

**SENATE BILL NO. 2041
with House Amendments
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Introduced by

Senator Myrdal

Representatives Damschen, D. Johnson, Monson

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 income eligibility for purposes of the farm residence
3 property tax exemption; to provide for a legislative management study; and to provide an
4 effective date.

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

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

8 b. It is the intent of the legislative assembly that this exemption as applied to a
9 residence must be strictly construed and interpreted to exempt only a residence
10 that is situated on a farm and which is occupied or used by a person who is a
11 farmer and that the exemption may not be applied to property which is occupied
12 or used by a person who is not a farmer. For purposes of 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 farmer,
15 actually farming the land or engaged in the raising of livestock or other
16 similar operations normally associated with farming and ranching, has
17 annual gross income from farming activities which is sixty-six percent or
18 more of annual gross income, including gross income of a spouse if
19 married, during any of the two preceding calendar years.

20 (2) "Farmer" means an individual who normally devotes the major portion of
21 time to the activities of producing products of the soil, with the exception of
22 marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming
23 in such products' unmanufactured state and has received annual gross
24 income from farming activities which is sixty-six percent or more of annual

1 gross income, including gross income of a spouse if married, during any of
2 the two preceding calendar years. For purposes of this paragraph, "farmer"
3 includes a:

4 (a) "Beginning farmer", which means an individual who has begun
5 occupancy and operation of a farm within the two preceding calendar
6 years; who normally devotes the major portion of time to the activities
7 of producing products of the soil, poultry, livestock, or dairy farming in
8 such products' unmanufactured state; and who does not have a
9 history of farm income from farm operation for each of the two
10 preceding calendar years.

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

15 (c) "Surviving spouse of a farmer", which means the surviving spouse of
16 an individual who is deceased, who at the time of death owned and
17 occupied as a farmer the residence in which the surviving spouse
18 lives and for which the exemption is claimed. The exemption under
19 this subparagraph expires at the end of the fifth taxable year after the
20 taxable year of death of an individual who at the time of death was an
21 active farmer. The exemption under this subparagraph applies for as
22 long as the residence is continuously occupied by the surviving
23 spouse of an individual who at the time of death was a retired farmer.

24 (3) "Gross income" means gross income as defined under the federal Internal
25 Revenue Code and does not include a gain from the sale or exchange of
26 farm machinery as computed for federal income tax purposes. For purposes
27 of this paragraph, "farm machinery" means all vehicular implements and
28 attachment units designed and sold for direct use in planting, cultivating, or
29 harvesting farm products or used in connection with the production of
30 agricultural produce or products, livestock, or poultry on farms, which are
31 operated, drawn, or propelled by motor or animal power. "Farm machinery"

1 does not include vehicular implements operated wholly by hand or a motor
2 vehicle that is required to be registered under chapter 57-40.3.

3 (4) "Gross income from farming activities" means gross income from farming as
4 defined for purposes of determining if an individual is a farmer eligible to use
5 the special estimated income tax payment rules for farmers under section
6 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

7 (5) When exemption is claimed under this subdivision for a residence, the
8 occupant of the residence who it is claimed is a farmer shall provide to the
9 assessor for the year or years specified by the assessor a written statement
10 in which it is stated that sixty-six percent or more of the gross income of that
11 occupant, and spouse if married and both spouses occupy the residence,
12 was, or was not, gross income from farming activities. The individual
13 claiming the exemption also shall provide to the assessor, on a form
14 prescribed by the tax commissioner, the necessary income information to
15 demonstrate eligibility. Any income information provided to the assessor
16 regarding eligibility for an exemption claimed under this subdivision is a
17 confidential record.

18 (6) For purposes of this ~~section~~subsection, "livestock" includes "nontraditional
19 livestock" as defined in section 36-01-00.1.

20 (7) A farmer operating a bed and breakfast facility in the farm residence
21 occupied by that farmer is entitled to the exemption under this section for
22 that residence if the farmer and the residence would qualify for exemption
23 under this section except for the use of the residence as a bed and
24 breakfast facility.

25 **SECTION 2. LEGISLATIVE MANAGEMENT STUDY - PROPERTY TAX EXEMPTION FOR**
26 **AGRICULTURAL PRODUCTS STORAGE.** During the 2021-22 interim, the legislative
27 management shall consider studying the provision of a property tax exemption for elevators,
28 warehouses, and other farm structures classified as commercial property, which are privately
29 owned and used to store agricultural products produced by the owner or an individual related to
30 the owner as defined in section 10-06.1-12. The study must include consideration of the
31 definition of agricultural property and the impact of an exemption on city and county property tax

1 revenues. The legislative management shall report its findings and recommendations, together
2 with any legislation required to implement the recommendations, to the sixty-eighth legislative
3 assembly.

4 **SECTION 3. EFFECTIVE DATE.** Section 1 of this Act is effective for taxable years
5 beginning after December 31, 2021.