

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL 2279

Page 1, line 1, remove “subdivision a of”

Page 1, line 2, replace “the farm structure and improvements” with “a”

Page 1, line 3, after “exemption” insert “for potato storage”

Page 1, remove lines 5 through 23

Page 2, remove lines 1 through 30

Page 3, remove lines 1 through 21

Page 3, after line 21, insert:

“SECTION 1. AMENDMENT. Subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

15. a. All farm structures and improvements located on agricultural lands.
 - (1) This subsection must be construed to exempt farm buildings and improvements only, and may not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence.
 - (2) "Farm buildings and improvements" includes a greenhouse or other building used primarily for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis for a showroom for the retail sale of horticultural or nursery products. A greenhouse or building used primarily for display and sale of grown horticultural or nursery products is not a farm building or improvement.
 - (3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement, except a potato storage structure as provided in subdivision b, located on platted land within the corporate limits of a city, any structure or improvement used by a manufacturing facility as defined in section 19-24.1-01, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than

farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.

- (4) The following factors may not be considered in application of the exemption under this subsection:
- (a) Whether the farmer grows or purchases feed for animals raised on the farm.
 - (b) Whether animals being raised on the farm are owned by the farmer.
 - (c) Whether the farm's replacement animals are produced on the farm.
 - (d) Whether the farmer is engaged in contract feeding of animals on the farm.
- b. A potato storage structure which is permanently affixed to commercial property, owned by a farmer, and used exclusively for personal use by the owner, a direct relative of the owner, or another farmer. This exemption only applies to a potato storage structure that was originally constructed on agricultural property. For purposes of this subdivision:
- (1) "Direct relative" means a spouse, surviving spouse, child, parent, brother, sister, grandparent, great-grandparent, grandchild, great-grandchild, aunt, uncle, niece, nephew, first-cousin, or second-cousin, whether by blood, adoption, or marriage.
 - (2) "Personal use" means the use of a structure for post-harvest storage and preservation of potatoes produced by the owner of the structure, a direct relative of the owner, or a farmer leasing the storage structure associated with rented land. The term does not include the use of a structure to store or preserve potatoes produced by individuals other than the owner of the structure, a direct relative of the owner, or a farmer leasing the storage structure associated with rented land.
 - (3) "Preserve" means the ordinary handling of potatoes prior to sale and does not include processing that results in a value-added physical or chemical change to the potatoes.
- c. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a

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

- (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years.
- (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual gross income from farming activities which is sixty-six percent or more of annual gross income, including gross income of a spouse if married, during any of the two preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the two preceding calendar years; who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the two preceding calendar years.
 - (b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.
 - (c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at

the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

- (3) "Gross income" means gross income as defined under the federal Internal Revenue Code and does not include a gain from the sale or exchange of farm machinery as computed for federal income tax purposes. For purposes of this paragraph, "farm machinery" means all vehicular implements and attachment units designed and sold for direct use in planting, cultivating, or harvesting farm products or used in connection with the production of agricultural produce or products, livestock, or poultry on farms, which are operated, drawn, or propelled by motor or animal power. "Farm machinery" does not include vehicular implements operated wholly by hand or a motor vehicle that is required to be registered under chapter 57-40.3.
- (4) "Gross income from farming activities" means gross income from farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].
- (5) When exemption is claimed under this subdivision for a residence, the occupant of the residence who it is claimed is a farmer shall provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that sixty-six percent or more of the gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, gross income from farming activities. The individual claiming the exemption also shall provide to the assessor, on a form prescribed by the tax commissioner, the necessary income information to demonstrate eligibility. Any income information provided to the assessor regarding eligibility for an exemption claimed under this subdivision is a confidential record.
- (6) For purposes of this subsection, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
- (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption

under this section except for the use of the residence as a bed and breakfast facility.”

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2022.”

Renumber accordingly