

# HB4849



## 104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

**HB4849**

by Rep. Will Guzzardi

### SYNOPSIS AS INTRODUCED:

New Act  
35 ILCS 5/253 new

Creates the Farmer Tax Benefit Act. Provides that taxpayers may apply to the Department of Natural Resources for an income tax credit in an amount equal to either (i) 100% of the fair market value of a qualified donation to a conservation agency of a land protection agreement or (ii) 50% of the fair market value of the qualified donation to a conservation agency of a fee simple interest or a remainder interest in qualified real property. Amends the Illinois Income Tax Act to make conforming changes.

LRB104 17527 HLH 30954 b

A BILL FOR

1 AN ACT concerning revenue.

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 Farmer  
5 Tax Benefit Act.

6 Section 5. Purpose and findings. The General Assembly  
7 finds that:

8 (1) The State of Illinois' unique natural resources,  
9 wildlife habitats, open spaces, agricultural and forested  
10 resources, wetlands, and historical, cultural, and  
11 archaeological resources are of significant economic,  
12 environmental, and social benefit to the State and the  
13 public.

14 (2) The Illinois economy is vulnerable to other states  
15 that have financial incentive programs targeted to support  
16 the protection of unique natural and agricultural  
17 resources. Illinois should advance new tools to ensure  
18 that Illinois offers a competitive quality of life and is  
19 desirable in site location decision-making for businesses.

20 (3) Natural carbon storage and increasing carbon  
21 sequestration from natural and working lands is a critical  
22 component of State and national deep decarbonization  
23 strategies because the maintenance of existing sequestered

1 carbon in intact natural and working lands systems can be  
2 among the most cost-effective ways to support climate  
3 goals.

4 (4) The protection of natural and working lands is an  
5 important climate adaptation strategy, with land  
6 conservation serving to build community resilience against  
7 extreme weather events, such as by absorbing excess  
8 rainwater to reduce flooding, filtering pollutants,  
9 offering cooling from extreme heat, preserving  
10 biodiversity, ensuring species' corridor migration, and  
11 protecting productive farmland that provides food  
12 security.

13 (5) Much of the State's unique natural, historical,  
14 agricultural and open space resources and habitats are  
15 found on lands that are privately owned. The General  
16 Assembly intends to provide private landowners with  
17 incentives to encourage voluntary protection of private  
18 lands for open space, natural resources, biodiversity  
19 conservation, water supply, outdoor recreation, farmland  
20 and forestland preservation, historic preservation, and  
21 land conservation purposes.

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

23 "Conservation agency" means the following:

- 24 (1) the State of Illinois;  
25 (2) a federal agency;

- 1           (3) a unit of local government;
- 2           (4) a federally-recognized Indian tribe; or
- 3           (5) a 501(c)(3) nonprofit organization that has
- 4 experience acquiring conservation real estate, whether
- 5 through purchase, donation, or transfer, and that meets
- 6 the requirements of Section 170(h)(3) of the Internal
- 7 Revenue Code and the regulations adopted under that
- 8 Section.

9 A conservation agency must also:

- 10           (1) be authorized to acquire, hold, and maintain title
- 11 to real estate or interests in real estate in Illinois;
- 12           (2) be organized and operated for purposes expressly
- 13 including natural resource protection, land conservation,
- 14 or historic preservation; and
- 15           (3) meet other criteria or certifications required by
- 16 the Department by rule.

17           Any non-profit corporation that is accredited through

18 the Land Trust Accreditation Commission shall automatically be

19 deemed a conservation agency with no further burden of proof.

20           "Credit" means the Illinois Land Protection Credit created

21 and administered as outlined in this Act.

22           "Department" means the Department of Natural Resources.

23           "Federally recognized Indian tribe" means any Indian tribe

24 that is included on the list of federally recognized Indian

25 tribes that is published from time to time by the United States

26 Department of the Interior under the Federally Recognized

1 Indian Tribe List Act of 1994.

2 "Landowner" means the owner of fee simple title to land,  
3 as evidenced by the county real property records in the county  
4 where the real property interest is located, including,  
5 without limitation, individuals, trusts and estates, and  
6 entities such as limited liability companies, partnerships,  
7 and corporations, whether for profit or not-for-profit.

8 "Land protection agreement" means a restriction, granted  
9 in perpetuity and created pursuant to Illinois real property  
10 law, on the use that may be made of real property, and that  
11 complies with Section 170(h)(2)(C) of the Internal Revenue  
12 Code.

13 "Qualified appraisal" has the same meaning as that term is  
14 defined in 26 CFR 1.170A-17.

15 "Qualified donation" means the transfer and conveyance by  
16 gift, without consideration, of all or a portion, including  
17 bargain sales, of a qualified real property interest to a  
18 conservation agency if those purposes are secured in  
19 perpetuity through recording of a deed in the real property  
20 records in the county where the qualified real property  
21 interest is located.

22 "Qualified real property interest" means any of the  
23 following interests in real property located in the State of  
24 Illinois:

25 (1) fee simple interest;

26 (2) a remainder interest; or

1           (3) a land protection agreement.

2           A fee simple interest or remainder interest shall not be  
3 deemed a qualified real property interest unless the  
4 conservation and preservation purposes are assured in  
5 perpetuity. In these cases, the credit shall not be allowed  
6 until the conservation agency agrees in recorded documentation  
7 that any subsequent conveyances of the fee simple or remainder  
8 interest in the property will be subject to a prior conveyance  
9 in perpetuity of a land protection agreement or will be  
10 conveyed to another conservation agency.

11           Section 15. Credit availability.

12           (a) For taxable years beginning on or after January 1,  
13 2027, taxpayers may apply to the Department for a credit  
14 against the tax imposed by subsections (a) and (b) of Section  
15 201 of the Illinois Income Tax Act in an amount equal to either  
16 (i) 100% of the fair market value of a qualified donation of a  
17 land protection agreement or (ii) 50% of the fair market value  
18 of the qualified donation of a fee simple interest or a  
19 remainder interest in qualified real property. The fair market  
20 value of any donation made under this Section shall be  
21 substantiated by a qualified appraisal prepared by a qualified  
22 appraiser.

23           (b) The total aggregate amount of tax credits issued under  
24 this Act in any State fiscal year shall not exceed \$7,500,000.  
25 Certificates of tax credit shall be allocated on a first-come,

1 first-served basis. The Department shall log applications as  
2 they are received. If the \$7,500,000 total aggregate cap is  
3 exceeded in any one year, the Department shall issue a  
4 certificate of tax credit to be available to the landowner in  
5 the subsequent tax year with an effective date of the  
6 subsequent year.

7 (c) The amount of the credit that may be claimed by a  
8 landowner for any single qualified donation shall not exceed  
9 \$500,000.

10 (d) The credit under this Act is exempt from the  
11 provisions of Section 250.

12 Section 20. Credit allocation by the Department.

13 (a) A landowner seeking to claim a tax credit under  
14 Section 15 above shall, in either the year of the donation or  
15 the year following the year of donation, submit to the  
16 Department an application for a land protection tax credit on  
17 a form to be created by the Department. The application shall  
18 be accompanied by the qualified appraisal substantiating the  
19 value of the qualified donation and the deed transferring the  
20 qualified real property interest. If the landowner is a  
21 pass-through entity, the application shall also include  
22 documentation that the landowner has owned the property for  
23 more than 3 years at the time of the donation or otherwise  
24 meets the family exception set forth in Section 40.

25 (b) On receipt of the application and all supporting

1 documentation, the Department shall either (i) record the  
2 transaction and provide the landowner with a certificate  
3 acknowledging the credit, together with a tracking number, on  
4 a form to be created by the Department, (ii) request more  
5 information, or (iii) decline to issue the certificate by  
6 providing a written statement of the deficiencies in the  
7 application. The landowner shall have an opportunity to cure  
8 any deficiencies. The Department shall make its determination  
9 within 60 days of receipt of the application. If no  
10 determination is made within 60 days after receipt, the credit  
11 shall be deemed automatically granted.

12 If the landowner is receiving compensation for any  
13 non-donated portion of a qualified real property interest and  
14 that compensation derives from a federal, State, or local  
15 public conservation funding source, then the landowner shall  
16 include, with the application, documentation confirming the  
17 award of public funding towards the qualified real property  
18 interest. In that case, the public funding award shall be  
19 determinative of the conservation benefit and value, no  
20 additional review by the Department shall be necessary, and  
21 the credit shall be automatically granted and the certificate  
22 automatically issued.

23 Section 25. Allowable credit use.

24 (a) If the amount of the credit exceeds the tax liability  
25 for the year, the excess may be carried forward and applied to

1 the tax liability of the 5 taxable years following the excess  
2 credit year. In no event shall a credit under this Section  
3 reduce the taxpayer's liability to less than zero. The  
4 landowner shall submit a copy of the certificate of tax credit  
5 with its tax returns for the year of the claimed credit.

6 (b) A sale, assignment, or transfer of the tax credit may  
7 be made by the taxpayer earning the credit at any time during  
8 the 5-year carry forward period. Upon notice of transfer, the  
9 Department shall issue transfer certificates to the transferor  
10 and transferee that identify the amount of the credit  
11 transferred. Upon issuance of the transfer certificates, the  
12 transferor relinquishes all rights to the portion of the  
13 credit that was transferred. The transferred credit may be  
14 applied by the transferee against its tax imposed by the  
15 Illinois Income Tax Act, and any credit not used by the  
16 transferee may be carried forward for the remainder of the  
17 original 5-year carry forward period. A landowner seeking to  
18 transfer a credit shall submit to the Department a Notice of  
19 Tax Credit Transfer on a form to be created by the Department.  
20 Upon any transfer of a credit, a fee equal to 2.5% of the  
21 amount of the credit so transferred shall be paid to the  
22 Department by the landowner to cover the administrative costs  
23 of this process.

24 Section 30. Powers of the Department.

25 (a) The Department, in addition to those powers granted

1 under the Civil Administrative Code of Illinois, is granted  
2 and has all the powers necessary or convenient to carry out and  
3 effectuate the purposes and provisions of this Act, including,  
4 but not limited to, power and authority to:

5 (1) Adopt rules deemed necessary and appropriate for  
6 the administration of the tax credit program.

7 (2) Establish forms for applications, notifications,  
8 contracts, or any other agreements and accept applications  
9 at any time during the year.

10 (3) Assist applicants pursuant to the provisions of  
11 this Act to promote, foster, and support land conservation  
12 and its related benefits within the State.

13 (4) Gather information and conduct inquiries in the  
14 manner and by the methods as it deems desirable.

15 (5) Provide for sufficient personnel to permit  
16 administration, staffing, operation, and related support  
17 required to adequately discharge its duties and  
18 responsibilities described in this Act from funds as may  
19 be appropriated by the General Assembly for the  
20 administration of this Act.

21 (6) Require applicants, upon written request, to issue  
22 any necessary authorization to the appropriate federal,  
23 State, or local authority for the release of information  
24 concerning a project being considered under the provisions  
25 of this Act, with the information requested to include,  
26 but not be limited to, financial reports, returns, or

1 records.

2 (b) The Department shall adopt rules within 6 months after  
3 the effective date of this Act.

4 Section 35. Analysis of the Illinois Land Protection Tax  
5 Credit.

6 (a) By December 31, 2032, the Department, in consultation  
7 with other State agencies as needed, shall prepare a report  
8 detailing the amount of land and the fair market value of land  
9 protected during the reporting period pursuant to this Act.  
10 The Department may consider application and attestation  
11 information provided by eligible taxpayers pursuant to this  
12 Act and any other data it deems relevant.

13 (b) The final report shall be made publicly available, and  
14 copies of the final report shall be filed with the General  
15 Assembly and the Governor.

16 Section 40. Applicability and limitations.

17 (a) Any tax credits arising under this Act from a  
18 qualified donation made by a pass-through tax entity, such as  
19 a trust, estate, limited liability corporation, or  
20 partnership, limited partnership, subchapter S corporation, or  
21 other fiduciary, shall be used either by that entity, if it is  
22 the taxpayer on behalf of such entity, or by the member,  
23 manager, partner, shareholder, or beneficiary, as the case may  
24 be, in proportion to the person's interest in the entity, if

1 that income tax liability passes through such entity to such  
2 member, manager, partner, shareholder, beneficiary. Tax  
3 credits may not be claimed by both the entity and the member,  
4 manager, partner, shareholder, or beneficiary for the same  
5 qualified donation. In the case of a pass-through entity  
6 described above, no qualified donation shall be eligible for a  
7 tax credit under this Act unless the entity acquired the land  
8 or qualified real property interest 3 or more years before the  
9 donation for which the qualified donation is being sought.

10 (b) Subsection (a) shall not apply with respect to any  
11 qualified donation by any partnership or pass-through entity  
12 for which a tax credit is being sought under this Act if  
13 substantially all of the partnership interests or pass-through  
14 entity interests in the partnership or pass-through entity are  
15 held, directly or indirectly, by an individual or members of  
16 the individual's family.

17 As used in this subsection, "member of the family" means  
18 the individual's spouse or any person who bears a relationship  
19 to the individual that is described in Internal Revenue Code  
20 Section 152(d)(2) subparagraphs (A) through (G).

21 (c) If a conservation agency becomes unqualified after the  
22 effective date of a qualified donation, it shall not require  
23 any taxpayer to repay tax credits claimed under this Act, nor  
24 shall such event be cause for any other penalty to be imposed  
25 on a taxpayer.

1 Section 45. Construction.

2 (a) Nothing in this Act shall be interpreted to in any way  
3 alter or amend any permit requirements, reporting  
4 requirements, allocation procedures, or other requirements set  
5 forth in any other provision of State law.

6 (b) Notwithstanding any provision of law to the contrary,  
7 a land protection agreement held pursuant to this Section  
8 shall be construed in favor of achieving the conservation  
9 purposes for which it was created.

10 Section 900. The Illinois Income Tax Act is amended by  
11 adding Section 253 as follows:

12 (35 ILCS 5/253 new)

13 Sec. 253. Farmer Tax Benefit Act. A taxpayer who has been  
14 awarded a credit under the Farmer Tax Benefit Act is entitled  
15 to a credit as provided in that Act.