

April 6, 2009

PROPOSED AMENDMENTS TO REENGROSSED HOUSE BILL NO. 1324

In lieu of the amendments to Reengrossed House Bill No. 1324 as printed on pages 810-832 and pages _____ of the Senate Journal, Reengrossed House Bill No. 1324 is amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to amend and reenact sections 57-38-01.29 and 57-38-01.30 of the North Dakota Century Code, relating to a homestead income tax credit and a commercial property income tax credit; to provide for a transfer; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 57-38-01.29 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.29. Homestead income tax credit - Rules.

1. In addition to any other credit or deduction allowed by law for a homeowner, an individual is entitled to a credit against the tax imposed under section 57-38-29 or 57-38-30.3 for taxable years ~~2007~~ 2009 and ~~2008~~ 2010 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against the individual's homestead in this state. For purposes of this section, "property taxes" does not include any special assessments.
2. For purposes of this section, "homestead" means the dwelling occupied by the individual as the individual's primary residence and, if that residence is in this state, any residential or agricultural property owned by that individual in this state.
3.
 - a. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or five hundred dollars for a single individual or married individuals filing separate returns.
 - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
4. The amount of the credit under subsection 3 in excess of the taxpayer's tax liability may be carried forward for up to five years or the taxpayer may request that the tax commissioner issue the taxpayer a certificate in the amount of the excess which may be used by the taxpayer against property or mobile home tax liability of the taxpayer during the ensuing taxable year by delivering the certificate to the county treasurer in which the taxable property or mobile home is subject to taxes. The county treasurer shall forward certificates redeemed in payment of a tax obligation under this section to the tax commissioner, who shall issue payment to the county in the amount of the certificates.
5. Persons owning property together are entitled to only one credit for a parcel of property between or among them under this section. Persons owning property together are each entitled to a percentage of the credit for

a single individual under this section equal to their ownership interests in the property.

6. This section is not subject to subsection 1 or 2 of section 57-38-45.
7. The tax commissioner shall adopt rules to provide for filing and verification of claims of credits under this section and for issuance and redemption of tax certificates under subsection 4.
8.
 - a. ~~If, on November 15, 2008, the total amount of tax credits claimed under this section exceeds forty seven million dollars, the tax commissioner shall reduce the rate of the credit under subsection 1. The adjusted credit rate must be calculated by the tax commissioner as follows:~~
 - (1) ~~The tax commissioner shall determine the percentage by which the credits claimed under this section exceeds forty seven million dollars.~~
 - (2) ~~The difference between the number one and the amount calculated under paragraph 1 multiplied by ten percent is the adjusted credit rate for the 2008 taxable year.~~
 - b. ~~The tax commissioner shall report any adjustment under this subsection to the budget section of the legislative council for review.~~

A partnership, subchapter S corporation, limited partnership, or limited liability company, or any other entity treated as a passthrough entity for federal income tax purposes must be considered to be the taxpayer for purposes of this section. The amount of the credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

SECTION 2. AMENDMENT. Section 57-38-01.30 of the North Dakota Century Code is amended and reenacted as follows:

57-38-01.30. Commercial property income tax credit - Rules.

1. In addition to any other credit or deduction allowed by law for a property owner, an individual or corporation is entitled to a credit against the tax imposed under section 57-38-29, 57-38-30, or 57-38-30.3 for taxable years ~~2007~~ 2009 and ~~2008~~ 2010 in the amount of ten percent of property taxes or mobile home taxes that became due during the income tax taxable year and are paid which were levied against commercial property in this state. For purposes of this section, "property taxes" does not include any special assessments.
 - a. The amount of the credit under this section may not exceed one thousand dollars for any taxpayer.
 - b. The amount of the credit under this section may not exceed the taxpayer's tax liability under this chapter.
 - c. The amount of the credit under this section may not exceed one thousand dollars for married persons filing a joint return or five hundred dollars for a single individual or married individual filing separate returns.

2. The amount of the credit under subdivisions a and c of subsection 1 in excess of the taxpayer's tax liability may be carried forward for up to five years.
3. Persons owning property together are entitled to only one credit for property between or among them under this section. Persons owning property together are each entitled to a percentage of the credit equal to their ownership interests in the property. Married individuals owning property together are each entitled to a percentage of the credit for a single individual under this section equal to their ownership interests in the property.
4. This section is not subject to subsection 1 or 2 of section 57-38-45.
5. A passthrough entity entitled to the credit under this section shall allocate the amount of the credit allowed with respect to the entity's property at the passthrough entity level. The amount of the total credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.
6. The tax commissioner shall adopt rules to provide for filing and verification of claims under this section.
- ~~7. a. If, on November 15, 2008, the total amount of credits claimed under this section exceeds seven million dollars, the tax commissioner shall reduce the cap that applies to the credit under subsection 1. The adjusted credit cap must be calculated by the tax commissioner as follows:
 - ~~(1) The tax commissioner shall determine the percentage by which the credits claimed under this section exceeds seven million dollars.~~
 - ~~(2) The difference between the number one and the amount calculated under paragraph 1 multiplied by the amount of the cap is the adjusted credit cap for the 2008 taxable year.~~~~
~~b. The tax commissioner shall report any proposed adjustment under this subsection to the budget section of the legislative council for approval.~~

SECTION 3. TRANSFER. During the biennium beginning July 1, 2009, and ending June 30, 2011, the state treasurer shall transfer \$115,000,000 from the permanent oil tax trust fund to the general fund.

SECTION 4. EFFECTIVE DATE. Sections 1 and 2 of this Act are effective for taxable years beginning after December 31, 2008."

Renumber accordingly