

**94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
HB5000**

Introduced 1/23/2006, by Rep. George Scully, Jr.

SYNOPSIS AS INTRODUCED:

See Index

Creates the Tax-Exempt Hospital Responsibility Act. Sets forth the terms under which a hospital must provide full charity care and discounted care to Illinois residents in order to maintain the hospital's tax-exempt status under the Illinois Income Tax Act, the Use Tax Act, the Service Use Tax Act, the Service Occupation Tax Act, the Retailers' Occupation Tax Act, and the Property Tax Code; amends each of those tax Acts to provide that a hospital may qualify for an exemption from the tax imposed by the Act only if the hospital is in compliance with the Tax-Exempt Hospital Responsibility Act. Sets forth uniform procedures for a hospital's provision of charity care. Sets forth patient rights and responsibilities in connection with hospital charity care. Requires a tax-exempt hospital to furnish aggregate annual charity care in an amount equal to at least 8% of the hospital's total operating costs. Requires hospitals to submit an annual report to the Attorney General. Makes the Attorney General responsible for implementing and enforcing the Tax-Exempt Hospital Responsibility Act. Provides that a home rule unit may not regulate hospitals in a manner inconsistent with the Tax-Exempt Hospital Responsibility Act. Creates the Tax-Exempt Hospital Responsibility Act Enforcement Fund, to be used in connection with enforcement of the Act, and amends the State Finance Act in connection therewith. Amends the Freedom of Information Act to make records of charity care applications and determinations under the Tax-Exempt Hospital Responsibility Act exempt from inspection and copying. Amends the Illinois Finance Authority Act; provides that none of the specified powers of the Illinois Finance Authority shall be exercised for the benefit of any hospital as defined in the Tax-Exempt Hospital Responsibility Act if that hospital is not in compliance with that Act. Amends the Community Benefits Act; makes changes including (i) adding references to the Tax-Exempt Hospital Responsibility Act, (ii) providing for a maximum late filing fee of \$10,000 (instead of \$100), and (iii) giving the Attorney General rulemaking authority. Effective immediately.

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FISCAL NOTE ACT MAY
APPLY

HOME RULE NOTE ACT
MAY APPLY

A BILL FOR

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1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the
5 Tax-Exempt Hospital Responsibility Act.

6 Section 5. Purpose; findings.

7 (a) The purpose of this Act is to advance public health and
8 welfare through the establishment, implementation, and
9 enforcement of clear standards for delivery by Illinois
10 tax-exempt hospitals of charity health care services to
11 financially qualified persons.

12 (b) The Illinois General Assembly finds that:

13 (1) Numerous Illinois not-for-profit hospital
14 organizations have been classified under Illinois law as
15 charitable organizations and, as such, have benefited from
16 various tax exemptions granted by the General Assembly.

17 (2) Article IX, Section 6 of the Illinois Constitution
18 of 1970 states: "The General Assembly by law may exempt
19 from taxation only . . . property used exclusively for . .
20 . charitable purposes." The Illinois Supreme Court
21 consistently has held that, in order to satisfy the
22 constitutional requirement of Article IX, Section 6, a
23 hospital claiming the benefit of a charitable exemption for
24 its property must unequivocally demonstrate, among other
25 things, that charity is dispensed to all who need and apply
26 for it and that no obstacles of any character are placed in
27 the way of those who need and would avail themselves of
28 such benefits.

29 (3) In conferring a property tax exemption under

30 Article IX, Section 6, the General Assembly may require
31 hospitals claiming the benefit of this exemption to
32 publicize the availability of charity care, to adhere to

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1 various procedures in the delivery of charity care, to keep
2 records regarding the level of charity care provided, and
3 to report this information to the State.

4 (4) Increasingly, financially needy patients have
5 experienced significant obstacles to accessing charity
6 care at many Illinois hospitals benefiting from State tax
7 exemption.

8 (5) Many Illinois hospitals benefiting from State tax
9 exemption apply only a small portion of their overall costs
10 to the delivery of charity care services to financially
11 qualified patients.

12 (6) Patients, hospitals, and government bodies alike
13 will benefit from clearly-articulated standards regarding
14 the charity care obligations for tax-exempt Illinois
15 hospitals.

16 (7) The Attorney General, as the chief legal officer
17 for the State, should have primary authority and
18 responsibility for implementation and enforcement of this
19 Act.

20 Section 10. Definitions. In this Act, unless the context
21 requires otherwise:

22 "Bad debt" means an account receivable based on services
23 furnished to any patient which: (i) is regarded as
24 uncollectible following reasonable collection action; (ii) is
25 charged as a credit loss; (iii) is not the obligation of any
26 federal or State government unit; and (iv) is not charity care.

27 "Charge" means the price set by a hospital for a specific
28 service or supply provided by the hospital.

29 "Charity care" means medically necessary services provided
30 without charge or at a reduced charge to patients who meet
31 eligibility criteria no more restrictive than those set forth
32 in Sections 15 and 20 of this Act. Charity care must not be
33 recorded by a hospital or community medical center as revenue,

34 as an account receivable, or as bad debt, and the care must be
35 rendered with no expectation of payment. If the requirements

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1 and procedures set forth in Sections 15 and 20 of this Act are
2 followed, the care will be deemed rendered by a hospital with
3 no expectation of payment. Categories of charity care include
4 full charity care, discounted care, and crime victim discounted
5 care.

6 "Collection action" means any activity by which a hospital,
7 a designated agent or assignee of the hospital, or a purchaser
8 of the patient account receivable requests payment for services
9 from a patient or a patient's guarantor. Collection actions
10 include, without limitation, pre-admission or pre-treatment
11 deposits, billing statements, letters, electronic mail,
12 telephone and personal contacts related to hospital bills,
13 court summonses and complaints, and any other activity related
14 to collecting a hospital bill.

15 "Community medical clinic" means a "community provider" as
16 defined in Section 5 of the Community Health Center Expansion
17 Act or a "free medical clinic" as defined in Section 30 of the
18 Good Samaritan Act.

19 "Cost" means the actual expense a hospital incurs to
20 provide each service or supply.

21 "Cost-to-charge ratio" means the ratio of a hospital's
22 total cost of providing patient care to its total charges for
23 patient care, as reported in its most recently settled Medicare
24 Cost Report.

25 "Discounted care" means medically necessary services
26 provided as charity care to a patient who meets the eligibility
27 criteria set forth in subdivision (a)(2)(A) of Section 15 of
28 this Act at discounted rates as set forth in subdivision
29 (a)(2)(B) of Section 15 of this Act.

30 "Effective date of eligibility" means the later of the date
31 on which medically necessary services are rendered or the date
32 of discharge from the hospital.

33 "Family" means the patient, the patient's spouse, and any
34 dependents living in the patient's household.

35 "Family income" means the sum of a family's annual earnings

36 and cash benefits from all sources before taxes, less payments

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1 made for alimony and child support or received as retirement
2 benefits.

3 "Federal poverty income guidelines" means the poverty
4 guidelines updated periodically in the Federal Register by the
5 United States Department of Health and Human Services under
6 authority of 42 U.S.C. 9902(2).

7 "Full charity care" means medically necessary services
8 provided as charity care at no charge to a patient in
9 accordance with subsection (a) of Section 15 of this Act.

10 "Hospital" means any institution required to be licensed by
11 the State of Illinois pursuant to the Hospital Licensing Act or
12 the University of Illinois Hospital Act, and any hospital
13 maintained by the State or any department or agency thereof.

14 "Medically necessary service" means a service or supply
15 that is reasonably expected to prevent, diagnose, prevent the
16 worsening of, alleviate, correct, or cure a condition that
17 endangers life, causes suffering or pain, causes physical
18 deformity or malfunction, threatens to cause or aggravate a
19 handicap, or results in illness or infirmity. "Medically
20 necessary service" includes any inpatient or outpatient
21 hospital service mandated under Title XIX of the federal Social
22 Security Act and emergency care. "Medically necessary service"
23 does not include any of the following:

24 (1) Non-medical services such as social and vocational
25 services.

26 (2) Elective cosmetic surgery, but not plastic surgery
27 designed to correct disfigurement caused by injury,
28 illness, or congenital defect or deformity.

29 "Resident" means a person living in the State of Illinois,
30 regardless of United States citizenship status, with the
31 intention of remaining in Illinois indefinitely. A resident is
32 not required to maintain a fixed address. Relocation to
33 Illinois for the sole purpose of receiving health care benefits
34 does not satisfy the residency requirement.

35 "Tax-exempt hospital" means a hospital that has been
36 organized as a not-for-profit corporation or charitable trust

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1 under Illinois law or the laws of any other state or country
2 and that has been deemed a charitable organization exempt under
3 Illinois law from State property tax, retailers' occupation
4 tax, income tax, use tax, service use tax, or service
5 occupation tax and eligible to issue tax exempt bonds under
6 Illinois law or the laws of any other state or country.

7 "Uninsured" or "uninsured patient" means a patient who is
8 not covered under a policy of health insurance and is not a
9 beneficiary under a public or private health insurance, health
10 benefit, or other health coverage program.

11 Section 15. Charity care service provision obligations for
12 tax-exempt hospitals. Unless exempted under Section 35 of this
13 Act, each tax-exempt hospital must provide charity care to
14 eligible Illinois residents as follows:

15 (a) Types of charity care.

16 (1) Full charity care.

17 (A) Eligibility. Tax-exempt hospitals must provide
18 full charity care to any uninsured Illinois residents
19 who apply for charity care and have family income equal
20 to or less than 150% of the federal poverty income
21 guidelines.

22 (B) Billing. Tax-exempt hospitals must not issue
23 or cause to be issued any bill or invoice statement to
24 any patient who qualifies for full charity care
25 pursuant to subdivision (a)(1)(A) of this Section 15.

26 (2) Discounted Care.

27 (A) Eligibility. Tax-exempt hospitals must provide
28 discounted care to any uninsured Illinois resident who
29 applies for charity care and has family income of more
30 than 150% and not more than 250% of the federal poverty
31 income guidelines. To the extent that the cost of
32 medically necessary services exceeds \$10,000 in any
33 12-month period, the patient is eligible for full
34 charity care with respect to the amount of such cost
35 that exceeds \$10,000 during that 12-month period.

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1 (B) Billing. Tax-exempt hospitals must limit any
2 bill or invoice statement sent to any patient who
3 qualifies for discounted care pursuant to subdivision
4 (a)(2)(A) of this Section 15 as follows:

5 (i) For a patient with a family income of more
6 than 150% and not more than 175% of the federal
7 poverty income guidelines, the amount billed to
8 the patient for discounted care must not exceed 20%
9 of the hospital's cost of providing medically
10 necessary services to such patient.

11 (ii) For a patient with a family income of more
12 than 175% and not more than 200% of the federal
13 poverty income guidelines, the amount billed to
14 the patient for discounted care must not exceed 25%
15 of the hospital's cost of providing medically
16 necessary services to such patient.

17 (iii) For a patient with a family income of
18 more than 200% and not more than 225% of the
19 federal poverty income guidelines, the amount
20 billed to the patient for discounted care must not
21 exceed 30% of the hospital's cost of providing
22 medically necessary services to such patient.

23 (iv) For a patient with a family income of more
24 than 225% and not more than 250% of the federal
25 property income guidelines, the amount billed to
26 the patient for discounted care must not exceed 35%
27 of the hospital's cost of providing medically
28 necessary services to such patient.

29 (C) Payment plan. If a patient has indicated an
30 inability to pay the full amount of a bill or invoice
31 for discounted care in one payment, the tax-exempt
32 hospital must offer the patient a reasonable payment
33 plan without interest. The hospital may require the
34 patient to provide reasonable verification of his or
35 her inability to pay the full amount of the bill or
36 invoice in one payment.

1 (b) Uniform procedures for charity care service provision.

2 (1) Initial screening, identification of uninsured
3 residents, and billing procedure. Tax-exempt hospitals
4 must screen each patient, on or prior to the effective date
5 of eligibility, to determine whether he or she is
6 uninsured. If a patient is determined to be uninsured, the
7 patient or the patient's representative shall be provided
8 an application for charity care no later than the effective
9 date of eligibility. Tax-exempt hospitals must refrain
10 from issuing any bill or invoice statement to a patient who
11 is an uninsured Illinois resident until at least 60 days
12 after the effective date of eligibility and, if the patient
13 files a charity care application before the end of that 60
14 days, must further refrain from issuing any bill or invoice
15 until the hospital determines the patient's eligibility
16 for charity care pursuant to this Act.

17 (2) Application for charity care.

18 (A) Tax-exempt hospitals must use an application
19 form developed by the Attorney General to determine
20 eligibility for charity care. The Attorney General
21 shall ensure that the application form is easy to
22 understand and that it requests only information that
23 is reasonably necessary to determine eligibility. The
24 Attorney General shall specify the documentation and
25 information an applicant must submit in order to verify
26 eligibility for charity care.

27 (B) Each hospital must translate and distribute
28 the charity care application form in accordance with
29 the Language Assistance Services Act and, in any event,
30 must translate the application form into the
31 non-English languages most frequently used in the
32 service area of the hospital and make those
33 translations of the form available, in accordance with
34 standards adopted by rule of the Attorney General.

35 (3) Timing of charity care application. A patient, or
36 the patient's representative, may submit a charity care

1 application to a tax-exempt hospital within 60 days after
2 the effective date of eligibility.

3 (4) Determination of charity care eligibility. Each
4 tax-exempt hospital must deliver to the patient written
5 notice of a charity care eligibility determination within
6 14 days after receipt of a completed charity care
7 application. A tax-exempt hospital must not deny or delay
8 patient care while a patient's application for charity care
9 is pending.

10 (5) Notification. Tax-exempt hospitals must provide
11 notification of the availability of charity care as
12 follows:

13 (A) Each hospital must post signs in the inpatient,
14 outpatient, emergency, admissions, and registration
15 areas of the facility, and in the business office areas
16 that are customarily used by patients, that
17 conspicuously inform patients of the availability of
18 charity care and the location within the hospital at
19 which to apply for charity care. Signs must be in
20 English and also in the languages other than English
21 that are most frequently spoken in a hospital's service
22 area, in accordance with standards adopted by rule of
23 the Attorney General.

24 (B) Each hospital must post a notice in a prominent
25 place on its website that charity care is available at
26 the facility. The notice must include a brief
27 description of the charity care application process
28 and a copy of the application form. The notice must be
29 in the same languages as the signs that are required
30 pursuant to subdivision (b)(5)(A) of this Section 15.

31 (C) Each hospital must provide individual notice,
32 in the appropriate language, of the availability of
33 charity care to any patient who is identified as
34 uninsured.

35 (D) Each hospital must provide notice, or ensure
36 that notice is provided, of the availability of charity

1 care in any patient bill invoice statement or
2 collection action issued by the hospital or by a
3 collection agent, assignee, or account purchaser that
4 the hospital retains or with which the hospital has
5 contracted.

6 (E) Each hospital must, on a quarterly basis,
7 publish notice in a newspaper of general circulation in
8 the hospital's service area, indicating that charity
9 care is available at the facility. The notice must
10 include a brief description of the charity care
11 application process. Each hospital must provide a
12 similar notice to all community medical centers
13 located in its service area. These notices must be
14 provided in the same languages as the signs that are
15 required pursuant to subdivision (b)(5)(A) of this
16 Section 15.

17 (F) All of the notifications required by this
18 subdivision (b)(5) must include contact information
19 for the filing with the Attorney General's Office of
20 complaints regarding possible violations of this Act.

21 (G) All of the notifications required by this
22 subdivision (b)(5) must comply with requirements as to
23 content and form established by the Attorney General.

24 (c) Patient rights and responsibilities.

25 (1) Patient rights. Tax-exempt hospitals must
26 distribute to every patient, on or prior to the effective
27 date of eligibility, a written statement regarding charity
28 care in a form and with content developed by the Attorney
29 General's Office. This statement must include, without
30 limitation, each patient's right to:

31 (A) apply for charity care within 60 days after the
32 effective date of eligibility;

33 (B) receive a determination, in writing, on his or
34 her charity care application within 14 days after
35 submitting a completed application;

36 (C) enter into a payment plan if determined

1 eligible for discounted care; and

2 (D) register a complaint with the Attorney General
3 pursuant to Section 40 of this Act.

4 (2) Patient responsibilities.

5 (A) Patients seeking or receiving charity care
6 from any tax-exempt hospital must:

7 (i) Cooperate with the hospital to provide the
8 information and documentation necessary to apply
9 for other public or private existing programs or
10 resources that may be available to pay for health
11 care including, without limitation, Medicare,
12 Medicaid, or the State Children's Health Insurance
13 Program.

14 (ii) Promptly provide the hospital with
15 accurate and complete documentation and
16 information as required under this Act.

17 (iii) Promptly notify the hospital of any
18 significant change in financial status that is
19 likely to adversely affect eligibility for charity
20 care.

21 (B) A patient who qualifies for discounted care
22 must cooperate with the hospital to establish a
23 reasonable payment plan that takes into account
24 available income and assets, the amount of the
25 discounted bill or bills, and any prior payments and
26 must make a good faith effort to comply with this
27 payment plan. The patient is responsible for promptly
28 communicating to the hospital any change in financial
29 situation that may impact his or her ability to pay the
30 discounted hospital bills or to honor the provisions of
31 the payment plan.

32 Section 20. Crime victim discounted care. If a tax-exempt
33 hospital accepts payment for medically necessary services from
34 an award to any patient pursuant to the Crime Victims
35 Compensation Act, such payment shall be deemed to be in full

1 and final satisfaction of any outstanding charges owed by the
2 patient for those services, and the tax-exempt hospital shall

3 thereafter be prohibited from sending any bill or invoice
4 statement for those services.

5 Section 25. Aggregate annual charity care obligations for
6 tax-exempt hospitals.

7 (a) Unless exempted under Section 35, each tax-exempt
8 hospital shall furnish aggregate annual charity care in an
9 amount equal to at least 8% of the hospital's total operating
10 costs as reported each year in the most recently settled
11 Medicare Cost Report.

12 (b) A tax-exempt hospital may for any fiscal year
13 demonstrate compliance with the requirement of subsection (a)
14 of this Section 25 by documenting the costs of one or more of
15 the following:

16 (1) Provision of charity care to eligible patients of
17 the hospital.

18 (2) Provision of charity care to eligible patients at
19 one or more community medical clinics operated by the
20 hospital.

21 (3) Provision by the hospital of charity care to
22 eligible patients, in a setting or settings other than the
23 hospital or a community medical clinic operated by the
24 hospital, provided each such setting is approved in advance
25 by the Attorney General. The Attorney General shall adopt
26 rules delineating this approval process.

27 (4) If a tax-exempt hospital accepts payment for
28 medically necessary services from an award to any patient
29 pursuant to the Crime Victims Compensation Act, that
30 portion of the tax-exempt hospital's costs for those
31 medically necessary services which is not covered by the
32 award.

33 (5) If a tax-exempt hospital receives payments for
34 medically necessary services from the State of Illinois
35 pursuant to Section 5-5 of the Illinois Public Aid Code and

1 rules issued pursuant to that Section, that portion of the
2 tax-exempt hospital's costs for those medically necessary
3 services which is not covered by the payments.

4 Section 30. Charity care reporting.

5 (a) Not later than the last day of the sixth month after
6 the close of its fiscal year, each tax-exempt hospital must
7 submit an annual charity care report to the Attorney General,
8 with content and in a format specified by rule of the Attorney
9 General.

10 (b) The annual charity care report submitted by each
11 tax-exempt hospital must include, at a minimum, the following
12 information for the applicable fiscal year:

13 (1) The total number of charity care applications
14 submitted to the hospital, separately itemizing
15 applications for full charity care, discounted care, and
16 crime victim discounted care.

17 (2) The total number of charity care applications
18 approved by the hospital, separately itemizing approved
19 applications for full charity care, discounted care, and
20 crime victim discounted care.

21 (3) The total number of charity care applications
22 denied by the hospital and the reasons for such denials,
23 separately itemizing denied applications for full charity
24 care, discounted care, and crime victim discounted care.

25 (4) The total number of patients who received charity
26 care at the hospital, separately itemizing recipients of
27 full charity care, discounted care, and crime victim
28 discounted care, and categorizing services provided and
29 pertinent demographic attributes of recipients.

30 (5) A detailed description of the hospital's charity
31 care application process, including the identity of the
32 person or persons affiliated with the hospital responsible
33 for making determinations on charity care applications.

34 (6) The hospital's most recent complete set of audited
35 financial statements and its most recently filed and most

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1 recently settled Medicare Cost Report.

2 (7) A statement that details the following:

3 (A) the aggregate dollar amount of charity care
4 furnished by the hospital, to be reported as the actual
5 cost of services provided based on the total

6 cost-to-charge ratio derived from the hospital's most
7 recently settled Medicare Cost Report;

8 (B) the amount of bad debt incurred by the hospital
9 in the reporting year, calculated at cost, which
10 identifies how much of the bad debt is attributable to
11 individual patients and how much is attributable to
12 private third party payers;

13 (C) the hospital's net patient service revenue and
14 its investment income; and

15 (D) the total amount of funds available from any
16 source apart from those derived from patient service
17 revenue which are available for use by the hospital to
18 subsidize the cost of charity care during the
19 applicable fiscal year, and the amount of those funds
20 that were actually used during the applicable fiscal
21 year to subsidize the cost of charity care.

22 (c) Records of charity care applications and
23 determinations shall be retained by tax-exempt hospitals for a
24 period of 7 years. All records concerning charity care
25 applications and determinations shall be confidential, except
26 that the Attorney General shall, upon written request, be
27 provided copies of such records by hospitals within 14 days of
28 receipt of a written request for such records and may provide
29 copies of the records to the Department of Revenue. Records of
30 charity care applications and determinations shall be exempt
31 from inspection and copying under the Freedom of Information
32 Act.

33 (d) Hospitals must report any other information that the
34 Attorney General deems necessary to ensure compliance with the
35 provisions of this Act.

36 (e) The Attorney General shall issue a report to the public

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1 on an annual basis addressing the charity care information
2 reported by tax-exempt hospitals pursuant to this Section 30,
3 with a separate analysis for each hospital.

4 Section 35. Exemption for critical access hospitals. Each
5 hospital designated as a critical access hospital in accordance

6 with federal statutory and regulatory Medicare requirements is
7 exempt from the charity care requirements set forth in Sections
8 15, 20, 25, and 30 of this Act.

9 Section 40. Implementation and enforcement.

10 (a) Administration. The Attorney General shall be
11 responsible for administering and ensuring compliance with
12 this Act, including adoption or development of:

13 (1) any rules necessary for the implementation and
14 enforcement of this Act; and

15 (2) all forms, notifications, and applications
16 required to be provided by tax-exempt hospitals under this
17 Act.

18 The Illinois Administrative Procedure Act shall apply to
19 all rules adopted by the Attorney General under this Act.

20 (b) Complaints. The Attorney General shall develop and
21 implement a process for receiving and handling complaints from
22 individuals regarding possible violations of this Act.

23 (c) Investigation. The Attorney General may conduct any
24 investigation deemed necessary regarding possible violations
25 of this Act, including, without limitation, the issuance of
26 subpoenas to:

27 (1) require a tax-exempt hospital to file a statement
28 or report, or answer interrogatories, in writing as to all
29 information relevant to the alleged violations;

30 (2) examine under oath any person in connection with
31 the alleged violations; and

32 (3) examine any record, book, document, account, or
33 paper necessary to investigate such alleged violations.

34 (d) Injunctive relief; monetary penalties.

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1 (1) If the Attorney General determines that there
2 exists a reasonable basis to believe that a tax-exempt
3 hospital has violated this Act, the Attorney General may
4 bring an action in the name of the People of the State
5 against such tax-exempt hospital to obtain temporary,
6 preliminary, or permanent injunctive relief for any act,
7 omission, policy, or practice by the tax-exempt hospital

8 that violates this Act. The Attorney General may seek the
9 removal and replacement of any director, officer, agent, or
10 employee of a tax-exempt hospital who has approved,
11 authorized, or acquiesced in, directly or indirectly, a
12 violation of this Act. The Attorney General may also seek
13 the assessment of one or more of the civil monetary
14 penalties provided in subdivision (d)(2) of this Section
15 40.

16 (2)(A) A tax-exempt hospital that fails to post any
17 notice or provide any notification required under this
18 Act is subject to a civil penalty of \$1,000 per day for
19 each day that the required notice is not posted or
20 notification is not provided.

21 (B) A tax-exempt hospital that fails to provide
22 information to the public as required under this Act is
23 subject to a civil penalty of \$1,000 per violation.

24 (C) A tax-exempt hospital that violates any
25 provision of this Act other than the provisions of
26 Section 25 is subject to a civil penalty of \$10,000 per
27 violation and also may be ordered by a circuit court to
28 do either of the following:

29 (i) to the extent that a patient eligible for
30 charity care under this Act paid any money toward
31 the satisfaction of the hospital's charges
32 contrary to the provisions of this Act, reimburse
33 that patient for the money paid by the patient,
34 with interest; or

35 (ii) credit the account of a patient eligible
36 for charity care under this Act for any hospital

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1 charges that were improperly charged to the
2 patient's account contrary to the provisions of
3 this Act.

4 (D) A tax-exempt hospital that does not meet its
5 aggregate annual charity care obligation under Section
6 25 is subject to a civil penalty equal to the amount of
7 its unpaid obligation, plus interest on that amount
8 computed at the rate provided under Section 2-1303 of

9 the Code of Civil Procedure.

10 (3) In the event a circuit court grants relief against

11 a tax-exempt hospital for a violation of this Act, the

12 Attorney General shall refer the tax-exempt hospital to the

13 Illinois Department of Revenue for possible revocation of

14 the hospital's tax-exempt status under the Illinois Income

15 Tax Act, Use Tax Act, Service Use Tax Act, Service

16 Occupation Tax Act, Retailers' Occupation Tax Act, or

17 Property Tax Code and to the Illinois Finance Authority for

18 possible action regarding the hospital's eligibility to

19 benefit from any provisions of the Illinois Finance

20 Authority Act.

21 Section 45. Limitations. Nothing in this Act shall be used

22 by any private or public third-party payor as a basis for

23 reducing the third-party payor's rates or policies. Discounts

24 authorized under this Act shall not be used by any private or

25 public third-party payer to determine a hospital's usual and

26 customary charges for any health care service. Nothing in this

27 Act shall be construed as imposing an obligation on a hospital

28 to provide, or refrain from providing, any particular service

29 or treatment to an uninsured patient. Nothing in this Act shall

30 prohibit hospitals from providing charity care to patients who

31 do not meet the qualification criteria under this Act. Nothing

32 in this Act shall be construed as imposing an obligation on a

33 hospital to file a lawsuit to collect payment on a patient's

34 bill. This Act establishes new and additional legal obligations

35 for all tax-exempt hospitals in the State of Illinois. Nothing

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1 in this Act shall be construed as relieving any hospital of any

2 other legal obligation under the Illinois Constitution, or

3 under any other statute or the common law, including, without

4 limitation, obligations of tax-exempt hospitals to furnish

5 charity care or community benefits, or as reducing any such

6 obligation on the part of any hospital. No provision of this

7 Act shall derogate from the common law or statutory authority

8 of the Attorney General, nor shall any provision be construed

9 as a limitation on the common law or statutory authority of the

10 Attorney General to investigate hospitals or initiate
11 enforcement actions against them, including, without
12 limitation, the authority to investigate at any time charitable
13 trusts for the purpose of determining and ascertaining whether
14 they are being administered in accordance with Illinois law and
15 with the terms and purposes thereof. No provision of this Act
16 shall be construed as a limitation on the application of the
17 doctrine of cy pres or any other legal doctrine applicable to
18 charitable assets or charitable trusts.

19 Section 50. Home rule. A home rule unit may not regulate
20 hospitals in a manner inconsistent with the provisions of this
21 Act. This Section is a limitation under subsection (i) of
22 Section 6 of Article VII of the Illinois Constitution on the
23 concurrent exercise by home rule units of powers and functions
24 exercised by the State.

25 Section 55. Tax-Exempt Hospital Responsibility Act
26 Enforcement Fund. There is hereby created the Tax-Exempt
27 Hospital Responsibility Act Enforcement Fund as a special fund
28 in the State treasury. All proceeds of an action or settlement
29 of a claim or action brought under this Act, but excluding any
30 moneys ordered paid to a patient or credited to a patient's
31 account under subdivision (d)(2)(C)(i) or (d)(2)(C)(ii) of
32 Section 40, shall be deposited in the Fund. Monies in the Fund
33 shall be allocated, subject to appropriation, to the Attorney
34 General's Office for enforcement of this Act.

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1 Section 900. The Freedom of Information Act is amended by
2 changing Section 7 as follows:

3 (5 ILCS 140/7) (from Ch. 116, par. 207)

4 Sec. 7. Exemptions.

5 (1) The following shall be exempt from inspection and
6 copying:

7 (a) Information specifically prohibited from
8 disclosure by federal or State law or rules and regulations
9 adopted under federal or State law.

10 (b) Information that, if disclosed, would constitute a

11 clearly unwarranted invasion of personal privacy, unless
12 the disclosure is consented to in writing by the individual
13 subjects of the information. The disclosure of information
14 that bears on the public duties of public employees and
15 officials shall not be considered an invasion of personal
16 privacy. Information exempted under this subsection (b)
17 shall include but is not limited to:

18 (i) files and personal information maintained with
19 respect to clients, patients, residents, students or
20 other individuals receiving social, medical,
21 educational, vocational, financial, supervisory or
22 custodial care or services directly or indirectly from
23 federal agencies or public bodies;

24 (ii) personnel files and personal information
25 maintained with respect to employees, appointees or
26 elected officials of any public body or applicants for
27 those positions;

28 (iii) files and personal information maintained
29 with respect to any applicant, registrant or licensee
30 by any public body cooperating with or engaged in
31 professional or occupational registration, licensure
32 or discipline;

33 (iv) information required of any taxpayer in
34 connection with the assessment or collection of any tax

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1 unless disclosure is otherwise required by State
2 statute;

3 (v) information revealing the identity of persons
4 who file complaints with or provide information to
5 administrative, investigative, law enforcement or
6 penal agencies; provided, however, that identification
7 of witnesses to traffic accidents, traffic accident
8 reports, and rescue reports may be provided by agencies
9 of local government, except in a case for which a
10 criminal investigation is ongoing, without
11 constituting a clearly unwarranted per se invasion of
12 personal privacy under this subsection; and

13 (vi) the names, addresses, or other personal

14 information of participants and registrants in park
15 district, forest preserve district, and conservation
16 district programs.

17 (c) Records compiled by any public body for
18 administrative enforcement proceedings and any law
19 enforcement or correctional agency for law enforcement
20 purposes or for internal matters of a public body, but only
21 to the extent that disclosure would:

22 (i) interfere with pending or actually and
23 reasonably contemplated law enforcement proceedings
24 conducted by any law enforcement or correctional
25 agency;

26 (ii) interfere with pending administrative
27 enforcement proceedings conducted by any public body;

28 (iii) deprive a person of a fair trial or an
29 impartial hearing;

30 (iv) unavoidably disclose the identity of a
31 confidential source or confidential information
32 furnished only by the confidential source;

33 (v) disclose unique or specialized investigative
34 techniques other than those generally used and known or
35 disclose internal documents of correctional agencies
36 related to detection, observation or investigation of

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1 incidents of crime or misconduct;

2 (vi) constitute an invasion of personal privacy
3 under subsection (b) of this Section;

4 (vii) endanger the life or physical safety of law
5 enforcement personnel or any other person; or

6 (viii) obstruct an ongoing criminal investigation.

7 (d) Criminal history record information maintained by
8 State or local criminal justice agencies, except the
9 following which shall be open for public inspection and
10 copying:

11 (i) chronologically maintained arrest information,
12 such as traditional arrest logs or blotters;

13 (ii) the name of a person in the custody of a law
14 enforcement agency and the charges for which that

15 person is being held;
16 (iii) court records that are public;
17 (iv) records that are otherwise available under
18 State or local law; or
19 (v) records in which the requesting party is the
20 individual identified, except as provided under part
21 (vii) of paragraph (c) of subsection (1) of this
22 Section.

23 "Criminal history record information" means data
24 identifiable to an individual and consisting of
25 descriptions or notations of arrests, detentions,
26 indictments, informations, pre-trial proceedings, trials,
27 or other formal events in the criminal justice system or
28 descriptions or notations of criminal charges (including
29 criminal violations of local municipal ordinances) and the
30 nature of any disposition arising therefrom, including
31 sentencing, court or correctional supervision,
32 rehabilitation and release. The term does not apply to
33 statistical records and reports in which individuals are
34 not identified and from which their identities are not
35 ascertainable, or to information that is for criminal
36 investigative or intelligence purposes.

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1 (e) Records that relate to or affect the security of
2 correctional institutions and detention facilities.

3 (f) Preliminary drafts, notes, recommendations,
4 memoranda and other records in which opinions are
5 expressed, or policies or actions are formulated, except
6 that a specific record or relevant portion of a record
7 shall not be exempt when the record is publicly cited and
8 identified by the head of the public body. The exemption
9 provided in this paragraph (f) extends to all those records
10 of officers and agencies of the General Assembly that
11 pertain to the preparation of legislative documents.

12 (g) Trade secrets and commercial or financial
13 information obtained from a person or business where the
14 trade secrets or information are proprietary, privileged
15 or confidential, or where disclosure of the trade secrets

16 or information may cause competitive harm, including:

17 (i) All information determined to be confidential
18 under Section 4002 of the Technology Advancement and
19 Development Act.

20 (ii) All trade secrets and commercial or financial
21 information obtained by a public body, including a
22 public pension fund, from a private equity fund or a
23 privately held company within the investment portfolio
24 of a private equity fund as a result of either
25 investing or evaluating a potential investment of
26 public funds in a private equity fund. The exemption
27 contained in this item does not apply to the aggregate
28 financial performance information of a private equity
29 fund, nor to the identity of the fund's managers or
30 general partners. The exemption contained in this item
31 does not apply to the identity of a privately held
32 company within the investment portfolio of a private
33 equity fund, unless the disclosure of the identity of a
34 privately held company may cause competitive harm.

35 Nothing contained in this paragraph (g) shall be construed
36 to prevent a person or business from consenting to disclosure.

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1 (h) Proposals and bids for any contract, grant, or
2 agreement, including information which if it were
3 disclosed would frustrate procurement or give an advantage
4 to any person proposing to enter into a contractor
5 agreement with the body, until an award or final selection
6 is made. Information prepared by or for the body in
7 preparation of a bid solicitation shall be exempt until an
8 award or final selection is made.

9 (i) Valuable formulae, computer geographic systems,
10 designs, drawings and research data obtained or produced by
11 any public body when disclosure could reasonably be
12 expected to produce private gain or public loss. The
13 exemption for "computer geographic systems" provided in
14 this paragraph (i) does not extend to requests made by news
15 media as defined in Section 2 of this Act when the
16 requested information is not otherwise exempt and the only

17 purpose of the request is to access and disseminate
18 information regarding the health, safety, welfare, or
19 legal rights of the general public.

20 (j) Test questions, scoring keys and other examination
21 data used to administer an academic examination or
22 determined the qualifications of an applicant for a license
23 or employment.

24 (k) Architects' plans, engineers' technical
25 submissions, and other construction related technical
26 documents for projects not constructed or developed in
27 whole or in part with public funds and the same for
28 projects constructed or developed with public funds, but
29 only to the extent that disclosure would compromise
30 security, including but not limited to water treatment
31 facilities, airport facilities, sport stadiums, convention
32 centers, and all government owned, operated, or occupied
33 buildings.

34 (l) Library circulation and order records identifying
35 library users with specific materials.

36 (m) Minutes of meetings of public bodies closed to the

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1 public as provided in the Open Meetings Act until the
2 public body makes the minutes available to the public under
3 Section 2.06 of the Open Meetings Act.

4 (n) Communications between a public body and an
5 attorney or auditor representing the public body that would
6 not be subject to discovery in litigation, and materials
7 prepared or compiled by or for a public body in
8 anticipation of a criminal, civil or administrative
9 proceeding upon the request of an attorney advising the
10 public body, and materials prepared or compiled with
11 respect to internal audits of public bodies.

12 (o) Information received by a primary or secondary
13 school, college or university under its procedures for the
14 evaluation of faculty members by their academic peers.

15 (p) Administrative or technical information associated
16 with automated data processing operations, including but
17 not limited to software, operating protocols, computer

18 program abstracts, file layouts, source listings, object
19 modules, load modules, user guides, documentation
20 pertaining to all logical and physical design of
21 computerized systems, employee manuals, and any other
22 information that, if disclosed, would jeopardize the
23 security of the system or its data or the security of
24 materials exempt under this Section.

25 (q) Documents or materials relating to collective
26 negotiating matters between public bodies and their
27 employees or representatives, except that any final
28 contract or agreement shall be subject to inspection and
29 copying.

30 (r) Drafts, notes, recommendations and memoranda
31 pertaining to the financing and marketing transactions of
32 the public body. The records of ownership, registration,
33 transfer, and exchange of municipal debt obligations, and
34 of persons to whom payment with respect to these
35 obligations is made.

36 (s) The records, documents and information relating to

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1 real estate purchase negotiations until those negotiations
2 have been completed or otherwise terminated. With regard to
3 a parcel involved in a pending or actually and reasonably
4 contemplated eminent domain proceeding under Article VII
5 of the Code of Civil Procedure, records, documents and
6 information relating to that parcel shall be exempt except
7 as may be allowed under discovery rules adopted by the
8 Illinois Supreme Court. The records, documents and
9 information relating to a real estate sale shall be exempt
10 until a sale is consummated.

11 (t) Any and all proprietary information and records
12 related to the operation of an intergovernmental risk
13 management association or self-insurance pool or jointly
14 self-administered health and accident cooperative or pool.

15 (u) Information concerning a university's adjudication
16 of student or employee grievance or disciplinary cases, to
17 the extent that disclosure would reveal the identity of the
18 student or employee and information concerning any public

19 body's adjudication of student or employee grievances or
20 disciplinary cases, except for the final outcome of the
21 cases.

22 (v) Course materials or research materials used by
23 faculty members.

24 (w) Information related solely to the internal
25 personnel rules and practices of a public body.

26 (x) Information contained in or related to
27 examination, operating, or condition reports prepared by,
28 on behalf of, or for the use of a public body responsible
29 for the regulation or supervision of financial
30 institutions or insurance companies, unless disclosure is
31 otherwise required by State law.

32 (y) Information the disclosure of which is restricted
33 under Section 5-108 of the Public Utilities Act.

34 (z) Manuals or instruction to staff that relate to
35 establishment or collection of liability for any State tax
36 or that relate to investigations by a public body to

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1 determine violation of any criminal law.

2 (aa) Applications, related documents, and medical
3 records received by the Experimental Organ Transplantation
4 Procedures Board and any and all documents or other records
5 prepared by the Experimental Organ Transplantation
6 Procedures Board or its staff relating to applications it
7 has received.

8 (bb) Insurance or self insurance (including any
9 intergovernmental risk management association or self
10 insurance pool) claims, loss or risk management
11 information, records, data, advice or communications.

12 (cc) Information and records held by the Department of
13 Public Health and its authorized representatives relating
14 to known or suspected cases of sexually transmissible
15 disease or any information the disclosure of which is
16 restricted under the Illinois Sexually Transmissible
17 Disease Control Act.

18 (dd) Information the disclosure of which is exempted
19 under Section 30 of the Radon Industry Licensing Act.

20 (ee) Firm performance evaluations under Section 55 of
21 the Architectural, Engineering, and Land Surveying
22 Qualifications Based Selection Act.

23 (ff) Security portions of system safety program plans,
24 investigation reports, surveys, schedules, lists, data, or
25 information compiled, collected, or prepared by or for the
26 Regional Transportation Authority under Section 2.11 of
27 the Regional Transportation Authority Act or the St. Clair
28 County Transit District under the Bi-State Transit Safety
29 Act.

30 (gg) Information the disclosure of which is restricted
31 and exempted under Section 50 of the Illinois Prepaid
32 Tuition Act.

33 (hh) Information the disclosure of which is exempted
34 under the State Officials and Employees Ethics Act.

35 (ii) Beginning July 1, 1999, information that would
36 disclose or might lead to the disclosure of secret or

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1 confidential information, codes, algorithms, programs, or
2 private keys intended to be used to create electronic or
3 digital signatures under the Electronic Commerce Security
4 Act.

5 (jj) Information contained in a local emergency energy
6 plan submitted to a municipality in accordance with a local
7 emergency energy plan ordinance that is adopted under
8 Section 11-21.5-5 of the Illinois Municipal Code.

9 (kk) Information and data concerning the distribution
10 of surcharge moneys collected and remitted by wireless
11 carriers under the Wireless Emergency Telephone Safety
12 Act.

13 (ll) Vulnerability assessments, security measures, and
14 response policies or plans that are designed to identify,
15 prevent, or respond to potential attacks upon a community's
16 population or systems, facilities, or installations, the
17 destruction or contamination of which would constitute a
18 clear and present danger to the health or safety of the
19 community, but only to the extent that disclosure could
20 reasonably be expected to jeopardize the effectiveness of

21 the measures or the safety of the personnel who implement
22 them or the public. Information exempt under this item may
23 include such things as details pertaining to the
24 mobilization or deployment of personnel or equipment, to
25 the operation of communication systems or protocols, or to
26 tactical operations.

27 (mm) Maps and other records regarding the location or
28 security of a utility's generation, transmission,
29 distribution, storage, gathering, treatment, or switching
30 facilities.

31 (nn) Law enforcement officer identification
32 information or driver identification information compiled
33 by a law enforcement agency or the Department of
34 Transportation under Section 11-212 of the Illinois
35 Vehicle Code.

36 (oo) Records and information provided to a residential

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1 health care facility resident sexual assault and death
2 review team or the Residential Health Care Facility
3 Resident Sexual Assault and Death Review Teams Executive
4 Council under the Residential Health Care Facility
5 Resident Sexual Assault and Death Review Team Act.

6 (pp) Information provided to the predatory lending
7 database created pursuant to Article 3 of the Residential
8 Real Property Disclosure Act, except to the extent
9 authorized under that Article.

10 (qq) ~~(pp)~~ Defense budgets and petitions for
11 certification of compensation and expenses for court
12 appointed trial counsel as provided under Sections 10 and
13 15 of the Capital Crimes Litigation Act. This subsection
14 (qq) ~~(pp)~~ shall apply until the conclusion of the trial and
15 appeal of the case, even if the prosecution chooses not to
16 pursue the death penalty prior to trial or sentencing.

17 (rr) Records of charity care applications and
18 determinations under the Tax-Exempt Hospital
19 Responsibility Act.

20 (2) This Section does not authorize withholding of
21 information or limit the availability of records to the public,

22 except as stated in this Section or otherwise provided in this
23 Act.
24 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
25 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
26 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
27 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; revised
28 8-29-05.)

29 Section 902. The Illinois Finance Authority Act is amended
30 by changing Section 801-40 as follows:

31 (20 ILCS 3501/801-40)

32 Sec. 801-40. In addition to the powers otherwise authorized
33 by law and in addition to the foregoing general corporate
34 powers, the Authority shall also have the following additional

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1 specific powers to be exercised in furtherance of the purposes
2 of this Act.

3 (a) The Authority shall have power (i) to accept grants,
4 loans or appropriations from the federal government or the
5 State, or any agency or instrumentality thereof, to be used for
6 the operating expenses of the Authority, or for any purposes of
7 the Authority, including the making of direct loans of such
8 funds with respect to projects, and (ii) to enter into any
9 agreement with the federal government or the State, or any
10 agency or instrumentality thereof, in relationship to such
11 grants, loans or appropriations.

12 (b) The Authority shall have power to procure and enter
13 into contracts for any type of insurance and indemnity
14 agreements covering loss or damage to property from any cause,
15 including loss of use and occupancy, or covering any other
16 insurable risk.

17 (c) The Authority shall have the continuing power to issue
18 bonds for its corporate purposes. Bonds may be issued by the
19 Authority in one or more series and may provide for the payment
20 of any interest deemed necessary on such bonds, of the costs of
21 issuance of such bonds, of any premium on any insurance, or of
22 the cost of any guarantees, letters of credit or other similar
23 documents, may provide for the funding of the reserves deemed

24 necessary in connection with such bonds, and may provide for
25 the refunding or advance refunding of any bonds or for accounts
26 deemed necessary in connection with any purpose of the
27 Authority. The bonds may bear interest payable at any time or
28 times and at any rate or rates, notwithstanding any other
29 provision of law to the contrary, and such rate or rates may be
30 established by an index or formula which may be implemented or
31 established by persons appointed or retained therefor by the
32 Authority, or may bear no interest or may bear interest payable
33 at maturity or upon redemption prior to maturity, may bear such
34 date or dates, may be payable at such time or times and at such
35 place or places, may mature at any time or times not later than
36 40 years from the date of issuance, may be sold at public or

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1 private sale at such time or times and at such price or prices,
2 may be secured by such pledges, reserves, guarantees, letters
3 of credit, insurance contracts or other similar credit support
4 or liquidity instruments, may be executed in such manner, may
5 be subject to redemption prior to maturity, may provide for the
6 registration of the bonds, and may be subject to such other
7 terms and conditions all as may be provided by the resolution
8 or indenture authorizing the issuance of such bonds. The holder
9 or holders of any bonds issued by the Authority may bring suits
10 at law or proceedings in equity to compel the performance and
11 observance by any person or by the Authority or any of its
12 agents or employees of any contract or covenant made with the
13 holders of such bonds and to compel such person or the
14 Authority and any of its agents or employees to perform any
15 duties required to be performed for the benefit of the holders
16 of any such bonds by the provision of the resolution
17 authorizing their issuance, and to enjoin such person or the
18 Authority and any of its agents or employees from taking any
19 action in conflict with any such contract or covenant.
20 Notwithstanding the form and tenor of any such bonds and in the
21 absence of any express recital on the face thereof that it is
22 non-negotiable, all such bonds shall be negotiable
23 instruments. Pending the preparation and execution of any such
24 bonds, temporary bonds may be issued as provided by the

25 resolution. The bonds shall be sold by the Authority in such
26 manner as it shall determine. The bonds may be secured as
27 provided in the authorizing resolution by the receipts,
28 revenues, income and other available funds of the Authority and
29 by any amounts derived by the Authority from the loan agreement
30 or lease agreement with respect to the project or projects; and
31 bonds may be issued as general obligations of the Authority
32 payable from such revenues, funds and obligations of the
33 Authority as the bond resolution shall provide, or may be
34 issued as limited obligations with a claim for payment solely
35 from such revenues, funds and obligations as the bond
36 resolution shall provide. The Authority may grant a specific

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1 pledge or assignment of and lien on or security interest in
2 such rights, revenues, income, or amounts and may grant a
3 specific pledge or assignment of and lien on or security
4 interest in any reserves, funds or accounts established in the
5 resolution authorizing the issuance of bonds. Any such pledge,
6 assignment, lien or security interest for the benefit of the
7 holders of the Authority's bonds shall be valid and binding
8 from the time the bonds are issued without any physical
9 delivery or further act, and shall be valid and binding as
10 against and prior to the claims of all other parties having
11 claims against the Authority or any other person irrespective
12 of whether the other parties have notice of the pledge,
13 assignment, lien or security interest. As evidence of such
14 pledge, assignment, lien and security interest, the Authority
15 may execute and deliver a mortgage, trust agreement, indenture
16 or security agreement or an assignment thereof. A remedy for
17 any breach or default of the terms of any such agreement by the
18 Authority may be by mandamus proceedings in any court of
19 competent jurisdiction to compel the performance and
20 compliance therewith, but the agreement may prescribe by whom
21 or on whose behalf such action may be instituted. It is
22 expressly understood that the Authority may, but need not,
23 acquire title to any project with respect to which it exercises
24 its authority.

25 (d) With respect to the powers granted by this Act, the

26 Authority may adopt rules and regulations prescribing the
27 procedures by which persons may apply for assistance under this
28 Act. Nothing herein shall be deemed to preclude the Authority,
29 prior to the filing of any formal application, from conducting
30 preliminary discussions and investigations with respect to the
31 subject matter of any prospective application.

32 (e) The Authority shall have power to acquire by purchase,
33 lease, gift or otherwise any property or rights therein from
34 any person useful for its purposes, whether improved for the
35 purposes of any prospective project, or unimproved. The
36 Authority may also accept any donation of funds for its

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1 purposes from any such source. The Authority shall have no
2 independent power of condemnation but may acquire any property
3 or rights therein obtained upon condemnation by any other
4 authority, governmental entity or unit of local government with
5 such power.

6 (f) The Authority shall have power to develop, construct
7 and improve either under its own direction, or through
8 collaboration with any approved applicant, or to acquire
9 through purchase or otherwise, any project, using for such
10 purpose the proceeds derived from the sale of its bonds or from
11 governmental loans or grants, and to hold title in the name of
12 the Authority to such projects.

13 (g) The Authority shall have power to lease pursuant to a
14 lease agreement any project so developed and constructed or
15 acquired to the approved tenant on such terms and conditions as
16 may be appropriate to further the purposes of this Act and to
17 maintain the credit of the Authority. Any such lease may
18 provide for either the Authority or the approved tenant to
19 assume initially, in whole or in part, the costs of
20 maintenance, repair and improvements during the leasehold
21 period. In no case, however, shall the total rentals from any
22 project during any initial leasehold period or the total loan
23 repayments to be made pursuant to any loan agreement, be less
24 than an amount necessary to return over such lease or loan
25 period (1) all costs incurred in connection with the
26 development, construction, acquisition or improvement of the

27 project and for repair, maintenance and improvements thereto
28 during the period of the lease or loan; provided, however, that
29 the rentals or loan repayments need not include costs met
30 through the use of funds other than those obtained by the
31 Authority through the issuance of its bonds or governmental
32 loans; (2) a reasonable percentage additive to be agreed upon
33 by the Authority and the borrower or tenant to cover a properly
34 allocable portion of the Authority's general expenses,
35 including, but not limited to, administrative expenses,
36 salaries and general insurance, and (3) an amount sufficient to

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1 pay when due all principal of, interest and premium, if any on,
2 any bonds issued by the Authority with respect to the project.
3 The portion of total rentals payable under clause (3) of this
4 subsection (g) shall be deposited in such special accounts,
5 including all sinking funds, acquisition or construction
6 funds, debt service and other funds as provided by any
7 resolution, mortgage or trust agreement of the Authority
8 pursuant to which any bond is issued.

9 (h) The Authority has the power, upon the termination of
10 any leasehold period of any project, to sell or lease for a
11 further term or terms such project on such terms and conditions
12 as the Authority shall deem reasonable and consistent with the
13 purposes of the Act. The net proceeds from all such sales and
14 the revenues or income from such leases shall be used to
15 satisfy any indebtedness of the Authority with respect to such
16 project and any balance may be used to pay any expenses of the
17 Authority or be used for the further development, construction,
18 acquisition or improvement of projects. In the event any
19 project is vacated by a tenant prior to the termination of the
20 initial leasehold period, the Authority shall sell or lease the
21 facilities of the project on the most advantageous terms
22 available. The net proceeds of any such disposition shall be
23 treated in the same manner as the proceeds from sales or the
24 revenues or income from leases subsequent to the termination of
25 any initial leasehold period.

26 (i) The Authority shall have the power to make loans to
27 persons to finance a project, to enter into loan agreements

28 with respect thereto, and to accept guarantees from persons of
29 its loans or the resultant evidences of obligations of the
30 Authority.

31 (j) The Authority may fix, determine, charge and collect
32 any premiums, fees, charges, costs and expenses, including,
33 without limitation, any application fees, commitment fees,
34 program fees, financing charges or publication fees from any
35 person in connection with its activities under this Act.

36 (k) In addition to the funds established as provided

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1 herein, the Authority shall have the power to create and
2 establish such reserve funds and accounts as may be necessary
3 or desirable to accomplish its purposes under this Act and to
4 deposit its available monies into the funds and accounts.

5 (l) At the request of the governing body of any unit of
6 local government, the Authority is authorized to market such
7 local government's revenue bond offerings by preparing bond
8 issues for sale, advertising for sealed bids, receiving bids at
9 its offices, making the award to the bidder that offers the
10 most favorable terms or arranging for negotiated placements or
11 underwritings of such securities. The Authority may, at its
12 discretion, offer for concurrent sale the revenue bonds of
13 several local governments. Sales by the Authority of revenue
14 bonds under this Section shall in no way imply State guarantee
15 of such debt issue. The Authority may require such financial
16 information from participating local governments as it deems
17 necessary in order to carry out the purposes of this subsection
18 (1).

19 (m) The Authority may make grants to any county to which
20 Division 5-37 of the Counties Code is applicable to assist in
21 the financing of capital development, construction and
22 renovation of new or existing facilities for hospitals and
23 health care facilities under that Act. Such grants may only be
24 made from funds appropriated for such purposes from the Build
25 Illinois Bond Fund.

26 (n) The Authority may establish an urban development action
27 grant program for the purpose of assisting municipalities in
28 Illinois which are experiencing severe economic distress to

29 help stimulate economic development activities needed to aid in
30 economic recovery. The Authority shall determine the types of
31 activities and projects for which the urban development action
32 grants may be used, provided that such projects and activities
33 are broadly defined to include all reasonable projects and
34 activities the primary objectives of which are the development
35 of viable urban communities, including decent housing and a
36 suitable living environment, and expansion of economic

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1 opportunity, principally for persons of low and moderate
2 incomes. The Authority shall enter into grant agreements from
3 monies appropriated for such purposes from the Build Illinois
4 Bond Fund. The Authority shall monitor the use of the grants,
5 and shall provide for audits of the funds as well as recovery
6 by the Authority of any funds determined to have been spent in
7 violation of this subsection (n) or any rule or regulation
8 promulgated hereunder. The Authority shall provide technical
9 assistance with regard to the effective use of the urban
10 development action grants. The Authority shall file an annual
11 report to the General Assembly concerning the progress of the
12 grant program.

13 (o) The Authority may establish a Housing Partnership
14 Program whereby the Authority provides zero-interest loans to
15 municipalities for the purpose of assisting in the financing of
16 projects for the rehabilitation of affordable multi-family
17 housing for low and moderate income residents. The Authority
18 may provide such loans only upon a municipality's providing
19 evidence that it has obtained private funding for the
20 rehabilitation project. The Authority shall provide 3 State
21 dollars for every 7 dollars obtained by the municipality from
22 sources other than the State of Illinois. The loans shall be
23 made from monies appropriated for such purpose from the Build
24 Illinois Bond Fund. The total amount of loans available under
25 the Housing Partnership Program shall not exceed \$30,000,000.
26 State loan monies under this subsection shall be used only for
27 the acquisition and rehabilitation of existing buildings
28 containing 4 or more dwelling units. The terms of any loan made
29 by the municipality under this subsection shall require

30 repayment of the loan to the municipality upon any sale or
31 other transfer of the project.

32 (p) The Authority may award grants to universities and
33 research institutions, research consortiums and other
34 not-for-profit entities for the purposes of: remodeling or
35 otherwise physically altering existing laboratory or research
36 facilities, expansion or physical additions to existing

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1 laboratory or research facilities, construction of new
2 laboratory or research facilities or acquisition of modern
3 equipment to support laboratory or research operations
4 provided that such grants (i) be used solely in support of
5 project and equipment acquisitions which enhance technology
6 transfer, and (ii) not constitute more than 60 percent of the
7 total project or acquisition cost.

8 (q) Grants may be awarded by the Authority to units of
9 local government for the purpose of developing the appropriate
10 infrastructure or defraying other costs to the local government
11 in support of laboratory or research facilities provided that
12 such grants may not exceed 40% of the cost to the unit of local
13 government.

14 (r) The Authority may establish a Direct Loan Program to
15 make loans to individuals, partnerships or corporations for the
16 purpose of an industrial project, as defined in Section 801-10
17 of this Act. For the purposes of such program and not by way of
18 limitation on any other program of the Authority, the Authority
19 shall have the power to issue bonds, notes, or other evidences
20 of indebtedness including commercial paper for purposes of
21 providing a fund of capital from which it may make such loans.
22 The Authority shall have the power to use any appropriations
23 from the State made especially for the Authority's Direct Loan
24 Program for additional capital to make such loans or for the
25 purposes of reserve funds or pledged funds which secure the
26 Authority's obligations of repayment of any bond, note or other
27 form of indebtedness established for the purpose of providing
28 capital for which it intends to make such loans under the
29 Direct Loan Program. For the purpose of obtaining such capital,
30 the Authority may also enter into agreements with financial

31 institutions and other persons for the purpose of selling loans
32 and developing a secondary market for such loans. Loans made
33 under the Direct Loan Program may be in an amount not to exceed
34 \$300,000 and shall be made for a portion of an industrial
35 project which does not exceed 50% of the total project. No loan
36 may be made by the Authority unless approved by the affirmative

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1 vote of at least 8 members of the board. The Authority shall
2 establish procedures and publish rules which shall provide for
3 the submission, review, and analysis of each direct loan
4 application and which shall preserve the ability of each board
5 member to reach an individual business judgment regarding the
6 propriety of making each direct loan. The collective discretion
7 of the board to approve or disapprove each loan shall be
8 unencumbered. The Authority may establish and collect such fees
9 and charges, determine and enforce such terms and conditions,
10 and charge such interest rates as it determines to be necessary
11 and appropriate to the successful administration of the Direct
12 Loan Program. The Authority may require such interests in
13 collateral and such guarantees as it determines are necessary
14 to protect the Authority's interest in the repayment of the
15 principal and interest of each loan made under the Direct Loan
16 Program.

17 (s) The Authority may guarantee private loans to third
18 parties up to a specified dollar amount in order to promote
19 economic development in this State.

20 (t) The Authority may adopt rules and regulations as may be
21 necessary or advisable to implement the powers conferred by
22 this Act.

23 (u) The Authority shall have the power to issue bonds,
24 notes or other evidences of indebtedness, which may be used to
25 make loans to units of local government which are authorized to
26 enter into loan agreements and other documents and to issue
27 bonds, notes and other evidences of indebtedness for the
28 purpose of financing the protection of storm sewer outfalls,
29 the construction of adequate storm sewer outfalls, and the
30 provision for flood protection of sanitary sewage treatment
31 plans, in counties that have established a stormwater

32 management planning committee in accordance with Section
33 5-1062 of the Counties Code. Any such loan shall be made by the
34 Authority pursuant to the provisions of Section 820-5 to 820-60
35 of this Act. The unit of local government shall pay back to the
36 Authority the principal amount of the loan, plus annual

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1 interest as determined by the Authority. The Authority shall
2 have the power, subject to appropriations by the General
3 Assembly, to subsidize or buy down a portion of the interest on
4 such loans, up to 4% per annum.

5 (v) The Authority may accept security interests as provided
6 in Sections 11-3 and 11-3.3 of the Illinois Public Aid Code.

7 (w) Moral Obligation. In the event that the Authority
8 determines that monies of the Authority will not be sufficient
9 for the payment of the principal of and interest on its bonds
10 during the next State fiscal year, the Chairperson, as soon as
11 practicable, shall certify to the Governor the amount required
12 by the Authority to enable it to pay such principal of and
13 interest on the bonds. The Governor shall submit the amount so
14 certified to the General Assembly as soon as practicable, but
15 no later than the end of the current State fiscal year. This
16 subsection shall apply only to any bonds or notes as to which
17 the Authority shall have determined, in the resolution
18 authorizing the issuance of the bonds or notes, that this
19 subsection shall apply. Whenever the Authority makes such a
20 determination, that fact shall be plainly stated on the face of
21 the bonds or notes and that fact shall also be reported to the
22 Governor. In the event of a withdrawal of moneys from a reserve
23 fund established with respect to any issue or issues of bonds
24 of the Authority to pay principal or interest on those bonds,
25 the Chairperson of the Authority, as soon as practicable, shall
26 certify to the Governor the amount required to restore the
27 reserve fund to the level required in the resolution or
28 indenture securing those bonds. The Governor shall submit the
29 amount so certified to the General Assembly as soon as
30 practicable, but no later than the end of the current State
31 fiscal year. The Authority shall obtain written approval from
32 the Governor for any bonds and notes to be issued under this

33 Section. In addition to any other bonds authorized to be issued
34 under Sections 825-60, 825-65(e), 830-25 and 845-5, the
35 principal amount of Authority bonds outstanding issued under
36 this Section 801-40(w) or under 20 ILCS 3850/1-80 or 30 ILCS

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1 360/2-6(c), which have been assumed by the Authority, shall not
2 exceed \$150,000,000.

3 (x) No power of the Authority set forth in this Section
4 shall be exercised for the benefit of any hospital as defined
5 in the Tax-Exempt Hospital Responsibility Act if that hospital
6 is not in compliance with that Act.

7 (Source: P.A. 93-205, eff. 1-1-04; 94-91, eff. 7-1-05.)

8 Section 903. The State Finance Act is amended by adding
9 Section 5.665 as follows:

10 (30 ILCS 105/5.665 new)

11 Sec. 5.665. The Tax-Exempt Hospital Responsibility Act
12 Enforcement Fund.

13 Section 905. The Illinois Income Tax Act is amended by
14 changing Section 205 as follows:

15 (35 ILCS 5/205) (from Ch. 120, par. 2-205)

16 Sec. 205. Exempt organizations.

17 (a) Charitable, etc. organizations. The base income of an
18 organization which is exempt from the federal income tax by
19 reason of Section 501(a) of the Internal Revenue Code shall not
20 be determined under section 203 of this Act, but shall be its
21 unrelated business taxable income as determined under section
22 512 of the Internal Revenue Code, without any deduction for the
23 tax imposed by this Act. The standard exemption provided by
24 section 204 of this Act shall not be allowed in determining the
25 net income of an organization to which this subsection applies.
26 A hospital as defined in the Tax-Exempt Hospital Responsibility
27 Act may qualify for the exemption under this subsection only if
28 it is in compliance with that Act.

29 (b) Partnerships. A partnership as such shall not be
30 subject to the tax imposed by subsection 201 (a) and (b) of
31 this Act, but shall be subject to the replacement tax imposed

32 by subsection 201 (c) and (d) of this Act and shall compute its

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1 base income as described in subsection (d) of Section 203 of
2 this Act. For taxable years ending on or after December 31,
3 2004, an investment partnership, as defined in Section
4 1501(a)(11.5) of this Act, shall not be subject to the tax
5 imposed by subsections (c) and (d) of Section 201 of this Act.
6 A partnership shall file such returns and other information at
7 such time and in such manner as may be required under Article 5
8 of this Act. The partners in a partnership shall be liable for
9 the replacement tax imposed by subsection 201 (c) and (d) of
10 this Act on such partnership, to the extent such tax is not
11 paid by the partnership, as provided under the laws of Illinois
12 governing the liability of partners for the obligations of a
13 partnership. Persons carrying on business as partners shall be
14 liable for the tax imposed by subsection 201 (a) and (b) of
15 this Act only in their separate or individual capacities.

16 (c) Subchapter S corporations. A Subchapter S corporation
17 shall not be subject to the tax imposed by subsection 201 (a)
18 and (b) of this Act but shall be subject to the replacement tax
19 imposed by subsection 201 (c) and (d) of this Act and shall
20 file such returns and other information at such time and in
21 such manner as may be required under Article 5 of this Act.

22 (d) Combat zone death. An individual relieved from the
23 federal income tax for any taxable year by reason of section
24 692 of the Internal Revenue Code shall not be subject to the
25 tax imposed by this Act for such taxable year.

26 (e) Certain trusts. A common trust fund described in
27 Section 584 of the Internal Revenue Code, and any other trust
28 to the extent that the grantor is treated as the owner thereof
29 under sections 671 through 678 of the Internal Revenue Code
30 shall not be subject to the tax imposed by this Act.

31 (f) Certain business activities. A person not otherwise
32 subject to the tax imposed by this Act shall not become subject
33 to the tax imposed by this Act by reason of:

34 (1) that person's ownership of tangible personal
35 property located at the premises of a printer in this State
36 with which the person has contracted for printing, or

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1 (2) activities of the person's employees or agents
2 located solely at the premises of a printer and related to
3 quality control, distribution, or printing services
4 performed by a printer in the State with which the person
5 has contracted for printing.

6 (g) A nonprofit risk organization that holds a certificate
7 of authority under Article VIID of the Illinois Insurance Code
8 is exempt from the tax imposed under this Act with respect to
9 its activities or operations in furtherance of the powers
10 conferred upon it under that Article VIID of the Illinois
11 Insurance Code.

12 (Source: P.A. 93-840, eff. 7-30-04; 93-918, eff. 1-1-05;
13 revised 10-25-04.)

14 Section 910. The Use Tax Act is amended by changing Section
15 3-5 as follows:

16 (35 ILCS 105/3-5) (from Ch. 120, par. 439.3-5)

17 Sec. 3-5. Exemptions. Use of the following tangible
18 personal property is exempt from the tax imposed by this Act:

19 (1) Personal property purchased from a corporation,
20 society, association, foundation, institution, or
21 organization, other than a limited liability company, that is
22 organized and operated as a not-for-profit service enterprise
23 for the benefit of persons 65 years of age or older if the
24 personal property was not purchased by the enterprise for the
25 purpose of resale by the enterprise.

26 (2) Personal property purchased by a not-for-profit
27 Illinois county fair association for use in conducting,
28 operating, or promoting the county fair.

29 (3) Personal property purchased by a not-for-profit arts or
30 cultural organization that establishes, by proof required by
31 the Department by rule, that it has received an exemption under
32 Section 501(c)(3) of the Internal Revenue Code and that is
33 organized and operated primarily for the presentation or
34 support of arts or cultural programming, activities, or

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1 services. These organizations include, but are not limited to,
2 music and dramatic arts organizations such as symphony
3 orchestras and theatrical groups, arts and cultural service
4 organizations, local arts councils, visual arts organizations,
5 and media arts organizations. On and after the effective date
6 of this amendatory Act of the 92nd General Assembly, however,
7 an entity otherwise eligible for this exemption shall not make
8 tax-free purchases unless it has an active identification
9 number issued by the Department.

10 (4) Personal property purchased by a governmental body, by
11 a corporation, society, association, foundation, or
12 institution organized and operated exclusively for charitable,
13 religious, or educational purposes, or by a not-for-profit
14 corporation, society, association, foundation, institution, or
15 organization that has no compensated officers or employees and
16 that is organized and operated primarily for the recreation of
17 persons 55 years of age or older. A limited liability company
18 may qualify for the exemption under this paragraph only if the
19 limited liability company is organized and operated
20 exclusively for educational purposes. A hospital as defined in
21 the Tax-Exempt Hospital Responsibility Act may qualify for the
22 exemption under this paragraph only if it is in compliance with
23 that Act. On and after July 1, 1987, however, no entity
24 otherwise eligible for this exemption shall make tax-free
25 purchases unless it has an active exemption identification
26 number issued by the Department.

27 (5) Until July 1, 2003, a passenger car that is a
28 replacement vehicle to the extent that the purchase price of
29 the car is subject to the Replacement Vehicle Tax.

30 (6) Until July 1, 2003 and beginning again on September 1,
31 2004, graphic arts machinery and equipment, including repair
32 and replacement parts, both new and used, and including that
33 manufactured on special order, certified by the purchaser to be
34 used primarily for graphic arts production, and including
35 machinery and equipment purchased for lease. Equipment
36 includes chemicals or chemicals acting as catalyts but only if

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1 the chemicals or chemicals acting as catalysts effect a direct
2 and immediate change upon a graphic arts product.

3 (7) Farm chemicals.

4 (8) Legal tender, currency, medallions, or gold or silver
5 coinage issued by the State of Illinois, the government of the
6 United States of America, or the government of any foreign
7 country, and bullion.

8 (9) Personal property purchased from a teacher-sponsored
9 student organization affiliated with an elementary or
10 secondary school located in Illinois.

11 (10) A motor vehicle of the first division, a motor vehicle
12 of the second division that is a self-contained motor vehicle
13 designed or permanently converted to provide living quarters
14 for recreational, camping, or travel use, with direct walk
15 through to the living quarters from the driver's seat, or a
16 motor vehicle of the second division that is of the van
17 configuration designed for the transportation of not less than
18 7 nor more than 16 passengers, as defined in Section 1-146 of
19 the Illinois Vehicle Code, that is used for automobile renting,
20 as defined in the Automobile Renting Occupation and Use Tax
21 Act.

22 (11) Farm machinery and equipment, both new and used,
23 including that manufactured on special order, certified by the
24 purchaser to be used primarily for production agriculture or
25 State or federal agricultural programs, including individual
26 replacement parts for the machinery and equipment, including
27 machinery and equipment purchased for lease, and including
28 implements of husbandry defined in Section 1-130 of the
29 Illinois Vehicle Code, farm machinery and agricultural
30 chemical and fertilizer spreaders, and nurse wagons required to
31 be registered under Section 3-809 of the Illinois Vehicle Code,
32 but excluding other motor vehicles required to be registered
33 under the Illinois Vehicle Code. Horticultural polyhouses or
34 hoop houses used for propagating, growing, or overwintering
35 plants shall be considered farm machinery and equipment under
36 this item (11). Agricultural chemical tender tanks and dry

1 boxes shall include units sold separately from a motor vehicle
2 required to be licensed and units sold mounted on a motor
3 vehicle required to be licensed if the selling price of the
4 tender is separately stated.

5 Farm machinery and equipment shall include precision
6 farming equipment that is installed or purchased to be
7 installed on farm machinery and equipment including, but not
8 limited to, tractors, harvesters, sprayers, planters, seeders,
9 or spreaders. Precision farming equipment includes, but is not
10 limited to, soil testing sensors, computers, monitors,
11 software, global positioning and mapping systems, and other
12 such equipment.

13 Farm machinery and equipment also includes computers,
14 sensors, software, and related equipment used primarily in the
15 computer-assisted operation of production agriculture
16 facilities, equipment, and activities such as, but not limited
17 to, the collection, monitoring, and correlation of animal and
18 crop data for the purpose of formulating animal diets and
19 agricultural chemicals. This item (11) is exempt from the
20 provisions of Section 3-90.

21 (12) Fuel and petroleum products sold to or used by an air
22 common carrier, certified by the carrier to be used for
23 consumption, shipment, or storage in the conduct of its
24 business as an air common carrier, for a flight destined for or
25 returning from a location or locations outside the United
26 States without regard to previous or subsequent domestic
27 stopovers.

28 (13) Proceeds of mandatory service charges separately
29 stated on customers' bills for the purchase and consumption of
30 food and beverages purchased at retail from a retailer, to the
31 extent that the proceeds of the service charge are in fact
32 turned over as tips or as a substitute for tips to the
33 employees who participate directly in preparing, serving,
34 hosting or cleaning up the food or beverage function with
35 respect to which the service charge is imposed.

36 (14) Until July 1, 2003, oil field exploration, drilling,

1 and production equipment, including (i) rigs and parts of rigs,

2 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
3 tubular goods, including casing and drill strings, (iii) pumps
4 and pump-jack units, (iv) storage tanks and flow lines, (v) any
5 individual replacement part for oil field exploration,
6 drilling, and production equipment, and (vi) machinery and
7 equipment purchased for lease; but excluding motor vehicles
8 required to be registered under the Illinois Vehicle Code.

9 (15) Photoprocessing machinery and equipment, including
10 repair and replacement parts, both new and used, including that
11 manufactured on special order, certified by the purchaser to be
12 used primarily for photoprocessing, and including
13 photoprocessing machinery and equipment purchased for lease.

14 (16) Until July 1, 2003, coal exploration, mining,
15 offhighway hauling, processing, maintenance, and reclamation
16 equipment, including replacement parts and equipment, and
17 including equipment purchased for lease, but excluding motor
18 vehicles required to be registered under the Illinois Vehicle
19 Code.

20 (17) Until July 1, 2003, distillation machinery and
21 equipment, sold as a unit or kit, assembled or installed by the
22 retailer, certified by the user to be used only for the
23 production of ethyl alcohol that will be used for consumption
24 as motor fuel or as a component of motor fuel for the personal
25 use of the user, and not subject to sale or resale.

26 (18) Manufacturing and assembling machinery and equipment
27 used primarily in the process of manufacturing or assembling
28 tangible personal property for wholesale or retail sale or
29 lease, whether that sale or lease is made directly by the
30 manufacturer or by some other person, whether the materials
31 used in the process are owned by the manufacturer or some other
32 person, or whether that sale or lease is made apart from or as
33 an incident to the seller's engaging in the service occupation
34 of producing machines, tools, dies, jigs, patterns, gauges, or
35 other similar items of no commercial value on special order for
36 a particular purchaser.

1 (19) Personal property delivered to a purchaser or
2 purchaser's donee inside Illinois when the purchase order for

3 that personal property was received by a florist located
4 outside Illinois who has a florist located inside Illinois
5 deliver the personal property.

6 (20) Semen used for artificial insemination of livestock
7 for direct agricultural production.

8 (21) Horses, or interests in horses, registered with and
9 meeting the requirements of any of the Arabian Horse Club
10 Registry of America, Appaloosa Horse Club, American Quarter
11 Horse Association, United States Trotting Association, or
12 Jockey Club, as appropriate, used for purposes of breeding or
13 racing for prizes.

14 (22) Computers and communications equipment utilized for
15 any hospital purpose and equipment used in the diagnosis,
16 analysis, or treatment of hospital patients purchased by a
17 lessor who leases the equipment, under a lease of one year or
18 longer executed or in effect at the time the lessor would
19 otherwise be subject to the tax imposed by this Act, to a
20 hospital that has been issued an active tax exemption
21 identification number by the Department under Section 1g of the
22 Retailers' Occupation Tax Act. If the equipment is leased in a
23 manner that does not qualify for this exemption or is used in
24 any other non-exempt manner, the lessor shall be liable for the
25 tax imposed under this Act or the Service Use Tax Act, as the
26 case may be, based on the fair market value of the property at
27 the time the non-qualifying use occurs. No lessor shall collect
28 or attempt to collect an amount (however designated) that
29 purports to reimburse that lessor for the tax imposed by this
30 Act or the Service Use Tax Act, as the case may be, if the tax
31 has not been paid by the lessor. If a lessor improperly
32 collects any such amount from the lessee, the lessee shall have
33 a legal right to claim a refund of that amount from the lessor.
34 If, however, that amount is not refunded to the lessee for any
35 reason, the lessor is liable to pay that amount to the
36 Department.

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1 (23) Personal property purchased by a lessor who leases the
2 property, under a lease of one year or longer executed or in
3 effect at the time the lessor would otherwise be subject to the

4 tax imposed by this Act, to a governmental body that has been
5 issued an active sales tax exemption identification number by
6 the Department under Section 1g of the Retailers' Occupation
7 Tax Act. If the property is leased in a manner that does not
8 qualify for this exemption or used in any other non-exempt
9 manner, the lessor shall be liable for the tax imposed under
10 this Act or the Service Use Tax Act, as the case may be, based
11 on the fair market value of the property at the time the
12 non-qualifying use occurs. No lessor shall collect or attempt
13 to collect an amount (however designated) that purports to
14 reimburse that lessor for the tax imposed by this Act or the
15 Service Use Tax Act, as the case may be, if the tax has not been
16 paid by the lessor. If a lessor improperly collects any such
17 amount from the lessee, the lessee shall have a legal right to
18 claim a refund of that amount from the lessor. If, however,
19 that amount is not refunded to the lessee for any reason, the
20 lessor is liable to pay that amount to the Department.

21 (24) Beginning with taxable years ending on or after
22 December 31, 1995 and ending with taxable years ending on or
23 before December 31, 2004, personal property that is donated for
24 disaster relief to be used in a State or federally declared
25 disaster area in Illinois or bordering Illinois by a
26 manufacturer or retailer that is registered in this State to a
27 corporation, society, association, foundation, or institution
28 that has been issued a sales tax exemption identification
29 number by the Department that assists victims of the disaster
30 who reside within the declared disaster area.

31 (25) Beginning with taxable years ending on or after
32 December 31, 1995 and ending with taxable years ending on or
33 before December 31, 2004, personal property that is used in the
34 performance of infrastructure repairs in this State, including
35 but not limited to municipal roads and streets, access roads,
36 bridges, sidewalks, waste disposal systems, water and sewer

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1 line extensions, water distribution and purification
2 facilities, storm water drainage and retention facilities, and
3 sewage treatment facilities, resulting from a State or
4 federally declared disaster in Illinois or bordering Illinois

5 when such repairs are initiated on facilities located in the
6 declared disaster area within 6 months after the disaster.

7 (26) Beginning July 1, 1999, game or game birds purchased
8 at a "game breeding and hunting preserve area" or an "exotic
9 game hunting area" as those terms are used in the Wildlife Code
10 or at a hunting enclosure approved through rules adopted by the
11 Department of Natural Resources. This paragraph is exempt from
12 the provisions of Section 3-90.

13 (27) A motor vehicle, as that term is defined in Section
14 1-146 of the Illinois Vehicle Code, that is donated to a
15 corporation, limited liability company, society, association,
16 foundation, or institution that is determined by the Department
17 to be organized and operated exclusively for educational
18 purposes. For purposes of this exemption, "a corporation,
19 limited liability company, society, association, foundation,
20 or institution organized and operated exclusively for
21 educational purposes" means all tax-supported public schools,
22 private schools that offer systematic instruction in useful
23 branches of learning by methods common to public schools and
24 that compare favorably in their scope and intensity with the
25 course of study presented in tax-supported schools, and
26 vocational or technical schools or institutes organized and
27 operated exclusively to provide a course of study of not less
28 than 6 weeks duration and designed to prepare individuals to
29 follow a trade or to pursue a manual, technical, mechanical,
30 industrial, business, or commercial occupation.

31 (28) Beginning January 1, 2000, personal property,
32 including food, purchased through fundraising events for the
33 benefit of a public or private elementary or secondary school,
34 a group of those schools, or one or more school districts if
35 the events are sponsored by an entity recognized by the school
36 district that consists primarily of volunteers and includes

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1 parents and teachers of the school children. This paragraph
2 does not apply to fundraising events (i) for the benefit of
3 private home instruction or (ii) for which the fundraising
4 entity purchases the personal property sold at the events from
5 another individual or entity that sold the property for the

6 purpose of resale by the fundraising entity and that profits
7 from the sale to the fundraising entity. This paragraph is
8 exempt from the provisions of Section 3-90.

9 (29) Beginning January 1, 2000 and through December 31,
10 2001, new or used automatic vending machines that prepare and
11 serve hot food and beverages, including coffee, soup, and other
12 items, and replacement parts for these machines. Beginning
13 January 1, 2002 and through June 30, 2003, machines and parts
14 for machines used in commercial, coin-operated amusement and
15 vending business if a use or occupation tax is paid on the
16 gross receipts derived from the use of the commercial,
17 coin-operated amusement and vending machines. This paragraph
18 is exempt from the provisions of Section 3-90.

19 (30) Food for human consumption that is to be consumed off
20 the premises where it is sold (other than alcoholic beverages,
21 soft drinks, and food that has been prepared for immediate
22 consumption) and prescription and nonprescription medicines,
23 drugs, medical appliances, and insulin, urine testing
24 materials, syringes, and needles used by diabetics, for human
25 use, when purchased for use by a person receiving medical
26 assistance under Article 5 of the Illinois Public Aid Code who
27 resides in a licensed long-term care facility, as defined in
28 the Nursing Home Care Act.

29 (31) Beginning on the effective date of this amendatory Act
30 of the 92nd General Assembly, computers and communications
31 equipment utilized for any hospital purpose and equipment used
32 in the diagnosis, analysis, or treatment of hospital patients
33 purchased by a lessor who leases the equipment, under a lease
34 of one year or longer executed or in effect at the time the
35 lessor would otherwise be subject to the tax imposed by this
36 Act, to a hospital that has been issued an active tax exemption

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1 identification number by the Department under Section 1g of the
2 Retailers' Occupation Tax Act. If the equipment is leased in a
3 manner that does not qualify for this exemption or is used in
4 any other nonexempt manner, the lessor shall be liable for the
5 tax imposed under this Act or the Service Use Tax Act, as the
6 case may be, based on the fair market value of the property at

7 the time the nonqualifying use occurs. No lessor shall collect
8 or attempt to collect an amount (however designated) that
9 purports to reimburse that lessor for the tax imposed by this
10 Act or the Service Use Tax Act, as the case may be, if the tax
11 has not been paid by the lessor. If a lessor improperly
12 collects any such amount from the lessee, the lessee shall have
13 a legal right to claim a refund of that amount from the lessor.
14 If, however, that amount is not refunded to the lessee for any
15 reason, the lessor is liable to pay that amount to the
16 Department. This paragraph is exempt from the provisions of
17 Section 3-90.

18 (32) Beginning on the effective date of this amendatory Act
19 of the 92nd General Assembly, personal property purchased by a
20 lessor who leases the property, under a lease of one year or
21 longer executed or in effect at the time the lessor would
22 otherwise be subject to the tax imposed by this Act, to a
23 governmental body that has been issued an active sales tax
24 exemption identification number by the Department under
25 Section 1g of the Retailers' Occupation Tax Act. If the
26 property is leased in a manner that does not qualify for this
27 exemption or used in any other nonexempt manner, the lessor
28 shall be liable for the tax imposed under this Act or the
29 Service Use Tax Act, as the case may be, based on the fair
30 market value of the property at the time the nonqualifying use
31 occurs. No lessor shall collect or attempt to collect an amount
32 (however designated) that purports to reimburse that lessor for
33 the tax imposed by this Act or the Service Use Tax Act, as the
34 case may be, if the tax has not been paid by the lessor. If a
35 lessor improperly collects any such amount from the lessee, the
36 lessee shall have a legal right to claim a refund of that

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1 amount from the lessor. If, however, that amount is not
2 refunded to the lessee for any reason, the lessor is liable to
3 pay that amount to the Department. This paragraph is exempt
4 from the provisions of Section 3-90.

5 (33) On and after July 1, 2003 and through June 30, 2004,
6 the use in this State of motor vehicles of the second division
7 with a gross vehicle weight in excess of 8,000 pounds and that

8 are subject to the commercial distribution fee imposed under
9 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
10 1, 2004 and through June 30, 2005, the use in this State of
11 motor vehicles of the second division: (i) with a gross vehicle
12 weight rating in excess of 8,000 pounds; (ii) that are subject
13 to the commercial distribution fee imposed under Section
14 3-815.1 of the Illinois Vehicle Code; and (iii) that are
15 primarily used for commercial purposes. Through June 30, 2005,
16 this exemption applies to repair and replacement parts added
17 after the initial purchase of such a motor vehicle if that
18 motor vehicle is used in a manner that would qualify for the
19 rolling stock exemption otherwise provided for in this Act. For
20 purposes of this paragraph, the term "used for commercial
21 purposes" means the transportation of persons or property in
22 furtherance of any commercial or industrial enterprise,
23 whether for-hire or not.

24 (Source: P.A. 92-35, eff. 7-1-01; 92-227, eff. 8-2-01; 92-337,
25 eff. 8-10-01; 92-484, eff. 8-23-01; 92-651, eff. 7-11-02;
26 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff. 7-30-04;
27 93-1033, eff. 9-3-04; revised 10-21-04.)

28 Section 915. The Service Use Tax Act is amended by changing
29 Section 2 as follows:

30 (35 ILCS 110/2) (from Ch. 120, par. 439.32)

31 Sec. 2. "Use" means the exercise by any person of any right
32 or power over tangible personal property incident to the
33 ownership of that property, but does not include the sale or
34 use for demonstration by him of that property in any form as

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1 tangible personal property in the regular course of business.
2 "Use" does not mean the interim use of tangible personal
3 property nor the physical incorporation of tangible personal
4 property, as an ingredient or constituent, into other tangible
5 personal property, (a) which is sold in the regular course of
6 business or (b) which the person incorporating such ingredient
7 or constituent therein has undertaken at the time of such
8 purchase to cause to be transported in interstate commerce to
9 destinations outside the State of Illinois.

10 "Purchased from a serviceman" means the acquisition of the
11 ownership of, or title to, tangible personal property through a
12 sale of service.

13 "Purchaser" means any person who, through a sale of
14 service, acquires the ownership of, or title to, any tangible
15 personal property.

16 "Cost price" means the consideration paid by the serviceman
17 for a purchase valued in money, whether paid in money or
18 otherwise, including cash, credits and services, and shall be
19 determined without any deduction on account of the supplier's
20 cost of the property sold or on account of any other expense
21 incurred by the supplier. When a serviceman contracts out part
22 or all of the services required in his sale of service, it
23 shall be presumed that the cost price to the serviceman of the
24 property transferred to him or her by his or her subcontractor
25 is equal to 50% of the subcontractor's charges to the
26 serviceman in the absence of proof of the consideration paid by
27 the subcontractor for the purchase of such property.

28 "Selling price" means the consideration for a sale valued
29 in money whether received in money or otherwise, including
30 cash, credits and service, and shall be determined without any
31 deduction on account of the serviceman's cost of the property
32 sold, the cost of materials used, labor or service cost or any
33 other expense whatsoever, but does not include interest or
34 finance charges which appear as separate items on the bill of
35 sale or sales contract nor charges that are added to prices by
36 sellers on account of the seller's duty to collect, from the

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1 purchaser, the tax that is imposed by this Act.

2 "Department" means the Department of Revenue.

3 "Person" means any natural individual, firm, partnership,
4 association, joint stock company, joint venture, public or
5 private corporation, limited liability company, and any
6 receiver, executor, trustee, guardian or other representative
7 appointed by order of any court.

8 "Sale of service" means any transaction except:

9 (1) a retail sale of tangible personal property taxable
10 under the Retailers' Occupation Tax Act or under the Use

11 Tax Act.

12 (2) a sale of tangible personal property for the
13 purpose of resale made in compliance with Section 2c of the
14 Retailers' Occupation Tax Act.

15 (3) except as hereinafter provided, a sale or transfer
16 of tangible personal property as an incident to the
17 rendering of service for or by any governmental body, or
18 for or by any corporation, society, association,
19 foundation or institution organized and operated
20 exclusively for charitable, religious or educational
21 purposes or any not-for-profit corporation, society,
22 association, foundation, institution or organization which
23 has no compensated officers or employees and which is
24 organized and operated primarily for the recreation of
25 persons 55 years of age or older. A limited liability
26 company may qualify for the exemption under this paragraph
27 only if the limited liability company is organized and
28 operated exclusively for educational purposes. A hospital
29 as defined in the Tax-Exempt Hospital Responsibility Act
30 may qualify for the exemption under this paragraph only if
31 it is in compliance with that Act.

32 (4) a sale or transfer of tangible personal property as
33 an incident to the rendering of service for interstate
34 carriers for hire for use as rolling stock moving in
35 interstate commerce or by lessors under a lease of one year
36 or longer, executed or in effect at the time of purchase of

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1 personal property, to interstate carriers for hire for use
2 as rolling stock moving in interstate commerce so long as
3 so used by such interstate carriers for hire, and equipment
4 operated by a telecommunications provider, licensed as a
5 common carrier by the Federal Communications Commission,
6 which is permanently installed in or affixed to aircraft
7 moving in interstate commerce.

8 (4a) a sale or transfer of tangible personal property
9 as an incident to the rendering of service for owners,
10 lessors, or shippers of tangible personal property which is
11 utilized by interstate carriers for hire for use as rolling

12 stock moving in interstate commerce so long as so used by
13 interstate carriers for hire, and equipment operated by a
14 telecommunications provider, licensed as a common carrier
15 by the Federal Communications Commission, which is
16 permanently installed in or affixed to aircraft moving in
17 interstate commerce.

18 (4a-5) on and after July 1, 2003 and through June 30,
19 2004, a sale or transfer of a motor vehicle of the second
20 division with a gross vehicle weight in excess of 8,000
21 pounds as an incident to the rendering of service if that
22 motor vehicle is subject to the commercial distribution fee
23 imposed under Section 3-815.1 of the Illinois Vehicle Code.
24 Beginning on July 1, 2004 and through June 30, 2005, the
25 use in this State of motor vehicles of the second division:
26 (i) with a gross vehicle weight rating in excess of 8,000
27 pounds; (ii) that are subject to the commercial
28 distribution fee imposed under Section 3-815.1 of the
29 Illinois Vehicle Code; and (iii) that are primarily used
30 for commercial purposes. Through June 30, 2005, this
31 exemption applies to repair and replacement parts added
32 after the initial purchase of such a motor vehicle if that
33 motor vehicle is used in a manner that would qualify for
34 the rolling stock exemption otherwise provided for in this
35 Act. For purposes of this paragraph, "used for commercial
36 purposes" means the transportation of persons or property

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1 in furtherance of any commercial or industrial enterprise
2 whether for-hire or not.

3 (5) a sale or transfer of machinery and equipment used
4 primarily in the process of the manufacturing or
5 assembling, either in an existing, an expanded or a new
6 manufacturing facility, of tangible personal property for
7 wholesale or retail sale or lease, whether such sale or
8 lease is made directly by the manufacturer or by some other
9 person, whether the materials used in the process are owned
10 by the manufacturer or some other person, or whether such
11 sale or lease is made apart from or as an incident to the
12 seller's engaging in a service occupation and the

13 applicable tax is a Service Use Tax or Service Occupation
14 Tax, rather than Use Tax or Retailers' Occupation Tax.

15 (5a) the repairing, reconditioning or remodeling, for
16 a common carrier by rail, of tangible personal property
17 which belongs to such carrier for hire, and as to which
18 such carrier receives the physical possession of the
19 repaired, reconditioned or remodeled item of tangible
20 personal property in Illinois, and which such carrier
21 transports, or shares with another common carrier in the
22 transportation of such property, out of Illinois on a
23 standard uniform bill of lading showing the person who
24 repaired, reconditioned or remodeled the property to a
25 destination outside Illinois, for use outside Illinois.

26 (5b) a sale or transfer of tangible personal property
27 which is produced by the seller thereof on special order in
28 such a way as to have made the applicable tax the Service
29 Occupation Tax or the Service Use Tax, rather than the
30 Retailers' Occupation Tax or the Use Tax, for an interstate
31 carrier by rail which receives the physical possession of
32 such property in Illinois, and which transports such
33 property, or shares with another common carrier in the
34 transportation of such property, out of Illinois on a
35 standard uniform bill of lading showing the seller of the
36 property as the shipper or consignor of such property to a

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1 destination outside Illinois, for use outside Illinois.

2 (6) until July 1, 2003, a sale or transfer of
3 distillation machinery and equipment, sold as a unit or kit
4 and assembled or installed by the retailer, which machinery
5 and equipment is certified by the user to be used only for
6 the production of ethyl alcohol that will be used for
7 consumption as motor fuel or as a component of motor fuel
8 for the personal use of such user and not subject to sale
9 or resale.

10 (7) at the election of any serviceman not required to
11 be otherwise registered as a retailer under Section 2a of
12 the Retailers' Occupation Tax Act, made for each fiscal
13 year sales of service in which the aggregate annual cost

14 price of tangible personal property transferred as an
15 incident to the sales of service is less than 35%, or 75%
16 in the case of servicemen transferring prescription drugs
17 or servicemen engaged in graphic arts production, of the
18 aggregate annual total gross receipts from all sales of
19 service. The purchase of such tangible personal property by
20 the serviceman shall be subject to tax under the Retailers'
21 Occupation Tax Act and the Use Tax Act. However, if a
22 primary serviceman who has made the election described in
23 this paragraph subcontracts service work to a secondary
24 serviceman who has also made the election described in this
25 paragraph, the primary serviceman does not incur a Use Tax
26 liability if the secondary serviceman (i) has paid or will
27 pay Use Tax on his or her cost price of any tangible
28 personal property transferred to the primary serviceman
29 and (ii) certifies that fact in writing to the primary
30 serviceman.

31 Tangible personal property transferred incident to the
32 completion of a maintenance agreement is exempt from the tax
33 imposed pursuant to this Act.

34 Exemption (5) also includes machinery and equipment used in
35 the general maintenance or repair of such exempt machinery and
36 equipment or for in-house manufacture of exempt machinery and

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1 equipment. For the purposes of exemption (5), each of these
2 terms shall have the following meanings: (1) "manufacturing
3 process" shall mean the production of any article of tangible
4 personal property, whether such article is a finished product
5 or an article for use in the process of manufacturing or
6 assembling a different article of tangible personal property,
7 by procedures commonly regarded as manufacturing, processing,
8 fabricating, or refining which changes some existing material
9 or materials into a material with a different form, use or
10 name. In relation to a recognized integrated business composed
11 of a series of operations which collectively constitute
12 manufacturing, or individually constitute manufacturing
13 operations, the manufacturing process shall be deemed to
14 commence with the first operation or stage of production in the

15 series, and shall not be deemed to end until the completion of
16 the final product in the last operation or stage of production
17 in the series; and further, for purposes of exemption (5),
18 photoprocessing is deemed to be a manufacturing process of
19 tangible personal property for wholesale or retail sale; (2)
20 "assembling process" shall mean the production of any article
21 of tangible personal property, whether such article is a
22 finished product or an article for use in the process of
23 manufacturing or assembling a different article of tangible
24 personal property, by the combination of existing materials in
25 a manner commonly regarded as assembling which results in a
26 material of a different form, use or name; (3) "machinery"
27 shall mean major mechanical machines or major components of
28 such machines contributing to a manufacturing or assembling
29 process; and (4) "equipment" shall include any independent
30 device or tool separate from any machinery but essential to an
31 integrated manufacturing or assembly process; including
32 computers used primarily in a manufacturer's computer assisted
33 design, computer assisted manufacturing (CAD/CAM) system; or
34 any subunit or assembly comprising a component of any machinery
35 or auxiliary, adjunct or attachment parts of machinery, such as
36 tools, dies, jigs, fixtures, patterns and molds; or any parts

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1 which require periodic replacement in the course of normal
2 operation; but shall not include hand tools. Equipment includes
3 chemicals or chemicals acting as catalysts but only if the
4 chemicals or chemicals acting as catalysts effect a direct and
5 immediate change upon a product being manufactured or assembled
6 for wholesale or retail sale or lease. The purchaser of such
7 machinery and equipment who has an active resale registration
8 number shall furnish such number to the seller at the time of
9 purchase. The user of such machinery and equipment and tools
10 without an active resale registration number shall prepare a
11 certificate of exemption for each transaction stating facts
12 establishing the exemption for that transaction, which
13 certificate shall be available to the Department for inspection
14 or audit. The Department shall prescribe the form of the
15 certificate.

16 Any informal rulings, opinions or letters issued by the
17 Department in response to an inquiry or request for any opinion
18 from any person regarding the coverage and applicability of
19 exemption (5) to specific devices shall be published,
20 maintained as a public record, and made available for public
21 inspection and copying. If the informal ruling, opinion or
22 letter contains trade secrets or other confidential
23 information, where possible the Department shall delete such
24 information prior to publication. Whenever such informal
25 rulings, opinions, or letters contain any policy of general
26 applicability, the Department shall formulate and adopt such
27 policy as a rule in accordance with the provisions of the
28 Illinois Administrative Procedure Act.

29 On and after July 1, 1987, no entity otherwise eligible
30 under exemption (3) of this Section shall make tax free
31 purchases unless it has an active exemption identification
32 number issued by the Department.

33 The purchase, employment and transfer of such tangible
34 personal property as newsprint and ink for the primary purpose
35 of conveying news (with or without other information) is not a
36 purchase, use or sale of service or of tangible personal

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1 property within the meaning of this Act.

2 "Serviceman" means any person who is engaged in the
3 occupation of making sales of service.

4 "Sale at retail" means "sale at retail" as defined in the
5 Retailers' Occupation Tax Act.

6 "Supplier" means any person who makes sales of tangible
7 personal property to servicemen for the purpose of resale as an
8 incident to a sale of service.

9 "Serviceman maintaining a place of business in this State",
10 or any like term, means and includes any serviceman:

11 1. having or maintaining within this State, directly or
12 by a subsidiary, an office, distribution house, sales
13 house, warehouse or other place of business, or any agent
14 or other representative operating within this State under
15 the authority of the serviceman or its subsidiary,
16 irrespective of whether such place of business or agent or

17 other representative is located here permanently or
18 temporarily, or whether such serviceman or subsidiary is
19 licensed to do business in this State;

20 2. soliciting orders for tangible personal property by
21 means of a telecommunication or television shopping system
22 (which utilizes toll free numbers) which is intended by the
23 retailer to be broadcast by cable television or other means
24 of broadcasting, to consumers located in this State;

25 3. pursuant to a contract with a broadcaster or
26 publisher located in this State, soliciting orders for
27 tangible personal property by means of advertising which is
28 disseminated primarily to consumers located in this State
29 and only secondarily to bordering jurisdictions;

30 4. soliciting orders for tangible personal property by
31 mail if the solicitations are substantial and recurring and
32 if the retailer benefits from any banking, financing, debt
33 collection, telecommunication, or marketing activities
34 occurring in this State or benefits from the location in
35 this State of authorized installation, servicing, or
36 repair facilities;

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1 5. being owned or controlled by the same interests
2 which own or control any retailer engaging in business in
3 the same or similar line of business in this State;

4 6. having a franchisee or licensee operating under its
5 trade name if the franchisee or licensee is required to
6 collect the tax under this Section;

7 7. pursuant to a contract with a cable television
8 operator located in this State, soliciting orders for
9 tangible personal property by means of advertising which is
10 transmitted or distributed over a cable television system
11 in this State; or

12 8. engaging in activities in Illinois, which
13 activities in the state in which the supply business
14 engaging in such activities is located would constitute
15 maintaining a place of business in that state.

16 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,

17 eff. 6-20-03; 93-1033, eff. 9-3-04.)

18 Section 920. The Service Occupation Tax Act is amended by
19 changing Section 2 as follows:

20 (35 ILCS 115/2) (from Ch. 120, par. 439.102)

21 Sec. 2. "Transfer" means any transfer of the title to
22 property or of the ownership of property whether or not the
23 transferor retains title as security for the payment of amounts
24 due him from the transferee.

25 "Cost Price" means the consideration paid by the serviceman
26 for a purchase valued in money, whether paid in money or
27 otherwise, including cash, credits and services, and shall be
28 determined without any deduction on account of the supplier's
29 cost of the property sold or on account of any other expense
30 incurred by the supplier. When a serviceman contracts out part
31 or all of the services required in his sale of service, it
32 shall be presumed that the cost price to the serviceman of the
33 property transferred to him by his or her subcontractor is
34 equal to 50% of the subcontractor's charges to the serviceman

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1 in the absence of proof of the consideration paid by the
2 subcontractor for the purchase of such property.

3 "Department" means the Department of Revenue.

4 "Person" means any natural individual, firm, partnership,
5 association, joint stock company, joint venture, public or
6 private corporation, limited liability company, and any
7 receiver, executor, trustee, guardian or other representative
8 appointed by order of any court.

9 "Sale of Service" means any transaction except:

10 (a) A retail sale of tangible personal property taxable
11 under the Retailers' Occupation Tax Act or under the Use Tax
12 Act.

13 (b) A sale of tangible personal property for the purpose of
14 resale made in compliance with Section 2c of the Retailers'
15 Occupation Tax Act.

16 (c) Except as hereinafter provided, a sale or transfer of
17 tangible personal property as an incident to the rendering of
18 service for or by any governmental body or for or by any

19 corporation, society, association, foundation or institution
20 organized and operated exclusively for charitable, religious
21 or educational purposes or any not-for-profit corporation,
22 society, association, foundation, institution or organization
23 which has no compensated officers or employees and which is
24 organized and operated primarily for the recreation of persons
25 55 years of age or older. A limited liability company may
26 qualify for the exemption under this paragraph only if the
27 limited liability company is organized and operated
28 exclusively for educational purposes. A hospital as defined in
29 the Tax-Exempt Hospital Responsibility Act may qualify for the
30 exemption under this paragraph only if it is in compliance with
31 that Act.

32 (d) A sale or transfer of tangible personal property as an
33 incident to the rendering of service for interstate carriers
34 for hire for use as rolling stock moving in interstate commerce
35 or lessors under leases of one year or longer, executed or in
36 effect at the time of purchase, to interstate carriers for hire

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1 for use as rolling stock moving in interstate commerce, and
2 equipment operated by a telecommunications provider, licensed
3 as a common carrier by the Federal Communications Commission,
4 which is permanently installed in or affixed to aircraft moving
5 in interstate commerce.

6 (d-1) A sale or transfer of tangible personal property as
7 an incident to the rendering of service for owners, lessors or
8 shippers of tangible personal property which is utilized by
9 interstate carriers for hire for use as rolling stock moving in
10 interstate commerce, and equipment operated by a
11 telecommunications provider, licensed as a common carrier by
12 the Federal Communications Commission, which is permanently
13 installed in or affixed to aircraft moving in interstate
14 commerce.

15 (d-1.1) On and after July 1, 2003 and through June 30,
16 2004, a sale or transfer of a motor vehicle of the second
17 division with a gross vehicle weight in excess of 8,000 pounds
18 as an incident to the rendering of service if that motor
19 vehicle is subject to the commercial distribution fee imposed

20 under Section 3-815.1 of the Illinois Vehicle Code. Beginning
21 on July 1, 2004 and through June 30, 2005, the use in this
22 State of motor vehicles of the second division: (i) with a
23 gross vehicle weight rating in excess of 8,000 pounds; (ii)
24 that are subject to the commercial distribution fee imposed
25 under Section 3-815.1 of the Illinois Vehicle Code; and (iii)
26 that are primarily used for commercial purposes. Through June
27 30, 2005, this exemption applies to repair and replacement
28 parts added after the initial purchase of such a motor vehicle
29 if that motor vehicle is used in a manner that would qualify
30 for the rolling stock exemption otherwise provided for in this
31 Act. For purposes of this paragraph, "used for commercial
32 purposes" means the transportation of persons or property in
33 furtherance of any commercial or industrial enterprise whether
34 for-hire or not.

35 (d-2) The repairing, reconditioning or remodeling, for a
36 common carrier by rail, of tangible personal property which

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1 belongs to such carrier for hire, and as to which such carrier
2 receives the physical possession of the repaired,
3 reconditioned or remodeled item of tangible personal property
4 in Illinois, and which such carrier transports, or shares with
5 another common carrier in the transportation of such property,
6 out of Illinois on a standard uniform bill of lading showing
7 the person who repaired, reconditioned or remodeled the
8 property as the shipper or consignor of such property to a
9 destination outside Illinois, for use outside Illinois.

10 (d-3) A sale or transfer of tangible personal property
11 which is produced by the seller thereof on special order in
12 such a way as to have made the applicable tax the Service
13 Occupation Tax or the Service Use Tax, rather than the
14 Retailers' Occupation Tax or the Use Tax, for an interstate
15 carrier by rail which receives the physical possession of such
16 property in Illinois, and which transports such property, or
17 shares with another common carrier in the transportation of
18 such property, out of Illinois on a standard uniform bill of
19 lading showing the seller of the property as the shipper or
20 consignor of such property to a destination outside Illinois,

21 for use outside Illinois.

22 (d-4) Until January 1, 1997, a sale, by a registered
23 serviceman paying tax under this Act to the Department, of
24 special order printed materials delivered outside Illinois and
25 which are not returned to this State, if delivery is made by
26 the seller or agent of the seller, including an agent who
27 causes the product to be delivered outside Illinois by a common
28 carrier or the U.S. postal service.

29 (e) A sale or transfer of machinery and equipment used
30 primarily in the process of the manufacturing or assembling,
31 either in an existing, an expanded or a new manufacturing
32 facility, of tangible personal property for wholesale or retail
33 sale or lease, whether such sale or lease is made directly by
34 the manufacturer or by some other person, whether the materials
35 used in the process are owned by the manufacturer or some other
36 person, or whether such sale or lease is made apart from or as

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1 an incident to the seller's engaging in a service occupation
2 and the applicable tax is a Service Occupation Tax or Service
3 Use Tax, rather than Retailers' Occupation Tax or Use Tax.

4 (f) Until July 1, 2003, the sale or transfer of
5 distillation machinery and equipment, sold as a unit or kit and
6 assembled or installed by the retailer, which machinery and
7 equipment is certified by the user to be used only for the
8 production of ethyl alcohol that will be used for consumption
9 as motor fuel or as a component of motor fuel for the personal
10 use of such user and not subject to sale or resale.

11 (g) At the election of any serviceman not required to be
12 otherwise registered as a retailer under Section 2a of the
13 Retailers' Occupation Tax Act, made for each fiscal year sales
14 of service in which the aggregate annual cost price of tangible
15 personal property transferred as an incident to the sales of
16 service is less than 35% (75% in the case of servicemen
17 transferring prescription drugs or servicemen engaged in
18 graphic arts production) of the aggregate annual total gross
19 receipts from all sales of service. The purchase of such
20 tangible personal property by the serviceman shall be subject
21 to tax under the Retailers' Occupation Tax Act and the Use Tax

22 Act. However, if a primary serviceman who has made the election
23 described in this paragraph subcontracts service work to a
24 secondary serviceman who has also made the election described
25 in this paragraph, the primary serviceman does not incur a Use
26 Tax liability if the secondary serviceman (i) has paid or will
27 pay Use Tax on his or her cost price of any tangible personal
28 property transferred to the primary serviceman and (ii)
29 certifies that fact in writing to the primary serviceman.

30 Tangible personal property transferred incident to the
31 completion of a maintenance agreement is exempt from the tax
32 imposed pursuant to this Act.

33 Exemption (e) also includes machinery and equipment used in
34 the general maintenance or repair of such exempt machinery and
35 equipment or for in-house manufacture of exempt machinery and
36 equipment. For the purposes of exemption (e), each of these

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1 terms shall have the following meanings: (1) "manufacturing
2 process" shall mean the production of any article of tangible
3 personal property, whether such article is a finished product
4 or an article for use in the process of manufacturing or
5 assembling a different article of tangible personal property,
6 by procedures commonly regarded as manufacturing, processing,
7 fabricating, or refining which changes some existing material
8 or materials into a material with a different form, use or
9 name. In relation to a recognized integrated business composed
10 of a series of operations which collectively constitute
11 manufacturing, or individually constitute manufacturing
12 operations, the manufacturing process shall be deemed to
13 commence with the first operation or stage of production in the
14 series, and shall not be deemed to end until the completion of
15 the final product in the last operation or stage of production
16 in the series; and further for purposes of exemption (e),
17 photoprocessing is deemed to be a manufacturing process of
18 tangible personal property for wholesale or retail sale; (2)
19 "assembling process" shall mean the production of any article
20 of tangible personal property, whether such article is a
21 finished product or an article for use in the process of
22 manufacturing or assembling a different article of tangible

23 personal property, by the combination of existing materials in
24 a manner commonly regarded as assembling which results in a
25 material of a different form, use or name; (3) "machinery"
26 shall mean major mechanical machines or major components of
27 such machines contributing to a manufacturing or assembling
28 process; and (4) "equipment" shall include any independent
29 device or tool separate from any machinery but essential to an
30 integrated manufacturing or assembly process; including
31 computers used primarily in a manufacturer's computer assisted
32 design, computer assisted manufacturing (CAD/CAM) system; or
33 any subunit or assembly comprising a component of any machinery
34 or auxiliary, adjunct or attachment parts of machinery, such as
35 tools, dies, jigs, fixtures, patterns and molds; or any parts
36 which require periodic replacement in the course of normal

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1 operation; but shall not include hand tools. Equipment includes
2 chemicals or chemicals acting as catalysts but only if the
3 chemicals or chemicals acting as catalysts effect a direct and
4 immediate change upon a product being manufactured or assembled
5 for wholesale or retail sale or lease. The purchaser of such
6 machinery and equipment who has an active resale registration
7 number shall furnish such number to the seller at the time of
8 purchase. The purchaser of such machinery and equipment and
9 tools without an active resale registration number shall
10 furnish to the seller a certificate of exemption for each
11 transaction stating facts establishing the exemption for that
12 transaction, which certificate shall be available to the
13 Department for inspection or audit.

14 Except as provided in Section 2d of this Act, the rolling
15 stock exemption applies to rolling stock used by an interstate
16 carrier for hire, even just between points in Illinois, if such
17 rolling stock transports, for hire, persons whose journeys or
18 property whose shipments originate or terminate outside
19 Illinois.

20 Any informal rulings, opinions or letters issued by the
21 Department in response to an inquiry or request for any opinion
22 from any person regarding the coverage and applicability of
23 exemption (e) to specific devices shall be published,

24 maintained as a public record, and made available for public
25 inspection and copying. If the informal ruling, opinion or
26 letter contains trade secrets or other confidential
27 information, where possible the Department shall delete such
28 information prior to publication. Whenever such informal
29 rulings, opinions, or letters contain any policy of general
30 applicability, the Department shall formulate and adopt such
31 policy as a rule in accordance with the provisions of the
32 Illinois Administrative Procedure Act.

33 On and after July 1, 1987, no entity otherwise eligible
34 under exemption (c) of this Section shall make tax free
35 purchases unless it has an active exemption identification
36 number issued by the Department.

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1 "Serviceman" means any person who is engaged in the
2 occupation of making sales of service.

3 "Sale at Retail" means "sale at retail" as defined in the
4 Retailers' Occupation Tax Act.

5 "Supplier" means any person who makes sales of tangible
6 personal property to servicemen for the purpose of resale as an
7 incident to a sale of service.

8 (Source: P.A. 92-484, eff. 8-23-01; 93-23, eff. 6-20-03; 93-24,
9 eff. 6-20-03; 93-1033, eff. 9-3-04.)

10 Section 925. The Retailers' Occupation Tax Act is amended
11 by changing Section 2-5 as follows:

12 (35 ILCS 120/2-5) (from Ch. 120, par. 441-5)

13 Sec. 2-5. Exemptions. Gross receipts from proceeds from the
14 sale of the following tangible personal property are exempt
15 from the tax imposed by this Act:

16 (1) Farm chemicals.

17 (2) Farm machinery and equipment, both new and used,
18 including that manufactured on special order, certified by the
19 purchaser to be used primarily for production agriculture or
20 State or federal agricultural programs, including individual
21 replacement parts for the machinery and equipment, including
22 machinery and equipment purchased for lease, and including
23 implements of husbandry defined in Section 1-130 of the

24 Illinois Vehicle Code, farm machinery and agricultural
25 chemical and fertilizer spreaders, and nurse wagons required to
26 be registered under Section 3-809 of the Illinois Vehicle Code,
27 but excluding other motor vehicles required to be registered
28 under the Illinois Vehicle Code. Horticultural polyhouses or
29 hoop houses used for propagating, growing, or overwintering
30 plants shall be considered farm machinery and equipment under
31 this item (2). Agricultural chemical tender tanks and dry boxes
32 shall include units sold separately from a motor vehicle
33 required to be licensed and units sold mounted on a motor
34 vehicle required to be licensed, if the selling price of the

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1 tender is separately stated.

2 Farm machinery and equipment shall include precision
3 farming equipment that is installed or purchased to be
4 installed on farm machinery and equipment including, but not
5 limited to, tractors, harvesters, sprayers, planters, seeders,
6 or spreaders. Precision farming equipment includes, but is not
7 limited to, soil testing sensors, computers, monitors,
8 software, global positioning and mapping systems, and other
9 such equipment.

10 Farm machinery and equipment also includes computers,
11 sensors, software, and related equipment used primarily in the
12 computer-assisted operation of production agriculture
13 facilities, equipment, and activities such as, but not limited
14 to, the collection, monitoring, and correlation of animal and
15 crop data for the purpose of formulating animal diets and
16 agricultural chemicals. This item (7) is exempt from the
17 provisions of Section 2-70.

18 (3) Until July 1, 2003, distillation machinery and
19 equipment, sold as a unit or kit, assembled or installed by the
20 retailer, certified by the user to be used only for the
21 production of ethyl alcohol that will be used for consumption
22 as motor fuel or as a component of motor fuel for the personal
23 use of the user, and not subject to sale or resale.

24 (4) Until July 1, 2003 and beginning again September 1,
25 2004, graphic arts machinery and equipment, including repair
26 and replacement parts, both new and used, and including that

27 manufactured on special order or purchased for lease, certified
28 by the purchaser to be used primarily for graphic arts
29 production. Equipment includes chemicals or chemicals acting
30 as catalysts but only if the chemicals or chemicals acting as
31 catalysts effect a direct and immediate change upon a graphic
32 arts product.

33 (5) A motor vehicle of the first division, a motor vehicle
34 of the second division that is a self-contained motor vehicle
35 designed or permanently converted to provide living quarters
36 for recreational, camping, or travel use, with direct walk

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1 through access to the living quarters from the driver's seat,
2 or a motor vehicle of the second division that is of the van
3 configuration designed for the transportation of not less than
4 7 nor more than 16 passengers, as defined in Section 1-146 of
5 the Illinois Vehicle Code, that is used for automobile renting,
6 as defined in the Automobile Renting Occupation and Use Tax
7 Act.

8 (6) Personal property sold by a teacher-sponsored student
9 organization affiliated with an elementary or secondary school
10 located in Illinois.

11 (7) Until July 1, 2003, proceeds of that portion of the
12 selling price of a passenger car the sale of which is subject
13 to the Replacement Vehicle Tax.

14 (8) Personal property sold to an Illinois county fair
15 association for use in conducting, operating, or promoting the
16 county fair.

17 (9) Personal property sold to a not-for-profit arts or
18 cultural organization that establishes, by proof required by
19 the Department by rule, that it has received an exemption under
20 Section 501(c)(3) of the Internal Revenue Code and that is
21 organized and operated primarily for the presentation or
22 support of arts or cultural programming, activities, or
23 services. These organizations include, but are not limited to,
24 music and dramatic arts organizations such as symphony
25 orchestras and theatrical groups, arts and cultural service
26 organizations, local arts councils, visual arts organizations,
27 and media arts organizations. On and after the effective date

28 of this amendatory Act of the 92nd General Assembly, however,
29 an entity otherwise eligible for this exemption shall not make
30 tax-free purchases unless it has an active identification
31 number issued by the Department.

32 (10) Personal property sold by a corporation, society,
33 association, foundation, institution, or organization, other
34 than a limited liability company, that is organized and
35 operated as a not-for-profit service enterprise for the benefit
36 of persons 65 years of age or older if the personal property

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1 was not purchased by the enterprise for the purpose of resale
2 by the enterprise.

3 (11) Personal property sold to a governmental body, to a
4 corporation, society, association, foundation, or institution
5 organized and operated exclusively for charitable, religious,
6 or educational purposes, or to a not-for-profit corporation,
7 society, association, foundation, institution, or organization
8 that has no compensated officers or employees and that is
9 organized and operated primarily for the recreation of persons
10 55 years of age or older. A limited liability company may
11 qualify for the exemption under this paragraph only if the
12 limited liability company is organized and operated
13 exclusively for educational purposes. A hospital as defined in
14 the Tax-Exempt Hospital Responsibility Act may qualify for the
15 exemption under this paragraph only if it is in compliance with
16 that Act. On and after July 1, 1987, however, no entity
17 otherwise eligible for this exemption shall make tax-free
18 purchases unless it has an active identification number issued
19 by the Department.

20 (12) Tangible personal property sold to interstate
21 carriers for hire for use as rolling stock moving in interstate
22 commerce or to lessors under leases of one year or longer
23 executed or in effect at the time of purchase by interstate
24 carriers for hire for use as rolling stock moving in interstate
25 commerce and equipment operated by a telecommunications
26 provider, licensed as a common carrier by the Federal
27 Communications Commission, which is permanently installed in
28 or affixed to aircraft moving in interstate commerce.

29 (12-5) On and after July 1, 2003 and through June 30, 2004,
30 motor vehicles of the second division with a gross vehicle
31 weight in excess of 8,000 pounds that are subject to the
32 commercial distribution fee imposed under Section 3-815.1 of
33 the Illinois Vehicle Code. Beginning on July 1, 2004 and
34 through June 30, 2005, the use in this State of motor vehicles
35 of the second division: (i) with a gross vehicle weight rating
36 in excess of 8,000 pounds; (ii) that are subject to the

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1 commercial distribution fee imposed under Section 3-815.1 of
2 the Illinois Vehicle Code; and (iii) that are primarily used
3 for commercial purposes. Through June 30, 2005, this exemption
4 applies to repair and replacement parts added after the initial
5 purchase of such a motor vehicle if that motor vehicle is used
6 in a manner that would qualify for the rolling stock exemption
7 otherwise provided for in this Act. For purposes of this
8 paragraph, "used for commercial purposes" means the
9 transportation of persons or property in furtherance of any
10 commercial or industrial enterprise whether for-hire or not.

11 (13) Proceeds from sales to owners, lessors, or shippers of
12 tangible personal property that is utilized by interstate
13 carriers for hire for use as rolling stock moving in interstate
14 commerce and equipment operated by a telecommunications
15 provider, licensed as a common carrier by the Federal
16 Communications Commission, which is permanently installed in
17 or affixed to aircraft moving in interstate commerce.

18 (14) Machinery and equipment that will be used by the
19 purchaser, or a lessee of the purchaser, primarily in the
20 process of manufacturing or assembling tangible personal
21 property for wholesale or retail sale or lease, whether the
22 sale or lease is made directly by the manufacturer or by some
23 other person, whether the materials used in the process are
24 owned by the manufacturer or some other person, or whether the
25 sale or lease is made apart from or as an incident to the
26 seller's engaging in the service occupation of producing
27 machines, tools, dies, jigs, patterns, gauges, or other similar
28 items of no commercial value on special order for a particular
29 purchaser.

30 (15) Proceeds of mandatory service charges separately
31 stated on customers' bills for purchase and consumption of food
32 and beverages, to the extent that the proceeds of the service
33 charge are in fact turned over as tips or as a substitute for
34 tips to the employees who participate directly in preparing,
35 serving, hosting or cleaning up the food or beverage function
36 with respect to which the service charge is imposed.

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1 (16) Petroleum products sold to a purchaser if the seller
2 is prohibited by federal law from charging tax to the
3 purchaser.

4 (17) Tangible personal property sold to a common carrier by
5 rail or motor that receives the physical possession of the
6 property in Illinois and that transports the property, or
7 shares with another common carrier in the transportation of the
8 property, out of Illinois on a standard uniform bill of lading
9 showing the seller of the property as the shipper or consignor
10 of the property to a destination outside Illinois, for use
11 outside Illinois.

12 (18) Legal tender, currency, medallions, or gold or silver
13 coinage issued by the State of Illinois, the government of the
14 United States of America, or the government of any foreign
15 country, and bullion.

16 (19) Until July 1 2003, oil field exploration, drilling,
17 and production equipment, including (i) rigs and parts of rigs,
18 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
19 tubular goods, including casing and drill strings, (iii) pumps
20 and pump-jack units, (iv) storage tanks and flow lines, (v) any
21 individual replacement part for oil field exploration,
22 drilling, and production equipment, and (vi) machinery and
23 equipment purchased for lease; but excluding motor vehicles
24 required to be registered under the Illinois Vehicle Code.

25 (20) Photoprocessing machinery and equipment, including
26 repair and replacement parts, both new and used, including that
27 manufactured on special order, certified by the purchaser to be
28 used primarily for photoprocessing, and including
29 photoprocessing machinery and equipment purchased for lease.

30 (21) Until July 1, 2003, coal exploration, mining,

31 offhighway hauling, processing, maintenance, and reclamation
32 equipment, including replacement parts and equipment, and
33 including equipment purchased for lease, but excluding motor
34 vehicles required to be registered under the Illinois Vehicle
35 Code.

36 (22) Fuel and petroleum products sold to or used by an air

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1 carrier, certified by the carrier to be used for consumption,
2 shipment, or storage in the conduct of its business as an air
3 common carrier, for a flight destined for or returning from a
4 location or locations outside the United States without regard
5 to previous or subsequent domestic stopovers.

6 (23) A transaction in which the purchase order is received
7 by a florist who is located outside Illinois, but who has a
8 florist located in Illinois deliver the property to the
9 purchaser or the purchaser's donee in Illinois.

10 (24) Fuel consumed or used in the operation of ships,
11 barges, or vessels that are used primarily in or for the
12 transportation of property or the conveyance of persons for
13 hire on rivers bordering on this State if the fuel is delivered
14 by the seller to the purchaser's barge, ship, or vessel while
15 it is afloat upon that bordering river.

16 (25) Except as provided in item (25-5) of this Section, a
17 motor vehicle sold in this State to a nonresident even though
18 the motor vehicle is delivered to the nonresident in this
19 State, if the motor vehicle is not to be titled in this State,
20 and if a drive-away permit is issued to the motor vehicle as
21 provided in Section 3-603 of the Illinois Vehicle Code or if
22 the nonresident purchaser has vehicle registration plates to
23 transfer to the motor vehicle upon returning to his or her home
24 state. The issuance of the drive-away permit or having the
25 out-of-state registration plates to be transferred is prima
26 facie evidence that the motor vehicle will not be titled in
27 this State.

28 (25-5) The exemption under item (25) does not apply if the
29 state in which the motor vehicle will be titled does not allow
30 a reciprocal exemption for a motor vehicle sold and delivered
31 in that state to an Illinois resident but titled in Illinois.

32 The tax collected under this Act on the sale of a motor vehicle
33 in this State to a resident of another state that does not
34 allow a reciprocal exemption shall be imposed at a rate equal
35 to the state's rate of tax on taxable property in the state in
36 which the purchaser is a resident, except that the tax shall

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1 not exceed the tax that would otherwise be imposed under this
2 Act. At the time of the sale, the purchaser shall execute a
3 statement, signed under penalty of perjury, of his or her
4 intent to title the vehicle in the state in which the purchaser
5 is a resident within 30 days after the sale and of the fact of
6 the payment to the State of Illinois of tax in an amount
7 equivalent to the state's rate of tax on taxable property in
8 his or her state of residence and shall submit the statement to
9 the appropriate tax collection agency in his or her state of
10 residence. In addition, the retailer must retain a signed copy
11 of the statement in his or her records. Nothing in this item
12 shall be construed to require the removal of the vehicle from
13 this state following the filing of an intent to title the
14 vehicle in the purchaser's state of residence if the purchaser
15 titles the vehicle in his or her state of residence within 30
16 days after the date of sale. The tax collected under this Act
17 in accordance with this item (25-5) shall be proportionately
18 distributed as if the tax were collected at the 6.25% general
19 rate imposed under this Act.

20 (26) Semen used for artificial insemination of livestock
21 for direct agricultural production.

22 (27) Horses, or interests in horses, registered with and
23 meeting the requirements of any of the Arabian Horse Club
24 Registry of America, Appaloosa Horse Club, American Quarter
25 Horse Association, United States Trotting Association, or
26 Jockey Club, as appropriate, used for purposes of breeding or
27 racing for prizes.

28 (28) Computers and communications equipment utilized for
29 any hospital purpose and equipment used in the diagnosis,
30 analysis, or treatment of hospital patients sold to a lessor
31 who leases the equipment, under a lease of one year or longer
32 executed or in effect at the time of the purchase, to a

33 hospital that has been issued an active tax exemption
34 identification number by the Department under Section 1g of
35 this Act.

36 (29) Personal property sold to a lessor who leases the

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1 property, under a lease of one year or longer executed or in
2 effect at the time of the purchase, to a governmental body that
3 has been issued an active tax exemption identification number
4 by the Department under Section 1g of this Act.

5 (30) Beginning with taxable years ending on or after
6 December 31, 1995 and ending with taxable years ending on or
7 before December 31, 2004, personal property that is donated for
8 disaster relief to be used in a State or federally declared
9 disaster area in Illinois or bordering Illinois by a
10 manufacturer or retailer that is registered in this State to a
11 corporation, society, association, foundation, or institution
12 that has been issued a sales tax exemption identification
13 number by the Department that assists victims of the disaster
14 who reside within the declared disaster area.

15 (31) Beginning with taxable years ending on or after
16 December 31, 1995 and ending with taxable years ending on or
17 before December 31, 2004, personal property that is used in the
18 performance of infrastructure repairs in this State, including
19 but not limited to municipal roads and streets, access roads,
20 bridges, sidewalks, waste disposal systems, water and sewer
21 line extensions, water distribution and purification
22 facilities, storm water drainage and retention facilities, and
23 sewage treatment facilities, resulting from a State or
24 federally declared disaster in Illinois or bordering Illinois
25 when such repairs are initiated on facilities located in the
26 declared disaster area within 6 months after the disaster.

27 (32) Beginning July 1, 1999, game or game birds sold at a
28 "game breeding and hunting preserve area" or an "exotic game
29 hunting area" as those terms are used in the Wildlife Code or
30 at a hunting enclosure approved through rules adopted by the
31 Department of Natural Resources. This paragraph is exempt from
32 the provisions of Section 2-70.

33 (33) A motor vehicle, as that term is defined in Section

34 1-146 of the Illinois Vehicle Code, that is donated to a
35 corporation, limited liability company, society, association,
36 foundation, or institution that is determined by the Department

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1 to be organized and operated exclusively for educational
2 purposes. For purposes of this exemption, "a corporation,
3 limited liability company, society, association, foundation,
4 or institution organized and operated exclusively for
5 educational purposes" means all tax-supported public schools,
6 private schools that offer systematic instruction in useful
7 branches of learning by methods common to public schools and
8 that compare favorably in their scope and intensity with the
9 course of study presented in tax-supported schools, and
10 vocational or technical schools or institutes organized and
11 operated exclusively to provide a course of study of not less
12 than 6 weeks duration and designed to prepare individuals to
13 follow a trade or to pursue a manual, technical, mechanical,
14 industrial, business, or commercial occupation.

15 (34) Beginning January 1, 2000, personal property,
16 including food, purchased through fundraising events for the
17 benefit of a public or private elementary or secondary school,
18 a group of those schools, or one or more school districts if
19 the events are sponsored by an entity recognized by the school
20 district that consists primarily of volunteers and includes
21 parents and teachers of the school children. This paragraph
22 does not apply to fundraising events (i) for the benefit of
23 private home instruction or (ii) for which the fundraising
24 entity purchases the personal property sold at the events from
25 another individual or entity that sold the property for the
26 purpose of resale by the fundraising entity and that profits
27 from the sale to the fundraising entity. This paragraph is
28 exempt from the provisions of Section 2-70.

29 (35) Beginning January 1, 2000 and through December 31,
30 2001, new or used automatic vending machines that prepare and
31 serve hot food and beverages, including coffee, soup, and other
32 items, and replacement parts for these machines. Beginning
33 January 1, 2002 and through June 30, 2003, machines and parts
34 for machines used in commercial, coin-operated amusement and

35 vending business if a use or occupation tax is paid on the
36 gross receipts derived from the use of the commercial,

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1 coin-operated amusement and vending machines. This paragraph
2 is exempt from the provisions of Section 2-70.

3 (35-5) Food for human consumption that is to be consumed
4 off the premises where it is sold (other than alcoholic
5 beverages, soft drinks, and food that has been prepared for
6 immediate consumption) and prescription and nonprescription
7 medicines, drugs, medical appliances, and insulin, urine
8 testing materials, syringes, and needles used by diabetics, for
9 human use, when purchased for use by a person receiving medical
10 assistance under Article 5 of the Illinois Public Aid Code who
11 resides in a licensed long-term care facility, as defined in
12 the Nursing Home Care Act.

13 (36) Beginning August 2, 2001, computers and
14 communications equipment utilized for any hospital purpose and
15 equipment used in the diagnosis, analysis, or treatment of
16 hospital patients sold to a lessor who leases the equipment,
17 under a lease of one year or longer executed or in effect at
18 the time of the purchase, to a hospital that has been issued an
19 active tax exemption identification number by the Department
20 under Section 1g of this Act. This paragraph is exempt from the
21 provisions of Section 2-70.

22 (37) Beginning August 2, 2001, personal property sold to a
23 lessor who leases the property, under a lease of one year or
24 longer executed or in effect at the time of the purchase, to a
25 governmental body that has been issued an active tax exemption
26 identification number by the Department under Section 1g of
27 this Act. This paragraph is exempt from the provisions of
28 Section 2-70.

29 (38) Beginning on January 1, 2002, tangible personal
30 property purchased from an Illinois retailer by a taxpayer
31 engaged in centralized purchasing activities in Illinois who
32 will, upon receipt of the property in Illinois, temporarily
33 store the property in Illinois (i) for the purpose of
34 subsequently transporting it outside this State for use or
35 consumption thereafter solely outside this State or (ii) for

36 the purpose of being processed, fabricated, or manufactured

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1 into, attached to, or incorporated into other tangible personal
2 property to be transported outside this State and thereafter
3 used or consumed solely outside this State. The Director of
4 Revenue shall, pursuant to rules adopted in accordance with the
5 Illinois Administrative Procedure Act, issue a permit to any
6 taxpayer in good standing with the Department who is eligible
7 for the exemption under this paragraph (38). The permit issued
8 under this paragraph (38) shall authorize the holder, to the
9 extent and in the manner specified in the rules adopted under
10 this Act, to purchase tangible personal property from a
11 retailer exempt from the taxes imposed by this Act. Taxpayers
12 shall maintain all necessary books and records to substantiate
13 the use and consumption of all such tangible personal property
14 outside of the State of Illinois.

15 (Source: P.A. 92-16, eff. 6-28-01; 92-35, eff. 7-1-01; 92-227,
16 eff. 8-2-01; 92-337, eff. 8-10-01; 92-484, eff. 8-23-01;
17 92-488, eff. 8-23-01; 92-651, eff. 7-11-02; 92-680, eff.
18 7-16-02; 93-23, eff. 6-20-03; 93-24, eff. 6-20-03; 93-840, eff.
19 7-30-04; 93-1033, eff. 9-3-04; 93-1068, eff. 1-15-05.)

20 Section 930. The Property Tax Code is amended by changing
21 Section 15-65 as follows:

22 (35 ILCS 200/15-65)

23 Sec. 15-65. Charitable purposes. All property of the
24 following is exempt when actually and exclusively used for
25 charitable or beneficent purposes, and not leased or otherwise
26 used with a view to profit:

27 (a) Institutions of public charity.

28 (b) Beneficent and charitable organizations
29 incorporated in any state of the United States, including
30 organizations whose owner, and no other person, uses the
31 property exclusively for the distribution, sale, or resale
32 of donated goods and related activities and uses all the
33 income from those activities to support the charitable,
34 religious or beneficent activities of the owner, whether or

1 not such activities occur on the property.

2 (c) Old people's homes, facilities for persons with a
3 developmental disability, and not-for-profit organizations
4 providing services or facilities related to the goals of
5 educational, social and physical development, if, upon
6 making application for the exemption, the applicant
7 provides affirmative evidence that the home or facility or
8 organization is an exempt organization under paragraph (3)
9 of Section 501(c) of the Internal Revenue Code or its
10 successor, and either: (i) the bylaws of the home or
11 facility or not-for-profit organization provide for a
12 waiver or reduction, based on an individual's ability to
13 pay, of any entrance fee, assignment of assets, or fee for
14 services, or (ii) the home or facility is qualified, built
15 or financed under Section 202 of the National Housing Act
16 of 1959, as amended.

17 An applicant that has been granted an exemption under
18 this subsection on the basis that its bylaws provide for a
19 waiver or reduction, based on an individual's ability to
20 pay, of any entrance fee, assignment of assets, or fee for
21 services may be periodically reviewed by the Department to
22 determine if the waiver or reduction was a past policy or
23 is a current policy. The Department may revoke the
24 exemption if it finds that the policy for waiver or
25 reduction is no longer current.

26 If a not-for-profit organization leases property that
27 is otherwise exempt under this subsection to an
28 organization that conducts an activity on the leased
29 premises that would entitle the lessee to an exemption from
30 real estate taxes if the lessee were the owner of the
31 property, then the leased property is exempt.

32 (d) Not-for-profit health maintenance organizations
33 certified by the Director of the Illinois Department of
34 Insurance under the Health Maintenance Organization Act,
35 including any health maintenance organization that
36 provides services to members at prepaid rates approved by

1 the Illinois Department of Insurance if the membership of
2 the organization is sufficiently large or of indefinite
3 classes so that the community is benefited by its
4 operation. No exemption shall apply to any hospital or
5 health maintenance organization which has been adjudicated
6 by a court of competent jurisdiction to have denied
7 admission to any person because of race, color, creed, sex
8 or national origin.

9 (e) All free public libraries.

10 (f) Historical societies.

11 Property otherwise qualifying for an exemption under this
12 Section shall not lose its exemption because the legal title is
13 held (i) by an entity that is organized solely to hold that
14 title and that qualifies under paragraph (2) of Section 501(c)
15 of the Internal Revenue Code or its successor, whether or not
16 that entity receives rent from the charitable organization for
17 the repair and maintenance of the property, (ii) by an entity
18 that is organized as a partnership, in which the charitable
19 organization, or an affiliate or subsidiary of the charitable
20 organization, is a general partner, for the purposes of owning
21 and operating a residential rental property that has received
22 an allocation of Low Income Housing Tax Credits for 100% of the
23 dwelling units under Section 42 of the Internal Revenue Code of
24 1986, or (iii) for any assessment year including and subsequent
25 to January 1, 1996 for which an application for exemption has
26 been filed and a decision on which has not become final and
27 nonappealable, by a limited liability company organized under
28 the Limited Liability Company Act provided that (A) the limited
29 liability company receives a notification from the Internal
30 Revenue Service that it qualifies under paragraph (2) or (3) of
31 Section 501(c) of the Internal Revenue Code; (B) the limited
32 liability company's sole members, as that term is used in
33 Section 1-5 of the Limited Liability Company Act, are the
34 institutions of public charity that actually and exclusively
35 use the property for charitable and beneficent purposes; and
36 (C) the limited liability company does not lease the property

1 or otherwise use it with a view to profit. A hospital as
2 defined in the Tax-Exempt Hospital Responsibility Act may
3 qualify for the exemption under this Section only if it is in
4 compliance with that Act.

5 (Source: P.A. 91-416, eff. 8-6-99; 92-382, eff. 8-16-01.)

6 Section 935. The Community Benefits Act is amended by
7 changing Sections 5, 10, 15, 20, and 25 and by adding Section
8 45 as follows:

9 (210 ILCS 76/5)

10 Sec. 5. Applicability. This Act does not apply to a
11 hospital operated by a unit of government, ~~a hospital located~~
12 ~~outside of a metropolitan statistical area, or a hospital with~~
13 ~~100 or fewer beds. Hospitals that are owned or operated by or~~
14 ~~affiliated with a health system shall be deemed to be in~~
15 ~~compliance with this Act if the health system has met the~~
16 ~~requirements of this Act.~~ Each hospital owned or operated by or
17 affiliated with a health system must demonstrate compliance
18 separately from any other hospital owned or operated by or
19 affiliated with the health system.

20 (Source: P.A. 93-480, eff. 8-8-03.)

21 (210 ILCS 76/10)

22 Sec. 10. Definitions. As used in this Act:

23 "Charity care" means charity care as defined in the
24 Tax-Exempt Hospital Responsibility Act ~~care provided by a~~
25 ~~health care provider for which the provider does not expect to~~
26 ~~receive payment from the patient or a third party payer.~~

27 "Community benefits" means the unreimbursed cost to a
28 hospital or health system of providing charity care, language
29 assistant services, government-sponsored indigent health care,
30 donations, volunteer services, education, government-sponsored
31 program services, research, and subsidized health services and
32 collecting bad debts. "Community benefits" does not include the
33 cost of paying any taxes or other governmental assessments.

1 "Government sponsored indigent health care" means the

2 ~~unreimbursed~~ cost to a hospital or health system of Medicare,
3 providing health care services to recipients of Medicaid, and
4 other federal, State, or local indigent health care programs,
5 eligibility for which is based on financial need.

6 "Health system" means an entity that owns or operates at
7 least one hospital.

8 "Nonprofit hospital" means a hospital that is organized as
9 a not-for-profit ~~nonprofit~~ corporation, including religious
10 organizations, or a charitable trust under Illinois law or the
11 laws of any other state or country.

12 "Subsidized health services" means those services provided
13 by a hospital in response to community needs for which the
14 reimbursement is less than the hospital's cost of providing the
15 services that must be subsidized by other hospital or nonprofit
16 supporting entity revenue sources. "Subsidized health
17 services" includes, but is not limited to, emergency and trauma
18 care, neonatal intensive care, community health clinics, and
19 collaborative efforts with local government or private
20 agencies to prevent illness and improve wellness, such as
21 immunization programs.

22 (Source: P.A. 93-480, eff. 8-8-03.)

23 (210 ILCS 76/15)

24 Sec. 15. Organizational mission statement; community
25 benefits plan. A nonprofit hospital must ~~shall~~ develop:

26 (1) an organizational mission statement that
27 identifies the hospital's commitment to serving the health
28 care needs of the community; and

29 (2) a community benefits plan defined as an operational
30 plan for serving the community's health care needs that:

31 (A) sets out goals and objectives for providing
32 community benefits that include charity care and
33 government sponsored indigent health care; and

34 (B) identifies the populations and communities
35 served by the hospital.

1 (Source: P.A. 93-480, eff. 8-8-03.)

2 (210 ILCS 76/20)

3 Sec. 20. Annual charity care report and for community
4 benefits report plan.

5 (a) Each nonprofit hospital must shall prepare an annual
6 charity care report in accordance with Section 30 of the
7 Tax-Exempt Hospital Responsibility Act and an annual report of
8 its the community benefits plan. The annual report of the
9 community benefits plan must include, in addition to the
10 community benefits plan itself, all of the following background
11 information:

12 (1) The hospital's mission statement.

13 (2) A disclosure of the health care needs of the
14 community that were considered in developing the
15 hospital's community benefits plan.

16 (3) A disclosure of the amount and types of community
17 benefits actually provided, including charity care.
18 Charity care must be reported separate from other community
19 benefits as part of the annual charity care report. In
20 reporting charity care, the hospital must report the actual
21 cost of services provided, based on the total cost to
22 charge ratio derived from the hospital's Medicare cost
23 report (CMS 2552-96 Worksheet C, Part 1, PPS Inpatient
24 Ratios), not the charges for the services. The filing of an
25 annual charity care report under Section 30 of the
26 Tax-Exempt Hospital Responsibility Act shall satisfy a
27 nonprofit hospital's charity care reporting requirements
28 under this paragraph with respect to the provision of
29 charity care.

30 (4) Audited annual financial reports for its most
31 recently completed fiscal year. Submission of a nonprofit
32 hospital's most recent set of audited financial statements
33 as part of the hospital's filing of its annual charity care
34 report, as mandated by subdivision (b)(6) of Section 30 of
35 the Tax-Exempt Hospital Responsibility Act, shall satisfy

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1 the hospital's financial reporting requirements under this
2 paragraph.

3 (b) Each nonprofit hospital must shall annually file the
4 annual a report of its the community benefits plan with the

5 Attorney General. The report must be filed not later than the
6 last day of the sixth month after the close of the hospital's
7 fiscal year, beginning with the hospital fiscal year that ends
8 in 2004.

9 (c) Each nonprofit hospital shall prepare a statement that
10 notifies the public that the annual report of the community
11 benefits plan is:

12 (1) public information;

13 (2) filed with the Attorney General; and

14 (3) available to the public on request from the
15 Attorney General.

16 This statement shall be made available to the public.

17 (d) The obligations of a hospital under this Act, except
18 for the filing of its audited financial report, shall take
19 effect beginning with the hospital's fiscal year that begins
20 after the effective date of this Act. Within 60 days of the
21 effective date of this Act, a hospital shall file the audited
22 annual financial report that has been completed for its most
23 recently completed fiscal year. Thereafter, a hospital shall
24 include its audited annual financial report for its most
25 recently completed fiscal year in its annual report of its
26 community benefits plan.

27 (Source: P.A. 93-480, eff. 8-8-03.)

28 (210 ILCS 76/25)

29 Sec. 25. Failure to file annual report. The Attorney
30 General may assess a late filing fee against a nonprofit
31 hospital that fails to make a report of the community benefits
32 plan as required under this Act in an amount not to exceed
33 \$10,000 ~~\$100~~. The Attorney General may grant extensions for
34 good cause. No penalty may be assessed against a hospital under
35 this Section until 30 business days have elapsed after written

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1 notification to the hospital of its failure to file a report.

2 (Source: P.A. 93-480, eff. 8-8-03.)

3 (210 ILCS 76/45 new)

4 Sec. 45. Attorney General's rulemaking authority. The
5 Attorney General has authority to adopt rules to implement and

6 enforce the provisions of this Act.

7 Section 999. Effective date. This Act takes effect upon
8 becoming law.

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5 ILCS 140/7 from Ch. 116, par. 207

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20 ILCS 3501/801-40

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30 ILCS 105/5.665 new

7

35 ILCS 5/205 from Ch. 120, par. 2-205

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35 ILCS 105/3-5 from Ch. 120, par. 439.3-5

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35 ILCS 110/2 from Ch. 120, par. 439.32

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35 ILCS 115/2 from Ch. 120, par. 439.102

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35 ILCS 120/2-5 from Ch. 120, par. 441-5

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