

HOUSE BILL NO. 1052

Introduced by

Legislative Council

(Taxation Committee)

1 A BILL for an Act to amend and reenact section 57-02-08.1 of the North Dakota Century Code,
2 relating to income limitations to qualify for the homestead credit for persons sixty-five years of
3 age or older with limited income; and to provide an effective date.

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

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

7 **57-02-08.1. Property tax credits for persons sixty-five years of age or older with**
8 **limited income.**

9 1. Any person sixty-five years of age or older in the year in which the tax was levied,
10 or any person who is permanently and totally disabled in the year in which the tax
11 was levied, as certified by a licensed physician approved by the local governing
12 body, with an income of ~~thirteen~~ fourteen thousand ~~five hundred~~
13 ~~dollars~~ or less per annum from all sources, including the income of any dependent person, including
14 any county, state, or federal public assistance benefits, social security, or other
15 retirement benefits, ~~shall~~ is entitled to receive a reduction in the assessment on the
16 taxable valuation on the homestead as defined in section 47-18-01, except that this
17 exemption applies to any person who otherwise qualifies under ~~the provisions of~~
18 this subsection regardless of whether the person is the head of a family. The
19 exemption under this subsection continues to apply if the person does not reside in
20 the homestead and the person's absence is due to confinement in a nursing home,
21 hospital, or other care facility, for as long as the portion of the homestead
22 previously occupied by the person is not rented to another person. The exemption
23 to which any person may be entitled must be determined according to the following
24 schedule:

- 1 a. If the person's income is not in excess of ~~seven~~ eight thousand ~~five hundred~~
2 dollars, a reduction of one hundred percent of the taxable valuation of the
3 person's homestead up to a maximum reduction of two thousand dollars of
4 taxable valuation.
- 5 b. If the person's income is in excess of ~~seven~~ eight thousand ~~five hundred~~
6 dollars and not in excess of nine thousand five hundred dollars, a reduction of
7 eighty percent of the taxable valuation of the person's homestead up to a
8 maximum reduction of one thousand six hundred dollars of taxable valuation.
- 9 c. If the person's income is in excess of nine thousand five hundred dollars and
10 not in excess of ~~ten~~ eleven thousand ~~five hundred~~ dollars, a reduction of sixty
11 percent of the taxable valuation of the person's homestead up to a maximum
12 reduction of one thousand two hundred dollars of taxable valuation.
- 13 d. If the person's income is in excess of ~~ten~~ eleven thousand ~~five hundred~~
14 dollars and not in excess of twelve thousand five hundred dollars, a reduction
15 of forty percent of the taxable valuation of the person's homestead up to a
16 maximum reduction of eight hundred dollars of taxable valuation.
- 17 e. If the person's income is in excess of twelve thousand five hundred dollars
18 and not in excess of ~~thirteen~~ fourteen thousand ~~five hundred~~ dollars, a
19 reduction of twenty percent of the taxable valuation of the person's
20 homestead up to a maximum reduction of four hundred dollars of taxable
21 valuation.

22 In no case may a husband and wife who are living together both be entitled to the
23 credit as provided for in this subsection upon their homestead. The provisions of
24 this subsection may not reduce the liability of any person for special assessments
25 levied upon any property. Any person eligible for the exemption herein provided
26 shall sign a statement that the person is sixty-five years of age or older or is
27 permanently and totally disabled, that the person's income, including that of any
28 dependent, as determined in this chapter does not exceed ~~thirteen~~ fourteen
29 thousand ~~five hundred~~ dollars per annum and that the value of the person's assets,
30 excluding the value of the person's "homestead" as defined in section 47-18-01,
31 does not exceed fifty thousand dollars including the value of any assets divested

1 within the last three years. The term "dependent" includes the spouse, if any, of
2 the person claiming the exemption. The assessor shall attach the statement to the
3 assessment sheet and shall show the reduction on the assessment sheet. All
4 benefits available in this section terminate at the end of the taxable year of the
5 death of the applicant.

6 2. Any person sixty-five years of age or older, or any person who is permanently and
7 totally disabled as certified by a licensed physician approved by the local governing
8 body, with an income of ~~thirteen~~ fourteen thousand ~~five hundred~~ dollars or less per
9 annum from all sources, including the income of any dependent person, including
10 any county, state, or federal public assistance benefits, social security, or other
11 retirement benefits, but excluding any federal rent subsidy, and who rents living
12 quarters is eligible for refund for that part of the annual rent which is deemed by
13 this subsection to constitute the payment of property tax and which is further
14 deemed to represent a burdensome share of the person's income. For the
15 purpose of this subsection, twenty percent of the annual rent, exclusive of any
16 federal rent subsidy and of charges for any utilities, services, furniture, furnishings,
17 or personal property appliances furnished by the landlord as part of the rental
18 agreement, whether or not expressly set out in the rental agreement, must be
19 considered as payment made for property tax. When any part of the twenty
20 percent of the annual rent exceeds four percent of the annual income of a qualified
21 applicant, ~~said the applicant shall~~ is entitled to receive a refund from the state
22 general fund for that amount in excess of four percent of the person's annual
23 income, but the refund may not be in excess of two hundred forty dollars. If the
24 calculation for the refund is less than five dollars, a minimum of five dollars must be
25 sent to the qualifying applicant. In no case may a husband and wife who are living
26 together both be entitled to the refund as provided for in this subsection. Each
27 application for refund under this subsection must be made to the tax commissioner
28 before the first day of June of each year by the person claiming the refund, but the
29 tax commissioner may grant an extension of time to file an application for good
30 cause. The tax commissioner shall certify to the state treasurer the amount of the
31 refund due, if any, and the state treasurer shall issue the refund from the state

1 general fund to the applicant. In no case may this subsection apply to rents or fees
2 paid by a person for any living quarters, including a nursing home licensed
3 pursuant to section 23-16-01, if that living quarter has been declared exempt from
4 property taxation and is not making a payment in lieu of property taxes.

5 3. All forms necessary to effectuate this section must be prescribed and designed by
6 the tax commissioner who shall distribute annually ~~distribute~~ an adequate supply of
7 them to each county director of tax equalization. The county directors of tax
8 equalization shall make these forms available upon request.

9 4. In determining a person's income for eligibility under this section, the amount of
10 medical expenses actually incurred by that person or any dependent person and
11 not compensated for by insurance or otherwise must be deducted. For purposes
12 of this section, the term "medical expenses" has the same meaning as it has for
13 state income tax purposes.

14 5. No person whose homestead as defined in section 47-18-01 is a farm structure
15 exempt from taxation under subsection 15 of section 57-02-08 may receive any
16 property tax credit under this section.

17 6. For the purposes of this section, "permanently and totally disabled" means the
18 inability to engage in any substantial gainful activity by reason of any medically
19 determinable physical or mental impairment which can be expected to result in
20 death or has lasted or can be expected to last for a continuous period of not less
21 than twelve months.

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