

**HOUSE BILL NO. 1301  
with Conference Committee Amendments**

Fifty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1301**

Introduced by

Representatives Lloyd, Aarsvold

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 and buildings exemption for bed and breakfast  
3 facilities; and to provide an 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 1995  
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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