

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Engrossed House Bill 1365 be amended to read as follows:

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 taxation, agriculture and animals.
- 4 Page 14, between lines 25 and 26, begin a new paragraph and insert:
- 5 "SECTION 4. IC 6-1.1-6.9 IS ADDED TO THE INDIANA CODE
- 6 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 7 JANUARY 1, 2005]:
- 8 **Chapter 6.9. Assessment of Classified Farmland**
- 9 **Sec. 1. As used in this chapter, "farmland" refers to land**
- 10 **classified in the farmland protection program under IC 15-7-10.**
- 11 **Sec. 2. As used in this chapter, "recapture period" means the**
- 12 **lesser of:**
- 13 **(1) the period of classification of land as farmland; or**
- 14 **(2) the ten (10) year period immediately preceding the date**
- 15 **on which land is withdrawn from the farmland classification.**
- 16 **Sec. 3. As used in this chapter, "taxpayer" refers to the owner**
- 17 **of farmland.**
- 18 **Sec. 4. For each assessment date during the period of the**
- 19 **classification of land as farmland:**
- 20 **(1) the land shall be assessed using the lesser of:**
- 21 **(A) the assessed value finally determined for the current**
- 22 **year's assessment date; or**
- 23 **(B) the assessed value finally determined for the**
- 24 **assessment date that next succeeds the date of the**
- 25 **farmland classification under IC 15-7-10;**
- 26 **(2) assessing officials shall keep a record of the assessed**
- 27 **value that would apply if the land were not classified as**
- 28 **farmland;**
- 29 **(3) ditch assessments on the farmland shall be paid; and**

1           (4) oil, gas, stone, coal, or other mineral wealth obtained  
2           from the farmland shall be assessed and placed on the tax  
3           duplicate.

4           **Sec. 5.** The taxpayer shall record the approved application for  
5           farmland classification under IC 15-7-10 in the county recorder's  
6           office. After an approved application is properly recorded, the  
7           county auditor shall enter the farmland for taxation at the  
8           assessed value determined under section 4(1) of this chapter.

9           **Sec. 6.** If farmland is withdrawn from the farmland  
10          classification:

11          (1) the Indiana land resources council established by  
12          IC 15-7-9-4 shall immediately notify the assessor, auditor,  
13          and recorder of the county in which the farmland is located  
14          that the farmland has been withdrawn; and

15          (2) the taxpayer shall make a notation of the withdrawal in  
16          the records of the county recorder.

17          **Sec. 7. (a)** If farmland is withdrawn, other than under  
18          IC 15-7-10-11, from the farmland classification, the taxpayer shall  
19          pay to the county treasurer an amount equal to the sum of:

20          (1) the remainder of:

21                (A) the total property taxes that, if it were not for the  
22                farmland classification, would have been assessed to the  
23                land during the recapture period; minus

24                (B) the total property taxes assessed to the farmland  
25                during the recapture period that were paid; plus

26          (2) interest on the property taxes determined under  
27          subdivision (1) at the rate of ten percent (10%) per year.

28          **(b)** Property taxes shall be determined under subsection (a)(1)  
29          using:

30                (1) the assessed value of the land as recorded under section  
31                4(2) of this chapter; and

32                (2) the net tax rate for the taxing district in which the  
33                farmland is located;

34          for each year for which the property taxes are determined.

35          **(c)** The liability imposed by this section is a lien on the land  
36          withdrawn from the farmland classification. The county treasurer  
37          shall deposit collections under this section in the farmland  
38          protection program account established by IC 15-7-10-12. If the  
39          liability is not satisfied, the lien is treated in the same manner  
40          that delinquent taxes on real property are treated.

41          **Sec. 8.** A conveyance of farmland does not release a person  
42          acquiring an interest in the land from an obligation or liability  
43          imposed under this chapter."

44          Page 37, between lines 10 and 11, begin a new paragraph and insert:

1           "SECTION 18. IC 15-7-10 IS ADDED TO THE INDIANA CODE  
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2004]:

4           **Chapter 10. Farmland Protection Program**

5           **Sec. 1. As used in this chapter, "assistant commissioner"**  
6 **refers to the assistant commissioner of agriculture appointed**  
7 **under IC 4-4-22-20.**

8           **Sec. 2. As used in this chapter, "council" refers to the Indiana**  
9 **land resources council established by IC 15-7-9-4.**

10          **Sec. 3. As used in this chapter, "designated area" refers to an**  
11 **area of land set aside under section 8(c) of this chapter in a county**  
12 **within which land may be designated as farmland eligible for the**  
13 **program.**

14          **Sec. 4. As used in this chapter, "farmland" includes the**  
15 **following:**

16           **(1) Acreage used for the production of:**

- 17           **(A) food;**
- 18           **(B) feed;**
- 19           **(C) forage;**
- 20           **(D) fibre; and**
- 21           **(E) oilseed crops.**

22           **(2) Acreage used to raise:**

- 23           **(A) livestock;**
- 24           **(B) dairy animals;**
- 25           **(C) dairy products;**
- 26           **(D) poultry;**
- 27           **(E) poultry products; and**
- 28           **(F) furbearing animals.**

29           **(3) Acreage used to:**

- 30           **(A) grow horticultural and nursery stock;**
- 31           **(B) grow fruits;**
- 32           **(C) grow vegetables;**
- 33           **(D) grow forage;**
- 34           **(E) grow timber;**
- 35           **(F) grow trees;**
- 36           **(G) raise fish and other aquaculture products;**
- 37           **(H) raise bees and apiary products; and**
- 38           **(I) grow other crops used for agricultural income.**

39           **(4) Areas including;**

- 40           **(A) buildings;**
- 41           **(B) land modifications;**
- 42           **(C) wetlands;**
- 43           **(D) pasture;**
- 44           **(E) forest land;**

- 1           **(F) wildlife land;**  
 2           **(G) riparian areas;**  
 3           **(H) buffers; and**  
 4           **(I) other areas;**  
 5           **that enhance or depend on the inherent productivity of the**  
 6           **land.**

7           **Sec. 5. As used in this chapter, "livestock" has the meaning set**  
 8           **forth in IC 4-4-3.2-1(b).**

9           **Sec. 6. As used in this chapter, "program" refers to the**  
 10           **farmland protection program established by section 7 of this**  
 11           **chapter.**

12           **Sec. 7. The farmland protection program is established to**  
 13           **provide a voluntary tool to Indiana landowners to protect and**  
 14           **conserve rural lands, including the following:**

- 15           **(1) Farmland.**  
 16           **(2) Other rural natural areas as defined by the council.**

17           **Sec. 8. (a) The council shall administer the program. The**  
 18           **council shall work with local agencies and organizations to**  
 19           **establish a cooperative relationship in land use practices and**  
 20           **policies. The council, after consulting with local agencies and**  
 21           **organizations, shall develop specific program guidelines and**  
 22           **policies to administer the program. The program must be**  
 23           **compatible with the federal Farm and Ranch Land Protection**  
 24           **Program (7 CFR 1491).**

25           **(b) The council may adopt rules under IC 4-22-2 to implement**  
 26           **the program.**

27           **(c) The council, working with local agencies and organizations,**  
 28           **shall establish criteria for designated areas of land on a county by**  
 29           **county basis. Only land within a designated area is eligible for the**  
 30           **program. Before establishing an area as a designated area, the**  
 31           **council shall hold a hearing in the county in which the land is**  
 32           **located. The council shall follow the procedures for public hearings**  
 33           **under IC 5-14-1.5-5. The council shall obtain the approval of the**  
 34           **local zoning authority having jurisdiction over the designated**  
 35           **area, or, if the designated area does not lie within the jurisdiction**  
 36           **of any local zoning authority, the county commissioners of the**  
 37           **county in which the designated area is located, before designating**  
 38           **an area as a designated area for purposes of this chapter.**

39           **(d) The council shall establish criteria for evaluating**  
 40           **applications for the program, including the following:**

- 41           **(1) Land must have been in an agriculture production or**  
 42           **conservation program at the time of application and for five**  
 43           **(5) years before the application.**  
 44           **(2) Land must be in a designated area.**

- 1           **(3) Land in:**
- 2               **(A) a locally recognized agricultural district;**
- 3               **(B) an agricultural protection zone;**
- 4               **(C) an agricultural security area; or**
- 5               **(D) any effective local agricultural protection initiative;**
- 6           **shall be given higher consideration.**
- 7           **(4) At least thirty-five (35) acres of working land must be**
- 8           **located within an agricultural area, with not more than one**
- 9           **(1) residence on a single or combined tract to meet acreage**
- 10           **requirements with either single or multiple owners.**
- 11           **(5) Larger tracts must be given priority.**
- 12           **(6) A scoring system similar to the federal Farm and Ranch**
- 13           **Land Protection Program (7 CFR 1491) shall be developed.**
- 14           **There shall be a minimum score requirement to qualify for**
- 15           **the program, including standards on:**
- 16               **(A) soil erosion;**
- 17               **(B) conservation plans with the federal Natural Resources**
- 18               **Conservation Service's quality criteria;**
- 19               **(C) landowner participation; and**
- 20               **(D) management plans.**
- 21           **(e) A consistent lack of compliance with environmental permits**
- 22           **and requirements shall disqualify a landowner from the program.**
- 23           **(f) Applications must be received by the council by January 1**
- 24           **of each year, beginning January 1, 2005. Contracts must be**
- 25           **entered into by March 1 of each year, beginning March 1, 2005.**
- 26           **(g) The council may reject an application for the program if the**
- 27           **council finds that the parcel proposed for protection was divided**
- 28           **from a larger parcel in a transaction intended to defeat the**
- 29           **purposes of the program.**
- 30           **Sec. 9. (a) A landowner may enroll in the program by entering**
- 31           **into a contract with the council for a period of ten (10) years, with**
- 32           **an unlimited number of automatic renewal periods of five (5)**
- 33           **years each. A landowner may give notice to the state of the**
- 34           **landowner's intention to terminate the contract at the end of the**
- 35           **contract period. If a landowner is going to terminate the contract,**
- 36           **the landowner must give six (6) months advance notice before the**
- 37           **expiration date of the contract.**
- 38               **(b) Contract conditions run with the land and must be recorded.**
- 39               **(c) During the term of the contract, one (1) residential building**
- 40           **lot may be split from the root parcel (which includes all contiguous**
- 41           **property under substantially common ownership at the time of**
- 42           **enrollment in the program) if the residential building lot is used**
- 43           **for the residence of an individual who is farming the land.**
- 44               **(d) A split may not be made from the root parcel for**

1 manufacturing, industrial, or commercial lots unless the split is  
 2 in keeping with the purpose, principles, and objectives of the  
 3 program.

4 **Sec. 10.** When a county government, local planning  
 5 commission, or other local entity engaged in planning for a local  
 6 community has developed standards for the preservation of  
 7 farmland, the council shall consider the standards when  
 8 evaluating applications.

9 **Sec. 11. (a)** A landowner may withdraw from the program when  
 10 proposing to enroll in an alternate land protection program of  
 11 equal or greater time period and conditions.

12 **(b)** An early withdrawal, except under subsection (a), from the  
 13 contract shall result in the loss of and pay back of any incentive  
 14 received from the program.

15 **(c)** Any violation of the contract shall disqualify the farmland  
 16 or the landowner from enrolling in the program for ten (10) years  
 17 after the time of confirmation of the violation.

18 **Sec. 12. (a)** The farmland protection program account is  
 19 established within the state general fund for the purpose of  
 20 providing money to match federal funds under 7 CFR 1491 to be  
 21 used for the protection of farmland in Indiana. The account shall  
 22 be administered by the council.

23 **(b)** The account consists of:

24 **(1)** money collected under IC 6-1.1-6.9-7;

25 **(2)** gifts and bequests; and

26 **(3)** grants.

27 **(c)** The expenses of administering the account shall be paid  
 28 from money in the account.

29 **(d)** The treasurer of state shall invest the money in the account  
 30 not currently needed to meet the obligations of the account in the  
 31 same manner as other public money may be invested. Interest  
 32 that accrues from these investments shall be deposited in the  
 33 account.

34 **(e)** Money in the account at the end of a state fiscal year does  
 35 not revert to the state general fund.

36 **(f)** Money in the account may be spent only after appropriation  
 37 by the general assembly.

38 **Sec. 13.** Owners of land in the program shall be given priority  
 39 for state grants or technical assistance given by the commissioner  
 40 of agriculture or the department of commerce.

41 SECTION 19. IC 32-24-1-5.4 IS ADDED TO THE INDIANA  
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 43 JULY 1, 2004]: **Sec. 5.4. (a)** For purposes of this section, "protected  
 44 farmland" means land that is:

- 1           **(1) included in an area designated as protected by the Indiana**
- 2           **land resources council under IC 15-7-10-8(c); and**
- 3           **(2) covered under a contract between the Indiana land**
- 4           **resources council and the landowner under IC 15-7-10-9.**
- 5           **(b) If land being condemned under this article is designated as**
- 6           **protected farmland under a contract entered into under**
- 7           **IC 15-7-10-9, the damages offered by the condemnor shall be two**
- 8           **hundred percent (200%) of:**
- 9           **(1) the fair market value offered under section 5 of this**
- 10           **chapter; or**
- 11           **(2) the award made by a court under this article.**
- 12           **(c) This section does not apply to land that is being condemned**
- 13           **for:**
- 14           **(1) a highway;**
- 15           **(2) a road;**
- 16           **(3) a street; or**
- 17           **(4) a right-of-way under IC 32-24-4-1."**
- 18           Page 38, between lines 30 and 31, begin a new paragraph and insert:

1           "SECTION 24. [EFFECTIVE JANUARY 1, 2005] **IC 6-1.1-6.9, as**  
2           **added by this act, applies only to property taxes first due and**  
3           **payable after December 31, 2005.**".

4           Renumber all SECTIONS consecutively.  
            (Reference is to EHB 1365 as printed February 20, 2004.)

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Senator JACKMAN