

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 e~~ individual is entitled to receive a
11 reduction in the assessment on the taxable valuation on the person's
12 homestead. An exemption under this subsection applies regardless of
13 whether the person is 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~~ is equal to a maximum reduction of three
22 thousand three hundred seventy-five dollars of taxable valuation of the
23 individual's homestead.

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

- 1 g. ~~A person is ineligible for the exemption under this subsection if the value of~~
2 ~~the assets of the person and any dependent residing with the person,~~
3 ~~excluding the unencumbered value of the person's residence that the person~~
4 ~~claims as a homestead, exceeds fifty thousand dollars, including the value of~~
5 ~~any assets divested within the last three years. For purposes of this~~
6 ~~subdivision, the unencumbered valuation of the homestead is limited to one~~
7 ~~hundred thousand dollars.~~
- 8 h. The assessor shall attach the statement filed under subdivision f to the
9 assessment sheet and shall show the reduction on the assessment sheet.
- 10 i. h. An exemption under this subsection terminates at the end of the taxable year
11 of the death of the applicant.
- 12 2. a. Any ~~person~~ individual who would qualify for an exemption under
13 ~~subdivisions a and e of~~ subsection 1 except for the fact that the ~~person~~
14 individual rents living quarters is eligible for refund of a portion of the ~~person's~~
15 individual's annual rent deemed by this subsection to constitute the payment
16 of property tax.
- 17 b. For the purpose of this subsection, twenty percent of the annual rent,
18 exclusive of any federal rent subsidy and of charges for any utilities, services,
19 furniture, furnishings, or personal property appliances furnished by the
20 landlord as part of the rental agreement, whether expressly set out in the
21 rental agreement, must be considered as payment made for property tax.
22 When any part of the twenty percent of the annual rent exceeds four percent
23 of the annual income of a qualified applicant, the applicant is entitled to
24 receive a refund from the state general fund for that amount in excess of four
25 percent of the ~~person's~~ applicant's annual income, but the refund may not be
26 in excess of two hundred forty dollars. If the calculation for the refund is less
27 than five dollars, a minimum of five dollars must be sent to the qualifying
28 applicant.
- 29 c. ~~Persons~~ Individuals who reside together, as spouses or when one or more is
30 a dependent of another, are entitled to only one refund between or among
31 them under this subsection. ~~Persons~~ Individuals who reside together in a

- 1 rental unit, who are not spouses or dependents, are each entitled to apply for
2 a refund based on the rent paid by that ~~person~~ individual.
- 3 d. Each application for refund under this subsection must be made to the tax
4 commissioner before the first day of June of each year by the ~~person~~
5 individual claiming the refund. The tax commissioner may grant an extension
6 of time to file an application for good cause. The tax commissioner shall issue
7 refunds to applicants.
- 8 e. This subsection does not apply to rents or fees paid by ~~a person~~ an individual
9 for any living quarters, including a nursing home licensed pursuant to section
10 23-16-01, if those living quarters are exempt from property taxation and the
11 owner is not making a payment in lieu of property taxes.
- 12 f. ~~A person~~ An individual may not receive a refund under this section for a
13 taxable year in which that person received an exemption under subsection 1.
- 14 3. All forms necessary to effectuate this section must be prescribed, designed, and
15 made available by the tax commissioner. The county directors of tax equalization
16 shall make these forms available upon request.
- 17 4. ~~A person~~ An individual whose homestead is a farm structure exempt from taxation
18 under subsection 15 of section 57-02-08 may not receive any property tax credit
19 under this section.
- 20 5. For the purposes of this section:
- 21 a. "Dependent" has the same meaning it has for federal income tax purposes.
- 22 b. "Homestead" has the same meaning as provided in section 47-18-01.
- 23 e. ~~"Income" means income for the most recent complete taxable year from all~~
24 ~~sources, including the income of any dependent of the applicant, and~~
25 ~~including any county, state, or federal public assistance benefits, social~~
26 ~~security, or other retirement benefits, but excluding any federal rent subsidy,~~
27 ~~any amount excluded from income by federal or state law, and medical~~
28 ~~expenses paid during the year by the applicant or the applicant's dependent~~
29 ~~which is not compensated by insurance or other means.~~
- 30 d. ~~"Medical expenses" has the same meaning as it has for state income tax~~
31 ~~purposes, except that for transportation for medical care the person may use~~

1 ~~the standard mileage rate allowed for state officer and employee use of a~~
2 ~~motor vehicle under section 54-06-09.~~
3 e. ~~"Permanently and totally disabled" means the inability to engage in any~~
4 ~~substantial gainful activity by reason of any medically determinable physical or~~
5 ~~mental impairment which can be expected to result in death or has lasted or~~
6 ~~can be expected to last for a continuous period of not less than twelve months~~
7 ~~as established by a certificate from a licensed physician or a written~~
8 ~~determination of disability from the social security administration.~~

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

11 **57-02-08.2. Homestead credit - Certification.**

- 12 1. Prior to the first of March of each year, the county auditor of each county shall
13 certify to the state tax commissioner on forms prescribed by the state tax
14 commissioner the name and address of each ~~person~~ individual for whom the
15 homestead credit provided for in section 57-02-08.1 was allowed for the preceding
16 year, the amount of exemption allowed, the total of the tax mill rates of all taxing
17 districts, exclusive of any state mill rates, that was applied to other real estate in
18 such taxing districts for the preceding year, and such other information as may be
19 prescribed by the tax commissioner.
- 20 2. The tax commissioner shall audit such certifications, make such corrections as
21 may be required, and certify to the state treasurer for payment to each county on or
22 before the first of June of each year, the sum of the amounts computed by
23 multiplying the exemption allowed for each such homestead in the county for the
24 preceding year by the total of the tax mill rates, exclusive of any state mill rates,
25 that was applied to other real estate in such taxing districts for that year.
- 26 3. The county treasurer upon receipt of the payment from the state treasurer shall
27 apportion and distribute it without delay to the county and to the local taxing
28 districts of the county on the basis on which the general real estate tax for the
29 preceding year is apportioned and distributed.

- 1 4. The tax commissioner shall annually certify to the state treasurer the amount
2 computed by multiplying the exemption allowed for all homesteads in the state for
3 the preceding year by one mill for deposit into the state medical center fund.
- 4 5. Supplemental certifications by the county auditor and by the state tax
5 commissioner and supplemental payments by the state treasurer may be made
6 after the dates prescribed in this section to make such corrections as may be
7 necessary because of errors or because of approval of any application for
8 abatement filed by ~~a person~~ an individual because the exemption provided for in
9 section 57-02-08.1 was not allowed in whole or in part.

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

12 **57-02-08.3. Homestead credit for special assessments - Certification - Lien.**

- 13 1. Any ~~person~~ individual sixty-five years of age or older or permanently and totally
14 disabled who has qualified for the property tax credit provided for in section
15 57-02-08.1 may elect to also qualify for an additional homestead credit against that
16 ~~person's~~ individual's homestead for the portion of any special assessment levied
17 by a taxing district which becomes due for the same year. The total amount of
18 credits allowed for any one property must not exceed six thousand dollars
19 excluding any interest charged by the body levying the special assessment. This
20 credit may be granted only at the election of the qualifying ~~person~~ individual. The
21 ~~person~~ individual making the election shall do so by filing with the county auditor a
22 claim for the special assessment credit on a form prescribed by the tax
23 commissioner. The claim must be filed with the county auditor on or before
24 February first of the year in which the special assessment installment thereof
25 becomes payable.
- 26 2. a. By March first of each year, the county auditor of each county shall certify to
27 the state tax commissioner, on forms prescribed by the tax commissioner, the
28 following information:
- 29 (1) The name and address of each ~~person~~ individual for whom the special
30 assessment credit provided for in subsection 1 was allowed for the
31 preceding year.

1 without the lien being satisfied. When a credit under subsection 1 is
2 allowed, the county auditor shall cause a notice of lien of record to be
3 filed against subject property with the recorder.

4 (2) The recorder may not record any deed for property on which the county
5 auditor has determined that there is an unsatisfied lien created under
6 this section, except for a transfer between spouses because of the
7 death of one of them as provided in paragraph 3.

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

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

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