

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

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

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

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

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

30 (b) The ~~Sueh~~ committee shall advise the county board in
31 relation to the proposed establishment, modification, and

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

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

7 (505 ILCS 5/5) (from Ch. 5, par. 1005)

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

12 (1) An agricultural area, at the creation of the
13 any--such area, shall not be at least ~~less-than~~ 350 acres
14 in all counties with a population under 600,000 and not
15 less than 100 acres in all counties with a population of
16 600,000 or more.

17 (2) The petition ~~Such--proposal~~ shall include a
18 description of the proposed area, including its ~~the~~
19 boundaries thereof.

20 (3) The Such territory shall be as compact and
21 nearly contiguous as feasible.

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

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

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

29 (7) Agreements for the extraction of mineral
30 resources duly agreed upon before ~~prior-to~~ the creation
31 of an agricultural area shall be exempted from the use
32 provisions of this Section. In addition, the extraction
33 of mineral resources conducted under ~~pursuant-to~~ the

1 Surface Coal Mining Land Conservation and Reclamation Act
2 shall be considered temporary land use and shall be
3 exempted from the use provisions of this Section.

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

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

6 Sec. 6. Duties of the county board.

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

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

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

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

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

1 (4) 4- A statement that any proposed modification
 2 must be filed with the county clerk and the clerk of the
 3 county board within 30 days after the publication of the
 4 newspaper such notice.;

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

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

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

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

22 (505 ILCS 5/7) (from Ch. 5, par. 1007)

23 Sec. 7. Public hearing required.

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

29 (b) Notice of the hearing shall contain (i) a statement
 30 of the time, date, and place of the public hearing and (ii) a
 31 description of the proposed area and any proposed additions.
 32 The Such notice shall in addition contain a statement that
 33 the public hearing will be held concerning (i) the original

1 petition proposal, (ii) any written modifications amendments
 2 proposed during the 30 day review period, and (iii) any
 3 recommendations proposed by the county committee or the
 4 planning commissions. The notice shall (i) be published in a
 5 newspaper having a general circulation within the proposed
 6 area or if no newspaper has general circulation within the
 7 proposed area, then in a newspaper having general circulation
 8 within the county, and (ii) shall be given in writing to the
 9 persons owning land within such a proposed area and adjacent
 10 to the proposed area.

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

12 (505 ILCS 5/8) (from Ch. 5, par. 1008)

13 Sec. 8. Factors for Consideration--in formation of
 14 agricultural areas.

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

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

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

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

31 (4) 4- County developmental patterns, plans, and
 32 needs.;

33 (5) 5- The existence of a conservation plan

1 approved by the local soil and water conservation
2 district, ~~and~~

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

5 (7) 6. Any other matter that which may be relevant.

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

8 (1) Soil.

9 (2) Climate.

10 (3) Topography.

11 (4) Other natural factors.

12 (5) Markets for farm products.

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

14 (7) The present status of farming.

15 (8) Anticipated trends in agricultural economic
16 conditions and technology. ~~and such~~

17 (9) Other factors as may be relevant.

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

19 (505 ILCS 5/9) (from Ch. 5, par. 1009)

20 Sec. 9. Municipal notice and objections.

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

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

30 Upon receipt of the such objection by the county board:

31 (i) the proposed area shall be modified to exclude the real
32 estate within the one-half 1/2 mile radius of the corporate
33 limits of the such municipality, and (ii) the proposed area

1 shall be modified to exclude the real estate between a
 2 one-half and one and one-half mile radius of the corporate
 3 limits of the municipality unless the property in question is
 4 approved for inclusion in the agricultural area by a
 5 favorable vote of three-fourths of all members of the county
 6 board. If no objection is received within the specified time
 7 period, the affected real estate shall be included in the
 8 agricultural area.

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

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

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

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

28 (505 ILCS 5/11) (from Ch. 5, par. 1011)

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

1 ~~board resolution or ordinance: thereof shall be filed by the~~
2 ~~county board~~

3 (1) With the county clerk.

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

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

7 (505 ILCS 5/11.5 new)

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

20 (505 ILCS 5/12) (from Ch. 5, par. 1012)

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

26 1. A statement indicating the proposed alternative use
27 of the land.

28 2. An explanation of the necessity for changing the
29 current use.

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

32 4. A legal description, map, and acreage of the land

1 proposed for withdrawal.

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

3 (505 ILCS 5/13) (from Ch. 5, par. 1013)

4 Sec. 13. Procedures for Consideration of Petition for
5 Withdrawal.

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

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

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

22 (c) a brief, narrative description of the location
23 of the affected land;

24 (d) a statement of the proposed non-agricultural
25 use of the land;

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

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

1 2. Within 5 days after the receipt of a petition for
 2 withdrawal of land from an agricultural area, the county
 3 board shall refer the petition to the county committee, which
 4 shall, within 30 days of its receipt of the petition, report
 5 to the county board its recommendations.

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

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

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

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

22 (1) Grant a preference to the recommendations of
 23 the landowners in the agricultural area.

24 (2) Ask for the recommendations of the county
 25 committee, and shall

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

1 to the persons owning land within the area, to the
2 persons owning land immediately adjacent to the area, and
3 to the county or regional planning commission.

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

11 (1) a request to remove land from the agricultural
12 area;

13 (2) an affidavit that the author is the landowner
14 of the land proposed for removal from the agricultural
15 area; and

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

18 The land described in the letter shall no longer be included
19 in the agricultural area.

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

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

1 (505 ILCS 5/17) (from Ch. 5, par. 1017)

2 Sec. 17. Petition for dissolution. Ten years after the
3 date of creation of any agricultural area and every 10 years
4 thereafter, owners of land within the such area may petition
5 the county board to dissolve the area. The Such petition must
6 be submitted in writing to the county board during the year
7 120-day-period immediately prior to the 10th anniversary of
8 the creation of the area. If Should the petition contains
9 contain signatures of-at-least-two-thirds of the landowners,
10 their--heirs,--assigns--or--representatives, owning at least
11 two-thirds of the land within the area, the area shall be
12 dissolved. The county board shall notify the Department of
13 Agriculture of the dissolution of any agricultural area
14 within 45 days of taking the such action.

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

16 (505 ILCS 5/18) (from Ch. 5, par. 1018)

17 Sec. 18. Limitation on local regulations and on suits.
18 No local government shall exercise any of its powers to enact
19 local laws or ordinances within an agricultural area in a
20 manner that which would unreasonably restrict or regulate
21 farm structures or farming practices in contravention of the
22 purposes of this Act.

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

32 The unless--such restrictions or regulations may be
33 adopted and the nuisance suits may be allowed if bearing bear

1 a direct relationship to the public health or safety.

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

3 (505 ILCS 5/20.2) (from Ch. 5, par. 1020.2)

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

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

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

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

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Statutes amended in order of appearance

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505 ILCS 5/4 from Ch. 5, par. 1004

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505 ILCS 5/5 from Ch. 5, par. 1005

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505 ILCS 5/6 from Ch. 5, par. 1006

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505 ILCS 5/7 from Ch. 5, par. 1007

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505 ILCS 5/8 from Ch. 5, par. 1008

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505 ILCS 5/9 from Ch. 5, par. 1009

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505 ILCS 5/10 from Ch. 5, par. 1010

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505 ILCS 5/11 from Ch. 5, par. 1011

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505 ILCS 5/11.5 new

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505 ILCS 5/12 from Ch. 5, par. 1012

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505 ILCS 5/13 from Ch. 5, par. 1013

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505 ILCS 5/16 from Ch. 5, par. 1016

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505 ILCS 5/17 from Ch. 5, par. 1017

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505 ILCS 5/18 from Ch. 5, par. 1018

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505 ILCS 5/20.2 from Ch. 5, par. 1020.2