

## CHAPTER 125

### BEGINNING FARMER TAX CREDIT PROGRAM AND AGRICULTURAL LOAN ASSISTANCE

H.F. 599

**AN ACT** relating to beginning farmers by modifying the agricultural assets transfer tax credit, providing a custom farming contract tax credit, and terminating the agricultural loan assistance program, and including effective date and retroactive applicability provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I GENERAL PROVISIONS

Section 1. Section 2.48, subsection 3, paragraph e, subparagraph (1), Code 2013, is amended to read as follows:

(1) The agricultural assets transfer tax credit under section 175.37 and the custom farming contract tax credit as provided in section 175.38.

Sec. 2. Section 175.2, subsection 1, Code 2013, is amended by adding the following new paragraphs:

NEW PARAGRAPH. 0h. "Beginning farmer tax credit program" means all of the following:

(1) The agricultural assets transfer tax credit as provided in section 175.37.

(2) The custom farming contract tax credit as provided in section 175.38.

NEW PARAGRAPH. 0t. "Production item" includes tools, machinery, or equipment principally used to produce crops or livestock.

NEW PARAGRAPH. 00t. "Qualified beginning farmer" means a beginning farmer who meets the requirements to participate in a beginning farmer tax credit program as provided in section 175.36A.

NEW PARAGRAPH. v. "Veteran" means the same as defined in section 35.1.

Sec. 3. Section 175.4, subsection 18, Code 2013, is amended by striking the subsection.

Sec. 4. Section 175.8, subsection 1, unnumbered paragraph 1, Code 2013, is amended to read as follows:

The authority shall submit a report to the governor and ~~to the members of the general assembly as request it~~, not later than January 15 of each year, ~~a. The report shall be complete and economically designed and reproduced, report setting forth all of the following:~~

Sec. 5. Section 175.8, subsection 2, Code 2013, is amended to read as follows:

2. ~~a. The annual report shall identify performance include all of the following:~~

(1) Performance goals of the authority, and. The report shall clearly indicate the extent of progress during the reporting period; in attaining the goals.

(2) An evaluation of the success of its programs, with a special emphasis on the beginning farmer loan program as provided in section 175.12, and the beginning farmer tax credit program.

b. Where possible, the findings and results of its performance goals and evaluation shall be expressed in terms of number of loans, tax credits, participating qualified beginning farmers, and acres of agricultural land, including by county.

Sec. 6. **NEW SECTION. 175.36A Criteria for beginning farmers qualifying to participate in the beginning farmer tax credit program.**

A beginning farmer qualifies to participate in the beginning farmer tax credit program, by meeting all of the following criteria:

1. Is a resident of the state. If the beginning farmer is a partnership, all partners must be residents of the state. If a beginning farmer is a family farm corporation, all shareholders must be residents of the state. If the beginning farmer is a family farm limited liability company, all members must be residents of the state.

2. Has sufficient education, training, or experience in farming. If the beginning farmer is a partnership, each partner who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm corporation, each shareholder who is not a minor must have sufficient education, training, or experience in farming. If the beginning farmer is a family farm limited liability company, each member who is not a minor must have sufficient education, training, or experience in farming.

3. Has access to adequate working capital and production items.

4. Will materially and substantially participate in farming. If the beginning farmer is a partnership, family farm corporation, or family farm limited liability company, each partner, shareholder, or member who is not a minor must materially and substantially participate in farming.

5. Is not responsible for managing or maintaining agricultural land and other agricultural assets that are greater than necessary to adequately support a beginning farmer as determined by the authority according to rules which shall be adopted by the authority.

**Sec. 7. NEW SECTION. 175.36B Administration of beginning farmer tax credit program.**

1. To every extent practicable, the authority shall administer tax credits under the beginning farmer tax credit program in a uniform manner that encourages participation by qualified beginning farmers. The authority shall determine a qualified beginning farmer's low or moderate net worth by using a single method applicable to all its programs, including the beginning farmer tax credit program.

2. The authority shall establish a due date to receive applications to participate in the beginning farmer tax credit program. The authority may establish different due dates for applications to qualify for each beginning farmer tax credit.

3. The department of revenue shall cooperate with the authority in administering the beginning farmer tax credit program.

**Sec. 8.** Section 175.37, subsection 1, Code 2013, is amended to read as follows:

1. An agricultural assets transfer tax credit is allowed under this section. The tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11M, and in chapter 422, division III, as provided in section 422.33, to facilitate the transfer of agricultural assets from a taxpayer to a qualified beginning farmer.

**Sec. 9.** Section 175.37, subsection 2, paragraph b, Code 2013, is amended to read as follows:

b. Execute an agricultural assets transfer agreement with a qualified beginning farmer as provided in this section.

**Sec. 10.** Section 175.37, subsection 4, Code 2013, is amended to read as follows:

4. The tax credit is allowed only for agricultural assets that are subject to an agricultural assets transfer agreement. The agreement shall provide for the lease of agricultural land located in this state, including any improvements and may provide for the rental of agricultural equipment as defined in section 322F.1.

a. ~~The agreement may be~~ shall include a lease made on a cash basis or on a commodity share basis which includes a share of the crops or livestock produced on the agricultural land. The agreement must be in writing.

b. The agreement shall be for at least two years, but not more than five years. The agreement or that part of the agreement providing for the lease may be renewed by the qualified beginning farmer for a term of at least two years, but not more than five years. An agreement does not include a lease or the rental of equipment intended as a security.

c. The agricultural transfer agreement cannot be assigned and the land subject to the agreement cannot be subleased.

**Sec. 11.** Section 175.37, subsection 5, Code 2013, is amended to read as follows:

5. The tax credit shall be ~~calculated based on the gross amount paid to the taxpayer under~~ the agricultural assets transfer agreement. The agreement shall be based on a cash basis or a commodity share basis or both.

a. Except as provided in paragraph “b”, For an agreement that includes a lease on a cash basis, the tax credit shall equal five be computed as follows:

(1) If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax credit equal to seven percent of the gross amount paid to the taxpayer under the agreement for each tax year that the tax credit is allowed.

(2) If the qualified beginning farmer is a veteran, the taxpayer may claim eight percent of the gross amount paid to the taxpayer under the agreement for the first year that the tax credit is allowed and seven percent of the gross amount paid to the taxpayer for each subsequent tax year that the tax credit is allowed. However, the taxpayer may only claim seven percent of the gross amount paid to the taxpayer under a renewed agreement or a new agreement executed by the same parties.

b. The For an agreement that includes a lease on a commodity share basis, the tax credit shall equal fifteen be computed as follows:

(1) (a) If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax credit equal to seventeen percent of the amount paid to the taxpayer from crops or animals sold under an the agreement in which the payment is exclusively made from the sale of crops or animals.

(b) If the qualified beginning farmer is a veteran, the taxpayer may claim a tax credit equal to eighteen percent of the amount paid to the taxpayer from crops or animals sold under the agreement for the first tax year that the taxpayer is allowed the tax credit and seventeen percent of the amount paid to the taxpayer for each subsequent tax year that the taxpayer is allowed the tax credit. However, the taxpayer may only claim seventeen percent of the amount paid to the taxpayer from crops or animals sold for any tax year under a renewed agreement or a new agreement executed by the same parties.

(2) Notwithstanding subparagraph (1), the authority may elect an alternative method to compute a tax credit for a lease based on a crop share basis. The alternative method shall utilize a formula which uses data compiled by the United States department of agriculture. The formula shall calculate the amount of the tax credit by multiplying the average per bushel yield for the same type of grain as produced under the lease in the same county where the leased land is located by a per bushel state price established for such type of grain harvested the previous fall.

Sec. 12. Section 175.37, subsection 6, Code 2013, is amended by striking the subsection.

Sec. 13. Section 175.37, subsection 8, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A taxpayer shall not claim a tax credit under this section unless a tax credit certificate issued by the authority is attached to the taxpayer’s tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit as provided by rules adopted by the authority. The application must include a copy of the agricultural assets transfer agreement. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. The authority may require that the parties to an agricultural assets transfer agreement provide additional information as determined relevant by the authority. The authority shall review an application for a tax credit which includes the renewal of an agricultural assets transfer agreement to determine that the parties to the renewed agreement meet the same qualifications as required for an original application. However, The authority shall not approve an application or issue a tax credit certificate to a taxpayer for an amount in excess of fifty thousand dollars. In addition, the authority shall not approve an application or issue a certificate to a taxpayer if any of the following applies:

Sec. 14. Section 175.37, subsection 8, paragraph c, Code 2013, is amended by striking the paragraph.

Sec. 15. Section 175.37, subsection 9, unnumbered paragraph 1, Code 2013, is amended to read as follows:

A taxpayer or the qualified beginning farmer may terminate an agricultural assets transfer agreement as provided in the agreement or by law. The taxpayer must immediately notify

the authority of the termination.

Sec. 16. Section 175.37, subsection 9, paragraph b, Code 2013, is amended to read as follows:

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed. ~~The tax credit shall be recaptured and the~~ amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

Sec. 17. Section 175.37, subsection 10, Code 2013, is amended by striking the subsection.

Sec. 18. NEW SECTION. **175.38 Custom farming contract tax credit.**

1. A custom farming contract tax credit is allowed under this section. The tax credit is allowed against the taxes imposed in chapter 422, division II, as provided in section 422.11M, and in chapter 422, division III, as provided in section 422.33, to encourage taxpayers who are considering custom farming agricultural land located in this state to negotiate with qualified beginning farmers.

2. In order to be eligible to claim a custom farming contract tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must be a person who may acquire or otherwise obtain or lease agricultural land in the same manner as provided for a taxpayer claiming an agricultural assets transfer tax credit under section 175.37.

3. An individual may claim a custom farming contract tax credit of a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings from the partnership, limited liability company, S corporation, estate, or trust.

4. A custom farming contract tax credit is allowed only for the amount paid by the taxpayer to a qualified beginning farmer under a custom farming contract as provided in rules adopted by the department. The contract must provide for the production of crops located on agricultural land or the production of livestock principally located on agricultural land. The agricultural land must be real estate and any improvements used for farming in which the taxpayer holds a legal or equitable interest.

5. The custom farming contract must provide that the taxpayer pay the qualified beginning farmer on a cash basis. The contract must be in writing for a term of not more than twelve months. The total cash payment must equal at least one thousand dollars.

6. The taxpayer must make all management decisions substantially contributing to or affecting the production of crops located on the agricultural land or the production of livestock principally located on the agricultural land. However, nothing in this paragraph prohibits a qualified beginning farmer from regularly or frequently taking part in making day-to-day operational decisions affecting production. The qualified beginning farmer must provide for all of the following:

a. Production items principally used to produce crops located on the agricultural land or to produce livestock principally located on the agricultural land.

b. Labor principally used to produce crops located on the agricultural land or to produce livestock principally located on the agricultural land. The qualified beginning farmer must personally provide such labor on a regular, continuous, and substantial basis.

7. A custom farming contract tax credit is not allowed if the taxpayer and qualified beginning farmer are related as any of the following:

a. Persons who hold a legal or equitable interest in the same agricultural land, including as individuals or as general partners, limited partners, shareholders, or members in the same business entity as defined in section 501A.102.

b. Family members related as spouse, child, stepchild, brother, or sister.

c. Partners in the same partnership which holds agricultural land, or shareholders in the same family farm corporation or members in the same family farm limited liability company and defined in section 9H.1.

8. A custom farming contract tax credit shall be calculated based on the gross amount paid to the qualified beginning farmer under the custom farming contract.

a. If the qualified beginning farmer is not a veteran, the taxpayer may claim a tax credit equal to seven percent of the gross amount paid to the qualified beginning farmer under the contract for each tax year that the tax credit is allowed.

b. If the qualified beginning farmer is a veteran, the taxpayer may claim a tax credit equal to eight percent of the gross amount paid to the qualified beginning farmer under the contract for the first year that the tax credit is allowed and seven percent of the gross amount paid to the qualified beginning farmer under the contract for each subsequent tax year that the tax credit is allowed. However, the taxpayer may only claim seven percent of the gross amount paid to the qualified beginning farmer under a renewed contract or a new contract executed by the same parties.

9. A custom farming contract tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following five years or until depleted, whichever is earlier. A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit. A tax credit shall not be transferable to any other person other than the taxpayer's estate or trust upon the taxpayer's death.

10. A taxpayer shall not claim a custom farming contract tax credit unless a tax credit certificate issued by the authority under this section is attached to the taxpayer's tax return for the tax year for which the tax credit is claimed. The authority must review and approve an application for a tax credit certificate as provided by rules adopted by the authority. The application must include a copy of the custom farming contract. The authority may approve an application and issue a tax credit certificate to a taxpayer who has previously been allowed a tax credit under this section. The authority may require that the parties to the contract provide additional information as determined relevant by the authority. The authority shall review an application for a tax credit certificate which includes the renewal of a contract to determine that the parties to the renewed contract meet the same qualifications as required for an original application. The authority shall not approve an application or issue a tax credit certificate to a taxpayer for an amount in excess of fifty thousand dollars. In addition, the authority shall not approve an application or issue a tax credit certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating another custom farming contract, as determined by the authority.

b. The taxpayer is party to a pending administrative or judicial action, or classified as a habitual violator in the same manner as provided in section 175.37.

c. The contract amount is substantially higher or lower than the market rate for a similar custom farming contract, as determined by the authority.

11. A taxpayer or the qualified beginning farmer may terminate a custom farming contract as provided in the contract or by law. The taxpayer must immediately notify the authority of the termination.

a. If the authority determines that the taxpayer is not at fault for the termination, the authority shall not issue a tax credit certificate to the taxpayer for a subsequent tax year based on the approved application. Any prior tax credit is allowed as provided in this section until its expiration. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural land under a custom farming contract with another qualified beginning farmer.

b. If the authority determines that the taxpayer is at fault for the termination, any prior tax credit allowed under this section is disallowed, and the amount of the tax credit shall be immediately due and payable to the department of revenue. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

**Sec. 19. NEW SECTION. 175.39 Tax credit certificates — availability.**

1. The amount of tax credits that may be issued to support the beginning farmer tax credit program shall not in the aggregate exceed twelve million dollars in any year. Of the aggregate amount, eight million dollars is allocated to support the agricultural assets transfer tax credit as provided in section 175.37 and four million dollars is allocated to support the custom

farming contract tax credit as provided in section 175.38. However, the authority's board of directors may at any time during the year adjust the allocation by adopting a resolution.

2. The authority shall issue tax certificates to support a beginning farmer tax credit on a first-come, first-served basis.

Sec. 20. Section 422.11M, Code 2013, is amended to read as follows:

**422.11M Agricultural assets transferred to beginning Beginning farmers — agricultural assets transfer tax credit and custom farming contract tax credit.**

The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by ~~an~~ the following:

1. An agricultural assets transfer tax credit as allowed under section 175.37.
2. A custom farming contract tax credit as allowed under section 175.38.

Sec. 21. Section 422.33, subsection 21, Code 2013, is amended to read as follows:

21. The taxes imposed under this division shall be reduced by ~~an~~ the following:

- a. An agricultural assets transfer tax credit as allowed under section 175.37.
- b. A custom farming contract tax credit as allowed under section 175.38.

Sec. 22. REPEAL. Section 175.35, Code 2013, is repealed.

Sec. 23. EFFECTIVE UPON ENACTMENT. This division of this Act, being deemed of immediate importance, takes effect upon enactment.

Sec. 24. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2013, for tax years beginning on or after that date.

## DIVISION II FUTURE REPEALS

Sec. 25. FUTURE REPEALS.

1. The sections of this Act amending sections 2.48, 175.8, 175.37, 422.11M, and 422.33, are repealed. The Code editor shall revise the applicable Code language to that language existing in the 2013 Code of Iowa.

2. The sections of this Act enacting section 175.2, subsection 1, paragraphs "0h", "0t", "00t", and "v", section 175.36A, section 175.36B, section 175.38, and section 175.39, are repealed.

3. Any intervening amendments effective prior to the effective date of this division of this Act that relates to the beginning farmer tax credit program shall be stricken with the repeal, unless a subsequent Act specifically provides otherwise.

Sec. 26. PRESERVATION OF EXISTING RIGHTS.

This division of this Act shall not limit, modify, or otherwise adversely affect any of the following:

1. A tax credit or tax credit certificate issued, awarded, or allowed before the effective date of this division of this Act.

2. A taxpayer's right to claim or redeem a tax credit issued, awarded, or allowed before the effective date of this division of this Act, including but not limited to any tax credit carryforward amount.

Sec. 27. IOWA FINANCE AUTHORITY. The Iowa finance authority established in chapter 16 shall propose legislation to the general assembly necessary to implement this division of this Act. The Iowa finance authority shall propose such legislation for consideration by the general assembly during its 2017 legislative session.

Sec. 28. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect December 31, 2017.

2. The section of this division of this Act which requires the Iowa finance authority to propose legislation for consideration by the general assembly takes effect July 1, 2013.

Approved June 17, 2013