

Introduced by

Senators Weber, Bekkedahl, Hogue

Representatives Headland, Lefor, Vigesaa

1 A BILL for an Act to amend and reenact section 57-02-08.9 of the North Dakota Century Code,
2 relating to the primary residence credit; to provide for application; to provide a retroactive
3 effective date; to provide an expiration date; and to declare an emergency.

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

5 **SECTION 1. AMENDMENT.** Section 57-02-08.9 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-02-08.9. Primary residence credit - Qualification - Application. (Effective for the**
8 **first two taxable years beginning after December 31, 2023)**

9 1. ~~An individual~~A taxpayer is entitled to a credit of five hundred dollars against the
10 property tax due on the ~~individual's~~taxpayer's primary residence as provided in this
11 section. The credit may not exceed the amount of property tax due. The credit must be
12 applied to reduce the property tax owed on the ~~individual's~~taxpayer's primary
13 residence after other exemptions or credits under this chapter have been applied.

14 2. For purposes of this section, "~~primary~~":

15 a. "Owned" means an individual holds a present ownership interest, including
16 ownership in fee simple, holds a present life estate or other terminable present
17 ownership interest, holds a beneficial interest in a qualifying trust in which the
18 property is held, has an ownership interest in the corporation or passthrough
19 entity that owns the property, or is a purchaser under a contract for deed. The
20 term does not include a mere right of occupancy or a tenancy under a lease.

21 b. (1) "Primary residence" means a dwelling in this state ~~owned and occupied by~~
22 an individual as that individual's primary place of residence and includes
23 residences taxed under chapter 57-55, including the land, appurtenances,

1 and improvements used in the residential occupancy of the dwelling, that,
2 subject to paragraph 2 and subsection 3, is:

3 (a) Owned by one or more individuals, directly, through a beneficial
4 interest in a qualifying trust, or through an ownership interest in a
5 corporation or passthrough entity;

6 (b) Designed or adapted for human residence;

7 (c) Used as a residence; and

8 (d) Occupied as a primary place of residence by:

9 [1] An individual who holds a present ownership interest, including
10 ownership in fee simple;

11 [2] An individual who has a life estate in the property;

12 [3] For property owned through a beneficial interest in a qualifying
13 trust, a trustor or beneficiary of the trust who qualifies for the
14 credit; or

15 [4] For property owned through an ownership interest in a
16 corporation or passthrough entity, an individual who holds at
17 least a one-third ownership interest in the corporation or
18 passthrough entity and who qualifies for the credit.

19 (2) For purposes of the definition of "primary residence" under this subdivision:

20 (a) An individual may not have more than one primary residence.

21 (b) A primary residence includes a primary residence taxed under chapter
22 57-55.

23 c. "Qualifying trust" means a trust:

24 (1) In which the agreement, will, or court order creating the trust, an instrument
25 transferring property to the trust, or any other agreement that is binding on
26 the trustee provides that the trustor of the trust or a beneficiary of the trust
27 has the right to use and occupy as the trustor's or beneficiary's primary
28 residence rent free and without charge except for taxes and other costs and
29 expenses specified in the instrument or court order:

30 (a) For life;

31 (b) For the lesser of life or a term of years; or

- 1 (c) Until the date the trust is revoked or terminated by an instrument or
2 court order that describes the property with sufficient certainty to
3 identify it and is recorded in the real property records of the county in
4 which the property is located; and
- 5 (2) That acquires the property in an instrument of title or under a court order
6 that:
- 7 (a) Describes the property with sufficient certainty to identify it and the
8 interest acquired; and
- 9 (b) Is recorded in the real property records of the county in which the
10 property is located.
- 11 d. "Trustor" means an individual who transfers an interest in real or personal
12 property to a qualifying trust, whether during the individual's lifetime or at death,
13 or the individual's spouse.
- 14 3. An individual who does not reside in the primary residence ~~in this state~~ is eligible for
15 the credit under this section if the individual's absence is due to confinement in a
16 nursing home, hospital, or other care facility, for as long as that confinement lasts and
17 the portion of the primary residence previously occupied by the individual is not rented
18 to another ~~individual~~person.
- 19 4. Only one credit under this section may be applied against the property taxes levied
20 against any primary residence. A trust, corporation, or passthrough entity may not
21 claim a credit for more than one primary residence under this section.
- 22 5. An individual whose primary residence is a farm structure exempt from taxation under
23 subsection 15 of section 57-02-08 is not eligible for a credit under this section.
- 24 6. The credit may not reduce the liability for special assessments levied upon any
25 property.
- 26 7. To apply for a credit under this section, an applicant shall sign and file with the tax
27 commissioner, by April first of each year, an application containing a verified statement
28 of facts establishing the applicant's eligibility as of the date of the claim on a form and
29 in the manner prescribed by the tax commissioner.

1 8. The tax commissioner, in consultation with the county auditors, shall prescribe, design,
2 and make available all forms necessary to effectuate this section. The tax
3 commissioner shall make these forms available upon request.

4 **SECTION 2. RETROACTIVE EFFECTIVE DATE - APPLICATION - EXPIRATION DATE.**

5 This Act is retroactively effective and applies for the first two taxable years beginning after
6 December 31, 2023, and after that date is ineffective. A taxpayer who, regardless of the
7 application requirements and deadlines under section 57-02-08.9, qualifies for a credit under
8 this Act against taxes levied in taxable year 2024 may file an abatement claim to receive a
9 refund of taxes paid equal to the amount of the credit allowed under this Act. Supplemental
10 certifications by the county auditor and the tax commissioner and supplemental payments by
11 the state treasurer shall be made and distributed according to the procedures provided under
12 section 57-02-08.10 and may be made after the dates prescribed in section 57-02-08.10.

13 **SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.