

Introduced by

Senators Dotzenrod, Erbele, Wanzek

Representatives Holman, J. Nelson

1 A BILL for an Act to amend and reenact subdivision b of subsection 15 of section 57-02-08 of  
2 the North Dakota Century Code, relating to the calculation of income for purposes of the farm  
3 residence property tax exemption; and to provide an effective date.

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

5 **SECTION 1. AMENDMENT.** Subdivision b of subsection 15 of section 57-02-08 of the North  
6 Dakota Century Code is amended and reenacted as follows:

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 residence  
9 that is situated on a farm and which is occupied or used by a person who is a  
10 farmer and that the exemption may not be applied to property which is occupied  
11 or used by a person who is not a farmer. For purposes of this subdivision:

12 (1) "Farm" means a single tract or contiguous tracts of agricultural land  
13 containing a minimum of ten acres [4.05 hectares] and for which the farmer,  
14 actually farming the land or engaged in the raising of livestock or other  
15 similar operations normally associated with farming and ranching, has  
16 ~~received~~ annual ~~net~~gross income from farming activities which is  
17 ~~fiftysixty-six~~ percent or more of annual ~~net~~gross income, including ~~net~~gross  
18 income of a spouse if married, during any of the ~~threetwo~~ preceding  
19 calendar years.

20 (2) "Farmer" means an individual who normally devotes the major portion of  
21 time to the activities of producing products of the soil, with the exception of  
22 marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming  
23 in such products' unmanufactured state and has received annual ~~net~~gross  
24 income from farming activities which is ~~fiftysixty-six~~ percent or more of

1 annual ~~net~~gross income, including ~~net~~gross income of a spouse if married,  
2 during any of the ~~three~~two preceding calendar years. For purposes of this  
3 paragraph, "farmer" includes a:

4 (a) "Beginning farmer", which means an individual who has begun  
5 occupancy and operation of a farm within the ~~three~~two preceding  
6 calendar years; who normally devotes the major portion of time to the  
7 activities of producing products of the soil, poultry, livestock, or dairy  
8 farming in such products' unmanufactured state; and who does not  
9 have a history of farm income from farm operation for each of the  
10 ~~three~~two preceding calendar years.

11 (b) "Retired farmer", which means an individual who is retired because of  
12 illness or age and who at the time of retirement owned and occupied  
13 as a farmer the residence in which the person lives and for which the  
14 exemption is claimed.

15 (c) "Surviving spouse of a farmer", which means the surviving spouse of  
16 an individual who is deceased, who at the time of death owned and  
17 occupied as a farmer the residence in which the surviving spouse  
18 lives and for which the exemption is claimed. The exemption under  
19 this subparagraph expires at the end of the fifth taxable year after the  
20 taxable year of death of an individual who at the time of death was an  
21 active farmer. The exemption under this subparagraph applies for as  
22 long as the residence is continuously occupied by the surviving  
23 spouse of an individual who at the time of death was a retired farmer.

24 (3) "Gross income" means federal taxable income as computed under the  
25 federal Internal Revenue Code.

26 (4) "NetGross income from farming activities" means federal taxable income  
27 from ~~those activities as computed for income tax purposes pursuant to~~  
28 ~~chapter 57-38 adjusted to include~~cultivating the soil or raising agricultural  
29 commodities. The term includes the following amounts:

30 (a) ~~The difference between gross sales price less expenses of sale and~~  
31 ~~the amount reported for sales of agricultural products for which the~~

1 farmer reported a capital gain Income from operating a stock, dairy,  
2 poultry, bee, fruit, or truck farm.

3 (b) ~~Interest expenses from farming activities which have been deducted~~  
4 ~~in computing taxable income~~ Income from a plantation, ranch, nursery,  
5 range, or orchard.

6 (c) ~~Depreciation expenses from farming activities which have been~~  
7 ~~deducted in computing taxable income~~ Crop shares for the use of the  
8 farmer's land.

9 (d) Gains from sales of draft, breeding, dairy, or sporting livestock.

10 (4) When exemption is claimed under this subdivision for a residence, the  
11 assessor may require that the occupant of the residence who it is claimed is  
12 a farmer provide to the assessor for the year or years specified by the  
13 assessor a written statement in which it is stated that ~~fifty~~ sixty-six percent or  
14 more of the ~~net~~ gross income of that occupant, and spouse if married and  
15 both spouses occupy the residence, was, or was not, ~~net~~ gross income from  
16 farming activities.

17 (5) ~~In addition to any of the provisions of this subsection or any other provision~~  
18 ~~of law, a residence situated on agricultural land is not exempt for the year if~~  
19 ~~it is occupied by an individual engaged in farming who had nonfarm income,~~  
20 ~~including that of a spouse if married, of more than forty thousand dollars~~  
21 ~~during each of the three preceding calendar years. This paragraph does not~~  
22 ~~apply to a retired farmer or a beginning farmer as defined in paragraph 2.~~

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

25 (7)(6) A farmer operating a bed and breakfast facility in the farm residence  
26 occupied by that farmer is entitled to the exemption under this section for  
27 that residence if the farmer and the residence would qualify for exemption  
28 under this section except for the use of the residence as a bed and  
29 breakfast facility.

30 **SECTION 2. EFFECTIVE DATE.** This Act is effective for taxable events beginning after  
31 December 31, 2018.