

Sixty-first  
Legislative Assembly  
of North Dakota

Introduced by

1 A BILL for an Act to amend and reenact sections 57-02-08.1, 57-02-08.2, and 57-02-08.3 of the  
2 North Dakota Century Code, relating to homestead credit availability and administration; and to  
3 provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **57-02-08.1. Homestead credit.**

- 8 1. a. Any person sixty-five years of age or older or permanently and totally  
9 disabled, in the year in which the tax was levied, with an income that does not  
10 exceed the limitations of subdivision c is entitled to receive a reduction in the  
11 assessment on the taxable valuation on the person's homestead. An  
12 exemption under this subsection applies regardless of whether the person is  
13 the head of a family.
- 14 b. The exemption under this subsection continues to apply if the person does not  
15 reside in the homestead and the person's absence is due to confinement in a  
16 nursing home, hospital, or other care facility, for as long as the portion of the  
17 homestead previously occupied by the person is not rented to another person.
- 18 c. The exemption must be determined according to the following schedule:
- 19 (1) If the person's income is not in excess of ten thousand dollars, a  
20 reduction of one hundred percent of the taxable valuation of the  
21 person's homestead up to a maximum reduction of three thousand  
22 three hundred seventy-five dollars of taxable valuation.
- 23 (2) If the person's income is in excess of ten thousand dollars and not in  
24 excess of twelve thousand dollars, a reduction of eighty percent of the

- 1 taxable valuation of the person's homestead up to a maximum  
2 reduction of two thousand seven hundred dollars of taxable valuation.
- 3 (3) If the person's income is in excess of twelve thousand dollars and not in  
4 excess of fourteen thousand dollars, a reduction of sixty percent of the  
5 taxable valuation of the person's homestead up to a maximum  
6 reduction of two thousand twenty-five dollars of taxable valuation.
- 7 (4) If the person's income is in excess of fourteen thousand dollars and not  
8 in excess of sixteen thousand dollars, a reduction of forty percent of the  
9 taxable valuation of the person's homestead up to a maximum  
10 reduction of one thousand three hundred fifty dollars of taxable  
11 valuation.
- 12 (5) If the person's income is in excess of sixteen thousand dollars and not  
13 in excess of seventeen thousand five hundred dollars, a reduction of  
14 twenty percent of the taxable valuation of the person's homestead up to  
15 a maximum reduction of six hundred seventy-five dollars of taxable  
16 valuation.
- 17 d. Persons residing together, as spouses or when one or more is a dependent of  
18 another, are entitled to only one exemption between or among them under  
19 this subsection. Persons residing together, who are not spouses or  
20 dependents, who are coowners of the property are each entitled to a  
21 percentage of a full exemption under this subsection equal to their ownership  
22 interests in the property.
- 23 e. This subsection does not reduce the liability of any person for special  
24 assessments levied upon any property.
- 25 f. Any person claiming the exemption under this subsection shall sign a verified  
26 statement of facts establishing the person's eligibility.
- 27 g. A person is ineligible for the exemption under this subsection if the value of  
28 the assets of the person and any dependent residing with the person,  
29 excluding the unencumbered value of the person's residence that the person  
30 claims as a homestead, exceeds fifty thousand dollars, including the value of  
31 any assets divested within the last three years. For purposes of this

- 1 subdivision, the unencumbered valuation of the homestead is limited to one  
2 hundred thousand dollars.
- 3 h. The assessor shall attach the statement filed under subdivision f to the  
4 assessment sheet and shall show the reduction on the assessment sheet.
- 5 i. An exemption under this subsection terminates at the end of the taxable year  
6 of the death of the applicant.
- 7 2. a. Any person who would qualify for an exemption under subdivisions a and c of  
8 subsection 1 except for the fact that the person rents living quarters is eligible  
9 for refund of a portion of the person's annual rent deemed by this subsection  
10 to constitute the payment of property tax.
- 11 b. For the purpose of this subsection, twenty percent of the annual rent,  
12 exclusive of any federal rent subsidy and of charges for any utilities, services,  
13 furniture, furnishings, or personal property appliances furnished by the  
14 landlord as part of the rental agreement, whether expressly set out in the  
15 rental agreement, must be considered as payment made for property tax.  
16 When any part of the twenty percent of the annual rent exceeds four percent  
17 of the annual income of a qualified applicant, the applicant is entitled to  
18 receive a refund from the state general fund for that amount in excess of four  
19 percent of the person's annual income, but the refund may not be in excess of  
20 two hundred forty dollars. If the calculation for the refund is less than five  
21 dollars, a minimum of five dollars must be sent to the qualifying applicant.
- 22 c. Persons who reside together, as spouses or when one or more is a  
23 dependent of another, are entitled to only one refund between or among them  
24 under this subsection. Persons who reside together in a rental unit, who are  
25 not spouses or dependents, are each entitled to apply for a refund based on  
26 the rent paid by that person.
- 27 d. Each application for refund under this subsection must be made to the tax  
28 commissioner before the first day of June of each year by the person claiming  
29 the refund. The tax commissioner may grant an extension of time to file an  
30 application for good cause. The tax commissioner shall issue refunds to  
31 applicants.

1           e.    This subsection does not apply to rents or fees paid by a person for any living  
2               quarters, including a nursing home licensed pursuant to section 23-16-01, if  
3               those living quarters are exempt from property taxation and the owner is not  
4               making a payment in lieu of property taxes.

5           f.    A person may not receive a refund under this section for a taxable year in  
6               which that person received an exemption under subsection 1.

7           3.    All forms necessary to effectuate this section must be prescribed, designed, and  
8               made available by the tax commissioner. The county directors of tax equalization  
9               shall make these forms available upon request.

10          4.    A person whose homestead is a farm structure exempt from taxation under  
11               subsection 15 of section 57-02-08 may not receive any property tax credit under  
12               this section.

13          5.    For the purposes of this section:

14           a.    "Dependent" has the same meaning it has for federal income tax purposes.

15           b.    "Homestead" has the same meaning as provided in section 47-18-01.

16           c.    "Income" means income for the most recent complete taxable year from all  
17               sources, including the income of any dependent of the applicant, and  
18               including any county, state, or federal public assistance benefits, social  
19               security, or other retirement benefits, but excluding any federal rent subsidy,  
20               any amount excluded from income by federal or state law, and medical  
21               expenses paid during the year by the applicant or the applicant's dependent  
22               which is not compensated by insurance or other means.

23           d.    "Medical expenses" has the same meaning as it has for state income tax  
24               purposes, except that for transportation for medical care the person may use  
25               the standard mileage rate allowed for state officer and employee use of a  
26               motor vehicle under section 54-06-09.

27           e.    "Permanently and totally disabled" means the inability to engage in any  
28               substantial gainful activity by reason of any medically determinable physical or  
29               mental impairment which can be expected to result in death or has lasted or  
30               can be expected to last for a continuous period of not less than twelve months

as established by a certificate from a licensed physician or a written  
determination of disability from the social security administration.

**SECTION 2. AMENDMENT.** Section 57-02-08.2 of the North Dakota Century Code is  
amended and reenacted as follows:

**57-02-08.2. Homestead credit - Certification.**

1. Prior to the first of March of each year, the county auditor of each county shall  
certify to the state tax commissioner on forms prescribed by the state tax  
commissioner the name and address of each person for whom the homestead  
credit provided for in section 57-02-08.1 was allowed for the preceding year, the  
amount of exemption allowed, the total of the tax mill rates of all taxing districts,  
exclusive of any state mill rates, that was applied to other real estate in such taxing  
districts for the preceding year, and such other information as may be prescribed  
by the tax commissioner.
2. The tax commissioner shall audit such certifications, make such corrections as  
may be required, and certify to the state treasurer for payment to each county on or  
before the first of June of each year, the sum of the amounts computed by  
multiplying the exemption allowed for each such homestead in the county for the  
preceding year by the total of the tax mill rates, exclusive of any state mill rates,  
that was applied to other real estate in such taxing districts for that year.
3. The county treasurer upon receipt of the payment from the state treasurer shall  
apportion and distribute it without delay to the county and to the local taxing  
districts of the county on the basis on which the general real estate tax for the  
preceding year is apportioned and distributed.
4. The tax commissioner shall annually certify to the state treasurer the amount  
computed by multiplying the exemption allowed for all homesteads in the state for  
the preceding year by one mill for deposit into the state medical center fund.
5. Supplemental certifications by the county auditor and by the state tax  
commissioner and supplemental payments by the state treasurer may be made  
after the dates prescribed in this section to make such corrections as may be  
necessary because of errors or because of approval of any application for

abatement filed by a person because the exemption provided for in section 57-02-08.1 was not allowed in whole or in part.

**SECTION 3. AMENDMENT.** Section 57-02-08.3 of the North Dakota Century Code is amended and reenacted as follows:

**57-02-08.3. Homestead credit for special assessments - Certification - Lien.**

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a taxing district which becomes due for the same year. The total amount of credits allowed for any one property must not exceed six thousand dollars excluding any interest charged by the body levying the special assessment. This credit may be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim must be filed with the county auditor on or before February first of the year in which the special assessment installment thereof becomes payable.

2. a. By March first of each year, the county auditor of each county shall certify to the state tax commissioner, on forms prescribed by the tax commissioner, the following information:

- (1) The name and address of each person for whom the special assessment credit provided for in subsection 1 was allowed for the preceding year.
- (2) The amount of credit allowed for the special assessment installment thereof due for the preceding year.
- (3) The total amount of the special assessment credits due in each special assessment district.
- (4) Other information that the tax commissioner requires.

b. The tax commissioner shall audit the certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county by June first of each year the sum of the amounts computed by adding the credits allowed for portions of special assessments which were due for each

homestead in the county for the preceding year. No more than the portion of special assessments due for the preceding year shall be allowed as a credit for any homestead in any year.

c. The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute the payment to each special assessment district in the county according to the total credits allowed for each respective special assessment district.

d. Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed herein to make such corrections as may be necessary because of errors therein.

3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from June first of the year for which the special assessment installment for which a credit is taken becomes payable, creates a lien in favor of the state against the property upon which the special assessment credit is allowed and remains a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.

b. (1) Except as otherwise provided in this subdivision, a transfer of title to the homestead because of sale, death, or otherwise may not be made without the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the recorder.

(2) The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under this section, except for a transfer between spouses because of the death of one of them as provided in paragraph 3.

1                   (3)   When a transfer occurs between spouses because of the death of one  
2                               of them, the lien allowed by this section need not be satisfied until the  
3                               property is again transferred.

4                   c.   This lien has precedence over all other liens except general tax liens and prior  
5                               special assessment liens and shall not be divested at any judicial sale. A  
6                               mistake in the description of the property covered by this lien or in the name  
7                               of the owner of the property does not defeat the lien if the property can be  
8                               identified by the description in the special assessment list.

9                   **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
10   December 31, 2008.