

House Bill 3247

Sponsored by Representative CLEM

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 Beginning Farmer Real Estate Loan Program within Oregon Business Development Department. 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, 2018.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to loan programs for beginning farmers; creating new provisions; amending ORS 285A.420,
3 285A.422 and 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 2017 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) In addition to the Beginning and Expanding Farmer Loan Program de-**
9 **scribed in ORS 285A.425, the Oregon Business Development Department, in consultation with**
10 **the State Department of Agriculture, shall create and operate a Beginning Farmer Real Es-**
11 **tate Loan Program to supplement or serve as an alternative to the funding available from**
12 **the Beginning and Expanding Farmer Loan Program in facilitating a beginning farmer's**
13 **purchase of real estate for farming.**

14 **(2) The Oregon Business Development Department by rule shall specify eligibility criteria**
15 **for the Beginning Farmer Real Estate Loan Program. The criteria must provide, at a mini-**
16 **imum, that:**

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

18 **(b) The net worth of an applicant, the applicant's spouse and all of the applicant's de-**
19 **pendents may not exceed \$200,000;**

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

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

25 **(e) An applicant must by covenant in any loan agreement pledge that the applicant will**
26 **use moneys from the Beginning Farmer Real Estate Loan Program solely to purchase agri-**
27 **cultural land.**

28 **(3) The Oregon Business Development Department by rule shall specify a form, format**
29 **and contents for an application to the department for a loan from the Beginning Farmer Real**

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 Estate Loan Program. The rules must provide, at a minimum, that the application include:

2 (a) An application form that has sufficient information for the Oregon Business Development Department to evaluate the applicant's eligibility and creditworthiness;

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

4 (c) A forecast of income from the applicant's agricultural project;

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

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

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

8 (g) A narrative statement from the applicant that explains the applicant's reason for the loan application, 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;

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

10 (i) Any other information the department requires to properly evaluate the application.

11 (4)(a) The Oregon Business Development Department shall charge as an annual percentage rate for a loan from the Beginning Farmer Real Estate Loan Program 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 not more than an annual percentage rate of six percent. The department shall include in the annual percentage rate all costs the department incurs in providing the loan and all fees for appraisals and other expenses related to the loan.

12 (b) The department shall specify a schedule of annual or monthly amortized payments for the loan from eligible revenue.

13 (c) A loan from the program may not have a term that exceeds 30 years.

14 (5) The Oregon Business Development Department by rule shall limit the amount of moneys that an applicant can receive under the Beginning Farmer Real Estate Loan Program to \$500,000 during the applicant's lifetime.

15 (6) To approve a loan from the Beginning Farmer Real Estate Loan Program, the Oregon Business Development Department shall require an applicant to obtain:

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

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

18 (7) The Oregon Business Development Department shall develop and follow evaluation and underwriting standards for the Beginning Farmer Real Estate Loan Program that are similar to standards that apply to other loans for agricultural land. After the department approves an application and commits to providing funds, a borrower has 90 days within which to draw the loan funds. If the borrower does not draw upon the loan funds within 90 days, the department may cancel the commitment.

19 (8) The Oregon Business Development Department may adopt rules and enter into contracts and agreements that are necessary to implement the Beginning Farmer Real Estate Loan Program.

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

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

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

(3) The Legislative Assembly further finds that a state-run program for funding purchases of agricultural land in this state will enhance the ability of beginning farmers to reverse a decline in farm ownership that occurred in part as a result of rising prices for agricultural land.

SECTION 4. ORS 285A.422 is amended to read:

285A.422. As used in ORS 285A.420 to 285A.435:

(1) "Agricultural improvements" means any improvements, buildings, structures or fixtures suitable for use in farming that are located on agricultural land.

(2) "Agricultural land" means land located in this state that is suitable for use in farming **and ranching** and that is or will be operated as a farm **or ranch**.

(3) "Agricultural project" means agricultural improvements, agricultural land or depreciable agricultural property.

(4) "Beginning farmer" means a person, as defined by the Oregon Business Development Department by rule.

(5) "Depreciable agricultural property" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code, including but not limited to farm machinery and trucks but not including feeder livestock, seed, feed, fertilizer and other types of inventory or supplies.

(6) "Eligible revenue" means the revenue or assets of an eligible agricultural project that are provided as security for a loan under ORS 285A.420 to 285A.435 by a beginning farmer, an agent of the beginning farmer or a related party to the beginning farmer.

(7) "Lender" means a person or entity authorized to make loans to beginning farmers pursuant to ORS 285A.420 to 285A.435, that is one of the following:

(a) An insured institution, as defined in ORS 706.008, that is authorized to do business in Oregon;

(b) A person selling agricultural land to a beginning farmer pursuant to an owner-financed agreement or sales contract;

(c) An institution organized and existing under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); and

(d) Other persons or entities as defined by rule adopted by the Oregon Business Development Department.

SECTION 5. ORS 285A.435 is amended to read:

285A.435. (1) There is created the Beginning [*and Expanding*] Farmer Loan Program Fund, separate and distinct from the General Fund. Interest earned by the Beginning [*and Expanding*] Farmer

1 Loan Program Fund shall be credited to the fund. All moneys credited to the fund are continuously
2 appropriated to the Oregon Business Development Department for the purpose of implementing and
3 operating the Beginning and Expanding Farmer Loan Program **and the Beginning Farmer Real**
4 **Estate Loan Program** under ORS 285A.420 to 285A.435.

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

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

8 (b) Earnings on moneys in the fund;

9 (c) Fees paid to the department by beginning farmers and lenders; and

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

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

13 (4) The department may establish accounts within the fund to carry out ORS 285A.420 to
14 285A.435.

15 **SECTION 6.** (1) Section 2 of this 2017 Act and the amendments to ORS 285A.420, 285A.422
16 and 285A.435 by sections 3, 4 and 5 of this 2017 Act become operative January 1, 2018.

17 (2) The Oregon Business Development Department and the State Department of Agri-
18 culture may adopt rules and take any other action before the operative date specified in
19 subsection (1) of this section that is necessary to enable each department, on and after the
20 operative date specified in subsection (1) of this section, to exercise all of the duties, func-
21 tions and powers conferred on each department by section 2 of this 2017 Act and the
22 amendments to ORS 285A.420, 285A.422 and 285A.435 by sections 3, 4 and 5 of this 2017 Act.

23 **SECTION 7.** This 2017 Act being necessary for the immediate preservation of the public
24 peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect
25 on its passage.