

HOUSE BILL NO. 1334

Introduced by

Representatives F. Klein, Haas

Senator Urlacher

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 income limitations that apply to the property tax exemption for farm
3 residences and buildings; 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 North Dakota
6 Century Code is amended and reenacted as follows:

- 7 15. a. All farm structures and improvements located on agricultural lands.
- 8 (1) This subsection must be construed to exempt farm buildings and
9 improvements only, and may not be construed to exempt from taxation
10 industrial plants, or structures of any kind not used or intended for use
11 as a part of a farm plant, or as a farm residence.
- 12 (2) Any structure or improvement used primarily in connection with a retail
13 or wholesale business other than farming, any structure or improvement
14 located on platted land within the corporate limits of a city, or any
15 structure or improvement located on railroad operating property subject
16 to assessment under chapter 57-05 is not exempt under this
17 subsection. For purposes of this paragraph, "business other than
18 farming" includes processing to produce a value-added physical or
19 chemical change in an agricultural commodity beyond the ordinary
20 handling of that commodity by a farmer prior to sale.
- 21 (3) The following factors may not be considered in application of the
22 exemption under this subsection:
- 23 (a) Whether the farmer grows or purchases feed for animals raised
24 on the farm.

- 1 (b) Whether animals being raised on the farm are owned by the
2 farmer.
- 3 (c) Whether the farm's replacement animals are produced on the
4 farm.
- 5 (d) Whether the farmer is engaged in contract feeding of animals on
6 the farm.
- 7 b. It is the intent of the legislative assembly that this exemption as applied to a
8 residence must be strictly construed and interpreted to exempt only a
9 residence that is situated on a farm and which is occupied or used by a
10 person who is a farmer and that the exemption may not be applied to property
11 which is occupied or used by a person who is not a farmer. For purposes of
12 this subdivision:
- 13 (1) "Farm" means a single tract or contiguous tracts of agricultural land
14 containing a minimum of ten acres [4.05 hectares] and for which the
15 farmer, actually farming the land or engaged in the raising of livestock
16 or other similar operations normally associated with farming and
17 ranching, has received annual ~~net~~ gross income from farming activities
18 which is fifty percent or more of annual net income, including net
19 income of a spouse if married, during any of the three preceding
20 calendar years.
- 21 (2) "Farmer" means an individual who normally devotes the major portion
22 of time to the activities of producing products of the soil, poultry,
23 livestock, or dairy farming in such products' unmanufactured state and
24 has received annual ~~net~~ gross income from farming activities which is
25 fifty percent or more of annual net income, including net income of a
26 spouse if married, during any of the three preceding calendar years.
- 27 "Farmer" includes a "retired farmer" who is retired because of illness or
28 age and who at the time of retirement owned and occupied as a farmer
29 the residence in which the person lives and for which the exemption is
30 claimed. "Farmer" includes a "beginning farmer" who has begun
31 occupancy and operation of a farm within the three preceding calendar

1 years; who normally devotes the major portion of time to the activities of
2 producing products of the soil, poultry, livestock, or dairy farming in
3 such products' unmanufactured state; and who does not have a history
4 of farm income from farm operation for each of the three preceding
5 calendar years.

6 (3) "~~Net~~ Gross income from farming activities" means ~~taxable~~ income from
7 those activities as computed for income tax purposes pursuant to
8 chapter 57-38 ~~adjusted to include the following:~~

9 ~~(a) The difference between gross sales price less expenses of sale
10 and the amount reported for sales of agricultural products for
11 which the farmer reported a capital gain.~~

12 ~~(b) Interest expenses from farming activities which have been
13 deducted in computing taxable income.~~

14 ~~(c) Depreciation before deduction of any expenses from farming
15 activities which have been deducted in computing taxable
16 income.~~

17 (4) When exemption is claimed under this subdivision for a residence, the
18 assessor may require that the occupant of the residence who it is
19 claimed is a farmer provide to the assessor for the year or years
20 specified by the assessor a written statement in which it is stated that
21 fifty percent or more of the net income of that occupant, and spouse if
22 married and both spouses occupy the residence, was, or was not, ~~net~~
23 gross income from farming activities.

24 (5) In addition to any of the provisions of this subsection or any other
25 provision of law, a residence situated on agricultural land is not exempt
26 for the year if it is occupied by an individual engaged in farming who
27 had nonfarm income, including that of a spouse if married, of more than
28 ~~forty~~ fifty thousand dollars during each of the three preceding calendar
29 years. For each calendar year after 2001, the dollar amount of the
30 income limitation of this paragraph must be adjusted by applying the
31 consumer price index, all items, rate of change for the twelve months

1 ending November thirtieth of the prior calendar year. This paragraph
2 does not apply to a retired farmer or a beginning farmer as defined in
3 paragraph 2.

4 (6) For purposes of this section, "livestock" includes "nontraditional
5 livestock" as defined in section 36-01-00.1.

6 (7) A farmer operating a bed and breakfast facility in the farm residence
7 occupied by that farmer is entitled to the exemption under this section
8 for that residence if the farmer and the residence would qualify for
9 exemption under this section except for the use of the residence as a
10 bed and breakfast facility.

11 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
12 December 31, 2000.