

SENATE BILL NO. 2033

Introduced by

Legislative Council

(Commerce and Labor Committee)

1 A BILL for an Act to create and enact a new section to chapter 40-63 of the North Dakota
2 Century Code, relating to renaissance zone tax benefit requirements; to amend and reenact
3 sections 40-63-01, 40-63-02, and 40-63-03, subsection 2 of section 40-63-04, sections
4 40-63-06, 40-63-07, and 40-63-09 of the North Dakota Century Code, relating to renaissance
5 zones; and to repeal section 40-63-08 of the North Dakota Century Code, relating to
6 renaissance zone contribution use.

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

8 **SECTION 1. AMENDMENT.** Section 40-63-01 of the 1999 Supplement to the North
9 Dakota Century Code is amended and reenacted as follows:

10 **40-63-01. Definitions.** As used in this chapter:

11 1. "Boundary" means the boundary established by vote of the city governing body
12 and approved by the ~~office of intergovernmental assistance~~ division of community
13 services.

14 2. "Development plan" means a written plan that addresses the criteria in
15 subsection 1 of section 40-63-03 and includes the following:

16 a. A map of the proposed renaissance zone which indicates the geographic
17 boundaries and blocks, ~~the total area, and the present use and conditions of~~
18 ~~the land and structures within those boundaries~~ a description of the properties
19 and structures on each block, identification of those properties and structures
20 to be targeted for potential zone projects, and a description of the present use
21 and conditions of the targeted properties and structures.

22 b. A description of the existing physical assets, in particular natural or historical
23 assets, of the zone and a plan for the incorporation and enhancement of the
24 assets within the proposed development.

- 1 c. An outline of goals and objectives and proposed outcomes, including major
2 milestones or benchmarks, by which to gauge success resulting from the
3 designation of the zone.
- 4 d. A description of ~~proposed the types of projects including public and private~~
5 ~~investments, and the programming and planned events to support and~~
6 ~~enhance the projected investments~~ the city would encourage in the city's
7 targeted properties.
- 8 e. A description of the promotion, development, and management strategies to
9 maximize investment in the zone.
- 10 f. A plan for the development, promotion, and use of ~~the a~~ a renaissance fund
11 corporation, ~~including commitments by one or more investors to the~~
12 ~~corporation, if such use one is intended~~ desired to be established.
- 13 g. Evidence of community support and commitment from residential and
14 business interests.
- 15 3. "Investor" means the individual, partnership, limited partnership, limited liability
16 company, trust, or corporation making an investment in a renaissance fund
17 corporation.
- 18 4. "Local zone authority" means the city or the entity designated by the city to
19 promote, develop, and manage the zone and may include any nonprofit
20 incorporated entity such as an economic development corporation, community
21 development corporation, main street organization, or chamber of commerce.
- 22 5. ~~"Original principal amount" means the funds invested in a renaissance fund~~
23 ~~corporation after designation of the renaissance zone and before the sunset of that~~
24 ~~zone.~~
- 25 6. "Taxpayer" means an individual, corporation, financial institution, or trust subject to
26 the taxes imposed by chapter 57-35.3 or 57-38.
- 27 7. "Zone" means a renaissance zone proposed by a city and designated by the ~~office~~
28 ~~of intergovernmental assistance~~ division of community services.
- 29 7. "Zone project" means any project contained within a designated renaissance zone
30 and approved for zone incentives by a majority vote of the city governing body or
31 zone authority.

1 **SECTION 2. AMENDMENT.** Section 40-63-02 of the 1999 Supplement to the North
2 Dakota Century Code is amended and reenacted as follows:

3 **40-63-02. Eligibility - Local zone authority designation.** Any incorporated city may
4 apply to the ~~office of intergovernmental assistance~~ division of community services to designate
5 a portion of the city as a renaissance zone. Any individual, partnership, limited partnership,
6 limited liability company, trust, or corporation may apply for a tax credit or exemption under
7 sections 40-63-04 through 40-63-07. The governing body of a city may designate a local zone
8 authority to implement a development plan on behalf of the city.

9 **SECTION 3. AMENDMENT.** Section 40-63-03 of the 1999 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **40-63-03. Renaissance zones.**

12 1. A city may apply to the ~~office of intergovernmental assistance~~ division of
13 community services to designate a portion of that city as a renaissance zone if the
14 following criteria are met:

- 15 a. The geographic area proposed for the renaissance zone is located wholly
16 within the boundaries of the city submitting the application.
17 b. The application includes a development plan.
18 c. The proposed renaissance zone is not more than twenty square blocks.
19 d. The proposed renaissance zone has a continuous boundary and all blocks
20 are contiguous.
21 e. The proposed land usage includes both commercial and residential property.
22 f. The application includes the proposed duration of renaissance zone status,
23 not to exceed fifteen years.

24 2. The ~~office of intergovernmental assistance~~ division of community services shall:

- 25 a. Review all applications for renaissance zone designation against the criteria
26 established in this section and designate zones.
27 b. Approve or reject the duration of renaissance zone status as submitted in an
28 application.
29 c. Approve or reject the geographic boundaries and total area of the renaissance
30 zone as submitted in an application.
31 d. Promote the renaissance zone program.

- 1 e. Monitor the progress of the designated renaissance zones against submitted
2 plans in an annual plan review.
- 3 f. Report on renaissance zone progress to the governor and the legislative
4 council on an annual basis until all designated zones expire.
- 5 3. The ~~office of intergovernmental assistance~~ division of community services shall
6 consider the following criteria in designating a renaissance zone:
- 7 a. The viability of the development plan.
- 8 b. The incorporation and enhancement of unique natural and historic features
9 into the development plan.
- 10 c. Whether the development plan is creative and innovative in comparison to
11 other applications.
- 12 d. Public and private commitment to and other resources available for the
13 proposed renaissance zone, including the provisions for a renaissance fund
14 corporation.
- 15 e. How renaissance zone designation would relate to a broader plan for the
16 community as a whole.
- 17 f. How the local regulatory burden, in particular that burden associated with the
18 renovation of historic properties and that burden associated with mixed use
19 development, will be eased for developers and investors in the renaissance
20 zone.
- 21 g. The strategies for the promotion, development, and management of the zone,
22 including the use of a local zone authority if designated.
- 23 h. Any other information required by the office.
- 24 4. The ~~office of intergovernmental assistance~~ division of community services may not
25 designate a portion of a city as a renaissance zone unless, as a part of the
26 application, the city provides a resolution from the governing body of the city that
27 states if the renaissance zone designation is granted, persons and property within
28 the renaissance zone are exempt from taxes as provided in sections 40-63-04
29 through 40-63-07.
- 30 5. A city may not propose or be part of more than one renaissance zone.

1 6. A parcel of property may be exempted from property taxes under section 40-63-05
2 only once, but during the five taxable years of eligibility for that exemption, the
3 property tax exemption transfers with the transfer of the property to a qualifying
4 user. The ownership or lease of, or investment in, a parcel of property may qualify
5 for exemption or credit under section 40-63-04 only once, but during the five
6 taxable years of eligibility for that exemption or credit, the exemption or credit
7 under section 40-63-04 transfers with the transfer of the property to a qualified user
8 and with respect to the year in which the transfer is made must be prorated for use
9 of the property during that year.

10 7. A city may apply to the division of community services at any time during the
11 duration of a zone to expand a previously approved renaissance zone that is less
12 than twenty square blocks to not more than twenty square blocks. If the expansion
13 is approved by the division of community services, the blocks in the expansion are
14 eligible for up to fifteen years of renaissance zone status.

15 **SECTION 4. AMENDMENT.** Subsection 2 of section 40-63-04 of the 1999 Supplement
16 to the North Dakota Century Code is amended and reenacted as follows:

17 2. A business that purchases or leases property for any business purpose as part of a
18 zone project is exempt from income tax for five taxable years beginning in the year
19 of the ~~investment~~ purchase or lease for income derived from the business
20 locations within the zone.

21 **SECTION 5. AMENDMENT.** Section 40-63-06 of the 1999 Supplement to the North
22 Dakota Century Code is amended and reenacted as follows:

23 **40-63-06. Historic preservation and renovation tax credit.** A credit against state tax
24 liability as determined under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3 is
25 allowed for investments in the historic preservation or renovation of property within the
26 renaissance zone ~~if the investment is made between January 1, 2000, and December 31, 2004.~~
27 The amount of the credit is fifty percent of the amount invested during the taxable year. Any
28 excess credit may be carried forward for a period of up to five taxable years from the date of the
29 investment.

30 **SECTION 6. AMENDMENT.** Section 40-63-07 of the 1999 Supplement to the North
31 Dakota Century Code is amended and reenacted as follows:

- 1 **40-63-07. Renaissance fund corporation - Exemption from taxation - Dissolution.**
- 2 1. Each city with a designated renaissance zone may establish a renaissance fund
- 3 corporation, if the provisions for such a corporation are clearly established in the
- 4 development plan and approved with the plan. The renaissance fund corporation
- 5 may be a for-profit subsidiary of the local authority if one is designated.
- 6 2. A renaissance fund corporation that is not established by a city may provide
- 7 financing to zone projects throughout the state.
- 8 ~~3. The purpose of a renaissance fund corporation is solely to raise funds to be used~~
- 9 ~~to make investments in zone projects, and to provide financing to enterprise zone~~
- 10 ~~projects in a manner that will encourage capital investment in downtowns and~~
- 11 ~~central portions of cities, encourage the establishment or expansion of commercial~~
- 12 ~~businesses in downtowns and central portions of cities, and encourage the~~
- 13 ~~purchase of homes and encourage residency in the downtowns and central~~
- 14 ~~portions of cities.~~
- 15 ~~3.~~ A renaissance fund corporation may provide financing to zone projects, including
- 16 projects undertaken by individuals, partnerships, limited partnerships, limited
- 17 liability companies, trusts, corporations, nonprofit organizations, and public entities.
- 18 The financing may include any combination of equity investments, loans,
- 19 guarantees, and commitments for financing. The amount of financing is not limited
- 20 by this chapter.
- 21 4. A renaissance fund corporation is exempt from any tax imposed by chapter
- 22 57-35.3 or 57-38. A corporation or financial institution entitled to the exemption
- 23 provided by this subsection must file required returns and report income to the tax
- 24 commissioner as required by the provisions of those chapters as if the exemption
- 25 did not exist. If an employer, this subsection does not exempt a renaissance fund
- 26 corporation from complying with the income tax withholding laws.
- 27 5. A credit against state tax liability as determined under section 57-35.3-03,
- 28 57-38-29, 57-38-30, or 57-38-30.3 is allowed for investments in a renaissance fund
- 29 corporation. The amount of the credit is fifty percent of the amount invested in the
- 30 renaissance fund corporation during the taxable year. Any amount of credit which

- 1 exceeds a taxpayer's tax liability for the taxable year may be carried forward for up
2 to five taxable years after the taxable year in which the investment was made.
- 3 6. The total amount of credits allowed under this section may not exceed, in the
4 aggregate, two million five hundred thousand dollars for all taxpayers in all taxable
5 years.
- 6 7. Income to a renaissance fund corporation derived from the sale or refinancing of
7 zone properties financed wholly or in part by the corporation may be dispersed as
8 annual dividends equal to the income, minus ten percent, derived from all sources
9 and proportional to the investment. In the event of a loss to the fund resulting in a
10 temporary diminishment of the fund below the original principal amount, no annual
11 dividend may be paid until the fund is restored.
- 12 8. Income to a renaissance fund corporation derived from interest or the temporary
13 investment of its funds in certificates of deposit, bonds, treasury bills, or securities
14 may be used for administration.
- 15 9. If an investment in a renaissance fund corporation which is the basis for a credit
16 under this section is redeemed by the investor within ten years of the date it is
17 purchased, the credit provided by this section for the investment must be
18 disallowed, and any credit previously claimed and allowed with respect to the
19 investment must be paid to the tax commissioner with the appropriate return of the
20 taxpayer covering the period in which the redemption occurred. When payments
21 are made to the tax commissioner under this section, the amount collected must be
22 handled in the same manner as if no credit had been allowed.
- 23 10. A renaissance fund corporation may invest in any housing, commercial, or
24 infrastructure project in a zone project.
- 25 ~~11. Each petition for investment must include a plan for sale or refinancing that results~~
26 ~~in proceeds equal to or in excess of the proportional investment made by the~~
27 ~~renaissance fund corporation.~~

28 **SECTION 7. AMENDMENT.** Section 40-63-09 of the 1999 Supplement to the North
29 Dakota Century Code is amended and reenacted as follows:

30 **40-63-09. Rules and administration - Income tax secrecy exception.** The tax
31 commissioner shall administer this chapter with respect to an income tax exemption or credit

1 and has the same powers as provided under section 57-38-56 for purposes of this chapter.
2 ~~The office of intergovernmental assistance, in cooperation with the tax commissioner, shall~~
3 ~~issue forms to a taxpayer who may be eligible for the income tax exemption or tax credit~~
4 ~~sufficient for the tax commissioner to monitor the use of any exemptions or credits received by~~
5 ~~a taxpayer.~~ The secrecy provisions of section 57-38-57 do not apply to exemptions or credits
6 received by taxpayers under sections 40-63-04, 40-63-06, and 40-63-07, but only when a local
7 zone authority inquires of the tax commissioner about exemptions or credits claimed under
8 sections 40-63-04, 40-63-06, and 40-63-07 with regard to that local zone authority or to the
9 extent necessary for the tax commissioner to administer the tax exemptions or credits.

10 **SECTION 8.** A new section to chapter 40-63 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Tax benefits not available to delinquent taxpayer.** A taxpayer may not be delinquent
13 in payment of any state and local tax liability to be eligible for a tax benefit under this chapter.

14 **SECTION 9. REPEAL.** Section 40-63-08 of the North Dakota Century Code is
15 repealed.