

A-Engrossed
House Bill 3085

Ordered by the House April 16
Including House Amendments dated April 16

Sponsored by Representative CLEM; Representatives MCLAIN, WILLIAMS

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.

Creates Family Farmer Loan Program within [*Oregon Business Development Department*] **State Department of Agriculture** 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 State Department of Agriculture, in consultation with the Oregon**
9 **Business Development Department, 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 State Department of Agriculture shall establish by rule eligibility criteria for the**
23 **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-**

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.

pendents may not exceed:

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

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

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

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

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

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

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

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

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

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

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

(f) Aerial photographs obtained from the Farm Service Agency of the United States Department of Agriculture of any agricultural land the applicant proposes to acquire;

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

(h) A current appraisal of the value of any agricultural land that meets requirements that the State Department of Agriculture specifies by rule; and

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

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

(b) For a loan made through the program, the department shall charge an annual percentage rate:

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

(B) Not more than six percent.

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

(A) All costs actually incurred by the department in providing the loan and all fees for

1 appraisals and other expenses related to the loan; or

2 (B) One percent of the loan proceeds.

3 (d) The department shall specify a schedule of annual or monthly amortized payments for
4 the loan to be made from the revenue or assets pledged as security for the loan.

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

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

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

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

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

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

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

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

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

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

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

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

39 285A.435. (1) There is created the [*Beginning and Expanding*] Farmer Loan Program Fund, sep-
40 arate and distinct from the General Fund. Interest earned by the [*Beginning and Expanding*] Farmer
41 Loan Program Fund shall be credited to the fund.

42 (2)(a) All moneys credited to the fund **for the purpose of implementing and operating the
43 Beginning and Expanding Farmer Loan Program under ORS 285A.420 to 285A.435** are contin-
44 uously appropriated to the Oregon Business Development Department for [*the purpose of imple-
45 menting and operating the Beginning and Expanding Farmer Loan Program under ORS 285A.420 to*

1 285A.435] that purpose.

2 (b) All moneys credited to the fund for the purpose of implementing and operating the
3 Family Farmer Loan Program created under section 2 of this 2019 Act are continuously ap-
4 propriated to the State Department of Agriculture for that purpose.

5 [(2)] (3) The fund shall consist of all moneys credited to the fund, including:

6 (a) Moneys appropriated to the fund by the Legislative Assembly; [or]

7 (b) Moneys transferred to the fund by the Oregon Business Development Department and the
8 State Department of Agriculture;

9 [(b)] (c) Earnings on moneys in the fund;

10 [(c)] (d) Fees paid to the [department by beginning] departments by farmers and lenders under
11 the Beginning and Expanding Farmer Loan Program and the Family Farmer Loan Program;

12 and

13 [(d)] (e) Moneys from any other source, including but not limited to grants and gifts.

14 [(3)] (4) Moneys in the fund may be invested as provided by ORS 293.701 to 293.857 and the
15 earnings from investments shall be credited to the fund.

16 [(4)] (5) [The department] The Oregon Business Development Department and the State
17 Department of Agriculture may establish accounts within the fund to carry out the provisions
18 of the Beginning and Expanding Farmer Loan Program and the Family Farmer Loan Pro-
19 gram, respectively, under ORS 285A.420 to 285A.435.

20 **SECTION 5.** (1) Section 2 of this 2019 Act and the amendments to ORS 285A.420 and
21 285A.435 by sections 3 and 4 of this 2019 Act become operative on January 1, 2020.

22 (2) The State Department of Agriculture and the Oregon Business Development Depart-
23 ment may adopt rules and take any other action before the operative date specified in sub-
24 section (1) of this section that is necessary to enable each department, on and after the
25 operative date specified in subsection (1) of this section, to exercise all of the duties, func-
26 tions and powers conferred on each department by section 2 of this 2019 Act and the
27 amendments to ORS 285A.420 and 285A.435 by sections 3 and 4 of this 2019 Act.

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

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