

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1778

By: Representative Jett

For An Act To Be Entitled

AN ACT TO CREATE INCOME TAX CREDITS FOR BEGINNING FARMERS AND OWNERS OF AGRICULTURAL ASSETS; TO REQUIRE THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE TO CERTIFY BEGINNING FARMERS AND FINANCIAL MANAGEMENT PROGRAMS FOR PURPOSES OF THE INCOME TAX CREDITS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE INCOME TAX CREDITS FOR BEGINNING FARMERS AND OWNERS OF AGRICULTURAL ASSETS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 25-38-202(b), concerning the Secretary of the Department of Agriculture, is amended to add an additional subdivision to read as follows:

(5) The secretary shall:

(A) Certify financial management programs that would qualify a beginning farmer for the income tax credit allowed under § 26-51-515;

(B) Establish by rule a procedure for certifying financial management programs; and

(C) Maintain a list of certified financial management programs on the website of the Department of Agriculture.

SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 5, is



amended to add an additional section to read as follows:

26-51-515. Beginning farmer – Owner of agricultural assets –

Definitions.

(a) As used in this section:

(1) "Agricultural asset" means agricultural land, livestock, facilities, buildings, and machinery used for agricultural production in this state;

(2) "Agricultural land" means land that is composed of tracts, lots, or parcels that total:

(A) At least ten (10) acres and are devoted to agricultural production; or

(B) Less than ten (10) acres that are devoted to agricultural production and that produce an average yearly gross income of at least two thousand five hundred dollars (\$2,500) from agricultural production;

(3)(A) "Agricultural production" means:

(i) Commercial aquaculture, algaculture, apiculture, animal husbandry, or poultry husbandry;

(ii) The production for a commercial purpose of timber, field crops, tobacco, fruits, vegetables, nursery stock, ornamental shrubs, ornamental trees, flowers, or sod;

(iii) The growth of timber for a noncommercial purpose if the land on which the timber is grown is contiguous to or part of a parcel of land under common ownership that is otherwise devoted exclusively to agricultural use; and

(iv) Any combination of the activities described in subdivisions (a)(3)(A)(i)-(iii) of this section.

(B) "Agricultural production" includes:

(i) The processing, drying, storage, and marketing of agricultural products when those activities are conducted in conjunction with one (1) or more of the activities described in subdivisions (a)(3)(A)(i)-(iii) of this section; and

(ii) Conservation practices, if all or a portion of the tracts, lots, or parcels of land that are used for conservation practices comprise not more than twenty-five percent (25%) of the total tracts, lots, or parcels of land that are otherwise devoted exclusively to agricultural

use;

(4) "Beginning farmer" means an individual certified by the Secretary of the Department of Agriculture as a beginning farmer under this section;

(5)(A) "Owner of agricultural assets" means a person that is the owner in fee of agricultural land or that has legal title to any other agricultural asset.

(B) "Owner of agricultural assets" does not include an equipment dealer or comparable entity engaged in the business of selling agricultural assets for profit; and

(6) "Share rent agreement" means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of the agricultural products produced from the rented agricultural assets and that provides for sharing production costs or risk of loss.

(b)(1) There is allowed an income tax credit against the income tax imposed by this chapter in the amount determined under subsection (c) of this section for:

(A) An owner of agricultural assets who sells or rents agricultural assets to a beginning farmer; and

(B) A beginning farmer.

(2) The rental of an agricultural asset qualifies for the credit allowed under this section only if the agricultural asset is rented at prevailing community rates, as determined by the Secretary of the Department of Agriculture.

(c) The amount of the credit allowed under this section is equal to:

(1) For an owner of agricultural assets:

(A)(i) Five percent (5%) of the sale price of the agricultural asset.

(ii) A credit under subdivision (c)(1)(A)(i) of this section shall be claimed for the taxable year in which the sale of the agricultural asset is consummated;

(B)(i) Ten percent (10%) of the gross rental income received during each of the first three (3) years of a rental agreement.

(ii) A credit under subdivision (c)(1)(B)(i) of this section shall be claimed for the three (3) taxable years ending during the

first three (3) years of the rental agreement.

(iii) A taxpayer shall not claim a credit under subdivision (c)(2)(B)(i) of this section for more than one (1) rental agreement involving the rental of the same agricultural asset to the same beginning farmer; and

(C)(i) Fifteen percent (15%) of the cash equivalent of the gross rental income received during each of the first three (3) years of a share rent agreement.

(ii) A credit under subdivision (c)(1)(C)(i) of this section shall be claimed for the three (3) taxable years ending during the first three (3) years of the share rent agreement.

(iii) A taxpayer shall not claim a credit under subdivision (c)(1)(C)(i) of this section for more than one (1) share rent agreement involving the rental of the same agricultural asset to the same beginning farmer; and

(2) For a beginning farmer, the cost of participating in a financial management program certified by the Secretary of the Department of Agriculture under § 25-38-202 during the taxable year.

(d)(1) The total amount of the income tax credits allowed under this section that may be claimed by a taxpayer in a tax year shall not exceed the amount of income tax due by the taxpayer.

(2) Any unused income tax credit under this section may be carried forward for the following number of years following the tax year in which the income tax credit was earned:

(A) For an income tax credit claimed under subdivision (c)(1) of this section, fifteen (15) years; and

(B) For an income tax credit claimed under subdivision (c)(2) of this section, three (3) years.

(e)(1) The Secretary of the Department of Agriculture shall certify an individual as a beginning farmer for purposes of the income tax credit allowed under this section if the individual:

(A) Is a resident of this state;

(B) Is seeking entry or has entered within the immediately preceding ten (10) years into farming;

(C) Farms or intends to farm land in this state;

(D) Is not related by consanguinity or affinity to:

(i) The owner of the agricultural assets from whom the individual is seeking to purchase or rent the agricultural assets; or

(ii) A partner, member, shareholder, or trustee of the owner of the agricultural assets from whom the individual is seeking to purchase or rent the agricultural assets;

(E)(i) Has a total net worth, including the assets and liabilities of the individual's spouse and dependents, of less than eight hundred thousand dollars (\$800,000) in calendar year 2019.

(ii) The amount stated in subdivision (e)(1)(E)(i) of this section shall be adjusted for inflation annually by multiplying the amount by the cumulative inflation rate as determined by the last Consumer Price Index for All Urban Consumers published by the United States Department of Labor;

(F) Provides the majority of the day-to-day physical labor for and management of the farm;

(G) Has adequate farming experience or demonstrate knowledge in the type of farming for which the individual seeks assistance;

(H) Submits projected earnings statements and demonstrate a profit potential;

(I) Demonstrates that farming will be a significant source of income for the individual;

(J) Has participated in a financial management program certified by the Secretary of the Department of Agriculture under § 25-38-202(b)(5); and

(K) Meets the other requirements prescribed by rule by the Secretary of the Department of Agriculture, if any.

(2) An individual may apply to the Secretary of the Department of Agriculture for certification as a beginning farmer.

(3) A certification under this subsection is valid until the individual no longer meets the requirements for certification.

(f) The Secretary of the Department of Finance and Administration and the Secretary of the Department of Agriculture may adopt rules to implement this section.

SECTION 3. EFFECTIVE DATE. Section 2 of this act is effective for tax years beginning on or after January 1, 2022.

SECTION 4. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the Secretary of the Department of Agriculture shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2022; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2022, as soon as practicable after approval under § 10-3-309.

(b) The Secretary of the Department of Agriculture shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2022, so that the Legislative Council may consider the rules for approval before January 1, 2022.