

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Cook

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 limitation of the amount of the property tax
3 exemption for a farm residence; 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 (2) "Farmer" means an individual who normally devotes the major portion
21 of time to the activities of producing products of the soil, poultry,
22 livestock, or dairy farming in such products' unmanufactured state and
23 has received annual net income from farming activities which is fifty
24 percent or more of annual net income, including net income of a spouse

1 if married, during any of the three preceding calendar years. "Farmer"
2 includes a "retired farmer" who is retired because of illness or age and
3 who at the time of retirement owned and occupied as a farmer the
4 residence in which the person lives and for which the exemption is
5 claimed. "Farmer" includes a "beginning farmer" who has begun
6 occupancy and operation of a farm within the three preceding calendar
7 years; who normally devotes the major portion of time to the activities of
8 producing products of the soil, poultry, livestock, or dairy farming in
9 such products' unmanufactured state; and who does not have a history
10 of farm income from farm operation for each of the three preceding
11 calendar years.

12 (3) "Net income from farming activities" means taxable income from those
13 activities as computed for income tax purposes pursuant to chapter
14 57-38 adjusted to include the following:

15 (a) The difference between gross sales price less expenses of sale
16 and the amount reported for sales of agricultural products for
17 which the farmer reported a capital gain.

18 (b) Interest expenses from farming activities which have been
19 deducted in computing taxable income.

20 (c) Depreciation expenses from farming activities which have been
21 deducted in computing taxable income.

22 (4) When exemption is claimed under this subdivision for a residence, the
23 assessor may require that the occupant of the residence who it is
24 claimed is a farmer provide to the assessor for the year or years
25 specified by the assessor a written statement in which it is stated that
26 fifty percent or more of the net income of that occupant, and spouse if
27 married and both spouses occupy the residence, was, or was not, net
28 income from farming activities.

29 (5) In addition to any of the provisions of this subsection or any other
30 provision of law, a residence situated on agricultural land is not exempt
31 for the year if it is occupied by an individual engaged in farming who

1 had nonfarm income, including that of a spouse if married, of more than
2 forty thousand dollars during each of the three preceding calendar
3 years. This paragraph does not apply to a retired farmer or a beginning
4 farmer as defined in paragraph 2.

5 (6) For purposes of this section, "livestock" includes "nontraditional
6 livestock" as defined in section 36-01-00.1.

7 (7) A farmer operating a bed and breakfast facility in the farm residence
8 occupied by that farmer is entitled to the exemption under this section
9 for that residence if the farmer and the residence would qualify for
10 exemption under this section except for the use of the residence as a
11 bed and breakfast facility.

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