



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB3786

Introduced 2/25/2005, by Rep. Roger L. Eddy

SYNOPSIS AS INTRODUCED:

New Act
30 ILCS 105/5.640 new

Creates the Patented Seed Act. Requires that a farmer who plants patented seed and seeks to retain seed from the harvest for the purpose of replanting must register with the Department of Agriculture the type of seed and the quantity of seed to be retained. Requires that the farmer pay a \$7 fee per bushel, which shall be used by the Department to pay the patent holder and defray administrative costs. Limits a farmer's liability for death, injury, or loss relating to patented seed. Amends the State Finance Act to create the Genetically Engineered Seed Fund as a special fund in the State treasury for the deposit of the fees. Effective immediately.

LRB094 07333 JAM 37491 b

FISCAL NOTE ACT
MAY APPLY

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 Patented Seed Act.

6 Section 5. Definitions. As used in this Act:

7 "Department" means the Illinois Department of
8 Agriculture.

9 "Director" means the Illinois Director of Agriculture.

10 "Patented seed" means seed for which a patent has been
11 issued by the United States Patent and Trademark Office.

12 Section 10. Registered use of patented seed. A farmer who
13 plants patented seed and seeks to retain seed from the harvest
14 of the planting for his or her own replanting purposes,
15 regardless of where the seeds are to be replanted, shall
16 register with the Department on a form that the Director shall
17 prescribe and provide. On the form, the farmer shall specify
18 the type of seed and the number of bushels of seed to be
19 retained for replanting purposes. The farmer shall include with
20 the form a fee in the amount of \$7 per bushel of seed to be
21 retained.

22 Section 15. Genetically Engineered Seed Fund. Fees
23 collected under this Act shall be deposited into the
24 Genetically Engineered Seed Fund, a special fund created in the
25 State treasury. The Fund shall be used for the purposes
26 specified in this Act.

27 Section 20. Use of Fund.

28 (a) The Director shall determine who holds the patent on
29 each bushel of seed for which a fee is collected under this

1 Act. In making the determination, the Director may consult with
2 the United States Patent and Trademark Office or the United
3 States Department of Agriculture.

4 (b) Upon appropriation from the Fund, the Director shall
5 distribute each per-bushel fee that is deposited into the
6 Genetically Engineered Seed Fund as follows:

7 (1) \$6 of the fee shall be paid on a quarterly basis to
8 the person who holds the patent on the seed that was the
9 subject of the fee.

10 (2) \$1 of the fee shall be used to defray the
11 Department's administrative costs associated with the
12 registration of patented seed. The Director shall certify
13 any amounts that are not needed to defray those costs to
14 the Director of the Governor's Office of Management and
15 Budget, who may direct the use of the certified amounts
16 from the Genetically Engineered Seed Fund to an appropriate
17 program of the University of Illinois for purposes of
18 agricultural research and development.

19 Section 25. Limited liability. A farmer who plants patented
20 seed is immune from liability in a civil suit for any death,
21 injury, or loss to person or property that is related to any
22 health, safety, or environmental impacts of the patented seed
23 unless the farmer purposely or negligently fails substantially
24 to follow the patent holder's and manufacturer's instructions
25 and guidelines for planting the seed.

26 Section 95. The State Finance Act is amended by adding
27 Section 5.640 as follows:

28 (30 ILCS 105/5.640 new)

29 Sec. 5.640. The Genetically Engineered Seed Fund.

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.