

October 2008

Introduced by

1 A BILL for an Act to amend and reenact subdivision g of subsection 1 of section 40-63-03 and
2 section 40-63-06 of the North Dakota Century Code, relating to renaissance zone boundaries
3 and the transferability of renaissance zone historic preservation and renovation tax credits; and
4 to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Subdivision g of subsection 1 of section 40-63-03 of the
7 North Dakota Century Code is amended and reenacted as follows:

8 g. The proposed renaissance zone may have a single exception to the
9 continuous boundary and contiguous block requirements under subdivision d
10 if the area of the excepted noncontiguous blocks does not exceed three
11 square blocks ~~and if the shortest distance between the noncontinuous~~
12 ~~boundaries of the two portions of the zone does not exceed one-half mile [.80~~
13 ~~kilometer].~~

14 **SECTION 2. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **40-63-06. Historic preservation and renovation tax credit - Transferability.**

17 1. A credit against state tax liability as determined under sections 57-35.3-03,
18 57-38-29, 57-38-30, and 57-38-30.3 is allowed for investments in the historic
19 preservation or renovation of property within the renaissance zone. The amount of
20 the credit is twenty-five percent of the amount invested, up to a maximum of two
21 hundred fifty thousand dollars. The credit may be claimed in the year in which the
22 preservation or renovation is completed. Any excess credit may be carried forward
23 for a period of up to five taxable years. Any unused credit under this section to
24 which the owner of property is entitled at the time of the sale of the property

1 transfers to the purchaser of the property at the time of sale as provided for under
2 this section.

3 2. The following apply if a transfer of a credit under this section takes place:

4 a. The tax credit transferor and the purchaser of the property jointly shall file with
5 the tax commissioner a copy of the purchase agreement and a statement
6 containing the names, addresses, and taxpayer identification numbers of the
7 parties to the transfer, the amount of the credit being transferred, and the
8 taxable year or years for which the credit may be claimed. The transferor and
9 the purchaser also shall file a document allowing the tax commissioner to
10 disclose tax information to either party for the purpose of verifying the
11 correctness of the transferred tax credit. The purchase agreement,
12 supporting statement, and waiver must be filed within thirty days after the date
13 the purchase agreement is fully executed as provided in subdivision b.

14 b. The purchaser of the property shall claim the credit beginning with the
15 purchaser's taxable year in which the purchase agreement was fully executed
16 by the parties. A purchaser under this section has only such rights to claim
17 and use the credit under the terms that would have applied to the transferor.

18 c. If the amount of the credit available under this section is changed as a result
19 of an amended return filed by the transferor, or as the result of an audit
20 conducted by the internal review service or the tax commissioner, the
21 transferor shall report to the purchaser the adjusted credit amount within thirty
22 days of the amended return or within thirty days of the final determination
23 made by the internal revenue service or the tax commissioner. The purchaser
24 shall file amended returns reporting the additional tax due or claiming a refund
25 as provided in section 57-38-38 or 57-38-40, and the tax commissioner may
26 audit these returns and assess or issue refunds, even though other time
27 periods prescribed in these sections may have expired for the purchaser.

28 d. The tax commissioner has four years after the date the purchase agreement
29 is fully executed to audit the returns of the transferor and the purchaser to
30 verify the correctness of the amount of the transferred credit and if necessary
31 assess the purchaser if additional tax is found due. This subdivision does not

1 limit or restrict any other time period prescribed in chapter 57-38 for the
2 assessment of tax.

3 **SECTION 3. EFFECTIVE DATE.** This Act applies to all taxable years beginning after
4 December 31, 2008.