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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 478 Session of  
2019

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INTRODUCED BY VOGEL, J. WARD, STREET, GORDNER, SCHWANK, FOLMER,  
YAW, KILLION, LANGERHOLC AND K. WARD, MARCH 26, 2019

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REFERRED TO FINANCE, MARCH 26, 2019

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AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," providing for beginning farmer tax credit.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
14 the Tax Reform Code of 1971, is amended by adding an article to  
15 read:

16 ARTICLE XVIII-H

17 TAX CREDITS RELATING TO BEGINNING FARMERS

18 Section 1801-H. Scope of article.

19 This article relates to the tax credits to owners of  
20 agricultural assets and to beginning farmers.

21 Section 1802-H. Definitions.

22 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the  
2 context clearly indicates otherwise:

3 "Agricultural assets." Agricultural land, livestock,  
4 facilities, buildings and machinery used for farming.

5 "Beginning farmer." An individual who:

6 (1) Is a resident of this Commonwealth.

7 (2) Is seeking entry, or has entered within the last 10  
8 years, into farming.

9 (3) Intends to engage in farming on land situate in this  
10 Commonwealth.

11 (4) Is not and whose spouse is not a family member of  
12 the owner of the agricultural assets from whom the individual  
13 seeks to purchase or rent agricultural assets.

14 (5) Is not and whose spouse is not a family member of a  
15 partner, member, shareholder or trustee of the owner of  
16 agricultural assets from whom the individual seeks to  
17 purchase or rent agricultural assets.

18 (6) Meets the following eligibility requirements as  
19 determined by the department:

20 (i) Has a net worth that does not exceed \$800,000,  
21 subject to annual adjustment by the department in an  
22 amount equal to the percentage change in the Consumer  
23 Price Index for All Urban Consumers for the Pennsylvania,  
24 New Jersey, Delaware and Maryland area, for the most  
25 recent 12-month period for which figures have been  
26 officially reported by the United States Department of  
27 Labor, Bureau of Labor Statistics, immediately prior to  
28 the date the adjustment is due to take effect.

29 (ii) Provides the majority of the daily physical  
30 labor or management of a farm.

1           (iii) Has, by the judgment of the department,  
2           adequate farming experience or demonstrates knowledge in  
3           the type of farming for which the beginning farmer seeks  
4           assistance from the department.

5           (iv) Demonstrates to the department a profit  
6           potential by submitting projected earnings statements.

7           (v) Asserts to the satisfaction of the department  
8           that farming will be a significant source of income for  
9           the beginning farmer.

10           (vi) Agrees to notify the department if the  
11           beginning farmer no longer meets the eligibility  
12           requirements within the three-year certification period,  
13           in which case the beginning farmer is no longer eligible  
14           for tax credits.

15           (vii) Is not engaged in farming by means of a joint  
16           business venture.

17           (viii) Has other qualifications as specified by the  
18           department.

19           "Department." The Department of Community and Economic  
20           Development of the Commonwealth.

21           "Family member." A family member within the meaning of  
22           section 267(c)(4) of the Internal Revenue Code of 1986 (Public  
23           Law 99-514, 26 U.S.C. § 267(c)(4)). The term does not include  
24           the spouse of a beginning farmer.

25           "Farm." Real property on which farming occurs.

26           "Farm product." Plants and animals useful to humans and  
27           includes forage and sod crops, oilseeds, grain and feed crops,  
28           dairy and dairy products, poultry and poultry products,  
29           livestock, fruits and vegetables.

30           "Farming." The active use, management and operation of real

1 and personal property for the production of a farm product.

2 "Lease." A written agreement between parties for the lease  
3 of real property on which farming occurs.

4 "Owner of agricultural assets." An individual, trust or  
5 pass-through entity that is the owner in fee of agricultural  
6 land or has legal title to any other agricultural asset. The  
7 term does not include an equipment dealer, livestock dealer or  
8 comparable entity that is engaged in the business of selling  
9 agricultural assets for profit and that is not engaged in  
10 farming as its primary business activity.

11 "Tax credit." A tax credit established by this article.  
12 Section 1803-H. Tax credit for owners of agricultural assets.

13 (a) General rule.--An owner of agricultural assets may take  
14 a credit against the tax due under Article III for the sale or  
15 rental of agricultural assets to a beginning farmer in the  
16 amount allocated by the department under section 1804-H. An  
17 owner of agricultural assets is eligible for allocation of a tax  
18 credit equal to:

19 (1) five percent of the lesser of the sale price or the  
20 fair market value of the agricultural asset, up to a maximum  
21 of \$32,000; or

22 (2) ten percent of the gross rental income in each of  
23 the first, second and third years of a rental agreement, up  
24 to a maximum of \$7,000 per year.

25 (b) Application.--The tax credit may be claimed only after  
26 approval and certification by the department and is limited to  
27 the amount stated on the certificate issued under section 1804-  
28 H. An owner of agricultural assets must apply to the department  
29 for certification and allocation of a tax credit, in a form and  
30 manner prescribed by the department.

1 (c) Termination of rental agreement.--

2 (1) An owner of agricultural assets or beginning farmer  
3 may terminate a rental agreement for reasonable cause upon  
4 approval of the department.

5 (2) If a rental agreement is terminated without the  
6 fault of the owner of agricultural assets, the tax credits  
7 shall not be retroactively disallowed.

8 (3) In determining reasonable cause, the department  
9 shall consider which party was at fault in the termination of  
10 the agreement.

11 (4) If the department determines the owner of  
12 agricultural assets did not have reasonable cause, the owner  
13 of agricultural assets must repay all tax credits received as  
14 a result of the rental agreement to the Secretary of Revenue.  
15 The repayment is additional income tax for the taxable year  
16 in which the department makes its decision or when a final  
17 adjudication under section 1805-H is made, whichever is  
18 later.

19 (d) Duration of tax credit.--The credit is limited to the  
20 liability for tax as computed under Article III for the taxable  
21 year. The tax credit may not be carried over or assigned.

22 Section 1804-H. Beginning farmer management tax credit.

23 (a) Departmental approval.--The tax credit may be claimed  
24 only after approval and certification by the department.

25 (b) Duration of tax credit.--The tax credit is limited to  
26 the liability for tax as computed under Article III for the  
27 taxable year. If the amount of the tax credit determined under  
28 this section for any taxable year exceeds this limitation, the  
29 excess may be carried forward.

30 Section 1805-H. Departmental duties.

1 (a) Duties.--The department shall:

2 (1) Share information with the Secretary of Revenue to  
3 the extent necessary to administer provisions under this  
4 article and Article III.

5 (2) Annually notify the Secretary of Revenue of approval  
6 and certification or recertification of beginning farmers and  
7 owners of agricultural assets under this section. For tax  
8 credits under section 1803-H, the notification must include  
9 the amount of tax credit approved by the department and  
10 stated on the tax credit certificate.

11 (b) Validity of certification.--The certification of a  
12 beginning farmer or an owner of agricultural assets under this  
13 section is valid for the year of the certification and the two  
14 following years, after which time the beginning farmer or owner  
15 of agricultural assets must apply to the department for  
16 recertification.

17 (c) Limitation on amount.--

18 (1) For tax credits for owners of agricultural assets  
19 allowed under section 1803-H, the department may allocate  
20 more than \$5,000,000 for the taxable year beginning after  
21 December 31, 2019, and may not allocate more than \$6,000,000  
22 for the taxable years beginning after December 31, 2020.

23 (2) The department shall allocate tax credits on a  
24 first-come, first-served basis beginning on January 1 of each  
25 year, except that recertifications for the second and third  
26 years of tax credits under section 1803-H(a) (1) and (2) have  
27 first priority. Any amount authorized but not allocated in  
28 any taxable year does not cancel and is added to the  
29 allocation for the next taxable year.

30 Section 1806-H. Report.

1 (a) Duty to report.--No later than February 1, 2025, the  
2 department, in consultation with the Secretary of Revenue, shall  
3 provide a report to the General Assembly on the tax credits  
4 issued in tax years beginning after December 31, 2019.

5 (b) Contents of report.--

6 (1) The report must include background information on  
7 beginning farmers and any other information the department  
8 finds relevant to evaluating the effect of the tax credits on  
9 increasing opportunities for and the number of beginning  
10 farmers.

11 (2) For tax credits issued under section 1803-H(a)(1),  
12 (2) and (3), the report shall include:

13 (i) The number and amount of tax credits issued  
14 under each paragraph.

15 (ii) The geographic distribution of tax credits  
16 issued under each paragraph.

17 (iii) The type of agricultural assets for which tax  
18 credits were issued under section 1803-H(a)(1).

19 (iv) The number and geographic distribution of  
20 beginning farmers whose purchase or rental of assets  
21 resulted in tax credits for the seller or owner of the  
22 asset.

23 (v) The number and amount of tax credits disallowed  
24 under section 1803-H(d).

25 (vi) Data on the number of beginning farmers by  
26 geographic region in the tax years covered in the report.

27 (vii) The number and amount of tax credit  
28 applications that exceeded the allocation available in  
29 each year.

30 (3) For tax credits issued under section 1804-H, the

1 report shall include:

2 (i) The number and amount of tax credits issued.

3 (ii) The geographic distribution of tax credits.

4 (iii) A description of the approval procedure for

5 financial management programs not on the list maintained

6 by the department as provided in section 1804-H(a).

7 Section 1807-H. Expiration.

8 This article shall expire for taxable years beginning after

9 December 31, 2029.

10 Section 2. This act shall take effect in 60 days.