

June 2010

Introduced by

1 A BILL for an act to create and enact two new sections to chapter 57-38 and two new
2 subdivisions to subsection 4 of section 57-38-30.3 of the North Dakota Century Code, relating
3 to a homestead income tax credit and a commercial property income tax credit; to provide an
4 appropriation; to provide for a transfer; to provide an effective date; and to provide an expiration
5 date.

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

7 **SECTION 1.** A new section to chapter 57-38 of the North Dakota Century Code is
8 created and enacted as follows:

9 **Homestead income tax credit - Rules.**

- 10 1. In addition to any other credit or deduction allowed by law for a homeowner, an
11 individual is entitled to a credit against the tax imposed under section 57-38-30.3
12 for taxable years 2011 and 2012 in the amount of twenty percent of property taxes
13 or mobile home taxes that became due during the income tax taxable year and are
14 paid which were levied against the individual's homestead in this state. For
15 purposes of this section, "property taxes" does not include any special
16 assessments.
- 17 2. For purposes of this section, "homestead" means the dwelling occupied by the
18 individual as the individual's primary residence and, if that residence is in this state,
19 any residential or agricultural property owned by that individual in this state.
- 20 3. a. The amount of the credit under this section may not exceed five thousand
21 dollars for married persons filing a joint return or two thousand five hundred
22 dollars for a single individual or married individuals filing separate returns.
- 23 b. The amount of the credit under this section may not exceed the taxpayer's tax
24 liability under this chapter.

- 1 4. The amount of the credit under subsection 3 in excess of the taxpayer's tax liability
2 may be carried forward for up to five years or the taxpayer may request that the tax
3 commissioner issue the taxpayer a certificate in the amount of the excess which
4 may be used by the taxpayer against property or mobile home tax liability of the
5 taxpayer during the ensuing taxable year by delivering the certificate to the county
6 treasurer in which the taxable property or mobile home is subject to taxes. The
7 county treasurer shall forward certificates redeemed in payment of a tax obligation
8 under this section to the tax commissioner, who shall issue payment to the county
9 in the amount of the certificates.
- 10 5. Persons owning property together are entitled to only one credit for a parcel of
11 property between or among them under this section. Persons owning property
12 together are each entitled to a percentage of the credit for a single individual under
13 this section equal to their ownership interests in the property.
- 14 6. This section is not subject to subsection 1 or 2 of section 57-38-45.
- 15 7. The tax commissioner shall adopt rules to provide for filing and verification of
16 claims of credits under this section and for issuance and redemption of tax
17 certificates under subsection 4.
- 18 8. a. If, on November 15, 2012, the total amount of tax credits claimed under this
19 section exceeds _____ million dollars, the tax commissioner shall
20 reduce the rate of the credit under subsection 1. The adjusted credit rate
21 must be calculated by the tax commissioner as follows:
- 22 (1) The tax commissioner shall determine the percentage by which the
23 credits claimed under this section exceeds _____ million dollars.
- 24 (2) The difference between the number one and the amount calculated
25 under subdivision a multiplied by twenty percent is the adjusted credit
26 rate for the 2012 taxable year.
- 27 b. The tax commissioner shall report any adjustment under this subsection to the
28 budget section of the legislative management for review.

29 **SECTION 2.** A new section to chapter 57-38 of the North Dakota Century Code is
30 created and enacted as follows:

31 **Commercial property income tax credit - Rules.**

- 1 1. In addition to any other credit or deduction allowed by law for a property owner, an
2 individual or corporation is entitled to a credit against the tax imposed under
3 section 57-39-30 or 57-38-30.3 for taxable years 2011 and 2012 in the amount of
4 twenty percent of property taxes or mobile home taxes that became due during the
5 income tax taxable year and are paid which were levied against commercial
6 property in this state. For purposes of this section, "property taxes" does not
7 include any special assessments.
 - 8 a. The amount of the credit under this section may not exceed five thousand
9 dollars for any taxpayer.
 - 10 b. The amount of the credit under this section may not exceed the taxpayer's tax
11 liability under this chapter.
 - 12 c. The amount of the credit under this section may not exceed five thousand
13 dollars for married persons filing a joint return or two thousand five hundred
14 dollars for a single individual or married individuals filing separate returns.
- 15 2. The amount of the credit under subdivisions a and c of subsection 1 in excess of
16 the taxpayer's tax liability may be carried forward for up to five years.
- 17 3. Persons owning property together are entitled to only one credit for a parcel of
18 property between or among them under this section. Persons owning property
19 together are each entitled to a percentage of the credit equal to their ownership
20 interests in the property. Married individuals owning property together are each
21 entitled to a percentage of the credit for a single individual under this section equal
22 to their ownership interests in the property.
- 23 4. This section is not subject to subsection 1 or 2 of section 57-38-45.
- 24 5. A passthrough entity entitled to the credit under this section shall allocate the
25 amount of the credit allowed with respect to the entity's property at the passthrough
26 entity level. The amount of the total credit determined at the entity level must be
27 passed through to the partners, shareholders, or members in proportion to their
28 respective interests in the passthrough entity.
- 29 6. The tax commissioner shall adopt rules to provide for filing and verification of
30 claims under this section.

- 1 7. a. If, on November 15, 2012, the total amount of credits claimed under this
2 section exceeds _____ million dollars, the tax commissioner shall
3 reduce the cap that applies to the credit under subsection 1. The adjusted
4 credit cap must be calculated by the tax commissioner as follows:
5 (1) The tax commissioner shall determine the percentage by which the
6 credits claimed under this section exceeds _____ million dollars.
7 (2) The difference between the number one and the amount calculated
8 under paragraph 1 multiplied by the amount of the cap is the adjusted
9 credit cap for the 2012 taxable year.
10 b. The tax commissioner shall report any proposed adjustment under this
11 subsection to the budget section of the legislative management for approval.

12 **SECTION 3.** Two new subdivisions to subsection 4 of section 57-38-30.3 of the North
13 Dakota Century Code are created and enacted as follows:

14 A taxpayer filing a return under this section is entitled to the credit provided
15 under section 1 of this Act.

16 A taxpayer filing a return under this section is entitled to the credit provided
17 under section 2 of this Act.

18 **SECTION 4. APPROPRIATION - TAX DEPARTMENT.** There is appropriated from
19 special funds the sum of \$1,100,000, or so much of the sum as may be necessary, to the tax
20 commissioner for the purpose of implementing the provisions of this Act, for the biennium
21 beginning July 1, 2011, and ending June 30, 2013.

22 **SECTION 5. TRANSFER.** During the biennium beginning July 1, 2011, and ending
23 June 30, 2013, the director of the office of management and budget shall transfer _____
24 from the permanent oil tax trust fund to the general fund.

25 **SECTION 6. EFFECTIVE DATE - EXPIRATION DATE.** Sections 1, 2, and 3 of this Act
26 are effective for the first two taxable years beginning after December 31, 2010, and are
27 thereafter ineffective.