

Fifty-fifth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1280

Introduced by

Representatives Aarsvold, Froseth, Grumbo, Olson

Senators Thane, Wogsland

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 property tax exemption for farm residences and buildings; and to
3 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, or
11 as a farm residence. Any structure or improvement used in connection with a
12 retail or wholesale business other than farming, any structure or improvement
13 located on platted land within the corporate limits of a city, or any structure or
14 improvement located on railroad operating property subject to assessment
15 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 property
20 which is occupied or used by a person who is not a farmer. For purposes of
21 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 for which
24 ~~normally provides a~~ the 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~~ has not received more than fifty percent of his annual net income from nonfarm income, including that of a spouse if married, during each of the three preceding calendar years.

(2) "Farmer" means an individual who normally devotes the major portion of ~~his~~ 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~~ has not received more than fifty percent of his annual net income from any one or more of the foregoing activities; and the term also nonfarm income, including that of a spouse if married, during each of the three preceding calendar years. "Farmer" 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 person 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.~~

1 ~~(5)~~ When exemption is claimed under this subdivision for a residence, the
2 assessor may require that the occupant of the residence who it is
3 claimed is a farmer provide to the assessor for the year or years
4 specified by the assessor a written statement in which it is stated that
5 fifty percent or more of the net income of that occupant was, or was not,
6 net income from farming activities; provided, that if that occupant is
7 married and ~~they~~ both spouses occupy the residence, it shall be stated
8 in the written statement ~~that~~ whether their net income from farming
9 activities was, ~~or was not~~, fifty percent or more of their combined net
10 income from all sources.

11 ~~(6)~~ (5) In addition to any of the provisions of this subsection or any other
12 provision of law, a residence situated on agricultural land is not exempt
13 for the year if it is occupied by an individual engaged in farming who
14 had nonfarm income, including that of a spouse if married, of more than
15 thirty thousand dollars during each of the three preceding calendar
16 years. The provisions of this paragraph do not apply to an individual
17 who is retired because of illness or age and who at the time of
18 retirement owned and occupied as a farmer the residence in which ~~he~~
19 the person lives and for which the exemption is claimed.

20 ~~(7)~~ (6) For purposes of this section, "livestock" includes "nontraditional
21 livestock" as defined in section 36-01-00.1.

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