

Introduced by

Senators Cook, Laffen, Dotzenrod

Representatives Grueneich, Headland, Nathe

1 A BILL for an Act to create and enact a new section to chapter 57-02, a new section to chapter
2 57-38, a new section to chapter 57-39.2, and a new section to chapter 57-40.2 of the North
3 Dakota Century Code, relating to tax obligation clearance requirements for purposes of
4 qualifying for a tax benefit; to amend and reenact section 40-57.1-04.4 and subsection 11 of
5 section 40-58-20 of the North Dakota Century Code, relating to tax obligation clearance
6 requirements for purposes of qualifying for a tax benefit; and to provide an effective date.

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

8 **SECTION 1. AMENDMENT.** Section 40-57.1-04.4 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **40-57.1-04.4. Clearance of tax obligations and tax liens of record.**

- 11 1. A project operator is not eligible for the income tax exemption under section
12 40-57.1-04 or the property tax exemptions under sections 40-57.1-03 and
13 40-57.1-04.1 until a showing is made that the project operator has satisfied all state or
14 local tax obligations and tax liens of record for delinquent property, income, income
15 withholding, sales, or use taxes owed to the state or a political subdivision. A local
16 development corporation is not eligible for the property tax exemption under section
17 40-57.1-04.3 until a showing is made that the local development corporation has
18 satisfied all state or local tax obligations and tax liens of record for delinquent property,
19 income, income withholding, sales, or use taxes owed to the state or a political
20 subdivision.
- 21 2. A certificate from the tax commissioner to the state board of equalization satisfies the
22 requirement of subsection 1.
- 23 3. If the project operator or local development organization is a corporation or a
24 passthrough entity defined in section 57-38-01, any of its officers, governors, or

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

9 **SECTION 2. AMENDMENT.** Subsection 11 of section 40-58-20 of the North Dakota Century
10 Code is amended and reenacted as follows:

11 11. As an alternative to the sale of bonds to be amortized with tax increments as provided
12 in this section, the governing body of a municipality may, in its discretion, grant a total
13 or partial tax exemption for the project in order to provide assistance to a project
14 developer in a development or renewal area, pursuant to agreement with the
15 municipality. However, if a developer of a development or renewal project receives a
16 tax exemption for that project pursuant to this subsection, that project developer may
17 not receive a tax exemption for that project under section 40-57.1-03, 40-57.1-04,
18 40-57.1-04.1, or 40-57.1-04.3. A project developer is not eligible for the property tax
19 exemption under this subsection until a showing is made that the project developer
20 has satisfied all state or local tax obligations and tax liens of record for delinquent
21 property, income, income withholding, sales, or use taxes owed to the state or a
22 political subdivision. A certificate from the tax commissioner to the municipality
23 satisfies the tax obligation clearance requirement under this subsection. If the project
24 developer is a corporation or a passthrough entity defined in section 57-38-01, any of
25 its officers, governors, or managers charged with the responsibility for making either
26 property, income, income withholding, sales, or use tax returns and payments are
27 subject to the tax obligation clearance requirements with respect to all state or local
28 tax obligations and tax liens of record for delinquent property, income, income
29 withholding, sales, or use taxes for which the individual is personally liable. If the
30 project developer is a partnership, each general partner is subject to the tax obligation
31 clearance requirements with respect to all state or local tax obligations or tax liens of

1 record for delinquent property, income, income withholding, sales, or use taxes for
2 which the individual is personally liable. The amount of annual tax exemption under
3 this subsection is limited to the tax increment as defined in this section as it applies to
4 the development or renewal project and may extend for a period not to exceed fifteen
5 years. In determining the total amount of the tax exemption to be authorized, the
6 municipality shall give due consideration to the same elements as are involved in the
7 sale of bonds to be amortized by tax increments. The amount to be reimbursed, by tax
8 exemption, to the project developer must be all or a portion of eligible public costs
9 which have been paid by the project developer, plus interest on those costs at a rate
10 not to exceed ten percent per annum. The amount of tax exemption must be an
11 amount sufficient to reimburse the project operator for those eligible costs, amortized
12 pursuant to the agreement between the project developer and the municipality.

13 **SECTION 3.** A new section to chapter 57-02 of the North Dakota Century Code is created
14 and enacted as follows:

15 **Tax benefits not available to delinquent taxpayer.**

16 A taxpayer may not be delinquent in payment of any state or local tax liability to be eligible
17 for a tax benefit under this chapter.

18 **SECTION 4.** A new section to chapter 57-38 of the North Dakota Century Code is created
19 and enacted as follows:

20 **Tax benefits not available to delinquent taxpayer.**

21 A taxpayer may not be delinquent in payment of any state and local tax liability to be eligible
22 for a tax benefit under this chapter.

23 **SECTION 5.** A new section to chapter 57-39.2 of the North Dakota Century Code is created
24 and enacted as follows:

25 **Tax benefits not available to delinquent taxpayer.**

26 A taxpayer may not be delinquent in payment of any state and local tax liability to be eligible
27 for a tax benefit under this chapter.

28 **SECTION 6.** A new section to chapter 57-40.2 of the North Dakota Century Code is created
29 and enacted as follows:

- 1 **Tax benefits not available to delinquent taxpayer.**
- 2 A taxpayer may not be delinquent in payment of any state and local tax liability to be eligible
- 3 for a tax benefit under this chapter.
- 4 **SECTION 7. EFFECTIVE DATE.** This Act is effective for tax benefits granted after July 31,
- 5 2017.