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HOUSE BILL NO. 1301
with Senate Amendments

HOUSE BILL NO. 1301

Fifty-fifth
Legislative Assembly
of North Dakota

Introduced by

Representatives Lloyd, Aarsvold

A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to the farm residence and buildings exemption for bed and breakfast facilities; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 15 of section 57-02-08 of the 1995 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15. a. All farm structures and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence. Any structure or improvement used in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection.

    b. It is the intent of the legislative assembly that this exemption as applied to a residence shall be strictly construed and interpreted to exempt only a residence which is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption shall not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:

        (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and which normally provides a farmer, who is actually farming the land or engaged in the

raising of livestock or other similar operations normally associated with farming and ranching, with not less than fifty percent of ~~his~~ the farmer's annual net income.

(2) "Farmer" means an individual who normally devotes the major portion of ~~his~~ the individual's time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state and who normally receives not less than fifty percent of ~~his~~ the individual's annual net income from any one or more of the foregoing activities; and the term also includes an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer as defined above the residence in which ~~he~~ the individual lives and for which the exemption is claimed.

(3) "Net income from farming activities" described in paragraph 2 means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:

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

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

(4) For purposes of applying the income requirements of this subdivision, if a husband and wife reside together in a residence claimed as exempt under this subdivision because both or one of them is a farmer, not less than fifty percent of their combined net income from all sources must be net income from farming activities as defined in paragraph 3 in order for the residence to qualify for the exemption.

(5) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that fifty percent or more of the net income of that occupant was, or was

not, net income from farming activities; provided, that if that occupant is married and they both occupy the residence, it shall be stated in the written statement that their net income from farming activities was, or was not, fifty percent or more of their combined net income from all sources.

(6) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than thirty thousand dollars during each of the three preceding calendar years. The provisions of this paragraph do not apply to an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which ~~he~~ the individual lives and for which the exemption is claimed.

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

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

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 1996.