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2 94th General Assembly
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4

As Engrossed: H3/13/23

A Bill

HOUSE BILL 1003

5 By: Representatives J. Mayberry, D. Garner, *Haak, Wooten, Lynch, Puryear, K. Brown*
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.
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15

Subtitle

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. DO NOT CODIFY. Title.*

25 *This act shall be known and may be cited as "AR Next Gen".*
26

27 SECTION 2. Arkansas Code § 25-38-202(b), concerning the Secretary of
28 the Department of Agriculture, is amended to add an additional subdivision to
29 read as follows:

30 (5) The secretary shall:

31 (A) Certify financial management programs that would
32 qualify a beginning farmer for the income tax credit allowed under § 26-51-
33 517;

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

36 (C) Maintain a list of certified financial management



1 programs on the website of the department.

2
3 SECTION 2. Arkansas Code Title 26, Chapter 51, Subchapter 5, is
4 amended to add an additional section to read as follows:

5 26-51-517. Beginning farmer – Owner of agricultural assets –
6 Definitions.

7 (a) As used in this section:

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

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

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

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

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

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

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

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

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

31 (B) "Agricultural production" includes:

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

36 (ii) Conservation practices, if all or a portion of

1 the tracts, lots, or parcels of land that are used for conservation practices
2 comprise not more than twenty-five percent (25%) of the total tracts, lots,
3 or parcels of land that are otherwise devoted exclusively to agricultural
4 use;

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

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

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

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

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

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

24 (B) A beginning farmer.

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

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

30 (1) For an owner of agricultural assets:

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

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

36 (B)(i) Ten percent (10%) of the gross rental income

1 received during each of the first three (3) years of a rental agreement.

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

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

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

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

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

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

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

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

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

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

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

35 (A) Is a resident of this state;

36 (B) Is seeking entry or has entered into farming within

1 the immediately preceding ten (10) years;

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

3 (D)(i) Is, except as provided under subdivision

4 (e)(1)(D)(ii) of this section, not related by consanguinity or affinity to:

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

7 or

8 (b) A partner, member, shareholder, or trustee
9 of the owner of the agricultural assets from whom the individual is seeking
10 to purchase or rent the agricultural assets.

11 (ii) The prohibitions on consanguinity or affinity
12 under subdivision (e)(1)(D)(i) of this section shall not apply if the
13 individual purchases or rents the agricultural asset for its fair-market
14 value;

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

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

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

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

27 (H) Submits projected earnings statements and demonstrates
28 a profit potential;

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

31 (J) Has participated in a financial management program
32 certified by the Secretary of the Department of Agriculture under § 25-38-
33 202(b)(5); and

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

36 (2) An individual may apply to the Secretary of the Department

1 of Agriculture for certification as a beginning farmer.

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

4 (f)(1) The total amount of state income tax credits awarded under this
5 section shall not exceed ten million dollars (\$10,000,000) per calendar year.

6 (2) The Tax Credits and Special Refunds Section of the
7 Department of Finance and Administration, or its successor, shall:

8 (A) Award the tax credits on a first-come, first-served
9 basis from the certification provided to the Tax Credits and Special Refunds
10 Section of the Department of Finance and Administration under subsection (g)
11 of this section; and

12 (B) Notify the Secretary of the Department of Agriculture
13 when the annual cap under subdivision (f)(1) of this section is met.

14 (g)(1) A taxpayer who wishes to claim the tax credit available under
15 this section shall submit to the Secretary of the Department of Agriculture
16 evidence of qualifying expenditures.

17 (2) The Secretary of the Department of Agriculture shall review
18 a taxpayer's evidence of qualifying contributions and certify the amount of
19 contributions for which the taxpayer qualifies.

20 (3) Copies of the certification under subdivision (g)(2) of this
21 section shall be provided to the taxpayer and the Tax Credits and Special
22 Refunds Section of the Department of Finance and Administration or its
23 successor.

24 (h) The Secretary of the Department of Finance and Administration and
25 the Secretary of the Department of Agriculture may adopt rules to implement
26 this section.

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28 SECTION 3. EFFECTIVE DATE. Section 2 of this act is effective for tax
29 years beginning on or after January 1, 2024.

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31 SECTION 4. DO NOT CODIFY. Rules.

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

35 (1) On or before January 1, 2024; or

36 (2) If approval under § 10-3-309 has not occurred by January 1,

1 2024, as soon as practicable after approval under § 10-3-309.
2 (b) The Secretary of the Department of Agriculture shall file the
3 proposed rules with the Legislative Council under § 10-3-309(c) sufficiently
4 in advance of January 1, 2024, so that the Legislative Council may consider
5 the rules for approval before January 1, 2024.

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/s/J. Mayberry