

Fifty-sixth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1053

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to amend and reenact subsection 15 of section 57-02-08 of the North Dakota  
2 Century Code, relating to application of the property tax exemption for farm buildings for  
3 beginning farmers; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subsection 15 of section 57-02-08 of the 1997  
6 Supplement to the North Dakota Century Code is amended and reenacted as follows:

7 15. a. All farm structures and improvements located on agricultural lands. This  
8 subsection ~~shall~~ must be construed to exempt farm buildings and  
9 improvements only, and ~~shall~~ may not be construed to exempt from taxation  
10 industrial plants, or structures of any kind not used or intended for use as a  
11 part of a farm plant, or as a farm residence. Any structure or improvement  
12 used in connection with a retail or wholesale business other than farming, any  
13 structure or improvement located on platted land within the corporate limits of  
14 a city, or any structure or improvement located on railroad operating property  
15 subject to assessment under chapter 57-05 is not exempt under this  
16 subsection.

17 b. It is the intent of the legislative assembly that this exemption as applied to a  
18 residence ~~shall~~ must be strictly construed and interpreted to exempt only a  
19 residence ~~which~~ that is situated on a farm and which is occupied or used by a  
20 person who is a farmer and that the exemption ~~shall~~ may not be applied to  
21 property which is occupied or used by a person who is not a farmer. For  
22 purposes of this subdivision:

23 (1) "Farm" means a single tract or contiguous tracts of agricultural land  
24 containing a minimum of ten acres [4.05 hectares] and for which the

1 farmer, actually farming the land or engaged in the raising of livestock  
2 or other similar operations normally associated with farming and  
3 ranching, has ~~not received more than fifty percent of~~ annual net income  
4 from ~~nonfarm income~~ farming activities which is fifty percent or more of  
5 annual net income, including ~~that net income~~ of a spouse if married,  
6 during ~~each~~ any of the three preceding calendar years.

7 (2) "Farmer" means an individual who normally devotes the major portion  
8 of time to the activities of producing products of the soil, poultry,  
9 livestock, or dairy farming in such products' unmanufactured state and  
10 has ~~not received more than fifty percent of~~ annual net income from  
11 ~~nonfarm income~~ farming activities which is fifty percent or more of  
12 annual net income, including ~~that net income~~ of a spouse if married,  
13 during ~~each~~ any of the three preceding calendar years. "Farmer"  
14 includes ~~an individual~~ a "retired farmer" who is retired because of  
15 illness or age and who at the time of retirement owned and occupied as  
16 a farmer ~~as defined above~~ the residence in which the person lives and  
17 for which the exemption is claimed. "Farmer" includes a "beginning  
18 farmer" who has begun occupancy and operation of a farm within the  
19 three preceding calendar years; who normally devotes the major  
20 portion of time to the activities of producing products of the soil, poultry,  
21 livestock, or dairy farming in such products' unmanufactured state; and  
22 who does not have a history of farm income from farm operation for  
23 each of the three preceding calendar years.

24 (3) "Net income from farming activities" ~~described in paragraph 2~~ means  
25 taxable income from those activities as computed for income tax  
26 purposes pursuant to chapter 57-38 adjusted to include the following:  
27 (a) The difference between gross sales price less expenses of sale  
28 and the amount reported for sales of agricultural products for  
29 which the farmer reported a capital gain.  
30 (b) Interest expenses from farming activities which have been  
31 deducted in computing taxable income.

- 1                   (4) When exemption is claimed under this subdivision for a residence, the  
2                   assessor may require that the occupant of the residence who it is  
3                   claimed is a farmer provide to the assessor for the year or years  
4                   specified by the assessor a written statement in which it is stated that  
5                   fifty percent or more of the net income of that occupant, and spouse if  
6                   married and both spouses occupy the residence, was, or was not, net  
7                   income from farming activities; ~~provided, that if that occupant is married~~  
8                   ~~and both spouses occupy the residence, it shall be stated in the written~~  
9                   ~~statement whether their net income from farming activities was fifty~~  
10                  ~~percent or more of their combined net income from all sources.~~  
11                  (5) In addition to any of the provisions of this subsection or any other  
12                  provision of law, a residence situated on agricultural land is not exempt  
13                  for the year if it is occupied by an individual engaged in farming who  
14                  had nonfarm income, including that of a spouse if married, of more than  
15                  forty thousand dollars during each of the three preceding calendar  
16                  years. ~~The provisions of this~~ This paragraph ~~de~~ does not apply to an  
17                  ~~individual who is retired because of illness or age and who at the time~~  
18                  ~~of retirement owned and occupied as a farmer the residence in which~~  
19                  ~~the person lives and for which the exemption is claimed~~ a retired farmer  
20                  or a beginning farmer as defined in paragraph 2.  
21                  (6) For purposes of this section, "livestock" includes "nontraditional  
22                  livestock" as defined in section 36-01-00.1.  
23                  (7) A farmer operating a bed and breakfast facility in the farm residence  
24                  occupied by that farmer is entitled to the exemption under this section  
25                  for that residence if the farmer and the residence would qualify for  
26                  exemption under this section except for the use of the residence as a  
27                  bed and breakfast facility.

28                  **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after  
29                  December 31, 1998.