25.0308.05001
Title.06000

Prepared by the Legislative Council staff for Senator Weber
January 27, 2025

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2201

Introduced by

Senators Weber, Bekkedahl, Hogue

Representatives Headland, Lefor, Vigesaa

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. ~~An individual~~A taxpayer is entitled to a credit of five hundred dollars against the property tax due on the ~~individual's~~taxpayer's primary residence as provided in this section. The credit may not exceed the amount of property tax due. The credit must be applied to reduce the property tax owed on the ~~individual's~~taxpayer's primary residence after other exemptions or credits under this chapter have been applied.
2. For purposes of this section~~, "primary~~:
   a. "Owned" means an individual holds a present ownership interest, including ownership in fee simple, holds a present life estate or other terminable present ownership interest, holds a beneficial interest in a qualifying trust, or is a purchaser under a contract for deed. The term does not include a mere right of occupancy or a tenancy under a lease.

b. (1) "Primary residence" means a dwelling in this state ~~owned and occupied by an individual as that individual's primary place of residence and includes residences taxed under chapter 57-55~~, including the land, appurtenances, and improvements used in the residential occupancy of the dwelling, that, subject to paragraph 2 and subsection 3, is:

(a) Owned by one or more individuals, either directly~~,~~ or through a beneficial interest in a qualifying trust;

(b) Designed or adapted for human residence;

(c) Used as a residence; and

(d) Occupied as a primary place of residence by an owner, by an individual who has a life estate in the property, or, for property owned through a beneficial interest in a qualifying trust, by a trustor or beneficiary of the trust who qualifies for the credit.

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

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

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

c. "Qualifying trust" means a trust:

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

(a) For life;

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

(c) Until the date the trust is revoked or terminated by an instrument or court order that describes the property with sufficient certainty to identify it and is recorded in the real property records of the county in which the property is located; and

(2) That acquires the property in an instrument of title or under a court order that:

(a) Describes the property with sufficient certainty to identify it and the interest acquired; and

(b) Is recorded in the real property records of the county in which the property is located.

d. "Trustor" means an individual who transfers an interest in real or personal property to a qualifying trust, whether during the individual's lifetime or at death, or the individual's spouse.

3. An individual who does not reside in the primary residence ~~in this state~~ is eligible for the credit under this section 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~~person.

4. Only one credit under this section may be applied against the property taxes levied against any primary residence. A trust may not claim a credit for more than one primary residence under this section.

5. An individual whose primary residence is a farm structure exempt from taxation under subsection 15 of section 57-02-08 is not eligible for a credit under this section.

6. The credit may not reduce the liability for special assessments levied upon any property.

7. To apply for a credit under this section, an applicant shall sign and file with the tax commissioner, by April first of each year, an application containing a verified statement of facts establishing the applicant's eligibility as of the date of the claim on a form and in the manner prescribed by the tax commissioner.

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

SECTION 2. RETROACTIVE EFFECTIVE DATE - APPLICATION - EXPIRATION DATE. This Act is retroactively effective and applies for the first two taxable years beginning after December 31, 2023, and after that date is ineffective. A taxpayer who, regardless of the

application requirements and deadlines under section 57-02-08.9, qualifies for a credit under this Act against taxes levied in taxable year 2024 may file an abatement claim to receive a refund of taxes paid equal to the amount of the credit allowed under this Act. Supplemental certifications by the county auditor and the tax commissioner and supplemental payments by the state treasurer shall be made and distributed according to the procedures provided under section 57-02-08.10 and may be made after the dates prescribed in section 57-02-08.10.

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