



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3818

by Rep. Adam Brown

SYNOPSIS AS INTRODUCED:

New Act

Creates the Prairie Wind Trail Property Transfer Act. Contains legislative findings and defines terms. Authorizes the Department of Natural Resources to convey certain real estate comprising the contemplated Prairie Wind Trail to adjacent owners if specified conditions are met. Provides that in order to facilitate the transfers authorized by the Act, the Secretary of State shall establish a repository for the deeds, surveys, and related materials for each parcel within the Secretary of State Index Department. Provides that the Department of Natural Resources shall accept requests to transfer land for 2 years following the effective date of the Act. Provides that the Department shall hold public hearings concerning the provisions of the Act. Provides that any determinations required by the Act and any actions to transfer real estate are within the sole discretion of the Department and are not subject to judicial or administrative review. Effective immediately.

LRB099 11166 MGM 31661 b

1 AN ACT concerning the Prairie Wind Trail.

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 Prairie Wind Trail Property Transfer Act.

6 Section 5. Legislative statement. Between the years of 1991
7 and 2002, the Department of Natural Resources expended \$408,085
8 to acquire 281.502 acres of real property, in the counties of
9 Coles, Douglas and Moultrie, with the intention of constructing
10 a recreational trail for use by the general public. The
11 intended recreational trail was not constructed because the
12 Department of Natural Resources was not able to acquire a
13 contiguous linear parcel of real property sufficient to
14 construct an uninterrupted recreational trail.

15 Between the years of 1995 and 2011, the Department of
16 Natural Resources transferred 47.777 acres of real property to
17 several private and public entities. These transfers were
18 completed in accordance with Public Acts 88-369, 89-29, 89-223,
19 90-760, 91-824, and 96-316.

20 Between 1991 and 2013, the Department of Natural Resources
21 expended \$207,425.89 in legal defense expenses associated with
22 the process of acquiring and holding title to the real property
23 constituting the planned Prairie Wind Trail. (See Hemingway v.

1 American Premium Underwriters, Inc., 97-MR-5, Sixth Circuit,
2 Douglas County, Illinois and Ag Farms, Inc. v. American Premium
3 Underwriters, Inc., 2002-MR-6, Sixth Circuit, Moultrie County,
4 Illinois.)

5 The General Assembly finds that transferring the real
6 property known as the Prairie Wind Trail to adjacent owners is
7 a public benefit to avoid further expenditure of legal defense
8 expenses.

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

10 "Adjacent owner" means an owner of real property with a
11 common boundary to parcels comprising the planned Prairie Wind
12 Trail owned by the Department of Natural Resources.

13 "Department" means the Department of Natural Resources of
14 the State of Illinois.

15 "Prairie Wind Trail" means real property in the counties of
16 Coles, Douglas and Moultrie that is owned by the Department of
17 Natural Resources and was acquired between the years of 1991
18 and 2002 with the intention of constructing a recreational
19 trail for use by the general public.

20 Section 15. Authority to convey real estate. The Department
21 may transfer and convey all or part of the real estate acquired
22 for the Prairie Wind Trail as provided in this Act. In order to
23 facilitate the transfers authorized by this Act, the Secretary
24 of State shall establish a repository for the deeds, surveys,

1 and related materials for each parcel within the Secretary of
2 State Index Department.

3 Section 20. Transfer process.

4 (a) Notwithstanding any provision of the State Property
5 Control Act, an adjacent owner may request the transfer of a
6 limited portion of the Prairie Wind Trail in accordance with
7 this Act. If an adjacent owner desires transfer of a portion of
8 the Prairie Wind Trail, the adjacent owner shall provide notice
9 to the Department, accompanied by the following:

10 (1) a title search proving ownership or a certified
11 copy of the recorded deed for the adjacent real property;

12 (2) a copy of the most recent real property tax
13 assessment for the adjacent real property; and

14 (3) a notarized affidavit executed by the owner of the
15 adjacent real property affirming current ownership of the
16 adjacent real property.

17 (b) The real estate transferred to an adjacent owner
18 pursuant to this Act may not extend beyond an area encompassed
19 by:

20 (1) the common property boundary;

21 (2) the center line of the Prairie Wind Trail; and

22 (3) lines extending from the boundary of the common
23 boundary of the real estate to the center line of the
24 Prairie Wind Trail.

25 (c) Upon receipt of notice, the Department shall determine

1 whether the adjacent owner has demonstrated ownership of the
2 real estate with a common boundary to the Prairie Wind Trail
3 and compliance with subsection (a) of this Section.

4 (d) If the adjacent owner demonstrates ownership of the
5 real estate with a common boundary to the Prairie Wind Trail
6 and compliance with subsection (a) of this Section, the
7 Department shall notify the adjacent owner and schedule a real
8 estate closing at a mutually agreeable time and place. The
9 adjacent owner is responsible to pay all filing fees, taxes,
10 and costs associated with closing the real estate transaction.

11 (e) If a person does not demonstrate ownership of the real
12 estate with a common boundary to the Prairie Wind Trail or
13 compliance with subsection (a) of this Section, the Department
14 shall reject the request to transfer any portion of the Prairie
15 Wind Trail to that person.

16 (f) If the Department receives a request to transfer any
17 portion of the Prairie Wind Trail that is the subject of any
18 pending action filed in any federal or State court, that
19 requested portion of the Prairie Wind Trail may not be
20 transferred by the Department until a final judgment is
21 rendered in the pending action.

22 (g) In the case of 2 or more parties claiming ownership of
23 all or the same adjacent property, the Department shall not
24 transfer any property of the requested portion of the Prairie
25 Wind Trail until an agreed-upon settlement between the
26 conflicting parties is made or until a final judgment is made

1 in any action related to the adjacent property in a court of
2 competent jurisdiction.

3 Section 25. Time limitations. The Department shall begin
4 accepting requests to transfer portions of the Prairie Wind
5 Trail on the effective date of this Act. The Department shall
6 not accept any request received more than 2 years after the
7 effective date of this Act. During this time period, the
8 Department shall hold a public hearing in the counties of
9 Moultrie and Douglas regarding the transfer of portions of the
10 Prairie Wind Trail. The hearing shall provide an opportunity
11 for adjacent owners to petition the Department. Notice shall be
12 given by public advertisement in a newspaper in general
13 circulation in the Prairie Wind Trail area. The notice shall
14 provide the date, time, and location of the public hearings and
15 provide information regarding the transfer of real property.

16 Section 30. Review. Any determinations required by this Act
17 and any actions to transfer real estate are within the sole
18 discretion of the Department and are not subject to judicial or
19 administrative review.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law.