

Sixtieth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2208**

Introduced by

Senators Oehlke, Taylor

Representatives Boe, Brandenburg, S. Kelsh

1 A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of  
2 the North Dakota Century Code, relating to the farm home property tax exemption when a  
3 disaster declaration is in effect; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the  
6 North Dakota Century Code is amended and reenacted as follows:

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

13 (1) "Farm" means a single tract or contiguous tracts of agricultural land  
14 containing a minimum of ten acres [4.05 hectares] and for which the  
15 farmer, actually farming the land or engaged in the raising of livestock  
16 or other similar operations normally associated with farming and  
17 ranching, has received annual net income from farming activities which  
18 is fifty percent or more of annual net income, including net income of a  
19 spouse if married, during any of the three preceding calendar years.  
20 The fifty percent or more of net income requirement of this paragraph  
21 does not apply for any calendar year in which an executive order or  
22 proclamation of the governor is in effect designating the county in which  
23 the property is located in a state of disaster under chapter 37-17.1.

- 1                   (2) "Farmer" means an individual who normally devotes the major portion  
2 of time to the activities of producing products of the soil, poultry,  
3 livestock, or dairy farming in such products' unmanufactured state and  
4 has received annual net income from farming activities which is fifty  
5 percent or more of annual net income, including net income of a spouse  
6 if married, during any of the three preceding calendar years. The fifty  
7 percent or more of net income requirement of this paragraph does not  
8 apply for any calendar year in which an executive order or proclamation  
9 of the governor is in effect designating the county in which the property  
10 is located in a state of disaster under chapter 37-17.1. "Farmer"  
11 includes a "retired farmer" who is retired because of illness or age and  
12 who at the time of retirement owned and occupied as a farmer the  
13 residence in which the person lives and for which the exemption is  
14 claimed. "Farmer" includes a "beginning farmer" who has begun  
15 occupancy and operation of a farm within the three preceding calendar  
16 years; who normally devotes the major portion of time to the activities of  
17 producing products of the soil, poultry, livestock, or dairy farming in  
18 such products' unmanufactured state; and who does not have a history  
19 of farm income from farm operation for each of the three preceding  
20 calendar years.
- 21                   (3) "Net income from farming activities" means taxable income from those  
22 activities as computed for income tax purposes pursuant to chapter  
23 57-38 adjusted to include the following:
- 24                   (a) The difference between gross sales price less expenses of sale  
25 and the amount reported for sales of agricultural products for  
26 which the farmer reported a capital gain.
- 27                   (b) Interest expenses from farming activities which have been  
28 deducted in computing taxable income.
- 29                   (c) Depreciation expenses from farming activities which have been  
30 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.

8                   (5)   In addition to any of the provisions of this subsection or any other  
9                                provision of law, a residence situated on agricultural land is not exempt  
10                              for the year if it is occupied by an individual engaged in farming who  
11                              had nonfarm income, including that of a spouse if married, of more than  
12                              forty thousand dollars during each of the three preceding calendar  
13                              years. This paragraph does not apply to a retired farmer or a beginning  
14                              farmer as defined in paragraph 2.

15                  (6)   For purposes of this section, "livestock" includes "nontraditional  
16                              livestock" 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  
19                              for that residence if the farmer and the residence would qualify for  
20                              exemption under this section except for the use of the residence as a  
21                              bed and breakfast facility.

22                **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
23   December 31, 2006.