

LEGISLATURE OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 560

Introduced by Geist, 25.

Read first time January 22, 2019

Committee: Revenue

- 1 A BILL FOR AN ACT relating to revenue and taxation; to amend sections
- 2 77-5209, 77-5209.01, and 77-5211, Reissue Revised Statutes of
- 3 Nebraska; to change provisions relating to tax credits under the
- 4 Beginning Farmer Tax Credit Act; to harmonize provisions; and to
- 5 repeal the original sections.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 77-5209, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 77-5209 (1) The board shall determine who is qualified as a
4 beginning farmer or livestock producer based on the qualifications found
5 in this section. A qualified beginning farmer or livestock producer shall
6 be an individual who: (a) Has a net worth of not more than two hundred
7 thousand dollars, including any holdings by a spouse or dependent, based
8 on fair market value; (b) provides the majority of the day-to-day
9 physical labor and management of his or her farming or livestock
10 production operations; (c) has, by the judgment of the board, adequate
11 farming or livestock production experience or demonstrates knowledge in
12 the type of farming or livestock production for which he or she seeks
13 assistance from the board; (d) demonstrates to the board a profit
14 potential by submitting board-approved projected earnings statements and
15 agrees that farming or livestock production is intended to become his or
16 her principal source of income; (e) demonstrates to the board a need for
17 assistance; (f) participates in a financial management program approved
18 by the board; (g) submits a nutrient management plan and a soil
19 conservation plan to the board on any applicable agricultural assets
20 purchased or rented from an owner of agricultural assets; and (h) has
21 such other qualifications as specified by the board. The qualified
22 beginning farmer or livestock producer net worth thresholds in
23 subdivision (a) of this subsection shall be adjusted annually beginning
24 October 1, 2009, and each October 1 thereafter, by taking the average
25 Producer Price Index for all commodities, published by the United States
26 Department of Labor, Bureau of Labor Statistics, for the most recent
27 twelve available periods divided by the Producer Price Index for 2008 and
28 multiplying the result by the qualified beginning farmer's or livestock
29 producer's net worth threshold. If the resulting amount is not a multiple
30 of twenty-five thousand dollars, the amount shall be rounded to the next
31 lowest twenty-five thousand dollars.

1 (2) A qualified beginning farmer or livestock producer may only
2 participate as a qualified beginning farmer or livestock producer in one
3 three-year rental agreement with an owner of agricultural assets unless
4 the rental agreement is terminated prior to the end of the three-year
5 period through no fault of the qualified beginning farmer or livestock
6 producer. Except as otherwise provided in this subsection, a A qualified
7 beginning farmer or livestock producer who is participating or has
8 participated in a board approved and certified three-year rental
9 agreement with an owner of agricultural assets shall not be eligible to
10 file a subsequent application with the board but may refer to the board
11 for additional support and participate in programs, including educational
12 and financial programs and seminars, established or recommended by the
13 board that are applicable to the continued success of such farmer or
14 livestock producer.

15 Sec. 2. Section 77-5209.01, Reissue Revised Statutes of Nebraska, is
16 amended to read:

17 77-5209.01 A qualified beginning farmer or livestock producer in the
18 first, second, or third year of a qualifying three-year rental agreement
19 shall be allowed a one-time refundable credit to be applied against the
20 income tax imposed by the Nebraska Revenue Act of 1967 state income tax
21 liability of such individual for the cost of participation in the
22 financial management program required for eligibility under section
23 77-5209. The amount of the credit shall be the actual cost of
24 participation in an approved program incurred during the tax year for
25 which the credit is claimed, up to a maximum of five hundred dollars.

26 Sec. 3. Section 77-5211, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 77-5211 (1) Except as otherwise disallowed under subsection (5) of
29 this section, an owner of agricultural assets shall be allowed a
30 refundable credit to be applied against the income tax imposed by the
31 Nebraska Revenue Act of 1967 state income tax liability of such owner for

1 agricultural assets rented on a rental agreement basis, including cash
2 rent of agricultural assets or cash equivalent of a share-rent rental, to
3 qualified beginning farmers or livestock producers. Such asset shall be
4 rented at prevailing community rates as determined by the board.

5 (2) The credit allowed shall be for renting agricultural assets used
6 for farming or livestock production. Such credit shall be granted by the
7 Department of Revenue only after approval and certification by the board
8 and a written three-year rental agreement for such assets is entered into
9 between an owner of agricultural assets and a qualified beginning farmer
10 or livestock producer. An owner of agricultural assets or qualified
11 beginning farmer or livestock producer may terminate such agreement for
12 reasonable cause upon approval by the board. If an agreement is
13 terminated without fault on the part of the owner of agricultural assets
14 as determined by the board, the tax credit shall not be retroactively
15 disallowed. If an agreement is terminated with fault on the part of the
16 owner of agricultural assets as determined by the board, any prior tax
17 credits claimed by such owner shall be disallowed and recaptured and
18 shall be immediately due and payable to the State of Nebraska.

19 (3) A credit may be granted to an owner of agricultural assets for
20 renting agricultural assets, including cash rent of agricultural assets
21 or cash equivalent of a share-rent agreement, to any qualified beginning
22 farmer or livestock producer for a period of three years. An owner of
23 agricultural assets shall not be eligible for further credits under the
24 Beginning Farmer Tax Credit Act and shall not be eligible for further
25 participation with a qualified beginning farmer or livestock producer
26 unless the rental agreement is terminated prior to the end of the three-
27 year period through no fault of the owner of agricultural assets. If the
28 board finds that such a termination was not the fault of the owner of
29 agricultural assets, it may approve the owner for credits arising from a
30 subsequent qualifying rental agreement with a different qualified
31 beginning farmer or livestock producer.

1 (4) Any credit allowable to a partnership, a corporation, a limited
2 liability company, or an estate or trust may be distributed to the
3 partners, members, shareholders, or beneficiaries. Any credit distributed
4 shall be distributed in the same manner as income is distributed.

5 (5) The credit allowed under this section shall not be allowed to an
6 owner of agricultural assets for a rental agreement with a beginning
7 farmer or livestock producer who is a relative, as defined in section
8 36-702, of the owner of agricultural assets or of a partner, member,
9 shareholder, or trustee of the owner of agricultural assets unless the
10 rental agreement is included in a written succession plan. Such
11 succession plan shall be in the form of a written contract or other
12 instrument legally binding the parties to a process and timetable for the
13 transfer of agricultural assets from the owner of agricultural assets to
14 the beginning farmer or livestock producer. The succession plan shall
15 provide for the transfer of assets to be completed within a period of no
16 longer than thirty years, except that when the asset to be transferred is
17 land owned by an individual, the period of transfer may be for a period
18 up to the date of death of the owner. The owner of agricultural assets
19 shall be allowed the credit provided for qualified rental agreements
20 under this section if the board certifies the plan as providing a
21 reasonable manner and probability of successful transfer.

22 Sec. 4. Original sections 77-5209, 77-5209.01, and 77-5211, Reissue
23 Revised Statutes of Nebraska, are repealed.