

**HOUSE BILL NO. 1127**

Introduced by

Representatives Laning, B. Anderson, Tveit

Senator Anderson

1 A BILL for an Act to amend and reenact sections 10-15-08.1, 10-19.1-13, and 10-32.1-11,  
2 subsection 14 of section 10-32.1-92, section 10-33-10, subdivision I of subsection 1 of section  
3 10-33-140, subsection 3 of section 10-34-04, subdivision I of subsection 1 of section 10-36-08,  
4 section 45-10.2-10, subsection 13 of section 45-10.2-109, sections 45-11-01, 45-13-04.1,  
5 45-22-04, and 45-23-03, subsection 13 of section 45-23-08, and section 47-25-03 of the North  
6 Dakota Century Code, relating to the names of cooperatives, corporations, limited liability  
7 companies, domestic and foreign real estate investment trusts, limited partnerships, fictitious  
8 partnerships, and limited liability partnerships; and to provide a contingent effective date.

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

10 **SECTION 1. AMENDMENT.** Section 10-15-08.1 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **10-15-08.1. Cooperative name.**

13 1. The cooperative name:

- 14 a. Must be expressed in letters or characters used in the English language as those  
15 letters or characters appear in the American standard code for information  
16 interchange (ASCII) table.
- 17 b. May contain the word "corporation" or "incorporated" or an abbreviation of either  
18 of those words.
- 19 c. May not contain a word or phrase ~~that indicates~~indicating or ~~implies that~~implying  
20 it is organized for a purpose other than one or more business purposes for which  
21 a cooperative association may be organized under this chapter.
- 22 d. ~~May not be the same as, or deceptively similar to,~~Must be distinguishable in the  
23 records of the secretary of state from the name, whether foreign and authorized  
24 to do business in this state, or domestic, unless there is filed with the articles of

- 1 association of a domestic cooperative or the application for authority of a foreign  
2 cooperative, a record in compliance with subsection 2 of:
- 3 (1) Another cooperative association;  
4 (2) A corporation;  
5 (3) A limited liability company;  
6 (4) A limited liability partnership;  
7 (5) A limited partnership;  
8 (6) A limited liability limited partnership;  
9 (7) A name the right to which is, at the time of organization, in some manner  
10 reserved;  
11 (8) A fictitious name registered with the secretary of state as provided in  
12 chapter 45-11;  
13 (9) A trade name registered with the secretary of state as provided in chapter  
14 47-25; or  
15 (10) A trademark or service mark registered in the manner provided in chapter  
16 47-22.
- 17 2. If the secretary of state determines a cooperative name is ~~deceptively similar~~  
18 ~~to~~indistinguishable from another name for purposes of this chapter, then the  
19 cooperative name may not be used unless there is filed with the articles of association  
20 or application for authority:
- 21 a. A written consent to use the name obtained from the domestic or foreign  
22 corporation, limited liability company, limited liability partnership, limited liability  
23 limited partnership, or limited partnership authorized to do business in this state  
24 having a ~~deceptively similar~~an indistinguishable name, or the holder of a  
25 reserved name, registered trade name, fictitious name, or trademark or service  
26 mark; or  
27 b. A certified copy of a judgment of a court in this state establishing the prior right of  
28 the applicant to the use of the name in this state.
- 29 3. The secretary of state shall determine whether a cooperative name is ~~deceptively~~  
30 ~~similar to~~distinguishable in the records from another name for purposes of this chapter  
31 and may adopt rules reasonable or necessary for making these determinations.

- 1           4. This section and section 10-15-08.2 do not:
- 2           a. Abrogate or limit:
- 3               (1) The law of unfair competition or unfair practices;
- 4               (2) Chapter 47-25;
- 5               (3) The laws of the United States with respect to the right to acquire and protect
- 6                     copyrights, trade names, trademarks, service names, and service marks; or
- 7               (4) Any other rights to the exclusive use of names or symbols; or
- 8           b. Derogate the common law or the principles of equity.
- 9           5. A cooperative that is involuntarily dissolved by the secretary of state under section
- 10           10-15-53.2 may reacquire the right to use that name by reinstating the cooperative
- 11           within the time provided in section 10-15-53.3 or by refiling articles of association,
- 12           unless the name has been adopted for use or reserved by another person, in which
- 13           case the filing must be rejected unless the filing is accompanied by a written consent
- 14           or judgment as provided in ~~subdivision d of subsection 42~~. A cooperative that is unable
- 15           to reacquire the use of its name shall adopt a new name that complies with this
- 16           section.
- 17           6. A cooperative that files its articles of association with an effective date later than the
- 18           date of filing as provided in section 10-15-07 shall maintain the right to the name until
- 19           the effective date.

20           **SECTION 2. AMENDMENT.** Section 10-19.1-13 of the North Dakota Century Code is

21           amended and reenacted as follows:

22           **10-19.1-13. Corporate name.**

- 23           1. The corporate name:
- 24               a. Must be expressed in letters or characters used in the English language as those
- 25                     letters or characters appear in the American standard code for information
- 26                     interchange (ASCII) table.
- 27               b. Must contain the word "company", "corporation", "incorporated", "limited", or an
- 28                     abbreviation of one or more of these words.
- 29               c. May not contain the words "limited liability company", "limited partnership",
- 30                     "limited liability partnership", "limited liability limited partnership", or anyan
- 31                     abbreviation of these words.

- 1           d.    May not contain a word or phrase ~~that indicates~~indicating or ~~implies~~implying the  
2            corporation:
- 3            (1)   Is incorporated for a purpose other than:
- 4                 (a)   A lawful business purpose for which a corporation may be  
5                 incorporated under this chapter; or
- 6                 (b)   For a purpose stated in its articles of incorporation; or
- 7            (2)   May not be incorporated under this chapter.
- 8           e.   ~~May not be the same as, or deceptively similar to~~Must be distinguishable in the  
9            ~~records of the secretary of state from:~~records of the secretary of state from:
- 10           (1)   The name, whether foreign and authorized to do business in this state or  
11                 domestic, unless there is filed with the articles a record that complies with  
12                 subsection 3, of:
- 13                 (a)   Another corporation;
- 14                 (b)   A corporation incorporated or authorized to do business in this state  
15                 under another chapter of this code;
- 16                 (c)   A limited liability company;
- 17                 (d)   A limited partnership;
- 18                 (e)   A limited liability partnership; or
- 19                 (f)   A limited liability limited partnership;
- 20            (2)   A name the right to which is, at the time of incorporation, reserved in the  
21                 manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,  
22                 45-13-04.2, or 45-22-05;
- 23            (3)   A fictitious name registered in the manner provided in chapter 45-11;
- 24            (4)   A trade name registered in the manner provided in chapter 47-25; or
- 25            (5)   A trademark or service mark registered in the manner provided in chapter  
26                 47-22.
- 27           2.    The secretary of state shall determine whether a corporate name is "~~deceptively-~~  
28                 ~~similar"~~distinguishable in the records from another name for purposes of this  
29                 chapter and may adopt rules reasonable or necessary for making these  
30                 determinations.

- 1           3. If the secretary of state determines that a corporate name is "~~deceptively similar~~"  
2           ~~to indistinguishable in the records from~~ another name for purposes of this chapter, then  
3           the corporate name may not be used unless there is filed with the articles:
- 4           a. The written consent of the holder of the rights to the name to which the proposed  
5           name has been determined to be ~~deceptively similar~~indistinguishable; or  
6           b. A certified copy of a judgment of a court in this state establishing the prior right of  
7           the applicant to the use of the name in this state.
- 8           4. This ~~subsection~~section does not affect the right of a domestic corporation existing on  
9           July 1, 1986, or a foreign corporation authorized to do business in this state on that  
10          date to continue the use of its name.
- 11          5. This section and section 10-19.1-14 do not:
- 12          a. Abrogate or limit:
- 13               (1) The law of unfair competition or unfair practices;  
14               (2) Chapter 47-25;  
15               (3) The laws of the United States with respect to the right to acquire and protect  
16               copyrights, trade names, trademarks, service names, and service marks; or  
17               (4) Any other rights to the exclusive use of names or symbols; or
- 18          b. Derogate the common law or the principles of equity.
- 19          6. A domestic or foreign corporation that is the surviving organization in a merger with  
20          one or more other organizations, or that acquires by sale, lease, or other disposition to  
21          or exchange with an organization all or substantially all of the assets of another  
22          organization including its name, may have the same name, subject to the  
23          requirements of subsection 1, as that used in this state by any of the other  
24          organizations, if the other organization whose name is sought to be used:
- 25          a. Was incorporated, organized, formed, or registered under the laws of this state;  
26          b. Is authorized to transact business or conduct activities in this state;  
27          c. Holds a reserved name in the manner provided in section 10-19.1-14,  
28               10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;  
29          d. Holds a fictitious name registered in the manner provided in chapter 45-11;  
30          e. Holds a trade name registered in the manner provided in chapter 47-25; or

- 1           f. Holds a trademark or service mark registered in the manner provided in chapter  
2           47-22.
- 3       7. The use of a name by a corporation in violation of this section does not affect or vitiate  
4       its corporate existence. However, a court in this state may, upon application of the  
5       state or of an interested or affected person, enjoin the corporation from doing business  
6       under a name assumed in violation of this section, although its articles may have been  
7       filed with the secretary of state and a certificate of incorporation issued.
- 8       8. A corporation whose period of existence has expired or ~~that~~ is involuntarily dissolved  
9       by the secretary of state pursuant to section 10-19.1-146 or 10-19.1-146.1 may  
10      reacquire the right to use that name by refiling articles of incorporation pursuant to  
11      section 10-19.1-11, unless the name has been adopted for use or reserved by another  
12      person, in which case the filing will be rejected unless the filing is accompanied by a  
13      written consent or judgment as provided in subsection ~~23~~. A corporation that cannot  
14      reacquire the use of its corporate name shall adopt a new corporate name that  
15      complies with the provisions of this section:
- 16           a. By refiling articles of incorporation pursuant to section 10-19.1-11;  
17           b. By amending pursuant to section 10-19.1-17; or  
18           c. By reinstating pursuant to section 10-19.1-146.
- 19      9. Subject to section 10-19.1-133, this section applies to ~~any~~ foreign corporation  
20      transacting business in this state, having a certificate of authority to transact business  
21      in this state, or applying for a certificate of authority.
- 22      10. An amendment that only changes the name of the corporation may be authorized by a  
23      resolution approved by the board and ~~may, but need not,~~ be submitted to and  
24      approved by the shareholders as provided in section 10-19.1-18.
- 25      11. A corporation that files its articles of incorporation with an effective date later than the  
26      date of filing as provided in section 10-19.1-12 shall maintain the right to the name  
27      until the effective date.

28       **SECTION 3. AMENDMENT.** Section 10-32.1-11 of the North Dakota Century Code is  
29      amended and reenacted as follows:

30       **10-32.1-11. Limited liability company name.**

- 31       1. The limited liability company name:

- 1           a.    Must be expressed in letters or characters used in the English language as those  
2                    letters or characters appear in the American standard code for information  
3                    interchange table;
- 4           b.    Must contain the words "limited liability company", or must contain the  
5                    abbreviation "L.L.C." or the abbreviation "LLC", either of which abbreviation may  
6                    be used interchangeably for all purposes authorized by this chapter, including  
7                    real estate matters, contracts, and filings with the secretary of state;
- 8           c.    May not contain:
- 9                    (1)   The word "corporation", "incorporated", "limited partnership", "limited liability  
10                    partnership", "limited liability limited partnership", or any abbreviation of  
11                    these words; or
- 12                    (2)   The words "limited" or "company" without association to the words "limited  
13                    liability company" or the abbreviations of these words as provided in  
14                    subsection b;
- 15           d.    May not contain a word or phrase ~~that indicates~~indicating or ~~implies that~~implying  
16                    the limited liability company:
- 17                    (1)   Is organized for a purpose other than:
- 18                            (a)   A lawful business purpose for which a limited liability company may be  
19                            organized under this chapter; or
- 20                            (b)   For a purpose stated in its articles of organization; or
- 21                    (2)   May not be organized under this chapter; and
- 22           e.    ~~May not be the same as, or deceptively similar to~~Must be distinguishable in the  
23                    records of the secretary of state from:
- 24                    (1)   The name, whether foreign and authorized to do business in this state or  
25                    domestic, unless there is filed with the articles a record which complies with  
26                    subsection 3, of:
- 27                            (a)   Another limited liability company;
- 28                            (b)   A corporation;
- 29                            (c)   A limited partnership;
- 30                            (d)   A limited liability partnership; or
- 31                            (e)   A limited liability limited partnership;

- 1                   (2) A name, the right of which is, at the time of organization, reserved in the  
2                   manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,  
3                   45-13-04.2, or 45-22-05;
- 4                   (3) A fictitious name registered in the manner provided in chapter 45-11;
- 5                   (4) A trade name registered in the manner provided in chapter 47-25; or
- 6                   (5) A trademark or service mark registered in the manner provided in chapter  
7                   47-22.
- 8           2. The secretary of state shall determine whether a limited liability company name is  
9           ~~deceptively similar to~~distinguishable in the records from another name for purposes of  
10           this chapter and may adopt rules reasonable or necessary for making these  
11           determinations.
- 12           3. If the secretary of state determines that a limited liability company name is ~~deceptively-~~  
13           ~~similar to~~indistinguishable in the records from another name for purposes of this  
14           chapter, then the limited liability company name may not be used unless there is filed  
15           with the articles:
- 16           a. The written consent of the holder of the rights to the name to which the proposed  
17           name has been determined to be ~~deceptively similar~~indistinguishable; or
- 18           b. A certified copy of a judgment of a court in this state establishing the prior right of  
19           the applicant to the use of the name in this state.
- 20           4. This section and section 10-32.1-12 do not:
- 21           a. Abrogate or limit:
- 22                   (1) The law of unfair competition or unfair practices;
- 23                   (2) Chapter 47-25;
- 24                   (3) The laws of the United States with respect to the right to acquire and protect  
25                   copyrights, trade names, trademarks, service names, and service marks; or
- 26                   (4) Any other rights to the exclusive use of names or symbols.
- 27           b. Derogate the common law or the principles of equity.
- 28           5. A domestic or foreign limited liability company that is the surviving organization in a  
29           merger with one or more other organizations, or that acquires by sale, lease, or other  
30           disposition to or exchange with an organization all or substantially all of the assets of  
31           another organization including its name, may have the same name, subject to the

- 1 requirements of subsection 1, as that used in this state by any of the other  
2 organizations, if the organization whose name is sought to be used:
- 3 a. Was organized, incorporated, formed, or registered under the laws of this state;  
4 b. Is authorized to transact business or conduct activities in this state;  
5 c. Holds a reserved name in the manner provided in section 10-19.1-14,  
6 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;  
7 d. Holds a fictitious name registered in the manner provided in chapter 45-11;  
8 e. Holds a trade name registered in the manner provided in chapter 47-25; or  
9 f. Holds a trademark or service mark registered in the manner provided in  
10 chapter 47-22.
- 11 6. The use of a name by a limited liability company in violation of this section does not  
12 affect or vitiate its limited liability company existence. However, a court in this state  
13 may, upon application of the state or of an interested or affected person, enjoin the  
14 limited liability company from doing business under a name assumed in violation of  
15 this section, although its articles of organization may have been filed with the secretary  
16 of state and a certificate of organization issued.
- 17 7. A limited liability company whose period of existence has expired or that is  
18 involuntarily terminated by the secretary of state pursuant to section ~~10-32.1-~~  
19 ~~89~~10-32.1-90 may reacquire the right to use that name by refiling articles of  
20 organization pursuant to section 10-32.1-20, unless the name has been adopted for  
21 use or reserved by another person, in which case the filing will be rejected unless the  
22 filing is accompanied by a written consent or judgment pursuant to subsection ~~23~~. A  
23 limited liability company that cannot reacquire the use of its limited liability company  
24 name shall adopt a new limited liability company name which complies with the  
25 provisions of this section:
- 26 a. By refiling the articles of organization pursuant to section 10-32.1-20;  
27 b. By amending pursuant to section 10-32.1-21; or  
28 c. By reinstating pursuant to section 10-32.1-91.
- 29 8. Subject to section 10-32.1-73, this section applies to ~~anya~~ foreign limited liability  
30 company transacting business in this state, having a certificate of authority to transact  
31 business in this state, or applying for a certificate of authority.

1           9. An amendment that only changes the name of the limited liability company may be  
2           authorized by a resolution approved by the board and ~~may, but need not,~~ be submitted  
3           to and approved by the members as provided in subdivision b of subsection 1 of  
4           section 10-32.1-21.

5           10. A limited liability company that files its articles of organization with an effective date  
6           later than the date of filing as provided in subdivision b of subsection 2 of section  
7           10-32.1-20 shall maintain the right to the name until the effective date.

8           **SECTION 4. AMENDMENT.** Subsection 14 of section 10-32.1-92 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10          14. Filing a consent to use ~~ef~~a name, ten dollars.

11          **SECTION 5. AMENDMENT.** Section 10-33-10 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13          **10-33-10. Corporate name.**

14          1. The corporate name:

15           a. Must be in letters or characters used in the English language as those letters or  
16           characters appear in the American standard code for information interchange  
17           (ASCII) table.

18           b. Need not contain the word "company", "corporation", "incorporated", "limited", or  
19           an abbreviation of one or more of these words.

20           c. May not contain the words "limited liability company", "limited partnership",  
21           "limited liability partnership", "limited liability limited partnership", or ~~any~~an  
22           abbreviation of these words.

23           d. May not contain a word or phrase ~~that indicates~~indicating or ~~implies that~~implying  
24           the corporation:

25           (1) Is incorporated for a purpose other than:

26                   (a) A lawful nonprofit purpose for which a corporation may be  
27                   incorporated under this chapter; or

28                   (b) For a purpose stated in its articles; or

29           (2) May not be incorporated under this chapter.

30           e. ~~May not be the same as or deceptively similar to~~Must be distinguishable in the  
31           records of the secretary of state from:

- 1                   (1) The name, whether foreign and authorized to conduct activities in this state  
2                   or domestic unless there is filed with the articles a record that complies with  
3                   subsection 23, of:
- 4                   (a) Another corporation;
- 5                   (b) A corporation incorporated or authorized to do business in this state  
6                   under another provision of this code;
- 7                   (c) A limited liability company;
- 8                   (d) A limited partnership;
- 9                   (e) A limited liability partnership; or
- 10                  (f) A limited liability limited partnership;
- 11                  (2) A name the right to which is, at the time of incorporation, reserved in the  
12                  manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,  
13                  45-13-04.2, or 45-22-05;
- 14                  (3) A fictitious name registered in the manner provided in chapter 45-11;
- 15                  (4) A trade name registered in the manner provided in chapter 47-25; or
- 16                  (5) A trademark or service mark registered in the manner provided in chapter  
17                  47-22.
- 18                  2. The secretary of state shall determine whether a corporate name is "~~deceptively~~  
19                  ~~similar~~" to distinguishable in the records from another name for purposes of this  
20                  chapter and may adopt rules reasonable or necessary for making these  
21                  determinations.
- 22                  3. If the secretary of state determines that a corporate name is "~~deceptively similar~~"  
23                  ~~to~~indistinguishable in the records from another name for purposes of this chapter, ~~then~~  
24                  the corporate name may not be used unless there is filed with the articles:
- 25                  a. The written consent of the holder of the rights to the name the proposed name is  
26                  determined to be ~~deceptively similar to~~indistinguishable; or
- 27                  b. A certified copy of a judgment of a court in this state establishing the prior right of  
28                  the applicant to the use of the name in this state.
- 29                  4. Subsection 3 does not affect the right of a corporation existing on August 1, 1997, or a  
30                  foreign corporation authorized to do business in this state on that date to continue the  
31                  use of its name.

- 1           5. This section and section 10-33-11 do not:
- 2           a. Abrogate or limit:
- 3               (1) The law of unfair competition or unfair practices;
- 4               (2) Chapter 47-25;
- 5               (3) The laws of the United States with respect to the right to acquire and protect
- 6                       copyrights, trade names, trademarks, service names, or service marks; or
- 7               (4) Any other rights to the exclusive use of names or symbols; or
- 8           b. Derogate the common law or the principles of equity.
- 9           6. A domestic or foreign corporation that is the surviving organization in a merger with
- 10           one or more other organizations, or that acquires by sale, lease, or other disposition to
- 11           or exchange with an organization all or substantially all of the assets of another
- 12           organization including its name, may have the same name, subject to the
- 13           requirements of subsection 1, as that used in this state by any of the other
- 14           organizations, if the other organization whose name is sought to be used:
- 15           a. Was incorporated, organized, formed, or registered under the laws of this state;
- 16           b. Is authorized to conduct activities or transact business in this state;
- 17           c. Holds a reserved name in the manner provided in section 10-19.1-14,
- 18               10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
- 19           d. Holds a fictitious name registered in the manner provided in chapter 45-11;
- 20           e. Holds a trade name registered in the manner provided in chapter 47-25; or
- 21           f. Holds a trademark or service mark registered in the manner provided in chapter
- 22               47-22.
- 23           7. The use of a name by a corporation in violation of this section does not affect or vitiate
- 24           its corporate existence, but a court in this state may, upon application of the state or of
- 25           an interested or affected person, enjoin the corporation from conducting activities
- 26           under a name assumed in violation of this section, although its articles may have been
- 27           filed with the secretary of state and a certificate of incorporation issued.
- 28           8. A corporation whose period of existence has expired or that is involuntarily dissolved
- 29           by the secretary of state pursuant to section 10-33-139 may reacquire the right to use
- 30           that name by refiling articles of incorporation pursuant to section 10-33-08 unless the
- 31           name has been adopted for use or reserved by another person, in which case the

1 filing will be rejected unless the filing is accompanied by a written consent or judgment  
2 pursuant to subsection 23. A corporation that cannot reacquire the use of its corporate  
3 name must adopt a new corporate name that complies with the provisions of this  
4 section:

- 5 a. By refiling articles of incorporation pursuant to section 10-33-08;
- 6 b. By amending pursuant to section 10-33-14; or
- 7 c. By reinstating pursuant to section 10-33-139.

- 8 9. Subject to section 10-33-126, this section applies to ~~any~~ foreign corporation  
9 transacting business in this state, having a certificate of authority to transact business  
10 in this state, or applying for a certificate of authority.
- 11 10. An amendment that only changes the name of the corporation may be authorized by a  
12 resolution approved by the board and may, ~~but need not,~~ be submitted to and  
13 approved by the members as provided in section 10-33-15.
- 14 11. A corporation that files its articles of incorporation with an effective date later than the  
15 date of filing as provided in section 10-33-09 shall maintain the right to the name until  
16 the effective date.

17 **SECTION 6. AMENDMENT.** Subdivision I of subsection 1 of section 10-33-140 of the North  
18 Dakota Century Code is amended and reenacted as follows:

- 19 I. Filing a consent to use of a ~~deceptively similar~~ name, ten dollars.

20 **SECTION 7. AMENDMENT.** Subsection 3 of section 10-34-04 of the North Dakota Century  
21 Code is amended and reenacted as follows:

- 22 3. A domestic or foreign real estate investment trust shall register with the secretary of  
23 state by submitting an application signed by a trustee which includes:
  - 24 a. The name of the real estate investment trust which ~~may not be the same or~~  
25 deceptively similar to must be distinguishable in the records of the secretary of  
26 state from the name of any other another real estate investment trust registered  
27 with the secretary of state, or ~~any~~ corporation, limited liability company, limited  
28 partnership, limited liability partnership, limited liability limited partnership, or  
29 ~~any~~ name that is in some manner reserved with the secretary of state, ~~that is a~~  
30 fictitious trade name registered as provided in chapter 45-11, ~~or that is a trade~~  
31 name registered as provided in chapter 47-25, or is a trademark or service mark

1           ~~registered as provided in chapter 47-22,~~ unless there is filed with the secretary of  
2           state a written consent of the holder of the ~~similar~~indistinguishable trade name to  
3           use the name proposed by the real estate investment trust is filed with the  
4           secretary of state. The name may not contain the word "corporation", "company",  
5           "incorporated", "limited liability company", or ~~any~~an abbreviation of these words.  
6           The secretary of state shall determine whether a name is distinguishable in the  
7           records and may adopt rules reasonable or necessary for making these  
8           determinations.

- 9           b. The state and date of its formation.
- 10          c. The name, address, and principal place of business of each trustee and officer.
- 11          d. The name of its registered agent as provided in chapter 10-01.1 and, if a  
12           noncommercial registered agent, then the address of that noncommercial  
13           registered agent in this state.
- 14          e. The address of the principal place of business.
- 15          f. A statement that the secretary of state is appointed the agent of the real estate  
16           investment trust for service of process as provided in section 10-01.1-13.

17           **SECTION 8. AMENDMENT.** Subdivision l of subsection 1 of section 10-36-08 of the North  
18   Dakota Century Code is amended and reenacted as follows:

- 19           l. Filing a consent to use of a ~~deceptively similar~~ name, ten dollars.

20           **SECTION 9. AMENDMENT.** Section 45-10.2-10 of the North Dakota Century Code is  
21   amended and reenacted as follows:

22           **45-10.2-10. Limited partnership name.**

- 23           1. The name of each limited partnership as set forth in the certificate of limited  
24           partnership:
  - 25           a. Must be expressed in letters or characters used in the English language as those  
26           letters or characters appear in the American standard code for information  
27           interchange (ASCII) table.
  - 28           b. Must contain without abbreviation the words "limited partnership" or the  
29           abbreviation "L.P." or "LP", either of which abbreviations may be used  
30           interchangeably for all purposes authorized by this chapter, including real estate  
31           matters, contracts, and filings with the secretary of state.

- 1 c. May contain the name of anya partner.
- 2 d. May not contain the word "corporation", "company", "incorporated", "limited  
3 liability company", "limited liability partnership", "limited liability limited  
4 partnership", or anyan abbreviation of these words.
- 5 e. May not contain a word or phrase ~~that indicates~~indicating or ~~implies that~~implying  
6 the limited partnership:
- 7 (1) Is organized for a purpose other than:
- 8 (a) A lawful purpose for which a limited partnership may be organized  
9 under this chapter; or
- 10 (b) For a purpose stated in its certificate of limited partnership; or
- 11 (2) May not be organized under this chapter.
- 12 f. ~~May not be the same as or deceptively similar to~~Must be distinguishable in the  
13 records of the secretary of state from:
- 14 (1) The name, whether foreign and authorized to do business in this state or  
15 domestic, unless there is filed with the certificate of limited partnership a  
16 record in compliance with subsection 3, of:
- 17 (a) Another limited partnership;
- 18 (b) A corporation;
- 19 (c) A limited liability company;
- 20 (d) A limited liability partnership; or
- 21 (e) A limited liability limited partnership;
- 22 (2) A name the right to which is, at the time of the filing of the certificate of  
23 limited partnership, reserved in the manner provided in section 10-19.1-14,  
24 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
- 25 (3) A fictitious name registered in the manner provided in chapter 45-11;
- 26 (4) A trade name registered in the manner provided in chapter 47-25; or
- 27 (5) A trademark or service mark registered in the manner provided in chapter  
28 47-22.
- 29 2. The secretary of state shall determine whether a limited partnership name is  
30 ~~deceptively similar to~~distinguishable in the records from another name for purposes of

- 1           this chapter and may adopt rules reasonable or necessary for making these  
2           determinations.
- 3           3. If the secretary of state determines a limited partnership name is ~~deceptively similar-~~  
4           ~~to~~indistinguishable in the records from another name for purposes of this chapter, ~~then~~  
5           the limited partnership name may not be used unless there is filed with the articles:  
6           a. The written consent of the holder of the registered trade name or the holder of  
7           the rights to the name to which the proposed name has been determined to be  
8           ~~deceptively similar~~indistinguishable; or  
9           b. A certified copy of a judgment of a court in this state establishing the prior right of  
10          the applicant to the use of the name in this state.
- 11          4. Subsection 3 does not affect the right of a limited partnership existing on the effective  
12          date of this chapter, or a foreign limited partnership authorized to do business in this  
13          state on that date, to continue the use of its name.
- 14          5. This section and section 45-10.2-11 do not:  
15          a. Abrogate or limit:  
16             (1) The law of unfair competition or unfair practices;  
17             (2) Chapter 47-25;  
18             (3) The laws of the United States with respect to the right to acquire and protect  
19             copyrights, trade names, trademarks, service names, and service marks; or  
20             (4) Any other right to the exclusive use of names or symbols; or  
21          b. Derogate the common law or the principles of equity.
- 22          6. A limited partnership that is the surviving organization in a merger with one or more  
23          organizations, or that acquires by sale, lease, or other disposition to or exchange with  
24          an organization all or substantially all of the assets of another organization including its  
25          name, may include in its name, subject to the requirements of subsection 1, the name  
26          of any of the organizations, if the other organization whose name is sought to be used:  
27          a. Was incorporated, organized, formed, or registered under the laws of this state;  
28          b. Is authorized to transact business or conduct activities in this state;  
29          c. Holds a reserved name in the manner provided in section 10-19.1-14,  
30             10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;  
31          d. Holds a fictitious name registered in the manner provided in chapter 45-11;

- 1 e. Holds a trade name registered in the manner provided in chapter 47-25; or  
2 f. Holds a trademark or service mark registered in the manner provided in chapter  
3 47-22.
- 4 7. The use of a name by a limited partnership in violation of this section does not affect  
5 or vitiate its limited partnership existence. However, a court in this state may, upon  
6 application of the state or of an interested or affected person, enjoin the limited  
7 partnership from doing business under a name assumed in violation of this section,  
8 although its certificate of limited partnership may have been filed with the secretary of  
9 state.
- 10 8. A limited partnership whose period of existence has expired or that is involuntarily  
11 dissolved by the secretary of state as provided in section 45-10.2-108 or  
12 45-10.2-108.1 may reacquire the right to use that name by refiling a certificate of  
13 limited partnership pursuant to section 45-10.2-23 unless the name has been adopted  
14 for use or reserved by another person, in which case the filing will be rejected unless  
15 the filing is accompanied by a written consent or judgment pursuant to subsection 3. A  
16 limited partnership that cannot reacquire the use of its limited partnership name shall  
17 adopt a new limited partnership name that complies with this section by refiling a  
18 certificate of limited partnership as provided in section 45-10.2-23; by amending its  
19 certificate of limited partnership as provided in section 45-10.2-24; or by reinstating the  
20 limited partnership pursuant to section 45-10.2-108. If the new limited partnership  
21 name has been adopted for use or reserved by another person, the filing will be  
22 rejected unless the filing is accompanied by a written consent or judgment as provided  
23 in subsection 3.
- 24 9. Subject to section 45-10.2-78, this section applies to ~~anya~~ foreign limited partnership  
25 transacting business in this state, having a certificate of authority to transact business  
26 in this state, or applying for a certificate of authority.
- 27 10. A limited partnership that ~~files~~ refiles its certificate of limited partnership with an effective  
28 date later than the date of filing as provided in subsection 3 of section 45-10.2-27 shall  
29 maintain the right to the name until the effective date.

30 **SECTION 10. AMENDMENT.** Subsection 13 of section 45-10.2-109 of the North Dakota  
31 Century Code is amended and reenacted as follows:

1       13.   Filing a consent to use a ~~deceptively similar~~ name, ten dollars.

2       **SECTION 11. AMENDMENT.** Section 45-11-01 of the North Dakota Century Code is  
3 amended and reenacted as follows:

4       **45-11-01. Partnership - Use of fictitious name.**

5       1.   As used in this section, "fictitious name" means a name assumed to identify a  
6 partnership and which does not include in its name:

7       a.   The true name of each organizational partner;

8       b.   The first name and surname of each partner; or

9       c.   The surname of each partner, repeating a surname if more than one partner has  
10 the same surname.

11      2.   ~~Any~~A partnership transacting business in this state under a fictitious name or under a  
12 designation ~~that does not show~~showing the names of the persons interested as  
13 partners must file a fictitious name certificate with the secretary of state, together with  
14 a filing fee of twenty-five dollars. When a partnership has more than two members, an  
15 additional three dollars must be paid for each additional member not to exceed two  
16 hundred fifty dollars. A limited partnership or a foreign limited partnership transacting  
17 business under a name filed under chapter 45-10.2 and as provided in section  
18 45-11-03 or a partnership transacting business under a name filed under section  
19 45-13-05 is not required to file a fictitious name certificate under this section.

20      3.   The fictitious name:

21      a.   Must be expressed in letters or characters used in the English language as those  
22 letters or characters appear in the American standard code for information  
23 interchange (ASCII) table.

24      b.   May not contain the word "corporation", "company", "incorporated", "limited  
25 liability company", or "limited", or an abbreviation of any of those words. This  
26 subsection does not preclude the word "limited" from being used in conjunction  
27 with the word "partnership".

28      c.   ~~May not be the same as or deceptively similar to any~~Must be distinguishable in  
29 the records of the secretary of state from a name reserved or registered with the  
30 secretary of state unless there is filed with the fictitious name certificate a written

- 1 consent from the holder of the ~~similar~~indistinguishable name to use the proposed  
2 name and filing fee of ten dollars, whether domestic or foreign, including:  
3 (1) ~~Any~~A corporate name;  
4 (2) ~~Any~~A limited liability company name;  
5 (3) ~~Any~~A trade name;  
6 (4) Any other fictitious partnership name;  
7 (5) ~~Any~~A limited partnership name;  
8 (6) ~~Any~~A limited liability partnership name;  
9 (7) ~~Any~~A limited liability limited partnership name; or  
10 (8) ~~Any~~A trademark or service mark.

11 4. The secretary of state shall determine whether a fictitious partnership name is  
12 distinguishable in the records from another name for purposes of this chapter and may  
13 adopt rules reasonable or necessary for making these determinations.

14 **SECTION 12. AMENDMENT.** Section 45-13-04.1 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **45-13-04.1. Partnership name.**

- 17 1. A partnership name filed in a statement under section 45-13-05:  
18 a. Must be in the English language or in any other language expressed in English  
19 letters or characters;  
20 b. May contain the name of ~~anya~~any partner;  
21 c. May not contain the word "corporation", "company", "incorporated", "limited  
22 liability company", "limited partnership", "limited liability partnership", "limited  
23 liability limited partnership", or ~~anyan~~any abbreviation of these words;  
24 d. May not contain a word or phrase that indicates or implies that the partnership:  
25 (1) Is organized for a purpose other than a lawful purpose for which a  
26 partnership may be organized under this chapter; or  
27 (2) May not be formed under this chapter; and  
28 e. ~~May not be the same as, or deceptively similar to~~Must be distinguishable in the  
29 records of the secretary of state from:

- 1                   (1) The name, whether foreign and authorized to do business in this state or  
2                   domestic, unless filed with the statement is a record which complies with  
3                   subsection 3 of:
- 4                   (a) Another partnership;  
5                   (b) A limited liability company;  
6                   (c) A corporation;  
7                   (d) A limited partnership;  
8                   (e) A limited liability partnership; or  
9                   (f) A limited liability limited partnership;
- 10                  (2) A name, the right of which is, at the time of filing, reserved in the manner  
11                  provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,  
12                  45-13-04.2, or 45-22-05;
- 13                  (3) A fictitious name registered in the manner provided in chapter 45-11; or  
14                  (4) A trade name registered in the manner provided in chapter 47-25; or  
15                  (5) A trademark or service mark registered in the manner provided in chapter  
16                  47-22.
- 17                  2. The secretary of state shall determine whether a partnership name is ~~deceptively-~~  
18                  ~~similar to~~indistinguishable in the records from another name for purposes of this chapter  
19                  and may adopt rules reasonable or necessary for making these determinations.
- 20                  3. If the secretary of state determines a partnership name is ~~deceptively similar-~~  
21                  ~~to~~indistinguishable in the records from another name for purposes of this chapter, ~~then-~~  
22                  the partnership name may not be used unless there is filed with the statement:
- 23                  a. The written consent of the holder of the rights to the name to which the proposed  
24                  name is determined to be ~~deceptively similar~~indistinguishable; or  
25                  b. A certified copy of a judgment of a court in this state establishing the earlier right  
26                  of the applicant to the use of the name in this state.
- 27                  4. This section does not affect the right of a partnership existing on July 1, 1999, or a  
28                  foreign partnership authorized to do business in this state on July 1, 1999, to continue  
29                  the use of the foreign partnership's name.
- 30                  5. This section and section 45-13-04.2 do not:

- 1           a. Abrogate or limit the law of unfair competition or unfair practices; chapter 47-25;  
2           the laws of the United States with respect to the right to acquire and protect  
3           copyrights, trade names, trademarks, service names, service marks; or any other  
4           rights to the exclusive use of a name or symbol.
- 5           b. Derogate the common law or any principle of equity.
- 6        6. A partnership that is the surviving organization in a merger with one or more other  
7        organizations, or that acquires by sale, lease, or other disposition to or exchange with  
8        an organization all or substantially all of the assets of another organization including its  
9        name, may have the same name, subject to the requirements of subsection 1, as that  
10       used in this state by any of the other organizations if the other organization whose  
11       name is sought to be used:
- 12       a. Is formed under the laws of this state;
- 13       b. Is authorized to transact business or conduct activities in this state;
- 14       c. Holds a reserved name in the manner provided in section 10-19.1-14, 10-32-11,  
15       10-32.1-12, 45-10.2-11, 45-13-04.2, or 45-22-05;
- 16       d. Holds a fictitious name registered in the manner provided in chapter 45-11; or
- 17       e. Holds a trade name registered in the manner provided in chapter 47-25.
- 18       7. The use of a name by a partnership in violation of this section does not affect or vitiate  
19       the partnership existence of the partnership. However, a court in this state may, upon  
20       application of the state or of an interested or affected person, enjoin the partnership  
21       from doing business under a name assumed in violation of this section, although a  
22       statement may have been filed with the secretary of state.
- 23       8. If the period of existence of the partnership is expired or a statement of a partnership  
24       filed under section 45-13-05 is expired, then the partnership may reacquire the right to  
25       use that name by refiling a statement pursuant to section 45-13-05, unless the name  
26       was adopted for use or reserved by another person, in which case the filing must be  
27       rejected unless the filing is accompanied by a written consent or judgment pursuant to  
28       subsection 3. A partnership that cannot reacquire the use of its partnership name shall  
29       adopt a new partnership name that complies with this section.

30       **SECTION 13. AMENDMENT.** Section 45-22-04 of the North Dakota Century Code is  
31       amended and reenacted as follows:

1       **45-22-04. Limited liability partnership - Name.**

2       1. The name of a limited liability partnership:

3           a. Must be expressed in letters or characters in the English language as those  
4                letters or characters appear in the American standard code for information  
5                interchange (ASCII) table.

6           b. Must contain the words "limited liability partnership" or the abbreviation "L.L.P." or  
7                the abbreviation "LLP", either of which abbreviations may be used  
8                interchangeably for all purposes authorized by this chapter, including real estate  
9                matters, contracts, and filings with the secretary of state.

10          c. May not contain the word "corporation", "company", "incorporated", "limited  
11                liability company", "limited partnership", "limited liability limited partnership", or  
12                ~~any~~an abbreviation of these words.

13          d. May not contain a word or phrase ~~that indicates~~indicating or ~~that implies~~  
14                ~~that~~implying the limited liability partnership:

15           (1) Is formed for a purpose other than:

16               (a) A lawful purpose for which a limited liability partnership may be  
17                formed under this chapter; or

18               (b) For a purpose stated in its registration; or

19           (2) May not be formed under this chapter.

20          e. ~~May not be the same as or deceptively similar to~~Must be distinguishable in the  
21                records of the secretary of state from:

22           (1) The name, whether foreign and authorized to do business in this state or  
23                domestic, unless there is filed with the registration a record that complies  
24                with subsection 3, of:

25               (a) Another limited liability partnership;

26               (b) A corporation;

27               (c) A limited liability company;

28               (d) A limited partnership; or

29               (e) A limited liability limited partnership;

- 1                   (2) A name, the right to which is at the time of registration reserved in the  
2                   manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,  
3                   45-13-04.2, or 45-22-05;
- 4                   (3) A fictitious name registered in the manner provided in chapter 45-11;
- 5                   (4) A trade name registered in the manner provided in chapter 47-25; or
- 6                   (5) A trademark or service mark registered in the manner provided in chapter  
7                   47-22.
- 8                   f. Need not be filed as provided in chapter 45-11 except if transacting business  
9                   under a name other than the name as registered under this chapter.
- 10                  2. The secretary of state shall determine whether a name is ~~deceptively similar-~~  
11                  ~~to~~distinguishable in the records from another name for purposes of this chapter and  
12                  may adopt rules reasonable or necessary for making these determinations.
- 13                  3. If the secretary of state determines ~~that~~ a limited liability partnership name is  
14                  ~~deceptively similar to~~indistinguishable in the records from another name for purposes  
15                  of this chapter, the limited liability partnership name may not be used unless there is  
16                  filed with the registration:
- 17                  a. The written consent of the holder of the rights to the name to which the proposed  
18                  name has been determined to be ~~deceptively similar~~indistinguishable; or
- 19                  b. A certified copy of a judgment of a court in this state establishing the earlier right  
20                  of the applicant to the use of the name in this state.
- 21                  4. This section and section 45-22-05 do not:
- 22                  a. Abrogate or limit:
- 23                       (1) The law of unfair competition or unfair practices;
- 24                       (2) Chapter 47-25;
- 25                       (3) The laws of the United States with respect to the right to acquire and protect  
26                       copyrights, trade names, trademarks, service names, and service marks; or  
27                       (4) Any other rights to the exclusive use of names or symbols.
- 28                  b. Derogate the common law or principles of equity.
- 29                  5. A limited liability partnership that is the surviving organization in a merger with one or  
30                  more organizations, or that acquires by sale, lease, or other disposition to or exchange  
31                  with a domestic organization all or substantially all of the assets of another

- 1 organization including its name, may have the same name, subject to the  
2 requirements of subsection 1, as that used in this state by any of the other  
3 organizations, if the other organization whose name is sought:
- 4 a. Is incorporated, organized, formed, or registered under the laws of this state;
  - 5 b. Is authorized to transact business or conduct activities in this state;
  - 6 c. Holds a reserved name in the manner provided in section 10-19.1-14,  
7 10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
  - 8 d. Holds a fictitious name registered in the manner provided in chapter 45-11;
  - 9 e. Holds a trade name registered in the manner provided in chapter 47-25; or
  - 10 f. Holds a trademark or service mark registered in the manner provided in chapter  
11 47-22.
- 12 6. The use of a name by a limited liability partnership in violation of this section does not  
13 affect or vitiate the limited liability partnership's status as a limited liability partnership.  
14 However, a court of this state may, upon application of the state or of an interested or  
15 affected person, enjoin the limited liability partnership from doing business under a  
16 name assumed in violation of this section, even though the limited liability  
17 partnership's registration may have been filed with the secretary of state.
- 18 7. A limited liability partnership whose registration has expired or whose registration has  
19 been forfeited as provided in section 45-22-21.1 may reacquire the right to use that  
20 name by refiling a registration as provided in section 45-22-03 unless the name has  
21 been adopted for use or reserved by another person, in which case the filing will be  
22 rejected unless the filing is accompanied by a written consent or judgment pursuant to  
23 subsection 3. A limited liability partnership that cannot reacquire the use of its limited  
24 liability partnership name shall adopt a new limited liability partnership name that  
25 complies with this section:
- 26 a. By refiling a registration as provided in section 45-22-03;
  - 27 b. By amending its registration as provided in section 45-22-03; or
  - 28 c. By reinstating the limited liability partnership pursuant to section 45-22-21.1,  
29 unless the name has been adopted for use or reserved by another person, in  
30 which case the filing will be rejected unless the filing is accompanied by a written  
31 consent or judgment as provided in subsection 3.

- 1           8. With respect to foreign limited liability partnerships:
- 2           a. A foreign limited liability partnership may register under any name that would be
- 3           available to a domestic limited liability partnership, regardless of whether the
- 4           name is the same under which the foreign limited liability partnership is
- 5           authorized in the jurisdiction of original registration.
- 6           b. A fictitious name certificate must be filed as provided in chapter 45-11 only if
- 7           registering under a name other than the name as authorized in the jurisdiction of
- 8           original registration.
- 9           9. A limited liability partnership that files its registration with an effective date later than
- 10          the date of filing as provided in subsection 9 of section 45-22-03 shall maintain the
- 11          right to the name until the effective date.

12          **SECTION 14. AMENDMENT.** Section 45-23-03 of the North Dakota Century Code is

13          amended and reenacted as follows:

14          **45-23-03. Limited liability limited partnership name.**

- 15          1. The name of each limited liability limited partnership as set forth in the limited liability
- 16          limited partnership's certificate of limited liability limited partnership:
- 17          a. Must be expressed in letters or characters used in the English language as those
- 18          letters or characters appear in the American standard code for information
- 19          interchange (ASCII) table.
- 20          b. Must contain without abbreviation the words "limited liability limited partnership"
- 21          or the abbreviation "L.L.L.P." or "LLLLP", either of which abbreviation may be used
- 22          interchangeably for any purpose authorized by this chapter including real estate
- 23          matters, contracts, and filings with the secretary of state.
- 24          c. May contain the name of ~~anya~~ partner.
- 25          d. May not contain the word "corporation", "company", "incorporated", "limited
- 26          liability company", "limited liability partnership", or ~~anyan~~ abbreviation of these
- 27          words.
- 28          e. May not contain a word or phrase ~~that indicates~~indicating or ~~that implies~~
- 29          ~~that~~implying the limited liability limited partnership:
- 30          (1) Is organized for a purpose other than:

- 1 (a) A lawful purpose for which a limited liability limited partnership may be  
2 organized under this chapter; or  
3 (b) For a purpose stated in its certificate of limited liability limited  
4 partnership; or  
5 (2) May not be organized under this chapter.
- 6 f. ~~May not be the same as, or deceptively similar to~~Must be distinguishable in the  
7 records of the secretary of state from:
- 8 (1) The name, whether foreign and authorized to do business in this state or  
9 domestic, unless there is filed with the certificate a record in compliance  
10 with subsection 3, of:  
11 (a) Another limited liability limited partnership;  
12 (b) A limited partnership;  
13 (c) A corporation;  
14 (d) A limited liability company; or  
15 (e) A limited liability partnership;  
16 (2) A name the right to which is, at the time of organization, reserved in the  
17 manner provided in section 10-19.1-14, 10-32.1-12, 10-33-11, 45-10.2-11,  
18 45-13-04.2, or 45-22-05;  
19 (3) A fictitious name registered in the manner provided in chapter 45-11;  
20 (4) A trade name registered in the manner provided in chapter 47-25; or  
21 (5) A trademark or service mark registered in the manner provided in chapter  
22 47-22.
- 23 2. The secretary of state shall determine whether a limited liability limited partnership  
24 name is ~~deceptively similar to~~distinguishable in the records from another name for  
25 purposes of this chapter and may adopt rules reasonable or necessary for making  
26 these determinations.
- 27 3. If the secretary of state determines a limited liability limited partnership name is  
28 ~~deceptively similar to~~indistinguishable in the records from another name for purposes  
29 of this chapter, the limited liability limited partnership name may not be used unless  
30 there is filed with the certificate:

- 1           a. The written consent of the holder of the registered trade name or the holder of  
2           the rights to the name to which the proposed name has been determined to be  
3           ~~deceptively similar~~indistinguishable; or
- 4           b. A certified copy of a judgment of a court in this state establishing the earlier right  
5           of the applicant to the use of the name in this state.
- 6       4. This section does not:
  - 7           a. Abrogate or limit:
    - 8               (1) The law of unfair competition or unfair practices;
    - 9               (2) Chapter 47-25;
    - 10              (3) The laws of the United States with respect to the right to acquire and protect  
11              copyrights, trade names, trademarks, service names, and service marks; or
    - 12              (4) Any other rights to the exclusive use of any name or symbol.
  - 13           b. This section does not derogate the common law or the principles of equity.
- 14       5. A limited liability limited partnership that is the surviving organization in a merger with  
15       one or more organizations, or that acquires by sale, lease, or other disposition to or  
16       exchange with an organization all or substantially all of the assets of another  
17       organization, including its name, may include in the limited liability limited partnership's  
18       name, subject to the requirements of subsection 1, the name of any of the other  
19       organizations, if the other organization whose name is sought to be used:
  - 20           a. Is incorporated, organized, formed, or registered under the laws of this state;
  - 21           b. Is authorized to transact business or conduct activities in this state;
  - 22           c. Holds a reserved name in the manner provided in section 10-19.1-14,  
23           10-32.1-12, 10-33-11, 45-10.2-11, 45-13-04.2, or 45-22-05;
  - 24           d. Holds a fictitious name registered in the manner provided in chapter 45-11;
  - 25           e. Holds a trade name registered in the manner provided in chapter 47-25; or
  - 26           f. Holds a trademark or service mark registered in the manner provided in chapter  
27           47-22.
- 28       6. The use of a name of a limited liability limited partnership in violation of this section  
29       does not affect or vitiate a limited liability limited partnership's existence. However, a  
30       court in this state may, upon application of the state or of an interested or affected  
31       person, enjoin the limited liability limited partnership from doing business under a

1 name assumed in violation of this section, although a certificate of limited liability  
2 limited partnership may have been filed with the secretary of state.

3 7. A limited liability limited partnership whose period of existence has expired or that is  
4 involuntarily dissolved by the secretary of state pursuant to section 45-10.2-108 or  
5 45-10.2-108.1 may reacquire the right to use that name by refiling a certificate of  
6 limited liability limited partnership pursuant to section 45-23-04, unless the name has  
7 been adopted for use or reserved by another person, in which case the filing will be  
8 rejected unless the filing is accompanied by a written consent or judgment as provided  
9 in subsection 3. A limited liability limited partnership that cannot reacquire the use of its  
10 limited liability limited partnership name shall adopt a new limited liability limited  
11 partnership name that complies with the provisions of this section:

- 12 a. By refiling the certificate of limited liability limited partnership pursuant to section  
13 45-23-04;
- 14 b. By amending pursuant to section 45-10.2-24; or
- 15 c. By reinstating pursuant to section 45-10.2-108, unless the name has been  
16 adopted for use or reserved by another person, in which case the filing will be  
17 rejected unless the filing is accompanied by a written consent or judgment  
18 pursuant to subsection 3.

19 8. Subject to section 45-23-07, this section applies to ~~any~~ foreign limited liability limited  
20 partnership transacting business in this state, having a certificate of authority to  
21 transact business in this state, or applying for a certificate of authority.

22 9. A limited liability limited partnership that files its certificate of limited liability limited  
23 partnership with an effective date later than the date of filing as provided in  
24 subsection 1 of section 45-23-05 shall maintain the right to the name until the effective  
25 date.

26 **SECTION 15. AMENDMENT.** Subsection 13 of section 45-23-08 of the North Dakota  
27 Century Code is amended and reenacted as follows:

28 13. Filing a consent to use of a ~~deceptively similar~~ name, ten dollars.

29 **SECTION 16. AMENDMENT.** Section 47-25-03 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **47-25-03. Trade name - Nature.**

2       1. A trade name:

3       4. a. Must be expressed in letters or characters used in the English language as those  
4           letters or characters appear in the American standard code for information  
5           interchange (ASCII) table.

6       2. b. May not contain the word "company", "corporation", "incorporated", "limited",  
7           "limited liability company", "limited partnership", "limited liability partnership",  
8           "limited liability limited partnership", or any abbreviation of any of those words  
9           unless the owner of the trade name is a corporation, limited liability company,  
10          limited partnership, limited liability partnership, or limited liability limited  
11          partnership as indicated by the words used in the name.

12      3. ~~May not be the same as or deceptively similar to any~~

13      c. Must be distinguishable in the records of the secretary of state from a name  
14          reserved or registered with the secretary of state unless there is filed with the  
15          registration a written consent from the holder of the ~~similar~~indistinguishable name  
16          to use the proposed name and filing fee of ten dollars, whether domestic or  
17          foreign, including:

18      a. ~~Any~~

19          (1) A corporate name;

20      b. ~~Any~~

21          (2) A limited liability company name;

22      c. (3) Any other trade name;

23      d. ~~Any~~

24          (4) A fictitious partnership name;

25      e. ~~Any~~

26          (5) A limited partnership name;

27      f. ~~Any~~

28          (6) A limited liability partnership name;

29      g. ~~Any~~

30          (7) A limited liability limited partnership name; or

31      h. ~~Any~~

1                   (8) A trademark or service mark.

2           4. d. That is a franchise must be accompanied by a written consent from the  
3                   franchiser.

4           2. The secretary of state shall determine whether a trade name is distinguishable in the  
5                   records from another trade name for purposes of this chapter and may adopt rules  
6                   reasonable or necessary for making these determinations.

7           **SECTION 17. CONTINGENT EFFECTIVE DATE.** This Act becomes effective upon receipt  
8           by the legislative council of the certification by the secretary of state attesting that all necessary  
9           administrative rules and information technology components and systems are ready for  
10          implementation of this Act.