



104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5158

Introduced 2/10/2026, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

New Act

Creates the Agricultural Protection Area Act. Directs the Department of Agriculture to establish and administer a voluntary statewide program for the creation and recognition of agricultural protection areas and to adopt rules. Authorizes the Department to appoint an Agricultural Protection Area Commission to advise the Department and to make recommendations on applications to designate land as an agricultural protection area. Provides procedures for review of an initial application to designate land as an agricultural protection area, for renewal after 20 years, and for adding land to or removing land from an agricultural protection area. Requires recording of agricultural protection areas. Limits local regulations within agricultural protection areas and limits home rule powers and functions. Declares that agricultural activities within an agricultural protection area are not a public nuisance. Restricts eminent domain for nonagricultural purposes. Declares findings. Defines terms.

LRB104 17459 BDA 30885 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 Agricultural Protection Area Act.

6 Section 5. Findings. The General Assembly finds that:

7 (1) Working farms provide essential benefits to
8 Illinois by sustaining the State's economy, food and fiber
9 production, and the cultural heritage of local
10 communities.

11 (2) Agricultural land is increasingly threatened by
12 conversion to nonagricultural uses.

13 (3) It is the policy of this State to encourage
14 voluntary efforts to preserve and enhance the long-term
15 viability of agricultural land and to minimize unnecessary
16 governmental interference with property rights.

17 Section 10. Definitions. In this Act:

18 "Agricultural production" means activities conducted on
19 land actively devoted to agriculture, including the
20 cultivation of crops and the raising of livestock and poultry,
21 and associated on farm structures and practices.

22 "Agricultural protection area" means one or more specific

1 parcels of land voluntarily designated under this Act for the
2 purpose of protecting and preserving agricultural use.

3 "Applicant" means a person who owns 5 acres or more of land
4 that has been in active agricultural production for the
5 previous 3 consecutive years and who applies for that land to
6 be part of an agricultural protection area.

7 "Department" means the Illinois Department of Agriculture.

8 "Generally accepted farming practices" means farming
9 practices that are customary in Illinois agriculture and
10 consistent with applicable State and federal laws and rules.

11 "Hardship" means a situation or circumstance over which a
12 landowner in an agricultural protection area has no control,
13 including, without limitation, an adverse result in litigation
14 against the farm or landowner; the death of a close family
15 member leading to unanticipated financial hardship;
16 significant tax liabilities; bankruptcy due to another
17 person's fraud; or other illegal activity.

18 "Unit of local government" has the meaning given in
19 Section 1 of Article VII of the Illinois Constitution.

20 Section 15. Agricultural protection area program; rules.
21 The Department shall establish and administer a voluntary
22 statewide program for the creation and recognition of
23 agricultural protection areas and shall adopt rules to
24 implement this Act. At a minimum, the rules must:

25 (1) establish a process through which agricultural

1 lands may be designated as agricultural protection areas
2 for a minimum of 20 years;

3 (2) establish application requirements, including
4 information about the landowner, a legal description of
5 the parcel or parcels, and current uses of the land;

6 (3) establish clear and objective standards for
7 evaluating applications, including consideration of
8 agricultural productivity, continuity of agricultural use,
9 and compatibility with local and regional land use plans;

10 (4) establish timelines for reviewing and making
11 decisions on applications; and

12 (5) provide for reasonable application and
13 administration fees that do not exceed the Department's
14 actual costs.

15 Section 20. Agricultural Protection Area Commission. The
16 Department may appoint an Agricultural Protection Area
17 Commission to advise the Department regarding agricultural
18 needs of the State and to make recommendations on applications
19 under this Act. The Commission shall consist of 5 to 7 members
20 with experience in Illinois production agriculture or
21 agricultural conservation, which may include representatives
22 from soil and water conservation districts, the Illinois Farm
23 Bureau, a commodity or grower association, the University of
24 Illinois Extension, or other relevant organizations.
25 Commission members shall serve terms established by the

1 Department of not less than 3 years and not more than 6 years.

2 Section 25. Application review and action.

3 (a) Within 60 days after receiving the Commission's
4 recommendation to support or reject an application, the
5 Department shall provide public notice of the application and
6 accept written comments for at least 14 days. The Department
7 may hold a public meeting if it believes additional input is
8 warranted.

9 (b) The Department may approve or deny an application to
10 designate land as an agricultural protection area. If
11 approved, the designation is effective upon final action by
12 the Department.

13 (c) If the Department fails to take action on the
14 Commission's recommendation within 60 days after receiving the
15 recommendation, the Commission's recommendation becomes final
16 agency action for purposes of judicial review under the
17 Administrative Review Law.

18 Section 30. Recording of agricultural protection areas.

19 (a) To provide constructive notice of an agricultural
20 protection area designation to persons who have, may acquire,
21 or may seek to acquire an interest in land in or adjacent to
22 the agricultural protection area, the landowner shall record
23 with the recorder of deeds of the county in which the land is
24 located, within 10 days after the designation, a notice of

1 designation in a form prescribed by the Department that
2 includes:

3 (1) the date of designation or dissolution of the
4 agricultural protection area;

5 (2) a legal description of the parcel or parcels
6 included in the agricultural protection area; and

7 (3) a copy of the Department's final decision or
8 certification of designation.

9 (b) Failure to record the notice does not invalidate a
10 Department decision to designate or dissolve an agricultural
11 protection area, but the Department may require recording as a
12 condition of continued recognition.

13 Section 35. Renewal of agricultural protection areas.

14 (a) Twenty years after the creation of an agricultural
15 protection area, if the landowner desires to continue the
16 designation, no action by the landowner is required and the
17 Department shall automatically renew the agricultural
18 protection area for another 20 years.

19 (b) If the landowner desires to terminate the agricultural
20 protection area, the landowner shall provide written notice to
21 the Department at least 90 days before the expiration of the
22 designation. The Department shall notify the appropriate
23 recorder of deeds of any termination and the landowner shall
24 record a notice of termination.

1 Section 40. Adding land to and removing land from an
2 agricultural protection area.

3 (a) A landowner may add land to an existing agricultural
4 protection area by filing an application with the Department.
5 The Department shall review the application in accordance with
6 this Act and rules adopted under this Act.

7 (b) A landowner of land within an agricultural protection
8 area may remove any or all of that land from the agricultural
9 protection area by filing a petition for removal with the
10 Department. The Department shall acknowledge receipt of the
11 petition in writing and confirm the removal date as 10 years
12 from the date of the petition for removal, or upon expiration
13 of the designation, whichever is sooner.

14 (c) The Department shall establish by rule a process by
15 which a landowner may remove land from an agricultural
16 protection area for reasons of hardship, as defined in Section
17 10.

18 (d) The Department may charge a reasonable administrative
19 fee to cover its actual costs associated with processing
20 changes to an agricultural protection area, including updating
21 maps, recording documents, and staff time.

22 Section 45. Limitations on local regulations within
23 agricultural protection areas.

24 (a) A unit of local government shall encourage the
25 continuity, development, and viability of agricultural use

1 within the boundaries of an agricultural protection area and
2 may not adopt or enforce an ordinance or regulation that
3 conflicts with this Act or rules adopted under this Act with
4 respect to farm structures or farming practices within an
5 agricultural protection area, unless the farm structure or
6 farming practice does not comply with generally accepted
7 farming practices or violates applicable State or federal law.

8 (b) Nothing in this Section prevents a unit of local
9 government from regulating the siting of residential,
10 commercial, manufacturing, industrial, solar energy, or wind
11 energy structures, or from regulating other nonagricultural
12 land uses on lands included within an agricultural protection
13 area, to the extent consistent with this Act and other
14 applicable law.

15 Section 50. Nuisances.

16 (a) Agricultural activities conducted within an
17 agricultural protection area in accordance with generally
18 accepted farming practices and applicable law are not a public
19 nuisance.

20 (b) In a civil action for nuisance or a criminal action for
21 public nuisance, it is a complete defense if the action
22 involves otherwise lawful agricultural activities that were
23 (1) conducted within an agricultural protection area; and (2)
24 not in violation of any federal, State, or local law or
25 regulation relating to the alleged nuisance and were conducted

1 using generally accepted farming practices.

2 (c) Nothing in this Section limits or diminishes the
3 protections afforded by the Farm Nuisance Suit Act.

4 Section 55. Eminent domain. Subject to the Eminent Domain
5 Act, a unit of local government or other political subdivision
6 may not condemn land within an agricultural protection area
7 that is being used for agricultural production for purposes
8 unrelated to public health or safety, transportation, or
9 public utilities. Nothing in this Section limits or alters
10 condemnation powers expressly authorized by the Eminent Domain
11 Act.

12 Section 60. Home rule. A home rule unit may not regulate
13 farm structures or farming practices within an agricultural
14 protection area in a manner more restrictive than the
15 regulation by the State under this Act and rules adopted under
16 this Act. This Section is a limitation under subsection (i) of
17 Section 6 of Article VII of the Illinois Constitution on the
18 concurrent exercise by home rule units of powers and functions
19 exercised by the State.

20 Section 97. Severability. The provisions of this Act are
21 severable under Section 1.31 of the Statute on Statutes.