

Enrolled
Senate Bill 892

Sponsored by Senator COURTNEY; Representative HAYDEN

CHAPTER

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

(b) **If a recipient was not operating a farm or ranch in Oregon during one or more of the three years listed under paragraph (a) of this subsection, a reasonable estimate of what the recipient’s gross farm income would have been had the recipient been operating a farm or**

ranch during calendar years 2017, 2018 and 2019, as determined by the department by rule; or

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

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

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

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

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

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

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

(3) To be eligible for a loan, a person must submit a written application to a lending institution that, at minimum, demonstrates:

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

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

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

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

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

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

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

(b) If a lending institution approves an application, the lending institution shall determine the amount, terms and conditions of the loan pursuant to rules established by the department under section 3 of this 2021 second special session Act.

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

(A) Exceed \$125,000; or

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

(b) Notwithstanding paragraph (a) of this subsection, a loan issued by a lending institution to a recipient that qualifies as a historically underserved producer as defined by the department by rule or to a recipient that has less than \$350,000 gross farm income in calendar year 2021 may not:

(A) Exceed \$150,000; or

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

(6)(a) A loan issued under this section is forgivable in full except as provided in paragraphs (b) and (c) of this subsection.

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

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

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

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

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

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

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

(7) No later than June 30, 2023, a lending institution shall transfer all unspent and unobligated moneys received under this section, including repaid loan amounts, to the department for deposit in the Oregon Agricultural Disaster Relief Fund.

(8) Upon the request of the department, the Oregon Department of Administrative Services and Oregon Business Development Department shall provide reasonable assistance to the State Department of Agriculture with the development and implementation of this program.

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

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

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

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

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

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

SECTION 5. (1) The Oregon Agricultural Disaster Relief Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon Agricultural Disaster Relief Fund consists of moneys appropriated or otherwise transferred to the fund by the Legislative Assembly and other amounts deposited in the fund from any source. Moneys in the fund are continuously appropriated to the State Department of Agriculture for distribution under the forgivable loan program established under section 2 of this 2021 second special session Act.

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

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

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

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

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

Passed by Senate December 13, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House December 13, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

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Shemia Fagan, Secretary of State