

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  
5 Illinois Swine Market Development Act.

6 Section 5. Legislative intent. The legislature intends  
7 to promote the growth of the swine industry in Illinois; to  
8 assure the citizens of this State and the American public an  
9 adequate and wholesome food supply; to provide for the  
10 general economic welfare of both producers and consumers of  
11 pork and the State of Illinois; and to provide the swine  
12 production and feeding industry of this State with authority  
13 to establish a self-financed, self-governed program to help  
14 develop, maintain, and expand the State, national, and  
15 foreign markets for pork and pork products produced,  
16 processed, or manufactured in this State.

17 Section 10. Definitions. In this Act:

18 "Board" means the elected members of the Illinois Pork  
19 Producers Association board of directors.

20 "Council" means the Illinois Swine Market Development  
21 Council created by this Act.

22 "Director" means a member of the Illinois Swine Market  
23 Development Council.

24 "Market agent", "market agency", "collection agent", or  
25 "collection agency" means any person who sells, offers for  
26 sale, markets, distributes, trades, or processes swine that  
27 has been purchased or acquired from a producer or that is  
28 marketed on behalf of a producer. The term also includes  
29 meat packing firms, and their agents, that purchase or  
30 consign to purchase swine.

1 "Market" means to sell or to otherwise dispose of a swine  
2 animal, pork, or pork product in commerce.

3 "Person" means any natural person, partnership,  
4 corporation, company, association, society, trust, or other  
5 business unit or organization.

6 "Pork" means the meat from swine.

7 "Pork product" means a product produced or processed in  
8 whole or in part from swine.

9 "Producer" means any person engaged in this State in the  
10 business of producing or marketing swine, unless otherwise  
11 defined in the marketing program.

12 "Swine" means all domesticated animals of the family  
13 Suidae.

14 Section 15. Illinois Swine Market Development Program.

15 (a) The name of the program authorized by and created  
16 by this Act is the Illinois Swine Market Development Program.

17 (b) The program shall include, as applicable, the  
18 following:

19 (1) a definition of terms;

20 (2) the purpose of the program;

21 (3) the assessment rate or rates provided for by  
22 the program;

23 (4) equitable procedures for collection of the  
24 assessment provided for the program;

25 (5) procedures and criteria for determining  
26 adoption of a program;

27 (6) the election procedure and qualifications of  
28 the directors of the Council, terms of office, expense  
29 reimbursement, and other necessary provisions pertaining  
30 thereto;

31 (7) the operating procedures of the program;

32 (8) the qualifications for and registration of  
33 swine producers to participate in referenda for the

1 adoption, amendment, or continuation of a marketing  
2 program and the election of Council directors;

3 (9) If provided for in the marketing program, the  
4 procedure for requesting refunds and for reasonable  
5 reimbursement of collection expenses;

6 (10) procedures for the discontinuance of a  
7 program;

8 (11) the determination of what swine are subject to  
9 assessment and the exemption of swine producers or swine  
10 from assessment when those exemptions are applicable as  
11 defined in the marketing program; and

12 (12) the adoption of other provisions to facilitate  
13 the purposes of the marketing program.

14 (c) The purposes of the program may include:

15 (1) promoting the sale and use of pork and pork  
16 products; supporting promotion, research, and education  
17 programs, and other consumer marketing activities at a  
18 funding level determined by the Council; and otherwise  
19 supporting consumer market development and promotion  
20 efforts on a State, national, and international scale;

21 (2) developing new uses and markets for pork and  
22 pork products;

23 (3) developing and improving methods of  
24 distributing pork and pork products to the consumer;

25 (4) developing methods for improving the quality of  
26 pork and pork products for consumer benefit;

27 (5) informing and educating the public of the  
28 nutritive and economic value of pork and pork products;

29 (6) informing and educating pork producers on  
30 disease control and eradication, environmental  
31 stewardship and mandates, and other areas of importance  
32 to the swine industry;

33 (7) functioning as a liaison within the pork  
34 industry and other food industries of the State and

1 elsewhere in matters that would increase efficiencies  
2 that ultimately benefit both consumers and industry; and  
3 (8) developing and expanding markets for swine.

4 Section 20. Powers and duties of the Board.

5 (a) The Board is responsible for the development of the  
6 initial Illinois Swine Market Development Program, providing  
7 publicity and conducting informational meetings prior to the  
8 referendum for adoption on the initial marketing program,  
9 making the proposed program and nominating petitions for  
10 director and names of candidates running for office available  
11 to the public, registering producers who are subject to the  
12 program to vote, conducting the initial referendum to adopt a  
13 program, and conducting the initial election of the Council.

14 (b) The Board shall develop an Illinois Swine Market  
15 Development Program consistent with the provisions set forth  
16 in Section 15 and as authorized by or required by this Act.

17 Section 25. Governing council. With a favorable vote of  
18 swine producers subject to the marketing program in the State  
19 of Illinois to adopt by referendum an Illinois Swine Market  
20 Development Program, there shall be established an Illinois  
21 Swine Market Development Council governed by a board of  
22 directors of 7 members who shall be elected at the same time  
23 as the initial referendum and thereafter as provided for in  
24 this Act and marketing program. Swine producers who are  
25 subject to the program shall elect a director from each of 7  
26 compact and contiguous districts, apportioned as nearly as  
27 practical according to the swine-on-farms census report taken  
28 from the latest available United States Department of  
29 Agriculture records.

30 No county in Illinois shall be apportioned into more than  
31 one district. The 7 districts shall be re-apportioned by the  
32 Council every 9 years, according to the latest available

1 United States Department of Agriculture swine-on-farms census  
2 records. An elected director shall not become ineligible to  
3 serve his or her elected term through any re-apportionment.

4 The 7 directors shall be elected to serve a 3-year term  
5 and may be re-elected to serve an additional consecutive  
6 term. An elected director must be a resident of Illinois and  
7 must be a swine producer subject to the program who has been  
8 a swine producer for at least the 5 years prior to his or her  
9 election. A qualified swine producer may be elected to serve  
10 on the Council only if he or she has submitted, by registered  
11 mail to the Illinois Swine Market Development office, a  
12 nominating petition containing signatures of 25 or more swine  
13 producers subject to the program from the district he or she  
14 seeks to represent, except that in the case of the initial  
15 election of Council directors, the nominating petition shall  
16 be mailed by registered mail to the Board. The candidate  
17 receiving the greatest number of votes cast from that  
18 district shall be elected.

19 All Council directors shall be unsalaried. Council  
20 directors may, however, be reimbursed for travel and other  
21 expenses incurred in carrying out the intent and purposes of  
22 this Act and marketing program.

23 It is the responsibility of the Council to conduct the  
24 election of Council directors within 30 days before the end  
25 of any elected Council director's term of office. Newly  
26 elected Council directors shall assume their office at the  
27 first meeting of the Council after their election to office,  
28 which shall be convened within 30 days after the election.  
29 Notice of the meeting shall be sent to the directors of the  
30 Council at least 10 days before the meeting. The notice must  
31 state the time, date, and place of the meeting.

32 Reasonable notice of elections of directors of the  
33 Council must be given at least once in trade publications and  
34 in the public press at least 30 days before the election.

1           The Council may declare an office of director vacant and  
2 appoint a swine producer subject to the program from that  
3 district to serve the unexpired term of any director unable  
4 or unwilling to complete his or her term of office.

5           Section 30. Referenda. All swine producers subject to  
6 the marketing program shall have the opportunity to vote in a  
7 referendum to determine the adoption, amendment, or  
8 continuation of a marketing program.

9           All referenda shall be by secret ballot. Voting may be  
10 by mail, at geographically located polling places or  
11 conducted in any other manner that will make it easy to vote  
12 throughout the State. More than one day shall be allowed for  
13 swine producers subject to the program to cast their ballots.  
14 Procedure shall be provided for absentee voting. Reasonable  
15 notice of all referenda held under this Act must be given at  
16 least once in trade publications and in the public press at  
17 least 30 days before the referendum.

18           If the referendum is by mailed ballot, the ballots shall  
19 be returned to the Illinois Department of Agriculture, and in  
20 the case of other voting methods, the ballots shall be  
21 returned or delivered to the Department at the conclusion of  
22 the voting period. The Department shall secure all ballots  
23 until they are tallied. The Department shall appoint a  
24 3-person teller committee to tally the vote and shall make  
25 the results of the referendum public.

26           The initial referendum to adopt an Illinois Swine Market  
27 Development Program and to set the amount of an assessment  
28 may be conducted at any time by the Board of the Illinois  
29 Pork Producers Association. The Board shall hold  
30 informational meetings on the initial marketing program.

31           Any producer who is qualified under any marketing program  
32 is entitled to one vote. The referendum area includes the  
33 entire State of Illinois.

1 Section 35. Powers and duties of the Council.

2 (a) The Council shall:

3 (1) receive and disburse funds, as prescribed in  
4 this Act and the marketing program, to be used in  
5 administering and implementing the provisions and the  
6 intent of this Act and the marketing program;

7 (2) annually elect a Chairperson from among its  
8 members who may succeed himself or herself for not more  
9 than one term;

10 (3) annually elect a Secretary-Treasurer from among  
11 its members;

12 (4) meet regularly and at any other times at the  
13 call of the Chairperson, or when requested by 4 or more  
14 directors of the Council; all meetings must comply with  
15 the Open Meetings Act;

16 (5) maintain a permanent record of its business  
17 proceedings;

18 (6) maintain a permanent and detailed record of its  
19 financial dealings;

20 (7) prepare and publish annually an activity and  
21 financial report for the marketing program to be  
22 available to all of the affected producers of the  
23 marketing program. All expenditures under each marketing  
24 program shall be audited at least annually by a  
25 registered public accountant. Within 30 days after  
26 completion of such audit, the results shall be made  
27 available to the Director of the Illinois Department of  
28 Agriculture;

29 (9) bond the treasurer and such other persons  
30 necessary to insure adequate protection of funds and  
31 deposit program funds in a secure banking institution;  
32 and

33 (10) maintain an office at a specific location in  
34 Illinois.

1 (b) The Council may:

2 (1) conduct or contract with any accredited  
3 university, college, or similar institution and enter  
4 into other contracts or agreements that will aid the  
5 Council in carrying out the purposes of the program,  
6 including contracts for the purchase or acquisition of  
7 facilities or equipment necessary to carry out the  
8 purposes of the program;

9 (2) disseminate reliable information benefiting the  
10 consumer and the swine industry on subjects including,  
11 but not limited to, purchase, identification, care  
12 storage, handling, cookery, preparation, serving, and  
13 nutritive value of pork and pork products;

14 (3) provide information to government bodies and  
15 act jointly or in cooperation with the State or federal  
16 government, and agencies thereof, to facilitate the  
17 objectives of the program;

18 (4) sue and be sued as a Council without individual  
19 liability of the members for acts of the Council when  
20 acting within the scope of the powers of this Act and in  
21 the manner prescribed by the laws of this State;

22 (5) borrow money from licensed lending institutions  
23 in an amount that is not cumulatively greater than 50% of  
24 the Council's anticipated annual income;

25 (6) maintain a financial reserve for emergency use,  
26 the total of which may not exceed 50% of the Council's  
27 anticipated annual income;

28 (7) appoint advisory groups composed of  
29 representatives from organizations, institutions,  
30 government, or businesses related to or interested in the  
31 welfare of the swine industry and the pork-consuming  
32 public;

33 (8) employ subordinate officers and employees of  
34 the Council and prescribe their duties and fix their



1 compensation and terms of employment;

2 (9) cooperate with any local, State, regional, or  
3 nationwide organization or agency or person engaged in  
4 work or activities consistent with the objectives of the  
5 program;

6 (10) cause any duly authorized agent or  
7 representative of the Council to enter upon the premises  
8 of any market agency, market agent, collection agent, or  
9 collection agency, or any person responsible for  
10 remitting assessments to the Council and examine or cause  
11 to be examined by an authorized agent only books, papers,  
12 and records that deal in any way with the payment of the  
13 assessment adopted pursuant to this Act and marketing  
14 program;

15 (11) provide services that enhance profitability  
16 and consumer preference for pork; and

17 (12) carry out the duties and responsibilities as  
18 set forth in this Act and marketing program.

19 Section 40. Acceptance of grants and gifts. The Council  
20 may accept grants, donations, contributions, or gifts from  
21 any source and may use these moneys consistent with the  
22 objectives of the program.

23 Section 45. Payments to organizations.

24 (a) The Council may pay funds to other organizations or  
25 persons for work or services performed that are consistent  
26 with the objectives of the program.

27 (b) Before making payments described in this Section,  
28 the Council must secure agreements in writing that the  
29 organization or persons receiving payment will (i) furnish  
30 yearly or at the request of the Council written or printed  
31 reports of program activities and reports of financial data  
32 that are related to the Council's funding of these activities

1 and (ii) agree to have appropriate representatives attend  
2 business meetings of the Council as reasonably requested by  
3 the Chairperson of the Council.

4 (c) The Council may require adequate proof of surety  
5 bonding on funds paid to any person or organization.

6 Section 50. Collection of moneys.

7 (a) Every person who is responsible for remitting the  
8 assessment as established in the marketing program shall  
9 deduct the amount of the assessment as directed in the  
10 marketing program in addition to any assessment for a  
11 national promotion research program, created by federal law,  
12 that may be in effect.

13 (b) The person responsible for remitting the assessment  
14 shall forward the assessed funds to the Council on a monthly  
15 basis. The Council shall provide appropriate business forms  
16 for the convenience of the person responsible for remitting  
17 the assessment.

18 (c) Failure of the person who is responsible for  
19 collecting and remitting to the Council assessments  
20 authorized by this Act and marketing program is grounds for  
21 the Council to request that the Illinois Department of  
22 Agriculture suspend or refuse to issue the person's license  
23 under the Livestock Auction Market Law or Illinois Livestock  
24 Dealer Licensing Act.

25 (d) The Council shall maintain financial records of all  
26 moneys received under the marketing program.

27 (e) Any due and payable assessment required under this  
28 Act and marketing program constitutes a personal debt of the  
29 person so assessed or the person who otherwise owes the  
30 assessment. In the event of failure of a person to remit any  
31 properly due assessment, the Council may bring a civil action  
32 against that person in the circuit court of any county for  
33 the collection thereof, and may add an additional 10% penalty

1 assessment, cost of enforcing the collection of the  
2 assessment, and court costs. The action shall be tried and  
3 judgment rendered as in any other cause of action for debts  
4 due and payable. All assessments, penalty assessments, and  
5 enforcement costs are due and payable to the Council.

6 (f) All moneys assessed under this Act and marketing  
7 program are bona fide business expenses for the seller under  
8 the tax laws of this State.

9 (f) The Council may adopt reciprocal agreements with  
10 other swine councils or similar organizations.

11 Section 55. Refunds.

12 (a) Any person who has had an assessment deducted from  
13 under the provisions of this Act and marketing program is  
14 entitled to a prompt and full refund if the marketing program  
15 provides for refunds. The refund shall be made in a manner  
16 consistent with this Act and any marketing program for the  
17 time that the program is in effect.

18 (b) The Council shall make available to all persons  
19 responsible for collecting and remitting the assessment forms  
20 for requesting refunds. The refund request forms shall be  
21 submitted by the swine producer within 60 days after the date  
22 of assessment.

23 (c) A refund claim by the swine producer must include  
24 his or her signature, date and place of assessment, number of  
25 swine, and amount of assessment deducted and must have  
26 attached to it proof of the assessment.

27 (d) If the Council has reasonable doubt that a refund  
28 claim is valid, it may withhold payment and take any action  
29 that may be deemed necessary to determine its validity.

30 (e) All requests for refunds shall be initiated by the  
31 producer.

32 Section 60. Surety bond. Any person authorized by the

1 Council to receive or disburse funds must post with the  
2 Council a surety bond in an amount determined by the Council.  
3 Premiums covering bonds for employees, officers, or members  
4 of the Council shall be paid by the Council.

5 Section 65. Compliance. No person may knowingly fail or  
6 refuse to comply with the requirements of this Act or an  
7 adopted marketing program. The Council may institute any  
8 action that is necessary to enforce compliance with this Act  
9 or an adopted marketing program. In addition to any other  
10 remedy provided by law, the Council may petition the circuit  
11 court for injunctive relief without being required to allege  
12 or prove the absence of any adequate remedy at law.

13 Section 70. Duration of program.

14 (a) Any marketing program adopted by referendum shall  
15 remain in effect until amended or repealed.

16 (b) Upon delivery by certified mail to the Council  
17 office of petitions from each of the 7 districts containing  
18 the signatures of at least 100 swine producers in each  
19 district that are qualified to vote, stating "Shall the  
20 Illinois Swine Market Development Program continue", the  
21 Council shall, within 90 days, conduct a referendum to  
22 determine if a majority of the swine producers qualified to  
23 vote in the referendum support the continuation of the  
24 Illinois Swine Market Development Program. Referendums on  
25 the question of the continuation of a program may not be held  
26 more than once every 5 years. The continuation of a  
27 marketing program shall be determined by the same voting  
28 requirements as for adoption of the marketing program.

29 (c) A marketing program may be amended by utilizing the  
30 same procedures as for determining the continuation of a  
31 program. The Council may at any time deemed necessary propose  
32 amendments to a marketing program.

1           Section 75. Termination of program. Upon termination of  
2 any marketing program, all remaining unobligated funds shall  
3 be refunded on a prorata basis to the producers from whom the  
4 assessments were collected in the preceding 2 years.

5           Section 80. Suspension of program. The operation of any  
6 marketing program or any part thereof may be suspended for  
7 any reasonable cause by the Council.

8           Section 85. Illinois Administrative Procedure Act. The  
9 marketing program, procedures relative to the adoption of any  
10 marketing program or amendment to an existing marketing  
11 program shall not be subject to the provisions of the  
12 Illinois Administrative Procedure Act.

13           Section 90. Invalidity. If any provision of this Act or  
14 application thereof to any person or circumstances is held  
15 invalid, that invalidity does not affect other provisions or  
16 applications of this Act that can be given effect without the  
17 invalid application or provision, and to this end the  
18 provisions of this Act are declared to be severable.

19           Section 999. Effective date. This Act takes effect upon  
20 becoming law.