

Sixtieth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1492

Introduced by

Representatives Damschen, DeKrey, Monson, Vigesaa

Senators Oehlke, Wanzek

1 A BILL for an Act to amend and reenact section 10-06.1-24 of the North Dakota Century Code,  
2 relating to a penalty for violation of the corporate farming provisions.

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

4 **SECTION 1. AMENDMENT.** Section 10-06.1-24 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **10-06.1-24. Enforcement - Penalty.**

7 1. The recorder shall mail or deliver a copy of every instrument filed or recorded,  
8 within thirty days after the instrument is recorded, to the attorney general if the  
9 instrument documents evidence of a lease agreement or purchase agreement  
10 pursuant to subsection 6 or 7 or if the instrument conveys the title to farmland or  
11 ranchland to a corporation or limited liability company. The attorney general shall  
12 commence an action in the district court of the county in which the substantial  
13 portion of farmland or ranchland used in violation of this chapter is situated if the  
14 attorney general has reason to believe that any person is violating this chapter.  
15 The attorney general shall file for record with the recorder of each county in which  
16 any portion of the land is located a notice of the pendency of the action. If the  
17 court finds that the land in question is being held in violation of this chapter, or that  
18 a corporation or limited liability company is conducting the business of farming or  
19 ranching in violation of this chapter, the court shall enter an order so declaring.  
20 The attorney general shall file any such order for record with the recorder of each  
21 county in which any portion of the land is located. Thereafter, the corporation or  
22 limited liability company shall, within the time set by the court not to exceed one  
23 year from the date of the court's final order, divest itself of any farming or ranching  
24 land owned or leased by it in violation of this chapter, and cease all farming or

- 1 ranching operations. Any corporation or limited liability company that fails to  
2 comply with the court's order is subject to a civil penalty not to exceed twenty-five  
3 thousand dollars and may be dissolved or terminated by the secretary of state.  
4 Any corporation or limited liability company under section 10-06.1-09 which fails to  
5 comply with the court's order is subject to a civil penalty not to exceed one hundred  
6 thousand dollars and may be dissolved or terminated by the secretary of state.
- 7 2. The divestment period is deemed to be a covenant running with the title to the land  
8 against any corporate or limited liability company grantee, corporate or limited  
9 liability company successor, or corporation or limited liability company assignee of  
10 the corporation or limited liability company not authorized to do business under this  
11 chapter.
- 12 3. Any land not divested within the divestment period prescribed must be sold at  
13 public sale in the manner prescribed by law for the foreclosure of real estate  
14 mortgage by action. In addition, any prospective or threatened violation may be  
15 enjoined by an action brought by the attorney general in the manner provided by  
16 law, including enjoining the corporation or limited liability company from completing  
17 performance on the remainder of any leasehold which is in violation of this chapter.
- 18 4. Subject to the divestiture requirements of subsections 5, 6, and 7, a domestic or  
19 foreign corporation or limited liability company may acquire farmland or ranchland  
20 as security for indebtedness, by process of law in the collection of debts, or by any  
21 procedure for the enforcement of a lien or claim thereon, whether created by  
22 mortgage or otherwise.
- 23 5. Unless retention of the farmland or ranchland is permitted under subsection 6 or 7,  
24 all farmland or ranchland acquired as security for indebtedness, in the collection of  
25 debts, or by the enforcement of a lien or claim shall be disposed of within three  
26 years after acquiring ownership, if the acquisition would otherwise violate this  
27 chapter.
- 28 6. The disposition requirement does not apply to a corporation or limited liability  
29 company that has acquired title to the land through the process of foreclosure of a  
30 mortgage, or a deed from a mortgagor instead of a foreclosure, if, by the expiration  
31 of one month after what is or what would have been the redemption period of the

1 mortgage if the mortgage had been foreclosed, that corporation or limited liability  
2 company leases to the prior mortgagor from whom it was acquired, with an option  
3 to purchase, and if documents evidencing the lease agreement have been filed  
4 with the recorder of each county in which the land is located. A copy of a notice of  
5 lease is sufficient evidence. The exemption in this subsection applies for only five  
6 years and then only if the property has been appraised in accordance with  
7 subsection 8. The annual lease payments required of the tenant may not exceed  
8 seven percent of the appraised value.

9 7. The disposition requirement does not apply to a corporation or limited liability  
10 company that has acquired title to the land through the process of foreclosure of a  
11 mortgage, or a deed from the mortgagor instead of foreclosure, if, by the expiration  
12 of one month after what is or what would have been the redemption period of the  
13 mortgage if the mortgage had been foreclosed, that corporation or limited liability  
14 company contracts for the sale of the land to the prior mortgagor from whom it was  
15 acquired, and if documents evidencing the purchase agreement have been filed  
16 with the recorder of each county in which the land is located. A copy of a notice of  
17 the contract for deed is sufficient evidence. An exemption under this subsection is  
18 valid only if an appraisal has been made in accordance with subsection 8, and if it  
19 is valid, the exemption is unlimited in duration. The sale price may not exceed the  
20 price determined by the appraisers.

21 8. If an appraisal is required, the appraisal must be made by three independent  
22 appraisers, one selected by the corporation or limited liability company, one  
23 selected by the prior mortgagor, and the third selected by the first two appraisers.

24 9. If a corporation or limited liability company holds land pending divestiture, and the  
25 holding is not otherwise governed by this section, the land must be leased to  
26 persons actually engaged in farming or ranching and a disposal may not be to a  
27 corporation or limited liability company unless ownership by that corporation or  
28 limited liability company is authorized under this chapter.

29 10. The civil penalty for a violation of section 10-06.1-10 may not exceed one hundred  
30 thousand dollars.

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1    ~~10.~~ 11.    ~~Any~~ Except as provided in subsection 10, any corporation or limited liability  
2                    company continuing to violate this chapter is subject to a civil penalty not to  
3                    exceed twenty-five thousand dollars and may be dissolved or terminated by the  
4                    attorney general in accordance with the laws of this state.