

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.