Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1285

Introduced by

Representatives Kasper, Ruby, Thoreson, Weiler

Senator Fischer

A BILL ~~for an Act to amend and reenact subsections 1 and 2 of section 57-02-08.1 of the North Dakota Century Code, relating to the homestead credit; and to provide an effective date.~~for an Act to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to eligibility for the homestead property tax credit; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1. AMENDMENT.** Subsections 1 and 2 of section 57-02-08.1 of the North Dakota Century Code are amended and reenacted as follows:~~

~~1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with ana taxable income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.~~

~~b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.~~

~~c. The exemption must be determined according to the following schedule:~~

~~(1) If the person's taxable income is not in excess of eighteentwenty-four thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of four thousand fiveeight hundred dollars of taxable valuation.~~

~~(2) If the person's taxable income is in excess of eighteentwenty-four thousand dollars and not in excess of twentythirty thousand dollars, a reduction of~~

~~eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand six hundred dollars of taxable valuation.~~

~~(3) If the person's taxable income is in excess of twentythirty thousand dollars and not in excess of twenty-twothirty-five thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand seveneight hundred eighty dollars of taxable valuation.~~

~~(4) If the person's taxable income is in excess of twenty-twothirty-five thousand dollars and not in excess of twenty-fourforty thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand eightnine hundred twenty dollars of taxable valuation.~~

~~(5) If the person's income is in excess of twenty-four thousand dollars and not in excess of twenty-six thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of nine hundred dollars of taxable valuation.~~

~~d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are coowners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.~~

~~e. This subsection does not reduce the liability of any person for special assessments levied upon any property.~~

~~f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.~~

~~g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person, excluding the unencumbered value of the person's residence that the person claims as a homestead, exceeds seventy-fiveone hundred fifty thousand dollars, including the value of any assets divested within the last three years. For purposes of this~~

~~subdivision, the unencumbered valuation of the homestead is limited to one hundred fifty thousand dollars. For purposes of this subdivision, "assets" does not include the value of any amount held in the name of, or for the benefit of, the person or the person's spouse or dependent in a qualified retirement plan; section 401(k), 403(b), or 457 plan; employee stock ownership plan; simplified employee pension plan; or an individual retirement account of any type recognized in the Internal Revenue Code.~~

~~h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.~~

~~i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.~~

~~j. For purposes of this subsection, "taxable income" means taxable income as computed for federal income tax purposes.~~

~~2. a. Any person who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund of a portion of the person's annual rent deemed by this subsection to constitute the payment of property tax.~~

~~b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of four hundred twenty-five dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant.~~

~~c. Persons who reside together, as spouses or when one or more is a dependent of another, are entitled to only one refund between or among them under this subsection. Persons who reside together in a rental unit, who are not spouses or~~

~~dependents, are each entitled to apply for a refund based on the rent paid by that person.~~

~~d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall issue refunds to applicants.~~

~~e. This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.~~

~~f. A person may not receive a refund under this section for a taxable year in which that person received an exemption under subsection 1.~~

~~**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2010, for ad valorem property taxes and for taxable years beginning after December 31, 2011, for mobile home taxes.~~

SECTION 1. AMENDMENT. Section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

57-02-08.1. Homestead credit.

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.

   b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.

   c. The exemption must be determined according to the following schedule:

      (1) If the person's income is not in excess of ~~eighteen~~nineteen thousand eight hundred dollars, a reduction of one hundred percent of the taxable valuation

of the person's homestead up to a maximum reduction of four thousand five hundred dollars of taxable valuation.

(2) If the person's income is in excess of ~~eighteen~~nineteen thousand eight hundred dollars and not in excess of ~~twenty~~twenty-two thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand six hundred dollars of taxable valuation.

(3) If the person's income is in excess of ~~twenty~~twenty-two thousand dollars and not in excess of ~~twenty-two~~twenty-four thousand two hundred dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand seven hundred dollars of taxable valuation.

(4) If the person's income is in excess of ~~twenty-two~~twenty-four thousand two hundred dollars and not in excess of ~~twenty-four~~twenty-six thousand four hundred dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand eight hundred dollars of taxable valuation.

(5) If the person's income is in excess of ~~twenty-four~~twenty-six thousand four hundred dollars and not in excess of ~~twenty-six~~twenty-eight thousand six hundred dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of nine hundred dollars of taxable valuation.

d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are coowners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.

e. This subsection does not reduce the liability of any person for special assessments levied upon any property.

f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.

g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person, excluding the unencumbered value of the person's residence that the person claims as a homestead, exceeds seventy-five thousand dollars, including the value of any assets divested within the last three years. For purposes of this subdivision, the unencumbered valuation of the homestead is limited to one hundred twenty-five thousand dollars.

h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.

i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

2. a. Any person who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund of a portion of the person's annual rent deemed by this subsection to constitute the payment of property tax.

b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of four hundred dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant.

c. Persons who reside together, as spouses or when one or more is a dependent of another, are entitled to only one refund between or among them under this subsection. Persons who reside together in a rental unit, who are not spouses or dependents, are each entitled to apply for a refund based on the rent paid by that person.

d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall issue refunds to applicants.

e. This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.

f. A person may not receive a refund under this section for a taxable year in which that person received an exemption under subsection 1.

3. All forms necessary to effectuate this section must be prescribed, designed, and made available by the tax commissioner. The county directors of tax equalization shall make these forms available upon request.

4. A person whose homestead is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may not receive any property tax credit under this section.

5. For the purposes of this section:

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

b. "Homestead" has the same meaning as provided in section 47-18-01.

c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.

d. "Medical expenses" has the same meaning as it has for state income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.

e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration.

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2010, for ad valorem property taxes and for taxable years beginning after December 31, 2011, for mobile home taxes.