation, at least one member shall be a certified public accountant experienced in accounting and auditing, and at least one member shall be a lawyer licensed to practice law in Illinois.

(3) The terms of office of the Board members shall be 3 years, except that the terms of office of the initial Board members appointed pursuant to this Act will commence from the effective date of this Act and run as follows: one for a term ending July 1, 1991, 2 for a term ending July 1, 1992, and 2 for a term ending July 1, 1993. Upon the expiration of the foregoing terms, the successors of such members shall serve a term for 3 years and until their successors are appointed and qualified for like terms. Vacancies in the Board shall be filled for the unexpired term in like manner as original appointments. Each member of the Board shall be eligible for reappointment at the discretion of the Governor with the advice and consent of the Senate.

(4) Each member of the Board shall receive \$300 for each day the Board meets and for each day the member conducts any hearing pursuant to this Act. Each member of the Board shall also be reimbursed for all actual and necessary expenses and disbursements incurred in the execution of official duties.

(5) No person shall be appointed a member of the Board or continue to be a member of the Board who is, or whose spouse, child or parent is, a member of the board of directors of, or a person financially interested in, any gambling operation subject to the jurisdiction of this Board, or any race track, race meeting, racing association or the operations thereof subject to the jurisdiction of the Illinois Racing Board. No Board member shall hold any other public office ~~for which he shall receive compensation other than necessary travel or other incidental expenses~~. No person shall be a member of the Board who is not of good moral character or who has been convicted of, or is under indictment for, a felony under the laws of Illinois or any other state, or the United States.

(5.5) No member of the Board shall engage in any political activity. For the purposes of this Section, "political" means any activity in support of or in connection with any campaign for federal, State, or local elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties or governmental and public service functions.

(6) Any member of the Board may be removed by the Governor for neglect of duty, misfeasance, malfeasance, or nonfeasance in office ~~or for engaging in any political activity~~.

(7) Before entering upon the discharge of the duties of his office, each member of the Board shall take an oath that he will faithfully execute the duties of his office according to the laws of the State and the rules and regulations adopted therewith and shall give bond to the State of Illinois, approved by the Governor, in the sum of \$25,000. Every such bond, when duly executed and approved, shall be recorded in the office of the Secretary of State. Whenever the Governor determines that the bond of any member of the Board has become or is likely to become invalid or insufficient, he shall require such member forthwith to renew his bond, which is to be approved by the Governor. Any member of the Board who fails to take oath and give bond within 30 days from the date of his appointment, or who fails to renew his bond within 30 days after it is demanded by the Governor, shall be guilty of neglect of duty and may be removed by the Governor. The cost of any bond given by any member of the Board under this Section shall be taken to be a part of the necessary expenses of the Board.

(8) ~~The~~ ~~Upon the request of the Board, the Department~~ shall employ such personnel as may be

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necessary to carry out ~~its~~ the functions and shall determine the salaries of all personnel, except those personnel whose salaries are determined under the terms of a collective bargaining agreement of the Board. No person shall be employed to serve the Board who is, or whose spouse, parent or child is, an official of, or has a financial interest in or financial relation with, any operator engaged in gambling operations within this State or any organization engaged in conducting horse racing within this State. Any employee violating these prohibitions shall be subject to termination of employment.

(9) An Administrator shall perform any and all duties that the Board shall assign him. The salary of the Administrator shall be determined by the Board ~~and approved by the Director of the Department~~ and, in addition, he shall be reimbursed for all actual and necessary expenses incurred by him in discharge of his official duties. The Administrator shall keep records of all proceedings of the Board and shall preserve all records, books, documents and other papers belonging to the Board or entrusted to its care. The Administrator shall devote his full time to the duties of the office and shall not hold any other office or employment.

(b) The Board shall have general responsibility for the implementation of this Act. Its duties include, without limitation, the following:

(1) To decide promptly and in reasonable order all license applications. Any party aggrieved by an action of the Board denying, suspending, revoking, restricting or refusing to renew a license may request a hearing before the Board. A request for a hearing must be made to the Board in writing within 5 days after service of notice of the action of the Board. Notice of the action of the Board shall be served either by personal delivery or by certified mail, postage prepaid, to the aggrieved party. Notice served by certified mail shall be deemed complete on the business day following the date of such mailing. The Board shall conduct all requested hearings promptly and in reasonable order;

(2) To conduct all hearings pertaining to civil violations of this Act or rules and regulations promulgated hereunder;

(3) To promulgate such rules and regulations as in its judgment may be necessary to protect or enhance the credibility and integrity of gambling operations authorized by this Act and the regulatory process hereunder;

(4) To provide for the establishment and collection of all license and registration fees and taxes imposed by this Act and the rules and regulations issued pursuant hereto. All such fees and taxes shall be deposited into the State Gaming Fund;

(5) To provide for the levy and collection of penalties and fines for the violation of provisions of this Act and the rules and regulations promulgated hereunder. All such fines and penalties shall be deposited into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois;

(6) To be present through its inspectors and agents any time gambling operations are conducted on any riverboat for the purpose of certifying the revenue thereof, receiving complaints from the public, and conducting such other investigations into the conduct of the gambling games and the maintenance of the equipment as from time to time the Board may deem necessary and proper;

(7) To review and rule upon any complaint by a licensee regarding any investigative procedures of the State which are unnecessarily disruptive of gambling operations. The need to inspect and investigate shall be presumed at all times. The disruption of a licensee's operations shall be proved by clear and convincing evidence, and establish that: (A) the procedures had no reasonable law enforcement purposes, and (B) the procedures were so disruptive as to unreasonably inhibit gambling operations;

(8) To hold at least one meeting each quarter of the fiscal year. In addition, special meetings may be called by the Chairman or any 2 Board members upon 72 hours written notice to each member. All Board meetings shall be subject to the Open Meetings Act. Three members of the Board shall constitute a quorum, and 3 votes shall be required for any final determination by the Board. The Board shall keep a complete and accurate record of all its meetings. A majority of the members of the Board shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power which this Act requires the Board members to transact, perform or exercise en banc, except that, upon order of the Board, one of the Board members or an administrative law judge designated by the Board may conduct any hearing provided for under this Act or by Board rule and may recommend findings and decisions to the Board. The Board member or administrative law judge conducting such hearing shall have all powers and rights granted to the Board in this Act. The record made at the time of the hearing shall be reviewed by the Board, or a majority thereof, and the findings and decision of the majority of the Board shall constitute the order of the Board in such case;

(9) To maintain records which are separate and distinct from the records of any other State board or commission. Such records shall be available for public inspection and shall accurately reflect all Board proceedings;

(10) To file a written annual report with the Governor on or before March 1 each year and such additional reports as the Governor may request. The annual report shall include a statement of receipts and disbursements by the Board, actions taken by the Board, and any additional information and recommendations which the Board may deem valuable or which the Governor may request;

(11) (Blank);

~~(12) (Blank); To assume responsibility for the administration and enforcement of the Bingo License and Tax Act, the Charitable Games Act, and the Pull Tabs and Jar Games Act if such responsibility is delegated to it by the Director of Revenue; and~~

(13) To assume responsibility for administration and enforcement of the Video Gaming Act  
; and -

(14) To adopt, by rule, a code of conduct governing Board members and employees that ensure, to the maximum extent possible, that persons subject to this Code avoid situations, relationships, or associations that may represent or lead to a conflict of interest.

(c) The Board shall have jurisdiction over and shall supervise all gambling operations governed by this Act. The Board shall have all powers necessary and proper to fully and effectively execute the provisions of this Act, including, but not limited to, the following:

(1) To investigate applicants and determine the eligibility of applicants for licenses and to select among competing applicants the applicants which best serve the interests of the citizens of Illinois.

(2) To have jurisdiction and supervision over all riverboat gambling operations in this State and all persons on riverboats where gambling operations are conducted.

(3) To promulgate rules and regulations for the purpose of administering the provisions of this Act and to prescribe rules, regulations and conditions under which all riverboat gambling in the State shall be conducted. Such rules and regulations are to provide for the prevention of practices detrimental to the public interest and for the best interests of riverboat gambling, including rules and regulations regarding the inspection of such riverboats and the review of any permits or licenses necessary to operate a riverboat under any laws or regulations applicable to riverboats, and to impose penalties for violations thereof.

(4) To enter the office, riverboats, facilities, or other places of business of a licensee, where evidence of the compliance or noncompliance with the provisions of this Act is likely to be found.

(5) To investigate alleged violations of this Act or the rules of the Board and to take appropriate disciplinary action against a licensee or a holder of an occupational license for a violation, or institute appropriate legal action for enforcement, or both.

(6) To adopt standards for the licensing of all persons under this Act, as well as for electronic or mechanical gambling games, and to establish fees for such licenses.

(7) To adopt appropriate standards for all riverboats and facilities.

(8) To require that the records, including financial or other statements of any licensee under this Act, shall be kept in such manner as prescribed by the Board and that any such licensee involved in the ownership or management of gambling operations submit to the Board an annual balance sheet and profit and loss statement, list of the stockholders or other persons having a 1% or greater beneficial interest in the gambling activities of each licensee, and any other information the Board deems necessary in order to effectively administer this Act and all rules, regulations, orders and final decisions promulgated under this Act.

(9) To conduct hearings, issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records and other pertinent documents in accordance with the Illinois Administrative Procedure Act, and to administer oaths and affirmations to the witnesses, when, in the judgment of the Board, it is necessary to administer or enforce this Act or the Board rules.

(10) To prescribe a form to be used by any licensee involved in the ownership or management of gambling operations as an application for employment for their employees.

(11) To revoke or suspend licenses, as the Board may see fit and in compliance with applicable laws of the State regarding administrative procedures, and to review applications for the renewal of licenses. The Board may suspend an owners license, without notice or hearing upon a determination that the safety or health of patrons or employees is jeopardized by continuing a

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riverboat's operation. The suspension may remain in effect until the Board determines that the cause for suspension has been abated. The Board may revoke the owners license upon a determination that the owner has not made satisfactory progress toward abating the hazard.

(12) To eject or exclude or authorize the ejection or exclusion of, any person from riverboat gambling facilities where such person is in violation of this Act, rules and regulations thereunder, or final orders of the Board, or where such person's conduct or reputation is such that his presence within the riverboat gambling facilities may, in the opinion of the Board, call into question the honesty and integrity of the gambling operations or interfere with orderly conduct thereof; provided that the propriety of such ejection or exclusion is subject to subsequent hearing by the Board.

(13) To require all licensees of gambling operations to utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, or chips which shall be used only for wagering in the gambling establishment.

(14) (Blank).

(15) To suspend, revoke or restrict licenses, to require the removal of a licensee or an employee of a licensee for a violation of this Act or a Board rule or for engaging in a fraudulent practice, and to impose civil penalties of up to \$5,000 against individuals and up to \$10,000 or an amount equal to the daily gross receipts, whichever is larger, against licensees for each violation of any provision of the Act, any rules adopted by the Board, any order of the Board or any other action which, in the Board's discretion, is a detriment or impediment to riverboat gambling operations.

(16) To hire employees to gather information, conduct investigations and carry out any other tasks contemplated under this Act.

(17) To establish minimum levels of insurance to be maintained by licensees.

(18) To authorize a licensee to sell or serve alcoholic liquors, wine or beer as defined in the Liquor Control Act of 1934 on board a riverboat and to have exclusive authority to establish the hours for sale and consumption of alcoholic liquor on board a riverboat, notwithstanding any provision of the Liquor Control Act of 1934 or any local ordinance, and regardless of whether the riverboat makes excursions. The establishment of the hours for sale and consumption of alcoholic liquor on board a riverboat is an exclusive power and function of the State. A home rule unit may not establish the hours for sale and consumption of alcoholic liquor on board a riverboat. This amendatory Act of 1991 is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(19) After consultation with the U.S. Army Corps of Engineers, to establish binding emergency orders upon the concurrence of a majority of the members of the Board regarding the navigability of water, relative to excursions, in the event of extreme weather conditions, acts of God or other extreme circumstances.

(20) To delegate the execution of any of its powers under this Act for the purpose of administering and enforcing this Act and its rules and regulations hereunder.

(20.5) To approve any contract entered into on its behalf.

(20.6) To appoint investigators to conduct investigations, searches, seizures, arrests, and other duties imposed under this Act, as deemed necessary by the Board. These investigators have and may exercise all of the rights and powers of peace officers, provided that these powers shall be limited to offenses or violations occurring or committed on a riverboat or dock, as defined in subsections (d) and (f) of Section 4, or as otherwise provided by this Act or any other law.

(20.7) To contract with the Department of State Police for the use of trained and qualified State police officers and with the Department of Revenue for the use of trained and qualified Department of Revenue investigators to conduct investigations, searches, seizures, arrests, and other duties imposed under this Act and to exercise all of the rights and powers of peace officers, provided that the powers of Department of Revenue investigators under this subdivision (20.7) shall be limited to offenses or violations occurring or committed on a riverboat or dock, as defined in subsections (d) and (f) of Section 4, or as otherwise provided by this Act or any other law. In the event the Department of State Police or the Department of Revenue is unable to fill contracted police or investigative positions, the Board may appoint investigators to fill those positions pursuant to subdivision (20.6).

(21) To take any other action as may be reasonable or appropriate to enforce this Act and rules and regulations hereunder.

(d) The Board may seek and shall receive the cooperation of the Department of State Police in conducting background investigations of applicants and in fulfilling its responsibilities under this Section. Costs incurred by the Department of State Police as a result of such cooperation shall be paid by the Board in conformance with the requirements of Section 2605-400 of the Department of State Police

Law (20 ILCS 2605/2605-400).

(e) The Board must authorize to each investigator and to any other employee of the Board exercising the powers of a peace officer a distinct badge that, on its face, (i) clearly states that the badge is authorized by the Board and (ii) contains a unique identifying number. No other badge shall be authorized by the Board.

(Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; revised 8-20-09.)

(230 ILCS 10/5.1) (from Ch. 120, par. 2405.1)

Sec. 5.1. Disclosure of records.

(a) Notwithstanding any applicable statutory provision to the contrary, the Board shall, on written request from any person, provide information furnished by an applicant or licensee concerning the applicant or licensee, his products, services or gambling enterprises and his business holdings, as follows:

(1) The name, business address and business telephone number of any applicant or licensee.

(2) An identification of any applicant or licensee including, if an applicant or licensee is not an individual, the state of incorporation or registration, the corporate officers, and the identity of all shareholders or participants. If an applicant or licensee has a pending registration statement filed with the Securities and Exchange Commission, only the names of those persons or entities holding interest of 5% or more must be provided.

(3) An identification of any business, including, if applicable, the state of incorporation or registration, in which an applicant or licensee or an applicant's or licensee's spouse or children has an equity interest of more than 1% ~~5%~~. If an applicant or licensee is a corporation, partnership or other business entity, the applicant or licensee shall identify any other corporation, partnership or business entity in which it has an equity interest of 1% ~~5%~~ or more, including, if applicable, the state of incorporation or registration. This information need not be provided by a corporation, partnership or other business entity that has a pending registration statement filed with the Securities and Exchange Commission.

(4) Whether an applicant or licensee has been indicted, convicted, pleaded guilty or nolo contendere, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, either felony or misdemeanor (except for traffic violations), including the date, the name and location of the court, arresting agency and prosecuting agency, the case number, the offense, the disposition and the location and length of incarceration.

(5) Whether an applicant or licensee has had any license or certificate issued by a licensing authority in Illinois or any other jurisdiction denied, restricted, suspended, revoked or not renewed and a statement describing the facts and circumstances concerning the denial, restriction, suspension, revocation or non-renewal, including the licensing authority, the date each such action was taken, and the reason for each such action.

(6) Whether an applicant or licensee has ever filed or had filed against it a proceeding in bankruptcy or has ever been involved in any formal process to adjust, defer, suspend or otherwise work out the payment of any debt including the date of filing, the name and location of the court, the case and number of the disposition.

(7) Whether an applicant or licensee has filed, or been served with a complaint or other notice filed with any public body, regarding the delinquency in the payment of, or a dispute over the filings concerning the payment of, any tax required under federal, State or local law, including the amount, type of tax, the taxing agency and time periods involved.

(8) A statement listing the names and titles of all public officials or officers of any unit of government, and relatives of said public officials or officers who, directly or indirectly, own any financial interest in, have any beneficial interest in, are the creditors of or hold any debt instrument issued by, or hold or have any interest in any contractual or service relationship with, an applicant or licensee.

(9) Whether an applicant or licensee has made, directly or indirectly, any political contribution, or any loans, donations or other payments, to any candidate or office holder, within 5 years from the date of filing the application, including the amount and the method of payment.

(10) The name and business telephone number of the counsel representing an applicant or licensee in matters before the Board.

(11) A description of any proposed or approved riverboat gaming operation, including the type of boat, home dock location, expected economic benefit to the community, anticipated or actual number of employees, any statement from an applicant or licensee regarding compliance with federal and State affirmative action guidelines, projected or actual admissions and projected or actual

adjusted gross gaming receipts.

(12) A description of the product or service to be supplied by an applicant for a supplier's license.

(b) Notwithstanding any applicable statutory provision to the contrary, the Board shall, on written request from any person, also provide the following information:

(1) The amount of the wagering tax and admission tax paid daily to the State of Illinois by the holder of an owner's license.

(2) Whenever the Board finds an applicant for an owner's license unsuitable for licensing, a copy of the written letter outlining the reasons for the denial.

(3) Whenever the Board has refused to grant leave for an applicant to withdraw his application, a copy of the letter outlining the reasons for the refusal.

(c) Subject to the above provisions, the Board shall not disclose any information which would be barred by:

(1) Section 7 of the Freedom of Information Act; or

(2) The statutes, rules, regulations or intergovernmental agreements of any jurisdiction.

(d) The Board may assess fees for the copying of information in accordance with Section 6 of the Freedom of Information Act.

(Source: P.A. 87-826.)

(230 ILCS 10/5.2 new)

Sec. 5.2. Separation from Department of Revenue. As of July 1, 2009, all of the powers, duties, assets, liabilities, employees, contracts, property, records, pending business, and unexpended appropriations of the Department of Revenue related to the administration and enforcement of this Act are transferred to the Illinois Gaming Board.

The status and rights of the transferred employees, and the rights of the State of Illinois and its agencies, under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan are not affected (except as provided in Sections 14-110 and 18-127 of the Illinois Pension Code) by that transfer or by any other provision of this amendatory Act of the 96th General Assembly.

This Section is declarative of existing law.

(230 ILCS 10/6) (from Ch. 120, par. 2406)

Sec. 6. Application for Owners License.

(a) A qualified person may apply to the Board for an owners license to conduct a riverboat gambling operation as provided in this Act. The application shall be made on forms provided by the Board and shall contain such information as the Board prescribes, including but not limited to the identity of the riverboat on which such gambling operation is to be conducted and the exact location where such riverboat will be docked, a certification that the riverboat will be registered under this Act at all times during which gambling operations are conducted on board, detailed information regarding the ownership and management of the applicant, and detailed personal information regarding the applicant. Any application for an owners license to be re-issued on or after June 1, 2003 shall also include the applicant's license bid in a form prescribed by the Board. Information provided on the application shall be used as a basis for a thorough background investigation which the Board shall conduct with respect to each applicant. An incomplete application shall be cause for denial of a license by the Board.

(b) Applicants shall submit with their application all documents, resolutions, and letters of support from the governing body that represents the municipality or county wherein the licensee will dock.

(c) Each applicant shall disclose the identity of every person, association, trust or corporation having a greater than 1% direct or indirect pecuniary interest in the riverboat gambling operation with respect to which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all stockholders and directors; if a partnership, the names and addresses of all partners, both general and limited.

(d) ~~An application shall be filed and considered in accordance with the rules of the Board with the Board by January 1 of the year preceding any calendar year for which an applicant seeks an owners license; however, applications for an owners license permitting operations on January 1, 1991 shall be filed by July 1, 1990.~~ An application fee of \$50,000 shall be paid at the time of filing to defray the costs associated with the background investigation conducted by the Board. If the costs of the investigation exceed \$50,000, the applicant shall pay the additional amount to the Board. If the costs of the investigation are less than \$50,000, the applicant shall receive a refund of the remaining amount. All information, records, interviews, reports, statements, memoranda or other data supplied to or used by the Board in the course of its review or investigation of an application for a license under this Act shall be

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privileged, strictly confidential and shall be used only for the purpose of evaluating an applicant. Such information, records, interviews, reports, statements, memoranda or other data shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person, except for any action deemed necessary by the Board.

(e) The Board shall charge each applicant a fee set by the Department of State Police to defray the costs associated with the search and classification of fingerprints obtained by the Board with respect to the applicant's application. These fees shall be paid into the State Police Services Fund.

(f) The licensed owner shall be the person primarily responsible for the boat itself. Only one riverboat gambling operation may be authorized by the Board on any riverboat. The applicant must identify each riverboat it intends to use and certify that the riverboat: (1) has the authorized capacity required in this Act; (2) is accessible to disabled persons; and (3) is fully registered and licensed in accordance with any applicable laws.

(g) A person who knowingly makes a false statement on an application is guilty of a Class A misdemeanor.

(Source: P.A. 93-28, eff. 6-20-03.)

(230 ILCS 10/7) (from Ch. 120, par. 2407)

Sec. 7. Owners Licenses.

(a) The Board shall issue owners licenses to persons, firms or corporations which apply for such licenses upon payment to the Board of the non-refundable license fee set by the Board, upon payment of a \$25,000 license fee for the first year of operation and a \$5,000 license fee for each succeeding year and upon a determination by the Board that the applicant is eligible for an owners license pursuant to this Act and the rules of the Board. From the effective date of this amendatory Act of the 95th General Assembly until (i) 3 years after the effective date of this amendatory Act of the 95th General Assembly, (ii) the date any organization licensee begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, (iii) the date that payments begin under subsection (c-5) of Section 13 of the Act, or (iv) the wagering tax imposed under Section 13 of this Act is increased by law to reflect a tax rate that is at least as stringent or more stringent than the tax rate contained in subsection (a-3) of Section 13, whichever occurs first, as a condition of licensure and as an alternative source of payment for those funds payable under subsection (c-5) of Section 13 of the Riverboat Gambling Act, any owners licensee that holds or receives its owners license on or after the effective date of this amendatory Act of the 94th General Assembly, other than an owners licensee operating a riverboat with adjusted gross receipts in calendar year 2004 of less than \$200,000,000, must pay into the Horse Racing Equity Trust Fund, in addition to any other payments required under this Act, an amount equal to 3% of the adjusted gross receipts received by the owners licensee. The payments required under this Section shall be made by the owners licensee to the State Treasurer no later than 3:00 o'clock p.m. of the day after the day when the adjusted gross receipts were received by the owners licensee. A person, firm or corporation is ineligible to receive an owners license if:

- (1) the person has been convicted of a felony under the laws of this State, any other state, or the United States;
- (2) the person has been convicted of any violation of Article 28 of the Criminal Code of 1961, or substantially similar laws of any other jurisdiction;
- (3) the person has submitted an application for a license under this Act which contains false information;
- (4) the person is a member of the Board;
- (5) a person defined in (1), (2), (3) or (4) is an officer, director or managerial employee of the firm or corporation;
- (6) the firm or corporation employs a person defined in (1), (2), (3) or (4) who participates in the management or operation of gambling operations authorized under this Act;
- (7) (blank); or
- (8) a license of the person, firm or corporation issued under this Act, or a license to own or operate gambling facilities in any other jurisdiction, has been revoked.

The Board is expressly prohibited from making changes to the requirement that licensees make payment into the Horse Racing Equity Trust Fund without the express authority of the Illinois General Assembly and making any other rule to implement or interpret this amendatory Act of the 95th General Assembly. For the purposes of this paragraph, "rules" is given the meaning given to that term in Section 1-70 of the Illinois Administrative Procedure Act.

(b) In determining whether to grant an owners license to an applicant, the Board shall consider:

- (1) the character, reputation, experience and financial integrity of the applicants and of any other or separate person that either:

- (A) controls, directly or indirectly, such applicant, or
- (B) is controlled, directly or indirectly, by such applicant or by a person which controls, directly or indirectly, such applicant;
- (2) the facilities or proposed facilities for the conduct of riverboat gambling;
- (3) the highest prospective total revenue to be derived by the State from the conduct of riverboat gambling;
- (4) the extent to which the ownership of the applicant reflects the diversity of the State by including minority persons, ~~and~~ females, and persons with a disability and the good faith affirmative action plan of each applicant to recruit, train and upgrade minority persons, ~~and~~ females, and persons with a disability in all employment classifications;
- (5) the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance;
- (6) whether the applicant has adequate capitalization to provide and maintain, for the duration of a license, a riverboat;
- (7) the extent to which the applicant exceeds or meets other standards for the issuance of an owners license which the Board may adopt by rule; and
- (8) The amount of the applicant's license bid.
- (c) Each owners license shall specify the place where riverboats shall operate and dock.
- (d) Each applicant shall submit with his application, on forms provided by the Board, 2 sets of his fingerprints.

(e) The Board may issue up to 10 licenses authorizing the holders of such licenses to own riverboats. In the application for an owners license, the applicant shall state the dock at which the riverboat is based and the water on which the riverboat will be located. The Board shall issue 5 licenses to become effective not earlier than January 1, 1991. Three of such licenses shall authorize riverboat gambling on the Mississippi River, or, with approval by the municipality in which the riverboat was docked on August 7, 2003 and with Board approval, be authorized to relocate to a new location, in a municipality that (1) borders on the Mississippi River or is within 5 miles of the city limits of a municipality that borders on the Mississippi River and (2), on August 7, 2003, had a riverboat conducting riverboat gambling operations pursuant to a license issued under this Act; one of which shall authorize riverboat gambling from a home dock in the city of East St. Louis. One other license shall authorize riverboat gambling on the Illinois River south of Marshall County. The Board shall issue one additional license to become effective not earlier than March 1, 1992, which shall authorize riverboat gambling on the Des Plaines River in Will County. The Board may issue 4 additional licenses to become effective not earlier than March 1, 1992. In determining the water upon which riverboats will operate, the Board shall consider the economic benefit which riverboat gambling confers on the State, and shall seek to assure that all regions of the State share in the economic benefits of riverboat gambling.

In granting all licenses, the Board may give favorable consideration to economically depressed areas of the State, to applicants presenting plans which provide for significant economic development over a large geographic area, and to applicants who currently operate non-gambling riverboats in Illinois. The Board shall review all applications for owners licenses, and shall inform each applicant of the Board's decision. The Board may grant an owners license to an applicant that has not submitted the highest license bid, but if it does not select the highest bidder, the Board shall issue a written decision explaining why another applicant was selected and identifying the factors set forth in this Section that favored the winning bidder.

In addition to any other revocation powers granted to the Board under this Act, the Board may revoke the owners license of a licensee which fails to begin conducting gambling within 15 months of receipt of the Board's approval of the application if the Board determines that license revocation is in the best interests of the State.

(f) The first 10 owners licenses issued under this Act shall permit the holder to own up to 2 riverboats and equipment thereon for a period of 3 years after the effective date of the license. Holders of the first 10 owners licenses must pay the annual license fee for each of the 3 years during which they are authorized to own riverboats.

(g) Upon the termination, expiration, or revocation of each of the first 10 licenses, which shall be issued for a 3 year period, all licenses are renewable annually upon payment of the fee and a determination by the Board that the licensee continues to meet all of the requirements of this Act and the Board's rules. However, for licenses renewed on or after May 1, 1998, renewal shall be for a period of 4 years, unless the Board sets a shorter period.

(h) An owners license shall entitle the licensee to own up to 2 riverboats. A licensee shall limit the number of gambling participants to 1,200 for any such owners license. A licensee may operate both of

its riverboats concurrently, provided that the total number of gambling participants on both riverboats does not exceed 1,200. Riverboats licensed to operate on the Mississippi River and the Illinois River south of Marshall County shall have an authorized capacity of at least 500 persons. Any other riverboat licensed under this Act shall have an authorized capacity of at least 400 persons.

(i) A licensed owner is authorized to apply to the Board for and, if approved therefor, to receive all licenses from the Board necessary for the operation of a riverboat, including a liquor license, a license to prepare and serve food for human consumption, and other necessary licenses. All use, occupation and excise taxes which apply to the sale of food and beverages in this State and all taxes imposed on the sale or use of tangible personal property apply to such sales aboard the riverboat.

(j) The Board may issue or re-issue a license authorizing a riverboat to dock in a municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the municipality in which the riverboat will dock has by a majority vote approved the docking of riverboats in the municipality. The Board may issue or re-issue a license authorizing a riverboat to dock in areas of a county outside any municipality or approve a relocation under Section 11.2 only if, prior to the issuance or re-issuance of the license or approval, the governing body of the county has by a majority vote approved of the docking of riverboats within such areas.

(Source: P.A. 94-667, eff. 8-23-05; 94-804, eff. 5-26-06; 95-1008, eff. 12-15-08.)

(230 ILCS 10/9) (from Ch. 120, par. 2409)

#### Sec. 9. Occupational licenses.

(a) The Board may issue an occupational license to an applicant upon the payment of a non-refundable fee set by the Board, upon a determination by the Board that the applicant is eligible for an occupational license and upon payment of an annual license fee in an amount to be established. To be eligible for an occupational license, an applicant must:

(1) be at least 21 years of age if the applicant will perform any function involved in gaming by patrons. Any applicant seeking an occupational license for a non-gaming function shall be at least 18 years of age;

(2) not have been convicted of a felony offense, a violation of Article 28 of the Criminal Code of 1961, or a similar statute of any other jurisdiction, ~~or a crime involving dishonesty or moral turpitude;~~

(2.5) not have been convicted of a crime, other than a crime described in item (2) of this subsection (a), involving dishonesty or moral turpitude, except that the Board may, in its discretion, issue an occupational license to a person who has been convicted of a crime described in this item (2.5) more than 10 years prior to his or her application and has not subsequently been convicted of any other crime;

(3) have demonstrated a level of skill or knowledge which the Board determines to be necessary in order to operate gambling aboard a riverboat; and

(4) have met standards for the holding of an occupational license as adopted by rules of the Board. Such rules shall provide that any person or entity seeking an occupational license to manage gambling operations hereunder shall be subject to background inquiries and further requirements similar to those required of applicants for an owners license. Furthermore, such rules shall provide that each such entity shall be permitted to manage gambling operations for only one licensed owner.

(b) Each application for an occupational license shall be on forms prescribed by the Board and shall contain all information required by the Board. The applicant shall set forth in the application: whether he has been issued prior gambling related licenses; whether he has been licensed in any other state under any other name, and, if so, such name and his age; and whether or not a permit or license issued to him in any other state has been suspended, restricted or revoked, and, if so, for what period of time.

(c) Each applicant shall submit with his application, on forms provided by the Board, 2 sets of his fingerprints. The Board shall charge each applicant a fee set by the Department of State Police to defray the costs associated with the search and classification of fingerprints obtained by the Board with respect to the applicant's application. These fees shall be paid into the State Police Services Fund.

(d) The Board may in its discretion refuse an occupational license to any person: (1) who is unqualified to perform the duties required of such applicant; (2) who fails to disclose or states falsely any information called for in the application; (3) who has been found guilty of a violation of this Act or whose prior gambling related license or application therefor has been suspended, restricted, revoked or denied for just cause in any other state; or (4) for any other just cause.

(e) The Board may suspend, revoke or restrict any occupational licensee: (1) for violation of any provision of this Act; (2) for violation of any of the rules and regulations of the Board; (3) for any cause which, if known to the Board, would have disqualified the applicant from receiving such license; or (4) for default in the payment of any obligation or debt due to the State of Illinois; or (5) for any other just

cause.

(f) A person who knowingly makes a false statement on an application is guilty of a Class A misdemeanor.

(g) Any license issued pursuant to this Section shall be valid for a period of one year from the date of issuance.

(h) Nothing in this Act shall be interpreted to prohibit a licensed owner from entering into an agreement with a public community college or a school approved under the Private Business and Vocational Schools Act for the training of any occupational licensee. Any training offered by such a school shall be in accordance with a written agreement between the licensed owner and the school.

(i) Any training provided for occupational licensees may be conducted either on the riverboat or at a school with which a licensed owner has entered into an agreement pursuant to subsection (h).

(Source: P.A. 86-1029; 87-826.)

(230 ILCS 10/11) (from Ch. 120, par. 2411)

Sec. 11. Conduct of gambling. Gambling may be conducted by licensed owners or licensed managers on behalf of the State aboard riverboats, subject to the following standards:

(1) A licensee may conduct riverboat gambling authorized under this Act regardless of whether it conducts excursion cruises. A licensee may permit the continuous ingress and egress of passengers on a riverboat not used for excursion cruises for the purpose of gambling. Excursion cruises shall not exceed 4 hours for a round trip. However, the Board may grant express approval for an extended cruise on a case-by-case basis.

(2) (Blank).

(3) Minimum and maximum wagers on games shall be set by the licensee.

(4) Agents of the Board and the Department of State Police may board and inspect any riverboat at any time for the purpose of determining whether this Act is being complied with. Every riverboat, if under way and being hailed by a law enforcement officer or agent of the Board, must stop immediately and lay to.

(5) Employees of the Board shall have the right to be present on the riverboat or on adjacent facilities under the control of the licensee.

(6) Gambling equipment and supplies customarily used in conducting riverboat gambling must be purchased or leased only from suppliers licensed for such purpose under this Act. The Board may approve the transfer, sale, or lease of gambling equipment and supplies by a licensed owner from or to an affiliate of the licensed owner as long as the gambling equipment and supplies were initially acquired from a supplier licensed in Illinois.

(7) Persons licensed under this Act shall permit no form of wagering on gambling games except as permitted by this Act.

(8) Wagers may be received only from a person present on a licensed riverboat. No person present on a licensed riverboat shall place or attempt to place a wager on behalf of another person who is not present on the riverboat.

(9) Wagering shall not be conducted with money or other negotiable currency.

(10) A person under age 21 shall not be permitted on an area of a riverboat where gambling is being conducted, except for a person at least 18 years of age who is an employee of the riverboat gambling operation. No employee under age 21 shall perform any function involved in gambling by the patrons. No person under age 21 shall be permitted to make a wager under this Act, and any winnings that are a result of a wager by a person under age 21, whether or not paid by a licensee, shall be treated as winnings for the privilege tax purposes, confiscated, and forfeited to the State and deposited into the Education Assistance Fund.

(11) Gambling excursion cruises are permitted only when the waterway for which the riverboat is licensed is navigable, as determined by the Board in consultation with the U.S. Army Corps of Engineers. This paragraph (11) does not limit the ability of a licensee to conduct gambling authorized under this Act when gambling excursion cruises are not permitted.

(12) All tokens, chips or electronic cards used to make wagers must be purchased from a licensed owner or manager either aboard a riverboat or at an onshore facility which has been approved by the Board and which is located where the riverboat docks. The tokens, chips or electronic cards may be purchased by means of an agreement under which the owner or manager extends credit to the patron. Such tokens, chips or electronic cards may be used while aboard the riverboat only for the purpose of making wagers on gambling games.

(13) Notwithstanding any other Section of this Act, in addition to the other licenses authorized under this Act, the Board may issue special event licenses allowing persons who are not otherwise licensed to conduct riverboat gambling to conduct such gambling on a specified date or

series of dates. Riverboat gambling under such a license may take place on a riverboat not normally used for riverboat gambling. The Board shall establish standards, fees and fines for, and limitations upon, such licenses, which may differ from the standards, fees, fines and limitations otherwise applicable under this Act. All such fees shall be deposited into the State Gaming Fund. All such fines shall be deposited into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois.

(14) In addition to the above, gambling must be conducted in accordance with all rules adopted by the Board.

(Source: P.A. 93-28, eff. 6-20-03.)

(230 ILCS 10/12) (from Ch. 120, par. 2412)

Sec. 12. Admission tax; fees.

(a) A tax is hereby imposed upon admissions to riverboats operated by licensed owners authorized pursuant to this Act. Until July 1, 2002, the rate is \$2 per person admitted. From July 1, 2002 until July 1, 2003, the rate is \$3 per person admitted. From July 1, 2003 until August 23, 2005 (the effective date of Public Act 94-673) ~~this amendatory Act of the 94th General Assembly~~, for a licensee that admitted 1,000,000 persons or fewer in the previous calendar year, the rate is \$3 per person admitted; for a licensee that admitted more than 1,000,000 but no more than 2,300,000 persons in the previous calendar year, the rate is \$4 per person admitted; and for a licensee that admitted more than 2,300,000 persons in the previous calendar year, the rate is \$5 per person admitted. Beginning on August 23, 2005 (the effective date of Public Act 94-673) ~~this amendatory Act of the 94th General Assembly~~, for a licensee that admitted 1,000,000 persons or fewer in calendar year 2004, the rate is \$2 per person admitted, and for all other licensees ~~, including licensees that were not conducting gambling operations in 2004,~~ the rate is \$3 per person admitted. This admission tax is imposed upon the licensed owner conducting gambling.

(1) The admission tax shall be paid for each admission, except that a person who exits a riverboat gambling facility and reenters that riverboat gambling facility within the same gaming day shall be subject only to the initial admission tax.

(2) (Blank).

(3) The riverboat licensee may issue tax-free passes to actual and necessary officials and employees of the licensee or other persons actually working on the riverboat.

(4) The number and issuance of tax-free passes is subject to the rules of the Board, and a list of all persons to whom the tax-free passes are issued shall be filed with the Board.

(a-5) A fee is hereby imposed upon admissions operated by licensed managers on behalf of the State pursuant to Section 7.3 at the rates provided in this subsection (a-5). For a licensee that admitted 1,000,000 persons or fewer in the previous calendar year, the rate is \$3 per person admitted; for a licensee that admitted more than 1,000,000 but no more than 2,300,000 persons in the previous calendar year, the rate is \$4 per person admitted; and for a licensee that admitted more than 2,300,000 persons in the previous calendar year, the rate is \$5 per person admitted.

(1) The admission fee shall be paid for each admission.

(2) (Blank).

(3) The licensed manager may issue fee-free passes to actual and necessary officials and employees of the manager or other persons actually working on the riverboat.

(4) The number and issuance of fee-free passes is subject to the rules of the Board, and a list of all persons to whom the fee-free passes are issued shall be filed with the Board.

(b) From the tax imposed under subsection (a) and the fee imposed under subsection (a-5), a municipality shall receive from the State \$1 for each person embarking on a riverboat docked within the municipality, and a county shall receive \$1 for each person embarking on a riverboat docked within the county but outside the boundaries of any municipality. The municipality's or county's share shall be collected by the Board on behalf of the State and remitted quarterly by the State, subject to appropriation, to the treasurer of the unit of local government for deposit in the general fund.

(c) The licensed owner shall pay the entire admission tax to the Board and the licensed manager shall pay the entire admission fee to the Board. Such payments shall be made daily. Accompanying each payment shall be a return on forms provided by the Board which shall include other information regarding admissions as the Board may require. Failure to submit either the payment or the return within the specified time may result in suspension or revocation of the owners or managers license.

(d) The Board shall administer and collect the admission tax imposed by this Section, to the extent practicable, in a manner consistent with the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9 and 10 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act.

(Source: P.A. 94-673, eff. 8-23-05; 95-663, eff. 10-11-07.)

(230 ILCS 10/13) (from Ch. 120, par. 2413)

Sec. 13. Wagering tax; rate; distribution.

(a) Until January 1, 1998, a tax is imposed on the adjusted gross receipts received from gambling games authorized under this Act at the rate of 20%.

(a-1) From January 1, 1998 until July 1, 2002, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including \$25,000,000;

20% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;

25% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;

30% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;

35% of annual adjusted gross receipts in excess of \$100,000,000.

(a-2) From July 1, 2002 until July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including \$25,000,000;

22.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;

27.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;

32.5% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;

37.5% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$150,000,000;

45% of annual adjusted gross receipts in excess of \$150,000,000 but not exceeding \$200,000,000;

50% of annual adjusted gross receipts in excess of \$200,000,000.

(a-3) Beginning July 1, 2003, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

15% of annual adjusted gross receipts up to and including \$25,000,000;

27.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$37,500,000;

32.5% of annual adjusted gross receipts in excess of \$37,500,000 but not exceeding \$50,000,000;

37.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;

45% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;

50% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$250,000,000;

70% of annual adjusted gross receipts in excess of \$250,000,000.

An amount equal to the amount of wagering taxes collected under this subsection (a-3) that are in addition to the amount of wagering taxes that would have been collected if the wagering tax rates under subsection (a-2) were in effect shall be paid into the Common School Fund.

The privilege tax imposed under this subsection (a-3) shall no longer be imposed beginning on the earlier of (i) July 1, 2005; (ii) the first date after June 20, 2003 that riverboat gambling operations are conducted pursuant to a dormant license; or (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act. For the purposes of this subsection (a-3), the term "dormant license" means an owners license that is authorized by this Act under which no riverboat gambling operations are being conducted on June 20, 2003.

(a-4) Beginning on the first day on which the tax imposed under subsection (a-3) is no longer

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imposed, a privilege tax is imposed on persons engaged in the business of conducting riverboat gambling operations, other than licensed managers conducting riverboat gambling operations on behalf of the State, based on the adjusted gross receipts received by a licensed owner from gambling games authorized under this Act at the following rates:

- 15% of annual adjusted gross receipts up to and including \$25,000,000;
- 22.5% of annual adjusted gross receipts in excess of \$25,000,000 but not exceeding \$50,000,000;
- 27.5% of annual adjusted gross receipts in excess of \$50,000,000 but not exceeding \$75,000,000;
- 32.5% of annual adjusted gross receipts in excess of \$75,000,000 but not exceeding \$100,000,000;
- 37.5% of annual adjusted gross receipts in excess of \$100,000,000 but not exceeding \$150,000,000;
- 45% of annual adjusted gross receipts in excess of \$150,000,000 but not exceeding \$200,000,000;
- 50% of annual adjusted gross receipts in excess of \$200,000,000.

(a-8) Riverboat gambling operations conducted by a licensed manager on behalf of the State are not subject to the tax imposed under this Section.

(a-10) The taxes imposed by this Section shall be paid by the licensed owner to the Board not later than ~~5:00~~ ~~3:00~~ o'clock p.m. of the day after the day when the wagers were made.

(a-15) If the privilege tax imposed under subsection (a-3) is no longer imposed pursuant to item (i) of the last paragraph of subsection (a-3), then by June 15 of each year, each owners licensee, other than an owners licensee that admitted 1,000,000 persons or fewer in calendar year 2004, must, in addition to the payment of all amounts otherwise due under this Section, pay to the Board a reconciliation payment in the amount, if any, by which the licensed owner's base amount exceeds the amount of net privilege tax paid by the licensed owner to the Board in the then current State fiscal year. A licensed owner's net privilege tax obligation due for the balance of the State fiscal year shall be reduced up to the total of the amount paid by the licensed owner in its June 15 reconciliation payment. The obligation imposed by this subsection (a-15) is binding on any person, firm, corporation, or other entity that acquires an ownership interest in any such owners license. The obligation imposed under this subsection (a-15) terminates on the earliest of: (i) July 1, 2007, (ii) the first day after the effective date of this amendatory Act of the 94th General Assembly that riverboat gambling operations are conducted pursuant to a dormant license, (iii) the first day that riverboat gambling operations are conducted under the authority of an owners license that is in addition to the 10 owners licenses initially authorized under this Act, or (iv) the first day that a licensee under the Illinois Horse Racing Act of 1975 conducts gaming operations with slot machines or other electronic gaming devices. The Board must reduce the obligation imposed under this subsection (a-15) by an amount the Board deems reasonable for any of the following reasons: (A) an act or acts of God, (B) an act of bioterrorism or terrorism or a bioterrorism or terrorism threat that was investigated by a law enforcement agency, or (C) a condition beyond the control of the owners licensee that does not result from any act or omission by the owners licensee or any of its agents and that poses a hazardous threat to the health and safety of patrons. If an owners licensee pays an amount in excess of its liability under this Section, the Board shall apply the overpayment to future payments required under this Section.

For purposes of this subsection (a-15):

"Act of God" means an incident caused by the operation of an extraordinary force that cannot be foreseen, that cannot be avoided by the exercise of due care, and for which no person can be held liable.

"Base amount" means the following:

- For a riverboat in Alton, \$31,000,000.
- For a riverboat in East Peoria, \$43,000,000.
- For the Empress riverboat in Joliet, \$86,000,000.
- For a riverboat in Metropolis, \$45,000,000.
- For the Harrah's riverboat in Joliet, \$114,000,000.
- For a riverboat in Aurora, \$86,000,000.
- For a riverboat in East St. Louis, \$48,500,000.
- For a riverboat in Elgin, \$198,000,000.

"Dormant license" has the meaning ascribed to it in subsection (a-3).

"Net privilege tax" means all privilege taxes paid by a licensed owner to the Board under this Section, less all payments made from the State Gaming Fund pursuant to subsection (b) of this Section.

The changes made to this subsection (a-15) by Public Act 94-839 are intended to restate and clarify

the intent of Public Act 94-673 with respect to the amount of the payments required to be made under this subsection by an owners licensee to the Board.

(b) Until January 1, 1998, 25% of the tax revenue deposited in the State Gaming Fund under this Section shall be paid, subject to appropriation by the General Assembly, to the unit of local government which is designated as the home dock of the riverboat. Beginning January 1, 1998, from the tax revenue deposited in the State Gaming Fund under this Section, an amount equal to 5% of adjusted gross receipts generated by a riverboat shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat. From the tax revenue deposited in the State Gaming Fund pursuant to riverboat gambling operations conducted by a licensed manager on behalf of the State, an amount equal to 5% of adjusted gross receipts generated pursuant to those riverboat gambling operations shall be paid monthly, subject to appropriation by the General Assembly, to the unit of local government that is designated as the home dock of the riverboat upon which those riverboat gambling operations are conducted.

(c) Appropriations, as approved by the General Assembly, may be made from the State Gaming Fund to the Board (i) ~~Department of Revenue and the Department of State Police~~ for the administration and enforcement of this Act and the Video Gaming Act, (ii) for distribution to the Department of State Police and to the Department of Revenue for the enforcement of this Act, and (iii) ~~to the Department of Human Services for the administration of programs to treat problem gambling.~~

(c-5) Before May 26, 2006 (the effective date of Public Act 94-804) and beginning on the effective date of this amendatory Act of the 95th General Assembly, unless any organization licensee under the Illinois Horse Racing Act of 1975 begins to operate a slot machine or video game of chance under the Illinois Horse Racing Act of 1975 or this Act, after the payments required under subsections (b) and (c) have been made, an amount equal to 15% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund into the Horse Racing Equity Fund.

(c-10) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid into the Horse Racing Equity Fund pursuant to subsection (c-5) in the prior calendar year.

(c-15) After the payments required under subsections (b), (c), and (c-5) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid, subject to appropriation from the General Assembly, from the State Gaming Fund to each home rule county with a population of over 3,000,000 inhabitants for the purpose of enhancing the county's criminal justice system.

(c-20) Each year the General Assembly shall appropriate from the General Revenue Fund to the Education Assistance Fund an amount equal to the amount paid to each home rule county with a population of over 3,000,000 inhabitants pursuant to subsection (c-15) in the prior calendar year.

(c-25) After the payments required under subsections (b), (c), (c-5) and (c-15) have been made, an amount equal to 2% of the adjusted gross receipts of (1) an owners licensee that relocates pursuant to Section 11.2, (2) an owners licensee conducting riverboat gambling operations pursuant to an owners license that is initially issued after June 25, 1999, or (3) the first riverboat gambling operations conducted by a licensed manager on behalf of the State under Section 7.3, whichever comes first, shall be paid from the State Gaming Fund to Chicago State University.

(d) From time to time, the Board shall transfer the remainder of the funds generated by this Act into the Education Assistance Fund, created by Public Act 86-0018, of the State of Illinois.

(e) Nothing in this Act shall prohibit the unit of local government designated as the home dock of the riverboat from entering into agreements with other units of local government in this State or in other states to share its portion of the tax revenue.

(f) To the extent practicable, the Board shall administer and collect the wagering taxes imposed by this Section in a manner consistent with the provisions of Sections 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 8, 9, and 10 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act.

(Source: P.A. 95-331, eff. 8-21-07; 95-1008, eff. 12-15-08; 96-37, eff. 7-13-09.)

(230 ILCS 10/15) (from Ch. 120, par. 2415)

Sec. 15. Audit of Licensee Operations. Annually ~~Within 90 days after the end of each quarter of each~~

~~fiscal year~~, the licensed owner or manager shall transmit to the Board an audit of the financial transactions and condition of the licensee's total operations. Additionally, within 90 days after the end of each quarter of each fiscal year, the licensed owner or manager shall transmit to the Board a compliance report on engagement procedures determined by the Board. All audits and compliance engagements shall be conducted by certified public accountants selected by the Board. Each certified public accountant must be registered in the State of Illinois under the Illinois Public Accounting Act. The compensation for each certified public accountant shall be paid directly by the licensed owner or manager to the certified public accountant.

(Source: P.A. 93-28, eff. 6-20-03.)

(230 ILCS 10/18) (from Ch. 120, par. 2418)

Sec. 18. Prohibited Activities - Penalty.

- (a) A person is guilty of a Class A misdemeanor for doing any of the following:
- (1) Conducting gambling where wagering is used or to be used without a license issued by the Board.
  - (2) Conducting gambling where wagering is permitted other than in the manner specified by Section 11.
- (b) A person is guilty of a Class B misdemeanor for doing any of the following:
- (1) permitting a person under 21 years to make a wager; or
  - (2) violating paragraph (12) of subsection (a) of Section 11 of this Act.
- (c) A person wagering or accepting a wager at any location outside the riverboat is subject to the penalties in paragraphs (1) or (2) of subsection (a) of Section 28-1 of the Criminal Code of 1961.
- (d) A person commits a Class 4 felony and, in addition, shall be barred for life from riverboats under the jurisdiction of the Board, if the person does any of the following:
- (1) Offers, promises, or gives anything of value or benefit to a person who is connected with a riverboat owner including, but not limited to, an officer or employee of a licensed owner or holder of an occupational license pursuant to an agreement or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Board.
  - (2) Solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with a riverboat including, but not limited to, an officer or employee of a licensed owner, or holder of an occupational license, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the actions of the person to affect or attempt to affect the outcome of a gambling game, or to influence official action of a member of the Board.
  - (3) Uses or possesses with the intent to use a device to assist:
    - (i) In projecting the outcome of the game.
    - (ii) In keeping track of the cards played.
    - (iii) In analyzing the probability of the occurrence of an event relating to the gambling game.
  - (iv) In analyzing the strategy for playing or betting to be used in the game except as permitted by the Board.
  - (4) Cheats at a gambling game.
  - (5) Manufactures, sells, or distributes any cards, chips, dice, game or device which is intended to be used to violate any provision of this Act.
  - (6) Alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before it is revealed to the players.
  - (7) Places a bet after acquiring knowledge, not available to all players, of the outcome of the gambling game which is subject of the bet or to aid a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome.
  - (8) Claims, collects, or takes, or attempts to claim, collect, or take, money or anything of value in or from the gambling games, with intent to defraud, without having made a wager contingent on winning a gambling game, or claims, collects, or takes an amount of money or thing of value of greater value than the amount won.
  - (9) Uses counterfeit chips or tokens in a gambling game.
  - (10) Possesses any key or device designed for the purpose of opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or mechanical device connected with the gambling game or for removing coins, tokens, chips or other contents of a gambling game. This paragraph (10) does not apply to a gambling licensee or employee of a gambling

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licensee acting in furtherance of the employee's employment.

(e) The possession of more than one of the devices described in subsection (d), paragraphs (3), (5), or (10) permits a rebuttable presumption that the possessor intended to use the devices for cheating.

(f) A person under the age of 21 who, except as authorized under paragraph (10) of Section 11, enters upon a riverboat commits a petty offense and is subject to a fine of not less than \$100 or more than \$250 for a first offense and of not less than \$200 or more than \$500 for a second or subsequent offense.

An action to prosecute any crime occurring on a riverboat shall be tried in the county of the dock at which the riverboat is based.

(Source: P.A. 91-40, eff. 6-25-99.)"

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Link, **House Bill No. 3997**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### HOUSE BILL RECALLED

On motion of Senator Muñoz, **House Bill No. 2652** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 3 was held in the Committee on Assignments.

Senator Muñoz offered the following amendment and moved its adoption:

#### AMENDMENT NO. 4 TO HOUSE BILL 2652

AMENDMENT NO. 4. Amend House Bill 2652, AS AMENDED, by replacing everything after the enacting clause with the following:

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"Section 5. The Illinois Insurance Code is amended by renumbering Section 356z.14 as added by Public Act 95-1005, by changing and renumbering Section 356z.15 as added by Public Act 96-639, and by adding Section 356z.18 as follows:

(215 ILCS 5/356z.15)

Sec. ~~356z.15~~ ~~356z.14~~. Habilitative services for children.

(a) As used in this Section, "habilitative services" means occupational therapy, physical therapy, speech therapy, and other services prescribed by the insured's treating physician pursuant to a treatment plan to enhance the ability of a child to function with a congenital, genetic, or early acquired disorder. A congenital or genetic disorder includes, but is not limited to, hereditary disorders. An early acquired disorder refers to a disorder resulting from illness, trauma, injury, or some other event or condition suffered by a child prior to that child developing functional life skills such as, but not limited to, walking, talking, or self-help skills. Congenital, genetic, and early acquired disorders may include, but are not limited to, autism or an autism spectrum disorder, cerebral palsy, and other disorders resulting from early childhood illness, trauma, or injury.

(b) A group or individual policy of accident and health insurance or managed care plan amended, delivered, issued, or renewed after the effective date of this amendatory Act of the 95th General Assembly must provide coverage for habilitative services for children under 19 years of age with a congenital, genetic, or early acquired disorder so long as all of the following conditions are met:

(1) A physician licensed to practice medicine in all its branches has diagnosed the child's congenital, genetic, or early acquired disorder.

(2) The treatment is administered by a licensed speech-language pathologist, licensed audiologist, licensed occupational therapist, licensed physical therapist, licensed physician, licensed nurse, licensed optometrist, licensed nutritionist, licensed social worker, or licensed psychologist upon the referral of a physician licensed to practice medicine in all its branches.

(3) The initial or continued treatment must be medically necessary and therapeutic and not experimental or investigational.

(c) The coverage required by this Section shall be subject to other general exclusions and limitations of the policy, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members, utilization review of health care services, including review of medical necessity, case management, experimental, and investigational treatments, and other managed care provisions.

(d) Coverage under this Section does not apply to those services that are solely educational in nature or otherwise paid under State or federal law for purely educational services. Nothing in this subsection (d) relieves an insurer or similar third party from an otherwise valid obligation to provide or to pay for services provided to a child with a disability.

(e) Coverage under this Section for children under age 19 shall not apply to treatment of mental or emotional disorders or illnesses as covered under Section 370 of this Code as well as any other benefit based upon a specific diagnosis that may be otherwise required by law.

(f) The provisions of this Section do not apply to short-term travel, accident-only, limited, or specific disease policies.

(g) Any denial of care for habilitative services shall be subject to appeal and external independent review procedures as provided by Section 45 of the Managed Care Reform and Patient Rights Act.

(h) Upon request of the reimbursing insurer, the provider under whose supervision the habilitative services are being provided shall furnish medical records, clinical notes, or other necessary data to allow the insurer to substantiate that initial or continued medical treatment is medically necessary and that the patient's condition is clinically improving. When the treating provider anticipates that continued treatment is or will be required to permit the patient to achieve demonstrable progress, the insurer may request that the provider furnish a treatment plan consisting of diagnosis, proposed treatment by type, frequency, anticipated duration of treatment, the anticipated goals of treatment, and how frequently the treatment plan will be updated.

(i) Rulemaking authority to implement this amendatory Act of the 95th General Assembly, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 95-1049, eff. 1-1-10; revised 10-23-09.)

(215 ILCS 5/356z.17)

Sec. ~~356z.17~~ ~~356z.15~~. Wellness coverage.

(a) A group or individual policy of accident and health insurance or managed care plan amended,

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delivered, issued, or renewed after January 1, 2010 (the effective date of Public Act 96-639) ~~this amendatory Act of the 96th General Assembly~~ that provides coverage for hospital or medical treatment on an expense incurred basis may offer a reasonably designed program for wellness coverage that allows for a reward, a contribution, a reduction in premiums or reduced medical, prescription drug, or equipment copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program approved or offered by the insurer or managed care plan. The insured or enrollee may be required to provide evidence of participation in a program. Individuals unable to participate in these incentives due to an adverse health factor shall not be penalized based upon an adverse health status.

(b) For purposes of this Section, "wellness coverage" means health care coverage with the primary purpose to engage and motivate the insured or enrollee through: incentives; provision of health education, counseling, and self-management skills; identification of modifiable health risks; and other activities to influence health behavior changes.

For the purposes of this Section, "reasonably designed program" means a program of wellness coverage that has a reasonable chance of improving health or preventing disease; is not overly burdensome; does not discriminate based upon factors of health; and is not otherwise contrary to law.

(c) Incentives as outlined in this Section are specific and unique to the offering of wellness coverage and have no application to any other required or optional health care benefit.

(d) Such wellness coverage must satisfy the requirements for an exception from the general prohibition against discrimination based on a health factor under the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191; 110 Stat. 1936), including any federal regulations that are adopted pursuant to that Act.

(e) A plan offering wellness coverage must do the following:

(i) give participants the opportunity to qualify for offered incentives at least once a year;

(ii) allow a reasonable alternative to any individual for whom it is unreasonably difficult, due to a medical condition, to satisfy otherwise applicable wellness program standards. Plans may seek physician verification that health factors make it unreasonably difficult or medically inadvisable for the participant to satisfy the standards; and

(iii) not provide a total incentive that exceeds 20% of the cost of employee-only coverage. The cost of employee-only coverage includes both employer and employee contributions. For plans offering family coverage, the 20% limitation applies to cost of family coverage and applies to the entire family.

(f) A reward, contribution, or reduction established under this Section and included in the policy or certificate does not violate Section 151 of this Code.

(Source: P.A. 96-639, eff. 1-1-10; revised 10-21-09.)

(215 ILCS 5/356z.18 new)

Sec. 356z.18. Prosthetic and customized orthotic devices.

(a) For the purposes of this Section:

"Customized orthotic device" means a supportive device for the body or a part of the body, the head, neck, or extremities, and includes the replacement or repair of the device based on the patient's physical condition as medically necessary, excluding foot orthotics defined as an in-shoe device designed to support the structural components of the foot during weight-bearing activities.

"Licensed provider" means a prosthetist, orthotist, or pedorthist licensed to practice in this State.

"Prosthetic device" means an artificial device to replace, in whole or in part, an arm or leg and includes accessories essential to the effective use of the device and the replacement or repair of the device based on the patient's physical condition as medically necessary.

(b) This amendatory Act of the 96th General Assembly shall provide benefits to any person covered thereunder for expenses incurred in obtaining a prosthetic or custom orthotic device from any Illinois licensed prosthetist, licensed orthotist, or licensed pedorthist as required under the Orthotics, Prosthetics, and Pedorthics Practice Act.

(c) A group or individual major medical policy of accident or health insurance or managed care plan or medical, health, or hospital service corporation contract that provides coverage for prosthetic or custom orthotic care and is amended, delivered, issued, or renewed 6 months after the effective date of this amendatory Act of the 96th General Assembly must provide coverage for prosthetic and orthotic devices in accordance with this subsection (c). The coverage required under this Section shall be subject to the other general exclusions, limitations, and financial requirements of the policy, including coordination of benefits, participating provider requirements, utilization review of health care services, including review of medical necessity, case management, and experimental and investigational

treatments, and other managed care provisions under terms and conditions that are no less favorable than the terms and conditions that apply to substantially all medical and surgical benefits provided under the plan or coverage.

(d) The policy or plan or contract may require prior authorization for the prosthetic or orthotic devices in the same manner that prior authorization is required for any other covered benefit.

(e) Repairs and replacements of prosthetic and orthotic devices are also covered, subject to the co-payments and deductibles, unless necessitated by misuse or loss.

(f) A policy or plan or contract may require that, if coverage is provided through a managed care plan, the benefits mandated pursuant to this Section shall be covered benefits only if the prosthetic or orthotic devices are provided by a licensed provider employed by a provider service who contracts with or is designated by the carrier, to the extent that the carrier provides in-network and out of network service, the coverage for the prosthetic or orthotic device shall be offered no less extensively.

(g) The policy or plan or contract shall also meet adequacy requirements as established by the Health Care Reimbursement Reform Act of 1985 of the Illinois Insurance Code.

(h) This Section shall not apply to accident only, specified disease, short-term hospital or medical, hospital confinement indemnity, credit, dental, vision, Medicare supplement, long-term care, basic hospital and medical-surgical expense coverage, disability income insurance coverage, coverage issued as a supplement to liability insurance, workers' compensation insurance, or automobile medical payment insurance.

Section 10. The Health Maintenance Organization Act is amended by changing Section 5-3 as follows:

(215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

Sec. 5-3. Insurance Code provisions.

(a) Health Maintenance Organizations shall be subject to the provisions of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, ~~356z.15~~, ~~356z.17~~, ~~356z.15~~, 356z.18, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

(b) For purposes of the Illinois Insurance Code, except for Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health Maintenance Organizations in the following categories are deemed to be "domestic companies":

(1) a corporation authorized under the Dental Service Plan Act or the Voluntary Health Services Plans Act;

(2) a corporation organized under the laws of this State; or

(3) a corporation organized under the laws of another state, 30% or more of the enrollees of which are residents of this State, except a corporation subject to substantially the same requirements in its state of organization as is a "domestic company" under Article VIII 1/2 of the Illinois Insurance Code.

(c) In considering the merger, consolidation, or other acquisition of control of a Health Maintenance Organization pursuant to Article VIII 1/2 of the Illinois Insurance Code,

(1) the Director shall give primary consideration to the continuation of benefits to enrollees and the financial conditions of the acquired Health Maintenance Organization after the merger, consolidation, or other acquisition of control takes effect;

(2)(i) the criteria specified in subsection (1)(b) of Section 131.8 of the Illinois Insurance Code shall not apply and (ii) the Director, in making his determination with respect to the merger, consolidation, or other acquisition of control, need not take into account the effect on competition of the merger, consolidation, or other acquisition of control;

(3) the Director shall have the power to require the following information:

(A) certification by an independent actuary of the adequacy of the reserves of the Health Maintenance Organization sought to be acquired;

(B) pro forma financial statements reflecting the combined balance sheets of the acquiring company and the Health Maintenance Organization sought to be acquired as of the end of the preceding year and as of a date 90 days prior to the acquisition, as well as pro forma financial statements reflecting projected combined operation for a period of 2 years;

(C) a pro forma business plan detailing an acquiring party's plans with respect to the operation of the Health Maintenance Organization sought to be acquired for a period of not less

than 3 years; and

(D) such other information as the Director shall require.

(d) The provisions of Article VIII 1/2 of the Illinois Insurance Code and this Section 5-3 shall apply to the sale by any health maintenance organization of greater than 10% of its enrollee population (including without limitation the health maintenance organization's right, title, and interest in and to its health care certificates).

(e) In considering any management contract or service agreement subject to Section 141.1 of the Illinois Insurance Code, the Director (i) shall, in addition to the criteria specified in Section 141.2 of the Illinois Insurance Code, take into account the effect of the management contract or service agreement on the continuation of benefits to enrollees and the financial condition of the health maintenance organization to be managed or serviced, and (ii) need not take into account the effect of the management contract or service agreement on competition.

(f) Except for small employer groups as defined in the Small Employer Rating, Renewability and Portability Health Insurance Act and except for medicare supplement policies as defined in Section 363 of the Illinois Insurance Code, a Health Maintenance Organization may by contract agree with a group or other enrollment unit to effect refunds or charge additional premiums under the following terms and conditions:

(i) the amount of, and other terms and conditions with respect to, the refund or additional premium are set forth in the group or enrollment unit contract agreed in advance of the period for which a refund is to be paid or additional premium is to be charged (which period shall not be less than one year); and

(ii) the amount of the refund or additional premium shall not exceed 20% of the Health Maintenance Organization's profitable or unprofitable experience with respect to the group or other enrollment unit for the period (and, for purposes of a refund or additional premium, the profitable or unprofitable experience shall be calculated taking into account a pro rata share of the Health Maintenance Organization's administrative and marketing expenses, but shall not include any refund to be made or additional premium to be paid pursuant to this subsection (f)). The Health Maintenance Organization and the group or enrollment unit may agree that the profitable or unprofitable experience may be calculated taking into account the refund period and the immediately preceding 2 plan years.

The Health Maintenance Organization shall include a statement in the evidence of coverage issued to each enrollee describing the possibility of a refund or additional premium, and upon request of any group or enrollment unit, provide to the group or enrollment unit a description of the method used to calculate (1) the Health Maintenance Organization's profitable experience with respect to the group or enrollment unit and the resulting refund to the group or enrollment unit or (2) the Health Maintenance Organization's unprofitable experience with respect to the group or enrollment unit and the resulting additional premium to be paid by the group or enrollment unit.

In no event shall the Illinois Health Maintenance Organization Guaranty Association be liable to pay any contractual obligation of an insolvent organization to pay any refund authorized under this Section.

(g) Rulemaking authority to implement Public Act 95-1045 ~~this amendatory Act of the 95th General Assembly~~, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised 10-23-09.)

Section 15. The Voluntary Health Services Plans Act is amended by changing Section 10 as follows:  
(215 ILCS 165/10) (from Ch. 32, par. 604)

Sec. 10. Application of Insurance Code provisions. Health services plan corporations and all persons interested therein or dealing therewith shall be subject to the provisions of Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c, 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, ~~356z.15~~ ~~356z.14~~, ~~356z.18~~, 364.01, 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of Section 367 of the Illinois Insurance Code.

Rulemaking authority to implement Public Act 95-1045 ~~this amendatory Act of the 95th General Assembly~~, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.  
(Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;

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95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10; 96-328, eff. 8-11-09; revised 9-25-09.)

Section 95. No acceleration or delay. Where this Act makes changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Muñoz, **House Bill No. 2652**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 47; NAYS 5.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Rutherford
Bomke	Forby	Kotowski	Sandoval
Bond	Frerichs	Lightford	Schoenberg
Brady	Garrett	Link	Silverstein
Burzynski	Haine	Luechtefeld	Steans
Clayborne	Harmon	Maloney	Sullivan
Collins	Hendon	Martinez	Syverson
Cronin	Holmes	Meeks	Trotter
Crotty	Hunter	Muñoz	Viverito
DeLeo	Hutchinson	Noland	Wilhelmi
Delgado	Jacobs	Pankau	Mr. President
Demuzio	Jones, E.	Raoul	

The following voted in the negative:

Dahl	Hultgren	Murphy
Duffy	Lauzen	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

At the hour of 7:38 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

### AFTER RECESS

At the hour of 11:04 o'clock p.m., the Senate resumed consideration of business.  
Senator Harmon, presiding.

### MESSAGES FROM THE HOUSE

[October 29, 2009]

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1466

A bill for AN ACT concerning elections.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1466

House Amendment No. 3 to SENATE BILL NO. 1466

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

#### AMENDMENT NO. 1 TO SENATE BILL 1466

AMENDMENT NO. 1. Amend Senate Bill 1466 by replacing everything after the enacting clause with the following:

"Section 5. The Election Code is amended by changing Section 1-1 as follows:

(10 ILCS 5/1-1) (from Ch. 46, par. 1-1)

Sec. 1-1. This Act may be cited as the Election Code. This Act is ~~the~~ the general election law of Illinois and any reference in any other Act to "the general election law" or "the general election law of this State" is a reference to this Act, as now or hereafter amended.  
(Source: P.A. 86-1475)."

#### AMENDMENT NO. 3 TO SENATE BILL 1466

AMENDMENT NO. 3. Amend Senate Bill 1466, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Election Code is amended by changing the heading of Article 9 and Sections 9-1.4, 9-1.5, 9-1.6, 9-1.8, 9-1.9, 9-1.10, 9-1.12, 9-1.13, 9-1.14, 9-2, 9-3, 9-5, 9-6, 9-7, 9-8, 9-9, 9-10, 9-11, 9-13, 9-16, 9-21, 9-28, 9-30, and 29-12 and by adding Sections 9-1.15, 9-8.5, 9-8.6, 9-23.5, 9-28.5, and 9-40 as follows:

(10 ILCS 5/Art. 9 heading)

#### ARTICLE 9. DISCLOSURE AND REGULATION OF CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

(10 ILCS 5/9-1.4) (from Ch. 46, par. 9-1.4)

Sec. 9-1.4. Contribution.

(A) "Contribution" means: -

(1) a gift, subscription, donation, dues, loan, advance, ~~or~~ deposit of money or anything of value, knowingly received in connection with the nomination for election, ~~or~~ election, or retention of any ~~candidate or person to or in public office~~, ~~in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population~~, or in connection with any question of public policy;

(1.5) a gift, subscription, donation, dues, loan, advance, deposit of money, or anything of value that constitutes an electioneering communication ~~regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's authorized local political committee, a State political committee, a political committee in support of or opposition to a question of public policy, or any of their agents;~~

(2) the purchase of tickets for fund-raising events, including but not limited to dinners, luncheons, cocktail parties, and rallies made in connection with the nomination for election, ~~or~~ election, or retention of any person in or to public office, ~~in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population~~, or in connection with any question of public policy;

(3) a transfer of funds received by a political committee from another ~~between~~ political committee ~~committees; and~~

(4) the services of an employee donated by an employer, in which case the contribution shall be listed

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in the name of the employer, except that any individual services provided voluntarily and without promise or expectation of compensation from any source shall not be deemed a contribution; ~~and but~~

(5) an expenditure by a political committee made in cooperation, consultation, or concert with another political committee.

(B) "Contribution" does not include: -

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period;

(b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor; -

(c) communications by a corporation to its stockholders and executive or administrative personnel or their families;

(d) communications by an association to its members and executive or administrative personnel or their families;

(e) voter registration or other campaigns encouraging voting that make no mention of any clearly identified candidate, public question, political party, group, or combination thereof;

(f) a loan of money by a national or State bank or credit union made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but the loan shall be listed on disclosure reports required by this Article; however, the use, ownership, or control of any security for such a loan, if provided by a person other than the candidate or his or her committee, qualifies as a contribution; or

(g) an independent expenditure.

(C) Interest or other investment income, earnings or proceeds, and refunds or returns of all or part of a committee's previous expenditures shall not be considered contributions but shall be listed on disclosure reports required by this Article.

(Source: P.A. 94-645, eff. 8-22-05.)

(10 ILCS 5/9-1.5) (from Ch. 46, par. 9-1.5)

Sec. 9-1.5. Expenditure ~~defined~~.

(A) "Expenditure" means: -

(1) a payment, distribution, purchase, loan, advance, deposit, ~~or~~ gift of money, ~~or~~ anything of value, in connection with the nomination for election, ~~or~~ election, or retention of any person to or in public office, ~~in connection with the election of any person as ward or township committeeman in counties of 3,000,000 or more population,~~ or in connection with any question of public policy; -

(2) "Expenditure" also includes a payment, distribution, purchase, loan, advance, deposit, ~~or~~ gift of money, ~~or~~ anything

of value that constitutes an electioneering communication ~~regardless of whether the communication is made in concert or cooperation with or at the request, suggestion, or knowledge of a candidate, a candidate's authorized local political committee, a State political committee, a political committee in support of or opposition to a question of public policy, or any of their agents; or -~~ However,

(3) a transfer of funds by a political committee to another political committee.

(B) "Expenditure" expenditure does not include: -

(a) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual in rendering voluntary personal services on the individual's residential premises for candidate-related activities; provided the value of the service provided does not exceed an aggregate of \$150 in a reporting period; or

(b) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor.

~~(2) a transfer of funds between political committees.~~

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 93-847, eff. 7-30-04.)

(10 ILCS 5/9-1.6) (from Ch. 46, par. 9-1.6)

Sec. 9-1.6. Person. "Person" or "whoever" means a natural person ~~an individual~~, trust, partnership, committee, association, corporation, or any other organization or group of persons.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.8) (from Ch. 46, par. 9-1.8)

Sec. 9-1.8. Political committees.

(a) "Political committee" includes a candidate political committee, a political party committee, a political action committee, and a ballot initiative committee.

(b) "Candidate political committee" means the candidate himself or herself or any natural person, trust, partnership, corporation, or other organization or group of persons designated by the candidate that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of the candidate.

(c) "Political party committee" means the State central committee of a political party, a county central committee of a political party, a legislative caucus committee, or a committee formed by a ward or township committeeman of a political party. For purposes of this Article, a "legislative caucus committee" means a committee established for the purpose of electing candidates to the General Assembly by the person elected President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, Minority Leader of the House of Representatives, or a committee established by 5 or more members of the same caucus of the Senate or 10 or more members of the same caucus of the House of Representatives.

(d) "Political action committee" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office. "Political action committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons, other than a candidate, political party, candidate political committee, or political party committee, that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$3,000 related to any candidate or candidates for public office.

(e) "Ballot initiative committee" means any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors. "Ballot initiative committee" includes any natural person, trust, partnership, committee, association, corporation, or other organization or group of persons that makes electioneering communications during any 12-month period in an aggregate amount exceeding \$3,000 related to any question of public policy to be submitted to the voters. The \$3,000 threshold applies to any contributions or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy, regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body.

"State political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which

(a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the Secretary of State;

(b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing more than one county. The \$3,000 threshold established in this paragraph (b) applies to any receipts or expenditures received or made with the purpose of securing a place on the ballot for, advocating the defeat or passage of, or engaging in electioneering communication regarding the question of public policy regardless of the method of initiation of the question of public policy and regardless of whether petitions have been circulated or filed with the appropriate office or whether the question has been adopted and certified by the governing body;

(c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not for profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the Secretary of State, or

(d) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b).

(Source: P.A. 95-963, eff. 1-1-09.)

(10 ILCS 5/9-1.9) (from Ch. 46, par. 9-1.9)

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Sec. 9-1.9. Election cycle. "Election cycle" means any of the following:

(1) For a candidate political committee organized to support a candidate to be elected at a general primary election or general election, (i) the period beginning January 1 following the general election for the office to which a candidate seeks nomination or election and ending on the day of the general primary election for that office or (ii) the period beginning the day after a general primary election for the office to which the candidate seeks nomination or election and through December 31 following the general election.

(2) Notwithstanding paragraph (1), for a candidate political committee organized to support a candidate for the General Assembly, (i) the period beginning January 1 following a general election and ending on the day of the next general primary election or (ii) the period beginning the day after the general primary election and ending on December 31 following a general election.

(3) For a candidate political committee organized to support a candidate for a retention election, (i) the period beginning January 1 following the general election at which the candidate was elected through the day the candidate files a declaration of intent to seek retention or (ii) the period beginning the day after the candidate files a declaration of intent to seek retention through December 31 following the retention election.

(4) For a candidate political committee organized to support a candidate to be elected at a consolidated primary election or consolidated election, (i) the period beginning July 1 following a consolidated election and ending on the day of the consolidated primary election or (ii) the period beginning the day after the consolidated primary election and ending on June 30 following a consolidated election.

(5) For a political party committee, political action committee, or ballot initiative committee, the period beginning on January 1 and ending on December 31 of each calendar year. "Political committee" includes State central and county central committees of any political party, and also includes local political committees and state political committees, but does not include any candidate who does not accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000, nor does it include, with the exception of State central and county central committees of any political party, any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which does not (i) accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates or to any question of public policy or (ii) accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) of Section 9-1.7 or 9-1.8 or any question of public policy described in paragraph (b) of Section 9-1.7 or 9-1.8, and such candidates and persons shall not be required to comply with any filing provisions in this Article.

(Source: P.A. 93-847, eff. 7-30-04.)

(10 ILCS 5/9-1.10) (from Ch. 46, par. 9-1.10)

Sec. 9-1.10. Public Office. "Public office" means any elective office or judicial office subject to retention for which candidates are required to file statements of economic interests under the "Illinois Governmental Ethics Act", approved August 26, 1967, as amended.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-1.12) (from Ch. 46, par. 9-1.12)

Sec. 9-1.12. Anything of value. "Anything of value" means any item, thing, service ~~includes all things, services, or good goods~~, regardless of whether ~~it they~~ may be valued in monetary terms according to ascertainable market value. Anything of value which does not have an ascertainable market value must be reported by describing the item, thing, service services, or good goods contributed and by using the contributor's certified market value required under Section 9-6.

(Source: P.A. 90-737, eff. 1-1-99.)

(10 ILCS 5/9-1.13) (from Ch. 46, par. 9-1.13)

Sec. 9-1.13. Transfer of funds. "Transfer of funds" means any conveyance of money ~~or the purchase of tickets made in connection with the nomination for election, election or retention of any person to or in public office or in connection with any question of public policy~~ from one political committee to another political committee.

(Source: P.A. 86-873.)

(10 ILCS 5/9-1.14)

Sec. 9-1.14. Electioneering communication ~~defined.~~

(a) "Electioneering communication" means, for the purposes of this Article, any broadcast, cable, or satellite form of communication, ~~in whatever medium~~, including ~~but not limited to a newspaper~~, radio, television, or Internet communication, that (1) refers to (i) a clearly identified candidate or candidates who will appear on the ballot for nomination for election, election, or retention, (ii) ~~refers to~~ a clearly

identified political party, or (iii) ~~refers to~~ a clearly identified question of public policy that will appear on the ballot, and (2) is made within (i) 60 days before a general election or consolidated election or (ii) 30 days before a primary election, (3) is targeted to the relevant electorate, and (4) is susceptible to no reasonable interpretation other than as an appeal to vote for or against a clearly identified candidate for nomination for election, election, or retention, a political party, or a question of public policy.

(b) "Electioneering communication" does not include:

(1) A communication, other than an advertisement, appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are owned or controlled by any political party, political committee, or candidate.

(2) A communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring the debate or forum.

(3) A communication made as part of a non-partisan activity designed to encourage individuals to vote or to register to vote.

(4) A communication by an organization operating and remaining in good standing under Section 501(c)(3) of the Internal Revenue Code of 1986.

(5) A communication exclusively between a labor organization, as defined under federal or State law, and its members.

(6) A communication exclusively between an organization formed under Section 501(c)(6) of the Internal Revenue Code and its members.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 93-847, eff. 7-30-04; 94-461, eff. 8-4-05; 94-645, eff. 8-22-05.)

(10 ILCS 5/9-1.15 new)

Sec. 9-1.15. Independent expenditure. "Independent expenditure" means any payment, gift, donation, or expenditure of funds (i) by a natural person or political committee for the purpose of making electioneering communications or of expressly advocating for or against the nomination for election, election, retention, or defeat of a clearly identifiable public official or candidate and (ii) that is not made in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's designated political committee or campaign, or the agent or agents of the public official, candidate, or political committee or campaign.

(10 ILCS 5/9-2) (from Ch. 46, par. 9-2)

Sec. 9-2. Political committee designations.

(a) Every political committee shall be designated as a (i) candidate political committee, (ii) political party committee, (iii) political action committee, or (iv) ballot initiative committee.

(b) Beginning January 1, 2011, no public official or candidate for public office may maintain or establish more than one candidate political committee for each office that public official or candidate holds or is seeking. The name of each candidate political committee shall identify the name of the public official or candidate supported by the candidate political committee. If a candidate establishes separate candidate political committees for each public office, the name of each candidate political committee shall also include the public office to which the candidate seeks nomination for election, election, or retention. If a candidate establishes one candidate political committee for multiple offices elected at different elections, then the candidate shall designate an election cycle, as defined in Section 9-1.9, for purposes of contribution limitations and reporting requirements set forth in this Article. No political committee, other than a candidate political committee, may include the name of a candidate in its name.

(c) Beginning January 1, 2011, no State central committee of a political party, county central committee of a political party, committee formed by a ward or township committeeman, or committee established for the purpose of electing candidates to the General Assembly may maintain or establish more than one political party committee. The name of the committee must include the name of the political party.

(d) Beginning January 1, 2011, no natural person, trust, partnership, committee, association, corporation, or other organization or group of persons forming a political action committee shall maintain or establish more than one political action committee. The name of a political action committee must include the name of the entity forming the committee.

(e) Beginning January 1, 2011, the name of a ballot initiative committee must include words describing the question of public policy and whether the group supports or opposes the question.

(f) Every political committee shall designate a chairman and a treasurer. The same person may serve as both chairman and treasurer of any political committee. A candidate who administers his own campaign contributions and expenditures shall be deemed a political committee for purposes of this Article and shall designate himself as chairman, treasurer, or both chairman and treasurer of such political committee. The treasurer of a political committee shall be responsible for keeping the records

and filing the statements and reports required by this Article.

(g) No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of chairman or treasurer thereof. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman or treasurer, or their designated agents.

(h) For purposes of implementing the changes made by this amendatory Act of the 96th General Assembly, every political committee in existence on the effective date of this amendatory Act of the 96th General Assembly shall make the designation required by this Section by December 31, 2010.

(Source: P.A. 80-756.)

(10 ILCS 5/9-3) (from Ch. 46, par. 9-3)

Sec. 9-3. Political committee statement of organization.

(a) Every ~~state political committee and every local political committee~~ shall file with the State Board of Elections, ~~and every local political committee shall file with the county clerk,~~ a statement of organization within 10 business days of the creation of such committee, except any political committee created within the 30 days before an election shall file a statement of organization within ~~2~~ 5 business days ~~in person, by facsimile transmission, or by electronic mail. Any change in information previously submitted in a statement of organization shall be reported, as required for the original statement of organization by this Section, within 10 days following that change.~~ A political committee that acts as both a state political committee and a local political committee shall file a copy of each statement of organization with the State Board of Elections and the county clerk. The Board shall impose a civil penalty of ~~\$50~~ \$25 per business day upon political committees for failing to file or late filing of a statement of organization; ~~except that for committees formed to support candidates for statewide office, the civil penalty shall be \$50 per business day.~~ Such penalties shall not exceed \$5,000, and shall not exceed \$10,000 for statewide office political committees. There shall be no fine if the statement is mailed and postmarked at least 72 hours prior to the filing deadline.

In addition to the civil penalties authorized by this Section, the State Board of Elections or any other ~~affected~~ political committee may apply to the circuit court for a temporary restraining order or a preliminary or permanent injunction against the political committee to cease the expenditure of funds and to cease operations until the statement of organization is filed.

For the purpose of this Section, "statewide office" means the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, and State Comptroller.

(b) The statement of organization shall include: -

(1) ~~(a)~~ the name and address of the political committee and the designation required by Section 9-2 (the name of the political committee must include the name of any sponsoring entity);

(2) ~~(b)~~ the scope, area of activity, party affiliation, candidate affiliation and his county of residence, and purposes of the political committee;

(3) ~~(c)~~ the name, address, and position of each custodian of the committee's books and accounts;

(4) ~~(d)~~ the name, address, and position of the committee's principal officers, including the chairman, treasurer, and officers and members of its finance committee, if any;

(5) the name and address of any sponsoring entity (e) (Blank);

(6) ~~(f)~~ a statement of what specific disposition of residual fund will be made in the event of the dissolution or termination of the committee;

(7) ~~(g)~~ a listing of all banks or other financial institutions, safety deposit boxes, and any other repositories or custodians of funds used by the committee; and

(8) ~~(h)~~ the amount of funds available for campaign expenditures as of the filing date of the committee's statement of organization.

For purposes of this Section, a "sponsoring entity" is (i) any person, ~~political committee,~~ organization, corporation, or association that contributes at least 33% of the total funding of the political committee or (ii) any person or other entity that is registered or is required to register under the Lobbyist Registration Act and contributes at least 33% of the total funding of the political committee; ~~except that a political committee is not a "sponsoring entity" for purposes of this Section if it is a political committee organized by (i) an established political party as defined in Section 10-2, (ii) a partisan caucus of either house of the General Assembly, or (iii) the Speaker or Minority Leader of the House of Representatives or the President or Minority Leader of the Senate, in his or her capacity as a legislative leader of the House of Representatives or Senate and not as a candidate for Representative or Senator.~~

(c) Each statement of organization required to be filed in accordance with this Section shall be verified, dated, and signed by either the treasurer of the political committee making the statement or the

candidate on whose behalf the statement is made and shall contain substantially the following verification:

"VERIFICATION:

I declare that this statement of organization (including any accompanying schedules and statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete statement of organization as required by Article 9 of the Election Code. I understand that willfully filing a false or incomplete statement is subject to a civil penalty of at least \$1,001 and up to \$5,000.

.....  
(date of filing) (signature of person making the statement)".

(d) The statement of organization for a ballot initiative committee also shall include a verification signed by the chairperson of the committee that (i) the committee is formed for the purpose of supporting or opposing a question of public policy, (ii) all contributions and expenditures of the committee will be used for the purpose described in the statement of organization, (iii) the committee may accept unlimited contributions from any source, provided that the ballot initiative committee does not make contributions or expenditures in support of or opposition to a candidate or candidates for nomination for election, election, or retention, and (iv) failure to abide by these requirements shall deem the committee in violation of this Article.

(e) For purposes of implementing the changes made by this amendatory Act of the 96th General Assembly, every political committee in existence on the effective date of this amendatory Act of the 96th General Assembly shall file the statement required by this Section with the Board by December 31, 2010.

(Source: P.A. 93-574, eff. 8-21-03; 93-615, eff. 11-19-03; 94-645, eff. 8-22-05.)

(10 ILCS 5/9-5) (from Ch. 46, par. 9-5)

Sec. 9-5. ~~Dissolved or inactive committee. Any change in information previously submitted in a statement of organization except for information submitted under Section 9-3 (h) shall be reported, as required of statements of organization by Section 9-3 of this Article, within 10 days following such change.~~

Any political committee which, after having filed a statement of organization, dissolves as a political committee or determines that it will no longer receive any campaign contributions nor make any campaign expenditures shall notify the Board, ~~or the Board and the county clerk, as required of statements of organization by Section 9-3 of this Article,~~ of that fact and file with the Board, ~~or the Board and the county clerk, as required of statements of organization by Section 9-3 of this Article,~~ a final report with respect to its contributions and expenditures, including the final disposition of its funds and assets.

In the event that a political committee dissolves, all contributions in its possession, after payment of the committee's outstanding liabilities, including staff salaries, shall be refunded to the contributors in amounts not exceeding their individual contributions, or transferred to other political or charitable organizations consistent with the positions of the committee or the candidates it represented. In no case shall these funds be used for the personal aggrandizement of any committee member or campaign worker.

(Source: P.A. 90-495, eff. 1-1-98.)

(10 ILCS 5/9-6) (from Ch. 46, par. 9-6)

Sec. 9-6. Accounting for contributions.

(a) ~~Every person who collects or accepts receives a contribution in excess of \$20 for a political committee shall, on demand of the treasurer, and in any event~~ within 5 days after receipt of such contribution, ~~submit~~ render to the treasurer a detailed account of the contribution thereof, including (i) the amount, (ii) the name and address of the person making such contribution, (iii) ~~and~~ the date on which the contribution ~~it~~ was received, and (iv) the name and address of the person collecting or accepting the contribution for the political committee. A political committee shall disclose on the quarterly statement the name, address, and occupation of any person who collects or accepts contributions from at least 5 persons in the aggregate of \$3,000 or more outside of the presence of a candidate or not in connection with a fundraising event sanctioned or coordinated by the political committee during a reporting period. This subsection does not apply to a person who is an officer of the committee, a compensated employee, a person authorized by an officer or the candidate of a committee to accept contributions on behalf of the committee, or an entity used for processing financial transactions by credit card or other means.

(b) Within 5 business days of contributing goods or services of more than \$50 value to a political committee, the contributor shall submit to the treasurer a detailed account of the contribution, including (i) the name and address of the person making the contribution, (ii) ~~certify the value of the contribution to the political committee on forms prescribed by the State Board of Elections.~~ The forms shall include

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~~the name and address of the contributor, a description and market value of the goods or services, and (iii) the date on which the contribution was made.~~

(c) All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee.

(Source: P.A. 90-737, eff. 1-1-99.)

(10 ILCS 5/9-7) (from Ch. 46, par. 9-7)

Sec. 9-7. The treasurer of a political committee shall keep a detailed and exact account of-

(a) the total of all contributions made to or for the committee;

(b) the full name and mailing address of every person making a contribution ~~in excess of \$20~~ and the date and amount thereof;

(c) the total of all expenditures made by or on behalf of the committee;

(d) the full name and mailing address of every person to whom any expenditure ~~in excess of \$20~~ is made, and the date and amount thereof;

(e) proof of payment, stating the particulars, for every expenditure ~~in excess of \$20~~ made by or on behalf of the committee.

The treasurer shall preserve all records and accounts required by this section for a period of 2 years.

(Source: P.A. 79-293.)

(10 ILCS 5/9-8) (from Ch. 46, par. 9-8)

Sec. 9-8. Any political committee which solicits or receives contributions or makes expenditures on behalf of any candidate that is not authorized in writing by such candidate to do so shall include a notice on the face or front page of all literature and advertisements published and following all commercials broadcast ~~that are authorized by the committee and that mention the candidate, in connection with such candidate's campaign by such committee or on its behalf~~ stating that the committee is not authorized by such candidate and that such candidate is not responsible for the activities of such committee.

(Source: P.A. 78-1183.)

(10 ILCS 5/9-8.5 new)

Sec. 9-8.5. Limitations on campaign contributions.

(a) It is unlawful for a political committee to accept contributions except as provided in this Section.

(b) During an election cycle, a candidate political committee may not accept contributions with an aggregate value over the following: (i) \$5,000 from any individual, (ii) \$10,000 from any corporation, labor organization, or association, or (iii) \$50,000 from a candidate political committee or political action committee. A candidate political committee may accept contributions in any amount from a political party committee except during an election cycle in which the candidate seeks nomination at a primary election. During an election cycle in which the candidate seeks nomination at a primary election, a candidate political committee may not accept contributions from political party committees with an aggregate value over the following: (i) \$200,000 for a candidate political committee established to support a candidate seeking nomination to statewide office, (ii) \$125,000 for a candidate political committee established to support a candidate seeking nomination to the Senate, the Supreme Court or Appellate Court in the First Judicial District, or an office elected by all voters in a county with 1,000,000 or more residents, (iii) \$75,000 for a candidate political committee established to support a candidate seeking nomination to the House of Representatives, the Supreme Court or Appellate Court for a Judicial District other than the First Judicial District, an office elected by all voters of a county of fewer than 1,000,000 residents, and municipal and county offices in Cook County other than those elected by all voters of Cook County, and (iv) \$50,000 for a candidate political committee established to support the nomination of a candidate to any other office. A candidate political committee established to elect a candidate to the General Assembly may accept contributions from only one legislative caucus committee. A candidate political committee may not accept contributions from a ballot initiative committee.

(c) During an election cycle, a political party committee may not accept contributions with an aggregate value over the following: (i) \$10,000 from any individual, (ii) \$20,000 from any corporation, labor organization, or association, or (iii) \$50,000 from a political action committee. A political party committee may accept contributions in any amount from another political party committee or a candidate political committee, except as provided in subsection (c-5). Nothing in this Section shall limit the amounts that may be transferred between a State political committee and federal political committee. A political party committee may not accept contributions from a ballot initiative committee. A political party committee established by a legislative caucus may not accept contributions from another political party committee established by a legislative caucus.

(c-5) During the period beginning on the date candidates may begin circulating petitions for a primary election and ending on the day of the primary election, a political party committee may not accept

contributions with an aggregate value over \$50,000 from a candidate political committee or political party committee. A political party committee may accept contributions in any amount from a candidate political committee or political party committee if the political party committee receiving the contribution filed a statement of nonparticipation in the primary as provided in subsection (c-10). The Task Force on Campaign Finance Reform shall study and make recommendations on the provisions of this subsection to the Governor and General Assembly by September 30, 2012. This subsection becomes inoperative on July 1, 2013 and thereafter no longer applies.

(c-10) A political party committee that does not intend to make contributions to candidates to be nominated at a general primary election or consolidated primary election may file a Statement of Nonparticipation in a Primary Election with the Board. The Statement of Nonparticipation shall include a verification signed by the chairperson and treasurer of the committee that (i) the committee will not make contributions or coordinated expenditures in support of or opposition to a candidate or candidates to be nominated at the general primary election or consolidated primary election (select one) to be held on (insert date), (ii) the political party committee may accept unlimited contributions from candidate political committees and political party committees, provided that the political party committee does not make contributions to a candidate or candidates to be nominated at the primary election, and (iii) failure to abide by these requirements shall deem the political party committee in violation of this Article and subject the committee to a fine of no more than 150% of the total contributions or coordinated expenditures made by the committee in violation of this Article. This subsection becomes inoperative on July 1, 2013 and thereafter no longer applies.

(d) During an election cycle, a political action committee may not accept contributions with an aggregate value over the following: (i) \$10,000 from any individual, (ii) \$20,000 from any corporation, labor organization, political party committee, or association, or (iii) \$50,000 from a political action committee or candidate political committee. A political action committee may not accept contributions from a ballot initiative committee.

(e) A ballot initiative committee may accept contributions in any amount from any source, provided that the committee files the document required by Section 9-3 of this Article.

(f) Nothing in this Section shall prohibit a political committee from dividing the proceeds of joint fundraising efforts; provided that no political committee may receive more than the limit from any one contributor.

(g) On January 1 of each odd-numbered year, the State Board of Elections shall adjust the amounts of the contribution limitations established in this Section for inflation as determined by the Consumer Price Index for All Urban Consumers as issued by the United States Department of Labor and rounded to the nearest \$100. The State Board shall publish this information on its official website.

(h) Self-funding candidates. If a public official, a candidate, or the public official's or candidate's immediate family contributes or loans to the public official's or candidate's political committee or to other political committees that transfer funds to the public official's or candidate's political committee or makes independent expenditures for the benefit of the public official's or candidate's campaign during the 12 months prior to an election in an aggregate amount of more than (i) \$250,000 for statewide office or (ii) \$100,000 for all other elective offices, then the public official or candidate shall file with the State Board of Elections, within one day, a Notification of Self-funding that shall detail each contribution or loan made by the public official, the candidate, or the public official's or candidate's immediate family. Within 2 business days after the filing of a Notification of Self-funding, the notification shall be posted on the Board's website and the Board shall give official notice of the filing to each candidate for the same office as the public official or candidate making the filing, including the public official or candidate filing the Notification of Self-funding. Upon receiving notice from the Board, all candidates for that office, including the public official or candidate who filed a Notification of Self-funding, shall be permitted to accept contributions in excess of any contribution limits imposed by subsection (b). For the purposes of this subsection, "immediate family" means the spouse, parent, or child of a public official or candidate.

(i) For the purposes of this Section, a corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association may act as a conduit in facilitating the delivery to a political action committee of contributions made through dues, levies, or similar assessments and the political action committee may report the contributions in the aggregate, provided that: (i) the dues, levies, or similar assessments paid by any natural person, corporation, labor organization, or association in a calendar year may not exceed the limits set forth in this Section and (ii) the corporation, labor organization, association, or a political action committee established by a corporation, labor organization, or association facilitating the delivery of contributions maintains a list of natural persons, corporations, labor organizations, and associations that paid the dues, levies, or similar

assessments from which the contributions comprising the aggregate amount derive. A political action committee facilitating the delivery of contributions or receiving contributions shall disclose the amount of dues delivered or received and the name of the corporation, labor organization, association, or political action committee delivering the contributions, if applicable.

(j) A political committee that receives a contribution or transfer in violation of this Section shall dispose of the contribution or transfer by returning the contribution or transfer, or an amount equal to the contribution or transfer, to the contributor or transferor or donating the contribution or transfer, or an amount equal to the contribution or transfer, to a charity. A contribution or transfer received in violation of this Section that is not disposed of as provided in this subsection within 15 days after its receipt shall escheat to the General Revenue Fund and the political committee shall be deemed in violation of this Section and subject to a civil penalty not to exceed 150% of the total amount of the contribution.

(k) For the purposes of this Section, "statewide office" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

(l) This Section is repealed if and when the United States Supreme Court invalidates contribution limits on committees formed to assist candidates, political parties, corporations, associations, or labor organizations established by or pursuant to federal law.

(10 ILCS 5/9-8.6 new)

Sec. 9-8.6. Independent expenditures.

(a) An independent expenditure is not considered a contribution to a political committee. An expenditure made by a natural person or political committee for an electioneering communication in connection, consultation, or concert with or at the request or suggestion of the public official or candidate, the public official's or candidate's candidate political committee, or the agent or agents of the public official, candidate, or political committee or campaign shall not be considered an independent expenditure but rather shall be considered a contribution to the public official's or candidate's candidate political committee.

A natural person who makes an independent expenditure supporting or opposing a public official or candidate that, alone or in combination with any other independent expenditure made by that natural person supporting or opposing that public official or candidate during any 12-month period, equals an aggregate value of at least \$3,000 must file a written disclosure with the State Board of Elections within 2 business days after making any expenditure that results in the natural person meeting or exceeding the \$3,000 threshold. Each disclosure must identify the natural person, the public official or candidate supported or opposed, the date, amount, and nature of each independent expenditure, and the natural person's occupation and employer.

(b) Any entity other than a natural person that makes expenditures of any kind in an aggregate amount exceeding \$3,000 during any 12-month period supporting or opposing a public official or candidate must organize as a political committee in accordance with this Article.

(c) Every political committee that makes independent expenditures must report all such independent expenditures as required under Section 9-10 of this Article.

(10 ILCS 5/9-9) (from Ch. 46, par. 9-9)

Sec. 9-9. Any ~~State~~ political committee shall include on all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the State Board of Elections is (or will be) available on the Board's official website (insert the current website address) or for purchase from the State Board of Elections, Springfield, Illinois."

Any local political committee shall include on all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the county clerk is (or will be) available for purchase from the county clerk, (county clerk's address), Illinois."

Any political committee that acts as both a state political committee and a local political committee shall include on all literature and advertisements soliciting funds the following notice:

"A copy of our report filed with the State Board of Elections and the county clerk is (or will be) available for purchase from the State Board of Elections, Springfield, Illinois, and from the county clerk, (county clerk's address), Illinois."

(Source: P.A. 83-259.)

(10 ILCS 5/9-10) (from Ch. 46, par. 9-10)

Sec. 9-10. Disclosure of contributions and expenditures ~~Financial reports.~~

(a) The treasurer of every ~~state~~ political committee ~~and the treasurer of every local political committee~~ shall file with the Board, ~~and the treasurer of every local political committee shall file with the county clerk,~~ reports of campaign contributions, ~~and semi-annual reports of campaign contributions and~~

expenditures as required by this Section on forms to be prescribed or approved by the Board. ~~The treasurer of every political committee that acts as both a state political committee and a local political committee shall file a copy of each report with the State Board of Elections and the county clerk. Entities subject to Section 9-7.5 shall file reports required by that Section at times provided in this Section and are subject to the penalties provided in this Section.~~

(b) Every political committee shall file quarterly reports of campaign contributions, expenditures, and independent expenditures. The reports shall cover the period January 1 through March 31, April 1 through June 30, July 1 through September 30, and October 1 through December 31 of each year. A political committee shall file quarterly reports no later than the 15th day of the month following each period. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. The Board shall assess a civil penalty not to exceed \$5,000 for failure to file a report required by this subsection. The fine, however, shall not exceed \$1,000 for a first violation if the committee files less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. When considering the amount of the fine to be imposed, the Board shall consider whether the violation was committed inadvertently, negligently, knowingly, or intentionally and any past violations of this Section.

(c) A political committee shall file a report of any contribution of \$1,000 or more electronically with the Board within 5 business days after receipt of the contribution, except that the report shall be filed within 2 business days after receipt if (i) the contribution is received 30 or fewer days before the date of an election and (ii) the political committee supports or opposes a candidate or public question on the ballot at that election or makes expenditures in excess of \$500 on behalf of or in opposition to a candidate, candidates, a public question, or public questions on the ballot at that election. The State Board shall allow filings of reports of contributions of \$1,000 or more by political committees that are not required to file electronically to be made by facsimile transmission. The Board shall assess a civil penalty for failure to file a report required by this subsection. Failure to report each contribution is a separate violation of this subsection. The Board shall impose fines for willful or wanton violations of this subsection (c) not to exceed 150% of the total amount of the contributions that were untimely reported, but in no case shall it be less than 10% of the total amount of the contributions that were untimely reported. When considering the amount of the fine to be imposed for willful or wanton violations, the Board shall consider the number of days the contribution was reported late and past violations of this Section and Section 9-3. The Board may impose a fine for negligent or inadvertent violations of this subsection not to exceed 50% of the total amount of the contributions that were untimely reported, or the Board may waive the fine. When considering whether to impose a fine and the amount of the fine, the Board shall consider the following factors: (1) whether the political committee made an attempt to disclose the contribution and any attempts made to correct the violation, (2) whether the violation is attributed to a clerical or computer error, (3) the amount of the contribution, (4) whether the violation arose from a discrepancy between the date the contribution was reported transferred by a political committee and the date the contribution was received by a political committee, (5) the number of days the contribution was reported late, and (6) past violations of this Section and Section 9-3 by the political committee.

(d) For the purpose of this Section, a contribution is considered received on the date (i) a monetary contribution was deposited in a bank, financial institution, or other repository of funds for the committee, (ii) the date a committee receives notice a monetary contribution was deposited by an entity used to process financial transactions by credit card or other entity used for processing a monetary contribution that was deposited in a bank, financial institution, or other repository of funds for the committee, or (iii) the public official, candidate, or political committee receives the notification of contribution of goods or services as required under subsection (b) of Section 9-6.

(e) A political committee that makes independent expenditures of \$1,000 or more during the period 30 days or fewer before an election shall electronically file a report with the Board within 5 business days after making the independent expenditure. The report shall contain the information required in Section 9-11(c) of this Article. This subsection does not apply with respect to general primary elections. Reports of campaign contributions shall be filed no later than the 15th day next preceding each election in connection with which the political committee has accepted or is accepting contributions or has made or is making expenditures. Such reports shall be complete as of the 30th day next preceding each election. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least

72 hours prior to the filing deadline. For the purpose of this subsection, "statewide officer" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. However, a continuing political committee that does not make an expenditure or expenditures in an aggregate amount of more than \$500 on behalf of or in opposition to any (i) candidate or candidates, (ii) public question or questions, or (iii) candidate or candidates and public question or questions on the ballot at an election shall not be required to file the reports prescribed in this subsection (b) and subsection (b-5) but may file in lieu thereof a Statement of Nonparticipation in the Election with the Board or the Board and the county clerk; except that if the political committee, by the terms of its statement of organization filed in accordance with this Article, is organized to support or oppose a candidate or public question on the ballot at the next election or primary, that committee must file reports required by this subsection (b) and by subsection (b-5).

(b-5) Notwithstanding the provisions of subsection (b) and Section 1.25 of the Statute on Statutes, any contribution of more than \$500 received (i) with respect to elections other than the general primary election, in the interim between the last date of the period covered by the last report filed under subsection (b) prior to the election and the date of the election or (ii) with respect to general primary elections, in the period beginning January 1 of the year of the general primary election and prior to the date of the general primary election shall be filed with and must actually be received by the State Board of Elections within 2 business days after receipt of such contribution. A continuing political committee that does not support or oppose a candidate or public question on the ballot at a general primary election and does not make expenditures in excess of \$500 on behalf of or in opposition to any candidate or public question on the ballot at the general primary election shall not be required to file the report prescribed in this subsection unless the committee makes an expenditure in excess of \$500 on behalf of or in opposition to any candidate or public question on the ballot at the general primary election. The committee shall timely file the report required under this subsection beginning with the date the expenditure that triggered participation was made. The State Board shall allow filings of reports of contributions of more than \$500 under this subsection (b-5) by political committees that are not required to file electronically to be made by facsimile transmission. For the purpose of this subsection, a contribution is considered received on the date the public official, candidate, or political committee (or equivalent person in the case of a reporting entity other than a political committee) actually receives it or, in the case of goods or services, 2 business days after the date the public official, candidate, committee, or other reporting entity receives the certification required under subsection (b) of Section 9-6. Failure to report each contribution is a separate violation of this subsection. In the final disposition of any matter by the Board on or after the effective date of this amendatory Act of the 93rd General Assembly, the Board may impose fines for violations of this subsection not to exceed 100% of the total amount of the contributions that were untimely reported, but in no case when a fine is imposed shall it be less than 10% of the total amount of the contributions that were untimely reported. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:

(1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally;

(2) the number of days the contribution was reported late; and

(3) past violations of Sections 9-3 and 9-10 of this Article by the committee.

(c) In addition to such reports the treasurer of every political committee shall file semi-annual reports of campaign contributions and expenditures no later than July 20th, covering the period from January 1st through June 30th immediately preceding, and no later than January 20th, covering the period from July 1st through December 31st of the preceding calendar year. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. The Board shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide officer" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

(c-5) A political committee that acts as either (i) a State and local political committee or (ii) a local political committee and that files reports electronically under Section 9-28 is not required to file copies of the reports with the appropriate county clerk if the county clerk has a system that permits access to, and duplication of, reports that are filed with the State Board of Elections. A State and local political committee or a local political committee shall file with the county clerk a copy of its statement of organization pursuant to Section 9-3.

(f) ~~(4)~~ A copy of each report or statement filed under this Article shall be preserved by the person filing it for a period of two years from the date of filing.

(Source: P.A. 94-645, eff. 8-22-05; 95-6, eff. 6-20-07; 95-957, eff. 1-1-09.)

(10 ILCS 5/9-11) (from Ch. 46, par. 9-11)

Sec. 9-11. Financial reports.

(a) Each quarterly report of campaign contributions, expenditures, and independent expenditures under Section 9-10 shall disclose the following:

(1) the name and address of the political committee;

(2) the name and address of the person submitting the report on behalf of the committee, if other than the chairman or treasurer;

(3) the amount of funds on hand at the beginning of the reporting period;

(4) the full name and mailing address of each person who has made one or more contributions to or for the committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amounts and dates of those contributions, and, if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(5) the total sum of individual contributions made to or for the committee during the reporting period and not reported under item (4);

(6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds in the aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;

(7) the total sum of transfers made to or from the committee during the reporting period and not reported under item (6);

(8) each loan to or from any person, political committee, or financial institution within the reporting period by or to the committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any; the dates and amounts of the loans; and, if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual or, if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(9) the total amount of proceeds received by the committee from (i) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund-raising events; (ii) mass collections made at those events; and (iii) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(10) each contribution, rebate, refund, income from investments, or other receipt in excess of \$150 received by the committee not otherwise listed under items (4) through (9) and, if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(11) the total sum of all receipts by or for the committee or candidate during the reporting period;

(12) the full name and mailing address of each person to whom expenditures have been made by the committee or candidate within the reporting period in an aggregate amount or value in excess of \$150; the amount, date, and purpose of each of those expenditures; and the question of public policy or the name and address of, and the office sought by, each candidate on whose behalf that expenditure was made;

(13) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made and that is not otherwise reported, including the amount, date, and purpose of the expenditure;

(14) the value of each asset held as an investment, as of the final day of the reporting period;

(15) the total sum of expenditures made by the committee during the reporting period; and

(16) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150 and the amount of those debts or obligations.

For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held they shall be identified by name and quantity of security or instrument on each semi-annual report during the period.

(b) Each report of a campaign contribution of \$1,000 or more required ~~contributions~~ under subsection (c) of Section 9-10 shall disclose the following: -

- (1) the name and address of the political committee;
- (2) the name and address of the person submitting the report on behalf of the committee, if other than the chairman or treasurer (Blank); and
- (3) the amount of funds on hand at the beginning of the reporting period;
- (3) ~~(4) the full name and mailing address of each person who has made a contribution of \$1,000 or more, one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~
- (5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);
- (6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in any aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;
- (7) the total sum of transfers made to or from such committee during the reporting period and not reported under item (6);
- (8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;
- (10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if a contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;
- (11) the total sum of all receipts by or for such committee or candidate during the reporting period.
- (c) Each quarterly report shall include the following information regarding any independent expenditures made during the reporting period: (1) the full name and mailing address of each person to whom an expenditure in excess of \$150 has been made in connection with an independent expenditure; (2) the amount, date, and purpose of such expenditure; (3) a statement whether the independent expenditure was in support of or in opposition to a particular candidate; (4) the name of the candidate; (5) the office and, when applicable, district, sought by the candidate; and (6) a certification, under penalty of perjury, that such expenditure was not made in co-operation, consultation, or concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such committee. The report shall also include (I) the total of all independent expenditures of \$150 or less made during the reporting period and (II) the total amount of all independent expenditures made during the reporting period.
- (d) The Board shall by rule define a "good faith effort".
- The reports of campaign contributions filed under this Article shall be cumulative during the reporting period to which they relate.
- (e) Each report shall be verified, dated, and signed by either the treasurer of the political committee or the candidate on whose behalf the report is filed and shall contain the following verification:
- "I declare that this report (including any accompanying schedules and statements) has been examined by me and, to the best of my knowledge and belief, is a true, correct, and complete report as required by Article 9 of The Election Code. I understand that willfully filing a false or incomplete statement is subject to a civil penalty of up to \$5,000."
- (f) A political committee may amend a report filed under subsection (a) or (b). The Board may reduce or waive a fine if the amendment is due to a technical or inadvertent error and the political committee files the amended report, except that a report filed under subsection (b) must be amended within 5 business days. The State Board shall ensure that a description of the amended information is available to the public. The Board may promulgate rules to enforce this subsection.
- (Source: P.A. 90-495, eff. 1-1-98; 90-737, eff. 1-1-99.)

(10 ILCS 5/9-13) (from Ch. 46, par. 9-13)

Sec. 9-13. Audits of political committees.

(a) The Board shall have the authority to order a political committee to conduct an audit of the financial records required to be maintained by the committee to ensure compliance with Sections 9-8.5 and 9-10. Audits ordered by the Board shall be conducted as provided in this Section and as provided by Board rule.

(b) The Board may order an political committee to conduct an audit of its financial records for any of the following reasons: (i) a discrepancy between the ending balance of a reporting period and the beginning balance of the next reporting period, (ii) failure to account for previously reported investments or loans, or (iii) a discrepancy between reporting contributions received by or expenditures made for a political committee that are reported by another political committee, except the Board shall not order an audit pursuant to this item (iii) unless there is a willful pattern of inaccurate reporting or there is a pattern of similar inaccurate reporting involving similar contributions by the same contributor. Prior to ordering an audit, the Board shall afford the political committee due notice and an opportunity for a closed preliminary hearing. A political committee shall hire an entity qualified to perform an audit; except, a political committee shall not hire a person that has contributed to the political committee during the previous 4 years.

(c) In each calendar year, the Board shall randomly order no more than 3% of registered political committees to conduct an audit. The Board shall establish a standard, scientific method of selecting the political committees that are to be audited so that every political committee has an equal mathematical chance of being selected.

(d) Upon receipt of notification from the Board ordering an audit, a political committee shall conduct an audit of the financial records required to be maintained by the committee to ensure compliance with the contribution limitations established in Section 9-8.5 and the reporting requirements established in Section 9-3 and Section 9-10 for a period of 2 years or the period since the committee was previously ordered to conduct an audit, whichever is shorter. The entity performing the audit shall review the amount of funds and investments maintained by the political committee and ensure the financial records accurately account for any contributions and expenditures made by the political committee. A certified copy of the audit shall be delivered to the Board within 60 calendar days after receipt of notice from the Board, unless the Board grants an extension to complete the audit. A political committee ordered to conduct an audit through the random selection process shall not be required to conduct another audit for a minimum of 5 years unless the Board has reason to believe the political committee is in violation of Section 9-3, 9-8.5, or 9-10.

(e) The Board shall not disclose the name of any political committee ordered to conduct an audit or any documents in possession of the Board related to an audit unless, after review of the audit findings, the Board has reason to believe the political committee is in violation of Section 9-3, 9-8.5, or 9-10 and the Board imposed a fine.

(f) Failure to deliver a certified audit in a timely manner is a business offense punishable by a fine of \$250 per day that the audit is late, up to a maximum of \$5,000.

~~Each semi-annual report of campaign contributions and expenditures under Section 9-10 shall disclose-~~

- ~~(1) the name and address of the political committee;~~
- ~~(2) (Blank);~~
- ~~(3) the amount of funds on hand at the beginning of the reporting period;~~
- ~~(4) the full name and mailing address of each person who has made one or more contributions to or for such committee within the reporting period in an aggregate amount or value in excess of \$150, together with the amount and date of such contributions, and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;~~
- ~~(5) the total sum of individual contributions made to or for such committee during the reporting period and not reported under item (4);~~
- ~~(6) the name and address of each political committee from which the reporting committee received, or to which that committee made, any transfer of funds, in the aggregate amount or value in excess of \$150, together with the amounts and dates of all transfers;~~
- ~~(7) the total sum of transfers made to or from such committee during the reporting period and not reported under item (6);~~
- ~~(8) each loan to or from any person within the reporting period by or to such committee in an aggregate amount or value in excess of \$150, together with the full names and mailing addresses of the lender and endorsers, if any, and the date and amount of such loans, and if a lender or endorser is an~~

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individual who loaned or endorsed a loan of more than \$500, the occupation and employer of that individual, or if the occupation and employer of the individual are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(9) the total amount of proceeds received by such committee from (a) the sale of tickets for each dinner, luncheon, cocktail party, rally, and other fund raising events; (b) mass collections made at such events; and (c) sales of items such as political campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar materials;

(10) each contribution, rebate, refund, or other receipt in excess of \$150 received by such committee not otherwise listed under items (4) through (9), and if the contributor is an individual who contributed more than \$500, the occupation and employer of the contributor or, if the occupation and employer of the contributor are unknown, a statement that the committee has made a good faith effort to ascertain this information;

(11) the total sum of all receipts by or for such committee or candidate during the reporting period;

(12) the full name and mailing address of each person to whom expenditures have been made by such committee or candidate within the reporting period in an aggregate amount or value in excess of \$150, the amount, date, and purpose of each such expenditure and the question of public policy or the name and address of, and office sought by, each candidate on whose behalf such expenditure was made;

(13) the full name and mailing address of each person to whom an expenditure for personal services, salaries, and reimbursed expenses in excess of \$150 has been made, and which is not otherwise reported, including the amount, date, and purpose of such expenditure;

(14) the total sum of expenditures made by such committee during the reporting period;

(15) the full name and mailing address of each person to whom the committee owes debts or obligations in excess of \$150, and the amount of such debts or obligations.

The Board shall by rule define a "good faith effort".

(Source: P.A. 90-495, eff. 1-1-98; 90-737, eff. 1-1-99.)

(10 ILCS 5/9-16) (from Ch. 46, par. 9-16)

Sec. 9-16. It shall be the duty of the board and of each county clerk-

(1) to make the reports and statements filed with them available for public inspection and copying, commencing as soon as practicable but not later than the end of the second day following the day during which it was received, and to permit copying of any such report or statement by hand or at cost by duplicating machine, as requested by any person, at the expense of such person;

(2) to preserve such reports and statements for a period of 2 years from the date of receipt;

(3) to develop a filing, coding, and cross indexing system consonant with the purposes of this Article;

(4) to compile and maintain a current list of all statements or parts of statements pertaining to each candidate;

(5) to prepare and publish such reports as the board or county clerk may deem appropriate;

(6) to report apparent violations of law to the appropriate law enforcement authorities; and

(7) to provide to each candidate at the time he files his nomination papers a notice of obligations under this Article. Said notice shall state that the manual of instructions and forms for the statements required to be filed under this Article are available from the Board or the county clerk upon request. Said notice shall be given each candidate by the Board or county clerk and the candidate shall receipt therefor.

However, if a candidate files his nomination papers by mail or if an agent of the candidate files nomination papers on behalf of the candidate, the Board or the county clerk shall within 2 business days of the day and hour endorsed on the petition send such notice to the candidate by first class mail. Such notice shall briefly outline who is required to file under the campaign disclosure law and the penalties for failure to file. The notice of obligations under this Article shall be prepared by the Board.

Thereafter, at least 30 days before each filing date for reports of campaign contributions and for semi annual reports of campaign contributions and expenditures, the Board shall send by first class mail to each political committee that has filed a statement of organization with the Board or the Board and the county clerk, a notice of obligations under this Article, and appropriate forms for filing the report. The notice shall contain a statement that the manual of instructions is available from the Board or the county clerk upon request.

The board or the appropriate clerk shall preserve the receipts for said packets and notices for a period of 2 years from the date of receipt.

(Source: P.A. 86-873.)

(10 ILCS 5/9-21) (from Ch. 46, par. 9-21)

Sec. 9-21. Upon receipt of a such complaint as provided in Section 9-20, the Board shall hold a closed preliminary hearing to determine whether or not the complaint appears to have been filed on justifiable grounds. Such closed preliminary hearing shall be conducted as soon as practicable after affording

reasonable notice, a copy of the complaint, and an opportunity to testify at such hearing to both the person making the complaint and the person against whom the complaint is directed. If the Board fails to determine that the complaint has been filed on justifiable grounds, it shall dismiss the complaint without further hearing. Any additional hearings shall be open to the public.

Whenever ~~in the judgment of the Board~~, in an open meeting, determines, after affording due notice and an opportunity for a public hearing, that any person has engaged or is about to engage in an act or practice which constitutes or will constitute a violation of any provision of this Article or any regulation or order issued thereunder, the Board shall issue an order directing such person to take such action as the Board determines may be necessary in the public interest to correct the violation. In addition, if the act or practice engaged in consists of the failure to file any required report within the time prescribed by this Article, the Board, as part of its order, shall further provide that if, within the 12-month period following the issuance of the order, such person fails to file within the time prescribed by this Article any subsequent report as may be required, such person may be subject to a civil penalty pursuant to Section 9-23. The Board shall render its final judgment within 60 days of the date the complaint is filed; except that during the 60 days preceding the date of the election in reference to which the complaint is filed, the Board shall render its final judgment within 7 days of the date the complaint is filed, and during the 7 days preceding such election, the Board shall render such judgment before the date of such election, if possible.

At any time prior to the issuance of the Board's final judgment, the parties may dispose of the complaint by a written stipulation, agreed settlement or consent order. Any such stipulation, settlement or order shall, however, be submitted in writing to the Board and shall become effective only if approved by the Board in an open meeting. If the act or practice complained of consists of the failure to file any required report within the time prescribed by this Article, such stipulation, settlement or order may provide that if, within the 12-month period following the approval of such stipulation, agreement or order, the person complained of fails to file within the time prescribed by this Article any subsequent reports as may be required, such person may be subject to a civil penalty pursuant to Section 9-23.

Any person filing a complaint pursuant to Section 9-20 may, upon written notice to the other parties and to the Board, voluntarily withdraw the complaint at any time prior to the issuance of the Board's final determination.

(Source: P.A. 93-574, eff. 8-21-03.)

(10 ILCS 5/9-23.5 new)

Sec. 9-23.5. Public database of founded complaints. The State Board of Elections shall establish and maintain on its official website a searchable database, freely accessible to the public, of each complaint filed with the Board under this Article with respect to which Board action was taken, including all Board actions and penalties imposed, if any. The Board must update the database within 5 business days after an action is taken or a penalty is imposed to include that complaint, action, or penalty in the database. The Task Force on Campaign Finance Reform shall make recommendations on improving access to information related to founded complaints.

(10 ILCS 5/9-28)

Sec. 9-28. Electronic filing and availability. The Board shall by rule provide for the electronic filing of expenditure and contribution reports as follows:

~~Electronic Beginning July 1, 1999, or as soon thereafter as the Board has provided adequate software to the political committee, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$10,000 \$25,000 or more, (ii) made aggregate expenditures of \$10,000 \$25,000 or more, or (iii) received loans of an aggregate of \$10,000 \$25,000 or more.~~

~~Beginning July 1, 2003, electronic filing is required for all political committees that during the reporting period (i) had at any time a balance or an accumulation of contributions of \$10,000 or more, (ii) made aggregate expenditures of \$10,000 or more, or (iii) received loans of an aggregate of \$10,000 or more.~~

The Board may provide by rule for the optional electronic filing of expenditure and contribution reports for all other political committees. The Board shall promptly make all reports filed under this Article by all political committees publicly available by means of a searchable database that is accessible on the Board's website through the World Wide Web.

The Board shall provide all software necessary to comply with this Section to candidates, public officials, political committees, and election authorities.

The Board shall implement a plan to provide computer access and assistance to candidates, public officials, political committees, and election authorities with respect to electronic filings required under this Article.

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~~For the purposes of this Section, "political committees" includes entities required to report to the Board under Section 9-7.5.~~

~~(Source: P.A. 90-495, eff. 8-18-97; 90-737, eff. 1-1-99.)~~

~~(10 ILCS 5/9-28.5 new)~~

Sec. 9-28.5. Injunctive relief for electioneering communications.

(a) Whenever the Attorney General, or a State's Attorney with jurisdiction over any portion of the relevant electorate, believes that any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article, he or she may bring an action in the name of the People of the State of Illinois or, in the case of a State's Attorney, the People of the County, against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

(b) Any political committee that believes any person, as defined in Section 9-1.6, is making, producing, publishing, republishing, or broadcasting an electioneering communication paid for by any person, as defined in Section 9-1.6, who has not first complied with the registration and disclosure requirements of this Article may bring an action in the circuit court against such person or persons to restrain by preliminary or permanent injunction the making, producing, publishing, republishing, or broadcasting of such electioneering communication until the registration and disclosure requirements have been met.

~~(10 ILCS 5/9-30)~~

~~Sec. 9-30. Ballot forfeiture. The State Board of Elections shall not certify the ~~the~~ name of any a person who has not paid a civil penalty imposed against ~~his or her~~ political committee ~~him or her~~ under this Article to ~~shall not~~ appear upon any ballot for any office in any election if ~~while~~ the penalty is unpaid by the date required for certification.~~

The State Board of Elections shall generate a list of all candidates whose political committees have not paid any civil penalty assessed against them under this Article. Such list shall be transmitted to any election authority whose duty it is to place the name of any such candidate on the ballot. The election authority shall not place upon the ballot the name of any candidate appearing on this list for any office in any election while the penalty is unpaid, unless the candidate has requested a hearing and the Board has not disposed of the matter by the date of certification.

~~(Source: P.A. 93-615, eff. 11-19-03.)~~

~~(10 ILCS 5/9-40 new)~~

Sec. 9-40. Campaign Finance Reform Task Force.

(a) There is hereby created the Campaign Finance Reform Task Force. The purpose of the Task Force is to conduct a thorough review of the implementation of campaign finance reform legislation in the State of Illinois, and the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations.

(b) The Task Force shall consist of 11 members, appointed as follows: 2 each by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, and the Minority Leader of the Senate; and 3 by the Governor, one of whom shall serve as chairperson. Members shall be adults and residents of Illinois. The individual (or his or her successor) who appointed a member may remove that appointed member before the expiration of his or her term on the Task Force for official misconduct, incompetence, or neglect of duty. Members shall serve without compensation, but may be reimbursed for expenses. Appointments shall be made within 60 days after the effective date of this amendatory Act of the 96th General Assembly.

(c) The Task Force shall conduct meetings and conduct a public hearing before filing any report mandated by this Section. At the public hearings, the Task Force shall allow interested persons to present their views and comments. The Task Force shall submit all reports required by this Section to the Governor, the State Board of Elections, and the General Assembly. In addition to the reports required by this Section, the Task Force may provide, at its discretion, interim reports and recommendations. The State Board of Elections shall provide administrative support to the Task Force.

(d) The Task Force shall study the feasibility of implementing a mechanism of campaign finance regulation that would subsidize political campaigns in exchange for voluntary adherence to specified expenditure limitations. In conducting its study, the Task Force shall consider a system of public financing by State government for the conduct and finance of election campaigns for the following: (1) Representatives and Senators in the General Assembly, (2) constitutional offices of State government, and (3) judges. The Task Force may propose financing campaigns through funding mechanisms

including, but not limited to, fines, voluntary contributions, surcharges on lobbying activities, and a whistleblower fund. In determining a plan for election to each office, the Task Force shall consider the following factors:

- (i) the amount of funds raised by past candidates for that office;
- (ii) the amount of funds expended by past candidates for that office;
- (iii) the disparity in the amount of funds raised by candidates of different political parties;
- (iv) the amount of funds expended by entities not affiliated with a candidate;
- (v) the amount of money contributed to or expended by a committee of a political party to promote a candidate;
- (vi) jurisprudence with relation to campaign finance and public financing; and
- (vii) such other factors, not confined to the foregoing, that the Task Force determines to be related to the public financing of elections in this State.

The Task Force shall also study the feasibility of creating public financing within the statutory system of limits, or if the system of limits should be changed to facilitate a system of public financing and the need for a process to protect candidates who receive public financing against candidates who do not opt to participate in public financing or who self-finance.

The task force shall submit the report required by this subsection no later than December 31, 2011. The Task Force may provide, at its discretion, interim reports and recommendations before that date.

(e) The Task Force shall examine and make recommendations related to the provisions of this amendatory Act of the 96th General Assembly in Section 9-8.5 (c-5) and (c-10) limiting contributions to a political party committee from a candidate political committee or political party committee. The Task Force shall submit a report with recommendations required by this subsection no later than September 30, 2012. The Task Force may provide, at its discretion, interim reports and recommendations before that date.

(f) The Task Force shall review the implementation of this amendatory Act of the 96th General Assembly and any additional campaign finance reform legislation considered by the General Assembly. The Task Force shall examine each provision of this amendatory Act of the 96th General Assembly and make recommendations for changes, deletions, or improvements. In conducting its review of campaign finance reform implementation, the Task Force shall also consider and address a variety of empirical measures, case studies, and comparative analyses, including, but not limited to the following:

- (i) campaign finance legislation in other states as well as the federal system of campaign finance regulation;
- (ii) the impact of contribution limits in Illinois, including the impact on contributions from individuals, corporations, associations, and labor organizations;
- (iii) the impact of contribution limits on independent expenditures in Illinois;
- (iv) the effectiveness, reliability, and cost of various enforcement mechanisms;
- (v) the best practices in mandating timely disclosure of the origin of campaign contributions; and
- (vi) the best way to require and conduct random audits and audits for cause.

The Task Force shall also submit a report detailing the following: (i) the effectiveness of enforcement mechanisms, (ii) whether the disclosure requirements and the definition of "receipt" result in accurate reporting; (iii) issues related to audits, (iv) the effect of using the same election cycle for all members of the General Assembly, and (v) the impact of the Section 9-8.5(h).

The Task Force shall submit reports required by this subsection no later than March 1, 2013 and March 1, 2015.

(g) The Task Force shall submit a final report by March 10, 2015. The Task Force is abolished and this Section is repealed on March 15, 2015.

(10 ILCS 5/29-12) (from Ch. 46, par. 29-12)

Sec. 29-12. Disregard of Election Code. Except with respect to Article 9 of this Code, any person who knowingly (a) does any act prohibited by or declared unlawful by, or (b) fails to do any act required by, this Code, shall, unless a different punishment is prescribed by this Code, be guilty of a Class A misdemeanor.

(Source: P.A. 78-887.)

(10 ILCS 5/9-1.7 rep.) (10 ILCS 5/9-4 rep.) (10 ILCS 5/9-7.5 rep.) (10 ILCS 5/9-12 rep.) (10 ILCS 5/9-14 rep.)

Section 10. The Election Code is amended by repealing Sections 9-1.7, 9-4, 9-7.5, 9-12, and 9-14.

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

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Section 99. Effective date. This Act takes effect on January 1, 2011, except that this Section and the changes in Section 5 to Sections 9-1.14, 9-1.15, 9-2, 9-3, 9-8.6, 9-28.5, and 9-40 of the Election Code take effect on July 1, 2010."

Under the rules, the foregoing **Senate Bill No. 1466**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1471

A bill for AN ACT concerning regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1471

House Amendment No. 3 to SENATE BILL NO. 1471

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1471**

AMENDMENT NO. 1. Amend Senate Bill 1471 by replacing everything after the enacting clause with the following:

"Section 5. The Cemetery Care Act is amended by changing Section 2a as follows:

(760 ILCS 100/2a) (from Ch. 21, par. 64.2a)

Sec. 2a. Powers ~~and~~ and duties of cemetery authorities; cemetery property maintained by cemetery care funds.

(a) With respect to cemetery property maintained by cemetery care funds, a cemetery authority shall be responsible for the performance of:

- (1) the care and maintenance of the cemetery property it owns; and
- (2) the opening and closing of all graves, crypts, or niches for human remains in any cemetery property it owns.

(b) A cemetery authority owning, operating, controlling or managing a privately operated cemetery shall make available for inspection, and upon reasonable request provide a copy of, its rules and regulations and its current prices of interment, inurnment, or entombment rights.

(c) A cemetery authority owning, operating, controlling or managing a privately operated cemetery may, from time to time as land in its cemetery may be required for burial purposes, survey and subdivide those lands and make and file in its office a map thereof delineating the lots or plots, avenues, paths, alleys, and walks and their respective designations. The cemetery authority shall open the map to public inspection. The cemetery authority may make available a copy of the overall map upon written request and payment of reasonable photocopy fees. Any unsold lots, plots or parts thereof, in which there are not human remains, may be resurveyed and altered in shape or size, and properly designated on such map. Nothing contained in this subsection, however, shall prevent the cemetery authority from enlarging an interment right by selling to the owner thereof the excess space next to such interment right and permitting interments therein, provided reasonable access to such interment right and to adjoining interment rights is not thereby eliminated. The Comptroller may waive any or all of the requirements of this subsection (c) for good cause shown.

(d) A cemetery authority owning, operating, controlling, or managing a privately operated cemetery shall keep a record of every interment, entombment, and inurnment in the cemetery. The record shall include the deceased's name, age, and date of burial, when these particulars can be conveniently obtained, and the lot, plot, or section where the human remains are interred, entombed, or inurned. The record shall be open to public inspection consistent with State and federal law. The cemetery authority shall make available, consistent with State and federal law, a true copy of the record upon written request and payment of reasonable copy costs.

(e) A cemetery authority owning, operating, controlling, or managing a privately operated cemetery shall provide access to the cemetery under the cemetery authority's reasonable rules and regulations.

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(Source: P.A. 92-419, eff. 1-1-02.)".

**AMENDMENT NO. 3 TO SENATE BILL 1471**

AMENDMENT NO. 3. Amend Senate Bill 1471, AS AMENDED, by replacing everything after the enacting clause with the following:

"Article 5.  
General Provisions

Section 5-1. Short title. This Act may be cited as the Cemetery Oversight Act.

Section 5-5. Findings and purpose. The citizens of Illinois have a compelling interest in the expectation that their loved ones will be treated with the same dignity and respect in death as they are entitled to be treated in life. The laws of the State should provide adequate protection in upholding the sanctity of the handling and disposition of human remains and the preservation of final resting places, but without unduly restricting family, ethnic, cultural, and religious traditions. The purpose of this Act is to ensure that the deceased be accorded equal treatment and respect for human dignity without reference to ethnic origins, cultural backgrounds, or religious affiliations.

Section 5-10. Declaration of public policy. The practice of cemetery operation in the State of Illinois is hereby declared to affect the public health, safety, and well-being of its citizens and to be subject to regulation and control in the public interest. It is further declared that cemetery operation, as defined in this Act, should merit the confidence of the public and that only qualified persons shall be authorized to own, operate, manage, or otherwise control a cemetery in the State of Illinois. This Act shall be liberally construed to best carry out this purpose.

Section 5-15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record for a cemetery authority shall be the permanent street address of the cemetery.

"Applicant" means a person applying for licensure under this Act as a cemetery authority, cemetery manager, or customer service employee. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Burial permit" means a permit for the disposition of a dead human body that is filed with the Illinois Department of Public Health.

"Care" means the maintenance of a cemetery and of the lots, graves, crypts, niches, family mausoleums, memorials, and markers therein, including: (i) the cutting and trimming of lawn, shrubs, and trees at reasonable intervals; (ii) keeping in repair the drains, water lines, roads, buildings, fences, and other structures, in keeping with a well-maintained cemetery as provided for in Section 20-5 of this Act and otherwise as required by rule; (iii) maintenance of machinery, tools, and equipment for such care; (iv) compensation of employees, any discretionary payment of insurance premiums, and any reasonable payments for employees' pension and other benefits plans; and (v) the payment of expenses necessary for such purposes and for maintaining necessary records of lot ownership, transfers, and burials.

"Care funds", as distinguished from receipts from annual charges or gifts for current or annual care, means any realty or personalty impressed with a trust by the terms of any gift, grant, contribution, payment, legacy, or pursuant to contract, accepted by any cemetery authority or by any trustee, licensee, agent, or custodian for the same, under Article 15 of this Act, and any income accumulated therefrom, where legally so directed by the terms of the transaction by which the principal was established.

"Cemetery" means any land or structure in this State dedicated to and used, or intended to be used, for the interment, inurnment, or entombment of human remains.

"Cemetery association" means an association of 6 or more persons, and their successors in trust, who have received articles of organization from the Secretary of State to operate a cemetery; the articles of organization shall be in perpetuity and in trust for the use and benefit of all persons who may acquire burial lots in a cemetery.

"Cemetery authority" means any individual or legal entity that owns or controls cemetery lands or

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property.

"Cemetery manager" means an individual who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition also includes, without limitation, an individual that is an independent contractor or individual employed or contracted by an independent contractor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.

"Cemetery operation" means to engage or attempt to engage in the interment, inurnment, or entombment of human remains or to engage in or attempt to engage in the care of a cemetery.

"Cemetery Oversight Database" means a database certified by the Department as effective in tracking the interment, entombment, or inurnment of human remains.

"Certificate of organization" means the document received by a cemetery association from the Secretary of State that indicates that the cemetery association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued.

"Comptroller" means the Comptroller of the State of Illinois.

"Consumer" means a person, or the persons given priority for the disposition of an individual's remains under the Disposition of Remains Act, who purchases or is considering purchasing cemetery, burial, or cremation products or services from a cemetery authority or crematory authority, whether for themselves or for another person.

"Customer service employee" means a cemetery employee who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an individual that is an independent contractor or an individual employed or contracted by an independent contractor who has direct contact with consumers and explains cemetery merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include a cemetery employee, an individual that is an independent contractor, or an individual employed or contracted by an independent contractor who merely provides a printed cemetery list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, souvenirs, or other similar items.

"Department" means the Department of Financial and Professional Regulation.

"Employee" means an individual who works for a cemetery authority where the cemetery authority has the right to control what work is performed and the details of how the work is performed regardless of whether federal or State payroll taxes are withheld. This definition also includes, without limitation, an individual who is an independent contractor, or an individual employed or contracted by an independent contractor.

"Entombment right" means the right to place individual human remains or individual cremated human remains in a specific mausoleum crypt or lawn crypt selected by a consumer for use as a final resting place.

"Family burying ground" means a cemetery in which no lots are sold to the public and in which interments are restricted to the immediate family or a group of individuals related to each other by blood or marriage.

"Full exemption" means an exemption granted to a cemetery authority pursuant to subsection (a) of Section 5-20.

"Funeral director" means a funeral director as defined by the Funeral Directors and Embalmers Licensing Code.

"Grave" means a space of ground in a cemetery used or intended to be used for burial.

"Green burial or cremation disposition" means burial or cremation practices that reduce the greenhouse gas emissions, waste, and toxic chemicals ordinarily created in burial or cremation or, in the case of greenhouse gas emissions, mitigate or offset emissions. Such practices include standards for burial or cremation certified by the Green Burial Council or any other organization or method that the Department may name by rule.

"Immediate family" means the designated agent of a person or the persons given priority for the disposition of a person's remains under the Disposition of Remains Act.

"Imputed value" means the retail price of comparable rights within the same or similar area of the cemetery.

"Independent contractor" means a person who works for a cemetery authority where the cemetery authority has the right to control or direct only the result of the work and not the means and methods of

accomplishing the result.

"Individual" means a natural person.

"Interment right" means the right to place individual human remains or cremated human remains in a specific underground location selected by a consumer for use as a final resting place.

"Inurnment right" means the right to place individual cremated human remains in a specific niche selected by the consumer for use as a final resting place.

"Investment Company Act of 1940" means Title 15 of the United States Code, Sections 80a-1 to 80a-64, inclusive, as amended.

"Investment company" means any issuer (a) whose securities are purchasable only with care funds or trust funds, or both; (b) that is an open and diversified management company as defined in and registered under the Investment Company Act of 1940; and (c) that has entered into an agreement with the Department containing such provisions as the Department by regulation requires for the proper administration of this Act.

"Lawn crypt" means a permanent underground crypt usually constructed of reinforced concrete or similar material installed in multiple units for the entombment of human remains.

"Licensee" means a person licensed under this Act as a cemetery authority, cemetery manager, or customer service employee. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act. This definition does not include a registered cemetery employee.

"Mausoleum crypt" means a space in a mausoleum used or intended to be used, above or underground, to entomb human remains.

"Municipal cemetery" means a cemetery owned, operated, controlled, or managed by any city, village, incorporated town, township, county, or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate, or manage a cemetery.

"Niche" means a space in a columbarium used, or intended to be used, for inurnment of cremated human remains.

"Partial exemption" means an exemption granted to a cemetery authority pursuant to subsection (b) of Section 5-20.

"Permanent parcel identification number" means a unique and permanent number assigned to a grave, plot, crypt, or niche that enables the Department to ascertain the precise location of a decedent's remains interred, entombed, or inurned after the effective date of this Act.

"Person" means any individual, firm, partnership, association, corporation, limited liability company, trustee, government or political subdivision, or other entity.

"Registered cemetery employee card" means a card issued by the Department to an individual who has applied to the Department for registration as a registered cemetery employee and meets the requirements for employment by a licensed cemetery authority.

"Religious cemetery" means a cemetery owned, operated, controlled, or managed by any recognized church, religious society, association, or denomination, or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association, or denomination.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Term burial" means a right of interment sold to a consumer in which the cemetery authority retains the right to disinter and relocate the remains, subject to the provisions of subsection (d) of Section 35-15 of this Act.

"Trustee" means any person authorized to hold funds under this Act.

"Unique personal identifier" means the permanent parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death for human remains interred, entombed, or inurned after the effective date of this Act.

#### Section 5-20. Exemptions.

(a) Notwithstanding any provision of law to the contrary, this Act does not apply to (1) any cemetery authority operating as a family burying ground, (2) any cemetery authority that has not engaged in an interment, inurnment, or entombment of human remains within the last 10 years and does not accept or maintain care funds, or (3) any cemetery authority that is less than 2 acres and does not accept or maintain care funds. For purposes of determining the applicability of this subsection, the number of interments, inurnments, and entombments shall be aggregated for each calendar year. A cemetery authority claiming a full exemption shall apply for exempt status as provided for in Article 10 of this Act. A cemetery authority that performs activities that would disqualify it from a full exemption is required to apply for licensure within the calendar year following the date on which its activities would

disqualify it for a full exemption. A cemetery authority that previously qualified for and maintained a full exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(b) Notwithstanding any provision of law to the contrary, a cemetery authority that does not qualify for a full exemption that is operating as a cemetery authority (i) that engages in 25 or fewer interments, inurnments, or entombments of human remains for each of the preceding 2 calendar years and does not accept or maintain care funds, (ii) that is operating as a municipal cemetery, or (iii) that is operating as a religious cemetery is exempt from this Act, but is required to comply with Sections 20-5(a), 20-5(b), 20-5(c), 20-5(d), 20-6, 25-3, and 25-120 of this Act. Cemetery authorities claiming a partial exemption shall apply for the partial exemption as provided in Article 10 of this Act. A cemetery authority that changes to a status that would disqualify it from a partial exemption is required to apply for licensure within the calendar year following the date on which it changes its status. A cemetery authority that maintains a partial exemption that fails to timely apply for licensure shall be deemed to have engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(c) Nothing in this Act applies to the City of Chicago in its exercise of its powers under the O'Hare Modernization Act or limits the authority of the City of Chicago to acquire property or otherwise exercise its powers under the O'Hare Modernization Act, or requires the City of Chicago, or any person acting on behalf of the City of Chicago, to comply with the licensing, regulation, investigation, or mediation requirements of this Act in exercising its powers under the O'Hare Modernization Act.

Section 5-25. Powers of the Department. Subject to the provisions of this Act, the Department may exercise the following powers:

(1) Authorize examinations to ascertain the qualifications and fitness of applicants for licensing as a licensed cemetery manager or as a customer service employee and pass upon the qualifications of applicants for licensure.

(2) Examine and audit a licensed cemetery authority's records from any year, care funds from any year, or any other aspects of cemetery operation as the Department deems appropriate.

(3) Investigate any and all cemetery-related activity.

(4) Conduct hearings on proceedings to refuse to issue or renew licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline a license under this Act or take other non-disciplinary action.

(5) Adopt rules required for the administration of this Act.

(6) Prescribe forms to be issued for the administration and enforcement of this Act.

(7) Maintain rosters of the names and addresses of all licensees and all persons whose licenses have been suspended, revoked, denied renewal, or otherwise disciplined within the previous calendar year. These rosters shall be available upon written request and payment of the required fee as established by rule.

#### Article 10.

#### Licensing and Registration Provisions

Section 10-5. Restrictions and limitations. No person shall, without a valid license issued by the Department, (i) hold himself or herself out in any manner to the public as a licensed cemetery authority, licensed cemetery manager, or customer service employee; (ii) attach the title "licensed cemetery authority", "licensed cemetery manager", or "licensed customer service employee" to his or her name; (iii) render or offer to render services constituting the practice of cemetery operation; or (iv) accept care funds within the meaning of this Act or otherwise hold funds for care and maintenance unless such person is holding and managing funds on behalf of a cemetery authority and is authorized to conduct a trust business under the Corporate Fiduciary Act or the federal National Bank Act.

Section 10-10. Current licensees. A person acting as a cemetery authority that is licensed on the effective date of this Act under the Cemetery Care Act or Cemetery Association Act need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a cemetery authority license. The application for a cemetery authority license must be submitted to the Department within 9 months after the effective date of this Act. If the person fails to submit the application within 9 months after the effective date of this Act, the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

Section 10-15. Persons formerly unregulated.

(a) A person acting as a cemetery authority, cemetery manager, or customer service employee who, prior to the effective date of this Act, was not required to obtain licensure need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a license. The application for a cemetery authority, cemetery manager, or customer service employee license must be submitted to the Department within 6 months after the effective date of this Act. If the person fails to submit the application within 6 months after the effective date of this Act, the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline in accordance with Article 25 of this Act.

(b) Persons who are cemetery employees on the effective date of this Act must comply with the registration and Employee's Statement requirements in Section 10-22 of this Act.

(c) Persons who become cemetery employees after the effective date of this Act must comply with the registration and Employee's Statement requirements in Section 10-22 of this Act.

Section 10-20. Application for original license or exemption.

(a) Applications for original licensure as a cemetery authority, cemetery manager, or customer service employee authorized by this Act, or application for exemption from licensure as a cemetery authority, shall be made to the Department on forms prescribed by the Department, which shall include the applicant's Social Security number or FEIN number, or both, and shall be accompanied by the required fee as set by rule. If a cemetery authority seeks to practice at more than one location, it shall meet all licensure requirements at each location as required by this Act and by rule, including submission of application and fee. A person licensed as a cemetery manager or customer service employee need not register as an employee of the cemetery authority.

(b) If the application for licensure as a cemetery authority does not claim a full exemption or partial exemption, then the cemetery authority license application shall be accompanied by a fidelity bond or letter of credit in the amount required by rule. If care funds of a cemetery authority are held by any entity authorized to do a trust business under the Corporate Fiduciary Act or held by an investment company, then the Department may waive the requirement of a bond or letter of credit as established by rule. If the Department finds at any time that the bond or letter of credit is insecure or exhausted or otherwise doubtful, then an additional bond or letter of credit in like amount to be approved by the Department shall be filed by the cemetery authority applicant or licensee within 30 days after written demand is served upon the applicant or licensee by the Department. In addition, if the cemetery authority application does not claim a full exemption or partial exemption, then the license application shall be accompanied by proof of liability insurance or a letter of credit in the amount required by rule. The proof of liability insurance or letter of credit shall run to the Secretary and shall be for the benefit of any consumer of such cemetery authority for any liability incurred by the cemetery authority related to the rendering of any of the services referred to in this Act. The procedure by which claims on the liability insurance or letter of credit are made and paid shall be determined by rule. The fidelity bond shall be issued by a bonding company authorized to do business in this State, and the liability insurance shall be issued by an insurance company authorized to do business in this State. The letter of credit shall be issued by a financial institution authorized to do business in this State. Maintaining the bonds or letters of credit required under this subsection is a continuing obligation for licensure. A bonding company may terminate a bond, a financial institution may terminate a letter of credit, or an insurance company may terminate liability insurance and avoid further liability by filing a 60-day notice of termination with the Department and at the same time sending the same notice to the cemetery authority.

(c) After initial licensure, if any person comes to obtain at least 25% of the ownership over the licensed cemetery authority, then the cemetery authority shall have to apply for a new license and receive licensure in the required time as set by rule. The current license remains in effect until the Department takes action on the application for a new license.

(d) All applications shall contain the information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for an exemption from licensure or for a license to practice as a cemetery authority, cemetery manager, or customer service employee as set by rule.

Section 10-21. Qualifications for licensure.

(a) An applicant is qualified for licensure as a cemetery authority if the applicant meets all of the following qualifications:

(1) The applicant is of good moral character, including compliance with the Code of

Professional Conduct and Ethics as provided for by rule, and has not committed any act or offense in

any jurisdiction that would constitute the basis for discipline under this Act. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of any jurisdiction. If the applicant is a corporation, limited liability company, partnership, or other entity permitted by law, then each principal, owner, member, officer, and shareholder holding 25% or more of corporate stock is to be of good moral character. Good moral character is a continuing requirement of licensure.

(2) The applicant provides evidence satisfactory to the Department that the applicant has sufficient financial resources to operate a cemetery as established by rule. Maintaining sufficient financial resources is a continuing requirement for licensure.

(3) The applicant has complied with all other requirements of this Act and rules adopted for the implementation of this Act.

(b) The cemetery manager and customer service employees of a licensed cemetery authority shall apply for licensure as a cemetery manager or customer service employee on forms prescribed by the Department and pay the required fee. A person is qualified for licensure as a cemetery manager or customer service employee if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Is of good moral character, including compliance with the Code of Professional Conduct and Ethics as provided for by rule. Good moral character is a continuing requirement of licensure. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of any jurisdiction.

(3) Submits proof of successful completion of a high school education or its equivalent as established by rule.

(4) Submits his or her fingerprints in accordance with subsection (c) of this Section.

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a cemetery manager.

(6) Successfully passes the examination authorized by the Department for cemetery manager or customer service employee, whichever is applicable.

(7) Has complied with all other requirements of this Act and rules adopted for the implementation of this Act.

(8) In the case of a customer service employee, can be reasonably expected to treat consumers professionally, fairly, and ethically.

(c) Each applicant for a cemetery manager or customer service employee license shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for requesting and furnishing criminal history record information that is prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to a designated fingerprint vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated fingerprint vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted.

#### Section 10-22. Employee registration.

(a) All employees shall apply for registration as a registered cemetery employee on forms prescribed by the Department, meet all requirements contained in this Section, and pay the required fee.

The holder of a cemetery authority license issued under this Act may employ or contract with employees who are not licensed cemetery managers or customer service employees, in the conduct of the licensee's business under the following circumstances:

(1) No individual that fails to obtain a registered cemetery employee card may be employed by or contracted to do work for a cemetery authority under this Section.

(2) No individual may be employed by or contracted to do work for a cemetery authority or cemetery manager under this Section until he or she has executed and furnished to the cemetery authority, on forms furnished by the Department, a verified statement to be known as "Employee's Statement" setting forth all of the following:

(i) The individual's full name, age, and residence address.

(ii) The individual's work history for the 5 years immediately before the date of the execution of the statement, the place where the business or occupation was engaged in, and the names of employers, if any.

(iii) That the individual has not had licensure as a cemetery authority, cemetery manager, or customer service employee denied, revoked, or suspended under this Act within one year before the date the individual's application for registration as a registered cemetery employee is received by the Department.

(iv) Any declaration of incompetence by a court of competent jurisdiction that has not been restored.

(v) Any other information as may be required by any rule of the Department to show the good character, competency, and integrity of the individual executing the statement.

(3) The Department shall issue a registered cemetery employee card, in a form the Department prescribes, to an individual who applies within 90 days after receipt of an application.

(4) Notwithstanding the other provisions of this subsection, a cemetery authority may employ or contract with an individual without a registered cemetery employee card if the individual applies for a registered cemetery employee card on the first day of his or her employment.

(4.5) Notwithstanding the other provisions of this subsection, a cemetery authority may continue to employ or contract with an individual under its employ or with which it has a contract on the effective date of this Act if the individual applies for a registered cemetery employee card within 10 days after the effective date of this Act.

(5) The holder of a registered cemetery employee card shall carry the card at all times while engaged in the performance of the duties of his or her employment or contract. Expiration and requirements for renewal of registered cemetery employee cards shall be established by rule of the Department. Possession of a registered cemetery employee card does not in any way imply that the holder of the card is employed or contracted by a cemetery authority unless the registered cemetery employee card is accompanied by the employee identification card required by subsection (f) of this Section.

(b) Each cemetery authority shall maintain a record of each employee that is accessible to the Department. The record shall contain the following information:

(1) A photograph taken within 10 days of the date that the employee begins employment with the cemetery authority. The photograph shall be replaced with a current photograph no later than 4 calendar years after the date of employment and every 4 years thereafter. The photo may consist of the employee's driver's license.

(2) The Employee's Statement specified in subsection (b) of this Section.

(3) A copy of the employee's registered cemetery employee card.

(4) All correspondence or documents relating to the character and integrity of the employee received by the cemetery authority from any former employer, cemetery association, government agency, or law enforcement agency.

(5) The Department may, by rule, prescribe further record requirements.

(c) Every cemetery authority shall furnish an employee identification card to each employee. This employee identification card shall contain a recent photograph of the employee, the employee's name, the name and cemetery authority license number of the cemetery authority, the employee's physical description, the signature of an authorized individual on behalf of the cemetery authority, the signature of that employee, the date of issuance, and an employee identification card number.

(d) No cemetery authority may issue an employee identification card to any individual who is not employed by the cemetery authority in accordance with this Section or falsely state or represent that a person is or has been in his or her employ.

(e) Every cemetery authority shall confiscate the employee identification card of any employee whose employment is terminated.

Section 10-25. Examination; failure or refusal to take the examination.

(a) The Department shall authorize examinations of cemetery manager and customer service employee applicants at such times and places as it may determine. The examinations shall fairly test an applicant's qualifications to practice as cemetery manager or customer service employee, whatever the case may be, and knowledge of the theory and practice of cemetery operation and management or cemetery customer service, whichever is applicable. The examination shall further test the extent to which the applicant understands and appreciates that the final disposal of a deceased human body should be attended with appropriate observance and understanding, having due regard and respect for the reverent care of the

human body and for those bereaved and for the overall spiritual dignity of an individual.

(a-5) The examinations for cemetery manager and customer service employee shall be appropriate for cemetery professionals and shall not cover mortuary science.

(b) Applicants for examinations shall pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified after the application for examination has been received and acknowledged by the Department or the designated testing service shall result in forfeiture of the examination fee.

(c) If the applicant neglects, fails, or refuses to take an examination or fails to pass an examination for a license under this Act within one year after filing an application, then the application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) The Department may employ consultants for the purpose of preparing and conducting examinations.

(e) The Department shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations in the cemetery industry that are determined appropriate to measure the qualifications of an applicant for licensure.

Section 10-30. Continuing education. The Department shall adopt rules for continuing education of cemetery managers and customer service employees. The requirements of this Section apply to any person seeking renewal or restoration under Section 10-40 of this Act.

Section 10-40. Expiration and renewal of license. The expiration date, renewal period, and other requirements for each license or registration shall be set by rule.

Section 10-45. Transfer or sale, preservation of license, liability for shortage.

(a) In the case of a sale of any cemetery or any part thereof or of any related personal property by a cemetery authority to a purchaser or pursuant to foreclosure proceedings, except the sale of burial rights, services, or merchandise to a person for his or her personal or family burial or interment, the purchaser is liable for any shortages existing before or after the sale in the care funds required to be maintained in a trust pursuant to this Act and shall honor all instruments issued under Article 15 of this Act for that cemetery. Any shortages existing in the care funds constitute a prior lien in favor of the trust for the total value of the shortages and notice of such lien shall be provided in all sales instruments.

(b) In the event of a sale or transfer of all or substantially all of the assets of the cemetery authority, the sale or transfer of the controlling interest of the corporate stock of the cemetery authority, if the cemetery authority is a corporation, or the sale or transfer of the controlling interest of the partnership, if the cemetery authority is a partnership, or the sale or transfer of the controlling membership, if the cemetery authority is a limited liability company, the cemetery authority shall, at least 30 days prior to the sale or transfer, notify the Department, in writing, of the pending date of sale or transfer so as to permit the Department to audit the books and records of the cemetery authority. The audit must be commenced within 10 business days of the receipt of the notification and completed within the 30-day notification period unless the Department notifies the cemetery authority during that period that there is a basis for determining a deficiency that will require additional time to finalize. The sale or transfer may not be completed by the cemetery authority unless and until:

(1) the Department has completed the audit of the cemetery authority's books and records;

(2) any delinquency existing in the care funds has been paid by the cemetery authority or arrangements satisfactory to the Department have been made by the cemetery authority on the sale or transfer for the payment of any delinquency; and

(3) the Department issues a new cemetery authority license upon application of the newly controlled corporation or partnership, which license must be applied for at least 30 days prior to the anticipated date of the sale or transfer, subject to the payment of any delinquencies, if any, as stated in item (2) of this subsection (b).

(c) In the event of a sale or transfer of any cemetery land, including any portion of cemetery land in which no human remains have been interred, a licensee shall, at least 45 days prior to the sale or transfer, notify the Department, in writing, of the pending sale or transfer. The cemetery authority shall submit a current survey of the land within 30 days after the transfer or sale.

(d) For purposes of this Section, a person who acquires the cemetery through a real estate foreclosure shall be subject to the provisions of this Section pertaining to the purchaser, including licensure.

Section 10-50. Dissolution. Where any licensed cemetery authority or any trustee thereof has accepted care funds within the meaning of this Act, and dissolution is sought by such cemetery authority in any manner, by resolution of such cemetery authority, or the trustees thereof, notice shall be given to the Department of such intention to dissolve and proper disposition shall be made of the care funds so held for the general benefit of such lot owners by or for the benefit of such cemetery authority, as provided by law, or in accordance with the trust provisions of any gift, grant, contribution, payment, legacy, or pursuant to any contract whereby such funds were created. The Department, represented by the Attorney General, may apply to the circuit court for the appointment of a receiver, trustee, successor in trust, or for directions of such court as to the proper disposition to be made of such care funds, to the end that the uses and purposes for which such trust or care funds were created may be accomplished, and for proper continued operation of the cemetery.

Section 10-55. Fees.

(a) Except as provided in subsection (b) of this Section, the fees for the administration and enforcement of this Act, including, but not limited to, original licensure, renewal, and restoration fees, shall be set by the Department by rule. The fees shall not be refundable.

(b) Applicants for examination shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination.

(c) All fees and other moneys collected under this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

Section 10-60. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a non-renewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing.

If, after termination or denial, the person seeks a license, then he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

Article 15.  
Trust Funds

Section 15-5. Gifts and contributions; trust funds.

(a) A licensed cemetery authority is hereby authorized and empowered to accept any gift, grant, contribution, payment, legacy, or pursuant to contract, any sum of money, funds, securities, or property of any kind, or the income or avails thereof, and to establish a trust fund to hold the same in perpetuity for the care of its cemetery, or for the care of any lot, grave, crypt, or niche in its cemetery, or for the special care of any lot, grave, crypt, or niche or of any family mausoleum or memorial, marker, or monument in its cemetery. Not less than the following amounts will be set aside and deposited in trust:

(1) For interment rights, \$1 per square foot of the space sold or 15% of the sales price or imputed value, whichever is the greater, with a minimum of \$25 for each individual interment right.

(2) For entombment rights, not less than 10% of the sales price or imputed value with a minimum of \$25 for each individual entombment right.

(3) For inurnment rights, not less than 10% of the sales price or imputed value with a minimum of \$15 for each individual inurnment right.

(4) For any transfer of interment rights, entombment rights, or inurnment rights recorded in the records of the cemetery authority, excepting only transfers between members of the immediate family of the transferor, a minimum of \$25 for each such right transferred.

(5) Upon an interment, entombment, or inurnment in a grave, crypt, or niche in which rights of interment, entombment, or inurnment were originally acquired from a cemetery authority prior to January 1, 1948, a minimum of \$25 for each such right exercised.

(6) For the special care of any lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, the full amount received.

(b) The cemetery authority shall act as trustee of all amounts received for care until they have been deposited with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act. All trust deposits shall be made within 30 days after receipt.

(c) No gift, grant, legacy, payment, or other contribution shall be invalid by reason of any indefiniteness or uncertainty as to the beneficiary designated in the instrument creating the gift, grant, legacy, payment, or other contribution. If any gift, grant, legacy, payment, or other contribution consists of non-income producing property, then the cemetery authority accepting it is authorized and empowered to sell such property and to invest the funds obtained in accordance with subsection (d) of this Section.

(d) The care funds authorized by this Section and provided for in this Article shall be held intact and, unless otherwise restricted by the terms of the gift, grant, legacy, contribution, payment, contract, or other payment, as to investments made after June 11, 1951, the trustee of the care funds of the cemetery authority, in acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property for any such trust, shall act in accordance with the duties for trustees set forth in the Illinois Trusts and Trustees Act. Within the limitations of the foregoing standard, the trustee of the care funds of the cemetery authority is authorized to acquire and retain every kind of property, real, personal, or mixed, and every kind of investment, including specifically, but without limiting the generality of the foregoing, bonds, debentures and other corporate obligations, preferred or common stocks and real estate mortgages, which persons of prudence, discretion, and intelligence acquire or retain for their own account. Within the limitations of the foregoing standard, the trustee is authorized to retain property properly acquired, without limitation as to time and without regard to its suitability for original purchase. The care funds authorized by this Section may be commingled with other trust funds received by such cemetery authority for the care of its cemetery or for the care or special care of any lot, grave, crypt, niche, private mausoleum, memorial, marker, or monument in its cemetery, whether received by gift, grant, legacy, contribution, payment, contract, or other conveyance made to such cemetery authority. Such care funds may be invested with common trust funds as provided in the Common Trust Fund Act. The net income only from the investment of such care funds shall be allocated and used for the purposes specified in the transaction by which the principal was established in the proportion that each contribution bears to the entire sum invested.

#### Section 15-10. Restrictions on loans, gifts, and investments.

(a) No loan; investment; purchase of insurance on the life of any trustee, cemetery owner, or employee; purchase of any real estate; or any other transaction using care funds by any trustee, licensee, cemetery manager, or any other cemetery employee shall be made to or for the benefit of any person, officer, director, trustee, or party owning or having any interest in any licensee, or to any firm, corporation, trade association or partnership in which any officer, director, trustee, or party has any interest, is a member of, or serves as an officer or director. A violation of this Section shall constitute the intentional and improper withdrawal of trust funds under Section 25-105 of this Act.

(b) No loan or investment in any unproductive real estate or real estate outside of this State or in permanent improvements of the cemetery or any of its facilities shall be made, unless specifically authorized by the instrument whereby the principal fund was created. No commission or brokerage fee for the purchase or sale of any property shall be paid in excess of that usual and customary at the time and in the locality where such purchase or sale is made, and all such commissions and brokerage fees shall be fully reported in the next annual statement of such cemetery authority or trustee.

(c) The prohibitions provided for in this Section apply to and include the spouse of and immediate family living with the officer, member, director, trustee, party owning any portion of such cemetery authority, or licensee under this Act.

#### Section 15-15. Care funds; deposits; investments.

(a) Whenever a cemetery authority accepts care funds, either in connection with the sale or giving away at an imputed value of an interment right, entombment right, or inurnment right, or in pursuance of a contract, or whenever, as a condition precedent to the purchase or acceptance of an interment right, entombment right, or inurnment right, such cemetery authority shall establish a care fund or deposit the funds in an already existing care fund.

(b) The cemetery authority shall execute and deliver to the person from whom it received the care funds an instrument in writing that shall specifically state: (i) the nature and extent of the care to be furnished and (ii) that such care shall be furnished only in so far as net income derived from the amount

deposited in trust will permit (the income from the amount so deposited, less necessary expenditures of administering the trust, shall be deemed the net income).

(c) The setting-aside and deposit of care funds shall be made by such cemetery authority no later than 30 days after the close of the month in which the cemetery authority gave away for an imputed value or received the final payment on the purchase price of interment rights, entombment rights, or inurnment rights, or received the final payment for the general or special care of a lot, grave, crypt, or niche or of a family mausoleum, memorial, marker, or monument, and such amounts shall be held by the trustee of the care funds of such cemetery authority in trust in perpetuity for the specific purposes stated in the written instrument described in subsection (b). For all care funds received by a cemetery authority, except for care funds received by a cemetery authority pursuant to a specific gift, grant, contribution, payment, legacy, or contract that are subject to investment restrictions more restrictive than the investment provisions set forth in this Act, and except for care funds otherwise subject to a trust agreement executed by a person or persons responsible for transferring the specific gift, grant, contribution, payment, or legacy to the cemetery authority that contains investment restrictions more restrictive than the investment provisions set forth in this Act, the cemetery authority may, without the necessity of having to obtain prior approval from any court in this State, designate a new trustee in accordance with this Act and invest the care funds in accordance with this Section, notwithstanding any contrary limitation contained in the trust agreement.

(d) Any cemetery authority engaged in selling or giving away at an imputed value interment rights, entombment rights, or inurnment rights, in conjunction with the selling or giving away at an imputed value any other merchandise or services not covered by this Act, shall be prohibited from increasing the sales price or imputed value of those items not requiring a care fund deposit under this Act with the purpose of allocating a lesser sales price or imputed value to items that require a care fund deposit.

(e) If any sale that requires a deposit to a cemetery authority's care fund is made by a cemetery authority on an installment basis, and the installment contract is factored, discounted, or sold to a third party, then the cemetery authority shall deposit the amount due to the care fund within 30 days after the close of the month in which the installment contract was factored, discounted, or sold. If, subsequent to such deposit, the purchaser defaults on the contract such that no care fund deposit on that contract would have been required, then the cemetery authority may apply the amount deposited as a credit against future required deposits.

(f) The trust authorized by this Section shall be a single purpose trust fund. In the event of the cemetery authority's bankruptcy, insolvency, or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be available to any creditor as assets of the cemetery authority or to pay any expenses of any bankruptcy or similar proceeding, but shall be retained intact to provide for the future maintenance of the cemetery. Except in an action by the Department to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the Department.

Section 15-25. Funds purpose and exemptions. The trust funds authorized by this Article, and the income therefrom, and any funds received under a contract to furnish care of a burial space for a definite number of years, shall be held for the general benefit of the lot owners and are exempt from taxation. The trust funds authorized by the provisions of this Article, and the income therefrom, are exempt from the operation of all laws of mortmain and the laws against perpetuities and accumulations.

#### Section 15-40. Trust examinations and audits.

(a) The Department shall examine at least annually every licensee who holds \$250,000 or more in its care funds. For that purpose, the Department shall have free access to the office and places of business and to such records of all licensees and of all trustees of the care funds of all licensees as shall relate to the acceptance, use, and investment of care funds. The Department may require the attendance of and examine under oath all persons whose testimony may be required relative to such business. In such cases the Department, or any qualified representative of the Department whom the Department may designate, may administer oaths to all such persons called as witnesses, and the Department, or any such qualified representative of the Department, may conduct such examinations. The cost of an initial examination shall be determined by rule.

(b) The Department may order additional audits or examinations as it may deem necessary or advisable to ensure the safety and stability of the trust funds and to ensure compliance with this Act. These additional audits or examinations shall only be made after good cause is established by the

Department in the written order. The grounds for ordering these additional audits or examinations may include, but shall not be limited to:

- (1) material and unverified changes or fluctuations in trust balances;
- (2) the licensee changing trustees more than twice in any 12-month period;
- (3) any withdrawals or attempted withdrawals from the trusts in violation of this Act; or
- (4) failure to maintain or produce documentation required by this Act.

Article 20.  
Business Practice Provisions

Section 20-5. Maintenance and records.

(a) A cemetery authority shall provide reasonable maintenance of the cemetery property and of all lots, graves, crypts, and columbariums in the cemetery based on the type and size of the cemetery, topographic limitations, and contractual commitments with consumers. Subject to the provision of this subsection (a), reasonable maintenance includes:

- (1) the laying of seed, sod, or other suitable ground cover as soon as practical following an interment given the weather conditions, climate, and season and the interment's proximity to ongoing burial activity;
- (2) the cutting of lawn throughout the cemetery at reasonable intervals to prevent an overgrowth of grass and weeds given the weather conditions, climate, and season;
- (3) the trimming of shrubs to prevent excessive overgrowth;
- (4) the trimming of trees to remove dead limbs;
- (5) keeping in repair the drains, water lines, roads, buildings, fences, and other structures; and
- (6) keeping the cemetery premises free of trash and debris.

Reasonable maintenance by the cemetery authority shall not preclude the exercise of lawful rights by the owner of an interment, inurnment, or entombment right, or by the decedent's immediate family or other heirs, in accordance with reasonable rules and regulations of the cemetery or other agreement of the cemetery authority. In the case of a cemetery dedicated as a nature preserve under the Illinois Natural Areas Preservation Act, reasonable maintenance by the cemetery authority shall be in accordance with the rules and master plan governing the dedicated nature preserve.

The Department shall adopt rules to provide greater detail as to what constitutes the reasonable maintenance required under this Section. The rules shall differentiate between cemeteries based on, among other things, the size and financial strength of the cemeteries. The rules shall also provide a reasonable opportunity for a cemetery to cure any violation of the reasonable maintenance standard in a timely manner given the weather conditions, climate, and season before the Department initiates formal proceedings.

(b) A cemetery authority, before commencing cemetery operations or within 6 months after the effective date of this Act, shall cause an overall map of its cemetery property, delineating all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations, to be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business, and recorded in the recorder's office of the county where the cemetery land is situated. A cemetery manager's certificate acknowledging, accepting, and adopting the map shall also be included on the map. If the Department has reasonable suspicion to believe that one or more violations of this Act have occurred or are occurring, the Department may order that the cemetery authority obtain a cemetery plat and that it be filed at its on-site office, or if it does not maintain an on-site office, at its principal place of business, and recorded in the recorder's office of the county where the cemetery land is situated. In exercising this discretion, the Department shall consider whether the cemetery authority would experience an undue hardship as a result of obtaining the plat. The cemetery plat shall be surveyed by and prepared under the direct supervision of an Illinois professional land surveyor licensed pursuant to the Illinois Professional Land Surveyor Act of 1989 and shall delineate, describe, and set forth all lots or plots, blocks, sections, avenues, walks, alleys, and paths and their respective designations. A cemetery manager's certificate acknowledging, accepting, and adopting the plat shall also be included on the plat.

(b-5) A cemetery authority shall maintain an index that associates the identity of deceased persons interred, entombed, or inurned after the effective date of this Act with their respective place of interment, entombment, or inurnment.

(c) The cemetery authority shall open the cemetery map or plat to public inspection. The cemetery authority shall make available a copy of the overall cemetery map or plat upon written request and shall, if practical, provide a copy of a segment of the cemetery plat where interment rights are located upon the

payment of reasonable photocopy fees. Any unsold lots, plots, or parts thereof, in which there are not human remains, may be resurveyed and altered in shape or size and properly designated on the cemetery map or plat. However, sold lots, plots, or parts thereof in which there are human remains may not be renumbered or renamed. Nothing contained in this subsection, however, shall prevent the cemetery authority from enlarging an interment right by selling to its owner the excess space next to the interment right and permitting interments therein, provided reasonable access to the interment right and to adjoining interment rights is not thereby eliminated.

(d) A cemetery authority shall keep a record of every interment, entombment, and inurnment completed after the effective date of this Act. The record shall include the deceased's name, age, date of burial, and permanent parcel identification number identifying where the human remains are interred, entombed, or inurned. The record shall also include the unique personal identifier as may be further defined by rule, which is the permanent parcel identification number in addition to the term of burial in years; the numbered level or depth in the grave, plot, crypt, or niche; and the year of death.

(e) (Blank).

(f) A cemetery authority shall make available for inspection and, upon reasonable request and the payment of a reasonable copying fee, provide a copy of its rules and regulations and its current prices of interment, inurnment, or entombment rights.

(g) A cemetery authority shall provide access to the cemetery under the cemetery authority's reasonable rules and regulations.

(h) A cemetery authority shall be responsible for the proper opening and closing of all graves, crypts, or niches for human remains in any cemetery property it owns.

(i) Any corporate or other business organization trustee of the care funds of every licensed cemetery authority shall be located in or a resident of this State. The licensed cemetery authority and the trustee of care funds shall keep in this State and use in its business such books, accounts, and records as will enable the Department to determine whether such licensee or trustee is complying with the provisions of this Act and with the rules, regulations, and directions made by the Department under this Act. The licensed cemetery authority shall keep the books, accounts, and records at the location identified in the license issued by the Department or as otherwise agreed by the Department in writing. The books, accounts, and records shall be accessible for review upon demand of the Department.

#### Section 20-6. Cemetery Oversight Database.

(a) Within 72 hours after an interment, entombment, or inurnment of human remains, or within 10 business days for a partially exempt cemetery, the cemetery manager shall cause a record of the interment, entombment, or inurnment to be entered into the Cemetery Oversight Database. The requirement of this subsection (a) also applies in any instance in which human remains are relocated.

(b) Within 9 months after the effective date of this Act, the Department shall certify a database as the Cemetery Oversight Database. Upon certifying the database, the Department shall:

(1) provide reasonable notice to cemetery authorities identifying the database; and

(2) immediately upon certification, require each cemetery authority to use the Cemetery Oversight Database as a means of complying with subsection (a).

(c) In certifying the Cemetery Oversight Database, the Department shall ensure that the database:

(1) provides real-time access through an Internet connection or, if real-time access through an Internet connection becomes unavailable due to technical problems with the Cemetery Oversight Database incurred by the database provider, through alternative mechanisms, including, but not limited to, telephone;

(2) is accessible to the Department and to cemetery managers in order to ensure compliance with this Act and in order to provide any other information that the Department deems necessary;

(3) requires cemetery authorities to input whatever information required by the Department;

(4) maintains a real-time copy of the required reporting information that is available to the Department at all times and is the property of the Department; and

(5) contains safeguards to ensure that all information contained in the Cemetery Oversight Database is secure.

(d) A cemetery authority may rely on the information contained in the Cemetery Oversight Database as accurate and is not subject to any administrative penalty or liability as a result of relying on inaccurate information contained in the database.

(e) The Cemetery Oversight Database provider shall indemnify cemetery authorities against all claims and actions arising from illegal, willful, or wanton acts on the part of the Database provider.

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Section 20-8. Vehicle traffic control. A cemetery authority shall make reasonable best efforts to ensure that funeral processions enter and exit the cemetery grounds with minimal disruption to vehicle traffic on the streets and roadways surrounding the cemetery. The cemetery authority and funeral directors arranging funeral processions to the cemetery are both under a duty to exercise their best efforts to help prevent multiple funeral processions from arriving at the cemetery simultaneously.

Section 20-10. Statement of services. At the time cemetery arrangements are made and prior to rendering the cemetery services, a licensed cemetery authority shall furnish a written statement, in a form to be determined by the Department, to be provided to the consumer, signed by both parties, that shall contain: (i) contact information, as set out in Section 20-11, and the date on which the arrangements were made; (ii) the price of the service selected and the services and merchandise included for that price; (iii) a clear disclosure that the person or persons making the arrangement may decline and receive credit for any service or merchandise that is not desired or specified by the original interment right owner and is not required by law or by the cemetery authority's rules and regulations; (iv) the supplemental items of service and merchandise requested and the price of each item; (v) the terms or method of payment agreed upon; and (vi) a statement as to any monetary advances made on behalf of the family. The cemetery authority shall maintain a copy of such written statement of services in its permanent records.

Section 20-11. Contact information in statement of services. All licensed cemetery authorities shall include in the statement of services described in Section 20-10 the name, address, and telephone number of the cemetery authority. Upon written request to a cemetery authority by a consumer, the cemetery authority shall provide: (1) the cemetery authority's registered agent, if any; (2) the cemetery authority's proprietor, if the cemetery authority is an individual; (3) every partner, if the cemetery authority is a partnership; (4) the president, secretary, executive and senior vice presidents, directors, and individuals owning 25% or more of the corporate stock, if the cemetery authority is a corporation; and (5) the manager, if the cemetery authority is a limited liability company.

Section 20-12. Method of payment; receipt. No licensed cemetery authority shall require payment for any goods, services, or easement by cash only. Each cemetery authority subject to this Section shall permit payment by at least one other option, including, but not limited to, personal check, cashier's check, money order, or credit or debit card. In addition to the statement of services for the sale of cemetery goods, services, or easements, the cemetery authority shall provide a receipt to the consumer upon payment in part or full, whatever the case may be.

Section 20-15. Interment or inurnment in cemetery. After the effective date of this Act, for interments and inurnments at cemeteries, the cemetery authority shall place on the outer burial container, cremation inurnment container, or other container or on the inside of a crypt or niche a tag or permanent identifying marker listing the name of the decedent, the date of birth, and the date of death. The materials and the location of the tag or marker may be more specifically described by rule. No cemetery authority shall interfere with a licensed funeral director or his or her designated agent observing the final burial or disposition of a body for which the funeral director has a contract for services related to that deceased individual. No funeral director or his or her designated agent shall interfere with a licensed cemetery authority or its designated agent's rendering of burial or other disposition services for a body for which the cemetery authority has a contract for goods, services, or property related to that deceased individual.

Section 20-20. Display of license. Every cemetery authority, cemetery manager, and customer service employee license issued by the Department shall state the number of the license and the address at which the business is to be conducted. Such license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

Section 20-25. Annual report. Each licensed cemetery authority shall annually, on or before April 15, file a report with the Department giving such information as the Department may reasonably require concerning the business and operations during the preceding calendar year as provided for by rule. The report must be received by the Department on or before April 15, unless such date is extended for reasonable cause up to 90 days by the Department. The report shall be made under oath and in a form prescribed by the Department. The Department may fine each licensee an amount as determine by rule for each day beyond April 15 the report is filed.

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Section 20-30. Signage. Cemetery authorities shall conspicuously post signs in English and Spanish in the cemetery office, in a form provided by the Department, that contain the Department's consumer hotline number, information on how to file a complaint, and whatever other information that the Department deems appropriate.

Article 22.  
Cemetery Associations

Section 22-1. Cemetery association requirements. The requirements of this Article apply to those entities formed as and acting as cemetery associations that act as a cemetery and are otherwise exempt from this Act pursuant to Section 5-20 of this Act. A cemetery association offering or providing services as a cemetery that is exempt pursuant to Section 5-20 of this Act shall remain subject to the provisions of this Article and its requirements, mandates, and discipline in accordance with the provisions of this Act. Any cemetery association not exempt in accordance with Section 5-20 of this Act shall obtain a license from the Department in accordance with the provisions of this Act and shall remain subject to all provisions of this Act.

Section 22-2. Cemetery association formation.

(a) Any 6 or more persons may organize a cemetery association, to be owned, managed, and controlled in the manner provided in this Article.

(b) Whenever 6 or more persons shall present to the Secretary of State a petition setting forth that they desire to organize a cemetery association under this Act, which shall specify the county in which the cemetery association will be located and the name and style of the cemetery association, the Secretary of State shall issue to such persons and their successors in trust, a certificate of organization, which shall be in perpetuity and in trust for the use and benefit of all persons who may acquire burial lots in the cemetery.

Section 22-3. Certificate of organization. Any person who has received a certificate of organization from the Secretary of State must record the certificate of organization with the recorder's office of the county in which the cemetery is situated, and when so recorded, the association shall be deemed fully organized as a body corporate under the name adopted and in its corporate name may sue and be sued. Whenever two-thirds of the trustees of the cemetery association approve a resolution to change the name of the cemetery association, a copy of such resolution and approval thereof duly certified by the President and Secretary of the association shall be filed with the Department and upon approval thereof shall be filed in the Office of the Secretary of State. Whenever two-thirds of the trustees of a cemetery association approve a resolution to dissolve the association, a copy of such resolution and approval of the trustees of the cemetery association duly certified by the President and Secretary shall be submitted to the Department, and if approved by the Department, a copy of such resolution and approval of the Department shall be duly filed by the Department in the Office of the Secretary of State. If the association has care funds as defined in this Act, the Department shall not approve the dissolution of any cemetery association unless proper disposition has been made of such care funds, as provided by law, and in accordance with this Act. Upon the filing of the resolution of either change of name or dissolution of such cemetery association in the Office of the Secretary of State, such change of name or dissolution of such cemetery association shall be complete. The Department shall so notify the trustees of such cemetery association. Thereupon the trustees shall cause a copy of such resolution of either change of name or dissolution to be recorded in the recorder's office of the county where the cemetery is situated.

Section 22-4. Cemetery association composition; board of trustees. A cemetery association meeting the requirements set forth in Section 22-3 of this Act shall proceed to elect from their own number a board of trustees for the association. The board shall consist of not less than 6 and not more than 10 members. The trustees, once elected, shall immediately organize by electing from their own membership a president, vice president, and treasurer, and shall also elect a secretary, who may or may not be a member of the board of trustees. The officers shall hold their respective offices for and during the period of one year, and until their successors are duly elected and qualified. Trustees, once elected, shall divide themselves by lot into 2 classes, the first of which shall hold their offices for a period of 3 years, and the second of which shall hold their offices for a period of 6 years. Thereafter the term of office of the trustees shall be 6 years. Upon the expiration of the term of office of any of the trustees, or the resignation or death or removal from the State of Illinois of any trustees, or their removal from office as

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provided in this Act, the remaining trustees shall fill the vacancy by electing a person residing in the county where the cemetery is located for a new 6-year term or, if no one can be nominated, the President of the cemetery association shall notify the Department of such vacancy or vacancies in writing. Thereafter the Department shall fill the vacancy or vacancies by appointing a suitable person or persons as trustees. In making such appointments, the Department shall exercise its power such that at least two-thirds of the trustees shall be selected from suitable persons residing within 15 miles of the cemetery, or some part thereof, and the other appointees may be suitable persons interested in said cemetery association through family interments or otherwise who are citizens of the State of Illinois.

Section 22-5. Right to acquire land. Any cemetery association shall have the right to acquire the necessary amount of land for the use of the cemetery association. Land may be acquired by purchase or by gift, and the association is authorized to receive by gift or legacy any property, either real, personal, or mixed, which may be donated to the association to hold and keep inviolate any such property for the uses of the cemetery association. A cemetery association may receive and administer endowments for the care and oversight of such cemetery or any part thereof. All cemetery associations shall be subject to and shall comply with the provisions of the other Articles of this Act unless otherwise exempted by the provisions of this Act.

Section 22-6. Plat; plots; recordation. All cemetery associations may divide and lay out into lots any real estate that it may acquire. When such division takes place, the lots shall be of suitable size for burial lots. A plat of any land that is laid out into lots as provided in this Section shall be surveyed by a licensed Illinois professional land surveyor and recorded by the cemetery association in the recorder's office of the county in which the cemetery association is located. The cemetery association shall have the right to sell to any person or persons a lot or lots in the cemetery for burial purposes only, and to convey to such person or persons a lot by a proper deed of conveyance. A person or persons purchasing a lot or lots shall have the right to use the same for burial purposes as limited by the reasonable rules of the cemetery association; but no cemetery association shall make or enforce any rule prohibiting the erection of any monument or headstone on any lot or lots as may be prescribed or provided by the United States or the State of Illinois for a soldier, sailor, or marine having served and been honorably discharged from the Army or Navy or Air Force of the United States or the State of Illinois according to the established and written rules and regulations of the cemetery.

Section 22-7. Funds; loans. The treasurer of a cemetery association may from time to time loan money that the association may have that is not needed for the immediate use of the association by taking proper security for the loan, and the loan and the security for the loan shall, before the loan becomes effective, be approved by the board of trustees of the cemetery association.

Section 22-8. Officer trustee compensation; salary. No officer or trustee of a cemetery association shall receive any compensation of any kind for any services rendered by him or her on behalf of the association, except that officers and trustees may be reimbursed for reasonable expenses, and the secretary and treasurer of the association may receive such salary as may be fixed by the board of trustees.

Section 22-9. Payment of earnings or dividends. No earnings or dividends shall be declared or paid to any officer or other person from the funds of a cemetery association. Such earnings and dividends shall be kept inviolate and be used only for purposes of the association and the care, preservation, and ornamentation of the cemetery.

Section 22-10. Annual reports. The board of trustees for any cemetery association that is exempt in accordance with the provisions of this Act and subject to the provisions of this Article shall annually prepare and file with the Department the report required to be filed by a licensee under Section 20-25. The Department shall examine such report to determine whether the association has fully complied with the requirements of this Act. If a cemetery association fails to submit an annual report to the Department within the time specified in Section 20-25, the Department shall impose upon the cemetery association a fine as provided for by rule for each and every day the cemetery licensee remains delinquent in submitting the report. Any fine established pursuant to this Section shall be paid within 60 days after the effective date of the order imposing the fine unless such time is extended, the fine is reduced, or the fine is otherwise waived. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

Section 22-11. Fees; fines. Except as otherwise provided in this Act, the fees for the administration and enforcement of this Article shall be set by rule of the Department. The fees shall be nonrefundable.

Section 22-12. Deposit of fees and fines. All of the fees, fines, or other moneys collected by the Department from cemetery associations under this Article shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

Section 22-13. Injunctive relief.

(a) If any cemetery association otherwise exempted under the provisions of this Act violates any of the provisions of this Article, the Department, any interested party, any person injured thereby, the Attorney General of the State of Illinois, or the State's Attorney in the county in which the offense occurs may petition to the circuit court of the county in which the violation or some part thereof occurred or of the county where the association has its principal place of business for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Article.

(b) For misconduct in office any trustee of a cemetery association may be removed from office by a court of competent jurisdiction. Any trustee of an association who converts any funds of an association to his or her own use or to a use other than that intended shall be guilty of embezzlement as provided by State law.

(c) All cemetery associations shall remain subject to the duties, obligations, and requirements of this Act unless otherwise exempted by this Act. Those cemetery associations exempted under this Act shall comply with the provisions of this Article.

Section 22-14. Rules; bond requirement.

(a) The board of trustees of the cemetery association may make any and all rules and regulations for the management of the association not inconsistent with this Article or this Act.

(b) The trustees of any cemetery association exempted under the provisions of this Act shall obtain and maintain a bond or letter of credit on behalf of the cemetery association in those amounts as required for a licensee under this Act.

(c) Each cemetery association exempted under the provisions of this Act shall maintain in force a surety bond, issued by an insurance company authorized to transact fidelity and surety business in the State of Illinois, or a letter of credit, issued by a financial institution authorized to do business in the State of Illinois. The bond or letter of credit shall be for the benefit of any individual who obtains a judgment from a court of competent jurisdiction based on the failure of the cemetery association to fulfill the terms of any contractual agreement entered into between the association and any person. No action on the bond or letter of credit shall be commenced more than one year after a judgment has been obtained against the cemetery association from a court of competent jurisdiction. The bond or letter of credit shall be in the form and amount as is required from a licensee under this Act. The bond or letter of credit shall be continuous in form, unless terminated by the insurance company or financial institution respectively. An insurance company may terminate a bond or a financial institution may terminate a letter of credit and avoid further liability by filing a 60-day notice of termination with the Department and at the same time sending the same notice to the cemetery association. The requirement to maintain a bond or letter of credit by the cemetery association shall be a continuing requirement while operating a cemetery by the cemetery association.

(d) All members of the board of trustees of a cemetery association which fails to maintain the bond or letter of credit as required in this section shall remain jointly and severally liable for damages and each shall be guilty of a Class A misdemeanor for the first offense and a Class 4 felony for second and subsequent offenses.

Section 22-15. Conveyance of property. Any cemetery association organized under this Act may convey any property that it may hold within a city, village, incorporated town, county not under township organization, or town, to the city, village, incorporated town, county, or town within which this property is located and may convey any property that it may hold within one mile of any city, village, or incorporated town to such city, village, or incorporated town. If the city, village, incorporated town, county, or town accepts the conveyance, then such property shall thereafter be under the control,

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management, maintenance, and ownership of the city, village, incorporated town, county, or town.

Section 22-16. Grants. Any cemetery association organized under this Article shall be authorized to obtain a grant or grants of federal funds from the United States Government, or from any proper agency thereof, for the construction of a memorial gateway and entrance on property of a cemetery association that is maintained as a national cemetery. Any cemetery association organized under this Act shall be authorized to convey in fee simple to the United States Government, or to any proper agency thereof, such portion of property of such cemetery as is now or may hereafter be maintained as a national cemetery.

Section 22-17. Taxable property. The property, both real and personal, of any cemetery association organized under this Act shall be forever exempt from taxation for any and all purposes.

Section 22-18. Additional property. A cemetery association organized under this Act that has acquired or may hereafter acquire land by purchase, deed, will, or otherwise, and has platted, mapped, and used the land for cemetery purposes, may, when necessary, acquire additional land adjoining or abutting the cemetery.

Section 22-21. Administrative rules. The Department shall have authority to promulgate and implement administrative rules relating to all Sections under this Article. The rules may include, but shall not be limited to, rules in those areas relating to forms, fees, requirements, notices, discipline, and any other rule necessary to properly implement the intent of this Article.

#### Article 25.

##### Administration and Enforcement

Section 25-1. Denial of license or exemption from licensure. If the Department determines that an application for licensure or exemption from licensure should be denied pursuant to Section 25-10, then the applicant shall be sent a notice of intent to deny license or exemption from licensure and the applicant shall be given the opportunity to request, within 20 days of the notice, a hearing on the denial. If the applicant requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing, unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer. The hearing officer shall have full authority to conduct the hearing. The hearing shall be held at the time and place designated by the Secretary. The Secretary shall have the authority to prescribe rules for the administration of this Section.

Section 25-3. Exemption, investigation, mediation. All cemetery authorities maintaining a partial exemption must submit to the following investigation and mediation procedure by the Department in the event of a consumer complaint:

(a) Complaints to cemetery:

(1) the cemetery authority shall make every effort to first resolve a consumer complaint; and

(2) if the complaint is not resolved, then the cemetery authority shall advise the consumer of his or her right to seek investigation and mediation by the Department.

(b) Complaints to the Department:

(1) if the Department receives a complaint, the Department shall make an initial determination as to whether the complaint has a reasonable basis and pertains to this Act;

(2) if the Department determines that the complaint has a reasonable basis and pertains to this Act, it shall inform the cemetery authority of the complaint and give it 30 days to tender a response;

(3) upon receiving the cemetery authority's response, or after the 30 days provided in subsection (2) of this subsection, whichever comes first, the Department shall attempt to resolve the complaint telephonically with the parties involved;

(4) if the complaint still is not resolved, then the Department shall conduct an investigation and mediate the complaint as provided for by rule;

(5) if the Department conducts an on-site investigation and face-to-face mediation with the parties, then it may charge the cemetery authority a single investigation and mediation fee, which fee shall be set by rule and shall be calculated on an hourly basis; and

(6) if all attempts to resolve the consumer complaint as provided for in paragraphs (1) through (5) fail, then the cemetery authority may be subject to proceedings for penalties and discipline under this Article when it is determined by the Department that the cemetery authority may have engaged in any of the following: (i) gross malpractice; (ii) dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public; (iii) gross, willful, or continued overcharging for services; (iv) incompetence; (v) unjustified failure to honor its contracts; or (vi) failure to adequately maintain its premises. The Department may issue a citation or institute disciplinary action and cause the matter to be prosecuted and may thereafter issue and enforce its final order as provided in this Act.

#### Section 25-5. Citations.

(a) The Department may adopt rules to permit the issuance of citations for non-frivolous complaints. The citation shall be issued to the licensee and shall contain the licensee's name and address, the licensee's license number, a brief factual statement, the Sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the licensee may choose, in lieu of accepting the citation, to request a hearing. If the licensee does not dispute the matter in the citation with the Department within 30 days after the citation is served, then the citation shall become a final order and shall constitute discipline. The penalty shall be a fine or other conditions as established by rule.

(b) The Department shall adopt rules designating violations for which a citation may be issued. Such rules shall designate as citation violations those violations for which there is no substantial threat to the public health, safety, and welfare. Citations shall not be utilized if there was any significant consumer harm resulting from the violation.

(c) A citation must be issued within 6 months after the reporting of a violation that is the basis for the citation.

(d) Service of a citation may be made by personal service or certified mail to the licensee at the licensee's address of record.

#### Section 25-10. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license under this Act, for any one or combination of the following:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act or of the rules promulgated under this Act.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime within the last 5 years that is a Class X felony or is a felony involving fraud and dishonesty under the laws of the United States or any state or territory thereof.

(4) Making any misrepresentation for the purpose of obtaining licensure or violating any provision of this Act or the rules promulgated under this Act.

(5) Professional incompetence.

(6) Gross malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or rules promulgated under this Act.

(8) Failing, within 10 days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(10) Inability to practice with reasonable judgment, skill, or safety as a result of habitual or excessive use of alcohol, narcotics, stimulants, or any other chemical agent or drug.

(11) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(13) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(14) Willfully making or filing false records or reports in his or her practice,

including, but not limited to, false records filed with any governmental agency or department.

(15) Inability to practice the profession with reasonable judgment, skill, or safety.

(16) Failure to file an annual report or to maintain in effect the required bond or to comply with an order, decision, or finding of the Department made pursuant to this Act.

(17) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(18) Practicing under a false or, except as provided by law, an assumed name.

(19) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(20) Cheating on or attempting to subvert the licensing examination administered under this Act.

(21) Unjustified failure to honor its contracts.

(22) Negligent supervision of a cemetery manager, customer service employee, or employee.

(23) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(24) Allowing an independent contractor who is not licensed or registered under this Act to perform work for the cemetery authority.

(b) No action may be taken under this Act against a person licensed under this Act unless the action is commenced within 5 years after the occurrence of the alleged violations. A continuing violation shall be deemed to have occurred on the date when the circumstances last existed that give rise to the alleged violation.

#### Section 25-13. Independent contractors.

(a) Notwithstanding any provision of this Act to the contrary, a cemetery authority may allow an unlicensed or unregistered independent contractor, who otherwise would be required to become licensed or registered, in exigent circumstances only, to perform services of an emergency nature on a temporary basis to prevent an immediate threat to public safety that could not have been foreseen. The cemetery authority may only permit an independent contractor to perform such work for so long as is reasonably necessary to address the emergency, but in no case longer than 10 days unless the Secretary approves a longer period of time upon the cemetery authority's showing of good cause. The cemetery authority shall report the use of such independent contractor to the Department on forms provided by the Department and according to rules adopted by the Department.

(b) Notwithstanding any provision of this Act to the contrary, a cemetery authority may allow an unlicensed or unregistered independent contractor, who otherwise would be required to become licensed or registered, to perform work on a special project basis, and only to perform work other than the following services: openings and closings of vaults and graves, stone settings, inurnments, internments, entombments, administrative work, handling of any official burial records, and all other work that is customarily performed by one or more cemetery employees before the effective date of the Act, including, but not limited to, the preparation of foundations for memorials and routine cemetery maintenance. For purposes of this subsection, "routine cemetery maintenance" includes those activities described in items (1), (2), (3), and (6) of Section 20-5(a) of this Act.

#### Section 25-14. Mandatory reports.

(a) If a cemetery authority receives a consumer complaint that is not resolved to the satisfaction of the consumer within 60 days of the complaint, the cemetery authority shall advise the consumer of the right to seek investigation by the Department and shall report the consumer complaint to the Department within the next 30 days. Cemetery authorities shall report to the Department within 30 days after the settlement of any liability insurance claim or cause of action, or final judgment in any cause of action, that alleges negligence, fraud, theft, misrepresentation, misappropriation, or breach of contract.

(b) The State's Attorney of each county shall report to the Department all instances in which an individual licensed as a cemetery manager or customer service employee or registered as a cemetery employee, or any individual listed on a licensed cemetery authority's application under this Act, is convicted or otherwise found guilty of the commission of any felony. The report shall be submitted to the Department within 60 days after conviction or finding of guilty.

#### Section 25-15. Cease and desist.

(a) The Secretary may issue an order to cease and desist to any licensee or other person doing business without the required license when, in the opinion of the Secretary, the licensee or other person is

violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department.

(b) The Secretary may issue an order to cease and desist prior to a hearing and such order shall be in full force and effect until a final administrative order is entered.

(c) The Secretary shall serve notice of his or her action, designated as an order to cease and desist made pursuant to this Section, including a statement of the reasons for the action, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the United States mail and sent to the address of record or, in the case of unlicensed activity, the address known to the Department.

(d) Within 15 days after service of the order to cease and desist, the licensee or other person may request, in writing, a hearing.

(e) The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

(f) The Secretary shall have the authority to prescribe rules for the administration of this Section.

(g) If, after hearing, it is determined that the Secretary has the authority to issue the order to cease and desist, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct.

(h) The powers vested in the Secretary by this Section are additional to any and all other powers and remedies vested in the Secretary by law and nothing in this Section shall be construed as requiring that the Secretary shall employ the power conferred in this Section instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

(i) The cost for the administrative hearing shall be set by rule.

#### Section 25-25. Investigations, notice, hearings.

(a) The Department may at any time investigate the actions of any applicant or of any person or persons rendering or offering to render services as a cemetery authority, cemetery manager, or customer service employee of or any person holding or claiming to hold a license as a licensed cemetery authority, cemetery manager, or customer service employee. If it appears to the Department that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this Act, then the Department may: (1) require that person to file on such terms as the Department prescribes a statement or report in writing, under oath or otherwise, containing all information the Department may consider necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required; (2) examine under oath any individual in connection with the books and records pertaining to or having an impact upon the operation of a cemetery or trust funds required to be maintained pursuant to this Act; (3) examine any books and records of the licensee, trustee, or investment advisor that the Department may consider necessary to ascertain compliance with this Act; and (4) require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in his or her possession until the completion of all proceedings in connection with which it is produced.

(b) The Secretary may, after 10 days notice by certified mail with return receipt requested to the licensee at the address of record or to the last known address of any other person stating the contemplated action and in general the grounds therefor, fine such licensee an amount not exceeding \$10,000 per violation or revoke, suspend, refuse to renew, place on probation, or reprimand any license issued under this Act if he or she finds that:

(1) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(2) any fact or condition exists which, if it had existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(c) The Secretary may fine, revoke, suspend, refuse to renew, place on probation, reprimand, or take any other disciplinary action as to the particular license with respect to which grounds for the fine, revocation, suspension, refuse to renew, probation, or reprimand, or other disciplinary action occur or exist, but if the Secretary finds that grounds for revocation are of general application to all offices or to more than one office of the licensee, the Secretary shall fine, revoke, suspend, refuse to renew, place on probation, reprimand, or otherwise discipline every license to which such grounds apply.

(d) In every case in which a license is revoked, suspended, placed on probation, reprimanded, or otherwise disciplined, the Secretary shall serve the licensee with notice of his or her action, including a statement of the reasons for his or her actions, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the

United States mail and sent to the address of record.

(e) An order assessing a fine, an order revoking, suspending, placing on probation, or reprimanding a license or, an order denying renewal of a license shall take effect upon service of the order unless the licensee requests, in writing, within 20 days after the date of service, a hearing. In the event a hearing is requested, an order issued under this Section shall be stayed until a final administrative order is entered.

(f) If the licensee requests a hearing, then the Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing.

(g) The hearing shall be held at the time and place designated by the Secretary.

(h) The Secretary shall have the authority to prescribe rules for the administration of this Section.

(i) The cost for the administrative hearing shall be set by rule.

(j) Fines imposed and any costs assessed shall be paid within 60 days.

Section 25-30. Consent order. At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

Section 25-35. Record of proceedings; transcript. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. Any notice, all documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, and orders of the Department shall be in the record of the proceeding.

Section 25-40. Subpoenas; depositions; oaths.

(a) The Department has the power to subpoena documents, books, records, or other materials and to bring before it any individual and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

(b) The Secretary and the designated hearing officer have the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct and any other oaths authorized in any Act administered by the Department.

(c) Every individual having taken an oath or affirmation in any proceeding or matter wherein an oath is required by this Act, who shall swear willfully, corruptly, and falsely in a matter material to the issue or point in question, or shall suborn any other individual to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be and shall be punished as provided by State law relative to perjury and subornation of perjury.

Section 25-45. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

Section 25-50. Findings and recommendations.

(a) At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make his or her recommendations to the Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation.

(b) The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's final order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the hearing officer, the

Secretary may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

Section 25-55. Rehearing. At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant, licensee, or unlicensed person by the Department, either personally or as provided in this Act. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter a final order in accordance with recommendations of the hearing officer except as provided in Section 25-60 of this Act. If the applicant, licensee, or unlicensed person orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

Section 25-60. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, he or she may order a rehearing by the same or other hearing officers.

Section 25-65. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

- (1) the signature is the genuine signature of the Secretary;
- (2) the Secretary is duly appointed and qualified; and
- (3) the hearing officer is qualified to act.

Section 25-70. Receivership. In the event a cemetery authority license is suspended or revoked or where an unlicensed person has conducted activities requiring cemetery authority licensure under this Act, the Department, through the Attorney General, may petition the circuit courts of this State for appointment of a receiver to administer the care funds of such licensee or unlicensed person or to operate the cemetery.

(a) The court shall appoint a receiver if the court determines that a receivership is necessary or advisable:

- (1) to ensure the orderly and proper conduct of a licensee's professional business and affairs during or in the aftermath of the administrative proceeding to revoke or suspend the cemetery authority's license;
- (2) for the protection of the public's interest and rights in the business, premises, or activities of the person sought to be placed in receivership;
- (3) upon a showing of actual or constructive abandonment of premises or business licensed or which was not but should have been licensed under this Act;
- (4) upon a showing of serious and repeated violations of this Act demonstrating an inability or unwillingness of a licensee to comply with the requirements of this Act;
- (5) to prevent loss, wasting, dissipation, theft, or conversion of assets that should be marshaled and held available for the honoring of obligations under this Act; or
- (6) upon proof of other grounds that the court deems good and sufficient for instituting receivership action concerning the respondent sought to be placed in receivership.

(b) A receivership under this Section may be temporary, or for the winding up and dissolution of the business, as the Department may request and the court determines to be necessary or advisable in the circumstances. Venue of receivership proceedings may be, at the Department's election, in Cook County or the county where the subject of the receivership is located. The appointed receiver shall be the Department or such person as the Department may nominate and the court shall approve.

(c) The Department may adopt rules for the implementation of this Section.

Section 25-75. Abandoned or neglected cemeteries; clean-up. The Department of Natural Resources may develop and administer a program for the purpose of cleaning up abandoned or neglected cemeteries located in Illinois. Administration of this program may include the Department of Natural Resources' issuance of grants for that purpose to units of local government, school districts, and

not-for-profit associations as determined by rule. If an abandoned or neglected cemetery has been dedicated as an Illinois nature preserve under the Illinois Natural Areas Preservation Act, any action to cause the clean-up of the cemetery under the provisions of this Section shall be consistent with the rules and master plan governing the dedicated nature preserve.

Section 25-80. Surrender of license. Upon the revocation or suspension of a license under this Act, the licensee shall immediately surrender his or her license to the Department. If the licensee fails to do so, the Department has the right to seize the license.

Section 25-85. Inactive status.

(a) Any licensed manager or customer service employee or registered cemetery employee who notifies the Department in writing on forms prescribed by the Department as determined by rule, may elect to place his or her license on an inactive status and shall, subject to rules of the Department, be excused from payment of renewal fees until he or she notifies the Department in writing of his or her desire to resume active status. Any licensed manager or registered cemetery employee requesting restoration from inactive status shall pay the current renewal fee and meet requirements as provided by rule. Any licensee whose license is in inactive status shall not practice in the State of Illinois.

(b) A cemetery authority license may only go on inactive status by following the provisions for dissolution set forth in Section 10-50 or transfer in Section 10-45.

Section 25-90. Restoration of license from discipline. At any time after the successful completion of a term of indefinite probation, suspension, or revocation of a license, the Department may restore the license to the licensee, unless after an investigation and a hearing the Secretary determines that restoration is not in the public interest.

Section 25-95. Administrative review; venue.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

Section 25-100. Certifications of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

Section 25-105. Violations. Any person who is found to have violated any provision of this Act or any applicant for licensure who files with the Department the fingerprints of an individual other than himself or herself is guilty of a Class A misdemeanor. Upon conviction of a second or subsequent offense the violator shall be guilty of a Class 4 felony. However, whoever intentionally fails to deposit the required amounts into a trust provided for in this Act or intentionally and improperly withdraws or uses trust funds for his or her own benefit shall be guilty of a Class 4 felony and each day such provisions are violated shall constitute a separate offense.

Section 25-110. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Department may bring a civil action in the county in which the cemetery is located against a licensee or any other person to enjoin any violation or threatened violation of this Act. In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$10,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act. Any civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. All moneys collected under this Section shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

Section 25-115. Illinois Administrative Procedure Act; application. The Illinois Administrative

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Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention or continuation or renewal of the license, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the address of record.

Section 25-120. Whistleblower protection.

(a) "Retaliatory action" means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms and conditions of employment of any cemetery manager or registered cemetery employee that is taken in retaliation for a cemetery manager's, customer service employee's, or registered cemetery employee's involvement in protected activity, as set forth in this Section.

(b) A cemetery authority shall not take any retaliatory action against a cemetery manager, customer service employee, or registered cemetery employee because the cemetery manager, customer service employee, or registered cemetery employee does any of the following:

(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of a cemetery manager, customer service employee, or the cemetery authority that the cemetery manager or cemetery employee reasonably believes is in violation of a law, rule, or regulation.

(2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by a cemetery manager or cemetery authority.

(3) Assists or participates in a proceeding to enforce the provisions of this Act.

(c) A violation of this Section may be established only upon a finding that (i) the cemetery manager, customer service employee, or registered cemetery employee engaged in conduct described in subsection (b) of this Section and (ii) that this conduct was a contributing factor in the retaliatory action alleged by the cemetery manager, customer service employee, or registered cemetery employee. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the cemetery manager or cemetery authority would have taken the same unfavorable personnel action in the absence of that conduct.

(d) The cemetery manager, customer service employee, or registered cemetery employee may be awarded all remedies necessary to make the cemetery manager or registered cemetery employee whole and to prevent future violations of this Section. Remedies imposed by the court may include, but are not limited to, all of the following:

(1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;

(2) two times the amount of back pay;

(3) interest on the back pay;

(4) the reinstatement of full fringe benefits and seniority rights; and

(5) the payment of reasonable costs and attorneys' fees.

(e) Nothing in this Section shall be deemed to diminish the rights, privileges, or remedies of a cemetery manager, customer service employee, or registered cemetery employee under any other federal or State law, rule, or regulation or under any employment contract.

Section 25-125. Cemetery Oversight Board. The Cemetery Oversight Board is created and shall consist of the Secretary, who shall serve as its chairperson, and 7 members appointed by the Secretary. Appointments shall be made within 90 days after the effective date of this Act. Three members shall represent the segment of the cemetery industry that does not maintain a partial exemption or full exemption, one member shall represent the segment of the cemetery industry that maintains a partial exemption, 2 members shall be consumers as defined in this Act, and one member shall represent the general public. No member shall be a licensed professional from a non-cemetery segment of the death care industry. Board members shall serve 5-year terms and until their successors are appointed and qualified. The membership of the Board should reasonably reflect representation from the geographic areas in this State. No member shall be reappointed to the Board for a term that would cause his or her continuous service on the Board to be longer than 10 successive years. Appointments to fill vacancies shall be made in the same manner as original appointments, for the unexpired portion of the vacated term. Five members of the Board shall constitute a quorum. A quorum is required for Board decisions. The Secretary may remove any member of the Board for misconduct, incompetence, neglect of duty, or

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for reasons prescribed by law for removal of State officials. The Secretary may remove a member of the Board who does not attend 2 consecutive meetings. The Department may, at any time, seek the expert advice and knowledge of the Board on any matter relating to the administration or enforcement of this Act. The Secretary shall consider the recommendations of the Board in the development of proposed rules under this Act and for establishing guidelines and examinations as may be required under this Act. Notice of any proposed rulemaking under this Act shall be transmitted to the Board and the Department shall review the response of the Board and any recommendations made therein.

Article 35.  
Consumer Bill of Rights

Section 35-5. Penalties. Cemetery authorities shall respect the rights of consumers of cemetery products and services as put forth in this Article. Failure to abide by the cemetery duties listed in this Article or to comply with a request by a consumer based on a consumer's privileges under this Article may activate the mediation, citation, or disciplinary processes in Article 25 of this Act.

Section 35-10. Consumer privileges.

(a) The record required under this Section shall be open to public inspection consistent with State and federal law. The cemetery authority shall make available, consistent with State and federal law, a true copy of the record upon written request and payment of reasonable copy costs. At the time of the interment, entombment, or inurnment, the cemetery authority shall provide the record of the deceased's name and date of burial to the person who would have authority to dispose of the decedent's remains under the Disposition of Remains Act.

(b) Consumers have the right to purchase merchandise or services directly from the cemetery authority when available or through a third-party vendor of the consumer's choice without incurring a penalty or additional charge by the cemetery authority; provided, however, that consumers do not have the right to purchase types of merchandise that would violate applicable law or the cemetery authority's rules and regulations

(c) Consumers have the right to complain to the cemetery authority or to the Department regarding cemetery-related products and services as well as issues with customer service, maintenance, or other cemetery activities. Complaints may be brought by a consumer or the consumer's agent appointed for that purpose.

Section 35-15. Cemetery duties.

(a) Prices for all cemetery-related products offered for sale by the cemetery authority must be disclosed to the consumer in writing on a standardized price list. Memorialization pricing may be disclosed in price ranges. The price list shall include the effective dates of the prices. The price list shall include not only the range of interment, inurnment, and entombment rights, and the cost of extending the term of any term burial, but also any related merchandise or services offered by the cemetery authority. Charges for installation of markers, monuments, and vaults in cemeteries must be the same without regard to where the item is purchased.

(b) A contract for the interment, inurnment, or entombment of human remains must be signed by both parties: the consumer and the cemetery authority or its representative. Before a contract is signed, the prices for the purchased services and merchandise must be disclosed on the contract and in plain language. If a contract is for a term burial, the term must be in bold print and discussed with the consumer. Any contract for the sale of a burial plot, when designated, must disclose the exact location of the burial plot based on the survey of the cemetery plat on file with the Department.

(c) A cemetery authority that has the legal right to extend a term burial shall, prior to disinterment, provide the family or other authorized agent under the Disposition of Remains Act the opportunity to extend the term of a term burial for the cost as stated on the cemetery authority's current price list. Regardless of whether the family or other authorized agent chooses to extend the term burial, the cemetery authority shall, prior to disinterment, provide notice to the family or other authorized agent under the Disposition of Remains Act of the cemetery authority's intention to disinter the remains and to inter different human remains in that space.

(d) If any rules or regulations, including the operational or maintenance requirements, of a cemetery change after the date a contract is signed for the purchase of cemetery-related or funeral-related products or services, the cemetery may not require the consumer, purchaser, or such individual's relative or representative to purchase any merchandise or service not included in the original contract or in the rules

and regulations in existence when the contract was entered unless the purchase is reasonable and not overly burdensome on the consumer or required to make the cemetery authority compliant with applicable law.

(e) No cemetery authority or its agent may engage in deceptive or unfair practices. The cemetery authority and its agents may not misrepresent legal or cemetery requirements.

(f) The cemetery authority shall notify the consumer of the existence of green burial and crematory disposition options if the cemetery authority offers green disposition services or products. The Department may promulgate rules regarding green burial certification, green cremation products and methods, and consumer education.

(g) The contractual requirements contained in this Section only apply to contracts executed after the effective date of this Act.

#### Article 75. Administrative Provisions

Section 75-5. Conflict of interest. No investigator may hold an active license issued pursuant to this Act, nor may an investigator have a financial interest in a business licensed under this Act. Any individual licensed under this Act who is employed by the Department shall surrender his or her license to the Department for the duration of that employment. The licensee shall be exempt from all renewal fees while employed.

Section 75-15. Civil Administrative Code. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise all other powers and duties set forth in this Act.

Section 75-20. Rules. The Department may promulgate rules for the administration and enforcement of this Act. The rules shall include standards for licensure, professional conduct, and discipline.

Section 75-25. Home rule. The regulation and licensing as provided for in this Act are exclusive powers and functions of the State. A home rule unit may not regulate or license cemetery authorities, cemetery managers, customer service employees, registered cemetery employees, or any activities relating to the operation of a cemetery. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 75-35. Roster. The Department shall, upon request and payment of the required fee, provide a list of the names and business addresses of all licensees under this Act.

Section 75-45. Fees. The Department shall by rule provide for fees for the administration and enforcement of this Act, and those fees are nonrefundable. All of the fees and fines collected under this Act shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund and be appropriated to the Department for the ordinary and contingent expenses of the Department in the administration and enforcement of this Act.

Section 75-50. Burial permits. Notwithstanding any law to the contrary, a cemetery authority shall ensure that every burial permit applicable to that cemetery authority contains the decedent's permanent parcel identification number or other information as provided by rule regarding the location of the interment, entombment, or inurement of the deceased that would enable the Department to determine the precise location of the decedent.

Section 75-55. Transition.

(a) Within 60 days after the effective date of this Act, the Comptroller shall provide the Department copies of records in the Comptroller's possession pertaining to the Cemetery Care Act and the Crematory Regulation Act that are necessary for the Department's immediate responsibilities under this Act. All other records pertaining to the Cemetery Care Act and the Crematory Regulation Act shall be transferred to the Department by July 1, 2011. In the case of records that pertain both to the administration of the Cemetery Care Act or the Crematory Regulation Act and to a function retained by the Comptroller, the Comptroller, in consultation with the Department, shall determine, within 60 days after the repeal of the Cemetery Care Act, whether the records shall be transferred, copied, or left with the Comptroller; until this determination has been made the transfer shall not occur.

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(b) A person licensed under one of the Acts listed in subsection (a) of this Section or regulated under the Cemetery Association Act shall continue to comply with the provisions of those Acts until such time as the person is licensed under this Act or those Acts are repealed or the amendatory changes made by this amendatory Act of the 96th General Assembly take effect, as the case may be, whichever is earlier.

(c) To support the costs that may be associated with implementing and maintaining a licensure and regulatory process for the licensure and regulation of cemetery authorities, cemetery managers, customer service employees, and registered cemetery employees, all cemetery authorities not maintaining a full exemption or partial exemption shall pay a one-time fee of \$20 to the Department plus an additional charge of \$1 per burial unit per year within the cemetery. The Department may establish forms for the collection of the fee established under this subsection and shall deposit such fee into the Cemetery Oversight Licensing and Disciplinary Fund. The Department may begin to collect the aforementioned fee after the effective date of this Act. In addition, the Department may establish rules for the collection process, which may include, but shall not be limited to, dates, forms, enforcement, or other procedures necessary for the effective collection, deposit, and overall process regarding this Section.

(d) Any cemetery authority that fails to pay to the Department the required fee or submits the incorrect amount shall be subject to the penalties provided for in Section 25-110 of this Act.

(e) Except as otherwise specifically provided, all fees, fines, penalties, or other moneys received or collected pursuant to this Act shall be deposited in the Cemetery Oversight Licensing and Disciplinary Fund.

(f) All proportionate funds held in the Comptroller's Administrative Fund related to unexpended moneys collected under the Cemetery Care Act and the Crematory Regulation Act shall be transferred to the Cemetery Oversight Licensing and Disciplinary Fund within 60 days after the effective date of the repeal of the Cemetery Care Act.

(g) Personnel employed by the Comptroller on June 30, 2011, to perform the duties pertaining to the administration of the Cemetery Care Act and the Crematory Regulation Act, are transferred to the Department on July 1, 2011.

The rights of State employees, the State, and its agencies under the Comptroller Merit Employment Code and applicable collective bargaining agreements and retirement plans are not affected under this Act, except that all positions transferred to the Department shall be subject to the Personnel Code effective July 1, 2011.

All transferred employees who are members of collective bargaining units shall retain their seniority, continuous service, salary, and accrued benefits. During the pendency of the existing collective bargaining agreement, the rights provided for under that agreement shall not be abridged.

The Department shall continue to honor during their pendency all bargaining agreements in effect at the time of the transfer and to recognize all collective bargaining representatives for the employees who perform or will perform functions transferred by this Act. For all purposes with respect to the management of the existing agreement and the negotiation and management of any successor agreements, the Department shall be deemed the employer of employees who perform or will perform functions transferred to the Department by this Act.

#### Article 90. Amendatory Provisions and Repeals

Section 90-1. The Regulatory Sunset Act is amended by adding Section 8.31 as follows:  
(5 ILCS 80/8.31 new)

Sec. 8.31. Acts repealed on January 1, 2021. The following Acts are repealed on January 1, 2021:  
The Crematory Regulation Act.  
The Cemetery Oversight Act.

Section 90-5. The Human Skeletal Remains Protection Act is amended by changing Section 1 as follows:

(20 ILCS 3440/1) (from Ch. 127, par. 2661)

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

(a) "Human skeletal remains" include the bones and decomposed fleshy parts of a deceased human body.

(b) "Unregistered graves" are any graves or locations where a human body has been buried or deposited; is over 100 years old; and is not in a cemetery under the authority of the Illinois Department

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of Financial and Professional Regulation pursuant to the Cemetery Oversight Act registered with the State Comptroller under the Cemetery Care Act.

(c) "Grave artifacts" are any item of human manufacture or use that is associated with the human skeletal remains in an unregistered grave.

(d) "Grave markers" are any tomb, monument, stone, ornament, mound, or other item of human manufacture that is associated with an unregistered grave.

(e) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representatives appointed by order of any court, the Federal and State governments, including State Universities created by statute or any city, town, county or other political subdivision of this State.

(f) "Disturb" includes excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way human skeletal remains, unregistered graves, and grave markers.

(Source: P.A. 86-151.)

Section 90-10. The State Finance Act is amended by adding Section 5.755 as follows:

(30 ILCS 105/5.755 new)

Sec. 5.755. The Cemetery Oversight Licensing and Disciplinary Fund.

Section 90-25. The Crematory Regulation Act is amended by changing Sections 5, 10, 11, 11.5, 13, 20, 22, 25, 40, 55, 60, 62, 62.5, 62.10, 62.15, 62.20, 65, 80, and 100 and by adding Sections 7, 85, 87, 88, 89, 90, 91, 92, 93, 94, 95, 105, 115, 120, 125, 130, 140, 150, 160, and 170, and by repealing Section 12 as follows:

(410 ILCS 18/5)

Sec. 5. Definitions. As used in this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file. It is the duty of the applicant or licensee to inform the Department of any change of address within 14 days, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit. The address of record shall be the permanent street address of the crematory.

"Alternative container" means a receptacle, other than a casket, in which human remains are transported to the crematory and placed in the cremation chamber for cremation. An alternative container shall be (i) composed of readily combustible materials suitable for cremation, (ii) able to be closed in order to provide a complete covering for the human remains, (iii) resistant to leakage or spillage, (iv) rigid enough for handling with ease, and (v) able to provide protection for the health, safety, and personal integrity of crematory personnel.

"Authorizing agent" means a person legally entitled to order the cremation and final disposition of specific human remains.

"Body parts" means limbs or other portions of the anatomy that are removed from a person or human remains for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or human bodies or any portion of bodies that have been donated to science for medical research purposes.

"Burial transit permit" means a permit for disposition of a dead human body as required by Illinois law.

"Casket" means a rigid container that is designed for the encasement of human remains, is usually constructed of wood, metal, or like material and ornamented and lined with fabric, and may or may not be combustible.

~~"Change of ownership" means a transfer of more than 50% of the stock or assets of a crematory authority.~~

"Comptroller" means the Comptroller of the State of Illinois.

"Cremated remains" means all human remains recovered after the completion of the cremation, which may possibly include the residue of any foreign matter including casket material, bridgework, or eyeglasses, that was cremated with the human remains.

"Cremation" means the technical process, using heat and flame, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation. Cremation shall include the processing, and may include the pulverization, of the bone fragments.

"Cremation chamber" means the enclosed space within which the cremation takes place.

"Cremation interment container" means a rigid outer container that, subject to a cemetery's rules and regulations, is composed of concrete, steel, fiberglass, or some similar material in which an urn is placed prior to being interred in the ground, and which is designed to withstand prolonged exposure to the elements and to support the earth above the urn.

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"Cremation room" means the room in which the cremation chamber is located.

"Crematory" means the building or portion of a building that houses the cremation room and the holding facility.

"Crematory authority" means the legal entity which is licensed by the Department Comptroller to operate a crematory and to perform cremations.

"Department" means the Illinois Department of Financial and Professional Regulation Illinois Department of Public Health.

"Final disposition" means the burial, cremation, or other disposition of a dead human body or parts of a dead human body.

"Funeral director" means a person known by the title of "funeral director", "funeral director and embalmer", or other similar words or titles, licensed by the State to practice funeral directing or funeral directing and embalming.

"Funeral establishment" means a building or separate portion of a building having a specific street address and location and devoted to activities relating to the shelter, care, custody, and preparation of a deceased human body and may contain facilities for funeral or wake services.

"Holding facility" means an area that (i) is designated for the retention of human remains prior to cremation, (ii) complies with all applicable public health law, (iii) preserves the health and safety of the crematory authority personnel, and (iv) is secure from access by anyone other than authorized persons. A holding facility may be located in a cremation room.

"Human remains" means the body of a deceased person, including any form of body prosthesis that has been permanently attached or implanted in the body.

"Licensee" means an entity licensed under this Act. An entity that holds itself as a licensee or that is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Niche" means a compartment or cubicle for the memorialization and permanent placement of an urn containing cremated remains.

"Person" means any person, partnership, association, corporation, limited liability company, or other entity, and in the case of any such business organization, its officers, partners, members, or shareholders possessing 25% or more of ownership of the entity.

"Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

"Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation process to granulated particles by manual or mechanical means.

"Scattering area" means an area which may be designated by a cemetery and located on dedicated cemetery property where cremated remains, which have been removed from their container, can be mixed with, or placed on top of, the soil or ground cover.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Temporary container" means a receptacle for cremated remains, usually composed of cardboard, plastic or similar material, that can be closed in a manner that prevents the leakage or spillage of the cremated remains or the entrance of foreign material, and is a single container of sufficient size to hold the cremated remains until an urn is acquired or the cremated remains are scattered.

"Urn" means a receptacle designed to encase the cremated remains.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/7 new)

Sec. 7. Powers and duties of the Department. Subject to the provisions of this Act, the Department may exercise any of the following powers and duties:

(1) Authorize standards to ascertain the qualifications and fitness of applicants for licensing as licensed crematory authorities and pass upon the qualifications of applicants for licensure.

(2) Examine and audit a licensed crematory authority's records, crematory, or any other aspects of crematory operation as the Department deems appropriate.

(3) Investigate any and all unlicensed activity.

(4) Conduct hearings on proceedings to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees and to refuse to issue licenses or to revoke, suspend, place on probation, reprimand, or otherwise discipline licensees.

(5) Formulate rules required for the administration of this Act.

(6) Maintain rosters of the names and addresses of all licensees, and all entities whose licenses have been suspended, revoked, or otherwise disciplined. These rosters shall be available upon written request and payment of the required fee as established by rule.

(410 ILCS 18/10)

Sec. 10. Establishment of crematory and licensing of crematory authority.

(a) Any person doing business in this State, or any cemetery, funeral establishment, corporation, partnership, joint venture, voluntary organization or any other entity, may erect, maintain, and operate a crematory in this State and provide the necessary appliances and facilities for the cremation of human remains in accordance with this Act.

(b) A crematory shall be subject to all local, State, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits from the Department of Financial and Professional Regulation, the Department of Public Health, the federal Department of Health and Human Services, and the Illinois and federal Environmental Protection Agencies, or such other appropriate local, State, or federal agencies.

(c) A crematory may be constructed on or adjacent to any cemetery, on or adjacent to any funeral establishment, or at any other location consistent with local zoning regulations.

(d) An application for licensure as a crematory authority shall be in writing on forms furnished by the Department Comptroller. Applications shall be accompanied by a reasonable fee determined by rule of \$50 and shall contain all of the following:

(1) The full name and address, both residence and business, of the applicant if the applicant is an individual; the full name and address of every member if the applicant is a partnership; the full name and address of every member of the board of directors if the applicant is an association; and the name and address of every officer, director, and shareholder holding more than 25% of the corporate stock if the applicant is a corporation.

(2) The address and location of the crematory.

(3) A description of the type of structure and equipment to be used in the operation of the crematory, including the operating permit number issued to the cremation device by the Illinois Environmental Protection Agency.

~~(3.5) Attestation by the owner that cremation services shall be by a person trained in accordance with the requirements of Section 22 of this Act.~~

~~(3.10) A copy of the certification or certifications issued by the certification program to the person or persons who will operate the cremation device.~~

(4) Any further information that the Department Comptroller reasonably may require as established by rule.

(e) Each crematory authority shall file an annual report with the Department Comptroller, accompanied with a reasonable \$25 fee determined by rule, providing (i) an affidavit signed by the owner of the crematory authority that at the time of the report the cremation device was in proper operating condition, (ii) the total number of all cremations performed at the crematory during the past year, (iii) attestation by the licensee that all applicable permits and certifications are valid, ~~and~~ (iv) either (A) any changes required in the information provided under subsection (d) or (B) an indication that no changes have occurred, ~~and~~ (v) ~~any other information that the Department may require as established by rule~~. The annual report shall be filed by a crematory authority on or before March 15 of each calendar year ~~, in the Office of the Comptroller. If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year. The Comptroller shall, for good cause shown, grant an extension for the filing of the annual report upon the written request of the crematory authority. An extension shall not exceed 60 days. If the fiscal year of a crematory authority is other than on a calendar year basis, then the crematory authority shall file the report required by this Section within 75 days after the end of its fiscal year.~~ If a crematory authority fails to submit an annual report to the Department Comptroller within the time specified in this Section, the Department Comptroller shall impose upon the crematory authority a penalty as provided for by rule of \$5 for each and every day the crematory authority remains delinquent in submitting the annual report. The Department Comptroller may abate all or part of the ~~\$5 daily~~ penalty for good cause shown.

(f) All records required to be maintained under this Act, including but not limited to those relating to the license and annual report of the crematory authority required to be filed under this Section, shall be subject to inspection by the Comptroller upon reasonable notice.

(g) The Department Comptroller may inspect crematory records at the crematory authority's place of business to review the licensee's compliance with this Act. The inspection must include verification that:

(1) the crematory authority has complied with record-keeping requirements of this Act;

(2) a crematory device operator's certification of training is conspicuously displayed at the crematory;

(3) the cremation device has a current operating permit issued by the Illinois Environmental Protection Agency and the permit is conspicuously displayed in the crematory;

(4) the crematory authority is in compliance with local zoning requirements; and

(5) the crematory authority license issued by the Department Comptroller is conspicuously displayed at the crematory.

(6) other details as determined by rule.

(h) The Department Comptroller shall issue licenses under this Act to the crematories that are registered with the Comptroller as of March 15, 2010 July 1, 2003 without requiring the previously registered crematories to complete license applications.

(Source: P.A. 92-419, eff. 1-1-02; 92-675, eff. 7-1-03.)

(410 ILCS 18/11)

Sec. 11. Grounds for denial or discipline ~~refusal of license or suspension or revocation of license.~~

(a) In this Section, "applicant" means a person who has applied for a license under this Act including those persons whose names are listed on a license application in Section 10 of this Act.

(b) The Department Comptroller may refuse to issue a license, place on probation, reprimand, or take other disciplinary action that the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any a license under this Act, or may suspend or revoke a license issued under this Act, on any of the following grounds:

(1) The applicant or licensee has made any misrepresentation or false statement or concealed any material fact in furnishing information to the Department connection with a license application or licensure under this Act.

(2) The applicant or licensee has been engaged in business practices that work a fraud.

(3) The applicant or licensee has refused to give information required under this Act to be disclosed to the Department or failing, within 30 days, to provide information in response to a written request made by the Department Comptroller.

(4) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. The applicant or licensee has conducted or is about to conduct cremation business in a fraudulent manner.

(5) As to any individual listed in the license application as required under Section 10, that individual has conducted or is about to conduct any cremation business on behalf of the applicant in a fraudulent manner or has been convicted of any felony or misdemeanor an essential element of which is fraud.

(6) The applicant or licensee has failed to make the annual report required by this Act or to comply with a final order, decision, or finding of the Department Comptroller made under this Act.

(7) The applicant or licensee, including any member, officer, or director of the applicant or licensee if the applicant or licensee is a firm, partnership, association, or corporation and including any shareholder holding more than 25% of the corporate stock of the applicant or licensee, has violated any provision of this Act or any regulation or order made by the Department Comptroller under this Act.

(8) The Department Comptroller finds any fact or condition existing that, if it had existed at the time of

the original application for a license under this Act, would have warranted the Comptroller in refusing the issuance of the license.

(9) Any violation of this Act or of the rules adopted under this Act.

(10) Incompetence.

(11) Gross malpractice.

(12) Discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(13) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for professional services not actually or personally rendered.

(14) A finding by the Department that the licensee, after having its license placed on probationary status, has violated the terms of probation.

(15) Willfully making or filing false records or reports, including, but not limited to, false records filed with State agencies or departments.

(16) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(17) Practicing under a false or, except as provided by law, an assumed name.

(18) Cheating on or attempting to subvert this Act's licensing application process.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/11.5)

Sec. 11.5. License revocation or suspension; surrender of license.

(a) ~~(Blank). Upon determining that grounds exist for the revocation or suspension of a license issued under this Act, the Comptroller, if appropriate, may revoke or suspend the license issued to the licensee.~~

(b) Upon the revocation or suspension of a license issued under this Act, the licensee must immediately surrender the license to the Department Comptroller. If the licensee fails to do so, the Department Comptroller may seize the license.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/13)

Sec. 13. License; display; transfer; duration.

(a) Every license issued under this Act must state the number of the license, the business name and address of the licensee's principal place of business, and the licensee's parent company, if any. The license must be conspicuously posted in the place of business operating under the license.

(b) ~~After initial licensure, if any person comes to obtain at least 25% of the ownership over the licensed crematory authority, then the crematory authority shall have to apply for a new license and receive licensure in the required time as set out by rule. No license is transferable or assignable without the express written consent of the Comptroller. A transfer of more than 50% of the ownership of any business licensed under this Act shall be deemed to be an attempted assignment of the license originally issued to the licensee for whom consent of the Comptroller is required.~~

(c) Every license issued under this Act shall remain in force until it has been surrendered, suspended, or revoked in accordance with this Act. Upon the request of an interested person or on the Department's Comptroller's own motion, the Department Comptroller may issue a new license to a licensee whose license has been revoked under this Act if no factor or condition then exists which would have warranted the Department Comptroller in originally refusing the issuance of the license.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/20)

Sec. 20. Authorization to cremate.

(a) A crematory authority shall not cremate human remains until it has received all of the following:

(1) A cremation authorization form signed by an authorizing agent. The cremation authorization form shall be provided by the crematory authority and shall contain, at a minimum, the following information:

(A) The identity of the human remains and the time and date of death.

(B) The name of the funeral director ~~and~~ ~~or~~ funeral establishment, if applicable, that obtained the cremation authorization.

(C) Notification as to whether the death occurred from a disease declared by the Department of Health to be infectious, contagious, communicable, or dangerous to the public health.

(D) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(E) A representation that the authorizing agent does in fact have the right to authorize the cremation of the decedent, and that the authorizing agent is not aware of any living person who has a superior priority right to that of the authorizing agent, as set forth in Section 15. In the event there is another living person who has a superior priority right to that of the authorizing agent, the form shall contain a representation that the authorizing agent has made all reasonable efforts to contact that person, has been unable to do so, and has no reason to believe that the person would object to the cremation of the decedent.

(F) Authorization for the crematory authority to cremate the human remains.

(G) A representation that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation chamber or the person performing the cremation.

(H) The name of the person authorized to receive the cremated remains from the crematory authority.

(I) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, crypt, niche, or scattering area, then the form may indicate that the cremated remains will be held by the crematory authority for 30 days before they are released, unless they are picked up from the crematory authority prior to that time, in person, by the authorizing agent. At the end of the 30 days the crematory authority may return the cremated remains to the authorizing agent if no final

disposition arrangements are made; or at the end of 60 days the crematory authority may dispose of the cremated remains in accordance with subsection (d) of Section 40.

(J) A listing of any items of value to be delivered to the crematory authority along with the human remains, and instructions as to how the items should be handled.

(K) A specific statement as to whether the authorizing agent has made arrangements for any type of viewing of the decedent before cremation, or for a service with the decedent present before cremation in connection with the cremation, and if so, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form, except as set forth in paragraph (M) of this subsection.

(M) If a cremation authorization form is being executed on a pre-need basis, the cremation authorization form shall contain the disclosure required by subsection (b) of Section 140 65.

(N) The cremation authorization form, other than pre-need cremation forms, shall also be signed by a funeral director or other representative of the funeral establishment that obtained the cremation authorization. That individual shall merely execute the cremation authorization form as a witness and shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary. The information requested by items (A), (B), (C) and (G) of this subsection, however, shall be considered to be representations of the authorizing agent. In addition, the funeral director or funeral establishment shall warrant to the crematory that the human remains delivered to the crematory authority are the human remains identified on the cremation authorization form.

(2) A completed and executed burial transit permit indicating that the human remains are to be cremated.

(3) Any other documentation required by this State.

(b) If an authorizing agent is not available to execute a cremation authorization form in person, that person may delegate that authority to another person in writing, or by sending the crematory authority a facsimile transmission that contains the name, address, and relationship of the sender to the decedent and the name and address of the individual to whom authority is delegated. Upon receipt of the written document, or facsimile transmission, telegram, or other electronic telecommunications transmission which specifies the individual to whom authority has been delegated, the crematory authority shall allow this individual to serve as the authorizing agent and to execute the cremation authorization form. The crematory authority shall be entitled to rely upon the cremation authorization form without liability.

(c) An authorizing agent who signs a cremation authorization form shall be deemed to warrant the truthfulness of any facts set forth on the cremation authorization form, including that person's authority to order the cremation; except for the information required by items (C) and (G) of paragraph (1) of subsection (a) of this Section, unless the authorizing agent has actual knowledge to the contrary. An authorizing agent signing a cremation authorization form shall be personally and individually liable for all damages occasioned by and resulting from authorizing the cremation.

(d) A crematory authority shall have authority to cremate human remains upon the receipt of a cremation authorization form signed by an authorizing agent. There shall be no liability for a crematory authority that cremates human remains according to an authorization, or that releases or disposes of the cremated remains according to an authorization, except for a crematory authority's gross negligence, provided that the crematory authority performs its functions in compliance with this Act.

(e) After an authorizing agent has executed a cremation authorization form, the authorizing agent may revoke the authorization and instruct the crematory authority to cancel the cremation and to release or deliver the human remains to another crematory authority or funeral establishment. The instructions shall be provided to the crematory authority in writing. A crematory authority shall honor any instructions given to it by an authorizing agent under this Section if it receives the instructions prior to beginning the cremation of the human remains.

(Source: P.A. 87-1187.)

(410 ILCS 18/22)

Sec. 22. Performance of cremation service; training. A person may not perform a cremation service in this State unless he or she has completed training in performing cremation services and received certification by a program recognized by the Department Comptroller. The crematory authority must conspicuously display the certification at the crematory authority's place of business. Any new employee shall have a reasonable time period, as determined by rule not to exceed one year, to attend a recognized

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training program. In the interim, the new employee may perform a cremation service if he or she has received training from another person who has received certification by a program recognized by the Department and is under the supervision of the trained person ~~Comptroller~~. For purposes of this Act, the Department may ~~Comptroller shall~~ recognize any training program that provides training in the operation of a cremation device, in the maintenance of a clean facility, and in the proper handling of human remains. The Department may ~~Comptroller shall~~ recognize any course that is conducted by a death care trade association in Illinois or the United States or by a manufacturer of a cremation unit that is consistent with the standards provided in this Act or as otherwise determined by rule.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/25)

Sec. 25. Recordkeeping.

(a) The crematory authority shall furnish to the person who delivers human remains to the crematory authority a receipt signed at the time of delivery by both the crematory authority and the person who delivers the human remains, showing the date and time of the delivery, the type of casket or alternative container that was delivered, the name of the person from whom the human remains were received and the name of the funeral establishment or other entity with whom the person is affiliated, the name of the person who received the human remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(b) Upon its release of cremated remains, the crematory authority shall furnish to the person who receives the cremated remains from the crematory authority a receipt signed by both the crematory authority and the person who receives the cremated remains, showing the date and time of the release, the name of the person to whom the cremated remains were released and the name of the funeral establishment, cemetery, or other entity with whom the person is affiliated, the name of the person who released the cremated remains on behalf of the crematory authority, and the name of the decedent. The crematory shall retain a copy of this receipt in its permanent records.

(c) A crematory authority shall maintain at its place of business a permanent record of each cremation that took place at its facility which shall contain the name of the decedent, the date of the cremation, and the final disposition of the cremated remains.

(d) The crematory authority shall maintain a record of all cremated remains disposed of by the crematory authority in accordance with subsection (d) of Section 40.

(e) Upon completion of the cremation, the crematory authority shall file the burial transit permit as required by the Illinois Vital Records Act and rules adopted under that Act and the Illinois Counties Code law, and transmit a photocopy of the burial transit permit along with the cremated remains to whoever receives the cremated remains from the authorizing agent unless the cremated remains are to be interred, entombed, inurned, or placed in a scattering area, in which case the crematory authority shall retain a copy of the burial transit permit and shall send the permit, along with the cremated remains, to the cemetery, which shall file the permit with the designated agency after the interment, entombment, inurnment, or scattering has taken place.

(f) All cemeteries shall maintain a record of all cremated remains that are disposed of on their property, provided that the cremated remains were properly transferred to the cemetery and the cemetery issued a receipt acknowledging the transfer of the cremated remains.

(Source: P.A. 87-1187.)

(410 ILCS 18/40)

Sec. 40. Disposition of cremated remains.

(a) The authorizing agent shall be responsible for the final disposition of the cremated remains.

(b) Cremated remains may be disposed of by placing them in a grave, crypt, or niche, by scattering them in a scattering area as defined in this Act, or in any manner whatever on the private property of a consenting owner.

(c) Upon the completion of the cremation process, and except as provided for in item (1) ~~(1)~~ paragraph (1) of subsection (a) of Section 20, if the crematory authority has not been instructed to arrange for the interment, entombment, inurnment, or scattering of the cremated remains, the crematory authority shall deliver the cremated remains to the individual specified on the cremation authorization form, or if no individual is specified then to the authorizing agent. The delivery may be made in person or by registered mail. Upon receipt of the cremated remains, the individual receiving them may transport them in any manner in this State without a permit, and may dispose of them in accordance with this Section. After delivery, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains.

(d) If, after a period of 60 days from the date of the cremation, the authorizing agent or the agent's designee has not instructed the crematory authority to arrange for the final disposition of the cremated

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remains or claimed the cremated remains, the crematory authority may dispose of the cremated remains in any manner permitted by this Section. The crematory authority, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the crematory authority for all reasonable expenses incurred in disposing of the cremated remains. Upon disposing of the cremated remains, the crematory authority shall be discharged from any legal obligation or liability concerning the cremated remains. Any person who was in possession of cremated remains prior to the effective date of this Act may dispose of them in accordance with this Section.

(e) Except with the express written permission of the authorizing agent, no person shall:

(1) Dispose of cremated remains in a manner or in a location so that the cremated remains are commingled with those of another person. This prohibition shall not apply to the scattering of cremated remains at sea, by air, or in an area located in a dedicated cemetery and used exclusively for those purposes.

(2) Place cremated remains of more than one person in the same temporary container or urn.

(Source: P.A. 87-1187.)

(410 ILCS 18/55)

Sec. 55. Penalties. Violations of this Act shall be punishable as follows:

(1) Performing a cremation without receipt of a cremation authorization form signed by an authorizing agent shall be a Class 4 felony.

(2) Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information shall be a Class 4 felony.

(3) A Violation of any cremation procedure set forth in Section 35 shall be a Class 4 felony.

(4) Holding oneself out to the public as a crematory authority, or the operation of a building or structure within this State as a crematory, without being licensed under this Act, shall be a Class A misdemeanor.

(4.5) Performance of a cremation service by a person who has not completed a training program as defined in Section 22 of this Act shall be a Class A misdemeanor.

(4.10) Any person who intentionally violates a provision of this Act or a final order of the Department ~~Comptroller~~ is liable for a civil penalty not to exceed ~~\$10,000~~ ~~\$5,000~~ per violation.

(4.15) Any person who knowingly acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(5) A violation of any other provision of this Act shall be a Class B misdemeanor.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/60)

Sec. 60. Failure to file annual report. Whenever a crematory authority refuses or neglects to file its annual report in violation of Section 10 of this Act, or fails to otherwise comply with the requirements of this Act, the Department shall impose a penalty as provided for by rule for each and every day the licensee remains delinquent in submitting the annual report. Such report shall be made under oath and shall be in a form determined by the Department. ~~Comptroller may commence an administrative proceeding as authorized by this Act or may communicate the facts to the Attorney General of the State of Illinois who shall thereupon institute such proceedings against the crematory authority or its officers as the nature of the case may require.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/62)

Sec. 62. Injunctive action; cease and desist order ~~Investigation of unlawful practices.~~

(a) If any person violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to

answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

If the Comptroller has good cause to believe that a person has engaged in, is engaging in, or is about to engage in any practice in violation of this Act, the Comptroller may do any one or more of the following:

~~(1) Require that person to file, on terms the Comptroller prescribes, a statement or report in writing, under oath or otherwise, containing all information that the Comptroller considers necessary to ascertain whether a licensee is in compliance with this Act, or whether an unlicensed person is engaging in activities for which a license is required under this Act.~~

~~(2) Examine under oath any person in connection with the books and records required to be maintained under this Act.~~

~~(3) Examine any books and records of a licensee that the Comptroller considers necessary to ascertain compliance with this Act.~~

~~(4) Require the production of a copy of any record, book, document, account, or paper that is produced in accordance with this Act and retain it in the Comptroller's possession until the completion of all proceedings in connection with which it is produced.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/62.5)

Sec. 62.5. Service of notice. Service by the Department Comptroller of any notice requiring a person to file a statement or report under this Act shall be made: (1) personally by delivery of a duly executed copy of the notice to the person to be served or, if that person is not a natural person, in the manner provided in the Civil Practice Law when a complaint is filed; or (2) by mailing by certified mail a duly executed copy of the notice to the person at his or her address of record ~~to be served at his or her last known abode or principal place of business within this State.~~

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/62.10)

Sec. 62.10. Investigations; notice and hearing ~~Investigation of actions; hearing.~~ The Department may at any time investigate the actions of any applicant or of any person, persons, or entity rendering or offering to render cremation services or any person or entity holding or claiming to hold a license as a licensed crematory. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 11 of this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct the accused applicant or licensee to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper.

At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Secretary shall have the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any disciplinary action with regard to a license. The hearing officer shall have full authority to conduct the hearing. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

~~(a) The Comptroller shall make an investigation upon discovering facts that, if proved, would constitute grounds for refusal, suspension, or revocation of a license under this Act.~~

~~(b) Before refusing to issue, and before suspending or revoking, a license under this Act, the Comptroller shall hold a hearing to determine whether the applicant for a license or the licensee ("the respondent") is entitled to hold such a license. At least 10 days before the date set for the hearing, the Comptroller shall notify the respondent in writing that (i) on the designated date a hearing will be held to determine the respondent's eligibility for a license and (ii) the respondent may appear in person or by counsel. The written notice may be served on the respondent personally, or by registered or certified mail sent to the respondent's business address as shown in the respondent's latest notification to the Comptroller. The notice must include sufficient information to inform the respondent of the general nature of the reason for the Comptroller's action.~~

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(c) At the hearing, both the respondent and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence, and argument as may be pertinent to the charge or to any defense to the charge. The Comptroller may reasonably continue the hearing from time to time. The Comptroller may subpoena any person or persons in this State and take testimony orally, by deposition, or by exhibit, in the same manner and with the same fees and mileage as prescribed in judicial proceedings in civil cases. Any authorized agent of the Comptroller may administer oaths to witnesses at any hearing that the Comptroller is authorized to conduct.

(d) The Comptroller, at the Comptroller's expense, shall provide a certified shorthand reporter to take down the testimony and preserve a record of every proceeding at the hearing of any case involving the refusal to issue a license under this Act, the suspension or revocation of such a license, the imposition of a monetary penalty, or the referral of a case for criminal prosecution. The record of any such proceeding shall consist of the notice of hearing, the complaint, all other documents in the nature of pleadings and written motions filed in the proceeding, the transcript of testimony, and the report and orders of the Comptroller. Copies of the transcript of the record may be purchased from the certified shorthand reporter who prepared the record or from the Comptroller.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/62.15)

Sec. 62.15. Compelling testimony Court order. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt. Upon the application of the Comptroller or of the applicant or licensee against whom proceedings under Section 62.10 are pending, any circuit court may enter an order requiring witnesses to attend and testify and requiring the production of documents, papers, files, books, and records in connection with any hearing in any proceeding under that Section. Failure to obey such a court order may result in contempt proceedings.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/62.20)

Sec. 62.20. Administrative review; venue; certification of record; costs Judicial review.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

(c) The Department shall not be required to certify any record of the court, file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to make such payment to the Department is grounds for dismissal of the action. Any person affected by a final administrative decision of the Comptroller under this Act may have the decision reviewed judicially by the circuit court of the county where the person resides or, in the case of a corporation, where the corporation's registered office is located. If the plaintiff in the judicial review proceeding is not a resident of this State, venue shall be in Sangamon County. The provisions of the Administrative Review Law and any rules adopted under it govern all proceedings for the judicial review of final administrative decisions of the Comptroller under this Act. The term "administrative decision" is defined as in the Administrative Review Law.

(b) The Comptroller is not required to certify the record of the proceeding unless the plaintiff in the review proceeding has purchased a copy of the transcript from the certified shorthand reporter who prepared the record or from the Comptroller. Exhibits shall be certified without cost.

(Source: P.A. 92-675, eff. 7-1-03.)

(410 ILCS 18/65)

Sec. 65. Pre-need cremation arrangements.

(a) Any person, or anyone who has legal authority to act on behalf of a person, on a pre-need basis, may authorize his or her own cremation and the final disposition of his or her cremated remains by executing, as the authorizing agent, a cremation authorization form on a pre-need basis. A copy of this form shall be provided to the person. Any person shall have the right to transfer or cancel this authorization at any time prior to death by destroying the executed cremation authorization form and providing written notice to the crematory authority.

(b) Any cremation authorization form that is being executed by an individual as his or her own

authorizing agent on a pre-need basis shall contain the following disclosure, which shall be completed by the authorizing agent:

- "( ) I do not wish to allow any of my survivors the option of cancelling my cremation and selecting alternative arrangements, regardless of whether my survivors deem a change to be appropriate.
- ( ) I wish to allow only the survivors whom I have designated below the option of cancelling my cremation and selecting alternative arrangements, if they deem a change to be appropriate:....."

(c) Except as provided in subsection (b) of this Section, at the time of the death of a person who has executed, as the authorizing agent, a cremation authorization form on a pre-need basis, any person in possession of an executed form and any person charged with making arrangements for the final disposition of the decedent who has knowledge of the existence of an executed form, shall use their best efforts to ensure that the decedent is cremated and that the final disposition of the cremated remains is in accordance with the instructions contained on the cremation authorization form. If a crematory authority (i) is in possession of a completed cremation authorization form that was executed on a pre-need basis, (ii) is in possession of the designated human remains, and (iii) has received payment for the cremation of the human remains and the final disposition of the cremated remains or is otherwise assured of payment, then the crematory authority shall be required to cremate the human remains and dispose of the cremated remains according to the instructions contained on the cremation authorization form, and may do so without any liability.

(d) ~~(e)~~ Any pre-need contract sold by, or pre-need arrangements made with, a cemetery, funeral establishment, crematory authority, or any other party that includes a cremation shall specify the final disposition of the cremated remains, in accordance with Section 40. In the event that no different or inconsistent instructions are provided to the crematory authority by the authorizing agent at the time of death, the crematory authority shall be authorized to release or dispose of the cremated remains as indicated in the pre-need agreement. Upon compliance with the terms of the pre-need agreement, the crematory authority shall be discharged from any legal obligation concerning the cremated remains. The pre-need agreement shall be kept as a permanent record by the crematory authority.

(e) ~~(f)~~ This Section shall not apply to any cremation authorization form or pre-need contract executed prior to the effective date of this Act. Any cemetery, funeral establishment, crematory authority, or other party, however, with the written approval of the authorizing agent or person who executed the pre-need contract, may designate that the cremation authorization form or pre-need contract shall be subject to this Act.

(Source: P.A. 87-1187.)

(410 ILCS 18/80)

Sec. 80. Record of proceedings; transcript ~~Home Rule~~. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. Any notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the hearing officer, and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of such record to any person interested in such hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law. ~~The regulation of crematories and crematory authorities as set forth in this Act is an exclusive power and function of the State. A home rule unit may not regulate crematories or crematory authorities. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.~~

(Source: P.A. 91-357, eff. 7-29-99.)

(410 ILCS 18/85 new)

Sec. 85. Subpoenas; depositions; oaths. The Department has the power to subpoena documents, books, records or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Secretary, the designated hearing officer, or any qualified person the Department may designate has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

Every person having taken an oath or affirmation in any proceeding or matter wherein an oath is required by this Act, who shall swear willfully, corruptly and falsely in a matter material to the issue or point in question, or shall suborn any other person to swear as aforesaid, shall be guilty of perjury or subornation of perjury, as the case may be and shall be punished as provided by State law relative to perjury and subornation of perjury.

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(410 ILCS 18/87 new)

Sec. 87. Findings and recommendations. At the conclusion of the hearing, the hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The hearing officer shall specify the nature of any violations or failure to comply and shall make recommendations to the Secretary. In making recommendations for any disciplinary actions, the hearing officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the hearing officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation. The report of findings of fact, conclusions of law, and recommendation of the hearing officer shall be the basis for the Department's order refusing to issue, restore, place on probation, fine, suspend, revoke a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the hearing officer, the Secretary may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

(410 ILCS 18/88 new)

Sec. 88. Rehearing. At the conclusion of the hearing, a copy of the hearing officer's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the hearing officer except as provided in Section 89 of this Act.

If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(410 ILCS 18/89 new)

Sec. 89. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue or restore a license or other discipline of an applicant or licensee, he or she may order a rehearing by the same or other hearing officers.

(410 ILCS 18/90 new)

Sec. 90. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

- (a) the signature is the genuine signature of the Secretary;
- (b) the Secretary is duly appointed and qualified; and
- (c) the hearing officer is qualified to act.

(410 ILCS 18/91 new)

Sec. 91. Civil action and civil penalties. In addition to the other penalties and remedies provided in this Act, the Department may bring a civil action in the county of residence of the licensee or any other person to enjoin any violation or threatened violation of this Act. In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$10,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act.

Any civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record. All moneys collected under this Section shall be deposited into the Cemetery Oversight Licensing and Disciplinary Fund.

(410 ILCS 18/92 new)

Sec. 92. Consent order. At any point in any investigation or disciplinary proceedings as provided in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(410 ILCS 18/93 new)

Sec. 93. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act

is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention or continuation of the license, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the address of record.

(410 ILCS 18/94 new)

Sec. 94. Summary suspension of a license. The Secretary may summarily suspend a license of a licensed crematory without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Secretary finds that evidence in the Secretary's possession indicates that the licensee's continued practice would constitute an imminent danger to the public. In the event that the Secretary summarily suspends the license of a licensed crematory without a hearing, a hearing must be commenced within 30 days after the suspension has occurred and concluded as expeditiously as practical. In the event of a summary suspension, the county coroner or medical examiner responsible for the area where the crematory is located shall make arrangements to dispose of any bodies in the suspended licensee's possession after consulting with the authorizing agents for those bodies.

(410 ILCS 18/95 new)

Sec. 95. Home Rule. The regulation of crematories and crematory authorities as set forth in this Act is an exclusive power and function of the State. A home rule unit may not regulate crematories or crematory authorities. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 90-30. The Vital Records Act is amended by changing Sections 11 and 18.5 as follows:

(410 ILCS 535/11) (from Ch. 111 1/2, par. 73-11)

Sec. 11. Information required on forms.

(a) The form of certificates, reports, and other returns required by this Act or by regulations adopted under this Act shall include as a minimum the items recommended by the federal agency responsible for national vital statistics, subject to approval of and modification by the Department. All forms shall be prescribed and furnished by the State Registrar of Vital Records.

(b) On and after the effective date of this amendatory Act of 1983, all forms used to collect information under this Act which request information concerning the race or ethnicity of an individual by providing spaces for the designation of that individual as "white" or "black", or the semantic equivalent thereof, shall provide an additional space for a designation as "Hispanic".

(c) Effective November 1, 1990, the social security numbers of the mother and father shall be collected at the time of the birth of the child. These numbers shall not be recorded on the certificate of live birth. The numbers may be used only for those purposes allowed by Federal law.

(d) The social security number of a person who has died shall be entered on the death certificate; however, failure to enter the social security number of the person who has died on the death certificate does not invalidate the death certificate.

(e) If the place of disposition of a dead human body or cremated remains is in a cemetery, the burial permit shall include the place of disposition. The place of disposition shall include the lot, block, section, and plot or niche where the dead human body or cremated remains are located. This subsection does not apply to cremated remains scattered in a cemetery.

(Source: P.A. 90-18, eff. 7-1-97.)

(410 ILCS 535/18.5)

Sec. 18.5. Electronic reporting system for death registrations. The State Registrar ~~shall may~~ facilitate death registration by implementing an electronic reporting system. The system may be used to transfer information to individuals and institutions responsible for completing and filing certificates and related reports for deaths that occur in the State. The system shall be capable of storing and retrieving accurate and timely data and statistics for those persons and agencies responsible for vital records registration and administration. Upon establishment of such an electronic reporting system, but not later than January 1, 2011, the county clerk in the county in which a death occurred or the county clerk of the county where a decedent last resided, as indicated on the decedent's death certificate, shall be authorized to issue certifications of death records from such system, and the State Registrar shall cause the electronic reporting system to provide for such capability. The Department of Financial and Professional Regulation shall have access to the system to enhance its enforcement of the Cemetery Oversight Act. (Source: P.A. 96-327, eff. 8-11-09.)

Section 90-33. The Eminent Domain Act is amended by changing Section 15-5-40 as follows:

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(735 ILCS 30/15-5-40)

Sec. 15-5-40. Eminent domain powers in ILCS Chapters 705 through 820. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

(765 ILCS 230/2); Coast and Geodetic Survey Act; United States of America; for carrying out coast and geodetic surveys.

(765 ILCS 505/1); Mining Act of 1874; mine owners and operators; for roads, railroads, and ditches.

(805 ILCS 25/2); Corporation Canal Construction Act; general corporations; for levees, canals, or tunnels for agricultural, mining, or sanitary purposes.

(805 ILCS 30/7); Gas Company Property Act; consolidating gas companies; for acquisition of stock of dissenting stockholder.

(805 ILCS 120/9); Merger of Not For Profit Corporations Act; merging or consolidating corporations; for acquisition of interest of objecting member or owner.

~~(805 ILCS 320/16 through 320/20); Cemetery Association Act; cemetery associations; for cemetery purposes.~~

(Source: P.A. 94-1055, eff. 1-1-07.)

Section 90-35. The Crime Victims Compensation Act is amended by changing Section 2 as follows:

(740 ILCS 45/2) (from Ch. 70, par. 72)

Sec. 2. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Applicant" means any person who applies for compensation under this Act or any person the Court of Claims finds is entitled to compensation, including the guardian of a minor or of a person under legal disability. It includes any person who was a dependent of a deceased victim of a crime of violence for his or her support at the time of the death of that victim.

(b) "Court of Claims" means the Court of Claims created by the Court of Claims Act.

(c) "Crime of violence" means and includes any offense defined in Sections 9-1, 9-2, 9-3, 10-1, 10-2, 11-11, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-5, 12-7.1, 12-7.3, 12-7.4, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-20.5, 12-30, 20-1 or 20-1.1 of the Criminal Code of 1961, Sections 1(a) and 1(a-5) of the Cemetery Protection Act, driving under the influence of intoxicating liquor or narcotic drugs as defined in Section 11-501 of the Illinois Vehicle Code, and a violation of Section 11-401 of the Illinois Vehicle Code, provided the victim was a pedestrian or was operating a vehicle moved solely by human power or a mobility device at the time of contact; so long as the offense did not occur during a civil riot, insurrection or rebellion. "Crime of violence" does not include any other offense or accident involving a motor vehicle except those vehicle offenses specifically provided for in this paragraph. "Crime of violence" does include all of the offenses specifically provided for in this paragraph that occur within this State but are subject to federal jurisdiction and crimes involving terrorism as defined in 18 U.S.C. 2331.

(d) "Victim" means (1) a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against him or her, (2) the parent of a person killed or injured in this State as a result of a crime of violence perpetrated or attempted against the person, (3) a person killed or injured in this State while attempting to assist a person against whom a crime of violence is being perpetrated or attempted, if that attempt of assistance would be expected of a reasonable ~~person~~ person under the circumstances, (4) a person killed or injured in this State while assisting a law enforcement official apprehend a person who has perpetrated a crime of violence or prevent the perpetration of any such crime if that assistance was in response to the express request of the law enforcement official, (5) a person who personally witnessed a violent crime, (5.1) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any other person under the age of 18 who is the brother, sister, half brother, half sister, child, or stepchild of a person killed or injured in this State as a result of a crime of violence, ~~or~~ (6) an Illinois resident who is a victim of a "crime of violence" as defined in this Act except, if the crime occurred outside this State, the resident has the same rights under this Act as if the crime had occurred in this State upon a showing that the state, territory, country, or political subdivision of a country in which the crime occurred does not have a compensation of victims of crimes law for which that Illinois resident is eligible (7) a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence, or (8) solely for the purpose of compensating for pecuniary loss incurred for psychological treatment of a mental or emotional condition caused or aggravated by the crime, any parent, spouse, or child under the age of 18 of a deceased person whose body is dismembered or whose remains are desecrated as the result of a crime of violence.

(e) "Dependent" means a relative of a deceased victim who was wholly or partially dependent upon the victim's income at the time of his or her death and shall include the child of a victim born after his or her death.

(f) "Relative" means a spouse, parent, grandparent, stepfather, stepmother, child, grandchild, brother, brother-in-law, sister, sister-in-law, half brother, half sister, spouse's parent, nephew, niece, uncle or aunt.

(g) "Child" means an unmarried son or daughter who is under 18 years of age and includes a stepchild, an adopted child or a child born out of wedlock.

(h) "Pecuniary loss" means, in the case of injury, appropriate medical expenses and hospital expenses including expenses of medical examinations, rehabilitation, medically required nursing care expenses, appropriate psychiatric care or psychiatric counseling expenses, expenses for care or counseling by a licensed clinical psychologist, licensed clinical social worker, or licensed clinical professional counselor and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto; transportation expenses to and from medical and treatment facilities; prosthetic appliances, eyeglasses, and hearing aids necessary or damaged as a result of the crime; replacement costs for clothing and bedding used as evidence; costs associated with temporary lodging or relocation necessary as a result of the crime, including, but not limited to, the first month's rent and security deposit of the dwelling that the claimant relocated to and other reasonable relocation expenses incurred as a result of the violent crime; locks or windows necessary or damaged as a result of the crime; the purchase, lease, or rental of equipment necessary to create usability of and accessibility to the victim's real and personal property, or the real and personal property which is used by the victim, necessary as a result of the crime; the costs of appropriate crime scene clean-up; replacement services loss, to a maximum of \$1000 per month; dependents replacement services loss, to a maximum of \$1000 per month; loss of tuition paid to attend grammar school or high school when the victim had been enrolled as a student prior to the injury, or college or graduate school when the victim had been enrolled as a day or night student prior to the injury when the victim becomes unable to continue attendance at school as a result of the crime of violence perpetrated against him or her; loss of earnings, loss of future earnings because of disability resulting from the injury, and, in addition, in the case of death, expenses for funeral, burial, and travel and transport for survivors of homicide victims to secure bodies of deceased victims and to transport bodies for burial all of which may not exceed a maximum of \$5,000 and loss of support of the dependents of the victim; in the case of dismemberment or desecration of a body, expenses for funeral and burial, all of which may not exceed a maximum of \$5,000. Loss of future earnings shall be reduced by any income from substitute work actually performed by the victim or by income he or she would have earned in available appropriate substitute work he or she was capable of performing but unreasonably failed to undertake. Loss of earnings, loss of future earnings and loss of support shall be determined on the basis of the victim's average net monthly earnings for the 6 months immediately preceding the date of the injury or on \$1000 per month, whichever is less. If a divorced or legally separated applicant is claiming loss of support for a minor child of the deceased, the amount of support for each child shall be based either on the amount of support pursuant to the judgment prior to the date of the deceased victim's injury or death, or, if the subject of pending litigation filed by or on behalf of the divorced or legally separated applicant prior to the injury or death, on the result of that litigation. Real and personal property includes, but is not limited to, vehicles, houses, apartments, town houses, or condominiums. Pecuniary loss does not include pain and suffering or property loss or damage.

(i) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income, but for the benefit of himself or herself or his or her family, if he or she had not been injured.

(j) "Dependents replacement services loss" means loss reasonably incurred by dependents or private legal guardians of minor dependents after a victim's death in obtaining ordinary and necessary services in lieu of those the victim would have performed, not for income, but for their benefit, if he or she had not been fatally injured.

(k) "Survivor" means immediate family including a parent, step-father, step-mother, child, brother, sister, or spouse.

(Source: P.A. 96-267, eff. 8-11-09.)

Section 90-40. The Burial Lot Perpetual Trust Act is amended by changing Section 2 as follows:  
(760 ILCS 90/2) (from Ch. 21, par. 32)

Sec. 2. Every company or association incorporated for cemetery purposes under any general or special law of the State of Illinois may receive, by gift, legacy, or otherwise, moneys or real or personal property, or the income or avails of such moneys or property, in trust, in perpetuity, for the

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improvement, maintenance, ornamentation, repair, care and preservation of any burial lot or grave, vault, tomb, or other such structures, in any cemetery owned or controlled by such cemetery company or association, upon such terms and in such manner as may be provided by the terms of such gift, legacy or other conveyance of such moneys or property in trust and assented to by such company or association, and subject to the rules and regulations of such company or association, and every such company or association owning or controlling any such cemetery may make contracts with the owner or owners or legal representatives of any lot, grave, vault, tomb, or other such structure in such cemetery, for the improvement, maintenance, ornamentation, care, preservation and repair of any such lot, grave, vault, tomb, or other such structure in such cemetery owned or controlled by such cemetery company or association. If the cemetery is a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, or if the burial lot or grave, vault, tomb, or other such structures are in a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, then such company or association shall also comply with the provisions of the Cemetery Care Act or Cemetery Oversight Act, whichever is applicable. Where the cemetery is a privately operated cemetery, as defined in section 2 of the Cemetery Care Act, approved July 21, 1947, as amended, or where the burial lot or grave, vault, tomb, or other such structures are in a privately operated cemetery, as defined in section 2 of that Act, then such company or association shall also comply with the provisions of the Cemetery Care Act.

(Source: P.A. 83-388.)

Section 90-45. The Cemetery Perpetual Trust Authorization Act is amended by changing Section 2 as follows:

(760 ILCS 95/2) (from Ch. 21, par. 64)

Sec. 2. Any incorporated cemetery association incorporated not for pecuniary profit, may if it elects to do so, receive and hold money, funds and property in perpetual trust pursuant to the provisions of this act. Such election shall be evidenced by a by-law or resolution adopted by the board of directors, or board of trustees of the incorporated cemetery association. Any person is authorized to give, donate or bequeath any sum of money or any funds, securities, or property of any kind to the cemetery association, in perpetual trust, for the maintenance, care, repair, upkeep or ornamentation of the cemetery, or any lot or lots, or grave or graves in the cemetery, specified in the instrument making the gift, donation or legacy. The cemetery association may receive and hold in perpetual trust, any such money, funds, securities and property so given, donated or bequeathed to it, and may convert the property, funds and securities into money and shall invest and keep invested the proceeds thereof and the money so given, donated and bequeathed, in safe and secure income bearing investments, including investments in income producing real estate, provided the purchase price of the real estate shall not exceed the fair market value thereof on the date of its purchase as such value is determined by the board of directors or board of trustees of the association. The principal of the trust fund shall be kept intact and the income arising therefrom shall be perpetually applied for the uses and purposes specified in the instrument making the gift, donation or legacy and for no other purpose.

The by-laws of the cemetery association shall provide for a permanent committee to manage and control the trust funds so given, donated and bequeathed to it. The members of the committee shall be appointed by the board of directors, or board of trustees of the cemetery association from among the members of the board of directors or board of trustees. The committee shall choose a chairman, a secretary and a treasurer from among the members, and shall have the management and control of the trust funds of the cemetery association so given, donated and bequeathed in trust, under the supervision of the board of directors or board of trustees. The treasurer of the committee shall execute a bond to the People of the State of Illinois for the use of the cemetery association, in a penal sum of not less than double the amount of the trust funds coming into his possession as treasurer, conditioned for the faithful performance of his duties and the faithful accounting for all money or funds which by virtue of his treasurership come into his possession, and be in such form and with such securities as may be prescribed and approved by the board of directors, or board of trustees, and shall be approved by such board of directors, or board of trustees, and filed with the secretary of the cemetery association.

The treasurer of the committee shall have the custody of all money, funds and property received in trust by the cemetery association and shall invest the same in accordance with the directions of the committee as approved by the board of directors or board of trustees of the cemetery association, and shall receive and have the custody of all of the income arising from such investments and as the income is received by him, he shall pay it to the treasurer of the cemetery association, and he shall keep permanent books of record of all such trust funds and of all receipts arising therefrom and disbursements

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thereof, and shall annually make a written report to the board of directors or board of trustees of the cemetery association, under oath, showing receipts and disbursements, including a statement showing the amount and principal of trust funds on hand and how invested, which report shall be audited by the board of directors, or board of trustees, and if found correct, shall be approved, and filed with the secretary of the cemetery association.

The secretary of the committee shall keep, in a book provided for such purpose, a permanent record of the proceedings of the committee, signed by the president and attested by the secretary, and shall also keep a permanent record of the several trust funds, the amounts thereof, and for what uses and purposes, respectively, and he shall annually, at the time the treasurer makes his report, make a written report under oath, to the board of directors or board of trustees, stating therein substantially the same matter required to be reported by the treasurer of the committee, which report, if found to be correct, shall be approved, and filed with the secretary of the association.

The treasurer shall execute a bond to the People of the State of Illinois, in a penal sum of not less than double the amount of money or funds coming into his possession as such treasurer, conditioned for the faithful performance of his duties and the faithful accounting of all money or funds which by virtue of his office come into his possession and be in such form and with such securities as may be prescribed and approved by the board of directors, or board of trustees, and shall be approved by such board of directors or board of trustees and filed with the secretary of the cemetery association.

The trust funds, gifts and legacies mentioned in this section and the income arising therefrom shall be exempt from taxation and from the operation of all laws of mortmain, and the laws against perpetuities and accumulations.

No loan; investment; purchase of insurance on the life of any trustee or employee; purchase of any real estate; or any other transaction using care funds by any trustee, director, or committee member shall be made to or for the benefit of any person, officer, trustee, or party having any interest, or to any firm, corporation, trade association, or partnership in which any officer, director, trustee, or party has any interest, is a member of, or serves as an officer or director. A violation of this Section shall constitute the intentional and improper withdrawal of trust funds.

No loan or investment in any unproductive real estate or real estate outside of this State or in permanent improvements of the cemetery or any of its facilities shall be made, unless specifically authorized by the instrument whereby the principal fund was created. No commission or brokerage fee for the purchase or sale of any property shall be paid in excess of that usual and customary at the time and in the locality where such purchase or sale is made, and all such commissions and brokerage fees shall be fully reported in the next annual report filed by such cemetery association or trustee.

If the cemetery is a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, or if the burial lot or grave, vault, tomb, or other such structures are in a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, then such company or association shall also comply with the provisions of the Cemetery Care Act or Cemetery Oversight Act, whichever is applicable. ~~Where the cemetery is a privately operated cemetery, as defined in section 2 of the Cemetery Care Act, approved July 21, 1947, as amended, or where the lot or lots or grave or graves are in a privately operated cemetery, as defined in section 2 of that Act, then such cemetery association or such committee, shall also comply with the provisions of the Cemetery Care Act.~~

(Source: P.A. 95-331, eff. 8-21-07.)

Section 90-50. The Cemetery Protection Act is amended by changing Sections .01, 1 and 8 as follows: (765 ILCS 835/.01) (from Ch. 21, par. 14.01)

Sec. .01. For the purposes of this Act, the term:

"Cemetery manager" means an individual who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property. This definition also includes, without limitation, an individual that is an independent contractor or individuals employed or contracted by an independent contractor who is engaged in, or holding himself or herself out as engaged in, those activities involved in or incidental to supervising the following: the maintenance, operation, development, or improvement of a cemetery licensed under this Act; the interment of human remains; or the care, preservation, and embellishment of cemetery property.

"Cemetery authority" is defined as in Section 2 of the "Cemetery Care Act", approved July 21, 1947, as now and hereafter amended.

"Community mausoleum" means a mausoleum owned and operated by a cemetery authority that

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contains multiple entombment rights sold to the public.

(Source: P.A. 94-44, eff. 6-17-05.)

(765 ILCS 835/1) (from Ch. 21, par. 15)

Sec. 1. (a) Any person who acts without proper legal authority and who willfully and knowingly destroys or damages the remains of a deceased human being or who desecrates human remains is guilty of a Class 3 felony.

(a-5) Any person who acts without proper legal authority and who willfully and knowingly removes any portion of the remains of a deceased human being from a burial ground where skeletal remains are buried or from a grave, crypt, vault, mausoleum, or other repository of human remains is guilty of a Class 4 felony.

(b) Any person who acts without proper legal authority and who willfully and knowingly:

(1) obliterates, vandalizes, or desecrates a burial ground where skeletal remains are buried or a grave, crypt, vault, mausoleum, or other repository of human remains;

(2) obliterates, vandalizes, or desecrates a park or other area clearly designated to preserve and perpetuate the memory of a deceased person or group of persons;

(3) obliterates, vandalizes, or desecrates plants, trees, shrubs, or flowers located upon or around a repository for human remains or within a human graveyard or cemetery; or

(4) obliterates, vandalizes, or desecrates a fence, rail, curb, or other structure of a similar nature intended for the protection or for the ornamentation of any tomb, monument, gravestone, or other structure of like character;

is guilty of a Class A misdemeanor if the amount of the damage is less than \$500, a Class 4 felony if the amount of the damage is at least \$500 and less than \$10,000, a Class 3 felony if the amount of the damage is at least \$10,000 and less than \$100,000, or a Class 2 felony if the damage is \$100,000 or more and shall provide restitution to the cemetery authority or property owner for the amount of any damage caused.

(b-5) Any person who acts without proper legal authority and who willfully and knowingly defaces, vandalizes, injures, or removes a gravestone or other memorial, monument, or marker commemorating a deceased person or group of persons, whether located within or outside of a recognized cemetery, memorial park, or battlefield is guilty of a Class 4 felony for damaging at least one but no more than 4 gravestones, a Class 3 felony for damaging at least 5 but no more than 10 gravestones, or a Class 2 felony for damaging more than 10 gravestones and shall provide restitution to the cemetery authority or property owner for the amount of any damage caused.

(b-7) Any person who acts without proper legal authority and who willfully and knowingly removes with the intent to resell a gravestone or other memorial, monument, or marker commemorating a deceased person or group of persons, whether located within or outside a recognized cemetery, memorial park, or battlefield, is guilty of a Class 2 felony.

(c) The provisions of this Section shall not apply to the removal or unavoidable breakage or injury by a cemetery authority of anything placed in or upon any portion of its cemetery in violation of any of the rules and regulations of the cemetery authority, nor to the removal of anything placed in the cemetery by or with the consent of the cemetery authority that in the judgment of the cemetery authority has become wrecked, unsightly, or dilapidated.

(d) If an unemancipated minor is found guilty of violating any of the provisions of subsection (b) of this Section and is unable to provide restitution to the cemetery authority or property owner, the parents or legal guardians of that minor shall provide restitution to the cemetery authority or property owner for the amount of any damage caused, up to the total amount allowed under the Parental Responsibility Law.

(d-5) Any person who commits any of the following:

(1) any unauthorized, non-related third party or person who enters any sheds, crematories, or employee areas;

(2) any non-cemetery personnel who solicits cemetery mourners or funeral directors on the grounds or in the offices or chapels of a cemetery before, during, or after a burial;

(3) any person who harasses or threatens any employee of a cemetery on cemetery grounds;

or

(4) any unauthorized person who removes, destroys, or disturbs any cemetery devices or property placed for safety of visitors and cemetery employees;

is guilty of a Class A misdemeanor for the first offense and of a Class 4 felony for a second or subsequent offense.

(e) Any person who shall hunt, shoot or discharge any gun, pistol or other missile, within the limits of any cemetery, or shall cause any shot or missile to be discharged into or over any portion thereof, or shall violate any of the rules made and established by the board of directors of such cemetery, for the

protection or government thereof, is guilty of a Class C misdemeanor.

(f) Any person who knowingly enters or knowingly remains upon the premises of a public or private cemetery without authorization during hours that the cemetery is posted as closed to the public is guilty of a Class A misdemeanor.

(g) All fines when recovered, shall be paid over by the court or officer receiving the same to the cemetery authority and be applied, as far as possible in repairing the injury, if any, caused by such offense. Provided, nothing contained in this Act shall deprive such cemetery authority or the owner of any interment, entombment, or ~~inurnment~~ ~~inurement~~ right or monument from maintaining an action for the recovery of damages caused by any injury caused by a violation of the provisions of this Act, or of the rules established by the board of directors of such cemetery authority. Nothing in this Section shall be construed to prohibit the discharge of firearms loaded with blank ammunition as part of any funeral, any memorial observance or any other patriotic or military ceremony.

(Source: P.A. 94-44, eff. 6-17-05; 94-608, eff. 8-16-05; 95-331, eff. 8-21-07.)

(765 ILCS 835/8) (from Ch. 21, par. 21.1)

~~Sec. 8. If the cemetery is a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, or if the burial lot or grave, vault, tomb, or other such structures are in a privately owned cemetery, as defined in Section 2 of the Cemetery Care Act, or a licensed cemetery authority under the Cemetery Oversight Act, then such company or association shall also comply with the provisions of the Cemetery Care Act or Cemetery Oversight Act, whichever is applicable. Furthermore, no cemetery authority company or other legal entity may deny burial space to any person because of race, creed, marital status, sex, national origin, sexual orientation, or color. A cemetery company or other entity operating any cemetery may designate parts of cemeteries or burial grounds for the specific use of persons whose religious code requires isolation. Religious institution cemeteries may limit burials to members of the religious institution and their families. Where the cemetery is a privately operated cemetery, as defined in Section 2 of the Cemetery Care Act, enacted by the Sixty fifth General Assembly or where the interment, entombment rights in a community mausoleum or lawn crypt section, or inurnment rights in a community columbarium, vault or vaults, tomb or tombs, or other such structures in the cemetery or graveyard are in a privately operated cemetery, as defined in Section 2 of that Act, then such board of directors or managing officers of such cemetery, society or cemetery authority, or the trustees of any public graveyard or the cemetery society or cemetery association, shall also comply with the provisions of the Cemetery Care Act, enacted by the Sixty fifth General Assembly.~~

(Source: P.A. 94-44, eff. 6-17-05.)

Section 90-57. The Consumer Fraud and Deceptive Business Practices Act is amended by changing Section 2Z as follows:

(815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

Sec. 2Z. Violations of other Acts. Any person who knowingly violates the Automotive Repair Act, the Automotive Collision Repair Act, the Home Repair and Remodeling Act, the Dance Studio Act, the Physical Fitness Services Act, the Hearing Instrument Consumer Protection Act, the Illinois Union Label Act, the Job Referral and Job Listing Services Consumer Protection Act, the Travel Promotion Consumer Protection Act, the Credit Services Organizations Act, the Automatic Telephone Dialers Act, the Pay-Per-Call Services Consumer Protection Act, the Telephone Solicitations Act, the Illinois Funeral or Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act, the Payday Loan Reform Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the Internet Caller Identification Act, paragraph (6) of subsection (k) of Section 6-305 of the Illinois Vehicle Code, Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the Illinois Vehicle Code, Article 3 of the Residential Real Property Disclosure Act, the Automatic Contract Renewal Act, or the Personal Information Protection Act commits an unlawful practice within the meaning of this Act.

(Source: P.A. 94-13, eff. 12-6-05; 94-36, eff. 1-1-06; 94-280, eff. 1-1-06; 94-292, eff. 1-1-06; 94-822, eff. 1-1-07; 95-413, eff. 1-1-08; 95-562, eff. 7-1-08; 95-876, eff. 8-21-08.)

Section 90-60. The Burial Rights Act is amended by changing Sections 1 and 2.3 as follows:

(820 ILCS 135/1) (from Ch. 21, par. 101)

Sec. 1. (a) Every contract, agreement or understanding between a cemetery authority and a cemetery workers' association which totally prohibits burials of human remains on Sundays or legal holidays shall be deemed to be void as against public policy and wholly unenforceable.

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(b) Nothing in this Section shall prohibit a cemetery authority and a cemetery workers' association from entering into a contract, agreement or understanding which limits Sunday or holiday burials of human remains to decedents who were members of religious sects whose tenets or beliefs require burials within a specified period of time and whose deaths occurred at such times as to necessitate Sunday or holiday burials. Such contract, agreement or understanding may provide that a funeral director notify the cemetery authority within a reasonable time when a Sunday or holiday burial is necessitated by reason of the decedent's religious tenets or beliefs.

(c) It shall be unlawful for any person to restrain, prohibit or interfere with the burial of a decedent whose time of death and religious tenets or beliefs necessitate burial on a Sunday or legal holiday.

(d) A violation of this Section is a Class A misdemeanor.

(e) For the purposes of this Act, "cemetery authority" shall have the meaning ascribed to it in ~~Section 2~~ of the Cemetery Oversight Care Act; and "cemetery workers' association" means an organization of workers who are employed by cemetery authorities to perform the task of burying human remains or transporting remains to cemeteries or other places of interment, and who join together for collective bargaining purposes or to negotiate terms and conditions of employment.

(Source: P.A. 83-384.)

(820 ILCS 135/2.3)

Sec. 2.3. Sections of cemeteries. No provision of any law of this State may be construed to prohibit a cemetery authority from reserving, in a cemetery not owned by a religious organization or institution, a section of interment rights, entombment rights, or inurnment rights for sale exclusively to persons of a particular religion, unless membership in the religion is restricted on account of race, color, or national origin. As used in this Section, "interment rights", "entombment rights", and "inurnment rights" have the meanings ascribed to those terms in the Cemetery Oversight Care Act.

(Source: P.A. 88-659.)

(760 ILCS 100/Act rep.)

Section 90-90. The Cemetery Care Act is repealed.

(805 ILCS 320/16 rep.) (805 ILCS 320/16.5 rep.) (805 ILCS 320/17 rep.) (805 ILCS 320/18 rep.) (805 ILCS 320/19 rep.) (805 ILCS 320/20 rep.)

Section 90-92. The Cemetery Association Act is amended by repealing Sections 16, 16.5, 17, 18, 19, and 20.

(805 ILCS 320/Act rep.)

Section 90-95. The Cemetery Association Act is repealed.

#### Article 91.

#### Additional Amendatory Provisions

Section 91-5. The Funeral Directors and Embalmers Licensing Code is amended by changing Sections 1-10, 15-50, 15-60, and 15-75 and adding Article 12 as follows:

(225 ILCS 41/1-10)

(Section scheduled to be repealed on January 1, 2013)

Sec. 1-10. Definitions. As used in this Code:

"Applicant" means any person making application for a license or certificate of registration.

"Board" means the Funeral Directors and Embalmers Licensing and disciplinary Board.

"Customer service employee" means a funeral establishment, funeral chapel, funeral home, or mortuary employee who has direct contact with consumers and explains funeral or burial merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition includes, without limitation, an individual that is an independent contractor or an individual employed or contracted by an independent contractor who has direct contact with consumers and explains funeral or burial merchandise or services or negotiates, develops, or finalizes contracts with consumers. This definition does not include a funeral establishment, funeral chapel, funeral home, or mortuary employee, an individual who is an independent contractor, or an individual employed or contracted by an independent contractor who merely provides a printed price list to a consumer, processes payment from a consumer, or performs sales functions related solely to incidental merchandise like flowers, keepsakes, memorial tributes, or other similar items.

"Department" means the Department of Professional Regulation.

"Director" means the Director of Professional Regulation.

"Funeral director and embalmer" means a person who is licensed and qualified to practice funeral directing and to prepare, disinfect and preserve dead human bodies by the injection or external application of antiseptics, disinfectants or preservative fluids and materials and to use derma surgery or

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plastic art for the restoring of mutilated features. It further means a person who restores the remains of a person for the purpose of funeralization whose organs or bone or tissue has been donated for anatomical purposes.

"Funeral director and embalmer intern" means a person licensed by the State who is qualified to render assistance to a funeral director and embalmer in carrying out the practice of funeral directing and embalming under the supervision of the funeral director and embalmer.

"Embalming" means the process of sanitizing and chemically treating a deceased human body in order to reduce the presence and growth of microorganisms, to retard organic decomposition, to render the remains safe to handle while retaining naturalness of tissue, and to restore an acceptable physical appearance for funeral viewing purposes.

"Funeral director" means a person, known by the title of "funeral director" or other similar words or titles, licensed by the State who practices funeral directing.

"Funeral establishment", "funeral chapel", "funeral home", or "mortuary" means a building or separate portion of a building having a specific street address or location and devoted to activities relating to the shelter, care, custody and preparation of a deceased human body and which may contain facilities for funeral or wake services.

"Owner" means the individual, partnership, corporation, association, trust, estate, or agent thereof, or other person or combination of persons who owns a funeral establishment or funeral business.

"Person" means any individual, partnership, association, firm, corporation, trust or estate, or other entity.

(Source: P.A. 93-268, eff. 1-1-04.)

(225 ILCS 41/Art. 12 heading new)

#### ARTICLE 12. CUSTOMER SERVICE EMPLOYEES

(225 ILCS 41/12-5 new)

Sec. 12-5. License requirement. Customer service employees employed by a funeral establishment, funeral chapel, funeral home, or mortuary must apply for licensure as a customer service employee on forms prescribed by the Department and pay the fee established by rule. It is unlawful for any person to act as a customer service employee without a customer service employee license issued by the Department.

A person acting as a customer service employee who, prior to the effective date of this amendatory Act of the 96th General Assembly, was not required to obtain licensure need not comply with the licensure requirement in this Article until the Department takes action on the person's application for a license. The application for a customer service employee license must be submitted to the Department within 6 months after the effective date of this amendatory Act of the 96th General Assembly. If the person fails to submit the application within 6 months after the effective date of this amendatory Act of the 96th General Assembly, then the person shall be considered to be engaged in unlicensed practice and shall be subject to discipline under this Act.

(225 ILCS 41/12-10 new)

Sec. 12-10. Qualifications for licensure.

(a) A person is qualified for licensure as a customer service employee if he or she meets all of the following requirements:

(1) Is at least 18 years of age.

(2) Is of good moral character, including compliance with the Code of Professional Conduct and Ethics as provided for by rule. Good moral character is a continuing requirement of licensure. In determining good moral character, the Department may take into consideration conviction of any crime under the laws of any jurisdiction.

(3) Submits proof of successful completion of a high school education or its equivalent as established by rule.

(4) Submits his or her fingerprints in accordance with subsection (b) of this Section.

(5) Has not committed a violation of this Act or any rules adopted under this Act that, in the opinion of the Department, renders the applicant unqualified to be a customer service employee.

(6) Successfully passes the examination authorized by the Department for customer service employees.

(7) Has complied with all other requirements of this Act and rules established for the implementation of this Act.

(8) Can be reasonably expected to treat consumers professionally, fairly, and ethically.

(b) Each applicant for a customer service employee license shall have his or her fingerprints submitted to the Department of State Police in an electronic format that complies with the form and manner for

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requesting and furnishing criminal history record information that is prescribed by the Department of State Police. These fingerprints shall be checked against the Department of State Police and Federal Bureau of Investigation criminal history record databases. The Department of State Police shall charge applicants a fee for conducting the criminal history records check, which shall be deposited in the State Police Services Fund and shall not exceed the actual cost of the records check. The Department of State Police shall furnish, pursuant to positive identification, records of Illinois convictions to the Department. The Department may require applicants to pay a separate fingerprinting fee, either to the Department or directly to a designated fingerprint vendor. The Department, in its discretion, may allow an applicant who does not have reasonable access to a designated fingerprint vendor to provide his or her fingerprints in an alternative manner. The Department, in its discretion, may also use other procedures in performing or obtaining criminal background checks of applicants. Instead of submitting his or her fingerprints, an individual may submit proof that is satisfactory to the Department that an equivalent security clearance has been conducted.

(225 ILCS 41/12-15 new)

Sec. 12-15. Examination: failure or refusal to take the examination.

(a) The Department shall authorize examinations of customer service employee applicants at such times and places as it may determine. The examinations shall fairly test an applicant's qualifications to practice as customer service employee and knowledge of the theory and practice of funeral home customer service. The examination shall further test the extent to which the applicant understands and appreciates that the final disposal of a deceased human body should be attended with appropriate observance and understanding, having due regard and respect for the reverent care of the human body and for those bereaved and for the overall spiritual dignity of an individual.

(b) Applicants for examinations shall pay, either to the Department or to the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date at the time and place specified after the application for examination has been received and acknowledged by the Department or the designated testing service shall result in forfeiture of the examination fee.

(c) If the applicant neglects, fails, or refuses to take an examination or fails to pass an examination for a license under this Act within one year after filing an application, then the application shall be denied. However, the applicant may thereafter submit a new application accompanied by the required fee. The applicant shall meet the requirements in force at the time of making the new application.

(d) The Department may employ consultants for the purpose of preparing and conducting examinations.

(e) The Department shall have the authority to adopt or recognize, in part or in whole, examinations prepared, administered, or graded by other organizations in the cemetery industry that are determined appropriate to measure the qualifications of an applicant for licensure.

(225 ILCS 41/12-20 new)

Sec. 12-20. Continuing education. The Department shall promulgate rules of continuing education for customer service employees. The requirements of this Section apply to any person seeking renewal or restoration under this Code.

(225 ILCS 41/15-50)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-50. Practice by corporation, partnership, or association. No corporation, partnership or association of individuals, as such, shall be issued a license as a licensed funeral director and embalmer or licensed funeral director, nor shall any corporation, partnership, firm or association of individuals, or any individual connected therewith, publicly advertise any corporation, partnership or association of individuals as being licensed funeral directors and embalmers or licensed funeral directors. Nevertheless, nothing in this Act shall restrict funeral director licensees or funeral director and embalmer licensees from forming professional service corporations under the Professional Service Corporation Act or from having these corporations registered for the practice of funeral directing.

No funeral director licensee or funeral director and embalmer licensee, and no partnership or association of those licensees, formed since July 1, 1935, shall engage in the practice of funeral directing and embalming or funeral directing under a trade name or partnership or firm name unless in the use and advertising of the trade name, partnership or firm name there is published in connection with the advertising the name of the owner or owners as the owner or owners.

(Source: P.A. 87-966.)

(225 ILCS 41/15-60)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-60. Determination of life. Every funeral director licensee or funeral director and embalmer

licensee under this Code before proceeding to prepare or embalm a human body to cremate or bury shall determine that life is extinct by ascertaining that:

- (a) pulsation has entirely ceased in the radial or other arteries; and
- (b) heart or respiratory sounds are not audible with the use of a stethoscope or with the ear applied directly over the heart.

(Source: P.A. 87-966.)

(225 ILCS 41/15-75)

(Section scheduled to be repealed on January 1, 2013)

Sec. 15-75. Violations; grounds for discipline; penalties.

(a) Each of the following acts is a Class A misdemeanor for the first offense, and a Class 4 felony for each subsequent offense. These penalties shall also apply to unlicensed owners of funeral homes.

(1) Practicing the profession of funeral directing and embalming or funeral directing, or attempting to practice the profession of funeral directing and embalming or funeral directing without a license as a licensed funeral director and embalmer or funeral director or acting as a customer service employee without a license as a customer service employee issued by the Department.

(2) Serving as an intern under a licensed funeral director and embalmer or attempting to serve as an intern under a licensed funeral director and embalmer without a license as a licensed funeral director and embalmer intern.

(3) Obtaining or attempting to obtain a license, practice or business, or any other thing of value, by fraud or misrepresentation.

(4) Permitting any person in one's employ, under one's control or in or under one's service to serve as a funeral director and embalmer, funeral director, or funeral director and embalmer intern when the person does not have the appropriate license.

(5) Failing to display a license as required by this Code.

(6) Giving false information or making a false oath or affidavit required by this Code.

(b) Each of the following acts or actions is a violation of this Code for which the Department may refuse to issue or renew, or may suspend or revoke any license or may take any disciplinary action as the Department may deem proper including fines not to exceed \$1,000 for each violation.

(1) Obtaining or attempting to obtain a license by fraud or misrepresentation.

(2) Conviction in this State or another state of any crime that is a felony or misdemeanor under the laws of this State or conviction of a felony or misdemeanor in a federal court.

(3) Violation of the laws of this State relating to the funeral, burial or disposal of deceased human bodies or of the rules and regulations of the Department, or the Department of Public Health.

(4) Directly or indirectly paying or causing to be paid any sum of money or other valuable consideration for the securing of business or for obtaining authority to dispose of any deceased human body.

(5) Incompetence or untrustworthiness in the practice of funeral directing and embalming or funeral directing.

(6) False or misleading advertising as a funeral director and embalmer or funeral director, or advertising or using the name of a person other than the holder of a license in connection with any service being rendered in the practice of funeral directing and embalming or funeral directing. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral business who is not a licensee in any advertisement used by a funeral home with which the individual is affiliated if the advertisement specifies the individual's affiliation with the funeral home.

(7) Engaging in, promoting, selling, or issuing burial contracts, burial certificates, or burial insurance policies in connection with the profession as a funeral director and embalmer, funeral director, or funeral director and embalmer intern in violation of any laws of the State of Illinois.

(8) Refusing, without cause, to surrender the custody of a deceased human body upon the proper request of the person or persons lawfully entitled to the custody of the body.

(9) Taking undue advantage of a client or clients as to amount to the perpetration of fraud.

(10) Engaging in funeral directing and embalming or funeral directing without a license.

(11) Encouraging, requesting, or suggesting by a licensee or some person working on his behalf and with his consent for compensation that a person utilize the services of a certain funeral director and embalmer, funeral director, or funeral establishment unless that information has been

expressly requested by the person. This does not prohibit general advertising or pre-need solicitation.

(12) Making or causing to be made any false or misleading statements about the laws concerning the disposal of human remains, including, but not limited to, the need to embalm, the need for a casket for cremation or the need for an outer burial container.

(13) Continued practice by a person having an infectious or contagious disease.

(14) Embalming or attempting to embalm a deceased human body without express prior authorization of the person responsible for making the funeral arrangements for the body. This does not apply to cases where embalming is directed by local authorities who have jurisdiction or when embalming is required by State or local law.

(15) Making a false statement on a Certificate of Death where the person making the statement knew or should have known that the statement was false.

(16) Soliciting human bodies after death or while death is imminent.

(17) Performing any act or practice that is a violation of this Code, the rules for the administration of this Code, or any federal, State or local laws, rules, or regulations governing the practice of funeral directing or embalming.

(18) Performing any act or practice that is a violation of Section 2 of the Consumer Fraud and Deceptive Business Practices Act.

(19) Engaging in unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(20) Taking possession of a dead human body without having first obtained express permission from next of kin or a public agency legally authorized to direct, control or permit the removal of deceased human bodies.

(21) Advertising in a false or misleading manner or advertising using the name of an unlicensed person in connection with any service being rendered in the practice of funeral directing or funeral directing and embalming. The use of any name of an unlicensed or unregistered person in an advertisement so as to imply that the person will perform services is considered misleading advertising. Nothing in this paragraph shall prevent including the name of any owner, officer or corporate director of a funeral home, who is not a licensee, in any advertisement used by a funeral home with which the individual is affiliated, if the advertisement specifies the individual's affiliation with the funeral home.

(22) Directly or indirectly receiving compensation for any professional services not actually performed.

(23) Failing to account for or remit any monies, documents, or personal property that belongs to others that comes into a licensee's possession.

(24) Treating any person differently to his detriment because of race, color, creed, gender, religion, or national origin.

(25) Knowingly making any false statements, oral or otherwise, of a character likely to influence, persuade or induce others in the course of performing professional services or activities.

(26) Knowingly making or filing false records or reports in the practice of funeral directing and embalming.

(27) Failing to acquire continuing education required under this Code.

(28) Failing to comply with any of the following required activities:

(A) When reasonably possible, a funeral director licensee or funeral director and embalmer licensee or anyone acting on his or her behalf

shall obtain the express authorization of the person or persons responsible for making the funeral arrangements for a deceased human body prior to removing a body from the place of death or any place it may be or embalming or attempting to embalm a deceased human body, unless required by State or local law. This requirement is waived whenever removal or embalming is directed by local authorities who have jurisdiction. If the responsibility for the handling of the remains lawfully falls under the jurisdiction of a public agency, then the regulations of the public agency shall prevail.

(B) A licensee shall clearly mark the price of any casket offered for sale or the price of any service using the casket on or in the casket if the casket is displayed at the funeral establishment. If the casket is displayed at any other location, regardless of whether the licensee is in control of that location, the casket shall be clearly marked and the registrant shall use books, catalogues, brochures, or other printed display aids to show the price of each casket or service.

(C) At the time funeral arrangements are made and prior to rendering the funeral services, a licensee shall furnish a written statement to be retained by the person or persons making the funeral arrangements, signed by both parties, that shall contain: (i) the name, address and telephone number of the funeral establishment and the date on which the arrangements were made;

(ii) the price of the service selected and the services and merchandise included for that price; (iii) a clear disclosure that the person or persons making the arrangement may decline and receive credit for any service or merchandise not desired and not required by law or the funeral director or the funeral director and embalmer; (iv) the supplemental items of service and merchandise requested and the price of each item; (v) the terms or method of payment agreed upon; and (vi) a statement as to any monetary advances made by the registrant on behalf of the family.

(29) A finding by the Department that the license, after having his or her license placed on probationary status or subjected to conditions or restrictions, violated the terms of the probation or failed to comply with such terms or conditions.

(30) Violation of any final administrative action of the Director.

(31) Being named as a perpetrator in an indicated report by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act and, upon proof by clear and convincing evidence, being found to have caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(c) The Department may refuse to issue or renew, or may suspend, the license of any person who fails to file a return, to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest as required by any tax Act administered by the Illinois Department of Revenue, until the time as the requirements of the tax Act are satisfied.

(Source: P.A. 93-268, eff. 1-1-04.)

Article 900.  
Severability

Section 900-5. Severability. This Act is declared to be severable, and should any word, phrase, sentence, provision or Section hereof be hereafter declared unconstitutional or otherwise invalid, the remainder of this Act shall not thereby be affected, but shall remain valid and in full force and effect for all intents and purposes.

Article 999.  
Effective date

Section 999-5. Effective date. This Act takes effect January 1, 2010, except that Section 90-25 takes effect March 15, 2010, Sections 90-90 and 90-95 take effect July 1, 2011, and Sections 90-33, 90-57, 90-92, and 999-5 take effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 1471**, with House Amendments numbered 1 and 3, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1514

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1514

House Amendment No. 2 to SENATE BILL NO. 1514

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1514**

AMENDMENT NO. 1. Amend Senate Bill 1514 by replacing everything after the enacting clause with the following:

"Section 5. The Metropolitan Water Reclamation District Act is amended by changing Section 9.6a as follows:

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(70 ILCS 2605/9.6a) (from Ch. 42, par. 328.6a)

Sec. 9.6a. The corporate authorities of a sanitary district, in order to provide funds required for the replacing, remodeling, completing, altering, constructing and enlarging of sewage treatment works, water quality improvement projects, or flood control facilities, and additions therefor, pumping stations, tunnels, conduits, intercepting sewers and outlet sewers, together with the equipment, including air pollution equipment, and appurtenances thereto, to acquire property, real, personal or mixed, necessary for said purposes, for costs and expenses for the acquisition of the sites and rights-of-way necessary thereto, and for engineering expenses for designing and supervising the construction of such works, may issue on or before December 31, 2016, in addition to all other obligations heretofore or herein authorized, bonds, notes or other evidences of indebtedness for such purposes in an aggregate amount at any one time outstanding not to exceed 3.35% of the equalized assessed valuation of all taxable property within the sanitary district, to be ascertained by the last assessment for State and local taxes previous to the issuance of any such obligations. Such obligations shall be issued without submitting the question of such issuance to the legal voters of such sanitary district for approval.

The corporate authorities may sell such obligations at private or public sale and enter into any contract or agreement necessary, appropriate or incidental to the exercise of the powers granted by this Act, including, without limitation, contracts or agreements for the sale and purchase of such obligations and the payment of costs and expenses incident thereto. The corporate authorities may pay such costs and expenses, in whole or in part, from the corporate fund.

Such obligations shall be issued from time to time only in amounts as may be required for such purposes but the amount of such obligations issued during any one budget year shall not exceed \$150,000,000 plus the amount of any obligations authorized by this Act to be issued during the 3 budget years next preceding the year of issuance but which were not issued, provided, however, that this limitation shall not be applicable (i) to the issuance of obligations to refund bonds, notes or other evidences of indebtedness, (ii) not to obligations issued to provide for the repayment of money received from the Water Pollution Control Revolving Fund for the construction or repair of wastewater treatment works, and (iii) to obligations issued as part of the American Recovery and Reinvestment Act of 2009, issued prior to January 1, 2011, that are commonly known as "Build America Bonds" as authorized by Section 54AA of the Internal Revenue Code of 1986, as amended. Each ordinance authorizing the issuance of the obligations shall state the general purpose or purposes for which they are to be issued, and the corporate authorities may at any time thereafter pass supplemental appropriations ordinances appropriating the proceeds from the sale of such obligations for such purposes.

The corporate authorities may issue bonds, notes or other evidences of indebtedness in an amount necessary to provide funds to refund outstanding obligations issued pursuant to this Section, including interest accrued or to accrue thereon.

(Source: P.A. 95-125, eff. 8-13-07; 95-412, eff. 8-24-07.)

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

#### AMENDMENT NO. 2 TO SENATE BILL 1514

AMENDMENT NO. 2. Amend Senate Bill 1514, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The General Obligation Bond Act is amended by changing Sections 8, 9, 14, and 15 as follows:

(30 ILCS 330/8) (from Ch. 127, par. 658)

Sec. 8. Bond sale expenses.

(a) An amount not to exceed 0.5 percent of the principal amount of the proceeds of sale of each bond sale is authorized to be used to pay the reasonable costs of issuance and sale, including, without limitation, underwriter's discounts and fees, but excluding bond insurance, of State of Illinois general obligation bonds authorized and sold pursuant to this Act, provided that no salaries of State employees or other State office operating expenses shall be paid out of non-appropriated proceeds, provided further that the percent shall be 1.0% for each sale of "Build America Bonds" or "Qualified School Construction Bonds" as defined in subsections (d) and (e) of Section 9, respectively. The Governor's Office of Management and Budget shall compile a summary of all costs of issuance on each sale (including both costs paid out of proceeds and those paid out of appropriated funds) and post that summary on its web site within 20 business days after the issuance of the Bonds. The summary shall include, as applicable, the respective percentages of participation and compensation of each underwriter that is a member of the underwriting syndicate, legal counsel, financial advisors, and other professionals for the bond issue and

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an identification of all costs of issuance paid to minority owned businesses, female owned businesses, and businesses owned by persons with disabilities. The terms "minority owned businesses", "female owned businesses", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. That posting shall be maintained on the web site for a period of at least 30 days. In addition, the Governor's Office of Management and Budget shall provide a written copy of each summary of costs to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Commission on Government Forecasting and Accountability within 20 business days after each issuance of the Bonds. In addition, the Governor's Office of Management and Budget shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 20 business days after the issuance of Bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the Governor's Office of Management and Budget may file a statement that specified costs are paid under specified contracts filed earlier with the Commission.

(b) The Director of the Governor's Office of Management and Budget shall not, in connection with the issuance of Bonds, contract with any underwriter, financial advisor, or attorney unless that underwriter, financial advisor, or attorney certifies that the underwriter, financial advisor, or attorney has not and will not pay a contingent fee, whether directly or indirectly, to a third party for having promoted the selection of the underwriter, financial advisor, or attorney for that contract. In the event that the Governor's Office of Management and Budget determines that an underwriter, financial advisor, or attorney has filed a false certification with respect to the payment of contingent fees, the Governor's Office of Management and Budget shall not contract with that underwriter, financial advisor, or attorney, or with any firm employing any person who signed false certifications, for a period of 2 calendar years, beginning with the date the determination is made. The validity of Bonds issued under such circumstances of violation pursuant to this Section shall not be affected.

(Source: P.A. 93-2, eff. 4-7-03; 93-839, eff. 7-30-04; 93-1067, eff. 1-15-05.)

(30 ILCS 330/9) (from Ch. 127, par. 659)

Sec. 9. Conditions for Issuance and Sale of Bonds - Requirements for Bonds.

(a) Except as otherwise provided in this subsection, Bonds shall be issued and sold from time to time, in one or more series, in such amounts and at such prices as may be directed by the Governor, upon recommendation by the Director of the Governor's Office of Management and Budget. Bonds shall be in such form (either coupon, registered or book entry), in such denominations, payable within 25 years from their date, subject to such terms of redemption with or without premium, bear interest payable at such times and at such fixed or variable rate or rates, and be dated as shall be fixed and determined by the Director of the Governor's Office of Management and Budget in the order authorizing the issuance and sale of any series of Bonds, which order shall be approved by the Governor and is herein called a "Bond Sale Order"; provided however, that interest payable at fixed or variable rates shall not exceed that permitted in the Bond Authorization Act, as now or hereafter amended. Bonds shall be payable at such place or places, within or without the State of Illinois, and may be made registrable as to either principal or as to both principal and interest, as shall be specified in the Bond Sale Order. Bonds may be callable or subject to purchase and retirement or tender and remarketing as fixed and determined in the Bond Sale Order. Bonds, other than Bonds issued under Section 3 of this Act for the costs associated with the purchase and implementation of information technology, (i) except for refunding Bonds satisfying the requirements of Section 16 of this Act and sold during fiscal year 2009, 2010, or 2011, must be issued with principal or mandatory redemption amounts in equal amounts, with the first maturity issued occurring within the fiscal year in which the Bonds are issued or within the next succeeding fiscal year and (ii) must mature or be subject to mandatory redemption each fiscal year thereafter up to 25 years, except for refunding Bonds satisfying the requirements of Section 16 of this Act and sold during fiscal year 2009, 2010, or 2011 which must mature or be subject to mandatory redemption each fiscal year thereafter up to 16 years. Bonds issued under Section 3 of this Act for the costs associated with the purchase and implementation of information technology must be issued with principal or mandatory redemption amounts in equal amounts, with the first maturity issued occurring with the fiscal year in which the respective bonds are issued or with the next succeeding fiscal year, with the respective bonds issued maturing or subject to mandatory redemption each fiscal year thereafter up to 10 years. Notwithstanding any provision of this Act to the contrary, the Bonds authorized by Public Act 96-43 ~~this amendatory Act of the 96th General Assembly~~ shall be payable within 5 years from their date and must be issued with principal or mandatory redemption amounts in equal amounts, with payment of principal or mandatory redemption beginning in the first fiscal year following the fiscal year in which the Bonds are issued.

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In the case of any series of Bonds bearing interest at a variable interest rate ("Variable Rate Bonds"), in lieu of determining the rate or rates at which such series of Variable Rate Bonds shall bear interest and the price or prices at which such Variable Rate Bonds shall be initially sold or remarketed (in the event of purchase and subsequent resale), the Bond Sale Order may provide that such interest rates and prices may vary from time to time depending on criteria established in such Bond Sale Order, which criteria may include, without limitation, references to indices or variations in interest rates as may, in the judgment of a remarketing agent, be necessary to cause Variable Rate Bonds of such series to be remarketable from time to time at a price equal to their principal amount, and may provide for appointment of a bank, trust company, investment bank, or other financial institution to serve as remarketing agent in that connection. The Bond Sale Order may provide that alternative interest rates or provisions for establishing alternative interest rates, different security or claim priorities, or different call or amortization provisions will apply during such times as Variable Rate Bonds of any series are held by a person providing credit or liquidity enhancement arrangements for such Bonds as authorized in subsection (b) of this Section. The Bond Sale Order may also provide for such variable interest rates to be established pursuant to a process generally known as an auction rate process and may provide for appointment of one or more financial institutions to serve as auction agents and broker-dealers in connection with the establishment of such interest rates and the sale and remarketing of such Bonds.

(b) In connection with the issuance of any series of Bonds, the State may enter into arrangements to provide additional security and liquidity for such Bonds, including, without limitation, bond or interest rate insurance or letters of credit, lines of credit, bond purchase contracts, or other arrangements whereby funds are made available to retire or purchase Bonds, thereby assuring the ability of owners of the Bonds to sell or redeem their Bonds. The State may enter into contracts and may agree to pay fees to persons providing such arrangements, but only under circumstances where the Director of the Governor's Office of Management and Budget certifies that he or she reasonably expects the total interest paid or to be paid on the Bonds, together with the fees for the arrangements (being treated as if interest), would not, taken together, cause the Bonds to bear interest, calculated to their stated maturity, at a rate in excess of the rate that the Bonds would bear in the absence of such arrangements.

The State may, with respect to Bonds issued or anticipated to be issued, participate in and enter into arrangements with respect to interest rate protection or exchange agreements, guarantees, or financial futures contracts for the purpose of limiting, reducing, or managing interest rate exposure. The authority granted under this paragraph, however, shall not increase the principal amount of Bonds authorized to be issued by law. The arrangements may be executed and delivered by the Director of the Governor's Office of Management and Budget on behalf of the State. Net payments for such arrangements shall constitute interest on the Bonds and shall be paid from the General Obligation Bond Retirement and Interest Fund. The Director of the Governor's Office of Management and Budget shall at least annually certify to the Governor and the State Comptroller his or her estimate of the amounts of such net payments to be included in the calculation of interest required to be paid by the State.

(c) Prior to the issuance of any Variable Rate Bonds pursuant to subsection (a), the Director of the Governor's Office of Management and Budget shall adopt an interest rate risk management policy providing that the amount of the State's variable rate exposure with respect to Bonds shall not exceed 20%. This policy shall remain in effect while any Bonds are outstanding and the issuance of Bonds shall be subject to the terms of such policy. The terms of this policy may be amended from time to time by the Director of the Governor's Office of Management and Budget but in no event shall any amendment cause the permitted level of the State's variable rate exposure with respect to Bonds to exceed 20%.

(d) "Build America Bonds" in this Section means Bonds authorized by Section 54AA of the Internal Revenue Code of 1986, as amended ("Internal Revenue Code"), and bonds issued from time to time to refund or continue to refund "Build America Bonds".

(e) Notwithstanding any other provision of this Section, Qualified School Construction Bonds shall be issued and sold from time to time, in one or more series, in such amounts and at such prices as may be directed by the Governor, upon recommendation by the Director of the Governor's Office of Management and Budget. Qualified School Construction Bonds shall be in such form (either coupon, registered or book entry), in such denominations, payable within 25 years from their date, subject to such terms of redemption with or without premium, and if the Qualified School Construction Bonds are issued with a supplemental coupon, bear interest payable at such times and at such fixed or variable rate or rates, and be dated as shall be fixed and determined by the Director of the Governor's Office of Management and Budget in the order authorizing the issuance and sale of any series of Qualified School Construction Bonds, which order shall be approved by the Governor and is herein called a "Bond Sale Order": except that interest payable at fixed or variable rates, if any, shall not exceed that permitted in the Bond Authorization Act, as now or hereafter amended. Qualified School Construction Bonds shall be

payable at such place or places, within or without the State of Illinois, and may be made registrable as to either principal or as to both principal and interest, as shall be specified in the Bond Sale Order. Qualified School Construction Bonds may be callable or subject to purchase and retirement or tender and remarketing as fixed and determined in the Bond Sale Order. Qualified School Construction Bonds must be issued with principal or mandatory redemption amounts or sinking fund payments into the General Obligation Bond Retirement and Interest Fund (or subaccount therefor) in equal amounts, with the first maturity issued, mandatory redemption payment or sinking fund payment occurring within the fiscal year in which the Qualified School Construction Bonds are issued or within the next succeeding fiscal year, with Qualified School Construction Bonds issued maturing or subject to mandatory redemption or with sinking fund payments thereof deposited each fiscal year thereafter up to 25 years. Sinking fund payments set forth in this subsection shall be permitted only to the extent authorized in Section 54F of the Internal Revenue Code or as otherwise determined by the Director of the Governor's Office of Management and Budget. "Qualified School Construction Bonds" in this subsection means Bonds authorized by Section 54F of the Internal Revenue Code and for bonds issued from time to time to refund or continue to refund such "Qualified School Construction Bonds".

(Source: P.A. 96-18, eff. 6-26-09; 96-37, eff. 7-13-09; 96-43, eff. 7-15-09; revised 8-20-09.)

(30 ILCS 330/14) (from Ch. 127, par. 664)

Sec. 14. Repayment.

(a) To provide for the manner of repayment of Bonds, the Governor shall include an appropriation in each annual State Budget of monies in such amount as shall be necessary and sufficient, for the period covered by such budget, to pay the interest, as it shall accrue, on all Bonds issued under this Act, to pay and discharge the principal of such Bonds as shall, by their terms, fall due during such period, ~~and~~ to pay a premium, if any, on Bonds to be redeemed prior to the maturity date, and to pay sinking fund payments in connection with Qualified School Construction Bonds authorized by subsection (e) of Section 9. Amounts included in such appropriations for the payment of interest on variable rate bonds shall be the maximum amounts of interest that may be payable for the period covered by the budget, after taking into account any credits permitted in the related indenture or other instrument against the amount of such interest required to be appropriated for such period. Amounts included in such appropriations for the payment of interest shall include the amounts certified by the Director of the Governor's Office of Management and Budget under subsection (b) of Section 9 of this Act.

(b) A separate fund in the State Treasury called the "General Obligation Bond Retirement and Interest Fund" is hereby created.

(c) The General Assembly shall annually make appropriations to pay the principal of, interest on, and premium, if any, on Bonds sold under this Act from the General Obligation Bond Retirement and Interest Fund. Amounts included in such appropriations for the payment of interest on variable rate bonds shall be the maximum amounts of interest that may be payable during the fiscal year, after taking into account any credits permitted in the related indenture or other instrument against the amount of such interest required to be appropriated for such period. Amounts included in such appropriations for the payment of interest shall include the amounts certified by the Director of the Governor's Office of Management and Budget under subsection (b) of Section 9 of this Act.

If for any reason there are insufficient funds in either the General Revenue Fund or the Road Fund to make transfers to the General Obligation Bond Retirement and Interest Fund as required by Section 15 of this Act, or if for any reason the General Assembly fails to make appropriations sufficient to pay the principal of, interest on, and premium, if any, on the Bonds, as the same by their terms shall become due, this Act shall constitute an irrevocable and continuing appropriation of all amounts necessary for that purpose, and the irrevocable and continuing authority for and direction to the State Treasurer and the Comptroller to make the necessary transfers, as directed by the Governor, out of and disbursements from the revenues and funds of the State.

(d) If, because of insufficient funds in either the General Revenue Fund or the Road Fund, monies have been transferred to the General Obligation Bond Retirement and Interest Fund, as required by subsection (c) of this Section, this Act shall constitute the irrevocable and continuing authority for and direction to the State Treasurer and Comptroller to reimburse these funds of the State from the General Revenue Fund or the Road Fund, as appropriate, by transferring, at such times and in such amounts, as directed by the Governor, an amount to these funds equal to that transferred from them.

(Source: P.A. 93-9, eff. 6-3-03; 94-793, eff. 5-19-06.)

(30 ILCS 330/15) (from Ch. 127, par. 665)

Sec. 15. Computation of Principal and Interest; transfers.

(a) Upon each delivery of Bonds authorized to be issued under this Act, the Comptroller shall compute and certify to the Treasurer the total amount of principal of, interest on, and premium, if any, on

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Bonds issued that will be payable in order to retire such Bonds, ~~and~~ the amount of principal of, interest on and premium, if any, on such Bonds that will be payable on each payment date according to the tenor of such Bonds during the then current and each succeeding fiscal year, and the amount of sinking fund payments needed to be deposited in connection with Qualified School Construction Bonds authorized by subsection (e) of Section 9. With respect to the interest payable on variable rate bonds, such certifications shall be calculated at the maximum rate of interest that may be payable during the fiscal year, after taking into account any credits permitted in the related indenture or other instrument against the amount of such interest required to be appropriated for such period pursuant to subsection (c) of Section 14 of this Act. With respect to the interest payable, such certifications shall include the amounts certified by the Director of the Governor's Office of Management and Budget under subsection (b) of Section 9 of this Act.

On or before the last day of each month the State Treasurer and Comptroller shall transfer from (1) the Road Fund with respect to Bonds issued under paragraph (a) of Section 4 of this Act or Bonds issued for the purpose of refunding such bonds, and from (2) the General Revenue Fund, with respect to all other Bonds issued under this Act, to the General Obligation Bond Retirement and Interest Fund an amount sufficient to pay the aggregate of the principal of, interest on, and premium, if any, on Bonds payable, by their terms on the next payment date divided by the number of full calendar months between the date of such Bonds and the first such payment date, and thereafter, divided by the number of months between each succeeding payment date after the first. Such computations and transfers shall be made for each series of Bonds issued and delivered. Interest payable on variable rate bonds shall be calculated at the maximum rate of interest that may be payable for the relevant period, after taking into account any credits permitted in the related indenture or other instrument against the amount of such interest required to be appropriated for such period pursuant to subsection (c) of Section 14 of this Act. Computations of interest shall include the amounts certified by the Director of the Governor's Office of Management and Budget under subsection (b) of Section 9 of this Act. Interest for which moneys have already been deposited into the capitalized interest account within the General Obligation Bond Retirement and Interest Fund shall not be included in the calculation of the amounts to be transferred under this subsection. Notwithstanding any other provision in this Section, the transfer provisions provided in this paragraph shall not apply to transfers made in fiscal year 2010 with respect to Bonds issued in fiscal year 2010 pursuant to Section 7.2 of this Act. In the case of transfers made in fiscal year 2010 with respect to the Bonds issued in fiscal year 2010 pursuant to Section 7.2 of this Act, on or before the 15th day of the month prior to the required debt service payment, the State Treasurer and Comptroller shall transfer from the General Revenue Fund to the General Obligation Bond Retirement and Interest Fund an amount sufficient to pay the aggregate of the principal of, interest on, and premium, if any, on the Bonds payable in that next month.

The transfer of monies herein and above directed is not required if monies in the General Obligation Bond Retirement and Interest Fund are more than the amount otherwise to be transferred as herein above provided, and if the Governor or his authorized representative notifies the State Treasurer and Comptroller of such fact in writing.

(b) After the effective date of this Act, the balance of, and monies directed to be included in the Capital Development Bond Retirement and Interest Fund, Anti-Pollution Bond Retirement and Interest Fund, Transportation Bond, Series A Retirement and Interest Fund, Transportation Bond, Series B Retirement and Interest Fund, and Coal Development Bond Retirement and Interest Fund shall be transferred to and deposited in the General Obligation Bond Retirement and Interest Fund. This Fund shall be used to make debt service payments on the State's general obligation Bonds heretofore issued which are now outstanding and payable from the Funds herein listed as well as on Bonds issued under this Act.

(c) The unused portion of federal funds received for a capital facilities project, as authorized by Section 3 of this Act, for which monies from the Capital Development Fund have been expended shall be deposited upon completion of the project in the General Obligation Bond Retirement and Interest Fund. Any federal funds received as reimbursement for the completed construction of a capital facilities project, as authorized by Section 3 of this Act, for which monies from the Capital Development Fund have been expended shall be deposited in the General Obligation Bond Retirement and Interest Fund.

(Source: P.A. 96-43, eff. 7-15-09.)

Section 10. The Build Illinois Bond Act is amended by changing Sections 5 and 6 as follows:  
(30 ILCS 425/5) (from Ch. 127, par. 2805)

Sec. 5. Bond Sale Expenses.

(a) An amount not to exceed 0.5% of the principal amount of the proceeds of the sale of each bond

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sale is authorized to be used to pay reasonable costs of each issuance and sale of Bonds authorized and sold pursuant to this Act, including, without limitation, underwriter's discounts and fees, but excluding bond insurance, advertising, printing, bond rating, travel of outside vendors, security, delivery, legal and financial advisory services, initial fees of trustees, registrars, paying agents and other fiduciaries, initial costs of credit or liquidity enhancement arrangements, initial fees of indexing and remarketing agents, and initial costs of interest rate swaps, guarantees or arrangements to limit interest rate risk, as determined in the related Bond Sale Order, from the proceeds of each Bond sale, provided that no salaries of State employees or other State office operating expenses shall be paid out of non-appropriated proceeds, and provided further that the percent shall be 1.0% for each sale of "Build America Bonds" as defined in subsection (c) of Section 6. The Governor's Office of Management and Budget shall compile a summary of all costs of issuance on each sale (including both costs paid out of proceeds and those paid out of appropriated funds) and post that summary on its web site within 20 business days after the issuance of the bonds. That posting shall be maintained on the web site for a period of at least 30 days. In addition, the Governor's Office of Management and Budget shall provide a written copy of each summary of costs to the Speaker and Minority Leader of the House of Representatives, the President and Minority Leader of the Senate, and the Commission on Government Forecasting and Accountability within 20 business days after each issuance of the bonds. This summary shall include, as applicable, the respective percentage of participation and compensation of each underwriter that is a member of the underwriting syndicate, legal counsel, financial advisors, and other professionals for the Bond issue, and an identification of all costs of issuance paid to minority owned businesses, female owned businesses, and businesses owned by persons with disabilities. The terms "minority owned businesses", "female owned businesses", and "business owned by a person with a disability" have the meanings given to those terms in the Business Enterprise for Minorities, Females, and Persons with Disabilities Act. In addition, the Governor's Office of Management and Budget shall provide copies of all contracts under which any costs of issuance are paid or to be paid to the Commission on Government Forecasting and Accountability within 20 business days after the issuance of Bonds for which those costs are paid or to be paid. Instead of filing a second or subsequent copy of the same contract, the Governor's Office of Management and Budget may file a statement that specified costs are paid under specified contracts filed earlier with the Commission.

(b) The Director of the Governor's Office of Management and Budget shall not, in connection with the issuance of Bonds, contract with any underwriter, financial advisor, or attorney unless that underwriter, financial advisor, or attorney certifies that the underwriter, financial advisor, or attorney has not and will not pay a contingent fee, whether directly or indirectly, to any third party for having promoted the selection of the underwriter, financial advisor, or attorney for that contract. In the event that the Governor's Office of Management and Budget determines that an underwriter, financial advisor, or attorney has filed a false certification with respect to the payment of contingent fees, the Governor's Office of Management and Budget shall not contract with that underwriter, financial advisor, or attorney, or with any firm employing any person who signed false certifications, for a period of 2 calendar years, beginning with the date the determination is made. The validity of Bonds issued under such circumstances of violation pursuant to this Section shall not be affected.

(Source: P.A. 93-839, eff. 7-30-04; 93-1067, eff. 1-15-05.)

(30 ILCS 425/6) (from Ch. 127, par. 2806)

Sec. 6. Conditions for Issuance and Sale of Bonds - Requirements for Bonds - Master and Supplemental Indentures - Credit and Liquidity Enhancement.

(a) Bonds shall be issued and sold from time to time, in one or more series, in such amounts and at such prices as directed by the Governor, upon recommendation by the Director of the Governor's Office of Management and Budget. Bonds shall be payable only from the specific sources and secured in the manner provided in this Act. Bonds shall be in such form, in such denominations, mature on such dates within 25 years from their date of issuance, be subject to optional or mandatory redemption, bear interest payable at such times and at such rate or rates, fixed or variable, and be dated as shall be fixed and determined by the Director of the Governor's Office of Management and Budget in an order authorizing the issuance and sale of any series of Bonds, which order shall be approved by the Governor and is herein called a "Bond Sale Order"; provided, however, that interest payable at fixed rates shall not exceed that permitted in "An Act to authorize public corporations to issue bonds, other evidences of indebtedness and tax anticipation warrants subject to interest rate limitations set forth therein", approved May 26, 1970, as now or hereafter amended, and interest payable at variable rates shall not exceed the maximum rate permitted in the Bond Sale Order. Said Bonds shall be payable at such place or places, within or without the State of Illinois, and may be made registrable as to either principal only or as to both principal and interest, as shall be specified in the Bond Sale Order. Bonds may be callable or

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subject to purchase and retirement or remarketing as fixed and determined in the Bond Sale Order. Bonds (i) except for refunding Bonds satisfying the requirements of Section 15 of this Act and sold during fiscal year 2009, 2010, or 2011, must be issued with principal or mandatory redemption amounts in equal amounts, with the first maturity issued occurring within the fiscal year in which the Bonds are issued or within the next succeeding fiscal year and (ii) must mature or be subject to mandatory redemption each fiscal year thereafter up to 25 years, except for refunding Bonds satisfying the requirements of Section 16 of this Act and sold during fiscal year 2009, 2010, or 2011 which must mature or be subject to mandatory redemption each fiscal year thereafter up to 16 years.

All Bonds authorized under this Act shall be issued pursuant to a master trust indenture ("Master Indenture") executed and delivered on behalf of the State by the Director of the Governor's Office of Management and Budget, such Master Indenture to be in substantially the form approved in the Bond Sale Order authorizing the issuance and sale of the initial series of Bonds issued under this Act. Such initial series of Bonds may, and each subsequent series of Bonds shall, also be issued pursuant to a supplemental trust indenture ("Supplemental Indenture") executed and delivered on behalf of the State by the Director of the Governor's Office of Management and Budget, each such Supplemental Indenture to be in substantially the form approved in the Bond Sale Order relating to such series. The Master Indenture and any Supplemental Indenture shall be entered into with a bank or trust company in the State of Illinois having trust powers and possessing capital and surplus of not less than \$100,000,000. Such indentures shall set forth the terms and conditions of the Bonds and provide for payment of and security for the Bonds, including the establishment and maintenance of debt service and reserve funds, and for other protections for holders of the Bonds. The term "reserve funds" as used in this Act shall include funds and accounts established under indentures to provide for the payment of principal of and premium and interest on Bonds, to provide for the purchase, retirement or defeasance of Bonds, to provide for fees of trustees, registrars, paying agents and other fiduciaries and to provide for payment of costs of and debt service payable in respect of credit or liquidity enhancement arrangements, interest rate swaps or guarantees or financial futures contracts and indexing and remarketing agents' services.

In the case of any series of Bonds bearing interest at a variable interest rate ("Variable Rate Bonds"), in lieu of determining the rate or rates at which such series of Variable Rate Bonds shall bear interest and the price or prices at which such Variable Rate Bonds shall be initially sold or remarketed (in the event of purchase and subsequent resale), the Bond Sale Order may provide that such interest rates and prices may vary from time to time depending on criteria established in such Bond Sale Order, which criteria may include, without limitation, references to indices or variations in interest rates as may, in the judgment of a remarketing agent, be necessary to cause Bonds of such series to be remarketable from time to time at a price equal to their principal amount (or compound accreted value in the case of original issue discount Bonds), and may provide for appointment of indexing agents and a bank, trust company, investment bank or other financial institution to serve as remarketing agent in that connection. The Bond Sale Order may provide that alternative interest rates or provisions for establishing alternative interest rates, different security or claim priorities or different call or amortization provisions will apply during such times as Bonds of any series are held by a person providing credit or liquidity enhancement arrangements for such Bonds as authorized in subsection (b) of Section 6 of this Act.

(b) In connection with the issuance of any series of Bonds, the State may enter into arrangements to provide additional security and liquidity for such Bonds, including, without limitation, bond or interest rate insurance or letters of credit, lines of credit, bond purchase contracts or other arrangements whereby funds are made available to retire or purchase Bonds, thereby assuring the ability of owners of the Bonds to sell or redeem their Bonds. The State may enter into contracts and may agree to pay fees to persons providing such arrangements, but only under circumstances where the Director of the Bureau of the Budget (now Governor's Office of Management and Budget) certifies that he reasonably expects the total interest paid or to be paid on the Bonds, together with the fees for the arrangements (being treated as if interest), would not, taken together, cause the Bonds to bear interest, calculated to their stated maturity, at a rate in excess of the rate which the Bonds would bear in the absence of such arrangements. Any bonds, notes or other evidences of indebtedness issued pursuant to any such arrangements for the purpose of retiring and discharging outstanding Bonds shall constitute refunding Bonds under Section 15 of this Act. The State may participate in and enter into arrangements with respect to interest rate swaps or guarantees or financial futures contracts for the purpose of limiting or restricting interest rate risk; provided that such arrangements shall be made with or executed through banks having capital and surplus of not less than \$100,000,000 or insurance companies holding the highest policyholder rating accorded insurers by A.M. Best & Co. or any comparable rating service or government bond dealers reporting to, trading with, and recognized as primary dealers by a Federal Reserve Bank and having capital and surplus of not less than \$100,000,000, or other persons whose debt securities are rated in the

highest long-term categories by both Moody's Investors' Services, Inc. and Standard & Poor's Corporation. Agreements incorporating any of the foregoing arrangements may be executed and delivered by the Director of the Governor's Office of Management and Budget on behalf of the State in substantially the form approved in the Bond Sale Order relating to such Bonds.

(c) "Build America Bonds" in this Section means Bonds authorized by Section 54AA of the Internal Revenue Code of 1986, as amended ("Internal Revenue Code"), and bonds issued from time to time to refund or continue to refund "Build America Bonds".  
(Source: P.A. 96-18, eff. 6-26-09.)

Section 15. The Downstate Forest Preserve District Act is amended by changing Section 13 as follows:

(70 ILCS 805/13) (from Ch. 96 1/2, par. 6323)

Sec. 13. Bonds; limitation on indebtedness. The board of any forest preserve district organized hereunder may, for any of the purposes enumerated in this Act, borrow money upon the faith and credit of such district, and may issue bonds therefor. However, a district with a population of less than 3,000,000 may not become indebted in any manner or for any purpose to an amount including existing indebtedness in the aggregate exceeding 2.3% of the assessed value of the taxable property therein, as ascertained by the last equalized assessment for State and county purposes. No district may incur (i) indebtedness in excess of .3% of the assessed value of taxable property in the district, as ascertained by the last equalized assessment for State and county purposes, for the development of forest preserve lands held by the district, or (ii) indebtedness for any other purpose except the acquisition of land including acquiring lands in fee simple along or enclosing water courses, drainage ways, lakes, ponds, planned impoundments or elsewhere which are required to store flood waters or control other drainage and water conditions necessary for the preservation and management of the water resources of the District, unless the proposition to issue bonds or otherwise incur indebtedness is certified by the board to the proper election officials who shall submit the proposition at an election in accordance with the general election law, and approved by a majority of those voting upon the proposition. No district containing fewer than 3,000,000 inhabitants may incur indebtedness for the acquisition of land or lands for any purpose in excess of 55,000 acres, including all lands theretofore acquired, unless the proposition to issue bonds or otherwise incur indebtedness is first submitted to the voters of the district at a referendum in accordance with the general election law and approved by a majority of those voting upon the proposition. Before or at the time of issuing bonds, the board shall provide by ordinance for the collection of an annual tax sufficient to pay the interest on the bonds as it falls due, and to pay the bonds as they mature. All bonds issued by any forest preserve district must be divided into series, the first of which matures not later than 5 years after the date of issue and the last of which matures not later than 20 years after the date of issue, or for bonds issued prior to January 1, 2011, commonly known as "Build America Bonds" as authorized by Section 54AA of the Internal Revenue Code of 1986, as amended, and for bonds issued from time to time to refund "Build America Bonds", not later than 25 years after the date of issue.

This Section does not apply to a forest preserve district created under Section 18.5 of the Conservation District Act.

(Source: P.A. 94-617, eff. 8-18-05.)

Section 20. The Metropolitan Water Reclamation District Act is amended by changing Section 9.6a as follows:

(70 ILCS 2605/9.6a) (from Ch. 42, par. 328.6a)

Sec. 9.6a. The corporate authorities of a sanitary district, in order to provide funds required for the replacing, remodeling, completing, altering, constructing and enlarging of sewage treatment works, water quality improvement projects, or flood control facilities, and additions thereof, pumping stations, tunnels, conduits, intercepting sewers and outlet sewers, together with the equipment, including air pollution equipment, and appurtenances thereto, to acquire property, real, personal or mixed, necessary for said purposes, for costs and expenses for the acquisition of the sites and rights-of-way necessary thereto, and for engineering expenses for designing and supervising the construction of such works, may issue on or before December 31, 2016, in addition to all other obligations heretofore or herein authorized, bonds, notes or other evidences of indebtedness for such purposes in an aggregate amount at any one time outstanding not to exceed 3.35% of the equalized assessed valuation of all taxable property within the sanitary district, to be ascertained by the last assessment for State and local taxes previous to the issuance of any such obligations. Such obligations shall be issued without submitting the question of such issuance to the legal voters of such sanitary district for approval.

The corporate authorities may sell such obligations at private or public sale and enter into any contract

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or agreement necessary, appropriate or incidental to the exercise of the powers granted by this Act, including, without limitation, contracts or agreements for the sale and purchase of such obligations and the payment of costs and expenses incident thereto. The corporate authorities may pay such costs and expenses, in whole or in part, from the corporate fund.

Such obligations shall be issued from time to time only in amounts as may be required for such purposes but the amount of such obligations issued during any one budget year shall not exceed \$150,000,000 plus the amount of any obligations authorized by this Act to be issued during the 3 budget years next preceding the year of issuance but which were not issued, provided, however, that this limitation shall not be applicable (i) to the issuance of obligations to refund bonds, notes or other evidences of indebtedness, (ii) ~~not~~ to obligations issued to provide for the repayment of money received from the Water Pollution Control Revolving Fund for the construction or repair of wastewater treatment works, and (iii) to obligations issued as part of the American Recovery and Reinvestment Act of 2009, issued prior to January 1, 2011, that are commonly known as "Build America Bonds" as authorized by Section 54AA of the Internal Revenue Code of 1986, as amended. Each ordinance authorizing the issuance of the obligations shall state the general purpose or purposes for which they are to be issued, and the corporate authorities may at any time thereafter pass supplemental appropriations ordinances appropriating the proceeds from the sale of such obligations for such purposes.

The corporate authorities may issue bonds, notes or other evidences of indebtedness in an amount necessary to provide funds to refund outstanding obligations issued pursuant to this Section, including interest accrued or to accrue thereon.

(Source: P.A. 95-125, eff. 8-13-07; 95-412, eff. 8-24-07.)

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

Under the rules, the foregoing **Senate Bill No. 1514**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1846

A bill for AN ACT concerning State government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1846

House Amendment No. 4 to SENATE BILL NO. 1846

Passed the House, as amended, October 29, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1846**

AMENDMENT NO. 1. Amend Senate Bill 1846 by replacing everything after the enacting clause with the following:

"Section 5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Section 605-1 as follows:

(20 ILCS 605/605-1)

Sec. 605-1. Article short title. This Article 605 of ~~the~~ the Civil Administrative Code of Illinois may be cited as the Department of Commerce and Economic Opportunity Law.

(Source: P.A. 93-25, eff. 6-20-03.)"

**AMENDMENT NO. 4 TO SENATE BILL 1846**

AMENDMENT NO. 4. Amend Senate Bill 1846, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the FY2010 Budget Implementation (Revenue) Act.

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Section 5. Purpose. It is the purpose of this Act to make changes in State programs that are necessary to implement the Governor's Fiscal Year 2010 budget recommendations concerning revenue.

#### ARTICLE 10. NATURAL RESOURCES

Section 10-5. The Fish and Aquatic Life Code is amended by changing Sections 20-45 and 20-55 as follows:

(515 ILCS 5/20-45) (from Ch. 56, par. 20-45)

Sec. 20-45. License fees for residents. Fees for licenses for residents of the State of Illinois shall be as follows:

(a) Except as otherwise provided in this Section, for sport fishing devices as defined in Section 10-95 or spearing devices as defined in Section 10-110 the fee is ~~\$14.50~~ ~~\$12.50~~ for individuals 16 to 64 years old, and one-half of the current fishing license fee for individuals age 65 or older, commencing with the 1994 license year.

(b) All residents before using any commercial fishing device shall obtain a commercial fishing license, the fee for which shall be \$35. Each and every commercial device used shall be licensed by a resident commercial fisherman as follows:

(1) For each 100 lineal yards, or fraction thereof, of seine the fee is \$18. For each minnow seine, minnow trap, or net for commercial purposes the fee is \$20.

(2) For each device to fish with a 100 hook trot line device, basket trap, hoop net, or dip net the fee is \$3.

(3) When used in the waters of Lake Michigan, for the first 2000 lineal feet, or fraction thereof, of gill net the fee is \$10; and for each 1000 additional lineal feet, or fraction thereof, the fee is \$10. These fees shall apply to all gill nets in use in the water or on drying reels on the shore.

(4) For each 100 lineal yards, or fraction thereof, of gill net or trammel net the fee is \$18.

(c) Residents of the State of Illinois may obtain a sportsmen's combination license that shall entitle the holder to the same non-commercial fishing privileges as residents holding a license as described in subsection (a) of this Section and to the same hunting privileges as residents holding a license to hunt all species as described in Section 3.1 of the Wildlife Code. No sportsmen's combination license shall be issued to any individual who would be ineligible for either the fishing or hunting license separately. The sportsmen's combination license fee shall be ~~\$25.50~~ ~~\$18.50~~. For residents age 65 or older, the fee is one-half of the fee charged for a sportsmen's combination license.

(d) For 24 hours of fishing by sport fishing devices as defined in Section 10-95 or by spearing devices as defined in Section 10-110 the fee is \$5. This license exempts the licensee from the requirement for a salmon or inland trout stamp. The licenses provided for by this subsection are not required for residents of the State of Illinois who have obtained the license provided for in subsection (a) of this Section.

(e) All residents before using any commercial mussel device shall obtain a commercial mussel license, the fee for which shall be \$50.

(f) Residents of this State, upon establishing residency as required by the Department, may obtain a lifetime hunting or fishing license or lifetime sportsmen's combination license which shall entitle the holder to the same non-commercial fishing privileges as residents holding a license as described in paragraph (a) of this Section and to the same hunting privileges as residents holding a license to hunt all species as described in Section 3.1 of the Wildlife Code. No lifetime sportsmen's combination license shall be issued to or retained by any individual who would be ineligible for either the fishing or hunting license separately, either upon issuance, or in any year a violation would subject an individual to have either or both fishing or hunting privileges rescinded. The lifetime hunting and fishing license fees shall be as follows:

(1) Lifetime fishing: 30 x the current fishing license fee.

(2) Lifetime hunting: 30 x the current hunting license fee.

(3) Lifetime sportsmen's combination license: 30 x the current sportsmen's combination license fee.

Lifetime licenses shall not be refundable. A \$10 fee shall be charged for reissuing any lifetime license. The Department may establish rules and regulations for the issuance and use of lifetime licenses and may suspend or revoke any lifetime license issued under this Section for violations of those rules or regulations or other provisions under this Code or the Wildlife Code. Individuals under 16 years of age who possess a lifetime hunting or sportsmen's combination license shall have in their possession, while

in the field, a certificate of competency as required under Section 3.2 of the Wildlife Code. Any lifetime license issued under this Section shall not exempt individuals from obtaining additional stamps or permits required under the provisions of this Code or the Wildlife Code. Individuals required to purchase additional stamps shall sign the stamps and have them in their possession while fishing or hunting with a lifetime license. All fees received from the issuance of lifetime licenses shall be deposited in the Fish and Wildlife Endowment Fund.

Except for licenses issued under subsection (e) of this Section, all licenses provided for in this Section shall expire on March 31 of each year, except that the license provided for in subsection (d) of this Section shall expire 24 hours after the effective date and time listed on the face of the license.

All individuals required to have and failing to have the license provided for in subsection (a) or (d) of this Section shall be fined according to the provisions of Section 20-35 of this Code.

All individuals required to have and failing to have the licenses provided for in subsections (b) and (e) of this Section shall be guilty of a Class B misdemeanor.

(Source: P.A. 89-66, eff. 1-1-96; 90-225, eff. 7-25-97; 90-743, eff. 1-1-99.)

(515 ILCS 5/20-55) (from Ch. 56, par. 20-55)

Sec. 20-55. License fees for non-residents. Fees for licenses for non-residents of the State of Illinois are as follows:

(a) For sport fishing devices as defined by Section 10-95, or spearing devices as defined in Section 10-110, non-residents age 16 or older shall be charged ~~\$31~~ ~~\$24~~ for a fishing license to fish. For sport fishing devices as defined by Section 10-95, or spearing devices as defined in Section 10-110, for a period not to exceed 10 consecutive days fishing in the State of Illinois the fee is ~~\$19.50~~ ~~\$12.50~~.

For sport fishing devices as defined in Section 10-95, or spearing devices as defined in Section 10-110, for 24 hours of fishing the fee is \$5. This license exempts the licensee from the salmon or inland trout stamp requirement.

(b) All non-residents before using any commercial fishing device shall obtain a non-resident commercial fishing license, the fee for which shall be \$150. Each and every commercial device shall be licensed by a non-resident commercial fisherman as follows:

- (1) For each 100 lineal yards, or fraction thereof, of seine (excluding minnow seines) the fee is \$36.
- (2) For each device to fish with a 100 hook trot line device, basket trap, hoop net, or dip net the fee is \$6.
- (3) For each 100 lineal yards, or fraction thereof, of trammel net the fee is \$36.
- (4) For each 100 lineal yards, or fraction thereof, of gill net the fee is \$36.

All persons required to have and failing to have the license provided for in subsection (a) of this Section shall be fined under Section 20-35 of this Code. Each person required to have and failing to have the licenses required under subsection (b) of this Section shall be guilty of a Class B misdemeanor.

All licenses provided for in this Section shall expire on March 31 of each year; except that the 24-hour license for sport fishing devices or spearing devices shall expire 24 hours after the effective date and time listed on the face of the license and licenses for sport fishing devices or spearing devices for a period not to exceed 10 consecutive days fishing in the State of Illinois as provided in subsection (a) of this Section shall expire at midnight on the tenth day after issued, not counting the day issued.

(Source: P.A. 89-66, eff. 1-1-96; 90-225, eff. 7-25-97; 90-743, eff. 1-1-99.)

Section 10-10. The Wildlife Code is amended by changing Sections 1.29, 2.26, 3.2, and 3.39 as follows:

(520 ILCS 5/1.29) (from Ch. 61, par. 1.29)

Sec. 1.29. Migratory Waterfowl Stamp Fund.

(a) There is hereby created in the State Treasury the State Migratory Waterfowl Stamp Fund. All fees collected from the sale of State Migratory Waterfowl Stamps shall be deposited into this Fund. These moneys shall be appropriated to the Department for the following purposes:

- (1) ~~25%~~ ~~50%~~ of funds derived from the sale of State migratory waterfowl stamps and 100% of all gifts, donations, grants and bequests of money for the conservation and propagation of waterfowl, for projects approved by the Department for the purpose of attracting waterfowl and improving public migratory waterfowl areas within the State, and for payment of the costs of printing State migratory waterfowl stamps, the expenses incurred in acquiring State waterfowl stamp designs and the expenses of producing reprints. These projects may include the repair, maintenance and operation of public migratory waterfowl areas only in emergencies as determined by the State Duck Stamp Committee; ~~but none of the monies spent within the State shall be used for administrative expenses.~~

- (2) 25% of funds derived from the sale of State migratory waterfowl stamps will be

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turned over by the Department to appropriate non-profit organizations for the development of waterfowl propagation areas within the Dominion of Canada or the United States that specifically provide waterfowl for the Mississippi Flyway.

(3) 25% of funds derived from the sale of State migratory waterfowl stamps shall be turned over by the Department to appropriate non-profit organizations to be used for the implementation of the North American Waterfowl Management Plan. These funds shall be used for the development of waterfowl areas within the Dominion of Canada or the United States that specifically provide waterfowl for the Mississippi Flyway.

(4) 25% of funds derived from the sale of State migratory waterfowl stamps shall be available for use by the Department for internal administrative costs of the Department and for the maintenance of waterfowl habitat, including the replacement, repair, operation, and maintenance of pumps and levees used for water management on public migratory waterfowl areas within the State.

(b) Before turning over any funds under the provisions of paragraphs (2) and (3) of subsection (a) the Department shall obtain evidence that the project is acceptable to the appropriate governmental agency of the Dominion of Canada or the United States or of one of its Provinces or States having jurisdiction over the lands and waters affected by the project, and shall consult those agencies and the State Duck Stamp Committee for approval before allocating funds.

(c) The State Duck Stamp Committee shall consist of: (1) The State Waterfowl Biologist, (2) The Chief of the Wildlife Resources Division or his designee, (3) The Chief of the Land Management Division or his designee, (4) The Chief of the ~~Engineering Technical Services~~ Division or his designee, and (5) Two or more at large representatives from statewide waterfowl organizations appointed by the Director. The Committee's duties shall be to review and recommend all Duck Stamp Projects and review and recommend all expenditures from the State Migratory Waterfowl Stamp Fund. The committee shall give due consideration to waterfowl projects that are readily available to holders of the State Migratory Waterfowl Stamp, wherever they may live in Illinois.

(Source: P.A. 86-155; 87-135.)

(520 ILCS 5/2.26) (from Ch. 61, par. 2.26)

Sec. 2.26. Deer hunting permits. In this Section, "bona fide equity shareholder" means an individual who (1) purchased, for market price, publicly sold stock shares in a corporation, purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the corporation, or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation accurately reflecting his or her percentage of ownership and (2) intends to retain the ownership of the shares of stock for at least 5 years.

In this Section, "bona fide equity member" means an individual who (1) (i) became a member upon the formation of the limited liability company or (ii) has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the LLC assets represented by the distributional interest in the LLC and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act and who (2) intends to retain the membership for at least 5 years.

In this Section, "bona fide equity partner" means an individual who (1) (i) became a partner, either general or limited, upon the formation of a partnership or limited partnership, or (ii) has purchased, acquired, or been gifted a partnership interest accurately representing his or her percentage distributional interest in the profits, losses, and assets of a partnership or limited partnership, (2) intends to retain ownership of the partnership interest for at least 5 years, and (3) is a resident of Illinois.

Any person attempting to take deer shall first obtain a "Deer Hunting Permit" in accordance with prescribed regulations set forth in an Administrative Rule. Deer Hunting Permits shall be issued by the Department. The fee for a Deer Hunting Permit to take deer with either bow and arrow or gun shall not exceed ~~\$25.00~~ ~~\$15.00~~ for residents of the State. The Department may by administrative rule provide for non-resident deer hunting permits for which the fee will not exceed \$300 in 2005, \$350 in 2006, and \$400 in 2007 and thereafter except as provided below for non-resident landowners and non-resident archery hunters. The Department may by administrative rule provide for a non-resident archery deer permit consisting of not more than 2 harvest tags at a total cost not to exceed \$325 in 2005, \$375 in 2006, and \$425 in 2007 and thereafter. Permits shall be issued without charge to:

- (a) Illinois landowners residing in Illinois who own at least 40 acres of Illinois land and wish to hunt their land only,
- (b) resident tenants of at least 40 acres of commercial agricultural land where they will hunt, and
- (c) Bona fide equity shareholders of a corporation, bona fide equity members of a

limited liability company, or bona fide equity partners of a general or limited partnership which owns at least 40 acres of land in a county in Illinois who wish to hunt on the corporation's, company's, or partnership's land only. One permit shall be issued without charge to one bona fide equity shareholder, one bona fide equity member, or one bona fide equity partner for each 40 acres of land owned by the corporation, company, or partnership in a county; however, the number of permits issued without charge to bona fide equity shareholders of any corporation or bona fide equity members of a limited liability company in any county shall not exceed 15, and shall not exceed 3 in the case of bona fide equity partners of a partnership.

Bona fide landowners or tenants who do not wish to hunt only on the land they own, rent, or lease or bona fide equity shareholders, bona fide equity members, or bona fide equity partners who do not wish to hunt only on the land owned by the corporation, limited liability company, or partnership shall be charged the same fee as the applicant who is not a landowner, tenant, bona fide equity shareholder, bona fide equity member, or bona fide equity partner. Nonresidents of Illinois who own at least 40 acres of land and wish to hunt on their land only shall be charged a fee set by administrative rule. The method for obtaining these permits shall be prescribed by administrative rule.

The deer hunting permit issued without fee shall be valid on all farm lands which the person to whom it is issued owns, leases or rents, except that in the case of a permit issued to a bona fide equity shareholder, bona fide equity member, or bona fide equity partner, the permit shall be valid on all lands owned by the corporation, limited liability company, or partnership in the county.

The standards and specifications for use of guns and bow and arrow for deer hunting shall be established by administrative rule.

No person may have in his possession any firearm not authorized by administrative rule for a specific hunting season when taking deer.

Persons having a firearm deer hunting permit shall be permitted to take deer only during the period from 1/2 hour before sunrise to 1/2 hour after sunset, and only during those days for which an open season is established for the taking of deer by use of shotgun, handgun, or muzzle loading rifle.

Persons having an archery deer hunting permit shall be permitted to take deer only during the period from 1/2 hour before sunrise to 1/2 hour after sunset, and only during those days for which an open season is established for the taking of deer by use of bow and arrow.

It shall be unlawful for any person to take deer by use of dogs, horses, automobiles, aircraft or other vehicles, or by the use of salt or bait of any kind. An area is considered as baited during the presence of and for 10 consecutive days following the removal of bait. Nothing in this Section shall prohibit the use of a dog to track wounded deer. Any person using a dog for tracking wounded deer must maintain physical control of the dog at all times by means of a maximum 50 foot lead attached to the dog's collar or harness. Tracking wounded deer is permissible at night, but at no time outside of legal deer hunting hours or seasons shall any person handling or accompanying a dog being used for tracking wounded deer be in possession of any firearm or archery device. Persons tracking wounded deer with a dog during the firearm deer seasons shall wear blaze orange as required. Dog handlers tracking wounded deer with a dog are exempt from hunting license and deer permit requirements so long as they are accompanied by the licensed deer hunter who wounded the deer.

It shall be unlawful to possess or transport any wild deer which has been injured or killed in any manner upon a public highway or public right-of-way of this State unless exempted by administrative rule.

Persons hunting deer must have gun unloaded and no bow and arrow device shall be carried with the arrow in the nocked position during hours when deer hunting is unlawful.

It shall be unlawful for any person, having taken the legal limit of deer by gun, to further participate with gun in any deer hunting party.

It shall be unlawful for any person, having taken the legal limit of deer by bow and arrow, to further participate with bow and arrow in any deer hunting party.

The Department may prohibit upland game hunting during the gun deer season by administrative rule.

The Department shall not limit the number of non-resident either sex archery deer hunting permits to less than 20,000.

It shall be legal for handicapped persons, as defined in Section 2.33, and persons age 62 or older to utilize a crossbow device, as defined in Department rules, to take deer.

Any person who violates any of the provisions of this Section, including administrative rules, shall be guilty of a Class B misdemeanor.

For the purposes of calculating acreage under this Section, the Department shall, after determining the total acreage of the applicable tract or tracts of land, round remaining fractional portions of an acre greater than or equal to half of an acre up to the next whole acre.

(Source: P.A. 95-289, eff. 8-20-07; 95-329, eff. 8-21-07; 95-876, eff. 8-21-08; 96-162, eff. 1-1-10.)  
(520 ILCS 5/3.2) (from Ch. 61, par. 3.2)

Sec. 3.2. Hunting license; application; instruction. Before the Department or any county, city, village, township, incorporated town clerk or his duly designated agent or any other person authorized or designated by the Department to issue hunting licenses shall issue a hunting license to any person, the person shall file his application with the Department or other party authorized to issue licenses on a form provided by the Department and further give definite proof of identity and place of legal residence. Each clerk designating agents to issue licenses and stamps shall furnish the Department, within 10 days following the appointment, the names and mailing addresses of the agents. Each clerk or his duly designated agent shall be authorized to sell licenses and stamps only within the territorial area for which he was elected or appointed. No duly designated agent is authorized to furnish licenses or stamps for issuance by any other business establishment. Each application shall be executed and sworn to and shall set forth the name and description of the applicant and place of residence.

No hunting license shall be issued to any person born on or after January 1, 1980 unless he presents the person authorized to issue the license evidence that he has held a hunting license issued by the State of Illinois or another state in a prior year, or a certificate of competency as provided in this Section. Persons under 16 years of age may be issued a Lifetime Hunting or Sportsmen's Combination License as provided under Section 20-45 of the Fish and Aquatic Life Code but shall not be entitled to hunt unless they have a certificate of competency as provided in this Section and they shall have the certificate in their possession while hunting.

The Department of Natural Resources shall authorize personnel of the Department or certified volunteer instructors to conduct courses, of not less than 10 hours in length, in firearms and hunter safety, which may include training in bow and arrow safety, at regularly specified intervals throughout the State. Persons successfully completing the course shall receive a certificate of competency. The Department of Natural Resources may further cooperate with any reputable association or organization in establishing courses if the organization has as one of its objectives the promotion of safety in the handling of firearms or bow and arrow.

The Department of Natural Resources shall designate any person found by it to be competent to give instruction in the handling of firearms, hunter safety, and bow and arrow. The persons so appointed shall give the course of instruction and upon the successful completion shall issue to the person instructed a certificate of competency in the safe handling of firearms, hunter safety, and bow and arrow. No charge shall be made for any course of instruction except for materials or ammunition consumed. The Department of Natural Resources shall furnish information on the requirements of hunter safety education programs to be distributed free of charge to applicants for hunting licenses by the persons appointed and authorized to issue licenses. Funds for the conducting of firearms and hunter safety courses shall be taken from the fee charged for the Firearm Owners Identification Card.

The fee for a hunting license to hunt all species for a resident of Illinois is ~~\$12~~ ~~\$7~~. For residents age 65 or older, the fee is one-half of the fee charged for a hunting license to hunt all species for a resident of Illinois. Nonresidents shall be charged ~~\$7~~ ~~\$50~~ for a hunting license.

Nonresidents may be issued a nonresident hunting license for a period not to exceed 10 consecutive days' hunting in the State and shall be charged a fee of ~~\$35~~ ~~\$28~~.

A special nonresident hunting license authorizing a nonresident to take game birds by hunting on a game breeding and hunting preserve area only, established under Section 3.27, shall be issued upon proper application being made and payment of a fee equal to that for a resident hunting license. The expiration date of this license shall be on the same date each year that game breeding and hunting preserve area licenses expire.

Each applicant for a State Migratory Waterfowl Stamp, regardless of his residence or other condition, shall pay a fee of ~~\$15~~ ~~\$10~~ and shall receive a stamp. Except as provided under Section 20-45 of the Fish and Aquatic Life Code, the stamp shall be signed by the person or affixed to his license or permit in a space designated by the Department for that purpose.

Each applicant for a State Habitat Stamp, regardless of his residence or other condition, shall pay a fee of \$5 and shall receive a stamp. Except as provided under Section 20-45 of the Fish and Aquatic Life Code, the stamp shall be signed by the person or affixed to his license or permit in a space designated by the Department for that purpose.

Nothing in this Section shall be construed as to require the purchase of more than one State Habitat Stamp by any person in any one license year.

The Department shall furnish the holders of hunting licenses and stamps with an insignia as evidence of possession of license, or license and stamp, as the Department may consider advisable. The insignia shall be exhibited and used as the Department may order.

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All other hunting licenses and all State stamps shall expire upon March 31 of each year.

Every person holding any license, permit, or stamp issued under the provisions of this Act shall have it in his possession for immediate presentation for inspection to the officers and authorized employees of the Department, any sheriff, deputy sheriff, or any other peace officer making a demand for it. This provision shall not apply to Department owned or managed sites where it is required that all hunters deposit their license, permit, or Firearm Owner's Identification Card at the check station upon entering the hunting areas.

(Source: P.A. 93-554, eff. 8-20-03.)

(520 ILCS 5/3.39) (from Ch. 61, par. 3.39)

Sec. 3.39. Residents of the State of Illinois may obtain a Sportsmen's Combination License which shall entitle the holder to the same non-commercial fishing privileges as residents holding a fishing license described in subparagraph (a) of Section 20-45 of the Fish and Aquatic Life Code, and to the same hunting privileges as residents holding a license to hunt all species, as described in Section 3.1 of this Act. However, no Sportsmen's Combination License shall be issued to any person who would be ineligible for either the fishing or hunting license separately. The Sportsmen's Combination License fee shall be ~~\$25.50~~ ~~\$18.50~~. For residents age 65 or older, the fee is one-half of the fee charged for a Sportsmen's Combination License.

(Source: P.A. 90-743, eff. 1-1-99.)

#### ARTICLE 99. EFFECTIVE DATE

Section 99-99. Effective date. This Act takes effect on January 1, 2010."

Under the rules, the foregoing **Senate Bill No. 1846**, with House Amendments numbered 1 and 4, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 47

A bill for AN ACT concerning finance.

Passed the House, October 28, 2009, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 51

A bill for AN ACT concerning State government.

Passed the House, October 29, 2009, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 1576

A bill for AN ACT concerning State government.

Passed the House, October 29, 2009, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

[October 29, 2009]

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 1685

A bill for AN ACT concerning public health.  
Passed the House, October 28, 2009, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 1882

A bill for AN ACT concerning education.  
Passed the House, October 28, 2009, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, the Governor's specific recommendation for change notwithstanding, to-wit:

SENATE BILL 2043

A bill for AN ACT concerning public aid.  
Passed the House, October 28, 2009, by a three-fifths vote.

MARK MAHONEY, Clerk of the House

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the acceptance of the Governor's specific recommendations for change, which are attached, to a bill of the following title, to-wit:

SENATE BILL 1050

A bill for AN ACT concerning criminal law.  
Concurred in by the House, October 29, 2009.

MARK MAHONEY, Clerk of the House  
<MSGEND>

SB1050AVM001

MOTION

I move to accept the specific recommendations of the Governor as to Senate Bill 1050 in manner and form as follows:

AMENDMENT TO SENATE BILL 1050  
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend Senate Bill 1050 on page 10, line 16, by replacing "Registration Act." with "Registration Act, but who has not been convicted more than twice of a felony."; and

on page 10, by replacing lines 21 and 22 with:  
"battery, or a forcible felony or of an offense that is not a crime"; and

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on page 14, by replacing lines 24 and 25 with:

"employment by the Department of Corrections, Department of Juvenile Justice, or any other law enforcement agency in the State."; and

on page 16, by replacing lines 1 through 3 with the following:

"(a) After a rehabilitation review has been held, in a manner designated by the chief judge of the judicial circuit in which the conviction was entered, the Circuit Court of that judicial circuit The Prisoner Review Board, or any 3 members of the Board by unanimous vote,"; and

on page 17, lines 8 and 9, by replacing "~~or 4~~ , or Class X" with "or 4".

Date: \_\_\_\_\_, 2009 \_\_\_\_\_

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the acceptance of the Governor's specific recommendations for change, which are attached, to a bill of the following title, to-wit:

SENATE BILL 1682

A bill for AN ACT concerning State government.  
Concurred in by the House, October 28, 2009.

MARK MAHONEY, Clerk of the House  
<MSGEND>

SB1682AVM001

MOTION

I move to accept the specific recommendations of the Governor as to Senate Bill 1682 in manner and form as follows:

AMENDMENT TO SENATE BILL 1682

IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend Senate Bill 1682 on page 49, immediately below line 19, by inserting the following:

"Section 99. Effective date. This Act takes effect on January 31, 2010."

Date: \_\_\_\_\_, 2009 \_\_\_\_\_

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the acceptance of the Governor's specific recommendations for change, which are attached, to a bill of the following title, to-wit:

SENATE BILL 1698

A bill for AN ACT concerning education.  
Concurred in by the House, October 29, 2009.

MARK MAHONEY, Clerk of the House  
<MSGEND>

SB1698AVM001

MOTION

I move to accept the specific recommendations of the Governor as to Senate Bill 1698 in manner and form as follows:

AMENDMENT TO SENATE BILL 1698

IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend Senate Bill 1698 on page 2, line 8, by replacing "executive director" with "Chairman"; and

on page 2, line 12, by replacing "(4) Members" with "(4) Four members"; and

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on page 2, below line 18, by inserting the following:

"(D) One other member."; and

on page 2, line 19, by replacing "executive director" with "Chairman"; and

on page 2, line 23, by replacing "Director of the Division of Financial" with "Secretary"; and

on page 2, line 24, by deleting "Institutions".

Date: \_\_\_\_\_, 2009 \_\_\_\_\_

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the acceptance of the Governor's specific recommendations for change, which are attached, to a bill of the following title, to-wit:

SENATE BILL 1725

A bill for AN ACT concerning criminal law.  
Concurred in by the House, October 29, 2009.

MARK MAHONEY, Clerk of the House  
<MSGEND>

SB1725AVM001

MOTION

I move to accept the specific recommendations of the Governor as to Senate Bill 1725 in manner and form as follows:

AMENDMENT TO SENATE BILL 1725  
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend Senate Bill 1725 on page 3, line 8, by replacing "2009" with "2010".

Date: \_\_\_\_\_, 2009 \_\_\_\_\_

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 3923

A bill for AN ACT concerning insurance.  
Which amendment is as follows:  
Senate Amendment No. 3 to HOUSE BILL NO. 3923  
Senate Amendment No. 4 to HOUSE BILL NO. 3923  
Senate Amendment No. 5 to HOUSE BILL NO. 3923  
Concurred in by the House, October 29, 2009.

MARK MAHONEY, Clerk of the House

At the hour of 11:06 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, October 30, 2009, at 8:15 o'clock a.m.

[October 29, 2009]