

**SECOND ENGROSSMENT
with House Amendments**

Fifty-ninth
Legislative Assembly
of North Dakota

REENGROSSED SENATE BILL NO. 2157

Introduced by

Senators Wardner, Lindaas, Syverson

Representatives Drovdal, Headland

1 A BILL for an Act to amend and reenact section 57-02-08.1 of the North Dakota Century Code,
2 relating to eligibility for and application of the homestead property tax credit; to provide an
3 appropriation; 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 Homestead credit.**

9 1. a. Any person sixty-five years of age or older ~~in the year in which the tax was~~
10 ~~levied, or any person who is permanently and totally disabled,~~ in the year in
11 which the tax was levied, ~~as certified by a licensed physician approved by the~~
12 ~~local governing body,~~ with an income of ~~fourteen thousand dollars or less per~~
13 ~~annum from all sources, including the income of any dependent person,~~
14 ~~including any county, state, or federal public assistance benefits, social~~
15 ~~security, or other retirement benefits, that does not exceed the limitations of~~
16 subdivision c is entitled to receive a reduction in the assessment on the
17 taxable valuation on the person's homestead ~~as defined in section 47-18-01,~~
18 ~~except that this.~~ An exemption under this subsection applies ~~to any person~~
19 ~~who otherwise qualifies under this subsection~~ regardless of whether the
20 person is the head of a family.

21 b. The exemption under this subsection continues to apply if the person does
22 not reside in the homestead and the person's absence is due to confinement
23 in a nursing home, hospital, or other care facility, for as long as the portion of

- 1 the homestead previously occupied by the person is not rented to another
2 person.
- 3 c. The exemption ~~to which any person may be entitled~~ must be determined
4 according to the following schedule:
- 5 a. (1) If the person's income is not in excess of eight thousand five hundred
6 dollars, a reduction of one hundred percent of the taxable valuation of
7 the person's homestead up to a maximum reduction of two thousand
8 five hundred dollars of taxable valuation.
- 9 b. (2) If the person's income is in excess of eight thousand five hundred
10 dollars and not in excess of ~~nine ten~~ thousand ~~five hundred~~ dollars, a
11 reduction of eighty percent of the taxable valuation of the person's
12 homestead up to a maximum reduction of ~~one two~~ thousand ~~six~~
13 ~~hundred~~ dollars of taxable valuation.
- 14 e. (3) If the person's income is in excess of ~~nine ten~~ thousand ~~five hundred~~
15 dollars and not in excess of eleven thousand five hundred dollars, a
16 reduction of sixty percent of the taxable valuation of the person's
17 homestead up to a maximum reduction of one thousand ~~two five~~
18 hundred dollars of taxable valuation.
- 19 e. (4) If the person's income is in excess of eleven thousand five hundred
20 dollars and not in excess of ~~twelve thirteen~~ thousand ~~five hundred~~
21 dollars, a reduction of forty percent of the taxable valuation of the
22 person's homestead up to a maximum reduction of ~~eight hundred one~~
23 thousand dollars of taxable valuation.
- 24 e. (5) If the person's income is in excess of ~~twelve thirteen~~ thousand ~~five~~
25 ~~hundred~~ dollars and not in excess of fourteen thousand five hundred
26 dollars, a reduction of twenty percent of the taxable valuation of the
27 person's homestead up to a maximum reduction of ~~four~~ five hundred
28 dollars of taxable valuation.
- 29 d. ~~In no case may a husband and wife who are living~~ Persons residing together
30 both be, as spouses or when one or more is a dependent of another, are
31 entitled to ~~the credit as provided for in~~ only one exemption between or among

- 1 ~~them under~~ this subsection ~~upon their homestead~~. ~~The provisions of this~~
2 ~~Persons residing together, who are not spouses or dependents, who are~~
3 ~~coowners of the property are each entitled to a percentage of a full exemption~~
4 ~~under this subsection equal to their ownership interests in the property.~~
- 5 e. ~~This subsection may~~ does not reduce the liability of any person for special
6 assessments levied upon any property.
- 7 f. Any person ~~eligible for claiming the exemption herein provided under this~~
8 ~~subsection~~ shall sign a verified statement ~~that the person is sixty five years of~~
9 ~~age or older or is permanently and totally disabled, that the person's income,~~
10 ~~including that of any dependent, as determined in this chapter does not~~
11 ~~exceed fourteen thousand dollars per annum and that~~ of facts establishing
12 the person's eligibility.
- 13 g. A person is ineligible for the exemption under this subsection if the value of
14 the ~~person's~~ assets of the person and any dependent residing with the
15 person, excluding the unencumbered value of the person's residence that the
16 person claims as a "homestead" as defined in section 47-18-04, does not
17 ~~exceed~~ exceeds fifty thousand dollars, including the value of any assets
18 divested within the last three years. ~~The term "dependent" includes the~~
19 ~~spouse, if any, of the person claiming the exemption.~~ For purposes of this
20 subdivision, the unencumbered valuation of the homestead is limited to one
21 hundred thousand dollars.
- 22 h. The assessor shall attach the statement filed under subdivision f to the
23 assessment sheet and shall show the reduction on the assessment sheet. ~~All~~
24 ~~benefits available in this section terminate~~
- 25 i. An exemption under this subsection terminates at the end of the taxable year
26 of the death of the applicant.
- 27 2. a. Any person ~~sixty five years of age or older, or any person who is permanently~~
28 ~~and totally disabled as certified by a licensed physician approved by the local~~
29 ~~governing body, with an income of fourteen thousand dollars or less per~~
30 ~~annum from all sources, including the income of any dependent person,~~
31 ~~including any county, state, or federal public assistance benefits, social~~

1 ~~security, or other retirement benefits, but excluding any federal rent subsidy,~~
2 ~~and who would qualify for an exemption under subdivisions a and c of~~
3 ~~subsection 1 except for the fact that the person rents living quarters is eligible~~
4 ~~for refund for that part of a portion of the person's annual rent which is~~
5 ~~deemed by this subsection to constitute the payment of property tax and~~
6 ~~which is further deemed to represent a burdensome share of the person's~~
7 ~~income.~~

8 b. For the purpose of this subsection, twenty percent of the annual rent,
9 exclusive of any federal rent subsidy and of charges for any utilities, services,
10 furniture, furnishings, or personal property appliances furnished by the
11 landlord as part of the rental agreement, whether or not expressly set out in
12 the rental agreement, must be considered as payment made for property tax.
13 When any part of the twenty percent of the annual rent exceeds four percent
14 of the annual income of a qualified applicant, the applicant is entitled to
15 receive a refund from the state general fund for that amount in excess of four
16 percent of the person's annual income, but the refund may not be in excess of
17 two hundred forty dollars. If the calculation for the refund is less than five
18 dollars, a minimum of five dollars must be sent to the qualifying applicant. ~~In~~
19 ~~no case may a husband and wife~~

20 c. ~~Persons who are living reside together both be entitled to the, as spouses or~~
21 ~~when one or more is a dependent of another, are entitled to only one refund~~
22 ~~as provided for in between or among them under this subsection. Persons~~
23 ~~who reside together in a rental unit, who are not spouses or dependents, are~~
24 ~~each entitled to apply for a refund based on the rent paid by that person.~~

25 d. Each application for refund under this subsection must be made to the tax
26 commissioner before the first day of June of each year by the person claiming
27 the refund, ~~but the.~~ The tax commissioner may grant an extension of time to
28 file an application for good cause. The tax commissioner shall certify refunds
29 to the state treasurer the amount of the refund due, if any, and the state
30 treasurer, who shall issue the refund refunds to applicants from the state
31 general fund to the applicant. In no case may this

- 1 e. This subsection does not apply to rents or fees paid by a person for any living
2 quarters, including a nursing home licensed pursuant to section 23-16-01, if
3 ~~that living quarter has been declared~~ those living quarters are exempt from
4 property taxation and the owner is not making a payment in lieu of property
5 taxes.
- 6 f. A person may not receive a refund under this section for a taxable year in
7 which that person received an exemption under subsection 1.
- 8 3. All forms necessary to effectuate this section must be prescribed, designed, and
9 made available by the tax commissioner. The county directors of tax equalization
10 shall make these forms available upon request.
- 11 4. ~~In determining a person's income for eligibility under this section, the amount of~~
12 ~~medical expenses actually incurred by that person or any dependent person and~~
13 ~~not compensated for by insurance or otherwise must be deducted. For purposes~~
14 ~~of this section, the term "medical expenses" has the same meaning as it has for~~
15 ~~state income tax purposes, except that for transportation for medical care the~~
16 ~~person may use the standard mileage rate allowed for state officer and employee~~
17 ~~use of a motor vehicle under section 54-06-09.~~
- 18 ~~5.~~ A person whose homestead as defined in section 47-18-01 is a farm structure
19 exempt from taxation under subsection 15 of section 57-02-08 may not receive
20 any property tax credit under this section.
- 21 ~~6.~~ 5. For the purposes of this section, ~~"permanently~~:
22 a. "Dependent" has the same meaning it has for federal income tax purposes.
23 b. "Homestead" has the same meaning as provided in section 47-18-01.
24 c. "Income" means income for the most recent complete taxable year from all
25 sources, including the income of any dependent of the applicant, and
26 including any county, state, or federal public assistance benefits, social
27 security, or other retirement benefits, but excluding any federal rent subsidy,
28 any amount excluded from income by federal or state law, and medical
29 expenses paid during the year by the applicant or the applicant's dependent
30 which is not compensated by insurance or other means.

1 d. "Medical expenses" has the same meaning as it has for state income tax
2 purposes, except that for transportation for medical care the person may use
3 the standard mileage rate allowed for state officer and employee use of a
4 motor vehicle under section 54-06-09.

5 e. "Permanently and totally disabled" means the inability to engage in any
6 substantial gainful activity by reason of any medically determinable physical
7 or mental impairment which can be expected to result in death or has lasted
8 or can be expected to last for a continuous period of not less than twelve
9 months as established by a certificate from a licensed physician.

10 **SECTION 2. APPROPRIATION.** There is appropriated out of any moneys in the
11 general fund in the state treasury, not otherwise appropriated, the sum of \$500,000, or so much
12 of the sum as may be necessary, to the tax commissioner for the purpose of homestead tax
13 credit reimbursement in addition to other funds available for that purpose, for the biennium
14 beginning July 1, 2005, and ending June 30, 2007.

15 **SECTION 3. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
16 December 31, 2004, for ad valorem property taxes and for taxable years beginning after
17 December 31, 2005, for mobile home taxes.