

HB4704



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4704

Introduced 2/18/2020, by Rep. Sonya M. Harper, Kelly M. Burke, Maurice A. West, II and Anne Stava-Murray

SYNOPSIS AS INTRODUCED:

New Act

Creates the Right to Garden Act. Allows the State or a unit of local government to regulate gardens on residential property unless the statute or regulation has the practical effect of precluding gardens on residential property entirely. Defines the terms "garden" and "residential property". Limits home rule powers. Effective immediately.

LRB101 17129 BMS 66530 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

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 Right
5 to Garden Act.

6 Section 5. Findings. The State of Illinois finds that the
7 right of a property owner to create and maintain a garden on
8 his or her own residential property, whether it be for produce,
9 flowers, herbs, fungi, or grains, and when done so for one's
10 own consumption and enjoyment, should not be infringed upon by
11 the State or any unit of local government.

12 Section 10. Definitions. As used in this Act:

13 "Garden" means a piece of property wholly located within a
14 person's residential property that is used to grow produce,
15 flowers, herbs, fungi, or grains for one's own consumption and
16 enjoyment.

17 "Residential property" means real property on which there
18 is a dwelling unit with accommodations for 4 or fewer separate
19 households and occupied, or to be occupied, in whole or in
20 part, by the mortgagor; however "residential property":

21 (1) is limited to the primary residence of a person;

22 (2) does not include an investment property or

1 residence other than a primary residence; and
2 (3) does not include residential property taken in
3 whole or in part as collateral for a commercial loan.

4 Section 15. Regulations of gardens on residential
5 property. The State or a unit of local government may regulate
6 gardens on residential property unless a statute or regulation
7 has the practical effect of precluding gardens on residential
8 property entirely. Permissible statutes or regulations
9 include, but are not limited to, those pertaining to
10 restrictions on water use during drought conditions, existing
11 or future adoption of property set-backs, maximum lot coverage,
12 utility safety, fertilizer use, control of invasive species, or
13 a substance regulated under the Illinois Controlled Substances
14 Act, the Industrial Hemp Act, or the Cannabis Regulation and
15 Tax Act.

16 Section 20. Home rule. A home rule unit may not regulate
17 gardens on residential property in a manner inconsistent with
18 this Act. This Section is a limitation under subsection (i) of
19 Section 6 of Article VII of the Illinois Constitution on the
20 concurrent exercise by home rule units of powers and functions
21 exercised by the State.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.