

Introduced by

Senators Dotzenrod, Erbele, Wanzek

Representatives Holman, J. Nelson

1 A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of
2 the North Dakota Century Code, relating to the calculation of income for purposes of the farm
3 residence property tax exemption; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the North
6 Dakota Century Code is amended and reenacted as follows:

7 b. It is the intent of the legislative assembly that this exemption as applied to a
8 residence must be strictly construed and interpreted to exempt only a residence
9 that is situated on a farm and which is occupied or used by a person who is a
10 farmer and that the exemption may not be applied to property which is occupied
11 or used by a person who is not a farmer. For purposes of this subdivision:

12 (1) "Farm" means a single tract or contiguous tracts of agricultural land
13 containing a minimum of ten acres [4.05 hectares] and for which the farmer,
14 actually farming the land or engaged in the raising of livestock or other
15 similar operations normally associated with farming and ranching, has
16 ~~received annual netgross~~ income from farming activities which is
17 ~~fiftysixty-six~~ percent or more of annual ~~netgross~~ income, including ~~netgross~~
18 income of a spouse if married, during any of the ~~threetwo~~ preceding
19 calendar years.

20 (2) "Farmer" means an individual who normally devotes the major portion of
21 time to the activities of producing products of the soil, with the exception of
22 marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming
23 in such products' unmanufactured state and has received annual ~~netgross~~
24 income from farming activities which is ~~fiftysixty-six~~ percent or more of

1 annual ~~net~~gross income, including ~~net~~gross income of a spouse if married,
2 during any of the ~~three~~two preceding calendar years. For purposes of this
3 paragraph, "farmer" includes a:

4 (a) "Beginning farmer", which means an individual who has begun
5 occupancy and operation of a farm within the ~~three~~two preceding
6 calendar years; who normally devotes the major portion of time to the
7 activities of producing products of the soil, poultry, livestock, or dairy
8 farming in such products' unmanufactured state; and who does not
9 have a history of farm income from farm operation for each of the
10 ~~three~~two preceding calendar years.

11 (b) "Retired farmer", which means an individual who is retired because of
12 illness or age and who at the time of retirement owned and occupied
13 as a farmer the residence in which the person lives and for which the
14 exemption is claimed.

15 (c) "Surviving spouse of a farmer", which means the surviving spouse of
16 an individual who is deceased, who at the time of death owned and
17 occupied as a farmer the residence in which the surviving spouse
18 lives and for which the exemption is claimed. The exemption under
19 this subparagraph expires at the end of the fifth taxable year after the
20 taxable year of death of an individual who at the time of death was an
21 active farmer. The exemption under this subparagraph applies for as
22 long as the residence is continuously occupied by the surviving
23 spouse of an individual who at the time of death was a retired farmer.

24 (3) "Gross income" means ~~federal taxable~~gross income as ~~computed~~defined
25 under the federal Internal Revenue Code.

26 (4) "NetGross income from farming activities" means ~~federal taxable~~gross
27 income from ~~those activities as computed for income tax purposes pursuant~~
28 ~~to chapter 57-38 adjusted to include~~cultivating the soil or raising agricultural
29 commodities. The term includes the following amounts:

30 ~~(a) The difference between gross sales price less expenses of sale and~~
31 ~~the amount reported for sales of agricultural products for which the~~

1 farmer reported a capital gain ~~Income from operating a stock, dairy,~~
2 ~~poultry, bee, fruit, or truck farm.~~

3 ~~(b)~~ Interest expenses from farming activities which have been deducted
4 in computing taxable income ~~Income from a plantation, ranch, nursery,~~
5 ~~range, or orchard.~~

6 ~~(c)~~ Depreciation expenses from farming activities which have been
7 deducted in computing taxable income ~~Crop shares for the use of the~~
8 ~~farmer's land farming as defined for purposes of determining if an~~
9 ~~individual is a farmer eligible to use the special estimated income tax~~
10 ~~payment rules for farmers under section 6654 of the federal Internal~~
11 ~~Revenue Code [26 U.S.C. 6654].~~

12 ~~(d)~~ ~~Gains from sales of draft, breeding, dairy, or sporting livestock.~~

13 ~~(4)~~(5) When exemption is claimed under this subdivision for a residence, the
14 assessor may require that the occupant of the residence who it is claimed is
15 a farmer provide to the assessor for the year or years specified by the
16 assessor a written statement in which it is stated that ~~fifty~~sixty-six percent or
17 more of the ~~net~~gross income of that occupant, and spouse if married and
18 both spouses occupy the residence, was, or was not, ~~net~~gross income from
19 farming activities.

20 ~~(5)~~ In addition to any of the provisions of this subsection or any other provision
21 of law, a residence situated on agricultural land is not exempt for the year if
22 it is occupied by an individual engaged in farming who had nonfarm income,
23 including that of a spouse if married, of more than forty thousand dollars
24 during each of the three preceding calendar years. This paragraph does not
25 apply to a retired farmer or a beginning farmer as defined in paragraph 2.

26 (6) For purposes of this section, "livestock" includes "nontraditional livestock"
27 as defined in section 36-01-00.1.

28 (7)(6) A farmer operating a bed and breakfast facility in the farm residence
29 occupied by that farmer is entitled to the exemption under this section for
30 that residence if the farmer and the residence would qualify for exemption

1 under this section except for the use of the residence as a bed and
2 breakfast facility.

3 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events beginning after
4 | December 31, ~~2018~~2019.