

154.60-040 Selling Farmer Tax Credit Program -- Definitions -- Purposes -- Application requirements -- Incentives offered to eligible companies under tax credit program to be negotiated by Cabinet for Economic Development and subject to approval by the authority -- After approval of application, authority to transmit required information to the Department of Revenue -- Beginning January 1, 2020, authority may approve selling farmer tax credit.

(1) As used in this section:

- (a) 1. "Agricultural assets" means:
 - a. Agricultural land which has been appraised by an individual certified by the Real Estate Appraisers Board created under KRS 324A.015; and
 - b. Buildings, facilities, machinery, equipment, agricultural products, or horticultural products, if:
 - i. Owned by the same selling farmer owning the agricultural land sold to a beginning farmer;
 - ii. Purchased at the same time and in the same transaction with the agricultural land; and
 - iii. Purchased with the intent to be used on the purchased agricultural land.
- 2. "Agricultural assets" does not mean:
 - a. A personal residence or any other residential structures; and
 - b. Any agricultural assets that have been previously included in an approved application for the Kentucky selling farmer tax credit;
- (b) "Agricultural land" means:
 - 1. Any land located entirely in Kentucky that is zoned or permitted for farming, if the jurisdiction where the land is located has enacted an ordinance for zoning or permitting; and
 - 2. a. Is a tract of land of at least ten (10) contiguous acres in area for a farming operation for agricultural products; or
 - b. Is a tract of land of at least five (5) contiguous acres in area for a farming operation for aquaculture or horticultural products; owned by the selling farmer prior to the sale;
- (c) "Agricultural products" means:
 - 1. Livestock or livestock products;
 - 2. Poultry or poultry products;
 - 3. Milk or milk products; or
 - 4. Field crops and other crops, including timber if approved by the authority;
- (d) "Aquaculture" means the farming of fish, crustaceans, mollusks, aquatic plants, algae, or other similar organisms;

- (e) "Farm product" means aquaculture, agricultural products, or horticultural products;
- (f)
 - 1. "Farming operation" means the management and operation of agricultural assets for the purpose of pursuing a profitable commercial business venture to produce agricultural products, horticultural products, or both for sale.
 - 2. "Farming operation" does not mean any:
 - a. Hobby farm, as determined by the Internal Revenue Service;
 - b. Nonprofit venture;
 - c. Farm used primarily for storing agricultural products or horticultural products; or
 - d. Farm used to grow or raise agricultural products or horticultural products primarily for use by the immediate family members or owners of the agricultural assets;
- (g) "Horticultural products" means orchards, fruits, vegetables, nuts, flowers, or ornamental plants; and
- (h) "Immediate family member" means any of the following in relation to any owner or spouse of the owner of the agricultural assets:
 - 1. Parent or grandparent;
 - 2. Children or their spouses; or
 - 3. Siblings or their spouses.
- (2) Any incentive offered to an eligible company under the Selling Farmer Tax Credit Program shall be negotiated by Cabinet for Economic Development officials and shall be subject to approval by the authority.
- (3) The purpose of the Selling Farmer Tax Credit Program is to promote the continued use of agricultural land in Kentucky for farming purposes by granting a tax credit to a selling farmer who agrees to sell agricultural assets to a beginning farmer.
- (4) Selling farmers wanting to sell agricultural assets may be eligible for a tax credit up to five percent (5%) of the selling price of qualifying agricultural assets, subject to:
 - (a) A twenty-five thousand dollar (\$25,000) cap for each taxable year of the selling farmer;
 - (b) A one hundred thousand dollar (\$100,000) lifetime cap for each selling farmer; and
 - (c) A proration by the authority based on the overall cap shared between the Small Business Tax Credit Program and the Selling Farmer Tax Credit Program cap of three million dollars (\$3,000,000) under KRS 154.60-020.
- (5) The tax credit allowed in subsection (4) of this section may be claimed under KRS 141.3841.
- (6) In order to be eligible to receive approval for a tax credit, a selling farmer shall, at a minimum:
 - (a)
 - 1.
 - a. Be registered with the Kentucky Secretary of State; and

- b. Be in good standing with the Kentucky Secretary of State; or
 - 2. If not required to be registered with the Kentucky Secretary of State, be a resident of Kentucky;
 - (b) Prior to a sale of agricultural assets, be a small business with fifty (50) or fewer full-time employees and be the sole legal owner of agricultural assets sold to a beginning farmer;
 - (c) Not be a farm equipment dealer, livestock dealer, or similar entity primarily engaged in the business of selling agricultural assets for profit and not engaged in farming as a primary business activity;
 - (d) Not be a bank or any other similar lending or financial institution;
 - (e) Not be:
 - 1. An owner, partner, member, shareholder, or trustee;
 - 2. A spouse of an owner, partner, member, shareholder, or trustee;
 - 3. An immediate family member of any of the owners, partners, members, shareholders, or trustees;
 of the beginning farmer to whom the selling farmer is seeking to sell agricultural assets;
 - (f)
 - 1. Demonstrate management and operation of real and personal property for the production of a farm product;
 - 2. Execute and effectuate a purchase contract to sell agricultural land with a beginning farmer for an amount evidenced by an appraisal; and
 - (g) Sell, convey, and transfer ownership of related agricultural assets to a beginning farmer.
- (7) In order for the selling farmer to qualify for the tax credit, a beginning farmer shall, at a minimum:
- (a)
 - 1.
 - a. Be registered with the Kentucky Secretary of State; and
 - b. Be in good standing with the Kentucky Secretary of State; or
 - 2. If not required to be registered with the Kentucky Secretary of State, be a resident of Kentucky;
 - (b) Possess all licenses, registrations, and experience needed to legally operate a farming operation within the jurisdiction for the agricultural land purchased from a selling farmer;
 - (c) Not previously have held an ownership interest in agricultural land used for a farming operation for a period exceeding ten (10) years prior to entering into an agreement to purchase agricultural assets from a selling farmer;
 - (d) Not have an ownership interest in any of the agricultural assets included in the transaction with the selling farmer; and
 - (e) Provide a majority of the management, and materially participate in the operation of a for-profit farming operation located in Kentucky and purchased from a selling farmer, with the intent to continue a for-profit farming operation on the purchased agricultural land for a minimum of five (5) years

after the sale date.

- (8) The selling farmer shall submit an application after consummation of the sale, transfer of title, and conveyance of agricultural assets together with all information necessary for the authority to determine eligibility for the tax credit.
- (9) An application for the selling farmer tax credit shall contain, at a minimum, information about the:
 - (a) Selling farmer and purchasing beginning farmer eligibility;
 - (b) Purchase contract and closing statement;
 - (c) Documentation, such as a deed, title conveyance for the transfer of assets, including verification of Kentucky residency; and
 - (d) Any other information the authority may require to determine eligibility for the credit.
- (10) For each approved application, the authority shall transmit to the Department of Revenue sufficient information about the selling farmer to ensure compliance with this section and KRS 141.3841, including the amount of approved tax credit allowed to the selling farmer.
- (11) Beginning January 1, 2020, the authority may approve selling farmer tax credits.

Effective: April 15, 2020

History: Amended 2020 Ky. Acts ch. 91, sec. 18, effective April 15, 2020. -- Created 2019 Ky. Acts ch. 172, sec. 7, effective March 26, 2019.