

Introduced by

Representatives Brusegaard, Herbel, Weisz

1 A BILL for an Act to amend and reenact subsection 1 of section 10-06.1-09 and sections
2 10-06.1-12 and 10-06.1-19 of the North Dakota Century Code, relating to corporations in
3 farming and ranching; and to provide for compliance.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 10-06.1-09 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. A nonprofit organization ~~or a trust for the benefit of an individual or a class of~~
8 ~~individuals related within the degrees of kinship specified in subsection 2 of section~~
9 ~~10-06.1-12~~ may own or lease farmland or ranchland if that land is leased to a
10 person who farms or ranches the land as a sole proprietorship or partnership, or a
11 corporation or limited liability company allowed to engage in farming or ranching
12 under section 10-06.1-12.

13 **SECTION 2. AMENDMENT.** Section 10-06.1-12 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **10-06.1-12. Corporation or limited liability company allowed to engage in the**
16 **business of farming or ranching - Requirements.** This chapter does not prohibit a domestic
17 corporation or a domestic limited liability company from owning real estate and engaging in the
18 business of farming or ranching, if the corporation meets all the requirements of chapter
19 10-19.1 or the limited liability company meets all the requirements of chapter 10-32 which are
20 not inconsistent with this chapter. The following requirements also apply:

21 1. If a corporation, the corporation must not have more than fifteen shareholders, at
22 least twelve of whom must be related. If a limited liability company, the limited
23 liability company must not have more than fifteen members-

- 1 2. ~~Each shareholder or member must be related to each of the other shareholders or~~
2 ~~members, at least twelve of whom must be related. For purposes of this section,~~
3 ~~"related" means within one of the following degrees of kinship or affinity: parent,~~
4 ~~son, daughter, stepson, stepdaughter, grandparent, grandson, granddaughter,~~
5 ~~brother, sister, uncle, aunt, nephew, niece, great-grandparent, great-grandchild,~~
6 ~~first cousin, or the spouse of a person so related.~~
- 7 ~~3.~~ 2. Each shareholder or member must be an individual ~~or one of the following:~~
8 a. ~~A trust for the benefit of an individual or a class of individuals who are related~~
9 ~~to every shareholder of the corporation or member of the limited liability~~
10 ~~company within the degrees of kinship or affinity specified in this section.~~
11 b. ~~An estate of a decedent who was related to every shareholder of the~~
12 ~~corporation or member of the limited liability company within the degrees of~~
13 ~~kinship or affinity specified in this section.~~
- 14 4. ~~A trust or an estate may not be a shareholder or member if the beneficiaries of the~~
15 ~~trust or the estate together with the other shareholders or members are more than~~
16 ~~fifteen in number.~~
- 17 ~~5.~~ 3. Each individual who is a shareholder or member must be a citizen of the United
18 States or a permanent resident alien of the United States.
- 19 ~~6.~~ 4. If a corporation, ~~the officers and directors of the corporation must be shareholders~~
20 ~~who are actively engaged in operating the farm or ranch and at least one of the~~
21 ~~corporation's shareholders must be an individual residing on or must hold more~~
22 ~~than fifty percent of the shares and must be actively engaged in operating the farm~~
23 ~~or ranch. If a limited liability company, the governors and managers of the limited~~
24 ~~liability company must be members who are actively engaged in operating the farm~~
25 ~~or ranch and at least one of its members must be an individual residing on or hold~~
26 ~~a membership interest greater than fifty percent and must be actively engaged in~~
27 ~~operating the farm or ranch. For purposes of this section, "actively engaged in~~
28 ~~operating the farm or ranch" means that the individual contributes to the production~~
29 ~~activities of the farm or ranch on a daily basis and makes the management~~
30 ~~decisions affecting the operation of the farm or ranch.~~

1 ~~7.~~ 5. An annual average of at least sixty-five percent of the gross income of the
2 corporation or limited liability company over the previous five years, or for each
3 year of its existence, if less than five years, must have been derived from farming
4 or ranching operations.

5 ~~8.~~ 6. The income of the corporation or limited liability company from nonfarm rent,
6 nonfarm royalties, dividends, interest, and annuities cannot exceed twenty percent
7 of the gross income of the corporation or limited liability company.

8 **SECTION 3. AMENDMENT.** Section 10-06.1-19 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **10-06.1-19. Exemption from certain disclosure and other requirements for certain**
11 **organizations.** Sections 10-06.1-12, 10-06.1-15, 10-06.1-17, and 10-06.1-18 do not apply to
12 nonprofit organizations or to corporations or limited liability companies such as banks, trust
13 companies, or foundations serving in a fiduciary capacity as the personal representative or
14 trustee of an estate or trust for an individual ~~described in subsection 2 of section 10-06.1-12.~~

15 **SECTION 4. COMPLIANCE WITH PROVISIONS - TEN YEARS.** Notwithstanding any
16 other law, any corporation or limited liability company that owned farmland or ranchland in this
17 state in accordance with chapter 10-06.1 on July 31, 2003, but which on August 1, 2003, is in
18 violation of chapter 10-06.1, may have until July 31, 2013, to comply with chapter 10-06.1.