



# The National Agricultural Law Center

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States' Right-To-Farm Statutes:

*Illinois*



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# A National Agricultural Law Center Research Publication

## States' Right-To-Farm Statutes: Illinois

### 740 III. Comp. Stat. 70/0.01 to 70/5

Current with legislation through P.A. 102-557 and P.A. 102-662 of the 2021 Session of the 102nd Legislature.

#### **70/0.01 Short title**

This Act may be cited as the Farm Nuisance Suit Act.

#### **70/1. Legislative policy**

It is the declared policy of the state to conserve and protect and encourage the development and improvement of its agricultural land for the production of food and other agricultural products. When nonagricultural land uses extend into agricultural areas, farms often become the subject of nuisance suits. As a result, farms are sometimes forced to cease operations. Many others are discouraged from making investments in farm improvements. It is the purpose of this Act to reduce the loss to the State of its agricultural resources by limiting the circumstances under which farming operations may be deemed to be a nuisance.

#### **70/2. Farm defined**

The term “farm” as used in this Act means any parcel of land used for the growing and harvesting of crops; for the feeding, breeding, keeping, and management of livestock; for dairying, horse keeping, or horse boarding or for any other agricultural or horticultural use or combination thereof.

#### **70/3. Nuisance**

No farm or any of its appurtenances shall be or become a private or public nuisance because of any changed conditions in the surrounding area occurring after the farm has been in operation for more than one year, when such farm was not a nuisance at the time it began operation, provided, that the provisions of this Section shall not apply whenever a nuisance results from the negligent or improper operation of any farm or its appurtenances.

#### **70/4. Recovery of damages**

The provisions of Section 3 of this Act [740 ILCS 70/3] shall not affect or defeat the right of any person, firm, or corporation to recover damages



for any injuries or damages sustained by them on account of any pollution of, or change in condition of, the waters of any stream or on the account of any overflow of lands of any such person, firm, or corporation.

#### **70/4.5. Cost and fees**

In any nuisance action in which a farming operation is alleged to be a nuisance, a prevailing defendant shall recover the aggregate amount of costs and expenses determined by the court to have been reasonably incurred in the defense of the nuisance action, together with a reasonable amount for attorney fees. For the purposes of this Section, a prevailing defendant is a defendant in a lawsuit in whose favor a final court order or judgment is rendered. A defendant shall not be considered to have prevailed if, prior to a final court order or judgment, he or she enters into a negotiated settlement agreement or takes any corrective or other action that renders unnecessary a final court order or judgment.

#### **70/5. Actions commenced prior to effective date**

This Act does not affect actions commenced prior to the effective date of this Act.

