

Introduced by

Senators Cook, Hogue, Laffen, Schneider

Representatives Bellew, Kreun

1 A BILL for an Act to create and enact a new subsection to section 57-02-08 of the North Dakota
2 Century Code, relating to a conditional exemption and payments in lieu of taxes for affordable
3 rental residential property; to amend and reenact subsection 8 of section 57-02-08 of the North
4 Dakota Century Code, relating to the property tax exemption for property owned by institutions
5 of public charity; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Subsection 8 of section 57-02-08 of the North Dakota Century
8 Code is amended and reenacted as follows:

9 8. All buildings belonging to institutions of public charity, including public hospitals and
10 nursing homes licensed pursuant to section 23-16-01 under the control of religious or
11 charitable institutions, used wholly or in part for public charity, together with the land
12 actually occupied by such institutions not leased or otherwise used with a view to
13 profit.

14 a. The exemption provided by this subsection includes any dormitory, dwelling, or
15 residential-type structure, together with necessary land on which such structure is
16 located, owned by a religious or charitable organization recognized as tax
17 exempt under section 501(c)(3) of the United States Internal Revenue Code
18 which is occupied by members of said organization who are subject to a religious
19 vow of poverty and devote and donate substantially all of their time to the
20 religious or charitable activities of the owner.

21 ~~b. For purposes of this subsection and section 5 of article X of the Constitution of~~
22 ~~North Dakota, property is not used wholly or in part for public charity or charitable~~
23 ~~or other public purposes if that property is residential rental units leased to~~

1 tenants based on income levels that enable the owner to receive a federal-
2 low-income housing income tax credit.

3 **SECTION 2.** A new subsection to section 57-02-08 of the North Dakota Century Code is
4 created and enacted as follows:

5 All residential rental property, inclusive of land and administrative and auxiliary
6 buildings, used as affordable housing shall be exempt from taxation for the property's
7 period of affordability.

8 a. The exemption under this section applies to residential rental property if, on
9 January 1, 2013, the property is in compliance with the following:

10 (1) The property is subject to and in compliance with a land use restriction
11 agreement that enumerates the mandatory income and rent restrictions;

12 (2) The property must be owned by a qualified nonprofit entity, as defined in
13 section 2 of the Internal Revenue Code [26 U.S.C. 421]. If a for-profit entity,
14 such as a limited partner, has an ownership interest in the property, then
15 under a partnership agreement or other legally enforceable instrument, the
16 ownership interest must transfer to the nonprofit entity at a stated time,
17 without financial gain to the for-profit entity; and

18 (3) The general partner or other ownership entity is owned or controlled by a
19 nonprofit entity or a political subdivision.

20 b. For projects beginning after December 31, 2012, the exemption begins for the
21 first taxable year after the owners of the rental property receive a building permit
22 from the local jurisdiction in which the affordable housing residential rental
23 property will be located.

24 c. If part of the residential rental property is not eligible to receive assistance
25 through state or federal affordable housing programs, the exemption under this
26 section is calculated by dividing the number of income and rent-restricted units by
27 the total number of rental units.

28 d. In lieu of the ad valorem taxes that would otherwise be assessed, the project
29 owners shall make a payment equal to five percent of the total annual rents
30 collected during the preceding calendar year, minus the utility costs for the
31 property and paid by the owner of the property.

- 1 e. If an affordable housing rental property fails to comply with the requirements of
2 this section, or fails to comply with rent and household income restrictions under
3 a local, state, or federal affordable housing program, on or before March fifteen of
4 each calendar year, the housing finance agency shall notify the director of tax
5 equalization and the state supervisor of assessments that the property is no
6 longer eligible for the exemption.
- 7 f. For the purposes of this subsection, "affordable housing" includes property
8 eligible for or receiving assistance through state or federal affordable housing
9 program(s) and in which rent and household income restrictions apply, and which
10 is owned by nonprofit entities organized for the purpose of providing affordable
11 housing. Affordable housing is limited to residential rental property owned by or
12 with a controlling ownership or management interest by an organization
13 organized and operated exclusively for exempt purposes set forth in section
14 501(c)(3) of the Internal Revenue Code [26 U.S.C. 501(c)(3)].

15 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
16 December 31, 2012.