

**Fifty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2259
(Senators Grindberg, Espegard, Heitkamp)
(Representatives S. Kelsh, Severson, Weiler)

AN ACT to amend and reenact section 40-63-07 of the North Dakota Century Code, relating to renaissance fund organizations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-63-07 of the North Dakota Century Code is amended and reenacted as follows:

40-63-07. Renaissance fund organization - Exemption from taxation.

1. Each city with a designated renaissance zone may establish a renaissance fund ~~corporation~~ organization, if the detailed plan for such an organization is clearly established in the development plan and approved with the plan, or is submitted at a later date to the department of commerce division of community services for approval after the designation of a renaissance zone.
2. The purpose of a renaissance fund organization is solely to raise funds to be used to make investments in zone projects and to make investments in ~~businesses within a city's designated renaissance zone cities~~. A renaissance fund organization may provide financing to projects undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter.
3. ~~A renaissance fund organization that is established by a city may provide financing to businesses within the city's zone and may provide financing to zone approved projects throughout the state.~~
4. A renaissance fund organization is exempt from any tax imposed by chapter 57-35.3 or 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation or financial institution entitled to the exemption provided by this subsection ~~must~~ shall file required returns and report income to the tax commissioner as required by the provisions of those chapters as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund organization from complying with the income tax withholding laws.
5. ~~4.~~ A credit against state tax liability as determined under section 57-35.3-03, 57-38-29, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund organization during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.
6. ~~5.~~ The total amount of credits allowed under this section may not exceed, in the aggregate, an initial limit of two million five hundred thousand dollars. Upon exhaustion of this initial limit, an additional ~~one two million five hundred thousand~~ two million five hundred thousand dollars in credits is available for investments in renaissance fund organizations ~~for taxable years beginning after December 31, 2000, for investments permitted under this chapter if more than sixty five~~

~~percent of the organization's net investments received have been invested as permitted under this chapter or the organization is established after the exhaustion of the initial limit. Upon exhaustion of the initial limit, an additional one million five hundred thousand dollars in credits is available for investments in renaissance fund organizations for taxable years beginning after December 31, 2002, for investments permitted under this chapter if more than sixty five percent of the qualifying organization's net investments received have been invested as permitted under this chapter or the organization is established after the exhaustion of the initial limit. A renaissance fund organization that has received investments that qualify for these additional credits under this subsection may not use more than fifty percent of such investments for organization investments outside of a renaissance zone.~~

- ~~7.~~ 6. Income to a renaissance fund organization derived from the sale or refinancing of zone properties financed wholly or in part by the organization may be dispersed as annual dividends equal to the income, minus ten percent, derived from all sources and proportional to the investment. In the event of a loss to the fund resulting in a temporary diminishment of the fund below the original principal amount, no annual dividend may be paid until the fund is restored.
- ~~8.~~ 7. Income to a renaissance fund organization derived from interest or the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or securities may be used for administration.
- ~~9.~~ 8. If an investment in a renaissance fund organization which is the basis for a credit under this section is redeemed by the investor within ten years of the date it is purchased, the credit provided by this section for the investment must be disallowed, and any credit previously claimed and allowed with respect to the investment must be paid to the tax commissioner with the appropriate return of the taxpayer covering the period in which the redemption occurred. When payments are made to the tax commissioner under this section, the amount collected must be handled in the same manner as if no credit had been allowed.
- ~~10.~~ 9. A renaissance fund organization shall secure an annual audit of its financial records, prepared by an independent certified public accounting firm in accordance with generally accepted auditing standards. The audit report must include a statement of the percentage of annual ~~net~~ investments received by the organization ~~after December 31, 2000~~, which have been invested by the organization in investments permitted under this chapter, including the use of investments, distinguishing between organization investments made in renaissance zones and outside renaissance zones. ~~If the audit report shows that less than fifty percent of such net investments have been so invested during the previous four years and the organization has been incorporated for four years or more, that organization may not accept any new investments until the governing body of the city in which the organization was established determines that good cause exists for the failure to reach that level of investment or until a subsequent audit report shows that fifty percent or more of such net investments have been so invested.~~ A renaissance fund organization shall file a copy of each audit of its financial records under this subsection with the governing body of the city in which it was established, the department of commerce division of community services, and the tax commissioner. The department of commerce division of community services shall provide an annual report to the budget section of the legislative council showing the conclusions of audit reports filed under this subsection.
- ~~11.~~ A renaissance fund organization may invest in any residential or commercial property involved in a zone project.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2259.

Senate Vote: Yeas 43 Nays 3 Absent 1

House Vote: Yeas 76 Nays 8 Absent 10

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2003.

Approved at _____ M. on _____, 2003.

Governor

Filed in this office this _____ day of _____, 2003,
at _____ o'clock _____ M.

Secretary of State