

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1026**

Introduced by

Legislative Management

(Agriculture Committee)

1 A BILL for an Act to create and enact chapters 4.1-72, 4.1-73, 4.1-74, 4.1-75, 4.1-83, and 4.1-88
2 of the North Dakota Century Code, relating to the North Dakota stockmen's association,
3 livestock branding, estrays, registered livestock, and the licensing of livestock dealers and wool
4 dealers; to repeal chapters 36-04, 36-09, 36-13, and 36-22 of the North Dakota Century Code,
5 relating to livestock branding, estrays, and the licensing of livestock dealers and wool dealers;
6 to provide a penalty; to provide for a legislative management study; and to provide a continuing
7 appropriation.

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

9 **SECTION 1.** Chapter 4.1-72 of the North Dakota Century Code is created and enacted as
10 follows:

11 **4.1-72-01. North Dakota stockmen's association - Statutory authority.**

- 12 1. The North Dakota stockmen's association is a livestock association organized under
13 the laws of this state and registered as a market agency under the Packers and
14 Stockyards Act, 1921 [7 U.S.C. 181 et seq.]:
- 15 a. For the protection of the livestock industry of this state; and
16 b. To secure uniformity of inspection and cooperation with the United States
17 department of agriculture.
- 18 2. The association shall inspect all cattle, horses, and mules, which are shipped or
19 consigned to any livestock auction market, buying station, or packing plant, in this
20 state, and all those that are shipped or consigned to a livestock auction market, buying
21 station, or packing plant, located outside this state, if brand inspection services are
22 provided in accordance with section 4.1-73-24, for the purpose of determining or
23 verifying ownership and for any other purpose established by law.

1 **4.1-72-02. Discrimination - Prohibited.**

2 The North Dakota stockmen's association may not discriminate between members of the
3 association and persons who are not members of the association with respect to fees,
4 recordings, complaints, requests for assistance, or any other duties assigned under this
5 chapter.

6 **4.1-72-03. Office for recording brands - Chief brand inspector - Employment.**

7 The North Dakota stockmen's association shall:

- 8 1. Maintain an office for recording brands; and
9 2. Employ an individual to serve as the chief brand inspector of this state.

10 **4.1-72-04. Chief brand inspector - Deputy brand inspectors - Licensed peace officers.**

11 The chief brand inspector and any individual employed by the North Dakota stockmen's
12 association to serve as a deputy brand inspector must be licensed peace officers in accordance
13 with chapter 12-63 or hold a limited peace officer license under section 12-63-09. These
14 individuals may exercise the full authority of their license to enforce the brand laws and any
15 other state laws relating to livestock. The chief brand inspector and the deputy brand inspectors
16 may provide aid and assistance to other law enforcement agencies or officers, upon request,
17 provided the requests are not for continuous or ongoing assistance.

18 **4.1-72-05. Animal identification program - Administration.**

19 The North Dakota stockmen's association shall serve as the state's administrator and
20 allocator for that portion of any federally sponsored animal identification program which pertains
21 to cattle, horses, and mules.

22 **4.1-72-06. Federally sponsored programs - Administration - Records.**

- 23 1. Except as provided in subsection 2, any information created, collected, or maintained
24 by the state veterinarian or the North Dakota stockmen's association with respect to
25 the administration of any federally sponsored program pertaining to livestock as
26 permitted by section 4.1-72-05 is confidential and not subject to the open records
27 requirements of section 44-04-18.
- 28 2. Neither the state veterinarian nor the North Dakota stockmen's association may
29 release any information designated as confidential under subsection 1, except:
30 a. Upon the written consent of every person identified or identifiable by the
31 information;

- 1 b. In accordance with federal law;
2 c. To any state or federal agency for the purpose of animal disease control or
3 animal disease traceback;
4 d. To the attorney general and any other law enforcement agency pursuing a
5 criminal investigation; or
6 e. Pursuant to an order issued by a court upon a showing of good cause.
7 3. This section does not preclude the exchange of information between the state
8 veterinarian and the North Dakota stockmen's association.
9 4. Any person violating this section is subject to the remedies set forth in section
10 44-04-21.2. For purposes of applying section 44-04-21.2, "public entity" includes any
11 person that has contracted with the state for the administration of any federally
12 sponsored program pertaining to livestock.

13 **4.1-72-07. Collection of fees - Continuing appropriation.**

14 The North Dakota stockmen's association shall forward all moneys received under this title
15 to the state treasurer for deposit in a special fund known as the North Dakota stockmen's
16 association fund. All moneys in the North Dakota stockmen's association fund, together with all
17 income earned on the moneys in the fund, are appropriated on a continuing basis to the North
18 Dakota stockmen's association to carry out its statutory directives.

19 **4.1-72-08. Biennial audit.**

20 At least once every two years the North Dakota stockmen's association shall provide for an
21 audit by a certified public accountant or a licensed public accountant and shall submit an
22 electronic copy of the audit report to the legislative council.

23 **SECTION 2.** Chapter 4.1-73 of the North Dakota Century Code is created and enacted as
24 follows:

25 **4.1-73-01. Definition.**

26 For purposes of this chapter, "brand" means an identifying imprint that is:

- 27 1. Placed on livestock by use of a hot branding iron; or
28 2. Placed on equines by means of either a hot branding iron or a freeze branding
29 technique.

1 **4.1-73-02. Brand - Application for ownership.**

2 1. To acquire ownership of a brand, a person shall file an application with the North
3 Dakota stockmen's association.

4 2. The application must contain a depiction of the proposed brand.

5 3. The application must include a statement regarding:

6 a. The kind of livestock on which the brand will be placed; and

7 b. The placement or position of the brand on each kind of livestock listed in
8 subdivision a.

9 4. The chief brand inspector shall review each application to ensure compliance with the
10 requirements of this chapter.

11 **4.1-73-03. Brands - Requirements for recording.**

12 1. The chief brand inspector shall approve an application for ownership of a brand, filed
13 in accordance with section 4.1-73-02, and record the brand, unless:

14 a. The chief brand inspector determines that:

15 (1) Official records indicate the brand is owned by another person;

16 (2) The brand is deceptively similar to another recorded brand;

17 (3) The brand is recorded in another state;

18 (4) The brand may not be legible when placed on livestock; or

19 (5) The proposed placement or position of the brand does not meet the
20 requirements of section 4.1-73-05; or

21 b. The brand:

22 (1) Consists of only one letter, number, or symbol, except as provided in
23 subsection 2;

24 (2) Contains either the letter "g" or the letter "q";

25 (3) Contains a letter not found in the modern English alphabet;

26 (4) Contains the numeral "0" or "1";

27 (5) Contains a dot;

28 (6) Contains a letter, number, or symbol placed within another letter, number, or
29 symbol; or

30 (7) Contains a symbol other than:

31 (a) A diamond;

- 1 (b) An arrow;
- 2 (c) A mill iron;
- 3 (d) A cross;
- 4 (e) A heart;
- 5 (f) A box;
- 6 (g) A triangle;
- 7 (h) A quarter circle;
- 8 (i) A bar;
- 9 (j) A star; or
- 10 (k) A forward or a backward slash.

11 2. The chief brand inspector may permit the recording of a brand that consists of one
12 letter, number, or symbol, provided the brand meets all other statutory requirements
13 for recording and is to be placed only on goats or sheep.

14 **4.1-73-04. Brand inspection certificate.**

15 Upon approving an application, the chief brand inspector shall provide a brand certificate to
16 the owner. The certificate is evidence of the brand's ownership.

17 **4.1-73-05. Brands - Permissible locations.**

18 1. In the case of cattle, brands that meet all other statutory requirements for recording
19 may be placed only on:

- 20 a. A designated shoulder;
- 21 b. A designated rib; or
- 22 c. A designated hip.

23 2. In the case of horses and mules, brands that meet all other statutory requirements for
24 recording may be placed only on:

- 25 a. A designated shoulder;
- 26 b. A designated hip; or
- 27 c. A designated jaw.

28 3. In the case of bison, brands that meet all other statutory requirements for recording
29 may be placed only on:

- 30 a. A designated rib; or
- 31 b. A designated hip.

1 4. In the case of any other livestock, brands that meet all other statutory requirements for
2 recording may be placed only on those locations designated by the chief brand
3 inspector. For purposes of this subsection, the designation of locations is not subject
4 to rulemaking under chapter 28-32.

5 **4.1-73-06. Recorded numerical brand - Impermissible placement.**

6 A person may not place a recorded brand that consists entirely of upright numbers on the
7 hips of cattle.

8 **4.1-73-07. Numerical brands - Applicability of designated placement provisions.**

9 The design and placement restrictions set forth in this chapter do not apply to:

- 10 1. A numerical brand that was first recorded before July 1, 1957, and which has been
11 continually rerecorded; or
12 2. An unrecorded numerical brand that is used for purposes such as herd or animal
13 identification or registration.

14 **4.1-73-08. Chief brand inspector - Determination regarding brand.**

15 A determination by the chief brand inspector regarding the acceptability of a brand or the
16 permissibility of its location or placement, for purposes of recording, is final.

17 **4.1-73-09. Cancellation of brand.**

- 18 1. The chief brand inspector shall cancel a legally recorded brand if the chief brand
19 inspector:
20 a. Receives for filing a bill of sale for the brand, properly executed by the owner, as
21 shown in the records of the chief brand inspector;
22 b. Determines that the brand duplicates a previously recorded brand; or
23 c. Determines that the brand was obtained through fraud, misrepresentation, or
24 other illegal means.
25 2. The chief brand inspector may cancel a legally recorded brand if the chief brand
26 inspector determines that the brand has been recorded in another state.

27 **4.1-73-10. Expiration of brands.**

28 On January 1, 2016, and every five years thereafter, each livestock brand recorded in this
29 state expires, unless:

- 30 1. The brand was issued within the six-month period immediately preceding the date of
31 expiration; or

1 2. The brand has been rerecorded in accordance with this chapter.

2 **4.1-73-11. Expiration of brand - Notice to owner.**

3 1. Before September 1, 2015, and every five years thereafter, the chief brand inspector
4 shall provide to each owner of record:

5 a. Written notice of the brand's expiration date;

6 b. Written notice of the owner's right to rerecord the brand; and

7 c. A written statement indicating that if the brand is allowed to expire, the person will
8 have lost ownership interest in the brand and may no longer use the brand.

9 2. The chief brand inspector shall send the notice and statement required by this section
10 to the owner:

11 a. Electronically; or

12 b. By first-class mail if requested by the owner.

13 **4.1-73-12. Expiration of brands - Notice by publication.**

14 1. The chief brand inspector shall publish in the official newspaper of each county a
15 notice of the date by which livestock brands must be rerecorded in accordance with
16 this chapter.

17 2. The notice must be published at least once per week for three successive weeks. The
18 first publication must occur between the first and fifteenth day of September, before
19 the expiration of all brands.

20 **4.1-73-13. Brands authorized for rerecording.**

21 Notwithstanding any other provision of this chapter, the chief brand inspector shall accept
22 for rerecording:

23 1. Any brand that the owner previously recorded; and

24 2. A brand that consists of one letter, number, or symbol, provided the brand is to be
25 placed only on goats or sheep.

26 **4.1-73-14. Recording and rerecording brands - Fee.**

27 Each application for recording or rerecording a brand must be accompanied by a fee in the
28 amount of twenty-five dollars.

29 **4.1-73-15. Reassignment of expired brand.**

30 1. a. Except as provided in subdivision b, for a period of one year from the date of a
31 brand's expiration, the chief brand inspector may not reassign the expired brand

1 to any person other than the registered owner at the time of the brand's
2 expiration.

3 b. If the person who owned the brand at the time it expired provides the chief brand
4 inspector with written authorization, the chief brand inspector may reassign the
5 brand to a new owner, at any time during the one-year period.

6 2. Upon expiration of a brand and the passage of time or the procurement of
7 authorization, as set forth in subsection 1, the chief brand inspector may accept an
8 application to record the brand, provided the brand meets the requirements of this
9 chapter.

10 **4.1-73-16. Use of unrecorded brand - Penalty.**

11 A person is guilty of a class B misdemeanor if the person places upon an animal a brand
12 that has not been recorded in accordance with this chapter.

13 **4.1-73-17. Defacing brands - Unlawful branding - Penalty.**

14 A person is guilty of a class A misdemeanor for a first offense and a class C felony for a
15 second or subsequent offense if the person:

16 1. Alters, defaces, or attempts to alter or deface the brand on any animal owned by
17 another for the purpose of deceiving others as to the animal's ownership; or

18 2. Willfully brands, or causes to be branded, any animal owned by another for the
19 purpose of deceiving others as to the animal's ownership.

20 **4.1-73-18. Bill of sale - Copy with shipment - Effect - Penalty.**

21 1. A person may not sell any livestock carrying a recorded brand unless:

22 a. The seller is the owner of the recorded brand and delivers a bill of sale for the
23 livestock to the purchaser; or

24 b. The seller delivers to the purchaser a bill of sale executed by the owner of the
25 recorded brand and endorsed by the seller evidencing the later transaction.

26 2. The bill of sale must include:

27 a. The date;

28 b. The name, address, and signature of the seller;

29 c. The name, address, and signature of an individual who is at least eighteen years
30 of age and who can verify the name and signature of the seller;

31 d. The name and address of the buyer;

- 1 e. The total number of animals sold;
2 f. A description of each animal sold as to sex and color; and
3 g. A depiction of the recorded brand.
4 3. The buyer shall retain the bill of sale for as long as the buyer owns any animals
5 described in the bill of sale.
6 4. The seller shall provide a copy of the bill of sale to the individual hauling the livestock.
7 The individual shall ensure that the document remains with the livestock while in
8 transit.
9 5. The bill of sale or a copy of the bill of sale must be shown by the possessor on
10 demand to any law enforcement officer or brand inspector.
11 6. The bill of sale is prima facie evidence of the sale of the livestock described in the bill
12 of sale.
13 7. Subsections 1 through 6 do not apply to the sale of livestock for which a brand
14 inspector has issued a certificate of ownership.
15 8. Any person willfully violating this section is guilty of a class B misdemeanor for a first
16 offense and a class A misdemeanor for a second or subsequent offense.

17 **4.1-73-19. Proof of ownership - Alteration or falsification - Penalty.**

18 A person that knowingly makes, completes, alters, or in any way falsifies any document
19 evidencing proof of livestock ownership, with the intent to deceive or harm another, is guilty of a
20 class B felony.

21 **4.1-73-20. False proof of ownership - Sale of livestock - Penalty.**

22 A person willfully providing false proof of ownership in conjunction with the sale of livestock
23 is guilty of a class B misdemeanor for a first offense and a class A misdemeanor for a second or
24 subsequent offense.

25 **4.1-73-21. Transportation of livestock from state - Brand inspection - Penalty.**

- 26 1. A person may not transport or attempt to transport cattle, horses, or mules from this
27 state unless a brand inspector has inspected the livestock and issued a certificate of
28 ownership. The certificate must remain with the livestock while in transit and be
29 presented to the purchaser upon arrival at the destination. This subsection does not
30 apply to a person that:

- 1 a. Transports cattle, horses, or mules from this state to obtain for the animals
2 emergency medical treatment by a licensed veterinarian; or
- 3 b. Transports cattle, horses, or mules from this state to a livestock auction market,
4 buying station, or packing plant, that is located in a bordering state and which is
5 provided with brand inspection services in accordance with section 4.1-73-24.
- 6 2. A person may not remove cattle, horses, or mules from a livestock auction market,
7 buying station, or packing plant until a brand inspector has inspected the livestock and
8 issued a certificate of ownership.
- 9 3. Any person willfully violating this section is guilty of a class A misdemeanor. Any
10 person willfully violating this section a second time within five years or willfully violating
11 this section three or more times is guilty of a class C felony.

12 **4.1-73-22. Request for reinspection - Cost.**

- 13 1. A person may request that a brand inspector conduct a reinspection if the person has
14 reason to believe that:
 - 15 a. An error was made during the brand inspection; and
 - 16 b. Cattle, horses, or mules were shipped to an unintended destination as a result of
17 the error.
- 18 2. If it is determined that an error was made during the brand inspection, the North
19 Dakota stockmen's association shall bear the cost of the reinspection. If it is
20 determined that a brand inspection error was not made, the person that requested the
21 reinspection shall reimburse the North Dakota stockmen's association for the cost of
22 the reinspection.

23 **4.1-73-23. Brand inspection services - Out-of-state facilities.**

- 24 1. The state board of animal health may authorize the provision of brand inspection
25 services at a livestock auction market, buying station, or packing plant located outside
26 this state.
- 27 2. In order to obtain brand inspection services under this section, an entity shall file a
28 petition with the state board of animal health.
- 29 3. Before making a determination on the petition, the state board of animal health shall
30 provide the North Dakota stockmen's association with an opportunity to comment.

1 4. The state board of animal health shall establish by rule the criteria to be considered in
2 determining whether to authorize the services.

3 **4.1-73-24. Rules - Fees for brand inspection.**

4 1. The state board of animal health, after seeking advice from the North Dakota
5 stockmen's association, shall adopt rules regarding:

6 a. The provision of brand inspection services at livestock auction markets, packing
7 plants, and buying stations; and

8 b. The provision of brand inspection services at locations other than those listed in
9 subdivision a.

10 2. The rules must include:

11 a. The fees to be charged for the provision of the brand inspections;

12 b. The collection of fees by the brand inspectors; and

13 c. The time and manner in which the brand inspectors must submit the fees to the
14 North Dakota stockmen's association.

15 **4.1-73-25. Slaughtering of cattle - Records - Penalty.**

16 1. Any person slaughtering cattle on a custom basis or for the purpose of selling the
17 meat at retail or wholesale shall record:

18 a. The date each animal was purchased or accepted for custom slaughtering;

19 b. The name and address of:

20 (1) The seller; or

21 (2) The person for whom custom slaughtering is being performed;

22 c. The animal's age or estimated age;

23 d. The animal's sex; and

24 e. Any brand found on the animal.

25 2. Any person required to record information in accordance with this section shall:

26 a. Compile the information in the manner directed by the North Dakota stockmen's
27 association; and

28 b. Forward the information to the North Dakota stockmen's association at least
29 quarterly.

30 3. Until such time as the information is forwarded to the North Dakota stockmen's
31 association, any person required to record information in accordance with this section

1 shall make the information available for inspection by a representative of the
2 association, upon request.

3 4. Any information created, collected, or maintained by the North Dakota stockmen's
4 association under this section is confidential and not subject to the open record
5 requirements of section 44-04-18. The information may be released by the association
6 only:

7 a. Upon the written consent of every person identified or identifiable by the
8 information;

9 b. In accordance with federal law;

10 c. To any state or federal agency for the purposes of animal disease control or
11 animal disease traceback;

12 d. To the attorney general and any other law enforcement agency pursuing a
13 criminal investigation; or

14 e. Pursuant to an order issued by a court upon a showing of good cause.

15 5. Any person violating this section is guilty of an infraction.

16 **4.1-73-26. Record of brands.**

17 The chief brand inspector shall keep a record of all brands issued in this state. The record
18 must include:

19 1. The name and address of the person that owns the brand;

20 2. A depiction of the brand;

21 3. The type of livestock on which the brand is authorized for use; and

22 4. The location or placement of the brand as authorized by the chief brand inspector.

23 **4.1-73-27. Chief brand inspector to issue brand book.**

24 1. The chief brand inspector shall compile and issue a brand book from the records
25 required by section 4.1-73-26, as of the final date for rerecording and shall compile
26 and issue an annual supplement.

27 2. a. The chief brand inspector shall provide a paper or an electronic copy of the brand
28 book and each annual supplement, free of charge, to:

29 (1) Each brand inspector; and

30 (2) Any other law enforcement officer located in this state upon request.

1 b. The chief brand inspector shall make paper copies of the brand books and
2 annual supplements available for purchase by all other persons. The purchase
3 price must be established by the North Dakota stockmen's association and
4 approved by the state board of animal health.

5 3. The chief brand inspector shall post the brand book and each annual supplement on
6 the North Dakota stockmen's association website.

7 **4.1-73-28. Official brand book - Presumptive evidence.**

8 The official brand book published by the chief brand inspector must be received in all courts
9 of this state as presumptive evidence of the recording and ownership of livestock brands.

10 **4.1-73-29. Effect of recorded brand - Bill of sale to be given and kept.**

11 A brand recorded in accordance with this chapter and properly located on livestock is prima
12 facie evidence that the animal bearing the brand is the property of the brand's owner, unless
13 covered by a bill of sale as provided by section 4.1-73-18.

14 **SECTION 3.** Chapter 4.1-74 of the North Dakota Century Code is created and enacted as
15 follows:

16 **4.1-74-01. Registered livestock - Misrepresentation or falsification of records -**

17 **Penalty.**

18 1. A person may not willfully:

19 a. Sell any livestock with a certificate of registration or breeding that does not
20 pertain to the livestock;

21 b. Falsify a certificate of registration or breeding;

22 c. Misrepresent or falsify any production or performance information referenced in a
23 certificate of registration;

24 d. Change the markings of livestock with the intent of deceiving a purchaser; or

25 e. Misrepresent the sire to which livestock has been bred.

26 2. A person violating this section is guilty of a class A misdemeanor for a first offense and
27 a class C felony for a second or subsequent offense.

28 **SECTION 4.** Chapter 4.1-75 of the North Dakota Century Code is created and enacted as
29 follows:

1 **4.1-75-01. Definition.**

2 In this chapter, unless the context otherwise requires, "estrays" means cattle, horses, or
3 mules, whether branded or unbranded, whose ownership has not been determined.

4 **4.1-75-02. Estrays - Possession.**

5 1. If an individual discovers an estray on property that the individual owns or controls, the
6 individual shall make a good-faith effort to:

7 a. Take possession of the estray;

8 b. Determine its ownership; and

9 c. Facilitate its return.

10 2. If the individual is unable to determine its ownership, the individual shall:

11 a. Notify the sheriff of the county in which the estray was found or the chief brand
12 inspector, and:

13 (1) Provide to the sheriff or the chief brand inspector any information that may
14 assist in determining ownership of the estray;

15 (2) Make the estray available for examination if requested by the chief brand
16 inspector; and

17 (3) Follow the directives of the chief brand inspector regarding the estray's care
18 and disposal; or

19 b. Deliver the estray to a livestock auction market in this state or to an out-of-state
20 livestock auction market that receives brand inspection services under section
21 4.1-73-24 and notify the brand inspector that it appears to be an estray.

22 3. Any person failing to comply with this section is liable to the owner of the estray for
23 treble damages and may not claim reimbursement for any expenses otherwise
24 allowed under this chapter.

25 **4.1-75-03. Notification - Record of date and time.**

26 A county sheriff or the chief brand inspector shall make a record of the date and time that
27 notification is received under section 4.1-75-02. The individual taking possession of the estray is
28 not entitled to reimbursement for expenses incurred before the recorded date and time.

29 **4.1-75-04. Estrays - Notification of chief brand inspector.**

30 If an individual notifies a county sheriff that the individual has taken possession of an estray,
31 the sheriff shall contact the chief brand inspector and relay any information regarding the estray.

1 **4.1-75-05. Claiming estrays.**

2 1. If before an estray is sold the chief brand inspector determines its owner, the individual
3 who took possession of the estray shall return it to its owner, provided the owner
4 reimburses the individual for all incurred expenses in accordance with the
5 reimbursement schedule developed by the North Dakota stockmen's association or in
6 any lesser agreed-to amount.

7 2. If the individual who took possession of the estray and its owner are unable to reach
8 an agreement regarding the return of the estray, as provided for in subsection 1, the
9 individual who took possession of the estray shall:

10 a. Deliver the estray to a livestock auction market in this state or to an out-of-state
11 livestock auction market that receives brand inspection services under section
12 4.1-73-24; and

13 b. Notify the brand inspector that the estray is to be sold and that reimbursement for
14 the individual's expenses must be paid from the proceeds of the estray's sale, in
15 accordance with the reimbursement schedule developed by the North Dakota
16 stockmen's association.

17 **4.1-75-06. Reimbursement for costs - Schedule.**

18 1. Except as otherwise provided in section 4.1-75-05, the individual taking possession of
19 an estray in accordance with this chapter is entitled to receive reimbursement for
20 incurred expenses in accordance with a reimbursement schedule developed by the
21 North Dakota stockmen's association.

22 2. The amount reimbursable under this section must be deducted from the proceeds of
23 the estray's sale. Any amount remaining thereafter must be forwarded to the North
24 Dakota stockmen's association and submitted to the state treasurer for deposit in the
25 North Dakota stockmen's association fund.

26 **4.1-75-07. List of estrays - Publication - Proof of ownership.**

27 1. Each December, the North Dakota stockmen's association shall publish at least twice
28 in the official newspaper of each county, a list of all estrays found in the county and for
29 which the association received sale proceeds during the preceding twelve months.

- 1 2. The association shall maintain and make available on its website an updated list of all
2 estrays for which the association received sale proceeds during the preceding
3 seventy-two months.
- 4 3. If a person demonstrates ownership of an estray to the satisfaction of the chief brand
5 inspector within seventy-two months of the date on which the proceeds of its sale were
6 distributed to the North Dakota stockmen's association, the association shall return to
7 the owner the amount it received but shall retain any income earned on the amount.

8 **4.1-75-08. Possession of estray - Immunity from liability.**

- 9 1. If an individual, without being negligent, takes possession of an estray and complies
10 with this chapter, that individual is not liable:
- 11 a. For any injury or damage caused by the estray while in the individual's
12 possession or in the event the estray escapes; or
- 13 b. For any economic loss incurred by:
- 14 (1) The owner of the estray, if later identified; or
- 15 (2) Any other person having a claim to the estray.
- 16 2. If an individual, without being negligent, attempts to take possession of an estray in
17 order to comply with this chapter, that individual is not liable:
- 18 a. For any injury or damage caused by the estray during the attempt to take
19 possession; or
- 20 b. For any economic loss incurred by:
- 21 (1) The owner of the estray, if later identified; or
- 22 (2) Any other person having a claim to the estray.

23 **4.1-75-09. Failure to comply with chapter - Penalty.**

24 Any individual who takes possession of an estray and willfully fails to comply with this
25 chapter is guilty of a class B misdemeanor.

26 **SECTION 5.** Chapter 4.1-83 of the North Dakota Century Code is created and enacted as
27 follows:

28 **4.1-83-01. Definition.**

29 In this chapter, unless the context otherwise requires, "livestock dealer" means a person
30 that buys horses, mules, cattle, hogs, goats, or sheep from a producer or a livestock auction
31 market:

- 1 1. On the person's own account, more than once per year for the purpose of resale
- 2 within thirty days;
- 3 2. On commission; or
- 4 3. For slaughter.

5 **4.1-83-02. Livestock dealer - License required.**

- 6 1. Before a person may transact business as a livestock dealer, the person must be
- 7 licensed by the agriculture commissioner.
- 8 2. This section does not apply to:
 - 9 a. A packing plant, provided the plant's annual purchases of cattle, goats, hogs,
 - 10 horses, mules, or sheep do not exceed five hundred thousand dollars; or
 - 11 b. The purchase of cattle, goats, hogs, horses, mules, or sheep:
 - 12 (1) By a livestock cooperative from a member of the cooperative; or
 - 13 (2) By one member of a livestock cooperative from another member.

14 **4.1-83-03. Application for livestock dealer's license - Required information.**

15 To obtain a livestock dealer's license, a person must complete an application and submit it
16 to the agriculture commissioner. The application must include:

- 17 1. The applicant's name and:
 - 18 a. The name of each partner if the applicant is a partnership;
 - 19 b. The name of each corporate officer and the state of incorporation if the applicant
 - 20 is a corporation; or
 - 21 c. The name of each manager and the state of organization if the applicant is a
 - 22 limited liability company;
- 23 2. The applicant's mailing address; and
- 24 3. The applicant's principal place of business.

25 **4.1-83-04. License - Fee - Expiration.**

- 26 1. The fee for a livestock dealer's license is fifty dollars.
- 27 2. A livestock dealer's license issued under this chapter expires on June thirtieth of each
- 28 year.
- 29 3. A livestock dealer's license is not transferable.

1 **4.1-83-05. Application for license - Posting of bond.**

2 1. As a condition of licensure, the applicant shall post a bond with the agriculture
3 commissioner. The bond must be:

4 a. A surety bond;

5 b. A cash bond; or

6 c. An irrevocable letter of credit.

7 2. The agriculture commissioner must be named as the obligee.

8 3. The bond required by this section must be:

9 a. In an amount and form required by this chapter;

10 b. Applicable to the period during which the livestock dealer's license is in effect;

11 c. For the benefit of any person selling livestock to the livestock dealer or the
12 dealer's agent; and

13 d. Conditioned for the payment of any financial obligation owed by a livestock
14 dealer to another person in conjunction with the sale of livestock.

15 **4.1-83-06. Bond requirements - Alternative.**

16 Any applicant having a bond on file with the United States department of agriculture
17 pursuant to the Packers and Stockyards Act, 1921 [7 U.S.C. 181 et seq.], may meet the
18 requirements of section 4.1-83-05 by filing a copy of that bond with the agriculture
19 commissioner, provided the commissioner is named as the trustee of the bond.

20 **4.1-83-07. Out-of-state applicant - Trustee.**

21 A bond posted by an out-of-state applicant for a livestock dealer's license may name as
22 trustee a financially responsible, disinterested person who is satisfactory to the commissioner.

23 **4.1-83-08. Bond - Minimum amount.**

24 1. The agriculture commissioner shall determine the amount of the bond required in
25 accordance with this chapter by using the same basis as that prescribed for livestock
26 dealers who are subject to the provisions of the Packers and Stockyards Act, 1921
27 [7 U.S.C. 181 et seq.].

28 2. Notwithstanding subsection 1, if at the time of licensure or at any point during the
29 period of licensure the agriculture commissioner has reason to believe that a bond is
30 inadequate to secure the performance of the livestock dealer's obligations, the
31 commissioner shall require an increase in the amount of the bond.

1 3. A bond required by this chapter may not be in an amount less than ten thousand
2 dollars.

3 **4.1-83-09. Release of records - Confidentiality.**

4 1. As a condition of licensure, the applicant shall agree to provide to the agriculture
5 commissioner, upon request, any financial record that the commissioner deems
6 relevant for purposes related to:

7 a. The issuance of a livestock dealer's license; or

8 b. An investigation after issuance of a livestock dealer's license.

9 2. As a condition of licensure, the applicant shall file a records release with the
10 agriculture commissioner, authorizing the commissioner to obtain, from any source,
11 any financial record that the commissioner deems relevant for purposes related to:

12 a. The issuance of a livestock dealer's license; or

13 b. An investigation after issuance of a livestock dealer's license.

14 3. Any information gained by the agriculture commissioner under this section is
15 confidential and may be provided only:

16 a. To federal authorities in accordance with federal law;

17 b. To the attorney general, state agencies, and law enforcement agencies, for use in
18 the pursuit of official duties; and

19 c. As directed by an order of a court pursuant to a showing of good cause.

20 **4.1-83-10. Dealer's license - Grounds for denial - Hearing.**

21 1. The agriculture commissioner shall deny an applicant a livestock dealer's license if:

22 a. The applicant's current assets do not exceed the applicant's current liabilities; or

23 b. The applicant submitted false or misleading information in connection with the
24 application.

25 2. The agriculture commissioner may deny an applicant a livestock dealer's license:

26 a. If after due investigation, the commissioner has reason to believe that the
27 applicant has failed to pay, in a timely manner and without reasonable cause,
28 prior obligations incurred in connection with livestock transactions;

29 b. If the applicant has failed to pay brand inspection fees or veterinary inspection
30 fees, as required by law, within sixty days of the date on which they were due;

1 c. If the applicant has violated any of the laws of this state governing the handling,
2 shipment, or transportation of livestock; or

3 d. For any other just and good cause.

4 3. Any applicant denied a license under this section may request a hearing before the
5 agriculture commissioner within thirty days of the denial.

6 **4.1-83-11. Change of circumstance - Notification of agriculture commissioner.**

7 A livestock dealer shall notify the agriculture commissioner of:

8 1. Any legal change to the name in which the livestock dealer's license is issued;

9 2. Any change to the legal status of the livestock dealer; and

10 3. Any change in the nature and scope of the livestock dealer's business, if that change
11 would warrant an increase in the amount of the bond posted by the dealer in
12 accordance with this chapter.

13 **4.1-83-12. Records.**

14 Each livestock dealer shall keep records regarding all purchases and sales of livestock for a
15 period of two years. The records may be examined by the agriculture commissioner upon
16 request.

17 **4.1-83-13. Agent's license.**

18 Before an individual may serve as the agent of a livestock dealer, the individual must be
19 licensed by the agriculture commissioner. In order for an individual to obtain an agent's license,
20 the agent's principal must request the license, at the time and in the manner determined by the
21 agriculture commissioner.

22 **4.1-83-14. Agent's license - Requirements - Liability of principal.**

23 Before the agriculture commissioner issues an agent's license, the commissioner shall
24 verify that:

25 1. The agent's principal is a livestock dealer licensed in accordance with this chapter;
26 and

27 2. The principal has filed with the agriculture commissioner a signed statement indicating
28 that the principal is responsible for and will be held strictly liable for any acts and
29 omissions arising out of the agent's livestock dealings, even if the dealings were not
30 authorized by the principal.

1 **4.1-83-15. Agent's license - Grounds for denial.**

2 1. The agriculture commissioner may refuse to issue an agent's license:

3 a. If the individual seeking the license was previously denied a livestock dealer's
4 license or an agent's license;

5 b. If the individual seeking the license had a livestock dealer's license or an agent's
6 license revoked;

7 c. If the individual seeking the license has been convicted of an offense for which a
8 term of imprisonment or a fine is authorized by statute; or

9 d. For any other just and good cause.

10 2. Any applicant denied a license under this section may request a hearing before the
11 agriculture commissioner, within thirty days of the denial.

12 **4.1-83-16. Agent's authority - Limitation.**

13 While acting as an agent, an individual may not conduct any transaction involving livestock
14 in the agent's own name.

15 **4.1-83-17. Order to cease and desist - Hearing.**

16 The agriculture commissioner may issue an order to cease and desist if the commissioner
17 has reason to believe that a person has committed or is about to commit a violation of this
18 chapter. If the agriculture commissioner issues a cease and desist order, the commissioner
19 shall hold a hearing within thirty days of the issuance and within sixty days of the issuance.
20 revoke the order or make it permanent.

21 **4.1-83-18. Investigation of livestock dealer - Hearing.**

22 1. a. The agriculture commissioner shall investigate the conduct of any livestock
23 dealer if the commissioner has reasonable cause to believe that the livestock
24 dealer may have violated this chapter or engaged in any activity that constitutes a
25 ground for license suspension or revocation under this chapter.

26 b. Subdivision 1 does not apply if an investigation is being conducted by the grain
27 inspection, packers and stockyards administration.

28 2. If after conducting an investigation the agriculture commissioner has probable cause
29 to believe that a violation of the chapter occurred or that the livestock dealer engaged
30 in any activity that constitutes a ground for license suspension or revocation under this

1 chapter, the commissioner may conduct a hearing to determine whether the license of
2 the livestock dealer should be suspended or revoked.

3 **4.1-83-19. Grounds for suspension or revocation of license.**

4 The agriculture commissioner may suspend or revoke the license of a livestock dealer if:

5 1. The livestock dealer has violated this chapter;

6 2. The livestock dealer has violated any of the laws of this state governing the handling,
7 shipment, or transportation of livestock;

8 3. The livestock dealer has been found guilty of deceit, fraud, dishonesty, forgery, or
9 theft, as a dealer in livestock;

10 4. The livestock dealer submitted false or misleading information in connection with the
11 application for licensure;

12 5. The livestock dealer has failed to maintain records that disclose all purchases and
13 sales of livestock, as required by section 4.1-83-12;

14 6. The livestock dealer has refused the commissioner's request to provide financial
15 records to the commissioner, as required by section 4.1-83-09;

16 7. The livestock dealer has failed to pay brand inspection fees or veterinary inspection
17 fees, as required by law, within sixty days of the date on which they were due;

18 8. The livestock dealer is convicted under section 4.1-03-13 of failing to submit beef
19 promotion assessments; or

20 9. The livestock dealer has failed to pay for livestock purchased in a timely manner and
21 without reasonable cause.

22 **4.1-83-20. License suspension or revocation - Hearing - Appeal.**

23 1. Before the agriculture commissioner may suspend or revoke a livestock dealer's
24 license, the commissioner shall:

25 a. Prepare a complaint;

26 b. Designate the time and place for a hearing; and

27 c. Serve a copy of the complaint and a notice of the hearing upon the livestock
28 dealer at least fifteen days before the date of the hearing.

29 2. The agriculture commissioner shall serve the required notice by registered mail or in
30 the manner provided by the North Dakota Rules of Civil Procedure for the service of a
31 summons.

1 3. At the hearing, the agriculture commissioner shall take and receive testimony and
2 evidence.

3 4. After the hearing, the agriculture commissioner shall issue an order to:

4 a. Dismiss the proceedings;

5 b. Suspend the livestock dealer's license; or

6 c. Revoke the livestock dealer's license.

7 5. The aggrieved party may appeal the order to the district court of the county in which
8 the party maintains its principal place of business.

9 **4.1-83-21. Bond - Claim for relief.**

10 If a livestock dealer defaults in the provisions of any bond required by this chapter, the
11 livestock dealer is deemed to be insolvent within the meaning of this chapter. The claim for relief
12 for damages upon the bond, and the amount recovered in any claim for relief for the conversion
13 of livestock purchased by the livestock dealer while the license is in force and effect, constitutes
14 a trust fund in the hands of the agriculture commissioner for all persons having a claim for relief
15 against the livestock dealer on the bond.

16 **4.1-83-22. Appointment of trustee.**

17 1. Upon the insolvency of a livestock dealer, the agriculture commissioner may apply to
18 the district court of the county in which the dealer maintains its principal place of
19 business for appointment as the trustee.

20 2. Upon notice to the livestock dealer, as the court shall prescribe but not exceeding ten
21 days, or upon a written waiver of notice by the dealer, the court shall hear and make a
22 determination regarding the application in a summary manner.

23 3. If the court determines that the livestock dealer is insolvent within the meaning of this
24 chapter and that it would be in the best interest of persons holding claims against the
25 dealer for the purchase price of livestock sold to the dealer or to the dealer's agent
26 that the agriculture commissioner execute the trust, the court shall issue an order
27 appointing the commissioner as the trustee, without bond.

28 4. Upon being appointed as the trustee, the agriculture commissioner shall perform the
29 duties of a trustee as set forth in this chapter.

1 **4.1-83-23. Possession of records and property - Notice to file claims.**

2 1. a. Upon being appointed trustee, the agriculture commissioner shall take
3 possession of all accounts and records pertaining to the livestock dealer's
4 business. After reviewing the records, the agriculture commissioner may return to
5 the dealer any records that are not necessary to the settlement of claims under
6 this chapter.

7 b. Upon being appointed trustee, the agriculture commissioner shall take
8 possession of all livestock purchased by the dealer under the dealer's license
9 and remaining in the dealer's possession.

10 2. The agriculture commissioner, as trustee, shall publish a notice once each week for
11 three consecutive weeks in the official newspaper of each county in which the
12 livestock dealer was conducting business, directing any person having a claim against
13 the dealer to file the claim and all supporting documentation with the commissioner no
14 later than forty-five days from the last date of publication. Any person failing to meet
15 the filing requirements set forth in the notice is barred from participating in any funds
16 marshalled by the agriculture commissioner under this chapter.

17 **4.1-83-24. Maintenance of action - Marshalling of assets.**

18 1. The agriculture commissioner, as trustee, may in the name of the state upon its own
19 relation but for the benefit of all claimants against the livestock dealer's bond, maintain
20 suits or special proceedings upon the bond and against any person who has
21 converted any of the livestock, for the purpose of marshalling all of the trust assets of
22 the insolvent dealer and distributing the assets among the claimants.

23 2. However, recourse must be had against the bond before recourse is had against a
24 person who knowingly and in good faith converted any of the livestock, unless the
25 agriculture commissioner determines it necessary that all of the remedies be pursued
26 at the same time.

27 **4.1-83-25. Remedy of claimants - Pursuit of separate action.**

28 1. A claimant may not pursue a separate claim for relief against the livestock dealer's
29 bond unless the agriculture commissioner fails or refuses to apply for appointment as
30 trustee.

- 1 2. A claimant may pursue concurrently with the agriculture commissioner, however, any
2 other remedy against the livestock dealer or the dealer's property that the claimant
3 may have for the entire claim or for any deficiency that occurs after all payments have
4 been made from the trust fund.

5 **4.1-83-26. Actions by agriculture commissioner - Exoneration.**

- 6 1. The agriculture commissioner may:
7 a. Prosecute an action for any claim arising under this chapter;
8 b. Appeal from any adverse judgment to the court of last resort; and
9 c. Settle and compromise any action if the commissioner determines that doing so
10 is in the best interests of the claimant.
11 2. When the agriculture commissioner receives a compromise payment or the full
12 amount of any bond or conversion claim, the commissioner may exonerate the person
13 compromising or paying the claim from further liability growing out of the action.

14 **4.1-83-27. Moneys collected on claims - Required deposit.**

15 All moneys collected and received by the agriculture commissioner as trustee must be
16 deposited in the Bank of North Dakota pending the marshalling of the fund.

17 **4.1-83-28. Report of amounts payable - Distribution of trust fund.**

- 18 1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary
19 to pay the outstanding claims, the agriculture commissioner shall file with the court a
20 report showing the amount payable on each claim, after recognition of all proper liens,
21 pledges, assignments, and deductions.
22 2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner
23 shall prorate the fund among the claimants.
24 3. The court shall notify the claimants by mail regarding the proposed distribution and
25 direct that the claimants show cause why the report and distribution should not be
26 approved.
27 4. After holding a hearing on the matter, the court shall:
28 a. Approve or modify the report;
29 b. Issue an order directing that the trust fund be distributed; and
30 c. Discharge the agriculture commissioner from all duties as trustee.

1 **4.1-83-29. Court costs.**

2 The agriculture commissioner is not required to pay any filing fee or other court cost or
3 disbursement in connection with an application for appointment as trustee or with any action
4 brought under this chapter if the fee, cost, or disbursement accrues to the state or to a county in
5 this state.

6 **4.1-83-30. Violations of chapter - Criminal penalty - Civil penalty.**

- 7 1. Any person violating this chapter is guilty of a class A misdemeanor.
8 2. Any person violating this chapter is subject to a civil penalty in an amount not to
9 exceed five thousand dollars for each violation. The civil penalty may be adjudicated
10 by a court or by the agriculture commissioner through an administrative hearing.

11 **SECTION 6.** Chapter 4.1-88 of the North Dakota Century Code is created and enacted as
12 follows:

13 **4.1-88-01. Definition.**

14 In this chapter, unless the context otherwise requires, "wool dealer" means a person that
15 buys wool from a producer.

16 **4.1-88-02. Wool dealer - License required.**

- 17 1. Before a person may transact business as a wool dealer, the person must be licensed
18 by the agriculture commissioner.
19 2. This section does not apply to the purchase of wool:
20 a. By a wool cooperative from a member of the cooperative; or
21 b. By one member of a wool cooperative from another member.

22 **4.1-88-03. Application for wool dealer's license - Required information.**

23 To obtain a wool dealer's license, a person must complete an application and submit it to
24 the agriculture commissioner. The application must include:

- 25 1. The applicant's name and:
26 a. The name of each partner if the applicant is a partnership;
27 b. The name of each corporate officer and the state of incorporation if the applicant
28 is a corporation; and
29 c. The name of each manager and the state of organization if the applicant is a
30 limited liability company;
31 2. The applicant's mailing address; and

1 3. The applicant's principal place of business.

2 **4.1-88-04. License - Fee - Expiration.**

3 1. The fee for a wool dealer's license is ten dollars.

4 2. A wool dealer's license issued under this chapter expires on June thirtieth of each
5 year.

6 3. A wool dealer's license is not transferable.

7 **4.1-88-05. Application for license - Posting of bond.**

8 1. As a condition of licensure, the applicant must post a bond with the agriculture
9 commissioner. The bond must be:

10 a. A surety bond;

11 b. A cash bond; or

12 c. An irrevocable letter of credit.

13 2. The agriculture commissioner must be named as the obligee.

14 3. The bond required by this section must be:

15 a. In an amount and form required by this chapter;

16 b. Applicable to the period during which the wool dealer's license is in effect;

17 c. For the benefit of any person selling wool to the wool dealer or the dealer's agent;
18 and

19 d. Conditioned for the payment of any financial obligation owed by a wool dealer to
20 another person in conjunction with the sale of wool.

21 **4.1-88-06. Out-of-state applicant - Trustee.**

22 A bond filed by an out-of-state applicant for a wool dealer's license may name as trustee a
23 financially responsible, disinterested person who is satisfactory to the agriculture commissioner.

24 **4.1-88-07. Bond - Minimum amount.**

25 1. The agriculture commissioner shall determine the amount of the bond required in
26 accordance with this chapter, provided that the amount of the bond is not less than ten
27 thousand dollars.

28 2. If at the time of licensure or at any point during the period of licensure the agriculture
29 commissioner has reason to believe that a bond is inadequate to secure the
30 performance of the wool dealer's obligations, the commissioner shall require an
31 increase in the amount of the bond.

1 **4.1-88-08. Release of records - Confidentiality.**

2 1. As a condition of licensure, the applicant shall agree to provide to the agriculture
3 commissioner, upon request, any financial record that the commissioner deems
4 relevant for purposes related to:

- 5 a. The issuance of a wool dealer's license; or
6 b. An investigation after issuance of a wool dealer's license.

7 2. As a condition of licensure, the applicant shall file a records release with the
8 agriculture commissioner, authorizing the commissioner to obtain, from any source,
9 any financial record that the commissioner deems relevant for purposes related to:

- 10 a. The issuance of a wool dealer's license; or
11 b. An investigation after issuance of a wool dealer's license.

12 3. Any information gained by the agriculture commissioner under this section is
13 confidential and may be provided only:

- 14 a. To federal authorities in accordance with federal law;
15 b. To the attorney general, state agencies, and law enforcement agencies, for use in
16 the pursuit of official duties; and
17 c. As directed by an order of a court pursuant to a showing of good cause.

18 **4.1-88-09. Wool dealer's license - Grounds for denial - Hearing.**

19 1. The agriculture commissioner shall deny an applicant a wool dealer's license if:

- 20 a. The applicant's current assets do not exceed the applicant's current liabilities; or
21 b. The applicant submitted false or misleading information in connection with the
22 application.

23 2. The agriculture commissioner may deny an applicant a wool dealer's license:

- 24 a. If after due investigation, the commissioner has reason to believe that the
25 applicant has failed to pay, in a timely manner and without reasonable cause,
26 prior obligations incurred in connection with wool transactions; or
27 b. For any other just and good cause.

28 3. Any applicant denied a license under this section may request a hearing before the
29 agriculture commissioner, within thirty days of the denial.

30 **4.1-88-10. Change of circumstance - Notification of agriculture commissioner.**

31 A wool dealer shall notify the agriculture commissioner of:

- 1 1. Any legal change to the name in which the wool dealer's license is issued;
- 2 2. Any change to the legal status of the wool dealer; and
- 3 3. Any change in the nature and scope of the wool dealer's business, if that change
- 4 would warrant an increase in the amount of the bond posted by the dealer in
- 5 accordance with this chapter.

6 **4.1-88-11. Records.**

7 Each wool dealer shall keep records regarding all purchases and sales of wool for a period

8 of two years. The records may be examined by the agriculture commissioner upon request.

9 **4.1-88-12. Agent's license.**

10 Before an individual may serve as the agent of a wool dealer, the individual must be

11 licensed by the agriculture commissioner. In order for an individual to obtain an agent's license,

12 the agent's principal must request the licensure, at the time and in the manner determined by

13 the agriculture commissioner.

14 **4.1-88-13. Agent's license - Requirements - Liability of principal.**

15 Before the agriculture commissioner issues an agent's license, the commissioner shall

16 verify that:

- 17 1. The agent's principal is a wool dealer licensed in accordance with this chapter; and
- 18 2. The principal has filed with the agriculture commissioner a signed statement indicating
- 19 that the principal is responsible for and will be held strictly liable for any acts and
- 20 omissions arising out of the agent's wool dealings, even if the dealings were not
- 21 authorized by the principal.

22 **4.1-88-14. Agent's license - Grounds for denial - Hearing.**

- 23 1. The agriculture commissioner may refuse to issue an agent's license:
- 24 a. If the individual seeking the license was previously denied a wool dealer's license
- 25 or an agent's license;
- 26 b. If the individual seeking the license has had a wool dealer's license or an agent's
- 27 license revoked;
- 28 c. If the individual seeking the license has been convicted of an offense for which a
- 29 term of imprisonment or a fine is authorized by statute; or
- 30 d. For any other just and good cause.

1 2. Any applicant denied a license under this section may request a hearing before the
2 agriculture commissioner, within thirty days of the denial.

3 **4.1-88-15. Agent's authority - Limitation.**

4 While acting as an agent, an individual may not conduct any transaction involving livestock,
5 in the agent's own name.

6 **4.1-88-16. Order to cease and desist - Hearing.**

7 The agriculture commissioner may issue an order to cease and desist if the commissioner
8 has reason to believe that a person has committed or is about to commit a violation of this
9 chapter. If the commissioner issues a cease and desist order, the commissioner shall hold a
10 hearing within thirty days of the issuance and within sixty days of the issuance, revoke the order
11 or make it permanent, as the facts require.

12 **4.1-88-17. Investigation of wool dealer - Hearing.**

13 1. The agriculture commissioner shall investigate the conduct of any wool dealer if the
14 commissioner has reasonable cause to believe that the wool dealer may have violated
15 this chapter or engaged in any activity that constitutes a ground for license revocation
16 under this chapter.

17 2. If after conducting an investigation the agriculture commissioner has probable cause
18 to believe that a violation of the chapter occurred or that the wool dealer engaged in
19 any activity that constitutes a ground for license suspension or revocation under this
20 chapter, the commissioner may conduct a hearing to determine whether the license of
21 the wool dealer should be suspended or revoked.

22 **4.1-88-18. Grounds for suspension or revocation of license.**

23 The commissioner may revoke the license of a wool dealer if:

24 1. The wool dealer has violated this chapter;

25 2. The wool dealer has been found guilty of deceit, fraud, dishonesty, forgery, or theft, as
26 a dealer in wool;

27 3. The wool dealer submitted false or misleading information in connection with the
28 application for licensure;

29 4. The wool dealer has failed to maintain records that disclose all purchases and sales of
30 wool, as required by section 4.1-88-11;

1 5. The wool dealer has refused the commissioner's request to provide financial records
2 to the commissioner, as required by section 4.1-88-08; or

3 6. The wool dealer has failed to pay for wool purchased in a timely manner and without
4 reasonable cause.

5 **4.1-88-19. License suspension or revocation - Hearing - Appeal.**

6 1. Before the agriculture commissioner may suspend or revoke a wool dealer's license,
7 the commissioner shall:

8 a. Prepare a complaint;

9 b. Designate the time and place for a hearing; and

10 c. Serve a copy of the complaint and a notice of the hearing upon the wool dealer at
11 least fifteen days before the date of the hearing.

12 2. The agriculture commissioner shall serve the required notice by registered mail or in
13 the manner provided by the North Dakota Rules of Civil Procedure for the service of a
14 summons.

15 3. At the hearing, the agriculture commissioner shall take and receive testimony and
16 evidence.

17 4. After the hearing, the agriculture commissioner shall issue an order to:

18 a. Dismiss the proceedings;

19 b. Suspend the wool dealer's license; or

20 c. Revoke the wool dealer's license.

21 5. The aggrieved party may appeal the order to the district court of the county in which
22 the party maintains its principal place of business.

23 **4.1-88-20. Bond - Claim for relief.**

24 If a wool dealer defaults in the provisions of any bond required by this chapter, the wool
25 dealer is deemed to be insolvent within the meaning of this chapter. The claim for relief for
26 damages upon the bond, and the amount recovered in any claim for relief for the conversion of
27 wool purchased by the wool dealer, while the license is in force and effect, constitutes a trust
28 fund in the hands of the agriculture commissioner for all persons having a claim for relief
29 against the wool dealer on the bond.

1 **4.1-88-21. Appointment of trustee.**

- 2 1. Upon the insolvency of a wool dealer, the agriculture commissioner may apply to the
3 district court of the county in which the dealer maintains its principal place of business
4 for appointment as the trustee.
- 5 2. Upon notice to the wool dealer, as the court shall prescribe but not exceeding ten
6 days, or upon a written waiver of notice by the dealer, the court shall hear and make a
7 determination regarding the application in a summary manner.
- 8 3. If the court determines that the wool dealer is insolvent within the meaning of this
9 chapter and that it would be in the best interest of persons holding claims against the
10 dealer for the purchase price of wool sold to the dealer or to the dealer's agent that the
11 agriculture commissioner execute the trust, the court shall issue an order appointing
12 the commissioner as the trustee, without bond.
- 13 4. Upon being appointed as the trustee, the agriculture commissioner shall perform the
14 duties of a trustee as set forth in this chapter.

15 **4.1-88-22. Possession of records and property - Notice to file claims.**

- 16 1. a. Upon being appointed trustee, the agriculture commissioner shall take
17 possession of all accounts and records pertaining to the wool dealer's business.
18 After reviewing the records, the agriculture commissioner may return to the
19 dealer any records that are not necessary to the settlement of claims under this
20 chapter.
- 21 b. Upon being appointed trustee, the agriculture commissioner shall take
22 possession of all wool purchased by the dealer under the dealer's license and
23 remaining in the dealer's possession.
- 24 2. The agriculture commissioner, as trustee, shall publish a notice once each week for
25 three consecutive weeks in the official newspaper of each county in which the wool
26 dealer was conducting business, directing any person having a claim against the
27 dealer to file the claim and all supporting documentation with the commissioner no
28 later than forty-five days from the last date of publication. Any person failing to meet
29 the filing requirements set forth in the notice is barred from participating in any funds
30 marshalled by the commissioner under this chapter.

1 **4.1-88-23. Maintenance of action - Marshalling of assets.**

2 1. The agriculture commissioner, as trustee, may in the name of the state upon its own
3 relation but for the benefit of all claimants against the wool dealer's bond, maintain
4 suits or special proceedings upon the bond and against any person who has
5 converted any of the wool, for the purpose of marshalling all of the trust assets of the
6 insolvent dealer and distributing the assets among the claimants.

7 2. However, recourse must be had against the bond before recourse is had against a
8 person who knowingly and in good faith converted any of the wool, unless the
9 agriculture commissioner determines it necessary that all of the remedies be pursued
10 at the same time.

11 **4.1-88-24. Remedy of claimants - Pursuit of separate action.**

12 1. A claimant may not pursue a separate claim for relief against the wool dealer's bond
13 unless the agriculture commissioner fails or refuses to apply for appointment as
14 trustee.

15 2. A claimant may pursue concurrently with the agriculture commissioner, however, any
16 other remedy against the wool dealer or the dealer's property that the claimant may
17 have for the entire claim or for any deficiency that occurs after all payments have been
18 made from the trust fund.

19 **4.1-88-25. Actions by agriculture commissioner - Exoneration.**

20 1. The agriculture commissioner may:

21 a. Prosecute an action for any claim arising under this chapter;

22 b. Appeal from any adverse judgment to the court of last resort; and

23 c. Settle and compromise any action if the commissioner determines that doing so
24 is in the best interests of the claimant.

25 2. When the agriculture commissioner receives a compromise payment or the full
26 amount of any bond or conversion claim, the commissioner may exonerate the person
27 compromising or paying the claim from further liability growing out of the action.

28 **4.1-88-26. Moneys collected on claims - Required deposit.**

29 All moneys collected and received by the agriculture commissioner as trustee must be
30 deposited in the Bank of North Dakota pending the marshalling of the fund.

1 **4.1-88-27. Report of amounts payable - Distribution of trust fund.**

- 2 1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary
3 to pay the outstanding claims, the agriculture commissioner shall file with the court a
4 report showing the amount payable on each claim, after recognition of all proper liens,
5 pledges, assignments, and deductions.
- 6 2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner
7 shall prorate the fund among the claimants.
- 8 3. The court shall notify the claimants by mail regarding the proposed distribution and
9 direct that the claimants show cause why the report and distribution should not be
10 approved.
- 11 4. After holding a hearing on the matter, the court shall:
- 12 a. Approve or modify the report;
- 13 b. Issue an order directing that the trust fund be distributed; and
- 14 c. Discharge the agriculture commissioner from all duties as trustee.

15 **4.1-88-28. Court costs.**

16 The agriculture commissioner is not required to pay any filing fee or other court cost or
17 disbursement in connection with an application for appointment as trustee or with any action
18 brought under this chapter if the fee, cost, or disbursement accrues to the state or to a county of
19 this state.

20 **4.1-88-29. Violations of chapter - Criminal penalty - Civil penalty.**

- 21 1. Any person violating this chapter is guilty of a class A misdemeanor.
- 22 2. Any person violating this chapter is subject to a civil penalty in an amount not to
23 exceed five thousand dollars for each violation. The civil penalty may be adjudicated
24 by a court or by the agriculture commissioner through an administrative hearing.

25 **SECTION 7. AGRICULTURAL LAW REWRITE - STUDY.** The legislative management
26 shall continue its study of North Dakota Century Code provisions that relate to agriculture for
27 the purpose of recommending changes to laws that are found to be irrelevant, inconsistent,
28 illogically arranged, or unclear in their intent and direction. The legislative management shall
29 report its findings and recommendations, together with any legislation required to implement the
30 recommendations, to the sixty-fourth legislative assembly.

- 1 **SECTION 8. REPEAL.** Chapters 36-04, 36-09, 36-13, and 36-22 of the North Dakota
- 2 Century Code are repealed.