Fifty-ninth
Legislative Assembly
of North Dakota

# SENATE BILL NO. 2157

Introduced by

Senators Wardner, Lindaas, Syverson

Representatives Drovdal, Headland

A BILL for an Act to amend and reenact section 57-02-08.1 of the North Dakota Century Code, relating to eligibility for and application of the homestead property tax credit; and to provide an effective date.

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

**SECTION 1. AMENDMENT.** Section 57-02-08.1 of the North Dakota Century Code is amended and reenacted as follows:

**57-02-08.1. ~~Property tax credits for persons sixty-five years of age or older with limited income~~ Homestead credit.**

1. a. Any person sixty-five years of age or older ~~in the year in which the tax was levied,~~ or ~~any person who is~~ permanently and totally disabled, in the year in which the tax was levied, ~~as certified by a licensed physician approved by the local governing body,~~ with an income ~~of fourteen thousand dollars or less per annum from all sources, including the income of any dependent person, including any county, state, or federal public assistance benefits, social security, or other retirement benefits,~~ that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead ~~as defined in section 47-18-01, except that this~~. An exemption under this subsection applies ~~to any person who otherwise qualifies under this subsection~~ regardless of whether the person is the head of a family.

   b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.

c. The exemption ~~to which any person may be entitled~~ must be determined according to the following schedule:

~~a.~~ (1) If the person's income is not in excess of ~~eight thousand dollars~~ the federal poverty level, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~two~~ three thousand six hundred dollars of taxable valuation.

~~b.~~ (2) If the person's income is in excess of ~~eight thousand dollars~~ the federal poverty level and not in excess of ~~nine thousand five hundred dollars~~ one hundred ten percent of the federal poverty level, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~one~~ two thousand ~~six~~ eight hundred eighty dollars of taxable valuation.

~~c.~~ (3) If the person's income is in excess of ~~nine thousand five hundred dollars~~ one hundred ten percent of the federal poverty level and not in excess of ~~eleven thousand dollars~~ one hundred twenty percent of the federal poverty level, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~one~~ two thousand ~~two~~ one hundred sixty dollars of taxable valuation.

~~d.~~ (4) If the person's income is in excess of ~~eleven thousand dollars~~ one hundred twenty percent of the federal poverty level and not in excess of ~~twelve thousand five hundred dollars~~ one hundred thirty percent of the federal poverty level, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~eight~~ one thousand four hundred forty dollars of taxable valuation.

~~e.~~ (5) If the person's income is in excess of ~~twelve thousand five hundred dollars~~ one hundred thirty percent of the federal poverty level and not in excess of ~~fourteen thousand dollars~~ one hundred forty percent of the federal poverty level, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of ~~four~~ seven hundred twenty dollars of taxable valuation.

d. ~~In no case may a husband and wife who are living~~ Persons residing together ~~both be~~, as spouses or when one or more is a dependent of another, are entitled to ~~the credit as provided for in~~ only one exemption between or among them under this subsection ~~upon their homestead~~. ~~The provisions of this~~ Persons residing together, who are not spouses or dependents, who are coowners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.

e. This subsection ~~may~~ does not reduce the liability of any person for special assessments levied upon any property.

f. Any person ~~eligible for~~ claiming the exemption ~~herein provided~~ under this subsection shall sign a verified statement ~~that the person is sixty-five years of age or older or is permanently and totally disabled, that the person's income, including that of any dependent, as determined in this chapter does not exceed fourteen thousand dollars per annum and that~~ of facts establishing the person's eligibility.

g. A person is ineligible for the exemption under this subsection if the value of the ~~person's~~ assets of the person and any dependent residing with the person, excluding the value of the person's "homestead" as defined in section 47-18-01, ~~does not exceed~~ exceeds fifty thousand dollars, including the value of any assets divested within the last three years. ~~The term "dependent" includes the spouse, if any, of the person claiming the exemption.~~

h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet. ~~All benefits available in this section terminate~~

i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.

2. a. Any person ~~sixty-five years of age or older, or any person who is permanently and totally disabled as certified by a licensed physician approved by the local governing body, with an income of fourteen thousand dollars or less per annum from all sources, including the income of any dependent person, including any county, state, or federal public assistance benefits, social~~

~~security, or other retirement benefits, but excluding any federal rent subsidy, and~~ who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund ~~for that part~~ of a portion of the person's annual rent ~~which is~~ deemed by this subsection to constitute the payment of property tax ~~and which is further deemed to represent a burdensome share of the person's income~~.

b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether or not expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not ~~be in excess of two hundred forty dollars~~ exceed the amount provided in this subdivision. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant. ~~In no case may a husband and wife~~ Maximum refunds for applicants must be determined according to the following schedule:

(1) If the person's income is not in excess of the federal poverty level, the maximum refund is two hundred forty dollars.

(2) If the person's income is in excess of the federal poverty level and not in excess of one hundred ten percent of the federal poverty level, the maximum refund is one hundred ninety-two dollars.

(3) If the person's income is in excess of one hundred ten percent of the federal poverty level and not in excess of one hundred twenty percent of the federal poverty level, the maximum refund is one hundred forty-four dollars.

(4) If the person's income is in excess of one hundred twenty percent of the federal poverty level and not in excess of one hundred thirty percent of the federal poverty level, the maximum refund is ninety-six dollars.

(5) If the person's income is in excess of one hundred thirty percent of the federal poverty level and not in excess of one hundred forty percent of the federal poverty level, the maximum refund is forty-eight dollars.

c. Persons who ~~are living~~ reside together ~~both be entitled to the~~, as spouses or when one or more is a dependent of another, are entitled to only one refund ~~as provided for in~~ between or among them under this subsection. Persons who reside together in a rental unit, who are not spouses or dependents, are each entitled to apply for a refund based on the rent paid by that person.

d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund~~, but the~~. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall certify refunds to the state treasurer ~~the amount of the refund due, if any, and the state treasurer~~, who shall issue ~~the refund~~ refunds to applicants from the state general fund ~~to the applicant~~. ~~In no case may this~~

e. This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if ~~that living quarter has been declared~~ those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.

f. A person may not receive a refund under this section for a taxable year in which that person received an exemption under subsection 1.

3. All forms necessary to effectuate this section must be prescribed, designed, and made available by the tax commissioner. The county directors of tax equalization shall make these forms available upon request.

4. ~~In determining a person's income for eligibility under this section, the amount of medical expenses actually incurred by that person or any dependent person and not compensated for by insurance or otherwise must be deducted. For purposes~~

~~of this section, the term "medical expenses" has the same meaning as it has for state income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.~~

~~5.~~ ~~No~~ A person whose homestead ~~as defined in section 47-18-01~~ is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may not receive any property tax credit under this section.

~~6.~~ 5. For the purposes of this section~~, "permanently~~:

a. "Dependent" has the same meaning it has for federal income tax purposes.

b. "Federal poverty level" means the official poverty line defined by the United States office of management and budget under 42 U.S.C. 9902, based on the most recent data made available by the bureau of the census, in the calendar year immediately preceding the taxable year for which an exemption is determined under this section. The federal poverty level for a single person must be used if the claim of exemption or refund application shows that the applicant resides with no dependent and the federal poverty level for two persons must be used if the claim or application shows that the applicant resides with one or more dependents.

c. "Homestead" has the same meaning as provided in section 47-18-01.

d. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.

e. "Medical expenses" has the same meaning as it has for state income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.

f. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician.

**SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2004.