



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1570

Introduced 2/15/2019, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Underground Utility Facilities Damage Prevention Act. Provides for additional required activities for an excavator who engages in nonemergency excavation or demolition under the Act. Modifies the requirements for an excavator who engages in emergency excavation or demolition under the Act. Provides notice requirements for damaged, dislocated, and exposed underground utility facilities. Provides additional requirements for record of notice and the marking of underground utility facilities. Modifies Sections concerning liability, financial responsibility, negligence, and penalties for violating the provisions of the Act. Repeals a Section concerning preconstruction conferences. Defines, modifies, and repeals terms. Makes certain provisions apply to home rule municipalities with a population over 1,000,000. Makes conforming and technical changes.

LRB101 08727 JRG 53814 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Underground Utility Facilities
5 Damage Prevention Act is amended by changing Sections 2, 2.1.3,
6 2.1.4, 2.1.5, 2.2, 2.3, 2.4, 2.5, 2.7, 2.8, 2.9, 2.10, 2.11, 3,
7 4, 6, 7, 8, 9, 10, 11, 11.3, 12, 13, and 14 and by adding
8 Sections 2.1.1, 2.1.2, 2.1.7, 2.1.8, 2.12, 2.13, and 7.5 as
9 follows:

10 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

11 Sec. 2. Definitions. As used in this Act, unless the
12 context clearly otherwise requires, the terms specified in
13 Sections 2.1.1 ~~2.1~~ through 2.13 ~~2.11~~ have the meanings ascribed
14 to them in those Sections.

15 (Source: P.A. 94-623, eff. 8-18-05.)

16 (220 ILCS 50/2.1.1 new)

17 Sec. 2.1.1. Excavator. "Excavator" means any person or
18 legal entity, public or private, that engages in excavation or
19 demolition work.

20 (220 ILCS 50/2.1.2 new)

21 Sec. 2.1.2. Pre-mark. "Pre-mark" means to use white paint,

1 stakes, or flags to delineate the work area at the site of the
2 proposed excavation or demolition area. If visible, an existing
3 above ground fixed structure may be considered a pre-mark. A
4 verbal pre-mark is adequate when the scope requested to be
5 marked is narrow and explicit enough to prevent marking a large
6 area beyond the actual area of excavation or demolition. If
7 utilized, physical pre-marking for the area of the planned
8 excavation or demolition must be accomplished prior to
9 notifying the One-Call Notice System.

10 (220 ILCS 50/2.1.3)

11 Sec. 2.1.3. No show request. "No show request" means a
12 notice initiated by an excavator through the ~~State-Wide~~
13 One-Call Notice System to the owners or operators of
14 underground utility facilities notified in the prior locate
15 request that such facility owners or operators, as identified
16 by the excavator, either failed to mark their facilities or to
17 communicate their non-involvement with the excavation prior to
18 the requested dig start date and time.

19 (Source: P.A. 96-714, eff. 1-1-10.)

20 (220 ILCS 50/2.1.4)

21 Sec. 2.1.4. Incomplete request. "Incomplete request"
22 means a notice initiated by an excavator through the ~~State-Wide~~
23 One-Call Notice System to the owners or operators of
24 underground utility facilities notified in a prior locate

1 request that such facility owners or operators, as identified
2 by the excavator ~~person excavating~~, did not completely mark the
3 entire extent or the entire segment of the proposed excavation,
4 as identified ~~by the excavator~~ in the prior notice.

5 (Source: P.A. 96-714, eff. 1-1-10.)

6 (220 ILCS 50/2.1.5)

7 Sec. 2.1.5. Re-mark request. "Re-mark request" means a
8 notice initiated by an excavator through the ~~State-wide~~
9 One-Call Notice System to the owners or operators of
10 underground utility facilities notified in the initial locate
11 request requesting facility owners or operators to re-mark all
12 or part of the work area identified in the initial locate
13 request, because facility markings are becoming or have become
14 indistinguishable due to factors, including, but not limited
15 to, weather, fading, construction activity, or vandalism. Only
16 the affected areas where excavation or demolition is to
17 continue shall be requested to be re-marked.

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/2.1.7 new)

20 Sec. 2.1.7. Normal notice request. "Normal notice request"
21 means a request for locates that provides no less than 48
22 hours, but no more than 14 calendar days, advance notice of a
23 planned excavation or demolition. A normal notice request is
24 only valid for 28 calendar days from the date of the original

1 normal notice, unless a subsequent request for extension, as
2 described in subsection (g) of Section 4, is made.

3 (220 ILCS 50/2.1.8 new)

4 Sec. 2.1.8. One-Call Notice System. "One-Call Notice
5 System" means JULIE for all excavation or demolition performed
6 and underground facilities owned outside the jurisdiction of
7 the city limits of Chicago.

8 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

9 Sec. 2.2. Underground utility facilities. "Underground
10 utility facilities" or "facilities" means and includes wires,
11 ducts, fiber optic cable, conduits, pipes, sewers, and cables
12 and their connected appurtenances existing ~~installed~~ beneath
13 the surface of the ground and owned or operated by:

14 (1) a public utility as defined in the Public Utilities
15 Act;

16 (2) a municipally owned or mutually owned utility
17 providing a similar utility service;

18 (3) a pipeline entity transporting gases, crude oil,
19 petroleum products, or other hydrocarbon materials within
20 the State;

21 (4) a telecommunications carrier as defined in the
22 Universal Telephone Service Protection Law of 1985, or by a
23 company described in Section 1 of the Telephone Company
24 Act;

1 (5) a community antenna television system, as defined
2 in the Illinois Municipal Code or the Counties Code;

3 (6) a holder, as that term is defined in the Cable and
4 Video Competition Law of 2007;

5 (7) any other entity owning or operating underground
6 facilities that transport generated electrical power to
7 other utility owners or operators or transport generated
8 electrical power within the internal electric grid of a
9 wind turbine generation farm; ~~and~~

10 (8) an electric cooperative as defined in the Public
11 Utilities Act; ~~and~~

12 (9) any other active member of a One-Call Notice
13 System.

14 (Source: P.A. 100-863, eff. 8-14-18.)

15 (220 ILCS 50/2.3) (from Ch. 111 2/3, par. 1602.3)

16 Sec. 2.3. Excavation. "Excavation" means any operation in
17 which earth, rock, or other material in or on the ground is
18 moved, removed, or otherwise displaced by means of any tools,
19 power equipment or explosives, and includes, without
20 limitation, grading, trenching, digging, ditching, drilling,
21 augering, boring, tunneling, scraping, cable or pipe plowing,
22 saw cutting when penetrating into the base or subbase of a
23 paved surface, and driving, but does not include:

24 (1) farm tillage operations; or

25 (2) railroad right-of-way maintenance; ~~or operations~~

1 or

2 (3) coal mining operations regulated under the Federal
3 Surface Mining Control and Reclamation Act of 1977 or any
4 State law or rules or regulations adopted under the federal
5 statute;~~7~~ or

6 (4) land surveying operations as defined in the
7 Illinois Professional Land Surveyor Act of 1989 when not
8 using power equipment and when prior to manually driving
9 any pin or rod under this subsection, the intended location
10 for the pin or rod is hand probed using a round-tipped
11 probe rod to the depth of the intended excavation;~~7~~ or

12 (5) roadway surface milling; ~~or~~

13 (6) manually inserting, without the use of power
14 equipment, a temporary round-tipped ground or probe rod as
15 part of underground utility facility locating; or

16 (7) manually inserting, without the use of power
17 equipment, a temporary round-tipped probe rod for bar
18 holing to determine the area of a leaking underground
19 hazardous gas or liquid facility; or

20 (8) manually inserting, without the use of power
21 equipment, a round-tipped ground rod for the purpose of
22 grounding utility equipment when an emergency exists and no
23 other ground source is available.

24 An exclusion to this Section in no way prohibits a
25 request from being made for the marking of underground
26 utility facilities.

1 (Source: P.A. 94-623, eff. 8-18-05.)

2 (220 ILCS 50/2.4) (from Ch. 111 2/3, par. 1602.4)

3 Sec. 2.4. Demolition. "Demolition" means the wrecking,
4 razing, rending, moving, or removing of a structure by means of
5 any power tool, power equipment (exclusive of transportation
6 equipment) or explosives.

7 (Source: P.A. 86-674.)

8 (220 ILCS 50/2.5) (from Ch. 111 2/3, par. 1602.5)

9 Sec. 2.5. Damage. "Damage" means the contact or dislocation
10 of any underground utility facility ~~or CATS facility~~ during
11 excavation or demolition which necessitates immediate or
12 subsequent repair by the owner or operator of such facility due
13 to a weakening or the partial or complete destruction of the
14 facility, including, but not limited to, the protective
15 coating, lateral support, cathodic protection, or housing for
16 the line, device, or facility.

17 (Source: P.A. 86-674.)

18 (220 ILCS 50/2.7)

19 Sec. 2.7. Tolerance zone. "Tolerance zone" means: (i) if
20 the diameter of the facility is indicated, the distance of
21 one-half of the known diameter plus 1.5 feet on either side of
22 the designated center line of the utility marking; (ii) if the
23 diameter of the facility is not indicated, 1.5 feet on either

1 side of the outside edge of the utility marking; or (iii) for
2 subaqueous facilities, a distance of 10 feet on either side of
3 the indicated facility. For purposes of this Section,
4 "subaqueous" means a facility located under a lake, river, or
5 navigable waterway. The utility markings provided cannot
6 indicate that the width of the marked facility is any greater
7 than the actual width of the underground facility. The
8 tolerance zone shall also apply to visible utility structures,
9 including, but not limited to, poles with overhead to
10 underground transitions, pedestals, transformers, meters,
11 hydrants, and valve boxes; there shall be a 1.5 foot tolerance
12 zone entirely around such facilities ~~the approximate location~~
13 ~~of underground utility facilities or CATS facilities defined as~~
14 ~~a strip of land at least 3 feet wide, but not wider than the~~
15 ~~width of the underground facility or CATS facility plus 1-1/2~~
16 ~~feet on either side of such facility based upon the markings~~
17 ~~made by the owner or operator of the facility.~~ Excavation
18 within the tolerance zone requires extra care and precaution
19 including, but not limited to, as set forth in Section 4.

20 (Source: P.A. 92-179, eff. 7-1-02.)

21 (220 ILCS 50/2.8)

22 Sec. 2.8. Approximate location. "Approximate location"
23 means the actual location of the marked underground facility
24 that lies entirely within the tolerance zone ~~a strip of land at~~
25 ~~least 3 feet wide, but not wider than the width of the~~

1 ~~underground facility or CATS facility plus 1.5 feet on either~~
2 ~~side of the facility.~~

3 (Source: P.A. 92-179, eff. 7-1-02.)

4 (220 ILCS 50/2.9)

5 Sec. 2.9. 48 hours. "48 hours" ~~"Forty eight hours"~~ means 2
6 business days beginning at 8 a.m. and ending at 4 p.m.
7 (exclusive of Saturdays, Sundays, and holidays recognized by
8 the ~~State Wide One-Call Notice System or the municipal one call~~
9 ~~notice system~~). All requests for locates received after 4 p.m.
10 will be processed as if received at 8 a.m. the next business
11 day.

12 (Source: P.A. 94-623, eff. 8-18-05.)

13 (220 ILCS 50/2.10)

14 Sec. 2.10. Open cut utility locate. "Open cut utility
15 locate" means a method of locating underground utility
16 facilities that requires excavation by the owner, operator, or
17 agent of the underground facility.

18 (Source: P.A. 94-623, eff. 8-18-05.)

19 (220 ILCS 50/2.11)

20 Sec. 2.11. Roadway surface milling. "Roadway surface
21 milling" means the removal of a uniform pavement section by
22 rotomilling, grinding, saw cutting, or other means that does
23 not penetrate into ~~including~~ the roadway base or subbase.

1 (Source: P.A. 94-623, eff. 8-18-05.)

2 (220 ILCS 50/2.12 new)

3 Sec. 2.12. Damage notification. "Damage notification"
4 means a notice to the owners or operators that damage to an
5 underground line has occurred in the area of the excavation or
6 demolition.

7 (220 ILCS 50/2.13 new)

8 Sec. 2.13. Exposed notification. "Exposed notification"
9 means a notification to the owners or operators that a
10 previously unmarked underground line has been exposed, but not
11 damaged.

12 (220 ILCS 50/3) (from Ch. 111 2/3, par. 1603)

13 Sec. 3. One-Call Notice System membership. The owners or
14 operators of underground utility facilities are required to be
15 members of a One-Call Notice System ~~or CATS facilities that are~~
16 ~~not currently participants in the State Wide One Call Notice~~
17 ~~System shall, within 6 months of the effective date of this~~
18 ~~Act, join the State Wide One Call Notice System. This Section~~
19 ~~shall not apply to utilities operating facilities or CATS~~
20 ~~facilities exclusively within the boundaries of a municipality~~
21 ~~with a population of at least one million persons.~~

22 (Source: P.A. 86-674.)

1 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

2 Sec. 4. Required activities. Every excavator ~~person~~ who
3 engages in nonemergency excavation or demolition shall:

4 (a) take reasonable action to inform himself or herself
5 of the location of any underground utility facilities in
6 and near the area for which such operation is to be
7 conducted;

8 (b) plan the excavation or demolition to avoid or
9 minimize interference with underground utility facilities
10 within the tolerance zone by utilizing such precautions
11 that include, but are not limited to, hand excavation, or
12 vacuum excavation methods to the depth of the proposed
13 excavation or demolition, and visually inspecting the
14 excavation while in progress until clear of the existing
15 marked facility;

16 (c) pre-mark in accordance with Section 2.1.2 ~~if~~
17 ~~practical, use white paint, flags, stakes, or both, to~~
18 ~~outline the dig site;~~

19 (d) provide notice not less than 48 hours but no more
20 than 14 calendar days in advance of the start of the
21 excavation or demolition to the owners or operators of the
22 underground utility facilities in and near the excavation
23 or demolition area through the ~~State-Wide~~ One-Call Notice
24 System ~~or, in the case of nonemergency excavation or~~
25 ~~demolition within the boundaries of a municipality of at~~
26 ~~least one million persons which operates its own one call~~

1 ~~notice system, through the one-call notice system which~~
2 ~~operates in that municipality.~~

3 At a minimum, the notice required under this subsection
4 (d) shall provide:

5 (1) the person's name, address, phone number at
6 which a person can be reached, and if available, a fax
7 number and email address ~~, if available;~~

8 (2) the start date and time of the planned
9 excavation or demolition;

10 (3) all counties, cities, or townships, or any
11 combination thereof, where the proposed excavation or
12 demolition shall take place;

13 (4) the address or location at which the excavation
14 or demolition shall take place;

15 (5) the type of work, and the ~~and~~ extent and
16 description of the area where excavation or demolition
17 is to occur ~~of the work involved; and~~

18 (6) the section or quarter sections when the
19 information in items (1) through (5) of this subsection
20 (d) does not allow the ~~State-Wide~~ One-Call Notice
21 System to determine the appropriate excavation or
22 demolition site. This item (6) does not apply to
23 residential property owners;

24 (7) an indication of whether directional boring or
25 horizontal drilling will be used;

26 (8) an indication of whether the excavation will

1 exceed 7 feet in depth;

2 (9) an indication of how the proposed excavation or
3 demolition has been pre-marked as defined in Section
4 2.1.2; and

5 (10) the latitude and longitude, if available. The
6 information specified in items (1) through (9) of this
7 subsection (d) is still required when providing
8 latitude and longitude;

9 (e) provide, during and following excavation or
10 demolition, such support for existing underground utility
11 facilities in and near the excavation or demolition area as
12 may be reasonably necessary for the protection of such
13 facilities unless otherwise agreed to by the owner or
14 operator of the underground facility;

15 (f) backfill all excavations in such manner and with
16 such materials as may be reasonably necessary for the
17 protection of existing underground utility facilities in
18 and near the excavation or demolition area;

19 (g) ~~after February 29, 2004,~~ when the excavation or
20 demolition project will extend past 28 calendar days from
21 the date of the original notice provided under clause (d),
22 the excavator shall provide a subsequent notice to the
23 owners or operators of the underground utility facilities
24 in and near the excavation or demolition area through the
25 ~~State Wide One-Call Notice System or, in the case of~~
26 ~~excavation or demolition within the boundaries of a~~

1 ~~municipality having a population of at least 1,000,000~~
2 ~~inhabitants that operates its own one-call notice system,~~
3 ~~through the one-call notice system that operates in that~~
4 ~~municipality informing utility owners and operators that~~
5 ~~additional time to complete the excavation or demolition~~
6 ~~project will be required.~~ The notice will provide the
7 excavator with an additional 28 calendar days from the date
8 of the subsequent notification to continue or complete the
9 excavation or demolition project. The excavator may not
10 provide a subsequent notice under this Section simply for
11 the purpose of keeping a prior notice open or valid without
12 continued excavation occurring within the period of that
13 subsequent notice;

14 (h) exercise due care at all times to protect
15 underground utility facilities. If, after proper
16 notification through the ~~State-Wide~~ One-Call Notice System
17 and upon arrival at the site of the proposed excavation,
18 the excavator observes clear evidence of the presence of an
19 unmarked or incompletely marked utility in the area of the
20 proposed excavation, the excavator shall not begin
21 excavating until all affected facilities have been marked
22 or 2 hours, whichever is shorter, after an additional call
23 is made to the ~~State-Wide~~ One-Call Notice System ~~for the~~
24 ~~area~~. The owner or operator of the utility shall respond
25 within 2 hours of the excavator's call to the ~~State-Wide~~
26 One-Call Notice System; and

1 (i) when factors, including, but not limited to,
2 weather, construction activity, or vandalism, at the
3 excavation site have caused the utility markings to become
4 faded or indistinguishable, the excavator shall pre-mark
5 in accordance with Section 2.1.2 and initiate a re-mark
6 request ~~provide an additional notice~~ through the
7 ~~State Wide~~ One-Call Notice System requesting that only the
8 affected areas where excavation or demolition is to
9 continue be re-marked. Facility owners or operators must
10 respond to the notice to re-mark according to the
11 requirements of Section 10 of this Act.

12 If upon notice, a facility operator determines there is a
13 critical facility within the proposed excavation area and the
14 facility operator desires to have an authorized representative
15 present during excavation near the critical facility, the
16 facility operator shall contact the excavator prior to the
17 requested dig start time provided on the notice to schedule a
18 date and time for the facility operator to be present when
19 excavation will occur near the critical facility. All
20 excavators must comply with the facility operator's request to
21 be present during excavation near critical facilities. In lieu
22 of having an authorized representative present, the facility
23 operator may choose to complete a minimal excavation near the
24 critical facility to expose its location. However, it is
25 incumbent on the facility operator to comply with the
26 excavator's schedule for when excavation will occur near the

1 critical facility. For excavation that may be near critical
2 facilities intermittently during the course of the project, the
3 excavator shall provide notice to the facility operator not
4 less than one business day before excavation is expected to be
5 near the critical facility. Nothing in this Section shall
6 prohibit an excavator from excavating prudently and carefully
7 near a critical facility without the facility operator present,
8 provided the facility operator waives the request to be present
9 or to complete a minimal excavation exposing the critical
10 facility or is unable to comply with the excavator's schedule.

11 Nothing in this Section prohibits the use of any method of
12 excavation if conducted in a manner that would avoid
13 interference with underground utility facilities.

14 (Source: P.A. 96-714, eff. 1-1-10.)

15 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

16 Sec. 6. Emergency excavation or demolition.

17 (a) Every excavator ~~person~~ who engages in emergency
18 excavation or demolition ~~outside of the boundaries of a~~
19 ~~municipality of at least one million persons which operates its~~
20 ~~own one-call notice system~~ shall take all reasonable
21 precautions to avoid or minimize interference between the
22 emergency work and existing underground utility facilities in
23 and near the excavation or demolition area, ~~through the~~
24 ~~State Wide One-Call Notice System,~~ and shall notify, as far in
25 advance as possible, the owners or operators of such

1 underground utility facilities in and near the emergency
2 excavation or demolition area, through the ~~State-Wide~~ One-Call
3 Notice System. At a minimum, the notice required under this
4 subsection (a) shall provide:

5 (1) the person's name, address, and ~~(i)~~ phone number at
6 which a person can be reached and, if available, a (ii) fax
7 number and email address, ~~if available;~~

8 (2) the start date and time of the planned emergency
9 excavation or demolition;

10 (3) the address or location at which the excavation or
11 demolition will take place; ~~and~~

12 (4) the type of work, and the ~~and~~ extent and
13 description of the area where excavation or demolition is
14 to occur; and ~~of the work involved.~~

15 (5) all counties, cities, or townships, or any
16 combination thereof, where the emergency excavation or
17 demolition will take place.

18 There is a wait time of 2 hours or the date and time
19 requested on the notice, whichever is longer, after an
20 emergency locate notification request is made through the
21 ~~State-Wide~~ One-Call Notice System. If the conditions at the
22 site dictate an earlier start than the required wait time, it
23 is the responsibility of the excavator to demonstrate that site
24 conditions warranted this earlier start time.

25 Upon notice by the excavator ~~person~~ engaged in emergency
26 excavation or demolition, the owner or operator of an

1 underground utility facility in or near the excavation or
2 demolition area shall communicate with the excavator ~~person~~
3 engaged in emergency excavation or demolition within 2 hours or
4 by the date and time requested on the notice, whichever is
5 longer by (1) marking the approximate location of underground
6 facilities; (2) advising the excavator ~~person excavating~~ that
7 their underground facilities are not in conflict with the
8 emergency excavation; or (3) notifying the excavator ~~person~~
9 ~~excavating~~ that the owner or operator shall be delayed in
10 marking because of conditions as referenced in subsection (g)
11 of Section 11 of this Act.

12 The notice by the owner or operator to the excavator ~~person~~
13 ~~engaged in emergency excavation or demolition~~ may be provided
14 by phone or phone message or by marking the excavation or
15 demolition area. The owner or operator has discharged the
16 owner's or operator's obligation to provide notice under this
17 Section if the owner or operator attempts to provide notice by
18 telephone but is unable to do so because the excavator ~~person~~
19 ~~engaged in the emergency excavation or demolition~~ does not
20 answer his or her telephone or does not have an answering
21 machine, ~~or~~ answering service, or voicemail to receive the
22 telephone call. If the owner or operator attempts to provide
23 notice by telephone ~~or by facsimile~~ but receives a busy signal,
24 that attempt shall not discharge the owner or operator from the
25 obligation to provide notice under this Section.

26 (b) (Blank). ~~Every person who engages in emergency~~

1 ~~excavation or demolition within the boundaries of a~~
2 ~~municipality of at least one million persons which operates its~~
3 ~~own one call notice system shall take all reasonable~~
4 ~~precautions to avoid or minimize interference between the~~
5 ~~emergency work and existing underground utility facilities in~~
6 ~~and near the excavation or demolition area, through the~~
7 ~~municipality's one call notice system, and shall notify, as far~~
8 ~~in advance as possible, the owners and operators of underground~~
9 ~~utility facilities in and near the emergency excavation or~~
10 ~~demolition area, through the municipality's one call notice~~
11 ~~system.~~

12 (c) The reinstallation of traffic control devices shall be
13 deemed an emergency for purposes of this Section.

14 (d) An open cut utility locate shall be deemed an emergency
15 for purposes of this Section.

16 (e) During emergency situations, as described in Section
17 2.6, where the owner or operator of underground utility
18 facilities has a widespread situation beyond their equipment or
19 personnel capabilities to facilitate a timely repair or
20 correction of the emergency, the facility owner or operator may
21 utilize subcontractors to facilitate the work without a
22 separate emergency locate request by the subcontractor.
23 However, for the purposes of this Act, in such a situation, the
24 facility owner or operator shall be responsible for the actions
25 of their subcontractor, unless the subcontractor has obtained
26 their own notice.

1 (f) Emergency notices provided through a One-Call Notice
2 System shall expire 14 calendar days after the date of the
3 initial notice.

4 (Source: P.A. 96-714, eff. 1-1-10.)

5 (220 ILCS 50/7) (from Ch. 111 2/3, par. 1607)

6 Sec. 7. Damage or dislocation. In the event of any damage
7 to or dislocation of any underground utility facilities in
8 connection with any excavation or demolition, emergency or
9 nonemergency, the excavator ~~person~~ responsible for the
10 excavation or demolition operations shall immediately notify
11 the affected utility and the ~~State-Wide One-Call Notice System~~
12 and cease excavation in the area of the damage when the damaged
13 facility is a threat to life or property or if otherwise
14 required by law ~~or, in the case of damage or dislocation in~~
15 ~~connection with any excavation or demolition within the~~
16 ~~boundaries of a municipality having a population of at least~~
17 ~~1,000,000 inhabitants that operates its own one call notice~~
18 ~~system, notify the affected utility and the one call notice~~
19 ~~system that operates in that municipality.~~ The excavator ~~person~~
20 responsible for the excavation or demolition shall not attempt
21 to repair, clamp, or constrict the damaged utility facility
22 unless under the supervision or advisement of the utility
23 facility owner or operator. At no time shall an excavator ~~a~~
24 ~~person~~ under this Act be required by a utility facility owner
25 or operator to attempt to repair, clamp, or constrict a damaged

1 utility facility. In the event of any damage to any underground
2 utility facility that results in the escape of any flammable,
3 toxic, or corrosive gas or liquid, the excavator ~~person~~
4 responsible for the excavation or demolition shall call 9-1-1
5 and notify authorities of the damage. Owners and operators of
6 underground utility facilities that are damaged and the
7 excavator involved shall work in a cooperative and expeditious
8 manner to repair the affected utility.

9 At a minimum, the notice required under this Section shall
10 provide:

11 (1) a reference to the original excavation or
12 demolition notice, if one exists;

13 (2) the type of damaged underground utility facility;

14 (3) the name of the affected underground utility
15 facility owner, if known; and

16 (4) the location of the damaged underground line at the
17 excavation or demolition site.

18 (Source: P.A. 96-714, eff. 1-1-10.)

19 (220 ILCS 50/7.5 new)

20 Sec. 7.5. Exposed facility. In the event of any previously
21 unmarked underground utility facility being exposed during
22 excavation or demolition, emergency or nonemergency, the
23 excavator responsible for the excavation or demolition
24 operations shall immediately notify the One-Call Notice
25 System.

1 At a minimum, the notice required under this Section shall
2 provide:

3 (1) a reference to the original excavation or
4 demolition notice, if one exists;

5 (2) the type of exposed underground utility facility;

6 (3) the name of the affected underground utility
7 facility owner, if known; and

8 (4) the location of the exposed underground line at the
9 excavation or demolition site.

10 (220 ILCS 50/8) (from Ch. 111 2/3, par. 1608)

11 Sec. 8. Liability or financial responsibility.

12 (a) Nothing in this Act shall be deemed to affect or
13 determine the financial responsibility for any operation under
14 this Act or liability of any entity or individual ~~person~~ for
15 any damages that occur unless specifically stated otherwise.

16 (b) Nothing in this Act shall be deemed to provide for
17 liability or financial responsibility of the Department of
18 Transportation, its officers and employees concerning any
19 underground utility facility ~~or CATS facility~~ located on
20 highway right-of-way by permit issued under the provisions of
21 Section 9-113 of the Illinois Highway Code. It is not the
22 intent of this Act to change any remedies in law regarding the
23 duty of providing lateral support.

24 (c) Neither the ~~State-Wide~~ One-Call Notice System nor any
25 of its officers, agents, or employees shall be liable for

1 damages for injuries or death to persons or damage to property
2 caused by acts or omissions in the receipt, recording, or
3 transmission of locate requests or other information in the
4 performance of its duties as the ~~State-Wide~~ One-Call Notice
5 System, unless the act or omission was the result of willful
6 and wanton misconduct.

7 (d) Any residential property owner who fails to comply with
8 any provision of this Act and damages underground utility
9 facilities ~~or CATS facilities~~ while engaging in excavation or
10 demolition on such residential property shall not be subject to
11 a penalty under this Act, but shall be liable for the damage
12 caused to the owner or operator of the damaged underground
13 utility facilities ~~or CATS facilities~~.

14 (Source: P.A. 92-179, eff. 7-1-02.)

15 (220 ILCS 50/9) (from Ch. 111 2/3, par. 1609)

16 Sec. 9. Negligence. When it is shown by competent evidence
17 in any action for damages to underground utility facilities ~~or~~
18 ~~CATS facilities~~ that such damages resulted from excavation or
19 demolition and that the excavator ~~person~~ engaged in such
20 excavation or demolition failed to comply with the provisions
21 of this Act, that excavator ~~person~~ shall be deemed prima facie
22 guilty of negligence. When it is shown by competent evidence in
23 any action for damages to excavators ~~persons~~, material or
24 equipment brought by excavators ~~persons~~ undertaking excavation
25 or demolition acting in compliance with the provisions of this

1 Act that such damages resulted from the failure of owners and
2 operators of underground facilities ~~or CATS facilities~~ to
3 comply with the provisions of this Act, those owners and
4 operators shall be deemed prima facie guilty of negligence.

5 (Source: P.A. 86-674.)

6 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

7 Sec. 10. Record of notice; marking of facilities.

8 (a) Upon notice by the excavator ~~person engaged in~~
9 ~~excavation or demolition~~, the entity ~~person~~ owning or operating
10 underground utility facilities in or near the excavation or
11 demolition area shall cause a written record to be made of the
12 notice and shall mark, within 48 hours of receipt of notice or
13 by the requested date and time indicated on the notice,
14 whichever is later, the approximate locations of such
15 facilities so as to enable the excavator ~~person excavating or~~
16 ~~demolishing~~ to establish the location of the underground
17 utility facilities.

18 (b) Owners and operators of underground sewer facilities
19 ~~that are located outside the boundaries of a municipality~~
20 ~~having a population of at least 1,000,000 inhabitants~~ shall be
21 required to respond and mark the approximate location of those
22 sewer facilities when the excavator indicates, in the notice
23 required in Section 4, that the excavation or demolition
24 project will exceed a depth of 7 feet. "Depth", in this case,
25 is defined as the distance measured vertically from the surface

1 of the ground to the top of the sewer facility.

2 (c) Owners and operators of underground sewer facilities
3 ~~that are located outside the boundaries of a municipality~~
4 ~~having a population of at least 1,000,000 inhabitants~~ shall be
5 required at all times to locate the approximate location of
6 those sewer facilities when: (1) directional boring is the
7 indicated type of excavation work being performed within the
8 notice; (2) the underground sewer facilities owned are
9 non-gravity, pressurized force mains; or (3) the excavation
10 indicated will occur in the immediate proximity of known
11 underground sewer facilities that are less than 7 feet deep.

12 (d) Owners or operators of underground sewer facilities
13 ~~that are located outside the boundaries of a municipality~~
14 ~~having a population of at least 1,000,000 inhabitants~~ shall not
15 hold an excavator liable for damages that occur to sewer
16 facilities that were not required to be marked under this
17 Section, provided that prompt notice of known ~~the~~ damage is
18 made to the ~~State Wide~~ One-Call Notice System ~~and the utility~~
19 ~~owner~~ as required in Section 7.

20 (e) All entities ~~persons~~ subject to the requirements of
21 this Act shall plan and conduct their work consistent with
22 reasonable business practices. Conditions may exist making it
23 unreasonable to request that locations be marked within 48
24 hours or by the requested date and time indicated on the
25 notice, whichever is later. In such situations, the excavator
26 and the owner or operator shall interact in good faith to

1 establish a mutually agreeable date and time for the completion
2 of the locate request. It is unreasonable to request owners and
3 operators of underground utility facilities to locate all of
4 their facilities in an affected area upon short notice in
5 advance of a large ~~or extensive~~ nonemergency project, or to
6 request extensive locates in excess of a reasonable excavation
7 or demolition work schedule, or to request locates under
8 conditions where a repeat request is likely to be made because
9 of the passage of time or adverse job conditions.

10 (f) Owners and operators of underground utility facilities
11 must reasonably anticipate seasonal fluctuations in the number
12 of locate requests and staff accordingly.

13 (g) If an entity ~~a person~~ owning or operating underground
14 utility facilities receives a notice under this Section but
15 does not own or operate any underground utility facilities
16 within the proposed excavation or demolition area described in
17 the notice, that entity ~~person~~, within 48 hours or by the
18 requested date and time indicated on the notice, whichever is
19 later, after receipt of the notice, shall so notify the
20 excavator who initiated the notice ~~person engaged in excavation~~
21 ~~or demolition who initiated the notice, unless the person who~~
22 ~~initiated the notice expressly waives the right to be notified~~
23 ~~that no facilities are located within the excavation or~~
24 ~~demolition area.~~

25 (h) The notification by the owner or operator of
26 underground utility facilities to the excavator ~~person engaged~~

1 ~~in excavation or demolition~~ may be provided in any reasonable
2 manner including, but not limited to, notification in any one
3 of the following ways:

4 (1) by face-to-face communication;

5 (2) by phone or phone message;

6 (3) by facsimile or email;

7 (4) by posting in the excavation or demolition area; or

8 (5) by marking the excavation or demolition area.

9 (i) The owner or operator of those facilities has
10 discharged the owner's or operator's obligation to provide
11 notice under this Section if the owner or operator attempts to
12 provide notice by one of the following ways:

13 (1) telephone ~~or by facsimile, if the person has~~
14 ~~supplied a facsimile number,~~ but is unable to do so because
15 the excavator ~~person engaged in the excavation or~~
16 ~~demolition~~ does not answer his or her telephone and ~~or~~ does
17 not have the ability to receive telephone messages;

18 (2) facsimile, if the excavator has supplied a
19 facsimile number and does not have a facsimile machine in
20 operation to receive the facsimile transmission; or

21 (3) email, if the excavator has supplied an email
22 address and the message is electronically undeliverable ~~an~~
23 ~~answering machine or answering service to receive the~~
24 ~~telephone call or does not have a facsimile machine in~~
25 ~~operation to receive the facsimile transmission.~~

26 If the owner or operator attempts to provide notice by

1 telephone or by facsimile but receives a busy signal, that
2 attempt shall not serve to discharge the owner or operator of
3 the obligation to provide notice under this Section.

4 ~~A person engaged in excavation or demolition may expressly~~
5 ~~waive the right to notification from the owner or operator of~~
6 ~~underground utility facilities that the owner or operator has~~
7 ~~no facilities located in the proposed excavation or demolition~~
8 ~~area. Waiver of notice is only permissible in the case of~~
9 ~~regular or nonemergency locate requests. The waiver must be~~
10 ~~made at the time of the notice to the State Wide One Call~~
11 ~~Notice System. A waiver made under this Section is not~~
12 ~~admissible as evidence in any criminal or civil action that may~~
13 ~~arise out of, or is in any way related to, the excavation or~~
14 ~~demolition that is the subject of the waiver.~~

15 (j) For the purposes of this Act, the following color
16 coding shall be used to mark the approximate location of
17 underground utility facilities by the underground facility
18 operators who may utilize a combination of flags, stakes, or
19 and paint as ~~when possible on non paved surfaces and when dig~~
20 site and seasonal conditions warrant. ~~If the approximate~~
21 ~~location of an underground utility facility is marked with~~
22 ~~stakes or other physical means, the following color coding~~
23 ~~shall be employed:~~

24 Underground Facility

Identification Color

1 Facility Owner or Agent Use Only

2 Electric Power, Distribution and

3 Transmission Safety Red

4 Municipal Electric Systems Safety Red

5 Gas Distribution and Transmission High Visibility Safety
6 Yellow

7 Oil Distribution and Transmission High Visibility Safety
8 Yellow

9 Communication Systems ~~Telephone and~~

10 ~~Telegraph Systems~~ Safety Alert Orange

11 ~~Community Antenna Television Systems~~ .. Safety Alert Orange

12 Water Systems Safety Precaution Blue

13 Sewer Systems Safety Green

14 Non-potable Water and Slurry Lines Safety Purple

15 Excavator Use Only

16 Temporary Survey Safety Pink

17 Proposed Excavation Safety White (Black
18 when snow is on the
19 ground)

20 (Source: P.A. 96-714, eff. 1-1-10.)

21 (220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

22 Sec. 11. Penalties; liability; fund.

1 (a) Every excavator ~~person~~ who, while engaging in
2 excavation or demolition, ~~willfully~~ fails to comply with the Act
3 by failing to provide the notice to the owners or operators of
4 the underground facilities near the excavation or demolition
5 area through the ~~State-Wide~~ One-Call Notice System as required
6 by Section 4 or 6 of this Act shall be subject to a penalty of
7 up to \$5,000 for each separate offense and shall be liable for
8 the damage caused to the owners or operators of the facility.
9 Every excavator ~~person~~ who fails to provide notice and
10 ~~willfully~~ fails to comply with other provisions of this Act
11 shall be subject to additional penalties of up to \$2,500 for
12 each separate offense and shall be liable for the damage caused
13 to the owners or operators of the facility.

14 (b) Every excavator ~~person~~ who has provided the notice to
15 the owners or operators of the underground utility facilities
16 in and near the excavation or demolition area through the
17 ~~State-Wide~~ One-Call Notice System as required by Section 4 or 6
18 of this Act, but otherwise ~~willfully~~ fails to comply with this
19 Act, shall be subject to a penalty of up to \$2,500 for each
20 separate offense and shall be liable for the damage caused to
21 the owners or operators of the facility.

22 (c) Every excavator ~~person~~ who, while engaging in
23 excavation or demolition, has provided the notice to the owners
24 or operators of the underground utility facilities in and near
25 the excavation or demolition area through the ~~State-Wide~~
26 One-Call Notice System as required by Section 4 or 6 of this

1 Act, but otherwise, while acting reasonably, damages any
2 underground utility facilities, shall not be subject to a
3 penalty, but shall be liable for the damage caused to the
4 owners or operators of the facility provided the underground
5 utility facility is properly marked as provided in Section 10
6 of this Act.

7 (d) Every excavator ~~person~~ who provides notice to the
8 owners or operators of the underground utility facilities
9 through the ~~State-Wide~~ One-Call Notice System as a no-show,
10 incomplete, or an emergency locate request and the locate
11 request is not a no-show, incomplete, or an emergency locate
12 request as defined in Section 2.1.3, 2.1.4, or 2.6 of this Act
13 shall be subject to a penalty of up to \$2,500 for each separate
14 offense.

15 (e) Owners and operators of underground utility facilities
16 who ~~willfully~~ fail to comply with this Act by a failure to
17 respond or mark the approximate location of an underground
18 utility as required by subsection (h) of Section 4, subsection
19 (a) of Section 6, or Section 10 of this Act after being
20 notified of planned excavation or demolition through the
21 ~~State-Wide~~ One-Call Notice System, shall be subject to a
22 penalty of up to \$5,000 for each separate offense. A facility
23 operator will not be subject to a penalty under this Section
24 for failing to properly mark the approximate location of an
25 underground facility provided that the facility operator
26 responded to the locate request in the time frames provided by

1 this Act and took reasonable care when locating the underground
2 facility.

3 (f) As provided in Section 3 of this Act, all owners or
4 operators of underground utility facilities who fail to join
5 the ~~State Wide~~ One-Call Notice System by January 1, 2003 shall
6 be subject to a penalty of \$100 per day for each separate
7 offense. Every day an owner or operator fails to join the
8 ~~State Wide~~ One-Call Notice System is a separate offense. ~~This~~
9 ~~subsection (f) does not apply to utilities operating facilities~~
10 ~~exclusively within the boundaries of a municipality with a~~
11 ~~population of at least 1,000,000 persons.~~

12 (g) No owner or operator of underground utility facilities
13 shall be subject to a penalty where a delay in marking or a
14 failure to mark or properly mark the location of an underground
15 utility is caused by conditions beyond the reasonable control
16 of such owner or operator.

17 (h) Any entity that ~~person who~~ is neither an agent,
18 employee, or authorized locating contractor of the owner or
19 operator of the underground utility facility nor an excavator
20 involved in the excavation or demolition activity that ~~who~~
21 removes, alters, or otherwise damages markings, flags, or
22 stakes used to mark the location of an underground utility
23 other than during the course of the excavation or demolition
24 for which the markings were made or before completion of the
25 project shall be subject to a penalty up to \$1,000 for each
26 separate offense.

1 (i) (Blank).

2 (j) The Illinois Commerce Commission shall have the power
3 and jurisdiction to, and shall, enforce the provisions of this
4 Act. The Illinois Commerce Commission may impose
5 administrative penalties as provided in this Section. The
6 Illinois Commerce Commission may promulgate rules and develop
7 enforcement policies (83 Illinois Administrative Code Part
8 265) in the manner provided by the Public Utilities Act in
9 order to implement compliance with this Act. When a penalty is
10 warranted, the following criteria shall be used in determining
11 the magnitude of the penalty:

12 (1) gravity of noncompliance;

13 (2) culpability of offender;

14 (3) history of noncompliance for the 18 months prior to
15 the date of the incident; however, when determining
16 noncompliance ~~non-compliance~~ the alleged violator's roles
17 as operator or owner and the entity ~~person~~ engaged in
18 excavating shall be treated separately;

19 (4) (blank); ~~ability to pay penalty;~~

20 (5) show of good faith of offender;

21 (6) (blank); ~~and ability to continue business; and~~

22 (7) other special circumstances.

23 (k) There is hereby created in the State treasury a special
24 fund to be known as the Illinois Underground Utility Facilities
25 Damage Prevention Fund. All penalties recovered by the Illinois
26 Commerce Commission in any action under this Section shall be

1 paid into the Fund and shall be distributed annually as a grant
2 to the ~~State-wide~~ One-Call Notice System operated by JULIE to
3 be used in safety and informational programs to reduce the
4 number of incidents of damage to underground utility facilities
5 in Illinois. The distribution shall be made during January of
6 each calendar year based on the balance in the Illinois
7 Underground Utility Facilities Damage Prevention Fund as of
8 December 31 of the previous calendar year. In all such actions
9 under this Section, the procedure and rules of evidence shall
10 conform with the Code of Civil Procedure, and with rules of
11 courts governing civil trials.

12 (1) The Illinois Commerce Commission shall establish an
13 Advisory Committee consisting of (1) 2 members of the general
14 public, with one member having a professional background in the
15 legal community, and (2) a representative from each of the
16 following: utility operator, ~~JULIE~~, excavator, municipality,
17 and the general public. The Advisory Committee shall serve as a
18 peer review panel for any contested penalties resulting from
19 the enforcement of this Act.

20 The members of the Advisory Committee shall be immune,
21 individually and jointly, from civil liability for any act or
22 omission done or made in performance of their duties while
23 serving as members of such Advisory Committee, unless the act
24 or omission was the result of willful and wanton misconduct.

25 (m) If, after the Advisory Committee has considered a
26 particular contested penalty and performed its review

1 functions under this Act and the Commission's rules, there
2 remains a dispute as to whether the Commission should impose a
3 penalty under this Act, the matter shall proceed in the manner
4 set forth in Article X of the Public Utilities Act, including
5 the provisions governing judicial review.

6 (Source: P.A. 96-714, eff. 1-1-10.)

7 (220 ILCS 50/11.3)

8 Sec. 11.3. Emergency telephone system outages;
9 reimbursement. Any excavator ~~person~~ who negligently damages an
10 underground facility ~~or CATS facility~~ causing an emergency
11 telephone system outage must reimburse the public safety agency
12 that provides personnel to answer calls or to maintain or
13 operate an emergency telephone system during the outage for the
14 agency's costs associated with answering calls or maintaining
15 or operating the system during the outage. For the purposes of
16 this Section, "public safety agency" means the same as in
17 Section 2.02 of the Emergency Telephone System Act.

18 (Source: P.A. 92-149, eff. 1-1-02.)

19 (220 ILCS 50/12) (from Ch. 111 2/3, par. 1612)

20 Sec. 12. Noncompliance and enforcement action time frames.

21 No action may be brought under Section 11 of this Act unless
22 commenced within 2 years after the date of violation of this
23 Act.

24 (Source: P.A. 86-674.)

1 (220 ILCS 50/13) (from Ch. 111 2/3, par. 1613)

2 Sec. 13. Mandamus or injunction. Where public safety or the
3 preservation of uninterrupted, necessary utility service ~~or~~
4 ~~community antenna television system service~~ is endangered by
5 any excavator ~~person~~ engaging in excavation or demolition in a
6 negligent or unsafe manner which has resulted in or is likely
7 to result in damage to underground utility facilities ~~or CATS~~
8 ~~facilities~~ or proposing to use procedures for excavation or
9 demolition which are likely to result in damage to underground
10 utility facilities ~~or CATS facilities~~, or where the owner or
11 operator of underground utility facilities ~~or CATS facilities~~
12 endangers an excavator by willfully failing to respond to a
13 locate request, the owner or operator of such facilities or the
14 excavator or the State's Attorney or the Illinois Commerce
15 Commission at the request of the owner or operator of such
16 facilities or the excavator may commence an action in the
17 circuit court for the county in which the excavation or
18 demolition is occurring or is to occur, or in which the person
19 complained of has his principal place of business or resides,
20 for the purpose of having such negligent or unsafe excavation
21 or demolition stopped and prevented or to compel the marking of
22 underground utilities facilities ~~or CATS facilities~~, either by
23 mandamus or injunction.

24 (Source: P.A. 92-179, eff. 7-1-02.)

1 (220 ILCS 50/14) (from Ch. 111 2/3, par. 1614)

2 Sec. 14. Home rule. The regulation of underground utility
3 facilities ~~and CATS facilities~~ damage prevention, as provided
4 for in this Act, is an exclusive power and function of the
5 State. A home rule unit may not regulate underground utility
6 facilities ~~and CATS facilities~~ damage prevention, as provided
7 for in this Act. All units of local government, including home
8 rule units ~~that are not municipalities of more than 1,000,000~~
9 ~~persons~~, must comply with the provisions of this Act. To this
10 extent, this Section is a denial and limitation of home rule
11 powers and functions under subsection (h) of Section 6 of
12 Article VII of the Illinois Constitution. A home rule
13 municipality of more than 1,000,000 persons may regulate
14 underground utility facilities ~~and CATS facilities~~ damage
15 prevention.

16 (Source: P.A. 99-121, eff. 7-23-15.)

17 (220 ILCS 50/2.1 rep.)

18 (220 ILCS 50/2.1.9 rep.)

19 (220 ILCS 50/5 rep.)

20 Section 10. The Illinois Underground Utility Facilities
21 Damage Prevention Act is amended by repealing Sections 2.1,
22 2.1.9, and 5.

1

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