

Fifty-seventh
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1246

Introduced by

Representatives Schmidt, Nicholas, Weisz

Senators Kroepflin, Thane, Tomac

1 A BILL for an Act to amend and reenact section 57-02-27.2 of the North Dakota Century Code,
2 relating to the capitalization rate used for valuation of agricultural property for property tax
3 purposes; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Section 57-02-27.2 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-02-27.2. Valuation and assessment of agricultural lands.**

- 8 1. "True and full value" of agricultural lands must be their agricultural value for the
9 purposes of sections 57-02-27, 57-02-27.1, 57-02-27.2, and 57-55-04. Agricultural
10 value is defined as the "capitalized average annual gross return", except for
11 inundated agricultural land. The "annual gross return" must be determined from
12 crop share rent, cash rent, or a combination thereof reduced by estimated property
13 taxes and crop marketing expenses incurred by farmland owners renting their
14 lands on a cash or crop share basis.
- 15 2. For purposes of this section, "annual gross return" for cropland used for growing
16 crops other than sugar beets and potatoes means thirty percent of annual gross
17 income produced, "annual gross return" for cropland used for growing sugar beets
18 and potatoes means twenty percent of annual gross income produced, and
19 "annual gross return" for land used for grazing farm animals means twenty-five
20 percent of an amount determined by the agricultural economics department of
21 North Dakota state university to represent the annual gross income potential of the
22 land based upon the animal unit carrying capacity of the land.
- 23 3. The "average annual gross return" for each county must be determined as follows:

- 1 a. For taxable year 1999, total the annual gross returns for the nine years
2 immediately preceding the current year for which data is available and discard
3 the highest and lowest annual gross returns of the nine. For taxable year
4 2000 and thereafter, total the annual gross returns for the ten years
5 immediately preceding the current year for which data is available and discard
6 the highest and lowest annual gross returns of the ten.
- 7 b. The agricultural economics department of North Dakota state university shall
8 establish a base year index of prices paid by farmers using annual statistics
9 on that topic compiled by the national agricultural statistics service for the
10 seven-year period ending in 1995, discarding the highest and lowest years'
11 indexes, and averaging the remaining five years' indexes. For taxable year
12 1999, the agricultural economics department shall gather the national
13 agricultural statistics service annual index of prices paid by farmers for the
14 nine years ending with the most recent year used under subdivision a, discard
15 the highest and lowest years' indexes, average the remaining seven years'
16 indexes, and divide the resulting amount by the base year index of prices paid
17 by farmers. For taxable year 2000 and thereafter, the agricultural economics
18 department shall gather the national agricultural statistics service annual
19 index of prices paid by farmers for the ten years ending with the most recent
20 year used under subdivision a, discard the highest and lowest years' indexes,
21 average the remaining eight years' indexes, and divide the resulting amount
22 by the base year index of prices paid by farmers. This amount must be
23 divided into the amount determined under subdivision a.
- 24 c. For taxable year 1998, divide the figure arrived at in subdivision b by six. For
25 taxable year 1999, divide the figure arrived at in subdivision b by seven. For
26 taxable year 2000 and thereafter, divide the figure arrived at in subdivision b
27 by eight.
- 28 4. To find the "capitalized average annual gross return", the average annual gross
29 return must be capitalized by a rate that is a ten-year average of the gross federal
30 land bank mortgage rate of interest for North Dakota, but the rate used for
31 capitalization under this section may not be less than nine and twenty-five

1 hundredths percent and may not be more than ten and five-tenths percent. The
2 ten-year average must be computed from the twelve years ending with the most
3 recent year used under subdivision a of subsection 3, discarding the highest and
4 lowest years, and the gross federal land bank mortgage rate of interest for each
5 year must be determined in the manner provided in section 20.2032A-4(e)(1) of
6 the United States treasury department regulations for valuing farm real property for
7 federal estate tax purposes, except that the interest rate may not be adjusted as
8 provided in paragraph (e)(2) of section 20.2032A-4.

9 5. The agricultural economics department of North Dakota state university shall
10 compute annually an estimate of the average agricultural value per acre
11 [.40 hectare] of agricultural lands on a statewide and on a countywide basis; shall
12 compute the average agricultural value per acre [.40 hectare] for cropland,
13 noncropland, and inundated agricultural land for each county; and shall provide the
14 tax commissioner with this information by December first of each year. Fifty
15 percent of the annual gross income from irrigated cropland must be considered
16 additional expense of production and may not be included in computation of the
17 average agricultural value per acre [.40 hectare] for cropland for the county as
18 determined by the agricultural economics department. Before January first of each
19 year, the tax commissioner shall provide to each county director of tax equalization
20 these estimates of agricultural value for each county.

21 6. For purposes of this section, "inundated agricultural land" means property
22 classified as agricultural property which is inundated to an extent making it
23 unsuitable for growing crops or grazing farm animals for a full growing season or
24 more. Before all or part of a parcel of property may be classified as inundated
25 agricultural land, the board of county commissioners must approve that
26 classification for that property for the taxable year. The agricultural value of
27 inundated agricultural lands for purposes of this section must be determined by the
28 agricultural economics department of North Dakota state university to be ten
29 percent of the average agricultural value of noncropland for the county as
30 determined under this section. Valuation of individual parcels of inundated

1 agricultural land may recognize the probability that the property will be suitable for
2 agricultural production as cropland or for grazing farm animals in the future.

3 7. Before February first of each year, the county director of tax equalization in each
4 county shall provide to all assessors within the county an estimate of the average
5 agricultural value of agricultural lands within each assessment district. The
6 estimate must be based upon the average agricultural value for the county
7 adjusted by the relative values of lands within each assessment district compared
8 to the county average. In determining the relative value of lands for each
9 assessment district compared to the county average, the county director of tax
10 equalization, whenever possible, shall use soil type and soil classification data
11 from detailed and general soil surveys. When such data cannot be used, the
12 county director of tax equalization shall use whatever previous assessment data is
13 best suited to the purpose.

14 8. Each local assessor shall determine the relative value of each assessment parcel
15 within the assessor's jurisdiction and shall determine the agricultural value of each
16 assessment parcel by adjusting the agricultural value estimate for the assessment
17 district by the relative value of the parcel. Each parcel must then be assessed
18 according to section 57-02-27. If either a local assessor or a township board of
19 equalization develops an agricultural value for the lands in its assessment district
20 differing substantially from the estimate provided by the county director of tax
21 equalization, written evidence to support the change must be provided to the
22 county director of tax equalization.

23 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
24 December 31, 2001.