

(505 ILCS 5/) Agricultural Areas Conservation and Protection Act.

Illinois Compiled Statutes (ILCS)

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(505 ILCS 5/1) (from Ch. 5, par. 1001)

Sec. 1. Short title. This Act shall be known and may be cited as the "Agricultural Areas Conservation and Protection Act".

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

(505 ILCS 5/2) (from Ch. 5, par. 1002)

Sec. 2. Legislative findings and intent. It is the policy of the State to conserve, protect and to encourage the development and improvement of its agricultural lands for the production of food and other agricultural products. It is also the policy of this State to conserve and protect agricultural lands as valued natural and ecological resources which provide needed open spaces for clean air sheds as well as for aesthetic purposes. Agriculture in many parts of the State is under urban pressure from expanding metropolitan areas. This urban pressure takes the form of scattered development in wide belts around urban areas, brings conflicting land uses into juxtaposition, creates high costs for public services, and stimulates land speculation. When this scattered development extends into productive farm areas, ordinances inhibiting farming tend to follow, farm taxes rise, and hopes for speculative gains discourage investments in farm improvements. Much agricultural land in Illinois is in jeopardy of being lost for any agricultural purpose. Certain of these lands constitute unique and irreplaceable land resources of Statewide importance. It is the purpose of this Act to provide a means by which agricultural land may be protected and enhanced as a viable segment of the State's economy and as an economic and environmental resource of major importance.

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

(505 ILCS 5/3) (from Ch. 5, par. 1003)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires, the terms specified in Sections 3.01 through 3.08 have the meanings ascribed to them in those Sections.

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

(505 ILCS 5/3.01) (from Ch. 5, par. 1003.01)

Sec. 3.01. "Agricultural Production" means the production for commercial purposes of crops, livestock and livestock and aquatic products, but not land or portions thereof used for processing of such crops, livestock or livestock or aquatic products.

(Source: P.A. 85-856.)

(505 ILCS 5/3.02) (from Ch. 5, par. 1003.02)

Sec. 3.02. "Crops, livestock and livestock and aquatic products" include but are not limited to the following: legume, hay, grain, fruit, and truck or

vegetable crops, floriculture, horticulture, mushroom growing, nurseries, orchards, forestry, greenhouses and aquatic products, including any aquatic plants and animals or their by-products that are produced, grown, managed, harvested and marketed on an annual, semi-annual, biennial or short-term basis, in permitted aquaculture facilities; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, pony and horse production, fur and wildlife farms, farm buildings used for growing, harvesting and preparing crop products for market, or for use on the farm; roadside stands, farm buildings for storing and protecting farm machinery and equipment from the elements, for housing livestock or poultry and for preparing livestock or poultry products for market; farm dwellings occupied by farm owners, operators, tenants or seasonal or year-round hired workers.

(Source: P.A. 102-555, eff. 1-1-22.)

(505 ILCS 5/3.03) (from Ch. 5, par. 1003.03)

Sec. 3.03. "Public Agency" means the State of Illinois or any political subdivision, or any agency, board, or department thereof, any special district, any municipality or any unit of local government.

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

(505 ILCS 5/3.04) (from Ch. 5, par. 1003.04)

Sec. 3.04. "Viable Farm Land" means land suitable for agricultural production and which will continue to be economically feasible for such use if real estate taxes, farm use restrictions, and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related non-agricultural development.

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

(505 ILCS 5/3.05) (from Ch. 5, par. 1003.05)

Sec. 3.05. "County Committee" means the County Agricultural Areas Committee.

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

(505 ILCS 5/3.06) (from Ch. 5, par. 1003.06)

Sec. 3.06. "Active Farmer" means any individual actively involved in the day-to-day operation or management of a farm and deriving at least 50% of his gross income from such management or operation.

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

(505 ILCS 5/3.07) (from Ch. 5, par. 1003.07)

Sec. 3.07. "County Board" means the county board of any county in this State except those counties with a population of 1 million or more.

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

(505 ILCS 5/3.08) (from Ch. 5, par. 1003.08)

Sec. 3.08. "County Appointing Authority" means a group comprised of the county board chairman, the county agricultural extension advisor and the chairman of the county soil and water conservation district which appoints persons to serve on the county agricultural areas committee.

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

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

Sec. 4. Agricultural Areas Committee. A county board may establish a county committee which shall consist of four active farmers, no more than two of whom shall be of the same major political party, and

a member of the county board. The committee shall select one of its members to serve as chairman of the county committee. Such a committee shall be established whenever a petition is received by the county board for the creation of an agricultural area pursuant to Section 6, provided that no such county committee has already been established for such county. Members of such county committee shall be appointed by and shall serve at the pleasure of the county appointing authority. The members shall serve without salary, but the county board may entitle each such member to reimbursement for his actual necessary expenses incurred in the performance of his official duties. Such committee shall advise the county board in relation to the proposed establishment, modification, and termination of agricultural areas. The county committee shall render expert advice relating to the desirability of such action, including advice as to the nature of farming and farm resources within the proposed area and the relation of farming in such area to the county as a whole.

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

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

Sec. 5. Agricultural Areas; Creation. Any owner or owners of land may submit a proposal to the county board for the creation of an agricultural area within such county. An agricultural area, at the creation of any such area, shall not be less than 350 acres in all counties with a population under 600,000 and not less than 100 acres in all counties with a population of 600,000 or more. Such proposal shall include a description of the proposed area, including the boundaries thereof. Such territory shall be as compact and nearly contiguous as feasible. If any portion of the proposed area is not contiguous to another portion of the proposed area, that non-contiguous portion must be no more than 1.5 miles from the nearest other portion of the proposed area as measured between the closest boundaries of the 2 portions. An area created under this Act shall be established for a period of ten years. No land shall be included in an agricultural area without the consent of the owner. No land within an agricultural area shall be used for other than agricultural production as described in Sections 3.01 and 3.02 of this Act. Agreements for the extraction of mineral resources duly agreed upon prior to the creation of an agricultural area shall be exempted from the use provisions of this Section. In addition, the extraction of mineral resources conducted pursuant to the Surface Coal Mining Land Conservation and Reclamation Act shall be considered temporary land use and shall be exempted from the use provisions of this Section.

(Source: P.A. 93-234, eff. 7-22-03; 94-444, eff. 1-1-06.)

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

Sec. 6. Duties of the County Board. (a) Upon the receipt of such a proposal, the county board shall provide notice of such proposal by publishing a notice in a newspaper having general circulation within the proposed area or, if no such newspaper has a general circulation within the proposed area then in a newspaper having general circulation within the county and by posting such notice in five conspicuous places within the proposed area. A copy of such notice shall be sent to the county or regional planning commission for review or comment within 30 days. Such comment shall be made to the county board. The notice required to be published or posted under this Section shall contain the following information.

1. a statement that a proposal for an agricultural area has been filed with the county board pursuant to this Act;

2. a statement that the proposal will be on file open to public inspection at the county clerk's office;

3. a statement that any landowner, owning land adjacent to or partially encompassed by the proposed area may propose a modification of the area to include or exclude such lands, within 30 days of the date of publication of notice. Such application shall be made on forms prescribed by the county board;

4. a statement that any proposed modification must be filed with the county clerk and the clerk of the county board within 30 days after the publication of such notice;

5. a statement that at the termination of the 30 day period, the proposal and proposed modifications will be submitted to the county committee, and that a public hearing will be held on the proposal, proposed modifications and recommendations of the county committee.

(b) The county board shall receive any proposals for modifications of such proposal which may be submitted by the landowners within 30 days after the publication of such notice.

(c) The county board shall simultaneously, upon the termination of such 30 day period, refer such proposal and proposed modifications to the county committee, which shall, within 45 days report to the county board its recommendations concerning the proposal and proposed modifications.

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

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

Sec. 7. Public hearing required. The Agricultural Areas Committee of the county board shall hold a public hearing on any proposal for the creation of an agricultural area. Such hearing shall be held at a place within the proposed area or a place readily accessible to the proposed area. Notice of the hearing shall contain a statement of the time, date and place of the public hearing and a description of the proposed area and any proposed additions. Such notice shall in addition contain a statement that the public hearing will be held concerning the original proposal, any written amendments proposed during the 30 day review period and any recommendations proposed by the county committee or the planning commissions. The notice shall be published in a newspaper having a general circulation within the proposed area or if no newspaper has general circulation within the proposed area, then in a newspaper having general circulation within the county, and shall be given in writing to the persons owning land within such a proposed area.

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

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

Sec. 8. Factors for Consideration in Formation of Agricultural Areas. (a) The following factors should be considered by county boards, county committees, or planning commissions, with respect to the formation of any agricultural area:

1. the viability of active farming within the proposed area and in areas adjacent thereto;

2. the presence of any viable farmlands within the proposed area and adjacent thereto that are not now in active farming;

3. the nature and extent of land uses other than active farming within the proposed area and adjacent thereto;

4. county developmental patterns and needs;

5. the existence of a conservation plan approved by the local soil and water conservation district; and

6. any other matter which may be relevant.

(b) In judging viability, any relevant agricultural information shall be considered, including soil, climate, topography, other natural factors, markets for farm products, the extent and nature of farm improvements, the present status of farming, anticipated trends in agricultural economic conditions and technology, and such other factors as may be relevant.

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

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

Sec. 9. If the proposed agricultural area includes real estate within a 1 1/2 mile radius from the corporate limits of any municipality, the county board shall notify the municipal authorities of such affected municipality of this proposed area. Such municipal authorities may object to the proposal if such objection is presented to the county board within 30 days of the receipt of the proposal by the municipal authorities. Upon receipt of such objection by the county board, the proposed area shall be modified to exclude the real estate within the 1 1/2 mile radius of the corporate limits of such municipality. If no objection is received within the specified time period, the affected real estate shall be included in the agricultural area.

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

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

Sec. 10. Adoption of Plan by County Board. The county board, after receiving the reports of the county committee and other comments, and after such public hearing, may adopt as a plan the proposal or any modification of the proposal it deems appropriate, including the inclusion, to the extent feasible, of adjacent viable farmlands, and the exclusion, to the extent feasible, of non-viable farmland and non-farm land. The county board shall act to adopt or reject the proposal, or any modification of it not later than 45 days from the date the county committee's recommendation on the proposal was submitted to it. The county board shall notify the Department of Agriculture of the adoption or rejection of the proposal and shall provide the Department with a description of the agricultural area within 45 days of taking such action.

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

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

Sec. 11. Requirement that Description of Agricultural Areas be filed with County Clerk and Recorder. Upon the creation or alteration of an agricultural area, the description thereof shall be filed by the county board with the county clerk. Such description shall also be placed on record in the office of the recorder.

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

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

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

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

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

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

use.

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

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

Sec. 13. Procedures for Consideration of Petition for Withdrawal. 1. Within 5 days after the receipt of a petition for withdrawal of land from an agricultural area, the county board shall provide notice of such petition by publishing a notice in a newspaper having general circulation in the immediate area of the affected land or, if no such newspaper has a general circulation within such area, then in a newspaper having general circulation within the county, and by posting such notice in 5 conspicuous places within the immediate area of the affected land. Such notice shall contain the following information:

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

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

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

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

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

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

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

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

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

(505 ILCS 5/14) (from Ch. 5, par. 1014)

Sec. 14. Procedures for Public Hearings on Petitions for Withdrawal. The Agricultural Areas Committee of the county board shall hold a public hearing within 60 days of the receipt of a petition for withdrawal of land from an agricultural area. The hearing shall be held at a location readily accessible to the public and proximate to the affected land. Not less than 7 days prior to the date of the public hearing, the county board shall provide notice of such public hearing by publishing a notice in a newspaper having general circulation in the immediate area of the affected land, or, if no newspaper has a general circulation in the immediate area of the affected land, then in a newspaper having general circulation within the county. Such notice shall be given in writing to the owner or owners of land in or immediately adjacent to the agricultural area. Such notice shall contain the following information:

1. a statement of the date, time and place of

the public hearing;

2. a description of the location of the affected land and the proposed non-agricultural use;

3. a statement that the public hearing will concern the petition and the recommendations of the county committee and of the regional and county planning commissions, if any.

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

(505 ILCS 5/15) (from Ch. 5, par. 1015)

Sec. 15. Withdrawal of Land from an Agricultural Area. 1. Within 90 days after the receipt of a petition for withdrawal of land from an agricultural area, the county board shall accept or reject the petition in a written decision. The county board's decision shall take into account the review and comment of the county committee, the regional and county planning commissions, if any, and the public hearings held concerning the petition. The county board shall notify the Department of Agriculture of any land withdrawn from an agricultural area within 45 days of taking such action.

2. The county board must consider the factors included in Section 8 of this Act in making its decision. Analysis of such factors must be included in the county board's decision.

3. If there remains less than 350 acres in the agricultural area following a withdrawal of land, the area designation shall cease to exist.

4. Any person adversely affected by a decision of the county board on a petition of withdrawal of land from an agricultural area may obtain judicial review by filing a petition for review within 35 days after the decision, pursuant to the provisions of the Administrative Review Law, as amended, and the rules adopted pursuant thereto.

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

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

Sec. 16. Review of Agricultural Areas by County Board. The county board shall review any agricultural area created under this Act 10 years after the date of its creation and every 8 years thereafter. In conducting such review, the county board shall ask for the recommendations of the county committee, and shall, at least 120 days prior to such date, require the Agricultural Areas Committee to hold a public hearing at a place within the area or other readily accessible place upon notice being given in a newspaper having general circulation within the area or if there is no such newspaper, then in a newspaper having general circulation within the county, and individual notice in writing to the persons owning land within the area, and to the county or regional planning commission. The county board after receiving the reports of the county committee and after the public hearing, may terminate the area at the end of such 10 or 8 year periods by filing a notice of termination with the county clerk or the county board may modify the area in the same manner as is provided in Section 6 of this Act. If the county board does not act, the area shall continue as originally constituted. The county board shall notify the Department of Agriculture of any alterations to an agricultural area or the termination of an agricultural area within 45 days of taking such action.

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

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

Sec. 17. Petition for Dissolution. Ten years after the date of creation of any agricultural area, owners of land within such area may petition the

county board to dissolve the area. Such petition must be submitted in writing to the county board during the 120 day period immediately prior to the 10th anniversary of the creation of the area. Should the petition contain signatures of at least two-thirds of the landowners, their heirs, assigns or representatives, owning land within the area, the area shall be dissolved. The county board shall notify the Department of Agriculture of the dissolution of any agricultural area within 45 days of taking such action.

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

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

Sec. 18. Limitation on Local Regulations. No local government shall exercise any of its powers to enact local laws or ordinances within an agricultural area in a manner which would unreasonably restrict or regulate farm structures or farming practices in contravention of the purposes of this Act unless such restrictions or regulations bear a direct relationship to the public health or safety.

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

(505 ILCS 5/19) (from Ch. 5, par. 1019)

Sec. 19. Policy of State Agencies. It shall be the policy of all state agencies to encourage the maintenance of viable farming in agricultural areas and their administrative regulations and procedures shall be modified to this end insofar as are consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirement of federal agencies, including provisions applicable only to obtaining federal grants, loans, or other funding.

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

(505 ILCS 5/20) (from Ch. 5, par. 1020)

Sec. 20. Limitation on power of certain public agencies to impose benefit assessments or special ad valorem levies. No political subdivision providing public services such as sewer, water or lights or for non-farm drainage may impose benefit assessments or special ad valorem levies on land used for primarily agricultural production within an agricultural area on the basis of frontage, acreage, or value, unless such benefit assessments or special ad valorem levies were imposed prior to the formation of the agricultural area, or unless such service is provided to the landowner on the same basis as others having the service.

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

(505 ILCS 5/20.1) (from Ch. 5, par. 1020.1)

Sec. 20.1. Report to General Assembly and State Agencies. The Department of Agriculture shall make an annual report to the General Assembly on the location and size of all agricultural areas created or dissolved during the past year and of any other alterations of agricultural areas. For the purpose of planning project alternatives, the Department of Agriculture shall provide a description of all agricultural areas to the following agencies and shall notify the following agencies of the creation, alteration, or dissolution of agricultural areas: the Governor's Office of Management and Budget, the Department of Natural Resources, the Illinois Commerce Commission, the Department of Commerce and Economic Opportunity, the Environmental Protection Agency, the Capital Development Board, and the Department of Transportation.

(Source: P.A. 94-793, eff. 5-19-06.)

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

Sec. 20.2. Adding Land to Designated Agricultural Areas. Any proposal for adding land to a designated agricultural area shall be submitted to the county board which shall forward the proposal to the county committee within 10 days. Within 45 days from the date the proposal was submitted to it, the county committee shall review the proposed addition and shall recommend the approval, disapproval or modification of the proposal. The county committee shall submit a report of its recommendations to the county board which shall act on the recommendations within 30 days. The county board shall notify the Department of Agriculture of any addition of land to a designated agricultural area within 45 days of taking such action. Any land added to a designated agricultural area under this Section shall be subject to review under Section 16 at the same times as the original area is subject to such review. The dates for such review and the period during which a petition may be filed under Section 17 shall not be affected by the addition of land under this Section. (Source: P.A. 84-456.)

(505 ILCS 5/20.3) (from Ch. 5, par. 1020.3)

Sec. 20.3. Land Ownership and Agricultural Areas. There shall be no restrictions on buying and selling of land in an agricultural area. Agricultural area designation of any land shall not be affected by any change in ownership of the land. (Source: P.A. 84-456.)