

Fifty-ninth  
Legislative Assembly  
of North Dakota

REENGROSSED SENATE BILL NO. 2157

Introduced by

Senators Wardner, Lindaas, Syverson

Representatives Drovdal, Headland

1 A BILL for an Act to amend and reenact section 57-02-08.1 of the North Dakota Century Code,  
2 relating to eligibility for and application of the homestead property tax credit; and to provide an  
3 effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **57-02-08.1. ~~Property tax credits for persons sixty-five years of age or older with~~**  
8 **limited income Homestead credit.**

9 1. a. Any person sixty-five years of age or older ~~in the year in which the tax was~~  
10 ~~levied, or any person who is permanently and totally disabled,~~ in the year in  
11 which the tax was levied, ~~as certified by a licensed physician approved by the~~  
12 ~~local governing body,~~ with an income of fourteen thousand dollars or less per  
13 annum from all sources, including the income of any dependent person,  
14 ~~including any county, state, or federal public assistance benefits, social~~  
15 ~~security, or other retirement benefits, that does not exceed the limitations of~~  
16 subdivision c is entitled to receive a reduction in the assessment on the  
17 taxable valuation on the person's homestead ~~as defined in section 47-18-01,~~  
18 ~~except that this.~~ An exemption under this subsection applies ~~to any person~~  
19 ~~who otherwise qualifies under this subsection~~ regardless of whether the  
20 person is the head of a family.

21 b. The exemption under this subsection continues to apply if the person does  
22 not reside in the homestead and the person's absence is due to confinement  
23 in a nursing home, hospital, or other care facility, for as long as the portion of

1                   the homestead previously occupied by the person is not rented to another  
2                   person.

3                   c.   The exemption ~~to which any person may be entitled~~ must be determined  
4                   according to the following schedule:

5                   a.   (1)   If the person's income is not in excess of ~~eight thousand dollars~~ the  
6                   federal poverty level, a reduction of one hundred percent of the taxable  
7                   valuation of the person's homestead up to a maximum reduction of ~~two~~  
8                   three thousand six hundred dollars of taxable valuation.

9                   b.   (2)   If the person's income is in excess of ~~eight thousand dollars~~ the federal  
10                   poverty level and not in excess of ~~nine thousand five hundred dollars~~  
11                   one hundred ten percent of the federal poverty level, a reduction of  
12                   eighty percent of the taxable valuation of the person's homestead up to  
13                   a maximum reduction of ~~one~~ two thousand six eight hundred eighty  
14                   dollars of taxable valuation.

15                   e.   (3)   If the person's income is in excess of ~~nine thousand five hundred~~  
16                   ~~dollars~~ one hundred ten percent of the federal poverty level and not in  
17                   excess of ~~eleven thousand dollars~~ one hundred twenty percent of the  
18                   federal poverty level, a reduction of sixty percent of the taxable  
19                   valuation of the person's homestead up to a maximum reduction of ~~one~~  
20                   two thousand two one hundred sixty dollars of taxable valuation.

21                   d.   (4)   If the person's income is in excess of ~~eleven thousand dollars~~ one  
22                   hundred twenty percent of the federal poverty level and not in excess of  
23                   ~~twelve thousand five hundred dollars~~ one hundred thirty percent of the  
24                   federal poverty level, a reduction of forty percent of the taxable  
25                   valuation of the person's homestead up to a maximum reduction of  
26                   ~~eight~~ one thousand four hundred forty dollars of taxable valuation.

27                   e.   (5)   If the person's income is in excess of ~~twelve thousand five hundred~~  
28                   ~~dollars~~ one hundred thirty percent of the federal poverty level and not in  
29                   excess of ~~fourteen thousand dollars~~ one hundred forty percent of the  
30                   federal poverty level, a reduction of twenty percent of the taxable

- 1 valuation of the person's homestead up to a maximum reduction of ~~four~~  
2 seven hundred twenty dollars of taxable valuation.
- 3 d. In no case may a husband and wife who are living Persons residing together  
4 both be, as spouses or when one or more is a dependent of another, are  
5 entitled to the credit as provided for in only one exemption between or among  
6 them under this subsection upon their homestead. The provisions of this  
7 Persons residing together, who are not spouses or dependents, who are  
8 coowners of the property are each entitled to a percentage of a full exemption  
9 under this subsection equal to their ownership interests in the property.
- 10 e. This subsection may does not reduce the liability of any person for special  
11 assessments levied upon any property.
- 12 f. Any person eligible for claiming the exemption herein provided under this  
13 subsection shall sign a verified statement that the person is sixty five years of  
14 age or older or is permanently and totally disabled, that the person's income,  
15 including that of any dependent, as determined in this chapter does not  
16 exceed fourteen thousand dollars per annum and that of facts establishing  
17 the person's eligibility.
- 18 g. A person is ineligible for the exemption under this subsection if the value of  
19 the person's assets of the person and any dependent residing with the  
20 person, excluding the unencumbered value of the person's residence that the  
21 person claims as a "homestead" as defined in section 47-18-01, does not  
22 exceed exceeds fifty thousand dollars, including the value of any assets  
23 divested within the last three years. The term "dependent" includes the  
24 spouse, if any, of the person claiming the exemption. For purposes of this  
25 subdivision, the unencumbered valuation of the homestead is limited to one  
26 hundred thousand dollars.
- 27 h. The assessor shall attach the statement filed under subdivision f to the  
28 assessment sheet and shall show the reduction on the assessment sheet. All  
29 benefits available in this section terminate
- 30 i. An exemption under this subsection terminates at the end of the taxable year  
31 of the death of the applicant.

- 1           j. The tax commissioner shall provide each county director of tax equalization  
2           an annual certification of the federal poverty level to be applied under this  
3           subsection for the taxable year.
- 4           2. a. ~~Any person sixty five years of age or older, or any person who is permanently~~  
5           ~~and totally disabled as certified by a licensed physician approved by the local~~  
6           ~~governing body, with an income of fourteen thousand dollars or less per~~  
7           ~~annum from all sources, including the income of any dependent person,~~  
8           ~~including any county, state, or federal public assistance benefits, social~~  
9           ~~security, or other retirement benefits, but excluding any federal rent subsidy,~~  
10           ~~and who would qualify for an exemption under subdivisions a and c of~~  
11           subsection 1 except for the fact that the person rents living quarters is eligible  
12           for refund for that part of a portion of the person's annual rent which is  
13           deemed by this subsection to constitute the payment of property tax and  
14           ~~which is further deemed to represent a burdensome share of the person's~~  
15           ~~income.~~
- 16           b. For the purpose of this subsection, twenty percent of the annual rent,  
17           exclusive of any federal rent subsidy and of charges for any utilities, services,  
18           furniture, furnishings, or personal property appliances furnished by the  
19           landlord as part of the rental agreement, whether or not expressly set out in  
20           the rental agreement, must be considered as payment made for property tax.  
21           When any part of the twenty percent of the annual rent exceeds four percent  
22           of the annual income of a qualified applicant, the applicant is entitled to  
23           receive a refund from the state general fund for that amount in excess of four  
24           percent of the person's annual income, but the refund may not ~~be in excess of~~  
25           ~~two hundred forty dollars~~ exceed the amount provided in this subdivision. If  
26           the calculation for the refund is less than five dollars, a minimum of five  
27           dollars must be sent to the qualifying applicant. ~~In no case may a husband~~  
28           ~~and wife~~ Maximum refunds for applicants must be determined according to  
29           the following schedule:
- 30           (1) If the person's income is not in excess of the federal poverty level, the  
31           maximum refund is two hundred forty dollars.

- 1                   (2) If the person's income is in excess of the federal poverty level and not  
2                   in excess of one hundred ten percent of the federal poverty level, the  
3                   maximum refund is one hundred ninety-two dollars.
- 4                   (3) If the person's income is in excess of one hundred ten percent of the  
5                   federal poverty level and not in excess of one hundred twenty percent  
6                   of the federal poverty level, the maximum refund is one hundred  
7                   forty-four dollars.
- 8                   (4) If the person's income is in excess of one hundred twenty percent of  
9                   the federal poverty level and not in excess of one hundred thirty  
10                  percent of the federal poverty level, the maximum refund is ninety-six  
11                  dollars.
- 12                  (5) If the person's income is in excess of one hundred thirty percent of the  
13                  federal poverty level and not in excess of one hundred forty percent of  
14                  the federal poverty level, the maximum refund is forty-eight dollars.
- 15                  c. Persons who are living reside together both be entitled to the, as spouses or  
16                  when one or more is a dependent of another, are entitled to only one refund  
17                  as provided for in between or among them under this subsection. Persons  
18                  who reside together in a rental unit, who are not spouses or dependents, are  
19                  each entitled to apply for a refund based on the rent paid by that person.
- 20                  d. Each application for refund under this subsection must be made to the tax  
21                  commissioner before the first day of June of each year by the person claiming  
22                  the refund,~~but the.~~ The tax commissioner may grant an extension of time to  
23                  file an application for good cause. The tax commissioner shall certify refunds  
24                  to the state treasurer ~~the amount of the refund due, if any, and the state~~  
25                  treasurer, who shall issue the refund refunds to applicants from the state  
26                  general fund to the applicant. In no case may this
- 27                  e. This subsection does not apply to rents or fees paid by a person for any living  
28                  quarters, including a nursing home licensed pursuant to section 23-16-01, if  
29                  ~~that living quarter has been declared~~ those living quarters are exempt from  
30                  property taxation and the owner is not making a payment in lieu of property  
31                  taxes.

- 1            f. A person may not receive a refund under this section for a taxable year in  
2            which that person received an exemption under subsection 1.
- 3            3. All forms necessary to effectuate this section must be prescribed, designed, and  
4            made available by the tax commissioner. The county directors of tax equalization  
5            shall make these forms available upon request.
- 6            4. ~~In determining a person's income for eligibility under this section, the amount of~~  
7            ~~medical expenses actually incurred by that person or any dependent person and~~  
8            ~~not compensated for by insurance or otherwise must be deducted. For purposes~~  
9            ~~of this section, the term "medical expenses" has the same meaning as it has for~~  
10           ~~state income tax purposes, except that for transportation for medical care the~~  
11           ~~person may use the standard mileage rate allowed for state officer and employee~~  
12           ~~use of a motor vehicle under section 54-06-09.~~
- 13           5. ~~No~~ A person whose homestead as defined in section 47-18-04 is a farm structure  
14           exempt from taxation under subsection 15 of section 57-02-08 may not receive  
15           any property tax credit under this section.
- 16           6- 5. For the purposes of this section, ~~"permanently:~~  
17           a. "Dependent" has the same meaning it has for federal income tax purposes.  
18           b. "Federal poverty level" means the official poverty line defined by the United  
19           States office of management and budget under 42 U.S.C. 9902, based on the  
20           most recent data made available by the bureau of the census, in the calendar  
21           year immediately preceding the taxable year for which an exemption is  
22           determined under this section. The federal poverty level for a single person  
23           must be used if the claim of exemption or refund application shows that the  
24           applicant resides with no dependent and the federal poverty level for two  
25           persons must be used if the claim or application shows that the applicant  
26           resides with one or more dependents.
- 27           c. "Homestead" has the same meaning as provided in section 47-18-01.  
28           d. "Income" means income for the most recent complete taxable year from all  
29           sources, including the income of any dependent of the applicant, and  
30           including any county, state, or federal public assistance benefits, social  
31           security, or other retirement benefits, but excluding any federal rent subsidy,

1                   any amount excluded from income by federal or state law, and medical  
2                   expenses paid during the year by the applicant or the applicant's dependent  
3                   which is not compensated by insurance or other means.

4                   e. "Medical expenses" has the same meaning as it has for state income tax  
5                   purposes, except that for transportation for medical care the person may use  
6                   the standard mileage rate allowed for state officer and employee use of a  
7                   motor vehicle under section 54-06-09.

8                   f. "Permanently and totally disabled" means the inability to engage in any  
9                   substantial gainful activity by reason of any medically determinable physical  
10                   or mental impairment which can be expected to result in death or has lasted  
11                   or can be expected to last for a continuous period of not less than twelve  
12                   months as established by a certificate from a licensed physician.

13                   **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
14                   December 31, 2006.