

SENATE BILL NO. 2139

Introduced by

Senators Lee, Bekkedahl, Burckhard, Kreun

Representatives Dockter, Keiser

1 A BILL for an Act to amend and reenact sections 40-63-01, 40-63-02, ~~and~~ 40-63-03,
2 ~~subsection 4 of section~~ 40-63-04, ~~sections~~ 40-63-05, 40-63-06, 40-63-07, and 40-63-10, and
3 subdivision b of subsection 7 of section 57-38-30.3 of the North Dakota Century Code, relating
4 to the creation of neighborhood zones and neighborhood zone incentives; and to provide an
5 effective date.

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

7 **SECTION 1. AMENDMENT.** Section 40-63-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **40-63-01. Definitions.**

10 As used in this chapter:

- 11 1. "Boundary" means the boundary established by vote of the city governing body and
12 approved by the department of commerce division of community services.
- 13 2. "Development plan" means a written plan that addresses the criteria in subsection 1 of
14 section 40-63-03 and includes the following:
 - 15 a. A map of the proposed renaissance or neighborhood zone which indicates the
16 geographic boundaries and blocks, a description of the properties and structures
17 on each block, identification of those properties and structures to be targeted for
18 potential renaissance zone projects or neighborhood zone projects, and a
19 description of the present use and conditions of the targeted properties and
20 structures.
 - 21 b. A description of the existing physical assets, in particular natural or historical
22 assets, of the zone and a plan for the incorporation and enhancement of the
23 assets within the proposed development.

- 1 c. An outline of goals and objectives and proposed outcomes, including major
2 milestones or benchmarks, by which to gauge success resulting from the
3 designation of the zone.
- 4 d. A description of the types of projects the city would encourage in the city's
5 targeted properties.
- 6 e. A description of the promotion, development, and management strategies to
7 maximize investment in the zone.
- 8 f. A plan for the development, promotion, and use of a renaissance or
9 neighborhood fund organization, if one is desired to be established. If a city is not
10 ready to commit to establishing a renaissance or neighborhood fund
11 organization, the city may indicate in the renaissance or neighborhood zone
12 application the city's desire to submit a plan for approval at a later date.
- 13 g. Evidence of community support and commitment from residential and business
14 interests. Evidence of community support must include letters of support from the
15 governing bodies of each county and school district that contain property located
16 within the boundaries of the proposed renaissance or neighborhood zone.
- 17 3. "Investor" means the individual, partnership, limited partnership, limited liability
18 company, trust, or corporation making an investment in a renaissance or
19 neighborhood fund organization.
- 20 4. "Lease" means the lease of space in a building in a designated renaissance or
21 neighborhood zone by a new business moving into the zone or by an existing zone
22 business expanding in the zone, and the continuation of a lease of an existing zone
23 tenant in a building rehabilitated as an approved renaissance zone project or
24 neighborhood zone project. For existing zone tenants expanding in the zone, the term
25 does not include existing leased space.
- 26 5. "Local zone authority" means the city or the entity designated by the city to promote,
27 develop, and manage the zone and may include any nonprofit incorporated entity such
28 as an economic development corporation, community development corporation, main
29 street organization, or chamber of commerce.
- 30 6. "Neighborhood zone project" means the purchase, rehabilitation, or reconstruction of a
31 detached, single-family, residential structure or a structure that contains no more than

1 four separate dwelling units in a neighborhood zone approved for zone incentives by a
2 majority vote of the city governing body or local zone authority.

3 7. "Original principal amount" means the funds invested in a renaissance or
4 neighborhood fund organization after designation of the renaissance or neighborhood
5 zone and before the sunset of that zone.

6 ~~7.8.~~ "Rehabilitation", as used in sections 40-63-04 and 40-63-05, means the repair or
7 remodeling of a building or public utility infrastructure at a cost that is equal to or
8 exceeds fifty percent of the current true and full value for commercial buildings or
9 public utility infrastructure and twenty percent for detached, single-family homes or
10 structures consisting of no more than four separate dwelling units.

11 ~~8.9.~~ "Renaissance zone project" means the purchase, lease, rehabilitation, or historical
12 preservation or renovation of a building or space in a building approved for zone
13 incentives by a majority vote of the city governing body or a zone authority.

14 10. "Taxpayer" means an individual, corporation, or trust subject to the taxes imposed by
15 chapter 57-38 and includes a partnership, subchapter S corporation, limited
16 partnership, limited liability company, or any other passthrough entity.

17 ~~9.11.~~ "Zone" means a renaissance or neighborhood zone proposed by a city and designated
18 by the department of commerce division of community services.

19 ~~10.~~ "Zone project" means the purchase, lease, rehabilitation, or historical preservation or
20 renovation of a single-family home, building, or space in a building approved for zone
21 incentives by a majority vote of the city governing body or zone authority.

22 **SECTION 2. AMENDMENT.** Section 40-63-02 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **40-63-02. Eligibility - Local zone authority designation.**

25 Any incorporated city may apply to the department of commerce division of community
26 services to designate a portion of the city as a renaissance or neighborhood zone. Any
27 individual, partnership, limited partnership, limited liability company, trust, or corporation may
28 apply for a tax credit or exemption under sections 40-63-04 through 40-63-07. The governing
29 body of a city may designate a local zone authority to implement a development plan on behalf
30 of the city.

1 **SECTION 3. AMENDMENT.** Section 40-63-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **40-63-03. Renaissance and neighborhood zones.**

4 1. A city may apply to the department of commerce division of community services to
5 designate a portion of that city as a renaissance or neighborhood zone if the following
6 criteria are met:

- 7 a. The geographic area proposed for the renaissance or neighborhood zone is
8 located wholly within the boundaries of the city submitting the application.
- 9 b. The application includes a development plan.
- 10 c. The proposed neighborhood zone is not more than twenty-five square blocks and
11 the proposed renaissance zone is not more than thirty-four square blocks, except
12 in a city with a population of greater than five thousand the renaissance zone
13 may exceed thirty-four square blocks at the rate of one additional block for each
14 additional five thousand population to a maximum size of forty-nine blocks.
15 Population is based upon the most recent federal decennial census or federal
16 census estimate. For purposes of a neighborhood zone, seventy-five percent or
17 more of the structures on a block must have been constructed before 1959 and
18 the majority of the structures on the block must be used for residential purposes
19 for the block to qualify for inclusion in a neighborhood zone.

20 If a city finds that renaissance or neighborhood zone projects have
21 satisfactorily completed one or more blocks within the renaissance or
22 neighborhood zone, the city may apply for and the department of commerce
23 division of community services may approve withdrawal of those blocks from the
24 renaissance or neighborhood zone and replacement of those blocks with other
25 blocks that otherwise meet the requirements of this chapter.

26 d. Except as provided under subdivision g, the proposed renaissance zone has a
27 continuous boundary and all blocks are contiguous. A proposed neighborhood
28 zone is not required to have a continuous boundary or consist of contiguous
29 blocks.

30 e. The proposed land usage includes both commercial and residential property.

- 1 f. The application includes the proposed duration of renaissance or neighborhood
2 zone status, not to exceed fifteen years ~~for a renaissance zone or ten years for a~~
3 neighborhood zone. Upon application by the city, the department of commerce
4 division of community services may extend the duration of renaissance zone
5 status in increments of up to five years. The duration of neighborhood zone
6 status may not be extended.
- 7 g. The proposed renaissance zone may have a single exception to the continuous
8 boundary and contiguous block requirements under subdivision d if the area of
9 the excepted noncontiguous blocks does not exceed three square blocks.
- 10 2. The department of commerce division of community services shall:
- 11 a. Review all applications for renaissance or neighborhood zone designation
12 against the criteria established in this section and designate zones.
- 13 b. Approve or reject the duration of renaissance or neighborhood zone status as
14 submitted in an application.
- 15 c. Approve or reject the geographic boundaries and total area of the renaissance or
16 neighborhood zone as submitted in an application.
- 17 d. Promote the renaissance and neighborhood zone ~~program~~programs.
- 18 e. Monitor the progress of the designated renaissance and neighborhood zones
19 against submitted plans in an annual plan review.
- 20 f. Report on renaissance and neighborhood zone progress to the governor and the
21 legislative management on an annual basis until all designated zones expire.
- 22 3. The department of commerce division of community services shall consider the
23 following criteria in designating a renaissance or neighborhood zone:
- 24 a. The viability of the development plan.
- 25 b. The incorporation and enhancement of unique natural and historic features into
26 the development plan.
- 27 c. Whether the development plan is creative and innovative in comparison to other
28 applications.
- 29 d. Public and private commitment to and other resources available for the proposed
30 renaissance or neighborhood zone, including the provisions for a renaissance or
31 neighborhood fund organization.

- 1 e. How renaissance or neighborhood zone designation would relate to a broader
2 plan for the community as a whole.
- 3 f. How the local regulatory burden, in particular that burden associated with the
4 renovation of historic properties and that burden associated with mixed use
5 development, will be eased for developers and investors in the renaissance or
6 neighborhood zone.
- 7 g. The strategies for the promotion, development, and management of the zone,
8 including the use of a local zone authority if designated.
- 9 h. Any other information required by the office.
- 10 4. The department of commerce division of community services may not designate a
11 portion of a city as a renaissance or neighborhood zone unless, as a part of the
12 application, the city provides a resolution from the governing body of the city that
13 states if the renaissance or neighborhood zone designation is granted, persons and
14 property within the renaissance or neighborhood zone are exempt from taxes as
15 provided in sections 40-63-04 through 40-63-07.
- 16 5. A city may not propose or be part of more than one renaissance zone or more than
17 one neighborhood zone. A city may propose to be part of a renaissance zone and a
18 neighborhood zone and blocks proposed for inclusion in either zone may overlap.
- 19 6. A parcel of property may be exempted from property taxes under section 40-63-05
20 only once, but during the five taxable years of eligibility for that exemption, the
21 property tax exemption transfers with the transfer of the property to a qualifying user.
22 The ownership or lease of, or investment in, a parcel of property may qualify for
23 exemption or credit under section 40-63-04 only once, but during the five taxable
24 years of eligibility for that exemption or credit, the exemption or credit under section
25 40-63-04 transfers with the transfer of the property to a qualified user and with respect
26 to the year in which the transfer is made must be prorated for use of the property
27 during that year. An investment used to calculate an income tax credit under this
28 chapter may not be used to calculate any other income tax credit.
- 29 7. A city may apply to the department of commerce division of community services at any
30 time during the duration of a zone to expand a previously approved renaissance or
31 neighborhood zone that is less than the maximum size allowed under subdivision c of

1 subsection 1. If ~~the~~a renaissance zone expansion is approved by the department of
2 commerce division of community services, the blocks in the expansion are eligible for
3 up to fifteen years of renaissance or neighborhood zone status. ~~If a neighborhood~~
4 ~~zone expansion is approved by the department of commerce division of community~~
5 ~~services, the blocks in the expansion are eligible for up to ten years of neighborhood~~
6 ~~zone status.~~

7 8. The use of grant funds as the sole source of investment in the purchase of a building
8 or space in a building does not qualify a taxpayer for any tax exemption or credit
9 available under the chapter, and grant funds may not be counted in determining if the
10 cost of rehabilitation meets or exceeds the current true and full value of the building.

11 9. If a portion of an approved renaissance or neighborhood zone is not progressing, the
12 city may request the department of commerce division of community services to permit
13 deleting that portion and to make an adjustment of the boundaries to add another
14 equal, ~~contiguous~~ area to the original zone. Area added to a renaissance zone must
15 be contiguous.

16 10. If within a renaissance zone there is property that is included in a tax increment
17 financing district, the city in which the property is located shall provide the department
18 of commerce an annual report regarding any such property at the time requested by
19 the department of commerce. The report required under this subsection must identify
20 the property, provide the expected duration of inclusion of the property in the tax
21 increment financing district and the renaissance zone, and identify any property and
22 income tax benefits of the property and the expected duration of those benefits. The
23 department of commerce shall deliver an annual report compiling the information
24 required under this subsection to the legislative management interim committee on
25 taxation issues or upon request of any other interim committee of the legislative
26 management.

27 ~~SECTION 4. AMENDMENT. Subsection 4 of section 40-63-04 of the North Dakota Century~~
28 ~~Code is amended and reenacted as follows:~~

29 ~~4. If a property owner not participating in a renaissance or neighborhood zone~~
30 ~~project is required to make changes in utility services or in a building structure~~
31 ~~because of changes made to property that is part of a zone project, the owner of the~~

~~nonparticipating property is entitled to state income tax credits equal to the total amount of the investment necessary to complete the required changes. The credit must be approved by the local renaissance or neighborhood zone authority. The credit must be claimed in the taxable year in which the related project was completed. The credit may not exceed the taxpayer's tax liability, and an unused credit may be carried forward up to five taxable years.~~

SECTION 4. AMENDMENT. Section 40-63-04 of the North Dakota Century Code is amended and reenacted as follows:

40-63-04. Income tax exemptions.

1. An individual taxpayer who purchases ~~or~~, rehabilitates, or reconstructs a detached, single-family, residential property for the individual's primary place of residence as a renaissance zone project or neighborhood zone project is exempt from up to ten thousand dollars of personal income tax liability as determined under section 57-38-30.3 for five taxable years beginning with the date of occupancy or completion of rehabilitation.
2. A taxpayer that purchases, leases, rehabilitates, reconstructs, or makes leasehold improvements to residential, public utility infrastructure, or commercial property for any business or investment purpose as a renaissance zone project or neighborhood zone project is exempt from tax on income derived from the business or investment locations within the zone for five taxable years, beginning with the date of purchase, lease, reconstruction, or completion of rehabilitation.
 - a. The maximum amount of income that a taxpayer may exempt from tax under this subsection for any taxable year is five hundred thousand dollars. The limitation in this subdivision applies to the sum of the exempt income derived from the taxpayer's business and investment interests in all renaissance zone projects and neighborhood zone projects.
 - b. If a renaissance zone project or neighborhood zone project consists of a physical expansion of an existing building owned and used by the taxpayer for business or investment purposes, the amount of income exempt from tax under this subsection is limited to an amount equal to the income derived from the business, or from the investment use of the building, during the taxable year

1 multiplied by a ratio equal to the square footage added by the expansion divided
2 by the total square footage of the building after expansion.

- 3 3. If the cost of a new business purchase, leasehold improvement, or expansion of an
4 existing business, approved as a renaissance zone project, exceeds seventy-five
5 thousand dollars, and the business is located in a city with a population of not more
6 than two thousand five hundred, an individual taxpayer may, in lieu of the exemption
7 provided in subsection 2, elect to take an income tax exemption of up to two thousand
8 dollars of individual income tax liability as determined under section 57-38-30.3. The
9 election must be made on the taxpayer's return as originally and timely filed. The
10 election is irrevocable and binding for the duration of the exemptions provided in
11 subsection 2 or this subsection. If an election is not made on the original return, the
12 taxpayer is only eligible for the exemption provided in subsection 2.
- 13 4. If a property owner not participating in a renaissance zone project or neighborhood
14 zone project is required to make changes in utility services or in a building structure
15 because of changes made to property that is part of a renaissance zone project or
16 neighborhood zone project, the owner of the nonparticipating property is entitled to
17 state income tax credits equal to the total amount of the investment necessary to
18 complete the required changes. The credit must be approved by the local renaissance
19 or neighborhood zone authority. The credit must be claimed in the taxable year in
20 which the related project was completed. The credit may not exceed the taxpayer's tax
21 liability, and an unused credit may be carried forward up to five taxable years.
- 22 5. The exemptions provided by this section do not eliminate any duty to file a return or to
23 report income as required under chapter 57-38.

24 **SECTION 5. AMENDMENT.** Section 40-63-05 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **40-63-05. Property tax exemptions.**

- 27 1. A municipality may grant a partial or complete exemption from ad valorem taxation on
28 detached, single-family, residential property, exclusive of the land on which it is
29 situated, if the property was purchased ~~or,~~ rehabilitated, or reconstructed by an
30 individual for the individual's primary place of residence as a renaissance zone project
31 or a neighborhood zone project. An exemption granted under this subsection may not

1 extend beyond five taxable years following the date of acquisition, reconstruction, or
2 completion of rehabilitation.

3 2. A municipality may grant a partial or complete exemption from ad valorem taxation on
4 buildings, structures, fixtures, and improvements purchased, reconstructed, or
5 rehabilitated as a renaissance zone project or a neighborhood zone project for any
6 business or investment purpose. The state board of equalization may grant a partial or
7 complete exemption from ad valorem taxation on public utility infrastructure
8 rehabilitated as a renaissance zone project. An exemption under this subsection may
9 not extend beyond five taxable years following the date of purchase or completion of
10 rehabilitation.

11 3. To qualify for the exemption under this section, the property purchased, reconstructed,
12 or rehabilitated as a neighborhood zone project initially must have been built before
13 1959.

14 **SECTION 6. AMENDMENT.** Section 40-63-06 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **40-63-06. Historic preservation and renovation tax credit.**

17 A credit against state tax liability as determined under sections 57-38-30 and 57-38-30.3 is
18 allowed for investments in the historic preservation or renovation of property within the
19 renaissance or neighborhood zone. The amount of the credit is twenty-five percent of the
20 amount invested, up to a maximum of two hundred fifty thousand dollars. The credit may be
21 claimed in the year in which the preservation or renovation is completed. Any excess credit may
22 be carried forward for a period of up to five taxable years.

23 **SECTION 7. AMENDMENT.** Section 40-63-07 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **40-63-07. Renaissance or neighborhood fund organization - Exemption from taxation.**

26 1. Each city with a designated renaissance or neighborhood zone may establish a
27 renaissance or neighborhood fund organization, if the detailed plan for such an
28 organization is clearly established in the development plan and approved with the
29 plan, or is submitted at a later date to the department of commerce division of
30 community services for approval after the designation of a renaissance or
31 neighborhood zone.

- 1 2. The purpose of a renaissance or neighborhood fund organization is solely to raise
2 funds to be used to finance renaissance zone projects or neighborhood zone projects
3 and other projects located in designated renaissance or neighborhood zones. A
4 renaissance or neighborhood fund organization may provide financing to projects
5 undertaken by individuals, partnerships, limited partnerships, limited liability
6 companies, trusts, corporations, nonprofit organizations, and public entities. The
7 financing may include any combination of equity investments, loans, guarantees, and
8 commitments for financing. The amount of financing is not limited by this chapter.
- 9 3. A renaissance or neighborhood fund organization shall confirm the following conditions
10 are met before providing financing to a renaissance zone project or a neighborhood
11 zone project:
- 12 a. The funding is required for the project to proceed;
13 b. The funding is adequate for the completion of the project; and
14 c. The funding does not exceed the amount required to complete the project.
- 15 4. A renaissance or neighborhood fund organization is exempt from any tax imposed by
16 chapter 57-38. An exemption under this section may be passed through to any
17 shareholder, partner, and owner if the renaissance or neighborhood fund organization
18 is a passthrough entity for tax purposes. A corporation entitled to the exemption
19 provided by this subsection shall file required returns and report income to the tax
20 commissioner as required by the provisions of chapter 57-38 as if the exemption did
21 not exist. If an employer, this subsection does not exempt a renaissance or
22 neighborhood fund organization from complying with the income tax withholding laws.
- 23 4.5. A credit against state tax liability as determined under section 57-38-30 or 57-38-30.3
24 is allowed for investments in a renaissance or neighborhood fund organization. The
25 amount of the credit is fifty percent of the amount invested in the renaissance or
26 neighborhood fund organization during the taxable year. Any amount of credit which
27 exceeds a taxpayer's tax liability for the taxable year may be carried forward for up to
28 five taxable years after the taxable year in which the investment was made.
- 29 5.6. The total amount of credits allowed under this section may not exceed, in the
30 aggregate, ten million five hundred thousand dollars for investments in renaissance
31 fund organizations or, in the aggregate, ten million five hundred thousand dollars for

1 investments in neighborhood fund organizations. A renaissance or neighborhood fund
2 organization that has received investments that qualify for the credits under this
3 subsection shall use those investments to finance projects within a renaissance or
4 neighborhood zone.

5 ~~6-7.~~ Income to a renaissance or neighborhood fund organization derived from the sale or
6 refinancing of zone properties financed wholly or in part by the organization may be
7 disbursed as annual dividends equal to the income, minus ten percent, derived from
8 all sources and proportional to the investment. In the event of a loss to the fund
9 resulting in a temporary diminishment of the fund below the original principal amount,
10 no annual dividend may be paid until the fund is restored.

11 ~~7-8.~~ Income to a renaissance or neighborhood fund organization derived from interest or
12 the temporary investment of its funds in certificates of deposit, bonds, treasury bills, or
13 securities may be used for administration.

14 ~~8-9.~~ If an investment in a renaissance or neighborhood fund organization which is the basis
15 for a credit under this section is redeemed by the investor within ten years of the date
16 it is purchased, the credit provided by this section for the investment must be
17 disallowed, and any credit previously claimed and allowed with respect to the
18 investment must be paid to the tax commissioner with the appropriate return of the
19 taxpayer covering the period in which the redemption occurred. When payments are
20 made to the tax commissioner under this section, the amount collected must be
21 handled in the same manner as if no credit had been allowed.

22 ~~9-10.~~ A renaissance or neighborhood fund organization shall secure an annual audit of its
23 financial records, prepared by an independent certified public accounting firm in
24 accordance with generally accepted auditing standards. The audit report must include
25 a statement of the percentage of annual investments received by the organization
26 which have been invested by the organization in investments permitted under this
27 chapter, including the use of investments, distinguishing between organization
28 investments made in renaissance or neighborhood zones and outside renaissance or
29 neighborhood zones. A renaissance or neighborhood fund organization shall file a
30 copy of each audit of its financial records under this subsection with the governing
31 body of the city in which it was established, the department of commerce division of

1 community services, and the tax commissioner. The department of commerce division
2 of community services shall provide an annual report to the budget section of the
3 legislative management showing the conclusions of audit reports filed under this
4 subsection.

5 ~~40-11.~~ Renaissance or neighborhood fund organization officers and employees may be
6 actively involved in the enterprises in which the renaissance or neighborhood fund
7 organization invests but the renaissance or neighborhood fund organization may not
8 invest in any enterprise if any one renaissance or neighborhood fund organization
9 officer or employee owns more than forty-nine percent of the ownership interest in the
10 enterprise. A renaissance or neighborhood fund organization may not invest in an
11 enterprise if renaissance or neighborhood fund organization officers and employees
12 collectively own more than forty-nine percent of the ownership interests, either through
13 direct ownership or through ownership of interest in a passthrough entity.

14 12. A neighborhood fund organization is eligible to receive a state appropriation as a grant
15 or low interest loan to meet the objectives of ~~single-family~~ residential home restoration.

16 **SECTION 8. AMENDMENT.** Section 40-63-10 of the North Dakota Century Code is
17 amended and reenacted as follows:

18 **40-63-10. Passthrough of tax exemption or credit.**

19 A partnership, subchapter S corporation, limited partnership, limited liability company, or
20 any other passthrough entity that purchases or leases property in a renaissance or
21 neighborhood zone for any business purpose, invests in a historic preservation or renovation of
22 property within a renaissance or neighborhood zone, or invests in a renaissance or
23 neighborhood fund organization must be considered to be the taxpayer for purposes of any
24 investment limitations in sections 40-63-04, 40-63-06, and 40-63-07, and the amount of the
25 exemption or credit allowed with respect to the entity's investments must be determined at the
26 passthrough entity level. The amount of the total exemption or credit determined at the entity
27 level must be passed through to the partners, shareholders, or members in proportion to their
28 respective interests in the passthrough entity.

29 **SECTION 9. AMENDMENT.** Subdivision b of subsection 7 of section 57-38-30.3 of the
30 North Dakota Century Code is amended and reenacted as follows:

