

April 2002

Introduced by

1 A BILL for an Act to amend and reenact section 57-02-08.1 of the North Dakota Century Code,
2 relating to eligibility for and application of the homestead property tax credit; and to provide an
3 effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **~~57-02-08.1. Property tax credits for persons sixty-five years of age or older with~~**
8 **limited income Homestead credit.**

- 9 1. a. Any person sixty-five years of age or older ~~in the year in which the tax was~~
10 ~~levied, or any person who is permanently and totally disabled, in the year in~~
11 ~~which the tax was levied, as certified by a licensed physician approved by the~~
12 ~~local governing body, with an income of fourteen thousand dollars or less per~~
13 ~~annum from all sources, including the income of any dependent person,~~
14 ~~including any county, state, or federal public assistance benefits, social~~
15 ~~security, or other retirement benefits, that does not exceed the limitations of~~
16 ~~subdivision c~~ is entitled to receive a reduction in the assessment on the
17 taxable valuation on the person's homestead ~~as defined in section 47-18-01,~~
18 ~~except that this.~~ An exemption under this subsection applies ~~to any person~~
19 ~~who otherwise qualifies under this subsection~~ regardless of whether the
20 person is the head of a family.
- 21 b. The exemption under this subsection continues to apply if the person does not
22 reside in the homestead and the person's absence is due to confinement in a
23 nursing home, hospital, or other care facility, for as long as the portion of the
24 homestead previously occupied by the person is not rented to another person.

- 1 c. The exemption ~~to which any person may be entitled~~ must be determined
2 according to the following schedule:
- 3 a. (1) If the person's income is not in excess of ~~eight thousand dollars~~ the
4 federal poverty level, a reduction of one hundred percent of the taxable
5 valuation of the person's homestead ~~up to a maximum reduction of two~~
6 ~~thousand dollars of taxable valuation.~~
- 7 b. (2) If the person's income is in excess of ~~eight thousand dollars~~ the federal
8 poverty level and not in excess of ~~nine thousand five hundred dollars~~
9 one hundred ten percent of the federal poverty level, a reduction of
10 eighty percent of the taxable valuation of the person's homestead ~~up to~~
11 ~~a maximum reduction of one thousand six hundred dollars of taxable~~
12 ~~valuation.~~
- 13 e. (3) If the person's income is in excess of ~~nine thousand five hundred~~
14 ~~dollars~~ one hundred ten percent of the federal poverty level and not in
15 excess of ~~eleven thousand dollars~~ one hundred twenty percent of the
16 federal poverty level, a reduction of sixty percent of the taxable
17 valuation of the person's homestead ~~up to a maximum reduction of one~~
18 ~~thousand two hundred dollars of taxable valuation.~~
- 19 d. (4) If the person's income is in excess of ~~eleven thousand dollars~~ one
20 hundred twenty percent of the federal poverty level and not in excess of
21 ~~twelve thousand five hundred dollars~~ one hundred thirty percent of the
22 federal poverty level, a reduction of forty percent of the taxable
23 valuation of the person's homestead ~~up to a maximum reduction of~~
24 ~~eight hundred dollars of taxable valuation.~~
- 25 e. (5) If the person's income is in excess of ~~twelve thousand five hundred~~
26 ~~dollars~~ one hundred thirty percent of the federal poverty level and not in
27 excess of ~~fourteen thousand dollars~~ one hundred forty percent of the
28 federal poverty level, a reduction of twenty percent of the taxable
29 valuation of the person's homestead ~~up to a maximum reduction of four~~
30 ~~hundred dollars of taxable valuation.~~

1 d. ~~In no case may a husband and wife who are living~~ Persons residing together
2 ~~both be, as spouses or when one or more is a dependent of another, are~~
3 ~~entitled to the credit as provided for in only one exemption between or among~~
4 ~~them under this subsection upon their homestead.~~ Persons residing together,
5 ~~who are not spouses or dependents, who are coowners of the property are~~
6 ~~each entitled to a percentage of a full exemption under this subsection equal~~
7 ~~to their ownership interests in the property.~~

8 e. ~~The provisions of this~~ This subsection may ~~does~~ not reduce the liability of any
9 person for special assessments levied upon any property.

10 f. Any person ~~eligible for claiming the exemption herein provided under this~~
11 ~~subsection shall sign a verified statement that the person is sixty five years of~~
12 ~~age or older or is permanently and totally disabled, that the person's income,~~
13 ~~including that of any dependent, as determined in this chapter does not~~
14 ~~exceed fourteen thousand dollars per annum and that of facts establishing the~~
15 ~~person's eligibility.~~

16 g. A person is ineligible for the exemption under this subsection if the value of
17 ~~the person's assets of the person and any dependent residing with the~~
18 ~~person, excluding the value of the person's "homestead" as defined in section~~
19 ~~47-18-01, does not, exceed fifty thousand dollars, including the value of any~~
20 ~~assets divested within the last three years. The term "dependent" includes~~
21 ~~the spouse, if any, of the person claiming the exemption.~~

22 h. The assessor shall attach the statement filed under subdivision f to the
23 assessment sheet and shall show the reduction on the assessment sheet.

24 i. ~~All benefits available in this section terminate~~ An exemption under this
25 ~~subsection terminates~~ at the end of the taxable year of the death of the
26 ~~applicant.~~

27 2. a. Any person ~~sixty five years of age or older, or any person who is permanently~~
28 ~~and totally disabled as certified by a licensed physician approved by the local~~
29 ~~governing body, with an income of fourteen thousand dollars or less per~~
30 ~~annum from all sources, including the income of any dependent person,~~
31 ~~including any county, state, or federal public assistance benefits, social~~

1 ~~security, or other retirement benefits, but excluding any federal rent subsidy,~~
2 ~~and who would qualify for an exemption under subdivisions a and c of~~
3 ~~subsection 1 except for the fact that the person rents living quarters is eligible~~
4 ~~for refund for that part of a portion of the person's annual rent which is~~
5 ~~deemed by this subsection to constitute the payment of property tax and~~
6 ~~which is further deemed to represent a burdensome share of the person's~~
7 ~~income.~~

- 8 b. For the purpose of this subsection, twenty percent of the annual rent,
9 exclusive of any federal rent subsidy and of charges for any utilities, services,
10 furniture, furnishings, or personal property appliances furnished by the
11 landlord as part of the rental agreement, whether or not expressly set out in
12 the rental agreement, must be considered as payment made for property tax.
13 When any part of the twenty percent of the annual rent exceeds four percent
14 of the annual income of a qualified applicant, the applicant is entitled to
15 receive a refund from the state general fund for that amount in excess of four
16 percent of the person's annual income, but the refund may not ~~be in excess of~~
17 ~~two hundred forty dollars~~ exceed the amount provided in this subdivision. If
18 the calculation for the refund is less than five dollars, a minimum of five dollars
19 must be sent to the qualifying applicant. Maximum refunds for applicants
20 must be determined according to the following schedule:
- 21 (1) If the person's income is not in excess of the federal poverty level, the
22 maximum refund is two hundred forty dollars.
- 23 (2) If the person's income is in excess of the federal poverty level and not
24 in excess of one hundred ten percent of the federal poverty level, the
25 maximum refund is one hundred ninety-two dollars.
- 26 (3) If the person's income is in excess of one hundred ten percent of the
27 federal poverty level and not in excess of one hundred twenty percent
28 of the federal poverty level, the maximum refund is one hundred
29 forty-four dollars.

(4) If the person's income is in excess of one hundred twenty percent of the federal poverty level and not in excess of one hundred thirty percent of the federal poverty level, the maximum refund is ninety-six dollars.

(5) If the person's income is in excess of one hundred thirty percent of the federal poverty level and not in excess of one hundred forty percent of the federal poverty level, the maximum refund is forty-eight dollars.

c. ~~In no case may a husband and wife~~ Persons who are living ~~reside together both be entitled to the~~ may not qualify for more than one refund as provided ~~for in~~ under this subsection.

d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund, ~~but the~~. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall certify refunds to the state treasurer ~~the amount of the refund due, if any, and the state treasurer, who shall issue the refund~~ refunds to applicants from the state general fund ~~to the applicant.~~

e. ~~In no case may this~~ This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, ~~if that living quarter has been declared~~ those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.

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

3. All forms necessary to effectuate this section must be prescribed and designed by the tax commissioner who shall distribute annually an adequate supply of them to each county director of tax equalization. The county directors of tax equalization shall make these forms available upon request.

4. ~~In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any dependent person and not compensated for by insurance or otherwise must be deducted. For purposes of this section, the term "medical expenses" has the same meaning as it has for~~

1 ~~state income tax purposes, except that for transportation for medical care the~~
2 ~~person may use the standard mileage rate allowed for state officer and employee~~
3 ~~use of a motor vehicle under section 54-06-09.~~

4 5. ~~No~~ A person whose homestead ~~as defined in section 47-18-01~~ is a farm structure
5 exempt from taxation under subsection 15 of section 57-02-08 may not receive any
6 property tax credit under this section.

7 6. 5. For the purposes of this section, ~~"permanently~~:

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

9 b. "Federal poverty level" means the official poverty line defined by the United
10 States office of management and budget under 42 U.S.C. 9902, based on the
11 most recent data made available by the bureau of the census, in the calendar
12 year immediately preceding the taxable year for which an exemption is
13 determined under this section. The federal poverty level for a single person
14 must be used if the claim of exemption or refund application shows that the
15 applicant resides alone and the federal poverty level for two persons must be
16 used if the claim or application shows that the applicant resides with one or
17 more dependents.

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

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

26 e. "Medical expenses" has the same meaning as it has for state income tax
27 purposes, except that for transportation for medical care the person may use
28 the standard mileage rate allowed for state officer and employee use of a
29 motor vehicle under section 54-06-09.

30 f. "Permanently and totally disabled" means the inability to engage in any
31 substantial gainful activity by reason of any medically determinable physical or

1 mental impairment which can be expected to result in death or has lasted or
2 can be expected to last for a continuous period of not less than twelve months
3 as established by a certificate from a licensed physician.

4 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
5 December 31, 2002.