



Sen. David Koehler

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1 AMENDMENT TO SENATE BILL 1627

2 AMENDMENT NO. _____. Amend Senate Bill 1627 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be referred to as the
5 Illinois Farmers Who Fight Hunger Act.

6 Section 5. The Illinois Estate and Generation-Skipping
7 Transfer Tax Act is amended by changing Section 2 and by adding
8 Section 8.1 as follows:

9 (35 ILCS 405/2) (from Ch. 120, par. 405A-2)

10 Sec. 2. Definitions.

11 "Farm property" means real property that is used primarily
12 for raising or harvesting agricultural or horticultural
13 commodities for commercial sale.

14 "Federal estate tax" means the tax due to the United
15 States with respect to a taxable transfer under Chapter 11 of

1 the Internal Revenue Code.

2 "Federal generation-skipping transfer tax" means the tax
3 due to the United States with respect to a taxable transfer
4 under Chapter 13 of the Internal Revenue Code.

5 "Federal return" means the federal estate tax return with
6 respect to the federal estate tax and means the federal
7 generation-skipping transfer tax return with respect to the
8 federal generation-skipping transfer tax.

9 "Federal transfer tax" means the federal estate tax or the
10 federal generation-skipping transfer tax.

11 "Food bank" means a food bank in Illinois that received
12 funding from The Emergency Food Assistance Program (TEFAP) in
13 the year in which it received the qualified donation.

14 "Historically underserved farmer or rancher" means an
15 individual who: (i) is a beginning farmer or rancher, a
16 socially disadvantaged farmer or rancher, a veteran farmer or
17 rancher, or a limited resource farmer or rancher, as those
18 terms are defined by the Natural Resources Conservation
19 Service of the United States Department of Agriculture; and
20 (ii) materially and substantially participates in the
21 operation of farm property located in the State at least 50% of
22 which is owned by a beginning farmer or rancher, a socially
23 disadvantaged farmer or rancher, a veteran farmer or rancher,
24 or some combination of those persons at the time the donation
25 is made.

26 "Illinois estate tax" means the tax due to this State with

1 respect to a taxable transfer.

2 "Illinois generation-skipping transfer tax" means the tax
3 due to this State with respect to a taxable transfer that gives
4 rise to a federal generation-skipping transfer tax.

5 "Illinois transfer tax" means the Illinois estate tax or
6 the Illinois generation-skipping transfer tax.

7 "Internal Revenue Code" means, unless otherwise provided,
8 the Internal Revenue Code of 1986, as amended from time to
9 time.

10 "Material and substantial participation" means day-to-day
11 labor and management of farm property, consistent with the
12 practices of the county in which the farm property is located.

13 "Non-resident trust" means a trust that is not a resident
14 of this State for purposes of the Illinois Income Tax Act, as
15 amended from time to time.

16 "Person" means and includes any individual, trust, estate,
17 partnership, association, company or corporation.

18 "Qualified heir" means a qualified heir as defined in
19 Section 2032A(e) (1) of the Internal Revenue Code.

20 "Qualified donation" means a donation to a food bank or to
21 a historically underserved farmer or rancher of an
22 agricultural or horticultural commodity that is suitable for
23 human consumption and is produced on qualified farm property,
24 a cash equivalent donation to a food bank or a historically
25 underserved farmer or rancher, or some combination of those
26 types of donations.

1 "Qualified farm property" means farm property:

2 (1) in which the decedent had an ownership interest at
3 the time of the decedent's death and for at least 5 years
4 before the decedent's death; and

5 (2) from which the decedent made qualified donations
6 in at least 5 separate calendar years before the
7 decedent's death totaling at least 1% of the gross revenue
8 from crop yield associated with the property in the
9 calendar year in which the donation was made; and

10 (3) from which the decedent's heirs pledge to make
11 qualified donations in each of the 5 consecutive calendar
12 years beginning with the year after the decedent's death
13 totaling at least 1% of the gross revenue from crop yield
14 associated with the property in the calendar year in which
15 the donation is made.

16 "Resident trust" means a trust that is a resident of this
17 State for purposes of the Illinois Income Tax Act, as amended
18 from time to time.

19 "State" means any state, territory or possession of the
20 United States and the District of Columbia.

21 "State tax credit" means:

22 (a) For persons dying on or after January 1, 2003 and
23 through December 31, 2005, an amount equal to the full credit
24 calculable under Section 2011 or Section 2604 of the Internal
25 Revenue Code as the credit would have been computed and
26 allowed under the Internal Revenue Code as in effect on

1 December 31, 2001, without the reduction in the State Death
2 Tax Credit as provided in Section 2011(b)(2) or the
3 termination of the State Death Tax Credit as provided in
4 Section 2011(f) as enacted by the Economic Growth and Tax
5 Relief Reconciliation Act of 2001, but recognizing the
6 increased applicable exclusion amount through December 31,
7 2005.

8 (b) For persons dying after December 31, 2005 and on or
9 before December 31, 2009, and for persons dying after December
10 31, 2010, an amount equal to the full credit calculable under
11 Section 2011 or 2604 of the Internal Revenue Code as the credit
12 would have been computed and allowed under the Internal
13 Revenue Code as in effect on December 31, 2001, without the
14 reduction in the State Death Tax Credit as provided in Section
15 2011(b)(2) or the termination of the State Death Tax Credit as
16 provided in Section 2011(f) as enacted by the Economic Growth
17 and Tax Relief Reconciliation Act of 2001, but recognizing the
18 exclusion amount of only (i) \$2,000,000 for persons dying
19 prior to January 1, 2012, (ii) \$3,500,000 for persons dying on
20 or after January 1, 2012 and prior to January 1, 2013, and
21 (iii) \$4,000,000 for persons dying on or after January 1,
22 2013, and with reduction to the adjusted taxable estate for
23 any qualified terminable interest property election as defined
24 in subsection (b-1) of this Section. For persons dying on or
25 after January 1, 2024, for the purposes of computing the State
26 tax credit, the person's adjusted taxable estate shall not

1 include the value of the person's ownership interest in
2 qualified farm property.

3 (b-1) The person required to file the Illinois return may
4 elect on a timely filed Illinois return a marital deduction
5 for qualified terminable interest property under Section
6 2056(b)(7) of the Internal Revenue Code for purposes of the
7 Illinois estate tax that is separate and independent of any
8 qualified terminable interest property election for federal
9 estate tax purposes. For purposes of the Illinois estate tax,
10 the inclusion of property in the gross estate of a surviving
11 spouse is the same as under Section 2044 of the Internal
12 Revenue Code.

13 In the case of any trust for which a State or federal
14 qualified terminable interest property election is made, the
15 trustee may not retain non-income producing assets for more
16 than a reasonable amount of time without the consent of the
17 surviving spouse.

18 "Taxable transfer" means an event that gives rise to a
19 state tax credit, including any credit as a result of the
20 imposition of an additional tax under Section 2032A(c) of the
21 Internal Revenue Code.

22 "Transferee" means a transferee within the meaning of
23 Section 2603(a)(1) and Section 6901(h) of the Internal Revenue
24 Code.

25 "Transferred property" means:

26 (1) With respect to a taxable transfer occurring at

1 the death of an individual, the deceased individual's
2 gross estate as defined in Section 2031 of the Internal
3 Revenue Code.

4 (2) With respect to a taxable transfer occurring as a
5 result of a taxable termination as defined in Section
6 2612(a) of the Internal Revenue Code, the taxable amount
7 determined under Section 2622(a) of the Internal Revenue
8 Code.

9 (3) With respect to a taxable transfer occurring as a
10 result of a taxable distribution as defined in Section
11 2612(b) of the Internal Revenue Code, the taxable amount
12 determined under Section 2621(a) of the Internal Revenue
13 Code.

14 (4) With respect to an event which causes the
15 imposition of an additional estate tax under Section
16 2032A(c) of the Internal Revenue Code, the qualified real
17 property that was disposed of or which ceased to be used
18 for the qualified use, within the meaning of Section
19 2032A(c) (1) of the Internal Revenue Code.

20 "Trust" includes a trust as defined in Section 2652(b) (1)
21 of the Internal Revenue Code.

22 (Source: P.A. 96-789, eff. 9-8-09; 96-1496, eff. 1-13-11;
23 97-636, eff. 6-1-12.)

24 (35 ILCS 405/8.1 new)

25 Sec. 8.1. Qualified farm property; qualified donations. If

1 the decedent's heirs pledge to make qualified donations to
2 food banks or to historically underserved farmers or ranchers
3 so that farm property is eligible to be deducted as qualified
4 farm property, then the heirs shall file annual reports with
5 the Attorney General documenting those donations. If the heirs
6 fail to make those donations, then the Attorney General may
7 take steps to recapture the amount of the deduction that
8 should have been disallowed. The Attorney General shall adopt
9 rules to implement this Section and to establish the form and
10 manner of the heirs' pledge under Section 2.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law."