

Sixty-eighth  
Legislative Assembly  
of North Dakota

## ENGROSSED SENATE BILL NO. 2279

Introduced by

Senators Myrdal, Luick, Weber, Weston

Representatives Grueneich, Monson

1 A BILL for an Act to amend and reenact ~~subdivision a of~~ subsection 15 of section 57-02-08 of  
2 the North Dakota Century Code, relating to ~~the farm structure and improvements~~ a property tax  
3 exemption for certain potato storage structures; and to provide an effective date.

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

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

7 ~~a. All farm Farm structures and improvements located on agricultural lands as~~  
8 ~~provided in this subdivision.~~

9 ~~(1) This subsection subdivision must be construed to exempt farm buildings and~~  
10 ~~improvements only located on land used for an agricultural operation,~~  
11 ~~and with the exception of farm residences and structures used by a farmer to~~  
12 ~~provide housing for a farm employee, which must be located on agricultural~~  
13 ~~land. This subdivision may not be construed to exempt from taxation~~  
14 ~~industrial plants, or structures of any kind not used or intended for use as a~~  
15 ~~part of a farm plant, or as a farm residence.~~

16 ~~(2) "Farm buildings and improvements" used or intended for use as a part of a~~  
17 ~~farm plant includes a:~~

18 ~~(a) A greenhouse or other building used primarily for the growing of~~  
19 ~~horticultural or nursery products from seed, cuttings, or roots, if not~~  
20 ~~used on more than an occasional basis for a showroom for the retail~~  
21 ~~sale of horticultural or nursery products. A greenhouse or building~~  
22 ~~used primarily for display and sale of grown horticultural or nursery~~  
23 ~~products is not a farm building or improvement.~~

- 1 ~~(b) An agricultural commodity storage structure used exclusively for~~  
2 ~~personal use which is permanently affixed to the land. To qualify for an~~  
3 ~~exemption under this subdivision, an agricultural commodity storage~~  
4 ~~structure may not be rented to an individual who is not a direct relative~~  
5 ~~of the owner of the structure.~~
- 6 ~~(3) Any structure or improvement used primarily in connection with a retail or~~  
7 ~~wholesale business other than farming, any structure or improvement,~~  
8 ~~except an agricultural commodity storage structure as provided in~~  
9 ~~subparagraph b of paragraph 2, located on platted land within the corporate~~  
10 ~~limits of a city, any structure or improvement used by a manufacturing~~  
11 ~~facility as defined in section 19-24.1-01, or any structure or improvement~~  
12 ~~located on railroad operating property subject to assessment under chapter~~  
13 ~~57-05 is not exempt under this subsection. For purposes of this paragraph,~~  
14 ~~"business other than farming" includes processing to produce a value-added~~  
15 ~~physical or chemical change in an agricultural commodity beyond the~~  
16 ~~ordinary handling of that commodity by a farmer prior to sale.~~
- 17 ~~(4) The following factors may not be considered in application of the exemption~~  
18 ~~under this subsection:~~
- 19 ~~(a) Whether the farmer grows or purchases feed for animals raised on the~~  
20 ~~farm.~~
- 21 ~~(b) Whether animals being raised on the farm are owned by the farmer.~~
- 22 ~~(c) Whether the farm's replacement animals are produced on the farm.~~
- 23 ~~(d) Whether the farmer is engaged in contract feeding of animals on the~~  
24 ~~farm.~~
- 25 ~~(5) For purposes of this subdivision:~~
- 26 ~~(a) "Agricultural commodities" include barley, buckwheat, canola, corn,~~  
27 ~~crambe, flaxseed, hay, hemp, honey, lentils, mustard seed, oats,~~  
28 ~~peas, potatoes, safflower, sorghum, soybeans, sunflower seed,~~  
29 ~~sesame seed, and wheat, all whether harvested as whole grain or~~  
30 ~~other than whole grain.~~

1 ~~(b) "Direct relative" means a spouse, surviving spouse, child, parent,~~  
2 ~~brother, sister, grandparent, great-grandparent, grandchild, great-~~  
3 ~~grandchild, aunt, uncle, niece, nephew, first-cousin, or second-cousin,~~  
4 ~~whether by blood, adoption, or marriage.~~

5 ~~(c) "Land used for an agricultural operation" means a single tract or~~  
6 ~~multiple tracts of platted or unplatted agricultural or commercial land,~~  
7 ~~which are not required to be contiguous, used for raising agricultural~~  
8 ~~crops, grazing farm animals, storing or preserving agricultural~~  
9 ~~commodities in a structure as provided in subparagraph b of~~  
10 ~~paragraph 2, or other similar operations normally associated with~~  
11 ~~farming and ranching.~~

12 ~~(d) "Personal use" means the use of a structure exclusively for post-~~  
13 ~~harvest storage and preservation of agricultural commodities~~  
14 ~~produced by the owner of the structure or a direct relative of the~~  
15 ~~owner. The term does not include the use of a structure to store or~~  
16 ~~preserve agricultural commodities produced by individuals other than~~  
17 ~~the owner of the structure or the owner's direct relatives. For purposes~~  
18 ~~of this subparagraph, "preserve" means the ordinary handling of~~  
19 ~~agricultural commodities prior to sale and does not include processing~~  
20 ~~that results in a value-added physical or chemical change to the~~  
21 ~~agricultural commodity.~~

22 **SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-08 of the North Dakota  
23 Century Code is amended and reenacted as follows:

24 15. a. All farm structures and improvements located on agricultural lands.

25 (1) This subsection must be construed to exempt farm buildings and  
26 improvements only, and may not be construed to exempt from taxation  
27 industrial plants, or structures of any kind not used or intended for use as a  
28 part of a farm plant, or as a farm residence.

29 (2) "Farm buildings and improvements" includes a greenhouse or other building  
30 used primarily for the growing of horticultural or nursery products from seed,  
31 cuttings, or roots, if not used on more than an occasional basis for a

1 showroom for the retail sale of horticultural or nursery products. A  
2 greenhouse or building used primarily for display and sale of grown  
3 horticultural or nursery products is not a farm building or improvement.

4 (3) Any structure or improvement used primarily in connection with a retail or  
5 wholesale business other than farming, any structure or improvement,  
6 except a potato storage structure as provided in subdivision b, located on  
7 platted land within the corporate limits of a city, any structure or  
8 improvement used by a manufacturing facility as defined in section  
9 19-24.1-01, or any structure or improvement located on railroad operating  
10 property subject to assessment under chapter 57-05 is not exempt under  
11 this subsection. For purposes of this paragraph, "business other than  
12 farming" includes processing to produce a value-added physical or chemical  
13 change in an agricultural commodity beyond the ordinary handling of that  
14 commodity by a farmer prior to sale.

15 (4) The following factors may not be considered in application of the exemption  
16 under this subsection:

- 17 (a) Whether the farmer grows or purchases feed for animals raised on the  
18 farm.  
19 (b) Whether animals being raised on the farm are owned by the farmer.  
20 (c) Whether the farm's replacement animals are produced on the farm.  
21 (d) Whether the farmer is engaged in contract feeding of animals on the  
22 farm.

23 b. A potato storage structure that is permanently affixed to commercial property,  
24 owned by a farmer, and used exclusively for personal use by the owner, a direct  
25 relative of the owner, or another farmer. This exemption only applies to a potato  
26 storage structure that was originally constructed on agricultural property. For  
27 purposes of this subdivision:

28 (1) "Direct relative" means a spouse, surviving spouse, child, parent, brother,  
29 sister, grandparent, great-grandparent, grandchild, great-grandchild, aunt,  
30 uncle, niece, nephew, first cousin, or second cousin, whether by blood,  
31 adoption, or marriage.

1 (2) "Personal use" means the use of a structure for postharvest storage and  
2 preservation of potatoes produced by the owner of the structure, a direct  
3 relative of the owner, or a farmer leasing the storage structure associated  
4 with rented land. The term does not include the use of a structure to store or  
5 preserve potatoes produced by individuals other than the owner of the  
6 structure, a direct relative of the owner, or a farmer leasing the storage  
7 structure associated with rented land.

8 (3) "Preserve" means the ordinary handling of potatoes prior to sale and does  
9 not include processing that results in a value-added physical or chemical  
10 change to the potatoes.

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

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

23 (2) "Farmer" means an individual who normally devotes the major portion of  
24 time to the activities of producing products of the soil, with the exception of  
25 marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming  
26 in such products' unmanufactured state and has received annual gross  
27 income from farming activities which is sixty-six percent or more of annual  
28 gross income, including gross income of a spouse if married, during any of  
29 the two preceding calendar years. For purposes of this paragraph, "farmer"  
30 includes a:

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

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

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

21 (3) "Gross income" means gross income as defined under the federal Internal  
22 Revenue Code and does not include a gain from the sale or exchange of  
23 farm machinery as computed for federal income tax purposes. For purposes  
24 of this paragraph, "farm machinery" means all vehicular implements and  
25 attachment units designed and sold for direct use in planting, cultivating, or  
26 harvesting farm products or used in connection with the production of  
27 agricultural produce or products, livestock, or poultry on farms, which are  
28 operated, drawn, or propelled by motor or animal power. "Farm machinery"  
29 does not include vehicular implements operated wholly by hand or a motor  
30 vehicle that is required to be registered under chapter 57-40.3.

1 (4) "Gross income from farming activities" means gross income from farming as  
2 defined for purposes of determining if an individual is a farmer eligible to use  
3 the special estimated income tax payment rules for farmers under section  
4 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

5 (5) When exemption is claimed under this subdivision for a residence, the  
6 occupant of the residence who it is claimed is a farmer shall provide to the  
7 assessor for the year or years specified by the assessor a written statement  
8 in which it is stated that sixty-six percent or more of the gross income of that  
9 occupant, and spouse if married and both spouses occupy the residence,  
10 was, or was not, gross income from farming activities. The individual  
11 claiming the exemption also shall provide to the assessor, on a form  
12 prescribed by the tax commissioner, the necessary income information to  
13 demonstrate eligibility. Any income information provided to the assessor  
14 regarding eligibility for an exemption claimed under this subdivision is a  
15 confidential record.

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

18 (7) A farmer operating a bed and breakfast facility in the farm residence  
19 occupied by that farmer is entitled to the exemption under this section for  
20 that residence if the farmer and the residence would qualify for exemption  
21 under this section except for the use of the residence as a bed and  
22 breakfast facility.

23 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
24 December 31, 2022.