

House Bill 3085

Sponsored by Representative CLEM; Representative MCLAIN

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Creates Family Farmer Loan Program within Oregon Business Development Department for purpose of making direct loans to family farmers, including beginning family farmers, to finance farming operations. Directs department to specify eligibility criteria, application process and approval process for loan program. Specifies minimum and maximum percentage rate for loans from program and specifies that loan terms may not exceed 30 years.

Becomes operative January 1, 2020.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to loan programs for family farmers; creating new provisions; amending ORS 285A.420 and
3 285A.435; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) Section 2 of this 2019 Act is added to and made a part of ORS 285A.420**
6 **to 285A.435.**

7 **(2) ORS 285A.420 to 285A.435 are added to and made a part of ORS chapter 285A.**

8 **SECTION 2. (1) The Oregon Business Development Department, in consultation with the**
9 **State Department of Agriculture, shall create and operate a Family Farmer Loan Program**
10 **for the purpose of making loans directly to family farmers, including beginning family**
11 **farmers. The Family Farmer Loan Program is intended to supplement or serve as an alter-**
12 **native to the facilitation of financing under the Beginning and Expanding Farmer Loan Pro-**
13 **gram created pursuant to ORS 285A.425.**

14 **(2) The proceeds from a loan made under this section may be used solely for one or more**
15 **of the following purposes:**

16 **(a) To purchase or refinance:**

17 **(A) Agricultural land;**

18 **(B) Farming equipment; or**

19 **(C) Livestock;**

20 **(b) To make permanent agricultural improvements to agricultural land; or**

21 **(c) To restructure operating debt carryover.**

22 **(3) The Oregon Business Development Department shall establish by rule eligibility cri-**
23 **teria for the Family Farmer Loan Program that provide, at a minimum, that:**

24 **(a) A loan applicant must be a resident of this state;**

25 **(b) The net worth of an applicant, the applicant's spouse and all of the applicant's de-**
26 **pendents may not exceed:**

27 **(A) For a beginning family farmer, \$750,000; or**

28 **(B) For a family farmer who is not a beginning family farmer, \$1.5 million;**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (c) An applicant must show that the applicant's principal occupation is or will be the
2 production of agricultural commodities on a family-owned farm;

3 (d) An applicant who is a beginning family farmer must show that the applicant has not
4 previously owned any agricultural land greater in extent than 30 percent of the average size
5 of a parcel of agricultural land that is located in the county in which the applicant proposes
6 to acquire agricultural land; and

7 (e) In any loan agreement, an applicant must pledge by covenant that the applicant will
8 use loan proceeds obtained through the Family Farmer Loan Program solely for the appli-
9 cable purposes set forth in subsection (2) of this section.

10 (4) The department shall prescribe by rule the form, format and contents for an appli-
11 cation to the department for a loan from the Family Farmer Loan Program. The application
12 must, at a minimum, require:

13 (a) An applicant to provide sufficient information for the department to evaluate the
14 applicant's eligibility and creditworthiness;

15 (b) A balance sheet and income and expense statement from the applicant;

16 (c) A forecast of income from the applicant's farming operations if the applicant receives
17 a loan;

18 (d) A history of crop or livestock production for any agricultural land that the applicant
19 proposes to acquire;

20 (e) An applicant's tax returns and other financial statements for the three years before
21 the date of the application;

22 (f) Aerial photographs obtained from the Farm Service Agency of the United States De-
23 partment of Agriculture of any agricultural land the applicant proposes to acquire;

24 (g) A narrative statement that explains the applicant's reason for seeking a loan under
25 the program, including, for a beginning family farmer, the applicant's previous farming edu-
26 cation and experience and the applicant's ability to manage a farm of the size and scope
27 proposed in the application;

28 (h) A current appraisal of the value of any agricultural land that meets requirements
29 that the Oregon Business Development Department specifies by rule; and

30 (i) Any other information the department considers necessary for proper evaluation of
31 the application.

32 (5)(a) The department shall adopt by rule specifications for the collateral required to se-
33 cure loans made through the Family Farmer Loan Program for each of the purposes set
34 forth in subsection (2) of this section.

35 (b) For a loan made through the program, the department shall charge an annual per-
36 centage rate:

37 (A) Not less than one percent below the current average annual percentage rate in this
38 state for mortgage loans for agricultural land at the time the loan closes; and

39 (B) Not more than six percent.

40 (c) In addition to the interest charged under paragraph (b) of this subsection, the de-
41 partment shall charge the loan recipient an amount equal to the lesser of:

42 (A) All costs actually incurred by the department in providing the loan and all fees for
43 appraisals and other expenses related to the loan; or

44 (B) One percent of the loan proceeds.

45 (d) The department shall specify a schedule of annual or monthly amortized payments for

1 the loan to be made from the revenue or assets pledged as security for the loan.

2 (e) A loan made through the program may not have a term that exceeds 30 years.

3 (6) The department shall adopt rules limiting the amount of loan proceeds that an appli-
4 cant may receive under the Family Farmer Loan Program to \$500,000 during the applicant's
5 lifetime.

6 (7) To approve a loan from the Family Farmer Loan Program, the department shall re-
7 quire an applicant to obtain:

8 (a) Hazard insurance for all agricultural improvements on agricultural land that serves
9 as security for the loan, naming the State of Oregon as loss payee; and

10 (b) Flood insurance for any agricultural land that is located in a flood zone, naming the
11 State of Oregon as loss payee.

12 (8) The department shall develop and follow evaluation and underwriting standards for
13 the Family Farmer Loan Program that are similar to standards that apply to other loans for
14 agricultural land. After the department approves an application and commits to providing a
15 loan, the borrower has 90 days within which to draw upon the loan proceeds. If the borrower
16 does not draw upon the loan proceeds within 90 days, the department may cancel the loan
17 commitment.

18 (9) The department may adopt rules and enter into contracts and agreements that the
19 department considers necessary for implementation of the Family Farmer Loan Program.

20 **SECTION 3.** ORS 285A.420 is amended to read:

21 285A.420. (1) The Legislative Assembly finds that the demand in Oregon for local food is surging,
22 that the interest in farming among younger generations is on the rise and that access to capital is
23 one of the most important factors contributing to the development and success of a local market
24 agricultural sector in the Oregon economy.

25 (2) The Legislative Assembly also finds that the establishment and implementation of a federal-
26 state, public-private partnership program to assist beginning farmers is a cost-effective way for
27 Oregon to support beginning farmers and the growth of the local market agricultural sector across
28 this state and to stabilize the agricultural workforce. Such a program would represent no cost or
29 risk to the state and would allow participating lenders to earn federally tax exempt interest income
30 on loans to eligible beginning farmers.

31 (3) **The Legislative Assembly further finds that a state-run program for providing low-**
32 **interest direct loans to family farmers, including beginning family farmers, for land, equip-**
33 **ment, livestock and other related purposes in this state will enhance the ability of family**
34 **farmers to reverse a decline in family farm ownership.**

35 **SECTION 4.** ORS 285A.435 is amended to read:

36 285A.435. (1) There is created the [*Beginning and Expanding*] Farmer Loan Program Fund, sep-
37 arate and distinct from the General Fund. Interest earned by the [*Beginning and Expanding*] Farmer
38 Loan Program Fund shall be credited to the fund. All moneys credited to the fund are continuously
39 appropriated to the Oregon Business Development Department for the purpose of implementing and
40 operating the Beginning and Expanding Farmer Loan Program **and the Family Farmer Loan**
41 **Program** under ORS 285A.420 to 285A.435.

42 (2) The fund shall consist of all moneys credited to the fund, including:

43 (a) Moneys appropriated to the fund by the Legislative Assembly or transferred to the fund by
44 the Oregon Business Development Department;

45 (b) Earnings on moneys in the fund;

1 (c) Fees paid to the department by [*beginning*] farmers and lenders **under the Beginning and**
2 **Expanding Farmer Loan Program and the Family Farmer Loan Program;** and

3 (d) Moneys from any other source, including but not limited to grants and gifts.

4 (3) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857 and the earnings
5 from investments shall be credited to the fund.

6 (4) The department may establish accounts within the fund to carry out ORS 285A.420 to
7 285A.435.

8 **SECTION 5. (1) Section 2 of this 2019 Act and the amendments to ORS 285A.420 and**
9 **285A.435 by sections 3 and 4 of this 2019 Act become operative on January 1, 2020.**

10 (2) **The Oregon Business Development Department and the State Department of Agri-**
11 **culture may adopt rules and take any other action before the operative date specified in**
12 **subsection (1) of this section that is necessary to enable each department, on and after the**
13 **operative date specified in subsection (1) of this section, to exercise all of the duties, func-**
14 **tions and powers conferred on each department by section 2 of this 2019 Act and the**
15 **amendments to ORS 285A.420 and 285A.435 by sections 3 and 4 of this 2019 Act.**

16 **SECTION 6. This 2019 Act being necessary for the immediate preservation of the public**
17 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
18 **on its passage.**