

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1144

Introduced by

Representatives Drovdal, Hatlestad

Senators Andrist, Lyson

1 A BILL for an Act to create and enact chapter 57-55.1 of the North Dakota Century Code,
2 relating to a privilege tax that may be imposed by cities or counties on lodging units that are not
3 taxable as real property or mobile homes; to provide a penalty; and to provide an effective date.

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

5 **SECTION 1.** Chapter 57-55.1 of the North Dakota Century Code is created and enacted as
6 follows:

7 **57-55.1-01. Definition.**

8 For the purposes of this chapter, "lodging unit" means a structure, either single or
9 multisectional, which is not taxable as real property or a mobile home, ordinarily designed for
10 human living quarters, either on a temporary or permanent basis, owned or used as a residence
11 of the owner or occupant, which is attached to utility services. For purposes of this chapter,
12 "utility services" means services purchased by the owner or occupant from a utility company
13 under the jurisdiction of the public service commission, a rural electric cooperative, or a political
14 subdivision of the state. A structure or group of structures that are connected, physically or by
15 common ownership, may be assessed and taxed as a single lodging unit under this chapter.

16 **57-55.1-02. Privilege taxes and tax permits for lodging units.**

- 17 1. The governing body of the city, for lodging units within city limits, or the governing
18 body of the county, for lodging units outside city limits, may impose a privilege tax on
19 lodging units as provided in this chapter.
- 20 2. The owner of each lodging unit is subject to privilege taxes as determined under this
21 chapter and shall file an application for a lodging unit tax permit with the director of tax
22 equalization in the county in which the lodging unit is located within twenty days after
23 the privilege tax under this chapter is imposed or within ten days after the lodging unit
24 is acquired or first brought into the city or county imposing the tax, whichever occurs

1 later. Application must be made on forms approved by the tax commissioner and
2 furnished by the county director of tax equalization and must contain the necessary
3 information to carry out the provisions of this chapter. A lodging unit tax permit may not
4 be issued unless the owner pays the tax and any penalties in full to the county
5 treasurer. Upon payment of the tax, a lodging unit tax permit must be issued to the
6 owner of the lodging unit. The tax permit is valid throughout the state for the lodging
7 unit during the period for which it was issued.

8 **57-55.1-03. When taxes become due and delinquent - Penalty.**

- 9 1. a. The privilege tax imposed under this chapter is due and payable on January
10 tenth of each year or ten days after the lodging unit is purchased or first moved
11 into, or first becomes taxable in, the city or county imposing the tax. If the tax due
12 for the entire year is paid in full by February fifteenth, the county treasurer shall
13 allow a five percent discount.
- 14 b. If the tax imposed by this chapter is paid in full within thirty days after the lodging
15 unit is acquired or first moved into, or first becomes taxable in, the city or county
16 imposing the tax, the county treasurer shall allow a five percent discount.
17 However, if the tax is not paid within forty days, the tax is subject to a penalty and
18 interest. The penalty is one percent of the tax. The interest is one-half percent of
19 the tax for each full and fractional month of delay.
- 20 2. Except as provided in subdivision b of subsection 1, the tax imposed by this chapter
21 may be paid in two equal installments if the amount of the tax due is forty dollars or
22 more. The first installment is due on January tenth and becomes delinquent on March
23 first and is then subject to a penalty of two percent, and on April first an additional
24 penalty of two percent, and on May first an additional penalty of two percent, and on
25 June first an additional penalty of two percent. The second installment is due June first
26 and is delinquent on July first and is then subject to a penalty of two percent, and on
27 August first an additional penalty of two percent, and on September first an additional
28 penalty of two percent, and on October first an additional penalty of two percent. If any
29 tax remains due after January first of the next year, interest is due at the monthly rate
30 of one-half percent of the tax due for each month or fraction of a month until the tax
31 and penalties have been paid in full.

57-55.1-04. Lodging unit privilege taxes - How determined - Disbursement.

The director of tax equalization shall determine the taxable valuation for each lodging unit based upon its true and full and assessed valuation as determined under chapter 57-02 and by multiplying the assessed valuation of the lodging unit by nine percent. Assessment and valuation must be done under standards and guides determined by the state tax commissioner. The tax for the lodging unit is determined by applying the lodging unit's taxable valuation to the preceding year's total mill levies of the city, for tax imposed by the city, or of the county, for tax imposed by the county, applying to property within the city or county in which the lodging unit is subject to taxation under this chapter. The county treasurer shall provide a tax statement for each lodging unit subject to taxation under this chapter, including three columns showing, for the taxable year to which the tax statement applies and the two immediately preceding taxable years, the privilege tax levy in dollars against the lodging unit by the city or county that levied the taxes. If a lodging unit is acquired or moved into the city or county imposing the tax during the calendar year and a tax permit has not been previously issued for such lodging unit in this state for such year, the tax is determined by computing the remaining number of months of the current year to the nearest full month and multiplying that number by one-twelfth of the amount which would be due for the full year. The taxes collected under this chapter must be disbursed to the city or county levying the taxes in the same year they are collected.

57-55.1-05. Procedure for abatement, refund, or compromise of tax.

Any person having any estate, right, title, or interest in or lien upon any lodging unit that has been assessed for taxation purposes pursuant to this chapter may apply for abatement, refund, or compromise in the manner provided for real property under chapter 57-23. The application must be made in writing on the form prescribed by the tax commissioner and must be filed in triplicate with the county auditor of the county where the lodging unit was assessed. The county auditor shall promptly serve the county director of tax equalization with one copy of the application. The abatement or compromise must be granted by the county commissioners if the facts upon which the application is based establish that the assessment contains error, the value placed upon the lodging unit by the county director of tax equalization was excessive, or the lodging unit is exempt from taxation pursuant to section 57-55.1-01 or 57-55.1-11. The decision of the county commissioners may be appealed in the manner provided by law.

1 **57-55.1-06. Taxes in lieu of other property taxes.**

2 Taxes imposed under this chapter are in lieu of all property taxes upon such lodging unit for
3 the calendar year for which the tax permit is valid.

4 **57-55.1-07. Tax permits - Form.**

5 The tax permit must be of a size and design specified by the state tax commissioner. The
6 director of tax equalization shall order sufficient permits for the county and the costs of such
7 permits must be paid by the county. A city that imposes a tax under this chapter shall reimburse
8 the county for the cost of permits obtained on behalf of the city.

9 **57-55.1-08. Failure to apply for permit - Illegal use of permit - Penalty.**

10 Any person that fails to make application under this chapter, or that uses or allows to be
11 used a tax permit of any lodging unit taxed under this chapter for any purpose other than the
12 purpose for which it was issued, is guilty of a class B misdemeanor.

13 **57-55.1-09. Duty of owners of property where lodging units are located - Penalty.**

14 It is the duty of the owner or operator of property on which one or more lodging units are
15 located to file a quarterly written report on or before the fifteenth day following the last day of
16 each calendar quarter with the county director of tax equalization. The report must list the
17 number of lodging units, the name and address of the owner of each lodging unit that is located
18 on the property, and the name and address of the owner of each lodging unit that has been
19 moved to, removed from, or moved within the property since the filing of the previous quarterly
20 report.

21 **57-55.1-10. Rules.**

22 The state tax commissioner may adopt any rules necessary to implement this chapter.

23 **57-55.1-11. Exemptions - Exceptions.**

- 24 1. A lodging unit is exempt from taxation under this chapter if the lodging unit is:
25 a. Owned and used as living quarters of a military person on active military duty in
26 this state who is a resident of another state.
27 b. Owned and occupied by a social services recipient, provided the lodging unit is
28 not permanently attached to the land and classified as real property. For the
29 purposes of this subdivision, "social services recipient" means any person who is
30 certified to the county director of tax equalization by the county social service

board as receiving the major portion of income from any state or federal public assistance program.

c. Owned and used as living quarters by a disabled veteran or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08 or section 57-02-08.8.

d. Owned and used as living quarters by a permanently and totally disabled individual or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08.

e. Owned and used as the living quarters for a blind individual who meets the requirements of subsection 22 of section 57-02-08.

f. Owned and used by an individual who uses it as living quarters and who qualifies for the homestead credit provided in section 57-02-08.1, and the lodging unit must be regarded for the purposes of this exemption as the homestead of the person claiming the exemption.

2. The tax imposed under this chapter does not apply to a lodging unit that:

a. Is real property that is exempt from property taxes or subject to payments in lieu of taxes.

b. Is a mobile home exempt from taxation under chapter 57-55.

c. Is a park model trailer that is used only for seasonal or recreational living quarters and not as a primary residence, and which is located in a trailer park or campground, and for which the owner has paid a park model trailer fee under section 39-18-03.2. For purposes of this subdivision, "park model" trailer has the meaning provided in section 57-55-10.

d. Qualifies as a farm residence as described by subsection 15 of section 57-02-08.

57-55.1-12. Collection - Enforcement - Penalty.

1. The director of tax equalization shall make an inspection of each property on which one or more lodging units are located to determine compliance with this chapter. If the director determines that any person is not complying with this chapter, the director shall give such person a warning that if such person fails to comply within ten days after the issuance of such warning, the director of tax equalization may begin civil action against such person. In the alternative, if the director of tax equalization

1 determines that there are lodging units in the director's county belonging to a person
2 who has failed to comply with this chapter, and in the director's opinion the taxes will
3 be uncollectible if immediate action is not taken, the director shall notify the county
4 sheriff. The county sheriff shall immediately, and in no event later than five days after
5 receiving such notification, commence proceedings as provided by law to collect the
6 taxes, penalties, and interest, if any, which are due.

7 2. Before a lodging unit subject to taxation is moved from its existing location, a moving
8 permit must be obtained by the owner from the county director of tax equalization
9 indicating that all taxes, penalties, and interest levied against the lodging unit have
10 been paid. While the lodging unit is being transported, the moving permit must be
11 displayed on the rear of the lodging unit. Any person who violates this provision is
12 guilty of an infraction for which a fine of no less than one hundred dollars and no more
13 than five hundred dollars must be imposed.

14 **57-55.1-13. Refunds.**

15 1. The owner of any lodging unit who has paid, through mistake or otherwise, a greater
16 amount of tax or penalty and interest than was justly due may apply for an abatement
17 or refund under chapter 57-23 and a refund of the unjust portion paid. The county
18 auditor and treasurer shall charge all refunds against the taxing district to which the
19 collection was credited.

20 2. If the owner of a lodging unit has paid the full amount of taxes due under this chapter
21 and thereafter during the current year such lodging unit has been demolished or
22 destroyed beyond repair by fire, windstorm, or flood, the owner is entitled to a refund
23 under subsection 1.

24 **SECTION 2. EFFECTIVE DATE.** This Act becomes effective July 1, 2011.