

Sixty-first
Legislative Assembly
of North Dakota

Introduced by

1 A BILL for an Act to amend and reenact sections 57-02-08.1, 57-02-08.2, and 57-02-08.3 of the
2 North Dakota Century Code, relating to homestead credit availability and administration; and to
3 provide an 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. Homestead credit.**

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

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

- 1 subdivision, the unencumbered valuation of the homestead is limited to one
2 hundred thousand dollars.
- 3 h. The assessor shall attach the statement filed under subdivision f to the
4 assessment sheet and shall show the reduction on the assessment sheet.
- 5 i. An exemption under this subsection terminates at the end of the taxable year
6 of the death of the applicant.
- 7 2. a. Any person who would qualify for an exemption under subdivisions a and c of
8 subsection 1 except for the fact that the person rents living quarters is eligible
9 for refund of a portion of the person's annual rent deemed by this subsection
10 to constitute the payment of property tax.
- 11 b. For the purpose of this subsection, twenty percent of the annual rent,
12 exclusive of any federal rent subsidy and of charges for any utilities, services,
13 furniture, furnishings, or personal property appliances furnished by the
14 landlord as part of the rental agreement, whether expressly set out in the
15 rental agreement, must be considered as payment made for property tax.
16 When any part of the twenty percent of the annual rent exceeds four percent
17 of the annual income of a qualified applicant, the applicant is entitled to
18 receive a refund from the state general fund for that amount in excess of four
19 percent of the person's annual income, but the refund may not be in excess of
20 two hundred forty dollars. If the calculation for the refund is less than five
21 dollars, a minimum of five dollars must be sent to the qualifying applicant.
- 22 c. Persons who reside together, as spouses or when one or more is a
23 dependent of another, are entitled to only one refund between or among them
24 under this subsection. Persons who reside together in a rental unit, who are
25 not spouses or dependents, are each entitled to apply for a refund based on
26 the rent paid by that person.
- 27 d. Each application for refund under this subsection must be made to the tax
28 commissioner before the first day of June of each year by the person claiming
29 the refund. The tax commissioner may grant an extension of time to file an
30 application for good cause. The tax commissioner shall issue refunds to
31 applicants.

- 1 e. This subsection does not apply to rents or fees paid by a person for any living
2 quarters, including a nursing home licensed pursuant to section 23-16-01, if
3 those living quarters are exempt from property taxation and the owner is not
4 making a payment in lieu of property taxes.
- 5 f. A person may not receive a refund under this section for a taxable year in
6 which that person received an exemption under subsection 1.
- 7 3. All forms necessary to effectuate this section must be prescribed, designed, and
8 made available by the tax commissioner. The county directors of tax equalization
9 shall make these forms available upon request.
- 10 4. A person whose homestead is a farm structure exempt from taxation under
11 subsection 15 of section 57-02-08 may not receive any property tax credit under
12 this section.
- 13 5. For the purposes of this section:
- 14 a. "Dependent" has the same meaning it has for federal income tax purposes.
- 15 b. "Homestead" has the same meaning as provided in section 47-18-01.
- 16 c. "Income" means income for the most recent complete taxable year from all
17 sources, including the income of any dependent of the applicant, and
18 including any county, state, or federal public assistance benefits, social
19 security, or other retirement benefits, but excluding any federal rent subsidy,
20 any amount excluded from income by federal or state law, and medical
21 expenses paid during the year by the applicant or the applicant's dependent
22 which is not compensated by insurance or other means.
- 23 d. "Medical expenses" has the same meaning as it has for state income tax
24 purposes, except that for transportation for medical care the person may use
25 the standard mileage rate allowed for state officer and employee use of a
26 motor vehicle under section 54-06-09.
- 27 e. "Permanently and totally disabled" means the inability to engage in any
28 substantial gainful activity by reason of any medically determinable physical or
29 mental impairment which can be expected to result in death or has lasted or
30 can be expected to last for a continuous period of not less than twelve months

1 as established by a certificate from a licensed physician or a written
2 determination of disability from the social security administration.

3 **SECTION 2. AMENDMENT.** Section 57-02-08.2 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-02-08.2. Homestead credit - Certification.**

- 6 1. Prior to the first of March of each year, the county auditor of each county shall
7 certify to the state tax commissioner on forms prescribed by the state tax
8 commissioner the name and address of each person for whom the homestead
9 credit provided for in section 57-02-08.1 was allowed for the preceding year, the
10 amount of exemption allowed, the total of the tax mill rates of all taxing districts,
11 exclusive of any state mill rates, that was applied to other real estate in such taxing
12 districts for the preceding year, and such other information as may be prescribed
13 by the tax commissioner.
- 14 2. The tax commissioner shall audit such certifications, make such corrections as
15 may be required, and certify to the state treasurer for payment to each county on or
16 before the first of June of each year, the sum of the amounts computed by
17 multiplying the exemption allowed for each such homestead in the county for the
18 preceding year by the total of the tax mill rates, exclusive of any state mill rates,
19 that was applied to other real estate in such taxing districts for that year.
- 20 3. The county treasurer upon receipt of the payment from the state treasurer shall
21 apportion and distribute it without delay to the county and to the local taxing
22 districts of the county on the basis on which the general real estate tax for the
23 preceding year is apportioned and distributed.
- 24 4. The tax commissioner shall annually certify to the state treasurer the amount
25 computed by multiplying the exemption allowed for all homesteads in the state for
26 the preceding year by one mill for deposit into the state medical center fund.
- 27 5. Supplemental certifications by the county auditor and by the state tax
28 commissioner and supplemental payments by the state treasurer may be made
29 after the dates prescribed in this section to make such corrections as may be
30 necessary because of errors or because of approval of any application for

1 abatement filed by a person because the exemption provided for in section
2 57-02-08.1 was not allowed in whole or in part.

3 **SECTION 3. AMENDMENT.** Section 57-02-08.3 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **57-02-08.3. Homestead credit for special assessments - Certification - Lien.**

- 6 1. Any person who has qualified for the property tax credit provided for in section
7 57-02-08.1 may elect to also qualify for an additional homestead credit against that
8 person's homestead for the portion of any special assessment levied by a taxing
9 district which becomes due for the same year. The total amount of credits allowed
10 for any one property must not exceed six thousand dollars excluding any interest
11 charged by the body levying the special assessment. This credit may be granted
12 only at the election of the qualifying person. The person making the election shall
13 do so by filing with the county auditor a claim for the special assessment credit on
14 a form prescribed by the tax commissioner. The claim must be filed with the
15 county auditor on or before February first of the year in which the special
16 assessment installment thereof becomes payable.
- 17 2. a. By March first of each year, the county auditor of each county shall certify to
18 the state tax commissioner, on forms prescribed by the tax commissioner, the
19 following information:
- 20 (1) The name and address of each person for whom the special
21 assessment credit provided for in subsection 1 was allowed for the
22 preceding year.
- 23 (2) The amount of credit allowed for the special assessment installment
24 thereof due for the preceding year.
- 25 (3) The total amount of the special assessment credits due in each special
26 assessment district.
- 27 (4) Other information that the tax commissioner requires.
- 28 b. The tax commissioner shall audit the certifications, make such corrections as
29 may be required, and certify to the state treasurer for payment to each county
30 by June first of each year the sum of the amounts computed by adding the
31 credits allowed for portions of special assessments which were due for each

- 1 homestead in the county for the preceding year. No more than the portion of
2 special assessments due for the preceding year shall be allowed as a credit
3 for any homestead in any year.
- 4 c. The county treasurer upon receipt of the payment from the state treasurer
5 shall forthwith apportion and distribute the payment to each special
6 assessment district in the county according to the total credits allowed for
7 each respective special assessment district.
- 8 d. Supplemental certifications by the county auditor and by the state tax
9 commissioner and supplemental payments by the state treasurer may be
10 made after the dates prescribed herein to make such corrections as may be
11 necessary because of errors therein.
- 12 3. a. Any credit allowed under subsection 1, plus interest in the amount of nine
13 percent per year from June first of the year for which the special assessment
14 installment for which a credit is taken becomes payable, creates a lien in favor
15 of the state against the property upon which the special assessment credit is
16 allowed and remains a lien upon the property from the time the credit is
17 allowed until the lien is fully satisfied by depositing the amount of the lien in
18 the state general fund. If the amount of the lien exceeds the market value of
19 the property, the state may accept the amount of the market value of the
20 property as payment in full on the lien.
- 21 b. (1) Except as otherwise provided in this subdivision, a transfer of title to the
22 homestead because of sale, death, or otherwise may not be made
23 without the lien being satisfied. When a credit under subsection 1 is
24 allowed, the county auditor shall cause a notice of lien of record to be
25 filed against subject property with the recorder.
- 26 (2) The recorder may not record any deed for property on which the county
27 auditor has determined that there is an unsatisfied lien created under
28 this section, except for a transfer between spouses because of the
29 death of one of them as provided in paragraph 3.

1 (3) When a transfer occurs between spouses because of the death of one
2 of them, the lien allowed by this section need not be satisfied until the
3 property is again transferred.

4 c. This lien has precedence over all other liens except general tax liens and prior
5 special assessment liens and shall not be divested at any judicial sale. A
6 mistake in the description of the property covered by this lien or in the name
7 of the owner of the property does not defeat the lien if the property can be
8 identified by the description in the special assessment list.

9 **SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
10 December 31, 2008.