

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1453

2007 HOUSE FINANCE AND TAXATION

HB 1453

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1453 A

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: 2/5/07

Recorder Job Number: 2783

Committee Clerk Signature

N. Penrose

Minutes:

Rep. Drovdal: We will open the hearing on HB 1453. Title read.

Rep. Clark Williams: Sponsor, support. I drafted HB 1453 at the request of the Richland County Commissioners and Supervisor of Tax & Property, Larry Osborn. HB 1453 addresses three areas, which I will point out to you so that you understand. On lines 13, 14, 15, 16, 17 and 18 on the front page, there was a new addition, a project operator who did not apply for a property tax exemption under this chapter prior to the commencement of construction may apply for an abatement under this chapter, which may be granted if the project otherwise qualifies for a property tax exemption. The problem or reason that this is here is simple. It is funding to the extent where a project starts. Does it start with the footings, or does it start when the caterpillar comes on the land? This change would give a new business a 2 ½ year window to apply for a property tax exemption that applies to the new business. A second section of the bill, lines 26-30 on the second page applies to the new farmer designee. I want this committee to understand the next two changes. This is not an anti-farm bill or proposal. I know the so-called farm residency is a controversial issue. I also know that there is a hog house amendment on the Senate side to get rid of it. The point of the next two changes is to protect the integrity of the farm exemption as it is now. That's what we have to deal with. I

hope you will see that in what I am proposing here. An individual is not a beginning farmer for any subsequent year if the individual has non-farm income, including that of a spouse if married, of more than \$40,000 during the calendar year, the individual might otherwise qualify for beginning farmer's status. What that means is simply this. In order to qualify as a beginning farmer, the criteria for an active farmer must be followed. They must not exceed \$40,000 in off farm income, even for beginning farmers. What this is aimed at is simple, at the present time; a beginning farmer can file for a tax abatement or exemption on the farm residence. He cannot be audited; he doesn't have to follow any real criteria, as far as the off-farm income. You can have some horses or some cows, or whatever and basically qualify. We have situations in our county, where people have excessive income and qualify for the exemption. They get it for up to three years, and then they are automatically disqualified. The next change is found on page 3, line 12, a simple change, changing May to "shall". At the present time, it's a hodgepodge of different audits or lack of audits relative to the valuation or checking on the farm residence. In many places the counties do it, in some places the townships do it and yet in others they don't audit at all. This simply changes it to conform basically with cities or municipalities, instead of may, they shall conduct audits relative to the farm exemption. Again the last two sections, I do not want this construed. They are not to be perceived by this committee as trying to get rid of any form of farm exemptions; but only protects the integrity of it, because that's the way we have to deal with this situation. I have with me today, to speak to the bill the assessor from Richland County and also township supervisor, Ken Berg, from Walcott.

Rep. Drovdal: The last correction requires an audit. How many homestead farm exemptions are currently allowed, so how many audits are going to have to be performed on a yearly basis.

Rep. Clark Williams: I have a survey which I did not choose to pass out, but I would rather have that question answered because of the people that have taken the survey, by the supervisor.

Rep. Drovdal: The beginning farmer, you said that after three years in the second part of your improvement, you said that after three years they would automatically lose their farm exemption. Is that if their income is over 50% off the farm, is that what you are referring to.

Rep. Clark Williams: Yes.

Rep. Drovdal: Then on the first part on meeting that, I look at #1, line 9 on page 1, it says no property tax exemption shall be granted; then of course, you're going down, however, it is allowed to be granted. Isn't that a conflicting statement on that.

Rep. Clark Williams: I went and asked legislative council who drafted this, with the criteria that was given to me and that I understood. This is the way that they chose to draft it.

Rep. Wrangham: When you reference the non-farm income of \$40,000; where did the \$40,000 amount come from, is that somewhere else.

Rep. Clark Williams: That is already in the code.

Rep. Drovdal: Thank you. Further testimony in support.

Larry Osborn, Supervisor of Tax and Property, Richland County: (see attached testimony #1). I worked with John Walstad, of Legislative Council, in writing this up; hopefully we have it so that it would be a one year.

Rep. Drovdal: Any questions.

Rep. Headland: ND Century 57-02-14 deals with farm exemptions.

Larry Osborn: No, 57-02-14 deals with the exemptions for municipalities. What I am saying there is that in a city we use the word "shall", but in a township we are using the word "may". I

think putting things on an even playing field, if one has to do it, why doesn't the other one have to.

Rep. Drovdal: Thank you. Further testimony in support.

Ken Berg, Code Administrator for Walcott Township, Richland County: This year, in the township that we live in, I asked at different times to go to this man's place to give building permits for certain things. He spent a lot of time telling me how well things had gone, and how his financial situation was so good. I didn't know, at that time, that we were going to get an exemption request and the part of this that I want to talk about, is the second point that Rep. Williams brought up. It talks about a beginning farmer, and I want to state unequivocally that we are not against anybody in the beginning farmer category. However, I do have a problem with somebody that can make their mint, move out to a rural area, bring their kids to our school district and then ask for a tax abatement for one, two or three years. In this case, the man probably isn't over 50, but what's to stop under this, an 80 year old to come out and be a beginning farmer. Therefore, it kind of bothers the rest of us, even the mayor of Fargo, told you his taxes went up 18%, ours keep going up. I don't mind paying my share, but I don't want to pay the other guys share. I guess the main point I have to say, is something needs to be done, if this is a beginning farmer, legitimate farmer, I have no problem with it. I have worked nearly 40 years, appraising land, trying to work to get young farmers started and keep them going, we are all for that. This is a loophole that somebody has discovered and I think it needs to be stopped.

Rep. Froseth: If he hasn't learned by the time he's 80 that farming doesn't pay.

Ken Berg: I'll tell you what, if you can find enough loopholes, age isn't a factor.

Rep. Headland: There's a lot of different areas that a farmer needs to comply with when you are dealing with a farm home exemption. Is there no way to tell by the practice that this

gentleman is doing that it is quite obvious that he didn't fit some of the areas, such as income requirements, or the amount of income as a percentage of the total income.

Ken Berg: What you are saying is exactly what I think should have happened. But if you look at what Mr. Osborn presented here, and Rep. Williams, we can't even ask the man. I'm the Code Administrator and my wife, Lois is the Walcott Township clerk, and then we have a three member board of supervisors. So when this issue came up, my first thing is you talk to this board of supervisors. They don't dare touch it, so we tried to get some common sense help. As you go up the line, you find out that you can't even ask the question. So common sense could prevail if it was a 35 year old man, and he's just struggling to get started. But when every move of the operation basically is to show that you did this and that to avoid taxes, that's when I have the problem.

Rep. Headland: So what you're saying is, under the way the current statute is written, if you mark on this application that you're a beginning farmer, you cannot ask that farmer any questions about other areas of his income, whether he fits the 50/50 or the \$40,000.

Ken Berg: I'm telling you this from my experience in this case. If an applicant comes to me and wants to do this, so we send it to the board of supervisors, they say they can't do it, so we forward it up to the next line. I even talked to a couple of the local county commissioners that I knew, and of course, nobody likes the situation but the law is such that what he's doing is legal. That's really all I can say about that.

Rep. Drovdal: Thank you. Further testimony in support. Testimony in opposition.

Sandy Clark, ND Farm Bureau: We are in opposition. On the first section of the bill, we don't have any comment on the part of the contracts. We want to make a comment on the beginning farmer part of it. I beg to differ that the law does not allow you to ask those kinds of questions. If you look at the form that they have, as was provided in previous testimony, the

second question says that if the major portion of the individual's time is normally devoted to farming activity. That is a great indicator. I understand that there are people that are going to try and circumvent the law all the time. There will be people who will come in and buy a small acreage, a 10 acre minimum required by law and have a few horses, and suddenly want an exemption as a farmer. But we think that part about the time will take care of whether or not they are a beginning farmer. If you look below that line, they have to sign; before they sign I'm willing to furnish proof of income if requested to do by someone authorized. I think that allows the assessor's to ask for that income if necessary if there is some question. We do believe that beginning farmers should be able to participate in the farm/home exemption, in the farmstead exemption. We think that the current law provides those kinds of provisions. We would just rather leave the status quo and leave the statute alone as it is. When you go over to section 4 about the "shall" require the statement. We have not had a problem with that in the past. Because it is very important to ND Farm Bureau that those people who deserve the exemption receive the exemption. Those who do not deserve the exemption should not receive the exemption. We strongly about that.. We feel that this is a local thing that really needs to be policed at the local level. If the affidavit helps that, we don't have any opposition to having the affidavit. Earlier it was called an audit in testimony, I don't believe this is an audit, I believe this is signing an affidavit. Also, I would point out that the information that was provided about the survey and how many people are using that affidavit, some of you will recall last session we had a number of bills in here on farmstead exemptions, and I think the Tax Department has done a wonderful job in promoting the use of these affidavits. I suspect there may be even more affidavits being served in townships and counties than there have been in the past.

Rep. Headland: Changing the "may" to "shall", the way I read it, every farmer, every year is going to have to reapply for his farm exemption. Then it will be determined every year whether he qualifies or not. He's going to have to provide income tax, all the information on a yearly basis to keep his farm/home exemption.

Sandy Clark: We would rather that not be an annual thing, that it would be a one-time and then a checks and balance system. It appears that this would make it a cumbersome situation for farmers and ranchers.

Rep. Froseth: I can understand the problem here, but the income level of \$40,000 kind of bothers me, because if some guy's wife has got a good job and the ambition to go out and earn \$40,000, so the beginning farmer contributes part of that, it's a part-time job over and above his farming work, I don't think they should be penalized for it. That shows good ambition, but maybe it needs to be changed some, but would it be another option to change the size of the farm from the 10 acres, increase size of the unit. It's pretty hard to raise \$40,000 on 10 acres. Maybe if you increase the size of the acreage, instead of going by income.

Sandy Clark: I can't deny that there's been debate on a lot of these issues relative to the farm/home exemptions. I guess our position is we think it should maintain the way it is. We don't disagree that making a living is hard. The problem is not the farmer, the bona fide farmer. The problem generally ends up being the person who is trying to circumvent the law by pulling a fast one, by having a few animals. That's where I suspect that most of the problems stem from. I think someone said earlier it is difficult to legislate common sense. Local assessors need to have some ability to look at this.

Rep. Drovdal: You made a comment that it's a question too in the beginning farming program, is the major portion of an individual's time normally devoted to farm, would answer

the question about income. But if the gal was trying to become a beginning farmer and her husband was executive of a big corporation, it would not, because there is no place in the beginning farm program that the \$40,000 is mentioned as outside income. Is that true.

Sandy Clark: No it is not. The beginning farmer part of it does not mention income.

Rep. Drovdal: Therefore, you also commented that the bottom line, I'm willing to furnish proof, but if income isn't part of it, then there would be no question about providing proof because this bill is attempting to do is put that income in on the beginning farmer after the first year, instead of after the third year. That's my understanding of the previous testimony. Section two is going to put that income level in the beginning part of the program after the first year.

Sandy Clark: That may be correct. Maybe I'm just reading that bottom portion differently.

Rep. Drovdal: Thank you. Further testimony in opposition. We will close the hearing.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1453 B

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2784

Committee Clerk Signature <i>Mickie Schmidt</i>

Minutes:

Vice Chairman Drovdal opened the hearing on HB 1453. The committee asked Marcy Dickerson from the Tax Department to come down and explain the Bill.

Representative Headland: If we change "may" to "shall", will that force every farmer every year to provide all the detailed information necessary to determine whether he qualifies for an exemption or not?

Marcy Dickerson, Tax Department: I don't think it will mean that they'll have to provide all of the detail. They don't have to file an application every year. Only when there is a question from the Assessor or the County Tax Director had required additional information. If you have a farmer who for years and years who obviously qualified as a farmer, I don't think anyone is going to ask him for his income tax return every year. If you have somebody who's been very close to border line as to whether his income is too great for non farm activities or whether he is or is not spending 50% or more of his time on the farm say he has a day job and is questionable, then I would think that every year they would have to prove that they qualify. Severance taxes change from one year to another. With the \$40,000 income, that's only if they have \$40,000 of non farm income for every one of the past three years. If one of those years they didn't have it, it doesn't take away the exemption. It would be the same as in the

municipalities, every charity, every church; they all have to file an annual application for exemption. I don't know why it should be any different for the farmer who's seeking an exemption too. At the present time the law is not required.

Vice Chairman Drovdal: In the section on the amendment. It sounds like it's not allowed an exemption and then we turn around and allow the exemption, could you explain how that works and why?

Marcy Dickerson: Are you talking about the new and expanding business exemption?

Vice Chairman Drovdal: Yes, 40-57.107.

Marcy Dickerson: At the present time the law requires that the application has to be not only made but also granted buyers of commencement of construction. Have you heard that there was a difference of opinion as to when commencement of construction takes place? When the State Board of Equalization used to have jurisdiction over the property tax exemption, they determined that commencement of construction was anything visible appeared above ground level. They did not consider dirt work as commencement of construction. The State Board has not had authority over the property taxes exemptions for several bienniums' now. That was just the position they took, it wasn't anything ruled on by the Attorney General. As I read this, you can really get the same effect by just getting rid of sub section 1 that says it has to be filed at commencement of construction, cause we're going to allow abatement, it kind of makes sub section 1 meaningless, it's the same thing. Submit abatement, they'll have over a couple of years in which to file, if that's what they want to do. The beginning farmer does not have any income requirements. He must have no history of farm income for the three preceding years, either income or loss. But any other income doesn't matter for the beginning farmer category. But he still has to spend more than half their time in farming activities. What these amendments would try to limit would be the wealthy guy who retires from the stock market and

decides he wants to farm for entertainment purposes, he has mega bucks income, so that doesn't count and he can spend more than half his time on the farm because he's not doing anything else any more and this would kind of limit these people. In the first year that they had that new beginning farmer exemption, they have over \$40,000 income that would cut them off at that point. I don't think it would work a hardship on the genuine beginning farmer.

Representative Headland: Would a retiree, who had a long history of making a lot of money, move out to the country and raise 20 cows and have 100 acres of hay, would he be considered a beginning farmer?

Marcy Dickerson: Under the existing law, I think he would. That's the problem. I'm thinking of Green Acres on TV.

Vice Chairman Drovdal: Thank you Marcy and we'll close the hearing on HB 1453.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1453 C

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: February 5, 2007

Recorder Job Number: 2829

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1453 and asked the committee for their comments and what their wishes were?

Vice Chairman Drovdal: After listening to the testimony and the problems in section's 1 and 3, the only thing I felt on that Bill was to put that \$40,000 dollars in on the new farmer for the first year and address that problem with these hobby farmers coming out because they are causing a lot of problems with pressure taking full exemption off farmers and we don't want to do that. That was the only part of the Bill I thought was worth pursuing.

Chairman Belter: I wasn't here for the testimony but knowing the Tax Assessor in Richland County I probably presumptuous here but I would venture to say we have a situation where we have a Tax Assessor who has a problem with the exemption and he doesn't want to deal with it, so he brings it to us. I don't know if that's a fair statement or not but I would bet that's the situation. Was there any other Tax Assessors that came in and complained about that situation?

Representative Pinkerton: On this form, it looks like any of us could retire and buy some acres and say we're into farming.

Chairman Belter: I think Rep. Pinkerton that you're probably correct the way the form reads. However on the other hand, I think the Tax Assessor can look at every one of these and they can disallow it. I think the Tax Commissioner there just doesn't want exercise his authority. I think if this was a real problem statewide we would have heard from half a dozen or more Assessors in here.

Representative Owens There's two parts to this Bill, I didn't really understand why it was in from of us. You're correct, he was complaining about how he doesn't have the authority to prelude that their income and all that but then with them sign an affidavit saying I'm willing to furnish proof of income. We're requiring them, when we talk about making false statements that it is punishable. So I don't understand why they can't make them do that other than that they don't want to make them do it. The other part that I didn't understand was this commercial property. It said that they got into an argument over the commencement of the project is, so they put in a stipulation that says if you miss this section, you get to file it under this section. Why don't they just say, commencement within the prior year and that would've ended that.

Representative Schmidt: That word may and shall have some big impact on this. It should be shall requires instead of may like on page 3, line 12.

Vice Chairman Drovdal: In the first section, I've always felt that we had given these local options of giving property tax exemptions to new construction as an incentive when business was slow to try to get investments in the communities. And by changing this we're actually giving it as a reward, not as an incentive. That's why I said earlier that I don't think section 1 is worth a darn. The reason I'm against section 4 is that the local Assessors are going to take that shall and say everyone, you got to come in every year to do this again. And that's a lot of paper work and putting in the burden when they're sitting there doing nothing and twiddling their thumbs and their putting the entire burden on that local small beginning farmer. I have a

problem with that. The middle one, if you look at that form, each one of those categories is separated and independent from the other. So when you go down to the beginning farmer, it does not say any income limit, even though they signed down below that they, if the case might be, that they don't have to prove it, because its not in the section for the beginning farmer. They do in the first category where they're going to true farm exemption. So there is a difference on the form and that's why they wanted to put the \$40, 000 in was for hobby farmers. It just causes more confusion.

Representative Owens: I believe they put that in for the hobby farmers to stop them from coming. But if you listen between the lines, they have certain people picked out they want to go after as well. That's why they want that "shall".

Representative Headland: I did talk to the Assessor and there's one individual who owned a construction company that retired and it sounded like he sold his business, moved to the farm and bought 20 cows and he wanted to qualify for this exemption. He stated that he did qualify because he can be considered a beginning farmer because he has no other income besides his retirement which according to the Assessor, he believed it would be over \$40,000 so he just wants to go after this guy for this particular case. I did have a real problem with the shall, because I believe that if we change that, that every farmer in Richland County, every year is going to taking all of his evidence, income tax statements and everything as to why he feels he is exempt. He's going to have to prove that he qualifies for the exemption. Not only does it change it for the beginning farmer, but it changes it for every category. I really do object to the may being changed to shall in section 4.

Representative Kelsh: I was reading Larry Osborn's testimony and according to him, he did a survey of all of the Counties and 31 Counties already do require the application for every

exemption request. And further down on the testimony it says, because the municipalities Assessor is required, or shall require, why not do it for a Township?

Representative Grande: I'm confused with the testimony because the whole idea was that they didn't feel that they had the authority to do this, yet we've already got 31 Counties doing it.

Representative Kelsh: It's just really making all Counties the same, cause some are and some aren't.

Chairman Belter: I think Cass County's form that they send out is nearly identical to this one. Do you in other Counties get a form similar to this?

Representative Headland: Yes, I filled this form out in the past, I don't recall if I've done it every year. If we change it to shall, we will be filling it out every year and then if you have an over zealous Assessor, he's going to make you provide all of the documentation as to why you feel that you don't qualify and I think that's where the burden comes in.

Representative Froseth: What's the flow of the application for exemption here? On the bottom it says applications approved or disapproved, so what's the next step? Does it go to the Board of Equalization or County Commissioners at that point?

Chairman Belter: I'm not sure what the procedure is.

Representative Owens: I just wanted to say, I think the may, there's a reason to leave the may in there. One; we've already given them authority, two; we can actually say and the purpose being in my mind was we give them local authority to decide rather than us telling them they have to do it. So as far as section two; paragraph 4 on page 3, I don't see any fit for shall. Unless they just want the State Legislature to pull out the big hammer.

Representative Schmidt: The shall is used in municipalities. And the may is for Townships, that's where the Assessor had a problem.

Vice Chairman Drovdal: I move a Do Not Pass.

Representative Froseth: Second it.

Chairman Belter: Is there any discussion?

Representative Pinkerton: (can't hear him and I have it turned up all of the way!!)

Chairman Belter: I agree with you but I still contend that the County Tax Assessor has the authority to deal with those situations and I don't believe that the Richland County Assessor is willing to do that. I agree that it's a growing concern.

Representative Froseth: On that beginning farmer exemption, when it was first put into Century Code, way back then wasn't there some intent on what that program is supposed to be? If they're circumventing that intent, you can go back to the original hearing and the original intent of that program and we should be able to determine exactly what it is.

Chairman Belter: I think it was 3 sessions ago when we put that language in for the beginning farmer and the intent was that where you have the situation where a young farmer had a full time job in town and now they make the transition to becoming a full time farmer. With the rules as they were, they would be ineligible because of that 3 year income thing. So that's why it was changed.

Representative Brandenburg: The real answer is right here in the last line on the form at the very bottom, where it says Assessor and Director of Tax Equalization. The application is approved or disapproved. That's the bottom line.

Chairman Belter: Ok, any other discussion? If not will the clerk read the roll; 9-y; 4-n; 1-absent; Rep. Headland will carry the Bill. The hearing was closed.

Date: 2-5-07 pm
Roll Call Vote #: 1453

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Not Pass

Motion Made By Rep. Drovdal Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich		
Vice Chairman Drovdal	✓		Rep. Kelsh		✓
Rep. Brandenburg	✓		Rep. Pinkerton		✓
Rep. Froseth	✓		Rep. Schmidt		✓
Rep. Grande	✓		Rep. Vig		✓
Rep. Headland	✓				
Rep. Owens	✓				
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 9 No 4

Absent 1

Floor Assignment Rep. Headland

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1453: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HB 1453 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1453

HB 1453 A

#1

2-5-07 AM

February 5, 2007
Regarding: HB 1453

Mr. Chairman, Members of the Committee.

I am Larry Osborn, Supervisor of Tax & Property, Richland County.

The three points of interest in House Bill 1453 came from a meeting of Richland County Commissioners and Local Legislative members in December, 2006.

Under Section 40-57.1-07 we are asking for the abatement process to be added to the New Business Exemption. Now it reads that "No property tax exemption shall be granted under this chapter unless the application for it is granted as provided in this chapter prior to the commencement of construction of the project as that term is defined in section 40-57.1-02, or prior to occupancy by the project operator if the project is an existing building."

It has been my experience that the larger company's with accountants and attorneys will always ask for the exemption at the proper time. It is the small operator that isn't aware until it's built that asks for the exemption and has to be turned down.

What is meant by commencement of construction? My States Attorney reads it "as soon as a caterpillar goes on the property". Even if building permits are required from the township they are not told in a lot of cases about the exemption process.

The second item comes from subdivision NDCC 57-02-08 (15) (b) and deals with the beginning farmer category. I have included a copy of the application for property tax exemption of a farm residence in my presentation. Notice that in filling this out you need to fill out one category that applies to the applicant.

The problem came up this year in one of our townships. The township had to grant the beginning farmer category to some one who in their mind should not have qualified. What we found out is we can not ask for any of the information under the active farmer category. Therefore, we could not even ask the questions that need to be asked about the farm situation.

Once we grant the exemption they will qualify for three years. In HB1453 we are asking to at least limit this exemption to a one year exemption. The applicant might still qualify in the following year but will have to do it as an active farmer.

The third change in this bill is in subdivision NDCC 57-02-08 (15) (4) It changes the word "may" to "shall." This will require that all applicants for farm exemption would have to file an Application for Farm Exemption.

In April of 2005 I did a survey of all the counties in North Dakota asking if they required the application for farm exemption. 31 counties responded they do ask for the application. 17 responded no and 5 did not respond.

This creates a non-uniform situation in handling farm exemption applications. Twenty reported they require the form on an annual basis. But, some counties have never asked for the applicant to fill out a form for the farm exemption. HB 1453 will put all of the counties on an even playing field if all are required to file on an annual basis. Whether you are for or against farm exemption of structures you should be uniform in making sure it is only farmers receiving the exemption.

Plus under NDCC 57-02-14.1 it states that all exempt property in a municipality shall file a certificate with the assessor for why the property is exempt. So why does it read shall for a municipality and may for a township?

If you have any questions, I will try to answer them.

Larry L. Osborn
Supervisor of Tax & Property
Richland County

Application For Property Tax Exemption of a Farm Residence

This application must be filed every year on or before February 1 of the year for which the exemption is being requested. Return the completed application to:

Property Number:
Property Owner:
Property Address:

Legal Description

The property owner(s) apply for real property tax exemption for the year _____ on the property described above and, certify the following:

SELECT ONLY ONE CATEGORY THAT APPLIES

Active Farmer Category

- | | Yes | No |
|---|-----|-----|
| 1. Is the residence located on a tract or contiguous tracts of agricultural land containing 10 or more acres farmed by the occupant? | ___ | ___ |
| 2. Is the major portion of the occupant's time devoted to farming activities? | ___ | ___ |
| 3. Does the annual net income from farming constitute 50% or more of the total income, including the income of a spouse if married, during any one of the three preceding calendar years? | ___ | ___ |
| "Net income from farming" means taxable income from farming as computed for state income tax purposes adjusted as follows: | | |
| a. Add back 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. Add back interest expense from farming which has been deducted in computing taxable income. | | |
| c. Add back depreciation expense from farming activities which has been deducted in computing taxable income. | | |
| 4. Did the occupant engaged in farming have nonfarm income, including that of a spouse, if married, of more than \$40,000 during each of the three preceding calendar years? | ___ | ___ |

Vacant Residence Category

- | | | |
|--|-----|-----|
| 1. Is the residence intended for use as a farm residence? | ___ | ___ |
| 2. Was the residence last used as a farm residence or as part of a farm plant? | ___ | ___ |

Farm Laborer Residence Category

- | | | |
|--|-----|-----|
| 1. Is the residence being used as part of a farm plant to provide housing for that farmer's workers? | ___ | ___ |
|--|-----|-----|

Retired Farmer Category

- | | | |
|--|-----|-----|
| 1. Is the residence occupied by an individual who retired from farming because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the applicant lives and for which the exemption is claimed? | ___ | ___ |
|--|-----|-----|

Beginning Farmer Category

- | | | |
|--|-----|-----|
| 1. Is the residence occupied by an individual who began occupancy and operation of a farm within the three preceding calendar years? | ___ | ___ |
| 2. Is the major portion of the individual's time normally devoted to farming activities? | ___ | ___ |
| 3. Was there at least one of the prior three years in which the farmer had no farm income or loss? | ___ | ___ |

I am willing to furnish proof of income if requested to do so by someone authorized to administer this exemption and I understand that making false statement in a governmental matter is punishable as a Class A misdemeanor provided in N.D.C.C. § 12.1-11-02.

Signature of applicant _____

Date _____

Assessor or Director of Tax Equalization _____

Date _____

Application is: Approved ___ Disapproved ___