

Sixtieth  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO. 1335

Introduced by

Representatives Owens, DeKrey, Delmore, Dietrich, S. Kelsh

1 A BILL for an Act to create and enact two new sections to chapter 57-02 and a new section to  
2 chapter 57-15 of the North Dakota Century Code, relating to a homestead property tax relief  
3 credit, establishment of a property tax relief trust fund, and limitations on property tax increases;  
4 to amend and reenact subsection 15 of section 57-02-08 and section 57-02-27 of the North  
5 Dakota Century Code, relating to the property tax exemption for farm residences and valuation  
6 of property for property tax purposes; and to provide an effective date.

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

8 **SECTION 1.** A new section to chapter 57-02 of the North Dakota Century Code is  
9 created and enacted as follows:

#### 10 **Homestead property tax relief credit.**

11 1. The owner of a homestead is entitled to claim a credit against property taxes levied  
12 on the homestead in the amount of the percentage specified in subsection 2  
13 applied to the total amount of property taxes, with any discount for early payment  
14 of taxes, levied on the homestead for the taxable year by all taxing districts or in  
15 the amount of the entire amount levied on the homestead by school districts for  
16 general fund, high school tuition, and high school transportation purposes,  
17 whichever amount is less. The entire amount of a homestead credit allowed under  
18 this section must be deducted from property taxes levied by school districts on the  
19 homestead. The legislative assembly shall provide appropriations from the  
20 property tax relief trust fund sufficient for allocation by the state treasurer, as  
21 certified by the tax commissioner, to school districts to reimburse each school  
22 district for property tax revenue collections not received by the school district as a  
23 result of the credit allowed under this section.

2. The percentage reduction for the credit against property taxes under subsection 1 is ten percent for taxable year 2007, twenty percent for taxable year 2008, thirty percent for taxable year 2009, and forty percent for taxable years after 2009.

3. For purposes of this section, "homestead" means a dwelling occupied by the owner as a primary dwelling place and up to one acre [.40 hectare] of the land on which the dwelling is located and which is reasonably necessary for the use of the dwelling as a home. A "homestead" may consist of a part of a structure containing multiple dwellings or a part of a structure containing a dwelling and used in part for other purposes, plus a prorated share of up to one acre [.40 hectare] of the land upon which it is built.

4. For a farm or ranch residence that is occupied as a homestead, the credit under this section applies to the residence and agricultural land in a single tract or contiguous tracts on which the residence is located and which is owned and used by the occupant for activities normally associated with farming or ranching. The credit under this section applies to a residence and agricultural property of a family-owned and operated farming or ranching operation established as a corporation or other legal entity if the residence is occupies as a primary dwelling place by a family member who holds an ownership interest in the corporation or other legal entity.

**SECTION 2.** A new section to chapter 57-02 of the North Dakota Century Code is created and enacted as follows:

**Property tax relief trust fund.** The property tax relief trust fund is established in the state treasury. The legislative assembly shall provide appropriations or transfers to the property tax relief trust fund in amounts sufficient for appropriations from the property tax relief trust fund to reimburse school districts for property tax revenue collections not received by a school district as a result of the credit allowed under section 1 of this Act. Any unexpended and unobligated balance in the property tax relief trust fund at the end of a biennium may be transferred by the state treasurer to the state general fund by order of the governor.

**SECTION 3. AMENDMENT.** Subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

15. ~~a.~~ All farm structures and improvements located on agricultural lands.

- 1        ~~(1)~~    a.    This subsection must be construed to exempt farm buildings and  
2                                   improvements only, and may not be construed to exempt from taxation  
3                                   residential property, industrial plants, or structures of any kind not used or  
4                                   intended for use as a part of a farm plant, ~~or as a farm residence~~.
- 5                   b.    For purposes of this subsection:
- 6                   ~~(2)~~    (1)    "Farm buildings and improvements" includes a greenhouse or other  
7                                   building used primarily for the growing of horticultural or nursery  
8                                   products from seed, cuttings, or roots, if not used on more than an  
9                                   occasional basis for a showroom for the retail sale of horticultural or  
10                                  nursery products. A greenhouse or building used primarily for display  
11                                  and sale of grown horticultural or nursery products is not a farm building  
12                                  or improvement.
- 13                   (2)    "Farmer" means a person who produces unmanufactured products of  
14                                  the soil, poultry, livestock, nontraditional livestock, or products of dairy  
15                                  animals.
- 16                   ~~(3)~~    c.    Any structure or improvement used primarily in connection with a retail or  
17                                   wholesale business other than farming, any structure or improvement located  
18                                   on platted land within the corporate limits of a city, or any structure or  
19                                   improvement located on railroad operating property subject to assessment  
20                                   under chapter 57-05 is not exempt under this subsection. For purposes of  
21                                   this ~~paragraph~~ subdivision, "business other than farming" includes processing  
22                                   to produce a value-added physical or chemical change in an agricultural  
23                                   commodity beyond the ordinary handling of that commodity by a farmer prior  
24                                   to sale.
- 25                   ~~(4)~~    d.    The following factors may not be considered in application of the exemption  
26                                   under this subsection:
- 27                                   ~~(a)~~    (1)    Whether the farmer grows or purchases feed for animals raised on the  
28                                   farm.
- 29                                   ~~(b)~~    (2)    Whether animals being raised on the farm are owned by the farmer.
- 30                                   ~~(c)~~    (3)    Whether the farm's replacement animals are produced on the farm.

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

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

(1) ~~"Farm" means a single tract or contiguous tracts of agricultural land 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 received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during 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 received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. "Farmer" includes a "retired farmer" who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer 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" 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.~~
  - ~~(c) Depreciation expenses from farming activities which have been deducted in computing taxable income.~~
- (4) ~~When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that fifty percent or more of the net income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, net income from farming activities.~~
- (5) ~~In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than forty thousand dollars during each of the three preceding calendar years. This paragraph does not apply to a retired farmer or a beginning farmer as defined in paragraph 2.~~
- (6) ~~For purposes of this section, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.~~
- (7) ~~A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.~~

1           **SECTION 4. AMENDMENT.** Section 57-02-27 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **57-02-27. Property to be valued at a percentage of assessed value - Classification**  
4 **of property - Limitation on valuation of annexed agricultural lands.** All property subject to  
5 taxation based on the value thereof must be valued as follows:

- 6           1. All residential property to be valued at nine percent of assessed value through  
7 taxable year 2008, nine and one-half percent of assessed value for taxable year  
8 2009, and ten percent of assessed value after taxable year 2009. If any property is  
9 used for both residential and nonresidential purposes, the valuation must be  
10 prorated accordingly.
- 11          2. All agricultural property to be valued at ten percent of assessed value as  
12 determined pursuant to section 57-02-27.2.
- 13          3. All commercial property to be valued at ten percent of assessed value.
- 14          4. All centrally assessed property to be valued at ten percent of assessed value  
15 except as provided in section 57-02-27.3.

16 The resulting amounts must be known as the taxable valuation. In determining the assessed  
17 value of real and personal property, except agricultural property, the assessor may not adopt a  
18 lower or different standard of value because the same is to serve as a basis of taxation, nor  
19 may the assessor adopt as a criterion of value the price at which said property would sell at  
20 auction, or at forced sale, or in the aggregate with all the property in the town or district, but the  
21 assessor shall value each article or description by itself, and at such sum or price as the  
22 assessor believes the same to be fairly worth in money. In assessing any tract or lot of real  
23 property, there must be determined the value of the land, exclusive of improvements, and the  
24 value of all taxable improvements and structures thereon, and the aggregate value of the  
25 property, including all taxable structures and other improvements, excluding the value of crops  
26 growing upon cultivated lands. In valuing any real property upon which there is a coal or other  
27 mine, or stone or other quarry, the same must be valued at such a price as such property,  
28 including the mine or quarry, would sell for at a fair voluntary sale for cash. Agricultural lands  
29 within the corporate limits of a city which are not platted constitute agricultural property and  
30 must be so classified and valued for ad valorem property tax purposes until such lands are put  
31 to another use. Agricultural lands, whether within the corporate limits of a city or not, which

were platted and assessed as agricultural property prior to March 30, 1981, must be assessed as agricultural property for ad valorem property tax purposes until put to another use. Such valuation must be uniform with the valuation of adjoining unannexed agricultural land.

**SECTION 5.** A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

**Property tax increase limitations.** Property taxes levied by a taxing district on a parcel of residential or commercial property and any improvements on that property may not be increased above the amount levied by that taxing district on that property for the immediately preceding taxable year by more than five percent or the amount of the increase in the consumer price index, midwest region, for urban consumers, as computed by the United States department of labor, bureau of labor statistics, for the most recent full calendar year, plus three-fourths of one percentage point for the most recently completed calendar year, whichever is less, unless a greater increase by a taxing district is approved by a vote of sixty percent or more of the qualified electors of the taxing district voting on the question. The limitation under this subsection does not apply:

1. To improvements made on the property which were not subject to assessment in the previous taxable year, in which case the true and full value of the property, without the improvements, from the previous taxable year is subject to the limitation under this section and the true and full value of the improvements may be added. Reconstructed property after a disaster or accidental damage is not an improvement under this subsection if the fair market value of the property as reconstructed is approximately equal to the fair market value of the property before the disaster or damage. Any construction, installation, or modification of property to make the property more accessible to a disabled person is not an improvement for purposes of this subsection. The portion of any construction, installation, or modification designed with the primary purpose to use solar, wind, or geothermal energy to provide heating or cooling or electrical or mechanical power for use on the property is not an improvement for purposes of this subsection.
2. If the classification of the property has changed from the previous taxable year.
3. If the property was fully or partially exempt from property taxes in the previous taxable year and the exemption has been reduced or no longer applies.

1           4.   If the property has been sold in an arm's-length transaction since its assessment in  
2               the previous taxable year.

3           5.   If the boundaries of the parcel have been expanded or the parcel has been divided  
4               since its assessment in the previous taxable year.

5           **SECTION 6. EFFECTIVE DATE.** Sections 1, 4, and 5 of this Act are effective for  
6 taxable years beginning after December 31, 2006. Section 3 of this Act is effective for taxable  
7 years beginning after December 31, 2009.