

Sixty-first  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO.**

Introduced by

Representatives Kretschmar, Brandenburg

Senator Erbele

1 A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota  
2 Century Code, relating to the farm residence property tax exemption; and to provide an  
3 effective date.

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

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

- 7 15. a. All farm structures and improvements located on agricultural lands.
- 8 (1) This subsection must be construed to exempt farm buildings and  
9 improvements only, and may not be construed to exempt from taxation  
10 industrial plants, or structures of any kind not used or intended for use  
11 as a part of a farm plant, or as a farm residence.
- 12 (2) "Farm buildings and improvements" includes a greenhouse or other  
13 building used primarily for the growing of horticultural or nursery  
14 products from seed, cuttings, or roots, if not used on more than an  
15 occasional basis for a showroom for the retail sale of horticultural or  
16 nursery products. A greenhouse or building used primarily for display  
17 and sale of grown horticultural or nursery products is not a farm building  
18 or improvement.
- 19 (3) Any structure or improvement used primarily in connection with a retail  
20 or wholesale business other than farming, any structure or improvement  
21 located on platted land within the corporate limits of a city, or any  
22 structure or improvement located on railroad operating property subject  
23 to assessment under chapter 57-05 is not exempt under this  
24 subsection. For purposes of this paragraph, "business other than

- 1 farming" includes processing to produce a value-added physical or  
2 chemical change in an agricultural commodity beyond the ordinary  
3 handling of that commodity by a farmer prior to sale.
- 4 (4) The following factors may not be considered in application of the  
5 exemption under this subsection:
- 6 (a) Whether the farmer grows or purchases feed for animals raised  
7 on the farm.
- 8 (b) Whether animals being raised on the farm are owned by the  
9 farmer.
- 10 (c) Whether the farm's replacement animals are produced on the  
11 farm.
- 12 (d) Whether the farmer is engaged in contract feeding of animals on  
13 the farm.
- 14 b. It is the intent of the legislative assembly that this exemption as applied to a  
15 residence must be strictly construed and interpreted to exempt only a  
16 residence that is situated on a farm and which is occupied or used by a  
17 person who is a farmer and that the exemption may not be applied to property  
18 which is occupied or used by a person who is not a farmer. For purposes of  
19 this subdivision:
- 20 (1) "Farm" means a single tract or contiguous tracts of agricultural land  
21 containing a minimum of ten acres [4.05 hectares] and for which the  
22 farmer, actually farming the land or engaged in the raising of livestock  
23 or other similar operations normally associated with farming and  
24 ranching, has received annual net income from farming activities which  
25 is fifty percent or more of annual net income, including net income of a  
26 spouse if married, during any of the three preceding calendar years.
- 27 (2) "Farmer" means an individual who normally devotes the major portion  
28 of time to the activities of producing products of the soil, poultry,  
29 livestock, or dairy farming in such products' unmanufactured state and  
30 has received annual net income from farming activities which is fifty  
31 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 (8) A farmer, and spouse if married, otherwise eligible for the exemption  
13 under this subdivision but whose annual net income from farming  
14 activities is twenty-five percent or more but less than fifty percent of the  
15 farmer's and spouse's annual net income is entitled to a partial  
16 exemption of the farm residence. A farmer and spouse eligible for the  
17 exemption under this paragraph are entitled to a reduction of a  
18 percentage of the taxable valuation of the residence equal to the  
19 percentage of their annual net income from farming activities.

20 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
21 December 31, 2004.