

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) the procedure for requesting refunds and, if
4 provided for in the marketing program, reasonable
5 reimbursement of collection agencies' 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 shall be
10 by mailed ballot. No less than 14 calendar days shall be
11 allowed for swine producers subject to the program to cast
12 their ballots. Procedure shall be provided for absentee
13 voting. Reasonable notice of all referenda held under this
14 Act must be given at least once in trade publications and in
15 the public press at least 30 days before the referendum.

16 The ballots shall be returned to the Illinois Department
17 of Agriculture. Such ballots shall be returned or delivered
18 to the Department no later than the date for the conclusion
19 of the voting period. The Department shall secure all ballots
20 until they are tallied. The Department shall appoint a
21 3-person teller committee to tally the vote and shall make
22 the results of the referendum public.

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

28 Any producer who is qualified under any marketing program
29 is entitled to one vote. The referendum area includes the
30 entire State of Illinois.

31 Section 35. Powers and duties of the Council.

32 (a) The Council shall:

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

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

8 (3) annually elect a Secretary-Treasurer from among
 9 its members;

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

14 (5) maintain a permanent record of its business
 15 proceedings;

16 (6) maintain a permanent and detailed record of its
 17 financial dealings;

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

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

31 (9) maintain an office at a specific location in
 32 Illinois.

33 (b) The Council may:

34 (1) conduct or contract with any accredited

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

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

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

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

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

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

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

31 (8) employ subordinate officers and employees of
 32 the Council and prescribe their duties and fix their
 33 compensation and terms of employment;

34 (9) cooperate with any local, State, regional, or

1 nationwide organization or agency or person engaged in
2 work or activities consistent with the objectives of the
3 program;

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

13 (11) provide services that enhance profitability
14 and consumer preference for pork; and

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

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

21 Section 45. Payments to organizations.

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

25 (b) Before making payments described in this Section,
26 the Council must secure agreements in writing that the
27 organization or persons receiving payment will (i) furnish
28 yearly or at the request of the Council written or printed
29 reports of program activities and reports of financial data
30 that are related to the Council's funding of these activities
31 and (ii) agree to have appropriate representatives attend
32 business meetings of the Council as reasonably requested by

1 the Chairperson of the Council.

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

4 Section 50. Collection of moneys.

5 (a) Every person who is responsible for remitting the
6 assessment as established in the marketing program shall
7 deduct the amount of the assessment as directed in the
8 marketing program.

9 (b) The person responsible for remitting the assessment
10 shall forward the assessed funds to the Council on a monthly
11 basis. The Council shall provide appropriate business forms
12 for the convenience of the person responsible for remitting
13 the assessment.

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

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

23 (e) Any due and payable assessment required under this
24 Act and marketing program constitutes a personal debt of the
25 person so assessed or the person who otherwise owes the
26 assessment. In the event of failure of a person to remit any
27 properly due assessment, the Council may bring a civil action
28 against that person in the circuit court of any county for
29 the collection thereof, and may add an additional 10% penalty
30 assessment, cost of enforcing the collection of the
31 assessment, and court costs. The action shall be tried and
32 judgment rendered as in any other cause of action for debts
33 due and payable. All assessments, penalty assessments, and

1 enforcement costs are due and payable to the Council.

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

5 (g) The Council may adopt reciprocal agreements with
6 other swine councils or similar organizations.

7 Section 55. Refunds.

8 (a) Any person who has had an assessment deducted from
9 under the provisions of this Act and marketing program is
10 entitled to a full and prompt refund. The refund shall be
11 made in a manner consistent with this Act and any marketing
12 program for the time that the program is in effect.

13 (b) The Council shall make available to all persons
14 responsible for collecting and remitting the assessment forms
15 for requesting refunds. The refund request forms shall be
16 submitted by the swine producer within 60 days after the date
17 of assessment.

18 (c) A refund claim by the swine producer must include
19 his or her signature, date and place of assessment, number of
20 swine, and amount of assessment deducted and must have
21 attached to it proof of the assessment.

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

25 (e) All requests for refunds shall be initiated by the
26 producer.

27 Section 60. Surety bond. Any person authorized by the
28 Council to receive or disburse funds must post with the
29 Council a surety bond in an amount determined by the Council.
30 Premiums covering bonds for employees, officers, or members
31 of the Council shall be paid by the Council.

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

9 Section 70. Duration of program.

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

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

25 (c) A marketing program may be amended by utilizing the
26 same procedures as for determining the continuation of a
27 program. The Council may at any time deemed necessary propose
28 amendments to a marketing program.

29 Section 75. Termination of program. Upon termination of
30 any marketing program, all remaining unobligated funds shall
31 be refunded on a pro rata basis to the producers from whom
32 the assessments were collected in the preceding 2 years.

1 Section 80. Suspension of program. The operation of any
2 marketing program or any part thereof may be suspended for
3 any reasonable cause by the Council.

4 Section 85. Illinois Administrative Procedure Act. The
5 marketing program, procedures relative to the adoption of any
6 marketing program or amendment to an existing marketing
7 program shall not be subject to the provisions of the
8 Illinois Administrative Procedure Act.

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

15 Section 999. Effective date. This Act takes effect upon
16 becoming law.