

House Bill 1631

By: Representative Lim of the 99th

A BILL TO BE ENTITLED
AN ACT

1 To amend Titles 2 and 48 of the Official Code of Georgia Annotated, relating to agriculture,
2 and revenue and taxation, respectively, so as to require the Commissioner of Agriculture to
3 assist certain farmers in participating in a certain tax credit; to prohibit requiring an
4 agricultural commodities processor, handler, or distributor to follow a marketing order when
5 such processor, handler, or distributor has not given personal assent to such order; to require
6 the Commissioner of Agriculture to assist in the creation of certain nonprofit cooperative
7 associations; to provide for a state income tax credit to be known as the "Beginning Farmer
8 Tax Credit"; to provide for certain definitions, conditions, limitations, determinations, and
9 certifications; to provide for a short title; to provide for related matters; to provide for an
10 effective date and applicability; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 2 of the Official Code of Georgia Annotated, relating to agriculture, is amended in
14 Chapter 2 by adding a new Code section to read as follows:

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15 "2-2-14.
16 The Commissioner of Agriculture shall assist new farmers in understanding and
17 participating in programs administered by the department including to avail themselves of
18 the 'Beginning Farmer Tax Credit' provided for in Code Section 48-7-29.24."

19 **SECTION 2.**

20 Said title is further amended in Code Section 2-8-26, relating to applicability of marketing
21 orders, as follows:

22 "2-8-26.

23 (a) Except as provided in subsection (b) of this Code section, whenever ~~Whenever~~
24 producers or handlers of an agricultural commodity regulated by a marketing order issued
25 by any commission pursuant to this article are required to comply with minimum quality,
26 condition, size, or maturity regulations, no person, except as otherwise provided in such
27 order, shall process, distribute, or otherwise handle any of such agricultural commodity
28 from any source, whether produced within or without this state, which commodity does not
29 meet such minimum requirements applicable to producers or handlers of such commodity
30 in this state, provided that such regulations shall not apply to any commodity which has
31 been produced outside of this state and is in transit on the effective date of the regulations.

32 (b) Notwithstanding the provisions of subsection (a) of this Code section, no person
33 seeking to process, distribute, or otherwise handle any such agricultural commodity shall
34 be required to comply with a marketing order if such person has not given personal assent
35 to such order by a procedure provided for in subsection (a) of Code Section 2-8-23."

36 **SECTION 3.**

37 Said title is further amended by revising Code Section 2-10-83, relating to persons who may
38 form cooperative association, as follows:

39 "2-10-83.

40 (a) Five or more persons engaged in the production of agricultural products may form a
41 nonprofit, cooperative association, with or without capital stock, under this article.

42 (b) The Commissioner of Agriculture shall assist in the establishment of nonprofit
43 cooperative associations within any of the zones established under the 'Urban
44 Redevelopment Law' as provided for in Chapter 61 of Title 36, the 'Enterprise Zone
45 Employment Act of 1977' as provided for in Chapter 88 of Title 36, or Code Section
46 48-7-40.32."

47 **SECTION 4.**

48 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation is
49 amended in Chapter 7, relating to income taxes, by adding a new Code section to read as
50 follows:

51 "48-7-29.24.

52 (a) This Code section shall be known and may be cited as the 'Beginning Farmer Tax
53 Credit.'

54 (b) For purposes of this Code section, the term:

55 (1) 'Agricultural assets' means agricultural land, livestock, farming, or livestock
56 production facilities or buildings and machinery used for farming or livestock production
57 located in this state.

58 (2) 'Cash rent agreement' means a rental agreement in which the principal consideration
59 given to the owner of agricultural assets is a predetermined amount of money. A flex or
60 variable rent agreement is an alternative form of a cash rent agreement in which a
61 predetermined base rent is adjusted for actual crop yield, crop price, or both, according
62 to a predetermined formula.

63 (3) 'Farm' means any tract of land over ten acres in an area used for or devoted to the
64 commercial production of farm products.

65 (4) 'Farm products' means those plants and animals useful to man and includes, but is not
66 limited to, forages and sod crops; grains and feed crops; dairy and dairy products; poultry
67 and poultry products; livestock, including breeding and grazing livestock; and fruits and
68 vegetables.

69 (5) 'Farming or livestock production' means the active use, management, and operation
70 of real and personal property for the production of a farm product.

71 (6) 'Financial management program' means a program for beginning farmers or livestock
72 producers which includes, but is not limited to, assistance in the creation and proper use
73 of record-keeping systems, periodic private consultations with licensed financial
74 management personnel, year-end monthly cash flow analysis, and detailed enterprise
75 analysis.

76 (7) 'Owner of agricultural assets' means:

77 (A) An individual or a trustee having an ownership interest in an agricultural asset
78 located within this state;

79 (B) A spouse, child, or sibling who acquires an ownership interest in agricultural assets
80 as a joint tenant, heir, or devisee of an individual or trustee who would qualify as an
81 owner of agricultural assets under subparagraph (A) of this paragraph; or

82 (C) A partnership, corporation, limited liability company, or other business entity
83 having an ownership interest in an agricultural asset located within this state which
84 meets any additional qualifications determined by the Commissioner.

85 (8) 'Qualified beginning farmer or livestock producer' means an individual who is a
86 resident of this state who has entered into farming or livestock production or is seeking
87 entry into farming or livestock production, who intends to farm or raise crops or livestock
88 on land located within this state, and who meets the eligibility guidelines established in
89 subsection (c) of this Code section and such other qualifications as determined by the
90 Commissioner.

91 (9) 'Share-rent agreement' means a rental agreement in which the principal consideration
92 given to the owner of agricultural assets is a predetermined portion of the production of
93 farm products from the rented agricultural assets.

94 (c)(1) The Commissioner of Agriculture shall determine who is qualified as a beginning
95 farmer or livestock producer based on the qualifications found in this section. A qualified
96 beginning farmer or livestock producer shall be an individual who:

97 (A) Has a net worth of not more than \$200,000.00, including any holdings by a spouse
98 or dependent, based on fair market value;

99 (B) Provides the majority of the day-to-day physical labor and management of his or
100 her farming or livestock production operations;

101 (C) Has, by the judgment of the Commissioner, adequate farming or livestock
102 production experience or demonstrates knowledge in the type of farming or livestock
103 production for which he or she seeks assistance from the Commissioner;

104 (D) Demonstrates to the Commissioner a profit potential by submitting
105 Commissioner-approved, projected earnings statements and agrees that farming or
106 livestock production is intended to become his or her principal source of income;

107 (E) Demonstrates to the Commissioner a need for assistance;

108 (F) Participates in a financial management program approved by the Commissioner;

109 (G) Submits a nutrient management plan and a soil conservation plan to the
110 Commissioner on any applicable agricultural assets purchased or rented from an owner
111 of agricultural assets; and

112 (H) Has such other qualifications as specified by the Commissioner.

113 (2) The qualified beginning farmer or livestock producer net worth thresholds described
114 in paragraph (1) of this subsection shall be adjusted annually by taking the average
115 Producer Price Index for all commodities, published by the United States Department of
116 Labor, Bureau of Labor Statistics, for the most recent 12 available periods, divided by the
117 Producer Price Index for 2022, and multiplying the result by the qualified beginning

118 farmer's or livestock producer's net worth threshold. If the resulting amount is not a
119 multiple of \$25,000.00, the amount shall be rounded to the next lowest \$25,000.00.

120 (3) A qualified beginning farmer or livestock producer who has participated in a
121 Commissioner-approved and certified three-year rental agreement with an owner of
122 agricultural assets shall be eligible to file subsequent applications for different assets.

123 (d)(1) Except as otherwise disallowed under this Code section, an owner of agricultural
124 assets shall be allowed a refundable credit against the income tax imposed by this article
125 for agricultural assets rented on a rental agreement basis, including cash rent of
126 agricultural assets or the cash equivalent of a share-rent rental, to qualified beginning
127 farmers or livestock producers. Such assets shall be rented at prevailing community rates
128 as determined by the Commissioner.

129 (2) An owner of agricultural assets who has participated in a Commissioner approved
130 and certified three-year rental agreement with a beginning farmer or livestock producer
131 shall be eligible to file subsequent applications for different assets.

132 (3) Tax credits shall not be issued with respect to any agricultural asset for more than
133 three years.

134 (e)(1) A tax credit approved and certified by the Commissioner under this Code section
135 shall be allowed in the amounts provided provided:

136 (A) For an owner of agricultural assets in the first, second, or third year of a qualifying
137 rental agreement, shall be equal to 10 percent of the gross rental income stated in a
138 rental agreement that is a cash rent agreement; or

139 (B) Fifteen percent of the cash equivalent of the gross rental income in a rental
140 agreement that is a share-rent agreement.

141 (2) Tax credits shall only be approved and certified for rental agreements that are
142 approved and certified by the Commissioner under this Code section.

143 (3) To qualify for the greater rate of credit allowed under subparagraph (B) of
144 paragraph (1) of this subsection, a share-rent agreement shall provide for sharing of

145 production expenses or risk of loss, or both, between the agricultural asset owner and the
146 qualified beginning farmer or livestock producer. The Commissioner may adopt and
147 promulgate rules and regulations, consistent with the policy objectives of this Act, to
148 further define the standards that share-rent agreements shall meet for approval and
149 certification of the tax credit under this Act.

150 (4) The Commissioner shall review each existing three-year rental agreement between
151 a beginning farmer or livestock producer and an owner of agricultural assets on a
152 semiannual basis and shall either certify or terminate program eligibility for beginning
153 farmers or livestock producers or tax credits granted to owners of agricultural assets on
154 an annual basis.

155 **SECTION 5.**

156 This Act shall become effective on January 1, 2023, and shall be applicable to taxable years
157 beginning on or after such date.

158 **SECTION 6.**

159 All laws and parts of laws in conflict with this Act are repealed.