

1 AN ACT to amend the Agricultural Areas Conservation and
2 Protection Act.

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

5 Section 5. The Agricultural Areas Conservation and
6 Protection Act is amended by changing Sections 4, 5, 6, 7, 8,
7 9, 10, 11, 12, 13, 16, 17, 18, and 20.2 and by adding Section
8 11.5 as follows:

9 (505 ILCS 5/4) (from Ch. 5, par. 1004)

10 Sec. 4. Agricultural areas committee.

11 (a) A county board shall may establish a county
12 agricultural areas committee that ~~which~~ shall consist of (i)
13 4 ~~four~~ active farmers, no more than 2 ~~two~~ of whom shall be of
14 the same major political party, and (ii) a member of the
15 county board.

16 (1) The committee shall select one of its members
17 to serve as chairperson ~~chairman-of-the-county-committee~~.

18 (2) The ~~Sueh--a~~ committee shall be established
19 whenever a petition is received by the county board for
20 the creation of an agricultural area under ~~pursuant-to~~
21 Section 6. ~~A, provided that no such~~ county committee may
22 not be established if one has already been established
23 for the ~~sueh~~ county.

24 (3) Members of the ~~sueh~~ county committee shall be
25 appointed by and shall serve at the pleasure of the
26 county appointing authority.

27 (4) The members shall serve without salary, but the
28 county board may entitle each ~~sueh~~ member to
29 reimbursement for his actual necessary expenses incurred
30 in the performance of his official duties.

31 (b) The ~~Sueh~~ committee shall advise the county board in

1 relation to the proposed establishment, modification, and
 2 termination of agricultural areas. The county committee shall
 3 render expert advice relating to the desirability of such
 4 action, including advice as to the nature of farming and farm
 5 resources within the proposed area and the relation of
 6 farming in the such area to the county as a whole.

7 (Source: P.A. 81-1173.)

8 (505 ILCS 5/5) (from Ch. 5, par. 1005)

9 Sec. 5. Agricultural areas; creation. Any owner or
 10 owners of land may submit a petition ~~proposal~~ to the county
 11 board for the creation of an agricultural area within the
 12 such county according to the following provisions:-

13 (1) An agricultural area, at the creation of the
 14 any-such area, shall not be at least ~~less-than~~ 350 acres.

15 (2) The petition ~~Sueh--proposal~~ shall include a
 16 description of the proposed area, including its ~~the~~
 17 boundaries thereof.

18 (3) The Sueh territory shall be as compact and
 19 nearly contiguous as feasible.

20 (4) An area created under this Act shall be
 21 established for a period of 10 ~~ten~~ years.

22 (5) No land shall be included in an agricultural
 23 area without the consent of the owner.

24 (6) No land within an agricultural area shall be
 25 used for other than agricultural production as described
 26 in Sections 3.01 and 3.02 of this Act.

27 (7) Agreements for the extraction of mineral
 28 resources duly agreed upon before ~~prior-to~~ the creation
 29 of an agricultural area shall be exempted from the use
 30 provisions of this Section. In addition, the extraction
 31 of mineral resources conducted under ~~pursuant-to~~ the
 32 Surface Coal Mining Land Conservation and Reclamation Act
 33 shall be considered temporary land use and shall be

1 exempted from the use provisions of this Section.

2 (Source: P.A. 84-456.)

3 (505 ILCS 5/6) (from Ch. 5, par. 1006)

4 Sec. 6. Duties of the county board.

5 (a) Within 10 days after receiving ~~Upon the receipt of~~
6 such a petition to create an agricultural area proposal, the
7 county board shall provide notice of the petition (i) such
8 ~~proposal~~ by publishing a notice in a newspaper having general
9 circulation within the proposed area or, if no such newspaper
10 has a general circulation within the proposed area then in a
11 newspaper having general circulation within the county and
12 (ii) by posting the such notice in 5 ~~five~~ conspicuous places
13 within the proposed area. A copy of the such notice shall be
14 sent to the county or regional planning commission for review
15 or written comment to be made to the county board within 30
16 days. ~~Such comment shall be made to the county board.~~

17 The notice required to be published or posted under this
18 Section shall contain the following information:-

19 (1) ~~1-~~ A statement that a petition proposal for an
20 agricultural area has been filed with the county board
21 under pursuant to this Act.;

22 (2) ~~2-~~ A statement that the petition proposal will
23 be on file open to public inspection at the county
24 clerk's office.;

25 (3) ~~3-~~ A statement that any landowner, owning land
26 adjacent to or partially encompassed by the proposed
27 area, may propose a modification of the area to include
28 or exclude such lands, within 30 days of the date of
29 publication of the newspaper notice. The proposed
30 modification ~~Such application~~ shall be made on forms
31 prescribed by the county board.;

32 (4) ~~4-~~ A statement that any proposed modification
33 must be filed with the county clerk and the clerk of the

1 county board within 30 days after the publication of the
2 newspaper such notice.;

3 (5) 5. A statement that at the termination of the
4 ~~30-day~~ 30-day period, the petition ~~proposal~~ and proposed
5 modifications will be submitted to the county committee,
6 and that a public hearing will be held on the petition
7 ~~proposal~~, proposed modifications, and recommendations of
8 the county committee.

9 (b) The county board shall receive any petitions
10 ~~proposals~~ for modifications of the petition that such
11 ~~proposal~~-which may be submitted by the landowners within 30
12 days after the publication of the such notice.

13 (c) The county board shall simultaneously, upon the
14 termination of the 30-day such--30--day period, refer the
15 petition such--~~proposal~~ and proposed modifications to the
16 county committee, which shall, within 45 days, report to the
17 county board its recommendations concerning the petition
18 ~~proposal~~ and proposed modifications.

19 (Source: P.A. 81-1173.)

20 (505 ILCS 5/7) (from Ch. 5, par. 1007)

21 Sec. 7. Public hearing required.

22 (a) The Agricultural Areas Committee of the county board
23 shall hold a public hearing on any petition ~~proposal~~ for the
24 creation of an agricultural area. The Such hearing shall be
25 held at a place within the proposed area or a place readily
26 accessible to the proposed area.

27 (b) Notice of the hearing shall contain (i) a statement
28 of the time, date, and place of the public hearing and (ii) a
29 description of the proposed area and any proposed additions.
30 The Such notice shall in addition contain a statement that
31 the public hearing will be held concerning (i) the original
32 petition ~~proposal~~, (ii) any written modifications amendments
33 proposed during the 30 day review period, and (iii) any

1 recommendations proposed by the county committee or the
 2 planning commissions. The notice shall (i) be published in a
 3 newspaper having a general circulation within the proposed
 4 area or if no newspaper has general circulation within the
 5 proposed area, then in a newspaper having general circulation
 6 within the county, and (ii) shall be given in writing to the
 7 persons owning land within such a proposed area and adjacent
 8 to the proposed area.

9 (Source: P.A. 91-357, eff. 7-29-99.)

10 (505 ILCS 5/8) (from Ch. 5, par. 1008)

11 Sec. 8. Factors for Consideration--in formation of
 12 agricultural areas.

13 (a) County boards, county committees, and planning
 14 commissions shall grant a preference to the recommendations
 15 of the landowners within the proposed agricultural area. The
 16 following factors should also be considered by county boards,
 17 county committees, or planning commissions, with respect to
 18 the formation of any agricultural area:

19 (1) 1- The viability of active farming within the
 20 proposed area and in areas adjacent to the proposed area.
 21 thereto;

22 (2) 2- The presence of any viable farmlands within
 23 the proposed area and within land adjacent to the
 24 proposed area thereto that are not now in active
 25 farming.;

26 (3) 3- The nature and extent of land uses other
 27 than active farming within the proposed area and land
 28 adjacent to the proposed area. thereto;

29 (4) 4- County developmental patterns, plans, and
 30 needs.;

31 (5) 5- The existence of a conservation plan
 32 approved by the local soil and water conservation
 33 district.;

1 (6) The existence of public utilities within and
2 adjacent to the proposed area.

3 (7) 6. Any other matter that which may be relevant.

4 (b) In judging viability, any relevant agricultural
5 information shall be considered, including:

6 (1) Soil.

7 (2) Climate.

8 (3) Topography.

9 (4) Other natural factors.

10 (5) Markets for farm products.

11 (6) The extent and nature of farm improvements.

12 (7) The present status of farming.

13 (8) Anticipated trends in agricultural economic
14 conditions and technology--and-such

15 (9) Other factors as may be relevant.

16 (Source: P.A. 84-456.)

17 (505 ILCS 5/9) (from Ch. 5, par. 1009)

18 Sec. 9. Municipal notice and objections.

19 (a) If the proposed agricultural area includes real
20 estate within a 1 and one-half 1/2 mile radius from the
21 corporate limits of any municipality, the county board shall
22 notify the municipal authorities of the such affected
23 municipality of this proposed area.

24 (b) The Such municipal authorities may object to the
25 petition ~~proposal~~ if the such objection is presented to the
26 county board within 30 days after of the receipt of the
27 petition ~~proposal~~ by the municipal authorities.

28 Upon receipt of the such objection by the county board:
29 (i) the proposed area shall be modified to exclude the real
30 estate within the one-half 1-1/2 mile radius of the corporate
31 limits of the such municipality, and (ii) the proposed area
32 shall be modified to exclude the real estate between a
33 one-half and one and one-half mile radius of the corporate

1 limits of the municipality unless the property in question is
 2 approved for inclusion in the agricultural area by a
 3 favorable vote of three-fourths of all members of the county
 4 board. If no objection is received within the specified time
 5 period, the affected real estate shall be included in the
 6 agricultural area.

7 (Source: P.A. 81-1173.)

8 (505 ILCS 5/10) (from Ch. 5, par. 1010)

9 Sec. 10. Adoption of petition plan by county board. The
 10 ~~county-board,~~ After receiving the reports of the county
 11 committee and other comments, and after the such public
 12 hearing, the county board may adopt ~~as-a-plan~~ the petition
 13 ~~proposal~~ or any modification of the petition proposal it
 14 deems appropriate, including ~~the--inclusion,~~ to the extent
 15 feasible, of adjacent viable farmlands, and may exclude the
 16 ~~exclusion,~~ to the extent feasible, of non-viable farmland and
 17 non-farm land. The county board shall act to adopt or reject
 18 the petition proposal, or any modification of it not later
 19 than 45 days from the date that the county committee's
 20 recommendation on the petition proposal was submitted to it.
 21 The county board shall notify the Department of Agriculture
 22 of the adoption or rejection of the petition proposal and
 23 shall provide the Department with a description of the
 24 agricultural area within 45 days of taking the such action.

25 (Source: P.A. 84-456.)

26 (505 ILCS 5/11) (from Ch. 5, par. 1011)

27 Sec. 11. Filing Requirement--that description of area
 28 ~~Agricultural-Areas-be-filed~~ with county clerk and recorder.
 29 Upon the creation or alteration of an agricultural area, the
 30 county board must file the description and the accompanying
 31 board resolution or ordinance: thereof-shall-be-filed-by-the
 32 ~~county-board~~

1 (1) With the county clerk.

2 (2) ~~Such description shall also be placed~~ On record
3 in the office of the recorder.

4 (Source: P.A. 84-456.)

5 (505 ILCS 5/11.5 new)

6 Sec. 11.5. Stewardship agreements. The Department of
7 Agriculture may enter into agreements with any federal or
8 State agency, other entity, or with any landowner within an
9 agricultural area or proposed agricultural area as may be
10 necessary to furnish surveys, engineering, and assistance for
11 the formation, expansion, maintenance, or renewal of
12 agricultural conservation practices. The Department of
13 Agriculture shall develop, by rule, an incentive program for
14 land stewardship that pays up to 75% of the costs of these
15 conservation practices for land that is designated or
16 proposed to be designated as an agricultural area.

17 (505 ILCS 5/12) (from Ch. 5, par. 1012)

18 Sec. 12. Petition for Withdrawal. Any person owning land
19 within an agricultural area may submit a petition to the
20 county board requesting the withdrawal of land from the
21 agricultural area located within that county. Such petition
22 must contain:

23 1. A statement indicating the proposed alternative use
24 of the land.

25 2. An explanation of the necessity for changing the
26 current use.

27 3. An explanation why land outside the agricultural area
28 would not be suitable for proposed use.

29 4. A legal description, map, and acreage of the land
30 proposed for withdrawal.

31 (Source: P.A. 81-1173.)

1 (505 ILCS 5/13) (from Ch. 5, par. 1013)

2 Sec. 13. Procedures for Consideration of Petition for
3 Withdrawal.

4 1. Within 5 days after the receipt of a petition for
5 withdrawal of land from an agricultural area, the county
6 board shall provide notice of such petition by certified mail
7 to all record owners of property in the agricultural area and
8 by publishing a notice in a newspaper having general
9 circulation in the immediate area of the affected land or, if
10 no such newspaper has a general circulation within such area,
11 then in a newspaper having general circulation within the
12 county, and by posting such notice in 5 conspicuous places
13 within the immediate area of the affected land. Such notice
14 shall contain the following information:

15 (a) a statement that a petition for withdrawal of
16 land from an agricultural area has been filed with the
17 county board pursuant to this Act;

18 (b) a statement that the petition will be on file
19 open to public inspection at the county clerk's office;

20 (c) a brief, narrative description of the location
21 of the affected land;

22 (d) a statement of the proposed non-agricultural
23 use of the land;

24 (e) a statement that the petition will be referred
25 to the county committee and to the regional and county
26 planning commissions, if any, for review and comment;

27 (f) a statement that a public hearing will be held
28 within 60 days on the petition and on the recommendations
29 of the county committee and of the regional and county
30 planning commissions, if any, at a time and place to be
31 announced.

32 2. Within 5 days after the receipt of a petition for
33 withdrawal of land from an agricultural area, the county
34 board shall refer the petition to the county committee, which

1 shall, within 30 days of its receipt of the petition, report
2 to the county board its recommendations.

3 3. Within 5 days after the receipt of a petition for
4 withdrawal of land from an agricultural area, the county
5 board shall refer the petition to the regional and county
6 planning commissions, if any, which shall, within 30 days of
7 their receipt of the petition, report to the county board
8 their recommendations concerning the potential effect of the
9 withdrawal of land from an agricultural area upon the
10 development patterns and needs of the county and upon the
11 county's planning objectives.

12 (Source: P.A. 81-1173.)

13 (505 ILCS 5/16) (from Ch. 5, par. 1016)

14 Sec. 16. Review of agricultural areas by county board.
15 The county board shall review any agricultural area created
16 under this Act every 10 years after the date of its creation
17 ~~and every 8 years thereafter~~. In conducting the such review,
18 the county board shall:

19 (1) Grant a preference to the recommendations of
20 the landowners in the agricultural area.

21 (2) Ask for the recommendations of the county
22 committee, ~~and shall,~~

23 (3) At least 120 days before the 10-year ~~prior--to~~
24 ~~such~~ date, require the Agricultural Areas Committee to
25 hold a public hearing at a place within the area or other
26 readily accessible place. The Committee must give (i)
27 ~~upon~~ notice ~~being--given~~ in a newspaper having general
28 circulation within the area or if there is no such
29 newspaper, then in a newspaper having general circulation
30 within the county, and (ii) individual notice in writing
31 to the persons owning land within the area, to the
32 persons owning land adjacent to the area, and to the
33 county or regional planning commission.

1 Included in the notice to the landowners owning land in
 2 the agricultural area shall be a statement that, by
 3 submitting a letter to the agricultural areas committee at or
 4 prior to the public hearing, any landowner of land within the
 5 agricultural area may request that his or her land be removed
 6 from the agricultural area to be reviewed. The letter must
 7 contain:

8 (1) a request to remove land from the agricultural
 9 area;

10 (2) an affidavit that the author is the landowner
 11 of the land proposed for removal from the agricultural
 12 area; and

13 (3) a legal description, map, and acres proposed
 14 for removal from the agricultural area.

15 The land described in the letter shall no longer be included
 16 in the agricultural area.

17 ~~The--county--board~~ After receiving the landowners'
 18 recommendations and the reports of the county committee and
 19 after the public hearing, the county board may (i) terminate
 20 the area at the end of a 10-year period ~~sueh-10-er-8-year~~
 21 ~~periods~~ by filing a notice of termination with the county
 22 clerk, (ii) decide not to take any action, or (iii) the
 23 ~~county-board-may~~ modify the area in the same manner as is
 24 provided in Section 6 of this Act. If the county board does
 25 not act, the area shall continue as originally constituted.
 26 The county board shall notify the Department of Agriculture
 27 of any alterations to an agricultural area or the termination
 28 of an agricultural area within 45 days of taking the ~~sueh~~
 29 action.

30 (Source: P.A. 84-456.)

31 (505 ILCS 5/17) (from Ch. 5, par. 1017)

32 Sec. 17. Petition for dissolution. Ten years after the
 33 date of creation of any agricultural area and every 10 years

1 thereafter, owners of land within the such area may petition
 2 the county board to dissolve the area. The Such petition must
 3 be submitted in writing to the county board during the year
 4 120--day--period immediately prior to the 10th anniversary of
 5 the creation of the area. If Should the petition contains
 6 contain signatures of at-least-two-thirds of the landowners,
 7 their-heirs,-assigns--or--representatives, owning at least
 8 two-thirds of the land within the area, the area shall be
 9 dissolved. The county board shall notify the Department of
 10 Agriculture of the dissolution of any agricultural area
 11 within 45 days of taking the such action.

12 (Source: P.A. 84-456.)

13 (505 ILCS 5/18) (from Ch. 5, par. 1018)

14 Sec. 18. Limitation on local regulations and on suits.
 15 No local government shall exercise any of its powers to enact
 16 local laws or ordinances within an agricultural area in a
 17 manner that which would unreasonably restrict or regulate
 18 farm structures or farming practices, including the
 19 acquisition of land by annexation or eminent domain, in
 20 contravention of the purposes of this Act.

21 The owners of land within the agricultural area may not
 22 be subjected to a civil action for nuisance by a private
 23 party. The Department of Agriculture shall give technical
 24 assistance and provide other resources for owners of land
 25 within an agricultural area if subjected to any other private
 26 civil action. Nothing in this Act shall be construed as a
 27 limitation or preemption of any statutory or regulatory
 28 authority arising under subsection (a) of Section 9 of the
 29 Environmental Protection Act.

30 The unless--such restrictions or regulations may be
 31 adopted and the nuisance suits may be allowed if bearing bear
 32 a direct relationship to the public health or safety.

33 (Source: P.A. 81-1173.)

1 (505 ILCS 5/20.2) (from Ch. 5, par. 1020.2)

2 Sec. 20.2. Adding land to designated agricultural areas.

3 Any petition ~~preposal~~ for adding land to a designated
4 agricultural area shall be submitted to the county board
5 which shall forward the proposal to the county committee
6 within 10 days. Within 45 days from the date the petition
7 ~~preposal~~ was submitted to it, the county committee shall
8 review the proposed addition and shall recommend the
9 approval, disapproval or modification of the petition
10 ~~preposal~~. The county committee shall submit a report of its
11 recommendations to the county board which shall act on the
12 recommendations within 30 days. The county board shall
13 notify the Department of Agriculture of any addition of land
14 to a designated agricultural area within 45 days of taking
15 such action. Any land added to a designated agricultural area
16 under this Section shall be subject to review under Section
17 16 at the same times as the original area is subject to such
18 review. The dates for such review and the period during
19 which a petition may be filed under Section 17 shall not be
20 affected by the addition of land under this Section.

21 (Source: P.A. 84-456.)

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

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INDEX

Statutes amended in order of appearance

505 ILCS 5/4	from Ch. 5, par. 1004
505 ILCS 5/5	from Ch. 5, par. 1005
505 ILCS 5/6	from Ch. 5, par. 1006
505 ILCS 5/7	from Ch. 5, par. 1007
505 ILCS 5/8	from Ch. 5, par. 1008
505 ILCS 5/9	from Ch. 5, par. 1009
505 ILCS 5/10	from Ch. 5, par. 1010
505 ILCS 5/11	from Ch. 5, par. 1011
505 ILCS 5/11.5 new	
505 ILCS 5/12	from Ch. 5, par. 1012
505 ILCS 5/13	from Ch. 5, par. 1013
505 ILCS 5/16	from Ch. 5, par. 1016
505 ILCS 5/17	from Ch. 5, par. 1017
505 ILCS 5/18	from Ch. 5, par. 1018
505 ILCS 5/20.2	from Ch. 5, par. 1020.2