

Senate Bill 892

Sponsored by Senator COURTNEY

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**.

Directs State Department of Agriculture to establish forgivable loan program to provide financial assistance to farming and ranching producers in Oregon with lost gross farm income in calendar year 2021 due to qualifying natural disaster.

Sunsets July 1, 2023.

Declares emergency, effective on passage.

A BILL FOR AN ACT

Relating to financial assistance for agricultural producers; and declaring an emergency.

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

SECTION 1. As used in sections 1 to 5 of this 2021 second special session Act, unless the context requires otherwise:

(1) "Adjusted gross income" means:

(a) The adjusted gross income in calendar year 2021 as reported on a recipient's Internal Revenue Service 1040 Form;

(b) If a recipient has not yet filed taxes for calendar year 2021, an estimate of the recipient's adjusted gross income in calendar year 2021, as determined by the State Department of Agriculture by rule; or

(c) If a recipient is an Indian tribe as defined in ORS 391.802, the measure of adjusted gross income specified by the department by rule.

(2) "Gross farm income" means:

(a) The gross farm income that is reported on a recipient's Internal Revenue Service 1040 Form Schedule F; or

(b) If a recipient is an Indian tribe as defined in ORS 391.802, the measure of gross farm income specified by the department by rule.

(3) "Lending institution" means a third-party legal entity licensed to conduct business in the State of Oregon that:

(a) Is approved to participate in the guaranteed farm loan programs of the Farm Service Agency of the United States Department of Agriculture under 7 C.F.R. 762.105; or

(b) Demonstrates to the satisfaction of the department the capability and expertise to administer the forgivable loan program established under section 2 of this 2021 second special session Act.

(4) "Qualifying natural disaster" means a drought, flood, heat wave, winter storm, wildfire or pest infestation, or any other natural phenomenon specified by the department by rule.

(5) "Three-year baseline" means:

(a) The mean of the recipient's gross farm income in calendar years 2017, 2018 and 2019

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 as reported on the recipient's Internal Revenue Service Form 1040 Schedule F;

2 (b) If a recipient was not operating a farm or ranch in Oregon during one or more of the
3 three years listed under paragraph (a) of this subsection, a reasonable estimate of what the
4 recipient's gross farm income would have been had the recipient been operating a farm or
5 ranch during calendar years 2017, 2018 and 2019, as determined by the department by rule;
6 or

7 (c) If a recipient is an Indian tribe, as defined in ORS 391.802, that is not required under
8 federal law to file an Internal Revenue Service 1040 Form Schedule F, the mean of the
9 recipient's gross farm income during calendar years 2017, 2018 and 2019, as determined by
10 the department by rule.

11 **SECTION 2.** (1) The State Department of Agriculture shall establish, in accordance with
12 sections 1 to 5 of this 2021 second special session Act, a forgivable loan program to provide
13 financial assistance to persons engaged in farming or ranching operations in the State of
14 Oregon with lost gross farm income in calendar year 2021 due to a qualifying natural disas-
15 ter.

16 (2)(a) The department is authorized to enter into contracts with lending institutions to
17 administer the forgivable loan program using moneys deposited in the Oregon Agricultural
18 Disaster Relief Fund established under section 5 of this 2021 second special session Act.

19 (b) In exercising authority under this section, a lending institution shall:

20 (A) Perform only the services that are delegated to the lending institution by contract
21 entered into under paragraph (a) of this subsection, including, but not limited to, processing
22 applications and servicing loans; and

23 (B) Comply with all contractual terms and applicable laws.

24 (c) The department shall ensure that at least 14 percent of the moneys, excluding moneys
25 to cover administrative costs, appropriated by the Eighty-first Legislative Assembly in the
26 2021 second special session for deposit in the Oregon Agricultural Disaster Relief Fund are
27 available as loans to persons residing, farming or ranching in Jefferson County.

28 (3) To be eligible for a loan, a person must submit a written application to a lending in-
29 stitution that, at minimum, demonstrates:

30 (a)(A) That the person files taxes in Oregon for farming or ranching operations located
31 in this state; or

32 (B) That the person is an Indian tribe as defined by ORS 391.802 with farming or ranching
33 operations in this state;

34 (b) That the person has an adjusted gross income of less than \$500,000 in calendar year
35 2021;

36 (c) That the person's farming or ranching operations in this state suffered an economic
37 loss in calendar year 2021 due to a qualifying natural disaster;

38 (d) That, by signed attestation or declaration of the person, to the best of their knowl-
39 edge and belief, subject to penalty of perjury, as described in ORS 162.065, the statements in
40 the application are true and correct; and

41 (e) Satisfaction of any other reasonable requirements that the department specifies by
42 rule to ensure the equitable distribution of financial relief.

43 (4)(a) Upon receipt of a completed application, a lending institution in a timely manner
44 shall approve or reject the application.

45 (b) If a lending institution approves an application, the lending institution shall determine

1 the amount, terms and conditions of the loan pursuant to rules established by the depart-
2 ment under section 3 of this 2021 second special session Act.

3 (5)(a) A loan issued by a lending institution may not:

4 (A) Exceed \$125,000; or

5 (B) Cause the recipient's actual or estimated gross farm income in calendar year 2021 to
6 exceed 90 percent of the recipient's three-year baseline.

7 (b) Notwithstanding paragraph (a) of this subsection, a loan issued by a lending institu-
8 tion to a recipient that qualifies as a historically underserved producer as defined by the
9 department by rule or to a recipient that has less than \$350,000 gross farm income in cal-
10 endar year 2021 may not:

11 (A) Exceed \$150,000; or

12 (B) Cause the recipient's actual or estimated gross farm income in calendar year 2021 to
13 exceed 95 percent of the recipient's three-year baseline.

14 (6)(a) A loan issued under this section is forgivable in full except as provided in para-
15 graphs (b) and (c) of this subsection.

16 (b) If the aggregate of a recipient's gross farm income in calendar year 2021, loan re-
17 ceived under this section and federal disaster payments, if any, received under the Continu-
18 ing Appropriations Act, 2022 (P.L. 117-43) exceeds the applicable percentage limitations for
19 the recipient's three-year baseline in subsection (5) of this section, the recipient must repay
20 the lesser of:

21 (A) The amount of money necessary to cause the recipient's aggregate as described in
22 this paragraph not to exceed the applicable percentage of the recipient's three-year baseline
23 in subsection (5) of this section; or

24 (B) The full amount of the loan issued under this section.

25 (c) Notwithstanding paragraphs (a) and (b) of this subsection:

26 (A) A recipient that fails to disclose to a lending institution receipt of federal disaster
27 payments under the Continuing Appropriations Act, 2022 (P.L. 117-43) is ineligible for loan
28 forgiveness.

29 (B) If a recipient is required to pay back an amount of money less than or equal to \$1,000,
30 the amount of money is forgiven.

31 (d) If a recipient is required to pay back a loan in full or in part under this subsection,
32 all payments must be made to the lending institution servicing the loan no later than June
33 1, 2023.

34 (7) No later than June 30, 2023, a lending institution shall transfer all unspent and un-
35 obligated moneys received under this section, including repaid loan amounts, to the depart-
36 ment for deposit in the Oregon Agricultural Disaster Relief Fund.

37 (8) Upon the request of the department, the Oregon Department of Administrative Ser-
38 vices and Oregon Business Development Department shall provide reasonable assistance to
39 the State Department of Agriculture with the development and implementation of this pro-
40 gram.

41 **SECTION 3.** The State Department of Agriculture shall establish by rule the procedures
42 and criteria for the administration of the forgivable loan program established under section
43 2 of this 2021 second special session Act, including, but not limited to:

44 (1) Application requirements and processes, including criteria to determine eligibility for
45 a loan;

1 (2) Methods to determine the amount, terms and conditions of a loan;

2 (3) Standards and procedures to determine eligibility for loan forgiveness; and

3 (4) The circumstances, if any, in which noncompliance with a term or condition of a loan
4 by a recipient may be cured.

5 **SECTION 4.** All financial and business information contained in the applications and ac-
6 companying documentation submitted to a lending institution under section 2 of this 2021
7 second special session Act is confidential and exempt from disclosure under ORS 192.311 to
8 192.478.

9 **SECTION 5.** (1) The Oregon Agricultural Disaster Relief Fund is established in the State
10 Treasury, separate and distinct from the General Fund. The Oregon Agricultural Disaster
11 Relief Fund consists of moneys appropriated or otherwise transferred to the fund by the
12 Legislative Assembly and other amounts deposited in the fund from any source. Moneys in
13 the fund are continuously appropriated to the State Department of Agriculture for distrib-
14 ution under the forgivable loan program established under section 2 of this 2021 second spe-
15 cial session Act.

16 (2) Any unobligated or unexpended moneys remaining in the fund on June 30, 2023, shall
17 be deposited in the General Fund and made available for general governmental purposes.

18 **SECTION 6.** Sections 1, 2, 3 and 5 of this 2021 second special session Act are repealed on
19 July 1, 2023.

20 **SECTION 7.** No later than September 15, 2023, the State Department of Agriculture shall
21 submit a report to the interim committees of the Legislative Assembly related to agriculture,
22 in the manner provided in ORS 192.245, regarding the implementation and results of the
23 forgivable loan program established under section 2 of this 2021 second special session Act.

24 **SECTION 8.** Section 7 of this 2021 second special session Act is repealed on December 31,
25 2023.

26 **SECTION 9.** This 2021 second special session Act being necessary for the immediate
27 preservation of the public peace, health and safety, an emergency is declared to exist, and
28 this 2021 second special section Act takes effect on its passage.

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