

SB3329



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3329

Introduced 2/14/2020, by Sen. Scott M. Bennett

SYNOPSIS AS INTRODUCED:

New Act

Creates the Right to Garden Act. Provides that the State or a unit of local government may not regulate gardens or the use of season extension techniques and devices on residential property. Provides that the Act does not preclude the State or a unit of local government from adopting statutes or regulations pertaining to: restrictions on water use during drought conditions; existing or future adoption of property set-backs; maximum lot coverage; utility safety; fertilizer use; control of invasive species; a substance regulated under the Illinois Controlled Substances Act, the Industrial Hemp Act, or the Cannabis Regulation and Tax Act; or any other regulation that does not have the effect of prohibiting gardens. Defines the terms "garden", "residential property", and "season extension techniques and devices". Limits home rule powers. Effective immediately.

LRB101 20392 BMS 69939 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 "Season extension techniques and devices" means any low or
5 high tunnels and membrane structures constructed according to
6 the United States Department of Agriculture's best practices
7 utilized for season extension, wind break, or insect and shade
8 netting in the growth and cultivation of food crops.

9 Section 15. Regulations of gardens on residential
10 property. The State or a unit of local government may not
11 regulate gardens or the use of season extension techniques and
12 devices on residential property. However, this does not
13 preclude the State or a unit of local government from adopting
14 statutes or regulations pertaining to: restrictions on water
15 use during drought conditions; existing or future adoption of
16 property set-backs; maximum lot coverage; utility safety;
17 fertilizer use; control of invasive species; a substance
18 regulated under the Illinois Controlled Substances Act, the
19 Industrial Hemp Act, or the Cannabis Regulation and Tax Act; or
20 any other regulation that does not have the effect of
21 prohibiting gardens.

22 Section 20. Home rule. A home rule unit may not regulate
23 gardens on residential property in a manner inconsistent with
24 this Act. This Section is a limitation under subsection (i) of

1 Section 6 of Article VII of the Illinois Constitution on the
2 concurrent exercise by home rule units of powers and functions
3 exercised by the State.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.