

ILLINOIS REGISTER

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Cannabis Regulation and Tax Act
 - 2) Code Citation: 68 Ill. Adm. Code 1291
 - 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
1291.10	New Section
1291.50	New Section
 - 4) Statutory Authority: Implementing the Cannabis Regulation and Tax Act [410 ILCS 705]
 - 5) Effective Date of Rule:
 - 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: The Department has not set a date for the emergency to expire before the end of the 150-day period.
 - 7) Date Filed with Index Department:
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- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Division of Financial and Professional Regulation's principal office of the Division of Professional Regulation and is available for public inspection.
 - 9) Reason for Emergency: Public Act 101-27 [410 ILCS 705] requires the Department of Financial and Professional Regulation to submit emergency rulemaking to implement the changes made by this Act of the 101st General Assembly.
 - 10) A Complete Description of the Subjects and Issues Involved: Public Act 101-27 created the Cannabis Regulation and Tax Act [410 ILCS 705]. These emergency rules relate to the lottery process if there are ties for the last remaining licenses in a particular BLS region, and also clarify that unsuccessful applicants who wish to file suit against the Department should do so in court rather than first going through the administrative process before going on to court. These emergency rules may potentially change some applicants' behavior in terms of how many applications they submit in a region and directs applicants toward the appropriate venue for relief.
 - 11) Are there any other proposed rulemakings pending on this Part? No
 - 12) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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- 13) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

Phone: 217/785-0813
Fax: 217/557-4451

The full text of the Emergency Rules begins on the next page:

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1291
CANNABIS REGULATION AND TAX ACT

Section

1249.10 Definitions

EMERGENCY

1249.50 Tied Applicant

EMERGENCY

AUTHORITY: Implementing the Cannabis Regulation and Tax Act [410 ILCS 705]

SOURCE: Emergency rules promulgated for the administration of the Cannabis Regulation and Tax Act at 43 Ill. Reg. _____, effective _____, for a maximum of 150 days.

Section 1291.10 Definitions

EMERGENCY

Terms not defined in this Section shall have the same meaning as in the Cannabis Regulation and Tax Act [410 ILCS 705]. Nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of a dispensing organization application. The denial of a dispensing organization application does not preclude judicial review of the denial. The following definitions are applicable for purposes of this Part:

“Applicant” means the Proposed Dispensing Organization Name as stated on a license application.

“Application points” means the number of points an applicant receives at the conclusion of the scoring process.

“BLS region” means a region in Illinois used by the United States Bureau of Labor Statistics to gather and categorize certain employment and wage data. The 17 such regions in Illinois are: Bloomington, Cape Girardeau, Carbondale-Marion, Champaign-Urbana, Chicago-Naperville-Elgin, Danville, Davenport-

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Moline-Rock Island, Decatur, Kankakee, Peoria, Rockford, St. Louis, Springfield, Northwest Illinois nonmetropolitan area, West Central Illinois nonmetropolitan area, East Central Illinois nonmetropolitan area, and South Illinois nonmetropolitan area.

“By lot” means a randomized method of choosing between two or more eligible applicants.

“Department” means the Department of Financial and Professional Regulation.

“Dispensing Organization License” means any Early Approval Adult Use Dispensing Organization License, Conditional Adult Use Dispensing Organization License, or Adult Use Dispensing Organization Licenses.

“Eligible applicant” means a tied applicant that is eligible to participate in the process by which a remaining available license is distributed by lot.

“License” means a Conditional Adult Use Dispensing Organization License.

“Principal officer” includes a cannabis business establishment applicant or licensed cannabis business establishment's board member, owner with more than 1% interest of the total cannabis business establishment or more than 5% interest of the total cannabis business establishment of a publicly traded company, president, vice president, secretary, treasurer, partner, officer, member, manager member, or person with a profit sharing, financial interest, or revenue sharing arrangement. The definition includes a person with authority to control the cannabis business establishment, a person who assumes responsibility for the debts of the cannabis business establishment and who is further defined in the Act.

“Remaining available license” means a license in a BLS region that has not been awarded by the Department at the conclusion of the scoring process period. There may be more than one remaining available license in a BLS region. For example, if four licenses are available in a BLS region and the five highest scoring applicants receive scores of 245, 240, 235, 235, and 235 points, the applicants receiving 245 and 240 application points will be awarded licenses and the three applicants receiving 235 points may become eligible applicants. Likewise, if one license is available in a BLS region and there are five applicants with the highest score, all five applicants may become eligible applicants.

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“Scoring process period” is the period of time between the conclusion of the submission period for a license application and when the Department publishes the following information: the names of applicants that have been awarded licenses based on receiving the highest number of application points, and the names of tied applicants that may become eligible applicants.

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

“Tied applicant” means an applicant that has received the same number of application points as one or more other applicants in the same BLS region and would have been awarded a license but for the one or more other applicants that received the same number of application points.

Section 1291.50 Tied Applicant
EMERGENCY

- a) A tied applicant may qualify as an eligible applicant subject to the following:
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- 1) A tied applicant is prohibited from becoming an eligible applicant if a principal officer of the tied applicant is a principal officer of more tied applicants than the number of remaining available licenses. For example, if an individual is a principal officer of four tied applicants and there are two remaining available licenses, no more than two of those tied applicants may become eligible applicants.
 - 2) A tied applicant is prohibited from becoming an eligible applicant if a principal officer of a tied applicant resigns after the conclusion of the scoring process period.
 - 3) A tied applicant is prohibited from becoming an eligible applicant if after the conclusion of the declination period identified in subsection (b), a principal officer of the applicant is a principal officer of more tied applicants than the number of remaining available licenses.
- b) A tied applicant may decline to become an eligible applicant by informing the Department within five business days of the conclusion of the scoring process. The declination must be submitted on forms approved by the Department.

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- c) If, at the conclusion of the scoring process period, there are two or more eligible applicants, the Department may distribute the remaining available licenses by lot subject to the following:
- 1) The Department shall publish a list of eligible applicants at least five business days before the day the remaining available licenses are distributed.
 - 2) The drawing by lot for all remaining available licenses will occur on the same day.
 - 3) For each BLS region, the department will draw a number of eligible applicants equal to five times the number of remaining eligible applicants.
 - 4) Within each BLS region, the first eligible applicant drawn will have the first right to a remaining available license. The second eligible applicant drawn will have the second right to a remaining available license. The same pattern will continue for each subsequent eligible applicant drawn.
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- 5) The process for distributing remaining available licenses will be recorded by the Department in a format at its discretion.
 - 6) If upon being selected for a remaining available license, the eligible applicant has a principal officer that is a principal officer in more than ten Early Approval Adult Use Dispensing Organization Licenses, Conditional Adult Use Dispensing Organization Licenses, Adult Use Dispensing Organization Licenses, the licensees and the eligible applicant listing principal officer must choose which license to abandon pursuant to Section 15-36(d) of the Act, and notify the Department in writing within five business days. If the eligible applicant or licensees do not notify the Department as required, the Department shall refuse to issue all remaining available licenses obtained by lot in all BLS regions to the eligible applicant.
 - 7) All remaining available licenses that have been abandoned shall be distributed to the next eligible applicant drawn by lot. If there are no additional eligible applicants, the license shall be awarded to the applicant receiving the next highest number of application points in the BLS region.