

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

HOUSE BILL 1778

4
5 By: Representative Jett
6

For An Act To Be Entitled

8 AN ACT TO CREATE INCOME TAX CREDITS FOR BEGINNING
9 FARMERS AND OWNERS OF AGRICULTURAL ASSETS; TO REQUIRE
10 THE SECRETARY OF THE DEPARTMENT OF AGRICULTURE TO
11 CERTIFY BEGINNING FARMERS AND FINANCIAL MANAGEMENT
12 PROGRAMS FOR PURPOSES OF THE INCOME TAX CREDITS; AND
13 FOR OTHER PURPOSES.
14

Subtitle

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16 TO CREATE INCOME TAX CREDITS FOR
17 BEGINNING FARMERS AND OWNERS OF
18 AGRICULTURAL ASSETS.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 25-38-202(b), concerning the Secretary of
25 the Department of Agriculture, is amended to add an additional subdivision to
26 read as follows:

27 (5) The secretary shall:

28 (A) Certify financial management programs that would
29 qualify a beginning farmer for the income tax credit allowed under § 26-51-
30 515;

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

33 (C) Maintain a list of certified financial management
34 programs on the website of the Department of Agriculture.
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36 SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 5, is



1 amended to add an additional section to read as follows:

2 26-51-515. Beginning farmer – Owner of agricultural assets –

3 Definitions.

4 (a) As used in this section:

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

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

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

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

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

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

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

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

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

28 (B) "Agricultural production" includes:

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

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

1 use;

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

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

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

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

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

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

21 (B) A beginning farmer.

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

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

27 (1) For an owner of agricultural assets:

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

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

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

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

1 first three (3) years of the rental agreement.

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

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

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

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

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

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

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

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

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

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

32 (A) Is a resident of this state;

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

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

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

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

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

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

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

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

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

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

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

22 (J) Has participated in a financial management program
23 certified by the Secretary of the Department of Agriculture under § 25-38-
24 202(b)(5); and

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

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

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

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

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

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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.