

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.~~ for an
7 Act to create and enact a new subsection to section 57-01-02 of the North Dakota Century
8 Code, relating to denial of tax incentives to taxpayers delinquent on the payment of state or
9 local taxes; and to provide an effective date.

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

11 **SECTION 1. AMENDMENT.** ~~Section 40-57.1-04.4 of the North Dakota Century Code is~~
12 ~~amended and reenacted as follows:~~
13 ~~— 40-57.1-04.4. Clearance of tax obligations and tax liens of record.~~
14 ~~— 1. — A project operator is not eligible for the income tax exemption under section~~
15 ~~40-57.1-04 or the property tax exemptions under sections 40-57.1-03 and~~
16 ~~40-57.1-04.1 until a showing is made that the project operator has satisfied all state or~~
17 ~~local tax obligations and tax liens of record for delinquent property, income, income~~
18 ~~withholding, sales, or use taxes owed to the state or a political subdivision. A local~~
19 ~~development corporation is not eligible for the property tax exemption under section~~
20 ~~40-57.1-04.3 until a showing is made that the local development corporation has~~
21 ~~satisfied all state or local tax obligations and tax liens of record for delinquent property,~~
22 ~~income, income withholding, sales, or use taxes owed to the state or a political~~
23 ~~subdivision.~~

1 ~~2. A certificate from the tax commissioner to the state board of equalization satisfies the~~
2 ~~requirement of subsection 1.~~

3 ~~3. If the project operator or local development organization is a corporation or a~~
4 ~~passthrough entity defined in section 57-38-01, any of its officers, governors, or~~
5 ~~managers charged with the responsibility for making either property, income, income-~~
6 ~~withholding, sales, or use tax returns and payments are subject to the provisions of~~
7 ~~subsections 1 and 2 with respect to all state or local tax obligations and tax liens of~~
8 ~~record for delinquent property, income, income withholding, sales, or use taxes for~~
9 ~~which the individual is personally liable. If the project operator is a partnership, each~~
10 ~~general partner is subject to the provisions of subsections 1 and 2 with respect to all~~
11 ~~state or local tax obligations or tax liens of record for delinquent property, income,~~
12 ~~income withholding, sales, or use taxes for which the individual is personally liable.~~

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

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

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

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

19 ~~— **Tax benefits not available to delinquent taxpayer.**~~

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

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

24 ~~— **Tax benefits not available to delinquent taxpayer.**~~

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

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

29 ~~— **Tax benefits not available to delinquent taxpayer.**~~

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

1 — ~~SECTION 6. A new section to chapter 57-40.2 of the North Dakota Century Code is created~~
2 ~~and enacted as follows:~~

3 — ~~Tax benefits not available to delinquent taxpayer.~~

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

6 — ~~SECTION 7. EFFECTIVE DATE. This Act is effective for tax benefits granted after July 31,~~
7 ~~2017.~~

8 **SECTION 1.** A new subsection to section 57-01-02 of the North Dakota Century Code is
9 created and enacted as follows:

10 May require a taxpayer to satisfy all state or local tax obligations and tax liens of
11 record for delinquent property, income, income withholding, sales, or use taxes owed
12 to the state or a political subdivision before granting the taxpayer a tax incentive.

13 **SECTION 2. EFFECTIVE DATE.** This Act is effective for tax incentives granted after
14 July 31, 2017.