STATE OF NEW YORK

3281
2017-2018 Regular Sessions

IN ASSEMBLY

January 27, 2017

Introduced by M. of A. BARRETT -- read once and referred to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, the environmental conservation law and the tax law, in relation to enacting the carbon farming act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. This act shall be known and may be cited as the "carbon farming act".

§ 2. Legislative intent. The legislature hereby finds and declares that soil and vegetation management can significantly enhance soil and carbon sequestration, resulting in a wide range of environmental and agricultural benefits to New York farmers and residents, including: increased yields; soil health; improved water quality; and reductions in greenhouse gases. The legislature further declares that enhancing carbon sequestration, the long term storage of carbon in plants, soils, geologic formations and the ocean, through farming is in the best interest of New Yorkers. It is therefore the intent of the legislature and the purpose of this act to encourage farmers to further sequester and mitigate carbon in this state by establishing carbon farming tax credit to reward and incentivize farmers to maintain or adopt practices that help maximize New York's carbon sequestration potential.

§ 3. Section 150 of the agriculture and markets law is amended by adding a new subdivision 5 to read as follows:

5. "Carbon farming" means the implementation of a land management strategy for the purposes of reducing, sequestering, and mitigating greenhouse gas emissions on land used in support of a farm operation and quantifying those greenhouse gas benefits using the United States Department of Agriculture's COMET-Planner, COMET-Farm, and other quantification tools.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.
§ 4. Section 210-B of the tax law is amended by adding a new subdivision 52 to read as follows:

52. Carbon farming credit. (a) Allowance of credit. A taxpayer that is an agricultural business that produces farm products shall be allowed a credit against the tax imposed by this article for the practice of carbon farming.

(b) Definitions. For purposes of this section the following terms shall have the following meanings:

(i) "carbon farming" shall have the same meaning as set forth in subdivision five of section one hundred fifty of the agriculture and markets law;

(ii) "farm products" shall have the same meaning as set forth in subdivision five of section two of the agriculture and markets law; and

(iii) "carbon sequestration" shall mean the long term storage of carbon in plants and soils.

(c) Such credit shall be calculated based on the economic value of carbon farming as determined by the commissioner of environmental conservation, in consultation with the commissioner of agriculture and markets pursuant to paragraph ccc of subdivision two of section 3-0301 of the environmental conservation law.

(d) The taxpayer shall attach to its tax return its final certificate of eligibility issued by the commissioner of environmental conservation pursuant to section 19-0309 of the environmental conservation law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the final certificate verifying the emissions reductions to be credited to the taxpayer.

(e) If the amount of the credit allowable under this subdivision for any taxable year shall exceed the taxpayer's tax for such year, any amount of credit not deductible in such taxable year may be carried over to the following three years, and may be deducted for the taxpayer for such year.

§ 5. Section 606 of the tax law is amended by adding a new subsection (hhh) to read as follows:

(hhh) Carbon farming credit. (1) Allowance of credit. A taxpayer who provides farm products and who practices carbon farming shall be allowed a credit against the tax imposed by this article.

(2) Definitions. For the purposes of this subsection, the following definitions shall apply:

(A) "Farm products" shall have the same meaning as set forth in subdivision five of section two of the agriculture and markets law.

(B) "Carbon farming" shall have the same meaning as set forth in subdivision five of section one hundred fifty of the agriculture and markets law.

(3) Application of credit. Such credit shall be calculated based on the economic value of carbon farming as determined by the commissioner of environmental conservation, in consultation with the commissioner of agriculture and markets pursuant to paragraph ccc of subdivision two of section 3-0301 of the environmental conservation law.

(4) Certification required. The taxpayer shall attach to its tax return its final certificate of eligibility issued by the commissioner of environmental conservation pursuant to section 19-0309 of the environmental conservation law. In no event shall the taxpayer be allowed a credit greater than the amount of the credit listed on the final certificate verifying the emissions reductions to be credited to the taxpayer.

(5) Carryover of credit. If the amount of the credit allowable under this subsection for any taxable year shall exceed the taxpayer's tax for
such year, any amount of credit not deductible in such taxable year may
be carried over to the following three years, and may be deducted for
the taxpayer for such year.
§ 6. Subdivision 2 of section 3-0301 of the environmental conservation
law is amended by adding a new paragraph ccc to read as follows:

   ccc. Cooperate with the department of agriculture and markets to
develop educational materials to promote and encourage carbon farming.
Such materials shall promote farming practices which reduce, sequester
and mitigate greenhouse gas emissions through the implementation of
carbon farming strategies and on land used in support of a farm opera-
tion; and develop and codify a metric to quantify the storage of carbon
using the United States Department of Agriculture's COMET-Planner,
COMET-Farm, and other quantification tools. The department shall develop
and distribute an application and certification procedure which verifies
the carbon stored to be credited to each farm. The department may
promulgate rules and regulations necessary to implement this section.
§ 7. Subdivision 1 of section 19-0309 of the environmental conserva-
tion law, as amended by chapter 817 of the laws of 1987, is amended to
read as follows:
   1. For the purposes of sections 208, 210, 606 and 612 of the Tax Law,
the commissioner or his designated representative is hereby authorized
to issue certificates of compliance concerning air pollution control
facilities [and], air pollution controlled process facilities and carbon
farming as defined in such law. No such certificate shall be issued
unless the facility to which it is applicable is in compliance with
applicable provisions of titles 1 to 11, inclusive, and title 19 of
article 17, article 19, and title 1 of article 27 of this chapter; of
the Public Health Law; of the state sanitary code and of codes, rules,
regulations, permits or orders issued pursuant thereto.
§ 8. Section 16 of the agriculture and markets law is amended by
adding a new subdivision 49 to read as follow:

   49. Cooperate with the department of environmental conservation to
develop educational materials to encourage carbon farming and how to
use the United States Department of Agriculture's COMET-Planner, COMET-
Farm, and other carbon quantification tools. The program shall promote
farming practices which reduce, sequester and mitigate greenhouse gas
emissions on land used in support of a farm operation. The department
shall promote the carbon farming tax credit provided in sections two
hundred ten-b and six hundred six of the tax law.
§ 9. This act shall take effect on the ninetieth day after it shall
have become a law; provided, however, that effective immediately, the
addition, amendment, and/or repeal of any rule or regulation necessary
for the implementation of this act on its effective date are authorized
and directed to be made and completed on or before such effective date.