

Introduced by

Finance and Taxation Committee

(At the request of the Tax Commissioner)

1 A BILL for an Act to amend and reenact sections 11-18-02.2, 40-57.1-04.4, and subsection 4 of
2 section 57-02-27.2 of the North Dakota Century Code, relating to providing statements of full
3 consideration, the tax lien of record clearance requirement for new and expanding business
4 income tax exemptions, and removal of obsolete language from provisions relating to valuation
5 and assessment of agricultural lands; and to provide an effective date.

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

7 **SECTION 1. AMENDMENT.** Section 11-18-02.2 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 ~~11-18-02.2. Statements of full consideration to be filed with state board of~~
10 ~~equalization or recorder~~ Full consideration reported to county recorder - Procedure -
11 **Penalty.**

- 12 1. Any grantee or grantee's authorized agent who presents a deed in the office of the
13 county recorder shall certify on the face of the deed any one of the following:
- 14 a. ~~A statement that the grantee has filed a report of the~~The full consideration paid
15 for the property conveyed ~~with the state board of equalization.~~
 - 16 b. ~~A statement that the grantee has filed a report of the full consideration paid for~~
17 ~~the property conveyed with the recorder.~~
 - 18 e. ~~A statement of the full consideration paid for the property conveyed.~~
 - 19 d. A statement designating one of the exemptions in subsection 7 which the grantee
20 believes applies to the transaction.
- 21 2. Any party who presents an affidavit of affixation to real property of a manufactured
22 home in the office of the county recorder in accordance with section 47-10-27 and who
23 acquired the manufactured home before the affixation of the manufactured home to

- 1 the real property shall either contain in or present in addition to the affidavit of
2 affixation ~~any one of the following:~~
- 3 a. ~~A statement that the party has filed with the state board of equalization a report a~~
4 ~~statement~~ of the full consideration paid for the manufactured home before the
5 affixation.
- 6 b. ~~A statement that the party has filed with the recorder a report of the full~~
7 ~~consideration paid for the manufactured home before the affixation.~~
- 8 e. ~~A statement of the full consideration paid by the party for the manufactured home~~
9 ~~before the affixation.~~
- 10 3. The recorder may not record any deed unless the deed contains ~~one of the~~
11 ~~statements~~statement required by subsection 1 or record any affidavit of affixation
12 unless the affidavit contains or is accompanied by ~~one of the statements~~statement
13 required by subsection 2.
- 14 4. The recorder shall accumulate and at least monthly forward to the state board of
15 equalization a report containing the information filed in the recorder's office ~~pursuant~~
16 ~~to~~required under subsection 1 or subsection 2.
- 17 5. The state board of equalization shall prescribe the necessary forms for the ~~statements~~
18 ~~and~~ reports to be used in carrying out this section, and the forms must contain a space
19 for the explanation of special circumstances that may have contributed to the amount
20 of the consideration.
- 21 6. For purposes of subsection 1, the word "deed" means an instrument or writing
22 whereby any real property or interest therein is granted, conveyed, or otherwise
23 transferred to the grantee, purchaser, or other person, except any instrument or writing
24 that transfers any ownership in minerals or interests in minerals underlying land if that
25 ownership has been severed from the ownership of the overlying land surface or any
26 instrument or writing for the easement, lease, or rental of real property or any interest
27 therein.
- 28 7. This section does not apply to deeds transferring title to the following types of property,
29 or to deeds relating to the following transactions:
- 30 a. Property owned or used by public utilities.
- 31 b. Property classified as personal property.

- 1 c. A sale when the grantor and the grantee are of the same family or corporate
- 2 affiliate, if known.
- 3 d. A sale that resulted as a settlement of an estate.
- 4 e. All sales to or from a government or governmental agency.
- 5 f. All forced sales, mortgage foreclosures, and tax sales.
- 6 g. All sales to or from religious, charitable, or nonprofit organizations.
- 7 h. All sales when there is an indicated change of use by the new owners.
- 8 i. All transfer of ownership of property for which is given a quitclaim deed.
- 9 j. Sales of property not assessable by law.
- 10 k. Agricultural lands of less than eighty acres [32.37 hectares].
- 11 l. A transfer that is pursuant to a judgment.
- 12 8. Any person that, ~~in the statements~~certifies information provided for in subsection 1 or
- 13 subsection 2, willfully falsifies the consideration paid for the transferred real property or
- 14 the manufactured home, as applicable, or interest therein ~~or that falsely certifies that~~
- 15 ~~the person has filed a report of full consideration with the state board of equalization is~~
- 16 guilty of a class B misdemeanor.

17 **SECTION 2. AMENDMENT.** Section 40-57.1-04.4 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **40-57.1-04.4. Tax lien of record clearance**~~Clearance of tax obligations and tax liens of~~
20 **record.**

- 21 1. A project operator is not eligible for the income tax exemption under section
- 22 40-57.1-04 until a showing is made that the project operator has satisfied all state
- 23 ~~and/or~~ local tax obligations and tax liens of record for delinquent property, income,
- 24 income withholding, sales, or use taxes owed to the state or a political subdivision.
- 25 2. A certificate from the tax commissioner to the state board of equalization satisfies the
- 26 requirement of subsection 1.
- 27 3. If the project operator is a corporation or a ~~limited liability company~~passthrough entity
- 28 defined in section 57-38-01, any of its officers, governors, or managers charged with
- 29 the responsibility for making either property, income, income withholding, sales, or use
- 30 tax returns and payments are subject to the provisions of subsections 1 and 2 with
- 31 respect to all state or local tax obligations and tax liens of record for delinquent

1 property, income, income withholding, sales, or use taxes for which the individual is
2 personally liable. If the project operator is a partnership, each general partner is
3 subject to the provisions of subsections 1 and 2 with respect to all state or local tax
4 obligations and tax liens of record for delinquent property, income, income withholding,
5 sales, or use taxes for which the individual is personally liable.

6 **SECTION 3. AMENDMENT.** Subsection 4 of section 57-02-27.2 of the North Dakota
7 Century Code is amended and reenacted as follows:

8 4. To find the "capitalized average annual gross return", the average annual gross return
9 must be capitalized by a rate that is a ten-year average of the gross agribank
10 mortgage rate of interest for North Dakota, ~~but the rate used for capitalization under~~
11 ~~this section may not be less than eight percent for taxable year 2009, seven and~~
12 ~~seven-tenths percent for taxable year 2010, and seven and four-tenths percent for~~
13 ~~taxable year 2011.~~ The ten-year average must be computed from the twelve years
14 ending with the most recent year used under subdivision a of subsection 3, discarding
15 the highest and lowest years, and the gross agribank mortgage rate of interest for
16 each year must be determined in the manner provided in section 20.2032A-4(e)(1) of
17 the United States treasury department regulations for valuing farm real property for
18 federal estate tax purposes, except that the interest rate may not be adjusted as
19 provided in section 20.2032A-4(e)(2).

20 **SECTION 4. EFFECTIVE DATE.** Section 2 of this Act is effective for applications filed after
21 June 30, 2015.