STATE OF NEW YORK

6078--A

2021-2022 Regular Sessions

IN SENATE

April 6, 2021

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to providing a tax credit for sales or rentals of agricultural assets to beginning farmers; and to amend the agriculture and markets law, in relation to establishing duties of the commissioner of agriculture and markets with respect thereto

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 "New York farmland preservation act".

§ 2. The tax law is amended by adding a new section 45 to read as follows:

§ 45. Credit for owners of agricultural assets. (a) General. A taxpayer that has been certified by the commissioner of agriculture and markets as a certified owner of agricultural assets shall be eligible for a credit against the tax imposed under article nine-A or twenty-two of this chapter, pursuant to the provisions referenced in this section.

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

(1) "Agricultural assets" shall mean agricultural land, livestock, facilities, buildings, or machinery used for farming.

(2) "Beginning farmer" means a resident of New York who:

(i) is seeking entry, or has entered within the last ten years, into farming;

(ii) intends to farm land located within the state borders of New York;

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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(iii) is not related by blood or marriage to the owner of the agricultural assets from whom the beginning farmer is seeking to purchase or rent agricultural assets;

(iv) is not related by blood or marriage to a partner, member, shareholder, or trustee of the owner of agricultural assets from whom the beginning farmer is seeking to purchase or rent agricultural assets;

(v) intends to provide the majority of the day-to-day physical labor or management of the farm; and

(vi) meets the eligibility requirements for certification as a beginning farmer as determined by the commissioner of agriculture and markets.

(3) "Socially disadvantaged beginning farmer" means a farmer who is a member of a socially disadvantaged group and meets the definition of beginning farmer as defined in section twelve hundred eighty-five-r of the public authorities law.

(4) "Socially disadvantaged group" means a group whose members have been subjected to racial, ethnic, or gender prejudice because of their identity as members of a group without regard to their individual qualities. These groups include all of the following:

(i) African Americans;

(ii) Native Indians;

(iii) Alaskan Natives;

(iv) Hispanics;

(v) Asian Americans; and,

(vi) Native Hawaiians and Pacific Islanders.

(5) "Farm product" shall have the same meaning as crops, livestock and livestock products as defined in subdivision two of section three hundred one of the agriculture and markets law.

(6) "Farming" means the active use, management, and operation of real and personal property for the production of a farm product.

(7) "Owner of agricultural assets" means an individual, trust, partnership, or business entity that:

(i) is the owner in fee of agricultural land or has legal title to any other agricultural asset;

(ii) is a New York State resident;

(iii) derived at least fifty percent of the individual's, trust's, partnership's or business entity's gross income from farming in at least five of the preceding fifteen years; and

(iv) provided the majority of the day-to-day physical labor and management of a farm in at least five of the preceding fifteen years. If the owner is a partnership or business entity, the requirements outlined in subparagraphs (i), (ii), (iii) and (iv) of this paragraph shall be satisfied if any partner or shareowner, or any combination of the two, meet the requirements of this paragraph.

(8) "Rental agreement" means a rental agreement in which the principal consideration given to the owner of agricultural assets is a predetermined portion of the production of farm products produced from the rented agricultural assets and which provides for sharing production costs or risk of loss, or both.

(c) Computation of credit. (1) An owner of agricultural assets may take a credit for the sale or rental of agricultural assets to a beginning farmer. The credit shall be equal to the greater of:

(i) five percent of the sale price of the agricultural asset;

(ii) ten percent of the gross rental income in each of the first, second, and third years of a rental agreement; or

(iii) fifteen percent of the cash equivalent of the gross rental income in each of the first, second, and third years of a rental agreement.

(2) An owner of agricultural assets may take an additional credit for the sale or rental of agricultural assets to a socially disadvantaged beginning farmer. The additional credit shall be the credit applied under paragraph one of this subdivision plus an additional two and one-half percent.

(3) A qualifying rental agreement includes cash rent of agricultural assets or a rental agreement. The agricultural asset must be rented at prevailing community rates as determined by the commissioner of agriculture. The credit may be claimed only after approval and certification by the commissioner of agriculture and markets.

(4) An owner of agricultural assets or beginning farmer may terminate a rental agreement, including a rental agreement, for reasonable cause. Within fifteen days, the owner of agricultural assets must notify the commissioner of agriculture in writing of such termination. If a rental agreement is terminated without the fault of the owner of agricultural assets, the tax credits shall not be retroactively disallowed. If an agreement is terminated with fault by the owner of agricultural assets, any prior tax credits claimed under this subdivision by the owner of agricultural assets shall be disallowed and must be repaid to the commissioner of taxation and finance.

(d) Cross-references. For application of the credit provided for in this section, see the following provisions of this chapter:

(1) article 9-A: section 210-B: subdivision 55.

(2) article 22: section 606: subsections (i) and (nnn).

§ 3. Section 210-B of the tax law is amended by adding a new subdivision 55 to read as follows:

55. Tax credit for owners of agricultural assets. (a) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section forty-five of this chapter, against the tax imposed by this article.

(b) Application of credit. The credit allowed under this subdivision for any taxable year may not reduce the tax due for such year to less than the amount prescribed in paragraph (d) of subdivision one of section two hundred ten of this article. However, if the amount of credit allowed under this subdivision for any taxable year reduces the tax to such amount or if the taxpayer otherwise pays tax based on the fixed dollar minimum amount, any amount of credit thus not deductible in such taxable year will be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section one thousand eighty-six of this chapter. Provided, however, the provisions of subsection (c) of section one thousand eighty-eight of this chapter notwithstanding, no interest will be paid thereon.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xlvi) to read as follows:

(xlvi) Credit for owners of agricultural assets under subsection (nnn)	Amount of credit under subdivision fifty-five of section two hundred ten-B

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

(nnn) Credit for owners of agricultural assets. (1) A taxpayer shall be allowed a credit, to be computed as provided in section forty-five of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of credit allowed under this subsection for any taxable year exceeds the taxpayer's tax for such year, the excess will be treated as an overpayment of tax to be credited or refunded in accordance with the provision of section six hundred eighty-six of this article, provided, however, that no interest will be paid thereon.

§ 6. Section 16 of the agriculture and markets law is amended by adding a new subdivision 52 to read as follows:

52. (a) Establish a program for initial certification of owners of agricultural assets and beginning farmers for purposes of eligibility for a tax credit pursuant to section forty-five of the tax law.

(b) Adopt, promulgate and implement rules, regulations and orders with respect to application for certification, continued qualification for certification and termination of certification of owners of agricultural assets and/or beginning farmers for purposes of eligibility for such tax credit.

(c) Certify rental agreements entered into by certified owners of agricultural assets and beginning farmers are fair and at rates equal to the market value of the farm product as provided in section forty-five of the tax law; provided that agricultural assets must be rented at prevailing community rates as determined by the commissioner.

(d) Notify the commissioner of taxation and finance of all approved applications and all applications for which certification was subsequently terminated by the commissioner.

§ 7. This act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 2023.