

**SECOND ENGROSSMENT
with House Amendments**

Sixty-first
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2244

Introduced by

Senators Pomeroy, Anderson, Krebsbach, Lyson, Mathern

Representative Myxter

1 A BILL for an Act to amend and reenact paragraph 2 of subdivision b of subsection 15 of
2 section 57-02-08 and subsection 4 of section 57-02-27.2 of the North Dakota Century Code,
3 relating to continuation of the farm residence exemption for the surviving spouse of a deceased
4 farmer and the capitalization rate for valuation of agricultural property; and to provide an
5 effective date.

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

7 **SECTION 1. AMENDMENT.** Paragraph 2 of subdivision b of subsection 15 of section
8 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

9 (2) "Farmer" means an individual who normally devotes the major portion
10 of time to the activities of producing products of the soil, poultry,
11 livestock, or dairy farming in such products' unmanufactured state and
12 has received annual net income from farming activities which is fifty
13 percent or more of annual net income, including net income of a
14 spouse if married, during any of the three preceding calendar years.
15 ~~"Farmer"~~ For purposes of this paragraph, "farmer" includes a "retired
16 farmer" who is retired because of illness or age and who at the time of
17 retirement owned and occupied as a farmer the residence in which the
18 person lives and for which the exemption is claimed. "Farmer" includes
19 a "beginning:

20 (a) "Beginning farmer", which means an individual who has begun
21 occupancy and operation of a farm within the three preceding
22 calendar years; who normally devotes the major portion of time
23 to the activities of producing products of the soil, poultry,
24 livestock, or dairy farming in such products' unmanufactured

1 state; and who does not have a history of farm income from farm
2 operation for each of the three preceding calendar years.

3 (b) "Retired farmer", which means an individual who is retired
4 because of illness or age and who at the time of retirement
5 owned and occupied as a farmer the residence in which the
6 person lives and for which the exemption is claimed.

7 (c) "Surviving spouse of a farmer", which means the surviving
8 spouse of an individual who is deceased, who at the time of
9 death owned and occupied as a farmer the residence in which
10 the surviving spouse lives and for which the exemption is
11 claimed. The exemption under this subparagraph expires at the
12 end of the fifth taxable year after the taxable year of death of an
13 individual who at the time of death was an active farmer. The
14 exemption under this subparagraph applies for as long as the
15 residence is continuously occupied by the surviving spouse of an
16 individual who at the time of death was a retired farmer.

17 **SECTION 2. AMENDMENT.** Subsection 4 of section 57-02-27.2 of the North Dakota
18 Century Code is amended and reenacted as follows:

19 4. To find the "capitalized average annual gross return", the average annual gross
20 return must be capitalized by a rate that is a ten-year average of the gross
21 agribank mortgage rate of interest for North Dakota, but the rate used for
22 capitalization under this section may not be less than eight ~~and nine-tenths percent~~
23 ~~for taxable year 2005 and eight and three-tenths percent for taxable years after~~
24 ~~2005~~ year 2009, seven and seven-tenths percent for taxable year 2010, and seven
25 and four-tenths percent for taxable year 2011. The ten-year average must be
26 computed from the twelve years ending with the most recent year used under
27 subdivision a of subsection 3, discarding the highest and lowest years, and the
28 gross agribank mortgage rate of interest for each year must be determined in the
29 manner provided in section 20.2032A-4(e)(1) of the United States treasury
30 department regulations for valuing farm real property for federal estate tax

1 purposes, except that the interest rate may not be adjusted as provided in section
2 20.2032A-4(e)(2).

3 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
4 December 31, 2008, and section 1 of this Act applies to the surviving spouse of a deceased
5 farmer regardless of whether death occurred before or after January 1, 2009, if the occupancy
6 by the surviving spouse has been continuous and otherwise qualifies under this Act.