

Introduced by

Senators Lee, Bekkedahl, Burckhard, Kreun

Representatives Dockter, Keiser

1 A BILL for an Act to amend and reenact sections 40-63-01, 40-63-02, and 40-63-03,
2 subsection 4 of section 40-63-04, sections 40-63-06, 40-63-07, and 40-63-10, and subdivision b
3 of subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating to the creation
4 of neighborhood zones and neighborhood zone incentives; and to provide an effective date.

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

6 **SECTION 1. AMENDMENT.** Section 40-63-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **40-63-01. Definitions.**

9 As used in this chapter:

- 10 1. "Boundary" means the boundary established by vote of the city governing body and
11 approved by the department of commerce division of community services.
- 12 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of
13 section 40-63-03 and includes the following:
- 14 a. A map of the proposed renaissance or neighborhood zone which indicates the
15 geographic boundaries and blocks, a description of the properties and structures
16 on each block, identification of those properties and structures to be targeted for
17 potential zone projects, and a description of the present use and conditions of the
18 targeted properties and structures.
- 19 b. A description of the existing physical assets, in particular natural or historical
20 assets, of the zone and a plan for the incorporation and enhancement of the
21 assets within the proposed development.
- 22 c. An outline of goals and objectives and proposed outcomes, including major
23 milestones or benchmarks, by which to gauge success resulting from the
24 designation of the zone.

- 1 d. A description of the types of projects the city would encourage in the city's
2 targeted properties.
- 3 e. A description of the promotion, development, and management strategies to
4 maximize investment in the zone.
- 5 f. A plan for the development, promotion, and use of a renaissance or
6 neighborhood fund organization, if one is desired to be established. If a city is not
7 ready to commit to establishing a renaissance or neighborhood fund
8 organization, the city may indicate in the renaissance or neighborhood zone
9 application the city's desire to submit a plan for approval at a later date.
- 10 g. Evidence of community support and commitment from residential and business
11 interests. Evidence of community support must include letters of support from the
12 governing bodies of each county and school district that contain property located
13 within the boundaries of the proposed renaissance or neighborhood zone.
- 14 3. "Investor" means the individual, partnership, limited partnership, limited liability
15 company, trust, or corporation making an investment in a renaissance or
16 neighborhood fund organization.
- 17 4. "Lease" means the lease of space in a building in a designated renaissance or
18 neighborhood zone by a new business moving into the zone or by an existing zone
19 business expanding in the zone, and the continuation of a lease of an existing zone
20 tenant in a building rehabilitated as an approved zone project. For existing zone
21 tenants expanding in the zone, the term does not include existing leased space.
- 22 5. "Local zone authority" means the city or the entity designated by the city to promote,
23 develop, and manage the zone and may include any nonprofit incorporated entity such
24 as an economic development corporation, community development corporation, main
25 street organization, or chamber of commerce.
- 26 6. "Original principal amount" means the funds invested in a renaissance or
27 neighborhood fund organization after designation of the renaissance or neighborhood
28 zone and before the sunset of that zone.
- 29 7. "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or
30 remodeling of a building or public utility infrastructure at a cost that is equal to or

1 exceeds fifty percent of the current true and full value for commercial buildings or
2 public utility infrastructure and twenty percent for single-family homes.

3 8. "Taxpayer" means an individual, corporation, or trust subject to the taxes imposed by
4 chapter 57-38 and includes a partnership, subchapter S corporation, limited
5 partnership, limited liability company, or any other passthrough entity.

6 9. "Zone" means a renaissance or neighborhood zone proposed by a city and designated
7 by the department of commerce division of community services.

8 10. "Zone project" means the purchase, lease, rehabilitation, or historical preservation or
9 renovation of a single-family home, building, or space in a building approved for zone
10 incentives by a majority vote of the city governing body or zone authority.

11 **SECTION 2. AMENDMENT.** Section 40-63-02 of the North Dakota Century Code is
12 amended and reenacted as follows:

13 **40-63-02. Eligibility - Local zone authority designation.**

14 Any incorporated city may apply to the department of commerce division of community
15 services to designate a portion of the city as a renaissance or neighborhood zone. Any
16 individual, partnership, limited partnership, limited liability company, trust, or corporation may
17 apply for a tax credit or exemption under sections 40-63-04 through 40-63-07. The governing
18 body of a city may designate a local zone authority to implement a development plan on behalf
19 of the city.

20 **SECTION 3. AMENDMENT.** Section 40-63-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **40-63-03. Renaissance and neighborhood zones.**

23 1. A city may apply to the department of commerce division of community services to
24 designate a portion of that city as a renaissance or neighborhood zone if the following
25 criteria are met:

26 a. The geographic area proposed for the renaissance or neighborhood zone is
27 located wholly within the boundaries of the city submitting the application.

28 b. The application includes a development plan.

29 c. The proposed neighborhood zone is not more than twenty-five square blocks and
30 the proposed renaissance zone is not more than thirty-four square blocks, except
31 in a city with a population of greater than five thousand the renaissance zone

1 may exceed thirty-four square blocks at the rate of one additional block for each
2 additional five thousand population to a maximum size of forty-nine blocks.
3 Population is based upon the most recent federal decennial census or federal
4 census estimate.

5 If a city finds that renaissance or neighborhood zone projects have
6 satisfactorily completed one or more blocks within the renaissance or
7 neighborhood zone, the city may apply for and the department of commerce
8 division of community services may approve withdrawal of those blocks from the
9 renaissance or neighborhood zone and replacement of those blocks with other
10 blocks that otherwise meet the requirements of this chapter.

11 d. Except as provided under subdivision g, the proposed renaissance zone has a
12 continuous boundary and all blocks are contiguous. A proposed neighborhood
13 zone is not required to have a continuous boundary or consist of contiguous
14 blocks.

15 e. The proposed land usage includes both commercial and residential property.

16 f. The application includes the proposed duration of renaissance or neighborhood
17 zone status, not to exceed fifteen years for a renaissance zone or ten years for a
18 neighborhood zone. Upon application by the city, the department of commerce
19 division of community services may extend the duration of renaissance zone
20 status in increments of up to five years. The duration of neighborhood zone
21 status may not be extended.

22 g. The proposed renaissance zone may have a single exception to the continuous
23 boundary and contiguous block requirements under subdivision d if the area of
24 the excepted noncontiguous blocks does not exceed three square blocks.

25 2. The department of commerce division of community services shall:

26 a. Review all applications for renaissance or neighborhood zone designation
27 against the criteria established in this section and designate zones.

28 b. Approve or reject the duration of renaissance or neighborhood zone status as
29 submitted in an application.

30 c. Approve or reject the geographic boundaries and total area of the renaissance or
31 neighborhood zone as submitted in an application.

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

- 1 5. A city may not propose or be part of more than one renaissance zone or more than
2 one neighborhood zone. A city may propose to be part of a renaissance zone and a
3 neighborhood zone and blocks proposed for inclusion in either zone may overlap.
- 4 6. A parcel of property may be exempted from property taxes under section 40-63-05
5 only once, but during the five taxable years of eligibility for that exemption, the
6 property tax exemption transfers with the transfer of the property to a qualifying user.
7 The ownership or lease of, or investment in, a parcel of property may qualify for
8 exemption or credit under section 40-63-04 only once, but during the five taxable
9 years of eligibility for that exemption or credit, the exemption or credit under section
10 40-63-04 transfers with the transfer of the property to a qualified user and with respect
11 to the year in which the transfer is made must be prorated for use of the property
12 during that year. An investment used to calculate an income tax credit under this
13 chapter may not be used to calculate any other income tax credit.
- 14 7. A city may apply to the department of commerce division of community services at any
15 time during the duration of a zone to expand a previously approved renaissance or
16 neighborhood zone that is less than the maximum size allowed under subdivision c of
17 subsection 1. If thea renaissance zone expansion is approved by the department of
18 commerce division of community services, the blocks in the expansion are eligible for
19 up to fifteen years of renaissance zone status. If a neighborhood zone expansion is
20 approved by the department of commerce division of community services, the blocks
21 in the expansion are eligible for up to ten years of neighborhood zone status.
- 22 8. The use of grant funds as the sole source of investment in the purchase of a building
23 or space in a building does not qualify a taxpayer for any tax exemption or credit
24 available under the chapter, and grant funds may not be counted in determining if the
25 cost of rehabilitation meets or exceeds the current true and full value of the building.
- 26 9. If a portion of an approved renaissance or neighborhood zone is not progressing, the
27 city may request the department of commerce division of community services to permit
28 deleting that portion and to make an adjustment of the boundaries to add another
29 equal, ~~contiguous~~ area to the original zone. Area added to a renaissance zone must
30 be contiguous.

1 10. If within a renaissance zone there is property that is included in a tax increment
2 financing district, the city in which the property is located shall provide the department
3 of commerce an annual report regarding any such property at the time requested by
4 the department of commerce. The report required under this subsection must identify
5 the property, provide the expected duration of inclusion of the property in the tax
6 increment financing district and the renaissance zone, and identify any property and
7 income tax benefits of the property and the expected duration of those benefits. The
8 department of commerce shall deliver an annual report compiling the information
9 required under this subsection to the legislative management interim committee on
10 taxation issues or upon request of any other interim committee of the legislative
11 management.

12 **SECTION 4. AMENDMENT.** Subsection 4 of section 40-63-04 of the North Dakota Century
13 Code is amended and reenacted as follows:

14 4. If a property owner not participating in a renaissance or neighborhood zone project is
15 required to make changes in utility services or in a building structure because of
16 changes made to property that is part of a zone project, the owner of the
17 nonparticipating property is entitled to state income tax credits equal to the total
18 amount of the investment necessary to complete the required changes. The credit
19 must be approved by the local renaissance or neighborhood zone authority. The credit
20 must be claimed in the taxable year in which the related project was completed. The
21 credit may not exceed the taxpayer's tax liability, and an unused credit may be carried
22 forward up to five taxable years.

23 **SECTION 5. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **40-63-06. Historic preservation and renovation tax credit.**

26 A credit against state tax liability as determined under sections 57-38-30 and 57-38-30.3 is
27 allowed for investments in the historic preservation or renovation of property within the
28 renaissance or neighborhood zone. The amount of the credit is twenty-five percent of the
29 amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be
30 claimed in the year in which the preservation or renovation is completed. Any excess credit may
31 be carried forward for a period of up to five taxable years.

1 **SECTION 6. AMENDMENT.** Section 40-63-07 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **40-63-07. Renaissance or neighborhood fund organization - Exemption from taxation.**

- 4 1. Each city with a designated renaissance or neighborhood zone may establish a
5 renaissance or neighborhood fund organization, if the detailed plan for such an
6 organization is clearly established in the development plan and approved with the
7 plan, or is submitted at a later date to the department of commerce division of
8 community services for approval after the designation of a renaissance or
9 neighborhood zone.
- 10 2. The purpose of a renaissance or neighborhood fund organization is solely to raise
11 funds to be used to finance zone projects and other projects located in designated
12 renaissance or neighborhood zones. A renaissance or neighborhood fund organization
13 may provide financing to projects undertaken by individuals, partnerships, limited
14 partnerships, limited liability companies, trusts, corporations, nonprofit organizations,
15 and public entities. The financing may include any combination of equity investments,
16 loans, guarantees, and commitments for financing. The amount of financing is not
17 limited by this chapter.
- 18 3. A renaissance or neighborhood fund organization shall confirm the following conditions
19 are met before providing financing to a zone project:
- 20 a. The funding is required for the project to proceed;
21 b. The funding is adequate for the completion of the project; and
22 c. The funding does not exceed the amount required to complete the project.
- 23 4. A renaissance or neighborhood fund organization is exempt from any tax imposed by
24 chapter 57-38. An exemption under this section may be passed through to any
25 shareholder, partner, and owner if the renaissance or neighborhood fund organization
26 is a passthrough entity for tax purposes. A corporation entitled to the exemption
27 provided by this subsection shall file required returns and report income to the tax
28 commissioner as required by the provisions of chapter 57-38 as if the exemption did
29 not exist. If an employer, this subsection does not exempt a renaissance or
30 neighborhood fund organization from complying with the income tax withholding laws.

1 ~~4.5.~~ A credit against state tax liability as determined under section 57-38-30 or 57-38-30.3
2 is allowed for investments in a renaissance or neighborhood fund organization. The
3 amount of the credit is fifty percent of the amount invested in the renaissance or
4 neighborhood fund organization during the taxable year. Any amount of credit which
5 exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to
6 five taxable years after the taxable year in which the investment was made.

7 ~~5.6.~~ The total amount of credits allowed under this section may not exceed, in the
8 aggregate, ten million five hundred thousand dollars for investments in renaissance
9 fund organizations or, in the aggregate, ten million five hundred thousand dollars for
10 investments in neighborhood fund organizations. A renaissance or neighborhood fund
11 organization that has received investments that qualify for the credits under this
12 subsection shall use those investments to finance projects within a renaissance or
13 neighborhood zone.

14 ~~6.7.~~ Income to a renaissance or neighborhood fund organization derived from the sale or
15 refinancing of zone properties financed wholly or in part by the organization may be
16 disbursed as annual dividends equal to the income, minus ten percent, derived from
17 all sources and proportional to the investment. In the event of a loss to the fund
18 resulting in a temporary diminishment of the fund below the original principal amount,
19 no annual dividend may be paid until the fund is restored.

20 ~~7.8.~~ Income to a renaissance or neighborhood fund organization derived from interest or
21 the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or
22 securities may be used for administration.

23 ~~8.9.~~ If an investment in a renaissance or neighborhood fund organization which is the basis
24 for a credit under this section is redeemed by the investor within ten years of the date
25 it is purchased, the credit provided by this section for the investment must be
26 disallowed, and any credit previously claimed and allowed with respect to the
27 investment must be paid to the tax commissioner with the appropriate return of the
28 taxpayer covering the period in which the redemption occurred. When payments are
29 made to the tax commissioner under this section, the amount collected must be
30 handled in the same manner as if no credit had been allowed.

1 ~~9-10.~~ A renaissance or neighborhood fund organization shall secure an annual audit of its
2 financial records, prepared by an independent certified public accounting firm in
3 accordance with generally accepted auditing standards. The audit report must include
4 a statement of the percentage of annual investments received by the organization
5 which have been invested by the organization in investments permitted under this
6 chapter, including the use of investments, distinguishing between organization
7 investments made in renaissance or neighborhood zones and outside renaissance or
8 neighborhood zones. A renaissance or neighborhood fund organization shall file a
9 copy of each audit of its financial records under this subsection with the governing
10 body of the city in which it was established, the department of commerce division of
11 community services, and the tax commissioner. The department of commerce division
12 of community services shall provide an annual report to the budget section of the
13 legislative management showing the conclusions of audit reports filed under this
14 subsection.

15 ~~40-11.~~ Renaissance or neighborhood fund organization officers and employees may be
16 actively involved in the enterprises in which the renaissance or neighborhood fund
17 organization invests but the renaissance or neighborhood fund organization may not
18 invest in any enterprise if any one renaissance or neighborhood fund organization
19 officer or employee owns more than forty-nine percent of the ownership interest in the
20 enterprise. A renaissance or neighborhood fund organization may not invest in an
21 enterprise if renaissance or neighborhood fund organization officers and employees
22 collectively own more than forty-nine percent of the ownership interests, either through
23 direct ownership or through ownership of interest in a passthrough entity.

24 12. A neighborhood fund organization is eligible to receive a state appropriation as a grant
25 or low interest loan to meet the objectives of single-family home restoration.

26 **SECTION 7. AMENDMENT.** Section 40-63-10 of the North Dakota Century Code is
27 amended and reenacted as follows:

28 **40-63-10. Passthrough of tax exemption or credit.**

29 A partnership, subchapter S corporation, limited partnership, limited liability company, or
30 any other passthrough entity that purchases or leases property in a renaissance or
31 neighborhood zone for any business purpose, invests in a historic preservation or renovation of

1 property within a renaissance or neighborhood zone, or invests in a renaissance or
2 neighborhood fund organization must be considered to be the taxpayer for purposes of any
3 investment limitations in sections 40-63-04, 40-63-06, and 40-63-07, and the amount of the
4 exemption or credit allowed with respect to the entity's investments must be determined at the
5 passthrough entity level. The amount of the total exemption or credit determined at the entity
6 level must be passed through to the partners, shareholders, or members in proportion to their
7 respective interests in the passthrough entity.

8 **SECTION 8. AMENDMENT.** Subdivision b of subsection 7 of section 57-38-30.3 of the
9 North Dakota Century Code is amended and reenacted as follows:

10 b. Renaissance and neighborhood zone tax credits under sections 40-63-04,
11 40-63-06, and 40-63-07.

12 **SECTION 9. EFFECTIVE DATE.** This Act is effective for taxable years beginning after
13 December 31, 2020.