

1 Farmer and Fisherman Income Tax Credit Act" to promote beginning farmers,
2 livestock producers, and fishermen to enter the farming and fishing industries.

3 B. Declaration of Purpose. The Legislature of Louisiana hereby finds
4 and declares that farming and commercial fishing are crucial to Louisiana's
5 economy and way of life. These industries must be sustained and promoted.
6 Therefore, it is declared to be the purpose of this Section to promote the
7 creation and retention of new jobs in the farming and fishing industries and to
8 encourage young people to seek careers in these industries by providing
9 incentives to established Louisiana farmers and fishermen who mentor
10 Louisiana's qualified beginning farmers and fishermen who lease their capital
11 agricultural assets or fishing assets to qualified beginning farmers and
12 fishermen.

13 C. Definitions. For the purposes of this Section, the following terms
14 shall have the meaning hereinafter ascribed to them, unless the context clearly
15 indicates otherwise:

16 (1) "Qualified beginning farmer" means an individual who resides in this
17 state, who has been engaged in farming or livestock production as a career for
18 less than five cumulative years, and who farms or raises crops or livestock on
19 a farm on land located in this state.

20 (2) "Qualified beginning fisherman" means an individual who resides in
21 this state, who has been engaged in commercial fishing as a career and who
22 holds a resident commercial fishing license for less than five cumulative years,
23 who has a net income of less than thirty thousand dollars, including any
24 holdings by a spouse or dependent, based on fair market value, and who fishes
25 in state coastal waters as defined in R.S. 49:214.23(4) for their product,
26 including but not limited to fish, shrimp, crabs, alligators, frogs, and oysters.

27 (3) "Established Louisiana commercial fisherman" means an individual
28 who is a resident of this state, who holds a resident commercial fishing license
29 for a minimum of ten years, who derives at least fifty percent of his gross annual

1 income from commercial fishing, and who owns fishing assets.

2 (4) "Fishing assets" means vessels registered in this state, which are to
3 be used for commercial fishing for products derived from state coastal waters
4 as defined in R.S. 49:214.23(4), including but not limited to fish, shrimp, crabs,
5 alligators, frogs, and oysters.

6 (5) "Established Louisiana farmer" means an individual or trustee who
7 is a resident of this state and who derives at least fifty percent of his gross
8 annual income from farming or livestock production, and who has engaged in
9 a majority of the day-to-day physical labor and management of a farm for at
10 least ten years.

11 (6) "Agricultural assets" means agricultural land, livestock, farming, or
12 livestock production facilities or buildings and machinery used for farming or
13 livestock production located in this state.

14 (7) "Farm" means any tract of land in excess of ten acres in areas used
15 for or devoted to the commercial production of farm products.

16 (8) "Farm product" means plants and animals useful to man, including
17 but not limited to forages and sod crops, grains and feed crops, dairy and dairy
18 products, poultry and poultry products, livestock, including breeding and
19 grazing livestock, fruits and vegetables.

20 (9) "Farming or livestock production" means the active use,
21 management, and operation of real and personal property for the production
22 of a farm product.

23 D. Beginning Farmer and Fisherman Income Tax Credits.

24 (1)(a) Purchases. An Income Tax Credit of up to five percent of the
25 purchase price shall be available to an established Louisiana farmer who sells
26 agricultural assets to a qualified beginning farmer and to an established
27 Louisiana commercial fisherman who sells fishing assets to a qualified
28 beginning fisherman. The credit is limited to ten thousand dollars. Each
29 established Louisiana farmer and each established Louisiana commercial

1 fisherman may earn only one Beginning Farmer and Fisherman Income Tax
2 Credit during their lifetime. Taxpayers who have earned the credit in
3 Subparagraph (b) of this Paragraph are not eligible to earn this credit. The
4 credit is earned in the tax year in which the qualified beginning farmer or
5 fisherman first uses the assets in their farming or fishing business. To be
6 eligible to earn the credit, the established Louisiana farmer or commercial
7 fisherman and the qualified beginning farmer or fisherman shall submit a joint
8 application to the Department of Revenue on a form prescribed by the
9 secretary. For purposes of this Subsection, both spouses shall be considered one
10 taxpayer.

11 (b) Leases and share agreements. An income tax credit of up to ten
12 percent of the annual lease price or value of the share agreement shall be
13 available to the established Louisiana farmer who enters into a lease or share
14 agreement for the use of agricultural assets with a qualified beginning farmer
15 and to the established Louisiana commercial fisherman who enters into a lease
16 or share agreement for the use of fishing assets with a qualified beginning
17 fisherman. The qualified beginning farmer or fisherman shall earn a credit
18 equal to the credit earned by the established Louisiana farmer or commercial
19 fisherman. The credit is limited to one thousand dollars per tax year and can
20 may be earned for a maximum of five tax years. Each taxpayer who earns the
21 credit under this Subparagraph shall be limited to a five thousand dollar
22 lifetime cap of Beginning Farmer and Fisherman Income Tax Credits.
23 Taxpayers who have earned the credit in Subparagraph (a) of this Paragraph
24 are not eligible to earn this credit. The credit may be earned for up to five tax
25 years and is earned in each tax year in which the qualified beginning farmer or
26 fisherman first uses the assets in their farming or fishing business. To be
27 eligible to earn the credit, the established Louisiana farmer or commercial
28 fisherman and the qualified beginning farmer or fisherman shall submit a joint
29 application to the Department of Revenue on a form prescribed by the

1 secretary. For purposes of this Subsection, both spouses shall be considered one
2 taxpayer.

3 (2) The amount of the Beginning Farmer and Fisherman Income Tax
4 Credits issued by the Department of Revenue shall not exceed four hundred
5 thousand dollars annually and shall be claimed on a first-come basis.

6 (3) The tax credit authorized under this Section shall be nonrefundable
7 and any credit in excess of the income tax liability for the tax year in which the
8 credit is earned may carry forward the credit for a period of up to five years.

9 E. Administration. (1) The Department of Revenue shall adopt and
10 promulgate rules and regulations, in consultation with the Department of
11 Agriculture and Forestry and the Department of Wildlife and Fisheries,
12 consistent with the policy objectives of this Section to implement the income tax
13 credit program.

14 (2) The Department of Revenue, the Department of Agriculture and
15 Forestry, and the Department of Wildlife and Fisheries may enter into
16 agreements, including memoranda of understanding, to provide for the
17 administration of this section. Such agreements shall include providing for
18 information sharing among the agencies, maintaining the confidentiality of any
19 information shared and, such other terms and conditions necessary to effectuate
20 the agreement.

21 (3) If the Department of Revenue determines there is a violation of the
22 requirements of this Section, the income tax credit shall not be issued for
23 subsequent years and the department shall recapture any credit issued during
24 a tax year when such violation occurred. The Department of Agriculture and
25 Forestry, if the person is a farmer or livestock producer, or the Department of
26 Wildlife and Fisheries, if the person is a commercial fisherman, shall notify the
27 Department of Revenue if they become aware that a person has claimed a
28 Beginning Farmer or Fisherman Income Tax Credit in violation of the
29 provisions of this Section. The violation shall be referred to the Department of

1 **Revenue for recapture under this Paragraph. The provisions of this Paragraph**
2 **are in addition to and shall not limit the authority of the Department of**
3 **Revenue to assess or collect under any other provision of law.**

4 **(4) The Department of Wildlife and Fisheries shall certify to the**
5 **Department of Revenue that the beginning fisherman and established Louisiana**
6 **commercial fisherman have a qualified vessel and commercial licenses and**
7 **landings sufficient to qualify for the Beginning Farmer and Fisherman Income**
8 **Tax Credit.**

9 **(5) The Department of Agriculture and Forestry shall certify to the**
10 **Department of Revenue that the beginning farmer is substantially participating**
11 **in the day-to-day physical labor and management of the business, is**
12 **participating in using the assets subject to the lease/charter, and has adequate**
13 **experience or demonstrates knowledge in the field for which he seeks assistance.**
14 **The Department of Agriculture and Forestry shall also determine if the sale**
15 **price is not higher or lower than market rate for similar assets within the same**
16 **community.**

17 **F. Eligibility of qualified beginning fisherman. (1) A beginning**
18 **fisherman shall be qualified pursuant to Paragraph (2) in Subsection C and**
19 **have acquired a qualified fishing asset from an established Louisiana**
20 **commercial fisherman pursuant to Paragraphs (3) and (4) of Subsection C.**

21 **(2) A beginning fisherman must assume the financial risk associated with**
22 **operating his vessel, and submit a copy of Internal Revenue Service Schedule**
23 **C of declared profits or losses from his fishing business, or similar data**
24 **revealing income from his operations to the Department of Revenue.**

25 **(3) A beginning fisherman shall certify and provide sufficient**
26 **documentation to the Department of Revenue of his trip ticket submissions**
27 **obtained from the Department of Wildlife and Fisheries and the vessels used to**
28 **operate his business to demonstrate evidence of his participation in the**
29 **operation and management of his business.**

1 (4) A beginning fisherman may be a relative of the established Louisiana
2 commercial fisherman, but a background check shall be included with the
3 application that specifically details the involvement of the related party and
4 identifies sources which can independently confirm the legitimacy of the
5 transaction.

6 (5) The sale price shall not be substantially higher or lower than fair
7 market value for similar assets within the same community as determined by
8 an independent appraiser.

9 G. Eligibility of beginning farmer or livestock producer. (1) A beginning
10 farmer or livestock producer shall be a resident of this state and his business
11 shall be located on a farm in this state and he shall have a net worth of less than
12 four hundred thousand dollars, including any holdings by a spouse or
13 dependent, based on fair market value.

14 (2) A beginning farmer or livestock producer shall provide sufficient
15 documentation of participation in the day-to-day physical labor and
16 management of his business and in farming the assets subject to the sale or
17 lease, as well as the adequate experience or knowledge in the field for which he
18 seeks assistance. This certification shall be subject to review and confirmation
19 by the Department of Agriculture and Forestry.

20 (3) The beginning farmer or livestock producer may be a relative of the
21 established Louisiana farmer, but a background check and documentation shall
22 be included with the application specifically detailing the involvement of the
23 related party and identifying sources which can independently confirm the
24 legitimacy of the transaction.

25 (4) The sale or lease price of an eligible transaction shall not be
26 substantially higher or lower than fair market value for similar assets within the
27 same community as determined by the Department of Agriculture and Forestry.

28 (5) The Department of Agriculture and Forestry shall certify to the
29 Department of Revenue that the beginning farmer is substantially participating

1 in the day-to-day physical labor and management of the business, is
 2 participating in using the assets subject to the lease or charter, and has
 3 adequate experience or demonstrated knowledge in the field for which he seeks
 4 assistance. The Department of Agriculture and Forestry shall determine if the
 5 sale price is not higher or lower than fair market value for similar assets within
 6 the same community.

7 H. Termination of tax credit program. The tax credit program
 8 authorized under this Section shall terminate on December 31, 2018. No tax
 9 credit authorized pursuant to the provisions of this Section shall be issued after
 10 December 31, 2018.

11 Section 2. This Act shall become effective upon signature by the governor or, if not
 12 signed by the governor, upon expiration of the time for bills to become law without signature
 13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 15 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Danielle Doiron.

DIGEST

Long (SB 211)

Proposed law creates the Beginning Farmer and Fisherman Income Tax Credit Program to promote beginning farmers, livestock producers, and fishermen to enter the farming and fishing industries in the state, and provides incentives to established Louisiana farmers and commercial fishermen who mentor qualified beginning farmers and fishermen and who sell or lease their capital agricultural assets or their fishing assets to qualified beginning farmers and fishermen.

Proposed law authorizes the Department of Revenue to administer the tax credit program with supervision by the Department of Wildlife and Fisheries for qualified beginning fishermen and established Louisiana commercial fishermen, and by the Department of Agriculture and Forestry for qualified beginning farmers that are eligible for the program.

Proposed law provides for definitions of terms to describe eligibility of farmers and fishermen:

- (1) "Qualified beginning farmer" means an individual who resides in this state, who has been engaged in farming or livestock production for not more than five cumulative years, and who farm or raises crops or livestock on a farm on land located in this state.
- (2) "Qualified beginning fisherman" means an individual who resides in this state, who

- has engaged in commercial fishing as a career and holds a resident commercial fishing license for less than five cumulative years, and who has a net income of less than \$30,000, including any holdings by a spouse or dependent, based on fair market value, and who fishes in state coastal waters for their product, including but not limited to fish, shrimp, crabs, alligators, frogs, and oysters.
- (3) "Established Louisiana commercial fisherman" means an individual who is a resident of this state, who holds a resident commercial fishing license for a minimum of ten years, who derives at least 50% of his gross annual income from commercial fishing, and who owns fishing assets.
 - (4) "Fishing assets" means vessels registered in the state to be used for commercial fishing for products from state coastal waters, including but not limited to fish, shrimp, crabs, alligators, frogs, and oysters.
 - (5) "Established Louisiana farmer" means an individual or trustee who is a resident of this state and who derives at least 50% of his gross annual income from farming or livestock production, and provides the majority of the day-to-day physical labor and management of a farm for at least ten years.
 - (6) "Agricultural assets" means agricultural land, livestock, farming, or livestock production facilities or buildings and machinery used for farming or livestock production located in this state.
 - (7) "Farm" means any tract of land over ten acres in areas used for or devoted to the commercial production of farm products.
 - (8) "Farm product" means plants and animals useful to man, including but not limited to forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, livestock, including breeding and grazing livestock, fruits and vegetables.
 - (9) "Farming or livestock production" means the active use, management, and operation of real and personal property for the production of a farm product.

Proposed law provides an income tax credit, of up to 5% of the purchase price, to an established La. farmer who sells agricultural assets to a qualified beginning farmer or to an established La. commercial fisherman who sells fishing assets to a qualified beginning fisherman. Limits the credit to \$10,000 and only one beginning farmer or fisherman during their lifetime. Provides that the credit be earned in the tax year in which the qualified farmer or fisherman first uses the assets in their farming or fishing business. Requires submission of a joint application to the Department of Revenue by the established La. farmer or commercial fisherman and the qualified beginning farmer or fisherman.

Proposed law provides that an income tax credit of up to 10% of the annual lease price or value of the share agreement be available to the established La. farmer who enters into a lease or share agreement for the use of agricultural assets with a qualified beginning farmer and an established La. commercial fisherman who enters into a lease or share agreement for the use of fishing assets with a qualified beginning fisherman. Limits the credit to \$1,000 per tax year for a maximum of five tax years.

Provides that only one tax credit available under proposed law is available to a taxpayer.

Proposed law limits the amount of the income tax credits issued by the Department of Revenue not to exceed \$400,000 annually and that it be claimed on a first-come basis.

Further provides the tax credit is nonrefundable and any credit in excess of tax liability for the tax year the credit is earned may carry forward the credit for up to five years.

Proposed law requires the Department of Revenue, in consultation with the Department of Agriculture and Forestry and with the Department of Wildlife and Fisheries, to promulgate rules and regulations to implement the income tax credit program.

Proposed law provides the Department of Revenue, Department of Agriculture and Forestry, and the Department of Wildlife and Fisheries to enter into agreements, to share necessary information among the agencies, while maintaining confidentiality, to provide for the administration of the program.

Proposed law provides for reporting violations of the tax credit program and recapture of credits awarded.

Proposed law requires the Department of Wildlife and Fisheries (LDWF) to certify to the Department of Revenue that the qualified beginning fisherman and the established Louisiana commercial fisherman have a qualified vessel and commercial licenses and landings sufficient to qualify for the tax credit. Requires an independent appraiser to determine if the sale price is not higher or lower than market rate for similar assets within the same community.

Proposed law requires the qualified beginning fisherman to provide documentation to the Department of Revenue of his trip ticket submissions obtained from the Department of Wildlife and Fisheries and the vessels used to operate his business and demonstrate evidence of participation in the operation and management of his business.

Proposed law requires the Department of Agriculture and Forestry to certify that the beginning farmer is substantially participating in the day-to-day physical labor and management of the business, is participating in using the assets subject to the lease/charter, and has adequate experience or demonstrates knowledge in the field for which he seeks assistance. Requires the Department of Agriculture and Forestry to determine if the sale price is not higher or lower than market rate for similar assets within the same community.

Proposed law requires the Department of Revenue to determine any violations of the tax credit program and to recapture those tax credits.

Proposed law provides for the termination of the Beginning Farmer and Fisherman Income Tax Credit Program on December 31, 2018.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 47:6039)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the original bill

1. Changes "Owner of fishing assets" to "Established Louisiana commercial fisherman" and "Owner of agricultural assets" to "Established Louisiana farmer" and adds requirements to definition.
2. Adds "Fishing assets" definition and requirements.
3. Adds eligibility requirements.
4. Adds a \$10,000 credit limit to established Louisiana farmers or commercial

fishermen and to qualified beginning farmers or fishermen for purchases of fishing or agricultural assets.

5. Adds a \$1,000 credit limit per tax year up to 5 tax years, and a lifetime cap of \$5,000 to established Louisiana farmers or commercial fishermen and to qualified beginning farmers or fishermen for leases and share agreements of fishing or agricultural assets.
6. Adds a lifetime cap of one tax credit per established Louisiana farmer or commercial fisherman and per qualified beginning farmer or fisherman for purchases of eligible fishing or farming assets.
7. Changes the program cap from "\$2,000,000 annually" to "\$400,000 annually".
8. Requires a joint application of both spouses from the Louisiana farmer or commercial fisherman and from the qualified beginning farmer or fisherman to the Department of Revenue.
9. Deletes the January 1 deadline for the Department of Revenue to issue tax credits.
10. Requires the Department of Revenue to consult with the Department of Agriculture and Forestry and the Department of Wildlife and Fisheries to promulgate rules and regulations to implement the program.
11. Requires the Department of Revenue, Department of Agriculture and Forestry, and the Department of Wildlife and Fisheries to enter into agreements, to share necessary information among the agencies, while maintaining confidentiality, to provide for the administration of the program.
12. Provides for the Department of Revenue to recapture any credit in which there is a violation and deletes other requirements to Department of Agriculture and Forestry and the Department of Wildlife and Fisheries.
13. Adds certification requirements from the Department of Wildlife and Fisheries for established Louisiana commercial fishermen and qualified beginning fishermen.
14. Adds qualifications for eligibility of qualified beginning fishermen and established Louisiana commercial fishermen.
15. Removes the Department of Wildlife and Fisheries from determining fair market value of sales of fishing assets and provides for determination by an independent appraiser.