

HOUSE BILL NO. 1054

Introduced by

Legislative Council

(Taxation Committee)

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

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

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

- 7 15. a. All farm structures and improvements located on agricultural lands.
- 8 (1) This subsection shall be construed to exempt farm buildings and
9 improvements only, and shall not be construed to exempt from taxation
10 industrial plants, or structures of any kind not used or intended for use
11 as a part of a farm plant, or as a farm residence.
- 12 (2) Any structure or improvement used primarily in connection with a retail
13 or wholesale business other than farming, any structure or improvement
14 located on platted land within the corporate limits of a city, or any
15 structure or improvement located on railroad operating property subject
16 to assessment under chapter 57-05 is not exempt under this
17 subsection. For purposes of this paragraph, "business other than
18 farming" includes processing to produce a value-added physical or
19 chemical change in an agricultural commodity beyond the ordinary
20 handling of that commodity by a farmer prior to sale.
- 21 (3) The following factors may not be considered in application of the
22 exemption under this subsection:
- 23 (a) Whether the farmer grows or purchases feed for animals raised
24 on the farm.

- 1 (b) Whether animals being raised on the farm are owned by the
2 farmer.
3 (c) Whether the farm's replacement animals are produced on the
4 farm.
5 (d) Whether the farmer is engaged in contract feeding of animals on
6 the farm.

7 b. It is the intent of the legislative assembly that this exemption as applied to a
8 residence shall be strictly construed and interpreted to exempt only a
9 residence which is situated on a farm and which is occupied or used by a
10 person who is a farmer and that the exemption shall not be applied to property
11 which is occupied or used by a person who is not a farmer. For purposes of
12 this subdivision:

- 13 (1) "Farm" means a single tract or contiguous tracts of agricultural land
14 containing a minimum of ten acres [4.05 hectares] and for which the
15 farmer, actually farming the land or engaged in the raising of livestock
16 or other similar operations normally associated with farming and
17 ranching, has not received more than fifty percent of annual net income
18 from nonfarm income, including that of a spouse if married, during each
19 of the three preceding calendar years.
20 (2) "Farmer" means an individual who normally devotes the major portion
21 of time to the activities of producing products of the soil, poultry,
22 livestock, or dairy farming in such products' unmanufactured state and
23 has not received more than fifty percent of annual net income from
24 nonfarm income, including that of a spouse if married, during each of
25 the three preceding calendar years. "Farmer" includes an individual
26 who is retired because of illness or age and who at the time of
27 retirement owned and occupied as a farmer as defined above the
28 residence in which the person lives and for which the exemption is
29 claimed.

- 1 (3) "Net income from farming activities" described in paragraph 2 means
2 taxable income from those activities as computed for income tax
3 purposes pursuant to chapter 57-38 adjusted to include the following:
4 (a) The difference between gross sales price less expenses of sale
5 and the amount reported for sales of agricultural products for
6 which the farmer reported a capital gain.
7 (b) Interest expenses from farming activities which have been
8 deducted in computing taxable income.
- 9 (4) When exemption is claimed under this subdivision for a residence, the
10 assessor may require that the occupant of the residence who it is
11 claimed is a farmer provide to the assessor for the year or years
12 specified by the assessor a written statement in which it is stated that
13 fifty percent or more of the net income of that occupant was, or was not,
14 net income from farming activities; provided, that if that occupant is
15 married and both spouses occupy the residence, it shall be stated in the
16 written statement whether their net income from farming activities was
17 fifty percent or more of their combined net income from all sources.
- 18 (5) In addition to any of the provisions of this subsection or any other
19 provision of law, a residence situated on agricultural land is not exempt
20 for the year if it is occupied by an individual engaged in farming who
21 had nonfarm income, including that of a spouse if married, of more than
22 forty thousand dollars during each of the three preceding calendar
23 years. The provisions of this paragraph do not apply to an individual
24 who is retired because of illness or age and who at the time of
25 retirement owned and occupied as a farmer the residence in which the
26 person lives and for which the exemption is claimed.
- 27 (6) For purposes of this section, "livestock" includes "nontraditional
28 livestock" as defined in section 36-01-00.1.
- 29 (7) A farmer operating a bed and breakfast facility in the farm residence
30 occupied by that farmer is entitled to the exemption under this section
31 for that residence if the farmer and the residence would qualify for

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

3 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
4 December 31, 1998.