

Sixty-first  
Legislative Assembly  
of North Dakota

**SENATE BILL NO.**

Introduced by

Senator Nelson

1 A BILL for an Act to create and enact chapter 57-65 of the North Dakota Century Code, relating  
2 to refund of rent constituting property taxes for eligible individuals; and to provide an effective  
3 date.

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

5 **SECTION 1.** Chapter 57-65 of the North Dakota Century Code is created and enacted  
6 as follows:

7 **57-65-01. Definitions.** As used in this chapter:

- 8 1. a. "Claimant" means an individual, other than a dependent, as defined under  
9 sections 151 and 152 of the Internal Revenue Code, who filed a claim  
10 authorized by this chapter and who was a resident of this state during the  
11 calendar year for which the claim was filed.
- 12 b. The claimant must have resided in a rented or leased unit on which ad  
13 valorem taxes or payments made in lieu of ad valorem taxes are payable at  
14 some time during the calendar year covered by the claim.
- 15 c. "Claimant" does not include a resident of a nursing home, intermediate care  
16 facility, long-term residential facility, or a facility that accepts group residential  
17 housing payments whose rent constituting property taxes is paid pursuant to  
18 the supplemental security income program under title XVI of the Social  
19 Security Act, the medical assistance program pursuant to title XIX of the  
20 Social Security Act, or any other state or federal assistance program. If only a  
21 portion of the rent constituting property taxes is paid by these programs, the  
22 resident is a claimant for purposes of this chapter, but the refund calculated  
23 pursuant to section 57-65-02 must be multiplied by a fraction, the numerator  
24 of which is income, reduced by the total amount of income from the above

1 sources other than vendor payments under the medical assistance program  
2 or the general assistance medical care program, and the denominator of  
3 which is income plus vendor payments under the medical assistance program  
4 or the general assistance medical care program, to determine the allowable  
5 refund pursuant to this chapter.

6 d. Notwithstanding subdivision c, if the claimant was a resident of the nursing  
7 home, intermediate care facility, long-term residential facility, or facility for  
8 which the rent was paid for the claimant by the group residential housing  
9 program for only a portion of the calendar year covered by the claim, the  
10 claimant may compute rent constituting property taxes by disregarding the  
11 rent constituting property taxes from the nursing home or facility and use only  
12 that amount of rent constituting property taxes or property taxes payable  
13 relating to that portion of the year when the claimant was not in the facility.  
14 The claimant's household income is the income for the entire calendar year  
15 covered by the claim.

16 e. In the case of a claim for rent constituting property taxes of a part-year  
17 resident, the income and rental reflected in this computation must be only for  
18 the period of residency. Any rental expenses paid which may be reflected in  
19 arriving at federal adjusted gross income cannot be utilized for this  
20 computation. When two individuals of a household are able to meet the  
21 qualifications for a claimant, they may determine between them as to who  
22 shall be the claimant. If they are unable to agree, the matter must be referred  
23 to the commissioner whose decision is final.

24 f. If a homestead is occupied by two or more renters, who are not husband and  
25 wife, the rent must be deemed to be paid equally by each, and separate  
26 claims must be filed by each. The income of each must be considered to be  
27 that renter's household income for purposes of computing the amount of  
28 credit to be allowed.

29 2. "Commissioner" means the tax commissioner.

30 3. "Dependent" means any person who is considered a dependent under sections  
31 151 and 152 of the Internal Revenue Code.

- 1           4.   a.   "Gross rent" means rental paid for the right of occupancy, at arm's length, of a  
2                   homestead, exclusive of charges for any medical services furnished by the  
3                   landlord as a part of the rental agreement, whether or not expressly set out in  
4                   the rental agreement.
- 5           b.   The gross rent of a resident of a nursing home or intermediate care facility is  
6                   deemed to be three hundred fifty dollars per month. The gross rent of a  
7                   resident of an adult foster care home is deemed to be five hundred fifty dollars  
8                   per month. The commissioner shall adjust annually for inflation the gross rent  
9                   amounts stated in this subdivision. The adjustment must be made in  
10                  accordance with section 1(f) of the Internal Revenue Code, except that for  
11                  purposes of this subdivision the percentage increase must be determined  
12                  from the year ending June 30, 2009, to the year ending on June thirtieth of the  
13                  year in which the rent is paid. The commissioner shall round the gross rents  
14                  to the nearest ten dollar amount. If the amount ends in five dollars, the  
15                  commissioner shall round it up to the next ten dollar amount.
- 16           c.   If the landlord and tenant have not dealt with each other at arm's length and  
17                  the commissioner determines that the gross rent charged was excessive, the  
18                  commissioner may adjust the gross rent to a reasonable amount for purposes  
19                  of this chapter.
- 20           5.   "Homestead" means the dwelling occupied as the claimant's principal residence.  
21           6.   "Household" means a claimant and an individual related to the claimant as  
22                  husband or wife who are domiciled in the same homestead.
- 23           7.   "Household income" means all income received by all persons of a household in a  
24                  calendar year while members of the household, other than income of a dependent  
25                  or roomer or boarder on contract.
- 26           8.   "Income" means federal taxable income for the taxable year for which the refund  
27                  claim is filed.
- 28           9.   "Property taxes payable" means the property tax exclusive of special assessments,  
29                  penalties, and interest payable on the claimant's homestead.
- 30           10. "Rent constituting property taxes" means fifteen percent of the gross rent actually  
31                  paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in

1           any calendar year by a claimant for the right of occupancy of the claimant's  
2           homestead in this state in the calendar year, and which rent constitutes the basis in  
3           the succeeding calendar year of a claim for relief under this chapter by the  
4           claimant.

5           **57-65-02. Refund allowable.**

6           1. A refund is allowed each claimant in the amount that rent constituting property  
7           taxes exceeds the percentage of household income of the claimant specified in  
8           subsection 2 in the taxable year for which the rent was paid. If the amount of rent  
9           constituting property taxes is equal to or less than the percentage of the gross  
10           household income of the claimant specified in subsection 2 in the taxable year for  
11           which the rent was paid or if the gross household income of the claimant exceeds  
12           the maximum amount determined under subsection 2, the claimant is not eligible  
13           for a refund under this section.

14          2. Percentage of gross household income is as follows:

- 15           a. One and one-half percent for gross household income less than twenty  
16           thousand dollars.  
17           b. Two percent for gross household income of twenty thousand dollars or more  
18           but less than thirty thousand dollars.  
19           c. Two and one-half percent for gross household income of thirty thousand  
20           dollars or more but less than forty thousand dollars.  
21           d. Three percent for gross household income of forty thousand dollars or more  
22           but not exceeding fifty thousand dollars.

23          3. If the rent constituting property taxes for a claimant exceeds the percentage  
24           determined for the claimant under subsection 1 times the gross household income  
25           of the claimant, the claimant is entitled to a refund equal to the difference but not in  
26           an amount exceeding one thousand dollars.

27          4. The commissioner shall construct and make available to taxpayers a  
28           comprehensive table showing the refund allowed at various levels of income and  
29           rent.

30           **57-65-03. Gross household income.** If an individual occupies a homestead with  
31           another individual or individuals not related to the individual as husband or wife, excluding

1 dependents and roomers or boarders on contract, the gross household income of the claimant  
2 or claimants for the purpose of computing the refund allowed by section 57-65-02 must include  
3 the total income received by the other individuals residing in the homestead. For purposes of  
4 this section, "dependent" includes a parent of the claimant or spouse who lives in the claimant's  
5 homestead.

6 **57-65-04. One claimant per household.** Only one claimant per household per year is  
7 entitled to relief under this chapter. Payment of the claim for relief may be made payable to the  
8 husband and wife as one claimant. The commissioner, upon written request, may issue  
9 separate checks to the husband or wife for one-half of the relief provided the original check has  
10 not been issued or has been returned. Individuals related as husband and wife who were  
11 married during the year may elect to file a joint claim which shall include each spouse's income,  
12 rent constituting property taxes, and property tax payable. Husbands and wives who were  
13 married for the entire year and were domiciled in the same household for the entire year must  
14 file a joint claim. The maximum dollar amount allowable for a joint claim may not exceed the  
15 amount that one person could receive.

16 **57-65-05. Proof of claim.** A claim for refund under this chapter must be filed by June  
17 thirtieth of the year following the taxable year to which the claim applies and must be made on a  
18 for prescribed by the commissioner. Every claimant shall supply to the commissioner, in  
19 support of the claim, proof of eligibility under this chapter, including a certificate of rent paid  
20 from the owner or manager of the property rented or an affidavit of rent paid verified by the  
21 claimant, name and address of the owner or managing agent of the property rented, and any  
22 changes in homestead, household membership, household income, and size and nature of  
23 property claimed as a homestead and any other information the commissioner requires.

24 **57-65-06. Claim applied against outstanding liability.** The amount of any claim  
25 otherwise payable under this chapter may be applied by the commissioner against any  
26 delinquent tax liability of any member of the household. If there are two members of the  
27 household, the commissioner may apply only one-half of a refund to the separate liability of  
28 either member of the household.

29 **57-65-07. Rights to file claim - Right to receive credit.**

- 30 1. If an individual entitled to relief under this chapter dies before receiving relief, the  
31 surviving spouse or dependent of the individual is entitled to file the claim and

1 receive relief. If there is no surviving spouse or dependent, the right to the credit  
2 lapses.

3 2. If the commissioner cannot locate the claimant within two years from the date the  
4 original warrant was issued, or if a claimant to whom a warrant has been issued  
5 does not cash that warrant within two years from the date the warrant was issued,  
6 the right to the credit lapses and the warrant must be deposited in the general fund.

7 **57-65-08. Owner or managing agent to furnish rent certificate.** The owner or  
8 managing agent of any property for which rent is paid for occupancy as a homestead must  
9 furnish a certificate of rent paid to an individual who is a renter on December thirty-first, in the  
10 form prescribed by the commissioner. If the renter moves on or before December thirty-first,  
11 the owner or managing agent may give the certificate to the renter at the time of moving or mail  
12 the certificate to the forwarding address if an address has been provided by the renter. The  
13 certificate must be made available to the renter before February first of the year following the  
14 year in which the rent was paid. The owner or managing agent must retain a duplicate of each  
15 certificate or an equivalent record showing the same information for a period of three years.  
16 The duplicate or other record must be made available to the commissioner upon request.

17 **57-65-09. Verification of social security numbers.**

- 18 1. Annually, the commissioner shall furnish a list to the county assessor containing  
19 the names and social security numbers of persons who have applied for both  
20 homestead credit under section 57-02-08.1 and a property tax refund as renter  
21 under this chapter.
- 22 2. Within ninety days of the notification, the county assessor shall investigate to  
23 determine if the homestead classification was improperly claimed. If the property  
24 owner does not qualify, the county assessor shall notify the county auditor who will  
25 determine the amount of homestead benefits that has been improperly allowed.

26 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
27 December 31, 2008.