WAYS & MEANS
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SENATE FILE 430
BY JOHNSON

Passed Senate, Date ____________ Passed House, Date ____________
Vote: Ayes _______ Nays _______ Vote: Ayes _______ Nays _______
Approved ______________________________

A BILL FOR

An Act relating to tax credits provided for purposes of acquiring agricultural assets, and providing for an effective and applicability date.

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

SF 430 WAYS & MEANS

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S.F. 430 H.F. ______

Section 1. Section 175.2, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 0A. "Actively engaged in farming" means that a person does any of the following:

a. Inspects the production activities periodically and furnishes at least half of the value of the tools used for crop or livestock production and pays at least half the direct cost of crop or livestock production.

b. Regularly and frequently makes or takes an important part in making management decisions substantially contributing to or affecting the success of the farm operation.

c. Performs physical work which significantly contributes to crop or livestock production.

NEW SUBSECTION. 0B. "Agricultural assets" means agricultural land, depreciable agricultural property, crops, or livestock.

NEW SUBSECTION. 10A. "Farming entity" means any of the following:

a. An individual or a fiduciary for an individual who regularly participates in physical labor or operations management in a farming operation and files schedule F as part of the person's annual form 1040 or form 1041 filing with the United States internal revenue service.

b. A family farm corporation, family farm limited liability company, family farm limited partnership, or family trust, as defined in section 9H.1.

c. A general partnership as organized under chapter 486, Code 1999, or chapter 486A, in which all of the partners are natural persons and at least one of the partners is actively engaged in farming.

Sec. 2. NEW SECTION. 175.37 AGRICULTURAL ASSETS -- TAX CREDITS.

1. A tax credit is allowed against the taxes imposed in chapter 422, division II or division III, to facilitate the acquisition of agricultural assets by beginning farmers. An

individual shall not claim a tax credit that is allowed for a family farm entity unless the family farm entity elects 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 family farm entity.

2. In order to qualify for the tax credit, the taxpayer must meet qualifications established by rules adopted by the authority. At a minimum, the taxpayer must be a family farm entity who is the titleholder of the agricultural assets. In addition, at least fifty percent of the family farm entity's gross annual income must be derived from farming as computed in the person's annual tax return for the preceding tax year filed with the United States internal revenue service. In order to qualify as a beginning farmer, a person must be eligible to receive financial assistance under section 175.12.

3. The tax credit is allowed only for agricultural assets that are subject to a lease or rental agreement. The agreement may be 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 and must be for a term of at least three years.

4. The tax credit shall equal five percent of the gross income paid to the taxpayer under the lease or rental agreement. The taxpayer may claim the tax credit for not more than three tax years. A 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 taxpayer.

5. 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 lease or rental 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. However, the authority shall not approve an application or issue a certificate to a taxpayer if any of the following applies:

a. The taxpayer is at fault for terminating a prior lease or rental agreement under this section as determined by the authority.

b. The taxpayer is any of the following:

(1) A party to a pending administrative or judicial action, including a contested case proceeding under chapter 17A, relating to an alleged violation involving an animal feeding operation as regulated by the department of natural resources, regardless of whether the pending action is brought by the department or the attorney general.

(2) Classified as a habitual violator for a violation of state law involving an animal feeding operation as regulated by the department of natural resources.

c. The beginning farmer is responsible for managing or maintaining agricultural land and other agricultural assets that are greater than necessary in order to adequately support a beginning farmer as determined by the authority according to rules which shall be adopted by the authority.

d. The agricultural assets are being leased or rented at a rate which is substantially higher or lower than the market rate for similar agricultural assets leased or rented within the same community, as determined by the authority.

6. The authority shall review each existing lease or rental agreement which is part of an application approved by the authority on a quarterly basis. The authority may require that the taxpayer and the beginning farmer provide additional

information as determined relevant by the authority.

7. A taxpayer or the beginning farmer may terminate a lease or rental agreement as provided in the agreement or by operation of 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 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. The taxpayer may apply for and be issued another tax credit certificate for the same agricultural assets as provided in this section for any remaining tax years for which a certificate was not issued.

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 and finance. If a taxpayer does not immediately notify the authority of the termination, the taxpayer shall be conclusively deemed at fault for the termination.

Sec. 3. APPLICABILITY AND EFFECTIVE DATES. This bill takes effect January 1, 2003, and is applicable to tax years beginning on or after that date.

EXPLANATION

This bill amends provisions regarding the agricultural development authority (referred to as the "authority") established in Code chapter 175, the "Iowa Agricultural Development Act". The authority is an instrumentality housed in the department of agriculture and land stewardship that is responsible for administering a number of programs to assist agricultural producers, including the beginning farmer program. A beginning farmer is an individual, partnership, family farm corporation, or family farm limited liability company as provided under Code chapter 9H (Iowa's corporate

S.F. 430 H.F. ________

farming law), with a low or moderate net worth who engages in farming or wishes to engage in farming.

The bill provides a tax credit for owners of agricultural assets (agricultural land, depreciable agricultural property, crops, or livestock) who help beginning farmers to acquire agricultural assets by lease or rental arrangements. The tax credit may be taken against individual or corporate income. An owner (referred to as the taxpayer) claims the tax credit after receiving a certificate issued by the authority which is attached to the taxpayer's tax return. The bill provides for limited carry forward but does not provide for carry back or transfer.

In order to be eligible for the tax credit, the taxpayer must apply to the authority and satisfy several conditions. The owner must be a person who is an individual or organized as a general partnership or a type of family farm entity which can hold unlimited agricultural land under Code chapter 9H. The individual or at least one equity holder of the organization must be actively engaged in farming and at least 50 percent of the person's income must be derived from farming. The tax credit depends upon the owner and the beginning farmer executing a written lease or rental agreement for at least three years. The amount of the tax credit is 5 percent of the gross income paid to the owner under the agreement. The owner may claim the tax credit for each tax year for three years, regardless of whether the agreement is extended.

The bill provides a number of restrictions upon the authority in approving applications and issuing certificates. The taxpayer cannot be at fault for terminating a prior lease; the taxpayer cannot be involved in legal proceedings regarding environmental violations; the beginning farmer cannot be provided more agricultural assets than what the beginning farmer can be expected to adequately manage; and the agricultural assets cannot be leased or rented at a rate substantially different from similar arrangements.

The bill provides that an agreement may be terminated but also provides that if the termination is the fault of the owner, any tax credits must be repaid and no further tax credit certificates can be issued to the owner.

The bill takes effect on January 1, 2004, and applies to tax years beginning on or after that date.