**Section 700.APPENDIX B Marketing Program For Illinois Corn and Corn Products**

Agency Note: Section 7 of the "Illinois Corn Marketing Act" [505 ILCS 40/7] requires any corn marketing program that is approved by Illinois corn producers through referendum to be filed by the Department of Agriculture as provided in Section 5-65 of the "Illinois Administrative Procedure Act" [5 ILCS 100/5-65]. The filing of the adopted program is exempt from the rulemaking requirements of Sections 5-35 and 5-40 of the Illinois Administrative Procedure Act and the program is exempt from review under Sections 5-100, 5-105, 5-110, 5-120, 5-125 and 5-130 of the Illinois Administrative Procedure Act. On December 29, 1982, a Marketing Program for Illinois Corn and Corn Products was approved through referendum.

ARTICLE I

PURPOSE:

This program is developed not to increase production but to enable Illinois corn producers to coordinate more effectively the maintenance and development of markets for corn and corn products; to provide for the needed utilization research; to develop new uses for corn and corn products; and to provide for more efficient and economical markets.

To accomplish this objective, it is essential to provide procedures for the development of new and larger markets for corn; to provide procedures to engage in research directed toward more efficient utilization of corn; to provide procedures to support worldwide market development programs and cooperate with other states, organizations, agencies and persons in market development, market information, and research programs; and to provide procedures to elect an initial producer board and its successors to operate this program.

ARTICLE II

AUTHORITY:

This marketing program for Illinois corn and its procedures is established pursuant to the Illinois Corn Marketing Act [505 ILCS 40].

ARTICLE III

PROGRAM EXTENT:

All producers of corn in Illinois are qualified to participate and all corn sold to a first purchaser is subject to the program.

ARTICLE IV

DEFINITIONS:

Terms used in this marketing program shall be defined in the Act and as follows unless context clearly requires otherwise:

(a) "Act" means the Illinois Corn Marketing Act [505 ILCS 40].

(b) "'*Corn*' *means and includes all kinds of varieties of corn (excluding popcorn and sweet corn) grown in this State and marketed and sold as corn by the producer.*"1

(c) "'*Person' means any natural person, partnership, corporation, society, association, representative or other fiduciary.*"1

(d) "Producer" means any person engaged in this State in the business of producing and marketing corn and who is effected by this program by virtue of having the first rights of ownership in any corn for which payment is received at the first point of sale.

(e) *"'First Purchaser' means any person who resells corn purchased from a producer or offers for sale any product produced from such corn for any purpose.*"1

(f) "*'Market Development*' *means to engage in research and educational programs directed toward better and more efficient utilization of corn; to provide methods and means for the maintenance of present markets; for the development of new and larger domestic and foreign markets.*"1

(g) "Corn Marketing Program" means the program established under the authority of the Corn Marketing Act and approved by the corn producers.

(h) "Corn Marketing Board" means the board established by any corn marketing program to administer a corn marketing program.

(i) "'*Director*' *means the Director of the Department of Agriculture of the State of Illinois.*"1

(j) "'*Department*' *means the Department of Agriculture of the State of Illinois.*"1

(k) "'*Bushel*' *means 56 pounds of corn by weight.*"1

(l) "District" means the geographical divisions of the State established pursuant to this marketing program.

(m) "Sale" or "Sold" means a transaction wherein the property in or to corn is transferred from the producer to a first purchaser for consideration.

(n) "Eligible Voter" means one who is defined both as a person and as a producer in this program during the previous 365 days prior to the referendum date.

(o) "Affected Producer" means any person defined as a producer in this program who is subject to the assessment.

(p) "Corn Checkoff Program" means a program defined as a corn marketing program.

¹Quoted from Section 3 of the Illinois Corn Marketing Act [505 ILCS 40/3].

ARTICLE V

CORN MARKETING BOARD:

Section 1. Establishment and Membership.

A corn marketing board is hereby established with powers and duties as authorized pursuant to the Act and this program. The Board shall be comprised of 15 members elected from districts as provided in Section 2 of this Article. The 15 members shall be elected, one from each district.

Section 2. Representative Districts.

For the purpose of nomination and election of members to the Board, the territory of the State of Illinois shall be divided into 15 representative districts as follows:

District I: Boone, McHenry, Lake, DeKalb, Kane, Cook, DuPage, Kendall and Will Counties.

District II: JoDaviess, Stephenson, Winnebago, Carroll and Ogle Counties.

District III: Knox, Henry, Warren, Henderson, Mercer and Rock Island Counties.

District IV: Whiteside, Lee, Bureau, Stark, Marshall and Putnam Counties.

District V: LaSalle, Grundy, Livingston and Kankakee Counties.

District VI: Ford, Iroquois, Champaign and Vermilion Counties.

District VII: Woodford, McLean, DeWitt, Macon, Piatt and Moultrie Counties.

District VIII: Peoria, Tazewell, Fulton, Mason, Cass, Menard and Logan Counties.

District IX: Hancock, McDonough, Adams, Schuyler, Brown and Pike Counties.

District X: Scott, Morgan, Sangamon, Greene, Jersey, Calhoun and Macoupin Counties.

District XI: Christian, Montgomery, Shelby, Fayette and Effingham Counties.

District XII: Douglas, Edgar, Coles, Clark, Cumberland, Jasper and Crawford Counties.

District XIII: Marion, Clay, Richland, Lawrence, Jefferson, Wayne, Edwards, Wabash and White Counties.

District XIV: Madison, Bond, St. Clair, Clinton, Monroe and Washington Counties.

District XV: Randolph, Perry, Jackson, Franklin, Williamson, Hamilton, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski and Massac Counties.

Section 3. Board Membership Qualifications.

Board members shall be residents of the State of Illinois, of legal voting age, and be subject to the program. Board members shall be affected producers of corn in this State subject to the assessment and residing in the district in and for which they are nominated and elected. The qualification of members as set forth herein must continue during their term of office or their office shall be declared vacant.

Section 4. Term of Office.

The term of office of a board member shall be three years or until his successor is elected and qualified except for the initial board which shall be provided in Section 5 of this Article.

A term of office shall terminate on July 31st of the year in which the board member's office expires.

A board member can only serve three full consecutive three year terms.

Section 5. Initial Board.

If this program is adopted by corn producers, the Director shall initiate the procedures to elect the initial 15-member board as outlined in this corn marketing program and the Act. The Director shall specify the day on which the election of the initial board will be held. The day on which this election is held, shall be no more than 210 days from the date of close of the referendum on adoption of this corn marketing program.

Board members shall serve three year terms; provided, however, that the initial term of the board members from Districts I, IV, VII, X, and XIII shall expire July 31, 1984; the initial terms of board members from Districts II, V, VIII, XI, and XIV shall expire July 31, 1985; and the initial terms of board members from Districts III, VI, IX, XII, and XV shall expire July 31, 1986.

When the initial term of office expires in a district, an election shall be held as provided in this program and the Act to fill the vacancy.

Section 6. Nominations.

(a) Procedure for nominating candidates for election to the initial board: Any affected producer may become a candidate from his district and have his name placed on the ballot if he files a petition with the Director containing the signatures of 200 or 5 percent, whichever is less, of those eligible voters in his district qualified to vote on the referendum. The petitions to become a candidate for board members must be filed with the Director by a time and date specified by the Director. Petitions for becoming a candidate shall be available at the principal office of the Cooperative Extension Service serving each county and upon request from the Director. Position of candidates' names on the ballot to become a board member shall be determined by lot by drawing by the Director. Candidates shall be notified of the time and place where such drawing shall occur. Voting shall be held at geographically located polling places throughout the district.

(b) Subsequent Years. Procedure for Nominating Candidates to the Board in Subsequent Years: Each district having a vacancy on the board by an expiring term shall hold an election to fill such vacancy. The election shall be held during July of the year in which the vacancy exists. Any affected producer meeting the requirements of Section 3 may become a candidate from his district and have his name placed on the ballot for which a vacancy exists if he files a petition with the Director containing the signatures of 200 or 5 percent, whichever is less, of affected producers from his district.

Petitions to become a candidate for board member must be filed with the Director by May 15th of the year in which the election is to be held in that District. Notification to all affected producers in the district where a vacancy exists shall be published once in the official state newspaper and made available to newspapers of general circulation in that district and to all other news media in that district. Notification shall be given no earlier than March 1 nor later than March 15 in the district where vacancy on the board will occur. Petition for becoming a candidate shall be available at each principal county office of the Cooperative Extension Service in the district where a vacancy exists and upon request from the Director. Position of the candidates' names on the ballot shall be determined by lot by a drawing by the Director. Candidates shall be notified of the time and place where such drawing shall occur. Voting shall be held at geographically located polling places throughout the district.

Section 7.

(a) Election of Initial Board.

Each eligible voter shall be entitled to one vote and shall be entitled to vote for one candidate to be such producer's district representative on the corn marketing board.

The candidate from each district receiving the greatest number of votes in the election shall be the district's representative on the board. In case of a tie, the winner will be determined by drawing. The elected board member will take office immediately after certification of election results. Each eligible voter shall vote at the local Cooperative Extension Service office serving the county in which such eligible voter resides.

(b) Election of Board in Subsequent Years.

The election of board members in districts where a vacancy occurs due to an expiring term shall be conducted by the corn marketing board. Nominations shall be as set forth in Section 6(b) of the program. The elected board member shall take office on August 1 of the year in which such board member is elected.

Section 8. Election Ballot.

The election ballot used in each district will contain only the name(s) of the candidate(s) for its district, with space provided for a write-in candidate. Write-in votes shall be counted only for persons who have filed notarized declarations of intent to be write-in candidates with the Director not later than 5:00 p.m. on the Tuesday immediately preceding the election.

Forms for the declaration of intent to be a write-in candidate shall be supplied by the Director. Such declaration shall specify the office for which the person seeks election as a write-in candidate.

Section 9. Absentee Ballot.

Eligible voters who reside outside the State of Illinois or eligible voters within the State who cannot be physically present at the polls on the day of any board members' election held under this Article may request an absentee ballot. The Director shall provide to any eligible voter an absentee ballot upon request beginning thirty (30) days prior to the initial election of directors and subsequent election of directors where a vacancy exists. Any eligible voter requesting an absentee ballot shall be required to file with the Director an affidavit swearing that such eligible voter is eligible to vote in the election of board members. Such affidavit shall be available upon request from the Director. All absentee ballots and affidavits must be received by the Director at least two (2) working days prior to any election of board members.

Section 10. Elections.

The Director shall appoint election judges for the election of board members.

Section 11. Powers and Duties of the Board.

The board shall have the following powers and duties:

(a) to administer, enforce, direct, and control provisions of this program as its administrative board pursuant to the authority contained in the Act;

(b) to annually establish priorities and to prepare and approve a budget consistent with estimated resources and scope of the marketing program;

(c) to formulate and execute assessment procedures, and methods of collection;

(d) to procure and evaluate data and information necessary for the proper administration and operation of marketing program;

(e) to employ personnel and contract for services which are necessary for the proper operation of the marketing program;

(f) to authorize the expenditure of funds and the contracting of expenditures to conduct proper activities of the program;

(g) to provide for an independent audit to be made and be available to all program participants;

(h) to publish annually, upon completion of and at the same time of the audit, an Activities and Financial Report and make available to all affected producers;

(i) to elect a chairman, vice chairman, secretary and treasurer and other such officers as it deems necessary;

(j) to take steps to insure that adequate bonds are maintained and to insure adequate protection of funds;

(k) to confer and cooperate with legally constituted authorities of other states and the United States;

(l) to accept donations, gifts, and other properties to be used for program purposes;

(m) to receive and investigate or cause to be investigated complaints and violations of this program and the Act and to take such action as is necessary within its authority;

(n) to establish accounts in adequately protected financial institutions to receive, hold and disperse program monies;

(o) to approve and recommend desirable amendments to the program;

(p) to establish procedure to refund to a producer any assessment paid by such a producer if he requests such a refund; and

(q) to perform such other duties which may be necessary to proper operation of the board.

Section 12. Limitation of Liability of Board Members and Employees.

Obligations incurred by the board and any other liabilities or claims against the board shall be enforced only against the assets of the board in the same manner as if it were a corporation and no liabilities for the debts or actions of the board shall exist against either the State of Illinois or any subdivision thereof or against any board established pursuant to the Act or the assets thereof or against any member, officer, employee, or agent of the board in his individual capacity. The members of the board, including employees thereof, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, person, or employee except for their own individual acts which result in a violation of any law. No such person or employee shall be held responsible individually for the act or omission of any member of the board. The liability of the members of the board shall be several and not joint and no members shall be liable for the default of any other member.

Section 13. Board Vacancies.

Procedures for filing: Vacancies occurring on the board during an unexpired term of office shall be filled by the board with an appointee who is a qualified producer from the district affected by the vacancy. The appointee shall serve as the district's representation on the board for the unexpired term.

Section 14. Board Compensation.

"*All voting members of the corn marketing board are entitled to actual and necessary travel and incidental expenses while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board.*"2 Board members are not entitled to any salary or per diem.

²Quoted from Section 11 of the Illinois Corn Marketing Act [505 ILCS 40/11].

ARTICLE VI

REFERENDUMS AND ELECTIONS:

Section 1.

The initial program referendum shall provide for the question of adoption of the program with a place to vote "yes" or "no". The initial program referendum shall be conducted by ballot mailed to producers. A period of 21 days from the date of mailing of the ballot shall be allowed for the return of such ballots. Ballots shall be returned to the Director by mail or by personal delivery by the voting producer at such address as may be designated by the Director. When requested in writing, the Director shall provide a ballot to any producer whose name does not appear on the list of producers maintained by the Agricultural Stabilization and Conservation Service or who for any reason did not receive a ballot. "*Reasonable publicity and notification of the referendum date and voting locations shall be provided in trade publications, the public press and the official state newspaper, at least two weeks prior to such referendum date.*"3

The Agricultural Stabilization and Conservation Service list of producers shall be the official mailing list used for the program referendum.

A corn marketing program or an amendment to a corn marketing program is approved when a majority of the statewide total of those voting in the referendum vote in favor of such program or amendment to a program.

³Quoted from Section 9 of the Illinois Corn Marketing Act [505 ILCS 40/9].

Section 2. Qualification to Vote.

Any person who is defined as a producer in this program shall be entitled to one vote. Such eligible voter shall be required to sign a statement or affidavit declaring that such person is an eligible voter in the program.

An eligible voter who meets the definition of a "producer" in more than one county or on more than one tract of land may only vote once in their own name. If more than one vote is cast, only one vote, cast in the county of residence, will be counted.

A person or business organization which meets the "producer" definition may designate some individual to vote on its behalf. In such cases, the following guidelines apply:

In cases of ASSOCIATIONS, BUSINESSES, COOPERATIVES, UNIVERSITIES, COLLEGES, FOUNDATIONS, or any other business entity, only an officer may cast one vote for this business organization.

PARTNERSHIP, JOINT TENANCY: If ownership of the commodity is held in the partnership name or in joint ownership, only one partner/owner may cast one vote. It is the responsibility of the partnership/joint ownership to decide who will vote.

FIDUCIARY: Only the court-appointed legal representative of a trust, estate, conservatorship, guardianship or other fiduciary relationship may cast one vote for the business held in trust.

LANDLORD AND TENANT: Each may cast one vote if each meets the "producer" definition.

HUSBAND AND WIFE: If the corn is held in joint ownership by both husband and wife, only one spouse may cast one vote. If each meets the "producer" definition as a separate entity, then each may cast one vote.

Section 3. Teller Committee.

The Director shall appoint a teller committee composed of members of the agricultural community to count absentee ballots, canvass and certify results of referendums and elections of district candidates.

ARTICLE VII

PROGRAM:

Section 1. Market Development, Promotion, and Public Relations Programs.

The board, subject to the provisions of this program and the Act, is authorized to contract with or make grants to any qualified organizations, agencies, or persons for any market development and promotion activities, education and public relations programs or market information services which will result in the opening of new markets for corn and corn products, or which will result in the expansion of existing markets. These activities may include, but not be necessarily limited to the following:

(a) Preparation and dissemination of marketing information to include supply information, demand information, quality characteristics, and other facts concerning corn and corn products.

(b) Provide information to foreign feed manufacturers and corn refiners for the purpose of expanding their use of corn and corn products.

(c) Work with U.S. agricultural attaches or any other agency or organization in removing restrictive foreign and domestic regulations or barriers which hinder the free flow of corn or corn products to their ultimate markets.

(d) Participate in trade fairs, exhibitions, food shows, and other such activities for the purpose of developing markets.

(e) The board, subject to the provisions of this program and the Act, is authorized to contract with or make grants to any qualified organizations, agencies, or persons for any needed research or survey studies related to corn and their products which will result in improved efficiency and aid corn producers in maintaining present and any new and larger markets.

Section 2. Educational Program.

The board is authorized to conduct, contract with, or make grants to any qualified organizations, agencies, or individuals for any educational materials and educational programs pertaining to corn and corn products.

The educational program established pursuant to this authority shall emphasize the results of research, market development, and other programs sponsored, supported, or otherwise implemented by or for the board.

ARTICLE VIII

ASSESSMENTS:

Section 1. Assessment Levied.

(a) All assessments made and levied pursuant to the provisions of the Act and the program shall be paid by the respective affected producers who shall be liable therefore as provided by Sections 16 and 17 of the Act.

(b) Such assessments shall be ⅝ cent per bushel on corn produced and sold by such affected producer. After the first five years of operation of the program, the corn marketing board may request the Director to hold a referendum to increase the assessment rate.

(c) Such assessment shall be collected from the affected producers by the first purchaser of corn and such first purchaser shall deduct the full amount of assessment from total monies due the producer and shall account for, report on, and remit to the board all monies collected, except as otherwise provided in this section. Such monies collected shall be remitted quarterly and shall be made by the 15th of the month following the end of each quarter. Such quarters shall end March 31, June 30, September 30, and December 31 of the year in which assessment is due. If remittance of assessment by first purchaser is made by the 15th of the month following the end of the quarter, such first purchaser making remittance shall be entitled to retain two percent (2%) of such remittance due.

(d) Any producer who shall sell, ship, or otherwise dispose of corn to a first purchaser or other person outside the jurisdiction of this marketing program shall forthwith remit to the board the full amount of the assessment due.

(e) The board shall establish regulations and procedures to insure the collection of such assessments as shall be due and payable under this marketing program.

(f) The board shall give reasonable notice to all producers, processors and handlers of all changes in regulations and procedures and any amendments thereto for the collection of the assessment.

ARTICLE IX

RIGHT OF REFUND:

Section 1.

(a) Any affected producer may request that each assessment paid by him be refunded.

(b) A refund shall be payable upon request. Such request shall be made to the board not more than sixty (60) days after the deduction has been made or not more than sixty (60) days after the remittance has been made by the first purchaser. Applications for refund shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producers.

(c) The board shall establish procedures to insure the refunds of such assessment as are requested.

ARTICLE X

FUNDS:

Section 1.

The board shall deposit all monies collected pursuant to this program in an account as established in Article V of this program. Expenses and disbursements incurred and made pursuant to the Act and this program shall be made by voucher, draft or check bearing the signature of a person or persons designated by majority vote of the board.

Section 2.

Monies collected by the board pursuant to the Act and this program as assessments shall be used by the board for the purpose of paying for the costs or expenses arising in connection with carrying out the purpose and provisions of the Act and this program.

ARTICLE XI

INFORMATION REPORTS:

All persons subject to this program and the Act shall make and render such reports and furnish such information to the Director and board as may be necessary or required to effectuate the purposes thereof. Information obtained by any person pursuant to this Article shall be confidential and shall not be disclosed to any other person, save a person with the right to obtain the same or any attorney employed by the board to give legal advice thereon or by court order.

ARTICLE XII

PROCEDURES:

Section 1.

Following approval of the corn marketing program, the Director shall file the program with the Secretary of State as provided in Section 6 of the Illinois Corn Marketing Act.

Section 2.

All procedures promulgated pursuant to the Act shall be available upon request to those persons affected by this program and the Act.

ARTICLE XIII

APPEALS:

Section 1.

Any person subject to this program may appeal to the board to review any administrative decision. The board shall establish by regulation the contested case procedure in accordance with the Administrative Procedure Act [5 ILCS 100].

Section 2.

Pending the disposition of any appeal set forth in Section 1 of this Article, the party shall abide by the decision unless the board shall rule otherwise. The board shall, if the facts stated show reasonable grounds, revise any order or decision upon which an appeal is taken.

ARTICLE XIV

DEROGATION:

Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Director or of the State to exercise any powers granted by the Act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

ARTICLE XV

COOPERATION WITH OTHER AGENCIES:

The board, with the assistance of the Director and subject to the provisions of the Act, is authorized to cooperate with agencies of the United States Government, the State of Illinois, and other states as deemed by the board and the Director to be desirable and useful in effectuating the purposes of this program and Act.

(a) Coordination and cooperation in promotion, advertising, educational programs, informational programs, marketing and transportation research, and any of the several areas of authority authorized by the program and the Act.

(b) Coordination of purposes with other boards, commissions, or any other marketing group in the State or other states, areas, or foreign countries so long as such cooperation is in the best interest of the corn producers in Illinois.

ARTICLE XVI

EFFECTIVE TIME:

This marketing program shall become effective upon its adoption. The assessment will not be levied until April 1 or 60 days after the date of the election of the initial board, whichever is later, and shall continue in effect for five (5) years and shall automatically be extended from year to year unless a referendum for continued approval is requested by written petition of no less than ten percent of corn producers affected by the program in each respective district as published in the latest Census of Agriculture as published by the U.S. Department of Commerce, Bureau of Census. Such referendum is to be held in accordance with Section 9 of the Act and shall have as set forth in Section 7 of the Act.

ARTICLE XVII

SEVERABILITY:

If any provision of the marketing program or the Act shall be declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this marketing program or the Act or the applicability thereof to any person, circumstance or thing shall not be affected.

ARTICLE XVIII

ENFORCEMENT:

Section 1.

"*Persons who collect corn marketing program assessment funds pursuant to Section 15 of this Act shall remit such funds to the corn marketing board which shall deposit such in an account to be used as authorized by the corn marketing program.*

*Any due and payable assessment required under the provisions of any corn marketing program created under this Act constitutes a personal debt of every person so assessed or who otherwise owes such assessment. Such assessment is due and payable to the corn marketing board not more frequently than quarterly or when stipulated in the corn marketing program and called for by the corn marketing board. In the event any person fails to remit the full amount of such due assessment or such other sum within 30 days after the due date, the person owing such assessment shall be given an opportunity to present his case as provided for in Section 20 of this Act. When established that the assessment is correct, the corn marketing board may add to such unpaid assessment or sum a penalty amount not exceeding 10% of the amount due plus all the cost of enforcing the collection of the assessment or sum due. In the event of failure of such person to remit any properly due assessment or sum, the corn marketing board may bring a civil action against such person in the circuit court of any county for the collection thereof, together with the above additional specified 10% penalty assessment, cost of enforcing the collection of the assessment and court costs. Such action shall be tried and judgment rendered as in any other cause of action for debts due and payable. All assessments are due and payable to the corn marketing board.*"4

Section 2.

"*No person shall knowingly fail or refuse to comply with any requirement of this Act where obligated to comply by a duly approved corn marketing program. The corn marketing board may institute any action which is necessary to enforce compliance with any provision of this Act, and rule or regulation thereunder or any corn marketing program adopted pursuant to this Act. In addition to any other remedy provided by law, the corn marketing board may petition for injunctive relief without being required to allege or prove the absence of any adequate remedy at law.*"5Such action shall be brought in the Circuit Court of any county.

"*Before the corn marketing board may institute any proceedings under this Act, the alleged violator shall first be given an opportunity to present his views to the corn marketing board as to why such proceedings should not be instituted.*"5

4Quoted from Section 17 of the Illinois Corn Marketing Act [505 ILCS 40/17].

5Quoted from Section 20 of the Illinois Corn Marketing Act [505 ILCS 40/20].

(Source: Amended at 36 Ill. Reg. 9062, effective June 6, 2012)