

AN ACT concerning local government.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Township Code is amended by changing Sections 115-5, 115-55, 115-90, and 115-95 and by adding Section 115-97 as follows:

(60 ILCS 1/115-5)

Sec. 115-5. Definitions. As used in this Article, unless the context otherwise requires:

"Board" means the township board in counties having a population of more than 150,000.

"Development of real property" means the constructing, installing, planting or creating of any permanent or temporary improvement of real property that has been acquired for open space purposes.

"Open land" or "open space" means any space or area of land or water of an area of 12 ~~50~~ acres or more, the preservation or the restriction of development or use of which would (i) maintain or enhance the conservation of natural or scenic resources; (ii) protect natural streams or water supply; (iii) promote conservation of soils, wet lands, or shores; (iv) afford or enhance public outdoor recreation opportunities; (v) preserve flora and fauna, geological features, historic sites,

or other areas of educational or scientific interest; (vi) enhance the value to the public of abutting or neighboring highways, parks, or other public lands; (vii) implement the plan of development adopted by the planning commission of any municipality or county; or (viii) promote orderly urban or suburban development. A township at any time may release a specified parcel of land from an open space plan and allow the development of the parcel to occur. Once development (as defined in Section 115-55) has commenced, the land shall no longer be eligible for acquisition as open space or open land.

"Open space plan" means the written plan adopted by the board to implement an open space program and includes properly adopted amendments or additions to the plan.

"Open space program" means the acquisition of the fee or of a lesser right or interest in tracts of open land in the township for open space purposes.

"Open space purposes" includes (i) the preservation and maintenance of open land, scenic roadways, and pathways; (ii) the holding of real property described in clause (i), with or without public access, for the education, pleasure, and recreation of the public or for other open space values; (iii) the preservation of portions of that property in their natural condition and the development of other portions of that property, including development for agricultural purposes; (iv) the management and use of that property in a manner and with restrictions that will leave it unimpaired for the

benefit of future generations; and (v) otherwise promoting the conservation of the nature, flora and fauna, natural environment, and natural resources of the township.

(Source: P.A. 91-641, eff. 8-20-99.)

(60 ILCS 1/115-55)

Sec. 115-55. Acquisition of open land.

(a) The board may acquire by gift, legacy, purchase, condemnation in the manner provided for the exercise of the right of eminent domain under the Eminent Domain Act and except as otherwise provided in this subsection, lease, agreement, or otherwise the fee or any lesser right or interest in real property that is open land and may hold that property with or without public access for open space, scenic roadway, pathway, outdoor recreation, or other conservation benefits. No township in a county having a population of more than 150,000 but not more than 250,000 has authority under this Article to acquire property by condemnation, and no other township has authority under this Article to acquire by condemnation (i) property that is used for farming or agricultural purposes; (ii) property that is situated within the corporate limits of a municipality or contiguous to one or more municipalities unless approval to acquire the property by condemnation is obtained under Section 115-30 or 115-35; (iii) property upon which development has commenced; or (iv) property owned by a religious organization, church, school, or

charitable organization exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986 or similar provisions of any successor law, or any other organization controlled by or affiliated with such a religious organization, church, school, or charitable organization.

(a-5) Open land acquired in fee for an open space plan by a township must be held by the township, unless leased or disposed of as provided in Sections 115-90, 115-95, and 115-97, and used by the township or lessee for open space purposes.

(b) For purposes of this Section:

(1) "Development" of property is deemed to have commenced if (i) at least 30 days before the filing of a petition under Section 115-10, an application for a preliminary plan or preliminary planned unit development has been filed with the applicable governmental entity or, if neither is required, a building permit has been obtained at least 30 days before the filing of a petition under Section 115-10; (ii) mass grading of the property has commenced; and (iii) within 180 days of the date the open space plan is recommended for approval by the board under Section 115-5 or by petition of the voters under Section 115-20, 115-30, or 115-35, the installation of public improvements has commenced.

(2) "Contiguous" means contiguous for purposes of annexation under Article 7 of the Illinois Municipal Code.

(3) Real property is deemed used for farming or agricultural purposes if it is more than 10 acres in area and devoted primarily to (i) the raising and harvesting of crops, (ii) the feeding, breeding, and management of livestock, (iii) dairying, or (iv) any other agricultural or horticultural use or combination of those uses, with the intention of securing substantial income from those activities, and has been so used for the 3 years immediately preceding the filing of a condemnation action. Real property used for farming or agricultural purposes includes land devoted to and qualifying for payments or other compensation under a soil conservation program under an agreement with an agency of the federal government and also includes the construction and use of dwellings and other buildings customarily associated with farming and agricultural uses when associated with those uses.

(c) If a township's acquisitions of open land, or interests in open land when combined with other lands in the township held for open space purposes by other governmental entities, equals 30% of the total acreage of the township, then the township may not acquire additional open land by condemnation.

(d) Any parcel of land that is included in an open space plan adopted by a township that has not been acquired by the township under this Section within 3 years, or within 2 years with respect to existing open space programs, after the later

of (i) July 29, 1988, or (ii) the date of the passage of the referendum may not thereafter be acquired by condemnation by the township under this Section, except that if an action in condemnation to acquire the parcel is filed under this Section within that 3 year or 2 year period, as applicable, the parcel may be acquired by condemnation by the township notwithstanding the fact that the condemnation action may not be concluded within the 3 year or 2 year period, as applicable. Notwithstanding the foregoing, if a parcel of land cannot be acquired by condemnation under subsection (a) because of its use for farming or agricultural purposes, the 3 year or 2 year period, as applicable, shall be tolled until the date the parcel ceases to be used for farming or agricultural purposes. Notwithstanding the foregoing, the fee or any lesser right or interest in real property that is open land may be acquired after the 3 year or 2 year period, as applicable, by any means authorized under subsection (a) other than condemnation.

(Source: P.A. 94-1055, eff. 1-1-07.)

(60 ILCS 1/115-90)

Sec. 115-90. Lease of lands.

(a) Before the effective date of this amendatory Act of the 104th General Assembly, the ~~The~~ board may lease land for a period not longer than 50 years from the date of the lease to a responsible person, firm, or corporation for construction, reconstruction, alteration, renewal, equipment, furnishing,

extension, development, operation and maintenance of lodges, housekeeping and sleeping cabins, swimming pools, golf courses, campgrounds, sand beaches, marinas, convention and entertainment centers, roads and parking areas, and other related buildings and facilities. In any lease of land leased under this subsection ~~Section~~, upon expiration of the lease title to all structures on the leased land shall be vested in the township.

(b) On and after the effective date of this amendatory Act of the 104th General Assembly, the board may lease open space that is a part of the township's open space program for a period not longer than 25 years from the date of the lease to an individual, a nonprofit organization, the federal government, a state government, or a local government for construction, reconstruction, alteration, renewal, equipment, furnishing, extension, development, operation, housekeeping, and maintenance of lodges, sleeping cabins, swimming pools, golf courses, campgrounds, sand beaches, marinas, agricultural properties, roads and parking areas, and other related buildings and facilities consistent with open space purposes. Upon expiration of a lease of land under this subsection, title to all structures on the leased land shall be vested in the township. Nothing in this subsection prohibits open space that is a part of the township's open space program from being used in accordance with this Article for agricultural purposes. The changes made to this Section by this amendatory

Act of the 104th General Assembly do not affect any lease entered into on or before the effective date of this amendatory Act of the 104th General Assembly.

(Source: P.A. 88-670, eff. 12-2-94.)

(60 ILCS 1/115-95)

Sec. 115-95. Lease of buildings or facilities. The board may lease to an individual, a nonprofit organization, the federal government, a state government, or a local government any building or facility constructed, reconstructed, altered, renewed, equipped, furnished, extended, developed, and maintained by the township on open space that is a part of the township's open space program ~~to a responsible person, firm, or corporation for operation or development, or both, and maintenance~~ for a period not longer than 20 years from the date of the lease. Nothing in this Section prohibits open space that is a part of the township's open space program from being used in accordance with this Article for agricultural purposes. The changes made to this Section by this amendatory Act of the 104th General Assembly do not affect any lease entered into on or before the effective date of this amendatory Act of the 104th General Assembly.

(Source: P.A. 88-670, eff. 12-2-94.)

(60 ILCS 1/115-97 new)

Sec. 115-97. Disposition of open space.

(a) A township board may not sell, convey, donate, or otherwise dispose of any part of open space without referendum approval by the majority of the voters of the township voting on the question at a regular election. The board may certify the question of disposition of property to the appropriate election authority only if the board approves the question by at least a two-thirds majority of the board members. The referendum shall be conducted consistent with the referendum procedures under Section 115-20. However, the township board may, without a referendum, sell, convey, or donate any part of the open space to the Department of Transportation if:

(1) the conveyance is for road purposes;

(2) the Department of Transportation and the township board hold at least one public hearing at which citizens may review plans for the open space and provide public comment. Notice of the public hearing shall be given at least 20 days prior to the hearing and at least 30 days prior to a vote by the township board. The notice shall be given by public advertisement in a newspaper of general circulation in the township and must also be sent to the Governor and to each member of the General Assembly whose district overlaps in whole or in part the open space district; and

(3) the conveyance is approved by a two-thirds majority vote of the township board members.

(b) Notwithstanding any other provision of law, if a

township dissolves or is consolidated or merged or the boundaries of the township are altered, any open space affected by that action shall continue to be used for open space purposes unless (i) the open space is disposed of using the same procedures required under subsection (a) by the board of the unit of local government in control of that open space or (ii) the open space is sold, conveyed, or donated to a nonprofit organization, the federal government, a state government, or a local government to be used for open space purposes.