

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

▪ MORTGAGE LENDERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Mortgage Community Reinvestment (38 IAC 1055; 48 Ill Reg 10965) that replace the current \$2,200-per-examination-day fee for covered mortgage licensees with a schedule of annual fees for fiscal years 2025 and 2026, based on each licensee's total mortgage loan volume as shown by its Mortgage Call Reports for the previous calendar year. The annual fees range from \$2,000 (FY25) and \$2,250 (FY26) for mortgage licensees that have made 50 to 99 mortgage loans the previous year, up to \$14,000 (FY25) and \$22,000 (FY26) for licensees that made 8,000 or more mortgage loans the previous year. Annual fees for fiscal year 2025 are due by 11/1/24 and annual fees thereafter are due within 30 days after the start of each fiscal year. The rule-

making also postpones from 11/1/24 to 2/1/25 the earliest date on which examinations of covered mortgage licensees that have made at least 100 home mortgage loans in the State in the prior calendar year may be initiated. Mortgage lenders subject to the Illinois Community Reinvestment Act (ILCRA) are affected.

**Adopted Rules, Page 3
Second Notices, Page 4**

Questions/requests for copies/comments through 9/16/24: Craig Cellini, DFPR, 320 W.t Washington, 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

▪ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 48 Ill

Reg 10972) that aligns the definition of a video gaming terminal in this Part with the definition contained in the Video Gaming Act. The rulemaking permits "insertion of cash, electronic cards or vouchers, or any combination thereof" (current rule only mentions cash) in a video gaming terminal to place a wager. Video gaming terminal operators and licensed video gaming locations may be affected by this rulemaking. (NOTE: A summary of this rulemaking was erroneously included in the 7/19/24 edition of The Flinn Report but it was not published in that week's issue of the *Illinois Register*.)

Questions/requests for copies/comments through 9/16/24: Daniel Gerber, IGB, 160 N. LaSalle St., Chicago IL 60601, 312-814-4700, fax 312-814-7253, IGB.RuleComments@illinois.gov

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days. **PROPOSED RULEMAKINGS:** Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days. **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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.
QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.
RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

(cont. from page 1)

UNIVERSITIES RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM proposed amendments to the Part titled Universities Retirement (80 IAC 1600; 48 Ill Reg 10992) that make various updates and clarifications. The rulemaking further clarifies the definition of an annuity payment period and implements changes in the Pension Code regarding System requests for information from members or employers that is necessary for proper operation of the System and accurate calculation of benefits. Employers who fail to comply with requests for information within 90 days are subject to a penalty of \$250 per day, up to a maximum penalty of \$25,000. System members (employees, retirees and beneficiaries) who fail to comply with a request for information within 90

days may have their benefits suspended. SURS will determine whether to impose penalties based on factors such as whether the delay in providing information was beyond the employer's or the member's control, whether the employer or member was properly notified of the information request, and whether the employer or member has exhibited a previous pattern of non-compliance. Service time adjustments based on percentage of time employed each year will not apply to members who participate in SURS on or after 9/1/24. Pensionable earnings do not include increases paid in an academic year beginning on or after 7/1/20 if the increase was due to overload work carried over from a previous academic year in which an emergency declaration prevented the employer from offering overload work or allowing such work to be performed. Other provisions establish acceptable documentation for birth dates, marital status, military records, and evidence of parentage (for benefits payable to children); replace the 6/30/24

deadline for pension and COLA buyout applications with a cross reference to the deadline set in the Pension Code (currently, 6/30/26); waive repayment of overpayments amounting to \$1 or less per month or \$10 or less in any lump sum; clarify that forfeiture of benefits due to work-related felonies begins only after judgment or conviction of a felony, and that the member will be entitled to a refund of all the member's contributions to the System but not any employer contributions; extend provisions for disability benefits due to accidents to campus police officers who qualify for line-of-duty disability benefits; add provisions for disability benefits claims procedures; and allow electronic signatures.

*Questions/requests for
copies/comments through 9/16/24:
Albert J. Lee, SURS, 1901 Fox Drive,
Champaign IL 61820, 217-378-8861,
alee@surs.org*

Adopted Rules

• COMMUNITY CARE PROGRAM

The DEPARTMENT ON AGING adopted amendments to Community Care Program (89 IAC 240; proposed at 47 Ill Reg 15309) effective 7/16/24 at 48 Ill Reg 11053, that include provisions from an emergency rule that expired on 3/15/24. The rulemaking implements enhanced options for Emergency Home Response Services (EHRS) that include fall detection and global positioning systems monitoring, and also implement extension of a federal waiver allowing a legally responsible individual (LRI), such as a spouse, representative payee, or power of attorney, to serve as a home care aide when a qualified CCP aide is not available or unable to provide services in the customer's plan of care. The rulemaking also updates outdated requirements for EHRS and remove a prohibition of LRIs from being homecare aides. Other provisions allow DonA to terminate provider contracts and providers to appeal these terminations or other adverse decisions; require 2 additional hours of in-service training (previously 12 hours, now 14) covering Alzheimer's/dementia for employees of EHRS, automated medication dispensing service providers and adult day service employees; remove or update outdated citations and definitions; allow DonA to grant variances from the rules in this Part on a case-by-case basis; and implement inclusive/gender neutral language. Since 1st Notice, DonA has updated various definitions and clarified aspects of the appeal process for customers and providers. Customer appeals of service reductions or terminations begin with an informal review by DonA, which if the customer does not agree with the decision, may be appealed to the Department of Healthcare and Family Services' Fair Hearings Section for a formal hearing

process. Regarding provider appeals stemming from a negative performance review, DonA has clarified that it will stay any adverse contract actions during the appeal process unless they involve serious (Type I) violations that endanger the health or safety of customers. DonA has also removed a requirement that home care providers undergo an additional 2 hours annually of Alzheimer's/dementia in-service training; this subject will be covered within the currently required 12 hours of annual training. Providers of Community Care Program services and their customers are affected by these rulemakings.

Questions/requests for copies: Priscilla Chapman, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, 217- 606-1256, aging.rulemaking@illinois.gov

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Merit and Fitness (80 IAC 302; proposed at 48 Ill Reg 12), effective 7/16/24 at 48 Ill Reg 11318, that replace job candidate entrance examinations and eligible lists of persons who have passed examinations with "competitive selection" processes and broadens the potential means by which candidates may be evaluated and hired. It requires the Director of CMS to implement policies and practices designed to determine the relative fitness of employment candidates. Testing or an equivalent process must be job related and may be written, oral, demonstrative of skill or physical fitness, or consist of an evaluation of training and experience. Applicants shall not be questioned concerning non-merit matters except as necessary to meet the requirements

of State law or policy. Preference for veterans in State hiring will be implemented by adding points "or the equivalent" to their applicable scores (formerly, entrance examination grades) based on their status as a disabled, wounded, wartime or peacetime veteran. Category ratings no longer require veterans to be given preference over non-veterans in the same category. Emergency appointments, currently limited to 60 days, may be extended to 90 days if necessary to address a threat to the health, safety or welfare of State employees or residents. Voluntary reductions in classification or grade no longer require approval of the CMS Director. Other provisions clarify and update procedures for appointments, term appointments, alternative employment, promotions, transfers, layoff and recall, and probationary periods; update provisions regarding trainees and continuous service; and abolish the practice of applicants specifying their geographic preference for job openings. Finally, cause for discharge is limited to repeated or serious misconduct, willful insubordination or disobedience, gross and habitual neglect of duties, fraud or willful breach of trust, loss of confidence, commission of a crime or offense, or other similar conduct that creates a reasonable basis for termination. (Previous rule stated that cause for discharge consists of "some substantial shortcoming" that renders continuance of the employee "in some way detrimental to the discipline and/or efficiency of the service" and that "the law or sound public opinion recognizes as good cause" for termination.) Since 1st Notice, CMS has clarified that notice of employment-related actions will be given to an employee via typical forms of communication used to most effect-

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Adopted Rules

(cont. from page 3)

ively reach the employee, which may include regular mail, certified mail, e-mail, personal delivery, or other applicable or relevant methods. Statutory language in the Section regarding veterans' preference has also been italicized and citations added.

• SURPLUS PROPERTY

CMS also adopted amendments to the Part titled Federal Surplus Property: Illinois State Plan, State Agency for Federal Surplus Property (44 IAC 5020; proposed at 48 Ill Reg 1980) effective

7/16/24 at 48 Ill Reg 11297, updating the Part (not amended since its adoption in 1983) to clarify which entities are eligible to obtain federal surplus property that CMS acquires through the Federal Donation Program. Organizations that may receive such property (in addition to units of local government, public safety/law enforcement agencies, public schools, and private non-profit/tax exempt organizations) now include alcohol and drug abuse treatment centers; providers of assistance to the homeless; adult day care centers; nursing homes; veterans' organizations; veteran-owned small businesses; other small businesses; and service/educational organizations including Boy/Girl

Scouts and the American Red Cross. The rulemaking also states that CMS representatives may (formerly, shall) visit federal government installations to view property that is available for donation and assess a service charge to recipients of this property, and updates references to State statutes and federal regulations. Small businesses and municipalities may be affected by this rulemaking.

Questions/requests for copies of the 2 CMS rulemakings: Administrative Rules Coordinator, CMS, 313 S. Sixth St., 3rd Floor, Springfield IL 62702, 217-782-9669, CMS.Rule@illinois.gov

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 be considered at the August 14, 2024 meeting in Springfield. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

CAPITAL DEVELOPMENT BOARD

Illinois Energy Conservation Code (71 IAC 600; 48 Ill Reg 8158) proposed 6/7/24

DEPT OF CENTRAL MANAGEMENT SERVICES

Travel (80 IAC 2800; 48 Ill Reg 7512) proposed 5/24/24

IL EMERGENCY MANAGEMENT AGENCY & OFFICE OF HOMELAND SECURITY

Licensing of Radioactive Material (32 IAC 330; 48 Ill Reg 7567) proposed 5/24/24

Medical Use of Radioactive Material (32 IAC 335; 48 Ill Reg 7605) proposed 5/24/24

Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material (32 IAC 337; 48 Ill Reg 7635) proposed 5/24/24

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Illinois Dental Practice Act (68 IAC 1220; 47 Ill Reg 17316) proposed 11/27/23

Electrologist Licensing Act (68 IAC 1246; 48 Ill Reg 6718) proposed 5/10/24

Rules for the Licensed Certified Professional Midwife Practice Act (68 IAC 1345; 48 Ill Reg 7517) proposed 5/24/24

DEPT OF HEALTHCARE AND FAMILY SERVICES

Rights and Responsibilities (89 IAC 102; 48 Ill Reg 6433) proposed 5/3/24

Medical Payment (89 IAC 140; 48 Ill Reg 7543) proposed 5/24/24

POLLUTION CONTROL BOARD

Visible and Particulate Matter Emissions (35 IAC 212; 47 Ill Reg 12810) proposed 9/1/23

Organic Material Emission Standards and Limitations (35 IAC 215; 47 Ill Reg 12824) proposed 9/1/23

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Second Notices

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Carbon Monoxide Emissions (35 IAC 216; 47 Ill Reg 12836)
proposed 9/1/23

Nitrogen Oxides Emissions (35 IAC 217; 47 Ill Reg 12842)
proposed 9/1/23

DEPT OF PUBLIC HEALTH

Skilled Nursing and Intermediate Care Facilities Code (77 IAC
300; 48 Ill Reg 7645) proposed 5/24/24

Sheltered Care Facilities Code (77 IAC 330; 48 Ill Reg 7662)
proposed 5/24/24

Illinois Veterans' Homes Code (77 IAC 340; 48 Ill Reg 7676)
proposed 5/24/24

Emergency Medical Services, Trauma Center, Comprehensive
Stroke Center, Primary Stroke Center and Acute Stroke Ready
Hospital Code (77 IAC 515; 48 Ill Reg 95) proposed 1/5/24

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees'
Retirement System of Illinois (80 IAC 1540; 48 Ill Reg 8339)
proposed 6/7/24

OFFICE OF THE STATE TREASURER

Revised Uniform Unclaimed Property Act (74 IAC 760; 48 Ill Reg
8047) proposed 5/31/24

Next JCAR Meeting: Wednesday, Aug. 14, 10:30 a.m.

Room D-1, Stratton Bldg., 401 S. Spring St., Springfield
Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Napoleon Harris, III
Senator Sue Rezin

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver, II
Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director
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