Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001

SENATE BILL NO. 2033
(Legislative Council)
(Commerce and Labor Committee)

AN ACT to create and enact a new section to chapter 40-63 of the North Dakota Century Code, relating to renaissance zone tax benefit requirements; to amend and reenact sections 40-63-01, 40-63-02, 40-63-03, 40-63-04, 40-63-05, 40-63-06, 40-63-07, 40-63-09, and 40-63-10 of the North Dakota Century Code, relating to renaissance zones; to repeal section 40-63-08 of the North Dakota Century Code, relating to renaissance zone contribution use; and to provide for an application date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 40-63-01 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-01. Definitions. As used in this chapter:

1. "Boundary" means the boundary established by vote of the city governing body and approved by the ~~office of intergovernmental assistance~~ division of community services.

2. "Development plan" means a written plan that addresses the criteria in subsection 1 of section 40-63-03 and includes the following:

   a. A map of the proposed renaissance zone which indicates the geographic boundaries and blocks, ~~the total area, and the present use and conditions of the land and structures within those boundaries~~ a description of the properties and structures on each block, identification of those properties and structures to be targeted for potential zone projects, and a description of the present use and conditions of the targeted properties and structures.

   b. A description of the existing physical assets, in particular natural or historical assets, of the zone and a plan for the incorporation and enhancement of the assets within the proposed development.

   c. An outline of goals and objectives and proposed outcomes, including major milestones or benchmarks, by which to gauge success resulting from the designation of the zone.

   d. A description of ~~proposed~~ the types of projects ~~including public and private investments, and the programming and planned events to support and enhance the projected investments~~ the city would encourage in the city's targeted properties.

   e. A description of the promotion, development, and management strategies to maximize investment in the zone.

   f. A plan for the development, promotion, and use of ~~the~~ a renaissance fund ~~corporation~~ organization, ~~including commitments by one or more investors to the corporation,~~ if ~~such use~~ one is ~~intended~~ desired to be established. If a city is not ready to commit to establishing a renaissance fund organization, the city may indicate in the renaissance zone application the city's desire to submit a plan for approval at a later date.

g. Evidence of community support and commitment from residential and business interests.

3. "Investor" means the individual, partnership, limited partnership, limited liability company, trust, or corporation making an investment in a renaissance fund ~~corporation~~ organization.

4. "Lease" means the lease of space in a building in a designated renaissance zone by a new business moving into the zone or by an existing zone business expanding in the zone, and the continuation of a lease of an existing zone tenant in a building rehabilitated as an approved zone project. For existing zone tenants expanding in the zone, the term does not include existing leased space.

5. "Local zone authority" means the city or the entity designated by the city to promote, develop, and manage the zone and may include any nonprofit incorporated entity such as an economic development corporation, community development corporation, main street organization, or chamber of commerce.

~~5.~~ 6. "Original principal amount" means the funds invested in a renaissance fund ~~corporation~~ organization after designation of the renaissance zone and before the sunset of that zone.

7. "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or remodeling of a building at a cost that is equal to or exceeds fifty percent of the current true and full value for commercial buildings and twenty percent for single-family homes.

~~6.~~ 8. "Taxpayer" means an individual, corporation, financial institution, or trust subject to the taxes imposed by chapter 57-35.3 or 57-38 and includes a partnership, subchapter S corporation, limited partnership, limited liability company, or any other passthrough entity.

~~7.~~ 9. "Zone" means a renaissance zone proposed by a city and designated by the ~~office of intergovernmental assistance~~ division of community services.

~~8.~~ 10. "Zone project" means ~~any project contained within a designated renaissance zone and~~ the purchase, lease, rehabilitation, or historical preservation or renovation of a building or space in a building approved for zone incentives by a majority vote of the city governing body or zone authority.

SECTION 2. AMENDMENT. Section 40-63-02 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-02. Eligibility - Local zone authority designation. Any incorporated city may apply to the ~~office of intergovernmental assistance~~ division of community services to designate a portion of the city as a renaissance zone. Any individual, partnership, limited partnership, limited liability company, trust, or corporation may apply for a tax credit or exemption under sections 40-63-04 through 40-63-07. The governing body of a city may designate a local zone authority to implement a development plan on behalf of the city.

SECTION 3. AMENDMENT. Section 40-63-03 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-03. Renaissance zones.

1. A city may apply to the ~~office of intergovernmental assistance~~ division of community services to designate a portion of that city as a renaissance zone if the following criteria are met:

   a. The geographic area proposed for the renaissance zone is located wholly within the boundaries of the city submitting the application.

   b. The application includes a development plan.

c. The proposed renaissance zone is not more than twenty square blocks.

d. The proposed renaissance zone has a continuous boundary and all blocks are contiguous.

e. The proposed land usage includes both commercial and residential property.

f. The application includes the proposed duration of renaissance zone status, not to exceed fifteen years.

2. The ~~office of intergovernmental assistance~~ division of community services shall:

a. Review all applications for renaissance zone designation against the criteria established in this section and designate zones.

b. Approve or reject the duration of renaissance zone status as submitted in an application.

c. Approve or reject the geographic boundaries and total area of the renaissance zone as submitted in an application.

d. Promote the renaissance zone program.

e. Monitor the progress of the designated renaissance zones against submitted plans in an annual plan review.

f. Report on renaissance zone progress to the governor and the legislative council on an annual basis until all designated zones expire.

3. The ~~office of intergovernmental assistance~~ division of community services shall consider the following criteria in designating a renaissance zone:

a. The viability of the development plan.

b. The incorporation and enhancement of unique natural and historic features into the development plan.

c. Whether the development plan is creative and innovative in comparison to other applications.

d. Public and private commitment to and other resources available for the proposed renaissance zone, including the provisions for a renaissance fund ~~corporation~~ organization.

e. How renaissance zone designation would relate to a broader plan for the community as a whole.

f. How the local regulatory burden, in particular that burden associated with the renovation of historic properties and that burden associated with mixed use development, will be eased for developers and investors in the renaissance zone.

g. The strategies for the promotion, development, and management of the zone, including the use of a local zone authority if designated.

h. Any other information required by the office.

4. The ~~office of intergovernmental assistance~~ division of community services may not designate a portion of a city as a renaissance zone unless, as a part of the application, the city provides a resolution from the governing body of the city that states if the renaissance

zone designation is granted, persons and property within the renaissance zone are exempt from taxes as provided in sections 40-63-04 through 40-63-07.

5. A city may not propose or be part of more than one renaissance zone.

6. A parcel of property may be exempted from property taxes under section 40-63-05 only once, but during the five taxable years of eligibility for that exemption, the property tax exemption transfers with the transfer of the property to a qualifying user. The ownership or lease of, or investment in, a parcel of property may qualify for exemption or credit under section 40-63-04 only once, but during the five taxable years of eligibility for that exemption or credit, the exemption or credit under section 40-63-04 transfers with the transfer of the property to a qualified user and with respect to the year in which the transfer is made must be prorated for use of the property during that year.

7. A city may apply to the division of community services at any time during the duration of a zone to expand a previously approved renaissance zone that is less than twenty square blocks to not more than twenty square blocks. If the expansion is approved by the division of community services, the blocks in the expansion are eligible for up to fifteen years of renaissance zone status.

8. The use of grant funds as the sole source of investment in the purchase of a building or space in a building does not qualify a taxpayer for any tax exemption or credit available under the chapter, and grant funds may not be counted in determining if the cost of rehabilitation meets or exceeds the current true and full value of the building.

9. If after a minimum of five years a portion of an approved renaissance zone is not progressing, the city may request the division of community services to permit deleting that portion and to make a one-time adjustment of the boundaries to add another equal, contiguous area to the original zone.

SECTION 4. AMENDMENT. Section 40-63-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-04. Income tax exemptions.

1. An individual taxpayer who purchases or rehabilitates single-family residential property for the individual's primary place of residence as ~~part of~~ a zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.

2. ~~A business~~ Any taxpayer that purchases ~~or~~, leases, or rehabilitates residential or commercial property for any business or investment purpose as ~~part of~~ a zone project is exempt from ~~income~~ any tax on income derived from the business or investment locations within the zone for five taxable years, beginning ~~in the year of the investment or lease for income derived from the business locations within the zone~~ with the date of purchase, lease, or completion of rehabilitation.

3. ~~An individual, partnership, limited partnership, limited liability company, trust, or corporation that purchases residential or commercial property as an investment as part of a zone project is exempt from any income tax for five taxable years resulting from income earned from that investment~~ If the cost of a new business purchase or expansion of an existing business, approved as a zone project, exceeds seventy-five thousand dollars, and the business is located in a city with a population of not more than two thousand five hundred, an individual taxpayer may, in lieu of the exemption provided in subsection 2, elect to take an income tax exemption of up to two thousand dollars of personal income tax liability as determined under section 57-38-29 or 57-38-30.3. The election must be made on the taxpayer's zone project application. The election is irrevocable and binding for the

duration of the exemptions provided in subsection 2 or 3. If no election is made on the zone project application, the taxpayer is only eligible for the exemption provided in subsection 2.

4. The exemptions provided by this section do not eliminate any duty to file a return or to report income as required under chapter 57-35.3 or 57-38.

SECTION 5. AMENDMENT. Section 40-63-05 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-05. Property tax exemptions.

1. A municipality may grant a partial or complete exemption from ad valorem taxation on single-family residential property, exclusive of the land on which it is situated, ~~located in a zone project~~ if the property was purchased or rehabilitated by an individual for the individual's primary place of residence as a zone project. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition or rehabilitation.

2. A municipality may grant a partial or complete exemption from ad valorem taxation on buildings, structures, fixtures, and improvements purchased ~~by a business~~ or rehabilitated as a zone project for any business or investment purpose~~, excluding investment, as part of a zone project~~. An exemption ~~granted~~ under this subsection may not extend beyond five taxable years ~~beginning in the year of the investment~~ following the date of purchase or rehabilitation.

~~3.~~ ~~A municipality may grant a partial or complete exemption from ad valorem taxation on all buildings, structures, fixtures, and improvements to residential or commercial property located in a zone project if the property was purchased solely for investment purposes. An exemption granted under this subsection may not extend beyond five taxable years following the date of acquisition.~~

SECTION 6. AMENDMENT. Section 40-63-06 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-06. Historic preservation and renovation tax credit. A credit against state tax liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3 is allowed for investments in the historic preservation or renovation of property within the renaissance zone ~~if the investment is made between January 1, 2000, and December 31, 2004~~. The amount of the credit is ~~fifty~~ twenty-five percent of the amount invested ~~during the taxable year~~, up to a maximum of two hundred fifty thousand dollars. The credit may be claimed in the year in which the preservation or renovation is completed. Any excess credit may be carried forward for a period of up to five taxable years ~~from the date of the investment~~.

SECTION 7. AMENDMENT. Section 40-63-07 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-07. Renaissance fund ~~corporation~~ organization - Exemption from taxation - Dissolution.

1. Each city with a designated renaissance zone may establish a renaissance fund ~~corporation~~ organization, if the ~~provisions~~ detailed plan for such ~~a corporation are~~ an organization is clearly established in the development plan and approved with the plan, or is submitted at a later date to the division of community services for approval after the designation of a renaissance zone. ~~The renaissance fund corporation may be a for profit subsidiary of the local authority if one is designated.~~

2. The purpose of a renaissance fund ~~corporation~~ organization is solely to raise funds to be used to make investments in zone projects~~, and to provide financing to enterprise zone projects in a manner that will encourage capital investment in downtowns and central portions of cities, encourage the establishment or expansion of commercial businesses in downtowns and central portions of cities, and encourage the purchase of homes and encourage residency in the downtowns and central portions of cities~~ and to make investments in businesses within a city's zone.

~~3.~~ A renaissance fund ~~corporation~~ organization may provide financing to ~~zone~~ projects~~, including projects~~ undertaken by individuals, partnerships, limited partnerships, limited liability companies, trusts, corporations, nonprofit organizations, and public entities. The financing may include any combination of equity investments, loans, guarantees, and commitments for financing. The amount of financing is not limited by this chapter.

3. A renaissance fund organization that is established by a city may provide financing to businesses within the city's zone and may provide financing to zone-approved projects throughout the state.

4. A renaissance fund ~~corporation~~ organization is exempt from any tax imposed by chapter 57-35.3 or 57-38. An exemption under this section may be passed through to any shareholder, partner, and owner if the renaissance fund organization is a passthrough entity for tax purposes. A corporation or financial institution entitled to the exemption provided by this subsection must file required returns and report income to the tax commissioner as required by the provisions of those chapters as if the exemption did not exist. If an employer, this subsection does not exempt a renaissance fund ~~corporation~~ organization from complying with the income tax withholding laws.

5. A credit against state tax liability as determined under section 57-35.3-03, 57-38-29, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund ~~corporation~~ organization. The amount of the credit is fifty percent of the amount invested in the renaissance fund corporation during the taxable year. Any amount of credit which exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to five taxable years after the taxable year in which the investment was made.

6. The total amount of credits allowed under this section may not exceed, in the aggregate, two million five hundred thousand dollars for all taxpayers in all taxable years.

7. Income to a renaissance fund ~~corporation~~ organization derived from the sale or refinancing of zone properties financed wholly or in part by the ~~corporation~~ organization may be dispersed as annual dividends equal to the income, minus ten percent, derived from all sources and proportional to the investment. In the event of a loss to the fund resulting in a temporary diminishment of the fund below the original principal amount, no annual dividend may be paid until the fund is restored.

8. Income to a renaissance fund ~~corporation~~ organization derived from interest or the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or securities may be used for administration.

9. If an investment in a renaissance fund ~~corporation~~ organization which is the basis for a credit under this section is redeemed by the investor within ten years of the date it is purchased, the credit provided by this section for the investment must be disallowed, and any credit previously claimed and allowed with respect to the investment must be paid to the tax commissioner with the appropriate return of the taxpayer covering the period in which the redemption occurred. When payments are made to the tax commissioner under this section, the amount collected must be handled in the same manner as if no credit had been allowed.

10. A renaissance fund ~~corporation~~ organization may invest in any ~~housing,~~ residential or commercial~~, or infrastructure project~~ property involved in a zone project.

~~11. Each petition for investment must include a plan for sale or refinancing that results in proceeds equal to or in excess of the proportional investment made by the renaissance fund corporation.~~

SECTION 8. AMENDMENT. Section 40-63-09 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-09. Rules and administration - Income tax secrecy exception. The tax commissioner shall administer this chapter with respect to an income tax exemption or credit and has the same powers as provided under section 57-38-56 for purposes of this chapter. ~~The office of intergovernmental assistance, in cooperation with the tax commissioner, shall issue forms to a taxpayer who may be eligible for the income tax exemption or tax credit sufficient for the tax commissioner to monitor the use of any exemptions or credits received by a taxpayer.~~ The secrecy provisions of section 57-38-57 do not apply to exemptions or credits received by taxpayers under sections 40-63-04, 40-63-06, and 40-63-07, but only when a local zone authority inquires of the tax commissioner about exemptions or credits claimed under sections 40-63-04, 40-63-06, and 40-63-07 with regard to that local zone authority or to the extent necessary for the tax commissioner to administer the tax exemptions or credits.

SECTION 9. AMENDMENT. Section 40-63-10 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

40-63-10. Pass-through of tax exemption or credit. A partnership, subchapter S corporation, limited partnership, limited liability company~~,~~ or any other pass-through entity that purchases or leases property in a renaissance zone for any business purpose, invests in a historic preservation or renovation of property within a renaissance zone, or invests in a renaissance fund ~~corporation~~ organization must be considered to be the taxpayer for purposes of any investment limitations in sections 40-63-04, 40-63-06, and 40-63-07, and the amount of the exemption or credit allowed with respect to the entity's investments must be determined at the pass-through entity level. The amount of the total exemption or credit determined at the entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the pass-through entity.

SECTION 10. A new section to chapter 40-63 of the North Dakota Century Code is created and enacted as follows:

Tax benefits not available to delinquent taxpayer. A taxpayer may not be delinquent in payment of any state and local tax liability to be eligible for a tax benefit under this chapter.

SECTION 11. REPEAL. Section 40-63-08 of the North Dakota Century Code is repealed.

SECTION 12. APPLICATION. Sections 4 and 5 of this Act apply to zone projects approved after December 31, 1999, and section 6 of this Act applies to zone projects approved after July 31, 2001.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2033.

Senate Vote:	Yeas	44	Nays	0	Absent	5
House Vote:	Yeas	95	Nays	1	Absent	2

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Secretary of the Senate

Received by the Governor at _________ M. on __________________________________, 2001.

Approved at _________ M. on ____, 2001.

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Governor

Filed in this office this _____________ day of ____________________________________, 2001,

at _________ o'clock ______ M.

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Secretary of State