



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SEVENTH GENERAL ASSEMBLY

95TH LEGISLATIVE DAY

FRIDAY, MARCH 23, 2012

11:08 O'CLOCK A.M.

SENATE
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95th Legislative Day

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The Senate met pursuant to adjournment.
Senator Don Harmon, Oak Park, Illinois, presiding.
Prayer by Pastor Shaun Lewis, Capitol Commission, Springfield, Illinois.
Senator Haine led the Senate in the Pledge of Allegiance.

Senator Haine moved that reading and approval of the Journal of Thursday, March 22, 2012, be postponed, pending arrival of the printed Journal.
The motion prevailed.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 679

Offered by Senator Brady and all Senators:
Mourns the death of Stephen A. Paczolt of La Grange.

SENATE RESOLUTION NO. 680

Offered by Senator Brady and all Senators:
Mourns the death of George W. Tortorella of Champaign, formerly of Waukegan and Morton Grove.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

Senator Garrett offered the following Senate Resolution, which was referred to the Committee on Assignments:

SENATE RESOLUTION NO. 681

WHEREAS, The members of the Illinois Senate believe that decent, safe, and affordable housing is an integral part of the American Dream and a goal of all residents of this State; and

WHEREAS, Individuals have the right to choose where to live, without discrimination based on race, color, religion, age, gender, family status, national origin, and/or disability; and

WHEREAS, Acts of housing discrimination and barriers to equal housing opportunity run counter to a common sense of fairness; and

WHEREAS, Federal and State laws affirm the right of every person to equal housing opportunities; and

WHEREAS, Fair housing is a positive community good; and

WHEREAS, Economic stability, community health, and human relations in the State of Illinois are improved by diversity; and

WHEREAS, Stable, integrated, and balanced residential housing patterns can be threatened by discriminatory acts and unlawful housing practices, resulting in fewer housing opportunities for some citizens; and

WHEREAS, The talents of grassroots and non-profit organizations, housing service providers, financial institutions, elected officials, State agencies, and others must be combined to promote and preserve fair housing and equal opportunity; and

WHEREAS, The Interfaith Housing Center of the Northern Suburbs will host the 8th Annual Fair Housing Month Event on April 25, 2012 at the Glenview Public Library to call attention to this issue;

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therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we designate April of 2012 as Fair Housing Month in the State of Illinois in furtherance of this noble goal; and be it further

RESOLVED, That a suitable copy of this resolution be presented to the Interfaith Housing Center of the Northern Suburbs as a symbol of our esteem and respect.

Senator Jacobs offered the following Senate Joint Resolution, which was ordered printed and referred to the Committee on Assignments:

**SENATE JOINT RESOLUTION NO. 66
CONSTITUTIONAL AMENDMENT**

SC0066

RESOLVED, BY THE SENATE OF THE NINETY-SEVENTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that there shall be submitted to the electors of the State for adoption or rejection at the general election next occurring at least 6 months after the adoption of this resolution a proposition to amend Section 19 of Article VI of the Illinois Constitution as follows:

ARTICLE VI
THE JUDICIARY

SECTION 19. STATE'S ATTORNEYS - SELECTION, SALARY

A State's Attorney shall be elected in each county in 1972 and every fourth year thereafter for a four year term. One State's Attorney may be elected to serve two or more counties if the governing boards of such counties so provide and a majority of the electors of each county voting on the issue approve. A person shall not be eligible for the office of State's Attorney unless he or she is a United States citizen, ~~and~~ a licensed attorney-at-law of this State and a resident of this State. His or her salary shall be provided by law.

(Source: Illinois Constitution.)

SCHEDULE

This Constitutional Amendment takes effect upon being declared adopted in accordance with Section 7 of the Illinois Constitutional Amendment Act and applies to the election of State's Attorneys in 2016 and thereafter. It does not affect the terms of State's Attorneys elected before 2016.

INTRODUCTION OF BILL

SENATE BILL NO. 3912. Introduced by Senator A. Collins, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

APPOINTMENT MESSAGES

Appointment Message No. 0409

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Judge

[March 23, 2012]

Agency or Other Body: Court of Claims

Start Date: March 16, 2012

End Date: January 15, 2018

Name: Robert J. Steffen

Residence: 15 Olympic Drive, South Barrington, IL 60010

Annual Compensation: \$59,918

Per diem: Not Applicable

Nominee's Senator: Senator Matt Murphy

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 0410

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Carnival-Amusement Safety Board

Start Date: March 12, 2012

End Date: January 17, 2013

Name: Patricia (Patty) Sullivan

Residence: 1704 Mound Rd., Jacksonville, IL 62650

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Wm. Sam McCann

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 0411

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

[March 23, 2012]

Title of Office: Member

Agency or Other Body: Civil Service Commission

Start Date: March 12, 2012

End Date: March 1, 2017

Name: Anita M. Cummings

Residence: 7059 West 63rd Place, Chicago, IL 60638

Annual Compensation: \$25,320

Per diem: Not Applicable

Nominee's Senator: Senator Steven M. Landek

Most Recent Holder of Office: Raymond W. Ewell

Superseded Appointment Message: Not Applicable

Appointment Message No. 0412

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Capital Development Board

Start Date: March 12, 2012

End Date: January 20, 2014

Name: Anthony Garippo

Residence: 309 Malden Ave., La Grange, IL 60526

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Ron Sandack

Most Recent Holder of Office: Mark Ladd

Superseded Appointment Message: Not Applicable

Appointment Message No. 0413

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

[March 23, 2012]

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Chicago Transit Board

Start Date: March 15, 2012

End Date: September 1, 2016

Name: Ashish Sen

Residence: 2557 W. Farwell Ave., Chicago, IL 60645

Annual Compensation: \$25,000

Per diem: Not Applicable

Nominee's Senator: Senator Ira I. Silverstein

Most Recent Holder of Office: Katie McClain

Superseded Appointment Message: Not Applicable

Appointment Message No. 0414

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Chicago Transit Board

Start Date: March 19, 2012

End Date: September 1, 2018

Name: John Bouman

Residence: 1014 N. 2nd Ave., Maywood, IL 60153

Annual Compensation: \$25,000

Per diem: Not Applicable

Nominee's Senator: Senator Kimberly A. Lightford

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 0415

[March 23, 2012]

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Commissioner

Agency or Other Body: Illinois Commerce Commission

Start Date: March 16, 2012

End Date: January 16, 2017

Name: L. Ann McCabe

Residence: 1550 W. Cornelia Ave., Apt. 205, Chicago, IL 60657

Annual Compensation: \$117,043

Per diem: Not Applicable

Nominee's Senator: Senator John J. Cullerton

Most Recent Holder of Office: Sherman J. Elliot

Superseded Appointment Message: Not Applicable

Appointment Message No. 0416

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Board of Trustees of Western Illinois University

Start Date: March 15, 2012

End Date: January 16, 2017

Name: Philip G. Hare

Residence: 3805 44th St., Rock Island, IL 61201

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Mike Jacobs

Most Recent Holder of Office: Robert Cook

Superseded Appointment Message: Not Applicable

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Appointment Message No. 0417

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Board of Trustees of Western Illinois University

Start Date: March 15, 2012

End Date: January 16, 2017

Name: Catherine E. Early

Residence: 10065 E. 1200th St., Macomb, IL 61455

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator John M. Sullivan

Most Recent Holder of Office: Steven L. Nelson

Superseded Appointment Message: Not Applicable

Appointment Message No. 0418

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Pat Quinn, Governor, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Board of Trustees of Western Illinois University

Start Date: March 15, 2012

End Date: January 21, 2013

Name: Carolyn J. Ehlert Fuller

Residence: 11211 31st Street Dr. West, Milan, IL 61264

Annual Compensation: Expenses

Per diem: Not Applicable

Nominee's Senator: Senator Mike Jacobs

[March 23, 2012]

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Appointment Message No. 0419

To the Honorable Members of the Senate, Ninety-Seventh General Assembly:

I, Judy Baar Topinka, Comptroller, am nominating and, by and with the advice and consent of the Senate, appointing the following named individual to the office enumerated below. The advice and consent of this Honorable Body is respectfully requested.

Title of Office: Member

Agency or Other Body: Merit Commission, Office of the Comptroller

Start Date: January 16, 2012

End Date: January 15, 2018

Name: Clyde E. Bunch

Residence: 2124 S. Martin Luther King Jr. Dr., Springfield, IL 62703

Annual Compensation: Not Applicable

Per diem: \$100 per meeting

Nominee's Senator: Senator Larry K. Bomke

Most Recent Holder of Office: Reappointment

Superseded Appointment Message: Not Applicable

Under the rules, the foregoing Appointment Messages were referred to the Committee on Assignments.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 3985, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4005, sponsored by Senator McCann, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4029, sponsored by Senator Mulroe, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4148, sponsored by Senator Muñoz, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4468, sponsored by Senator Trotter, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4568, sponsored by Senator Cullerton, was taken up, read by title a first time and referred to the Committee on Assignments.

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House Bill No. 4577, sponsored by Senator Muñoz, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4606, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4615, sponsored by Senator Martinez, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4622, sponsored by Senator Martinez, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4674, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4715, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4748, sponsored by Senator Sandack, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4940, sponsored by Senator Jacobs, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 4988, sponsored by Senator Maloney, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5071, sponsored by Senator Steans, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5203, sponsored by Senator Dillard, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5207, sponsored by Senator J. Jones, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5264, sponsored by Senator Althoff, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5283, sponsored by Senator Sullivan, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5321, sponsored by Senator Koehler, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5359, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5478, sponsored by Senator Haine, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5548, sponsored by Senator Garrett, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5780, sponsored by Senator Luechtefeld, was taken up, read by title a first time and referred to the Committee on Assignments.

House Bill No. 5899, sponsored by Senator Millner, was taken up, read by title a first time and referred to the Committee on Assignments.

[March 23, 2012]

READING BILLS OF THE SENATE A SECOND TIME

On motion of Senator Mulroe, **Senate Bill No. 2840** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Human Services, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2840

AMENDMENT NO. 1. Amend Senate Bill 2840 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Sections 5-5, 11-13, 11-26, and 12-13.1 as follows:

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

Sec. 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of and the rate of reimbursement for the medical assistance for which payment will be authorized, and the medical services to be provided, which may include all or part of the following: (1) inpatient hospital services; (2) outpatient hospital services; (3) other laboratory and X-ray services; (4) skilled nursing home services; (5) physicians' services whether furnished in the office, the patient's home, a hospital, a skilled nursing home, or elsewhere; (6) medical care, or any other type of remedial care furnished by licensed practitioners; (7) home health care services; (8) private duty nursing service; (9) clinic services; (10) dental services, including prevention and treatment of periodontal disease and dental caries disease for pregnant women, provided by an individual licensed to practice dentistry or dental surgery; for purposes of this item (10), "dental services" means diagnostic, preventive, or corrective procedures provided by or under the supervision of a dentist in the practice of his or her profession; (11) physical therapy and related services; (12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select; (13) other diagnostic, screening, preventive, and rehabilitative services, for children and adults; (14) transportation and such other expenses as may be necessary; (15) medical treatment of sexual assault survivors, as defined in Section 1a of the Sexual Assault Survivors Emergency Treatment Act, for injuries sustained as a result of the sexual assault, including examinations and laboratory tests to discover evidence which may be used in criminal proceedings arising from the sexual assault; (16) the diagnosis and treatment of sickle cell anemia; and (17) any other medical care, and any other type of remedial care recognized under the laws of this State, but not including abortions, or induced miscarriages or premature births, unless, in the opinion of a physician, such procedures are necessary for the preservation of the life of the woman seeking such treatment, or except an induced premature birth intended to produce a live viable child and such procedure is necessary for the health of the mother or her unborn child. The Illinois Department, by rule, shall prohibit any physician from providing medical assistance to anyone eligible therefor under this Code where such physician has been found guilty of performing an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was performed. The term "any other type of remedial care" shall include nursing care and nursing home service for persons who rely on treatment by spiritual means alone through prayer for healing.

Notwithstanding any other provision of this Section, a comprehensive tobacco use cessation program that includes purchasing prescription drugs or prescription medical devices approved by the Food and Drug Administration shall be covered under the medical assistance program under this Article for persons who are otherwise eligible for assistance under this Article.

Notwithstanding any other provision of this Code, the Illinois Department may not require, as a condition of payment for any laboratory test authorized under this Article, that a physician's handwritten signature appear on the laboratory test order form. The Illinois Department may, however, impose other appropriate requirements regarding laboratory test order documentation.

The Department of Healthcare and Family Services shall provide the following services to persons eligible for assistance under this Article who are participating in education, training or employment programs operated by the Department of Human Services as successor to the Department of Public Aid:

- (1) dental services provided by or under the supervision of a dentist; and
- (2) eyeglasses prescribed by a physician skilled in the diseases of the eye, or by an optometrist, whichever the person may select.

Notwithstanding any other provision of this Code and subject to federal approval, the Department may

[March 23, 2012]

adopt rules to allow a dentist who is volunteering his or her service at no cost to render dental services through an enrolled not-for-profit health clinic without the dentist personally enrolling as a participating provider in the medical assistance program. A not-for-profit health clinic shall include a public health clinic or Federally Qualified Health Center or other enrolled provider, as determined by the Department, through which dental services covered under this Section are performed. The Department shall establish a process for payment of claims for reimbursement for covered dental services rendered under this provision.

The Illinois Department, by rule, may distinguish and classify the medical services to be provided only in accordance with the classes of persons designated in Section 5-2.

The Department of Healthcare and Family Services must provide coverage and reimbursement for amino acid-based elemental formulas, regardless of delivery method, for the diagnosis and treatment of (i) eosinophilic disorders and (ii) short bowel syndrome when the prescribing physician has issued a written order stating that the amino acid-based elemental formula is medically necessary.

The Illinois Department shall authorize the provision of, and shall authorize payment for, screening by low-dose mammography for the presence of occult breast cancer for women 35 years of age or older who are eligible for medical assistance under this Article, as follows:

(A) A baseline mammogram for women 35 to 39 years of age.

(B) An annual mammogram for women 40 years of age or older.

(C) A mammogram at the age and intervals considered medically necessary by the woman's health care provider for women under 40 years of age and having a family history of breast cancer, prior personal history of breast cancer, positive genetic testing, or other risk factors.

(D) A comprehensive ultrasound screening of an entire breast or breasts if a mammogram demonstrates heterogeneous or dense breast tissue, when medically necessary as determined by a physician licensed to practice medicine in all of its branches.

All screenings shall include a physical breast exam, instruction on self-examination and information regarding the frequency of self-examination and its value as a preventative tool. For purposes of this Section, "low-dose mammography" means the x-ray examination of the breast using equipment dedicated specifically for mammography, including the x-ray tube, filter, compression device, and image receptor, with an average radiation exposure delivery of less than one rad per breast for 2 views of an average size breast. The term also includes digital mammography.

On and after January 1, 2012, providers participating in a quality improvement program approved by the Department shall be reimbursed for screening and diagnostic mammography at the same rate as the Medicare program's rates, including the increased reimbursement for digital mammography.

The Department shall convene an expert panel including representatives of hospitals, free-standing mammography facilities, and doctors, including radiologists, to establish quality standards.

Subject to federal approval, the Department shall establish a rate methodology for mammography at federally qualified health centers and other encounter-rate clinics. These clinics or centers may also collaborate with other hospital-based mammography facilities.

The Department shall establish a methodology to remind women who are age-appropriate for screening mammography, but who have not received a mammogram within the previous 18 months, of the importance and benefit of screening mammography.

The Department shall establish a performance goal for primary care providers with respect to their female patients over age 40 receiving an annual mammogram. This performance goal shall be used to provide additional reimbursement in the form of a quality performance bonus to primary care providers who meet that goal.

The Department shall devise a means of case-managing or patient navigation for beneficiaries diagnosed with breast cancer. This program shall initially operate as a pilot program in areas of the State with the highest incidence of mortality related to breast cancer. At least one pilot program site shall be in the metropolitan Chicago area and at least one site shall be outside the metropolitan Chicago area. An evaluation of the pilot program shall be carried out measuring health outcomes and cost of care for those served by the pilot program compared to similarly situated patients who are not served by the pilot program.

Any medical or health care provider shall immediately recommend, to any pregnant woman who is being provided prenatal services and is suspected of drug abuse or is addicted as defined in the Alcoholism and Other Drug Abuse and Dependency Act, referral to a local substance abuse treatment provider licensed by the Department of Human Services or to a licensed hospital which provides substance abuse treatment services. The Department of Healthcare and Family Services shall assure coverage for the cost of treatment of the drug abuse or addiction for pregnant recipients in accordance with the Illinois Medicaid Program in conjunction with the Department of Human Services.

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All medical providers providing medical assistance to pregnant women under this Code shall receive information from the Department on the availability of services under the Drug Free Families with a Future or any comparable program providing case management services for addicted women, including information on appropriate referrals for other social services that may be needed by addicted women in addition to treatment for addiction.

The Illinois Department, in cooperation with the Departments of Human Services (as successor to the Department of Alcoholism and Substance Abuse) and Public Health, through a public awareness campaign, may provide information concerning treatment for alcoholism and drug abuse and addiction, prenatal health care, and other pertinent programs directed at reducing the number of drug-affected infants born to recipients of medical assistance.

Neither the Department of Healthcare and Family Services nor the Department of Human Services shall sanction the recipient solely on the basis of her substance abuse.

The Illinois Department shall establish such regulations governing the dispensing of health services under this Article as it shall deem appropriate. The Department should seek the advice of formal professional advisory committees appointed by the Director of the Illinois Department for the purpose of providing regular advice on policy and administrative matters, information dissemination and educational activities for medical and health care providers, and consistency in procedures to the Illinois Department.

Notwithstanding any other provision of law, a health care provider under the medical assistance program may elect, in lieu of receiving direct payment for services provided under that program, to participate in the State Employees Deferred Compensation Plan adopted under Article 24 of the Illinois Pension Code. A health care provider who elects to participate in the plan does not have a cause of action against the State for any damages allegedly suffered by the provider as a result of any delay by the State in crediting the amount of any contribution to the provider's plan account.

The Illinois Department may develop and contract with Partnerships of medical providers to arrange medical services for persons eligible under Section 5-2 of this Code. Implementation of this Section may be by demonstration projects in certain geographic areas. The Partnership shall be represented by a sponsor organization. The Department, by rule, shall develop qualifications for sponsors of Partnerships. Nothing in this Section shall be construed to require that the sponsor organization be a medical organization.

The sponsor must negotiate formal written contracts with medical providers for physician services, inpatient and outpatient hospital care, home health services, treatment for alcoholism and substance abuse, and other services determined necessary by the Illinois Department by rule for delivery by Partnerships. Physician services must include prenatal and obstetrical care. The Illinois Department shall reimburse medical services delivered by Partnership providers to clients in target areas according to provisions of this Article and the Illinois Health Finance Reform Act, except that:

- (1) Physicians participating in a Partnership and providing certain services, which shall be determined by the Illinois Department, to persons in areas covered by the Partnership may receive an additional surcharge for such services.
- (2) The Department may elect to consider and negotiate financial incentives to encourage the development of Partnerships and the efficient delivery of medical care.
- (3) Persons receiving medical services through Partnerships may receive medical and case management services above the level usually offered through the medical assistance program.

Medical providers shall be required to meet certain qualifications to participate in Partnerships to ensure the delivery of high quality medical services. These qualifications shall be determined by rule of the Illinois Department and may be higher than qualifications for participation in the medical assistance program. Partnership sponsors may prescribe reasonable additional qualifications for participation by medical providers, only with the prior written approval of the Illinois Department.

Nothing in this Section shall limit the free choice of practitioners, hospitals, and other providers of medical services by clients. In order to ensure patient freedom of choice, the Illinois Department shall immediately promulgate all rules and take all other necessary actions so that provided services may be accessed from therapeutically certified optometrists to the full extent of the Illinois Optometric Practice Act of 1987 without discriminating between service providers.

The Department shall apply for a waiver from the United States Health Care Financing Administration to allow for the implementation of Partnerships under this Section.

The Illinois Department shall require health care providers to maintain records that document the medical care and services provided to recipients of Medical Assistance under this Article. Such records must be retained for a period of not less than 6 years from the date of service or as provided by applicable State law, whichever period is longer, except that if an audit is initiated within the required

retention period then the records must be retained until the audit is completed and every exception is resolved. The Illinois Department shall require health care providers to make available, when authorized by the patient, in writing, the medical records in a timely fashion to other health care providers who are treating or serving persons eligible for Medical Assistance under this Article. All dispensers of medical services shall be required to maintain and retain business and professional records sufficient to fully and accurately document the nature, scope, details and receipt of the health care provided to persons eligible for medical assistance under this Code, in accordance with regulations promulgated by the Illinois Department. The rules and regulations shall require that proof of the receipt of prescription drugs, dentures, prosthetic devices and eyeglasses by eligible persons under this Section accompany each claim for reimbursement submitted by the dispenser of such medical services. No such claims for reimbursement shall be approved for payment by the Illinois Department without such proof of receipt, unless the Illinois Department shall have put into effect and shall be operating a system of post-payment audit and review which shall, on a sampling basis, be deemed adequate by the Illinois Department to assure that such drugs, dentures, prosthetic devices and eyeglasses for which payment is being made are actually being received by eligible recipients. Within 90 days after the effective date of this amendatory Act of 1984, the Illinois Department shall establish a current list of acquisition costs for all prosthetic devices and any other items recognized as medical equipment and supplies reimbursable under this Article and shall update such list on a quarterly basis, except that the acquisition costs of all prescription drugs shall be updated no less frequently than every 30 days as required by Section 5-5.12.

The rules and regulations of the Illinois Department shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for abortions, or induced miscarriages or premature births. This statement shall indicate what procedures were used in providing such medical services.

The Illinois Department shall require all dispensers of medical services, other than an individual practitioner or group of practitioners, desiring to participate in the Medical Assistance program established under this Article to disclose all financial, beneficial, ownership, equity, surety or other interests in any and all firms, corporations, partnerships, associations, business enterprises, joint ventures, agencies, institutions or other legal entities providing any form of health care services in this State under this Article.

The Illinois Department may require that all dispensers of medical services desiring to participate in the medical assistance program established under this Article disclose, under such terms and conditions as the Illinois Department may by rule establish, all inquiries from clients and attorneys regarding medical bills paid by the Illinois Department, which inquiries could indicate potential existence of claims or liens for the Illinois Department.

The Illinois Department shall have the authority to establish by rule the necessary procedures and policies to comply with the federal Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010, and with subsequent federal statutes, rules, and regulations pertaining to Department functions.

Prior to enrollment in the medical assistance program, all vendors shall be subject to enhanced oversight, screening, and review based on categories of risk of fraud, waste, and abuse. The Illinois Department shall establish by rule the procedures for such screening and review.

Enrollment of a vendor ~~that provides non-emergency medical transportation, defined by the Department by rule,~~ shall be subject to a provisional period and shall be conditional for one year ~~180 days~~. During the period of conditional enrollment ~~that time~~, the Department of Healthcare and Family Services may terminate the vendor's eligibility to participate in or may disenroll the vendor from the medical assistance program without cause. Such ~~That~~ termination of eligibility or disenrollment is not subject to the Department's hearing process.

Prior to enrollment and during the conditional enrollment period, a vendor shall be subject to enhanced oversight based on risk categories that may include, but are not limited to, criminal and financial background checks; fingerprinting; license, certification, and authorization verifications; unscheduled or unannounced site visits; database checks; prepayment audit reviews; audits; payment caps; payment suspensions; and other screening as required by federal or State law.

To be eligible for payment consideration, a provider's vendor-payment claim or bill, either as an initial or resubmitted claim following prior rejection, must be received by the Illinois Department, or its fiscal intermediary, no later than 90 days after the date on which medical goods or services were provided, with the following exception: the Illinois Department must receive a claim after disposition by Medicare or its fiscal intermediary no later than 24 months after the date on which medical goods or services were provided.

For claims for services rendered during a period for which a recipient received retroactive eligibility,

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claims must be filed within 90 days after the recipient was made eligible. For claims for which the Illinois Department is not the primary payer, claims must be submitted to the Illinois Department within 90 days after the final adjudication by the primary payer, but in no event more than 1 year after the date of service.

Claims that are not submitted and received in compliance with the foregoing requirement shall not be eligible for payment under the medical assistance program, and the State shall have no liability for payment of those claims.

To the extent consistent with applicable information, privacy, security, and disclosure laws, State and federal agencies shall provide the Illinois Department access to confidential and other information and data necessary to perform eligibility and payment verifications and other Illinois Department functions. This includes, but is not limited to, information pertaining to licensure; certification; earnings; immigration status; citizenship; wage reporting; unearned and earned income; pension income; employment; supplemental security income; social security numbers; National Provider Identifier (NPI) numbers; the National Practitioner Data Bank (NPDB); program and agency exclusions; taxpayer identification numbers; tax delinquency; corporate information; and death records.

The Illinois Department shall enter into agreements with State and federal agencies and Departments under which such agencies shall share data necessary for program integrity functions and oversight. The Illinois Department shall develop, in cooperation with other State departments and agencies, and in compliance with applicable federal laws and regulations, appropriate and effective methods to share such data. At a minimum, and to the extent necessary to provide data sharing, the Illinois Department shall enter into agreements with State and federal agencies, including but not limited to, the Secretary of State; the Department of Revenue; the Department of Public Health; the Department of Human Services; and the Department of Financial and Professional Regulation.

Beginning in fiscal year 2013, the Illinois Department shall set forth a request for information to identify the benefits of a pre-payment, post-adjudication, and post-edit claims system with the goals of streamlining claims processing and provider reimbursement, reducing the number of pending or rejected claims, and helping to ensure a more transparent adjudication process through the utilization of: (i) provider data verification and provider screening technology; and (ii) clinical code editing. Such request for information shall not be considered as a request for proposal, or as an obligation on the part of the Illinois Department to take any action or acquire any products or services.

The Illinois Department shall establish policies, procedures, standards and criteria by rule for the acquisition, repair and replacement of orthotic and prosthetic devices and durable medical equipment. Such rules shall provide, but not be limited to, the following services: (1) immediate repair or replacement of such devices by recipients without medical authorization; and (2) rental, lease, purchase or lease-purchase of durable medical equipment in a cost-effective manner, taking into consideration the recipient's medical prognosis, the extent of the recipient's needs, and the requirements and costs for maintaining such equipment. Such rules shall enable a recipient to temporarily acquire and use alternative or substitute devices or equipment pending repairs or replacements of any device or equipment previously authorized for such recipient by the Department.

The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department on Aging, to effect the following: (i) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (ii) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped.

The Illinois Department shall develop and operate, in cooperation with other State Departments and agencies and in compliance with applicable federal laws and regulations, appropriate and effective systems of health care evaluation and programs for monitoring of utilization of health care services and facilities, as it affects persons eligible for medical assistance under this Code.

The Illinois Department shall report annually to the General Assembly, no later than the second Friday in April of 1979 and each year thereafter, in regard to:

- (a) actual statistics and trends in utilization of medical services by public aid recipients;
- (b) actual statistics and trends in the provision of the various medical services by medical vendors;
- (c) current rate structures and proposed changes in those rate structures for the various medical vendors; and
- (d) efforts at utilization review and control by the Illinois Department.

The period covered by each report shall be the 3 years ending on the June 30 prior to the report. The report shall include suggested legislation for consideration by the General Assembly. The filing of one

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copy of the report with the Speaker, one copy with the Minority Leader and one copy with the Clerk of the House of Representatives, one copy with the President, one copy with the Minority Leader and one copy with the Secretary of the Senate, one copy with the Legislative Research Unit, and such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act shall be deemed sufficient to comply with this Section.

Rulemaking authority to implement Public Act 95-1045, if any, is conditioned on the rules being adopted in accordance with all provisions of the Illinois Administrative Procedure Act and all rules and procedures of the Joint Committee on Administrative Rules; any purported rule not so adopted, for whatever reason, is unauthorized.

(Source: P.A. 96-156, eff. 1-1-10; 96-806, eff. 7-1-10; 96-926, eff. 1-1-11; 96-1000, eff. 7-2-10; 97-48, eff. 6-28-11; 97-638, eff. 1-1-12.)

(305 ILCS 5/11-13) (from Ch. 23, par. 11-13)

Sec. 11-13. Conditions For Receipt of Vendor Payments - Limitation Period For Vendor Action - Penalty For Violation. A vendor payment, as defined in Section 2-5 of Article II, shall constitute payment in full for the goods or services covered thereby. Acceptance of the payment by or in behalf of the vendor shall bar him from obtaining, or attempting to obtain, additional payment therefor from the recipient or any other person. A vendor payment shall not, however, bar recovery of the value of goods and services the obligation for which, under the rules and regulations of the Illinois Department, is to be met from the income and resources available to the recipient, and in respect to which the vendor payment of the Illinois Department or the local governmental unit represents supplementation of such available income and resources.

Vendors seeking to enforce obligations of a governmental unit or the Illinois Department for goods or services (1) furnished to or in behalf of recipients and (2) subject to a vendor payment as defined in Section 2-5, shall commence their actions in the appropriate Circuit Court or the Court of Claims, as the case may require, within one year next after the cause of action accrued.

A cause of action accrues within the meaning of this Section upon the following date:

(1) If the vendor can prove that he submitted a bill for the service rendered to the Illinois Department or a governmental unit within 90 days after 12 months of the date the service was rendered, then (a) upon the date the Illinois Department or a governmental unit mails to the vendor information that it is paying a bill in part or is refusing to pay a bill in whole or in part, or (b) upon the date one year following the date the vendor submitted such bill if the Illinois Department or a governmental unit fails to mail to the vendor such payment information within one year following the date the vendor submitted the bill; or

(2) If the vendor cannot prove that he submitted a bill for the service rendered within 90 days after 42 months of the date the service was rendered, then upon the date 12 months following the date the vendor rendered the service to the recipient.

This paragraph governs only vendor payments as defined in this Code and as limited by regulations of the Illinois Department; it does not apply to goods or services purchased or contracted for by a recipient under circumstances in which the payment is to be made directly by the recipient.

Any vendor who accepts a vendor payment and who knowingly obtains or attempts to obtain additional payment for the goods or services covered by the vendor payment from the recipient or any other person shall be guilty of a Class B misdemeanor.

(Source: P.A. 86-430.)

(305 ILCS 5/11-26) (from Ch. 23, par. 11-26)

Sec. 11-26. Recipient's abuse of medical care; restrictions on access to medical care.

(a) When the Department determines, on the basis of statistical norms and medical judgment, that a medical care recipient has received medical services in excess of need and with such frequency or in such a manner as to constitute an abuse of the recipient's medical care privileges, the recipient's access to medical care may be restricted.

(b) When the Department has determined that a recipient is abusing his or her medical care privileges as described in this Section, it may require that the recipient designate a primary provider type of the recipient's own choosing to assume responsibility for the recipient's care. For the purposes of this subsection, "primary provider type" means a provider type as determined by the Department ~~primary care provider, primary care pharmacy, primary dentist, primary podiatrist, or primary durable medical equipment provider~~. Instead of requiring a recipient to make a designation as provided in this subsection, the Department, pursuant to rules adopted by the Department and without regard to any choice of an entity that the recipient might otherwise make, may initially designate a primary provider type provided that the primary provider type is willing to provide that care.

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(c) When the Department has requested that a recipient designate a primary provider type and the recipient fails or refuses to do so, the Department may, after a reasonable period of time, assign the recipient to a primary provider type of its own choice and determination, provided such primary provider type is willing to provide such care.

(d) When a recipient has been restricted to a designated primary provider type, the recipient may change the primary provider type:

- (1) when the designated source becomes unavailable, as the Department shall determine by rule; or
- (2) when the designated primary provider type notifies the Department that it wishes to withdraw from any obligation as primary provider type; or
- (3) in other situations, as the Department shall provide by rule.

The Department shall, by rule, establish procedures for providing medical or pharmaceutical services when the designated source becomes unavailable or wishes to withdraw from any obligation as primary provider type, shall, by rule, take into consideration the need for emergency or temporary medical assistance and shall ensure that the recipient has continuous and unrestricted access to medical care from the date on which such unavailability or withdrawal becomes effective until such time as the recipient designates a primary provider type or a primary provider type willing to provide such care is designated by the Department consistent with subsections (b) and (c) and such restriction becomes effective.

(e) Prior to initiating any action to restrict a recipient's access to medical or pharmaceutical care, the Department shall notify the recipient of its intended action. Such notification shall be in writing and shall set forth the reasons for and nature of the proposed action. In addition, the notification shall:

(1) inform the recipient that (i) the recipient has a right to designate a primary provider type of the recipient's own choosing willing to accept such designation and that the recipient's failure to do so within a reasonable time may result in such designation being made by the Department or (ii) the Department has designated a primary provider type to assume responsibility for the recipient's care; and

(2) inform the recipient that the recipient has a right to appeal the Department's determination to restrict the recipient's access to medical care and provide the recipient with an explanation of how such appeal is to be made. The notification shall also inform the recipient of the circumstances under which unrestricted medical eligibility shall continue until a decision is made on appeal and that if the recipient chooses to appeal, the recipient will be able to review the medical payment data that was utilized by the Department to decide that the recipient's access to medical care should be restricted.

(f) The Department shall, by rule or regulation, establish procedures for appealing a determination to restrict a recipient's access to medical care, which procedures shall, at a minimum, provide for a reasonable opportunity to be heard and, where the appeal is denied, for a written statement of the reason or reasons for such denial.

(g) Except as otherwise provided in this subsection, when a recipient has had his or her medical card restricted for 4 full quarters (without regard to any period of ineligibility for medical assistance under this Code, or any period for which the recipient voluntarily terminates his or her receipt of medical assistance, that may occur before the expiration of those 4 full quarters), the Department shall reevaluate the recipient's medical usage to determine whether it is still in excess of need and with such frequency or in such a manner as to constitute an abuse of the receipt of medical assistance. If it is still in excess of need, the restriction shall be continued for another 4 full quarters. If it is no longer in excess of need, the restriction shall be discontinued. If a recipient's access to medical care has been restricted under this Section and the Department then determines, either at reevaluation or after the restriction has been discontinued, to restrict the recipient's access to medical care a second or subsequent time, the second or subsequent restriction may be imposed for a period of more than 4 full quarters. If the Department restricts a recipient's access to medical care for a period of more than 4 full quarters, as determined by rule, the Department shall reevaluate the recipient's medical usage after the end of the restriction period rather than after the end of 4 full quarters. The Department shall notify the recipient, in writing, of any decision to continue the restriction and the reason or reasons therefor. A "quarter", for purposes of this Section, shall be defined as one of the following 3-month periods of time: January-March, April-June, July-September or October-December.

(h) In addition to any other recipient whose acquisition of medical care is determined to be in excess of need, the Department may restrict the medical care privileges of the following persons:

- (1) recipients found to have loaned or altered their cards or misused or falsely represented medical coverage;
- (2) recipients found in possession of blank or forged prescription pads;

- (3) recipients who knowingly assist providers in rendering excessive services or defrauding the medical assistance program.

The procedural safeguards in this Section shall apply to the above individuals.

(i) Restrictions under this Section shall be in addition to and shall not in any way be limited by or limit any actions taken under Article VIII-A of this Code.

(Source: P.A. 96-1501, eff. 1-25-11.)

(305 ILCS 5/12-13.1)

Sec. 12-13.1. Inspector General.

(a) The Governor shall appoint, and the Senate shall confirm, an Inspector General who shall function within the Illinois Department of Public Aid (now Healthcare and Family Services) and report to the Governor. The term of the Inspector General shall expire on the third Monday of January, 1997 and every 4 years thereafter.

(b) In order to prevent, detect, and eliminate fraud, waste, abuse, mismanagement, and misconduct, the Inspector General shall oversee the Department of Healthcare and Family Services' integrity functions, which include, but are not limited to, the following:

(1) Investigation of misconduct by employees, vendors, contractors and medical providers, except for allegations of violations of the State Officials and Employees Ethics Act which shall be referred to the Office of the Governor's Executive Inspector General for investigation.

(2) Prepayment and post-payment audits ~~Audits~~ of medical providers related to ensuring that appropriate payments are made for services rendered and to the prevention and recovery of overpayments.

(3) Monitoring of quality assurance programs administered by the Department of Healthcare and Family Services generally related to the medical assistance program and specifically related to any managed care program.

(4) Quality control measurements of the programs administered by the Department of Healthcare and Family Services.

(5) Investigations of fraud or intentional program violations committed by clients of the Department of Healthcare and Family Services.

(6) Actions initiated against contractors, vendors, or medical providers for any of the following reasons:

(A) Violations of the medical assistance program.

(B) Sanctions against providers brought in conjunction with the Department of Public Health or the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities).

(C) Recoveries of assessments against hospitals and long-term care facilities.

(D) Sanctions mandated by the United States Department of Health and Human Services against medical providers.

(E) Violations of contracts related to any programs administered by the Department of Healthcare and Family Services managed care programs.

(7) Representation of the Department of Healthcare and Family Services at hearings with

the Illinois Department of Financial and Professional Regulation in actions taken against professional licenses held by persons who are in violation of orders for child support payments.

(b-5) At the request of the Secretary of Human Services, the Inspector General shall, in relation to any function performed by the Department of Human Services as successor to the Department of Public Aid, exercise one or more of the powers provided under this Section as if those powers related to the Department of Human Services; in such matters, the Inspector General shall report his or her findings to the Secretary of Human Services.

(c) Notwithstanding, and in addition to, any other provision of law, the ~~The~~ Inspector General shall have access to all information, personnel and facilities of the Department of Healthcare and Family Services and the Department of Human Services (as successor to the Department of Public Aid), their employees, vendors, contractors and medical providers and any federal, State or local governmental agency that are necessary to perform the duties of the Office as directly related to public assistance programs administered by those departments. No medical provider shall be compelled, however, to provide individual medical records of patients who are not clients of the programs administered by the Department of Healthcare and Family Services Medical Assistance Program. State and local governmental agencies are authorized and directed to provide the requested information, assistance or cooperation.

For purposes of enhanced program integrity functions and oversight, and to the extent consistent with applicable information, privacy, security, and disclosure laws, State and federal agencies shall provide

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the Inspector General access to confidential and other information and data. This includes, but is not limited to, information pertaining to licensure; certification; earnings; immigration status; citizenship; wage reporting; unearned and earned income; pension income; employment; supplemental security income; social security numbers; National Provider Identifier (NPI) numbers; the National Practitioner Data Bank (NPDB); program and agency exclusions; taxpayer identification numbers; tax delinquency; corporate information; and death records.

The Department of Healthcare and Family Services shall enter into agreements with State and federal agencies under which such agencies share data necessary for vendor screening, vendor review, and payment verification. The Department shall develop, in cooperation with other State and federal departments and agencies, and in compliance with applicable federal laws and regulations, appropriate and effective methods to share such data necessary for vendor screening, vendor review, and payment verification. The Department shall enter into agreements with State and federal agencies, including but not limited to, the Secretary of State; the Department of Revenue; the Department of Public Health; the Department of Human Services; and the Department of Financial and Professional Regulation.

The Inspector General shall have the authority to deny payment, prevent overpayments, and recover overpayments.

The Inspector General shall have the authority to deny or suspend payment to, and deny, terminate, or suspend the eligibility of, any vendor who fails to grant the Inspector General timely access to full and complete records in accordance with Section 140.28 of Title 89 of the Illinois Administrative Code, and other information for the purpose of audits, investigations, or other program integrity functions, after reasonable written request by the Inspector General.

The Inspector General shall have the authority to establish by rule the necessary procedures and policies to comply with the federal Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010, and with subsequent federal statutes and rules pertaining to state program integrity requirements.

(d) The Inspector General shall serve as the Department of Healthcare and Family Services' primary liaison with law enforcement, investigatory and prosecutorial agencies, including but not limited to the following:

- (1) The Department of State Police.
- (2) The Federal Bureau of Investigation and other federal law enforcement agencies.
- (3) The various Inspectors General of federal agencies overseeing the programs administered by the Department of Healthcare and Family Services.
- (4) The various Inspectors General of any other State agencies with responsibilities for portions of programs primarily administered by the Department of Healthcare and Family Services.
- (5) The Offices of the several United States Attorneys in Illinois.
- (6) The several State's Attorneys.
- (7) The offices of the Centers for Medicare and Medicaid Services that administer the Medicare and Medicaid integrity programs.

The Inspector General shall meet on a regular basis with these entities to share information regarding possible misconduct by any persons or entities involved with the public aid programs administered by the Department of Healthcare and Family Services.

(e) All investigations conducted by the Inspector General shall be conducted in a manner that ensures the preservation of evidence for use in criminal prosecutions. If the Inspector General determines that a possible criminal act relating to fraud in the provision or administration of the medical assistance program has been committed, the Inspector General shall immediately notify the Medicaid Fraud Control Unit. If the Inspector General determines that a possible criminal act has been committed within the jurisdiction of the Office, the Inspector General may request the special expertise of the Department of State Police. The Inspector General may present for prosecution the findings of any criminal investigation to the Office of the Attorney General, the Offices of the several United States Attorneys in Illinois or the several State's Attorneys.

(f) To carry out his or her duties as described in this Section, the Inspector General and his or her designees shall have the power to compel by subpoena the attendance and testimony of witnesses and the production of books, electronic records and papers as directly related to public assistance programs administered by the Department of Healthcare and Family Services or the Department of Human Services (as successor to the Department of Public Aid). No medical provider shall be compelled, however, to provide individual medical records of patients who are not clients of the Medical Assistance Program.

(g) The Inspector General shall report all convictions, terminations, and suspensions taken against vendors, contractors and medical providers to the Department of Healthcare and Family Services and to

any agency responsible for licensing or regulating those persons or entities.

(h) The Inspector General shall make annual reports, findings, and recommendations regarding the Office's investigations into reports of fraud, waste, abuse, mismanagement, or misconduct relating to any ~~public aid~~ programs administered by the Department of Healthcare and Family Services or the Department of Human Services (as successor to the Department of Public Aid) to the General Assembly and the Governor. These reports shall include, but not be limited to, the following information:

- (1) Aggregate provider billing and payment information, including the number of providers at various Medicaid earning levels.
- (2) The number of audits of the medical assistance program and the dollar savings resulting from those audits.
- (3) The number of prescriptions rejected annually under the Department of Healthcare and Family Services' Refill Too Soon program and the dollar savings resulting from that program.
- (4) Provider sanctions, in the aggregate, including terminations and suspensions.
- (5) A detailed summary of the investigations undertaken in the previous fiscal year.

These summaries shall comply with all laws and rules regarding maintaining confidentiality in the public aid programs.

(i) Nothing in this Section shall limit investigations by the Department of Healthcare and Family Services or the Department of Human Services that may otherwise be required by law or that may be necessary in their capacity as the central administrative authorities responsible for administration of their agency's public aid programs in this State.

(j) The Inspector General may issue shields or other distinctive identification to his or her employees not exercising the powers of a peace officer if the Inspector General determines that a shield or distinctive identification is needed by an employee to carry out his or her responsibilities.

(Source: P.A. 95-331, eff. 8-21-07; 96-555, eff. 8-18-09; 96-1316, eff. 1-1-11.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2869** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 2929** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Martinez, **Senate Bill No. 2935** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 2935

AMENDMENT NO. 1. Amend Senate Bill 2935 as follows:

on page 10, by replacing lines 17 through 19 with "knowingly ~~purchase or~~ receive any prescription drug from any source other than a person or entity required by the laws of this State to be licensed to ship into, out of, or within this State licensed under the laws of this State or the state of domicile except where otherwise"; and

on page 16, by replacing line 14 with "licensed to ship into, out of, or within the State under this Act shall, in addition to any other penalty"; and

on page 18, line 12, after "transactions", by inserting "electronically"; and

on page 18, line 16, after "made", by inserting "readily"; and

on page 21, by replacing line 26 with "obtained from a source licensed by the Department."; and

on page 25, by replacing lines 16 and 17 with the following:

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"Section 99. Effective date. This Act takes effect on January 1, 2013."

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator J. Collins, **Senate Bill No. 3177** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Financial Institutions, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3177

AMENDMENT NO. 1. Amend Senate Bill 3177 by replacing everything after the enacting clause with the following:

"Section 5. The Residential Mortgage License Act of 1987 is amended by changing Sections 1-4, 2-2, 2-4, 3-2, 4-5, 4-8.2, 7-1A, 7-11, and 7-13 and by adding Section 2-3A as follows:

(205 ILCS 635/1-4)

Sec. 1-4. Definitions.

(a) "Residential real property" or "residential real estate" shall mean any real property located in Illinois, upon which is constructed or intended to be constructed a dwelling.

(b) "Making a residential mortgage loan" or "funding a residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, advancing funds or making a commitment to advance funds to a loan applicant for a residential mortgage loan.

(c) "Soliciting, processing, placing, or negotiating a residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, including a closing in the name of a broker.

(d) "Exempt person or entity" shall mean the following:

(1) (i) Any banking organization or foreign banking corporation licensed by the Illinois

Commissioner of Banks and Real Estate or the United States Comptroller of the Currency to transact business in this State; (ii) any national bank, federally chartered savings and loan association, federal savings bank, federal credit union; (iii) any pension trust, bank trust, or bank trust company; (iv) any bank, savings and loan association, savings bank, or credit union organized under the laws of this or any other state; (v) any Illinois Consumer Installment Loan Act licensee; (vi) any insurance company authorized to transact business in this State; (vii) any entity engaged solely in commercial mortgage lending; (viii) any service corporation of a savings and loan association or savings bank organized under the laws of this State or the service corporation of a federally chartered savings and loan association or savings bank having its principal place of business in this State, other than a service corporation licensed or entitled to reciprocity under the Real Estate License Act of 2000; or (ix) any first tier subsidiary of a bank, the charter of which is issued under the Illinois Banking Act by the Illinois Commissioner of Banks and Real Estate, or the first tier subsidiary of a bank chartered by the United States Comptroller of the Currency and that has its principal place of business in this State, provided that the first tier subsidiary is regularly examined by the Illinois Commissioner of Banks and Real Estate or the Comptroller of the Currency, or a consumer compliance examination is regularly conducted by the Federal Reserve Board.

(1.5) Any employee of a person or entity mentioned in item (1) of this subsection, when acting for such person or entity, or any registered mortgage loan originator when acting for an entity described in subsection (tt) of this Section.

(1.8) Any person or entity that does not originate mortgage loans in the ordinary course of business, but makes or acquires residential mortgage loans with his or her own funds for his or her or its own investment without intent to make, acquire, or resell more than 3 residential mortgage loans in any one calendar year.

(2) (Blank).

(3) Any person employed by a licensee to assist in the performance of the residential mortgage licensee's activities regulated by this Act who is compensated in any manner by only one

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licensee.

(4) (Blank).

(5) Any individual, corporation, partnership, or other entity that originates, services, or brokers residential mortgage loans, as these activities are defined in this Act, and who or which receives no compensation for those activities, subject to the Commissioner's regulations and the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 and the rules promulgated under that Act with regard to the nature and amount of compensation.

(6) (Blank).

(e) "Licensee" or "residential mortgage licensee" shall mean a person, partnership, association, corporation, or any other entity who or which is licensed pursuant to this Act to engage in the activities regulated by this Act.

(f) "Mortgage loan" "residential mortgage loan" or "home mortgage loan" shall mean any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling as defined in Section 103(v) of the federal Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

(g) "Lender" shall mean any person, partnership, association, corporation, or any other entity who either lends or invests money in residential mortgage loans.

(h) "Ultimate equitable owner" shall mean a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

(i) "Residential mortgage financing transaction" shall mean the negotiation, acquisition, sale, or arrangement for or the offer to negotiate, acquire, sell, or arrange for, a residential mortgage loan or residential mortgage loan commitment.

(j) "Personal residence address" shall mean a street address and shall not include a post office box number.

(k) "Residential mortgage loan commitment" shall mean a contract for residential mortgage loan financing.

(l) "Party to a residential mortgage financing transaction" shall mean a borrower, lender, or loan broker in a residential mortgage financing transaction.

(m) "Payments" shall mean payment of all or any of the following: principal, interest and escrow reserves for taxes, insurance and other related reserves, and reimbursement for lender advances.

(n) "Commissioner" shall mean the Commissioner of Banks and Real Estate, except that, beginning on April 6, 2009 (the effective date of Public Act 95-1047), all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

(n-1) "Director" shall mean the Director of the Division of Banking of the Department of Financial and Professional Regulation, except that, beginning on July 31, 2009 (the effective date of Public Act 96-112), all references in this Act to the Director are deemed, in appropriate contexts, to be the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

(o) "Loan brokering", "brokering", or "brokerage service" shall mean the act of helping to obtain from another entity, for a borrower, a loan secured by residential real estate situated in Illinois or assisting a borrower in obtaining a loan secured by residential real estate situated in Illinois in return for consideration to be paid by either the borrower or the lender including, but not limited to, contracting for the delivery of residential mortgage loans to a third party lender and soliciting, processing, placing, or negotiating residential mortgage loans.

(p) "Loan broker" or "broker" shall mean a person, partnership, association, corporation, or limited liability company, other than those persons, partnerships, associations, corporations, or limited liability companies exempted from licensing pursuant to Section 1-4, subsection (d), of this Act, who performs the activities described in subsections (c), ~~and (o)~~ , and (yy) of this Section.

(q) "Servicing" shall mean the collection or remittance for or the right or obligation to collect or remit for any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-

up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing. "Servicing" includes management of third-party entities acting on behalf of a residential mortgage licensee for the collection of delinquent payments and the use by such third-party entities of said licensee's servicing records or information, including their use in foreclosure.

(r) "Full service office" shall mean an office, provided by the licensee and not subleased from the licensee's employees, and staff in Illinois reasonably adequate to handle efficiently communications, questions, and other matters relating to any application for, or an existing home mortgage secured by residential real estate situated in Illinois with respect to which the licensee is brokering, funding originating, purchasing, or servicing. The management and operation of each full service office must include observance of good business practices such as proper signage; adequate, organized, and accurate books and records; ample phone lines, hours of business, staff training and supervision, and provision for a mechanism to resolve consumer inquiries, complaints, and problems. The Commissioner shall issue regulations with regard to these requirements and shall include an evaluation of compliance with this Section in his or her periodic examination of each licensee.

(s) "Purchasing" shall mean the purchase of conventional or government-insured mortgage loans secured by residential real estate situated in Illinois from either the lender or from the secondary market.

(t) "Borrower" shall mean the person or persons who seek the services of a loan broker, originator, or lender.

(u) "Originating" shall mean the issuing of commitments for and funding of residential mortgage loans.

(v) "Loan brokerage agreement" shall mean a written agreement in which a broker or loan broker agrees to do either of the following:

- (1) obtain a residential mortgage loan for the borrower or assist the borrower in obtaining a residential mortgage loan; or
- (2) consider making a residential mortgage loan to the borrower.

(w) "Advertisement" shall mean the attempt by publication, dissemination, or circulation to induce, directly or indirectly, any person to enter into a residential mortgage loan agreement or residential mortgage loan brokerage agreement relative to a mortgage secured by residential real estate situated in Illinois.

(x) "Residential Mortgage Board" shall mean the Residential Mortgage Board created in Section 1-5 of this Act.

(y) "Government-insured mortgage loan" shall mean any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or Farmers Home Loan Administration, or guaranteed by the Veterans Administration.

(z) "Annual audit" shall mean a certified audit of the licensee's books and records and systems of internal control performed by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards.

(aa) "Financial institution" shall mean a savings and loan association, savings bank, credit union, or a bank organized under the laws of Illinois or a savings and loan association, savings bank, credit union or a bank organized under the laws of the United States and headquartered in Illinois.

(bb) "Escrow agent" shall mean a third party, individual or entity charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of those funds in accordance with the terms of the residential mortgage loan.

(cc) "Net worth" shall have the meaning ascribed thereto in Section 3-5 of this Act.

(dd) "Affiliate" shall mean:

(1) any entity that directly controls or is controlled by the licensee and any other company that is directly affecting activities regulated by this Act that is controlled by the company that controls the licensee;

(2) any entity:

(A) that is controlled, directly or indirectly, by a trust or otherwise, by or for the benefit of shareholders who beneficially or otherwise control, directly or indirectly, by trust or otherwise, the licensee or any company that controls the licensee; or

(B) a majority of the directors or trustees of which constitute a majority of the persons holding any such office with the licensee or any company that controls the licensee;

(3) any company, including a real estate investment trust, that is sponsored and advised on a contractual basis by the licensee or any subsidiary or affiliate of the licensee.

The Commissioner may define by rule and regulation any terms used in this Act for the efficient and clear administration of this Act.

(ee) "First tier subsidiary" shall be defined by regulation incorporating the comparable definitions

used by the Office of the Comptroller of the Currency and the Illinois Commissioner of Banks and Real Estate.

(ff) "Gross delinquency rate" means the quotient determined by dividing (1) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by a licensee in the preceding calendar year that are delinquent and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year that are delinquent by (2) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by the licensee in the preceding calendar year and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year.

(gg) "Delinquency rate factor" means the factor set by rule of the Commissioner that is multiplied by the average gross delinquency rate of licensees, determined annually for the immediately preceding calendar year, for the purpose of determining which licensees shall be examined by the Commissioner pursuant to subsection (b) of Section 4-8 of this Act.

(hh) "Loan originator" means any natural person who, for compensation or in the expectation of compensation, either directly or indirectly makes, offers to make, solicits, places, or negotiates a residential mortgage loan. This definition applies only to Section 7-1 of this Act.

(ii) "Confidential supervisory information" means any report of examination, visitation, or investigation prepared by the Commissioner under this Act, any report of examination visitation, or investigation prepared by the state regulatory authority of another state that examines a licensee, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Commissioner to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection. "Confidential supervisory information" does not include any information or record routinely prepared by a licensee and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule.

(jj) "Mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain:

(i) takes a residential mortgage loan application; or

(ii) offers or negotiates terms of a residential mortgage loan.

"Mortgage loan originator" includes an individual engaged in loan modification activities as defined in subsection (yy) of this Section. A mortgage loan originator engaged in loan modification activities shall report those activities to the Department of Financial and Professional Regulation in the manner provided by the Department; however, the Department shall not impose a fee for reporting, nor require any additional qualifications to engage in those activities beyond those provided pursuant to this Act for mortgage loan originators.

"Mortgage loan originator" does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in subsection (d) of Section 7-1A of this Act.

"Mortgage loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed in accordance with the Real Estate License Act of 2000, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator, or by any agent of that lender, mortgage broker, or other mortgage loan originator.

"Mortgage loan originator" does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in Section 101(53D) of Title 11, United States Code.

(kk) "Depository institution" has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(ll) "Dwelling" means a residential structure or mobile home which contains one to 4 family housing units, or individual units of condominiums or cooperatives.

(mm) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild, and includes step-parents, step-children, step-siblings, or adoptive relationships.

(nn) "Individual" means a natural person.

(oo) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this Act. "Clerical or support duties" includes subsequent to the receipt of an application:

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or

terms. An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(pp) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

(qq) "Nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate mortgage.

(rr) "Person" means a natural person, corporation, company, limited liability company, partnership, or association.

(ss) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

- (1) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (2) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (3) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such transaction;
- (4) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; or
- (5) offering to engage in any activity, or act in any capacity, described in this subsection (ss).

(tt) "Registered mortgage loan originator" means any individual that:

- (1) meets the definition of mortgage loan originator and is an employee of:
 - (A) a depository institution;
 - (B) a subsidiary that is:
 - (i) owned and controlled by a depository institution; and
 - (ii) regulated by a federal banking agency; or
 - (C) an institution regulated by the Farm Credit Administration; and
- (2) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(uu) "Unique identifier" means a number or other identifier assigned by protocols established by the Nationwide Mortgage Licensing System and Registry.

(vv) "Residential mortgage license" means a license issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

(ww) "Mortgage loan originator license" means a license issued pursuant to Section 7-1A, 7-3, or 7-6 of this Act.

(xx) "Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

(yy) "Loan modification" means, for compensation or gain, either directly or indirectly offering or negotiating on behalf of a borrower or homeowner to adjust the terms of a residential mortgage loan in a manner not provided for in the original or previously modified mortgage loan.

(zz) "Short sale facilitation" means, for compensation or gain, either directly or indirectly offering or negotiating on behalf of a borrower or homeowner to facilitate the sale of residential real estate subject to one or more residential mortgage loans or debts constituting liens on the property in which the proceeds from selling the residential real estate will fall short of the amount owed and the lien holders are contacted to agree to release their lien on the residential real estate and accept less than the full amount owed on the debt.

(Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10; 96-1216, eff. 1-1-11; 97-143, eff. 7-14-11.)

(205 ILCS 635/2-2)

Sec. 2-2. Application process; investigation; fee.

(a) The Secretary shall issue a license upon completion of all of the following:

- (1) The filing of an application for license with the Director or the Nationwide Mortgage Licensing System and Registry as approved by the Director.
- (2) The filing with the Secretary of a listing of judgments entered against, and bankruptcy petitions by, the license applicant for the preceding 10 years.

(3) The payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to ~~\$2,700~~ ~~\$2,043~~ annually. To comply with the common renewal date and requirements of the Nationwide Mortgage Licensing System and Registry, the term of initial licenses may be extended or shortened with applicable fees prorated or combined accordingly.

(4) Except for a broker applying to renew a license, the filing of an audited balance sheet including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing principles which evidences that the applicant meets the net worth requirements of Section 3-5.

(5) The filing of proof satisfactory to the Commissioner that the applicant, the members thereof if the applicant is a partnership or association, the members or managers thereof that retain any authority or responsibility under the operating agreement if the applicant is a limited liability company, or the officers thereof if the applicant is a corporation have 3 years experience preceding application in real estate finance. Instead of this requirement, the applicant and the applicant's officers or members, as applicable, may satisfactorily complete a program of education in real estate finance and fair lending, as approved by the Commissioner, prior to receiving the initial license. The Commissioner shall promulgate rules regarding proof of experience requirements and educational requirements and the satisfactory completion of those requirements. The Commissioner may establish by rule a list of duly licensed professionals and others who may be exempt from this requirement.

(6) An investigation of the averments required by Section 2-4, which investigation must allow the Commissioner to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purpose of this Act. If the Commissioner shall not so find, he or she shall not issue such license, and he or she shall notify the license applicant of the denial.

The Commissioner may impose conditions on a license if the Commissioner determines that the conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Commissioner.

(b) All licenses shall be issued to the license applicant.

Upon receipt of such license, a residential mortgage licensee shall be authorized to engage in the business regulated by this Act. Such license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee or revoked or suspended as hereinafter provided.

(Source: P.A. 95-1047, eff. 4-6-09; 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10.)

(205 ILCS 635/2-3A new)

Sec. 2-3A. Residential mortgage license application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Director. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of the Director and may be changed or updated as necessary by the Director in order to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Director is authorized to establish relationships or contracts with the Nationwide Mortgage Licensing System and Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant may be required, at a minimum, to furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a State, national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Mortgage Licensing System and Registry and the Director to obtain:

(A) an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(d) For the purposes of this Section, and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of subsection (c) of this Section, the Director

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may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

(e) For the purposes of this Section, and in order to reduce the points of contact that the Director may have to maintain for purposes of item (2) of subsection (c) of this Section, the Director may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the Director.

(205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

Sec. 2-4. Avertments of Licensee. Each application for license or for the renewal of a license shall be accompanied by the following averments stating that the applicant:

- (a) Will maintain at least one full service office within the State of Illinois pursuant to Section 3-4 of this Act;
- (b) Will maintain staff reasonably adequate to meet the requirements of Section 3-4 of this Act;
- (c) Will keep and maintain for 36 months the same written records as required by the federal Equal Credit Opportunity Act, and any other information required by regulations of the Commissioner regarding any home mortgage in the course of the conduct of its residential mortgage business;
- (d) Will file with the Commissioner or Nationwide Mortgage Licensing System and Registry as applicable, when due, any report or reports which it is required to file under any of the provisions of this Act;
- (e) Will not engage, whether as principal or agent, in the practice of rejecting residential mortgage applications without reasonable cause, or varying terms or application procedures without reasonable cause, for home mortgages on real estate within any specific geographic area from the terms or procedures generally provided by the licensee within other geographic areas of the State;
- (f) Will not engage in fraudulent home mortgage underwriting practices;
- (g) Will not make payment, whether directly or indirectly, of any kind to any in house or fee appraiser of any government or private money lending agency with which an application for a home mortgage has been filed for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by such home mortgage;
- (h) Has filed tax returns (State and Federal) for the past 3 years or filed with the Commissioner an accountant's or attorney's statement as to why no return was filed;
- (i) Will not engage in any discrimination or redlining activities prohibited by Section 3-8 of this Act;
- (j) Will not knowingly make any false promises likely to influence or persuade, or pursue a course of misrepresentation and false promises through agents, solicitors, advertising or otherwise;
- (k) Will not knowingly misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a transaction to which it is a party to the injury of another party thereto;
- (l) Will disburse funds in accordance with its agreements;
- (m) Has not committed a crime against the law of this State, any other state or of the United States, involving moral turpitude, fraudulent or dishonest dealing, and that no final judgment has been entered against it in a civil action upon grounds of fraud, misrepresentation or deceit which has not been previously reported to the Commissioner;
- (n) Will account or deliver to the owner upon request any personal property such as money, fund, deposit, check, draft, mortgage, other document or thing of value which it is not in law or equity entitled to retain under the circumstances;
- (o) Has not engaged in any conduct which would be cause for denial of a license;
- (p) Has not become insolvent;
- (q) Has not submitted an application for a license under this Act which contains a material misstatement;
- (r) Has not demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act;
- (s) Will advise the Commissioner in writing, or the Nationwide Mortgage Licensing System and Registry as applicable, of any changes to the information submitted on the most recent application for license within 30 days of said change. The written notice must be signed in the same form as the application for license being amended;
- (t) Will comply with the provisions of this Act, or with any lawful order, rule or regulation made or issued under the provisions of this Act;

(u) Will submit to periodic examination by the Commissioner as required by this Act;
 (v) Will advise the Commissioner in writing of judgments entered against, and bankruptcy petitions by, the license applicant within 5 days of occurrence;

(w) Will advise the Commissioner in writing within 30 days of any request made to a licensee under this Act to repurchase a loan in a manner that completely and clearly identifies to whom the request was made, the loans involved, and the reason therefor;

(x) Will advise the Commissioner in writing within 30 days of any request from any entity to repurchase a loan in a manner that completely and clearly identifies to whom the request was made, the loans involved, and the reason for the request;

(y) Will at all times act in a manner consistent with subsections (a) and (b) of Section 1-2 of this Act; ~~and~~

(z) Will not knowingly hire or employ a loan originator who is not registered, or mortgage loan originator who is not licensed, with the Commissioner as required under Section 7-1 or Section 7-1A, as applicable, of this Act; -

(aa) Will not charge or collect advance payments from borrowers or homeowners for engaging in loan modification; and

(bb) Will not structure activities or contracts to evade provisions of this Act.

A licensee who fails to fulfill obligations of an averment, to comply with averments made, or otherwise violates any of the averments made under this Section shall be subject to the penalties in Section 4-5 of this Act.

(Source: P.A. 95-331, eff. 8-21-07; 96-112, eff. 7-31-09.)

(205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

Sec. 3-2. Annual audit.

(a) At the licensee's fiscal year-end, but in no case more than 12 months after the last audit conducted pursuant to this Section, except as otherwise provided in this Section, it shall be mandatory for each residential mortgage licensee to cause its books and accounts to be audited by a certified public accountant not connected with such licensee. The books and records of all licensees under this Act shall be maintained on an accrual basis. The audit must be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements, which must be prepared in accordance with generally accepted accounting principles, and must be performed in accordance with generally accepted auditing standards. Notwithstanding the requirements of this subsection, a licensee that is a first tier subsidiary may submit audited consolidated financial statements of its parent as long as the consolidated statements are supported by consolidating statements. The licensee's chief financial officer shall attest to the licensee's financial statements disclosed in the consolidating statements.

(b) As used herein, the term "expression of opinion" includes either (1) an unqualified opinion, (2) a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse opinion.

(c) If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefore must be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

(d) The most recent audit report shall be filed with the Commissioner within 90 days after the end of the licensee's fiscal year, or with the Nationwide Mortgage Licensing System and Registry, if applicable, pursuant to Mortgage Call Report requirements. The report filed with the Commissioner shall be certified by the certified public accountant conducting the audit. The Commissioner may promulgate rules regarding late audit reports.

(e) If any licensee required to make an audit shall fail to cause an audit to be made, the Commissioner shall cause the same to be made by a certified public accountant at the licensee's expense. The Commissioner shall select such certified public accountant by advertising for bids or by such other fair and impartial means as he or she establishes by regulation.

(f) In lieu of the audit or compilation financial statement required by this Section, a licensee shall submit and the Commissioner may accept any audit made in conformance with the audit requirements of the U.S. Department of Housing and Urban Development.

(g) With respect to licensees who solely broker residential mortgage loans as defined in subsection (o) of Section 1-4, instead of the audit required by this Section, the Commissioner may accept compilation financial statements prepared at least every 12 months, and the compilation financial statement must be prepared by an independent certified public accountant licensed under the Illinois Public Accounting Act or by an equivalent state licensing law with full disclosure in accordance with generally accepted accounting principals and must be submitted within 90 days after the end of the licensee's fiscal year, or with the Nationwide Mortgage Licensing System and Registry, if applicable, pursuant to Mortgage Call Report requirements. If a licensee under this Section fails to file a compilation as required, the Commissioner shall cause an audit of the licensee's books and accounts to be made by a certified public

accountant at the licensee's expense. The Commissioner shall select the certified public accountant by advertising for bids or by such other fair and impartial means as he or she establishes by rule. A licensee who files false or misleading compilation financial statements is guilty of a business offense and shall be fined not less than \$5,000.

(h) The workpapers of the certified public accountants employed by each licensee for purposes of this Section are to be made available to the Commissioner or the Commissioner's designee upon request and may be reproduced by the Commissioner or the Commissioner's designee to enable to the Commissioner to carry out the purposes of this Act.

(i) Notwithstanding any other provision of this Section, if a licensee relying on subsection (g) of this Section causes its books to be audited at any other time or causes its financial statements to be reviewed, a complete copy of the audited or reviewed financial statements shall be delivered to the Commissioner at the time of the annual license renewal payment following receipt by the licensee of the audited or reviewed financial statements. All workpapers shall be made available to the Commissioner upon request. The financial statements and workpapers may be reproduced by the Commissioner or the Commissioner's designee to carry out the purposes of this Act.

(Source: P.A. 96-112, eff. 7-31-09; revised 11-18-11.)

(205 ILCS 635/4-5) (from Ch. 17, par. 2324-5)

Sec. 4-5. Suspension, revocation of licenses; fines.

(a) Upon written notice to a licensee, the Commissioner may suspend or revoke any license issued pursuant to this Act if he or she shall make a finding of one or more of the following in the notice that:

(1) Through separate acts or an act or a course of conduct, the licensee has violated any provisions of this Act, any rule or regulation promulgated by the Commissioner or of any other law, rule or regulation of this State or the United States.

(2) Any fact or condition exists which, if it had existed at the time of the original application for such license would have warranted the Commissioner in refusing originally to issue such license.

(3) If a licensee is other than an individual, any ultimate equitable owner, officer, director, or member of the licensed partnership, association, corporation, or other entity has so acted or failed to act as would be cause for suspending or revoking a license to that party as an individual.

(b) No license shall be suspended or revoked, except as provided in this Section, nor shall any licensee be fined without notice of his or her right to a hearing as provided in Section 4-12 of this Act.

(c) The Commissioner, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation. Upon a showing that a licensee has failed to meet the experience or educational requirements of Section 2-2 or the requirements of subsection (g) of Section 3-2, the Commissioner shall suspend, prior to hearing as provided in Section 4-12, the license until those requirements have been met.

(d) The provisions of subsection (e) of Section 2-6 of this Act shall not affect a licensee's civil or criminal liability for acts committed prior to surrender of a license.

(e) No revocation, suspension or surrender of any license shall impair or affect the obligation of any pre-existing lawful contract between the licensee and any person.

(f) Every license issued under this Act shall remain in force and effect until the same shall have expired without renewal, have been surrendered, revoked or suspended in accordance with the provisions of this Act, but the Commissioner shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license shall have been revoked if no fact or condition then exists which would have warranted the Commissioner in refusing originally to issue such license under this Act.

(g) Whenever the Commissioner shall revoke or suspend a license issued pursuant to this Act or fine a licensee under this Act, he or she shall forthwith execute a written order to that effect. The Commissioner shall publish notice of such order in the Illinois Register and post notice of the order on an agency Internet site maintained by the Commissioner or on the Nationwide Mortgage Licensing System and Registry and shall forthwith serve a copy of such order upon the licensee. Any such order may be reviewed in the manner provided by Section 4-12 of this Act.

(h) When the Commissioner finds any person in violation of the grounds set forth in subsection (i), he or she may enter an order imposing one or more of the following penalties:

(1) Revocation of license;

(2) Suspension of a license subject to reinstatement upon satisfying all reasonable conditions the Commissioner may specify;

(3) Placement of the licensee or applicant on probation for a period of time and subject to all reasonable conditions as the Commissioner may specify;

(4) Issuance of a reprimand;

(5) Imposition of a fine not to exceed \$25,000 for each count of separate offense, provided that a fine may be imposed not to exceed \$75,000 for each separate count of offense of paragraph (2) of subsection (i) of this Section; and

(6) Denial of a license.

(i) The following acts shall constitute grounds for which the disciplinary actions specified in subsection (h) above may be taken:

(1) Being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction which involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) Fraud, misrepresentation, deceit or negligence in any mortgage financing transaction;

(3) A material or intentional misstatement of fact on an initial or renewal application;

(4) Failure to follow the Commissioner's regulations with respect to placement of funds in escrow accounts;

(5) Insolvency or filing under any provision of the Bankruptcy Code as a debtor;

(6) Failure to account or deliver to any person any property such as any money, fund, deposit, check, draft, mortgage, or other document or thing of value, which has come into his or her hands and which is not his or her property or which he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(7) Failure to disburse funds in accordance with agreements;

(8) Any misuse, misapplication, or misappropriation of trust funds or escrow funds;

(9) Having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory or country for fraud, dishonest dealing or any other act of moral turpitude;

(10) Failure to issue a satisfaction of mortgage when the residential mortgage has been executed and proceeds were not disbursed to the benefit of the mortgagor and when the mortgagor has fully paid licensee's costs and commission;

(11) Failure to comply with any order of the Commissioner or rule made or issued under the provisions of this Act;

(12) Engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(13) Failure to pay in a timely manner any fee, charge or fine under this Act;

(14) Failure to maintain, preserve, and keep available for examination, all books, accounts or other documents required by the provisions of this Act and the rules of the Commissioner;

(15) Refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act, or refusing, obstructing, evading, or unreasonably delaying compliance with the Director's subpoena or subpoena duces tecum;

(16) A pattern of substantially underestimating the maximum closing costs;

(17) Failure to comply with or violation of any provision of this Act; -

(18) Failure to comply with or violation of any provision of Article 3 of the Residential Real Property Disclosure Act.

(j) A licensee shall be subject to the disciplinary actions specified in this Act for violations of subsection (i) by any officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(k) Such licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees or the licensee has knowledge of the violations, or there is substantial harm to a consumer.

(l) Procedure for surrender of license:

(1) The Commissioner may, after 10 days notice by certified mail to the licensee at the address set forth on the license, stating the contemplated action and in general the grounds therefor and the date, time and place of a hearing thereon, and after providing the licensee with a reasonable opportunity to be heard prior to such action, fine such licensee an amount not exceeding \$25,000 per violation, or revoke or suspend any license issued hereunder if he or she finds that:

(i) The licensee has failed to comply with any provision of this Act or any order,

decision, finding, rule, regulation or direction of the Commissioner lawfully made pursuant to the authority of this Act; or

(ii) Any fact or condition exists which, if it had existed at the time of the

original application for the license, clearly would have warranted the Commissioner in refusing to issue the license.

(2) Any licensee may submit application to surrender a license, but upon the Director approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/4-8.2)

Sec. 4-8.2. Reports of violations. Any person licensed under this Act or any other person may report to the Commissioner any information to show that a person subject to this Act is or may be in violation of this Act. A licensee who files a report with the Department of Financial and Professional Regulation that another licensee is engaged in one or more violations pursuant to this Act shall not be the subject of disciplinary action by the Department, unless the Department determines, by a preponderance of the evidence available to the Department, that the reporting person knowingly and willingly participated in the violation that was reported.

(Source: P.A. 93-561, eff. 1-1-04.)

(205 ILCS 635/7-1A)

Sec. 7-1A. Mortgage loan originator license.

(a) It is unlawful for any individual to act or assume to act as a mortgage loan originator, as defined in subsection (jj) of Section 1-4 of this Act, without obtaining a license from the Director, unless the individual is exempt under subsection (c) of this Section. It is unlawful for any individual who holds a mortgage loan originator license to provide short sale facilitation services unless he or she holds a license under the Real Estate License Act of 2000. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(b) In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the operability date for subsection (a) of this Section shall be as provided in this subsection (b). For this purpose, the Director may require submission of licensing information to the Nationwide Mortgage Licensing System and Registry prior to the operability dates designated by the Director pursuant to items (1) and (2) of this subsection (b).

(1) For all individuals other than individuals described in item (2) of this subsection

(b), the operability date as designated by the Director shall be no later than July 31, 2010, or any date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under federal Public Law 110-289, Section 1508.

(2) For all individuals registered as loan originators as of the effective date of this amendatory Act of the 96th General Assembly, the operability date as designated by the Director shall be no later than January 1, 2011, or any date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508.

(3) For all individuals described in item (1) or (2) of this subsection (b) who are loss mitigation specialists employed by servicers, the operability date shall be July 31, 2011, or any date approved by the Secretary of the U.S. Department of Housing and Urban Development pursuant to authority granted under Public Law 110-289, Section 1508.

(c) The following, when engaged in the following activities, are exempt from this Act:

(1) Registered mortgage loan originators, when acting for an entity described in subsection (tt) of Section 1-4.

(2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual.

(3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.

(4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of a lender, mortgage broker, or other mortgage loan originator.

(d) A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless he or she obtains and maintains a license under subsection (a) of this Section. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

(e) For the purposes of implementing an orderly and efficient licensing process, the Director may

establish licensing rules or regulations and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals, the Director may establish expedited review and licensing procedures.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-11)

Sec. 7-11. Mortgage loan originator suspension or revocation of registration; refusal to renew; fines.

(a) In addition to any other action authorized by this Act or any other applicable law, rule or regulation, the Director may do the following:

(1) Suspend, revoke, or refuse to renew a license or reprimand, place on probation or otherwise discipline a licensee if the Director finds that the mortgage loan originator has violated this Act or any other applicable law or regulation or has been convicted of a criminal offense.

(2) Impose a fine of not more than \$1,000 or, for engaging in an act prohibited by item (1) of Section 7-13, not more than \$3,000 for each day for each violation of this Act or any other applicable law or regulation that is committed. If the Mortgage Loan Originator engages in a pattern of repeated violations, the Director may impose a fine of not more than \$2,000 or, for engaging in an act prohibited by item (1) of Section 7-13, not more than \$6,000 for each day for each violation committed. In determining the amount of a fine to be imposed pursuant to this Act or any other applicable law or regulation, the Director shall consider all of the following:

(A) The seriousness of the violation;

(B) The mortgage loan originator's good faith efforts to prevent the violation; and

(C) The mortgage loan originator's history of violations and compliance with orders.

(b) In addition to any other action authorized by this Act or any other applicable law, rule or regulation, the Director may investigate alleged violations of the Act or any other applicable law, rule or regulation and complaints concerning any such violation. The Director may seek a court order to enjoin the violation.

(c) In addition to any other action authorized by this Act or any other applicable law, rule or regulation, if the Director determines that a mortgage loan originator is engaged in or is believed to be engaged in activities that may constitute a violation of this Act or any other applicable law, rule or regulation, the Director may issue a cease and desist order to compel the mortgage loan originator to comply with this Act or any other applicable law, rule or regulation or, upon a showing that an emergency exists, may suspend the mortgage loan originator's license for a period not exceeding 180 calendar days, pending investigation.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-13)

Sec. 7-13. Prohibited acts and practices for mortgage loan originators. It is a violation of this Act for an individual subject to this Act to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(2) Engage in any unfair or deceptive practice toward any person.

(3) Obtain property by fraud or misrepresentation.

(4) Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this Act may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower.

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting.

(6) Conduct any business covered by this Act without holding a valid license as required under this Act, or assist or aid and abet any person in the conduct of business under this Act without a valid license as required under this Act.

(7) Fail to make disclosures as required by this Act and any other applicable State or federal law, including regulations thereunder.

(8) Fail to comply with this Act or rules or regulations promulgated under this Act, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this Act.

(9) Make, in any manner, any false or deceptive statement or representation of a material fact, or any omission of a material fact, required on any document or application subject to this Act.

(10) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or report filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the Director or another governmental agency.

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purpose of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purpose of influencing the independent judgment of the appraiser with respect to the value of the property.

(12) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this Act, including advance fees for loan modification.

(13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer.

(14) Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

(15) Engage in conduct that constitutes dishonest dealings.

(16) Knowingly instruct, solicit, propose, or cause a person other than the borrower to sign a borrower's signature on a mortgage related document, or solicit, accept or execute any contract or other document related to the residential mortgage transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms authorizing the verification of application information.

(17) Discourage any applicant from seeking or participating in housing or financial counseling either before or after the consummation of a loan transaction, or fail to provide information on counseling resources upon request.

(18) Charge for any ancillary products or services, not essential to the basic loan transaction for which the consumer has applied, without the applicant's knowledge and written authorization, or charge for any ancillary products or services not actually provided in the transaction.

(19) Fail to give reasonable consideration to a borrower's ability to repay the debt.

(20) Interfere or obstruct an investigation or examination conducted pursuant to this Act.

(21) Structure activities or contracts to evade provisions of this Act.

(Source: P.A. 96-112, eff. 7-31-09.)

Section 10. The Title Insurance Act is amended by changing Section 23

(215 ILCS 155/23) (from Ch. 73, par. 1423)

Sec. 23. Violation; penalties.

(a) Any violation of any of the provisions of this Act and, beginning January 1, 2013, any violation of any of the provisions of Article 3 of the Residential Real Property Disclosure Act shall constitute a business offense and shall subject the party violating the same to a penalty of \$1000 for each offense.

(b) Nothing contained in this Section shall affect the right of the Secretary to revoke or suspend a title insurance company's or independent escrowee's certificate of authority or a title insurance agent's registration under any other Section of this Act.

(Source: P.A. 94-893, eff. 6-20-06.)

Section 15. The Residential Real Property Disclosure Act is amended by changing Sections 70 and 72 as follows:

(765 ILCS 77/70)

Sec. 70. Predatory lending database program.

(a) As used in this Article:

"Adjustable rate mortgage" or "ARM" means a closed-end mortgage transaction that allows adjustments of the loan interest rate during the first 3 years of the loan term.

"Borrower" means a person seeking a mortgage loan.

"Broker" means a "broker" or "loan broker", as defined in subsection (p) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Closing agent" means an individual assigned by a title insurance company or a broker or originator to ensure that the execution of documents related to the closing of a real estate sale or the refinancing of a real estate loan and the disbursement of closing funds are in conformity with the instructions of the entity financing the transaction.

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"Counseling" means in-person counseling provided by a counselor employed by a HUD-certified counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician, or the borrower resides 50 miles or more from the nearest participating HUD-certified housing counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Counselor" means a counselor employed by a HUD-certified housing counseling agency.

"Credit score" means a credit risk score as defined by the Fair Isaac Corporation, or its successor, and reported under such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE" by one or more of the following credit reporting agencies or their successors: Equifax, Inc., Experian Information Solutions, Inc., and TransUnion LLC. If the borrower's credit report contains credit scores from 2 reporting agencies, then the broker or loan originator shall report the lower score. If the borrower's credit report contains credit scores from 3 reporting agencies, then the broker or loan originator shall report the middle score.

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

"Exempt person" means that term as it is defined in subsections (d)(1) and (d)(1.5) of Section 1-4 of the Residential Mortgage License Act of 1987.

"First-time homebuyer" means a borrower who has not held an ownership interest in residential property.

"HUD-certified counseling" or "counseling" means counseling given to a borrower by a counselor employed by a HUD-certified housing counseling agency.

"Interest only" means a closed-end loan that permits one or more payments of interest without any reduction of the principal balance of the loan, other than the first payment on the loan.

"Lender" means that term as it is defined in subsection (g) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Licensee" means that term as it is defined in subsection (e) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Mortgage loan" means that term as it is defined in subsection (f) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Negative amortization" means an amortization method under which the outstanding balance may increase at any time over the course of the loan because the regular periodic payment does not cover the full amount of interest due.

"Originator" means a "loan originator" as defined in subsection (hh) of Section 1-4 of the Residential Mortgage License Act of 1987, except an exempt person.

"Points and fees" has the meaning ascribed to that term in Section 10 of the High Risk Home Loan Act.

"Prepayment penalty" means a charge imposed by a lender under a mortgage note or rider when the loan is paid before the expiration of the term of the loan.

"Refinancing" means a loan secured by the borrower's or borrowers' primary residence where the proceeds are not used as purchase money for the residence.

"Title insurance company" means any domestic company organized under the laws of this State for the purpose of conducting the business of guaranteeing or insuring titles to real estate and any title insurance company organized under the laws of another State, the District of Columbia, or a foreign government and authorized to transact the business of guaranteeing or insuring titles to real estate in this State.

(a-5) A predatory lending database program shall be established within Cook County. The program shall be administered in accordance with this Article. The inception date of the program shall be July 1, 2008. A predatory lending database program shall be expanded to include Kane, Peoria, and Will counties. The inception date of the expansion of the program as it applies to Kane, Peoria, and Will counties shall be July 1, 2010. Until the inception date, none of the duties, obligations, contingencies, or consequences of or from the program shall be imposed. The program shall apply to all mortgage applications that are governed by this Article and that are made or taken on or after the inception of the program.

(b) The database created under this program shall be maintained and administered by the Department. The database shall be designed to allow brokers, originators, counselors, title insurance companies, and closing agents to submit information to the database online. The database shall not be designed to allow those entities to retrieve information from the database, except as otherwise provided in this Article. Information submitted by the broker or originator to the Department may be used to populate the online

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form submitted by a counselor, title insurance company, or closing agent.

(c) Within 10 days after taking a mortgage application, the broker or originator for any mortgage on residential property within the program area must submit to the predatory lending database all of the information required under Section 72 and any other information required by the Department by rule. Within 7 days after receipt of the information, the Department shall compare that information to the housing counseling standards in Section 73 and issue to the borrower and the broker or originator a determination of whether counseling is recommended for the borrower. The borrower may not waive counseling. If at any time after submitting the information required under Section 72 the broker or originator (i) changes the terms of the loan or (ii) issues a new commitment to the borrower, then, within 5 days thereafter, the broker or originator shall re-submit all of the information required under Section 72 and, within 4 days after receipt of the information re-submitted by the broker or originator, the Department shall compare that information to the housing counseling standards in Section 73 and shall issue to the borrower and the broker or originator a new determination of whether re-counseling is recommended for the borrower based on the information re-submitted by the broker or originator. The Department shall require re-counseling if the loan terms have been modified to meet another counseling standard in Section 73, or if the broker has increased the interest rate by more than 200 basis points.

(d) If the Department recommends counseling for the borrower under subsection (c), then the Department shall notify the borrower of all participating HUD-certified counseling agencies located within the State and direct the borrower to interview with a counselor associated with one of those agencies. Within 10 days after receipt of the notice of HUD-certified counseling agencies, the borrower shall select one of those agencies and shall engage in an interview with a counselor associated with that agency. Within 7 days after interviewing the borrower, the counselor must submit to the predatory lending database all of the information required under Section 74 and any other information required by the Department by rule. Reasonable and customary costs not to exceed \$300 associated with counseling provided under the program shall be paid by the broker or originator. The Department shall annually calculate to the nearest dollar an adjusted rate for inflation. A counselor shall not recommend or suggest that a borrower contact any specific mortgage origination company, financial institution, or entity that deals in mortgage finance to obtain a loan, another quote, or for any other reason related to the specific mortgage transaction; however, a counselor may suggest that the borrower seek an opinion or a quote from another mortgage origination company, financial institution, or entity that deals in mortgage finance. A counselor or housing counseling agency that in good faith provides counseling shall not be liable to a broker or originator or borrower for civil damages, except for willful or wanton misconduct on the part of the counselor in providing the counseling.

(e) The broker or originator and the borrower may not take any legally binding action concerning the loan transaction until the later of the following:

(1) the Department issues a determination not to recommend HUD-certified counseling for the borrower in accordance with subsection (c); or

(2) the Department issues a determination that HUD-certified counseling is recommended for the borrower and the counselor submits all required information to the database in accordance with subsection (d).

(f) Within 10 days after closing, the title insurance company or closing agent must submit to the predatory lending database all of the information required under Section 76 and any other information required by the Department by rule.

(g) The title insurance company or closing agent shall attach to the mortgage a certificate of compliance with the requirements of this Article, as generated by the database. If the title insurance company or closing agent fails to attach the certificate of compliance, then the mortgage is not recordable. In addition, if any lis pendens for a residential mortgage foreclosure is recorded on the property within the program area, a certificate of service must be simultaneously recorded that affirms that a copy of the lis pendens was filed with the Department. If the certificate of service is not recorded, then the lis pendens pertaining to the residential mortgage foreclosure in question is not recordable and is of no force and effect.

(h) All information provided to the predatory lending database under the program is confidential and is not subject to disclosure under the Freedom of Information Act, except as otherwise provided in this Article. Information or documents obtained by employees of the Department in the course of maintaining and administering the predatory lending database are deemed confidential. Employees are prohibited from making disclosure of such confidential information or documents. Any request for production of information from the predatory lending database, whether by subpoena, notice, or any other source, shall be referred to the Department of Financial and Professional Regulation. Any borrower may authorize in writing the release of database information. The Department may use the information

in the database without the consent of the borrower: (i) for the purposes of administering and enforcing the program; (ii) to provide relevant information to a counselor providing counseling to a borrower under the program; or (iii) to the appropriate law enforcement agency or the applicable administrative agency if the database information demonstrates criminal, fraudulent, or otherwise illegal activity.

(i) Nothing in this Article is intended to prevent a borrower from making his or her own decision as to whether to proceed with a transaction.

(j) Any person who violates any provision of this Article commits an unlawful practice within the meaning of the Consumer Fraud and Deceptive Business Practices Act.

(j-1) A violation of any provision of this Article by a mortgage banking licensee or licensed mortgage loan originator shall constitute a violation of the Residential Mortgage License Act of 1987.

(j-2) A violation of any provision of this Article by a title insurance company, title agent, or escrow agent shall constitute a violation of the Title Insurance Act.

(j-3) A violation of any provision of this Article by a housing counselor shall be referred to the Department of Housing and Urban Development.

(k) During the existence of the program, the Department shall submit semi-annual reports to the Governor and to the General Assembly by May 1 and November 1 of each year detailing its findings regarding the program. The report shall include, by county, at least the following information for each reporting period:

(1) the number of loans registered with the program;

(2) the number of borrowers receiving counseling;

(3) the number of loans closed;

(4) the number of loans requiring counseling for each of the standards set forth in Section 73;

(5) the number of loans requiring counseling where the mortgage originator changed the loan terms subsequent to counseling;

(6) the number of licensed mortgage brokers and loan originators entering information into the database;

(7) the number of investigations based on information obtained from the database, including the number of licensees fined, the number of licenses suspended, and the number of licenses revoked;

(8) a summary of the types of non-traditional mortgage products being offered; and

(9) a summary of how the Department is actively utilizing the program to combat mortgage fraud.

(Source: P.A. 95-691, eff. 6-1-08; 96-328, eff. 8-11-09; 96-856, eff. 12-31-09.)

(765 ILCS 77/72)

Sec. 72. Originator; required information. As part of the predatory lending database program, the broker or originator must submit all of the following information for inclusion in the predatory lending database for each loan for which the originator takes an application:

(1) The borrower's name, address, social security number or taxpayer identification number, date of birth, and income and expense information, including total monthly consumer debt, contained in the mortgage application.

(2) The address, permanent index number, and a description of the collateral and information about the loan or loans being applied for and the loan terms, including the amount of the loan, the rate and whether the rate is fixed or adjustable, amortization or loan period terms, and any other material terms.

(3) The borrower's credit score at the time of application.

(4) Information about the originator and the company the originator works for, including the originator's license number and address, fees being charged, whether the fees are being charged as points up front, the yield spread premium payable outside closing, and other charges made or remuneration required by the broker or originator or its affiliates or the broker's or originator's employer or its affiliates for the mortgage loans.

(5) Information about affiliated or third party service providers, including the names and addresses of appraisers, title insurance companies, closing agents, attorneys, and realtors who are involved with the transaction and the broker or originator and any moneys received from the broker or originator in connection with the transaction.

(6) All information indicated on the Good Faith Estimate and Truth in Lending statement disclosures given to the borrower by the broker or originator.

(7) Annual real estate taxes for the property, together with any assessments payable in connection with the property to be secured by the collateral and the proposed monthly principal and

interest charge of all loans to be taken by the borrower and secured by the property of the borrower.

- (8) Information concerning how the broker or originator obtained the client and the name of its referral source, if any.
- (9) Information concerning the notices provided by the broker or originator to the borrower as required by law and the date those notices were given.
- (10) Information concerning whether a sale and leaseback is contemplated and the names of the lessor and lessee, seller, and purchaser.
- (11) Any and all financing by the borrower for the subject property within 12 months prior to the date of application.
- (12) Loan information, including interest rate, term, purchase price, down payment, and closing costs.
- (13) Whether the buyer is a first-time homebuyer or refinancing a primary residence.
- (14) Whether the loan permits interest only payments.
- (15) Whether the loan may result in negative amortization.
- (16) Whether the total points and fees payable by the borrowers at or before closing will exceed 5%.
- (17) Whether the loan includes a prepayment penalty, and, if so, the terms of the penalty.
- (18) Whether the loan is an ARM.

(Source: P.A. 94-280, eff. 1-1-06; 95-691, eff. 6-1-08.)

Section 99. Effective date. This Act takes effect January 1, 2013."

Senate Floor Amendment No. 2 was held in the Committee on Financial Institutions.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Mulroe, **Senate Bill No. 3180** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3193** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 3243** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Financial Institutions, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3243

AMENDMENT NO. 1. Amend Senate Bill 3243 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Microloan Program Act.

Section 5. Definitions. For purposes of this Act:

"Department" means the Department of Commerce and Economic Opportunity.

"Director" means the Director of Commerce and Economic Opportunity.

"Intermediary" means (i) a private, non-profit entity; (ii) a private, non-profit community development corporation; (iii) a consortium of private, non-profit organizations or non-profit community development corporations; or (iv) a quasi-governmental economic development entity (such as a planning and development district) if no application is received from an eligible non-profit organization or the Director determines that the needs of a region or geographic area are not adequately served by an existing, eligible non-profit organization that has submitted an application. "Intermediary" also includes an intermediary that has completed the training program created and administered by the Director under Section 60.

"Microloan" means a short-term, fixed rate loan of not more than \$35,000, made by an intermediary to a small business concern.

"Rural area" means any political subdivision or unincorporated area (i) in a non-metropolitan county (as defined by the Secretary of Agriculture) or its equivalent or (ii) in a metropolitan county or its

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equivalent that has a resident population of less than 20,000 if the Department of Commerce and Economic Opportunity has determined such a political subdivision or area to be rural.

"Small business concern" means a legal entity, including a corporation, partnership, or sole proprietorship, that (i) is formed for the purpose of making a profit; (ii) is independently owned and operated; and (iii) has 5 employees or fewer.

"Economically distressed area", as used in Section 30, means a county or unit of local government in which a small business concern is located and in which, according to the most recent data available from the Bureau of the Census, Department of Commerce, not less than 40% of residents have an annual income that is at or below the poverty level.

Section 10. Purposes. The purposes of the Microloan Program are:

(1) to assist female, low-income, veteran, and minority entrepreneurs and business owners and other individuals possessing the capability to operate successful business concerns;

(2) to assist small business concerns in those areas suffering from a lack of credit due to economic downturns;

(3) to establish a microloan program to be administered by the Department of Commerce and Economic Opportunity in order to:

(A) make loans to eligible intermediaries to enable those intermediaries to provide small-scale loans, particularly loans in amounts averaging not more than \$13,000, to small business concerns for working capital or the acquisition of materials, supplies, or equipment;

(B) make grants to eligible intermediaries that, together with non-State matching funds, will enable those intermediaries to provide intensive marketing, management, and technical assistance to microloan borrowers;

(C) make grants to eligible non-profit entities that, together with non-State matching funds, will enable those entities to provide intensive marketing, management, and technical assistance to assist low-income entrepreneurs and other low-income individuals in obtaining private sector financing for their businesses, with or without loan guarantees; and

(D) report to the Committee on State Government Administration in the House of Representatives and the State Government and Veterans Affairs Committee in the Senate on the effectiveness of the microloan program.

Section 15. Microloan program established. A microloan program is established in the Department of Commerce and Economic Opportunity under which the Director of Commerce and Economic Opportunity may:

(1) make direct loans to eligible intermediaries, as provided under Section 25, for the purpose of making short-term, fixed interest rate microloans to small business concerns under Section 40;

(2) in conjunction with these loans and subject to the requirements of Section 30, make grants to these intermediaries for the purpose of providing intensive marketing, management, and technical assistance to small business concerns that are borrowers under this Act;

(3) subject to the requirements of Section 35 make grants to non-profit entities for the purpose of providing marketing, management, and technical assistance to low-income individuals seeking to start or enlarge their own businesses, if that assistance includes working with the grant recipient to secure loans in amounts not to exceed \$35,000 from private sector lending institutions, with or without a loan guarantee from the non-profit entity; and

(4) create and administer a training program to train intermediaries in the knowledge, skills, and understanding of microlending necessary to operate successful microloan programs.

Section 20. Eligibility for participation. An intermediary shall be eligible to receive loans and grants under paragraphs (1) and (2) of Section 15 if it meets the definition of intermediary in Section 5.

Section 25. Loans to intermediaries.

(a) As part of its application for a loan, each intermediary shall submit a description to the Director of the type of businesses to be assisted; the size and range of loans to be made; the geographic area to be served and its economic, poverty, and unemployment characteristics; the status of small business concerns in the area to be served and an analysis of their credit and technical assistance needs; any marketing, management, and technical assistance to be provided in connection with a loan made under this Act; the local economic credit markets, including the costs associated with obtaining credit locally;

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the qualifications of the applicant to carry out the purpose of this Act; and any plan to involve other technical assistance providers or private sector lenders in assisting selected business concerns. In selecting intermediaries to participate in the program established under this Act, the Director shall give priority to those applicants that provide loans in amounts averaging not more than \$13,000.

(b) As a condition of any loan made to an intermediary under paragraph (2) of Section 15, the Department shall require the intermediary to contribute not less than 15% of the loan amount in cash from non-State sources.

(c) No loan shall be made to an intermediary under this Act if the total amount outstanding and committed to that intermediary (excluding outstanding grants) from the Business Loan and Investment Fund would, as a result of that loan, exceed \$750,000 in the first year of the intermediary's participation in the program or \$3,500,000 in later years of the intermediary's participation in the program.

(d) The Department shall, by regulation, require each intermediary to establish a loan loss reserve fund, and to maintain that reserve fund until all obligations owed to the Department under this Act are repaid. Unless otherwise authorized under this subsection (d), the Director shall require the loan loss reserve fund of an intermediary to be maintained at a level equal to 15% of the outstanding balance of the notes receivable owed to the intermediary. After the initial 5 years of an intermediary's participation in the program, the Director shall, at the request of the intermediary, conduct a review of the annual loss rate of the intermediary. The Director may reduce the annual loan loss reserve requirement of an intermediary to reflect the actual average loan loss rate for the intermediary during the preceding 5-year period, except that in no case shall the loan loss reserve be reduced to less than 10% of the outstanding balance of the notes receivable owed to the intermediary. The Director may reduce the annual loan loss reserve requirement of an intermediary only if the intermediary demonstrates to the satisfaction of the Director that the average annual loss rate for the intermediary during the preceding 5-year period is less than 15%; and that no other factors exist that may impair the ability of the intermediary to repay all obligations owed to the Director under this Act.

(e) An intermediary may make a loan under this Act of more than \$20,000 to a small business concern only if the small business concern demonstrates that it is unable to obtain credit elsewhere at comparable interest rates and that it has good prospects for success. In no case shall an intermediary make a loan under this Act of more than \$35,000, or have outstanding or committed to any one borrower more than \$35,000.

(f) Loans made by the Department to an intermediary under this Act shall be for a term of 10 years. Except as otherwise provided in this subsection (f), loans made by the Department to an intermediary under this Act shall bear an interest rate equal to 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1%. Loans made by the Department to an intermediary that makes loans to small business concerns and entrepreneurs averaging not more than \$7,500, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1%. The applicable rate of interest under this subsection (f) shall be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Department before the end of that year, and be based in the second and subsequent years of an intermediary's participation in the program upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program. The interest rates prescribed in this subsection (f) shall apply to all loans made to intermediaries under this Act.

(g) The Department shall not require repayment of interest or principal of a loan made to an intermediary under this Act during the first year of the loan.

(h) Except as provided in subsections (b) and (d) of this Section 25, the Department shall not charge any fees or require collateral other than an assignment of the notes receivable of the microloans with respect to any loan made to an intermediary under this Act.

Section 30. Marketing, management, and technical assistance grants to intermediaries.

(a) Except as otherwise provided in subsections (b) and (c) of this Section 30, each intermediary that receives a loan under paragraph (1) of Section 15 shall be eligible to receive a grant to provide marketing, management, and technical assistance to small business concerns that are borrowers under this Act. Except as provided in subsection (c) of this Section 30, each intermediary meeting the requirements of subsection (b) of this Section 30 may receive a grant of not more than 25% of the total outstanding balance of loans made to it under this Act.

(b) As a condition of any grant made under subsection (a) of this Section 30, except for a grant made to an intermediary that provides not less than 50% of its loans to small business concerns located in or

owned by one or more residents of an economically distressed area, the Department shall require the intermediary to contribute an amount equal to 25% of the amount of the grant, obtained solely from non-State sources. In addition to cash or other direct funding, the contribution may include indirect costs or in-kind contributions paid for under non-State programs.

(c) In addition to grants made under subsection (a), each intermediary shall be eligible to receive a grant equal to 5% of the total outstanding balance of loans made to the intermediary under this Act if (i) the intermediary provides not less than 25% of its loans to small business concerns located in or owned by one or more residents of an economically distressed area or (ii) the intermediary has a portfolio of loans made under this Act that averages not more than \$13,000 during the period of the intermediary's participation in the program.

(d) A grant awarded under subsection (c) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this Act.

(e) The contribution requirements in subsection (b) of this Section 30 do not apply to grants made under subsection (c).

(f) The eligibility for a grant described in subsections (a) and (c) shall be determined separately for each loan-making site or office of that intermediary.

(g) Each intermediary may expend an amount not to exceed 25% of the grant funds received under paragraph (2) of Section 15 to provide information and technical assistance to small business concerns that are prospective borrowers under this Act.

(h) An intermediary may expend not more than 25% of the funds received under paragraph (2) of Section 15 to enter into third party contracts for the provision of technical assistance.

(i) The Department may accept any funds transferred to it from the State, State agencies, and departments or agencies of the federal government to make grants to participating intermediaries and technical assistance providers under this Section 30, for use in accordance with subsection (k) to provide additional technical assistance and related services to low-income individuals under subparagraph (C) of paragraph (3) of Section 10 at the time the applicant initially applies for assistance.

(j) In making grants under subsection (i), the Department may select, from among participating intermediaries and technical assistance providers described in subsection (i), not more than 20 grantees in fiscal year 2013, not more than 25 grantees in fiscal year 2014, and not more than 30 grantees in fiscal year 2015, each of whom may receive a grant under subsection (i) in an amount not to exceed \$200,000 per year.

(k) Grants under subsection (i) are in addition to other grants provided under this Act and shall not require the contribution of matching amounts as a condition of eligibility; and may be used by a grantee to pay or reimburse a portion of child care and transportation costs of low-income individuals, to the extent these costs are not otherwise paid by State block grants under the Child Care Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.) or under part A of Title IV of the Social Security Act (42 U.S.C. 601 et seq.); and for marketing, management, and technical assistance to those individuals.

(l) Prior to accepting any transfer of funds under subsection (i) from the State, a State agency, or a department or agency of the federal government, the Department shall enter into a Memorandum of Understanding with the State, State agency, or department or agency of the federal government, which shall specify the terms and conditions of the grants; and provide for appropriate monitoring of expenditures by each grantee and each recipient of assistance under subsection (i).

Section 35. Private sector borrowing technical assistance grants.

(a) The Department may make not more than 55 grants annually, each in an amount not to exceed \$200,000 for the purposes specified in subparagraph (C) of paragraph (3) of Section 10.

(b) As a condition of the grant, the Department shall require the grant recipient to provide matching funds equal to 20% of the amount of the grant, obtained solely from non-State sources. In addition to cash or other direct funding, the matching funds may include indirect costs or in-kind contributions paid for under non-State programs.

Section 40. Loans to small business concerns from eligible intermediaries.

(a) An eligible intermediary shall make short-term, fixed rate loans to small business concerns from the funds made available to it under paragraph (1) of Section 15 for working capital and the acquisition of materials, supplies, furniture, fixtures, and equipment.

(b) To the extent practicable, each intermediary that operates a microloan program under this Act shall maintain a microloan portfolio with an average loan size of not more than \$13,000.

(c) The Department shall not review individual microloans made by intermediaries prior to approval.

(d) In addition to other eligible small business concerns, borrowers under any program under this Act

may include individuals who will use the loan proceeds to establish for-profit or non-profit child care establishments or businesses providing for-profit transportation services.

Section 45. Program funding for microloans.

(a) Under the program authorized by this Act, the Department may fund, on a competitive basis, not more than 300 intermediaries.

(b) Subject to the availability of appropriations, of the total amount of new loan funds made available for award under this Act in each fiscal year, the Department shall make available for award an amount equal to the sum appropriated by the General Assembly for that purpose.

Section 50. Equitable distribution of intermediaries. In approving intermediaries and providing funding to intermediaries under this Act, the Department shall select and provide funding to intermediaries as will ensure appropriate availability of loans for small businesses in all industries located throughout the State, particularly those located in urban and in rural areas.

Section 55. Grants for management, marketing, technical assistance, and related services.

(a) The Department may procure technical assistance for intermediaries participating in the Microloan Program to ensure that those intermediaries have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

(b) The General Assembly may appropriate up to 7% of the balance in the Business Loan and Investment Fund to the Department for the specific purpose of providing one or more technical assistance grants to experienced microlending organizations that have demonstrated experience in providing training support for microenterprise development and financing to achieve the purposes set forth in Section 10.

Section 60. Training program. The Department shall create and administer a training program for intermediaries that presently have minimal or no expertise or experience in microlending. The training program shall train the intermediaries in the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

Section 65. Report to General Assembly. On November 1, 2014, the Department shall submit to the General Assembly a report, including the Department's evaluation of the effectiveness of the microloan program and the following:

- (1) the numbers and locations of the intermediaries funded to conduct microloan programs;
- (2) the amounts of each loan and each grant to intermediaries;
- (3) a description of the matching contributions of each intermediary;
- (4) the numbers and amounts of microloans made by the intermediaries to small business concern borrowers;
- (5) the repayment history of each intermediary;
- (6) a description of the loan portfolio of each intermediary including the extent to which it provides microloans to small business concerns in rural areas; and
- (7) any recommendations for legislative changes that would improve program operations.

Section 70. Business Loan and Investment Fund. The Business Loan and Investment Fund is created as a special fund in the State treasury to accept appropriations, grants, gifts, and other donations made to fund the Microloan Program created by this Act. Moneys in the Fund may, subject to appropriation, be used by the Department to carry out the requirements of this Act.

Section 75. The State Finance Act is amended by adding Section 5.811 as follows:

(30 ILCS 105/5.811 new)

Sec. 5.811. The Business Loan and Investment Fund."

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 3325** having been printed, was taken up, read by title a second time and ordered to a third reading.

[March 23, 2012]

On motion of Senator Kotowski, **Senate Bill No. 3337** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Noland, **Senate Bill No. 3380** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3380

AMENDMENT NO. 1. Amend Senate Bill 3380 by replacing everything after the enacting clause with the following:

"Section 5. The Carnival and Amusement Rides Safety Act is amended by changing Sections 2-3 and 2-4 as follows:

(430 ILCS 85/2-3) (from Ch. 111 1/2, par. 4053)

Sec. 2-3. There is hereby created the Carnival-Amusement Safety Board, hereafter in this Act referred to as the "Board", to consist of 9 & members. One member shall be the Director. ~~Eight Seven~~ members shall be appointed by the Governor with the advice and consent of the Senate. The term of members shall be 4 years, ~~except that of those members initially appointed by the Governor, 1 shall be appointed for 3 years and 1 shall be appointed for 4 years, and of the members initially appointed pursuant to this amendatory Act of 2006, 1 shall be appointed for 3 years.~~ Of the 8 ~~7~~ appointed members of the Board, 2 ~~4~~ shall be operators ~~an operator~~ of amusement rides, 1 shall be a registered professional engineer, 1 shall represent the insurance industry, and 4 ~~4~~ shall represent the general public. The Board shall advise the Department on carnival and amusement safety matters.

(Source: P.A. 94-801, eff. 5-25-06.)

(430 ILCS 85/2-4) (from Ch. 111 1/2, par. 4054)

Sec. 2-4. A majority of the 9 & members of the Board constitutes a quorum. The Board shall meet at least twice yearly and at the call of the chairman or by written request of at least 5 members. The Board shall elect a chairman and such other officers as it deems necessary to perform its duties between meetings and may hire such clerical and administrative help as it deems necessary, to be paid out of the appropriation to the Board.

(Source: P.A. 94-801, eff. 5-25-06.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3420** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3430** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Link, **Senate Bill No. 3442** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3507** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Martinez, **Senate Bill No. 3514** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Licensed Activities, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3514

AMENDMENT NO. 1. Amend Senate Bill 3514 by replacing everything after the enacting clause with the following:

[March 23, 2012]

"Section 5. The Regulatory Sunset Act is amended by changing Section 4.23 as follows:
(5 ILCS 80/4.23)

Sec. 4.23. Acts and Sections repealed on January 1, 2013 and December 31, 2013.

(a) The following Acts and Sections of Acts are repealed on January 1, 2013:

The Dietetic and Nutrition Services Practice Act.

The Elevator Safety and Regulation Act.

The Fire Equipment Distributor and Employee Regulation Act of 2011.

The Funeral Directors and Embalmers Licensing Code.

The Naprapathic Practice Act.

The Professional Counselor and Clinical Professional Counselor Licensing Act.

The Wholesale Drug Distribution Licensing Act.

Section 2.5 of the Illinois Plumbing License Law.

(b) The following Act is repealed on December 31, 2013:

The Medical Practice Act of 1987.

(Source: P.A. 95-331, eff. 8-21-07; 96-1499, eff. 1-18-11.)

(5 ILCS 80/4.22 rep.)

Section 10. The Regulatory Sunset Act is amended by repealing Section 4.22.

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3521** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3530** having been printed, was taken up, read by title a second time.

The following amendments were offered in the Committee on Transportation, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3530

AMENDMENT NO. 1. Amend Senate Bill 3530 on page 2, immediately below line 12, by inserting the following:

"(d) A vehicle may not be registered under this Section unless a title for the vehicle has been issued by the Secretary and the vehicle is eligible for registration without regard to its status as a military vehicle."

AMENDMENT NO. 2 TO SENATE BILL 3530

AMENDMENT NO. 2. Amend Senate Bill 3530 on page 1, by replacing lines 20 and 21 with the following:

"(2) \$150 for a vehicle with a gross vehicle weight rating of 26,001 to 45,000 pounds;

(3) \$500 for a vehicle with a gross vehicle weight rating of 45,001 to 65,000 pounds;

(4) \$1,000 for a vehicle with a gross vehicle weight rating of over 65,000 pounds;"; and

on page 1, line 22, by changing "(3)" to "(5)"; and

on page 2, line 2, by changing "(4)" to "(6)".

There being no further amendments, the foregoing Amendments Numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3544** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Human Services, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3544

AMENDMENT NO. 1. Amend Senate Bill 3544 by replacing everything after the enacting clause with the following:

[March 23, 2012]

"Section 5. The Abused and Neglected Child Reporting Act is amended by changing Section 7.7 as follows:

(325 ILCS 5/7.7) (from Ch. 23, par. 2057.7)

Sec. 7.7. There shall be a central register of all cases of suspected child abuse or neglect reported and maintained by the Department under this Act. Through the recording of initial, preliminary, and final reports, the central register shall be operated in such a manner as to enable the Department to: (1) immediately identify and locate prior reports of child abuse or neglect; (2) continuously monitor the current status of all reports of child abuse or neglect being provided services under this Act; and (3) regularly evaluate the effectiveness of existing laws and programs through the development and analysis of statistical and other information.

The Department shall maintain in the central register a listing of unfounded reports where the subject of the unfounded report requests that the record not be expunged because the subject alleges an intentional false report was made. Such a request must be made by the subject in writing to the Department, within 10 days of the investigation.

The Department shall also maintain in the central register a listing of unfounded reports where the report was classified as a priority one or priority two report in accordance with the Department's rules or the report was made by a person mandated to report suspected abuse or neglect under this Act.

The Department shall maintain in the central register for 3 years a listing of unfounded reports involving the death of a child, the sexual abuse of a child, or serious physical injury to a child as defined by the Department in rules.

If an individual is the subject of a subsequent investigation that is pending, the Department shall maintain all prior unfounded reports pertaining to that individual until the pending investigation has been completed or for 12 months, whichever time period ends later.

The Department shall maintain all other unfounded reports for 12 months following the date of the final finding.

For purposes of this Section "child abuse or neglect" includes abuse or neglect of an adult resident as defined in this Act.

(Source: P.A. 96-1164, eff. 7-21-10; 96-1446, eff. 8-20-10; 97-333, eff. 8-12-11.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Forby, **Senate Bill No. 3564** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on State Government and Veterans Affairs, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3564

AMENDMENT NO. 1. Amend Senate Bill 3564 by replacing everything after the enacting clause with the following:

"Section 5. The State Facilities Closure Act is amended by changing Section 5-10 as follows:

(30 ILCS 608/5-10)

Sec. 5-10. Facility closure process.

(a) Before a State facility may be closed, the State executive branch officer with jurisdiction over the facility shall file notice of the proposed closure with the Commission. The notice must be filed within 2 days after the first public announcement of any planned or proposed closure. Within 10 days after it receives notice of the proposed closure, the Commission, in its discretion, may require the State executive branch officer with jurisdiction over the facility to file a recommendation for the closure of the facility with the Commission. In the case of a proposed closure of: (i) a prison, youth center, work camp, or work release center operated by the Department of Corrections; (ii) a school, mental health center, or center for the developmentally disabled operated by the Department of Human Services; or (iii) a residential facility operated by the Department of Veterans' Affairs, the Commission must require the executive branch officers to file a recommendation for closure. The recommendation must be filed within 30 days after the Commission delivers the request for recommendation to the State executive branch officer. The recommendation must include, but is not limited to, the following:

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- (1) the location and identity of the State facility proposed to be closed;
- (2) the number of employees for which the State facility is the primary stationary work location and the effect of the closure of the facility on those employees;
- (3) the location or locations to which the functions and employees of the State facility would be moved;
- (4) the availability and condition of land and facilities at both the existing location and any potential locations;
- (5) the ability to accommodate the functions and employees at the existing and at any potential locations;
- (6) the cost of operations of the State facility and at any potential locations and any other related budgetary impacts;
- (7) the economic impact on existing communities in the vicinity of the State facility and any potential facility;
- (8) the ability of the existing and any potential community's infrastructure to support the functions and employees;
- (9) the impact on State services delivered at the existing location, in direct relation to the State services expected to be delivered at any potential locations; and
- (10) the environmental impact, including the impact of costs related to potential environmental restoration, waste management, and environmental compliance activities.

(b) If a recommendation is required by the Commission, a 30-day public comment period must follow the filing of the recommendation. The Commission, in its discretion, may conduct one or more public hearings on the recommendation. In the case of a proposed closure of: (i) a prison, youth center, work camp, or work release center operated by the Department of Corrections; (ii) a school, mental health center, or center for the developmentally disabled operated by the Department of Human Services; or (iii) a residential facility operated by the Department of Veterans' Affairs, the Commission must conduct one or more public hearings on the recommendation. Public hearings conducted by the Commission shall be conducted no later than 35 days after the filing of the recommendation. At least one of the public hearings on the recommendation shall be held at a convenient location within 25 miles of the facility for which closure is recommended. The Commission shall provide reasonable notice of the comment period and of any public hearings to the public and to units of local government and school districts that are located within 25 miles of the facility.

(c) Within 50 days after the State executive branch officer files the required recommendation, the Commission shall issue an advisory opinion on that recommendation. The Commission shall file the advisory opinion with the appropriate State executive branch officer, the Governor, the General Assembly, and the Index Department of the Office of the Secretary of State and shall make copies of the advisory opinion available to the public upon request.

(c-5) After receipt of the advisory opinion filed by the Commission, the General Assembly shall vote by joint resolution to uphold or overturn the opinion.

(d) No action may be taken to implement the recommendation for closure of a State facility until the General Assembly has taken final action on the advisory opinion filed by the Commission by adopting a joint resolution under subsection (c-5) affirming the recommendation for closure 50 days after the filing of any required recommendation.

(e) The requirements of this Section do not apply if all of the functions and employees of a State facility are relocated to another State facility that is within 10 miles of the closed facility. (Source: P.A. 93-839, eff. 7-30-04; 94-688, eff. 1-1-06.)"

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Jacobs, **Senate Bill No. 3591** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 3619** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on Revenue, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3619

AMENDMENT NO. 1. Amend Senate Bill 3619 by replacing everything after the enacting clause

[March 23, 2012]

with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 220 as follows:
(35 ILCS 5/220)

Sec. 220. Angel investment credit.

(a) As used in this Section:

"Applicant" means a corporation, partnership, limited liability company, or a natural person that makes an investment in a qualified new business venture. The term "applicant" does not include a corporation, partnership, limited liability company, or a natural person who has a direct or indirect ownership interest of at least 51% in the profits, capital, or value of the investment or a related member.

"Claimant" means an applicant certified by the Department who files a claim for a credit under this Section.

"Department" means the Department of Commerce and Economic Opportunity.

"Qualified new business venture" means a business that is registered with the Department under this Section.

"Related member" means a person that, with respect to the investment, is any one of the following:

(1) An individual, if the individual and the members of the individual's family (as defined in Section 318 of the Internal Revenue Code) own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the value of the outstanding profits, capital, stock, or other ownership interest in the applicant.

(2) A partnership, estate, or trust and any partner or beneficiary, if the partnership, estate, or trust and its partners or beneficiaries own directly, indirectly, beneficially, or constructively, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

(3) A corporation, and any party related to the corporation in a manner that would require an attribution of stock from the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the applicant and any other related member own, in the aggregate, directly, indirectly, beneficially, or constructively, at least 50% of the value of the corporation's outstanding stock.

(4) A corporation and any party related to that corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of Section 318 of the Internal Revenue Code, if the corporation and all such related parties own, in the aggregate, at least 50% of the profits, capital, stock, or other ownership interest in the applicant.

(5) A person to or from whom there is attribution of stock ownership in accordance with Section 1563(e) of the Internal Revenue Code, except that for purposes of determining whether a person is a related member under this paragraph, "20%" shall be substituted for "5%" whenever "5%" appears in Section 1563(e) of the Internal Revenue Code.

(b) For taxable years beginning after December 31, 2010, and ending on or before December 31, 2016, subject to the limitations provided in this Section, a claimant may claim, as a credit against the tax imposed under subsections (a) and (b) of Section 201 of this Act, an amount equal to 25% of the claimant's investment made directly in a qualified new business venture. In order for an investment in a qualified new business venture to be eligible for tax credits, the business must have applied for and received certification under subsection (e) for the taxable year in which the investment was made prior to the date on which the investment was made. The credit under this Section may not exceed the taxpayer's Illinois income tax liability for the taxable year. If the amount of the credit exceeds the tax liability for the year, the excess may be carried forward and applied to the tax liability of the 5 taxable years following the excess credit year. The credit shall be applied to the earliest year for which there is a tax liability. If there are credits from more than one tax year that are available to offset a liability, the earlier credit shall be applied first. In the case of a partnership or Subchapter S Corporation, the credit is allowed to the partners or shareholders in accordance with the determination of income and distributive share of income under Sections 702 and 704 and Subchapter S of the Internal Revenue Code.

(c) The maximum amount of an applicant's investment that may be used as the basis for a credit under this Section is \$2,000,000 for each investment made directly in a qualified new business venture.

(d) The Department shall implement a program to certify an applicant for an angel investment credit. Upon satisfactory review, the Department shall issue a tax credit certificate stating the amount of the tax credit to which the applicant is entitled. The Department shall annually certify that the claimant's investment has been made and remains in the qualified new business venture for no less than 3 years.

(d-5) If an investment for which a claimant is allowed a credit under subsection (b) is held by the claimant for less than 3 years, or, if within that period of time the qualified new business venture is

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moved from the State of Illinois, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the amount of the credit that the claimant received related to the investment. Repayment of the credit shall not be required under this paragraph if, prior to the time the claimant disposes of its investment or the business venture is moved from the State of Illinois:

- (1) the investment by the claimant becomes worthless;
- (2) 80% or more of the assets of the qualified new business venture are sold to a party that is not related to the qualified new business venture or to the claimant;
- (3) bankruptcy or insolvency proceedings are commenced for the qualified new business venture; or
- (4) the qualified new business venture's common stock begins trading on an established securities market.

If the Department determines that the qualified new business venture did not meet the requirement that at least 51% of the employees employed by the business are employed in this State in any of the 3 years following the date on which an investment in the qualified new business venture was made, the claimant shall pay to the Department of Revenue, in the manner prescribed by the Department of Revenue, the following percentage of the credits allowed for qualified investments in the qualified new business venture:

<u>Year following the date on which the investment was made:</u>	<u>Percentage of credit required to be repaid:</u>
<u>First</u>	<u>100%</u>
<u>Second</u>	<u>66%</u>
<u>Third</u>	<u>33%</u>
<u>Fourth and later</u>	<u>0%</u>

The Department must notify the Department of Revenue of every credit revoked and subject to full or partial repayment under this subsection.

(e) The Department shall implement a program to register qualified new business ventures for purposes of this Section. A business desiring registration shall submit an application to the Department in each taxable year for which the business desires registration. The Department may register the business only if the business satisfies all of the following conditions:

- (1) it has its headquarters in this State;
- (2) at least 51% of the employees employed by the business are employed in this State;
- (3) it has the potential for increasing jobs in this State, increasing capital investment in this State, or both, and either of the following apply:
 - (A) it is principally engaged in innovation in any of the following: manufacturing; biotechnology; nanotechnology; communications; agricultural sciences; clean energy creation or storage technology; processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology; or providing services that are enabled by applying proprietary technology; or
 - (B) it is undertaking pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology;
- (4) it is not principally engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable energy resource, as defined in Section 1 of the Illinois Power Agency Act;
- (5) at the time it is first certified:
 - (A) it has fewer than 100 employees;
 - (B) it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and
 - (C) it has received not more than \$10,000,000 in aggregate private equity investment in cash;
- (6) ~~(blank); it has been in operation in Illinois for not more than 10 consecutive years prior to the year of certification; and~~
- (7) it has received not more than ~~(i) \$10,000,000 in aggregate private equity investment in cash or~~ ~~(ii) \$4,000,000 in investments that qualified for tax credits under this Section.~~

(f) The Department, in consultation with the Department of Revenue, shall adopt rules to administer this Section. The aggregate amount of the tax credits that may be claimed under this Section for

investments made in qualified new business ventures shall be limited at \$10,000,000 per calendar year.

(g) A claimant may not sell or otherwise transfer a credit awarded under this Section to another person.

(h) On or before March 1 of each year, the Department shall report to the Governor and to the General Assembly on the tax credit certificates awarded under this Section for the prior calendar year.

(1) This report must include, for each tax credit certificate awarded:

(A) the name of the claimant and the amount of credit awarded or allocated to that claimant;

(B) the name and address of the qualified new business venture that received the investment giving rise to the credit and the county in which the qualified new business venture is located; and

(C) the date of approval by the Department of the applications for the tax credit certificate.

(2) The report must also include:

(A) the total number of applicants and amount for tax credit certificates awarded under this Section in the prior calendar year;

(B) the total number of applications and amount for which tax credit certificates were issued in the prior calendar year; and

(C) the total tax credit certificates and amount authorized under this Section for all calendar years.

(Source: P.A. 96-939, eff. 1-1-11; 97-507, eff. 8-23-11.)

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

On motion of Senator Delgado, **Senate Bill No. 3621** having been printed, was taken up, read by title a second time.

The following amendment was offered in the Committee on State Government and Veterans Affairs, adopted and ordered printed:

AMENDMENT NO. 1 TO SENATE BILL 3621

AMENDMENT NO. 1. Amend Senate Bill 3621 by replacing everything after the enacting clause with the following:

"Section 5. The Department of State Police Law of the Civil Administrative Code of Illinois is amended by changing Section 2605-407 as follows:

(20 ILCS 2605/2605-407)

Sec. 2605-407. Illinois State Police Federal Projects ~~Trust~~ Fund. The Illinois State Police Federal Projects ~~Trust~~ Fund is ~~established~~ created as a federal trust fund in the State treasury. This federal Trust Fund is established to receive funds awarded to the Department of State Police from the following: (i) all federal departments and agencies for the specific purposes established by the terms and conditions of the federal awards and (ii) federal pass-through grants from State departments and agencies for the specific purposes established by the terms and conditions of the grant agreements. Any interest earnings that are attributable to moneys in the federal trust fund must be deposited into the Fund ~~All interest earned by the investment or deposit of moneys accumulated in the Trust Fund shall be deposited into the Trust Fund.~~

(Source: P.A. 97-116, eff. 1-1-12.)

Section 10. The State Finance Act is amended by adding Sections 5-811 and 5-812 as follows:

(30 ILCS 105/5-811 new)

Sec. 5-811. The Illinois State Police Federal Projects Fund.

(30 ILCS 105/5-812 new)

Sec. 5-812. The State Police Motor Vehicle Theft Prevention Trust Fund.

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

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

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On motion of Senator Brady, **Senate Bill No. 3682** having been printed, was taken up, read by title a second time.

Senate Floor Amendment No. 1 was held in the Committee on Assignments
There being no further amendments, the bill was ordered to a third reading.

On motion of Senator Kotowski, **Senate Bill No. 3711** having been printed, was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Sandack, **Senate Bill No. 3749** having been printed, was taken up, read by title a second time and ordered to a third reading.

MOTION IN WRITING

Senator Haine submitted the following Motion in Writing:

Since Senate Bill 3798, the First 2012 General Revisory Act, amends the Taxpayer Accountability and Budget Stabilization Act and the State Pension Funds Continuing Appropriation Act by making combining and technical changes, I hereby move, pursuant to Senate Rules 5-6 and 5-7 respectively, that Senate Bill 3798 be moved from the order of Second to Third Reading.

Respectfully Submitted,
s/William R. Haine
Senator William R. Haine

The foregoing motion was ordered placed on the Senate Calendar.

INTRODUCTION OF BILL

SENATE BILL NO. 3913. Introduced by Senator Forby, a bill for AN ACT concerning appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

RESOLUTIONS CONSENT CALENDAR

SENATE RESOLUTION NO. 645

Offered by Senator Haine and all Senators:
Mourns the death of Charles Michael "Chad" Roe of Godfrey.

SENATE RESOLUTION NO. 646

Offered by Senator Hutchinson and all Senators:
Mourns the death of Mary Price.

SENATE RESOLUTION NO. 647

Offered by Senator Lauzen and all Senators:
Mourns the death of Jean A. Carney, formerly of Aurora.

SENATE RESOLUTION NO. 648

Offered by Senator Dillard and all Senators:
Mourns the death of former Illinois State Senator George Raymond Hudson.

SENATE RESOLUTION NO. 649

Offered by Senator Haine and all Senators:
Mourns the death of Vincent E. Stumpf.

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SENATE RESOLUTION NO. 650

Offered by Senator Haine and all Senators:
Mourns the death of Thomas "Tom" Patrick Horn.

SENATE RESOLUTION NO. 651

Offered by Senator Haine and all Senators:
Mourns the death of Patrick "Pat" Nelson.

SENATE RESOLUTION NO. 652

Offered by Senator Haine and all Senators:
Mourns the death of Naidene Johns.

SENATE RESOLUTION NO. 653

Offered by Senator Haine and all Senators:
Mourns the death of Timothy D. Spaulding of Alton.

SENATE RESOLUTION NO. 654

Offered by Senator McCann and all Senators:
Mourns the death of Leo Louis Brianza of Sun Lakes, Arizona, formerly of Carlinville.

SENATE RESOLUTION NO. 655

Offered by Senators Brady - McCann and all Senators:
Mourns the death of Betty J. "Granny" Meyer of Maroa.

SENATE RESOLUTION NO. 656

Offered by Senator Link and all Senators:
Mourns the death of Ruth Paul Caudle of Vernon Hills.

SENATE RESOLUTION NO. 657

Offered by Senator Link and all Senators:
Mourns the death of Mary Ellen Carter of North Chicago.

SENATE RESOLUTION NO. 658

Offered by Senator Link and all Senators:
Mourns the death of Nathaniel Hamilton of Gurnee.

SENATE RESOLUTION NO. 666

Offered by Senator McGuire and all Senators:
Mourns the death of Mildred M. "Millie" Rydman of Joliet.

SENATE RESOLUTION NO. 667

Offered by Senator Forby and all Senators:
Mourns the death of Jaylynn Ferrell of Harrisburg.

SENATE RESOLUTION NO. 668

Offered by Senator Forby and all Senators:
Mourns the death of Donald R. "Don" Smith of Harrisburg.

SENATE RESOLUTION NO. 669

Offered by Senator Forby and all Senators:
Mourns the death of Gregory W. Swierk of Harrisburg.

SENATE RESOLUTION NO. 670

Offered by Senator Forby and all Senators:
Mourns the death of Randall Earl "Bubbles" (Randy) Rann and Donna Mae Rann of Harrisburg.

SENATE RESOLUTION NO. 671

Offered by Senator Forby and all Senators:
Mourns the death of Mary Ruth Osman of Harrisburg.

SENATE RESOLUTION NO. 672

Offered by Senator Forby and all Senators:
Mourns the death of Lynda Lou Hull, formerly of Galatia.

SENATE RESOLUTION NO. 673

Offered by Senator Forby and all Senators:
Mourns the death of Buddy Ingersoll of Zeigler.

SENATE RESOLUTION NO. 674

Offered by Senator Forby and all Senators:
Mourns the death of Robert Denver “Denny” Brewer of Herrin.

SENATE RESOLUTION NO. 675

Offered by Senator Forby and all Senators:
Mourns the death of Roy E. Boren of Herrin.

SENATE RESOLUTION NO. 676

Offered by Senator Forby and all Senators:
Mourns the death of Michael J. Chiaventone of Herrin.

SENATE RESOLUTION NO. 677

Offered by Senator Forby and all Senators:
Mourns the death of Sue Ellen (Manis) Cox of Benton.

SENATE RESOLUTION NO. 678

Offered by Senator Frerichs and all Senators:
Mourns the death of Gregory Novak of Savoy.

SENATE RESOLUTION NO. 679

Offered by Senator Brady and all Senators:
Mourns the death of Stephen A. Paczolt of La Grange.

SENATE RESOLUTION NO. 680

Offered by Senator Brady and all Senators:
Mourns the death of George W. Tortorella of Champaign, formerly of Waukegan and Morton Grove.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

At the hour of 11:54 o'clock a.m., the Chair announced that the Senate stand at ease.

AT EASE

At the hour of 11:59 o'clock a.m. the Senate resumed consideration of business.
Senator Sullivan, presiding.

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Harmon, Chairperson of the Committee on Assignments, during its March 23, 2012 meeting, to which was referred **Senate Bills Numbered 181, 182, 183, 184, 230, 231, 277, 550, 553, 554, 555, 556, 640, 969, 1076, 1077, 1078, 1079, 1197, 1198, 1202, 1203, 1204 and 1205** on July 23, 2011, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

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And **Senate Bills Numbered 181, 182, 183, 184, 230, 231, 277, 550, 553, 554, 555, 556, 640, 969, 1076, 1077, 1078, 1079, 1197, 1198, 1202, 1203, 1204 and 1205** were returned to the order of third reading.

LEGISLATIVE MEASURES FILED

The following Committee amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 2 to Senate Bill 3269
Senate Committee Amendment No. 1 to Senate Bill 3616
Senate Committee Amendment No. 1 to Senate Bill 3669
Senate Committee Amendment No. 1 to Senate Bill 3803

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to Senate Bill 180
Senate Floor Amendment No. 1 to Senate Bill 277
Senate Floor Amendment No. 2 to Senate Bill 409
Senate Floor Amendment No. 1 to Senate Bill 639
Senate Floor Amendment No. 1 to Senate Bill 1135
Senate Floor Amendment No. 2 to Senate Bill 2509
Senate Floor Amendment No. 3 to Senate Bill 2867
Senate Floor Amendment No. 1 to Senate Bill 2876
Senate Floor Amendment No. 7 to Senate Bill 2877
Senate Floor Amendment No. 1 to Senate Bill 2980
Senate Floor Amendment No. 1 to Senate Bill 2993
Senate Floor Amendment No. 1 to Senate Bill 3442
Senate Floor Amendment No. 3 to Senate Bill 3523
Senate Floor Amendment No. 2 to Senate Bill 3572
Senate Floor Amendment No. 1 to Senate Bill 3665

At the hour of 12:02 o'clock p.m., the Chair announced the Senate stand adjourned until Monday, March 26, 2012, at 3:00 o'clock p.m.