

Sixty-ninth
Legislative Assembly
of North Dakota

BILL NO.

Introduced by

Senator Boschee

1 A BILL for an Act to amend and reenact section 57-02-01.2 and subsection 2 of section
2 57-02-08.9 of the North Dakota Century Code, relating to primary residence certification for
3 certain property subject to a real estate transaction; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-02-01.2 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-02-01.2. Primary residence certification - Eligibility for primary residential property**
8 **classification - Application.**

- 9 1. To be eligible for a primary residential property classification under this chapter, a
10 primary residence must be certified by the county director of tax equalization as
11 provided in this section.
- 12 2. A dwelling does not lose its character as a primary residence if the owner of the
13 dwelling does not reside in the primary residence because the individual is confined in
14 a nursing home, hospital, or other care facility, for as long as that confinement lasts
15 and the portion of the primary residence previously occupied by the individual is not
16 rented to another person.
- 17 3. To be certified as a primary residence and eligible for the primary residential property
18 classification under this chapter, an owner shall sign and file with the tax commissioner
19 an application containing a verified statement of facts establishing the owner's
20 property meets the eligibility requirements to be considered a primary residence under
21 this section as of the date of the application on a form and in the manner prescribed by
22 the tax commissioner.

- 1 a. ~~An~~Except as provided in subdivision b, an application for primary residence
2 certification must be filed by April first of each year to request a primary residence
3 certification for:
- 4 (1) The taxable year during which the application is filed for a primary residence
5 taxed as real estate under this title.
- 6 (2) The taxable year succeeding the taxable year during which the application
7 is filed for a primary residence taxed as a mobile home under chapter
8 57-55.
- 9 b. For a parcel of property subject to a real estate transaction during the period
10 beginning after the application deadline under subdivision a and ending
11 September thirtieth of the same year, an application for primary residence
12 certification must be filed no later than September thirtieth of the year during
13 which the real estate transaction occurred to request a primary residence
14 certification for:
- 15 (1) The taxable year during which the application is filed for a primary residence
16 taxed as real estate under this title.
- 17 (2) The taxable year succeeding the taxable year during which the application
18 is filed for a primary residence taxed as a mobile home under chapter
19 57-55.
- 20 c. A taxpayer may submit more than one application for primary residence
21 certification if a subsequent application resulted from a real estate transaction as
22 provided under subdivision b but may not have more than one primary residence
23 as provided under subsection 6.
- 24 d. As soon as practicable after receiving the applications; but no later than May
25 thirty-first of each year for applications received under subdivision a and no later
26 than fifteen days after receipt of an application under subdivision b, the tax
27 commissioner shall:
- 28 (1) Review the applications received under this subsection and determine
29 which applicants qualify for the primary residence certification; and

1 (2) Provide to each county director of tax equalization a copy of each approved
2 or rejected application received under this subsection which identifies
3 property located in the county.

4 e.e. Within fifteen days of receipt of the applications from the tax commissioner under
5 paragraph 2 of subdivision ~~b~~d, the county director of tax equalization shall notify
6 the applicant of the approval or denial of the application and reflect the
7 appropriate classification of the property on the assessment list.

8 d.f. The tax commissioner may request additional documentation from the applicant
9 when making the determination of eligibility.

10 e.g. Determinations of eligibility under this subsection may be appealed through the
11 informal equalization process and formal abatement process.

12 4. A primary residence certification under this section is valid for the entire taxable year
13 for which the application for certification was approved, ~~without regard to any change~~
14 ~~of ownership of the property which occurs after the application for certification was~~
15 ~~approved.~~

16 5. The tax commissioner shall prescribe, design, and make available all forms necessary
17 to effectuate this section. Application forms must include the full name and address of
18 the applicant and any other information prescribed by the tax commissioner. The
19 county director of tax equalization shall make these forms available to applicants upon
20 request.

21 6. For purposes of this section:

22 a. "Owned" means the individual holds a present ownership interest, including
23 ownership in fee simple, holds a present life estate or other terminable present
24 ownership interest, holds a beneficial interest in a qualifying trust, or is a
25 purchaser under a contract for deed. The term does not include a mere right of
26 occupancy or a tenancy under a lease.

27 b. (1) "Primary residence" means a dwelling in this state, including the land,
28 appurtenances, and improvements used in the residential occupancy of the
29 dwelling, which is not exempt from property taxes as a farm residence and,
30 subject to subsection 2 and paragraph 2, ~~as of the assessment date of the~~
31 ~~taxable year,~~ is:

- (a) Owned by one or more individuals, either directly or through a beneficial interest in a qualifying trust;
- (b) Designed or adapted for human residence;
- (c) Used as a residence; and
- (d) Occupied as a primary place of residence by an owner, an individual who has a life estate in the property, or, for property owned through a beneficial interest in a qualifying trust, by a trustor or beneficiary of the trust who qualifies for the certification.

(2) For purposes of the term:

- (a) An individual may not have more than one primary residence.
- (b) A primary residence includes a primary residence taxed under chapter 57-55.

c. "Qualifying trust" means a trust:

- (1) In which the agreement, will, or court order creating the trust, an instrument transferring property to the trust, or any other agreement that is binding on the trustee provides that the trustor of the trust or a beneficiary of the trust has the right to use and occupy as the trustor's or beneficiary's primary residence rent free and without charge except for taxes and other costs and expenses specified in the instrument or court order:

- (a) For life;
- (b) For the lesser of life or a term of years; or
- (c) Until the date the trust is revoked or terminated by an instrument or court order that describes the property with sufficient certainty to identify it and is recorded in the real property records of the county in which the property is located; and

- (2) That acquires the property in an instrument of title or under a court order that:

- (a) Describes the property with sufficient certainty to identify it and the interest acquired; and
- (b) Is recorded in the real property records of the county in which the property is located.

- 1 d. "Trustor" means an individual who transfers an interest in real or personal
2 property to a qualifying trust, whether during the individual's lifetime or at death,
3 or the individual's spouse.

4 **SECTION 2. AMENDMENT.** Subsection 2 of section 57-02-08.9 of the North Dakota
5 Century Code is amended and reenacted as follows:

- 6 2. Only one credit under this section may be applied against the property taxes levied
7 against any parcel of primary residential property. A trust may not claim a credit for
8 more than one parcel of primary residential property under this section. ~~If a credit~~
9 ~~under this section is applied against the property tax due on a parcel of primary~~
10 ~~residential~~ For a parcel of property subject to a real estate transaction, any the proration
11 of the amount of property tax owed by a buyer or seller ~~must be based on~~ may be
12 calculated after deducting the credit from the amount of property tax owed ~~after~~
13 ~~application of~~ if the property is anticipated to qualify for the credit under this section or if
14 the credit was applied to the property.

15 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
16 December 31, 2025.