

Introduced by

Senators Cook, J. Lee, Nelson

Representatives Keiser, Nathe, S. Kelsh

1 A BILL for an Act to create and enact a new section to chapter 57-02 of the North Dakota  
2 Century Code, relating to assessor valuation of farm residences; to amend and reenact  
3 subsection 15 of section 57-02-08 and sections 57-02-08.1, 57-02-14, and 57-55-10 of the  
4 North Dakota Century Code, relating to elimination of the farm residence property tax  
5 exemption; to provide for a legislative management study; to provide an effective date; and to  
6 provide an expiration date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-08 of the North Dakota  
9 Century Code is amended and reenacted as follows:

- 10 15. a. All farm structures and improvements located on agricultural lands.
- 11 ~~(1)~~a. This subsection must be construed to exempt farm buildings and  
12 improvements only, and may not be construed to exempt from taxation  
13 property used by an individual or group of individuals as a dwelling,  
14 commercial property, mobile homes that are permanently attached to a  
15 foundation, industrial plants, or structures of any kind not used or intended  
16 for use as a part of a farm plant, ~~or as a farm residence.~~
- 17 ~~(2)~~b. "Farm buildings and improvements" includes a greenhouse or other building  
18 used primarily for the growing of horticultural or nursery products from seed,  
19 cuttings, or roots, if not used on more than an occasional basis for a  
20 showroom for the retail sale of horticultural or nursery products. A  
21 greenhouse or building used primarily for display and sale of grown  
22 horticultural or nursery products is not a farm building or improvement.
- 23 ~~(3)~~c. Any structure or improvement used primarily in connection with a retail or  
24 wholesale business other than farming, any structure or improvement

1 located on platted land within the corporate limits of a city, or any structure  
2 or improvement located on railroad operating property subject to  
3 assessment under chapter 57-05 is not exempt under this subsection. For  
4 purposes of this paragraph, "business other than farming" includes  
5 processing to produce a value-added physical or chemical change in an  
6 agricultural commodity beyond the ordinary handling of that commodity by a  
7 farmer prior to sale.

8 (4)d. The following factors may not be considered in application of the exemption  
9 under this subsection:

10 (a)(1) Whether the farmer grows or purchases feed for animals raised on the  
11 farm.

12 (b)(2) Whether animals being raised on the farm are owned by the farmer.

13 (c)(3) Whether the farm's replacement animals are produced on the farm.

14 (d)(4) Whether the farmer is engaged in contract feeding of animals on the  
15 farm.

16 b. ~~It is the intent of the legislative assembly that this exemption as applied to a~~  
17 ~~residence must be strictly construed and interpreted to exempt only a residence~~  
18 ~~that is situated on a farm and which is occupied or used by a person who is a~~  
19 ~~farmer and that the exemption may not be applied to property which is occupied~~  
20 ~~or used by a person who is not a farmer. For purposes of this subdivision:~~

21 (1) ~~"Farm" means a single tract or contiguous tracts of agricultural land~~  
22 ~~containing a minimum of ten acres [4.05 hectares] and for which the farmer,~~  
23 ~~actually farming the land or engaged in the raising of livestock or other~~  
24 ~~similar operations normally associated with farming and ranching, has~~  
25 ~~received annual net income from farming activities which is fifty percent or~~  
26 ~~more of annual net income, including net income of a spouse if married,~~  
27 ~~during any of the three preceding calendar years.~~

28 (2) ~~"Farmer" means an individual who normally devotes the major portion of~~  
29 ~~time to the activities of producing products of the soil, poultry, livestock, or~~  
30 ~~dairy farming in such products' unmanufactured state and has received~~  
31 ~~annual net income from farming activities which is fifty percent or more of~~

1 annual net income, including net income of a spouse if married, during any  
2 of the three preceding calendar years. For purposes of this paragraph,  
3 "farmer" includes a:

4 (a) "Beginning farmer", which means an individual who has begun  
5 occupancy and operation of a farm within the three preceding  
6 calendar years; who normally devotes the major portion of time to the  
7 activities of producing products of the soil, poultry, livestock, or dairy  
8 farming in such products' unmanufactured state; and who does not  
9 have a history of farm income from farm operation for each of the  
10 three preceding calendar years.

11 (b) "Retired farmer", which means an individual who is retired because of  
12 illness or age and who at the time of retirement owned and occupied  
13 as a farmer the residence in which the person lives and for which the  
14 exemption is claimed.

15 (c) "Surviving spouse of a farmer", which means the surviving spouse of  
16 an individual who is deceased, who at the time of death owned and  
17 occupied as a farmer the residence in which the surviving spouse  
18 lives and for which the exemption is claimed. The exemption under  
19 this subparagraph expires at the end of the fifth taxable year after the  
20 taxable year of death of an individual who at the time of death was an  
21 active farmer. The exemption under this subparagraph applies for as  
22 long as the residence is continuously occupied by the surviving  
23 spouse of an individual who at the time of death was a retired farmer.

24 (3) "Net income from farming activities" means taxable income from those  
25 activities as computed for income tax purposes pursuant to chapter 57-38  
26 adjusted to include the following:

27 (a) The difference between gross sales price less expenses of sale and  
28 the amount reported for sales of agricultural products for which the  
29 farmer reported a capital gain.

30 (b) Interest expenses from farming activities which have been deducted  
31 in computing taxable income.

- 1                   (e) Depreciation expenses from farming activities which have been  
2                   deducted in computing taxable income.
- 3                   (4) ~~When exemption is claimed under this subdivision for a residence, the~~  
4                   ~~assessor may require that the occupant of the residence who it is claimed is~~  
5                   ~~a farmer provide to the assessor for the year or years specified by the~~  
6                   ~~assessor a written statement in which it is stated that fifty percent or more of~~  
7                   ~~the net income of that occupant, and spouse if married and both spouses~~  
8                   ~~occupy the residence, was, or was not, net income from farming activities.~~
- 9                   (5) ~~In addition to any of the provisions of this subsection or any other provision~~  
10                   ~~of law, a residence situated on agricultural land is not exempt for the year if~~  
11                   ~~it is occupied by an individual engaged in farming who had nonfarm income,~~  
12                   ~~including that of a spouse if married, of more than forty thousand dollars~~  
13                   ~~during each of the three preceding calendar years. This paragraph does not~~  
14                   ~~apply to a retired farmer or a beginning farmer as defined in paragraph 2.~~
- 15                   (6) ~~For purposes of this section, "livestock" includes "nontraditional livestock"~~  
16                   ~~as defined in section 36-01-00.1.~~
- 17                   (7) ~~A farmer operating a bed and breakfast facility in the farm residence~~  
18                   ~~occupied by that farmer is entitled to the exemption under this section for~~  
19                   ~~that residence if the farmer and the residence would qualify for exemption~~  
20                   ~~under this section except for the use of the residence as a bed and~~  
21                   ~~breakfast facility.~~

22                   **SECTION 2. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24                   **57-02-08.1. Homestead credit.**

- 25                   1.    a.    Any person sixty-five years of age or older or permanently and totally disabled, in  
26                   the year in which the tax was levied, with an income that does not exceed the  
27                   limitations of subdivision c is entitled to receive a reduction in the assessment on  
28                   the taxable valuation on the person's homestead. An exemption under this  
29                   subsection applies regardless of whether the person is the head of a family.
- 30                   b.    The exemption under this subsection continues to apply if the person does not  
31                   reside in the homestead and the person's absence is due to confinement in a

- 1 nursing home, hospital, or other care facility, for as long as the portion of the  
2 homestead previously occupied by the person is not rented to another person.
- 3 c. The exemption must be determined according to the following schedule:
- 4 (1) If the person's income is not in excess of eighteen thousand dollars, a  
5 reduction of one hundred percent of the taxable valuation of the person's  
6 homestead up to a maximum reduction of four thousand five hundred  
7 dollars of taxable valuation.
- 8 (2) If the person's income is in excess of eighteen thousand dollars and not in  
9 excess of twenty thousand dollars, a reduction of eighty percent of the  
10 taxable valuation of the person's homestead up to a maximum reduction of  
11 three thousand six hundred dollars of taxable valuation.
- 12 (3) If the person's income is in excess of twenty thousand dollars and not in  
13 excess of twenty-two thousand dollars, a reduction of sixty percent of the  
14 taxable valuation of the person's homestead up to a maximum reduction of  
15 two thousand seven hundred dollars of taxable valuation.
- 16 (4) If the person's income is in excess of twenty-two thousand dollars and not in  
17 excess of twenty-four thousand dollars, a reduction of forty percent of the  
18 taxable valuation of the person's homestead up to a maximum reduction of  
19 one thousand eight hundred dollars of taxable valuation.
- 20 (5) If the person's income is in excess of twenty-four thousand dollars and not  
21 in excess of twenty-six thousand dollars, a reduction of twenty percent of  
22 the taxable valuation of the person's homestead up to a maximum reduction  
23 of nine hundred dollars of taxable valuation.
- 24 d. Persons residing together, as spouses or when one or more is a dependent of  
25 another, are entitled to only one exemption between or among them under this  
26 subsection. Persons residing together, who are not spouses or dependents, who  
27 are coowners of the property are each entitled to a percentage of a full exemption  
28 under this subsection equal to their ownership interests in the property.
- 29 e. This subsection does not reduce the liability of any person for special  
30 assessments levied upon any property.

- 1           f. Any person claiming the exemption under this subsection shall sign a verified  
2           statement of facts establishing the person's eligibility.
- 3           g. A person is ineligible for the exemption under this subsection if the value of the  
4           assets of the person and any dependent residing with the person, excluding the  
5           unencumbered value of the person's residence that the person claims as a  
6           homestead, exceeds seventy-five thousand dollars, including the value of any  
7           assets divested within the last three years. For purposes of this subdivision, the  
8           unencumbered valuation of the homestead is limited to one hundred thousand  
9           dollars.
- 10          h. The assessor shall attach the statement filed under subdivision f to the  
11          assessment sheet and shall show the reduction on the assessment sheet.
- 12          i. An exemption under this subsection terminates at the end of the taxable year of  
13          the death of the applicant.
- 14          2. a. Any person who would qualify for an exemption under subdivisions a and c of  
15          subsection 1 except for the fact that the person rents living quarters is eligible for  
16          refund of a portion of the person's annual rent deemed by this subsection to  
17          constitute the payment of property tax.
- 18          b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of  
19          any federal rent subsidy and of charges for any utilities, services, furniture,  
20          furnishings, or personal property appliances furnished by the landlord as part of  
21          the rental agreement, whether expressly set out in the rental agreement, must be  
22          considered as payment made for property tax. When any part of the twenty  
23          percent of the annual rent exceeds four percent of the annual income of a  
24          qualified applicant, the applicant is entitled to receive a refund from the state  
25          general fund for that amount in excess of four percent of the person's annual  
26          income, but the refund may not be in excess of four hundred dollars. If the  
27          calculation for the refund is less than five dollars, a minimum of five dollars must  
28          be sent to the qualifying applicant.
- 29          c. Persons who reside together, as spouses or when one or more is a dependent of  
30          another, are entitled to only one refund between or among them under this  
31          subsection. Persons who reside together in a rental unit, who are not spouses or

1 dependents, are each entitled to apply for a refund based on the rent paid by that  
2 person.

3 d. Each application for refund under this subsection must be made to the tax  
4 commissioner before the first day of June of each year by the person claiming the  
5 refund. The tax commissioner may grant an extension of time to file an  
6 application for good cause. The tax commissioner shall issue refunds to  
7 applicants.

8 e. This subsection does not apply to rents or fees paid by a person for any living  
9 quarters, including a nursing home licensed pursuant to section 23-16-01, if  
10 those living quarters are exempt from property taxation and the owner is not  
11 making a payment in lieu of property taxes.

12 f. A person may not receive a refund under this section for a taxable year in which  
13 that person received an exemption under subsection 1.

14 3. All forms necessary to effectuate this section must be prescribed, designed, and made  
15 available by the tax commissioner. The county directors of tax equalization shall make  
16 these forms available upon request.

17 4. ~~A person whose homestead is a farm structure exempt from taxation under~~  
18 ~~subsection 15 of section 57-02-08 may not receive any property tax credit under this~~  
19 ~~section.~~

20 5. For the purposes of this section:

21 a. "Dependent" has the same meaning it has for federal income tax purposes.

22 b. "Homestead" has the same meaning as provided in section 47-18-01.

23 c. "Income" means income for the most recent complete taxable year from all  
24 sources, including the income of any dependent of the applicant, and including  
25 any county, state, or federal public assistance benefits, social security, or other  
26 retirement benefits, but excluding any federal rent subsidy, any amount excluded  
27 from income by federal or state law, and medical expenses paid during the year  
28 by the applicant or the applicant's dependent which is not compensated by  
29 insurance or other means.

30 d. "Medical expenses" has the same meaning as it has for state income tax  
31 purposes, except that for transportation for medical care the person may use the

1 standard mileage rate allowed for state officer and employee use of a motor  
2 vehicle under section 54-06-09.

3 e. "Permanently and totally disabled" means the inability to engage in any  
4 substantial gainful activity by reason of any medically determinable physical or  
5 mental impairment which can be expected to result in death or has lasted or can  
6 be expected to last for a continuous period of not less than twelve months as  
7 established by a certificate from a licensed physician or a written determination of  
8 disability from the social security administration.

9 **SECTION 3. AMENDMENT.** Section 57-02-14 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **57-02-14. Valuation of real property exempt from taxation.**

12 At the time of making the assessment of real property, the assessor shall enter in a  
13 separate list each description of property exempt by law and shall value it in the same manner  
14 as other property, designating in each case to whom such property belongs and for what  
15 purpose used. This section does not apply to property of the United States, this state, or a  
16 political subdivision of this state ~~or farm buildings or farm residences exempt from property~~  
17 ~~taxes by law.~~

18 **SECTION 4.** A new section to chapter 57-02 of the North Dakota Century Code is created  
19 and enacted as follows:

20 **Assessment valuation of farm residences - Progress reports - Legislative**  
21 **management study.**

22 Each county director of tax equalization shall:

- 23 1. By September 30, 2013, complete an inventory of all farm residences, including  
24 mobile homes permanently attached to a foundation, in the county that are exempt  
25 from property taxes under subsection 15 of section 57-02-08 and file a report on the  
26 inventory with the state supervisor of assessments in a format prescribed by the state  
27 supervisor of assessments.
- 28 2. By December 31, 2013, have completed valuation of at least twenty-five percent of the  
29 farm residences identified in the inventory under subsection 1 and file a report on the  
30 completed valuations with the state supervisor of assessments in a format prescribed  
31 by the state supervisor of assessments.



- 1       3. By April 30, 2014, have completed valuation of at least fifty percent of the farm  
2       residences identified in the inventory under subsection 1 and file a report on the  
3       completed valuations with the state supervisor of assessments in a format prescribed  
4       by the state supervisor of assessments.
- 5       4. By August 31, 2014, have completed valuation of at least seventy-five percent of the  
6       farm residences identified in the inventory under subsection 1 and file a report on the  
7       completed valuations with the state supervisor of assessments in a format prescribed  
8       by the state supervisor of assessments.
- 9       5. By February 28, 2015, have completed valuation of all farm residences in the county  
10       and file a report on the completed valuations with the state supervisor of assessments  
11       in a format prescribed by the state supervisor of assessments.
- 12       6. By February 28, 2015, have delivered to the owner of each farm residence in the  
13       county a notice of valuation for taxable year 2015 showing the amount of the valuation  
14       and any other information prescribed by the state supervisor of assessments. The  
15       notice must be accompanied by information in a format prescribed by the state  
16       supervisor of assessments advising the property owner of the right to appeal the  
17       valuation and how and when to make an appeal.

18       The state supervisor of assessments shall provide reports to the legislative management on  
19       progress of the valuation of property as required by this section.

20       The legislative management shall designate a committee during the 2013-14 interim to  
21       receive reports under this section and make its report on progress of valuations and  
22       recommendations to implement section 1 of this Act, and the legislative management shall  
23       report its findings and recommendations, together with any legislation required to implement the  
24       recommendations, to the sixty-fourth legislative assembly.

25       **SECTION 5. AMENDMENT.** Section 57-55-10 of the North Dakota Century Code is  
26       amended and reenacted as follows:

27       **57-55-10. Exemptions - Exceptions.**

- 28       1. A mobile home described in this subsection to the extent herein limited is exempt from  
29       taxation under this chapter; provided, that the mobile home shall have a tax permit as  
30       provided in section 57-55-06:

- 1           a.    If it is owned and used as living quarters of a military person on active military  
2                    duty in this state who is a resident of another state.
- 3           b.    If it is owned and occupied by a welfare recipient, provided the mobile home is  
4                    not permanently attached to the land and classified as real property. For the  
5                    purposes of this subdivision, "welfare recipient" means any person who is  
6                    certified to the county director of tax equalization by the county social service  
7                    board as receiving the major portion of income from any state or federal public  
8                    assistance program.
- 9           c.    If it is owned and used as living quarters by a disabled veteran or unremarried  
10                   surviving spouse who meets the requirements of subsection 20 of section  
11                   57-02-08 or section 57-02-08.8.
- 12           d.    If it is owned and used as living quarters by a permanently and totally disabled  
13                   person or unremarried surviving spouse who meets the requirements of  
14                   subsection 20 of section 57-02-08.
- 15           e.    If it is owned and used as the living quarters for a blind person who meets the  
16                   requirements of subsection 22 of section 57-02-08.
- 17           f.    If it is owned and used by a person who uses it as living quarters and who  
18                   qualifies for the homestead credit provided in section 57-02-08.1, and the mobile  
19                   home shall be regarded for the purposes of this exemption as the homestead of  
20                   the person claiming the exemption.
- 21        2.    This chapter does not apply to a mobile home that:
  - 22            a.    Is used only for the temporary living quarters of the owner or other occupant  
23                   while the person is engaged in recreational or vacation activities, provided the  
24                   unit:
    - 25                   (1)   Displays a current travel trailer license; or
    - 26                   (2)   Is a park model trailer that is used only for seasonal or recreational living  
27                       quarters and not as a primary residence, and which is located in a trailer  
28                       park or campground, and for which the owner has paid a park model trailer  
29                       fee under section 39-18-03.2. For purposes of this paragraph, "park model"  
30                       trailer means a recreational vehicle not exceeding forty feet [12.19 meters]  
31                       in length which is primarily designed to provide temporary living quarters for

1 recreation, camping, or seasonal use, is built on a single chassis, is  
2 mounted on wheels, has a gross trailer area not exceeding four hundred  
3 square feet [37.16 square meters] of enclosed living space in the setup  
4 mode, and is certified by the manufacturer as complying with American  
5 national standards institute standard A119.5.

6 ~~b. Qualifies as a farm residence as described by subsection 15 of section 57-02-08,~~  
7 ~~provided such mobile home is permanently attached to a foundation.~~

8 e. Is permanently attached to a foundation and is assessed as real property,  
9 provided the owner of such mobile home also owns the land on which such  
10 mobile home is located or is in possession of the real property under the terms of  
11 a lease in recordable form which has a term that continues for at least twenty  
12 years after the date of execution with the consent of the lessor of the real  
13 property.

14 ~~d.c.~~ Is owned by a licensed mobile home dealer who holds such mobile home solely  
15 for the purpose of resale, and provided that such mobile home is not used as  
16 living quarters or as the place for the conducting of any business.

17 **SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1, 2, 3, and 5 of this Act  
18 are effective for taxable years beginning after December 31, 2014. Section 4 of this Act is  
19 effective through June 30, 2015, and is thereafter ineffective.