

HOUSE BILL NO.

Introduced by

Representative Owens

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 elimination of the property tax exemption for farm residences; 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 North Dakota
6 Century Code is amended and reenacted as follows:

7 15.a- All farm structures and improvements located on agricultural lands.

8 (4) a. This subsection must be construed to exempt farm buildings and
9 improvements only, and may not be construed to exempt from taxation
10 residential property, industrial plants, or structures of any kind not used or
11 intended for use as a part of a farm plant, ~~or as a farm residence~~.

12 b. For purposes of this subsection:

13 (2) (1) "Farm buildings and improvements" includes a greenhouse or other
14 building used primarily for the growing of horticultural or nursery
15 products from seed, cuttings, or roots, if not used on more than an
16 occasional basis for a showroom for the retail sale of horticultural or
17 nursery products. A greenhouse or building used primarily for display
18 and sale of grown horticultural or nursery products is not a farm building
19 or improvement.

20 (2) (2) "Farmer" means a person who produces unmanufactured products of
21 the soil, poultry, livestock, nontraditional livestock, or products of dairy
22 animals.

23 (3) c. Any structure or improvement used primarily in connection with a retail or
24 wholesale business other than farming, any structure or improvement located

1 on platted land within the corporate limits of a city, or any structure or
2 improvement located on railroad operating property subject to assessment
3 under chapter 57-05 is not exempt under this subsection. For purposes of
4 this ~~paragraph~~ subdivision, "business other than farming" includes processing
5 to produce a value-added physical or chemical change in an agricultural
6 commodity beyond the ordinary handling of that commodity by a farmer prior
7 to sale.

8 (4) d. The following factors may not be considered in application of the exemption
9 under this subsection:

10 ~~(a)~~ (1) Whether the farmer grows or purchases feed for animals raised on the
11 farm.

12 ~~(b)~~ (2) Whether animals being raised on the farm are owned by the farmer.

13 ~~(c)~~ (3) Whether the farm's replacement animals are produced on the farm.

14 ~~(d)~~ (4) Whether the farmer is engaged in contract feeding of animals on the
15 farm.

16 ~~b.~~ ~~It is the intent of the legislative assembly that this exemption as applied to a~~
17 ~~residence must be strictly construed and interpreted to exempt only a~~
18 ~~residence that is situated on a farm and which is occupied or used by a~~
19 ~~person who is a farmer and that the exemption may not be applied to property~~
20 ~~which is occupied or used by a person who is not a farmer. For purposes of~~
21 ~~this subdivision:~~

22 ~~(1) "Farm" means a single tract or contiguous tracts of agricultural land~~
23 ~~containing a minimum of ten acres [4.05 hectares] and for which the~~
24 ~~farmer, actually farming the land or engaged in the raising of livestock~~
25 ~~or other similar operations normally associated with farming and~~
26 ~~ranching, has received annual net income from farming activities which~~
27 ~~is fifty percent or more of annual net income, including net income of a~~
28 ~~spouse if married, during any of the three preceding calendar years.~~

29 ~~(2) "Farmer" means an individual who normally devotes the major portion~~
30 ~~of time to the activities of producing products of the soil, poultry,~~
31 ~~livestock, or dairy farming in such products' unmanufactured state and~~

1 has received annual net income from farming activities which is fifty
2 percent or more of annual net income, including net income of a spouse
3 if married, during any of the three preceding calendar years. "Farmer"
4 includes a "retired farmer" who is retired because of illness or age and
5 who at the time of retirement owned and occupied as a farmer the
6 residence in which the person lives and for which the exemption is
7 claimed. "Farmer" includes a "beginning farmer" who has begun
8 occupancy and operation of a farm within the three preceding calendar
9 years; who normally devotes the major portion of time to the activities of
10 producing products of the soil, poultry, livestock, or dairy farming in
11 such products' unmanufactured state; and who does not have a history
12 of farm income from farm operation for each of the three preceding
13 calendar years.

14 (3) "Net income from farming activities" means taxable income from those
15 activities as computed for income tax purposes pursuant to chapter
16 57-38 adjusted to include the following:

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

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

22 (c) Depreciation expenses from farming activities which have been
23 deducted in computing taxable income.

24 (4) When exemption is claimed under this subdivision for a residence, the
25 assessor may require that the occupant of the residence who it is
26 claimed is a farmer provide to the assessor for the year or years
27 specified by the assessor a written statement in which it is stated that
28 fifty percent or more of the net income of that occupant, and spouse if
29 married and both spouses occupy the residence, was, or was not, net
30 income from farming activities.

- 1 (5) ~~In addition to any of the provisions of this subsection or any other~~
2 ~~provision of law, a residence situated on agricultural land is not exempt~~
3 ~~for the year if it is occupied by an individual engaged in farming who~~
4 ~~had nonfarm income, including that of a spouse if married, of more than~~
5 ~~forty thousand dollars during each of the three preceding calendar~~
6 ~~years. This paragraph does not apply to a retired farmer or a beginning~~
7 ~~farmer as defined in paragraph 2.~~
- 8 (6) ~~For purposes of this section, "livestock" includes "nontraditional~~
9 ~~livestock" as defined in section 36-01-00.1.~~
- 10 (7) ~~A farmer operating a bed and breakfast facility in the farm residence~~
11 ~~occupied by that farmer is entitled to the exemption under this section~~
12 ~~for that residence if the farmer and the residence would qualify for~~
13 ~~exemption under this section except for the use of the residence as a~~
14 ~~bed and breakfast facility.~~

15 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
16 December 31, 2008.