FIRST DRAFT:
Prepared by the Legislative Council staff for the Taxation Committee
August 2012

Sixty-third
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to create and enact section 57-02-08.9 of the North Dakota Century Code, relating to a residential property tax credit for individuals sixty-five years of age or older; to provide an appropriation; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 57-02-08.9 of the North Dakota Century Code is created and enacted as follows:

57-02-08.9. Residential property tax credit - Certification - Distribution.

1. An individual sixty-five years of age or older is entitled to receive a reduction of one hundred twenty-five thousand dollars of the true and full valuation of the individual's primary residence as provided in this section. A reduction under this section applies regardless of whether the individual is the head of a family. If an individual is entitled to a reduction in taxable valuation under this section and section 57-02-08.1 or 57-02-08.8, any reduction under sections 57-02-08.1 and 57-02-08.8 must be applied first and then the reduction under this section must be applied, not exceeding any remaining true and full valuation of the primary residence.
2. If the individual does not reside in the primary residence, the reduction under this section continues to apply if the individual's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as that confinement lasts and the portion of the primary residence previously occupied by the individual is not rented to another individual.
3. Individuals residing together, as spouses or when one or more is a dependent of another, are entitled to only one reduction between or among them under this section. Individuals residing together, who are not spouses or dependents, who are coowners

of the property are each entitled to a percentage of a full reduction under this section equal to their ownership interests in the property.

4. To claim the reduction under this section an applicant must sign and file with the assessor, by March first of the year for which a reduction is claimed, a claim form containing a verified statement of facts establishing the applicant's eligibility as of February first of that year.

5. The assessor shall attach the statement filed under subsection 4 to the assessment sheet and shall show the reduction on the assessment sheet.

6. All forms necessary to effectuate this section must be prescribed, designed, and made available by the tax commissioner. Claim forms must include the full name, address, and social security or taxpayer identification number of the applicant, and any other information prescribed by the tax commissioner. The tax commissioner shall include on claim forms a statement to the effect that the applicant, by signing, declares the application to be true, correct, and complete and subject to the penalties under section 12.1-11-02 for making a false statement in a governmental matter. The county director of tax equalization shall make these forms available to applicants upon request.

7. A social security or taxpayer identification number contained in any form under this section is confidential and may be disclosed only to county officers, the tax commissioner, or a court and only for purposes of administering this section. A county officer, the tax commissioner, or a court in possession of a form or other document under this section shall delete or obscure any social security or taxpayer identification number on any copy of the form or other document released to the public.

8. A reduction under this section terminates at the end of the taxable year for which the application was approved. A reduction under this section is effective for the entire taxable year for which the application was approved, without regard to any change of ownership of the home which occurs after the assessment date.

9. If any applicant is found to have claimed and received a reduction under this section for more than one primary residence for the same taxable year, all reductions received by that applicant for that taxable year under this section must be canceled for that taxable year and the ensuing two taxable years. The auditor of each county in which

such property is located shall enter the amount of the canceled reduction as omitted property on the assessment roll of property that has escaped taxation.

10. Determinations concerning eligibility for a reduction under this section may be appealed through the informal equalization process and formal abatement process.

11. This section does not reduce the liability of any individual for special assessments levied upon any property.

12. For the purposes of this section:

    a. "Dependent" has the same meaning it has for federal income tax purposes.

    b. "Owned" means the applicant holds a present ownership interest, including ownership in fee simple, holding a present life estate or other terminable present ownership interest, or being a purchaser under a contract for deed, but does not include a mere right of occupancy or a tenancy under a lease.

    c. "Primary residence" means a dwelling in this state owned and occupied by the applicant as that applicant's primary residence as of the assessment date of the taxable year.

13. Before April first of each year, the county auditor of each county shall certify to the tax commissioner, on forms prescribed by the tax commissioner, the full name, address, and social security or taxpayer identification number of each individual or entity for whom the reduction under this section was allowed for the preceding year, the legal description of the property, the taxable value of the property, the dollar amount of each reduction in taxable value allowed, and the total of the tax mill rates for the preceding year of all taxing districts in which the property was contained, exclusive of any state mill rates, and any other information prescribed by the tax commissioner.

14. By June first of each year, the tax commissioner shall review the certifications under subsection 13, make any required corrections, and certify to the state treasurer for payment to each county the sum of the amounts computed by multiplying the reduction allowed for each qualifying primary residence in the county for the preceding year by the total of the tax mill rates for the preceding year of all taxing districts in which the property was located. In reviewing certifications, the tax commissioner may refer to any income tax return information or other information available to the tax commissioner.

15. Upon receipt of the payment from the state treasurer, the county treasurer shall apportion and distribute it without delay to the county and to the taxing districts of the county on the same basis the general real estate tax for the preceding year is apportioned and distributed.

16. The tax commissioner shall certify annually to the state treasurer for deposit in the state medical center fund the amount computed by multiplying one mill times the reduction in taxable valuation allowed under this section for the preceding year for all primary residences in the state.

17. Supplemental certifications by the county auditor and the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make any corrections necessary because of errors or approval of any application for equalization or abatement filed by an individual or entity because all or part of the reduction under this section was not allowed.

SECTION 2. APPROPRIATION. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of $123,000,000, or so much of the sum as may be necessary, to the state treasurer for the purpose of residential property tax credit funds to counties under section 57-02-08.9, for the biennium beginning July 1, 2013, and ending June 30, 2015.

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2012.