

1 SB168
2 189240-2
3 By Senators Whatley and Scofield
4 RFD: Finance and Taxation Education
5 First Read: 11-JAN-18

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8 SYNOPSIS: Currently, there are specific tax credits
9 allowed to be taken against income tax and business
10 privilege tax liability.

11 This bill would provide for a tax credit on
12 income tax or business privilege tax for the sale
13 and rental of agricultural assets to beginning
14 farmers.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To provide for an income tax credit or a business
21 privilege tax credit for the sale and rental of agricultural
22 assets to beginning farmers.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. As used in this section, the following
25 words shall have the following meanings:

1 (1) AGRICULTURAL ASSETS. Agricultural land,
2 livestock, facilities, buildings, and machinery used for
3 farming in Alabama.

4 (2) BEGINNING FARMER. An individual who:

5 a. is a resident of Alabama;

6 b. is seeking entry, or has entered within the last
7 ten years, into farming;

8 c. intends to farm land located within the state
9 borders of Alabama;

10 d. is not and whose spouse is not a family member of
11 the owner of the agricultural assets from whom the beginning
12 farmer is seeking to purchase or rent agricultural assets;

13 e. is not and whose spouse is not a family member of
14 a partner, member, shareholder, or trustee of the owner of
15 agricultural assets from whom the beginning farmer is seeking
16 to purchase or rent agricultural assets; and

17 f. meets the following eligibility requirements
18 determined by the authority:

19 1. has a net worth, including assets and liabilities
20 of the spouse and dependents, that does not exceed \$800,000 in
21 tax year 2019 and an amount in subsequent years which is
22 adjusted for inflation by multiplying that amount by the
23 cumulative inflation rate as determined by the United States
24 All-Items Consumer Price Index;

25 2. provides the majority of the day-to-day physical
26 labor and management of the farm;

1 3. asserts to the satisfaction of the Department of
2 Agriculture and Industries that farming will be a significant
3 source of income for the beginning farmer; and

4 4. participates in a financial management program
5 approved by the Commissioner of Agriculture and Industries.

6 (3) DEPARTMENT. Department of Agriculture and
7 Industries.

8 (4) FAMILY MEMBER. A family member within the
9 meaning of the Internal Revenue Code, Section 267(c)(4).

10 (5) FARM PRODUCT. Plants and animals useful to
11 humans and includes, but is not limited to, forage and sod
12 crops, oilseeds, grain and feed crops, dairy and dairy
13 products, poultry and poultry products, livestock, fruits, and
14 vegetables.

15 (6) FARMING. The active use, management, and
16 operation of real and personal property for the production of
17 a farm product.

18 (7) OWNER OF AGRICULTURAL ASSETS. An individual,
19 trust, or pass-through entity that is the owner in fee of
20 agricultural land or has legal title to any other agricultural
21 land or has legal title to any other agricultural asset. Owner
22 of agricultural assets does not mean an equipment dealer,
23 livestock dealer, or comparable entity that is engaged in the
24 business of selling agricultural assets for profit and that is
25 not engaged in farming as its primary business activity. An
26 owner of agricultural assets approved and certified by the
27 department under section 3 of this act must notify the

1 department if the owner no longer meets the definition in this
2 paragraph within the three-year certification period and is
3 then no longer eligible for credits under this section.

4 (8) SHARE RENT AGREEMENT. A rental agreement in
5 which the principal consideration given to the owner of
6 agricultural assets is a predetermined portion of the
7 production of farm products produced from the rented
8 agricultural assets and which provides for sharing production
9 costs or risk of loss, or both.

10 Section 2. (a) An owner of agricultural assets may
11 take a credit against the tax due under Chapters 14A and 18 of
12 Title 40 for the sale or rental of agricultural assets to a
13 beginning farmer in the amount allocated by the department
14 under section 3 of this act. An owner of agricultural assets
15 is eligible for allocation of a credit equal to:

16 (1) five percent of the gross rental income in each
17 of the first, second, and third years of a rental agreement,
18 up to a maximum of \$7,000 per year;

19 (2) ten percent of the cash equivalent of the gross
20 rental income in each of the first, second, and third years of
21 a share rent agreement, up to a maximum of \$10,000 per year;
22 or

23 (3) fifteen percent of the lesser of the sale price
24 or the fair market value of the agricultural asset, up to a
25 maximum of \$32,000.

26 (b) A qualifying rental agreement includes cash rent
27 of agricultural assets or a share rent agreement. The

1 agricultural asset must be rented at prevailing community
2 rates as determined by the department.

3 (c) The credit may be claimed only after approval
4 and certification by the department. An owner of agricultural
5 assets must apply to the department for certification of a
6 credit, in a form and manner prescribed by the department.

7 (d) If a rental agreement, including a share rent
8 agreement, is terminated, the tax credits shall not be
9 retroactively disallowed.

10 (e) The credit is limited to the liability for tax
11 as computed under Chapters 14A and 18 of Title 40 for the
12 taxable year. If the amount of the credit determined under
13 this section for any taxable year exceeds this limitation, the
14 excess is a beginning farmer incentive credit carryforward to
15 each of the fifteen succeeding taxable years.

16 Section 3. (a) The department shall:

17 (1) approve and certify or recertify beginning
18 farmers as eligible for the program under this section;

19 (2) approve and certify owners of agricultural
20 assets as eligible for the tax credit under section 2 subject
21 to the allocation limits in subsection (c);

22 (3) refer beginning farmers to agencies and
23 organizations that may provide additional pertinent
24 information and assistance; and

25 (4) share information with the Commissioner of
26 Revenue to the extent necessary to administer provisions of
27 this act. The department shall annually notify the

1 Commissioner of Revenue of approval and certification or
2 recertification of beginning farmers and owners of
3 agricultural assets.

4 (b) The certification of a beginning farmer or an
5 owner of agricultural assets is valid for the year of the
6 certification and the two following years, after which time
7 the beginning farmer or owner of agricultural assets must
8 apply to the department for recertification.

9 Section 4. (a) Any decision of the department under
10 this section may be challenged. A proceeding must be initiated
11 within 60 days of the date of written notification by the
12 office.

13 (b) If a taxpayer challenges a decision of the
14 department under this subdivision, upon perfection of the
15 appeal the department must notify the Commissioner of Revenue
16 of the challenge within 5 days.

17 (c) Nothing in this subdivision affects the
18 Commissioner of Revenue's authority to audit, review, correct,
19 or adjust returns claiming the credit.

20 Section 5. (a) No later than February 1, 2023, the
21 department, in consultation with the Commissioner of Revenue,
22 must provide a report to the Legislature on the beginning
23 farmer tax credits issued in tax years beginning after
24 December 31, 2018, and before January 1, 2023.

25 (b) The report must include background information
26 on beginning farmers in Alabama and any other information the
27 commissioner and department find relevant to evaluating the

1 effect of the credits on increasing opportunities for and the
2 number of beginning farmers.

3 (c) For credits issued under Section 2, the report
4 shall include:

5 (1) the number of credits issued under each clause;

6 (2) the geographic distribution of credits issued
7 under each clause;

8 (3) the type of agricultural assets for which
9 credits were issued;

10 (4) the number and geographic distribution of
11 beginning farmers whose purchase or rental of assets resulted
12 in credits for the seller or owner of the asset;

13 (5) the number of credits disallowed; and

14 (6) data on the number of beginning farmers by
15 geographic region in calendar years 2019 through 2023.

16 Section 6. This act shall become effective
17 immediately following its passage and approval by the Governor
18 for taxable years beginning after December 31, 2018.