

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 116

Introduced by Brandt, 32; Briese, 41; Cavanaugh, J., 9; DeKay, 40; Dorn, 30; Halloran, 33; Hardin, 48; Holdcroft, 36; Hughes, 24; Ibach, 44; Lippincott, 34.

Read first time January 06, 2023

Committee:

- 1 A BILL FOR AN ACT relating to the Beginning Farmer Tax Credit Act; to
- 2 amend sections 77-5205 and 77-5213, Reissue Revised Statutes of
- 3 Nebraska, and sections 77-5203, 77-5209, and 77-5209.01, Revised
- 4 Statutes Cumulative Supplement, 2022; to redefine a term; to change
- 5 a selection criterion for the Beginning Farmer Board; to change
- 6 provisions relating to beginning farmer or livestock producer
- 7 qualifications, program participation, and rental agreement review;
- 8 to harmonize provisions; and to repeal the original sections.
- 9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5203, Revised Statutes Cumulative Supplement,
2 2022, is amended to read:

3 77-5203 For purposes of the Beginning Farmer Tax Credit Act:

4 (1) Agricultural assets means agricultural land, livestock, farming,
5 or livestock production facilities or buildings and machinery used for
6 farming or livestock production located in Nebraska;

7 (2) Board means the Beginning Farmer Board created by section
8 77-5204;

9 (3) Cash rent agreement means a rental agreement in which the
10 principal consideration given to the owner of agricultural assets is a
11 predetermined amount of money. A flex or variable rent agreement is an
12 alternative form of a cash rent agreement in which a predetermined base
13 rent is adjusted for actual crop yield, crop price, or both according to
14 a predetermined formula;

15 (4) Farm means any improved or unimproved tract of land ~~over ten~~
16 ~~acres in area~~ used for or devoted to the commercial production of farm
17 products;

18 (5) Farm product means those plants and animals useful to man and
19 includes, but is not limited to, forages and sod crops, grains and feed
20 crops, dairy and dairy products, poultry and poultry products, livestock,
21 including breeding and grazing livestock, fruits, and vegetables;

22 (6) Farming or livestock production means the active use,
23 management, and operation of real and personal property for the
24 production of a farm product;

25 (7) Financial management program means a program for beginning
26 farmers or livestock producers which includes, but is not limited to,
27 assistance in the creation and proper use of record-keeping systems,
28 periodic private consultations with licensed financial management
29 personnel, year-end monthly cash flow analysis, and detailed enterprise
30 analysis;

31 (8) Owner of agricultural assets means:

1 (a) An individual or a trustee having an ownership interest in an
2 agricultural asset located within the State of Nebraska who meets any
3 qualifications determined by the board;

4 (b) A spouse, child, or sibling who acquires an ownership interest
5 in agricultural assets as a joint tenant, heir, or devisee of an
6 individual or trustee who would qualify as an owner of agricultural
7 assets under subdivision (8)(a) of this section; or

8 (c) A partnership, corporation, limited liability company, or other
9 business entity having an ownership interest in an agricultural asset
10 located within the State of Nebraska which meets any additional
11 qualifications determined by the board;

12 (9) Qualified beginning farmer or livestock producer means an
13 individual who is a resident individual as defined in section 77-2714.01,
14 who has entered farming or livestock production or is seeking entry into
15 farming or livestock production, who intends to farm or raise crops or
16 livestock on land located within the state borders of Nebraska, and who
17 meets the eligibility guidelines established in section 77-5209 and such
18 other qualifications as determined by the board; and

19 (10) Share-rent agreement means a rental agreement in which the
20 principal consideration given to the owner of agricultural assets is a
21 predetermined portion of the production of farm products from the rented
22 agricultural assets.

23 Sec. 2. Section 77-5205, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 77-5205 The board shall consist of the following members:

26 (1) The Director of Agriculture or his or her designee;

27 (2) The Tax Commissioner or his or her designee;

28 (3) One individual representing lenders of agricultural credit;

29 (4) One individual of the academic community with extensive
30 knowledge and insight in the analysis of agricultural economic issues;

31 and

1 (5) Three individuals, ~~one from each congressional district,~~ who are
2 currently engaged in farming or livestock production and are
3 representative of a variety of farming or livestock production interests
4 based on size of farm, type of farm operation, net worth of farm
5 operation, and geographic location.

6 All members of the board shall be resident individuals as defined in
7 section 77-2714.01. Members of the board listed in subdivisions (3)
8 through (5) of this section shall be appointed by the Governor with the
9 approval of a majority of the Legislature. All appointments shall be for
10 terms of four years.

11 Vacancies in the appointed membership of the board shall be filled
12 for the unexpired term by appointment by the Governor. Members of the
13 board shall serve the full term and until a successor has been appointed
14 by the Governor and approved by the Legislature. Any member is eligible
15 for reappointment. Any member may be removed from the board by the
16 Governor or by an affirmative vote by any four members of the board for
17 incompetence, neglect of duty, or malfeasance.

18 Sec. 3. Section 77-5209, Revised Statutes Cumulative Supplement,
19 2022, is amended to read:

20 77-5209 (1) The board shall determine who is qualified as a
21 beginning farmer or livestock producer based on the qualifications found
22 in this section. A qualified beginning farmer or livestock producer shall
23 be an individual who: (a) Has a net worth of not more than one million
24 ~~two hundred thousand~~ dollars, including any holdings by a spouse or
25 dependent, based on fair market value; (b) provides the majority of the
26 day-to-day physical labor and management of his or her farming or
27 livestock production operations; (c) has, by the judgment of the board,
28 adequate farming or livestock production experience or demonstrates
29 knowledge in the type of farming or livestock production for which he or
30 she seeks assistance from the board; (d) demonstrates to the board a
31 profit potential by submitting board-approved projected earnings

1 statements and agrees that farming or livestock production is intended to
2 become his or her principal source of income; (e) demonstrates to the
3 board a need for assistance; (f) participates in a financial management
4 program approved by the board; (g) submits a nutrient management plan and
5 a soil conservation plan to the board on any applicable agricultural
6 assets purchased or rented from an owner of agricultural assets; ~~and~~ (h)
7 is of legal age to enter into and be legally responsible for a binding
8 contract or lease as provided under section 43-2101; and (i) has such
9 other qualifications as specified by the board. The qualified beginning
10 farmer or livestock producer net worth thresholds in subdivision (a) of
11 this subsection shall be adjusted annually beginning October 1, 2023
12 ~~2009~~, and each October 1 thereafter, by taking the average Producer Price
13 Index for all commodities, published by the United States Department of
14 Labor, Bureau of Labor Statistics, for the most recent twelve available
15 periods divided by the Producer Price Index for 2022 ~~2008~~ and multiplying
16 the result by the qualified beginning farmer's or livestock producer's
17 net worth threshold. If the resulting amount is not a multiple of twenty-
18 five thousand dollars, the amount shall be rounded to the next lowest
19 twenty-five thousand dollars.

20 (2) When determining a qualified beginning farmer's or livestock
21 producer's net worth, the board shall exclude from such determination any
22 pension, retirement, or other types of deferred benefit accounts owned by
23 the beginning farmer or livestock producer, including such accounts owned
24 by a spouse or dependent.

25 (3) {2} A qualified beginning farmer or livestock producer who has
26 participated in a board approved and certified three-year rental
27 agreement with an owner of agricultural assets shall be eligible to file
28 subsequent applications for different assets.

29 Sec. 4. Section 77-5209.01, Revised Statutes Cumulative Supplement,
30 2022, is amended to read:

31 77-5209.01 A qualified beginning farmer or livestock producer ~~in the~~

1 ~~first, second, or third year of a qualifying three-year rental agreement~~
2 shall be allowed a one-time refundable credit against the income tax
3 imposed by the Nebraska Revenue Act of 1967 for the cost of participation
4 in the financial management program required for eligibility under
5 section 77-5209. The amount of the credit shall be the actual cost of
6 participation in an approved program incurred during the tax year for
7 which the credit is claimed, up to a maximum of five hundred dollars.

8 Sec. 5. Section 77-5213, Reissue Revised Statutes of Nebraska, is
9 amended to read:

10 77-5213 (1) The tax credit approved and certified by the board under
11 section 77-5211 for an owner of agricultural assets in the first, second,
12 or third year of a qualifying rental agreement shall be equal to (a) ten
13 percent of the gross rental income stated in a rental agreement that is a
14 cash rent agreement or (b) fifteen percent of the cash equivalent of the
15 gross rental income in a rental agreement that is a share-rent agreement.
16 Tax credits shall only be approved and certified for rental agreements
17 that are approved and certified by the board under the Beginning Farmer
18 Tax Credit Act.

19 (2) To qualify for the greater rate of credit allowed under
20 subdivision (1)(b) of this section, a share-rent agreement shall provide
21 for sharing of production expenses or risk of loss, or both, between the
22 agricultural asset owner and the qualified beginning farmer or livestock
23 producer. The board may adopt and promulgate rules and regulations,
24 consistent with the policy objectives of the act, to further define the
25 standards that share-rent agreements shall meet for approval and
26 certification of the tax credit under the act.

27 (3) The board shall review each existing three-year rental agreement
28 between a beginning farmer or livestock producer and an owner of
29 agricultural assets on an annual ~~a semiannual~~ basis and shall either
30 certify or terminate program eligibility for beginning farmers or
31 livestock producers or tax credits granted to owners of agricultural

1 assets on an annual basis.

2 Sec. 6. Original sections 77-5205 and 77-5213, Reissue Revised
3 Statutes of Nebraska, and sections 77-5203, 77-5209, and 77-5209.01,
4 Revised Statutes Cumulative Supplement, 2022, are repealed.