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**PROPOSED AMENDMENTS TO**

Sixty-ninth  
Legislative Assembly  
of North Dakota

**REENGROSSED 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.

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

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

**4 57-02-08.9. Primary residence credit - Qualification - Application. (Effective for the**  
**5 first two taxable years beginning after December 31, 2023)**

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

**12** 2. For purposes of this section, "primary:

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

**19** b. (1) "Primary residence" means a dwelling in this state owned and  
**20** occupied by an individual as that individual's primary place of  
**21** residence and includes residences taxed under chapter 57-55.

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

- 4 (a) Owned by one or more individuals, ~~either directly, or~~  
5 through a beneficial interest in a qualifying trust, or through  
6 an ownership interest in a cooperative entity;  
7 (b) Designed or adapted for human residence;  
8 (c) Used as a residence; and  
9 (d) Occupied as a primary place of residence by an owner, by  
10 an individual who has a life estate in the property, by an  
11 individual who holds an ownership interest in a cooperative  
12 entity, or, for property owned through a beneficial interest  
13 in a qualifying trust, by a trustor or beneficiary of the trust  
14 who qualifies for the credit.

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

- 17 (a) An individual may not have more than one primary  
18 residence.  
19 (b) A primary residence includes a primary residence taxed  
20 under chapter 57-55.  
21 (c) A primary residence includes each unit of a cooperatively  
22 owned building occupied as a primary place of residence  
23 by an individual with an ownership interest in the  
24 cooperative.

25 c. "Qualifying trust" means a trust:

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

- 33 (a) For life;  
34 (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  
2 instrument or court order that describes the property with  
3 sufficient certainty to identify it and is recorded in the real  
4 property records of the county in which the property is  
5 located; and

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

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

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

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

15 3. An individual who does not reside in the primary residence in this state is eligible  
16 for the credit under this section if the individual's absence is due to confinement  
17 in a nursing home, hospital, or other care facility, for as long as that confinement  
18 lasts and the portion of the primary residence previously occupied by the  
19 individual is not rented to another individual person.

20 4. Only one credit under this section may be applied against the property taxes  
21 levied against any primary residence except for property held by a cooperative  
22 entity. A trust may not claim a credit for more than one primary residence under  
23 this section. All credits earned by the individuals residing in property owned by a  
24 cooperative entity must be applied against the property taxes levied against the  
25 cooperative. The tax commissioner may require a cooperative entity to furnish  
26 any documentation needed for the purposes of ensuring compliance with this  
27 section.

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

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

33 7. To apply for a credit under this section, an applicant shall sign and file with the  
34 tax commissioner, by April first of each year, an application containing a verified

1 statement of facts establishing the applicant's eligibility as of the date of the claim  
2 on a form and in the manner prescribed by the tax commissioner.

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

6 **SECTION 2. RETROACTIVE EFFECTIVE DATE - APPLICATION - EXPIRATION**  
7 **DATE.**

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

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