

HOUSE BILL NO. 1453

Introduced by

Representatives Williams, Wall

Senator Anderson

1 A BILL for an Act to amend and reenact section 40-57.1-07 and subdivision b of subsection 15
2 of section 57-02-08 of the North Dakota Century Code, relating to abatement applications for
3 tax exemptions for new businesses and beginning farmer status for the farm residence property
4 tax exemption; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 40-57.1-07 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **40-57.1-07. Exemptions - Time for making application.**

- 9 1. No property tax exemption shall be granted under this chapter unless the
10 application for it is granted as provided in this chapter prior to the commencement
11 of construction of the project as that term is defined in section 40-57.1-02 or prior
12 to occupancy by the project operator if the project is an existing building. However,
13 a project operator who did not apply for a property tax exemption under this
14 chapter prior to the commencement of construction of the project may apply for an
15 abatement under chapter 57-23, which may be granted if the project otherwise
16 qualifies for a property tax exemption under this chapter.
- 17 2. Application for an income tax exemption as provided in this chapter must be made
18 by the project operator no later than one year after the commencement of project
19 operations.

20 **SECTION 2. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the
21 North Dakota Century Code is amended and reenacted as follows:

- 22 b. It is the intent of the legislative assembly that this exemption as applied to a
23 residence must be strictly construed and interpreted to exempt only a
24 residence that is situated on a farm and which is occupied or used by a

1 person who is a farmer and that the exemption may not be applied to property
2 which is occupied or used by a person who is not a farmer. For purposes of
3 this subdivision:

4 (1) "Farm" means a single tract or contiguous tracts of agricultural land
5 containing a minimum of ten acres [4.05 hectares] and for which the
6 farmer, actually farming the land or engaged in the raising of livestock
7 or other similar operations normally associated with farming and
8 ranching, has received annual net income from farming activities which
9 is fifty percent or more of annual net income, including net income of a
10 spouse if married, during any of the three preceding calendar years.

11 (2) "Farmer" means an individual who normally devotes the major portion
12 of time to the activities of producing products of the soil, poultry,
13 livestock, or dairy farming in such products' unmanufactured state and
14 has received annual net income from farming activities which is fifty
15 percent or more of annual net income, including net income of a spouse
16 if married, during any of the three preceding calendar years. "Farmer"
17 includes a "retired farmer" who is retired because of illness or age and
18 who at the time of retirement owned and occupied as a farmer the
19 residence in which the person lives and for which the exemption is
20 claimed. "Farmer" includes a "beginning farmer" who has begun
21 occupancy and operation of a farm within the three preceding calendar
22 years; who normally devotes the major portion of time to the activities of
23 producing products of the soil, poultry, livestock, or dairy farming in
24 such products' unmanufactured state; and who does not have a history
25 of farm income from farm operation for each of the three preceding
26 calendar years. An individual is not a "beginning farmer" for any
27 subsequent year if the individual has nonfarm income, including that of
28 a spouse if married, of more than forty thousand dollars during a
29 calendar year the individual might otherwise qualify for beginning
30 farmer status under this paragraph.

- 1 (3) "Net income from farming activities" means taxable income from those
2 activities as computed for income tax purposes pursuant to chapter
3 57-38 adjusted to include the following:
- 4 (a) The difference between gross sales price less expenses of sale
5 and the amount reported for sales of agricultural products for
6 which the farmer reported a capital gain.
- 7 (b) Interest expenses from farming activities which have been
8 deducted in computing taxable income.
- 9 (c) Depreciation expenses from farming activities which have been
10 deducted in computing taxable income.
- 11 (4) When exemption is claimed under this subdivision for a residence, the
12 assessor ~~may~~ shall require that the occupant of the residence who it is
13 claimed is a farmer provide to the assessor for the year or years
14 specified by the assessor a written statement in which it is stated that
15 fifty percent or more of the net income of that occupant, and spouse if
16 married and both spouses occupy the residence, was, or was not, net
17 income from farming activities.
- 18 (5) In addition to any of the provisions of this subsection or any other
19 provision of law, a residence situated on agricultural land is not exempt
20 for the year if it is occupied by an individual engaged in farming who
21 had nonfarm income, including that of a spouse if married, of more than
22 forty thousand dollars during each of the three preceding calendar
23 years. This paragraph does not apply to a retired farmer or a beginning
24 farmer as defined in paragraph 2.
- 25 (6) For purposes of this section, "livestock" includes "nontraditional
26 livestock" as defined in section 36-01-00.1.
- 27 (7) A farmer operating a bed and breakfast facility in the farm residence
28 occupied by that farmer is entitled to the exemption under this section
29 for that residence if the farmer and the residence would qualify for
30 exemption under this section except for the use of the residence as a
31 bed and breakfast facility.

1 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
2 December 31, 2006.