

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2208

2007 SENATE FINANCE AND TAXATION

SB 2208

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2208**

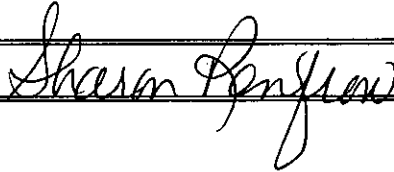
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: # 1822

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order and opened the hearing on SB 2208.

Sen. Oehlke appeared as prime sponsor on the bill with written testimony stating this bill asks that if there is a declared disaster in the county of the farm that the disaster year in question not be counted in the magic 3 years. (See attached)

Larry Syverson of NDTOA and farmer from Mayville appeared in support with written testimony. (See attached)

Ken Yantes: Executive Director of NDTOA appeared in support and told of his situation with his farm.

Sen. Cook: after 3 yrs of disaster and somebody who normally would not get the farm residence exemption then all of a sudden gets it, which is the intent of this bill, their taxes will go down, correct? When the farm residence exemption is given its going to lower their taxes, what effect will it have on the townships?

Ken: in the township if it means your taxes go down, we can do it as far as the funding is concerned it would still be the same is if you transferred over to other people with other businesses within the township. I'm paying my taxes for those first 3 years and if I would get a reduction, I wouldn't get an increase for residence rates if I had the 4th year of a disaster.

Sen. Cook: In regards to the amount of taxes that individual paid to the county, it just shifts that reduction to the other tax payers in the county and the same for the school district. What is the fairness then a farmer has a bad year, I think it's safe to say that the implement dealers are having a bad year also. So we're going to give a reduction to the farmer and we're going to pass that onto the implement dealer, that's basically what we are doing.

Ken: when we have a disaster declaration in a county, that means the whole county suffers.

Arvid Winkler: Assessor for Cuba Township of Barnes County appeared in opposition with written testimony. (See attached)

Dennis Daniel: Retired electrician and live in western Morton County appeared on behalf of himself in opposition stating he feels this is about equalization and this is not a fairness issue and this bill should be killed.

Sen. Cook: handed out pictures of 2 homes and asked Ken Yantes when considering the fairness issue, is there a time coming where maybe we do need to seriously consider eliminating the farm residence exemption and have peace in the valley or what do you think I should say to this constituent?

Ken: it bothers me to see this and there is a problem in understanding and maybe assessing in areas. But I don't think the time is right to eliminate the farm exemption.

Sen. Cook: What if we picked \$75,000 instead of \$40,000?

Ken: I'd like to take that back to my members.

Sen. Urlacher: we have programs for beginning farmers trying to keep some numbers on the land and it's contradicting to tax them and then try to help them.

Ken: its take as much time to go out and assess a building or farmstead whether it's got a big house on it not.

Sen. Urlacher: Unless we recognize what is a viable farm and what is not, we got a problem.

Marcy Dickerson: Tax Dept. Has a question concerning the Executive Order of Proclamation of the Governor. I got the impression that when one of those orders is issued, it lasts until the disaster or emergency is considered over, so I guess that's not on a calendar year necessarily. How would this work where the first to any calendar year in which an executive order of proclamation is in affect, would that mean that the proclamation should be in affect for that entire year, what if the proclamation is issued during part of the year or was ended during part of the year, how would that be treated?

Sen. Tollefson: could it be prorated?

Marcy: it would be very difficult.

No further testimony adjourned the meeting.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2208**

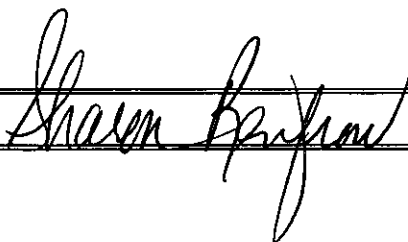
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 24, 2007

Recorder Job Number: # 1827

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee back to order for further discussion on SB 2208.

Sen. Cook: suggests we remove the language Sen. Oehlke is trying to add and change the homestead exemption to the first \$75,000 value of homestead, anything over would be taxed.

Maybe we could look at increasing the amount of land required which I believe is 10 acres right now. This only deals with out buildings and residences.

Sen. Urlacher: you're referring to what's classified as a farm on the 10 acres, is that correct?

Sen. Cook: I'm not even going into the clarification language.

Sen. Anderson: 1) its going to be more property tax but 2) more fair to other property tax payers.

Sen. Cook: if we do this, we have to do it in a manner where its increased property evaluation is not used by the political subdivisions to build their budgets. It would be a tax increase to those have a home that's worth more than \$75,000 but it would reduce the taxes of everybody else. Then it's fair.

Sen. Tollefson: in evaluating, assessing that property would you consider the land or the building only?

Sen. Cook: it's assessed at fair market value. They are offered the same options that anyone of us are and that's to protest.

Discussion on \$75,000 vs. \$100,000

Sen. Oehlke: they would really complain in my area.

Sen. Horne: Under your idea Sen. Cook, all homes in the state with a rural or urban all pay no property tax if their home was valued at less than \$75,000?

Sen. Cook: no, right now we have farm residence that pay zero property tax because they meet the conditions of the farm residence exemption. I would only be interested in those homes that meet those conditions they would be tax exempt up to \$75,000 of home value. It would be a new tax on farm residences that are valued over \$75,000. If we really wanted to be fair we would remove the farm residence exemption completely.

Sen. Urlacher: I am somewhat protective of the beginning farmer because we do try to keep young people out there and the average age is 58 yrs old.

Sen. Horne: if we did what Sen. Cook is suggesting wouldn't we have taken a bill where they came in hoping for some tax relief following a disaster to saying we're not only going to give you that, we're going to tax you instead?

Sen. Oehlke: I didn't know until this morning that we're the only state that gives farmers a break on residential household taxes.

Sen. Tollefson: even though its fair and the right thing to do fairness, I would be voting to raise property tax, I can't vote on the amendment.

Sen. Tollefson: the Ward County Tax assessor even brought it up, he's in favor of addressing this problem just as we're trying to do right now. I think it's the way to go.

Sen. Urlacher: it's been on old problem and an old concern, been around and if we do lower property tax and it blends off the impact, I have some of the same concerns as you do. We'll hold for Sen. Cook's Amendments to come down in final form.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2208**

Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: # 2175

Committee Clerk Signature

Sharon Benson

Minutes:

Sen. Urlacher opened the discussion on SB 2208.

Sen. Cook stated that there was an error in the amendments. Reviewed amendment. We have to clarify that the existing language in the bill comes out also.

Sen. Urlacher asked about the fiscal note.

Sen. Cook stated that this would increase revenue to counties and school districts.

Sen. Horne Should we notify the co-sponsors?

Sen. Urlacher responded that the hearing is not usually opened.

Sen. Oehlke asked if the amendment applies only in this specific situation or does it change taxable valuations on all farm residences?

Sen. Cook stated that under state policy, ND farm residents are exempt from property tax when certain conditions are met. This does not change the conditions, it would just exempt the first \$75,000 of value of that farm in this situation.

Sen. Urlacher stated that this would bring about an evaluation of all farm homes and the first \$75,000 would be exempt. Anything above that would become taxable.

Sen. Cook This would allow tax assessors, if the home is worth more than \$75,000, to go and assess it and put the excess value on the tax roles.

Sen. Urlacher questioned the criteria they would use for the assessment.

Sen. Cook answered it is the market value of the property, including land.

Sen. Cook stated that he would repeal the farm resident exemptions. This is a compromise.

It addresses one problem—that there are people building \$400,000 homes and not getting taxed on them.

Sen. Urlacher stated the intent was to follow what the exemption is in a lot of cases in the city where they exempt \$75,000.

Sen. Anderson stated that he contacted his county commissioners regarding his promises not to raise property taxes for anyone. Voting against the amendment until he receives further information from constituents.

Sen. Cook addressed Sen. Horne's concern regarding notifying the co-sponsors. Noted that prime sponsor (Sen. Oehlke) was present. It would be wise to tell Sen. Taylor what we did before this hits the floor. It's in our responsibility.

Sen. Urlacher suggested that committee members talk with co-sponsors outside of committee meeting and report back to the committee.

Sen. Cook If this bill passes, it goes over to the House and has an entirely different hearing.

Sen. Triplett inquired about a similar bill in the House.

Sen. Cook responded that it is still alive. In committee and part of a comprehensive tax bill.

Sen. Urlacher stated that the discussion could be delayed until Sen. Anderson hears back from county commissioners.

Sen. Oehlke Would \$150,000 be more livable than the \$75,000?

Sen. Cook explained that the \$75,000 figure is a precedent because it is the amount used in law for city tax exemptions. Do not know why that amount was picked.

Sen. Oehlke How long ago was it picked?

Sen. Cook Ten years ago . . . ?

Sen. Oehlke So with inflation . . . ?

Sen. Urlacher It's open for adjustment.

Sen. Oehlke Maybe property tax needs adjustment in this vein, but make it more palatable so that it will pass if it's what's needed. If it's too harsh an adjustment, then it probably won't get through and we will have to start over.

Sen. Urlacher voiced concern about programs for beginning farmers and now possibly penalizing them.

Sen. Tollefson moved a do pass on the amendments.

Sen. Cook seconded the motion.

Sen. Triplett asked for clarification about what amendment was being voted on—the written amendment and also the unwritten amendment that Sen. Cook referred to which would take out the new language?

Sen. Tollefson replied that his move to pass was referring to the written portion amendment from Sen. Cook.

Sen. Urlacher stated that additional amendments can be made.

Sen. Anderson expressed concern that he would be going back on his word if he voted for the amendment.

Sen. Triplett stated that this does not increase the overall tax incidity to your county or school district. It is not a tax increase, it is a shifting of the burden to make it more bearable.

Sen. Tollefson stated that he spoke to a county assessor who is in favor of this change in tax practices.

Sen. Urlacher commented that he sees this as a compromise to protect farm homes.

Sen. Urlacher called for a voice vote on amendment 70617.0101. Amendment passed 6-1.

Sen. Cook moved to further amend to remove new language.

Sen. Tollefson seconded the motion.

Sen. Cook will draft new amendment and bring it down.

Sen. Triplett asked for Sen. Oehlke to defend the original language before voting on the amendment to remove it.

Sen. Oehlke Initial amendment was brought to light because of significant disasters in certain parts of the state. Not sure that that part of it should be removed.

Sen. Cook stated that it needs some work to be workable.

Sen. Horne questioned the urge to remove this language from the bill.

Sen. Cook It needs some work and I don't think it should happen. We are removing the requirements for the farm residence exemption. One of those requirements is off-farm income.

Disasters are not an indication of less spendable money in today's farm world.

Sen. Urlacher It normally is.

Sen. Cook With insurances, you can make more money in a disaster than you can when you are farming the land.

Sen. Oehlke But this exemption wouldn't apply unless there was three years of disaster.

Sen. Cook Just the opposite.

Sen. Triplett stated that if the language was left in, it would require work. It is not drawn tightly enough to provide the benefit to people who have suffered the harm. Willing to consider amendments.

Sen. Cook What we're talking about is property tax that goes to schools and counties. They're either going to have less money or they're going to have a shift.

Sen. Tollefson Normally that's federal. That's different than this bill . . . ?

Sen. Oehlke stated that he did not have objection to pulling the original language.

Sen. Urlacher called for a voice vote on amendment as written. Amendment passed 5-2.

Final vote on SB 2208 will be delayed until Sen. Anderson hears from county commissioners.

Discussion closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2208**

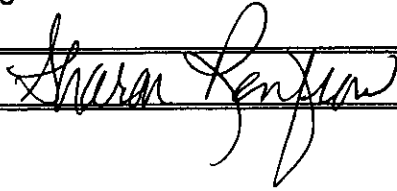
Senate Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 30, 2007

Recorder Job Number: # 2318

Committee Clerk Signature



Minutes:

Sen. Urlacher called the committee to order for further discussion and action on SB 2208.

Sen. Cook handed out the finished version of amendments that were already voted on. And made a Motion for DP as Amended, seconded by Sen. Tollefson.

Sen. Anderson: I haven't heard from some people with information I requested but haven't heard from them, so my stance is still the same but I hope the rest of the committee will understand.

Roll call vote: 4-3-0 Sen. Cook will carry the bill.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2208

Page 1, line 2, after the second "the" insert "maximum valuation of a", after "home" insert "eligible for a", and after "exemption" insert "and income limitations under the farm home property tax exemption"

Page 1, line 8, after "only" insert "up to seventy-five thousand dollars of the true and full valuation of"

Renumber accordingly

January 29, 2007


1-30-07

PROPOSED AMENDMENTS TO SENATE BILL NO. 2208

Page 1, line 2, after the second "the" insert "maximum valuation of a", after "home" insert "eligible for a", and replace "when a" with "and income limitations under the farm home property tax exemption"

Page 1, line 3, remove "disaster declaration is in effect"

Page 1, line 8, after "only" insert "up to seventy-five thousand dollars of the true and full valuation of"

Page 1, remove lines 20 through 23

Page 2, line 6, remove "The fifty"

Page 2, remove lines 7 through 9

Page 2, line 10, remove "is located in a state of disaster under chapter 37-17.1."

Renumber accordingly

Date: 1-30-07

Roll Call Vote #: 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB2208

Senate Finance & Tax Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO Pass a Amended

Motion Made By Sen. Cook Seconded By Sen. Tollefson

Senators	Yes	No	Senators	Yes	No
Sen. Urlacher	✓		Sen. Anderson		✓
Sen. Tollefson	✓		Sen. Horne		✓
Sen. Cook	✓		Sen. Triplett	✓	
Sen. Oehlke		✓			

Total (Yes) 4 No 3

Absent 0

Floor Assignment Sen. COOK

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

REPORT OF STANDING COMMITTEE

SB 2208: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (4 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). SB 2208 was placed on the Sixth order on the calendar.

Page 1, line 2, after the second "the" insert "maximum valuation of a", after "home" insert "eligible for a", and replace "when a" with "and income limitations under the farm home property tax exemption"

Page 1, line 3, remove "disaster declaration is in effect"

Page 1, line 8, after "only" insert "up to seventy-five thousand dollars of the true and full valuation of"

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Page 2, line 6, remove "The fifty"

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Page 2, line 10, remove "is located in a state of disaster under chapter 37-17.1."

Renumber accordingly

2007 TESTIMONY

SB 2208

Chairman Urlacher and members of the Senate Finance and Tax Committee:

I am Dave Oehlke, senator from district 15 and would like to offer my support of SB2208.

SB2208 basically asks to provide a small bit of relief to disaster victims in a specific instance. Currently, farm homes are exempt from regular residential property taxes – if the farm is occupied or used by a person who is a farmer. Also – net income from the farm ventures must be 50% or more of annual net income.

Our problem arises when there is a 3 year period where less than 50% of “family” income is from the farm. If this happens, the dwelling may be taxed as a regular residential home.

This bill asks that if there is a declared disaster in the county of the farm, that the disaster year in question not be counted in the magic “3”.

I would be open to any questions at this time.

Thank you,

Dave Oehlke

In support of: SB2208

Good morning Chairman Urlacher and members of the Senate Finance and Taxation committee.

My name is Larry Syverson, I farm near Mayville, I am the tax assessor for Roseville Township in Traill County, and I am a District Director of the North Dakota Township Officers Association. NDTOA represents the six thousand township officers that serve our eleven hundred dues paying member townships.

Under the current law a farmers home may be exempt from property taxation if more than fifty percent of his income has come from farming in any of the last three years, along with other qualifications. Unfortunately weather problems in the last few years have shown a tendency to hit areas of the state repeatedly year after year. Wet conditions for the last several years in the East and North and more recently drought conditions over much of the state have hurt farm incomes.

This last summer I saw long term forecasts that called for drought conditions to continue and even intensify through the year 2011. Should this in fact happen it would be devastating to farm operators in much of the state. If a farmer loses his crop, a spouse's income or the pay he might earn from a part time job could easily become the major income for the family, and after multiple years of losses, their home would become taxable.

The bill before you would apply only if a disaster is declared in a county and farm operators would still have to meet all the other requirements of 57-02-08, including the forty thousand dollar cap on off-farm income. Unless all these conditions are met the provision would have no effect on the tax status

As a tax assessor I know it is a lot of work to appraise a home one-year only to have it become once again exempt in a year or two.

I doubt this disaster provision will have to be used in very many cases, at least I hope it will not be needed; but as one of the bill sponsors said as he signed on "That would be kicking a man when he is down."

The membership of NDTOA saw the possibility of this problem occurring and passed a resolution at our December convention asking that this legislation be initiated.

Therefore Chairman Urlacher and Committee Members, I ask you to pass SB2208. That concludes my prepared testimony and I will try to answer your questions.

Senate Finance & Taxation Committee
January 24, 2007
SB 2208 Farm Home Property Tax Exemption

My name is Arvid Winkler. I am educated as a civil engineer and am a Registered Professional Engineer in the state of Colorado. I am a farmer, reside in a farm exempt residence, and have been the assessor for Cuba Township of Barnes County since 1977.

I favor passage of SB 2208, although it appears to have little effect in our area for this assessing cycle.

In my township there are 11 residences taxed on small acreage residential parcels. These residences tend to demand more services while paying proportionally smaller amounts of taxes.

Another two residences are assessed for farming operations which have off farm income problems.

Two residences are exempt as retired farmers.

Some 15 residences are currently exempt as active farmers.

As there are 144 quarters in the township, there are roughly 143 quarters scattered over 17 farmsteads representing some 8 quarters per farmstead which are paying property taxes on agricultural land.

What I hear about property taxes is mostly from these landowners, particularly from the Valley City school district.

SB 2208 and HB 1335 address this same area of the century code. HB 1335 removes from the century code the farm residence exemption that SB 2208 is attempting to adjust. I do not see how both bills can be passed into law at the same time.

If this bill moves forward, there are some administrative aspects which I think need clarification.

Is the residence sitting on agricultural land?

Page 3, line 9, uses the phrase, "residence situated on agricultural land" from the century code. I have used this phrase to assess farm residences not meeting the various income requirements for farm exemption. We are currently receiving conflicting instructions. This appears to be a result of modifications to this part of the century code while not making appropriate changes to 57-02-01 and 57-02-39. I have copied an e-mail message, and parts of the century code, which would be as current as my assessor manual, an effort to describe the problem.

The problem boils down to whether or not I can assess a residence on agricultural land.

Over the years I have assessed residences on agricultural land. I have also had to remove some of them as income or occupants changed.

Normally in time the previous farmstead gets sold in about a 10 acre parcel and becomes residential property in land and structures. The property has then been surveyed and described as per 57-02-39 in a nice neat legal package.

In the 30 years that I have been an assessor, I am now on my fourth county director of tax equalization. It was not until January of 2006 that the interpretation contained in the Bismarck e-mail came forward. The language of 57-02-01 being cited has been around since the early eighties when the productivity formula for agricultural land came into law. At least 3 of these directors received training in Bismarck after the inception of this century code. None of these recalls instruction with such an interpretation in class. Either we have a lot of people sleeping in class or the interpretation was just plain not covered.

My understanding of 57-02-01 is that in agricultural land we will have cropland and non cropland, terms which are used in 57-02-27. 57-02-01 does not even seem to provide for the feeding of animals in winter months.

At some point in time old farmsteads enter a transition phase, eventually to be sold off or obliterated. If a decision is made to obliterate a farmstead, it normally reverts back to agricultural land in the form of cropland. I have used the phrase "residence situated on agricultural land" to assess residences on agricultural land. The residence is always there until physically removed. It is a matter of whether or not it gets assessed.

The use of detailed soil surveys in agricultural land complicates matters. To create residential land you need to undo the soil survey material in a paper shuffle. When a parcel is sold as a small acreage the change is rather permanent and done once and for all.

57-02-39 would appear to require some "competent surveyor" to describe what actually exists on the ground rather than some arbitrary paper description of limited value which could cause other problems at a later date.

At this point it appears to be a matter for lawyers and legislators. We need to clean house in some manner.

"Dahme, LuElla J."
<ldahme@state.nd.us>
01/30/2006 08:24 AM

To "Edwardson, B. J." <bedwardson@co.barnes.nd.us>

cc

bcc

Subject RE: res land

Hi BJ,

The classes of property for assessment purposes are as follows:

- Agricultural property
- Air carrier transportation property
- Centrally assessed property
- Commercial property
- Railroad property
- Residential property

Assessors deal with agricultural, commercial and residential property. Agricultural property is land used to grow crops or graze animals. One can't do that if there's a building located on it. The only statute that allows consideration of a residential structure located on agricultural land is 57-02-08(15) for exemption of farm residences and farm buildings. Those buildings must be located on agland to qualify for exemption. If buildings are not eligible for exemption according to 57-02-08(15), the buildings used as dwellings should be assessed as residential property.

NDCC 57-02-01(12) specifies "all property or portions of property used as a dwelling" shall be considered residential. One must have sufficient land to support the residential structure used as a dwelling. The statute implies that the land underneath the residential structure must also be classified as residential. The fact that it specifically includes land under a mobile home used as a residence reinforces the concept that land under a residential structure must be classified as residential.

I will go a step further to say that a vacant parcel cannot be classified as residential property, even though the zoning requires only residential development. If land is vacant and isn't used to grow crops or graze farm animals, it must be classified as commercial because it doesn't fit any other classification.

I hope this information is helpful. Good luck with your seminar.

Lu

328 2770

CHAPTER 57-02

GENERAL PROPERTY ASSESSMENT

57-02-01. Definitions. As used in this title, unless the context or subject matter otherwise requires:

1. **"Agricultural property"** means platted or unplatted lands used for raising agricultural crops or grazing farm animals, ~~except lands platted and assessed as agricultural property prior to March 30, 1981 shall continue to be assessed as agricultural property until put to a use other than raising agricultural crops or grazing farm animals.~~ Agricultural property includes land on which a greenhouse or other building is located if the land is used for a nursery or other purpose associated with the operation of the greenhouse. The time limitations contained in this section may not be construed to prevent property that was assessed as other than agricultural property from being assessed as agricultural property if the property otherwise qualifies under this subsection. Property platted on or after March 30, 1981, is not agricultural property when any four of the following conditions exist:
 - a. The land is platted by the owner.
 - b. Public improvements including sewer, water, or streets are in place.
 - c. Topsoil is removed or topography is disturbed to the extent that the property cannot be used to raise crops or graze farm animals.
 - d. Property is zoned other than agricultural.
 - e. Property has assumed an urban atmosphere because of adjacent residential or commercial development on three or more sides.
 - f. The parcel is less than ten acres [4.05 hectares] and not contiguous to agricultural property.
 - g. The property sells for more than four times the county average true and full agricultural value.
 2. **"Air carrier transportation property"** means the operative property of each airline whose property is assessed for taxation purposes pursuant to chapters 57-06 and 57-32.
 3. **"Assessed valuation"** means fifty percent of the true and full value of property.
 4. **"Centrally assessed property"** means all property which is assessed by the state board of equalization under chapters 57-05, 57-06, and 57-32.
 5. **"Commercial property"** means all property, or portions of property, not included in the classes of property defined in subsections 1, 4, 11, and 12.
-
11. **"Railroad property"** means the operating property, including franchises, of each railroad operated in this state including any electric or other street or interurban railway.
 12. **"Residential property"** means all property, or portions of property, used by an individual or group of individuals as a dwelling, including property upon which a mobile home is located but not including hotel and motel accommodations required to be licensed under chapter 23-09 nor structures providing living accommodations for four or more separate family units nor any tract of land upon which four or more mobile homes are located.

