

HOUSE BILL NO. 1423

Introduced by

Representatives Kasper, Drovdal, Ruby, Thoreson

Senators Miller, Potter

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

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

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

6 **57-02-08.1. Homestead credit.**

- 7 1. a. Any person sixty-five years of age or older or permanently and totally
8 disabled, in the year in which the tax was levied, with an income that does not
9 exceed the limitations of subdivision c is entitled to receive a reduction in the
10 assessment on the taxable valuation on the person's homestead. An
11 exemption under this subsection applies regardless of whether the person is
12 the head of a family.
- 13 b. The exemption under this subsection continues to apply if the person does not
14 reside in the homestead and the person's absence is due to confinement in a
15 nursing home, hospital, or other care facility, for as long as the portion of the
16 homestead previously occupied by the person is not rented to another person.
- 17 c. The exemption must be determined according to the following schedule:
- 18 (1) If the person's income is not in excess of ~~ten~~ fifteen thousand dollars, a
19 reduction of one hundred percent of the taxable valuation of the
20 person's homestead up to a maximum reduction of ~~three~~ four thousand
21 ~~three~~ five hundred ~~seventy-five~~ dollars of taxable valuation.
- 22 (2) If the person's income is in excess of ~~ten~~ fifteen thousand dollars and
23 not in excess of ~~twelve~~ twenty thousand dollars, a reduction of eighty
24 percent of the taxable valuation of the person's homestead up to a

- 1 maximum reduction of ~~two~~ three thousand ~~seven~~ six hundred dollars of
- 2 taxable valuation.
- 3 (3) If the person's income is in excess of ~~twelve~~ twenty thousand dollars
- 4 and not in excess of ~~fourteen~~ twenty-five thousand dollars, a reduction
- 5 of sixty percent of the taxable valuation of the person's homestead up
- 6 to a maximum reduction of two thousand ~~twenty-five~~ seven hundred
- 7 dollars of taxable valuation.
- 8 (4) If the person's income is in excess of ~~fourteen~~ twenty-five thousand
- 9 dollars and not in excess of ~~sixteen~~ thirty thousand dollars, a reduction
- 10 of forty percent of the taxable valuation of the person's homestead up to
- 11 a maximum reduction of one thousand ~~three~~ eight hundred ~~fifty~~ dollars
- 12 of taxable valuation.
- 13 (5) ~~If the person's income is in excess of sixteen thousand dollars and not~~
- 14 ~~in excess of seventeen thousand five hundred dollars, a reduction of~~
- 15 ~~twenty percent of the taxable valuation of the person's homestead up to~~
- 16 ~~a maximum reduction of six hundred seventy-five dollars of taxable~~
- 17 ~~valuation.~~
- 18 d. Persons residing together, as spouses or when one or more is a dependent of
- 19 another, are entitled to only one exemption between or among them under
- 20 this subsection. Persons residing together, who are not spouses or
- 21 dependents, who are coowners of the property are each entitled to a
- 22 percentage of a full exemption under this subsection equal to their ownership
- 23 interests in the property.
- 24 e. This subsection does not reduce the liability of any person for special
- 25 assessments levied upon any property.
- 26 f. Any person claiming the exemption under this subsection shall sign a verified
- 27 statement of facts establishing the person's eligibility.
- 28 g. A person is ineligible for the exemption under this subsection if the value of
- 29 the assets of the person and any dependent residing with the person,
- 30 excluding the unencumbered value of the person's residence that the person
- 31 claims as a homestead, exceeds ~~fifty~~ one hundred thousand dollars, including

the value of any assets divested within the last three years. For purposes of this subdivision, ~~the unencumbered valuation of the homestead is limited to one hundred thousand dollars~~ "assets" does not include the amounts accumulated in retirement savings in any plan eligible for the qualified retirement savings contributions credit for federal income tax purposes.

h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.

i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

j. Notwithstanding any other provision of law, unless improvements have been made to the property the true and full value of any property may not be increased for the first five taxable years after the first year that property qualified for the exemption under this subsection if the person continues to qualify for the exemption and thereafter the true and full value of any property to which the exemption under this subsection applied in the previous taxable year may not be increased by more than three percent or the change in the most recent calendar year in the consumer price index, midwest region, whichever is greater.

2. a. Any person who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund of a portion of the person's annual rent deemed by this subsection to constitute the payment of property tax.

b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of

- 1 ~~two~~ four hundred ~~forty~~ dollars. If the calculation for the refund is less than five
2 dollars, a minimum of five dollars must be sent to the qualifying applicant.
- 3 c. Persons who reside together, as spouses or when one or more is a
4 dependent of another, are entitled to only one refund between or among them
5 under this subsection. Persons who reside together in a rental unit, who are
6 not spouses or dependents, are each entitled to apply for a refund based on
7 the rent paid by that person.
- 8 d. Each application for refund under this subsection must be made to the tax
9 commissioner before the first day of June of each year by the person claiming
10 the refund. The tax commissioner may grant an extension of time to file an
11 application for good cause. The tax commissioner shall issue refunds to
12 applicants.
- 13 e. This subsection does not apply to rents or fees paid by a person for any living
14 quarters, including a nursing home licensed pursuant to section 23-16-01, if
15 those living quarters are exempt from property taxation and the owner is not
16 making a payment in lieu of property taxes.
- 17 f. A person may not receive a refund under this section for a taxable year in
18 which that person received an exemption under subsection 1.
- 19 3. All forms necessary to effectuate this section must be prescribed, designed, and
20 made available by the tax commissioner. The county directors of tax equalization
21 shall make these forms available upon request.
- 22 4. A person whose homestead is a farm structure exempt from taxation under
23 subsection 15 of section 57-02-08 may not receive any property tax credit under
24 this section.
- 25 5. For the purposes of this section:
- 26 a. "Dependent" has the same meaning it has for federal income tax purposes.
- 27 b. "Homestead" has the same meaning as provided in section 47-18-01.
- 28 c. "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,

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

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

e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration.

6. A charter, ordinance, or act of the governing body of a home rule city or county may not supersede any provision of this section.

7. The tax commissioner shall mail a homestead credit claim form and renter's refund claim form and instructions to each resident sixty-five years of age or older who files an income tax return under chapter 57-38. The county director of tax equalization shall mail a homestead credit claim form, or renter's refund, as appropriate, and instructions to each resident of the county who claimed an exemption or refund under this section for the previous taxable year.

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