

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2244
(Senators Pomeroy, Anderson, Krebsbach, Lyson, Mathern)
(Representative Myxter)

AN ACT to amend and reenact paragraph 2 of subdivision b of subsection 15 of section 57-02-08 and subsection 4 of section 57-02-27.2 of the North Dakota Century Code, relating to continuation of the farm residence exemption for the surviving spouse of a deceased farmer and the capitalization rate for valuation of agricultural property; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Paragraph 2 of subdivision b of subsection 15 of section 57-02-08 of the North Dakota Century Code is amended and reenacted as follows:

- (2) "Farmer" means an individual 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 has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. ~~"Farmer"~~ For purposes of this paragraph, "farmer" includes a ~~"retired farmer" 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.~~ "Farmer" includes a ~~"beginning:~~
- (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the three 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 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.

SECTION 2. AMENDMENT. Subsection 4 of section 57-02-27.2 of the North Dakota Century Code is amended and reenacted as follows:

4. To find the "capitalized average annual gross return", the average annual gross return must be capitalized by a rate that is a ten-year average of the gross agribank mortgage

rate of interest for North Dakota, but the rate used for capitalization under this section may not be less than eight ~~and nine-tenths percent for taxable year 2005 and eight and three-tenths percent for taxable years after 2005~~ year 2009, seven and seven-tenths percent for taxable year 2010, and seven and four-tenths percent for taxable year 2011. The ten-year average must be computed from the twelve years ending with the most recent year used under subdivision a of subsection 3, discarding the highest and lowest years, and the gross agribank mortgage rate of interest for each year must be determined in the manner provided in section 20.2032A-4(e)(1) of the United States treasury department regulations for valuing farm real property for federal estate tax purposes, except that the interest rate may not be adjusted as provided in section 20.2032A-4(e)(2).

SECTION 3. EFFECTIVE DATE. This Act is effective for taxable years beginning after December 31, 2008, and section 1 of this Act applies to the surviving spouse of a deceased farmer regardless of whether death occurred before or after January 1, 2009, if the occupancy by the surviving spouse has been continuous and otherwise qualifies under this Act.

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-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2244.

Senate Vote: Yeas 40 Nays 5 Absent 2

House Vote: Yeas 87 Nays 5 Absent 2

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State