

1 AN ACT concerning underground utilities facilities damage
2 prevention.

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

5 Section 5. The Illinois Underground Utility Facilities
6 Damage Prevention Act is amended by changing Sections 2, 2.2,
7 2.3, 4, 5, 6, 7, 8, 10, 11, 13, and 14 and adding Sections
8 2.6, 2.7, and 2.8 as follows:

9 (220 ILCS 50/2) (from Ch. 111 2/3, par. 1602)

10 Sec. 2. Definitions. As used in this Act, unless the
11 context clearly otherwise requires, the terms specified in
12 Sections 2.1 through 2.8 have the meanings ascribed to
13 them in those Sections.

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

15 (220 ILCS 50/2.2) (from Ch. 111 2/3, par. 1602.2)

16 Sec. 2.2. Underground utility facilities. "Underground
17 utility facilities" or "facilities" means and includes wires,
18 ducts, fiber optic cable, conduits, pipes, sewers, and cables
19 and their connected appurtenances installed beneath the
20 surface of the ground by a public utility (as is defined in
21 the Illinois Public Utilities Act, as amended), or by a
22 municipally owned or mutually owned utility providing a
23 similar utility service, except an electric cooperative as
24 defined in the Illinois Public Utilities Act, as amended, or
25 by a pipeline entity transporting gases, crude oil, petroleum
26 products, or other hydrocarbon materials within the State or
27 by a telecommunications carrier as defined in the Universal
28 Telephone Service Protection Law of 1985, or by a company
29 described in Section 1 of "An Act relating to the powers,
30 duties and property of telephone companies", approved May 16,

1 1903, as amended, or by a community antenna television
2 system, hereinafter referred to as "CATS", as defined in the
3 Illinois Municipal Code, as amended.

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

5 (220 ILCS 50/2.3) (from Ch. 111 2/3, par. 1602.3)

6 Sec. 2.3. Excavation. "Excavation" means any operation
7 in which earth, rock, or other material in or on the ground
8 is moved, removed, or otherwise displaced by means of any
9 tools, power equipment or explosives, and includes, without
10 limitation, grading, trenching, digging, ditching, drilling,
11 augering, boring, tunneling, scraping, cable or pipe plowing,
12 and driving but does not include farm tillage operations or
13 railroad right-of-way maintenance or operations or coal
14 mining operations regulated under the Federal Surface Mining
15 Control and Reclamation Act of 1977 or any State law or rules
16 or regulations adopted under the federal statute, or land
17 surveying operations as defined in the Illinois Professional
18 Land Surveyor Act of 1989 when not using power equipment.

19 (Source: P.A. 86-674; 86-1195; 87-125.)

20 (220 ILCS 50/2.6 new)

21 Sec. 2.6. Emergency locate request. "Emergency locate
22 request" means a locate request for any condition
23 constituting an imminent danger to life, health, or property,
24 or a utility service outage, and which requires immediate
25 repair or action.

26 (220 ILCS 50/2.7 new)

27 Sec. 2.7. Tolerance zone. "Tolerance zone" means the
28 approximate location of underground utility facilities or
29 CATS facilities defined as a strip of land at least 3 feet
30 wide, but not wider than the width of the underground
31 facility or CATS facility plus 1-1/2 feet on either side of

1 such facility based upon the markings made by the owner or
 2 operator of the facility. Excavation within the tolerance
 3 zone requires extra care and precaution including, but not
 4 limited to, as set forth in Section 4.

5 (220 ILCS 50/2.8 new)

6 Sec. 2.8. Approximate location. "Approximate location"
 7 means a strip of land at least 3 feet wide, but not wider
 8 than the width of the underground facility or CATS facility
 9 plus 1.5 feet on either side of the facility.

10 (220 ILCS 50/4) (from Ch. 111 2/3, par. 1604)

11 Sec. 4. Required activities. Every person who engages
 12 in nonemergency excavation or demolition shall:

13 (a) take reasonable action to inform himself of the
 14 location of any underground utility facilities or CATS
 15 facilities in and near the area for which such operation is
 16 to be conducted;

17 (b) plan the excavation or demolition to avoid or
 18 minimize interference with underground utility facilities or
 19 CATS facilities within the tolerance zone by utilizing such
 20 precautions that include, but are not limited to, hand
 21 excavation, vacuum excavation methods, and visually
 22 inspecting the excavation while in progress until clear of
 23 the existing marked facility in-and-near-the-construction
 24 area;

25 (c) if practical, use white paint, flags, stakes, or
 26 both, to outline the dig site;

27 (d) ~~(e)~~ provide notice not more than 14 days nor less
 28 than 48 hours (exclusive of Saturdays, Sundays and holidays)
 29 in advance of the start of the excavation or demolition to
 30 the owners or operators of the underground utility facilities
 31 or CATS facilities in and near the excavation or demolition
 32 area through the State-Wide One-Call Notice System or, in the

1 case of nonemergency excavation or demolition within the
2 boundaries of a municipality of at least one million persons
3 which operates its own one-call notice system, through the
4 one-call notice system which operates in that municipality;

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

12 (f) ~~(e)~~ backfill all excavations in such manner and with
13 such materials as may be reasonably necessary for the
14 protection of existing underground utility facilities or CATS
15 facilities in and near the excavation or demolition area.

16 At a minimum, the notice required under clause (d) ~~(e)~~
17 shall provide:

18 (1) the person's name, address, and (i) phone
19 number at which a person message can be reached and ~~left~~
20 ~~or~~ (ii) fax number;

21 (2) the start date of the planned excavation or
22 demolition;

23 (3) the address at which the excavation or
24 demolition will take place; and

25 (4) the type and extent of the work involved; and-

26 (5) section/quarter sections when the above
27 information does not allow the State-Wide One-Call Notice
28 System to determine the appropriate geographic
29 section/quarter sections. This item (5) does not apply
30 to residential property owners.

31 Nothing in this Section prohibits the use of any method
32 of excavation if conducted in a manner that would avoid
33 interference with underground utility facilities or CATS
34 facilities.

1 (Source: P.A. 87-125; 88-578, effective date changed to
2 7-1-95 by P.A. 88-681.)

3 (220 ILCS 50/5) (from Ch. 111 2/3, par. 1605)

4 Sec. 5. Notice of preconstruction conference. When the
5 Illinois Department of Transportation notifies an owner or
6 operator of an underground utility facility or CATS facility
7 that the Department will conduct a preconstruction conference
8 concerning new construction, reconstruction, or maintenance
9 of State highways in and near the area in which such owner or
10 operator has placed underground utility facilities, such
11 notification shall, except as otherwise provided in this
12 Section constitute compliance by the Department or its
13 contractors with paragraphs (a), (b), and (d) ~~(e)~~ of Section
14 4 of this Act. In instances when notification of a
15 preconstruction conference is provided to the owner or
16 operator of an underground utility facility or CATS facility
17 but no specific date is established at the preconstruction
18 conference for the new construction, reconstruction or
19 maintenance of State highways in and near the area in which
20 the owner or operator has placed underground utility
21 facilities or CATS facilities, then the Department or its
22 contractors shall later comply with paragraph (d) ~~(e)~~ of
23 Section 4 of this Act.

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

25 (220 ILCS 50/6) (from Ch. 111 2/3, par. 1606)

26 Sec. 6. Emergency excavation or demolition.

27 (a) Every person who engages in emergency excavation or
28 demolition outside of the boundaries of a municipality of at
29 least one million persons which operates its own one-call
30 notice system shall take all reasonable precautions to avoid
31 or minimize interference between the emergency work and
32 existing underground utility facilities or CATS facilities in

1 and near the excavation or demolition area, through the
 2 State-Wide One-Call Notice System, and shall notify, as far
 3 in advance as possible, the owners or operators of such
 4 underground utility facilities or CATS facilities in and near
 5 the emergency excavation or demolition area, through the
 6 State-Wide One-Call Notice System. At a minimum, the notice
 7 required under this subsection (a) shall provide:

8 (1) the person's name, address, and (i) phone
 9 number at which a person can be reached and (ii) fax
 10 number;

11 (2) the start date of the planned emergency
 12 excavation or demolition;

13 (3) the address at which the excavation or
 14 demolition will take place; and

15 (4) the type and extent of the work involved.

16 A 2-hour wait time exists after an emergency locate
 17 notification request is made through the State-Wide One-Call
 18 Notice System. If the conditions at the site dictate an
 19 earlier start than the 2-hour wait time, it is the
 20 responsibility of the excavator to demonstrate that site
 21 conditions warranted this earlier start time.

22 (b) Every person who engages in emergency excavation or
 23 demolition within the boundaries of a municipality of at
 24 least one million persons which operates its own one-call
 25 notice system shall take all reasonable precautions to avoid
 26 or minimize interference between the emergency work and
 27 existing underground utility facilities or CATS facilities in
 28 and near the excavation or demolition area, through the
 29 municipality's one-call notice system, and shall notify, as
 30 far in advance as possible, the owners and operators of
 31 underground utility facilities or CATS facilities in and near
 32 the emergency excavation or demolition area, through the
 33 municipality's one-call notice system.

34 (c) The reinstallation of traffic control devices shall

1 be deemed an emergency for purposes of this Section.

2 (Source: P.A. 86-674; 87-125.)

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

4 Sec. 7. Damage or dislocation. In the event of any
5 damage to or dislocation of any underground utility
6 facilities or CATS facilities in connection with any
7 excavation or demolition, emergency or nonemergency, the
8 person responsible for the excavation or demolition
9 operations shall immediately notify the affected utility and
10 the State-Wide One-Call Notice System ~~owner---of---such~~
11 ~~facilities.~~

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

13 (220 ILCS 50/8) (from Ch. 111 2/3, par. 1608)

14 Sec. 8. Liability or financial responsibility.

15 (a) Nothing in this Act shall be deemed to affect or
16 determine the financial responsibility for any operation
17 under this Act or liability of any person for any damages
18 that occur unless specifically stated otherwise.

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

27 (c) Neither the State-Wide One-Call Notice System nor
28 any of its officers, agents, or employees shall be liable for
29 damages for injuries or death to persons or damage to
30 property caused by acts or omissions in the receipt,
31 recording, or transmission of locate requests or other
32 information in the performance of its duties as the

1 State-Wide One-Call Notice System, unless the act or omission
2 was the result of willful and wanton misconduct.

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

10 (Source: P.A. 86-674; 87-125.)

11 (220 ILCS 50/10) (from Ch. 111 2/3, par. 1610)

12 Sec. 10. Record of notice; marking of facilities. Upon
13 notice by the person engaged in excavation or demolition, the
14 person owning or operating underground utility facilities or
15 CATS facilities in or near the excavation or demolition area
16 shall cause a written record to be made of the notice and
17 shall mark, within 48 hours (excluding Saturdays, Sundays and
18 holidays) of receipt of notice, the approximate locations of
19 such facilities so as to enable the person excavating or
20 demolishing to establish the location of the underground
21 utility facilities or CATS facilities.

22 All persons subject to the requirements of this Act shall
23 plan and conduct their work consistent with reasonable
24 business practices. Conditions may exist making it
25 unreasonable to request that locations be marked within 48
26 hours. It is unreasonable to request owners and operators of
27 underground utility facilities and CATS facilities to locate
28 all of their facilities in an affected area upon short notice
29 in advance of a large or extensive nonemergency project, or
30 to request extensive locates in excess of a reasonable
31 excavation or demolition work schedule, or to request locates
32 under conditions where a repeat request is likely to be made
33 because of the passage of time or adverse job conditions.

1 Owners and operators of underground utility facilities and
2 CATS facilities must reasonably anticipate seasonal
3 fluctuations in the number of locate requests and staff
4 accordingly. Marking--need--not--be--accomplished--more--than--48
5 hours--in--advance--of--the--time--excavation--or--demolition--of
6 daily--segments--of--the--excavation--or--demolition--are--scheduled
7 to--begin.

8 If a person owning or operating underground utility
9 facilities or CATS facilities receives a notice under this
10 Section but does not own or operate any underground utility
11 facilities or CATS facilities within the proposed excavation
12 or demolition area described in the notice, that person,
13 within 48 hours (excluding Saturdays, Sundays, and holidays)
14 after receipt of the notice, shall so notify the person
15 engaged in excavation or demolition who initiated the notice,
16 unless the person who initiated the notice expressly waives
17 the right to be notified that no facilities are located
18 within the excavation or demolition area. The notification
19 by the owner or operator of underground utility facilities or
20 CATS facilities to the person engaged in excavation or
21 demolition may be provided in any reasonable manner
22 including, but not limited to, notification in any one of the
23 following ways: by face-to-face communication; by phone or
24 phone message; by facsimile; by posting in the excavation or
25 demolition area; or by marking the excavation or demolition
26 area. The owner or operator of those facilities has
27 discharged the owner's or operator's obligation to provide
28 notice under this Section if the owner or operator attempts
29 to provide notice by telephone or by facsimile, if the person
30 has supplied a facsimile number, but is unable to do so
31 because the person engaged in the excavation or demolition
32 does not answer his or her telephone or does not have an
33 answering machine or answering service to receive the
34 telephone call or does not have a facsimile machine in

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

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

18 For the purposes of this Act, underground facility
 19 operators may utilize a combination of flags, stakes, and
 20 paint when possible on non-paved surfaces and when dig site
 21 and seasonal conditions warrant the-"approximate-location"-of
 22 underground--utility-facilities-or-CATS-facilities-is-defined
 23 as-a-strip-of-land-at-least-3-feet-wide-but--not--wider--than
 24 the-width-of-the-underground-facility-or-CATS-facility-plus-1
 25 1/2-feet-on-either-side-of-such-facility. If the approximate
 26 location of an underground utility facility or CATS facility
 27 is marked with stakes or other physical means, the following
 28 color coding shall be employed:

Utility or Community Antenna	Identification Color
Television Systems and Type of Product	
Electric Power, Distribution and	
Transmission.....	Safety Red
Municipal Electric Systems.....	Safety Red

- 1 Gas Distribution and Transmission..... High Visibility
- 2 Safety Yellow
- 3 Oil Distribution and Transmission..... High Visibility
- 4 Safety Yellow
- 5 Telephone and Telegraph Systems..... Safety Alert Orange
- 6 Community Antenna Television Systems.. Safety Alert Orange
- 7 Water Systems..... Safety
- 8 Precaution Blue
- 9 Sewer Systems..... Safety Green
- 10 Non-potable Water and Slurry Lines.... Safety Purple
- 11 Temporary Survey..... Safety Pink
- 12 Proposed Excavation..... Safety White
- 13 (Source: P.A. 86-674; 88-578 (effective date changed to
- 14 7-1-95 by P.A. 88-681); 88-681, eff. 7-1-95.)

15 (220 ILCS 50/11) (from Ch. 111 2/3, par. 1611)

16 Sec. 11. Penalties; liability; fund.

17 (a) Every person who, while engaging in excavation or
 18 demolition, wilfully fails to comply with the Act by failing
 19 to provide the notice to the owners or operators of the
 20 underground facilities or CATS facility near the excavation
 21 or demolition area through the State-Wide One-Call Notice
 22 System as required by Section 4 of this Act and-damages-any
 23 underground-utility-facilities-or-CATS-facilities, shall be
 24 subject to a penalty fine of up to \$5,000 no-more-than-\$200
 25 for each separate offense and shall be liable for the damage
 26 caused to the owners or operators of the facility.

27 (b) Every person who, while engaging in excavation or
 28 demolition, and has provided the notice to the owners or
 29 operators of the underground utility facilities or CATS
 30 facilities in and near the excavation or demolition area
 31 through the State-Wide One-Call Notice System as required by
 32 Section 4 of this Act, but otherwise wilfully fails to comply
 33 with this Act and-damages-any-underground-utility--facilities

1 er--CATS-facilities, shall be subject to a penalty fine of up
 2 to \$2,500 no-more-than-\$100 for each separate offense and
 3 shall be liable for the damage caused to the owners or
 4 operators of the facility.

5 (c) Every person who, while engaging in excavation or
 6 demolition, and has provided the notice to the owners or
 7 operators of the underground utility facilities or CATS
 8 facilities in and near the excavation or demolition area
 9 through the State-Wide One-Call Notice System as required by
 10 Section 4 of this Act, but otherwise, while acting
 11 reasonably, damages any underground utility facilities or
 12 CATS facilities, shall not be subject to a penalty, fine but
 13 shall be liable for the damage caused to the owners or
 14 operators of the facility provided the underground utility
 15 facility or CATS facility is properly marked as provided in
 16 Section 10 of this Act.

17 (d) Every person who, while engaging in excavation or
 18 demolition, provides notice to the owners or operators of the
 19 underground utility facilities or CATS facilities through the
 20 State-Wide One-Call Notice System as an emergency locate
 21 request and the locate request is not an emergency locate
 22 request as defined in Section 2.6 of this Act shall be
 23 subject to a penalty of up to \$2,500 for each separate
 24 offense.

25 (e) Owners and operators of underground utility
 26 facilities or CATS ~~community--antenna--television--systems~~
 27 facilities who wilfully fail to comply with this Act by a
 28 failure to mark ~~er--to--properly--mark~~ the location of an
 29 underground utility or CATS facility, after being notified of
 30 planned excavation or demolition through the State-Wide
 31 One-Call Notice System, shall be subject to a penalty fine of
 32 up to \$5,000 no-more-than-\$200 for each separate offense each
 33 violation resulting from the failure to mark ~~er--properly--mark~~
 34 an underground utility facility or CATS facility. No-person

1 shall-be-subject-to-such-fine-if-the-owner-or-operator-of-the
 2 underground-utility-facilities-erred-in-marking-or-failed--to
 3 mark--such--facilities--as-provided-in-Section-10-of-this-Act
 4 and-no-willful-damage-has-been-committed.

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

15 (g) No owner or operator of underground utility
 16 facilities or CATS community--antenna--television--systems
 17 facilities shall be subject to a penalty fine where a delay
 18 in marking or a failure to mark or properly mark the location
 19 of an underground utility or CATS facility is caused by
 20 conditions beyond the reasonable control of such owner or
 21 operator.

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

32 (i) The excavator shall exercise due care at all times
 33 to protect underground utility facilities and CATS
 34 facilities. If, after proper notification through the

1 State-Wide One-Call Notice System and upon arrival at the
 2 site of a proposed excavation, the excavator observes clear
 3 evidence of the presence of an unmarked utility or CATS
 4 facility in the area of the proposed excavation, the
 5 excavator shall not begin excavating until 2 hours after an
 6 additional call is made to the State-Wide One-Call Notice
 7 System for the area. The operator of the utility or CATS
 8 facility shall respond within 2 hours of the excavator's call
 9 to the State-Wide One-Call Notice System.

10 (j) The Illinois Commerce Commission shall have the
 11 power and jurisdiction to, and shall, enforce the provisions
 12 of this Act. The Illinois Commerce Commission may impose
 13 administrative penalties as provided in this Section. The
 14 Illinois Commerce Commission may promulgate rules and develop
 15 enforcement policies in the manner provided by the Public
 16 Utilities Act in order to implement compliance with this Act.
 17 When a penalty is warranted, the following criteria shall be
 18 used in determining the magnitude of the penalty:

- 19 (1) gravity of noncompliance;
- 20 (2) culpability of offender;
- 21 (3) history of noncompliance;
- 22 (4) ability to pay penalty;
- 23 (5) show of good faith of offender;
- 24 (6) ability to continue business; and
- 25 (7) other special circumstances.

26 ~~In--the--event--that--a--person--has--given--proper--notice,--the~~
 27 ~~owner--or--operator--of--the--underground--utility--facility--or--CATS~~
 28 ~~facility--has--marked--the--approximate--location--and--that--person~~
 29 ~~is--unable--to--physically--locate--the--underground--utility~~
 30 ~~facility--or--CATS--facility,--where--other--than--an--"open-cut"~~
 31 ~~method--of--locating--must--be--used,--within--a--reasonable--time--due~~
 32 ~~to--conditions--beyond--his--control--and--that--person--has--notified~~
 33 ~~the--State-Wide--One-Call--notice--system--of--the--owner--or~~
 34 ~~operator--of--the--underground--utility--facility--or--CATS--facility~~

1 of-the-need-for--additional--and--more--precise--markings--of
 2 approximate--locations--and--the--owner--or--operator-has-not
 3 further-and-more-precisely-marked-or-located-the--underground
 4 utility---faillity--or--CATS--faillity--within--48--hours--of
 5 receiving--such--notice,--then--the--person---excavating---or
 6 demolishing,--exercising-reasonable-care,--shall-not-be-liable
 7 for-damages--to--the--facilities,---Actions--to--reecover--the
 8 penalty--provided-for-in-this-Section-shall-be-brought-by-the
 9 State's-Attorney-of-the-county-where-the-damage-occurred,--at
 10 the--request--of--the--owner--or--operator-of-the-underground
 11 utility-facilities-or-CATS--facilities--damaged,--or--at--the
 12 request--of--any--person--when-the-owner-or-operator-fails-to
 13 comply-with-this-Act,--or--at--the--request--of--the--Illinois
 14 Commerce-Commission-in-the-name-of-the-People-of-the-State-of
 15 Illinois,--in--the--circuit-court-for-that-county,--or-for-the
 16 county-in-which-the-person-complained-of--has--its--principle
 17 place-of-business-or-resides.

18 (k) There is hereby created in the State treasury a
 19 special fund to be known as the Illinois Underground Utility
 20 Facilities Damage Prevention Fund. All penalties recovered
 21 in any action under this Section shall be paid into the Fund
 22 and shall be distributed annually as a grant to the
 23 State-Wide One-Call Notice System to be used in safety and
 24 informational programs to reduce the number of incidents of
 25 damage to underground utility facilities and CATS facilities
 26 in Illinois. The distribution shall be made during January
 27 of each calendar year based on the balance in the Illinois
 28 Underground Utility Facilities Damage Prevention Fund as of
 29 December 31 of the previous calendar year. In all such
 30 actions under this Section, the procedure and rules of
 31 evidence shall conform with the Code of Civil Procedure, and
 32 with rules of courts governing civil trials.

33 (l) The Illinois Commerce Commission shall establish an
 34 Advisory Committee consisting of a representative from each

1 of the following: utility operator, JULIE, excavator,
 2 municipality, and the general public. The Advisory Committee
 3 shall serve as a peer review panel for any contested
 4 penalties resulting from the enforcement of this Act.

5 The members of the Advisory Committee shall be immune,
 6 individually and jointly, from civil liability for any act or
 7 omission done or made in performance of their duties while
 8 serving as members of such Advisory Committee, unless the act
 9 or omission was the result of willful and wanton misconduct.

10 (m) If, after the Advisory Committee has considered a
 11 particular contested penalty and performed its review
 12 functions under this Act and the Commission's rules, there
 13 remains a dispute as to whether the Commission should impose
 14 a penalty under this Act, the matter shall proceed in the
 15 manner set forth in Article X of the Public Utilities Act,
 16 including the provisions governing judicial review.

17 ~~Any--residential-property-owner-that-fails-to-comply-with~~
 18 ~~any-provision-of-this-Act--and--damages--underground--utility~~
 19 ~~facilities-or-CATS-facilities-while-engaging-in-excavation-or~~
 20 ~~demolition--on--land--owned-by-the-residential-property-owner~~
 21 ~~shall-not-be-subject-to-a-fine-but-shall-be--liable--for--the~~
 22 ~~damage--caused--to--the--owner-or-operator-of-the-underground~~
 23 ~~utility-facilities-or-CATS-facilities.~~

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

25 (220 ILCS 50/13) (from Ch. 111 2/3, par. 1613)

26 Sec. 13. Mandamus or injunction. Where public safety or
 27 the preservation of uninterrupted, necessary utility service
 28 or community antenna television system service is endangered
 29 by any person engaging in excavation or demolition in a
 30 negligent or unsafe manner which has resulted in or is likely
 31 to result in damage to underground utility facilities or CATS
 32 facilities, or is proposing to use procedures for excavation
 33 or demolition which are likely to result in damage to

1 underground utility facilities or CATS facilities, or where
 2 the owner or operator of underground utility facilities or
 3 CATS facilities endangers an excavator by willfully failing
 4 to respond to a locate request, the owner or operator of such
 5 facilities or the excavator or the State's Attorney or the
 6 Illinois Commerce Commission at the request of the owner or
 7 operator of such facilities or the excavator may commence an
 8 action, ~~or the State's Attorney, at the request of the owner~~
 9 ~~or operator of such facilities or the Illinois Commerce~~
 10 ~~Commission,~~ shall commence an action, in the circuit court
 11 for the county in which the excavation or demolition is
 12 occurring or is to occur, or in which the person complained
 13 of has his principal place of business or resides, for the
 14 purpose of having such negligent or unsafe excavation or
 15 demolition stopped and prevented or to compel the marking of
 16 underground utilities facilities or CATS facilities, either
 17 by mandamus or injunction.

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

19 (220 ILCS 50/14) (from Ch. 111 2/3, par. 1614)
 20 Sec. 14. Home rule. The regulation of underground
 21 utility facilities and CATS facilities damage prevention, as
 22 provided for in this Act, is an exclusive power and function
 23 of the State. A home rule unit may not regulate underground
 24 utility facilities and CATS facilities damage prevention, as
 25 provided for in this Act. All units of local government,
 26 including home rule units, must comply with the provisions of
 27 this Act. This Section is a denial and limitation of home
 28 rule powers and functions under subsection (h) of Section 6
 29 of Article VII of the Illinois Constitution.

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

31 Section 99. Effective date. This Act takes effect July
 32 1, 2002.