



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2468

Introduced 2/15/2023, by Rep. Sonya M. Harper

#### SYNOPSIS AS INTRODUCED:

New Act  
30 ILCS 105/5.990 new

Creates the Farmland Conservancy Program Act. Creates the Farmland Conservancy Program Fund in the State treasury. Provides that the moneys in the fund shall, upon appropriation by the General Assembly, be used for the purposes of the program, which include the purchase of agricultural conservation easements, fee title acquisition grants, land improvement and planning grants, technical assistance grants, technical assistance provided by the Department of Agriculture, technology transfer activities of the Department, and administrative costs incurred by the Department in administering the program. Provides that not less than 25% of funds shall be provided to applicants that lease or sell to socially disadvantaged farmers. Provides that moneys in the fund shall also be available for the following purposes: (1) to provide technical assistance grants to eligible assistance entities in support of socially disadvantaged farmers who are seeking financing for land acquisition or leasing; (2) to provide acquisition assistance grants to eligible assistance entities for the sole purpose of reducing barriers to land access for socially disadvantaged farmers, including, but not limited to, down payment assistance, interest rate assistance, direct costs incidental to acquisition, and infrastructure for land improvement; (3) to provide technical assistance grants to eligible assistance entities in support of socially disadvantaged farmers who are seeking financing for land acquisition or leasing; and (4) to provide acquisition assistance grants to eligible assistance entities for the sole purpose of reducing barriers to land access for socially disadvantaged farmers, including, but not limited to, down payment assistance, interest rate assistance, direct costs incidental to acquisition, and infrastructure for land improvement. Amends the State Finance Act to make a conforming change.

LRB103 25491 RLC 51840 b

1 AN ACT concerning agriculture.

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 Farmland Conservancy Program Act.

6 Section 5. Findings; intent.

7 (a) The General Assembly finds that:

8 (1) The agricultural lands of this State contribute  
9 substantially to the State, national, and world food  
10 supply and are a vital part of the state's economy.

11 (2) Illinois has lost 3,600,000 acres of farmland  
12 since 1950, an average of almost 77,000 acres each year.  
13 From 1950 to 1990, the population of the United States  
14 increased by more than 97,000,000, and Illinois'  
15 population increased by more than 2,700,000. As the  
16 world's population continues to grow, so will the need for  
17 food and other goods produced from agricultural  
18 commodities. Preserving farmland is necessary to meet the  
19 needs of people in Illinois, the United States, and around  
20 the globe.

21 (3) This conversion of agricultural land permanently  
22 impedes Illinois's current and future ability to store  
23 carbon, maintain resilient regional ecosystems, and

1 produce food.

2 (4) The growing population and expanding economy of  
3 this State have had a profound impact on the ability of the  
4 public and private sectors to conserve land for the  
5 production of food and fiber, especially agricultural land  
6 around urban areas.

7 (5) Agricultural lands near urban areas that are  
8 maintained in productive agricultural use are a  
9 significant part of Illinois' agricultural heritage. These  
10 lands contribute to the economic betterment of local areas  
11 and the entire State and are an important source of food,  
12 fiber, and other agricultural products. Conserving these  
13 lands is necessary due to increasing development pressures  
14 and the effects of urbanization on farmlands close to  
15 municipalities.

16 (6) The long-term conservation of agricultural land is  
17 necessary to safeguard an adequate supply of agricultural  
18 land and to balance the increasing development pressures  
19 around urban areas.

20 (7) A program to encourage and make possible the  
21 long-term conservation of agricultural lands is a  
22 necessary part of the State's agricultural land protection  
23 policies and programs, and it is appropriate to expend  
24 money for that purpose. A program of this nature will only  
25 be effective when used in concert with local planning and  
26 zoning strategies to conserve agricultural land.

1           (8) Funding is necessary to better address the needs  
2 of conserving agricultural land near urban areas.

3           (9) Concurrently, access to working lands for  
4 low-income farmers and farmers of color is prohibitively  
5 difficult, in part due to the ongoing legacies of  
6 institutionalized racism and discrimination and their  
7 effects upon access to State and federal farm loan  
8 programs.

9           (10) New opportunities are needed for socially  
10 disadvantaged farmers to access land through ownership or  
11 long-term leasing of farmland and rangeland.

12           (11) Down payment assistance, interest rate  
13 assistance, predevelopment and appraisal costs, and  
14 one-time investments in infrastructure improvements can  
15 provide favorable terms to socially disadvantaged farmers  
16 and support their access to and stewardship of Illinois  
17 farmland.

18           (12) Funding for fee title acquisition and  
19 agricultural conservation easements can make land  
20 permanently more affordable and accessible to socially  
21 disadvantaged farmers or ranchers, while ensuring that it  
22 is never lost to sprawl development.

23           (b) It is the intent of the General Assembly, in enacting  
24 this Act, to do all of the following:

25           (1) Encourage voluntary, long-term private stewardship  
26 of agricultural lands by offering landowners financial

1 incentives.

2 (2) Protect farming operations in agricultural areas  
3 from nonfarm land uses that may hinder and curtail farming  
4 operations.

5 (3) Encourage long-term conservation of productive  
6 agricultural lands in order to protect the agricultural  
7 economy of rural communities, as well as that of this  
8 State, for future generations of Illinoisans.

9 (4) Encourage local land use planning for orderly and  
10 efficient urban growth and conservation of agricultural  
11 land.

12 (5) Encourage local land use planning decisions that  
13 are consistent with the State's policies with regard to  
14 agricultural land conservation.

15 (6) Encourage improvements to enhance long-term  
16 sustainable agricultural uses.

17 (7) Remove barriers to socially disadvantaged farmers  
18 participating in the agricultural economy and stewarding  
19 working lands under conservation.

20 Section 10. Definitions. In this Act:

21 "Agricultural land" means prime farmland, farmland of  
22 statewide importance, unique farmland, farmland of local  
23 importance, and farmland of local potential. In those areas of  
24 the state where lands have not been surveyed for  
25 classification, land shall meet the requirements of "prime

1 farmland".

2 "Agricultural use value" means the fair market value of a  
3 property that is restricted by an easement to its productive  
4 commercial agricultural use value rather than the highest  
5 potential use value for residential or other nonagricultural  
6 purposes, plus any reasonable holding and transaction costs  
7 incurred by the applicant, as determined by the Department.

8 "Applicant" means a municipality, county, nonprofit  
9 organization, conservation district, park district, or  
10 cooperative that has the conservation of farmland among its  
11 stated purposes, as prescribed by law, or as expressed in the  
12 entity's locally adopted policies, that applies for a grant  
13 authorized under this Act.

14 "Department" means the Department of Agriculture.

15 "Director" means the Director of Agriculture.

16 "Eligible assistance entity" means a nonprofit  
17 organization or cooperative with demonstrated technical  
18 expertise in agricultural financing and farm business  
19 development assistance to achieve the purposes of this Act.

20 "Farmer-purchaser preference" or "option to purchase at  
21 agricultural value" means preemptive purchase rights or other  
22 provisions that are part of or linked to an agricultural  
23 conservation easement providing the easement holder the  
24 preferential right to purchase protected agricultural land at  
25 its agricultural use value in the event the landowner intends  
26 to sell that land to a purchaser who does not intend to

1 maintain the land in commercial agricultural production and  
2 who does not demonstrate, in a manner acceptable to the  
3 Department, a management plan and the agricultural experience  
4 to maintain the land in commercial agricultural production.  
5 The purpose of this provision is to ensure that  
6 farmer-purchasers who would maintain protected land in  
7 commercial agricultural production can afford the land that  
8 might otherwise be sold at a higher price to other purchasers.

9 "Prime farmland" has the meaning ascribed to it in 7 CFR  
10 657.5.

11 "Productivity provision" means language in the text of an  
12 agricultural conservation easement that requires the land  
13 under easement to be managed for productive commercial  
14 agricultural uses, with reasonable allowances for when  
15 temporary fallowing is necessary or appropriate.

16 "Socially disadvantaged farmer" means a farmer who is a  
17 member of a socially disadvantaged group.

18 "Socially disadvantaged group" means a group whose members  
19 have been subjected to racial, ethnic, or gender prejudice  
20 because of their identity as members of a group without regard  
21 to their individual qualities. These groups include all of the  
22 following:

- 23 (1) American Indian or Alaska Native (a person having  
24 origins in any of the original peoples of North and South  
25 America, including Central America, and who maintains  
26 tribal affiliation or community attachment).

1           (2) Asian (a person having origins in any of the  
2 original peoples of the Far East, Southeast Asia, or the  
3 Indian subcontinent, including, but not limited to,  
4 Cambodia, China, India, Japan, Korea, Malaysia, Pakistan,  
5 the Philippine Islands, Thailand, and Vietnam).

6           (3) Black or African American (a person having origins  
7 in any of the black racial groups of Africa).

8           (4) Hispanic or Latino (a person of Cuban, Mexican,  
9 Puerto Rican, South or Central American, or other Spanish  
10 culture or origin, regardless of race).

11           (5) Native Hawaiian or Other Pacific Islander (a  
12 person having origins in any of the original peoples of  
13 Hawaii, Guam, Samoa, or other Pacific Islands).

14           "Urbanized area" means an area with a population of at  
15 least 50,000 inhabitants.

16           Section 15. Farmland Conservancy Program Fund.

17           (a) The Farmland Conservancy Program Fund is created in  
18 the State treasury. Except as provided in subsection (b), the  
19 moneys in the fund, upon appropriation by the General  
20 Assembly, shall be used for the purposes of the program, which  
21 include the purchase of agricultural conservation easements,  
22 fee title acquisition grants, land improvement and planning  
23 grants, technical assistance grants, technical assistance  
24 provided by the Department, technology transfer activities of  
25 the Department, and administrative costs incurred by the



1 Department in administering the program.

2 (b) Notwithstanding subsection (a), moneys may be  
3 deposited into the fund from federal grants, and gifts and  
4 donations that are designated and required by the donor to be  
5 used exclusively for the purposes of the program.

6 (c) Not to exceed 10% of all grants made by the Department  
7 under this Act may be made for land improvement purposes,  
8 technical assistance purposes, and policy planning purposes.  
9 Not less than 90% of funds available for grants under this Act  
10 shall be expended for the acquisition of interests in land.  
11 For purposes of this Act, the expenditures specified in this  
12 subsection shall be deemed expenditures for the acquisition of  
13 interests in land. Not less than 25% of funds shall be provided  
14 to applicants that lease or sell to socially disadvantaged  
15 farmers. Moneys in the fund shall also be available for the  
16 following purposes:

17 (1) To provide technical assistance grants to eligible  
18 assistance entities in support of socially disadvantaged  
19 farmers who are seeking financing for land acquisition or  
20 leasing. For purposes of this Section, technical  
21 assistance includes, but is not limited to, organizing,  
22 advising, counseling, educating, planning, drafting,  
23 translating, interpreting, and consulting with socially  
24 disadvantaged farmers for the purpose of preparing them  
25 for favorable financing for land acquisition or  
26 negotiating leasing arrangements.

1           (2) To provide acquisition assistance grants to  
2 eligible assistance entities for the sole purpose of  
3 reducing barriers to land access for socially  
4 disadvantaged farmers, including, but not limited to, down  
5 payment assistance, interest rate assistance, direct costs  
6 incidental to acquisition, and infrastructure for land  
7 improvement.

8           (3) To provide technical assistance grants to eligible  
9 assistance entities in support of socially disadvantaged  
10 farmers who are seeking financing for land acquisition or  
11 leasing. For purposes of this paragraph (3), technical  
12 assistance includes, but is not limited to, organizing,  
13 advising, counseling, educating, planning, drafting,  
14 translating, interpreting, and consulting with socially  
15 disadvantaged farmers for the purpose of preparing them  
16 for favorable financing for land acquisition or  
17 negotiating leasing arrangements.

18           (4) To provide acquisition assistance grants to  
19 eligible assistance entities for the sole purpose of  
20 reducing barriers to land access for socially  
21 disadvantaged farmers, including, but not limited to, down  
22 payment assistance, interest rate assistance, direct costs  
23 incidental to acquisition, and infrastructure for land  
24 improvement.

25           Section 20. Agricultural conservation easement. Applicants

1 for an agricultural conservation easement or fee title  
2 acquisition grant shall meet all of the following eligibility  
3 criteria:

4 (1) Demonstrate that the parcel proposed for  
5 conservation is expected to continue to be used for  
6 commercial agricultural production if successfully  
7 conserved.

8 (2) The parcel proposed for conservation is expected  
9 to continue to be used for, and is large enough to sustain,  
10 commercial agricultural production. The land is also in an  
11 area that possesses the necessary market, infrastructure,  
12 and agricultural support services, and the surrounding  
13 parcel sizes and land uses will support long-term  
14 commercial agricultural production.

15 (3) The applicable municipality or county has a  
16 general plan that demonstrates a long-term commitment to  
17 agricultural land conservation. This commitment shall be  
18 reflected in the goals, objectives, policies, and  
19 implementation measures of the plan, as they relate to the  
20 area of the county or city where the easement acquisition  
21 is proposed.

22 (4) Without conservation, the land proposed for  
23 protection is likely to be converted to nonagricultural  
24 use in the foreseeable future.

25 The Director shall not disburse any grant funds for  
26 easement or fee title acquisitions unless the applicant, and

1 in the case of an easement acquisition grant, the seller,  
2 agrees to restrict the use of the land in perpetuity.

3 Section 25. Grant for acquisition of fee title to  
4 agricultural land.

5 (a) The Director shall disburse funds to an applicant for  
6 a grant for the acquisition of fee title to agricultural land  
7 only if the applicant agrees to all of the following  
8 conditions:

9 (1) Upon acquisition of the property, the applicant  
10 treats the property as encumbered by an agricultural  
11 conservation easement subject to this Act and approved by  
12 the Department.

13 (2) Upon acquisition of the property, the applicant  
14 shall do either of the following:

15 (A) Sell the fee title subject to an agricultural  
16 conservation easement approved by the Department to a  
17 private landowner at not more than agricultural use  
18 value within 3 years of the acquisition of the fee  
19 title.

20 (B) Lease the acquired property, subject to an  
21 agricultural conservation easement, including a  
22 productivity provision, at an affordable agricultural  
23 rate, and approved by the department, to a socially  
24 disadvantaged farmer or rancher within 3 years of the  
25 acquisition of the fee title.

1           (3) Include a farmer-purchaser preference in the text  
2           of the agricultural conservation easement used to encumber  
3           the acquired property.

4           (b)(1) If the applicant sells the fee title, as specified  
5           in subparagraph (A) of paragraph (2) of subsection (a), the  
6           applicant shall reimburse the fund directly from escrow within  
7           30 days after the sale of the restricted fee title by an amount  
8           equal to the Department's proportional share of the net  
9           proceeds of the sale.

10          (2) "Net proceeds of the sale" means the fair market value  
11          of the land less the value of the easement and associated  
12          transaction costs.

13          (3) The Department's proportional share of the net  
14          proceeds of the sale shall be calculated using a factor  
15          reflecting the Department's proportional share of the purchase  
16          price paid by the applicant in the original acquisition of fee  
17          title, taking into account contributions from all sources  
18          toward that original purchase price.

19          Section 30. Land improvement grants. Grants may be made  
20          for land improvements. Use of these grants shall be limited to  
21          the improvement of lands protected by agricultural  
22          conservation easements under the program, or of lands  
23          protected by other qualified conservation easement programs,  
24          if the improvement will directly benefit the lands protected  
25          by agricultural conservation easements under the program. An

1 application for a land improvement grant shall be evaluated  
2 with respect to the extent to which it satisfies one or more of  
3 the following criteria:

4 (1) The improvement will enhance the agricultural  
5 value of the land protected by the easement, and promote  
6 its long-term sustainable agricultural use such as  
7 increasing soil organic matter or soil health, water  
8 supply development, and revegetation of eroding  
9 streambanks.

10 (2) The improvement will increase the compatibility of  
11 agricultural operations with sensitive natural areas.

12 (3) The improvement will demonstrate new and  
13 innovative best management practices that have the  
14 potential for wide application.

15 (4) The proposed improvement includes the financial  
16 and technical involvement of other agencies, such as  
17 University of Illinois Cooperative Extension Service,  
18 conservation districts, the Department of Natural  
19 Resources, the United States Farm Services Agency, and the  
20 United States Natural Resources Conservation Service.

21 (5) The improvement is part of a coordinated watershed  
22 management plan or the equivalent.

23 (6) The application satisfies other relevant criteria  
24 established by the Department.

25 Section 35. Use of agricultural conservation easement or

1 fee title acquisition grant. Applicants for an agricultural  
2 conservation easement or fee title acquisition grant shall  
3 demonstrate that the parcel proposed for conservation is  
4 expected to continue to be used for commercial agricultural  
5 production if successfully conserved.

6 Section 40. Evaluation of proposals for fee title or  
7 agricultural conservation easement acquisition grant. The  
8 Director shall evaluate a proposal for a fee title or  
9 agricultural conservation easement acquisition grant based  
10 upon the overall value of the project, taking into  
11 consideration the goals and objectives for this program, and  
12 the extent to which the proposed project satisfies the  
13 following selection criteria:

14 (1) The quality of the agricultural land, based on  
15 land capability, farmland mapping and monitoring program  
16 definitions, productivity indices, and other soil,  
17 climate, and vegetative factors.

18 (2) The proposal meets multiple natural resource  
19 conservation objectives, including, but not limited to,  
20 wetland protection, wildlife habitat conservation, and  
21 scenic open-space preservation.

22 (3) The proposal reduces barriers to land access for  
23 socially disadvantaged farmers and ranchers through  
24 ownership or long-term leases.

25 (4) The applicant demonstrates fiscal and technical

1           capability to effectively carry out the proposal.  
2           Technical capability may be demonstrated by agricultural  
3           land conservation expertise on the governing board or  
4           staff of the applicant, or through partnership with an  
5           organization that has that expertise.

6           (5) The proposal demonstrates a coordinated approach  
7           among affected local stakeholders. If other entities are  
8           directly impacted by the proposal, there is written  
9           support from those entities demonstrating a willingness to  
10          cooperate. The support of neighboring landowners who are  
11          not involved in the proposal shall be considered.

12          (6) The conservation of the land supports long-term  
13          private stewardship and continued agricultural production  
14          in the region.

15          (7) The proposal demonstrates an innovative approach  
16          to agricultural land conservation with a potential for  
17          wide application in this State.

18          (8) The amount of matching funds and in-kind services  
19          contributed by local governments and other sources toward  
20          the acquisition of the fee title or agricultural  
21          conservation easement, or both.

22          (9) The price of the proposed acquisition is  
23          cost-effective in comparison to the fair market value.

24          (10) Other relevant considerations established by the  
25          Director.



1 Section 45. Compatibility with county or municipal plan.  
2 Before the disbursement of grant funds for easements or fee  
3 title acquisitions under this Act, both of the following  
4 conditions shall be met:

5 (1) The proposed agricultural conservation project  
6 shall be deemed by the Department to be compatible with  
7 the applicable municipal or county general plan.

8 (2) For land within a municipality's sphere of  
9 influence, the proposed agricultural conservation project  
10 shall be deemed by the Department to be compatible with  
11 both the applicable county and municipal general plans.

12 Section 50. Exemptions. An agricultural conservation  
13 easement shall not prevent any of the following:

14 (1) The granting of rights-of-way by the owner of the  
15 subject land in and through the land for the installation,  
16 transportation, or use of water, sewage, electric,  
17 telephone, stock water development and storage, energy  
18 generation, and fencing, provided that the agricultural  
19 productivity of the land and any multiple uses that made  
20 the acquisition a priority for selection under the  
21 program, are not significantly impaired by those  
22 activities.

23 (2) The construction and use of structures on the  
24 subject land that are necessary for agricultural  
25 production and marketing, including, but not limited to,

1 barns, shops, packing sheds, cooling facilities,  
2 greenhouses, roadside marketing stands, stock water  
3 development and storage, energy generation, and fencing,  
4 provided that the agricultural productivity of the land  
5 and any multiple uses that made the acquisition a priority  
6 for selection under the program, are not significantly  
7 impaired by those activities.

8 (3) Customary part time or off season rural  
9 enterprises or activities, including, but not limited to,  
10 hunting and fishing, wildlife habitat improvement,  
11 predator control, timber harvesting, and firewood  
12 production, provided that the agricultural productivity of  
13 the land and any multiple uses that made the acquisition a  
14 priority for selection under the program, are not  
15 significantly impaired by those activities.

16 Section 90. The State Finance Act is amended by adding  
17 Section 5.990 as follows:

18 (30 ILCS 105/5.990 new)

19 Sec. 5.990. The Farmland Conservancy Program Fund.