

As Reported by the House Agriculture and Conservation Committee

134th General Assembly

Regular Session

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H. B. No. 95

Representatives Manchester, Lightbody

Cosponsors: Representatives Cross, Bird, Koehler, Russo, Brent, Riedel, Lanese, LaRe, Lipps, Kick, Troy, Miller, J., Weinstein, Galonski, Carfagna, Loychik, Stoltzfus, Fowler Arthur, Stephens, Ingram, Stein, Miller, A., Creech, Baldrige, Jones, O'Brien

A BILL

To amend section 5747.98 and to enact sections 1
901.61 and 5747.72 of the Revised Code to 2
temporarily allow income tax credits for 3
beginning farmers who participate in a financial 4
management program and for businesses that sell 5
or rent agricultural land, livestock, 6
facilities, or equipment to beginning farmers. 7

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

Section 1. That section 5747.98 be amended and sections 8
901.61 and 5747.72 of the Revised Code be enacted to read as 9
follows: 10

Sec. 901.61. (A) As used in this section: 11

(1) "Agricultural asset" means agricultural land, 12
livestock, facilities, buildings, and machinery used for 13
agricultural production in this state. 14

(2) "Agricultural land" means land that is composed of 15

tracts, lots, or parcels totaling not less than ten acres 16
devoted to agricultural production or totaling less than ten 17
acres devoted to agricultural production if the land produces an 18
average yearly gross income of at least two thousand five 19
hundred dollars from agricultural production. 20

(3) "Agricultural production" has the same meaning as in 21
section 929.01 of the Revised Code. 22

(4) "Beginning farmer" means an individual who has been 23
certified as a beginning farmer by the director of agriculture 24
or a participating land grant college under division (B) of this 25
section or who has received a substantially equivalent 26
certification from the United States department of agriculture. 27
"Beginning farmer" does not include an individual who has 28
previously been certified as a beginning farmer but no longer 29
meets the criteria for certification. 30

(5) "Owner of agricultural assets" means a person that is 31
the owner in fee of agricultural land or that has legal title to 32
any other agricultural asset. An "owner of agricultural assets" 33
does not include an equipment dealer or comparable entity 34
engaged in the business of selling agricultural assets for 35
profit. 36

(6) "Share rent agreement" means a rental agreement in 37
which the principal consideration given to the owner of 38
agricultural assets is a predetermined portion of the production 39
of the agricultural products produced from the rented 40
agricultural assets and which provides for sharing production 41
costs or risk of loss. 42

(7) "Participating land grant college" or "college" means 43
a state university, as defined in section 3345.011 of the 44

Revised Code, that is designated a land grant college under the 45
federal "Morrill Act of 1862," 7 U.S.C. 301 et seq., or the 46
"Agricultural College Act of 1890," 7 U.S.C. 321 et seq., and 47
that elects to participate in certifying individuals as 48
beginning farmers under this section. 49

(B) For the purposes of the tax credit authorized in 50
division (A) of section 5747.72 of the Revised Code, the 51
director of agriculture and participating land grant colleges 52
shall certify individuals as beginning farmers. An individual 53
may apply to the director or college for certification, and the 54
director or college shall provide the certification if the 55
director or college determines that the individual meets all of 56
the requirements of this division. The certification is valid 57
until the individual no longer meets all of the requirements of 58
this division. To qualify, the individual must be a resident of 59
this state and: 60

(1) Be seeking entry, or have entered within the last ten 61
years, into farming; 62

(2) Farm, or intend to farm, land in this state; 63

(3) Not be a partner, member, shareholder, or trustee of 64
the owner of the agricultural assets the individual is seeking 65
to purchase or rent. 66

(4) Have a total net worth, including the assets and 67
liabilities of the individual's spouse and dependents, of less 68
than eight hundred thousand dollars in 2021 and an amount in 69
subsequent years which is adjusted for inflation by multiplying 70
that amount by the cumulative inflation rate as determined by 71
the consumer price index (all items) prepared by the United 72
States bureau of labor statistics. 73

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| <u>(5) Provide the majority of the day-to-day physical labor</u> | 74 |
| <u>for and management of the farm;</u> | 75 |
| <u>(6) Have adequate farming experience or demonstrate</u> | 76 |
| <u>knowledge in the type of farming for which the individual seeks</u> | 77 |
| <u>assistance;</u> | 78 |
| <u>(7) Submit projected earnings statements and demonstrate a</u> | 79 |
| <u>profit potential;</u> | 80 |
| <u>(8) Demonstrate that farming will be a significant source</u> | 81 |
| <u>of income for the individual;</u> | 82 |
| <u>(9) Participate in a financial management program approved</u> | 83 |
| <u>under division (C) of this section;</u> | 84 |
| <u>(10) Meet any other requirements prescribed by the</u> | 85 |
| <u>director.</u> | 86 |
| <u>(C) For the purposes of the tax credit authorized in</u> | 87 |
| <u>division (B) of section 5747.72 of the Revised Code, the</u> | 88 |
| <u>director of agriculture, in consultation with the participating</u> | 89 |
| <u>land grant colleges, shall certify financial management programs</u> | 90 |
| <u>that would qualify a beginning farmer for the credit authorized</u> | 91 |
| <u>under that division. The director and colleges shall establish a</u> | 92 |
| <u>procedure for certifying such programs and shall maintain a list</u> | 93 |
| <u>of certified programs on the web site of the department of</u> | 94 |
| <u>agriculture.</u> | 95 |
| <u>(D) (1) The owner of agricultural assets who sells</u> | 96 |
| <u>agricultural assets to a beginning farmer during the calendar</u> | 97 |
| <u>year or who rents agricultural assets to a beginning farmer</u> | 98 |
| <u>during the calendar year or in either of the two preceding</u> | 99 |
| <u>calendar years may apply to the director of agriculture, on</u> | 100 |
| <u>forms prescribed by the director, for a tax credit under</u> | 101 |
| <u>division (A) of section 5747.72 of the Revised Code, provided,</u> | 102 |

in the case of a rental, the asset is rented at prevailing 103
community rates, as determined under the rules adopted under 104
division (G) of this section. The application shall identify or 105
include all of the following: 106

(a) The name of the beginning farmer; 107

(b) The date the sale was made or the date the lease was 108
entered into; 109

(c) If applying for the credit on the basis of the sale of 110
an agricultural asset, the sale price of the asset; 111

(d) If applying for the credit on the basis of renting an 112
agricultural asset: 113

(i) The duration of the lease; 114

(ii) Proof that the asset is rented at prevailing 115
community rates; 116

(iii) The amount, in cash equivalent, of the gross rental 117
income received during the taxable year for which the credit is 118
sought; 119

(iv) Whether the asset is rented pursuant to a share rent 120
agreement. 121

(2) The director shall approve an application received 122
under this section if the director determines that the applicant 123
is eligible for the credit and if awarding the credit would not 124
cause the limit described in division (F) of this section to be 125
exceeded. The director shall issue a tax credit certificate to 126
an approved applicant listing the amount of the credit the 127
applicant is authorized to claim under division (A) of section 128
5747.72 of the Revised Code, which shall equal one of the 129
following: 130

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| <u>(a) Five per cent of the sale price of the agricultural</u> | 131 |
| <u>asset;</u> | 132 |
| <u>(b) Ten per cent of the cash equivalent of the gross</u> | 133 |
| <u>rental income received during the calendar year pursuant to a</u> | 134 |
| <u>rental agreement, provided the agreement was entered into on or</u> | 135 |
| <u>after the first day of the second preceding calendar year;</u> | 136 |
| <u>(c) Fifteen per cent of the cash equivalent of the gross</u> | 137 |
| <u>rental income received during the taxable year pursuant to a</u> | 138 |
| <u>share rent agreement, provided the agreement was entered into on</u> | 139 |
| <u>or after the first day of the second preceding calendar year.</u> | 140 |
| <u>(E) A beginning farmer may apply to the director of</u> | 141 |
| <u>agriculture, on forms prescribed by the director, for a tax</u> | 142 |
| <u>credit under division (B) of section 5747.72 of the Revised Code</u> | 143 |
| <u>equal to the cost the individual incurred during the calendar</u> | 144 |
| <u>year for participating in a financial management program</u> | 145 |
| <u>approved under division (C) of this section or a substantially</u> | 146 |
| <u>equivalent financial management program approved by the United</u> | 147 |
| <u>States department of agriculture. The application shall include</u> | 148 |
| <u>all of the following:</u> | 149 |
| <u>(1) The name and address of the financial management</u> | 150 |
| <u>program;</u> | 151 |
| <u>(2) The costs the individual incurs for participating in</u> | 152 |
| <u>that program;</u> | 153 |
| <u>(3) The date or dates the individual participated in that</u> | 154 |
| <u>program.</u> | 155 |
| <u>The director shall approve an application received under</u> | 156 |
| <u>this section if the director determines that the applicant is</u> | 157 |
| <u>eligible for the credit and if awarding the credit would not</u> | 158 |
| <u>cause the limit described in division (F) of this section to be</u> | 159 |

exceeded. The director shall issue a tax credit certificate to 160
an approved applicant listing the amount of the credit the 161
applicant is authorized to claim under division (B) of section 162
5747.72 of the Revised Code. 163

(F) The director may not issue more than ten million 164
dollars in tax credit certificates under divisions (D) and (E) 165
of this section. The director may not issue tax credit 166
certificates under this section on or after the first day of 167
January of the sixth calendar year beginning after the effective 168
date of this section. 169

(G) The director of agriculture, in consultation with the 170
tax commissioner, may adopt any rules necessary to administer 171
this section, including a rule prescribing the method for 172
determining prevailing community rental rates. 173

Sec. 5747.72. (A) There is hereby allowed a nonrefundable 174
credit against a taxpayer's aggregate liability under section 175
5747.02 of the Revised Code for a taxpayer that is issued a 176
credit certificate under division (D) of section 901.61 of the 177
Revised Code. The credit shall be claimed for the taxable year 178
during which the certificate is issued. 179

The credit shall be claimed in the order required under 180
section 5747.98 of the Revised Code. If a credit exceeds the 181
aggregate amount of tax otherwise due for a taxable year, the 182
excess may be carried forward and applied against the tax due 183
for not more than fifteen succeeding taxable years, provided 184
that the amount applied to the tax due for any taxable year 185
shall be subtracted from the amount available to carry forward 186
to succeeding years. 187

(B) There is hereby allowed a nonrefundable credit against 188

a taxpayer's aggregate liability under section 5747.02 of the 189
Revised Code for a taxpayer that is issued a credit certificate 190
under division (E) of section 901.61 of the Revised Code. The 191
credit shall be claimed for the taxable year during which the 192
certificate is issued. 193

The credit shall be claimed in the order required under 194
section 5747.98 of the Revised Code. If a credit exceeds the 195
aggregate amount of tax otherwise due for the taxable year, the 196
excess may be carried forward and applied against the tax due 197
for not more than three succeeding taxable years, provided that 198
the amount applied to the tax due for any taxable year shall be 199
subtracted from the amount available to carry forward to 200
succeeding years. 201

Sec. 5747.98. (A) To provide a uniform procedure for 202
calculating a taxpayer's aggregate tax liability under section 203
5747.02 of the Revised Code, a taxpayer shall claim any credits 204
to which the taxpayer is entitled in the following order: 205

Either the retirement income credit under division (B) of 206
section 5747.055 of the Revised Code or the lump sum retirement 207
income credits under divisions (C), (D), and (E) of that 208
section; 209

Either the senior citizen credit under division (F) of 210
section 5747.055 of the Revised Code or the lump sum 211
distribution credit under division (G) of that section; 212

The dependent care credit under section 5747.054 of the 213
Revised Code; 214

The credit for displaced workers who pay for job training 215
under section 5747.27 of the Revised Code; 216

The campaign contribution credit under section 5747.29 of 217

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| the Revised Code; | 218 |
| The twenty-dollar personal exemption credit under section | 219 |
| 5747.022 of the Revised Code; | 220 |
| The joint filing credit under division (G) of section | 221 |
| 5747.05 of the Revised Code; | 222 |
| The earned income credit under section 5747.71 of the | 223 |
| Revised Code; | 224 |
| The credit for adoption of a minor child under section | 225 |
| 5747.37 of the Revised Code; | 226 |
| The nonrefundable job retention credit under division (B) | 227 |
| of section 5747.058 of the Revised Code; | 228 |
| The enterprise zone credit under section 5709.66 of the | 229 |
| Revised Code; | 230 |
| <u>The credit for beginning farmers who participate in a</u> | 231 |
| <u>financial management program under division (B) of section</u> | 232 |
| <u>5747.81 of the Revised Code;</u> | 233 |
| The credit for purchases of qualifying grape production | 234 |
| property under section 5747.28 of the Revised Code; | 235 |
| The small business investment credit under section 5747.81 | 236 |
| of the Revised Code; | 237 |
| The nonrefundable lead abatement credit under section | 238 |
| 5747.26 of the Revised Code; | 239 |
| The opportunity zone investment credit under section | 240 |
| 122.84 of the Revised Code; | 241 |
| <u>The credit for selling or renting agricultural assets to</u> | 242 |
| <u>beginning farmers under division (A) of section 5747.72 of the</u> | 243 |
| <u>Revised Code;</u> | 244 |

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| The enterprise zone credits under section 5709.65 of the Revised Code; | 245 246 |
| The research and development credit under section 5747.331 of the Revised Code; | 247 248 |
| The credit for rehabilitating a historic building under section 5747.76 of the Revised Code; | 249 250 |
| The nonresident credit under division (A) of section 5747.05 of the Revised Code; | 251 252 |
| The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code; | 253 254 |
| The refundable motion picture and Broadway theatrical production credit under section 5747.66 of the Revised Code; | 255 256 |
| The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code; | 257 258 259 |
| The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code; | 260 261 |
| The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code; | 262 263 264 |
| The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture capital program under sections 150.01 to 150.10 of the Revised Code; | 265 266 267 |
| The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code. | 268 269 |
| (B) For any credit, except the refundable credits enumerated in this section and the credit granted under division | 270 271 |

(H) of section 5747.08 of the Revised Code, the amount of the 272
credit for a taxable year shall not exceed the taxpayer's 273
aggregate amount of tax due under section 5747.02 of the Revised 274
Code, after allowing for any other credit that precedes it in 275
the order required under this section. Any excess amount of a 276
particular credit may be carried forward if authorized under the 277
section creating that credit. Nothing in this chapter shall be 278
construed to allow a taxpayer to claim, directly or indirectly, 279
a credit more than once for a taxable year. 280

Section 2. That existing section 5747.98 of the Revised 281
Code is hereby repealed. 282

Section 3. The amendment or enactment by this act of 283
sections 5747.72 and 5747.98 of the Revised Code applies to 284
taxable years beginning on or after the effective date of this 285
section. 286

Section 4. Pursuant to division (G) of section 5703.95 of 287
the Revised Code, which states that any bill introduced in the 288
House of Representatives or the Senate that proposes to enact or 289
modify one or more tax expenditures should include a statement 290
explaining the objective of the tax expenditure or its 291
modification and the sponsor's intent in proposing the tax 292
expenditure or its modification: 293

The purpose of this act is to help the next generation 294
enter agriculture by removing some of the existing barriers to 295
entry and exit. The current tax code structure incentivizes 296
farmers to hold onto their land until the time of death. The 297
change proposed by this act will more readily allow succession 298
to occur during the lifetime of a farmer, allowing beginning 299
farmers to acquire assets sooner. 300