

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1053

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota
2 Century Code, relating to application of the property tax exemption for farm buildings for
3 beginning farmers; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-08 of the 1997
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7 15. a. All farm structures and improvements located on agricultural lands. This
8 subsection ~~shall~~ must be construed to exempt farm buildings and
9 improvements only, and ~~shall~~ may not be construed to exempt from taxation
10 industrial plants, or structures of any kind not used or intended for use as a
11 part of a farm plant, or as a farm residence. Any structure or improvement
12 used in connection with a retail or wholesale business other than farming, any
13 structure or improvement located on platted land within the corporate limits of
14 a city, or any structure or improvement located on railroad operating property
15 subject to assessment under chapter 57-05 is not exempt under this
16 subsection.

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

23 (1) "Farm" means a single tract or contiguous tracts of agricultural land
24 containing a minimum of ten acres [4.05 hectares] and for which the

farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has ~~not received more than fifty percent of~~ annual net income from ~~nonfarm income~~ farming activities which is fifty percent or more of annual net income, including ~~that net income~~ of a spouse if married, during ~~each~~ any of the three preceding calendar years.

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state and has ~~not received more than fifty percent of~~ annual net income from ~~nonfarm income~~ farming activities which is fifty percent or more of annual net income, including ~~that net income~~ of a spouse if married, during ~~each~~ any of the three preceding calendar years. "Farmer" includes ~~an individual~~ a "retired farmer" who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer ~~as defined above~~ the residence in which the person lives and for which the exemption is claimed. "Farmer" includes a "beginning farmer" who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years.

(3) "Net income from farming activities" ~~described in paragraph 2~~ means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:

- (a) The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.
- (b) Interest expenses from farming activities which have been deducted in computing taxable income.

- 1 (4) When exemption is claimed under this subdivision for a residence, the
2 assessor may require that the occupant of the residence who it is
3 claimed is a farmer provide to the assessor for the year or years
4 specified by the assessor a written statement in which it is stated that
5 fifty percent or more of the net income of that occupant, and spouse if
6 married and both spouses occupy the residence, was, or was not, net
7 income from farming activities; ~~provided, that if that occupant is married~~
8 ~~and both spouses occupy the residence, it shall be stated in the written~~
9 ~~statement whether their net income from farming activities was fifty~~
10 ~~percent or more of their combined net income from all sources.~~
11 (5) In addition to any of the provisions of this subsection or any other
12 provision of law, a residence situated on agricultural land is not exempt
13 for the year if it is occupied by an individual engaged in farming who
14 had nonfarm income, including that of a spouse if married, of more than
15 forty thousand dollars during each of the three preceding calendar
16 years. ~~The provisions of this~~ This paragraph ~~do~~ does not apply to an
17 ~~individual who is retired because of illness or age and who at the time~~
18 ~~of retirement owned and occupied as a farmer the residence in which~~
19 ~~the person lives and for which the exemption is claimed~~ a retired farmer
20 or a beginning farmer as defined in paragraph 2.
21 (6) For purposes of this section, "livestock" includes "nontraditional
22 livestock" as defined in section 36-01-00.1.
23 (7) A farmer operating a bed and breakfast facility in the farm residence
24 occupied by that farmer is entitled to the exemption under this section
25 for that residence if the farmer and the residence would qualify for
26 exemption under this section except for the use of the residence as a
27 bed and breakfast facility.

28 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after

29 December 31, 1998.