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FIRST DRAFT:
Prepared by the Legislative Council staff for the Taxation Committee

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Fifty-sixth
Legislative Assembly
of North Dakota

Introduced by

A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota Century Code, relating to application of the property tax exemption for farm buildings for beginning farmers; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-08 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

15. a. All farm structures and improvements located on agricultural lands. This subsection shall be construed to exempt farm buildings and improvements only, and shall 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. Any structure or improvement used in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection.

b. It is the intent of the legislative assembly that this exemption as applied to a residence shall be strictly construed and interpreted to exempt only a residence which is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption shall 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 ~~not~~ received ~~more than~~ fifty percent or more of annual net income from ~~nonfarm income~~ farming activities, including ~~that~~ net income of a spouse if married, during each of the three 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, poultry, livestock, or dairy farming in such products' unmanufactured state and has ~~not~~ received ~~more than~~ fifty percent or more of annual net income from ~~nonfarm income~~ farming activities, including ~~that~~ net income of a spouse if married, during each of the three preceding calendar years. "Farmer" includes ~~an individual~~ a "retired farmer" who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer ~~as defined above~~ the residence in which the person lives and for which the exemption is claimed. "Farmer" includes a "beginning farmer" who has acquired ownership and occupancy of a farm within the three 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 ownership for each of the three preceding calendar years.

(3) "Net income from farming activities" ~~described in paragraph 2~~ means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:

(a) The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.

(b) Interest expenses from farming activities which have been deducted in computing taxable income.

(4) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is

claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that fifty percent or more of the net income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, net income from farming activities~~; provided, that if that occupant is married and both spouses occupy the residence, it shall be stated in the written statement whether their net income from farming activities was fifty percent or more of their combined net income from all sources~~.

(5) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than forty thousand dollars during each of the three preceding calendar years. ~~The provisions of this~~ This paragraph ~~do~~ does not apply to ~~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~~ a retired farmer or a beginning farmer as defined in paragraph 2.

(6) For purposes of this section, "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, 1998.