

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1235

Introduced by

Representative Glassheim

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 as
6 follows:

7 **57-65-01. Definitions.**

8 As used in this chapter:

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

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

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

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

23 2. "Commissioner" means the tax commissioner.

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

26 4. a. "Gross rent" means rental paid for the right of occupancy, at arm's length, of a
27 homestead, exclusive of charges for any medical services furnished by the
28 landlord as a part of the rental agreement, whether or not expressly set out in the
29 rental agreement.

30 b. For an individual not receiving the benefit of any payments described in
31 subdivision c of subsection 1, the gross rent of a resident of a nursing home or

1 intermediate care facility is deemed to be three hundred fifty dollars per month
2 and the gross rent of a resident of an adult foster care home is deemed to be five
3 hundred fifty dollars per month. The commissioner shall adjust annually for
4 inflation the gross rent amounts stated in this subdivision. The adjustment must
5 be made in accordance with section 1(f) of the Internal Revenue Code, except
6 that for purposes of this subdivision the percentage increase must be determined
7 from the year ending June 30, 2009, to the year ending on June thirtieth of the
8 year in which the rent is paid. The commissioner shall round the gross rents to
9 the nearest ten dollar amount. If the amount ends in five dollars, the
10 commissioner shall round it up to the next ten dollar amount.

11 c. If the landlord and tenant have not dealt with each other at arm's length and the
12 commissioner determines that the gross rent charged was excessive, the
13 commissioner may adjust the gross rent to a reasonable amount for purposes of
14 this chapter.

15 5. "Homestead" means the dwelling occupied as the claimant's principal residence.

16 6. "Household" means a claimant and an individual related to the claimant as husband or
17 wife who are domiciled in the same homestead.

18 7. "Household income" means all income received by all persons of a household in a
19 calendar year while members of the household, other than income of a dependent or
20 roomer or boarder on contract.

21 8. "Income" means federal taxable income for the taxable year for which the refund claim
22 is filed.

23 9. "Property taxes payable" means the property tax exclusive of special assessments,
24 penalties, and interest payable on the claimant's homestead.

25 10. "Rent constituting property taxes" means ten percent of the gross rent actually paid in
26 cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any
27 calendar year by a claimant for the right of occupancy of the claimant's homestead in
28 this state in the calendar year, and which rent constitutes the basis in the succeeding
29 calendar year of a claim for relief under this chapter by the claimant.

57-65-02. Refund allowable.

1. A refund is allowed each claimant in the amount that rent constituting property taxes exceeds the percentage of household income of the claimant specified in subsection 2 in the taxable year for which the rent was paid. If the amount of rent constituting property taxes is equal to or less than the percentage of the gross household income of the claimant specified in subsection 2 in the taxable year for which the rent was paid or if the gross household income of the claimant exceeds the maximum amount determined under subsection 2, the claimant is not eligible for a refund under this section.
2. Percentage of gross household income is as follows:
 - a. One and one-half percent for gross household income less than twenty thousand dollars.
 - b. Two percent for gross household income of twenty thousand dollars or more but less than thirty thousand dollars.
 - c. Two and one-half percent for gross household income of thirty thousand dollars or more but less than forty thousand dollars.
 - d. Three percent for gross household income of forty thousand dollars or more but not exceeding fifty thousand dollars.
3. If the rent constituting property taxes for a claimant exceeds the percentage determined for the claimant under subsection 1 times the gross household income of the claimant, the claimant is entitled to a refund equal to the difference but not in an amount exceeding two hundred dollars.
4. The commissioner shall construct and make available to taxpayers a comprehensive table showing the refund allowed at various levels of income and rent.

57-65-03. Gross household income.

If an individual occupies a homestead with another individual or individuals not related to the individual as husband or wife, excluding dependents and roomers or boarders on contract, the gross household income of the claimant or claimants for the purpose of computing the fund allowed by section 57-65-02 must include the total income received by the other individuals residing in the homestead. For purposes of this section, "dependent" includes a parent of the claimant or spouse who lives in the claimant's homestead.

1 **57-65-04. One claimant per household.**

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

11 **57-65-05. Proof of claim.**

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

20 **57-65-06. Claim applied against outstanding liability.**

21 The amount of any claim otherwise payable under this chapter may be applied by the
22 commissioner against any delinquent tax liability of any member of the household. If there are
23 two or more members of the household, the commissioner may apply only the delinquent
24 taxpayer's share of a refund to the delinquent tax liability of that taxpayer.

25 **57-65-07. Rights to file claim - Right to receive credit.**

- 26 1. If an individual entitled to relief under this chapter dies before receiving relief, the
27 surviving spouse or dependent of the individual is entitled to file the claim and receive
28 relief. If there is no surviving spouse or dependent, the right to the credit lapses.
29 2. If the commissioner cannot locate the claimant within two years from the date the
30 original warrant was issued, or if a claimant to whom a warrant has been issued does

1 not cash that warrant within two years from the date the warrant was issued, the right
2 to the credit lapses and the warrant must be deposited in the general fund.

3 **57-65-08. Owner or managing agent to furnish rent certificate.**

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

14 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
15 December 31, 2010.