

**HOUSE BILL NO. 1488**

Introduced by

Representatives Lundgren, Froelich, Stefonowicz

Senator Kelsh

1 A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of  
2 the North Dakota Century Code, relating to the farm residence property tax exemption; and to  
3 provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the  
6 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

13 (1) "Farm" means a single tract or contiguous tracts of agricultural land  
14 containing a minimum of ten acres [4.05 hectares] and for which the  
15 farmer, actually farming the land or engaged in the raising of livestock  
16 or other similar operations normally associated with farming and  
17 ranching, ~~has not received more than fifty percent of annual net income~~  
18 ~~from nonfarm income, including that of a spouse if married, during each~~  
19 ~~of the three preceding calendar years~~ gross farm income exceeding  
20 off-farm income.

21 (2) "Farmer" means an individual who normally devotes the major portion  
22 of time to the activities of producing products of the soil, poultry,  
23 livestock, or dairy farming in such products' unmanufactured state and  
24 ~~has not received more than fifty percent of annual net income from~~

1 ~~nonfarm income, including that of a spouse if married, during each of~~  
2 ~~the three preceding calendar years whose gross farm income exceeds~~  
3 ~~off-farm income.~~ "Farmer" includes an individual who is retired because  
4 of illness or age and who at the time of retirement owned and occupied  
5 as a farmer as defined above the residence in which the person lives  
6 and for which the exemption is claimed.

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

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

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

15 (4) When exemption is claimed under this subdivision for a residence, the  
16 assessor may require that the occupant of the residence who it is  
17 claimed is a farmer provide to the assessor for the year or years  
18 specified by the assessor a written statement in which it is stated ~~that~~  
19 ~~fifty percent or more of the net income of that occupant was, or was not,~~  
20 ~~net income from farming activities; provided, that if that occupant is~~  
21 ~~married and both spouses occupy the residence, it shall be stated in the~~  
22 ~~written statement whether their net income from farming activities was~~  
23 ~~fifty percent or more of their combined net income from all sources that~~  
24 gross farm income exceeds off-farm income.

25 (5) (4) In addition to any of the provisions of this subsection or any other  
26 provision of law, a residence situated on agricultural land is not exempt  
27 for the year if it is occupied by an individual engaged in farming who  
28 had ~~nonfarm~~ off-farm income, including that of a spouse if married, of  
29 more than forty thousand dollars during each of the three preceding  
30 calendar years. The provisions of this paragraph do not apply to an  
31 individual who is retired because of illness or age and who at the time

1 of retirement owned and occupied as a farmer the residence in which  
2 the person lives and for which the exemption is claimed.

3 ~~(6)~~ (5) For purposes of this section, "livestock" includes "nontraditional  
4 livestock" as defined in section 36-01-00.1.

5 ~~(7)~~ (6) A farmer operating a bed and breakfast facility in the farm residence  
6 occupied by that farmer is entitled to the exemption under this section  
7 for that residence if the farmer and the residence would qualify for  
8 exemption under this section except for the use of the residence as a  
9 bed and breakfast facility.

10 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
11 December 31, 1998.