Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019

SENATE BILL NO. 2360
(Senators Dotzenrod, Erbele, Wanzek)
(Representatives Holman, J. Nelson)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:

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

(2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, with the exception of marijuana grown under chapter 19-24.1; poultry; livestock; or dairy farming in such products' unmanufactured state and has received annual ~~net~~gross income from farming activities which is ~~fifty~~sixty-six percent or more of annual ~~net~~gross income, including ~~net~~gross income of a spouse if married, during any of the ~~three~~two preceding calendar years. For purposes of this paragraph, "farmer" includes a:

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

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

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

by the surviving spouse of an individual who at the time of death was a retired farmer.

(3) "Gross income" means gross income as defined under the federal Internal Revenue Code.

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

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

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

~~(c) Depreciation expenses from farming activities which have been deducted in computing taxable income~~farming as defined for purposes of determining if an individual is a farmer eligible to use the special estimated income tax payment rules for farmers under section 6654 of the federal Internal Revenue Code [26 U.S.C. 6654].

~~(4)~~(5) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that ~~fifty~~sixty-six percent or more of the ~~net~~gross income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, ~~net~~gross income from farming activities.

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

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

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

SECTION 2. EFFECTIVE DATE. This Act is effective for taxable events beginning after December 31, 2019.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2360.

Senate Vote:	Yeas 34	Nays 11	Absent 2
House Vote:	Yeas 74	Nays 18	Absent 2

Secretary of the Senate

Received by the Governor at 3:48 P.M. on March 21, 2019.

Approved at 5:31 P.M. on March 26, 2019.

Governor

Filed in this office this 27th day of March, 2019,

at 8:16 o'clock A. M.

Secretary of State