

1 AN ACT to create the Agriculture Producer Protection Act.

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 Agriculture Producer Protection Act.

6 Section 5. Definitions. As used in this Act, unless the
7 context otherwise requires:

8 "Capital investment" means a purchase of any of the
9 following:

10 (1) A structure associated with producing a
11 commodity, including, but not limited to, a swine
12 farrowing building, a grain storage facility, or a manure
13 storage lagoon.

14 (2) Machinery or equipment associated with
15 producing a commodity, if the machinery or equipment has
16 a useful life in excess of one year.

17 "Commodity" means livestock, raw milk, or a crop.

18 "Contractor" means a person who enters into a production
19 contract with a producer for the production by the producer
20 of commodities in this State.

21 "Crop" means a plant used for food, animal feed, fiber,
22 oil, pharmaceuticals, nutraceuticals, or seed, including, but
23 not limited to, alfalfa, barley, buckwheat, corn, flax,
24 forage, millet, oats, popcorn, rye, sorghum, sunflowers,
25 tobacco, wheat, and grasses used for forage or silage.

26 "Department" means the Department of Agriculture.

27 "Director" means the Director of Agriculture.

28 "Investment requirement" means any capital investment
29 made by a producer to produce a commodity in accordance with
30 a production contract that the producer has executed if (i)
31 the production contract specifically requires that capital

1 investment or (ii) the producer reasonably concludes that
2 investment is either necessary or important in enabling the
3 producer to efficiently and effectively produce the commodity
4 required under the production contract.

5 "Livestock" means beef cattle, dairy cattle, poultry,
6 sheep, or swine.

7 "Produce" means to do any of the following:

8 (1) Provide feed or services relating to the care
9 and feeding of livestock. If the livestock is dairy
10 cattle, then "produce" includes milking the dairy cattle
11 and storing raw milk.

12 (2) Provide for planting, raising, harvesting, or
13 storing a crop. "Produce" includes preparing the soil for
14 planting and nurturing the crop by application of
15 fertilizers or soil conditioners, including those
16 substances regulated under the Illinois Fertilizer Act of
17 1961 or pesticides as defined in the Illinois Pesticide
18 Act.

19 "Producer" means a person who has entered into a
20 production contract whereby that person produces a commodity
21 for a contractor. "Producer" does not mean a commercial
22 fertilizer applicator or pesticide applicator, a feed
23 supplier, or a veterinarian when acting in that capacity.

24 "Production contract" means (1) an agreement between a
25 producer and a contractor in which (i) the producer agrees to
26 produce and sell to the contractor or the contractor's
27 designee an identified commodity or commodities and (ii) the
28 contractor has or exercises some control or direction over
29 the production process; or (2) an agreement between a
30 producer and a contractor in which the producer agrees to
31 care for and raise a commodity or commodities that are not
32 owned by the producer, using land, equipment, or facilities
33 owned or leased by the producer, in exchange for payment. For
34 purposes of this definition, "control or direction over the

1 production process" includes, but is not limited to, the
2 contractor's designation of special commodity
3 characteristics, such as oil content for corn or special
4 genetics for livestock; the contractor's designation of a
5 seed variety or varieties to be used by the producer under
6 the contract; or the contractor's right, or that of his or
7 her designee, to review, check, sample, or analyze the
8 commodity during the production process.

9 Section 10. Written production contracts. All production
10 contracts must be in writing.

11 Section 15. Summary of material terms and conditions.

12 (a) Summary sheet. A production contract entered into,
13 amended, or renewed after the effective date of this Act must
14 contain as the first page, or as the first page of text if it
15 is preceded by a title page or pages, a summary sheet as
16 provided in this Section. The summary sheet shall have the
17 following heading: "SUMMARY OF MATERIAL TERMS AND
18 CONDITIONS". It shall list the material terms and conditions
19 of the production contract; provide a summary explanation of
20 each material term and condition; include an example or
21 examples for those provisions relating to the calculation of
22 the amounts to be received by the producer for the commodity
23 produced under the production contract; and designate the
24 page or pages where these material terms and conditions are
25 found within the text of the document. This summary shall
26 meet the readability requirements of this Section and shall
27 accurately reflect the text of the production contract.

28 In this Section, "material terms and conditions"
29 includes, but is not limited to:

- 30 (1) the type of commodity to be produced;
31 (2) the particular quality characteristics or
32 specifications for the commodity to be produced,

1 including, but not limited to, the type of genetics for
2 livestock or percentage of non-GMO content for grain;

3 (3) the quantity or acreage of the commodity to be
4 produced;

5 (4) any special production or handling requirements
6 for the commodity, including, but not limited to, disease
7 protocols for livestock and segregation or identity
8 preservation for grain;

9 (5) the time or times for delivery of the
10 commodity;

11 (6) the delivery locations for the commodity;

12 (7) provisions for the calculation of the price or
13 other compensation to be received by the producer under
14 the production contract;

15 (8) the circumstances under which the amount to be
16 received by the producer might be discounted or
17 increased;

18 (9) the circumstances under which the commodity
19 produced under the production contract might be rejected
20 by the contractor;

21 (10) the duration of the production contract,
22 including any renewal provisions; and

23 (11) any cancellation or termination clauses, and
24 specific causes for cancellation and termination.

25 (b) Readability. A production contract must (i) be in a
26 typeface at least as large as 10-point modern, one-point
27 leaded; (ii) be divided and captioned by its various
28 sections; (iii) be written in clear and coherent language;
29 (iv) use words and grammar that are understandable by a
30 person of average intelligence, education, and experience
31 within the industry; and (v) use clear definitions.

32 (c) Review by Director of Agriculture.

33 (1) Process of review. A contractor may submit a
34 production contract to the Director for review to

1 determine whether it complies with this Section. The
2 Director shall do one of the following:

3 (A) certify that the production contract
4 complies with this Section;

5 (B) decline to certify that the production
6 contract complies with this Section and note
7 objections;

8 (C) decline to review the production contract
9 because the contract's compliance with this Section
10 is subject to pending litigation; or

11 (D) decline to review the production contract
12 because it is not subject to this Section.

13 (2) Factors to consider in determining readability.

14 In determining whether a production contract is readable
15 within the meaning of subsection (b), the Director shall
16 consider the provisions of subsection (b) and the
17 following:

18 (A) the simplicity of the sentence structure;

19 (B) the extent to which commonly used and
20 understood words and terms are employed;

21 (C) the extent to which esoteric legal terms
22 are avoided, although the Director shall permit the
23 use of particular words, phrases, provisions, or
24 forms of agreement specifically required,
25 recommended, or endorsed by a state or federal
26 statute, rule, regulation, or case law;

27 (D) the extent to which references to other
28 sections or provisions are minimized;

29 (E) the extent to which clear and easily
30 understood definitions are used; and

31 (F) any additional factors deemed by the
32 Director to be relevant to the readability or
33 understandability of the production contract.

34 (3) Actions of the Director under this Section are

1 subject to judicial review under the provisions of the
2 Administrative Review Law.

3 (4) Limited effect of certification. A production
4 contract certified under this subsection is deemed to
5 comply with subsections (a) and (b). Certification of a
6 production contract under this subsection does not
7 constitute approval of the production contract's legality
8 or legal effect. If the Director certifies a production
9 contract, then the contractor will have complied with
10 subsections (a) and (b), and the remedies stated in
11 paragraph (6) are not available. If, during the first 90
12 days after the effective date of this Act, the Director
13 receives a production contract and fails to respond
14 within 60 days after receipt, then the contractor will
15 have complied with subsections (a) and (b), and the
16 remedies stated in subsection (6) are not available. If,
17 after the first 90 days after the effective date of this
18 Act, the Director receives a production contract and
19 fails to respond within 30 days after receipt, then the
20 contractor will have complied with subsections (a) and
21 (b), and the remedies stated in paragraph (6) are not
22 available.

23 (5) Review not required. Failure to submit a
24 production contract to the Director for review under this
25 subsection does not show a lack of good faith or raise a
26 presumption that the production contract violates this
27 Section.

28 (6) Reformation by court.

29 (A) Change terms. In addition to the remedies
30 provided in Section 45, a court reviewing a
31 production contract may change the terms of the
32 production contract or limit a provision to avoid an
33 unfair result if the court finds all of the
34 following:

1 (i) a material provision of the
2 production contract violates subsection (a) or
3 (b);

4 (ii) the violation caused the producer to
5 be substantially confused about any of the
6 rights, obligations, or remedies of the
7 production contract; and

8 (iii) the violation has caused or is
9 likely to cause financial detriment to the
10 producer.

11 (B) Avoid unjust enrichment. If the court
12 reforms or limits a provision of a production
13 contract, the court shall also make orders necessary
14 to avoid unjust enrichment. Bringing a claim for
15 relief under this paragraph does not entitle a
16 producer to withhold performance of an otherwise
17 valid contractual obligation. No relief may be
18 granted under this paragraph unless the claim is
19 brought before the obligations of the production
20 contract have been fully performed by all parties to
21 the production contract.

22 (7) Limits on producer actions. A producer may
23 recover actual damages caused by a violation of this
24 Section only if the violation caused the producer to not
25 fully understand the rights, obligations, or remedies of
26 the production contract.

27 (8) Statute of limitations. A claim that a
28 production contract violates this Section must be raised
29 within 4 years after the date on which the party alleging
30 the violation knew or should have known of the existence
31 of the violation.

32 Section 20. Limitation on application of confidentiality
33 provisions. After the effective date of this Act, no

1 confidentiality provision of a production contract shall
2 prohibit, or be construed or interpreted to prohibit, a
3 producer from discussing any and all terms and details of a
4 production contract with the producer's legal advisor,
5 lender, accountant, financial advisor, business advisor,
6 immediate family members, or actual or anticipated production
7 association colleagues. This Section does not require a
8 party to a production contract to divulge information in the
9 production contract to another person.

10 Section 25. Investment requirements.

11 (a) Applicability. This Section applies to all
12 production contracts that have investment requirements. The
13 value of the capital investments shall be deemed to be the
14 total dollar amount spent or committed to by the producer in
15 satisfying the investment requirements.

16 (b) Breach. Except as provided in subsection (c), if a
17 producer materially breaches a production contract, a
18 contractor may not terminate or cancel the production
19 contract until the following have occurred:

20 (1) The contractor has provided a written notice of
21 termination or cancellation to the producer that has been
22 received by the producer at least 15 days before the
23 effective date of the termination or cancellation; the
24 notice must provide a comprehensive listing of the causes
25 for the material breach.

26 (2) The producer has failed to remedy each cause of
27 the breach, as alleged in the listing provided in the
28 notice, within 15 days following receipt of the notice.
29 An effort by a producer to remedy a cause of an alleged
30 breach shall not be construed as an admission of a breach
31 in a civil cause of action.

32 (c) Exceptions. A contractor may terminate or cancel a
33 production contract without regard to the provisions of

1 subsection (b) if the basis for the termination or
2 cancellation is either of the following:

3 (1) A voluntary abandonment of the contractual
4 relationship by the producer. A complete failure of a
5 producer's performance under a production contract shall
6 be deemed to be abandonment.

7 (2) The conviction of a producer of an offense of
8 fraud or theft committed against the contractor.

9 (d) Penalty. If a contractor terminates or cancels a
10 production contract other than as provided in this Section,
11 the contractor shall pay the producer the value of the
12 remaining useful life of the capital investments, taking into
13 account the producer's ability to use the capital investments
14 in the producer's other business enterprises and the
15 opportunity to recoup the cost of the capital investments by
16 selling or leasing them, plus any other damages allowed by
17 law.

18 Section 30. Unfair practices.

19 (a) Definitions. As used in this Section:

20 (1) "Contract input" means a commodity or an
21 organic or synthetic substance or compound that is used
22 to produce a commodity, including but not limited to any
23 of the following:

- 24 (A) Livestock or plants.
- 25 (B) Agricultural seeds.
- 26 (C) Semen or eggs for breeding livestock.
- 27 (D) Fertilizer, pesticides, or petroleum
28 products.

29 (2) "Producer right" means one of the following
30 legal rights and protections:

- 31 (A) Right to join association. The right of a
32 producer to join or belong to, or to refrain from
33 joining or belonging to, an association of

1 producers.

2 (B) Right to contract. The right of a producer
3 to enter into a membership agreement or marketing
4 contract with an association of producers, a
5 processor, or another producer and the right of the
6 producer to exercise contractual rights under such a
7 membership agreement or marketing contract.

8 (C) Right to be a whistleblower. The right of
9 a producer to lawfully provide statements or
10 information, including to the United States
11 Secretary of Agriculture or to a law enforcement
12 agency, regarding alleged improper actions or
13 violations of law by a contractor or processor. This
14 right does not include the right to make statements
15 or provide information if the statements or
16 information are determined to be libelous or
17 slanderous.

18 (D) Right to disclose contractual terms. The
19 right of a producer to disclose the terms of
20 agricultural contracts under Section 20.

21 (E) Right to exercise other protections. The
22 right of a producer to enforce other protections
23 afforded by this Act or other laws or regulations.

24 (b) Unfair practices. It shall be unlawful for any
25 contractor to knowingly do or permit any employee or agent to
26 do any of the following in connection with production
27 contracts:

28 (1) Retaliation. To take actions to coerce,
29 intimidate, disadvantage, retaliate against, or
30 discriminate against any producer because the producer
31 exercises, or attempts to exercise, any producer right,
32 or to diminish or deny a reward, or impose a penalty,
33 without a reasonable basis for doing so.

34 (2) False information. To provide false information

1 to the producer, which may include false information
2 relating to any of the following:

3 (A) A producer with whom the producer
4 associates or an association of producers or an
5 agricultural organization with which the producer is
6 affiliated, including but not limited to (i) the
7 character of the producer or (ii) the condition of
8 the finances or the management of the association of
9 producers or agricultural organization.

10 (B) Producer rights provided by this Act or
11 other provisions of law.

12 (3) Compensation information. To refuse to provide
13 to a producer in a timely manner the statistical data and
14 other data used to determine compensation paid to the
15 producer under a production contract, including, but not
16 limited to, feed conversion rates, feed analyses, and
17 origination and breeder history.

18 (4) Observation of weighing. To refuse to allow a
19 producer or the producer's designated representative to
20 observe, at the time of weighing, the weights and
21 measures used to determine the producer's compensation
22 under a production contract.

23 (5) Additional capital investments. To require a
24 producer to make new or additional capital investments
25 that are beyond the investment requirements of a
26 production contract.

27 (6) Disclosure of risks and readability. To
28 provide, offer, or execute a production contract in
29 violation of the disclosure of material terms and
30 conditions and readability requirements of Section 15.

31 (7) Confidentiality provisions. To provide, offer,
32 or execute a production contract that includes a
33 confidentiality provision in violation of Section 20.

34 (8) Waivers. To provide, offer, or execute a

1 production contract that includes a waiver of any
2 producer right or any obligation of a contractor or
3 processor established under this Act.

4 (9) Forum. To execute a production contract
5 requiring a cause of action to be brought in a location
6 other than the state in which the commodity subject to
7 the production contract is grown or produced.

8 (10) Limitation on damages. To provide, offer, or
9 execute a production contract that contains language
10 limiting the producer's damages in the event of a breach
11 or other failure to perform the production contract by
12 the contractor.

13 (11) Contract inputs. To provide, offer, or execute
14 a production contract in which the contractor requires
15 the use of certain contract inputs but also attempts to
16 limit its liability for a failure of the contract inputs
17 to perform in accordance with the producer's reasonable
18 expectations.

19 (12) Use of certain undefined terms. To provide,
20 offer, or execute a production contract requiring or
21 suggesting that the producer "segregate", "identity
22 preserve", or "channel" the commodity, or using
23 variations or derivatives of these terms, without
24 providing definitions of these terms and guidelines
25 describing how producers should satisfy these
26 requirements.

27 (13) Alter the quality, quantity, or delivery times
28 of contract inputs provided to the producer.

29 Section 35. Waivers unenforceable. Any provision of a
30 production contract that waives a producer right or an
31 obligation of a contractor established by this Act is void
32 and unenforceable. This Section does not affect other
33 provisions of a production contract or a related document,

1 policy, or agreement that can be given effect without the
2 voided provision.

3 Section 40. Choice of law; forum. Any condition,
4 stipulation, or provision requiring the application of the
5 law of a state other than the State of Illinois, or requiring
6 a cause of action to be brought in a state other than the
7 State of Illinois, is void and unenforceable.

8 Section 45. Penalties and enforcement.

9 (a) Civil penalties. A contractor committing an unfair
10 practice under Section 30 is subject to a civil penalty of up
11 to \$1000 per violation per day.

12 (b) Criminal penalties. A contractor committing an
13 unfair practice under Section 30 is guilty of a Class C
14 misdemeanor.

15 (c) Private cause of action. A producer who suffers
16 damages because of a contractor's violation of this Act may
17 bring a private civil action against the contractor and
18 obtain appropriate legal and equitable relief, including
19 damages.

20 (1) Attorneys fees. In a civil action against the
21 contractor, the court shall award any producer who is the
22 prevailing party reasonable attorney fees and other
23 litigation expenses.

24 (2) Injunctive relief. In order to obtain
25 injunctive relief, the producer is not required to post a
26 bond, prove the absence of an adequate remedy at law, or
27 show the existence of special circumstances, unless the
28 court for good cause otherwise orders. The court may
29 order any form of prohibitory or mandatory relief that is
30 appropriate under principles of equity, including but not
31 limited to issuing a temporary or permanent restraining
32 order.

1 (d) Enforcement by Attorney General. The Attorney
2 General's office is the agency primarily responsible for
3 enforcing this Act. In enforcing the provisions of this Act,
4 the Attorney General may do all of the following:

5 (1) Injunctions. Apply to the circuit court for an
6 injunction to do any of the following:

7 (A) Restrain a contractor from engaging in
8 conduct or practices in violation of this Act.

9 (B) Require a contractor to comply with a
10 provision of this Act.

11 (2) Subpoenas. Apply to the circuit court for the
12 issuance of a subpoena to obtain a production contract or
13 material related to actions undertaken in entering into
14 the production contract or related to the intent with
15 which those actions were taken, for purposes of enforcing
16 this Act.

17 (3) Penalties. Bring an action in the circuit court
18 to enforce penalties provided in subsections (a) and (b).

19 Section 50. Rulemaking. The Director must adopt rules
20 necessary to implement this Act not later than January 1,
21 2004.

22 Section 55. Applicability.

23 (a) General Rule. Except as provided in subsection (b),
24 this Act applies to production contracts in force on or after
25 the effective date of this Act, regardless of the date the
26 production contract is executed.

27 (b) Exceptions. Section 15, relating to disclosure of
28 material terms and conditions, Section 25, relating to
29 production contracts involving investment requirements, and
30 Section 40, relating to choice of law and forum, shall apply
31 to production contracts executed or substantively amended
32 after the effective date of this Act.

1 Section 90. The Freedom of Information Act is amended by
2 changing Section 7 as follows:

3 (5 ILCS 140/7) (from Ch. 116, par. 207)

4 Sec. 7. Exemptions.

5 (1) The following shall be exempt from inspection and
6 copying:

7 (a) Information specifically prohibited from
8 disclosure by federal or State law or rules and
9 regulations adopted under federal or State law.

10 (b) Information that, if disclosed, would
11 constitute a clearly unwarranted invasion of personal
12 privacy, unless the disclosure is consented to in writing
13 by the individual subjects of the information. The
14 disclosure of information that bears on the public duties
15 of public employees and officials shall not be considered
16 an invasion of personal privacy. Information exempted
17 under this subsection (b) shall include but is not
18 limited to:

19 (i) files and personal information maintained
20 with respect to clients, patients, residents,
21 students or other individuals receiving social,
22 medical, educational, vocational, financial,
23 supervisory or custodial care or services directly
24 or indirectly from federal agencies or public
25 bodies;

26 (ii) personnel files and personal information
27 maintained with respect to employees, appointees or
28 elected officials of any public body or applicants
29 for those positions;

30 (iii) files and personal information
31 maintained with respect to any applicant, registrant
32 or licensee by any public body cooperating with or
33 engaged in professional or occupational

1 registration, licensure or discipline;

2 (iv) information required of any taxpayer in
3 connection with the assessment or collection of any
4 tax unless disclosure is otherwise required by State
5 statute; and

6 (v) information revealing the identity of
7 persons who file complaints with or provide
8 information to administrative, investigative, law
9 enforcement or penal agencies; provided, however,
10 that identification of witnesses to traffic
11 accidents, traffic accident reports, and rescue
12 reports may be provided by agencies of local
13 government, except in a case for which a criminal
14 investigation is ongoing, without constituting a
15 clearly unwarranted per se invasion of personal
16 privacy under this subsection.

17 (c) Records compiled by any public body for
18 administrative enforcement proceedings and any law
19 enforcement or correctional agency for law enforcement
20 purposes or for internal matters of a public body, but
21 only to the extent that disclosure would:

22 (i) interfere with pending or actually and
23 reasonably contemplated law enforcement proceedings
24 conducted by any law enforcement or correctional
25 agency;

26 (ii) interfere with pending administrative
27 enforcement proceedings conducted by any public
28 body;

29 (iii) deprive a person of a fair trial or an
30 impartial hearing;

31 (iv) unavoidably disclose the identity of a
32 confidential source or confidential information
33 furnished only by the confidential source;

34 (v) disclose unique or specialized

1 investigative techniques other than those generally
2 used and known or disclose internal documents of
3 correctional agencies related to detection,
4 observation or investigation of incidents of crime
5 or misconduct;

6 (vi) constitute an invasion of personal
7 privacy under subsection (b) of this Section;

8 (vii) endanger the life or physical safety of
9 law enforcement personnel or any other person; or

10 (viii) obstruct an ongoing criminal
11 investigation.

12 (d) Criminal history record information maintained
13 by State or local criminal justice agencies, except the
14 following which shall be open for public inspection and
15 copying:

16 (i) chronologically maintained arrest
17 information, such as traditional arrest logs or
18 blotters;

19 (ii) the name of a person in the custody of a
20 law enforcement agency and the charges for which
21 that person is being held;

22 (iii) court records that are public;

23 (iv) records that are otherwise available
24 under State or local law; or

25 (v) records in which the requesting party is
26 the individual identified, except as provided under
27 part (vii) of paragraph (c) of subsection (1) of
28 this Section.

29 "Criminal history record information" means data
30 identifiable to an individual and consisting of
31 descriptions or notations of arrests, detentions,
32 indictments, informations, pre-trial proceedings, trials,
33 or other formal events in the criminal justice system or
34 descriptions or notations of criminal charges (including

1 criminal violations of local municipal ordinances) and
2 the nature of any disposition arising therefrom,
3 including sentencing, court or correctional supervision,
4 rehabilitation and release. The term does not apply to
5 statistical records and reports in which individuals are
6 not identified and from which their identities are not
7 ascertainable, or to information that is for criminal
8 investigative or intelligence purposes.

9 (e) Records that relate to or affect the security
10 of correctional institutions and detention facilities.

11 (f) Preliminary drafts, notes, recommendations,
12 memoranda and other records in which opinions are
13 expressed, or policies or actions are formulated, except
14 that a specific record or relevant portion of a record
15 shall not be exempt when the record is publicly cited and
16 identified by the head of the public body. The exemption
17 provided in this paragraph (f) extends to all those
18 records of officers and agencies of the General Assembly
19 that pertain to the preparation of legislative documents.

20 (g) Trade secrets and commercial or financial
21 information obtained from a person or business where the
22 trade secrets or information are proprietary, privileged
23 or confidential, or where disclosure of the trade secrets
24 or information may cause competitive harm, including all
25 information determined to be confidential under Section
26 4002 of the Technology Advancement and Development Act.
27 Nothing contained in this paragraph (g) shall be
28 construed to prevent a person or business from consenting
29 to disclosure.

30 (h) Proposals and bids for any contract, grant, or
31 agreement, including information which if it were
32 disclosed would frustrate procurement or give an
33 advantage to any person proposing to enter into a
34 contractor agreement with the body, until an award or

1 final selection is made. Information prepared by or for
2 the body in preparation of a bid solicitation shall be
3 exempt until an award or final selection is made.

4 (i) Valuable formulae, computer geographic systems,
5 designs, drawings and research data obtained or produced
6 by any public body when disclosure could reasonably be
7 expected to produce private gain or public loss.

8 (j) Test questions, scoring keys and other
9 examination data used to administer an academic
10 examination or determined the qualifications of an
11 applicant for a license or employment.

12 (k) Architects' plans and engineers' technical
13 submissions for projects not constructed or developed in
14 whole or in part with public funds and for projects
15 constructed or developed with public funds, to the extent
16 that disclosure would compromise security.

17 (l) Library circulation and order records
18 identifying library users with specific materials.

19 (m) Minutes of meetings of public bodies closed to
20 the public as provided in the Open Meetings Act until the
21 public body makes the minutes available to the public
22 under Section 2.06 of the Open Meetings Act.

23 (n) Communications between a public body and an
24 attorney or auditor representing the public body that
25 would not be subject to discovery in litigation, and
26 materials prepared or compiled by or for a public body in
27 anticipation of a criminal, civil or administrative
28 proceeding upon the request of an attorney advising the
29 public body, and materials prepared or compiled with
30 respect to internal audits of public bodies.

31 (o) Information received by a primary or secondary
32 school, college or university under its procedures for
33 the evaluation of faculty members by their academic
34 peers.

1 (p) Administrative or technical information
2 associated with automated data processing operations,
3 including but not limited to software, operating
4 protocols, computer program abstracts, file layouts,
5 source listings, object modules, load modules, user
6 guides, documentation pertaining to all logical and
7 physical design of computerized systems, employee
8 manuals, and any other information that, if disclosed,
9 would jeopardize the security of the system or its data
10 or the security of materials exempt under this Section.

11 (q) Documents or materials relating to collective
12 negotiating matters between public bodies and their
13 employees or representatives, except that any final
14 contract or agreement shall be subject to inspection and
15 copying.

16 (r) Drafts, notes, recommendations and memoranda
17 pertaining to the financing and marketing transactions of
18 the public body. The records of ownership, registration,
19 transfer, and exchange of municipal debt obligations, and
20 of persons to whom payment with respect to these
21 obligations is made.

22 (s) The records, documents and information relating
23 to real estate purchase negotiations until those
24 negotiations have been completed or otherwise terminated.
25 With regard to a parcel involved in a pending or actually
26 and reasonably contemplated eminent domain proceeding
27 under Article VII of the Code of Civil Procedure,
28 records, documents and information relating to that
29 parcel shall be exempt except as may be allowed under
30 discovery rules adopted by the Illinois Supreme Court.
31 The records, documents and information relating to a real
32 estate sale shall be exempt until a sale is consummated.

33 (t) Any and all proprietary information and records
34 related to the operation of an intergovernmental risk

1 management association or self-insurance pool or jointly
2 self-administered health and accident cooperative or
3 pool.

4 (u) Information concerning a university's
5 adjudication of student or employee grievance or
6 disciplinary cases, to the extent that disclosure would
7 reveal the identity of the student or employee and
8 information concerning any public body's adjudication of
9 student or employee grievances or disciplinary cases,
10 except for the final outcome of the cases.

11 (v) Course materials or research materials used by
12 faculty members.

13 (w) Information related solely to the internal
14 personnel rules and practices of a public body.

15 (x) Information contained in or related to
16 examination, operating, or condition reports prepared by,
17 on behalf of, or for the use of a public body responsible
18 for the regulation or supervision of financial
19 institutions or insurance companies, unless disclosure is
20 otherwise required by State law.

21 (y) Information the disclosure of which is
22 restricted under Section 5-108 of the Public Utilities
23 Act.

24 (z) Manuals or instruction to staff that relate to
25 establishment or collection of liability for any State
26 tax or that relate to investigations by a public body to
27 determine violation of any criminal law.

28 (aa) Applications, related documents, and medical
29 records received by the Experimental Organ
30 Transplantation Procedures Board and any and all
31 documents or other records prepared by the Experimental
32 Organ Transplantation Procedures Board or its staff
33 relating to applications it has received.

34 (bb) Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 (cc) Information and records held by the Department
5 of Public Health and its authorized representatives
6 relating to known or suspected cases of sexually
7 transmissible disease or any information the disclosure
8 of which is restricted under the Illinois Sexually
9 Transmissible Disease Control Act.

10 (dd) Information the disclosure of which is
11 exempted under Section 30 of the Radon Industry Licensing
12 Act.

13 (ee) Firm performance evaluations under Section 55
14 of the Architectural, Engineering, and Land Surveying
15 Qualifications Based Selection Act.

16 (ff) Security portions of system safety program
17 plans, investigation reports, surveys, schedules, lists,
18 data, or information compiled, collected, or prepared by
19 or for the Regional Transportation Authority under
20 Section 2.11 of the Regional Transportation Authority Act
21 or the St. Clair County Transit District under the
22 Bi-State Transit Safety Act.

23 (gg) Information the disclosure of which is
24 restricted and exempted under Section 50 of the Illinois
25 Prepaid Tuition Act.

26 (hh) Information the disclosure of which is
27 exempted under Section 80 of the State Gift Ban Act.

28 (ii) Beginning July 1, 1999, information that would
29 disclose or might lead to the disclosure of secret or
30 confidential information, codes, algorithms, programs, or
31 private keys intended to be used to create electronic or
32 digital signatures under the Electronic Commerce Security
33 Act.

34 (jj) Information contained in a local emergency

1 energy plan submitted to a municipality in accordance
2 with a local emergency energy plan ordinance that is
3 adopted under Section 11-21.5-5 of the Illinois Municipal
4 Code.

5 (kk) Information and data concerning the
6 distribution of surcharge moneys collected and remitted
7 by wireless carriers under the Wireless Emergency
8 Telephone Safety Act.

9 (ll) Production contracts submitted for review to
10 the Director of Agriculture under Section 15 of the
11 Agriculture Producer Protection Act.

12 (2) This Section does not authorize withholding of
13 information or limit the availability of records to the
14 public, except as stated in this Section or otherwise
15 provided in this Act.

16 (Source: P.A. 91-137, eff. 7-16-99; 91-357, eff. 7-29-99;
17 91-660, eff. 12-22-99; 92-16, eff. 6-28-01; 92-241, eff.
18 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651,
19 eff. 7-11-02.)

20 Section 99. Effective date. This Section and Section 50
21 take effect upon becoming law. The remainder of this Act
22 takes effect on January 1, 2004.