

HOUSE BILL NO. 387

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HOSKINS.

1177H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapters 135, 143, and 262, RSMo, by adding thereto six new sections relating to programs for beginning farmers.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 135, 143, and 262, RSMo, are amended by adding thereto six new sections, to be known as sections 135.1000, 135.1005, 135.1010, 135.1015, 143.2005, and 262.599, to read as follows:

135.1000. As used in sections 135.1000 to 135.1015, the following terms mean:

- (1) "Agricultural assets", agricultural land, depreciable agricultural property, crops, or livestock;**
- (2) "Agricultural land", land suitable for use in farming;**
- (3) "Beginning farmer", an individual, partnership, family farm corporation, or limited liability company that:
 - (a) Has not opened or operated a farm or ranch for more than ten years;**
 - (b) Does not own a farm or ranch greater than thirty percent of the average size farm in the county as determined by the most current Census for Agriculture;**
 - (c) Materially participates in the farming or ranching operation; and**
 - (d) Is a resident of this state;****
- (4) "Department", the department of agriculture;**
- (5) "Farming", the same as defined in section 350.010;**
- (6) "Livestock", the same as defined in section 265.300;**
- (7) "Material participation", a beginning farmer involved in an agricultural production operation on a regular, continuous, and substantial basis;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 **(8) "Production items", tools, machinery, or equipment principally used to produce**
18 **agricultural crops or livestock.**

135.1005. 1. For all tax years beginning on or after January 1, 2016, an eligible
2 **taxpayer that is a Missouri resident shall be allowed a credit against tax otherwise due**
3 **under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, to**
4 **facilitate the transfer of agricultural assets from the taxpayer to a beginning farmer.**

5 **2. To qualify for the agricultural assets transfer agreement tax credit authorized**
6 **by this section, a taxpayer shall meet the following criteria:**

7 **(1) Be a person who may acquire or otherwise obtain or lease agricultural land in**
8 **this state;**

9 **(2) Execute an agricultural assets transfer agreement with a beginning farmer;**

10 **(3) Agree to repay the amount of any tax credits received under this section if the**
11 **leased agricultural land does not remain in production for at least ten years; and**

12 **(4) Any other criteria required by the department under a promulgated rule.**

13 **3. For partnerships, limited liability companies, S corporations, estates, or trusts**
14 **entitled to a tax credit and electing to have pass through taxation, the tax credit shall be**
15 **split amongst the individuals entitled to earnings from the entity in proportion to the**
16 **amount of earnings to which they are entitled.**

17 **4. The agricultural assets transfer agreement required by this section shall provide**
18 **for the lease of agricultural land located in this state, including any improvements, and**
19 **may provide for the rental of agricultural equipment. The agreement shall:**

20 **(1) Include a lease made on a cash basis or on a commodity share basis which**
21 **includes a share of the crops or livestock produced on the agricultural land;**

22 **(2) Be in writing;**

23 **(3) Be for at least ten years; and**

24 **(4) Not be assignable or transferable and the land subject to the agreement cannot**
25 **be subleased.**

26 **5. For an agreement that includes a lease on a cash basis, the taxpayer may claim**
27 **a credit equal to seven percent of the gross amount paid to the taxpayer under the**
28 **agreement for each tax year that the tax credit is allowed.**

29 **6. For an agreement that includes a lease on a commodity share basis, the taxpayer**
30 **may claim a tax credit equal to seventeen percent of the amount paid to the taxpayer from**
31 **crops or livestock sold under the agreement in which the payment is exclusively made from**
32 **the sale of crops or livestock.**

33 **7. A tax credit in excess of the taxpayer's liability shall not be refunded or carried**
34 **back to any previous tax year but may be carried forward for up to five subsequent tax**

35 years. The tax credit shall not be transferable to any other person other than the
36 taxpayer's estate or trust upon the taxpayer's death.

37 **8.** A taxpayer shall not claim a tax credit under this section unless a tax credit
38 certificate issued by the department is attached to the taxpayer's tax return for the tax year
39 for which the tax credit is claimed. The department shall review and approve an
40 application for a tax credit as provided by rules promulgated by the department. The
41 application shall include a copy of the agricultural assets transfer agreement. The
42 department may approve an application and issue a tax credit certificate to a taxpayer who
43 has previously been allowed a tax credit under this section. The department may require
44 that the parties to an agricultural assets transfer agreement meet the same qualification
45 as required for an original application. The department shall not approve an application
46 or issue a tax credit certificate to a tax payer for an amount in excess of fifty thousand
47 dollars.

48 **9.** A taxpayer or beginning farmer may terminate an agricultural assets transfer
49 agreement as provided in the agreement or by law. The taxpayer shall immediately notify
50 the department of the termination. If the department determines that the taxpayer is not
51 at fault for the termination, the department shall not issue a tax credit certificate to the
52 taxpayer for a subsequent tax year based on the approved application. Any prior tax
53 credit is allowed as provided in this section. The taxpayer may apply for and be issued
54 another tax credit certificate for the same agricultural assets as provided in this section for
55 any remaining tax year for which a certificate was not issued. If the department
56 determines that the taxpayer is at fault for the termination, any prior tax credit allowed
57 under this section is disallowed. The amount of the tax credit shall be immediately due and
58 payable to the department of revenue. If a taxpayer does not immediately notify the
59 department of the termination, the taxpayer shall be conclusively deemed at fault for the
60 termination.

135.1010. 1. For all tax years beginning on or after January 1, 2016, an eligible
2 taxpayer that is a Missouri resident shall be allowed a credit against tax otherwise due
3 under chapter 143, excluding withholding tax imposed by sections 143.191 to 143.265, to
4 encourage taxpayers who are considering custom farming agricultural land located in this
5 state to negotiate with beginning farmers.

6 **2.** To qualify for the custom farming contract tax credit authorized by this section,
7 a taxpayer shall be a person who may acquire or otherwise obtain or lease agricultural
8 land in this state and meet any other qualification established by rules promulgated by the
9 department.

10 **3. A custom farming contract tax credit is allowed only for the amount paid by the**
11 **taxpayer to a qualified beginning farmer under a custom farming contract as provided in**
12 **rules promulgated by the department. The contract shall provide for the production of**
13 **crops located on agricultural land or the production of livestock principally located on**
14 **agricultural land.**

15 **4. The custom farming contract shall provide that the taxpayer pay the beginning**
16 **farmer on a cash basis. The contract shall be in writing and for a term of not more than**
17 **twelve months. The total cash payment shall equal at least one thousand dollars.**

18 **5. The taxpayer shall make all management decisions substantially contributing to**
19 **or affecting the production of crops located on the agricultural land or the production of**
20 **livestock principally located on the agricultural land. However, nothing in this section**
21 **prohibits a qualified beginning farmer from regularly or frequently taking part in making**
22 **day-to-day operational decisions affecting production. The beginning farmer shall provide**
23 **for all of the following:**

24 **(1) Production items principally used to produce crops located on the agricultural**
25 **land or to produce livestock principally located on the agricultural land; and**

26 **(2) Labor principally used to produce crops located on the agricultural land or to**
27 **produce livestock principally located on the agricultural land. The beginning farmer shall**
28 **personally provide such labor on a regular, continuous, and substantial basis.**

29 **6. A custom farming contract credit is not allowed if the taxpayer and qualified**
30 **beginning farmer are related as any of the following:**

31 **(1) Persons who hold a legal or equitable interest in the same agricultural land,**
32 **including as individuals or as general partners, limited partners, shareholders, or members**
33 **in the same business entity;**

34 **(2) Family members related as spouse, child, stepchild, brother, or sister; or**

35 **(3) Partners in the same partnership which holds agricultural land, shareholders**
36 **in the same family farm corporation, or members in the same limited liability company.**

37 **7. A custom farming contract tax credit shall be calculated based on the gross**
38 **amount paid to the beginning farmer under the custom farming contract. The taxpayer**
39 **may claim a tax credit equal to seven percent of the gross amount paid to the beginning**
40 **farmer under the contract for each tax year that the tax credit is allowed.**

41 **8. A tax credit in excess of the taxpayer's liability shall not be refunded or carried**
42 **back to any previous tax year but may be carried forward up to five subsequent tax years.**
43 **The tax credit shall not be transferable to any other person other than the taxpayer's estate**
44 **or trust upon the taxpayer's death.**

45 **9. A taxpayer shall not claim a tax credit under this section unless a tax credit**
46 **certificate issued by the department is attached to the taxpayer's tax return of the tax year**
47 **for which the tax credit is claimed. The department shall review and approve an**
48 **application for a tax credit as provided by rules promulgated by the department. The**
49 **application shall include a copy of the custom farming contract. The department may**
50 **approve an application and issue a tax credit certificate to a taxpayer who has previously**
51 **been allowed a tax credit under this section. The department may require that the parties**
52 **to the contract provide additional information as determined relevant by the department.**
53 **The department shall review an application for a tax credit certificate which includes the**
54 **renewal of a contract to determine that the parties to the renewed contract meet the same**
55 **qualifications as required for an original application. The department shall not approve**
56 **an application or issue a tax credit certificate to a taxpayer for an amount in excess of fifty**
57 **thousand dollars.**

135.1015. 1. The total amount of tax credits that may be issued under sections
2 **135.1005 to 135.1010 shall not in the aggregate exceed twelve million dollars in any fiscal**
3 **year. Of the aggregate amount, eight million dollars shall be allocated for the agricultural**
4 **assets transfer tax credits established in section 135.1005 and four million dollars shall be**
5 **allocated for the custom farming contract tax credit established in section 135.1010. The**
6 **department may adjust the allocation amounts to ensure maximum utilization of the tax**
7 **credits but in no event shall more than twelve million dollars in the aggregate be issued**
8 **under both programs.**

2. The department of agriculture shall promulgate rules to implement the
10 **provisions of sections 135.1000 to 135.1015. Any rule or portion of a rule, as that term is**
11 **defined in section 536.010, that is created under the authority delegated in this section shall**
12 **become effective only if it complies with and is subject to all of the provisions of chapter**
13 **536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and**
14 **if any of the powers vested with the general assembly pursuant to chapter 536 to review,**
15 **to delay the effective date, or to disapprove and annul a rule are subsequently held**
16 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
17 **after August 28, 2015, shall be invalid and void.**

143.2005. 1. In addition to all other modifications allowed by law, there shall be
2 **subtracted from the federal adjusted gross income of an individual taxpayer fifty percent**
3 **of the income realized from the sale of land classified as agricultural and horticultural**
4 **property sold to a beginning farmer, to the extent that such amount is included in federal**
5 **adjusted gross income when determining such individual's Missouri adjusted gross income.**

6 **2. If within ten years of being sold, the property which allowed the taxpayer to**
7 **receive the deduction in subsection 1 of this section ceases to be classified as agricultural**
8 **and horticultural property, the taxpayer shall include the amount of the deduction**
9 **previously received as income in the year such property changes classifications.**

10 **3. As used in this section, the following terms shall mean:**

11 **(1) "Agricultural and horticultural property", the same as defined in section**
12 **137.016;**

13 **(2) "Beginning farmer", the same as defined in section 135.1000.**

262.599. 1. A beginning farmer center is established as a part of the University of
2 **Missouri extension program in agriculture to assist individuals in beginning farming**
3 **operations. The center shall also assist in facilitating the transition of farming operations**
4 **from established farmers to beginning farmers, including by matching purchasers and**
5 **sellers of agricultural land, creating and maintaining an information database inventorying**
6 **land and facilities available for acquisition, and developing models to increase the number**
7 **of family farming operations in this state. The objectives of the beginning farmer center**
8 **shall include, but are not limited to:**

9 **(1) Providing the coordination of education programs and services for beginning**
10 **farmer efforts statewide;**

11 **(2) Assessing the needs of beginning farmers and retiring farmers in order to**
12 **identify program and service opportunities; and**

13 **(3) Developing, coordinating, and delivering targeted education to beginning**
14 **farmers and retiring farm families.**

15 **2. Programs and services provided by the beginning farmer center shall include,**
16 **but are not limited to, the development of skills and knowledge in financial management**
17 **and planning, legal issues, tax laws, technical production and management, leadership,**
18 **sustainable agriculture, human health, and the environment.**

19 **3. The beginning farmer center shall submit to the general assembly, annually on**
20 **or before January first, a report that includes, but is not limited to, recommendations for**
21 **methods by which more individuals may be encouraged to enter agriculture.**

✓