

STATE OF ILLINOIS



HOUSE JOURNAL

HOUSE OF REPRESENTATIVES

NINETY-SIXTH GENERAL ASSEMBLY

61ST LEGISLATIVE DAY

REGULAR & PERFUNCTORY SESSION

TUESDAY, MAY 26, 2009

12:05 O'CLOCK P.M.

HOUSE OF REPRESENTATIVES
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61st Legislative Day

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The House met pursuant to adjournment.

Representative Lyons in the chair.

Prayer by Doorkeeper of the House Lee A. Crawford, the Pastor of the Cathedral of Praise Christian Center in Springfield, IL.

Representative Jerry Mitchell led the House in the Pledge of Allegiance.

By direction of the Speaker, a roll call was taken to ascertain the attendance of Members, as follows:

107 present. (ROLL CALL 1)

By unanimous consent, Representatives Brosnahan, Collins, Crespo, Cultra, Froehlich, Graham, Joyce, Mulligan and Ramey were excused from attendance.

REQUEST TO BE SHOWN ON QUORUM

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Ramey, should be recorded as present at the hour of 12:25 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Boland, should be recorded as present at the hour of 12:57 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Rita, should be recorded as present at the hour of 1:55 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Graham, should be recorded as present at the hour of 3:56 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Brosnahan, should be recorded as present at the hour of 6:20 o'clock p.m.

Having been absent when the Quorum Roll Call for Attendance was taken, this is to advise you that I, Representative Joyce, should be recorded as present at the hour of 7:30 o'clock p.m.

REPORTS

The Clerk of the House acknowledges receipt of the following correspondence:

Compliance Examination of the Judges' Retirement System, submitted by Office of the Auditor General on May 22, 2009.

Financial Audit of ROE 21, submitted by Office of the Auditor General on May 22, 2009.

Compliance Examination of the General Assembly Retirement System, submitted by Office of the Auditor General in May 22, 2009.

Compliance Examination of the State Employees' Retirement System, submitted by Office of the Auditor General on May 22, 2009.

Compliance Examination of the Illinois Student Assistance Commission, submitted by Office of the Auditor General on May 22, 2009.

LETTERS OF TRANSMITTAL

May 26, 2009

Mark Mahoney
Chief Clerk of the House
402 State House
Springfield, IL 62706

Dear Clerk Mahoney:

Please be advised that I am extending the Final Action Deadline to May 31, 2009 for the following Senate Bills:

SENATE BILLS 52, 262, 265, 321, 451, 1433, 1466, 1609, 1691, 1825, 1846, 1959, 2052, 2168 and 2218.

If you have questions, please contact my Chief of Staff, Tim Mapes, at 782-6360.

With kindest personal regards, I remain.

Sincerely yours,
s/Michael J. Madigan
Speaker of the House

May 26, 2009

Jacqueline Price
Director, Index Division
Office of Secretary of State
111 East Monroe
Springfield, IL 62706

Dear Ms. Price:

House Resolution 177 created the **Funeral and Burial Pre-Arrangement Investigation Task Force**. Two of my three appointments are listed below:

Representative Bob Rita
Representative Lisa Dugan

These appointments are effective immediately.

Please contact Tim Mapes, my Chief of Staff, at 782-6360 for further information.

With kindest personal regards, I remain.

Sincerely yours,
s/Michael J. Madigan
Speaker of the House

TEMPORARY COMMITTEE ASSIGNMENTS

Representative Saviano replaced Representative Black in the Committee on Rules on May 26, 2009.

Representative McGuire replaced Representative Lang in the Committee on Rules (A, B) on May 26, 2009.

REPORT FROM THE COMMITTEE ON RULES

Representative Currie, Chairperson, from the Committee on Rules to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

LEGISLATIVE MEASURES APPROVED FOR FLOOR CONSIDERATION:

That the Floor Amendment be reported “recommends be adopted”:

- Amendment No. 2 to SENATE BILL 367.
- Amendment No. 2 to SENATE BILL 1030.
- Amendment No. 3 to SENATE BILL 1089.
- Amendment No. 5 to SENATE BILL 1289.
- Amendment No. 2 and 3 to SENATE BILL 1483.
- Amendment No. 1 and 2 to SENATE BILL 1579.
- Amendment No. 2 to SENATE BILL 1682.
- Amendment No. 3 to SENATE BILL 1783.
- Amendment No. 5 to SENATE BILL 1905.
- Amendment No. 3 to SENATE BILL 1918.
- Amendment No. 1 to SENATE BILL 1934.
- Amendment No. 2 to SENATE BILL 2057.
- Amendment No. 3 to SENATE BILL 2091.
- Amendment No. 1 to SENATE BILL 2103.
- Amendment No. 2 to SENATE BILL 2252.

That the Motion be reported “recommends be adopted” and placed on the House Calendar:

- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 9.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 236.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 363.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 372.
- Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 489.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 496.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 547.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 562.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 613.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 628.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 648.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 684.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 723.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 740.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 756.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 881.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 921.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 926.
- Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 927.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 944.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 976.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 1057.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 1143.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 1293.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2246.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2266.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2283.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 2394.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2448.
- Motion to concur with Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 2537.
- Motion to concur with Senate Amendment No. 2 to HOUSE BILL 2542.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2660.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2686.
- Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3325.

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3649.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3714.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3767.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3874.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3974.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3990.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3994.
 Motion to concur with Senate Amendments numbered 2 and 3 to HOUSE BILL 4011.
 Motion to concur with Senate Amendment No. 1 to HOUSE BILL 4120.

LEGISLATIVE MEASURES ASSIGNED TO COMMITTEE:

Agriculture & Conservation: Motion to Concur with SENATE AMENDMENT No. 3 to HOUSE BILL 182.

Business & Occupational Licenses: HOUSE AMENDMENT No. 1 to SENATE BILL 1925, Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 786 and Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 880.

Disability Services: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 751.

Elementary & Secondary Education: Motion to Concur with SENATE AMENDMENT No. 2 to HOUSE BILL 809, Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 2625 and Motion to Concur with SENATE AMENDMENTS Numbered 1 and 3 to HOUSE BILL 2675.

Environment & Energy: Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 3854 and Motion to Concur with SENATE AMENDMENT No. 2 to HOUSE BILL 4021.

Environmental Health: HOUSE AMENDMENT No. 2 to SENATE BILL 1919.

Executive: SENATE BILLS 52, 262, 265, 321, 451, 1433, 1609, 1825, 1846, 1959, 2052 and 2218, Motion to Concur with SENATE AMENDMENTS Numbered 1, 2 and 3 to HOUSE BILL 470; Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 2425, Motion to Concur with SENATE AMENDMENT No. 1 to SENATE BILL 3658 and Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 3991.

Health Care Licenses: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 563, Motion to Concur with SENATE AMENDMENT No. 2 to HOUSE BILL 1119, Motion to Concur with SENATE AMENDMENT No. 2 to HOUSE BILL 2440 and Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 2443.

Human Services: HOUSE AMENDMENT No. 3 to SENATE BILL 314, Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 436, Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 3922.

International Trade & Commerce: HOUSE AMENDMENT No. 2 to SENATE BILL 2172.

Judiciary I - Civil Law: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 1142 and Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 3832.

Judiciary II - Criminal Law: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 865.

Labor: HOUSE AMENDMENT No. 2 to SENATE BILL 1369.

Personnel and Pensions: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 519.

Revenue & Finance: HOUSE AMENDMENT No. 2 to SENATE BILL 1936.

State Government Administration: HOUSE AMENDMENT No. 3 to SENATE BILL 1906, Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 853 and Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 1335.

Transportation, Regulation, Roads & Bridges: HOUSE AMENDMENT No. 2 to SENATE BILL 414, Motion to Concur with SENATE AMENDMENTS Numbered 1 and 2 to HOUSE BILL 353.

Vehicles & Safety: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 71.

Veterans' Affairs: Motion to Concur with HOUSE AMENDMENT No. 1 to HOUSE BILL 3970.

The committee roll call vote on the foregoing Legislative Measures is as follows:

4, Yeas; 0, Nays; 0, Answering Present.

[May 26, 2009]

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Y Currie(D), Chairperson
Y Lang(D)
Y Turner(D)

Y Saviano(R) (replacing Black)
A Schmitz(R)

Representative Currie, Chairperson, from the Committee on Rules to which the following were referred, action taken on May 26, 2009, (A) reported the same back with the following recommendations:

LEGISLATIVE MEASURES APPROVED FOR FLOOR CONSIDERATION:

That the Motion be reported “recommends be adopted” and placed on the House Calendar:
Motion to concur with Senate Amendment No. 2 to HOUSE BILL 170.

LEGISLATIVE MEASURES ASSIGNED TO COMMITTEE:

Counties & Townships: Motion to Concur with SENATE AMENDMENTS Numbered 1, 2 and 3 to HOUSE BILL 1322.

Executive: SENATE BILLS 1466 and 2168.

Vehicles & Safety: Motion to Concur with SENATE AMENDMENT No. 1 to HOUSE BILL 72.

The committee roll call vote on the foregoing Legislative Measures is as follows:

4, Yeas; 0, Nays; 0, Answering Present.

Y Currie(D), Chairperson
Y McGuire(D) (replacing Lang)
Y Turner(D)

A Black(R), Republican Spokesperson
Y Schmitz(R)

Representative Currie, Chairperson, from the Committee on Rules to which the following were referred, action taken on May 26, 2009, (B) reported the same back with the following recommendations:

LEGISLATIVE MEASURES ASSIGNED TO COMMITTEE:

Revenue & Finance: SENATE BILL 1691.

The committee roll call vote on the foregoing Legislative Measure is as follows:

3, Yeas; 0, Nays; 0, Answering Present.

Y Currie(D), Chairperson
Y McGuire(D) (replacing Lang)
A Turner(D)

A Black(R), Republican Spokesperson
Y Schmitz(R)

MOTIONS SUBMITTED

Representative William Davis submitted the following written motion, which was referred to the Committee on Rules:

MOTION #2

I move to concur with Senate Amendment No. 1 to HOUSE BILL 164.

Representative Leitch submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 2688.

Representative Tryon submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 2 to HOUSE BILL 170.

Representative Tryon submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 1322.

Representative Brauer submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 849.

Representative Tracy submitted the following written motion, which was referred to the Committee on Rules:

MOTION

I move to concur with Senate Amendment No. 1 to HOUSE BILL 237.

Representative Biggins submitted the following written motion, which was placed on the Calendar on the order of Concurrence:

MOTION #2

I move to non-concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 4099.

Representative Fortner submitted the following written motion, which was placed on the Calendar on the order of Concurrence:

MOTION

I move to non-concur with Senate Amendment No. 2 to HOUSE BILL 809.

Representative Black submitted the following written motion, which was placed on the order of Motions in Writing:

MOTION

Pursuant to Rule 18(g), I move to discharge the Committee on Rules from further consideration of HOUSE BILL 4448 and advance to the order of Second Reading - Standard Debate.

Representative Currie submitted the following written motion, which was placed on the Calendar on the order of Motions in Writing:

MOTION

Pursuant to Rule 25, I move to suspend the posting requirements of Rule 21 in relation to SENATE BILLS 52, 262, 265, 321, 451, 1433, 1466, 1609, 1825, 1846, 1959, 2052, 2168 and 2218 to be heard in Executive, and SENATE BILLS 256, 1623 and 1691 to be heard in Revenue & Finance.

JUDICIAL NOTE SUPPLIED

A Judicial Note has been supplied for SENATE BILL 1909, as amended.

CORRECTIONAL NOTES SUPPLIED

Correctional Notes have been supplied for SENATE BILLS 1682, as amended, and 1909, as amended.

PENSION NOTE SUPPLIED

A Pension Note has been supplied for SENATE BILL 1909, as amended.

STATE DEBT IMPACT NOTE SUPPLIED

A State Debt Impact Note has been supplied for SENATE BILL 1909, as amended.

LAND CONVEYANCE APPRAISAL NOTE SUPPLIED

A Land Conveyance Appraisal Note has been supplied for SENATE BILL 1909, as amended.

HOME RULE NOTES SUPPLIED

Home Rule Notes have been supplied for SENATE BILLS 226, as amended, and 1682, as amended.

STATE MANDATES FISCAL NOTES SUPPLIED

State Mandates Fiscal Notes have been supplied for SENATE BILLS 351 and 1682, as amended.

REQUEST FOR FISCAL NOTE

Representative Feigenholtz requested that a Fiscal Note be supplied for SENATE BILL 1435.

REQUEST FOR STATE MANDATES FISCAL NOTE

Representative Feigenholtz requested that a State Mandates Fiscal Note be supplied for SENATE BILL 1435.

REQUEST FOR BALANCED BUDGET NOTE

Representative Feigenholtz requested that a Balanced Budget Note be supplied for SENATE BILL 1435.

REQUEST FOR HOME RULE NOTE

Representative Feigenholtz requested that a Home Rule Note be supplied for SENATE BILL 1435.

MESSAGES FROM THE SENATE

A message from the Senate by
Ms. Rock, Secretary:

Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has adopted the following Senate Joint Resolution, in the adoption of which I am instructed to ask the concurrence of the House of Representatives, to-wit:

SENATE JOINT RESOLUTION NO. 70

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that when the two Houses adjourn on Friday, May 22, 2009, they stand adjourned until Tuesday, May 26, 2009 at 12:00 o'clock noon.

Adopted by the Senate, May 22, 2009.

Jillayne Rock, Secretary of the Senate

A message from the Senate by

Ms. Rock, Secretary:

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

SENATE BILL NO. 51

A bill for AN ACT concerning State government.

House Amendment No. 1 to SENATE BILL NO. 51.

House Amendment No. 2 to SENATE BILL NO. 51.

Action taken by the Senate, May 22, 2009.

Jillayne Rock, Secretary of the Senate

A message from the Senate by

Ms. Rock, Secretary:

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

SENATE BILL NO. 54

A bill for AN ACT concerning ethics.

House Amendment No. 1 to SENATE BILL NO. 54.

Action taken by the Senate, May 22, 2009.

Jillayne Rock, Secretary of the Senate

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL NO. 2664

A bill for AN ACT concerning transportation.

Passed by the Senate, May 22, 2009.

Jillayne Rock, Secretary of the Senate

A message from the Senate by

Ms. Rock, Secretary:

Mr. Speaker -- I am directed to inform the House of Representatives that the Senate has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the House of Representatives, to-wit:

SENATE BILL NO. 1013

A bill for AN ACT concerning criminal law.

Passed by the Senate, May 22, 2009.

Jillayne Rock, Secretary of the Senate

The foregoing SENATE BILL 1013 was ordered reproduced and placed on the order of Senate Bills - First Reading.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 3641

A bill for AN ACT concerning health.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 3641

Senate Amendment No. 2 to HOUSE BILL NO. 3641

Passed the Senate, as amended, May 22, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 3641 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by adding Section 12-4.37 as follows:

(305 ILCS 5/12-4.37 new)

Sec. 12-4.37. Children's Healthcare Partnership Pilot Program.

(a) The Department of Healthcare and Family Services, in cooperation with the Department of Human Services, shall establish a Children's Healthcare Partnership Pilot Program in Sangamon County to fund the provision of various health care services by a single provider, or a group of providers that have entered into an agreement for that purpose, at a single location in the county. Services covered under the pilot program shall include, but need not be limited to, family practice, pediatric, nursing (including advanced practice nursing), psychiatric, dental, and vision services. The Departments shall fund the provision of all services provided under the pilot program using a rate structure that is cost-based and similar to the rate structure used in the case of services provided by a Federally Qualified Health Center. To be selected by the Departments as the provider of health care services under the pilot program, a provider or group of providers must serve a disproportionate share of low-income or indigent patients, including recipients of medical assistance under Article V of this Code. The Departments shall adopt rules as necessary to implement this Section.

(b) Implementation of this Section is contingent on federal approval. The Department of Healthcare and Family Services shall take appropriate action by January 1, 2010 to seek federal approval.

(c) This Section is inoperative if the provider of health care services under the pilot program receives designation as a Federally Qualified Health Center (FQHC) or FQHC Look-Alike.

Section 10. The Community Services Act is amended by adding Section 4.6 as follows:

(405 ILCS 30/4.6 new)

Sec. 4.6. Children's Healthcare Partnership Pilot Program. The Department of Human Services shall participate in the Children's Healthcare Partnership Pilot Program established under Section 12-4.37 of the Illinois Public Aid Code and may fund the provision of community services under this Act in Sangamon County through participation in that pilot program.

Section 15. The Community Support Systems Act is amended by adding Section 3.5 as follows:

(405 ILCS 35/3.5 new)

Sec. 3.5. Children's Healthcare Partnership Pilot Program. The Department of Human Services shall participate in the Children's Healthcare Partnership Pilot Program established under Section 12-4.37 of the Illinois Public Aid Code and may fund the provision of community support system services under this Act in Sangamon County through participation in that pilot program.

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

AMENDMENT NO. 2. Amend House Bill 3641 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by adding Section 12-4.37 as follows:

(305 ILCS 5/12-4.37 new)

Sec. 12-4.37. Children's Healthcare Partnership Pilot Program.

(a) The Department of Healthcare and Family Services, in cooperation with the Department of Human Services, shall establish a Children's Healthcare Partnership Pilot Program in Sangamon County to fund the provision of various health care services by a single provider, or a group of providers that have entered into an agreement for that purpose, at a single location in the county. Services covered under the pilot program shall include, but need not be limited to, family practice, pediatric, nursing (including advanced practice nursing), psychiatric, dental, and vision services. The Departments shall fund the provision of all services provided under the pilot program using a rate structure that is cost-based. To be selected by the Departments as the provider of health care services under the pilot program, a provider or group of providers must serve a disproportionate share of low-income or indigent patients, including recipients of medical assistance under Article V of this Code. The Departments shall adopt rules as necessary to implement this Section.

(b) Implementation of this Section is contingent on federal approval. The Department of Healthcare and Family Services shall take appropriate action by January 1, 2010 to seek federal approval.

(c) This Section is inoperative if the provider of health care services under the pilot program receives designation as a Federally Qualified Health Center (FQHC) or FQHC Look-Alike.

Section 10. The Community Services Act is amended by adding Section 4.6 as follows:

(405 ILCS 30/4.6 new)

Sec. 4.6. Children's Healthcare Partnership Pilot Program. The Department of Human Services shall participate in the Children's Healthcare Partnership Pilot Program established under Section 12-4.37 of the Illinois Public Aid Code and may fund the provision of community services under this Act in Sangamon County through participation in that pilot program.

Section 15. The Community Support Systems Act is amended by adding Section 3.5 as follows:

(405 ILCS 35/3.5 new)

Sec. 3.5. Children's Healthcare Partnership Pilot Program. The Department of Human Services shall participate in the Children's Healthcare Partnership Pilot Program established under Section 12-4.37 of the Illinois Public Aid Code and may fund the provision of community support system services under this Act in Sangamon County through participation in that pilot program.

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

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 2 to HOUSE BILL 3641 was placed on the Calendar on the order of Concurrence.

A message from the Senate by

Ms. Rock, Secretary:

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

HOUSE BILL 2688

A bill for AN ACT concerning safety.

Together with the attached amendments thereto (which amendments have been printed by the Senate), in the adoption of which I am instructed to ask the concurrence of the House, to-wit:

Senate Amendment No. 1 to HOUSE BILL NO. 2688

Senate Amendment No. 2 to HOUSE BILL NO. 2688

Passed the Senate, as amended, May 22, 2009.

Jillayne Rock, Secretary of the Senate

AMENDMENT NO. 1. Amend House Bill 2688, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Environmental Protection Act is amended by changing Section 3.330 and by adding Section 39.8 as follows:

(415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

Sec. 3.330. Pollution control facility.

(a) "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

The following are not pollution control facilities:

- (1) (blank);
- (2) waste storage sites regulated under 40 CFR, Part 761.42;
- (3) sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;
- (4) sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3;
- (5) abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;
- (6) sites or facilities used by any person to specifically conduct a landscape composting operation;
- (7) regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;
- (8) the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r)(2) or (r)(3) of Section 21;
- (9) the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;
- (10) the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) are exempt under this subdivision (10);
- (11) the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;
- (11.5) processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Admin. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Admin. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are: (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and (ii) in compliance with all applicable zoning requirements;
- (12) the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;
- (13) the portion of a site or facility accepting exclusively general construction or

demolition debris, located in a county with a population over 700,000 as of January 1, 2000, and operated and located in accordance with Section 22.38 of this Act;

(14) the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;

(15) the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of this Act for a municipal waste incinerator on or before July 1, 2005 and that is used for a non-hazardous waste transfer station;

(16) a site or facility that temporarily holds in transit for 10 days or less, non-petruscible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-petruscible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;

(17) the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of this Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency; ~~and~~

(18) a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received; ~~and~~

(19) the portion of a site or facility used to perform limited testing of a gasification conversion technology in accordance with Section 39.8 of this Act and for which a complete permit application has been submitted to the Agency at least one year before the effective date of this amendatory Act of the 96th General Assembly.

(b) A new pollution control facility is:

(1) a pollution control facility initially permitted for development or construction after July 1, 1981; or

(2) the area of expansion beyond the boundary of a currently permitted pollution control facility; or

(3) a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

(Source: P.A. 94-94, eff. 7-1-05; 94-249, eff. 7-19-05; 94-824, eff. 6-2-06; 95-131, eff. 8-13-07; 95-177, eff. 1-1-08; 95-331, eff. 8-21-07; 95-408, eff. 8-24-07; 95-876, eff. 8-21-08.)

(415 ILCS 5/39.8 new)

Sec. 39.8. Gasification conversion technology demonstration permit.

(a) The purpose of this Section is to provide for the permitting and limited testing of gasification conversion technologies on a pilot scale basis.

(b) For purposes of this Section:

"Gasification conversion technology" or "GCT" means the process of applying heat to municipal waste, chicken litter, distillers grain, or switchgrass in order to convert these materials into a synthetic gas ("syngas") that meets specifications for use as a fuel for the generation of electricity. To qualify as a GCT, the process must not continuously operate at temperatures exceeding an hourly average of 1,400 degrees Fahrenheit in the gasifier unit, must not use fossil fuels in the gasifier unit, and must be designed to produce more energy than it consumes.

"GCTDP" means a gasification conversion technology demonstration permit issued by the Agency under this Section.

(c) The Agency may, under the authority of subsection (b) of Section 9 and subsection (a) of Section 39 of the Act, issue a GCTDP to an applicant for limited field testing of a GCT in order to demonstrate that the GCT can reliably produce syngas meeting specifications for its use as fuel for the generation of electricity. The GCTDP shall be subject to all of the following conditions:

(1) The GCTDP shall be for a period not to exceed 180 consecutive calendar days from the date of

issuance of the permit.

(2) The applicant for a GCTDP must demonstrate that, during the permit period, the GCT will not emit more than 500 pounds, in the aggregate, of particulate matter, sulfur dioxide, organic materials, hydrogen chloride, and heavy metals.

(3) The applicant for a GCTDP must perform emissions testing during the permit period, as required by the Agency, and submit the results of that testing to the Agency as specified in the GCTDP within 60 days after the completion of testing.

(4) During the permit period the applicant may not process more than 10 tons per day, in the aggregate, of materials in the gasification process. The applicant may not store on site more than 10 tons, in the aggregate, of waste and other materials of the types set forth in subsection (b) of this Section.

(5) In addition to the GCTDP, the applicant must obtain applicable waste management permits in accordance with subsection (d) of Section 21 and subsection (a) of Section 39 before receiving waste at the facility. All waste received at the facility must be managed in accordance with the Act, the waste management permits, and applicable regulations adopted pursuant to Section 22 of the Act.

(6) The applicant must demonstrate that the proposed project meets the criteria defining a GCT in subsection (b) of this Section.

(7) The applicant for a GCTDP shall submit application fees in accordance with subsection (c) of Section 9.12 of the Act, excluding the fees under subparagraph (B) of paragraph (2) of subsection (c) of that Section.

(8) A complete application for a GCTDP must be filed in accordance with this Section and submitted to the Agency at least one year before the effective date of this amendatory Act of the 96th General Assembly.

(9) The GCTDP shall not be granted for use in a nonattainment area.

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

AMENDMENT NO. 2. Amend House Bill 2688, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1 as follows:

on page 6, line 15, by replacing "at least one year before" with "prior to one year from"; and on page 9, lines 12 and 13, by replacing "at least one year before" with "prior to one year from".

The foregoing message from the Senate reporting Senate Amendments numbered 1 and 2 to HOUSE BILL 2688 was placed on the Calendar on the order of Concurrence.

CHANGE OF SPONSORSHIP

With the consent of the affected members, Representative Madigan was removed as principal sponsor, and Representative Currie became the new principal sponsor of SENATE BILL 415.

With the consent of the affected members, Representative Franks was removed as principal sponsor, and Representative Madigan became the new principal sponsor of SENATE BILL 189.

With the consent of the affected members, Representative Burke was removed as principal sponsor, and Representative Mautino became the new principal sponsor of SENATE BILL 1434.

With the consent of the affected members, Representative Washington was removed as principal sponsor, and Representative Franks became the new principal sponsor of SENATE BILL 1268.

With the consent of the affected members, Representative Ryg was removed as principal sponsor, and Representative Lang became the new principal sponsor of SENATE BILL 1928.

AGREED RESOLUTIONS

The following resolutions were offered and placed on the Calendar on the order of Agreed Resolutions.

HOUSE RESOLUTION 455

Offered by Representative Cross:
 Congratulates Dr. David Behlow on the occasion of his appointment to serve as Superintendent of the North Shore Elementary District in Highland Park.

HOUSE RESOLUTION 457

Offered by Representative Rose:
 Mourns the death of Dr. Narbey Khachaturian of Philo.

HOUSE RESOLUTION 458

Offered by Representative Rose:
 Congratulates Reverend Derold and Judy Doughty of First Apostolic Church in Mattoon on their 30th anniversary of ministry.

HOUSE RESOLUTION 459

Offered by Representative Rose:
 Congratulates Dr. Sue Kaufman on her retirement as President of the University Professionals of Illinois, Local 4100 IFT-AFT/AFL-CIO, and as a Professor with the Journalism Department at Eastern Illinois University.

HOUSE RESOLUTION 460

Offered by Representative Hoffman:
 Congratulates Jim Speciale on the occasion of his retirement as President of the Edwardsville District 7 Board of Education.

HOUSE RESOLUTION 461

Offered by Representative Currie:
 Congratulates the City of Chicago, the Chicago Park District, the Chicago Department of Cultural Affairs, and the Grant Park Orchestral Association on the celebration of the Grant Park Music Festival's 75th season.

RESOLUTION

Having been reported out of the Committee on Rules on May 22, 2009, HOUSE RESOLUTION 416 was taken up for consideration.

Representative Watson moved the adoption of the resolution.

The motion prevailed and the resolution was adopted.

SENATE BILLS ON SECOND READING

SENATE BILL 367. Having been read by title a second time on May 19, 2009, and held on the order of Second Reading, the same was again taken up.

The following amendment was offered in the Committee on Executive, adopted and reproduced.

AMENDMENT NO. 1. Amend Senate Bill 367 by replacing everything after the enacting clause

with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-2 and adding Section 12-4.38 as follows:

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

Sec. 5-2. Classes of Persons Eligible. Medical assistance under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has been submitted to the Governor by the Illinois Department and approved by him:

1. Recipients of basic maintenance grants under Articles III and IV.

2. Persons otherwise eligible for basic maintenance under Articles III and IV, excluding any eligibility requirements that are inconsistent with any federal law or federal regulation, as interpreted by the U.S. Department of Health and Human Services, but who

fail to qualify thereunder on the basis of need or who qualify but are not receiving basic maintenance under Article IV, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to the following:

(a) All persons otherwise eligible for basic maintenance under Article III but who fail to qualify under that Article on the basis of need and who meet either of the following requirements:

(i) their income, as determined by the Illinois Department in accordance with any federal requirements, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size; or

(ii) their income, after the deduction of costs incurred for medical care and for other types of remedial care, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined in item (i) of this subparagraph (a).

(b) All persons who, excluding any eligibility requirements that are inconsistent with any federal law or federal regulation, as interpreted by the U.S. Department of Health and Human Services, would be determined eligible for such basic maintenance under

Article IV by disregarding the maximum earned income permitted by federal law.

3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.

4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.

5.(a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children born after September 30, 1983, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social Security Act.

(b) The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 5(a) by April 1, 1990. Such plan shall provide ambulatory prenatal care to pregnant women during a presumptive eligibility period and establish an income eligibility standard that is equal to 133% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size, provided that costs incurred for medical care are not taken into account in determining such income eligibility.

(c) The Illinois Department may conduct a demonstration in at least one county that will provide medical assistance to pregnant women, together with their infants and children up to one year of age, where the income eligibility standard is set up to 185% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget. The Illinois Department shall seek and obtain necessary authorization provided under federal law to implement such a demonstration. Such demonstration may establish resource standards that are not more restrictive than those established under Article IV of this Code.

6. Persons under the age of 18 who fail to qualify as dependent under Article IV and who have insufficient income and resources to meet the costs of necessary medical care to the maximum extent permitted under Title XIX of the Federal Social Security Act.

7. Persons who are under 21 years of age and would qualify as disabled as defined under the Federal Supplemental Security Income Program, provided medical service for such persons would be eligible for Federal Financial Participation, and provided the Illinois Department determines that:

(a) the person requires a level of care provided by a hospital, skilled nursing facility, or intermediate care facility, as determined by a physician licensed to practice medicine in all its branches;

(b) it is appropriate to provide such care outside of an institution, as determined by a physician licensed to practice medicine in all its branches;

(c) the estimated amount which would be expended for care outside the institution is not greater than the estimated amount which would be expended in an institution.

8. Persons who become ineligible for basic maintenance assistance under Article IV of this Code in programs administered by the Illinois Department due to employment earnings and persons in assistance units comprised of adults and children who become ineligible for basic maintenance assistance under Article VI of this Code due to employment earnings. The plan for coverage for this class of persons shall:

(a) extend the medical assistance coverage for up to 12 months following termination of basic maintenance assistance; and

(b) offer persons who have initially received 6 months of the coverage provided in paragraph (a) above, the option of receiving an additional 6 months of coverage, subject to the following:

(i) such coverage shall be pursuant to provisions of the federal Social Security Act;

(ii) such coverage shall include all services covered while the person was eligible for basic maintenance assistance;

(iii) no premium shall be charged for such coverage; and

(iv) such coverage shall be suspended in the event of a person's failure without good cause to file in a timely fashion reports required for this coverage under the Social Security Act and coverage shall be reinstated upon the filing of such reports if the person remains otherwise eligible.

9. Persons with acquired immunodeficiency syndrome (AIDS) or with AIDS-related conditions with respect to whom there has been a determination that but for home or community-based services such individuals would require the level of care provided in an inpatient hospital, skilled nursing facility or intermediate care facility the cost of which is reimbursed under this Article. Assistance shall be provided to such persons to the maximum extent permitted under Title XIX of the Federal Social Security Act.

10. Participants in the long-term care insurance partnership program established under the Illinois Long-Term Care Partnership Program Act who meet the qualifications for protection of resources described in Section 15 of that Act.

11. Persons with disabilities who are employed and eligible for Medicaid, pursuant to Section 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as provided by the Illinois Department by rule. In establishing eligibility standards under this paragraph 11, the Department shall, subject to federal approval:

(a) set the income eligibility standard at not lower than 350% of the federal poverty level;

(b) exempt retirement accounts that the person cannot access without penalty before the age of 59 1/2, and medical savings accounts established pursuant to 26 U.S.C. 220;

(c) allow non-exempt assets up to \$25,000 as to those assets accumulated during periods of eligibility under this paragraph 11; and

(d) continue to apply subparagraphs (b) and (c) in determining the eligibility of the person under this Article even if the person loses eligibility under this paragraph 11.

12. Subject to federal approval, persons who are eligible for medical assistance coverage under applicable provisions of the federal Social Security Act and the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000. Those eligible persons are defined to include, but not be limited to, the following persons:

(1) persons who have been screened for breast or cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Program established under Title XV of the federal Public Health Services Act in accordance with the requirements of Section 1504 of that Act as administered by the Illinois Department of Public Health; and

(2) persons whose screenings under the above program were funded in whole or in part by funds appropriated to the Illinois Department of Public Health for breast or cervical cancer screening.

"Medical assistance" under this paragraph 12 shall be identical to the benefits provided under the State's approved plan under Title XIX of the Social Security Act. The Department must request federal approval of the coverage under this paragraph 12 within 30 days after the effective date of this amendatory Act of the 92nd General Assembly.

13. Subject to appropriation and to federal approval, persons living with HIV/AIDS who are not otherwise eligible under this Article and who qualify for services covered under Section 5-5.04 as provided by the Illinois Department by rule.

14. Subject to the availability of funds for this purpose, the Department may provide coverage under this Article to persons who reside in Illinois who are not eligible under any of the preceding paragraphs and who meet the income guidelines of paragraph 2(a) of this Section and (i) have an application for asylum pending before the federal Department of Homeland Security or on appeal before a court of competent jurisdiction and are represented either by counsel or by an advocate accredited by the federal Department of Homeland Security and employed by a not-for-profit organization in regard to that application or appeal, or (ii) are receiving services through a federally funded torture treatment center. Medical coverage under this paragraph 14 may be provided for up to 24 continuous months from the initial eligibility date so long as an individual continues to satisfy the criteria of this paragraph 14. If an individual has an appeal pending regarding an application for asylum before the Department of Homeland Security, eligibility under this paragraph 14 may be extended until a final decision is rendered on the appeal. The Department may adopt rules governing the implementation of this paragraph 14.

15. Family Care Eligibility.

(a) A caretaker relative who is 19 years of age or older when countable income is at or below 185% of the Federal Poverty Level Guidelines, as published annually in the Federal Register, for the appropriate family size. A person may not spend down to become eligible under this paragraph 15.

(b) Eligibility shall be reviewed annually.

(c) Caretaker relatives enrolled under this paragraph 15 in families with countable income above 150% and at or below 185% of the Federal Poverty Level Guidelines shall be counted as family members and pay premiums as established under the Children's Health Insurance Program Act.

(d) Premiums shall be billed by and payable to the Department or its authorized agent, on a monthly basis.

(e) The premium due date is the last day of the month preceding the month of coverage.

(f) Individuals shall have a grace period through the month of coverage to pay the premium.

(g) Failure to pay the full monthly premium by the last day of the grace period shall result in termination of coverage.

(h) Partial premium payments shall not be refunded.

(i) Following termination of an individual's coverage under this paragraph 15, the following action is required before the individual can be re-enrolled:

(1) A new application must be completed and the individual must be determined otherwise eligible.

(2) There must be full payment of premiums due under this Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or any other healthcare program administered by the Department for periods in which a premium was owed and not paid for the individual.

(3) The first month's premium must be paid if there was an unpaid premium on the date the individual's previous coverage was canceled.

The Department is authorized to implement the provisions of this amendatory Act of the

95th General Assembly by adopting the medical assistance rules in effect as of October 1, 2007, at 89 Ill. Admin. Code 125, and at 89 Ill. Admin. Code 120.32 along with only those changes necessary to conform to federal Medicaid requirements, federal laws, and federal regulations, including but not limited to Section 1931 of the Social Security Act (42 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department of Health and Human Services, and the countable income eligibility standard authorized by this paragraph 15. The Department may not otherwise adopt any rule to implement this increase except as authorized by law, to meet the eligibility standards authorized by the federal government in the Medicaid State Plan or the Title XXI Plan, or to meet an order from the federal government or any court.

In implementing the provisions of this amendatory Act of the 96th General Assembly, the Department is authorized to adopt only those rules necessary, including emergency rules. Nothing in this amendatory Act of the 96th General Assembly permits the Department to adopt rules or issue a decision that expands eligibility for the FamilyCare Program to a person whose income exceeds 185% of the Federal Poverty Level as determined from time to time by the U.S. Department of Health and Human Services, unless the Department is provided with express statutory authority.

The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 7 as soon as possible after July 1, 1984.

The eligibility of any such person for medical assistance under this Article is not affected by the payment of any grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or any distributions or items of income described under subparagraph (X) of paragraph (2) of subsection (a) of Section 203 of the Illinois Income Tax Act. The Department shall by rule establish the amounts of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than \$2,000, and the amount of assets of a married couple to be disregarded shall not be less than \$3,000.

To the extent permitted under federal law, any person found guilty of a second violation of Article VIIIA shall be ineligible for medical assistance under this Article, as provided in Section 8A-8.

The eligibility of any person for medical assistance under this Article shall not be affected by the receipt by the person of donations or benefits from fundraisers held for the person in cases of serious illness, as long as neither the person nor members of the person's family have actual control over the donations or benefits or the disbursement of the donations or benefits.

(Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06; 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09.)

(305 ILCS 5/12-4.38 new)

Sec. 12-4.38. Special FamilyCare provisions.

(a) The Department of Healthcare and Family Services may submit to the Comptroller, and the Comptroller is authorized to pay, on behalf of persons enrolled in the FamilyCare Program, claims for services rendered to an enrollee during the period beginning October 1, 2007, and ending on the effective date of any rules adopted to implement the provisions of this amendatory Act of the 96th General Assembly. The authorization for payment of claims applies only to bona fide claims for payment for services rendered. Any claim for payment which is authorized pursuant to the provisions of this amendatory Act of the 96th General Assembly must adhere to all other applicable rules, regulations, and requirements.

(b) Each person enrolled in the FamilyCare Program as of the effective date of this amendatory Act of the 96th General Assembly whose income exceeds 185% of the Federal Poverty Level, but is not more than 400% of the Federal Poverty Level, may remain enrolled in the FamilyCare Program pursuant to this subsection so long as that person continues to meet the eligibility criteria established under the emergency rule at 89 Ill. Adm. Code 133 (Illinois Register Volume 31, page 15854) filed November 7, 2007. In no case may a person continue to be enrolled in the FamilyCare Program pursuant to this subsection if the person's income rises above 400% of the Federal Poverty Level or falls below 185% of the Federal Poverty Level at any subsequent time. Nothing contained in this subsection shall prevent an individual from enrolling in the FamilyCare Program as authorized by paragraph 15 of Section 5-2 of this Code if he or she otherwise qualifies under that Section.

(c) In implementing the provisions of this amendatory Act of the 96th General Assembly, the Department of Healthcare and Family Services is authorized to adopt only those rules necessary, including emergency rules. Nothing in this amendatory Act of the 96th General Assembly permits the Department to adopt rules or issue a decision that expands eligibility for the FamilyCare Program to a person whose income exceeds 185% of the Federal Poverty Level as determined from time to time by the U.S. Department of Health and Human Services, unless the Department is provided with express statutory

authority

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

Representative Currie offered the following amendment and moved its adoption:

AMENDMENT NO. 2. Amend Senate Bill 367, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 14, line 24, by changing "133" to "120".

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 1089. Having been read by title a second time on May 19, 2009, and held on the order of Second Reading, the same was again taken up.

The following amendment was offered in the Committee on Executive, adopted and reproduced.

AMENDMENT NO. 1. Amend Senate Bill 1089, on page 1, below line 15, by inserting the following:

"Certificate of compliance" is a document generated by the database which evidences that, as to a particular mortgage loan, all data entry and counseling requirements of the Act have been fulfilled and thereby allows that mortgage to be recorded.

"Certificate of exemption" is a document generated by the database which evidences that a particular mortgage loan is exempt from the data entry and counseling requirements of the Act and thereby allows that mortgage to be recorded.; and

on page 8, lines 5 and 6, by replacing "the appropriate certificate" with the following: "a certificate of exemption, if the requirements for an exemption are met."

Floor Amendment No. 2 remained in the Committee on Rules.

Representative Beaubien offered the following amendment and moved its adoption:

AMENDMENT NO. 3. Amend Senate Bill 1089, on page 8, line 6, by replacing "enforceability of the lien of" with the following:

"validity, enforceability, or priority of the lien of the".

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 1579. Having been read by title a second time on April 30, 2009, and held on the order of Second Reading, the same was again taken up.

Representative Nekritz offered the following amendments and moved their adoption.

AMENDMENT NO. 1. Amend Senate Bill 1579 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Community Association Manager Licensing and Disciplinary Act.

Section 5. Legislative intent. It is the intent of the General Assembly that this Act provide for the regulation of managers of community associations, ensure that those who hold themselves out as possessing professional qualifications to engage in the provision of community association management services are, in fact, qualified to render management services of a professional nature, and provide for the maintenance of high standards of professional conduct by those licensed as community association

managers.

Section 10. 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 maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

"Advertise" means, but is not limited to, issuing or causing to be distributed any card, sign or device to any person; or causing, permitting or allowing any sign or marking on or in any building, structure, newspaper, magazine or directory, or on radio or television; or advertising by any other means designed to secure public attention.

"Board" means the Illinois Community Association Manager Licensing and Disciplinary Board.

"Community association" means an association in which membership is a condition of ownership or shareholder interest of a unit in a condominium, cooperative, townhouse, villa, or other residential unit which is part of a residential development plan and that is authorized to impose an assessment, rents, or other costs that may become a lien on the unit or lot.

"Community Association Management Agency" means a company, firm, corporation, limited liability company, or other entity that engages in the community association management business and employs, in addition to the licensee-in-charge, at least one other person in conducting such business.

"Community association manager" means an individual who administers for remuneration the financial, administrative, maintenance, or other duties for the community association, including the following services: (A) collecting, controlling or disbursing funds of the community association or having the authority to do so; (B) preparing budgets or other financial documents for the community association; (C) assisting in the conduct of community association meetings; (D) maintaining association records; and (E) administering association contracts, as stated in the declaration, bylaws, proprietary lease, declaration of covenants, or other governing document of the community association. "Community association manager" does not mean support staff, including, but not limited to bookkeepers, administrative assistants, secretaries, property inspectors, or customer service representatives. Community association manager does not mean support staff, including, but not limited to bookkeepers, administrative assistants, secretaries, property inspectors, or customer service representatives.

"Department" means the Department of Financial and Professional Regulation.

"License" means the license issued to a person to act as a community association manager under this Act or other authority to practice issued under this Act.

"Person" means any individual, firm, corporation, partnership, organization, or body politic.

"Licensee-in-charge" means a person licensed as a community association manager who has been designated by a Community Association Management Agency as the full-time management employee or owner who assumes sole responsibility for maintaining all records required by this Act and who assumes sole responsibility for assuring the licensed agency's compliance with its responsibilities as stated in the Act.

"Secretary" means the Secretary of Financial and Professional Regulation.

Section 15. License required. Beginning 12 months after the adoption of rules providing for the licensure of a community association manager in Illinois under this Act, it shall be unlawful for any person, entity, or other business to provide community association management services or provide services as community association manager to any community association in this State, unless he or she holds a current and valid license issued licensed by the Department or is otherwise exempt from licensure under this Act.

Section 20. Exemptions.

(a) This Act does not apply to any of the following:

- (1) Any director, officer, or member of a community association providing one or more of the services of a community association manager without compensation for such services to the association.
- (2) Any person providing one or more of the services of a community association manager to a community association of 10 units or less.
- (3) A licensed attorney acting solely as an incident to the practice of law.
- (4) A person acting as a receiver, trustee in bankruptcy, administrator, executor, or guardian acting under a court order or under the authority of a will or of a trust instrument.
- (5) A person licensed in this State under any other Act from engaging the practice for which he or she is licensed.

(b) A licensed community association manager may not perform or engage in any activities for which a real estate broker or real estate salesperson's license is required under the Real Estate License Act of 2000, unless he or she also possesses a current license under the Real Estate License Act of 2000 and is providing those services as provided for in the Act and the applicable rules.

(c) A person may act as, or provide services as, a community association manager without being licensed under this Act if the person (i) is a community association manager regulated under the laws of another state or territory of the United States or another country and (ii) has applied in writing to the Department, on forms prepared and furnished by the Department, for licensure under this Act, but only until the expiration of 6 months after the filing of his or her written application to the Department, his or her withdrawal of the application, he or she has received a notice of intent to deny the application from the Department, or the denial of the application by the Department.

Section 25. Community Association Manager Licensing and Disciplinary Board.

(a) There is hereby created the Community Association Manager Board, which shall consist of 7 members appointed by the Secretary. All members must be residents of the State and must have resided in the State for at least 5 years immediately preceding the date of appointment. Five members of the Board must be licensees under this Act, except that, initially, these members must meet the qualifications for licensure and have obtained a license within 6 months after the effective date of this Act. Two members of the Board shall be owners or shareholders of a unit in a community association at the time of appointment who are not licensees under this Act and have no direct affiliation or work experience with the community association manager. This Board shall act in an advisory capacity to the Department.

(b) Board members shall serve for terms of 5 years, except that, initially, 4 members shall serve for 5 years and 3 members shall serve for 4 years. All members shall serve until his or her successor is appointed and qualified. All vacancies shall be filled in like manner for the unexpired term. No member shall serve for more than 2 successive terms. The Secretary shall remove from the Board any member whose license has become void or has been revoked or suspended and may remove any member of the Board for neglect of duty, misconduct, or incompetence. A member subject to formal disciplinary proceedings shall disqualify himself or herself from all Board business until the charge is resolved. A member also shall disqualify himself or herself from any matter on which the member cannot act objectively.

(c) A majority of the Board members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Board.

(d) The Board may elect a chairperson and vice chairperson.

(e) Each member shall receive reimbursement as set by the Governor's Travel Control Board for expenses incurred in carrying out the duties as a Board member. The Board shall be compensated as determined by the Secretary.

(f) The Board may recommend policies, procedures, and rules relevant to the administration and enforcement of this Act.

Section 27. Immunity from Liability. Any member of the Board, any attorney providing advice to the Board or Department, any person acting as a consultant to the Board or Department, and any witness testifying in a proceeding authorized under this Act, excluding the party making the complaint, shall be immune from liability in any civil action brought against him or her for acts occurring while acting in his or her capacity as a Board member, consultant, or witness, respectively, unless the conduct that gave rise to the action was willful or wanton misconduct.

Section 30. Powers and duties of the Department. The Department may exercise the following functions, powers and duties:

(a) formulate rules for the administration and enforcement of this Act;

(b) prescribe forms to be issued for the administration and enforcement of this Act;

(c) conduct hearings or proceedings to refuse to issue, renew, suspend, revoke, place on probation, reprimand, or take disciplinary or non-disciplinary action as the Department may deem appropriate under this Act;

(d) maintain a roster of the names and addresses of all licensees in a manner as deemed appropriate by the Department; and

(e) seek the advice and expert knowledge of the Board on any matter relating to the administration and enforcement of this Act.

Section 32. Social Security Number on license application. In addition to any other information required to be contained in the application, every application for an original, renewal, or restored license under this Act shall include the applicant's Social Security Number.

Section 35. Functions and powers of the Board. Subject to the provisions of this Act, the Board shall exercise, in an advisory capacity, the following functions and powers:

- (1) make recommendations regarding rules for the administration and enforcement of this Act, including, but not limited to, experience, education, licensure, disciplinary standards and procedures, renewal and restoration requirements;
- (2) make recommendations regarding subjects, topics and areas needed for the examination in order to fairly ascertain the fitness and qualifications of applicants for licensure; and
- (3) make recommendations regarding discipline as provided for in this Act.

Section 40. Qualifications for licensure as a community association manager.

(a) No person shall be qualified for licensure under this Act, unless he or she has applied in writing on the prescribed forms and has paid the required, nonrefundable fees and meets all of the following qualifications:

- (1) He or she is at least 21 years of age.
- (2) He or she provides satisfactory evidence of having completed at least 20 classroom hours in community association management courses approved by the Board.
- (3) He or she has passed an examination authorized by the Department.
- (4) He or she has not committed an act or acts, in this or any other jurisdiction, that would be a violation of this Act.
- (5) He or she is of good moral character. Good moral character is a continuing requirement of licensure. Conviction of crimes other than felonies may be used in determining moral character, but shall not constitute an absolute bar to licensure.
- (6) He or she has not been declared by any court of competent jurisdiction to be incompetent by reason of mental or physical defect or disease, unless a court has subsequently declared him or her to be competent.
- (7) He or she complies with any additional qualifications for licensure as determined by rule of the Department.

(b) The education requirement set forth in item (2) of subsection (a) of this Section shall not apply to persons holding a real estate broker or real estate salesperson license in good standing issued under the Real Estate License Act of 2000.

(c) The examination and initial education requirement of items (2) and (3) of subsection (a) of this Section shall not apply to any person who within 6 months from the effective date of the requirement for licensure, as set forth in Section 170 of this Act, applies for a license by providing satisfactory evidence to the Department of qualifying experience or education, as may be set forth by rule, including without limitation evidence that he or she has (i) practiced community association management for a period of 5 years or (ii) achieved a designation awarded by recognized community association management organizations in the State.

(d) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within the 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of re-application.

Section 45. Examinations.

(a) The Department shall authorize examinations of applicants for licensure as a community association manager at such times and places as it may determine. The examination of applicants shall be of a character to give a fair test of the qualifications of the applicant to practice as a community association manager.

(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) The Department may employ consultants for the purpose of preparing and conducting examinations.

(d) An applicant shall be eligible to take the examination only after successfully completing the education requirements set forth in this Act and attaining the minimum age required under this Act.

(e) The examination approved by the Department should utilize the basic principles of professional testing standards utilizing psychometric measurement. The examination shall use standards set forth by the National Organization for Competency Assurances and shall be approved by the Department.

Section 50. Community Association Management Agency.

(a) No firm, corporation, limited liability company, or other legal entity shall provide or offer to provide community association management services, unless such services are provided through:

- (1) an employee or independent contractor who is licensed under this Act;
- (2) a natural person who is acting under the direct supervision of an employee of such firm, corporation, limited liability company, or other legal entity that is licensed under this Act; or

(3) a natural person who is legally-authorized to provide such services.

(b) Any firm, corporation, limited liability company, or other legal entity that is providing, or offering to provide, community association management services and is not in compliance with Section 50 and the provisions of this Act shall be subject to the fines, injunctions, cease desist provisions, and penalties provided for in Sections 90, 92, and 155 of this Act.

(c) No community association manager may be the licensee-in-charge for more than one firm, corporation, limited liability company, or other legal entity.

Section 55. Fidelity insurance; segregation of accounts.

(a) A community association manager or the Community Association Management Agency with which he or she is employed shall not have access to and disburse funds of a community association unless each of the following conditions occur:

(1) There is fidelity insurance in place to insure against loss for theft of community association funds.

(2) The fidelity insurance is not less than all moneys under the control of the community association manager or the employing Community Association Management Agency for the association.

(3) The fidelity insurance covers the community association manager and all partners, officers, and employees of the Community Association Management Agency with whom he or she is employed during the term of the insurance coverage, as well as the association officers, directors, and employees.

(4) The insurance company issuing the fidelity insurance may not cancel or refuse to renew the bond without giving at least 10 days prior written notice.

(5) Unless an agreement between the community association and the community association manager or the Community Association Management Agency provides to the contrary, the Association secures and pays for the fidelity insurance. The community association manager and the Community Association Management Agency must be named as additional insured parties on the association policy.

(b) A community association manager or Community Association Management Agency that provides community association management services for more than one community association shall maintain separate, segregated accounts for each community association or, with the consent of the association, combine the accounts of one or more associations, but in that event, separately account for the funds of each association. The funds shall not, in any event, be commingled with the community association manager's or Community Association Management Agency's funds. The maintenance of such accounts shall be custodial, and such accounts shall be in the name of the respective community association or community association manager or Community Association Management Agency as the agent for the association.

(c) The community association manager or Community Association Management Agency shall obtain the appropriate general liability and errors and omissions insurance, as determined by the Department, to cover any losses or claims against community association clients.

(d) The Department shall have authority to promulgate additional rules regarding insurance, fidelity insurance and all accounts maintained and to be maintained by a community association manager or Community Association Management Agency.

Section 60. Licenses; renewals; restoration; person in military service.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule. The Department may promulgate rules requiring continuing education and set all necessary requirements for such, including but not limited to fees, approved coursework, number of hours, and waivers of continuing education.

(b) Any licensee who has permitted his or her license to expire may have the license restored by making application to the Department and filing proof acceptable to the Department of fitness to have his or her license restored, by which may include sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, complying with any continuing education requirements, and paying the required restoration fee.

(c) If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, the Department shall determine, by an evaluation program established by rule, the person's fitness to resume active status and may require the person to complete a period of evaluated clinical experience and successful completion of a practical examination. However, any person whose license expired while (i) in federal service on active duty with the Armed Forces of the United States or called into service or training with the State Militia or (ii) in training or education under the supervision of the United

States preliminary to induction into the military service may have his or her license renewed or restored without paying any lapsed renewal fees if, within 2 years after honorable termination of the service, training or education, except under condition other than honorable, he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that the service, training, or education has been so terminated.

(d) A community association manager who notifies the Department, in writing on forms prescribed by the Department, may place his or her license on inactive status and shall be excused from the payment of renewal fees until the person notifies the Department in writing of the intention to resume active practice.

(e) A community association manager requesting his or her license be changed from inactive to active status shall be required to pay the current renewal fee and shall also demonstrate compliance with the continuing education requirements.

(f) Any license is nonrenewed or on inactive status shall provide community association management services or provide services as community association manager as set forth in this Act.

(g) Any person violating subsection (f) of this Section shall be considered to be practicing without a license and will be subject to the disciplinary provisions of this Act.

Section 65. Fees; Community Association Manager Licensing and Disciplinary Fund.

(a) The fees for the administration and enforcement of this Act, including, but not limited to, initial licensure, renewal, and restoration, shall be set by rule of the Department. The fees shall be nonrefundable.

(b) In addition to the application fee, applicants for the examination are required to pay, either to the Department or the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application and fee for examination have been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the fee.

(c) To support the costs of administering this Act, all community associations that have 10 or more units and are registered in this State as not-for-profit corporations shall pay to the Department an annual fee of \$50 plus an additional \$1 per unit. The Department may establish forms and promulgate any rules for the effective collection of such fees under this subsection (c).

Any not-for-profit corporation in this State that fails to pay in full to the Department all fees owed under this subsection (c) shall be subject to the penalties and procedures provided for under Section 92 of this Act.

(d) All fees, fines, penalties, or other monies received or collected pursuant to this Act shall be deposited in the Community Association Manager Licensing and Disciplinary Fund.

Section 70. Penalty for insufficient funds; payments. 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 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 after 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, 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.

Section 75. Endorsement. The Department may issue a license as a licensed community association manager, without the required examination, to an applicant licensed under the laws of another state if the requirements for licensure in that state are, on the date of licensure, substantially equal to the requirements of this Act or to a person who, at the time of his or her application for licensure, possessed individual qualifications that were substantially equivalent to the requirements then in force in this State. An applicant under this Section shall pay all of the required fees.

Applicants have 3 years from the date of application to complete the application process. If the process has not been completed within the 3 years, the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section 80. Roster. The Department shall maintain a roster of names and addresses of all persons who hold valid licenses and all persons whose licenses have been suspended, revoked or otherwise disciplined. This roster shall be available upon request and payment of the required fee as determined by the

Department.

Section 85. Grounds for discipline; refusal, revocation, or suspension.

(a) The Department may refuse to issue or renew, or may revoke a license, or may suspend, place on probation, fine, or take any disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 for each violation, with regard to any licensee for any one or combination of the following causes:

- (1) Material misstatement in furnishing information to the Department.
- (2) Violations of this Act or its rules.
- (3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof or a misdemeanor of which an essential element is dishonesty or that is directly related to the practice of the profession.
- (4) Making any misrepresentation for the purpose of obtaining a license or violating any provision of this Act or its rules.
- (5) Professional incompetence.
- (6) Gross negligence.
- (7) Aiding or assisting another person in violating any provision of this Act or its rules.
- (8) Failing, within 30 days, to provide information in response to a request made by the Department.
- (9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public as defined by the rules of the Department, or violating the rules of professional conduct adopted by the Department.
- (10) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to practice with reasonable judgment, skill, or safety.
- (11) Discipline by another state, territory, or country if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.
- (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 any 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 relating to a licensee's practice, including but not limited to false records filed any State or Federal agencies or departments.
- (15) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.
- (16) Physical illness or mental illness or impairment, including, but not limited to, deterioration through the aging process or loss of motor skill that results in the inability to practice the profession with reasonable judgment, skill, or safety.
- (17) Solicitation of professional services by using false or misleading advertising.
- (18) A finding that licensure has been applied for or obtained by fraudulent means.
- (19) Practicing or attempting to practice under a name other than the full name as shown on the license or any other legally authorized name.
- (20) Gross overcharging for professional services including, but not limited to, (i) collection of fees or moneys for services that are not rendered; and (ii) charging for services that are not in accordance with the contract between the licensee and the community association.
- (21) Improper commingling of personal and client funds in violation of this Act or any rules promulgated thereto.
- (22) Failing to account for or remit any moneys or documents coming into the licensee's possession that belong to another person or entity.
- (23) Giving differential treatment to a person that is to that person's detriment because of race, color, creed, sex, religion, or national origin.
- (24) Performing and charging for services without reasonable authorization to do so from the person or entity for whom service is being provided.
- (25) Failing to make available to the Department, upon request, any books, records, or

forms required by this Act.

(26) Purporting to be a licensee-in-charge of an agency without active participation in the agency.

(27) Failing to make available to the Department at the time of the request any indicia of licensure or registration issued under this Act.

(b) In accordance with subdivision (a)(5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15), the Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission, as provided in the Mental Health and Developmental Disabilities Code, operates as an automatic suspension. The suspension will terminate only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission and the issuance of an order so finding and discharging the patient, and upon the recommendation of the Board to the Secretary that the licensee be allowed to resume his or her practice as a licensed Community association manager.

(d) In accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15), 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 Department of Revenue, until such time as the requirements of that tax Act are satisfied.

(e) In accordance with subdivision (a)(5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15) and in cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services.

(f) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license or denial of his or her application or renewal until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, deny, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

In instances in which the Secretary immediately suspends a person's license under this Section, a hearing on that person's license must be convened by the Department within 30 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to

demonstrate to the Department or Board that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

Section 87. Suspension of license for failure to pay restitution. The Department, without further process or hearing, shall suspend the license or other authorization to practice of any person issued under this Act who has been certified by court order as not having paid restitution to a person under Section 8A-3.5 of the Illinois Public Aid Code or under Section 46-1 of the Criminal Code of 1961. A person whose license or other authorization to practice is suspended under this Section is prohibited from practicing until the restitution is made in full.

Section 90. Violations; injunctions; cease and desist orders.

(a) If any person violates a provision of this Act, the Secretary may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, petition 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 are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person, entity or other business may provide community association management services or provide services as community association manager to any community association in this State without having a valid license under this Act, then any licensee, any interested party or any person injured thereby may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(c) Whenever in the opinion of the Department any person, entity or other business violates any provision of this Act, the Department may issue a rule to show because why an order to cease and desist should not be entered against such person, firm or other entity. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of at least 7 days from the date of the rule to file an answer to the satisfaction of the Department. If the person, firm or other entity fails to file an answer satisfactory to the Department, the matter shall be considered as a default and the Department may cause an order to cease and desist to be issued immediately.

Section 92. Unlicensed practice; violation; civil penalty.

(a) Any person, entity or other business who practices, offers to practice, attempts to practice, or holds himself, herself or itself out to practice as a community association management services or provide services as community association manager to any community association in this State without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department in an amount not to exceed \$10,000 for each offense, as determined by the Department. The civil penalty shall be assessed by the Department after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a licensee.

(b) The Department may investigate any and all unlicensed activity.

(c) The 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.

Section 95. Investigation; notice and hearing. The Department may investigate the actions or qualifications of person, entity or other business holding or claiming to hold a license. Before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license, at least 30 days before the date set for the hearing, the Department shall (i) notify the accused in writing of any charges made and the time and place for a hearing on the charges before the Board, (ii) direct the individual or entity to file a written answer to the charges with the Board under oath within 20 days after the service on him or her of such notice, and (iii) inform the person, entity or other business that if the person, entity, or other business fails to file an answer, default will be taken against such person, entity, or other business and the license of such person, entity, or other business 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 deem proper. In case the person, after receiving 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 deemed 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 such action under this Act. Written notice may be served by personal delivery or by registered or certified mail to the applicant or licensee at his or her last address of record with the Department. In case the person fails to file an answer after receiving notice, his or her license may, in the

discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed 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 such action under this Act. The written answer shall be served by personal delivery, certified delivery, or certified or registered mail to the Department. 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 such statements, testimony, evidence, and argument as may be pertinent to the charges or to the defense thereto. The Department may continue such hearing from time to time. At the discretion of the Secretary after having first received the recommendation of the Board, the accused person's license may be suspended or revoked, if the evidence constitutes sufficient grounds for such action under this Act.

Section 100. Record of proceeding. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to restore, issue or renew a license, or the discipline of a licensee. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and the orders of the Department shall be the record of the proceedings.

Section 105. Subpoenas; oaths; attendance of witnesses. 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, by deposition, by written interrogatory, or any combination thereof, 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, and every member of the Board 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.

Any circuit court may, upon application of the Department or its designee, or of the applicant or licensee against whom proceedings under this Act are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, records or testimony in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

Section 110. Recommendations for disciplinary action. At the conclusion of the hearing, the Board shall present to the Secretary a written report of its findings and recommendations. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary.

The report of findings and recommendations of the Board shall be the basis for the Department's order for refusal or for the granting of a license, or for any disciplinary action, unless the Secretary shall determine that the Board's report is contrary to the manifest weight of the evidence, in which case the Secretary may issue an order in contravention of the Board's report. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

Section 115. Rehearing. In any hearing involving disciplinary action against a licensee, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after service, the respondent may present to the Department a motion in writing for a rehearing that shall specify the particular grounds for rehearing. If no motion for rehearing is filed, then upon the expiration of the time specified for filing 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 Board, except as provided in this Act. If the respondent orders from the reporting service, and pays for, a transcript of the record within the time for filing a motion for rehearing, the 20 calendar day period within which a motion may be filed shall commence upon the delivery of the transcript to the respondent.

Section 120. Appointment of a hearing officer. The Secretary has the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license, or to discipline a licensee. The hearing officer has full authority to conduct the hearing. The hearing officer shall report his findings and recommendations to the Board and the Secretary. The Board has 60 calendar days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law and recommendations to the Secretary.

If the Board fails to present its report within the 60 calendar day period, the respondent may request in writing a direct appeal to the Secretary, in which case the Secretary shall, within 7 calendar days after the

request, issue an order directing the Board to issue its findings of fact, conclusions of law, and recommendations to the Secretary within 30 calendar days after such order.

If the Board fails to issue its findings of fact, conclusions of law, and recommendations within that time frame to the Secretary after the entry of such order, the Secretary shall, within 30 calendar days thereafter, issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order.

If (i) a direct appeal is requested, (ii) the Board fails to issue its findings of fact, conclusions of law, and recommendations within the 30-day mandate from the Secretary or the Secretary fails to order the Board to do so, and (iii) the Secretary fails to issue an order within 30 calendar days thereafter, then the hearing officer's report is deemed accepted and a final decision of the Secretary.

Notwithstanding any other provision of this Section, if the Secretary, upon review, determines that substantial justice has not been done in the revocation, suspension, or refusal to issue or renew a license or other disciplinary action taken as the result of the entry of the hearing officer's report, the Secretary may order a rehearing by the same or other examiners. If the Secretary disagrees with the recommendation of the Board or the hearing officer, the Secretary may issue an order in contravention of either recommendation.

Section 125. Order; certified copy. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, shall be prima facie proof:

- (a) that the signature is the genuine signature of the Secretary;
- (b) that the Secretary is duly appointed and qualified; and
- (c) that the Board and its members are qualified to act.

Section 130. Restoration of suspended or revoked license. At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee, upon the written recommendation of the Board, unless after an investigation and a hearing the Board determines that restoration is not in the public interest.

Section 135. License surrender. Upon the revocation or suspension of any license, the licensee shall immediately surrender the license or licenses to the Department. If the licensee fails to do so, the Department has the right to seize the license or licenses.

Section 140. Summary suspension. The Secretary may summarily suspend a license without a hearing, simultaneously with the institution of proceedings for a hearing provided for in this Act, if the Secretary finds that evidence in his or her possession indicates that a continuation in practice would constitute an imminent danger to the public. In the event that the Secretary summarily suspends a license without a hearing, a hearing by the Department must be held within 30 calendar days after the suspension has occurred.

Section 145. Judicial review. 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. 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 this State, the venue shall be in Sangamon County.

Section 150. Certification of records. The Department shall not be required to certify any record to the Court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of the plaintiff to file such receipt in Court shall be grounds for dismissal of the action.

Section 155. Violations; penalties.

(a) A person who violates any of the following provisions shall be guilty of a Class A misdemeanor; a person who commits a second or subsequent violation of these provisions is guilty of a Class 4 felony:

- (1) The practice of or attempted practice of or holding out as available to practice as a community association manager without a license.
- (2) Operation of or attempt to operate a Community Association Management Agency without an agency license.
- (3) The obtaining of or the attempt to obtain any license or authorization issued under this Act by fraudulent misrepresentation.

(b) Whenever a licensee is convicted of a felony related to the violations set forth in this Section, the clerk of the court in any jurisdiction shall promptly report the conviction to the Department and the Department shall immediately revoke any license as a community association manager held by that

licensee. The individual shall not be eligible for licensure under this Act until at least 10 years have elapsed since the time of full discharge from any sentence imposed for a felony conviction. If any person in making any oath or affidavit required by this Act swears falsely, the person is guilty of perjury and may be punished accordingly.

Section 160. Illinois Administrative Procedure Act. 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 license holder has the right to show compliance with all lawful requirements for retention, continuation or renewal of the certificate, is specifically excluded. For the purpose of this Act the notice required under Section 10?25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of record maintained for a party by the Department.

Section 165. Home rule. The regulation and licensing of community association managers and Community Association Management Agencies are exclusive powers and functions of the State. A home rule unit may not regulate or license community association managers and Community Association Management Agencies. 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 170. Enforcement. The licensure requirements of this Act shall not be enforced until 12 months after the adoption of final administrative rules for this Act.

Section 900. The Regulatory Sunset Act is amended by adding Section 4.30 as follows:

(5 ILCS 80/4.30 new)

Sec. 4.30. Act repealed on January 1, 2020. The following Act is repealed on January 1, 2020:

The Community Association Manager Licensing and Disciplinary Act.

Section 950. The State Finance Act is amended by adding Section 5.719 as follows:

(30 ILCS 105/5.719 new)

Sec. 5.719. The Community Association Manager Licensing and Disciplinary Fund.

Section 999. Effective date. This Act takes effect July 1, 2010."

AMENDMENT NO. 2. Amend Senate Bill 1579, AS AMENDED, with reference to page and line numbers of House Amendment No. 1 as follows:

on page 3, line 16, by deleting "Community"; and

on page 3, by deleting lines 17 through 20; and

on page 7, by replacing lines 11 through 14 with the following:

"(c) Four Board members shall constitute a quorum. A quorum is required for all Board decisions."; and on page 39, line 14, by replacing "10?25" with "10-25".

The foregoing motions prevailed and the amendments were adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 1682. Having been recalled on May 19, 2009, and held on the order of Second Reading, the same was again taken up.

Representative Dugan offered the following amendment and moved its adoption.

AMENDMENT NO. 2. Amend Senate Bill 1682, AS AMENDED, with reference to page and line numbers of House Amendment No. 1 as follows:

on page 1, line 5, by deleting "1a,"; and

on page 2, by deleting lines 19 through 25; and

on page 3, by deleting lines 1 through 26; and

on page 4, by deleting lines 1 through 20; and

on page 10, by replacing lines 1 through 4 with the following:

"sum to the Comptroller semi-annually within 30 days of the end of June and December. Fees collected"; and

on page 14, line 23, by replacing "4" with "5".

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILL 1783. Having been recalled on May 20, 2009, and held on the order of Second Reading, the same was again taken up.

Floor Amendment No. 2 remained in the Committee on Rules.

Representative DeLuca offered the following amendment and moved its adoption.

AMENDMENT NO. 3. Amend Senate Bill 1783, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by adding Section 11-5.4-1 as follows:

(65 ILCS 5/11-5.4-1 new)

Sec. 11-5.4-1. Criminal activity prohibition in residential leases. The corporate authorities of any municipality may require that any lease entered into for single or multi-family residential property located in the municipality include a provision or an addendum that prohibits criminal activity and provides the landlord the right to terminate the lease for engaging in such activity.

For the purposes of this Section, "criminal activity" means, but is not limited to:

(i) Disorderly conduct as defined in Section 26-1 of the Criminal Code of 1961.

(ii) Unlawful use of weapons as defined in Section 24-1 of the Criminal Code of 1961.

(iii) Mob action as defined in Section 25-1 of the Criminal Code of 1961.

(iv) Aggravated discharge of a firearm as defined in Sections 24-1.2 and 24-1.2-5 of the Criminal Code of 1961.

(v) Gambling as defined in Section 28-1 of the Criminal Code of 1961.

(vi) Possession, manufacture, or delivery of a controlled substance as defined in Section 401 of the Illinois Controlled Substances Act.

(vii) Assault or battery or any related offense as defined in Article 12 of the Criminal Code of 1961.

(viii) Criminal sexual abuse or related offenses as defined in Sections 12-15 and 12-16 of the Criminal Code of 1961.

(ix) Public indecency as defined in Section 11-9 of the Criminal Code of 1961.

(x) Prostitution as defined in Section 11-14 of the Criminal Code of 1961.

(xi) Criminal damage to property as defined in Section 21-1 of the Criminal Code of 1961.

(xii) Possession, cultivation, manufacture, or delivery of cannabis as defined in the Cannabis Control Act.

(xiii) Illegal consumption or possession of alcohol as defined in the Liquor Control Act of 1934.

(xiv) Violation of any municipal ordinance or State of Illinois statute controlling or regulating the sale or use of alcoholic beverages.

Section 10. The Code of Civil Procedure is amended by changing Section 9-120 as follows:

(735 ILCS 5/9-120)

Sec. 9-120. Leased premises used in furtherance of a criminal offense; lease void at option of lessor or assignee.

(a) If any lessee or occupant, on one or more occasions, uses or permits the use of leased premises for the commission of any act that would constitute a felony or a Class A misdemeanor under the laws of this State, the lease or rental agreement shall, at the option of the lessor or the lessor's assignee become void, and the owner or lessor shall be entitled to recover possession of the leased premises as against a tenant holding over after the expiration of his or her term.

(a-5) In all actions brought under this Section, no predicate notice of termination or demand for possession shall be required to initiate an eviction action. Notice specifying the alleged violations of the lease to be considered by the court shall be delivered to the lessee by sending a copy by certified mail and by posting the notice on the premise.

(b) The owner or lessor may bring a forcible entry and detainer action, or, if the State's Attorney of the county in which the real property is located agrees, assign to that State's Attorney the right to bring a forcible entry and detainer action on behalf of the owner or lessor, against the lessee and all occupants of

the leased premises. The assignment must be in writing on a form prepared by the State's Attorney of the county in which the real property is located. If the owner or lessor assigns the right to bring a forcible entry and detainer action, the assignment shall be limited to those rights and duties up to and including delivery of the order of eviction to the sheriff for execution. The owner or lessor shall remain liable for the cost of the eviction whether or not the right to bring the forcible entry and detainer action has been assigned.

(c) A person does not forfeit any part of his or her security deposit due solely to an eviction under the provisions of this Section, except that a security deposit may be used to pay fees charged by the sheriff for carrying out an eviction.

(d) ~~If a lessor or the lessor's assignee voids a lease or contract under the provisions of this Section and the tenant or occupant has not vacated the premises within 5 days after receipt of a written notice to vacate the premises, the lessor or lessor's assignee may seek relief under this Article IX.~~ Notwithstanding Sections 9-112, 9-113, and 9-114 of this Code, judgment for costs against a plaintiff seeking possession of the premises under this Section shall not be awarded to the defendant unless the action was brought by the plaintiff in bad faith. An action to possess premises under this Section shall not be deemed to be in bad faith when the plaintiff based his or her cause of action on information provided to him or her by a law enforcement agency or the State's Attorney.

(e) After a trial, if the court finds, by a preponderance of the evidence, that the allegations in the complaint have been proven or that a default has been proven in any other term of the lease, the court shall enter judgment for possession of the premises in favor of the plaintiff and the court shall order that the plaintiff shall be entitled to re-enter the premises immediately.

(f) A judgment for possession of the premises entered in an action brought by a lessor or lessor's assignee, if the action was brought as a result of a lessor or lessor's assignee declaring a lease void pursuant to this Section, may not be stayed for any period in excess of 7 days by the court unless all parties agree to a longer period. Thereafter the plaintiff shall be entitled to re-enter the premises immediately. The sheriff or other lawfully deputized officers shall execute an order entered pursuant to this Section within 7 days of its entry, or within 7 days of the expiration of a stay of judgment, if one is entered.

(g) Nothing in this Section shall limit the rights of an owner or lessor to bring a forcible entry and detainer action on the basis of other applicable law.

(Source: P.A. 90-360, eff. 1-1-98.)

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

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILL 1905. Having been read by title a second time on May 19, 2009, and held on the order of Second Reading, the same was again taken up.

The following amendments were offered in the Committee on State Government Administration, adopted and reproduced.

AMENDMENT NO. 1. Amend Senate Bill 1905 as follows:
 on page 23, by replacing lines 21 and 22 with the following:
"Alternative Health Care Delivery Act as a children's respite care center alternative health care"; and
 on page 36, by replacing lines 1 through 4 with the following:
~~"time of the appointment. No person shall be appointed as a State Board member if that person has served, after the effective date of Public Act 93-41, 2-3 year terms as a State Board member, except for ex-officio non-voting members."~~; and
 on page 36, line 23, by replacing "No member" with "The Governor may reappoint a member for additional terms, but no member"; and
 on page 43, line 12, after "project", by inserting "commencement and"; and
 on page 48, by replacing lines 12 and 13 with the following:
~~"Director may make the findings required under this Section and upon which the State Board or Chairman may make its decision on"~~; and
 on page 48, line 23, after "exemption.", by inserting "In connection with a change of ownership, the State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred"

has yet been obligated, except for permits establishing a new facility or a new category of service."; and on page 57, line 19, after "Board.", by inserting "The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record."; and on page 62, line 12, by replacing "Eighteen" with "Twenty-four"; and on page 62, line 14, by replacing "Assembly" with "Assembly, and 36 months thereafter."; and on page 66, line 22, by replacing "guilty of a Class 4 felony." with "disqualified from nomination."; and on page 67, line 14, by replacing "120" with "60"; and on page 68, line 22, by replacing "150" with "90".

AMENDMENT NO. 2. Amend Senate Bill 1905 on page 58, by replacing lines 2 through 10 with the following:

"(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by September 1, 2010. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act prior to approval by the Board and promulgation of related rules."

Floor Amendments numbered 3 and 4 remained in the Committee on Rules.

Representative Dugan offered the following amendment and moved its adoption.

AMENDMENT NO. 5. Amend Senate Bill 1905 as follows:

in Section 15, Sec. 2310-217, subsection (b), item (2), the sentence beginning "A Comprehensive Health Planner", by deleting "from a list of nominees selected by the Special Nomination Panel established in Section 19.7 of the Illinois Health Facilities Planning Act"; and

in Section 20, in the introductory clause, by replacing "Sections 5.4 and 19.7" with "Section 5.4"; and

in Section 20, Sec. 2, the paragraph beginning "The changes made to this Act", by deleting "implementation of a special panel for nominations of the Certificate of Need Board, as well as"; and

in Section 20, Sec. 3, by deleting "Special Nomination Panel" means the Special Nomination Panel created in Section 19.7 of this Act."; and

in Section 20, Sec. 4, subsection (c), the paragraph beginning "The State Board shall be appointed", by deleting "from a list of nominees selected by the Special Nomination Panel"; and

in Section 20, Sec. 4, subsection (d), the paragraph beginning "Of those 9 members", the sentence beginning "No member shall", by replacing "terms." with "terms, subject to review and re-approval every 3 years."; and

in Section 20, Sec. 4, subsection (e), the paragraph beginning "The Governor shall separately", by replacing "The Governor shall separately appoint from a list of nominees selected by the Special Nomination Panel" with "(f) The Governor shall designate one of the members to serve as"; and

in Section 20, by deleting Sec. 19.7.

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 1934. Having been recalled on May 13, 2009, and held on the order of Second Reading, the same was again taken up.

Representative McAsey offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend Senate Bill 1934 on page 1, line 8, after "County", by inserting the following:

"for the purpose of constructing the Will County Emergency Communications and Command Center on the property".

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILL 2057. Having been recalled on May 18, 2009, and held on the order of Second Reading, the same was again taken up.

Representative Mathias offered the following amendment and moved its adoption.

AMENDMENT NO. 2. Amend Senate Bill 2057 as follows:
on page 4, by inserting immediately below line 9 the following:

"(g) All information entered into the PAP database must be updated every 2 years or when such information changes."; and

on page 4, by inserting immediately below line 13 the following:

"Section 24. Data control. Any person designated by a public safety agency to control data entered into the PAP database shall develop policies and procedures for the control of such data."; and

on page 5, by inserting immediately below line 5 the following:

"Section 40. Duration of program. The establishment and continued existence of PAP shall be based on funding availability.".

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILL 1289. Having been read by title a second time on May 19, 2009, and held on the order of Second Reading, the same was again taken up.

The following amendments were offered in the Committee on Executive, adopted and reproduced.

AMENDMENT NO. 1. Amend Senate Bill 1289 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Crime Reduction Act of 2009.

Section 5. Purpose and Definitions.

(a) Purpose. The General Assembly hereby declares that it is the policy of Illinois to preserve public safety, reduce crime, and make the most effective use of correctional resources. Currently, the Illinois correctional system overwhelmingly incarcerates people whose time in prison does not result in improved behavior and who return to Illinois communities in less than one year. It is therefore the purpose of this Act to create an infrastructure to provide effective resources and services to incarcerated individuals and individuals supervised in the community; to hold offenders accountable; to successfully rehabilitate offenders to prevent future involvement with the criminal justice system; to measure the overall effectiveness of the criminal justice system in achieving this policy; and to create the Adult Redeploy Illinois program for those who do not fall under the definition of violent offenders.

(b) Definitions. As used in this Act, unless the context clearly requires otherwise:

(1) "Assets" are an offender's qualities or resources, such as family and other positive support systems, educational achievement, and employment history, that research has

demonstrated will decrease the likelihood that the offender will re-offend and increase the likelihood that the offender will successfully reintegrate into the community.

(2) "Case plan" means a consistently updated written proposal that shall follow the offender through all phases of the criminal justice system, that is based on the offender's risks, assets, and needs as identified through the assessment tool described in this Act, and that outlines steps the offender shall take and the programs in which the offender shall participate to maximize the offender's ability to be rehabilitated.

(3) "Community supervision" includes supervision in community-based, non-incarceration settings under such conditions and reporting requirements as are imposed by the court or the Prisoner Review Board.

(4) "Conditions of supervision" include conditions described in Section 5-6-3.1 of the Unified Code of Corrections.

(5) "Evidence-based practices" means policies, procedures, programs, and practices that have been demonstrated to reduce recidivism among incarcerated individuals and individuals on community supervision.

(6) "Needs" include an offender's criminogenic qualities, skills, and experiences that can be altered in ways that research has demonstrated will minimize the offender's chances of re-offending and maximize the offender's chances of successfully reintegrating into the community.

(7) "Risks" include the attributes of an offender that are commonly considered to be those variables, such as age, prior criminal history, history of joblessness, and lack of education that research has demonstrated contribute to an offender's likelihood of re-offending and impact an offender's ability to successfully reintegrate into the community.

(8) "Violent offender" means a person convicted of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act. Section 10. Evidence-Based Programming.

(a) Purpose. Research and practice have identified new strategies and policies that can result in a significant reduction in recidivism rates and the successful community reintegration of offenders. The purpose of this Section is to ensure that State and local agencies direct their resources to services and programming that have been demonstrated to be effective in reducing recidivism and reintegrating offenders into the community.

(b) Evidence-based programming in community supervision.

(1) The Probation Services Division of the Administrative Office of the Illinois Courts, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of supervised individuals being supervised in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of supervised individuals being supervised in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of supervised individuals being supervised in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for a consistent and common individualized case plan that follows the offender through the criminal justice system (including in-prison if the supervised individual is in prison) that is:

(i) Based on the assets of the individual as well as his or her risks and needs identified through the assessment tool as described in this Act.

(ii) Comprised of treatment and supervision services appropriate to achieve the purpose of this Act.

(iii) Consistently updated, based on program participation by the supervised individual and other behavior modification exhibited by the supervised individual.

(B) Concentrate resources and services on high-risk offenders.

(C) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy, and other programming designed to reduce criminal behavior.

(D) Establish a system of graduated responses.

(i) The system shall set forth a menu of presumptive responses for the most common types of supervision violations.

(ii) The system shall be guided by the model list of intermediate sanctions created by the Probation Services Division of the State of Illinois pursuant to subsection (1) of Section 15 of the Probation and Probation Officers Act and the system of intermediate sanctions created by the Chief Judge of each circuit court pursuant to Section 5-6-1 of the Unified Code of Corrections.

(iii) The system of responses shall take into account factors such as the severity of the current violation; the supervised individual's risk level as determined by a validated assessment tool described in this Act; the supervised individual's assets; his or her previous criminal record; and the number and severity of any previous supervision violations.

(iv) The system shall also define positive reinforcements that supervised individuals may receive for compliance with conditions of supervision.

(v) Response to violations should be swift and certain and should be imposed as soon as practicable but no longer than 3 working days of detection of the violation behavior.

(2) Conditions of community supervision (probation and mandatory supervised release). Conditions of community supervision whether imposed by a sentencing judge or the Prisoner Review Board shall be imposed in accordance with the offender's risks, assets, and needs as identified through the assessment tool described in this Act.

(c) Evidence-based in-prison programming.

(1) The Department of Corrections shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of incarcerated individuals receiving services and programming in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for the use and development of a case plan based on the risks, assets, and needs identified through the assessment tool as described in this Act. The case plan should be used to determine in-prison programming; should be continuously updated based on program participation by the prisoner and other behavior modification exhibited by the prisoner; and should be used when creating the case plan described in subsection (b).

(B) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy and other evidence-based programming.

(C) Establish education programs based on a teacher to student ratio of no more than 1:30.

(D) Expand the use of drug prisons, modeled after the Sheridan Correctional Center, to provide sufficient drug treatment and other support services to non-violent inmates with a history of substance abuse.

(2) Participation and completion of programming by prisoners can impact earned time credit as determined under Section 3-6-3 of the Unified Code of Corrections.

(3) The Department of Corrections shall provide its employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education and other topics identified by the Department or its employees.

(d) The Probation Services Division of the Administrative Office of the Illinois Courts, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall provide their employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education, and other topics identified by the agencies or their employees.

(e) The Department of Corrections, the Probation Services Division of the Administrative Office of the Illinois Courts, the Prisoner Review Board, and other correctional entities

referenced in the policies, rules, and regulations of this Act shall design, implement, and make public a system to evaluate the effectiveness of evidence-based practices in increasing public safety and in successful reintegration of those under supervision into the community. Annually, each agency shall submit to the Sentencing Policy Advisory Council a comprehensive report on the success of implementing evidence-based practices. The data compiled and analyzed by the Council shall be delivered annually to the Governor and the General Assembly.

Section 15. Adoption, validation, and utilization of an assessment tool.

(a) Purpose. In order to determine appropriate punishment or services which will protect public safety, it is necessary for the State and local jurisdictions to adopt a common assessment tool. Supervision and correctional programs are most effective at reducing future crime when they accurately assess offender risks, assets, and needs, and use these assessment results to assign supervision levels and target programs to criminogenic needs.

(b) After review of the plan issued by the Task Force described in subsection (c), the Probation Services Division of the Administrative Office of the Illinois Courts, the Department of Corrections, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system.

(c) The Governor's Office shall convene a Risks, Assets, and Needs Assessment Task Force to develop plans for the adoption, validation, and utilization of such an assessment tool. The Task Force shall include, but not be limited to, designees from the Department of Corrections who are responsible for and familiar with Probation Services who are responsible for and familiar with probation services and pre-trial services; a designee from the Cook County Pre-Trial Services Division; a representative from a county probation office, designated by the Administrative Office of the Illinois Courts; and designees from the Attorney General's Office, the Prisoner Review Board, the Illinois Criminal Justice Information Authority, the Sentencing Policy Advisory Council, the Cook County State's Attorney, a State's Attorney selected by the President of the Illinois State's Attorneys Association, the Cook County Public Defender, the State Appellate Defender, and a representative of the defense bar appointed by the Chief Justice of the Illinois Supreme Court.

(d) The Task Force's plans shall be released within one year of the effective date of this Act and shall at a minimum include:

- (1) A computerized method and design to allow each of the Illinois agencies which are part of the criminal justice system to share the results of the assessment.
- (2) A selection of a common validated tool to be used across the system.
- (3) A description of the different points in the system at which the tool shall be used.
- (4) An implementation plan, including training and the selection of pilot sites to test the tool.
- (5) How often and in what intervals offenders will be reassessed.
- (6) How the results can be legally shared with non-governmental organizations that provide treatment and services to those under community supervision.

Section 20. Adult Redeploy Illinois.

(a) Purpose. When offenders are accurately assessed for risk, assets, and needs, it is possible to identify which people should be sent to prison and which people can be effectively supervised in the community. By providing financial incentives to counties or judicial circuits to create effective community-level evidence-based services, it is possible to reduce crime and recidivism at a lower cost to taxpayers. Based on this model, this Act hereby creates the Adult Redeploy Illinois program for offenders who do not fall under the definition of violent offenders in order to increase public safety and encourage the successful community supervision of eligible offenders and their reintegration into the community.

(b) The Adult Redeploy Illinois program shall reallocate State funds from the adult correctional system to local jurisdictions that successfully establish a process to assess offenders and provide a continuum of local, community-based sanctions and treatment alternatives for offenders who would be incarcerated in a State facility if those local services and sanctions did not exist. The allotment of funds shall be based on a formula that rewards local jurisdictions for the establishment or expansion of local community supervision programs and requires them to pay the amount determined in subsection (e) if incarceration targets as defined in subsection (e) are not met.

(c) Each county or circuit participating in the Adult Redeploy Illinois program shall create a local plan describing how it will protect public safety and reduce the county or circuit's utilization of incarceration in

State facilities or local county jails by the creation or expansion of individualized services or programs.

(d) Based on the local plan, a county or circuit shall enter into an agreement with the Adult Redeploy Oversight Board described in subsection (e) to reduce the number of commitments to State correctional facilities from that county or circuit, excluding violent offenders. The agreement shall include a pledge from the county or circuit to reduce their commitments by 25% of the level of commitments from the average number of commitments for the past 3 years. In return, the county or circuit shall receive, based upon a formula described in subsection (e), funds to redeploy for local programming for offenders who would otherwise be incarcerated. The county or circuit shall also be penalized, as described in subsection (e), for failure to reach the goal of reduced commitments stipulated in the agreement.

(e) Adult Redeploy Illinois Oversight Board; members; responsibilities.

(1) The Secretary of Human Services and the Director of Corrections shall within 3 months after the effective date of this Act convene and act as co-chairs of an oversight board to oversee the Adult Redeploy Program. The Board shall include, but not be limited to, designees from the Prisoner Review Board, Administrative Office of the Illinois Courts, Office of the Attorney General, Illinois Criminal Justice Information Authority, and Sentencing Policy Advisory Council; the Cook County State's Attorney; a State's Attorney selected by the President of the Illinois State's Attorneys Association; the State Appellate Defender; the Cook County Public Defender; a representative of the defense bar appointed by the Chief Justice of the Illinois Supreme Court; a representative of probation appointed by the Chief Justice of the Illinois Supreme Court; 3 judges appointed by the Chief Justice of the Illinois Supreme Court; and 4 representatives from non-governmental organizations, including service providers.

(2) The Oversight Board shall within one year after the effective date of this Act:

(A) Develop a process to solicit applications from and identify jurisdictions to be included in the Adult Redeploy Illinois program.

(B) Define categories of membership for local entities to participate in the creation and oversight of the local Adult Redeploy Illinois program.

(C) Develop a formula for the allotment of funds to local jurisdictions for local and community-based services in lieu of commitment to the Department of Corrections and a penalty amount for failure to reach the goal of reduced commitments stipulated in the plans.

(D) Develop a standard format for the local plan to be submitted by the local entity created in each county or circuit.

(E) Identify and secure resources sufficient to support the administration and evaluation of Adult Redeploy Illinois.

(F) Develop a process to support on-going monitoring and evaluation of Adult Redeploy Illinois.

(G) Review local plans and proposed agreements and approve the distribution of resources.

(H) Develop a performance measurement system that includes but is not limited to the following key performance indicators: recidivism, rate of revocations, employment rates, education achievement, successful completion of substance abuse treatment programs, and payment of victim restitution. Each county or circuit shall include the performance measurement system in its local plan and provide data annually to evaluate its success.

(I) Report annually the results of the performance measurements on a timely basis to the Governor and General Assembly."

AMENDMENT NO. 2. Amend Senate Bill 1289, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 11, by inserting immediately below line 14 the following:

"(c-5) The Department of Corrections shall provide administrative support for the Task Force."

Representative Burns offered and withdrew Amendment No. 3.

Floor Amendment No. 4 remained in the Committee on Rules.

Representative Burns offered the following amendment and moved its adoption:

AMENDMENT NO. 5. Amend Senate Bill 1289, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Crime Reduction Act of 2009.

Section 5. Purpose and Definitions.

(a) Purpose. The General Assembly hereby declares that it is the policy of Illinois to preserve public safety, reduce crime, and make the most effective use of correctional resources. Currently, the Illinois correctional system overwhelmingly incarcerates people whose time in prison does not result in improved behavior and who return to Illinois communities in less than one year. It is therefore the purpose of this Act to create an infrastructure to provide effective resources and services to incarcerated individuals and individuals supervised in the locality; to hold offenders accountable; to successfully rehabilitate offenders to prevent future involvement with the criminal justice system; to measure the overall effectiveness of the criminal justice system in achieving this policy; and to create the Adult Redeploy Illinois program for those who do not fall under the definition of violent offenders.

(b) Definitions. As used in this Act, unless the context clearly requires otherwise:

(1) "Assets" are an offender's qualities or resources, such as family and other positive support systems, educational achievement, and employment history, that research has demonstrated will decrease the likelihood that the offender will re-offend and increase the likelihood that the offender will successfully reintegrate into the locality.

(2) "Case plan" means a consistently updated written proposal that shall follow the offender through all phases of the criminal justice system, that is based on the offender's risks, assets, and needs as identified through the assessment tool described in this Act, and that outlines steps the offender shall take and the programs in which the offender shall participate to maximize the offender's ability to be rehabilitated.

(3) "Conditions of supervision" include conditions described in Section 5-6-3.1 of the Unified Code of Corrections.

(4) "Evidence-based practices" means policies, procedures, programs, and practices that have been demonstrated to reduce recidivism among incarcerated individuals and individuals on local supervision.

(5) "Local supervision" includes supervision in local-based, non-incarceration settings under such conditions and reporting requirements as are imposed by the court or the Prisoner Review Board.

(6) "Needs" include an offender's criminogenic qualities, skills, and experiences that can be altered in ways that research has demonstrated will minimize the offender's chances of re-offending and maximize the offender's chances of successfully reintegrating into the locality.

(7) "Risks" include the attributes of an offender that are commonly considered to be those variables, such as age, prior criminal history, history of joblessness, and lack of education that research has demonstrated contribute to an offender's likelihood of re-offending and impact an offender's ability to successfully reintegrate into the locality.

(8) "Violent offender" means a person convicted of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

Section 10. Evidence-Based Programming.

(a) Purpose. Research and practice have identified new strategies and policies that can result in a significant reduction in recidivism rates and the successful local reintegration of offenders. The purpose of this Section is to ensure that State and local agencies direct their resources to services and programming that have been demonstrated to be effective in reducing recidivism and reintegrating offenders into the locality.

(b) Evidence-based programming in local supervision.

(1) The Parole Division of the Department of Corrections and the Prisoner Review Board shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of supervised individuals being supervised in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of supervised individuals being supervised in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of supervised individuals being supervised in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for a standardized individual case plan that follows the offender through the criminal justice system (including in-prison if the supervised individual is in prison) that is:

(i) Based on the assets of the individual as well as his or her risks

and needs identified through the assessment tool as described in this Act.

(ii) Comprised of treatment and supervision services appropriate to achieve the purpose of this Act.

(iii) Consistently updated, based on program participation by the supervised individual and other behavior modification exhibited by the supervised individual.

(B) Concentrate resources and services on high-risk offenders.

(C) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy, and other programming designed to reduce criminal behavior.

(D) Establish a system of graduated responses.

(i) The system shall set forth a menu of presumptive responses for the most common types of supervision violations.

(ii) The system shall be guided by the model list of intermediate sanctions created by the Probation Services Division of the State of Illinois pursuant to subsection (1) of Section 15 of the Probation and Probation Officers Act and the system of intermediate sanctions created by the Chief Judge of each circuit court pursuant to Section 5-6-1 of the Unified Code of Corrections.

(iii) The system of responses shall take into account factors such as the severity of the current violation; the supervised individual's risk level as determined by a validated assessment tool described in this Act; the supervised individual's assets; his or her previous criminal record; and the number and severity of any previous supervision violations.

(iv) The system shall also define positive reinforcements that supervised individuals may receive for compliance with conditions of supervision.

(v) Response to violations should be swift and certain and should be imposed as soon as practicable but no longer than 3 working days of detection of the violation behavior.

(2) Conditions of local supervision (probation and mandatory supervised release).

Conditions of local supervision whether imposed by a sentencing judge or the Prisoner Review Board shall be imposed in accordance with the offender's risks, assets, and needs as identified through the assessment tool described in this Act.

(c) Evidence-based in-prison programming.

(1) The Department of Corrections shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of incarcerated individuals receiving services and programming in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for the use and development of a case plan based on the risks, assets, and needs identified through the assessment tool as described in this Act. The case plan should be used to determine in-prison programming; should be continuously updated based on program participation by the prisoner and other behavior modification exhibited by the prisoner; and should be used when creating the case plan described in subsection (b).

(B) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy and other evidence-based programming.

(C) Establish education programs based on a teacher to student ratio of no more than 1:30.

(D) Expand the use of drug prisons, modeled after the Sheridan Correctional Center, to provide sufficient drug treatment and other support services to non-violent inmates with a history of substance abuse.

(2) Participation and completion of programming by prisoners can impact earned time credit as determined under Section 3-6-3 of the Unified Code of Corrections.

(3) The Department of Corrections shall provide its employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment

techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education and other topics identified by the Department or its employees.

(d) The Parole Division of the Department of Corrections and the Prisoner Review Board shall provide their employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education, and other topics identified by the agencies or their employees.

(e) The Department of Corrections, the Prisoner Review Board, and other correctional entities referenced in the policies, rules, and regulations of this Act shall design, implement, and make public a system to evaluate the effectiveness of evidence-based practices in increasing public safety and in successful reintegration of those under supervision into the locality. Annually, each agency shall submit to the Sentencing Policy Advisory Council a comprehensive report on the success of implementing evidence-based practices. The data compiled and analyzed by the Council shall be delivered annually to the Governor and the General Assembly.

Section 15. Adoption, validation, and utilization of an assessment tool.

(a) Purpose. In order to determine appropriate punishment or services which will protect public safety, it is necessary for the State and local jurisdictions to adopt a common assessment tool. Supervision and correctional programs are most effective at reducing future crime when they accurately assess offender risks, assets, and needs, and use these assessment results to assign supervision levels and target programs to criminogenic needs.

(b) After review of the plan issued by the Task Force described in subsection (c), the Department of Corrections, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system.

(c) The Governor's Office shall convene a Risks, Assets, and Needs Assessment Task Force to develop plans for the adoption, validation, and utilization of such an assessment tool. The Task Force shall include, but not be limited to, designees from the Department of Corrections who are responsible for parole services, a designee from the Cook County Adult Probation; a representative from a county probation office, a designee from DuPage County Adult Probation, a designee from Sangamon County Adult Probation; and designees from the Attorney General's Office, the Prisoner Review Board, the Illinois Criminal Justice Information Authority, the Sentencing Policy Advisory Council, the Cook County State's Attorney, a State's Attorney selected by the President of the Illinois State's Attorneys Association, the Cook County Public Defender, and the State Appellate Defender.

(c-5) The Department of Human Services shall provide administrative support for the Task Force.

(d) The Task Force's plans shall be released within one year of the effective date of this Act and shall at a minimum include:

(1) A computerized method and design to allow each of the State and local agencies and branches of government which are part of the criminal justice system to share the results of the assessment. The recommendations for the automated system shall include cost estimates, a timetable, a plan to pay for the system and for sharing data across agencies and branches of government.

(2) A selection of a common validated tool to be used across the system.

(3) A description of the different points in the system at which the tool shall be used.

(4) An implementation plan, including training and the selection of pilot sites to test the tool.

(5) How often and in what intervals offenders will be reassessed.

(6) How the results can be legally shared with non-governmental organizations that provide treatment and services to those under local supervision.

Section 20. Adult Redeploy Illinois.

(a) Purpose. When offenders are accurately assessed for risk, assets, and needs, it is possible to identify which people should be sent to prison and which people can be effectively supervised in the locality. By providing financial incentives to counties or judicial circuits to create effective local-level evidence-based services, it is possible to reduce crime and recidivism at a lower cost to taxpayers. Based on this model, this Act hereby creates the Adult Redeploy Illinois program for offenders who do not fall under the definition

of violent offenders in order to increase public safety and encourage the successful local supervision of eligible offenders and their reintegration into the locality.

(b) The Adult Redeploy Illinois program shall reallocate State funds to local jurisdictions that successfully establish a process to assess offenders and provide a continuum of locally-based sanctions and treatment alternatives for offenders who would be incarcerated in a State facility if those local services and sanctions did not exist. The allotment of funds shall be based on a formula that rewards local jurisdictions for the establishment or expansion of local supervision programs and requires them to pay the amount determined in subsection (e) if incarceration targets as defined in subsection (e) are not met.

(c) Each county or circuit participating in the Adult Redeploy Illinois program shall create a local plan describing how it will protect public safety and reduce the county or circuit's utilization of incarceration in State facilities or local county jails by the creation or expansion of individualized services or programs.

(d) Based on the local plan, a county or circuit shall enter into an agreement with the Adult Redeploy Oversight Board described in subsection (e) to reduce the number of commitments to State correctional facilities from that county or circuit, excluding violent offenders. The agreement shall include a pledge from the county or circuit to reduce their commitments by 25% of the level of commitments from the average number of commitments for the past 3 years of eligible non-violent offenders. In return, the county or circuit shall receive, based upon a formula described in subsection (e), funds to redeploy for local programming for offenders who would otherwise be incarcerated such as management and supervision, electronic monitoring, and drug testing. The county or circuit shall also be penalized, as described in subsection (e), for failure to reach the goal of reduced commitments stipulated in the agreement.

(e) Adult Redeploy Illinois Oversight Board; members; responsibilities.

(1) The Secretary of Human Services and the Director of Corrections shall within 3 months after the effective date of this Act convene and act as co-chairs of an oversight board to oversee the Adult Redeploy Program. The Board shall include, but not be limited to, designees from the Prisoner Review Board, Office of the Attorney General, Illinois Criminal Justice Information Authority, and Sentencing Policy Advisory Council; the Cook County State's Attorney; a State's Attorney selected by the President of the Illinois State's Attorneys Association; the State Appellate Defender; the Cook County Public Defender; a representative of Cook County Adult Probation, a representative of DuPage County Adult Probation; a representative of Sangamon County Adult Probation; and 4 representatives from non-governmental organizations, including service providers.

(2) The Oversight Board shall within one year after the effective date of this Act:

- (A) Develop a process to solicit applications from and identify jurisdictions to be included in the Adult Redeploy Illinois program.
- (B) Define categories of membership for local entities to participate in the creation and oversight of the local Adult Redeploy Illinois program.
- (C) Develop a formula for the allotment of funds to local jurisdictions for local and community-based services in lieu of commitment to the Department of Corrections and a penalty amount for failure to reach the goal of reduced commitments stipulated in the plans.
- (D) Develop a standard format for the local plan to be submitted by the local entity created in each county or circuit.
- (E) Identify and secure resources sufficient to support the administration and evaluation of Adult Redeploy Illinois.
- (F) Develop a process to support on-going monitoring and evaluation of Adult Redeploy Illinois.
- (G) Review local plans and proposed agreements and approve the distribution of resources.
- (H) Develop a performance measurement system that includes but is not limited to the following key performance indicators: recidivism, rate of revocations, employment rates, education achievement, successful completion of substance abuse treatment programs, and payment of victim restitution. Each county or circuit shall include the performance measurement system in its local plan and provide data annually to evaluate its success.
- (I) Report annually the results of the performance measurements on a timely basis to the Governor and General Assembly."

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

SENATE BILL 2091. Having been read by title a second time on May 19, 2009, and held on the order of Second Reading, the same was again taken up.

The following amendment was offered in the Committee on Executive, adopted and reproduced.

AMENDMENT NO. 1. Amend Senate Bill 2091 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Viatical Settlements Act of 2009.

Section 5. Definitions.

"Accredited investor" means an accredited investor as defined in Rule 501(a) promulgated under the Securities Act of 1933 (15 U.S.C. 77 et seq.), as amended.

"Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, digital picture slides, motion pictures, and videos published, disseminated, circulated, or placed before the public in this State, for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest, or transfer the death benefit or ownership of a policy pursuant to a viatical settlement contract.

"Alien licensee" means a licensee incorporated or organized under the laws of any country other than the United States.

"Business of viatical settlements" means any activity involved in, but not limited to, the offering, soliciting, negotiating, procuring, effectuating, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, or hypothecating or in any other manner acquiring an interest in a life insurance policy by means of a viatical settlement contract or other agreement.

"Chronically ill" means having been certified within the preceding 12-month period by a licensed health professional as:

- (1) being unable to perform, without substantial assistance from another individual and for at least 90 days due to a loss of functional capacity, at least 2 activities of daily living, including, but not limited to, eating, toileting, transferring, bathing, dressing, or continence;
- (2) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or
- (3) having a level of disability similar to that described in paragraph (1) as determined by the Secretary of Health and Human Services.

"Controlling person" means any person, firm, association, or corporation that directly or indirectly has the power to direct or cause to be directed the management, control, or activities of the viatical settlement provider.

"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.

"Escrow agent" means an independent third-party person who, pursuant to a written agreement signed by the viatical settlement provider and viator, provides escrow services related to the acquisition of a life insurance policy pursuant to a viatical settlement contract. "Escrow agent" does not include any person associated or affiliated with or under the control of a licensee.

"Financial institution" means a financial institution as defined by the Financial Institutions Insurance Sales Law in Article XLIV of the Illinois Insurance Code.

"Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or an entity that has a direct ownership in a policy that is the subject of a viatical settlement contract, and to which both of the following apply:

- (1) its principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies; and
- (2) it has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts.

"Financing entity" does not include an investor that is not an accredited investor.

"Financing transaction" means a transaction in which a viatical settlement provider obtains financing from a financing entity, including, without limitation, any secured or unsecured financing, securitization transaction, or securities offering that either is registered or exempt from registration under federal and State securities law.

"Foreign licensee" means any viatical settlement provider incorporated or organized under the laws of any state of the United States other than this State.

"Insurance producer" means an insurance producer as defined by Section 10 of Article XXXI of the Illinois Insurance Code.

"Licensee" means a viatical settlement provider or viatical settlement broker.

"Life expectancy provider" means a person who determines or holds himself or herself out as determining life expectancies or mortality ratings used to determine life expectancies on behalf of or in connection with any of the following:

(1) A viatical settlement provider, viatical settlement broker, or person engaged in the business of viatical settlements.

(2) A viatical investment as defined by Section 2.33 of the Illinois Securities Law of 1953 or a viatical settlement contract.

"NAIC" means the National Association of Insurance Commissioners.

"Person" means an individual or a legal entity, including, without limitation, a partnership, limited liability company, limited liability partnership, association, trust, business trust, or corporation.

"Policy" means an individual or group policy, group certificate, contract, or arrangement of insurance of the class defined by subsection (a) of Section 4 of the Illinois Insurance Code owned by or for the benefit of a resident of this State, regardless of whether delivered or issued for delivery in this State.

"Qualified institutional buyer" means a qualified institutional buyer as defined in Rule 144 promulgated under the Securities Act of 1933, as amended.

"Related provider trust" means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the Director as if those records and files were maintained directly by the licensed viatical settlement provider.

"Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed only to provide, directly or indirectly, access to institutional capital markets (i) for a financing entity or licensed viatical settlement provider; or (ii) in connection with a transaction in which the securities in the special purposes entity are acquired by the viator or by qualified institutional buyers or the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

"Stranger-originated life insurance" or "STOLI" means an act, practice, or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured. STOLI practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person or entity who, at the time of policy inception, could not lawfully initiate the policy himself or itself and where, at the time of policy inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy or policy benefits to a third party. Trusts created to give the appearance of an insurable interest and used to initiate policies for investors violate insurance interest laws and the prohibition against wagering on life. STOLI arrangements do not include lawful viatical settlement contracts as permitted by this Act.

"Terminally ill" means certified by a physician as having an illness or physical condition that reasonably is expected to result in death in 24 months or less.

"Viatical settlement broker" means a licensed insurance producer who has been issued a license pursuant to Section 500-35(a)(1) or 500-35(a)(2) of the Insurance Code who, working exclusively on behalf of a viator and for a fee, commission, or other valuable consideration, offers, solicits, promotes, or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or one or more viatical settlement brokers. "Viatical settlement broker" does not include an attorney, certified

public accountant, or a financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.

"Viatical settlement contract" means any of the following:

(1) A written agreement between a viator and a viatical settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the viator's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy.

(2) A written agreement for a loan or other lending transaction, secured primarily by an individual life insurance policy or an individual certificate of a group life insurance policy.

(3) The transfer for compensation or value of ownership of a beneficial interest in a trust or other entity that owns such policy, if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts and the life insurance contract insures the life of a person residing in this State.

(4) A premium finance loan made for a life insurance policy by a lender to a viator on, before, or after the date of issuance of the policy in either of the following situations:

(A) The viator or the insured receives a guarantee of the viatical settlement value of the policy.

(B) The viator or the insured agrees to sell the policy or any portion of the policy's death benefit on any date before or after issuance of the policy.

"Viatical settlement contract" does not include any of the following unless part of a plan, scheme, device, or artifice to avoid application of this Act:

(a) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms;

(b) Loan proceeds that are used solely to pay: (i) premiums for the policy and (ii) the costs of the loan, including, without limitation interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third party collateral provider fees and expenses, including fees payable to letter of credit issuers;

(c) A loan made by a bank or other financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with the default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this Act;

(d) A loan made by a lender that does not violate Article XXXIIa of the Illinois Insurance Code, provided that the premium finance loan is not described in this Act;

(e) An agreement in which all the parties (i) are closely related to the insured by blood or law or (ii) have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured, or trusts established primarily for the benefit of such parties;

(f) Any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(g) A bona fide business succession planning arrangement: (i) between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trust established by its shareholders; (ii) between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trust established by its partners; or (iii) between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trust established by its members;

(h) An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

(i) Any other contract, transaction, or arrangement exempted from the definition of viatical settlement contract by the Director based on the Director's determination that the contract, transaction, or arrangement is not of the type intended to be regulated by this Act.

"Viatical settlement investment agent" means a person who is an appointed or contracted agent of a licensed viatical settlement provider who solicits or arranges the funding for the purchase of a viatical settlement by a viatical settlement purchaser and who is acting on behalf of a viatical settlement provider.

A viatical settlement investment agent is deemed to represent the viatical settlement provider of whom the viatical settlement investment agent is an appointed or contracted agent.

"Viatical settlement provider" means a person, other than a viator, who enters into or effectuates a viatical settlement contract with a viator. "Viatical settlement provider" does not include:

- (1) a bank, savings bank, savings and loan association, credit union, or other financial institution that takes an assignment of a policy as collateral for a loan;
- (2) a financial institution or premium finance company making premium finance loans and exempted by the Director from the licensing requirement under the premium finance laws where the institution or company takes an assignment of a life insurance policy solely as collateral for a premium finance loan;
- (3) the issuer of the life insurance policy;
- (4) an authorized or eligible insurer that provides stop loss coverage or financial guaranty insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;
- (5) An individual person who enters into or effectuates no more than one viatical settlement contract in a calendar year for the transfer of policies for any value less than the expected death benefit;
- (6) a financing entity;
- (7) a special purpose entity;
- (8) a related provider trust;
- (9) a viatical settlement purchaser; or
- (10) any other person that the Director determines is consistent with the definition of viatical settlement provider.

"Viatical settlement purchaser" means a person who provides a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy, in each case where such policy has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. "Viatical settlement purchaser" does not include: (i) a licensee under this Act; (ii) an accredited investor or qualified institutional buyer; (iii) a financing entity; (iv) a special purpose entity; or (v) a related provider trust.

"Viaticated policy" means a life insurance policy that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

"Viator" means the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. For the purposes of this Act, a viator is not limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition, except where specifically addressed. "Viator" does not include:

- (1) a licensee;
- (2) a qualified institutional buyer;
- (3) a financing entity;
- (4) a special purpose entity; or
- (5) a related provider trust.

Section 10. License and bond requirements.

(a) A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the chief insurance regulatory official of the state of residence of the viator. A viatical settlement provider transacting business in this State shall provide written notice to the Director that it is engaged in such business not less than 30 days prior to the effective date of this Act. Viatical settlement providers shall apply for licensing annually thereafter in a form and manner as prescribed by this Act.

(b) A person shall not operate as a viatical settlement broker without first obtaining an insurance producer license from the Director and completing the viatical settlement broker training requirements as provided by Section 11 of this Act.

(c) An insurance producer shall not operate as a viatical settlement broker unless the producer has been duly licensed as a resident insurance producer with a life line of authority in this state or the insurance producer's home state for at least one year.

(d) Before operating as a viatical settlement broker, the insurance producer, including a business entity licensed in this State as an insurance producer, shall notify the Director that the insurance producer is

acting as a viatical settlement broker on a form prescribed by the Director, and shall pay a \$500 registration fee which shall be deposited into the Insurance Producer Administration Fund. Notification shall include an acknowledgement by the insurance producer that he or she will operate as a viatical settlement broker in accordance with this Act.

If a business entity with an insurance producer license registers as a viatical settlement broker, then that registration authorizes all partners, officers, members, and designated employees to act as viatical settlement brokers. All persons acting as viatical settlement brokers pursuant to such a registration shall be named in the application and any supplements to the application.

(e) A duly licensed resident insurance producer with a life product line or authority in this State or the insurance producer's home state for at least one year, lawfully transacting business as a viatical settlement broker prior to the effective date of this Act may continue to do so, pending receipt by the Director of the notice required by subsection (d) of this Section, provided that the notice is received by the Director no later than 30 days after the effective date of this Act.

(f) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

(g) A person shall not operate as a viatical settlement provider without first obtaining a license from the Director.

(h) Application for a viatical settlement provider license shall be made to the Director by the applicant on a form prescribed by the Director. The applications shall be accompanied by a \$3,000 fee, which shall be deposited into the Insurance Producer Administration Fund.

(i) Viatical settlement provider licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fee of \$1,500. Failure to pay the fees by the renewal date results in expiration of the license.

(j) The applicant for a viatical settlement provider license shall provide information on forms required by the Director. The Director shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees, and the Director may, in the exercise of the Director's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member thereof who may materially influence the applicant's conduct meets the standards of this Act.

A viatical settlement provider license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

(k) Upon the filing of a viatical settlement provider license application and the payment of the license fee, the Director shall make an investigation of each applicant and issue a license if the Director finds that the applicant:

(1) has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(3) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for;

(4) (A) has demonstrated evidence of financial responsibility in a format prescribed by the Director through either a surety bond executed and issued by an insurer authorized to issue surety bonds in this State or a deposit of cash, certificates of deposit or securities or any combination thereof, or irrevocable letter of credit in the amount of \$125,000;

(B) the Director may ask for evidence of financial responsibility at any time the Director deems necessary;

(C) any surety bond issued pursuant to this subsection (k) shall be in the 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 by the viatical settlement provider;

(D) notwithstanding any other provision of this Section to the contrary, the Director shall accept, as evidence of financial responsibility, proof that financial instruments in accordance with the requirements in this subsection (k) have been filed with one or more states where the applicant is licensed as a viatical settlement provider;

(5) if a legal entity, provides a certificate of good standing from the state of its

domicile; and

(6) has provided an anti-fraud plan that meets the requirements of Section 65 of this Act.

(l) The Director shall not issue a viatical settlement provider license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the Director or the applicant has filed with the Director the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Director.

(m) An applicant for a viatical settlement provider license shall provide all information requested by the Director. The Director may, at any time, require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees of the viatical settlement provider, and the Director may refuse to issue a license to an applicant that is not an individual if the Director is not satisfied that each stockholder, partner, officer, member, and employee who may materially influence the applicant's conduct meets the standards set forth in this Act. The Director may also require the applicant to disclose the method the applicant will use to determine and receive life expectancies, the applicant's intended use of life expectancies, and a written plan containing policies and procedures to use when determining life expectancies.

(n) A viatical settlement provider shall provide to the Director new or revised information about officers, 10% or more stockholders, partners, directors, members, or designated employees within 30 days after the change.

(o) Viatical settlement providers licensed under the Viatical Settlements Act shall be subject to the license requirements of this Act. Not later than 30 days after the effective date of this Act, such licensee shall submit the additional materials or information required for licensure under this Act but not previously required under the Viatical Settlements Act. To the extent that this Act requires materials or information for licensure previously submitted by the licensee pursuant to the Viatical Settlements Act, those materials need not be resubmitted with the initial application for licensure pursuant to this Act.

Section 11. Viatical settlement broker training requirements.

(a) Viatical settlement broker training shall be required as follows:

(1) An individual may not sell, solicit, or negotiate viatical settlement contracts unless the individual is licensed as a life insurance producer or viatical settlement broker and has completed a one-time training course. The training shall meet the requirements set forth in subsection (b) of this Section.

(2) An individual already licensed and selling, soliciting, or negotiating viatical settlement contracts on the effective date of this Act may not continue to sell, solicit, or negotiate viatical settlement contracts unless the individual has completed a one-time training course, as set forth in subsection (b) of this Section, within 6 months after the effective date of this Act or within 6 months after availability of the training course, whichever is later.

(3) In addition to the one-time training course required under items (1) and (2) of this subsection (a), an individual who sells, solicits, or negotiates viatical settlement contracts shall complete ongoing training as set forth in subsection (b) of this Section.

(4) The training requirements of subsection (b) of this Section may be approved as continuing education courses under Section 500-35(b)(1) of the Illinois Insurance Code.

(b) Minimum education and training shall be required as follows:

(1) The one-time training required by this Section shall be no less than 4 hours and the ongoing training required by this Section shall be no less than 4 hours over a 24-month period.

(2) The training required under item (1) of this subsection (b) shall consist of topics related to viatical settlement contracts, including, but not limited to:

- (A) State and federal laws and regulations regarding viatical settlement transactions;
- (B) potential tax implications for participants in viatical settlement contracts;
- (C) potential impact on public benefits payments to viatical settlement participants;
- (D) alternatives to viatical settlement contracts; and
- (E) consumer suitability standards and guidelines.

(3) The training required by this Section shall not include training that is specific to or that includes any sales or marketing information, materials, or training of any company, other than those required by State or federal law.

(c) Viatical settlement providers shall provide verification of training as follows:

(1) Viatical settlement providers subject to this Act shall obtain verification that a producer receives training required by subsection (a) of this Section before a producer is permitted to sell, solicit, or negotiate viatical settlement contracts. Viatical settlement providers shall maintain records for verification subject to the State's record retention requirements and make the verification available to the Director upon request.

(2) Viatical settlement providers subject to this Act shall maintain records with respect to the training of viatical settlement brokers with whom the provider contracts or otherwise engages in viatical settlement transactions. These records shall be maintained in accordance with the State's record retention requirements and shall be made available to the Director upon request.

(d) The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements in this State.

Section 15. License revocation for viatical settlement providers.

(a) The Director may refuse to issue or renew or may suspend or revoke the license of any viatical settlement provider if the Director finds any of the following:

(1) there was any material misrepresentation in the application for the license;

(2) the viatical settlement provider or any officer, partner, member, or controlling person uses fraudulent or dishonest practices or is otherwise shown to be untrustworthy, incompetent, or financially irresponsible in this State or elsewhere;

(3) the viatical settlement provider demonstrates a pattern of unreasonable payments to viators;

(4) the viatical settlement provider or any officer, partner, member, or controlling person has violated any insurance laws or any rule, subpoena, or order of the Director or of another state's chief insurance regulatory official or is subject to a final administrative action brought by the Director or by the Illinois Secretary of State or by another state's chief insurance regulatory official or chief securities regulatory official;

(5) the viatical settlement provider has used a viatical settlement contract that has not been approved pursuant to this Act;

(6) the viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract;

(7) the viatical settlement provider no longer meets the requirements for initial licensure;

(8) the viatical settlement provider has assigned, transferred, or pledged a purchased policy to a person other than a viatical settlement provider licensed in this State, a viatical settlement purchaser, a financing entity, a special purpose entity, or a related provider trust; or

(9) the viatical settlement provider or any officer, partner, member, or controlling person of the viatical settlement provider has violated any of the provisions of this Act.

(b) If the Director denies a viatical settlement provider license application or suspends, revokes, or refuses to renew the license of a viatical settlement provider, the Director shall notify the applicant or viatical settlement provider and advise, in writing, the applicant or viatical settlement provider of the reason for the suspension, revocation, denial, or nonrenewal of the applicant's or licensee's license. The applicant or viatical settlement provider may make a 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 in accordance with the Illinois Administrative Procedure Act and Section 2402 of Chapter 50 of the Illinois Administrative Code.

Section 17. License revocation and denial for viatical settlement brokers. Insurance producers operating as viatical settlement brokers shall be subject to the license denial, nonrenewal, and revocation provisions established by Section 500-70 of the Illinois Insurance Code, in addition to any monetary or criminal penalties as may be appropriate.

Section 20. Approval of viatical settlement contracts and disclosure statements. A person shall not use a viatical settlement contract form or provide to a viator a disclosure statement form in this State unless first filed with and approved by the Director. The Director shall disapprove a viatical settlement contract form or disclosure statement form if, in the Director's opinion, the contract or provisions contained therein fail to meet the requirements of this Act or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. At the Director's discretion, the Director may require the submission of advertising material. If the Director disapproves a viatical settlement contract form or disclosure statement

form, then the Director shall notify the viatical settlement provider and advise the viatical settlement provider, in writing, of the reason for the disapproval. The viatical settlement provider 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 in accordance with the Illinois Administrative Procedure Act and 50 Ill. Admin. Code 2402.

Section 25. Reporting requirements and privacy.

(a) Each viatical settlement provider shall file with the Director on or before March 1 of each year a copy of its audited annual statement for the immediately preceding year ending December 31. The Director may require newly licensed entities to file annual statements for additional years. The annual statement must be verified by 2 officers of the licensed entity on forms prescribed by the Director. The forms prescribed by the Director shall contain all information required by this Act and shall conform substantially to the Viatical Settlement Provider Reports adopted by the NAIC Viatical Settlements Model Regulation, as amended. The approved annual statement for a viatical settlement provider shall include all of the following information:

(1) A list of each life insurance policy, including policy number, date of issue, unique internal identifier maintained by the viatical settlement provider and available upon examination, insurance company issuing the policy, date the viatical settlement contract is signed by viator, viatical settlement broker receiving compensation, and any premium finance companies, if known.

(2) Addresses and contact information for those persons listed in item (1) of this subsection (a).

(3) A list of all life expectancy providers who have directly or indirectly provided life expectancies to the viatical settlement provider for use in connection with a viatical settlement contract.

(4) Any other information required by the Director.

(b) The audited annual financial statement required by subsection (a) of this Section shall be completed by an independent certified public accountant along with a letter stating whether any significant deficiencies or material weaknesses were detected during the audit pursuant to the Auditing Standard Board's Statement on Auditing Standards Number 112, as amended or superseded.

(c) A viatical settlement provider that willfully fails to file the annual statements required by this Section, or willfully fails to reply within 30 calendar days to a written inquiry from the Director or Director's designee, shall, in addition to other penalties provided by this Act, be subject to a penalty of up to \$250 per day, not to exceed \$25,000 in the aggregate for each such failure.

(d) The Director shall keep confidential and not a matter of public record all individual transaction data regarding the business of viatical settlements and data that could compromise the privacy of personal, financial, and health information of the viator or the insured. All proprietary information received by the Director from a viatical settlement provider pursuant to this Section must be given confidential treatment, is not subject to subpoena, and may not be made public by the Director or any other persons.

(e) Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of the identity of an insured under a viatical settlement contract shall not disclose the identity of the insured or the insured's financial or medical information to any other person unless the disclosure is:

(1) necessary to effect a viatical settlement contract between the viator and a viatical settlement provider and the viator or insured have provided prior written consent to the disclosure;

(2) provided in response to an investigation or examination by the Director or another governmental officer or agency or pursuant to the requirements of Section 65 of this Act;

(3) a term of or condition to the transfer of a policy by one viatical settlement provider to another viatical settlement provider;

(4) necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure;

(5) necessary to allow the viatical settlement provider or the viatical settlement provider's authorized representatives to make contacts for the purpose of determining health status; or

(6) required to purchase stop loss coverage or financial guaranty insurance.

(f) A viatical settlement investment agent shall not have any contact directly or indirectly with the viator

or the insured or have knowledge of the identity of the viator or the insured.

Section 30. Examination or investigation.

(a) The Director may when and as often as the Director deems it reasonably necessary to protect the interests of the public, examine the business affairs of any licensee.

In scheduling and determining the nature, scope, and frequency of the examinations, the Director shall consider such matters as consumer complaints, results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, report of independent certified public accountants, and other relevant criteria as determined by the Director.

(b) For purposes of completing an examination of a licensee under this Act, the Director may examine or investigate any person, or the business of any person, in so far as the examination or investigation is, in the sole discretion of the Director, necessary or material to the examination.

(c) In lieu of an examination under this Act of any foreign licensee or alien licensee licensed in this State, the Director may, at the Director's discretion, accept an examination report on the licensee as prepared by the chief insurance regulatory official for the licensee's state of domicile or port-of-entry state.

(d) As far as practical, the examination of a foreign licensee or alien licensee shall be made in cooperation with the insurance supervisory officials of other states in which the licensee transacts business.

(e) Licensees shall for 5 years retain copies of:

(1) all proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later;

(2) all checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction;

(3) all other records and documents in any format related to the requirements of this Act, including a record of complaints received against the licensee and agents representing the licensee and a list of all life expectancy providers that have provider services to the licensee.

This subsection (e) does not relieve a person of the obligation to produce records required by this subsection to the Director after the retention period has expired if the person has retained the documents.

Records required to be retained by this subsection (e) must be legible and complete and may be retained in paper, photograph, microprocessor, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

(f) Upon determining that an examination should be conducted, the Director shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. The Director may employ any guidelines or procedures for purposes of this subsection (f) that the Director deems appropriate.

Every licensee or person, including all officers, partners, members, directors, employees, controlling persons, and agents of any licensee or person, from whom information is sought shall provide to the examiners timely, convenient, and free access at all reasonable hours at the licensee's or person's offices to all books, records, accounts, papers, documents, assets, and computer or other recordings relating to the property, assets, business, and affairs of the licensee being examined. The officers, directors, employees, and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of a licensee by its officers, directors, employees, or agents to submit to examination or to comply with any reasonable written request of the Director shall be grounds for revocation, denial of issuance, or non-renewal of any license or authority held by the licensee to engage in the viatical settlement business or other business subject to the Director's jurisdiction.

The Director shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the Director may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Subpoenas may be enforced pursuant to Section 403 of the Illinois Insurance Code.

When making an examination under this Act, the Director may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

(g) Nothing contained in this Act limits the Director's authority to terminate or suspend an

examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this State. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(h) Nothing contained in this Act shall be construed to limit the Director's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or licensee workpapers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the Director may, in the Director's discretion, deem appropriate.

(i) No later than 60 days following completion of the examination, the examiner in charge shall file with the Director a verified written report of examination under oath. Upon receipt of the verified report, the Director shall transmit the report to the licensee examined.

(j) Examination reports shall be comprised only of facts appearing upon the books, records, or other documents of the licensee, its agents, or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs and the conclusions and recommendations that the examiners find reasonably warranted from the facts.

(k) The licensee may request a hearing within 10 days after receipt of the examination report by giving the Director written notice of that request, together with a statement of its objections. The Director then must conduct a hearing in conjunction with Sections 402 and 403 of the Illinois Insurance Code. The Director must issue a written order based upon the examination report and upon the hearing within 90 days after the report is filed or within 90 days after the hearing. After the hearing, the Director may make such order or orders as may be reasonably necessary to correct, eliminate, or remedy unlawful conduct.

(l) If the Director determines that regulatory action is appropriate as a result of an examination, the Director may initiate any proceedings or actions provided by law.

(m) Names and individual identification data for all viators in the possession and control of the Director shall be considered private and confidential and shall not be disclosed by the Director unless required by law.

Except as otherwise provided in this Act, all examination reports, working papers, recorded information, documents, and copies thereof produced by, obtained by or disclosed to the Director or any other person in the course of an examination made under this Act or the law of another state or jurisdiction that is substantially similar to this Act, or in the course of analysis or investigation by the Director of the financial condition or market conduct of a licensee are (i) confidential by law and privileged, (ii) not subject to the Freedom of Information Act, (iii) not subject to subpoena, and (iv) not subject to discovery or admissible in evidence in any private civil action.

The Director is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the Director's official duties.

Documents, materials, or other information, including, but not limited to, all working papers and copies thereof, in the possession or control of the NAIC and its affiliates and subsidiaries are:

- (1) confidential by law and privileged;
- (2) not subject to subpoena; and
- (3) not subject to discovery or admissible in evidence in any private civil action if they are:

(A) created, produced or obtained by, or disclosed to the NAIC and its affiliates and subsidiaries in the course of assisting an examination made under this Act or assisting the Director or the chief insurance regulatory official in another state in the analysis or investigation of the financial condition or market conduct of a licensee; or

(B) disclosed under this subsection (m) by the Director or disclosed under a comparable provision in law of another state by that state's chief insurance regulatory official to the NAIC and its affiliates and subsidiaries.

Neither the Director nor any person that received the documents, material, or other information while acting under the authority of the Director, including the NAIC and its affiliates and subsidiaries, shall be permitted to testify in any private civil action concerning any confidential documents, materials, or information subject to this subsection (m).

(n) In order to assist in the performance of the Director's duties, the Director may:

(1) share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (m) of this Section, with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to

maintain the confidentiality and privileged status of the document, material, communication, or other information;

(2) receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(3) enter into agreements governing sharing and use of information consistent with this Section.

(o) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Director under this Section or as a result of sharing as authorized in subsection (n) of this Section.

(p) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this Section shall be available and enforced in any proceeding in, and in any court of, this State.

(q) Nothing contained in this Act prevents or prohibits the Director from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to those reports or results, to the chief insurance regulatory official of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time or to the NAIC, if the agency or office receiving the report or matters relating to it agrees in writing to hold it confidential and in a manner consistent with this Act.

(r) The expenses incurred in conducting an examination shall be paid by the licensee.

(s) No cause of action shall arise nor shall any liability be imposed against the Director, the Director's authorized representatives, or any examiner appointed by the Director for any statements made or conduct performed in good faith while carrying out the provisions of this Act.

No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the Director or the Director's authorized representative or examiner pursuant to an examination made under this Section, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive. This subsection (s) does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in this subsection (s).

A person identified in this subsection (s) shall be entitled to an award of attorney's fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this Section and the party bringing the action was not substantially justified in doing so. For purposes of this Section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(t) The Director may investigate suspected viatical settlement fraud and persons engaged in the business of viatical settlements.

Section 35. Disclosure to viator.

(a) With each application for a viatical settlement contract, a viatical settlement provider or viatical settlement broker shall provide the viator with at least the following disclosures no later than the time the viatical settlement contract is signed by all parties. The disclosures shall include distribution of a brochure describing the process of viatical settlements. The NAIC form for the brochure shall be used unless another form is developed or approved by the Director. Other disclosures required by this subsection (a) shall be provided in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker and shall provide the following information:

(1) If a viator enters into a viatical settlement contract, then the beneficiaries of the life insurance policy lose the life insurance policy's benefits, equity, and protection. In addition, by entering into this viatical settlement contract, the insured may not qualify for another life insurance policy or may be required to pay substantially higher premiums.

(2) That there are possible alternatives to viatical settlement contracts including any accelerated death benefits or policy loans offered under the viator's life insurance policy.

(3) That a viatical settlement broker represents only the viator and not the insurer or the viatical settlement provider and owes a fiduciary duty to the viator, including a duty to act according to the viator's instructions and in the best interest of the viator.

(4) That some or all of the proceeds of the viatical settlement may be taxable under

federal income tax and state franchise and income taxes, and assistance may be sought from a professional tax advisor.

(5) That proceeds of the viatical settlement contract may be subject to the claims of creditors.

(6) That receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements and advice should be obtained from the appropriate government agencies.

(7) That the viator has the right to rescind a viatical settlement contract before the earlier of 30 calendar days after the date upon which the viatical settlement contract is executed by all parties or 15 calendar days after the viatical settlement proceeds have been paid to the viator. Rescission, if exercised by the viator, is effective only if both notice of the rescission is given and the viator repays all proceeds and any premiums, loans, and loan interest paid on the account of the viatical settlement within the rescission period. If the insured dies during the rescission period, the viatical settlement contract is deemed to have been rescinded, subject to repayment by the viator or the viator's estate to the viatical settlement provider of all viatical settlement proceeds and any premiums, loans, and loan interest paid on the account of the viatical settlement within 60 days after the insured's death.

(8) That funds must be sent to the viator within 3 business days after the viatical settlement provider has received the insurer or group administrator's written acknowledgment that ownership of the policy has been transferred and the beneficiary has been designated.

(9) That entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator. Assistance should be sought from a financial adviser.

(10) That the disclosure document must contain the following language: "A viatical settlement provider or viatical settlement broker may ask the insured for medical, financial, and personal information. All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of the insured's family members, the insured's spouse or the insured's significant other, may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every 2 years.

(11) That, following execution of a viatical settlement contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or for other purposes permitted by law. This contact is limited to once every 3 months if the insured has a life expectancy of more than one year, and no more than once each month if the insured has a life expectancy of one year or less. All such contracts shall be made only by a viatical settlement provider licensed in the state in which the viator resided at the time of the viatical settlement, or by the authorized representative of a duly licensed viatical settlement provider.

(12) If the policy to be viaticated is group coverage, the insured is advised to check with the manager of the group about whether permission is required to sell the policy or other conditions.

(13) Entering into a viatical settlement contract will result in investors having a financial interest in the insured's death.

(b) With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall provide the prospective viator with a document titled "Important Consumer Notices". The document must be provided to the prospective viator and contain, in conspicuous type size and format, the following:

"By entering into a viatical settlement contract:

(1) You are making a complex financial decision that may or may not be in your or your family's financial best interest. Seek independent advice from financial planning experts and responsible government agencies.

(2) You may not be able to purchase another life insurance policy.

(3) You could lose Medicaid and other valuable government benefits.

(4) You will receive proceeds that may be subject federal and state taxes and to the claims of creditors.

(5) You have sold your life insurance policy to strangers who have a financial interest in the life and death of the person whose life is insured by the policy.

(6) You or your residence may be contacted on a regular basis to determine if you have died or if your health status has deteriorated."

The disclosure document required by this subsection (b) shall be the cover page of the viatical settlement contract and shall be signed by the viator and the viatical settlement provider or viatical settlement broker. The viator and viatical settlement provider or viatical settlement broker shall sign the disclosure prior to signing the viatical settlement contract. A copy of the signed document must be provided to the viator.

(c) A viatical settlement provider shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures must be displayed conspicuously in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider, and provide the following information:

(1) The affiliation, if any, between the viatical settlement provider and the issuer of the policy to be acquired pursuant to a viatical settlement contract.

(2) The name, business address, and telephone number of the viatical settlement provider.

(3) Whether any affiliations or contractual arrangements exist between the viatical settlement provider and the viatical settlement purchaser.

(4) If a policy to be acquired pursuant to a viatical settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be acquired pursuant to a viatical settlement contract, the viator must be informed of the possible loss of coverage on the other lives under the policy and must be advised to consult with the viator's insurance producer or the company issuing the policy for advice on the proposed viatical settlement contract.

(5) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy. If known, the viatical settlement provider also shall disclose the availability of additional guaranteed insurance benefits, the dollar amount of accidental death and dismemberment benefits under the policy or certificate, and the extent to which the viator's interest in those benefits will be transferred as a result of the viator's settlement contract.

(6) The name, business address, and telephone number of the escrow agent, and that the viator may inspect or receive copies of the relevant escrow or trust agreements or documents. Also, that an escrow agent shall provide escrow services to the parties pursuant to a written agreement signed by the viatical settlement provider, the escrow agent, and the viator. At the close of escrow, the escrow agent must distribute the proceeds of the sale to the viator, minus any compensation to be paid to any other persons who provided services and to whom the viator has agreed to compensate out of the gross amount offered by the viatical settlement purchaser. All persons receiving any form of compensation under the escrow agreement shall be clearly identified, including name, business address, telephone number, and tax identification number.

(7) The amount of compensation received by the escrow agent.

(c) A viatical settlement broker shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide the following information:

(1) the name, business address, and telephone number of the viatical settlement broker;

(2) a full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract;

(3) any affiliations or contractual arrangements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contracts;

(4) the amount and method of calculating the broker's compensation, which term "compensation" includes anything of value paid or given to a proposed settlement broker in connection with the proposed viatical settlement contract;

(5) if any portion of the viatical settlement broker's compensation, as defined in paragraph (3) of this subsection (c), is taken from a proposed viatical settlement offer, the broker shall disclose the total amount of the viatical settlement offer and the percentage of the viatical settlement offer comprised by the viatical settlement broker's compensation; and

(6) the name of the legal owner and beneficiary of the insurance policy after the policy is sold pursuant to the viatical settlement contract and whether legal ownership of the policy and the beneficiary's right to collect benefits upon the viator's death can be sold.

(d) If the viatical settlement provider transfers ownership or changes the beneficiary of

the insurance policy, then the provider shall communicate in writing the change in ownership or beneficiary to the insured within 20 days after the change.

Section 40. Disclosure to insurer. Prior to the initiation of a plan, transaction, or series of transactions a viatical settlement broker or viatical settlement provider shall fully disclose to an insurer a plan, transaction, or series of transactions to which the viatical settlement broker or viatical settlement provider is a party to originate, renew, continue, or finance a life insurance policy with the insurer for the purpose of engaging in the business of viatical settlements at anytime prior to or during the first 2 years after issuance of the policy. The viatical settlement provider, viatical settlement broker, viator, or applicant for a policy shall, when requested, disclose that the prospective insured has undergone a life expectancy evaluation in connection with the issuance of a policy by a person or entity other than the insurer or its authorized representative. Any disclosure required under this Section must be made in writing.

Section 45. General rules.

(a) A viatical settlement provider entering into a viatical settlement contract shall first obtain:

(1) if the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract; as used in this item (1), "physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine and surgery or osteopathic medicine and surgery in all its branches; and

(2) a document in which the insured consents in writing to the release of his or her medical records to a licensed viatical settlement provider, viatical settlement broker, and the insurance company that issued the life insurance policy covering the life of the insured.

(b) Within 20 days after a viator executes documents necessary to transfer any rights under an insurance policy or within 20 days after entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by subsection (c) of this Section.

(c) The viatical provider shall deliver a copy of the medical release required under paragraph (2) of subsection (a) of this Section, a copy of the viator's application for the viatical settlement contract, the notice required under subsection (b) of this Section and a request for verification of coverage to the insurer that issued the life insurance policy that is the subject of the viatical settlement transaction. The viatical settlement provider shall use the NAIC's form for verification of coverage unless another form is developed and approved by the Director.

(d) Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the viator has a full and complete understanding of the viatical settlement contract, that he or she has a full and complete understanding of the benefits of the life insurance policy, acknowledges that he or she is entering into the viatical settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

(e) If a viatical settlement broker performs any of the activities required of a viatical settlement provider as described by subsection (a) through (d) of this Section, then the viatical settlement provider is deemed to have fulfilled that requirement.

(f) The insurer shall respond to a request for verification of coverage submitted on an approved form by a viatical settlement provider or viatical settlement broker within 30 calendar days after the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on an NAIC form or any other form approved by the Director. The insurer shall accept an original or facsimile or electronic copy of such request and any accompanying authorization signed by the viator. Failure by the insurer to meet its obligations under this subsection shall be a violation of subsection (b) of Section 50 and Section 75 of this Act.

(g) All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information.

(h) All viatical settlement contracts entered into in this State shall provide the viator with an absolute right to rescind the contract before the earlier of 30 calendar days after the date upon which the viatical settlement contract is executed by all parties or 15 calendar days after the viatical settlement proceeds have been sent to the viator as provided in Section 45. Rescission by the viator may be conditioned upon the

viator both giving notice and repaying to the viatical settlement provider within the rescission period all proceeds of the settlement and any premiums, loans and loan interest paid by or on behalf of the viatical settlement provider in connection with or as a consequence of the viatical settlement. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or viatical settlement purchaser, which shall be paid within 60 calendar days of the death of the insured. In the event of any rescission, if the viatical settlement provider has paid commissions or other compensation to a viatical settlement broker in connection with the rescinded transaction, the viatical settlement broker shall refund all such commissions and compensation to the viatical settlement provider within 5 business days following receipt of written demand from the viatical settlement provider, which demand shall be accompanied by either the viator's notice of rescission if rescinded at the election of the viator, or notice of the death of the insured if rescinded by reason of the death of the insured within the applicable rescission period.

(i) If a viatical settlement contract is rescinded by the viator pursuant to this Section, then ownership of the insurance policy reverts to the viator or to the viator's estate.

(j) The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the escrow agent. Within 3 business days after the date the escrow agent receives the document (or from the date the viatical settlement provider receives the documents, if the viator erroneously provides the documents directly to the viatical settlement provider), the viatical settlement provider shall pay or transfer the gross amount paid by the viatical settlement purchaser to the escrow agent for deposit in a trust account and set up for that purpose by the escrow agent in a state or federally-chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Upon payment of the settlement proceeds into the escrow or trust account, the escrow agent or trustee shall deliver the original change in ownership, assignment, or change in beneficiary forms to the viatical settlement provider, a representative of the viatical settlement provider, or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator. Funds shall be deemed sent by a viatical settlement provider to a viator as of the date that the escrow agent either releases the funds for wire transfer to the viator or places a check for delivery to the viator via United States Postal Service or other nationally recognized delivery service.

(k) Failure to transfer the proceeds to the viator for the viatical settlement contract within the time set forth in the disclosure pursuant to item (7) of subsection (a) of Section 35 of this Act renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. If a viatical settlement contract is voided by the viator pursuant to this subsection (k), then ownership of the policy reverts to the viator or to the viator's estate.

(l) After the viatical settlement contract has been effected, contacts with the insured for the purpose of determining the health status of the insured shall be made only by the viatical settlement provider or the authorized representative of the viatical settlement provider. The viatical settlement provider or authorized representative shall not contact the insured with the purpose of determining the insured's health status more than once every 3 months if the insured has a life expectancy of more than one year or more than once per month if the insured has a life expectancy of one year or less. The viatical settlement provider shall explain the procedure for making these contacts at the time the viatical settlement contract is entered into. For purposes of this Section, viatical settlement providers are responsible for the actions of their authorized representatives.

(m) The insurer that issued the policy being settled pursuant to a viatical settlement contract shall not be responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

(n) If there is more than one viator on a single policy and the viators are residents of different states, then the transaction shall be governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all the viators.

Subject to the provisions of this subsection (n), if the viator is a resident of this State, then all agreements to be signed by the viator shall provide exclusive jurisdiction to courts of this State and the laws of this

State shall govern the agreements. Nothing in the agreements shall abrogate the viator's right to a trial by jury.

(o) Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and not the insurer or the viatical settlement provider and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.

Section 50. Prohibited practices.

(a) It is a violation of this Act for any person to enter into a viatical settlement contract prior to the application of or issuance of a policy that is the subject of the viatical settlement contract. It is a violation of this Act for any person to enter into stranger-originated life insurance or STOLI as defined by this Act.

(b) It is a violation of this Act for any person to enter into a viatical settlement contract within a 2-year period commencing with the date of issuance of the insurance policy unless the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:

(1) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 24 months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

(2) The viator certifies and submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:

(A) the viator or insured is terminally or chronically ill;

(B) the viator's spouse dies;

(C) the viator divorces his or her spouse;

(D) the viator retires from full-time employment;

(E) the viator becomes physically or mentally disabled and a physician determines that the disability prevents the viator from maintaining full-time employment;

(F) a court of competent jurisdiction enters a final order, judgment, or decree on the application of a creditor of the viator, adjudicating the viator bankrupt or insolvent, or approving a petition seeking reorganization of the viator or appointing a receiver, trustee, or liquidator to all or a substantial part of the viator's assets;

(G) the sole beneficiary of the policy is a family member of the viator and the beneficiary dies; or

(H) any other condition that the Director may determine by regulation to be an extraordinary circumstance for the viator or the insured.

(c) Copies of the independent evidence described in paragraph (2) of subsection (b) of this Section and documents required by Section 45 shall be submitted to the insurer when the viatical settlement provider or any other party entering into a viatical settlement contract with a viator submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

(d) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in and the independent evidence required by paragraph (2) of subsection (b) of this Section when the viatical settlement provider submits a request to the insurer to effect the transfer of the policy to the viatical settlement provider, then the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirements of this Section, and the insurer shall timely respond to the request.

(e) No insurer may, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a viatical settlement contract, require that the viator, insured, viatical settlement provider, or viatical settlement broker sign any forms, disclosures, consent, or waiver form that has not been expressly approved by the Director for use in connection with viatical settlement contracts in this State.

(f) Upon receipt of a properly completed request for change of ownership or beneficiary of a policy, the insurer shall respond in writing within 30 calendar days to confirm that the change has been effected or specifying the reasons why the requested change cannot be processed. No insurer shall unreasonably delay effecting change of ownership or beneficiary or seek to interfere with any viatical settlement contract lawfully entered into in this State.

Section 55. Prohibited practices and conflicts of interest.

(a) With respect to any viatical settlement contract or insurance policy, no viatical settlement broker knowingly shall solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, financing entity, or related provider that is controlling, controlled by, or under common control with such viatical settlement broker, unless such relationship is fully disclosed to the viator.

(b) With respect to any viatical settlement contract or insurance policy, no viatical settlement provider knowingly may enter into a viatical settlement contract with a viator, if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related provider trust that is involved in such viatical settlement contract, unless such relationship is fully disclosed to the viator.

(c) Any disclosure provided pursuant to subsections (a) and (b) of this Section must be provided along with the disclosures required by subsection (a) of Section 35 and contain the following language: "The financial relationship between your viatical settlement broker and the provider of the viatical settlement creates a potential conflict of interest between your financial interests and the financial interests of the viatical settlement broker and viatical settlement provider. The individual brokering this viatical transaction owes you a fiduciary duty or a duty of loyalty. Your viatical settlement broker must advise you based exclusively upon your best interests, not the best interests of the viatical settlement broker or the viatical settlement provider."

(d) A violation of subsection (a), subsection (b), or subsection (c) shall be deemed viatical settlement fraud.

(e) No person shall issue, solicit, or market the purchase of an insurance policy for the purpose of settling the policy. Nothing in this subsection (e) shall prohibit persons from using and discussing the written materials that the Director shall approve prior to the effective date of this Act and that inform consumers of their rights with respect to a life insurance policy, including the option of entering into a lawful viatical settlement contract. Nothing in this subsection (e) limits or otherwise impairs the terms of a contract between an insurer and its producers.

(f) A viatical settlement provider shall retain all copies of a viatical settlement promotional, advertising, and marketing materials and shall make these material available to the Director on request. In no event shall any marketing materials expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause a viator to reasonably believe that the insurance is free for any period of time shall be considered a violation of this Act.

(g) No insurance producer, insurance company, viatical settlement broker, or viatical settlement provider shall make any statement or representation to a potential or actual insured or potential or actual viator in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

Section 60. Advertising for viatical settlements.

(a) The purpose of this Section is to provide prospective viators with clear and unambiguous statements in the advertisement of viatical settlements and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any viatical settlement contract. All product descriptions must be presented in a manner that prevents unfair, deceptive, or misleading advertising and conducive to accurate presentation and description of viatical settlements through the advertising media and material used by licensees.

(b) This Section applies to any advertising of viatical settlement contracts or related products or services circulated or placed directly before the public, including Internet advertising. Where disclosure requirements are established pursuant to federal regulation, this Section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

(c) Every licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the licensees, as well as the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the licensee.

(d) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract product or service shall be sufficiently complete and

clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(e) The information required to be disclosed under this Section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract includes a "free look" period that satisfies or exceeds legal requirements, does not remedy misleading statements.

An advertisement shall not use the name or title of an insurance company or an insurance policy unless the advertisement has been approved by the insurer.

An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

The words "free", "no cost", "without cost", "no additional cost", "at no extra cost", or words of similar import shall not be used with respect to any life insurance policy or to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

Testimonials, appraisals, or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the viatical settlement contract, product, or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators as to the nature or scope of the testimonials, appraisal, analysis, or endorsement. In using testimonials, appraisals, or analyses, a licensee under this Act makes as its own all the statements contained therein, and the statements are subject to all the provisions of this Section.

If the individual making a testimonial, appraisal, analysis, or endorsement has a financial interest in the subject of the testimonial, appraisal, analysis, or endorsement, either directly or indirectly as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

An advertisement shall not state or imply that a viatical settlement contract, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between the group of individuals, society, association, or organization and the licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be prominently disclosed in the advertisement.

When an endorsement refers to benefits received under a viatical settlement contract all pertinent information shall be retained for a period of 5 years after its use.

(f) An advertisement shall not contain statistical information unless the information accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

(g) An advertisement shall not disparage insurers, viatical settlement providers, viatical settlement brokers, insurance producers, policies, services, or methods of marketing.

(h) The name of the licensee shall be clearly identified in all advertisements about the licensee or its viatical settlement contract, products, or services, and if any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider or providers shall be shown on the application.

(i) An advertisement shall not use a trade name, group designation, name of the parent company of a licensee, name of a particular division of the licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the licensee, or to create the impression that a company other than the licensee would have any responsibility for the financial obligation under a viatical settlement contract.

(j) An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

(k) An advertisement may state that a licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that competing licensees may not be so licensed. The advertisement may ask the audience to consult the licensee's Internet website or contact the Division to find out if the state requires licensing and, if so, whether the viatical settlement provider, or viatical settlement broker, is licensed.

(l) An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by any government entity.

(m) The name of the actual licensee shall be stated in all of a licensee's advertisements.

An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(n) An advertisement shall not directly or indirectly create the impression that any division or agency of the State or of the U. S. government endorses, approves, or favors:

- (1) any licensee or its business practices or methods of operation;
- (2) any viatical settlement contract; or
- (3) any life insurance policy or life insurance company.

(o) If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

(p) If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose, using the same type and font size as the dollar amount available to the viator, the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past 6 months.

Section 65. Fraud prevention and control.

(a) A person shall not commit the offense of viatical settlement fraud.

A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this Act or investigations of suspected or actual violations of this Act.

A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

(b) Viatical settlements contracts and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement: "Any person who knowingly presents false information in an application for insurance or a viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison."

The lack of a statement as required in this subsection (b) does not constitute a defense in any prosecution for the offense of viatical settlement fraud.

(c) Any person engaged in the business of viatical settlements having knowledge or a reasonable suspicion that a viatical settlement fraud is being, will be, or has been committed shall provide to the Director such information as required by, and in a manner prescribed by, the Director.

Any other person having knowledge or a reasonable belief that viatical settlement fraud is being, will be, or has been committed may provide to the Director the information required by, and in a manner prescribed by, the Director.

(d) No civil liability shall be imposed on and no cause of action shall arise from a person's furnishing information concerning suspected, anticipated, or completed viatical settlement fraud or suspected or completed fraudulent insurance acts, if the information is provided to or received from:

- (1) the Director or the Director's employees, agents, or representatives;
- (2) federal, State, or local law enforcement or regulatory officials or their employees, agents, or representatives;
- (3) a person involved in the prevention and detection of viatical settlement fraud or

that person's agents, employees, or representatives;

(4) the NAIC, the National Association of Securities Dealers (NASD), the North American Securities Administrators Association (NASAA), or their employees, agents, or representatives, or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud; or

(5) the life insurer that issued the life insurance policy covering the life of the insured.

(e) The immunity provided by subsection (d) of this Section shall not apply to statements made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning viatical settlement fraud, the party bringing the action shall plead specifically any allegation that subsection (d) does not apply because the person filing the report or furnishing the information did so with actual malice.

(f) A person furnishing information as identified in subsection (d) of this Section shall be entitled to an award of attorney's fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this Act and the party bringing the action was not substantially justified in doing so. For purposes of this Section a proceeding is substantially justified if it had a reasonable basis in law or fact at the time that it was initiated. However, such an award does not apply to any person furnishing information concerning the person's own fraudulent viatical settlement acts.

(g) This Section does not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in subsection (d) of this Section.

Subsection (d) of this Section does not apply to a person furnishing information concerning that person's own suspected, anticipated, or completed viatical settlement fraud or suspected, anticipated, or completed fraudulent insurance acts.

(h) The documents and evidence provided pursuant to subsection (d) of this Section or obtained by the Director in an investigation of suspected or actual viatical settlement fraud shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action. This subsection (h) does not prohibit release by the Director of documents and evidence obtained in an investigation of suspected or actual viatical settlement fraud: (1) in administrative or judicial proceedings to enforce laws administered by the Director; (2) to federal, State, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing viatical settlement fraud or to the NAIC; or (3) at the discretion of the Director, to a person in the business of viatical settlements that is aggrieved by a viatical settlement fraud. Release of documents and evidence under this subsection (h) does not abrogate or modify the privilege granted in this subsection.

(i) This Act shall not do any of the following:

(1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of law.

(2) Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the Division.

(3) Limit the powers granted elsewhere by the laws of this State to the Director or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

(i) Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent viatical settlement fraud. At the discretion of the Director, the Director may order, or a licensee may request and the Director may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this Section.

Antifraud initiatives shall include the following:

(1) fraud investigators, who may be viatical settlement providers or viatical settlement broker employees or independent contractors; and

(2) an antifraud plan, which shall be submitted to the Director. The antifraud plan shall include, but not be limited to:

(A) a description of the procedures for detecting and investigating possible viatical settlement fraud and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) a description of the procedures for reporting possible viatical settlement fraud

to the Director;

(C) a description of the plan for antifraud education and training of underwriters and other personnel;

(D) a description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible viatical settlement fraud and investigating unresolved material inconsistencies between medical records and insurance applications; and

(E) a description of the procedures used to perform initial and continuing review of the accuracy of life expectancies used in connection with a viatical settlement contract.

Antifraud plans submitted to the Director shall be privileged and confidential and are not public record and are not subject to discovery or subpoena in a civil or criminal action.

Section 70. Injunctions; civil remedies; cease and desist.

(a) In addition to the penalties and other enforcement provisions of this Act, if any person violates this Act or any rules implementing this Act, the Director may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Director determines are necessary to restrain the person from committing the violation.

(b) Any person damaged by the acts of a person in violation of this Act may bring a civil action against the person committing the violation in a court of competent jurisdiction.

(c) The Director may issue, in accordance with Section 401.1 of the Illinois Insurance Code and the Illinois Administrative Procedure Act, a cease and desist order upon a person that violates any provision of this Act, any regulation or order adopted by the Director, or any written agreement entered into with the Director.

(d) In addition to the penalties and other enforcement provisions of this Act, any person who violates this Act is subject to civil penalties of up to \$50,000 per violation. Each separate violation of this Act shall be a separate offense. If a person is subject to an order of the Director for violations of this Act and continually fails to obey or neglects to obey the order, then each day of such failure or neglect shall be deemed a separate offense. Imposition of civil penalties shall be pursuant to an order of the Director. The Director's order may require a person found to be in violation of this Act to make restitution to persons aggrieved by violations of this Act.

Section 72. Crimes and offenses.

(a) A person acting in this State as a viatical settlement provider without having been licensed pursuant to Section 10 of this Act who willfully violates any provision of this Act or any rule adopted or order issued under this Act is guilty of a Class A misdemeanor and may be subject to a fine of not more than \$3,000. When such violation results in a loss of more than \$10,000, the person shall be guilty of a Class 3 felony and may be subject to a fine of not more than \$10,000.

(b) A person acting in this State as a viatical settlement broker without having met the licensure and notification requirements established by Section 10 of this Act who willfully violates any provision of this Act or any rule adopted or order issued under this Act is guilty of a Class A misdemeanor and may be subject to a fine of not more than \$3,000. When such violation results in a loss of more than \$10,000, the person shall be guilty of a Class 3 felony and may be subject to a fine of not more than \$10,000.

(c) The Director may refer such evidence as is available concerning violations of this Act or any rule adopted or order issued under this Act or of the failure of the a person to comply with the licensing requirements of this Act to the Attorney General or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this Act.

(d) A person commits the offense of viatical settlement fraud when:

(1) For the purpose of depriving another of property or for pecuniary gain any person knowingly:

(A) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, life expectancy provider, viatical settlement purchaser, financing entity, insurer, insurance producer, or any other person, false material information, or conceals material information, as part of, in support of or concerning a fact material to one or more of the following:

(i) an application for the issuance of a viatical settlement contract or insurance policy;

(ii) the underwriting of a viatical settlement contract or insurance policy;

(iii) a claim for payment or benefit pursuant to a viatical settlement contract

- or insurance policy;
- (iv) premiums paid on an insurance policy;
- (v) payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or insurance policy;
- (vi) the reinstatement or conversion of an insurance policy;
- (vii) in the solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy;
- (viii) the issuance of written evidence of viatical settlement contract, or insurance; or
- (ix) a financing transaction; or
- (B) employs any plan, financial structure, device, scheme, or artifice to defraud related to viaticated policies; or
- (C) enters into any act, practice, or arrangement which involves stranger-originated life insurance.

(2) In furtherance of a scheme to defraud, to further a fraud, or to prevent or hinder the detection of a scheme to defraud any person knowingly does or permits his employees or agents to do any of the following:

(A) remove, conceal, alter, destroy, or sequester from the Director the assets or records of a licensee or other person engaged in the business of viatical settlements;

(B) misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;

(C) transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; or

(D) file with the Director or the equivalent chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceals information about a material fact from the Director;

(3) Any person knowingly steals, misappropriates, or converts monies, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance;

(4) Any person recklessly enters into, negotiates, brokers, or otherwise deals in a viatical settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the person or the persons intended to defraud the policy's issuer, the viatical settlement provider or the viator; or

(5) Any person facilitates the change of state of ownership of a policy or the state of residency of a viator to a state or jurisdiction that does not have a law similar to this Act for the express purposes of evading or avoiding the provisions of this Act.

(c) For purposes of this Section, "person" means (i) an individual, (ii) a corporation, (iii) an officer, agent, or employee of a corporation, (iv) a member, agent, or employee of a partnership, or (v) a member, manager, employee, officer, director, or agent of a limited liability company who, in any such capacity described by this subsection (c), commits viatical settlement fraud.

Section 75. Unfair trade practices. A violation of this Act, including the commission of viatical settlement fraud, shall be considered an unfair trade practice under Article XXVI of the Illinois Insurance Code.

Section 85. Additional powers. In addition to any other hearing, examination, or investigation specifically provided for by this Act, the Director may conduct such hearings, examinations, and investigations as are provided for by Sections 402 and 403 of the Illinois Insurance Code.

Section 90. Insurance Code Provisions. Insurance producers operating as viatical settlement brokers shall be subject to Article XXXI of the Illinois Insurance Code.

Section 95. Applicability of securities laws. Nothing in this Act shall preempt or otherwise limit the provisions of the Illinois Securities Law of 1953 or any regulations, bulletins, or other interpretations issued by or through the Division acting pursuant to the Illinois Securities Law of 1953. Compliance with the provisions of this Act shall not constitute compliance with any applicable provision of the Illinois Securities Law of 1953 and any amendments thereto or any regulations, notices, bulletins, or other interpretations issued by or through the Division acting pursuant to the Illinois Securities Law of 1953.

Section 100. Viatical settlement provider application. A viatical settlement provider lawfully transacting

business in this State may continue to do so pending approval or disapproval of the provider's application for a license as long as the application is filed with the Director not later than 30 days after the effective date of this Act.

Section 105. Application of this Act. Notwithstanding any other provisions of this Act, nothing in this Act shall apply in the following instances:

(i) The purchase of the cash value of a life insurance policy and rights impacting the cash value, including death benefits, for an amount approximately equal to the cash value, but only to the extent that such death benefits include cash value or its monetary equivalent.

(ii) The collateral assignment of a life insurance policy or an interest in a life insurance policy by an owner of such a policy or an interest in such a policy if such collateral assignment is effected for the sole purpose of financing or refinancing the purchase described in item (i).

To be eligible for regulatory treatment pursuant to this Section 105, the individual or entity seeking such treatment must first provide written notice to the Director that the individual or entity engages in a business practice as described in items (i) or (ii). Such notice shall be in a form and manner and at a fee as prescribed by the Director and renewed 2 years from the date on which the prior notice is received by the Director. To the extent that an individual or entity is exempted pursuant to this Section and is then later determined to have been engaged in STOLI and to have circumvented the application of this Act through this Section, the Director shall take appropriate remedial action, including, but not limited to, license revocation, appropriate monetary penalties, or both, or other penalties as provided in Section 72 of this Act and subsections (a) through (g) of Section 500-70 the Illinois Insurance Code.

Section 900. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7) (from Ch. 116, par. 207)

(Text of Section before amendment by P.A. 95-988)

Sec. 7. Exemptions.

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection; and

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

- (iii) deprive a person of a fair trial or an impartial hearing;
 - (iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
 - (v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;
 - (vi) constitute an invasion of personal privacy under subsection (b) of this Section;
 - (vii) endanger the life or physical safety of law enforcement personnel or any other person; or
 - (viii) obstruct an ongoing criminal investigation.
- (d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:
- (i) chronologically maintained arrest information, such as traditional arrest logs or blotters;
 - (ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
 - (iii) court records that are public;
 - (iv) records that are otherwise available under State or local law; or
 - (v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

- (e) Records that relate to or affect the security of correctional institutions and detention facilities.
- (f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.
- (g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:
 - (i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.
 - (ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.
- (h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.
- (i) Valuable formulae, computer geographic systems, designs, drawings and research data

obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public

Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(rr) Information contained in or related to proposals, bids, or negotiations related to

electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(tt) Information the disclosure of which is exempted under the Viatical Settlements Act of 2009.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-941, eff. 8-29-08.)

(Text of Section after amendment by P.A. 95-988)

Sec. 7. Exemptions.

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection;

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs; and

(vii) the Notarial Record or other medium containing the thumbprint or fingerprint required by Section 3-102(c)(6) of the Illinois Notary Public Act.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

- (i) chronologically maintained arrest information, such as traditional arrest logs or blotters;
- (ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
- (iii) court records that are public;
- (iv) records that are otherwise available under State or local law; or
- (v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:

(i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determine the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure

would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(rr) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(tt) Information the disclosure of which is exempted under the Viatical Settlements Act of 2009.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-941, eff. 8-29-08; 95-988,

eff. 6-1-09; revised 10-20-08.)

Section 905. The Illinois Insurance Code is amended by changing Section 500-70 as follows:

(215 ILCS 5/500-70)

(Section scheduled to be repealed on January 1, 2017)

Sec. 500-70. License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take 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 rule, subpoena, or order of the Director or of another state's insurance commissioner;
- (3) obtaining or attempting to obtain a license through misrepresentation or fraud;
- (4) improperly withholding, misappropriating or converting any moneys 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 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 producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory;
- (10) forging a name to an application for insurance or to a document related to an insurance transaction;
- (11) improperly using notes or any other reference material to complete an examination for an insurance license;
- (12) knowingly accepting insurance business from an individual who is not licensed;
- (13) failing to comply with an administrative or court order imposing a child support obligation;
- (14) failing to pay state income tax or penalty or interest or comply with any administrative or court order directing payment of state income tax or failed to file a return or to pay any final assessment of any tax due to the Department of Revenue; ~~or~~
- (15) failing to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted student loan; or -
- (16) failing to comply with any provision of the Viatical Settlements Act of 2009.

(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 partnership, corporation, limited liability company, or limited liability partnership and the violation was neither reported to the Director nor corrective action taken.

(d) 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 has 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 Code or rules even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a license, the licensee or other person having possession

or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify interested insurance companies and other persons.

(g) A person whose license is revoked or whose application is denied pursuant to this Section is ineligible to apply for any license for 3 years after the revocation or denial. A person whose license as an insurance producer has been revoked, suspended, or denied may not be employed, contracted, or engaged in any insurance related capacity during the time the revocation, suspension, or denial is in effect.

(Source: P.A. 92-386, eff. 1-1-02; 93-32, eff. 7-1-03.)

Section 910. The Illinois Securities Law of 1953 is amended by changing Section 2.1 and by adding Section 2.33 as follows:

(815 ILCS 5/2.1) (from Ch. 121 1/2, par. 137.2-1)

Sec. 2.1. Security. "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical investment, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral lease, right or royalty, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or privilege entered into, relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not mean a mineral investment contract or a mineral deferred delivery contract; provided, however, the Department shall have the authority to regulate these contracts as hereinafter provided.

(Source: P.A. 92-308, eff. 1-1-02; 93-927, eff. 8-12-04.)

(815 ILCS 5/2.33 new)

Sec. 2.33. Viatical investment. "Viatical investment" means the contractual right to receive any portion of the death benefit or ownership of a life insurance policy or certificate for consideration that is less than the expected death benefit of the life insurance policy or certificate. "Viatical investment" does not include:

(1) any transaction between a viator and a viatical settlement provider, as defined in the Viatical Settlements Act of 2009;

(2) any transfer of ownership or beneficial interest in a life insurance policy from a viatical settlement provider to another viatical settlement provider, as defined in the Viatical Settlements Act of 2009, or to any legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;

(3) the bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union, or financial institution as collateral for a loan; for the purposes of this item (3), "financial institution" means financial institution as defined by Viatical Settlements Act of 2009; or

(4) a policy loan by a life insurance company or the exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with the Illinois Insurance Code.

(215 ILCS 158/Act rep.)

Section 950. The Viatical Settlements Act is repealed.

Section 995. 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 999. Effective date. This Act takes effect July 1, 2010."

Representative Mautino offered the following amendments and moved their adoption:

AMENDMENT NO. 2. Amend Senate Bill 2091, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, as follows:

on page 5, line 14, by deleting "or for the benefit of"; and

on page 19, by replacing lines 11 through 21 with the following:

"(o) Viatical settlement providers licensed under the Viatical Settlements Act as of the effective date of this amendatory Act of the 96th General Assembly shall be deemed licensed under this Act. All such providers are required to maintain or come into compliance with all of the license requirements of this Act and to provide evidence to the Director that they are in compliance with item (4) of subsection (k) of this

Section, concerning financial responsibility; item (6) of subsection (k) of this Section, concerning an anti-fraud plan; and subsection (m) of this Section, concerning life expectancies no later than the effective date of this Act. Such providers shall not be exempt from the requirements for viatical settlement provider license renewal set forth in subsection (i) of this Section. The first anniversary date for the purpose of license renewal under subsection (i) shall be one year from the effective date of this amendatory Act of the 96th General Assembly."; and
on page 45, by deleting lines 23 and 24; and
on page 45, line 25, by replacing "(c)" with "(d)"; and
on page 47, line 4, by replacing "(d)" with "(e)".

AMENDMENT NO. 3. Amend Senate Bill 2091, AS AMENDED, with reference to page and line numbers of House Amendment No. 1 as follows:

on page 9, by replacing lines 2 and 3 with the following:

"following acts, practices, or arrangements listed below in subparagraphs (a) through (i) of this definition of "viatical settlement contract", unless part of a plan, scheme, device, or artifice to avoid application of this Act; provided, however, that the list of excluded items contained in subparagraphs (a) through (i) is not intended to be an exhaustive list and that an act, practice, or arrangement that is not described below in subparagraphs (a) through (i) does not necessarily constitute a viatical settlement contract."; and

on page 69, line 17, by replacing "statements made with actual malice." with "false statements made willfully or wantonly."; and

on page 69, by replacing lines 21 through 23 with the following:

"any allegation that subsection (d) does not apply."; and

on page 79, lines 14 and 20, by replacing "Division" each time it appears with "Secretary of State".

The foregoing motions prevailed and the amendments were adopted.

There being no further amendment(s), the bill, as amended, was advanced to the order of Third Reading.

ACTION ON MOTIONS

Pursuant to Rule 18(g), Representative Black moved for unanimous consent to discharge the Committee on Rules from further consideration of HOUSE JOINT RESOLUTION CONSTITUTIONAL AMENDMENT 10 and be placed on the appropriate order of business, and requested a record vote on the motion.

Representative Currie was recognized and announced her opposition to the motion.

The Chair ruled that a record vote was not necessary because the motion had already lost due to the denial of unanimous consent.

Representative Black moved to appeal from the ruling of the Chair

On that question of sustaining the ruling of the Chair, a vote was taken resulting as follows:

61, Yeas; 47, Nays; 0, Answering Present.

(ROLL CALL 2)

The motion prevailed and the Chair was sustained.

RECALL

At the request of the principal sponsor, Representative Reitz, SENATE BILL 450 was recalled from the order of Third Reading to the order of Second Reading.

SENATE BILLS ON SECOND READING

SENATE BILL 450. Having been recalled on May 26, 2009 the same was again taken up.

The following amendment was offered in the Committee on Revenue & Finance, adopted and reproduced.

AMENDMENT NO. 1. Amend Senate Bill 450 by replacing everything after the enacting clause with the following:

"Section 5. The Use Tax Act is amended by changing Section 1 as follows:
(35 ILCS 105/1) (from Ch. 120, par. 439.1)

Sec. 1. This Act shall be known ~~and~~ and may be cited as the "Use Tax Act".
(Source: Laws 1955, p. 2027.)".

Representative Reitz offered the following amendment and moved its adoption:

AMENDMENT NO. 2. Amend Senate Bill 450, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Use Tax Act is amended by changing Section 3-5 as follows:
(35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Personal property purchased by a governmental body, by a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or by a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active exemption identification number issued by the Department.

(5) Until July 1, 2003, a passenger car that is a replacement vehicle to the extent that the purchase price of the car is subject to the Replacement Vehicle Tax.

(6) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order, certified by the purchaser to be used primarily for graphic arts production, and including machinery and equipment purchased for lease. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(7) Farm chemicals.

(8) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(9) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(10) A motor vehicle of the first division, a motor vehicle of the second division that is a self-contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more

than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act.

(11) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (11). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (11) is exempt from the provisions of Section 3-90.

(12) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(13) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages purchased at retail from a retailer, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(14) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(15) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(16) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(17) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(18) Manufacturing and assembling machinery and equipment used primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether that sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether that sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(19) Personal property delivered to a purchaser or purchaser's donee inside Illinois when the purchase order for that personal property was received by a florist located outside Illinois who has a florist located

inside Illinois deliver the personal property.

(20) Semen used for artificial insemination of livestock for direct agricultural production.

(21) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (21) is exempt from the provisions of Section 3-90, and the exemption provided for under this item (21) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008.

(22) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(23) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(24) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(25) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(26) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-90.

(27) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods

common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(28) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-90.

(29) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-90.

(30) Beginning January 1, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(31) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(32) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active sales tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Service Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Service Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-90.

(33) On and after July 1, 2003 and through June 30, 2004, the use in this State of motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds and that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a

gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, the term "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise, whether for-hire or not.

(34) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-90.

(35) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 10. The Service Use Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 110/3-5) (from Ch. 120, par. 439.33-5)

Sec. 3-5. Exemptions. Use of the following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property purchased from a corporation, society, association, foundation, institution, or organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a non-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property purchased from a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the

Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-75.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages acquired as an incident to the purchase of a service from a serviceman, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(11) Proceeds from the sale of photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Semen used for artificial insemination of livestock for direct agricultural production.

(14) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (14) is exempt from the provisions of Section 3-75, and the exemption provided for under this item (14) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after the effective date of this amendatory Act of the 95th General Assembly for such taxes paid during the period beginning May 30, 2000 and ending on the effective date of this amendatory Act of the 95th General Assembly.

(15) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax

imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(16) Personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other non-exempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the non-qualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department.

(17) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(19) Beginning July 1, 1999, game or game birds purchased at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-75.

(20) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(21) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-75.

(22) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated

amusement and vending machines. This paragraph is exempt from the provisions of Section 3-75.

(23) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients purchased by a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the equipment is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property purchased by a lessor who leases the property, under a lease of one year or longer executed or in effect at the time the lessor would otherwise be subject to the tax imposed by this Act, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. If the property is leased in a manner that does not qualify for this exemption or is used in any other nonexempt manner, the lessor shall be liable for the tax imposed under this Act or the Use Tax Act, as the case may be, based on the fair market value of the property at the time the nonqualifying use occurs. No lessor shall collect or attempt to collect an amount (however designated) that purports to reimburse that lessor for the tax imposed by this Act or the Use Tax Act, as the case may be, if the tax has not been paid by the lessor. If a lessor improperly collects any such amount from the lessee, the lessee shall have a legal right to claim a refund of that amount from the lessor. If, however, that amount is not refunded to the lessee for any reason, the lessor is liable to pay that amount to the Department. This paragraph is exempt from the provisions of Section 3-75.

(26) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-75.

(27) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 15. The Service Occupation Tax Act is amended by changing Section 3-5 as follows:

(35 ILCS 115/3-5) (from Ch. 120, par. 439.103-5)

Sec. 3-5. Exemptions. The following tangible personal property is exempt from the tax imposed by this Act:

(1) Personal property sold by a corporation, society, association, foundation, institution, or organization,

other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(2) Personal property purchased by a not-for-profit Illinois county fair association for use in conducting, operating, or promoting the county fair.

(3) Personal property purchased by any not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(4) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(5) Until July 1, 2003 and beginning again on September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (7). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 3-55.

(8) Fuel and petroleum products sold to or used by an air common carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(9) Proceeds of mandatory service charges separately stated on customers' bills for the purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(10) Until July 1, 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois

Vehicle Code.

(11) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(12) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(13) Beginning January 1, 1992 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(14) Semen used for artificial insemination of livestock for direct agricultural production.

(15) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (15) is exempt from the provisions of Section 3-55, and the exemption provided for under this item (15) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(16) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(17) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act.

(18) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(19) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(20) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 3-55.

(21) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(22) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 3-55.

(23) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 3-55.

(24) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(25) Beginning on the effective date of this amendatory Act of the 92nd General Assembly, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of the Retailers' Occupation Tax Act. This paragraph is exempt from the provisions of Section 3-55.

(26) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (26). The permit issued under this paragraph (26) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(27) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 3-55.

(28) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.

(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876, eff. 8-21-08.)

Section 20. The Retailers' Occupation Tax Act is amended by changing Section 2-5 as follows:

(35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

Sec. 2-5. Exemptions. Gross receipts from proceeds from the sale of the following tangible personal property are exempt from the tax imposed by this Act:

(1) Farm chemicals.

(2) Farm machinery and equipment, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for production agriculture or State or federal agricultural programs, including individual replacement parts for the machinery and equipment, including machinery and equipment purchased for lease, and including implements of husbandry defined in Section 1-130 of the Illinois Vehicle Code, farm machinery and agricultural chemical and fertilizer spreaders, and nurse wagons required to be registered under Section 3-809 of the Illinois Vehicle Code, but excluding other motor vehicles required to be registered under the Illinois Vehicle Code. Horticultural polyhouses or hoop houses used for propagating, growing, or overwintering plants shall be considered farm machinery and equipment under this item (2). Agricultural chemical tender tanks and dry boxes shall include units sold separately from a motor vehicle required to be licensed and units sold mounted on a motor vehicle required to be licensed, if the selling price of the tender is separately stated.

Farm machinery and equipment shall include precision farming equipment that is installed or purchased to be installed on farm machinery and equipment including, but not limited to, tractors, harvesters, sprayers, planters, seeders, or spreaders. Precision farming equipment includes, but is not limited to, soil testing sensors, computers, monitors, software, global positioning and mapping systems, and other such equipment.

Farm machinery and equipment also includes computers, sensors, software, and related equipment used primarily in the computer-assisted operation of production agriculture facilities, equipment, and activities such as, but not limited to, the collection, monitoring, and correlation of animal and crop data for the purpose of formulating animal diets and agricultural chemicals. This item (7) is exempt from the provisions of Section 2-70.

(3) Until July 1, 2003, distillation machinery and equipment, sold as a unit or kit, assembled or installed by the retailer, certified by the user to be used only for the production of ethyl alcohol that will be used for consumption as motor fuel or as a component of motor fuel for the personal use of the user, and not subject to sale or resale.

(4) Until July 1, 2003 and beginning again September 1, 2004, graphic arts machinery and equipment, including repair and replacement parts, both new and used, and including that manufactured on special order or purchased for lease, certified by the purchaser to be used primarily for graphic arts production. Equipment includes chemicals or chemicals acting as catalysts but only if the chemicals or chemicals acting as catalysts effect a direct and immediate change upon a graphic arts product.

(5) A motor vehicle of the first division, a motor vehicle of the second division that is a self contained motor vehicle designed or permanently converted to provide living quarters for recreational, camping, or travel use, with direct walk through access to the living quarters from the driver's seat, or a motor vehicle of the second division that is of the van configuration designed for the transportation of not less than 7 nor more than 16 passengers, as defined in Section 1-146 of the Illinois Vehicle Code, that is used for automobile renting, as defined in the Automobile Renting Occupation and Use Tax Act. This paragraph is exempt from the provisions of Section 2-70.

(6) Personal property sold by a teacher-sponsored student organization affiliated with an elementary or secondary school located in Illinois.

(7) Until July 1, 2003, proceeds of that portion of the selling price of a passenger car the sale of which is subject to the Replacement Vehicle Tax.

(8) Personal property sold to an Illinois county fair association for use in conducting, operating, or promoting the county fair.

(9) Personal property sold to a not-for-profit arts or cultural organization that establishes, by proof required by the Department by rule, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code and that is organized and operated primarily for the presentation or support of arts or cultural programming, activities, or services. These organizations include, but are not limited to, music and dramatic arts organizations such as symphony orchestras and theatrical groups, arts and cultural service organizations, local arts councils, visual arts organizations, and media arts organizations. On and after the effective date of this amendatory Act of the 92nd General Assembly, however, an entity otherwise eligible for this exemption shall not make tax-free purchases unless it has an active identification number issued by the Department.

(10) Personal property sold by a corporation, society, association, foundation, institution, or

organization, other than a limited liability company, that is organized and operated as a not-for-profit service enterprise for the benefit of persons 65 years of age or older if the personal property was not purchased by the enterprise for the purpose of resale by the enterprise.

(11) Personal property sold to a governmental body, to a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, or to a not-for-profit corporation, society, association, foundation, institution, or organization that has no compensated officers or employees and that is organized and operated primarily for the recreation of persons 55 years of age or older. A limited liability company may qualify for the exemption under this paragraph only if the limited liability company is organized and operated exclusively for educational purposes. On and after July 1, 1987, however, no entity otherwise eligible for this exemption shall make tax-free purchases unless it has an active identification number issued by the Department.

(12) Tangible personal property sold to interstate carriers for hire for use as rolling stock moving in interstate commerce or to lessors under leases of one year or longer executed or in effect at the time of purchase by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(12-5) On and after July 1, 2003 and through June 30, 2004, motor vehicles of the second division with a gross vehicle weight in excess of 8,000 pounds that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code. Beginning on July 1, 2004 and through June 30, 2005, the use in this State of motor vehicles of the second division: (i) with a gross vehicle weight rating in excess of 8,000 pounds; (ii) that are subject to the commercial distribution fee imposed under Section 3-815.1 of the Illinois Vehicle Code; and (iii) that are primarily used for commercial purposes. Through June 30, 2005, this exemption applies to repair and replacement parts added after the initial purchase of such a motor vehicle if that motor vehicle is used in a manner that would qualify for the rolling stock exemption otherwise provided for in this Act. For purposes of this paragraph, "used for commercial purposes" means the transportation of persons or property in furtherance of any commercial or industrial enterprise whether for-hire or not.

(13) Proceeds from sales to owners, lessors, or shippers of tangible personal property that is utilized by interstate carriers for hire for use as rolling stock moving in interstate commerce and equipment operated by a telecommunications provider, licensed as a common carrier by the Federal Communications Commission, which is permanently installed in or affixed to aircraft moving in interstate commerce.

(14) Machinery and equipment that will be used by the purchaser, or a lessee of the purchaser, primarily in the process of manufacturing or assembling tangible personal property for wholesale or retail sale or lease, whether the sale or lease is made directly by the manufacturer or by some other person, whether the materials used in the process are owned by the manufacturer or some other person, or whether the sale or lease is made apart from or as an incident to the seller's engaging in the service occupation of producing machines, tools, dies, jigs, patterns, gauges, or other similar items of no commercial value on special order for a particular purchaser.

(15) Proceeds of mandatory service charges separately stated on customers' bills for purchase and consumption of food and beverages, to the extent that the proceeds of the service charge are in fact turned over as tips or as a substitute for tips to the employees who participate directly in preparing, serving, hosting or cleaning up the food or beverage function with respect to which the service charge is imposed.

(16) Petroleum products sold to a purchaser if the seller is prohibited by federal law from charging tax to the purchaser.

(17) Tangible personal property sold to a common carrier by rail or motor that receives the physical possession of the property in Illinois and that transports the property, or shares with another common carrier in the transportation of the property, out of Illinois on a standard uniform bill of lading showing the seller of the property as the shipper or consignor of the property to a destination outside Illinois, for use outside Illinois.

(18) Legal tender, currency, medallions, or gold or silver coinage issued by the State of Illinois, the government of the United States of America, or the government of any foreign country, and bullion.

(19) Until July 1 2003, oil field exploration, drilling, and production equipment, including (i) rigs and parts of rigs, rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and tubular goods, including casing and drill strings, (iii) pumps and pump-jack units, (iv) storage tanks and flow lines, (v) any individual replacement part for oil field exploration, drilling, and production equipment, and (vi) machinery and equipment purchased for lease; but excluding motor vehicles required to be registered under the Illinois

Vehicle Code.

(20) Photoprocessing machinery and equipment, including repair and replacement parts, both new and used, including that manufactured on special order, certified by the purchaser to be used primarily for photoprocessing, and including photoprocessing machinery and equipment purchased for lease.

(21) Until July 1, 2003, coal exploration, mining, offhighway hauling, processing, maintenance, and reclamation equipment, including replacement parts and equipment, and including equipment purchased for lease, but excluding motor vehicles required to be registered under the Illinois Vehicle Code.

(22) Fuel and petroleum products sold to or used by an air carrier, certified by the carrier to be used for consumption, shipment, or storage in the conduct of its business as an air common carrier, for a flight destined for or returning from a location or locations outside the United States without regard to previous or subsequent domestic stopovers.

(23) A transaction in which the purchase order is received by a florist who is located outside Illinois, but who has a florist located in Illinois deliver the property to the purchaser or the purchaser's donee in Illinois.

(24) Fuel consumed or used in the operation of ships, barges, or vessels that are used primarily in or for the transportation of property or the conveyance of persons for hire on rivers bordering on this State if the fuel is delivered by the seller to the purchaser's barge, ship, or vessel while it is afloat upon that bordering river.

(25) Except as provided in item (25-5) of this Section, a motor vehicle sold in this State to a nonresident even though the motor vehicle is delivered to the nonresident in this State, if the motor vehicle is not to be titled in this State, and if a drive-away permit is issued to the motor vehicle as provided in Section 3-603 of the Illinois Vehicle Code or if the nonresident purchaser has vehicle registration plates to transfer to the motor vehicle upon returning to his or her home state. The issuance of the drive-away permit or having the out-of-state registration plates to be transferred is prima facie evidence that the motor vehicle will not be titled in this State.

(25-5) The exemption under item (25) does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for a motor vehicle sold and delivered in that state to an Illinois resident but titled in Illinois. The tax collected under this Act on the sale of a motor vehicle in this State to a resident of another state that does not allow a reciprocal exemption shall be imposed at a rate equal to the state's rate of tax on taxable property in the state in which the purchaser is a resident, except that the tax shall not exceed the tax that would otherwise be imposed under this Act. At the time of the sale, the purchaser shall execute a statement, signed under penalty of perjury, of his or her intent to title the vehicle in the state in which the purchaser is a resident within 30 days after the sale and of the fact of the payment to the State of Illinois of tax in an amount equivalent to the state's rate of tax on taxable property in his or her state of residence and shall submit the statement to the appropriate tax collection agency in his or her state of residence. In addition, the retailer must retain a signed copy of the statement in his or her records. Nothing in this item shall be construed to require the removal of the vehicle from this state following the filing of an intent to title the vehicle in the purchaser's state of residence if the purchaser titles the vehicle in his or her state of residence within 30 days after the date of sale. The tax collected under this Act in accordance with this item (25-5) shall be proportionately distributed as if the tax were collected at the 6.25% general rate imposed under this Act.

(25-7) Beginning on July 1, 2007, no tax is imposed under this Act on the sale of an aircraft, as defined in Section 3 of the Illinois Aeronautics Act, if all of the following conditions are met:

(1) the aircraft leaves this State within 15 days after the later of either the issuance of the final billing for the sale of the aircraft, or the authorized approval for return to service, completion of the maintenance record entry, and completion of the test flight and ground test for inspection, as required by 14 C.F.R. 91.407;

(2) the aircraft is not based or registered in this State after the sale of the aircraft; and

(3) the seller retains in his or her books and records and provides to the Department a signed and dated certification from the purchaser, on a form prescribed by the Department, certifying that the requirements of this item (25-7) are met. The certificate must also include the name and address of the purchaser, the address of the location where the aircraft is to be titled or registered, the address of the primary physical location of the aircraft, and other information that the Department may reasonably require.

For purposes of this item (25-7):

"Based in this State" means hangared, stored, or otherwise used, excluding post-sale customizations as defined in this Section, for 10 or more days in each 12-month period immediately

following the date of the sale of the aircraft.

"Registered in this State" means an aircraft registered with the Department of Transportation, Aeronautics Division, or titled or registered with the Federal Aviation Administration to an address located in this State.

This paragraph (25-7) is exempt from the provisions of Section 2-70.

(26) Semen used for artificial insemination of livestock for direct agricultural production.

(27) Horses, or interests in horses, registered with and meeting the requirements of any of the Arabian Horse Club Registry of America, Appaloosa Horse Club, American Quarter Horse Association, United States Trotting Association, or Jockey Club, as appropriate, used for purposes of breeding or racing for prizes. This item (27) is exempt from the provisions of Section 2-70, and the exemption provided for under this item (27) applies for all periods beginning May 30, 1995, but no claim for credit or refund is allowed on or after January 1, 2008 (the effective date of Public Act 95-88) for such taxes paid during the period beginning May 30, 2000 and ending on January 1, 2008 (the effective date of Public Act 95-88).

(28) Computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(29) Personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act.

(30) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is donated for disaster relief to be used in a State or federally declared disaster area in Illinois or bordering Illinois by a manufacturer or retailer that is registered in this State to a corporation, society, association, foundation, or institution that has been issued a sales tax exemption identification number by the Department that assists victims of the disaster who reside within the declared disaster area.

(31) Beginning with taxable years ending on or after December 31, 1995 and ending with taxable years ending on or before December 31, 2004, personal property that is used in the performance of infrastructure repairs in this State, including but not limited to municipal roads and streets, access roads, bridges, sidewalks, waste disposal systems, water and sewer line extensions, water distribution and purification facilities, storm water drainage and retention facilities, and sewage treatment facilities, resulting from a State or federally declared disaster in Illinois or bordering Illinois when such repairs are initiated on facilities located in the declared disaster area within 6 months after the disaster.

(32) Beginning July 1, 1999, game or game birds sold at a "game breeding and hunting preserve area" or an "exotic game hunting area" as those terms are used in the Wildlife Code or at a hunting enclosure approved through rules adopted by the Department of Natural Resources. This paragraph is exempt from the provisions of Section 2-70.

(33) A motor vehicle, as that term is defined in Section 1-146 of the Illinois Vehicle Code, that is donated to a corporation, limited liability company, society, association, foundation, or institution that is determined by the Department to be organized and operated exclusively for educational purposes. For purposes of this exemption, "a corporation, limited liability company, society, association, foundation, or institution organized and operated exclusively for educational purposes" means all tax-supported public schools, private schools that offer systematic instruction in useful branches of learning by methods common to public schools and that compare favorably in their scope and intensity with the course of study presented in tax-supported schools, and vocational or technical schools or institutes organized and operated exclusively to provide a course of study of not less than 6 weeks duration and designed to prepare individuals to follow a trade or to pursue a manual, technical, mechanical, industrial, business, or commercial occupation.

(34) Beginning January 1, 2000, personal property, including food, purchased through fundraising events for the benefit of a public or private elementary or secondary school, a group of those schools, or one or more school districts if the events are sponsored by an entity recognized by the school district that consists primarily of volunteers and includes parents and teachers of the school children. This paragraph does not apply to fundraising events (i) for the benefit of private home instruction or (ii) for which the fundraising entity purchases the personal property sold at the events from another individual or entity that sold the property for the purpose of resale by the fundraising entity and that profits from the sale to the fundraising entity. This paragraph is exempt from the provisions of Section 2-70.

(35) Beginning January 1, 2000 and through December 31, 2001, new or used automatic vending

machines that prepare and serve hot food and beverages, including coffee, soup, and other items, and replacement parts for these machines. Beginning January 1, 2002 and through June 30, 2003, machines and parts for machines used in commercial, coin-operated amusement and vending business if a use or occupation tax is paid on the gross receipts derived from the use of the commercial, coin-operated amusement and vending machines. This paragraph is exempt from the provisions of Section 2-70.

(35-5) Beginning August 23, 2001 and through June 30, 2011, food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and nonprescription medicines, drugs, medical appliances, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use, when purchased for use by a person receiving medical assistance under Article 5 of the Illinois Public Aid Code who resides in a licensed long-term care facility, as defined in the Nursing Home Care Act.

(36) Beginning August 2, 2001, computers and communications equipment utilized for any hospital purpose and equipment used in the diagnosis, analysis, or treatment of hospital patients sold to a lessor who leases the equipment, under a lease of one year or longer executed or in effect at the time of the purchase, to a hospital that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(37) Beginning August 2, 2001, personal property sold to a lessor who leases the property, under a lease of one year or longer executed or in effect at the time of the purchase, to a governmental body that has been issued an active tax exemption identification number by the Department under Section 1g of this Act. This paragraph is exempt from the provisions of Section 2-70.

(38) Beginning on January 1, 2002 and through June 30, 2011, tangible personal property purchased from an Illinois retailer by a taxpayer engaged in centralized purchasing activities in Illinois who will, upon receipt of the property in Illinois, temporarily store the property in Illinois (i) for the purpose of subsequently transporting it outside this State for use or consumption thereafter solely outside this State or (ii) for the purpose of being processed, fabricated, or manufactured into, attached to, or incorporated into other tangible personal property to be transported outside this State and thereafter used or consumed solely outside this State. The Director of Revenue shall, pursuant to rules adopted in accordance with the Illinois Administrative Procedure Act, issue a permit to any taxpayer in good standing with the Department who is eligible for the exemption under this paragraph (38). The permit issued under this paragraph (38) shall authorize the holder, to the extent and in the manner specified in the rules adopted under this Act, to purchase tangible personal property from a retailer exempt from the taxes imposed by this Act. Taxpayers shall maintain all necessary books and records to substantiate the use and consumption of all such tangible personal property outside of the State of Illinois.

(39) Beginning January 1, 2008, tangible personal property used in the construction or maintenance of a community water supply, as defined under Section 3.145 of the Environmental Protection Act, that is operated by a not-for-profit corporation that holds a valid water supply permit issued under Title IV of the Environmental Protection Act. This paragraph is exempt from the provisions of Section 2-70.

(40) Beginning January 1, 2010, materials, parts, equipment, components, and furnishings incorporated into or upon an aircraft as part of the modification, refurbishment, completion, replacement, repair, or maintenance of the aircraft. This exemption includes consumable supplies used in the modification, refurbishment, completion, replacement, repair, and maintenance of aircraft, but excludes any materials, parts, equipment, components, and consumable supplies used in the modification, replacement, repair, and maintenance of aircraft engines or power plants, whether such engines or power plants are installed or uninstalled upon any such aircraft. "Consumable supplies" include, but are not limited to, adhesive, tape, sandpaper, general purpose lubricants, cleaning solution, latex gloves, and protective films. This exemption applies only to those organizations that (i) hold an Air Agency Certificate and are empowered to operate an approved repair station by the Federal Aviation Administration, (ii) have a Class IV Rating, and (iii) conduct operations in accordance with Part 145 of the Federal Aviation Regulations. The exemption does not include aircraft operated by a commercial air carrier providing scheduled passenger air service pursuant to authority issued under Part 121 or Part 129 of the Federal Aviation Regulations.
(Source: P.A. 94-1002, eff. 7-3-06; 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304, eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08.)"

The foregoing motion prevailed and the amendment was adopted.

There being no further amendments, the foregoing amendment(s) was adopted and the bill, as amended, was held on the order of Second Reading.

SENATE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Beiser, SENATE BILL 933 was taken up and read by title a third time. Pending discussion, Representative Phelps moved the previous question.

And the question being, "Shall the main question be now put?" it was decided in the negative.

The motion failed and debate resumed.

The question then being, "Shall this bill pass?" it was decided in the affirmative by the following vote: 68, Yeas; 41, Nays; 1, Answering Present.

(ROLL CALL 3)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

RECALL

At the request of the principal sponsor, Representative Black, SENATE BILL 1906 was recalled from the order of Third Reading to the order of Second Reading.

SENATE BILLS ON SECOND READING

SENATE BILL 1906. Having been recalled on May 26, 2009, the same was again taken up.

Representative Black offered and withdrew Amendment No. 2.

There being no further amendments, the bill was ordered held on the order of Second Reading.

RECALL

At the request of the principal sponsor, Representative Jakobsson, SENATE BILL 2103 was recalled from the order of Third Reading to the order of Second Reading.

SENATE BILL ON SECOND READING

SENATE BILL 2103. Having been recalled on May 26, 2009, the same was again taken up.

Representative Jakobsson offered the following amendment and moved its adoption.

AMENDMENT NO. 1. Amend Senate Bill 2103, on page 17 by replacing lines 18 and 19 with the following:

"(1) Cause or allow water to accumulate in used or waste tires. The prohibition set forth in this paragraph (1) of subsection (k) shall not apply to used or waste tires located at a residential household, as long as not more than 12 used or waste tires are located at the site."

The foregoing motion prevailed and the amendment was adopted.

There being no further amendment(s), the bill, as amended, was again advanced to the order of Third Reading.

SENATE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Jakobsson, SENATE BILL 2103 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: 67, Yeas; 41, Nays; 0, Answering Present.

(ROLL CALL 4)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

CONCURRENCES AND NON-CONCURRENCES IN SENATE AMENDMENTS TO HOUSE BILLS

Senate Amendment No. 1 to HOUSE BILL 85, having been reproduced, was taken up for consideration.

Representative Jackson moved that the House not concur and ask the Senate to recede with respect to Senate Amendment No. 1.

The motion prevailed.

Ordered that the Clerk inform the Senate.

Senate Amendments numbered 1, 2, 3 and 4 to HOUSE BILL 261, having been reproduced, were taken up for consideration.

Representative Lang moved that the House not concur and ask the Senate to recede with respect to Senate Amendments numbered 1, 2, 3 and 4.

The motion prevailed.

Ordered that the Clerk inform the Senate.

Senate Amendment No. 1 to HOUSE BILL 529, having been reproduced, was taken up for consideration.

Representative Flowers moved that the House concur with the Senate in the adoption of Senate Amendment No. 1.

And on that motion, a vote was taken resulting as follows:

110, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 5)

The motion prevailed and the House concurred with the Senate in the adoption of Senate Amendment No. 1 to HOUSE BILL 529.

Ordered that the Clerk inform the Senate.

Senate Amendments numbered 1 and 2 to HOUSE BILL 2405, having been reproduced, were taken up for consideration.

Representative Hannig moved that the House concur with the Senate in the adoption of Senate Amendments numbered 1 and 2.

And on that motion, a vote was taken resulting as follows:

78, Yeas; 32, Nays; 0, Answering Present.

(ROLL CALL 6)

The motion prevailed and the House concurred with the Senate in the adoption of Senate Amendments numbered 1 and 2 to HOUSE BILL 2405.

Ordered that the Clerk inform the Senate.

ACTION ON MOTIONS

Pursuant to Rule 18(g), Representative Black moved for unanimous consent to discharge the Committee on Rules from further consideration of HOUSE BILL 4448 and advance to the order of Second Reading, and requested a record vote on the motion.

Representative Currie was recognized and announced her opposition to the motion.

The Chair ruled that a record vote was not necessary because the motion was already lost due to the denial of unanimous consent.

Representative Black moved to appeal from the ruling of the Chair.

On the question of sustaining the ruling of the Chair, a vote was taken resulting as follows:

62, Yeas; 47, Nays; 0, Answering Present.

(ROLL CALL 7)

The motion prevailed and the Chair was sustained.

SENATE BILL ON SECOND READING

Having been read by title a second time on May 21, 2009 and held, the following bill was taken up and advanced to the order of Third Reading: SENATE BILL 235.

SENATE BILL ON THIRD READING

The following bill and any amendments adopted thereto were reproduced. Any amendments still pending upon the passage or defeat of a bill on Third Reading are automatically tabled pursuant to Rule 40(a).

On motion of Representative Turner, SENATE BILL 235 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:

110, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 8)

This bill, as amended, having received the votes of a constitutional majority of the Members elected, was declared passed.

Ordered that the Clerk inform the Senate and ask their concurrence in the House amendment/s adopted.

RESOLUTION

Having been reported out of the Committee on Health Care Licenses on May 20, 2009, HOUSE JOINT RESOLUTION 55 was taken up for consideration.

Representative Reitz moved the adoption of the resolution.

And on that motion, a vote was taken resulting as follows:

110, Yeas; 0, Nays; 0, Answering Present.

(ROLL CALL 9)

The motion prevailed and the resolution was adopted.

Ordered that the Clerk inform the Senate and ask their concurrence.

SUSPEND POSTING REQUIREMENTS

Pursuant to Rule 25, Representative Currie moved to suspend the posting requirements of Rule 21 in relation to SENATE BILLS 52, 262, 265, 321, 451, 1433, 1466, 1609, 1825, 1846, 1959, 2052, 2168 and 2218 to be heard in Executive, and Senate Bills 256, 1623 and 1691 to be heard in Revenue.

The motion prevailed.

AGREED RESOLUTIONS

HOUSE RESOLUTIONS 455, 457, 458, 459, 460 and 461 were taken up for consideration.
Representative Currie moved the adoption of the agreed resolutions.
The motion prevailed and the agreed resolutions were adopted.

At the hour of 3:44 o'clock p.m., Representative Currie moved that the House do now adjourn until Wednesday, May 27, 2009, at 11:00 o'clock a.m., allowing perfunctory time for the Clerk.
The motion prevailed.
And the House stood adjourned.

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
QUORUM ROLL CALL FOR ATTENDANCE

May 26, 2009

0 YEAS

0 NAYS

113 PRESENT

P Acevedo	P Davis, Monique	P Jefferson	P Reis
P Arroyo	P Davis, William	P Joyce (ADDED)	P Reitz
P Bassi	P DeLuca	P Kosel	P Riley
P Beaubien	P Dugan	P Lang	P Rita (ADDED)
P Beiser	P Dunkin	P Leitch	P Rose
P Bellock	P Durkin	P Lyons	P Ryg
P Berrios	P Eddy	P Mathias	P Sacia
P Biggins	P Farnham	P Mautino	P Saviano
P Black	P Feigenholtz	P May	P Schmitz
P Boland (ADDED)	P Flider	P McAsey	P Senger
P Bost	P Flowers	P McAuliffe	P Smith
P Bradley	P Ford	P McCarthy	P Sommer
P Brady	P Fortner	P McGuire	P Soto
P Brauer	P Franks	P Mell	P Stephens
P Brosnahan (ADDED)	P Fritchey	P Mendoza	P Sullivan
P Burke	E Froehlich	P Miller	P Thapedi
P Burns	P Golar	P Mitchell, Bill	P Tracy
P Cavaletto	P Gordon, Careen	P Mitchell, Jerry	P Tryon
P Chapa LaVia	P Gordon, Jehan	P Moffitt	P Turner
P Coladipietro	P Graham (ADDED)	E Mulligan	P Verschoore
P Cole	P Hamos	P Myers	P Wait
E Collins	P Hannig	P Nekritz	P Walker
P Colvin	P Harris	P Osmond	P Washington
P Connelly	P Hatcher	P Osterman	P Watson
P Coulson	P Hernandez	P Phelps	P Winters
E Crespo	P Hoffman	P Pihos	P Yarbrough
P Cross	P Holbrook	P Poe	P Zalewski
E Cultra	P Howard	P Pritchard	P Mr. Speaker
P Currie	P Jackson	P Ramey (ADDED)	
P D'Amico	P Jakobsson	P Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 HOUSE JOINT RESOLUTION CONSTITUTIONAL AMENDMENT 10
 CONAMEND-RECALL ELECTIONS
 DISCHARGE COMMITTEE
 SHALL THE CHAIR BE SUSTAINED
 PREVAILED

May 26, 2009

61 YEAS

47 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
N Bassi	Y DeLuca	N Kosel	Y Riley
N Beaubien	Y Dugan	Y Lang	A Rita
Y Beiser	N Dunkin	N Leitch	N Rose
N Bellock	N Durkin	Y Lyons	Y Ryg
Y Berrios	N Eddy	N Mathias	N Sacia
N Biggins	Y Farnham	Y Mautino	N Saviano
N Black	Y Feigenholtz	Y May	N Schmitz
Y Boland	Y Flider	Y McAsey	N Senger
N Bost	Y Flowers	N McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
N Brady	N Fortner	Y McGuire	Y Soto
N Brauer	NV Franks	Y Mell	N Stephens
E Brosnahan	Y Fritchey	Y Mendoza	N Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	N Mitchell, Bill	N Tracy
N Cavaletto	Y Gordon, Careen	N Mitchell, Jerry	N Tryon
Y Chapa LaVia	Y Gordon, Jehan	N Moffitt	Y Turner
N Coladipietro	E Graham	E Mulligan	Y Verschoore
N Cole	Y Hamos	N Myers	N Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	N Osmond	Y Washington
N Connelly	N Hatcher	Y Osterman	N Watson
N Coulson	Y Hernandez	Y Phelps	N Winters
E Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	N Poe	Y Zalewski
E Cultra	Y Howard	N Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
Y D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 SENATE BILL 933
 TRANSPORTATION-TECH
 THIRD READING
 PASSED

May 26, 2009

68 YEAS

41 NAYS

1 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
N Bassi	Y DeLuca	N Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	N Leitch	N Rose
N Bellock	N Durkin	Y Lyons	Y Ryg
Y Berrios	N Eddy	Y Mathias	N Sacia
N Biggins	Y Farnham	Y Mautino	N Saviano
N Black	Y Feigenholtz	Y May	N Schmitz
Y Boland	Y Flider	Y McAsey	N Senger
N Bost	Y Flowers	N McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
N Brady	N Fortner	Y McGuire	Y Soto
N Brauer	Y Franks	Y Mell	Y Stephens
E Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	E Froehlich	Y Miller	P Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	N Tracy
N Cavaletto	N Gordon, Careen	N Mitchell, Jerry	N Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
N Coladipietro	E Graham	E Mulligan	Y Verschoore
N Cole	Y Hamos	N Myers	N Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	N Osmond	Y Washington
N Connelly	N Hatcher	Y Osterman	N Watson
N Coulson	Y Hernandez	Y Phelps	N Winters
E Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	N Poe	Y Zalewski
E Cultra	Y Howard	N Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
Y D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
SENATE BILL 2103
EPA-USED TIRE CITATIONS
THIRD READING
PASSED

May 26, 2009

67 YEAS

41 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	E Joyce	N Reitz
N Bassi	Y DeLuca	N Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	N Leitch	N Rose
N Bellock	N Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	N Mathias	N Sacia
N Biggins	Y Farnham	Y Mautino	N Saviano
N Black	Y Feigenholtz	Y May	N Schmitz
Y Boland	Y Flider	Y McAsey	N Senger
NV Bost	Y Flowers	N McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
N Brady	Y Fortner	Y McGuire	Y Soto
N Brauer	Y Franks	Y Mell	N Stephens
E Brosnahan	Y Fritchey	Y Mendoza	N Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	N Mitchell, Bill	N Tracy
N Cavaletto	Y Gordon, Careen	N Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	N Moffitt	Y Turner
N Coladipietro	E Graham	E Mulligan	Y Verschoore
N Cole	Y Hamos	N Myers	N Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	N Osmond	Y Washington
N Connelly	N Hatcher	Y Osterman	N Watson
Y Coulson	Y Hernandez	N Phelps	N Winters
E Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	NV Poe	Y Zalewski
E Cultra	Y Howard	N Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
Y D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 HOUSE BILL 529
 DCFS-SERVICE PLANS-GOALS
 MOTION TO CONCUR IN SENATE AMENDMENT NO. 1
 CONCURRED

May 26, 2009

110 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
E Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	E Graham	E Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
E Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
E Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
HOUSE BILL 2405
ADOPTION-CONSENTS
MOTION TO CONCUR IN SENATE AMENDMENTS NO. 1 & 2
CONCURRED

May 26, 2009

78 YEAS

32 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
Y Bassi	Y DeLuca	N Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	N Leitch	N Rose
N Bellock	N Durkin	Y Lyons	Y Ryg
Y Berrios	N Eddy	Y Mathias	Y Sacia
N Biggins	Y Farnham	Y Mautino	Y Saviano
N Black	Y Feigenholtz	Y May	N Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
N Brauer	Y Franks	Y Mell	N Stephens
E Brosnahan	Y Fritchey	Y Mendoza	N Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	N Mitchell, Bill	N Tracy
N Cavaletto	Y Gordon, Careen	N Mitchell, Jerry	N Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
N Coladipietro	E Graham	E Mulligan	Y Verschoore
N Cole	Y Hamos	N Myers	N Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	N Osmond	Y Washington
N Connelly	N Hatcher	Y Osterman	N Watson
Y Coulson	Y Hernandez	Y Phelps	N Winters
E Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	N Poe	Y Zalewski
E Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
Y D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 HOUSE BILL 4448
 DISCHARGE COMMITTEE
 SHALL THE RULING OF THE CHAIR BE SUSTAINED
 PREVAILED

May 26, 2009

62 YEAS

47 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	N Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
N Bassi	Y DeLuca	N Kosel	Y Riley
N Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	N Leitch	N Rose
N Bellock	N Durkin	Y Lyons	Y Ryg
Y Berrios	N Eddy	N Mathias	N Sacia
N Biggins	Y Farnham	Y Mautino	N Saviano
N Black	Y Feigenholtz	Y May	N Schmitz
N Boland	Y Flider	Y McAsey	N Senger
N Bost	Y Flowers	N McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	N Sommer
N Brady	N Fortner	Y McGuire	Y Soto
N Brauer	NV Franks	Y Mell	N Stephens
E Brosnahan	Y Fritchey	Y Mendoza	N Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	N Mitchell, Bill	N Tracy
N Cavaletto	Y Gordon, Careen	N Mitchell, Jerry	N Tryon
Y Chapa LaVia	Y Gordon, Jehan	N Moffitt	Y Turner
N Coladipietro	E Graham	E Mulligan	Y Verschoore
N Cole	Y Hamos	N Myers	N Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	N Osmond	Y Washington
N Connelly	N Hatcher	Y Osterman	N Watson
N Coulson	Y Hernandez	Y Phelps	N Winters
E Crespo	Y Hoffman	N Pihos	Y Yarbrough
N Cross	Y Holbrook	N Poe	Y Zalewski
E Cultra	Y Howard	N Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	N Ramey	
Y D'Amico	Y Jakobsson	N Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
 NINETY-SIXTH
 GENERAL ASSEMBLY
 HOUSE ROLL CALL
 SENATE BILL 235
 SCH CD-PRINCIPAL PROGRAMS
 THIRD READING
 PASSED

May 26, 2009

110 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
E Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	E Graham	E Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
E Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
E Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

STATE OF ILLINOIS
NINETY-SIXTH
GENERAL ASSEMBLY
HOUSE ROLL CALL
HOUSE JOINT RESOLUTION 55
AFFORDABLE ALZHEIMERS HOUSING
ADOPTED

May 26, 2009

110 YEAS

0 NAYS

0 PRESENT

Y Acevedo	Y Davis, Monique	Y Jefferson	Y Reis
Y Arroyo	Y Davis, William	E Joyce	Y Reitz
Y Bassi	Y DeLuca	Y Kosel	Y Riley
Y Beaubien	Y Dugan	Y Lang	Y Rita
Y Beiser	Y Dunkin	Y Leitch	Y Rose
Y Bellock	Y Durkin	Y Lyons	Y Ryg
Y Berrios	Y Eddy	Y Mathias	Y Sacia
Y Biggins	Y Farnham	Y Mautino	Y Saviano
Y Black	Y Feigenholtz	Y May	Y Schmitz
Y Boland	Y Flider	Y McAsey	Y Senger
Y Bost	Y Flowers	Y McAuliffe	Y Smith
Y Bradley	Y Ford	Y McCarthy	Y Sommer
Y Brady	Y Fortner	Y McGuire	Y Soto
Y Brauer	Y Franks	Y Mell	Y Stephens
E Brosnahan	Y Fritchey	Y Mendoza	Y Sullivan
Y Burke	E Froehlich	Y Miller	Y Thapedi
Y Burns	Y Golar	Y Mitchell, Bill	Y Tracy
Y Cavaletto	Y Gordon, Careen	Y Mitchell, Jerry	Y Tryon
Y Chapa LaVia	Y Gordon, Jehan	Y Moffitt	Y Turner
Y Coladipietro	E Graham	E Mulligan	Y Verschoore
Y Cole	Y Hamos	Y Myers	Y Wait
E Collins	Y Hannig	Y Nekritz	Y Walker
Y Colvin	Y Harris	Y Osmond	Y Washington
Y Connelly	Y Hatcher	Y Osterman	Y Watson
Y Coulson	Y Hernandez	Y Phelps	Y Winters
E Crespo	Y Hoffman	Y Pihos	Y Yarbrough
Y Cross	Y Holbrook	Y Poe	Y Zalewski
E Cultra	Y Howard	Y Pritchard	Y Mr. Speaker
Y Currie	Y Jackson	Y Ramey	
Y D'Amico	Y Jakobsson	Y Reboletti	

E - Denotes Excused Absence

61ST LEGISLATIVE DAY

Perfunctory Session

TUESDAY, MAY 26, 2009

At the hour of 7:19 o'clock p.m., the House convened perfunctory session.

TEMPORARY COMMITTEE ASSIGNMENTS

Representative Bellock replaced Representative Pihos in the Committee on Disability Services on May 26, 2009.

Representative Ford replaced Representative Crespo in the Committee on Disability Services on May 26, 2009.

Representative Lang replaced Representative Flowers in the Committee on Human Services on May 26, 2009.

Representative Beiser replaced Representative Collins in the Committee on Human Services on May 26, 2009.

Representative Beaubien replaced Representative Tryon in the Committee on Executive on May 26, 2009.

Representative Hamos replaced Representative Turner in the Committee on Executive on May 26, 2009.

Representative Monique Davis replaced Representative Burke in the Committee on Personnel and Pensions on May 26, 2009.

Representative Smith replaced Representative Brosnahan in the Committee on Personnel and Pensions on May 26, 2009.

Representative Beiser replaced Representative Acevedo in the Committee on Personnel and Pensions on May 26, 2009.

Representative Senger replaced Representative McAuliffe in the Committee on Personnel and Pensions on May 26, 2009.

Representative William Davis replaced Representative Froehlich in the Committee on Elementary & Secondary Education on May 26, 2009.

Representative McCarthy replaced Representative Crespo in the Committee on Elementary & Secondary Education on May 26, 2009.

Representative May replaced Representative Acevedo in the Committee on Telecommunications on May 26, 2009.

Representative Harris replaced Representative Brosnahan in the Committee on Telecommunications on May 26, 2009.

Representative Verschoore replaced Representative Froehlich in the Committee on Environmental Health on May 26, 2009.

Representative Holbrook replaced Representative Jehan Gordon in the Committee on Veterans' Affairs on May 26, 2009.

REPORTS FROM STANDING COMMITTEES

Representative McCarthy, Chairperson, from the Committee on Personnel and Pensions to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Motion be reported "recommends be adopted" and placed on the House Calendar: Motion to concur with Senate Amendment No. 1 to HOUSE BILL 519.

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 519 is as follows:

8, Yeas; 0, Nays; 0, Answering Present.

Y McCarthy(D), Chairperson	Y Colvin(D), Vice-Chairperson
A Poe(R), Republican Spokesperson	Y Beiser(D) (replacing Acevedo)
Y Brady(R)	A Brauer(R)
Y Smith(D)(replacing Brosnahan)	Y Davis, M(D) (replacing Burke)
Y Graham(D)	Y Senger(R) (replacing McAuliffe)

Representative Smith, Chairperson, from the Committee on Elementary & Secondary Education to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 612.

That the Motion be reported "recommends be adopted" and placed on the House Calendar:

Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 2625.

Motion to concur with Senate Amendments numbered 1 and 3 to HOUSE BILL 2675.

The committee roll call vote on Senate Bill 612 is as follows:

11, Yeas; 3, Nays; 1, Answering Present.

N Smith(D), Chairperson	Y McCarthy(D) (replacing Crespo)
Y Mitchell, Jerry(R), Republican Spokesperson	Y Bassi(R)
Y Cavaletto(R)	P Colvin(D)
N Davis, Monique(D)	A Dugan(D)
Y Eddy(R)	N Flider(D)
A Davis, W(D) (replacing Froehlich)	A Golar(D)
Y Miller(D)	Y Osterman(D)
Y Pihos(R)	Y Pritchard(R)
A Reis(R)	Y Senger(R)
Y Watson(R)	A Yarbrough(D)

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 2625 is as follows:

14, Yeas; 3, Nays; 1, Answering Present.

Y Smith(D), Chairperson	N McCarthy(D) (replacing Crespo)
Y Mitchell, Jerry(R), Republican Spokesperson	N Bassi(R)
Y Cavaletto(R)	Y Colvin(D)
Y Davis, Monique(D)	Y Dugan(D)
Y Eddy(R)	Y Flider(D)
Y Davis, W(D) (replacing Froehlich)	A Golar(D)
A Miller(D)	Y Osterman(D)
N Pihos(R)	Y Pritchard(R)
Y Reis(R)	Y Senger(R)

P Watson(R)

Y Yarbrough(D)

The committee roll call vote on Motion to Concur with Senate Amendment No. 2 to House Bill 2625 is as follows:

16, Yeas; 2, Nays; 1, Answering Present.

- | | |
|---|----------------------------------|
| Y Smith(D), Chairperson | Y McCarthy(D) (replacing Crespo) |
| Y Mitchell, Jerry(R), Republican Spokesperson | N Bassi(R) |
| Y Cavaletto(R) | Y Colvin(D) |
| Y Davis, Monique(D) | Y Dugan(D) |
| Y Eddy(R) | Y Flider(D) |
| Y Davis, W(D) (replacing Froehlich) | Y Golar(D) |
| A Miller(D) | Y Osterman(D) |
| N Pihos(R) | Y Pritchard(R) |
| Y Reis(R) | Y Senger(R) |
| P Watson(R) | Y Yarbrough(D) |

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 2675 is as follows:

20, Yeas; 0, Nays; 0, Answering Present.

- | | |
|---|----------------------------------|
| Y Smith(D), Chairperson | Y McCarthy(D) (replacing Crespo) |
| Y Mitchell, Jerry(R), Republican Spokesperson | Y Bassi(R) |
| Y Cavaletto(R) | Y Colvin(D) |
| Y Davis, Monique(D) | Y Dugan(D) |
| Y Eddy(R) | Y Flider(D) |
| Y Davis, W(D) (replacing Froehlich) | Y Golar(D) |
| Y Miller(D) | Y Osterman(D) |
| Y Pihos(R) | Y Pritchard(R) |
| Y Reis(R) | Y Senger(R) |
| Y Watson(R) | Y Yarbrough(D) |

The committee roll call vote on Motion to Concur with Senate Amendment No. 3 to House Bill 2675 is as follows:

17, Yeas; 0, Nays; 0, Answering Present.

- | | |
|---|----------------------------------|
| Y Smith(D), Chairperson | Y McCarthy(D) (replacing Crespo) |
| Y Mitchell, Jerry(R), Republican Spokesperson | Y Bassi(R) |
| Y Cavaletto(R) | A Colvin(D) |
| Y Davis, Monique(D) | A Dugan(D) |
| Y Eddy(R) | Y Flider(D) |
| Y Davis, W(D) (replacing Froehlich) | Y Golar(D) |
| Y Miller(D) | Y Osterman(D) |
| Y Pihos(R) | Y Pritchard(R) |
| Y Reis(R) | Y Senger(R) |
| Y Watson(R) | A Yarbrough(D) |

Representative Jakobsson, Chairperson, from the Committee on Human Services to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Standard Debate: SENATE BILL 1928.

That the Floor Amendment be reported "recommends be adopted": Amendment No. 3 to SENATE BILL 314.

That the Motion be reported "recommends be adopted" and placed on the House Calendar: Motion to concur with Senate Amendment No. 1 to HOUSE BILL 436.

Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 3922.

The committee roll call vote on Senate Bill 1928 is as follows:

4, Yeas; 3, Nays; 0, Answering Present.

Y Jakobsson(D), Chairperson	Y Howard(D), Vice-Chairperson
N Bellock(R), Republican Spokesperson	N Cole(R)
Y Beiser(D) (replacing Collins)	Y Lang(D) (replacing Flowers)
N Schmitz(R)	

The committee roll call vote on Amendment No. 3 to Senate Bill 314 is as follows:

6, Yeas; 1, Nay; 0, Answering Present.

Y Jakobsson(D), Chairperson	Y Howard(D), Vice-Chairperson
Y Bellock(R), Republican Spokesperson	N Cole(R)
Y Beiser(D) (replacing Collins)	Y Lang(D) (replacing Flowers)
Y Schmitz(R)	

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 436 is as follows:

6, Yeas; 0, Nays; 0, Answering Present.

Y Jakobsson(D), Chairperson	Y Howard(D), Vice-Chairperson
Y Bellock(R), Republican Spokesperson	Y Cole(R)
Y Beiser(D) (replacing Collins)	Y Lang(D) (replacing Flowers)
A Schmitz(R)	

The committee roll call vote on Motion to Concur with Senate Amendments numbered 1 and 2 to House Bill 3922 is as follows:

7, Yeas; 0, Nays; 0, Answering Present.

Y Jakobsson(D), Chairperson	Y Howard(D), Vice-Chairperson
Y Bellock(R), Republican Spokesperson	Y Cole(R)
Y Beiser(D) (replacing Collins)	Y Lang(D) (replacing Flowers)
Y Schmitz(R)	

Representative Ryg, Chairperson, from the Committee on Disability Services to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Motion be reported "recommends be adopted" and placed on the House Calendar:

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 751.

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 751 is as follows:

7, Yeas; 0, Nays; 0, Answering Present.

Y Ryg(D), Chairperson	Y Golar(D), Vice-Chairperson
Y Leitch(R), Republican Spokesperson	Y Coulson(R)
Y Ford(D) (replacing Crespo)	Y Hernandez(D)
Y Bellock(R) (replacing Pihos)	

Representative Brosnahan, Chairperson, from the Committee on Telecommunications to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 1421.

The committee roll call vote on Senate Bill 1421 is as follows:

10, Yeas; 0, Nays; 0, Answering Present.

Y Harris(D) (replacing Brosnahan)	Y Jakobsson(D), Vice-Chairperson
Y Bost(R), Republican Spokesperson	Y May(D) (replacing Acevedo)
Y Colvin(D)	Y Lang(D)
A Lyons(D)	A McCarthy(D)
Y Osmond(R)	Y Ramey(R)
Y Schmitz(R)	A Sullivan(R)
A Turner(D)	Y Winters(R)

Representative Verschoore, Chairperson, from the Committee on Counties & Townships to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Motion be reported “recommends be adopted” and placed on the House Calendar: Motion to concur with Senate Amendment No. 3 to HOUSE BILL 1322.

The committee roll call vote on Motion to Concur with Senate Amendment No. 3 to House Bill 1322 is as follows:

5, Yeas; 0, Nays; 0, Answering Present.

Y Verschoore(D), Chairperson	Y Zalewski(D), Vice-Chairperson
Y Ramey(R), Republican Spokesperson	Y Hatcher(R)
A Mitchell, Bill(R)	A Moffitt(R)
Y Reitz(D)	A Riley(D)
A Rita(D)	

Representative May, Chairperson, from the Committee on Environmental Health to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Floor Amendment be reported “recommends be adopted”: Amendment No. 2 to SENATE BILL 1919.

The committee roll call vote on Amendment No. 2 to Senate Bill 1919 is as follows: 10, Yeas; 0, Nays; 0, Answering Present.

Y May(D), Chairperson	A McCarthy(D), Vice-Chairperson
Y Tracy(R), Republican Spokesperson	Y Verschoore(D) (replacing Froehlich)
Y Hamos(D)	A Jakobsson(D)
Y Nekritz(D)	A Rita(D)
Y Rose(R)	Y Schmitz(R)
A Stephens(R)	Y Tryon(R)
Y Winters(R)	Y Yarbrough(D)

Representative Rita, Chairperson, from the Committee on Business & Occupational Licenses to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Floor Amendment be reported “recommends be adopted”: Amendment No. 1 to SENATE BILL 1925.

That the Motion be reported “recommends be adopted” and placed on the House Calendar: Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 786. Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 880.

The committee roll call vote on Amendment No. 1 to Senate Bill 1925, Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 786 and Motion to concur with Senate Amendments numbered 1 and 2 to HOUSE BILL 880 is as follows:

10, Yeas; 0, Nays; 0, Answering Present.

Y Rita(D), Chairperson	A Fritchey(D), Vice-Chairperson
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Y Coulson(R), Republican Spokesperson	Y Acevedo(D)
A Arroyo(D)	A Beiser(D)
A Burke(D)	Y Coladipietro(R)
Y Connelly(R)	Y DeLuca(D)
Y Holbrook(D)	Y McAuliffe(R)
Y Miller(D)	A Mitchell, Bill(R)
A Mulligan(R)	Y Saviano(R)

Representative Reitz, Chairperson, from the Committee on Health Care Licenses to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Motion be reported “recommends be adopted” and placed on the House Calendar:

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 563.

Motion to concur with Senate Amendment No. 2 to HOUSE BILL 1119.

Motion to concur with Senate Amendment No. 2 to HOUSE BILL 2440.

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 2443.

The committee roll call vote on Motion to Concur with Senate Amendment No. 2 to House Bill 1119 is as follows:

7, Yeas; 0, Nays; 0, Answering Present.

Y Reitz(D), Chairperson	A Phelps(D), Vice-Chairperson
Y Saviano(R), Republican Spokesperson	Y Coulson(R)
A Harris(D)	Y Jackson(D)
A Kosel(R)	Y McAuliffe(R)
A McCarthy(D)	Y Miller(D)
A Mulligan(R)	Y Verschoore(D)

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 563 is as follows:

8, Yeas; 0, Nays; 2, Answering Present.

Y Reitz(D), Chairperson	A Phelps(D), Vice-Chairperson
Y Saviano(R), Republican Spokesperson	Y Coulson(R)
Y Harris(D)	Y Jackson(D)
Y Kosel(R)	P McAuliffe(R)
Y McCarthy(D)	P Miller(D)
A Mulligan(R)	Y Verschoore(D)

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 2443 is as follows:

10, Yeas; 0, Nays; 0, Answering Present.

Y Reitz(D), Chairperson	A Phelps(D), Vice-Chairperson
Y Saviano(R), Republican Spokesperson	Y Coulson(R)
Y Harris(D)	Y Jackson(D)
Y Kosel(R)	Y McAuliffe(R)
Y McCarthy(D)	Y Miller(D)
A Mulligan(R)	Y Verschoore(D)

The committee roll call vote on Motion to Concur with Senate Amendment No. 2 to House Bill 2440 is as follows:

8, Yeas; 0, Nays; 0, Answering Present.

Y Reitz(D), Chairperson	A Phelps(D), Vice-Chairperson
Y Saviano(R), Republican Spokesperson	Y Coulson(R)
A Harris(D)	Y Jackson(D)

A Kosel(R)
Y McCarthy(D)
A Mulligan(R)

Y McAuliffe(R)
Y Miller(D)
Y Verschoore(D)

Representative Burke, Chairperson, from the Committee on Executive to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILLS 1556 and 1912.

That the Motion be reported "recommends be adopted" and placed on the House Calendar: Motion to concur with Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 470.

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3658.

Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3991.

The committee roll call vote on Senate Bill 1912 is as follows:

6, Yeas; 4, Nays; 0, Answering Present.

Y Burke(D), Chairperson
N Brady(R), Republican Spokesperson
Y Arroyo(D)
N Biggins(R)
N Sullivan(R)
A Turner(D)

Y Lyons(D), Vice-Chairperson
Y Acevedo(D)
Y Berrios(D)
Y Rita(D)
N Beaubien(R) (replacing Tryon)

The committee roll call vote on Senate Bill 1556 is as follows:

11, Yeas; 0, Nays; 0, Answering Present.

Y Burke(D), Chairperson
Y Brady(R), Republican Spokesperson
Y Arroyo(D)
Y Biggins(R)
Y Sullivan(R)
Y Hamos(D) (replacing Turner)

Y Lyons(D), Vice-Chairperson
Y Acevedo(D)
Y Berrios(D)
Y Rita(D)
Y Beaubien(R) (replacing Tryon)

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 3991, Motion to concur with Senate Amendments numbered 1, 2 and 3 to HOUSE BILL 470 and Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3658 is as follows:

9, Yeas; 0, Nays; 0, Answering Present.

Y Burke(D), Chairperson
Y Brady(R), Republican Spokesperson
Y Arroyo(D)
Y Biggins(R)
A Sullivan(R)
A Turner(D)

Y Lyons(D), Vice-Chairperson
Y Acevedo(D)
Y Berrios(D)
Y Rita(D)
Y Beaubien(R) (replacing Tryon)

Representative Bradley, Chairperson, from the Committee on Revenue & Finance to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 2115.

That the Floor Amendment be reported "recommends be adopted": Amendment No. 2 to SENATE BILL 1936.

The committee roll call vote on Senate Bill 2115 is as follows:

7, Yeas; 0, Nays; 0, Answering Present.

Y Bradley(D), Chairperson

A Mautino(D), Vice-Chairperson

Y Biggins(R), Republican Spokesperson	Y Bassi(R)
Y Beaubien(R)	Y Chapa LaVia(D)
A Currie(D)	A Eddy(R)
A Ford(D)	Y Gordon, Careen(D)
Y Sullivan(R)	A Turner(D)
A Zalewski(D)	

The committee roll call vote on Amendment No. 2 to Senate Bill 1936 is as follows:
7, Yeas; 1, Nay; 0, Answering Present.

Y Bradley(D), Chairperson	A Mautino(D), Vice-Chairperson
Y Biggins(R), Republican Spokesperson	Y Bassi(R)
Y Beaubien(R)	Y Chapa LaVia(D)
Y Currie(D)	A Eddy(R)
A Ford(D)	Y Gordon, Careen(D)
N Sullivan(R)	A Turner(D)
A Zalewski(D)	

Representative Mendoza, Chairperson, from the Committee on International Trade & Commerce to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Floor Amendment be reported "recommends be adopted":
Amendment No. 2 to SENATE BILL 2172.

The committee roll call vote on Amendment No. 2 to Senate Bill 2172 is as follows:
8, Yeas; 0, Nays; 0, Answering Present.

Y Mendoza(D), Chairperson	Y Franks(D), Vice-Chairperson
Y Sommer(R), Republican Spokesperson	Y Beaubien(R)
Y Berrios(D)	A Coladipietro(R)
A Davis, William(D)	Y Dunkin(D)
Y Sacia(R)	A Senger(R)
Y Walker(D)	

Representative Harris, Chairperson, from the Committee on Youth and Family to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the bill be reported "do pass as amended" and be placed on the order of Second Reading-- Short Debate: SENATE BILL 1716.

The committee roll call vote on Senate Bill 1716 is as follows:
4, Yeas; 2, Nays; 0, Answering Present.

Y Harris(D), Chairperson	Y Ford(D), Vice-Chairperson
N Fortner(R), Republican Spokesperson	Y Burns(D)
A McAuliffe(R)	Y Riley(D)
N Winters(R)	

Representative McAuliffe, Chairperson, from the Committee on Veterans' Affairs to which the following were referred, action taken on May 26, 2009, reported the same back with the following recommendations:

That the Motion be reported "recommends be adopted" and placed on the House Calendar:
Motion to concur with Senate Amendment No. 1 to HOUSE BILL 3970.

The committee roll call vote on Motion to Concur with Senate Amendment No. 1 to House Bill 3970 is as follows:

17, Yeas; 0, Nays; 0, Answering Present.

Y McAuliffe(R), Chairperson
Y Bost(R), Republican Spokesperson
Y Dugan(D)
Y Flider(D)
Y Holbrook(D) (replacing Gordon, J)
Y Lyons(D)
Y Mitchell, Jerry(R)
Y Nekritz(D)
Y Phelps(D)
A Reboletti(R)
Y Verschoore(D)
Y Walker(D)

Y Chapa LaVia(D), Vice-Chairperson
Y Connelly(R)
Y Farnham(D)
A Franks(D)
A Joyce(D)
Y McAsey(D)
Y Moffitt(R)
A Osmond(R)
A Pritchard(R)
Y Sacia(R)
A Wait(R)
A Watson(R)

INTRODUCTION AND FIRST READING OF BILLS

The following bills were introduced, read by title a first time, ordered reproduced and placed in the Committee on Rules:

HOUSE BILL 4569. Introduced by Representatives Cross - Pihos - Coulson - Kosel, AN ACT concerning disclosure of personnel recommendations.

HOUSE BILL 4570. Introduced by Representative Hernandez, AN ACT concerning appropriations.

SENATE BILLS ON FIRST READING

Having been reproduced, the following bill was taken up, read by title a first time and placed in the Committee on Rules: SENATE BILL 611 (Howard).

SENATE BILLS ON SECOND READING

Having been reproduced, the following bills were taken up, read by title a second time and held on the order of Second Reading: SENATE BILLS 612, 1421, 1556, 1716, 1912, 1928 and 2115.

At the hour of 7:25 o'clock p.m., the House Perfunctory Session adjourned.