

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 47 Ill Reg 2540) implementing PA 102-689, which expands the Video Gaming Act's prohibitions against "vertical integration" (having different tiers of video gaming licensees, e.g., a terminal operator and gaming establishment, under the same ownership) to include licensed sales agents. The rulemaking explicitly states that all licensees are limited to one tier of the video gaming industry – either the terminal side (terminal operators, technicians, handlers, sales agents) or the establishment side (licensed establishments). It outlines circumstances in which use agreements between terminal operators and licensed establishments violate this provision, such as when owners or persons of significant influence or

control (PSIC) of a terminal operator are also immediate family members of a PSIC of a gaming establishment. A terminal operator that is the landlord of an establishment also cannot enter into a use agreement with that establishment, nor can sales agents solicit use agreements from locations owned or controlled by

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the agent's immediate family. For establishments that are franchised, the franchisors will be counted as PSIC when the establishment obtains more than 50 percent of its revenue from gaming terminal income. In recognition of potential difficulties faced by licensees in promptly complying with the requirements of this rulemaking, it includes provisions for a reasonable grace period during which licensees may take the

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Adopted Rules

■ SALES TAXES

The DEPARTMENT OF REVENUE adopted amendments to Home Rule County Retailers' Occupation Tax (86 IAC 220; 46 Ill Reg 13889), Home Rule Municipal Retailers' Occupation Tax (86 IAC 270; 46 Ill Reg 13902), Regional Transportation Authority Retailers' Occupation Tax (86 IAC 320; 46 Ill Reg 13917), Metro East Mass Transit District Retailers' Occupation Tax (86 IAC 370; 46 Ill Reg 13930), Metro-East Park and Recreation District Retailers' Occupation Tax (86 IAC 395; 46 Ill Reg 13943), County Water Commission Retailers' Occupation Tax (86 IAC 630; 46 Ill Reg 13965), Special County Retailers' Occupation Tax for Public Safety (86 IAC 670; 46 Ill Reg 13978), Salem Civic Center Retailers' Occupation Tax (86 IAC 690; 46 Ill Reg 13991), Non-Home

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.
QUESTIONS/COMMENTS: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

Adopted Rules

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Rule Municipal Retailers' Occupation Tax (86 IAC 693; 46 Ill Reg 14004), County Motor Fuel Tax (86 IAC 695; 46 Ill Reg 14017) and Municipal Motor Fuel Tax (86 IAC 696; 46 Ill Reg 14028), all effective 2/7/23. The Part 270 rulemaking clarifies the effects of the Leveling the Playing Field for Illinois Retail Act (Public Acts 101-31 and 101-664) on home rule municipal sales taxes in relation to the sourcing of sales made by remote retailers (sellers with no physical inventory or presence in Illinois, from which Illinois residents purchase goods by phone, mail or online) and marketplace facilitators (entities such as Amazon and eBay through which sellers and buyers arrange purchases) on and after 1/1/21. Depending on the situation, applicable State and local sales taxes are determined either by the location of the seller (origin sourcing) or of the buyer (destination sourcing). Amendments to the remaining Parts, which implement various local and regional/district sales taxes, cross-reference the Part 270 rulemaking to the extent that it does not conflict with the provisions of those Parts. Those affected by these rulemakings include businesses and individuals in the affected taxing areas who make purchases from remote retailers or through marketplace facilitators.

Questions/requests for copies of the 11 DOR rulemakings: Alexis K. Overstreet, DOR, 101 W.

Jefferson St., Springfield IL 62794, 217/782-2844.

■ VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to Video Gaming (General) (11 IAC 1800; 46 Ill Reg 14742) effective 2/10/23, implementing PA 102-689 by establishing a new licensing category for sales agents and brokers who solicit use agreements on behalf of terminal operators. The rulemaking defines the duties of licensed sales agents and brokers and explicitly requires them to be licensed in order to solicit or negotiate agreements between video gaming locations and terminal operators for the placement of gaming terminals. (Formerly, terminal operators were required to disclose to the Board all individuals acting as agents or brokers, but these individuals were not subject to Board approval.) Provisions for issuing temporary identification badges to terminal handlers and technicians are extended to include sales agents/brokers. The rulemaking also clarifies that when the Board is considering an economic disassociation case, all payments owed to the subject of the hearing will be suspended while the hearing is pending, and if the Board issues an order of economic disassociation, no further payments may be made to the disassociated person other than fair market value consideration for a loss of ownership interest. Other provisions update and standardize terminology, eliminate fee

schedules that are codified in statute, remove obsolete procedures for submitting applications, and clarify aspects of the license renewal process. Since 1st Notice, IGB has added provisions stating that agents and brokers are required to disclose in advance to terminal operators the identities of any employees, subcontractors or other persons assisting them in soliciting or negotiating use agreements; are prohibited from providing anything of value as compensation for a use or placement agreement, unless the compensated person is a licensed agent or broker who worked on the agreement; and must maintain a record of any such compensation paid or offered. IGB also added a provision establishing a rebuttable presumption that anyone receiving compensation in connection with a use or placement agreement is engaged in soliciting such agreements (and therefore required to be a licensed agent or broker). Those affected by this rulemaking include licensed terminal operators and their sales agents or brokers.

Questions/requests for copies: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@illinois.gov.

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to Hospital Reimbursement Changes (89 IAC

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necessary actions required to come into compliance. Video gaming establishments, terminal operators and their sales agents are affected by this rulemaking.

Questions/requests for copies/comments through 4/10/23: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@illinois.gov

■ DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES proposed amendments to the Part titled Criteria for the Evaluation of Programs of Services in Community Rehabilitation Agencies (89 IAC 530; 47 Ill Reg 2593) that clarify standards for Community Rehabilitation Program (CRP) Agencies and the accreditation process. The rulemaking updates references to

Adopted Rules

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152; 46 Ill Reg 16346) effective 2/14/23 that removes obsolete provisions related to the SMART Act of 2012 (which generally reduced hospital reimbursement rates by 3.5%) and restores pre-SMART Act reimbursement rates effective 7/1/21.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

Emergency Rule

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Hospital Licensing Requirements (77 IAC 250; 47 Ill Reg 2862) effective 2/10/23, renewing provisions of a previous emergency rule that expired on 2/9/23. This emergency rule allows licensed hospitals to increase bed capacity and/or re-allocate bed designations between clinical services (e.g., to/from an Intensive Care Unit) if necessary to meet extraordinary needs due to the COVID-19 pandemic. Hospitals

the Division of Rehabilitation Services (DRS; formerly Office of Rehabilitation Services) within DHS. It requires CRPs that provide job placement, supported employment or customized employment services and receive \$100,000 or more annually in DHS employment services funding to be accredited by a recognized national organization or have interim approval from DHS-DRS. (A CRP that receives less than \$100,000 annually in employment services funding is not required to have national accreditation.) DHS may grant interim certification for up to 3 years to a CRP that has not previously held a placement contract and does not have national accreditation. Agencies under interim certification will be evaluated annually for compliance with DHS requirements for contract administration, non-discrimination, fiscal management, life-safety

may increase or re-allocate beds, or take previously increased bed capacity out of circulation, without prior notification to DPH provided DPH is notified within 30 days after the action. This emergency rule will expire on 5/11/23, the anticipated expiration date of the State and federally declared COVID-19 public health emergency.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

standards, and administrative requirements. After 3 years of interim certification, a CRP agency must be nationally accredited or it will not be eligible to enter into contracts with DHS. Other provisions clarify the contents of Individualized Plans for Employment (IPE), job coaching, and staffing meetings (at which the Rehabilitative Services customer, DHS staff and/or CRP staff review the customer's progress toward employment goals). Community Rehabilitation Program agencies and their customers are affected.

Questions/requests for copies/comments through 4/10/23: Tracie Drew, DHS, 100 S. Grand Ave. East, Harris Building, 3rd Floor, Springfield IL 62762, 217/785-9772.

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Proposed Rulemakings

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ETHICS PROCEDURES

The EXECUTIVE ETHICS COMMISSION proposed amendments to Organization, Information, Rulemaking and Hearings (2 IAC 1620; 47 Ill Reg 2508) that implement PAs 101-221 and 101-617. The amendments update investigation, reporting, and hearing procedures to recognize the rights conferred by Section 20-63 of the Ethics Act on those who are the subjects of alleged sexual harassment (known as “20-63 Complainants”). The rulemaking also updates the gift ban exception for educational materials and missions to expressly include online education and modifies the deadline for submission of training program materials to the Commission. Finally, the rulemaking adds responsibility for “fiscal administration” of State contracts (currently, for award of State contracts) as a basis for applying the revolving door prohibition, which requires former State employees, within 1 year after their departure, to notify the Executive Inspector General before accepting employment with an entity for which they personally and substantially participated in the award of State contracts or procurements.

Questions/requests for copies/ comments through 4/10/23: Stephen J. Rotello, EEC, 513 Stratton Office Bldg., 401 S. Spring St., Springfield IL 62706, EEC.LegalStaff@illinois.gov

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Hospital Services (89 IAC 148; 47 Ill Reg 2556) implementing several Public Acts, State Medicaid Plan Amendments, and other policy changes. This rulemaking establishes a minimum inpatient psychiatric per diem rate of \$630 for a general acute care hospital with more than 9,500 inpatient psychiatric Medicaid days in any calendar year; establishes an outpatient add-on payment of no less than \$113 for a general acute care hospital with more than 500 outpatient psychiatric Medicaid services to persons under age 19 in any calendar year; excludes U.S. Navy recruits/trainees who are covered by TRICARE military health insurance from Medicaid Inpatient Utilization Rate (MIUR) calculations; provides that if a closed hospital that qualified for MIUR-based payments at the time of its closure is reopened within 3 calendar years, the reopened/new hospital will qualify for the same payments until new MIUR data is available; and changes the beginning and ending dates for Medicaid percentage determination years. The Medicaid percentage determination year that began on 10/1/22 will continue through 12/31/23, after which Medicaid percentage determination years will begin on 1/1 and end on 12/31.

Questions/requests for copies/ comments through 4/10/23:

Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

DEFERRED COMPENSATION

The ILLINOIS STATE BOARD OF INVESTMENT proposed amendments to State (of Illinois) Employees’ Deferred Compensation Plan (80 IAC 2700; 47 Ill Reg 2641) implementing PA 102-219. The rulemaking provides that the default level of contributions (currently, 3% of pretax compensation) to the deferred comp plan for State employees who have been automatically enrolled and have neither opted out nor specified a contribution level will increase by 1% every January 1, until contributions reach 10%, the enrollee specifies a contribution level, or the enrollee opts out of the plan. It also provides that distributions from a deferred compensation account may begin in the calendar year in which a participant reaches age 59½ (currently, distributions may begin 30 days after the participant’s separation from State employment or death, or on a delayed distribution date after retirement/separation). Other provisions update and clarify procedures regarding loans from a deferred comp plan. Plan participants may not have more than one loan outstanding at any time and a loan must be repaid in full at least 30 days before another loan is

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requested. The maximum loan term is 5 years. Loans must be for at least \$1,000 but cannot exceed the lesser of \$50,000 or one-half of the current value of the account. Loan payments from 5/29/20 through 12/31/20 could be deferred (although interest will still accrue) in accordance with provisions of the federal CARES Act, and loan payments may also be suspended for persons on active military duty. SBI must also adopt a loan program policy specifying who is authorized to administer the program, application procedures, the basis for approving or denying loans, limitations of types of loans offered, procedures for determining a reasonable rate of interest, the types of collateral that may be used to secure a loan, and the procedures for addressing loan defaults.

Questions/requests for copies/ comments through 4/10/23: Mary Cahill, ISBI, 180 N. LaSalle St., Suite 2015, Chicago IL 60601, 312/793-5712, mcahill@isbinvestment.com

SOS PROCUREMENT

The SECRETARY OF STATE proposed amendments to Secretary of State Standard Procurement (44 IAC 2000; 47 Ill Reg 2619) that codify SOS' current leasing practices and specifications for its statewide facilities (e.g., driver's license stations). Specifications for rentable areas, construction areas, space allowances, furnishings, improvements to real property, and disability access are added that align with specifications that the Department of Central Management Services has established for other State agencies.

Questions/requests for copies/ comments through 4/10/23: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.gov

SOS RULE WITHDRAWAL

SOS has withdrawn proposed amendments to the Part titled Notary Public Records (14 IAC 176; 46 Ill Reg 5874) that were published in the 4/15/22 *Illinois Register*. These amendments implemented PA 102-160, which authorized electronic and remote notarizations in Illinois, and included numerous provisions for electronic and traditional notary commissions. SOS has withdrawn this rulemaking in response to comments from interested parties and to a JCAR Objection, and plans to refile the rulemaking allowing for additional time for public comment.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will appear in next week's *Illinois Register* and be considered at the March 21, 2023, meeting in Springfield. Other items not published in the *Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Clinical Psychologist Licensing Act (68 IAC 1400; 46 Ill Reg 13654) proposed 8/5/22

DEPT OF INSURANCE

Minimum Standards for Individual and Group Medicare Supplement Insurance
(50 IAC 2008; 46 Ill Reg 17541) proposed 11/4/22

DEPT OF LABOR

Payment and Collection of Wages or Final Compensation
(56 IAC 300; 46 Ill Reg 18451) proposed 11/18/22

Joint Committee on Administrative Rules

Senator Cristina Castro

Representative Eva-Dina Delgado

Senator Bill Cunningham, *co-chair*

Representative Jackie Haas

Senator Donald DeWitte

Representative Steven Reick

Senator Dale Fowler

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Senator Kimberly Lightford

Representative Curtis Tarver, II

Senator Sue Rezin

Representative Dave Vella

**Kim Schultz
Executive Director**